

City Council
August 5, 2024

A regular meeting of the Mayor and City Council of the City of Waxahachie was held at the Waxahachie Civic Center, 2000 Civic Center Lane, Meeting Rooms A and B, Waxahachie, Texas, on Monday, August 5, 2024 at 7:00 p.m.

Council Members Present: Billie Wallace, Mayor, Council Member Place 4
Chris Wright, Mayor Pro Tem, Council Member Place 3
Tres Atkins, Council Member Place 1
Patrick Souter, Council Member Place 2
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager
Albert Lawrence, Deputy City Manager
Terry Welch, City Attorney
Amber Villarreal, City Secretary

1. Call to Order

Mayor Billie Wallace called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

Chaplain Keith Cooper, Baylor Scott & White Hospital, gave the invocation. Council Member Tres Atkins led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Darlene Miller, 240 Parks School House Road, Waxahachie, Texas, expressed support to continue advocating for animals and working with City Council to solve issues with affordable spay and neutering.

Carolyn Taylor, Ennis, Texas, announced there will be a one day spay and neuter event for Ellis County and community members are looking forward to adding more dates.

Ira Tenpenny, 109 Rosa, Waxahachie, Texas, expressed concern with pool safety and the enforcement of proper fencing to prevent drownings.

5. Consent Agenda

- a. Minutes of the City Council meeting of July 15, 2024
- b. Minutes of the City Council Work Session of July 15, 2024
- c. Minutes of the City Council Work Session of July 29, 2024
- d. Event application for Waxahachie Business Tour to be held October 5, 2024 at Railyard Park
- e. Event application for Tulipalooza to be held March 1-16, 2025 at Getzendaner Park

- f. Proposed Ordinance approving a request by Addison Carey, for a Petition for ETJ Release for approximately 1.50 acres, located at 3650 South US Highway 287 (Property ID 239038) – Owner: Addison Carey (ETJ-PTN-135-2024)
- g. Proposed Ordinance approving a request by Linda Rogers, for a Petition for ETJ Release for approximately 1.40 acres, located at 1187 Maree Drive (Property ID 148595) – Owners: Ronnie Rogers and Linda Rogers (ETJ-PTN-138-2024)
- h. Proposed Ordinance approving a request by Jesus Oropeza for a Petition for ETJ Release for approximately 5-acres, located at 2590 FM 878, (Property ID 178983) – Owner: Jesus Oropeza (ETJ-PTN-148-2024)
- i. Ordinance correcting a scrivener’s error in the original version of Ordinance 2698 that incorrectly referenced the base zoning of the subject property as Central Area (CA) for 809 Ferris Avenue
- j. Texas Interlocal Purchasing Cooperative Purchasing Agreement
- k. Equalis Group LLC Cooperative Purchasing Agreement
- l. Professional Service Agreement for Construction Materials Testing Services for Wilmington Ave and Charlotte Avenue Reconstruction Project
- m. Supplemental appropriation for the Mid-Way Regional Airport
- n. Supplemental appropriation for Public Works Department
- o. Master Development Agreement for 1601 W. HWY 287
- p. Increase to Employee Vacation and Sick Day Accruals
- q. Set City Council meetings for September 9, 2024 and September 16, 2024

ORDINANCE NO. 3538

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE’S EXTRATERRITORIAL JURISDICTION OF A 1.50 ACRE TRACT OF LAND, LOCATED AT 3650 SOUTH HIGHWAY 287, KNOWN AS PROPERTY ID 239038, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE’S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3539

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE’S EXTRATERRITORIAL JURISDICTION OF A 1.40 ACRE TRACT OF LAND, LOCATED AT 1187 MAREE DRIVE, KNOWN AS PROPERTY ID 148595, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE’S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3540

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE’S EXTRATERRITORIAL JURISDICTION OF A 5 ACRE TRACT OF LAND, LOCATED AT 2590 FM 878 ROAD, KNOWN AS PROPERTY ID 178983, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE’S

EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3541

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT ON PART OF BLOCK 23, WILLIAMS ADDITION, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND BEING A 70.3 FOOT BY 102.8 FOOT SECTION OF THE COMMERCIAL BUILDING, BEING THE SOUTHERN MOST UNIT IN THE EXISTING BUILDING, BEING KNOWN AS 809 FERRIS AVENUE, WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING ~~CENTRAL AREA (CA)~~ GENERAL RETAIL (GR) TO ~~CENTRAL AREA~~ GENERAL RETAIL WITH SPECIFIC USE PERMIT (~~CA~~ GR w/SUP), FOR THE PURPOSE OF ALLOWING A RESALE SHOP, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Patrick Souter moved to approve all items on the Consent Agenda as presented, except for item d., which was canceled, and authorize the City Manager and/or Mayor to execute all associated documents as necessary. Motion was seconded by Chris Wright and carried unanimously (5-0).

6. Introduce Honorary Councilmember

Mayor Pro Tem Chris Wright introduced Megan Mills as the August Honorary Council Member. Mrs. Mills has been a Waxahachie resident since 1969. She is a graduate of Waxahachie High and Baylor University where she earned a degree in Elementary Education. Megan earned her Masters from UNT in Library Science.

Mrs. Mills devoted 34 years to public education, where she served as the librarian at Waxahachie High for 25 years, before retiring three years ago. Since her retirement, she has helped rebuild the Friends of Sims Library volunteer program, serve as a substitute teacher at First United Methodist Church Funday School, and volunteer at Daymark Living Center each month as part of Sims Library outreach program. She has been married for 31 years to her husband, Jamie Mills, with whom she shares two sons, Max and Alex.

7. Public Hearing on a request by Jose Perez, for a Specific Use Permit (SUP) for a Short-Term Rental use within a Single-Family Residential-2 (SF-2) zoning district located at 131 Vanderbilt Lane (Property ID 172836) – Owner(s): Jose & Maria Perez (ZDC-131-2024)

The Item was presented by Senior Director of Planning Jennifer Pruitt and owner Jose Perez requested approval. The applicant requested a SUP for short-term rental use at 131 Vanderbilt Lane because it is located within the SF-2 zoning district. The subject property consists of a primary structure of approximately 2,040 square feet, built in 1969 with three (3) bedrooms, two (2) bathrooms and enough improved surface to accommodate for the maximum parking spaces of three (3) vehicles. The subject property is situated on an approximately 0.239 acres (10,410 square feet) lot. The applicant has been operating a short-term rental since approximately July 2021 and has not been paying local hotel occupancy taxes. The Ellis County Appraisal District (ECAD) does

not identify the subject property as a Homestead. The applicant submitted the SUP application on June 12, 2024.

During the planning analysis, staff inquired with the Waxahachie Police Department and discovered two (2) noise and disturbance-related calls had been made regarding the subject property and its current use in the past 12 months. The first call was made on December 18, 2023, regarding a civil matter. The second call was made on December 25, 2023, regarding noise disturbance. The applicant's local emergency contact is located approximately 9.8 miles from the subject property.

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 41 notices were mailed to property owners within 500 feet of the property as required in Section 3.27 of the City's Zoning Ordinance. At the time of the publishing of this staff report, a total of five (5) letters of opposition and three (3) letters of support were received by staff.

Ms. Pruitt noted at the request of the Planning and Zoning Commission, the host rules were updated to restricting off-street parking. Staff noted the ordinance and rules are provided on the City website and they will also provide a printed copy of the information to the applicant.

Mayor Wallace opened the Public Hearing at approximately 7:16 p.m.

There being no others to speak for or against ZDC-131-2024, Mayor Wallace closed the Public Hearing at approximately 7:18 p.m.

8. Consider proposed Ordinance approving ZDC-131-2024

ORDINANCE NO. 3542

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A SHORT-TERM RENTAL USE WITHIN A PLANNED SINGLE FAMILY 2 (SF-2) ZONING DISTRICT, LOCATED AT 131 VANDERBILT LANE, BEING PROPERTY ID 172836 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 16, BLOCK 2 OF THE COLLEGE HILLS #2 ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Chris Wright moved to approve ZDC-131-2024, a Specific Use Permit for a Short-Term Rental use, subject to the conditions of the staff report and authorize the City Manager and/or Mayor to execute all documents accordingly. Motion was seconded by Travis Smith and carried unanimously (5-0).

9. Public Hearing on a request by Jose Perez, for a Specific Use Permit (SUP) for a Short-Term Rental use within a Single-Family Residential-2 (SF-2) zoning district located at 137 Vanderbilt Lane (Property ID 172839) – Owner(s): Jose Perez (ZDC-129-2024)

The Item was presented by Ms. Pruitt and owner Jose Perez requested approval. The applicant requested a SUP for short-term rental use at 137 Vanderbilt Lane because it is located within the SF-2 zoning district. The subject property consists of a primary structure of approximately 1,918 square feet, built in 1969 with three (3) bedrooms, two (2) bathrooms and enough improved surface to accommodate for the maximum parking spaces of three (3) vehicles. The subject property is situated on an approximately 0.239 acres (10,410 square feet) lot. The applicant has been operating a short-term rental since approximately April 2021 and has not been paying local hotel occupancy taxes. The Ellis County Appraisal District (ECAD) does not identify the subject property as a Homestead. The applicant submitted the SUP application on June 12, 2024.

During the planning analysis, staff inquired with the Waxahachie Police Department and discovered no nuisance-related calls had been made regarding the subject property and its current use in the past 12 months. The applicant's local emergency contact is located approximately 9.7 miles from the subject property.

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 50 notices were mailed to property owners within 500 feet of the property as required in Section 3.27 of the City's Zoning Ordinance. At the time of the publishing of this staff report, a total of four (4) letters of opposition and three (3) letters of support were received by staff.

Mayor Wallace opened the Public Hearing at approximately 7:20 p.m.

There being no others to speak for or against ZDC-129-2024, Mayor Wallace closed the Public Hearing at approximately 7:20 p.m.

10. Consider proposed Ordinance approving ZDC-129-2024

ORDINANCE NO. 3543

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A SHORT-TERM RENTAL USE WITHIN A PLANNED SINGLE FAMILY 2 (SF-2) ZONING DISTRICT, LOCATED AT 137 VANDERBILT LANE, BEING PROPERTY ID 172839 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 19, BLOCK 2 OF THE COLLEGE HILLS #2 ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Chris Wright moved to approve ZDC-129-2024, a Specific Use Permit for a Short-Term Rental use, subject to the conditions of the staff report and authorize the City Manager and/or Mayor to execute all documents accordingly. Motion was seconded by Patrick Souter and carried unanimously (5-0).

11. Public Hearing on a request by Jose Perez, for a Specific Use Permit (SUP) for a Short-Term Rental use within a Single-Family Residential-2 (SF-2) zoning district

located at 103 Johnston Boulevard (Property ID 174978) – Owner(s): Jose & Maria Perez (ZDC-130-2024)

The Item was presented by Ms. Pruitt and owner Jose Perez requested approval. The applicant requested a SUP for short-term rental use at 103 Johnston Boulevard because it is located within the SF-2 zoning district. The subject property consists of a primary structure of approximately 1,538 square feet, built in 1983 with three (3) bedrooms, two (2) bathrooms and enough improved surface to accommodate for the maximum parking spaces of three (3) vehicles. The subject property is situated on an approximately 0.177 acres (7,710 square feet) lot. The applicant has been operating a short-term rental since approximately September 2022 and the applicant has not been paying local hotel occupancy taxes. The Ellis County Appraisal District (ECAD) does not identify the subject property as a Homestead. The applicant submitted the SUP application on June 12, 2024.

During the planning analysis, staff inquired with the Waxahachie Police Department and discovered no nuisance-related calls had been made regarding the subject property and its current use in the past 12 months. The applicant's local emergency contact is located approximately 9.5 miles from the subject property.

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 109 notices were mailed to property owners within 500 feet of the property as required in Section 3.27 of the City's Zoning Ordinance. At the time of the publishing of this staff report, a total of seventeen (17) letters of opposition and two (2) letters of support were received by staff.

Mayor Wallace opened the Public Hearing at approximately 7:25 p.m.

Those who spoke in opposition:

Ann Watson, 202 San Jacinto, Waxahachie, Texas

Those who spoke in support:

Charles Edwards, 104 Sweetleaf Drive, Red Oak, Texas

Ira Tenpenny, 109 Rosa, Waxahachie, Texas

Council Members discussed at length the opposition received from the neighbors in the area.

There being no others to speak for or against ZDC-130-2024, Mayor Wallace closed the Public Hearing at approximately 7:54 p.m.

12. Consider proposed Ordinance approving ZDC-130-2024

Action:

Patrick Souter moved to deny ZDC-130-2024, a Specific Use Permit for a Short-Term Rental use. Motion was seconded by Chris Wright and failed 2-3 with Billie Wallace, Tres Atkins, and Travis Smith voting in opposition.

Council Members continued to discuss the opposition letters received and the importance of informing neighbors the stronger regulations for short-term rentals as opposed to long-term rentals.

Action:

Chris Wright moved to deny ZDC-130-2024, a Specific Use Permit for a Short-Term Rental use. Motion was seconded by Patrick Souter and carried 4-1 with Billie Wallace voting in opposition.

13. Public Hearing on a request by Demi Oyerokun for a Specific Use Permit (SUP) for a Minor Auto Repair Shop use within a General Retail (GR) zoning district located at 1011 US HWY 77, Suite 109 (Property ID 173186) – Owner: Marline Six LLC (ZDC-124-2024)

The Item was presented by Ms. Pruitt. The applicant requested a Specific Use Permit for an Auto Repair, Minor or Automotive Center use (Glass Doctor Auto). The proposed business has been operating as an Auto Repair, Minor or Automotive Center use since 2022 without a certificate of occupancy. The applicant submitted a Certificate of Occupancy request on May 15, 2024. Planning staff determined that per the City of Waxahachie Zoning Ordinance, the use of an Auto Repair, Minor or Automotive Center, requires a Specific Use Permit to be approved by the City Council within the General Retail (GR) zoning district. At this time, the CO application is on hold until City Council approves the required SUP. Glass Doctor Auto is a specialized service provider offering professional auto window repair, replacement, and various minor automotive repairs to car windows. All of the repairs take place at their client's locations or within the Glass Doctors interior suite 109.

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 19 notices were mailed to property owners within 200 feet of the request. At the time of the publishing of this staff report, one (1) letter of opposition was received and one (1) letter of support.

Mayor Wallace opened the Public Hearing at approximately 8:12 p.m.

Council Member Travis Smith asked how long the business has been operating without a Certificate of Occupancy and in violation of the zoning ordinance and Ms. Pruitt noted since 2021.

Mayor Pro Tem Wright asked why the Certificate of Occupancy was requested now by the applicant and Ms. Pruitt explained staff has asked the applicant and have received no response. She also noted staff requested the applicant attend the Planning and Zoning Commission and City Council meetings to answer questions and received no response from the applicant.

There being no others to speak for or against ZDC-124-2024, Mayor Wallace closed the Public Hearing at approximately 8:14 p.m.

14. Consider proposed Ordinance approving ZDC-124-2024

Action:

Travis Smith moved to deny the Ordinance for ZDC-124-2024, a Specific Use Permit for a Minor Auto Repair Shop use, subject to the conditions of the staff report. Motion was seconded by Tres Atkins and carried unanimously (5-0).

Mayor Pro Tem Wright requested staff notify the applicant that they must cease operations immediately.

15. Public Hearing on a request by Erica Edwards, for a Specific Use Permit (SUP) for a Short-Term Rental use within a Single Family-2 (SF-2) zoning district located at 211 Pecan St. (Property ID 175135) - Owner: Seven Partners, LLC (ZDC-128-2024)

The Item was presented by Ms. Pruitt and Erica Edwards requested approval. The applicant requested an SUP for a short-term rental use located at 211 Pecan Street, it is located within an SF-2 zoning district. The subject property consists of a primary structure of approximately 1,073 square feet with three (3) bedrooms and enough improved surface to accommodate the maximum parking spaces of three (3) vehicles situated on an approximately 0.164-acre (7,143 square feet) lot.

The applicant submitted the SUP application on June 10, 2024 and has not been operating a short-term rental. The Ellis County Appraisal District (ECAD) does not identify the subject property as a Homestead and the applicant has satisfied all of the requirements of Section 3.27 of the Zoning Ordinance.

During the planning analysis, staff inquired with the Waxahachie Police Department and discovered no nuisance-related calls had been made regarding the subject property and its current use in the past 12 months. The local emergency contact provided by the applicant is located 12.8 miles from the subject property.

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 93 notices were mailed to property owners within 500 feet of the property as required in Section 3.27 of the City's Zoning Ordinance. At the time of the publishing of this staff report, a total of seven (7) letters of support and two (2) letters of opposition were received by staff.

Mayor Wallace opened the Public Hearing at approximately 8:18 p.m.

Owner Erica Edwards explained the steps she takes to reduce/eliminate problem renters noting she doesn't allow instant bookings and requires a \$1,000 fee per police visit to the property during a tenant's stay. The customer and all guests are required to acknowledge and accept the host rules prior to approving the booking.

Those who spoke in support:

Charles Edwards, 104 Sweetleaf Drive, Red Oak, Texas
Ira Tenpenny, 109 Rosa, Waxahachie, Texas

There being no others to speak for or against ZDC-128-2024, Mayor Wallace closed the Public Hearing at approximately 8:30 p.m.

16. Consider proposed Ordinance approving ZDC-128-2024

ORDINANCE NO. 3544

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A SHORT-TERM RENTAL USE WITHIN A SINGLE FAMILY-2 (SF-2) ZONING DISTRICT, LOCATED AT 211 PECAN STREET BEING PROPERTY ID 175135, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 8R 3 PARK HILL ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Patrick Souter moved to approve ZDC-128-2024, a Specific Use Permit for a Short-Term Rental use, subject to the conditions of the staff report and authorize the City Manager and/or Mayor to execute all documents accordingly. Motion was seconded by Chris Wright and carried unanimously (5-0).

17. Consider and adopt an Ordinance providing for the issuance of City of Waxahachie, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2024; levying an annual ad valorem tax and providing for the security for and payment of said Certificates; approving the Official Statement; and ordaining other matters relating to the subject

The Item was presented by Senior Director of Finance Chad Tustison. The Capital Improvement Program (CIP) describes the City's large multi-year capital projects which provide new or improved City infrastructure, and comprises of projects for streets, sidewalks and drainage; park improvements; water and wastewater utilities; and municipal facilities. The CIP is funded through multiple funding sources, including proceeds from bond issuances, operating funds, and development impact fees.

On April 11, 2024, at the City Council Worksession, staff presented the CIP, updated annually, along with strategies to fund various capital projects for the upcoming year. As part of this overall strategy, the CIP includes the issuance of certificates of obligation to fund a portion of these projects. The total bond package is \$42.5 million and consists of streets, parks, public safety, and water and wastewater projects. If approved, these projects will be funded through the ad valorem tax rate, and water and wastewater fees.

ORDINANCE NO. 3545

ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF WAXAHACHIE, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2024; LEVYING AN ANNUAL AD VALOREM TAX AND PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID CERTIFICATES; APPROVING THE OFFICIAL STATEMENT; AND ORDAINING OTHER MATTERS RELATING TO THE

SUBJECT

Action:

Patrick Souter moved to adopt an ordinance providing for the issuance of City of Waxahachie, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2024; levying an annual ad valorem tax and providing for the security for and payment of said Certificates; approving the Official Statement; and ordaining other matters relating to the subject. Motion was seconded by Travis Smith and carried 4-1 with Tres Atkins abstaining.

18. Consider setting Proposed Tax Rate and Dates for Public Hearing

The Item was presented by Mr. Tustison. As part of the annual budget process, Chapter 26 of the Property Tax code requires taxing units to comply with truth-in-taxation laws in adopting their tax rates. This item meets the requirement for the City Council to set the proposed rate for future consideration and adoption, set the public hearing date and time, and place an item on a future Council agenda to vote on the tax rate necessary to fund the Fiscal Year (FY) 2024-2025 Annual Budget.

The FY 2024-2025 Proposed Budget includes a proposed tax rate of \$0.61000 (M&O rate: \$0.37700, Interest & Sinking Rate: \$0.23300). The proposed tax rate recommended in the Budget provides additional funding for operating costs to keep up with growth and to fund capital needs throughout the City. The proposed rate exceeds the no-new-revenue rate of \$0.572525 but does not exceed the voter-approval tax rate of \$0.610905. When the proposed rate exceeds the no-new-revenue rate or voter-approval rate, state statute requires a public hearing be held on the proposed tax rate, specific publications, and dates of scheduled adoption.

Staff recommends that the City Council take a record vote to propose an ad valorem tax rate of \$0.610000 for FY 2024-2025 and schedule a public hearing for Tuesday, September 3 at 5:30 PM. The City Council will consider adoption of the tax rate and budget on September 9 at 7:00 PM. Both meetings will be held at the Waxahachie Civic Center, 2000 Civic Center Lane, Waxahachie, Texas.

Action:

Chris Wright moved to consider a property tax rate of 61 cents and set the date, time, and place for a public hearing for September 3 at 5:30 PM at the Waxahachie Civic Center. Motion was seconded by Patrick Souter and carried unanimously (5-0).

19. Consider Resolution for Eminent Domain to Acquire Water Easements Associated with MLK Water Line Replacement Project

The Item was presented by James Gaertner, Executive Director of Public Works & Utilities. The City plans to replace portion of an 8-inch and 16-inch water line along Dr. Martin Luther King Jr. (MLK) Blvd. The limits for the water project is from Clift Street to S. Young Street. The engineering plans are complete, and waiting for the easement acquisition in order to advertise the project for the construction bid. Mr. David Fleming, the property owner for 107 S. Aiken St and 700 MLK, has passed away. Mr. Fleming has a dozen or more heirs to the properties and the city's land acquisition consultant could only find approximately half of his heirs. In order to keep the

water project moving forward in a timely manner, city staff recommend moving forward with the eminent domain process. Once the process is done, and the heirs are notified via newspaper for a period of time, the compensation for the easement will be available through a depository account. The known and unknown heirs are able to claim their portion of the easement compensation once process is complete and the money is available in the depository account.

City Attorney Terry Welch explained this route gives a clear title to the property and protects the City if challenged by an unknown heir.

RESOLUTION NO. 1365

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, DECLARING THE NECESSITY TO ACQUIRE A PERMANENT WATER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT; DETERMINING THE PUBLIC USE AND NECESSITY FOR SUCH ACQUISITION; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE MAYOR OF THE CITY OF WAXAHACHIE, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE MAYOR TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.

Action:

Patrick Souter moved that the City of Waxahachie authorize the use of the power of eminent domain to acquire a water easement as referenced in Exhibit A and Exhibit B to the Resolution; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for such water easement; appointing an appraiser and negotiator as necessary; authorizing the Mayor to establish just compensation for the property rights to be acquired; authorizing the Mayor, or her representative, to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the City Attorney, or his representative, to institute condemnation proceedings to acquire the property rights if purchase negotiations are not successful. Motion was seconded by Tres Atkins and carried unanimously (5-0) with the votes as follows:

*Billie Wallace – Aye
Chris Wright – Aye
Tres Atkins – Aye
Patrick Souter – Aye
Travis Smith – Aye*

20. Consider Resolution for Eminent Domain to Acquire Water Easements Associated with FM 664 24-inch Water Transmission Main Project

The Item was presented by Mr. Gaertner. Due to TxDOT widening of FM 664 and to expand the city's water transmission lines, the City plans to construct a 24-inch water line along FM 664. The

limits for the water project are from Marshall Road to the existing 24-inch water line south of Highway 287. The engineering plans are complete, and waiting for the easement acquisition in order to advertise the project for the construction bid. The City is working with Sardis Lone Elm Water Supply Corporation (Sardis Water), to acquire the water easements together. The City of Waxahachie and Sardis Water hired a consultant to negotiate the easement acquisition with the property owners along FM 664. Most of the easements for this project have been acquired, but the property owner at 1201 Ovilla Rd has stopped communication with the consultant and is not willing to negotiate with Sardis Water or the City anymore. Sardis Water Board approved the resolution for acquisition of the water easement through the eminent domain process. If the City wants to be a party to the Sardis Water eminent domain process, we have to approve a resolution for eminent domain as well.

The alternative is for the City to continue attempting to negotiate with the property owner, and possibly have to pay for the easement and eminent domain process by ourselves or may even fail to get the easement. We have been attempting to get the easement for well over a year and the property owner has communicated that the City will have to use eminent domain. City staff recommend approving the resolution at this time in order to save money, ensure completion of the project in a timely manner and have the property owner go through this process once versus with Sardis and again with the City. City staff hopes that once this process starts, the property owner will be willing to negotiate before it goes through the eminent domain process.

Council Member Smith asked if there is written documentation from the property owner supporting the eminent domain process and Mr. Gaertner noted he can provide that information.

Mayor Pro Tem Wright asked if the property owner was notified the City Council would be considering action at tonight's meeting and Mr. Gaertner noted they were not.

Council Members discussed continuing the Item to the August 19th meeting to allow the property owner to be notified of the consideration and for staff to provide written documentation of the owner's consent.

Action:

Travis Smith moved to continue the Item to the August 19, 2024 City Council meeting. Motion was seconded by Tres Atkins and carried unanimously (5-0).

21. Comments by Mayor, City Council, City Attorney and City Manager

Council Member Travis Smith recognized the Parks Department and Railyard Park team for the Swiftly event this past weekend.

Council Member Tres Atkins expressed appreciation to the Parks Department for the significantly improved efforts at the Cemetery.

City Manager Michael Scott thanked Senior Human Resources Director Lindsey Mearns for her work on the improved sick and vacation time accruals for employees and Senior Director of Finance Chad Tustison and his team for their work on the bond process. He reiterated the Council

meetings in September will be held the 9th and 16th. Mr. Scott also noted staff has also started the process to notify the minor auto repair shop of the zoning request denial.

Council Member Patrick Souter echoed Council Member Atkins' comments and recognized the Cemetery Board requests for improvements at the Cemetery.

Mayor Pro Tem Chris Wright thanked Megan Mills for her participation as Honorary Council Member and her work with the kids and the community. He noted Council will continue efforts with the community on improving animal care needs. Mr. Wright thanked Ira Tenpenny for his comments, Stefanie Lozano for her 20+ years of service to the City, Chad Tustison and his finance team for their work, and encouraged Jose Perez to talk to his neighbors about his property that was denied.

Mayor Billie Wallace echoed Mayor Pro Tem Wright's comments and thanked Megan Mills for her attendance and work in the community. She also thanked City employees for their work on events and recognized recent retirees Stefanie Lozano, Gary Myers, and Billy Aday. Mayor Wallace thanked Darlene Miller and community members for their work on trying to solve the animal issues in Ellis County.

22. Adjourn

There being no further business, the meeting adjourned at 9:02 p.m.

Respectfully submitted,

Amber Villarreal
City Secretary