

City Council
March 15, 2010

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Monday, March 15, 2010, at 7:00 p.m.

Council Members Present: Ron Wilkinson, Mayor
N.B. (Buck) Jordan, Mayor Pro Tem
Chuck Beatty, Councilman
Joe Jenkins, Councilman

Council Member Absent: John Wray, Councilman

Others Present: Paul Stevens, City Manager
Michael Scott, Assistant City Manager
Steve Chapman, City Attorney
Lori Saunders, City Secretary

Mayor Ron Wilkinson called the meeting to order and Councilman Chuck Beatty gave the invocation and led the Pledge of Allegiance.

CONSENT AGENDA:

- a. Minutes of the regular City Council meeting of March 1, 2010
- b. Minutes of the Firemen's Relief and Retirement Fund meeting of March 8, 2010
- c. Minutes of the Waxahachie Community Development Corporation meeting of March 9, 2010
- d. Minutes of the Planning and Zoning Commission meeting of March 10, 2010
- e. Monthly Building Report for February 2010
- f. Monthly Code Enforcement Report for February 2010
- g. Monthly Fire and EMS Report for January 2010
- h. Monthly Violation Activity Statistics for February 2010
- i. Monthly Crime Report for February 2010
- j. Renewal of parking and loading zone lease spaces

Councilman Chuck Beatty moved to approve Items a. through j. on the Consent Agenda.
Mayor Pro Tem Buck Jordan seconded, **All Ayes.**

Mr. Mark Wolfe, Executive Director of the Texas Historical Commission announced First Lady Anita Perry and the Texas Historical Commission recently honored Waxahachie with the Texas Treasures Award at their annual Texas Travel Industry Association's Unity Dinner in Austin. He noted the citizens of Waxahachie demonstrate a strong commitment to promoting their cultural resources and enriching the lives of visitors through the preservation of their unique heritage stories. Mr. Wolfe presented City Council with special signage promoting the cultural resources of the community and noted the prestige of this award assures that Waxahachie will

serve as a model for other communities. He thanked City Staff and members of the Heritage Preservation Committee for their dedication in the community.

Mayor Ron Wilkinson read a Proclamation designating March as “Red Cross Month” and presented it to a local volunteer.

Mayor Ron Wilkinson opened the Public Hearing on Zoning Amendment Request No. 2010-02: Request by Randy and D’Anne Harrington, for a Specific Use Permit within a Residential Zoning District for a private horse stable to be located at 100 Willowcrest, being a 3.787 acre tract in the William Stewart Survey, Abstract No. 956 – Owner: Randy and D’Anne Harrington.

Mr. Randy Harrington, 100 Willowcrest, reported he and his wife purchased an additional 3.7 acres to add to their property and requested approval to construct a private horse stable on the property. He noted the stable will be a 30 ft. x 40 ft. metal building.

Planning Director Clyde Melick noted a metal construction is allowed for agricultural purposes on parcels that are greater than two acres. He noted the area is relatively rural and stated the applicant has met all city requirements.

There being no others to speak for or against Zoning Amendment Request No. 2010-02, Mayor Wilkinson closed the Public Hearing.

City Attorney Steve Chapman presented Ordinance No. 2565

ORDINANCE NO. 2565

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT ON 3.787 ACRES OF THE WILLIAM STEWART SURVEY, ABSTRACT NO. 956, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, LOCALLY KNOWN AS 100 WILLOWCREST, WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING SINGLE FAMILY-1 (SF-1) TO SINGLE FAMILY-1 WITH SPECIFIC USE PERMIT (SF-1 w/SUP), FOR THE PURPOSE OF ALLOWING A BARN FOR A PRIVATE HORSE STABLE, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Mayor Pro Tem Buck Jordan moved to approve Ordinance No. 2565 as presented, subject to Staff Comments. Councilman Joe Jenkins seconded, **All Ayes.**

Mayor Ron Wilkinson opened the Public Hearing on Zoning Amendment Request No. 2010-03: Request by AR Lay Construction, LLC, for a Site Plan approval within a Planned Development– (PD-1C) Zoning District for a Dairy Queen Restaurant with a drive through to be located at 1226 US W. Hwy. 287 Bypass, being 1.177 acres, Lot 1, Block A, RVG Plaza – Owner: Waxahachie Holdings, LLC.

Mr. Scott Lay, AR Lay Construction, LLC, P.O. Box 5300, Tyler, Texas requested approval for a drive-thru Dairy Queen to be constructed.

Planning Director Clyde Melick reported the restaurant will be across from the private access from Logan’s Steakhouse. The wall signage is larger than normally accepted but is in keeping with the development in this area and will be seen on two frontages. He noted the Planning and Zoning Commission approved and City Staff recommends approval.

There being no others to speak for or against Zoning Amendment Request No. 2010-03, Mayor Wilkinson closed the Public Hearing.

Councilman Joe Jenkins moved to approve Zoning Amendment Request No. 2010-03: Request by AR Lay Construction, LLC, for a Site Plan approval within a Planned Development– (PD-1C) Zoning District for a Dairy Queen Restaurant with a drive through to be located at 1226 US W. Hwy. 287 Bypass, being 1.177 acres, Lot 1, Block A, RVG Plaza – Owner: Waxahachie Holdings, LLC. Councilman Chuck Beatty seconded, **All Ayes.**

Assistant City Attorney Jim Chapman announced the following bids were received on Friday, March 5, 2010 and opened for the MKT Depot Project:

Contractor Name	Base Bid	Alternate No. 1(-)	Alternate No. 2(+)	Days to Finish
Nay Company	\$1,458,148.00	\$ 69,695.00	\$ 2,000.00	270
Corbet Group	\$1,245,000.33	\$ 59,846.00	\$ 952.00	150
Ever Construction	\$1,406,800.00	\$ 21,751.00	\$11,110.00	230
Colonial Construction	\$1,305,762.44	\$108,305.11	\$ 3,169.45	240
Fain Group	\$1,659,871.00	\$ 84,835.00	\$ 1,700.00	360
FHC Contracting	\$1,293,190.00	\$ 54,449.00	\$ 2,997.00	160
BBC Construction Group	\$1,309,541.00	\$ 43,530.00	\$ 2,950.00	210

Mr. Chapman reported the low bidder was the Corbet Group for a Base Bid amount of \$1,245,000.33. He noted Alternate No. 1 is removing the parking and improvements west of Rogers Street and recommended not to deduct Alternate No. 1. He noted Alternate No. 2 is the inclusion of the use of a decomposed granite surface for the hike and bike trail extension in front of the depot in lieu of concrete and recommended to include Alternate No. 2. Mr. Chapman noted with the bid they will be able to provide parking and improvements west of Rogers Street as well as the granite surface for the hike and bike trail.

Mr. Chapman noted the bidding law used to be an unrestricted 5% to the local bidder. He reported the 81st Texas Legislature changed the Local Government Code utilizing the 5% local preference and noted it was capped on projects less than \$100,000. He stated due to the size of this project, no such bias can be utilized.

Mr. Chapman reported Mr. Paul Stevens, Mr. Michael Scott, Mr. Anthony Mottla and himself met with the Corbet Group to determine if their qualifications met the City's needs. They also met with the Depot Committee and it is their recommendation, as well as the Depot Committee, to award the bid to the Corbet Group.

Mayor Wilkinson asked Mr. Chapman to clarify as to where the funds are coming from. Mr. Chapman reported the funds are in the TIRZ's District which is set up for the historic purpose of the downtown area. He noted the funds will not come from the City's budget.

Mayor Pro Tem Buck Jordan asked what the Depot will be utilized for. Mr. Chapman reported the facility will be rented out for a restaurant and hope by the end of 2010 to have an operational building.

Mr. Reggie Parsons, Vice President of the Corbet Group, reported their general contracting firm is currently working on an historical site in Denton worth 1.7 million dollars; has built numerous retail, medical facilities as well as schools and numerous renovation projects. Mr. Parsons noted most of the sub-contractors will come from the Waxahachie area on the MKT Depot project.

Mr. Anthony Mottla, Architect, reported all bidders were required to supply in-depth information such as financials, references, qualification, projects and noted he's confident on how the process was handled. He noted he called and checked references.

Mr. Mark Singleton, 125 Willowcrest, Waxahachie, Chairman of the TIRZ Board and Depot Committee noted if the Request for Proposal was advertised with the City allowing for a five-percent (5%) bias towards local bidders, and with two local contractors bidding, he wondered if they relied on the five-percent (5%) as a component of their bid.

Mr. Jim Chapman noted legally, the City is not out of bounds with the Request for Proposal that was publicized and explained the five-percent (5%) bias towards local bidders is discretionary and City Council doesn't have to apply it. Mr. Chapman noted he doesn't think a local bidder would come in with a five-percent (5%) increase to profit off the public.

City Attorney Steve Chapman noted the statute is clear on the 5% bidding law of projects less than \$100,000 and noted legally, the City is not out of bounds with the Request for Proposal that was publicized. He stated the City is not in jeopardy by accepting the low bid with the Corbet Group.

After further discussion, Councilman Joe Jenkins moved to award the bid for the MKT Depot Project to the Corbet Group in the amount of \$1,245,000.33 and to include Alternate No. 2 in the amount of \$952.00. Councilman Chuck Beatty seconded, **All Ayes.**

Ms. Jacquelyn Kuykendall, Waxahachie Convention and Visitors Bureau, presented an Annual Report and 2010 Budget. She reported the budget has a beginning balance of \$13,677 with an ending balance of \$4,482. She noted the 2010 budget was reduced by 30%.

Mayor Pro Tem Buck Jordan moved to accept the Annual Report and 2010 Budget as presented. Councilman Joe Jenkins seconded, **All Ayes.**

CITIZENS PETITIONS AND REQUEST

Mrs. Debra Wakeland, President and CEO of the Chamber of Commerce, announced the Homebuilders luncheon will be held on Wednesday, March 17th; Rise and Shine Breakfast will be held on Thursday, March 18th in Mansfield; Ribbon cutting for Broadhead Road on Thursday, March 18th; and Fun Bunch at the Chisolm Trail Restaurant on Friday, March 19th.

Finance Director Charles Harris reported recent sales tax percentages were slightly above the same collection period from last year. He noted we are essentially right at budget.

COMMENTS BY MAYOR, CITY COUNCIL, CITY ATTORNEY AND CITY MANAGER

City Manager Paul Stevens thanked everyone who attended the Parks School House Road dedication and announced the Broadhead Road dedication will be Thursday, March 18th at 4:30 p.m.

Mayor Ron Wilkinson announced at 8:16 p.m. the City Council would convene into Executive Session for:

- a. Consultation with City Attorney in regard to billboard advertising case as permitted by **Texas Government Code, Section 551.071**

City Council reconvened at 8:29 p.m.

Mayor Ron Wilkinson read into the minutes the following proposal from Primary Media Outdoor Advertising:

From: Josh Feferman [<mailto:josh@primarymedia.com>]
Sent: Tuesday, March 09, 2010 2:26 PM
To: Michael Scott
Subject: City of Waxahachie vs Primary Media

Waxahachie City Counsel:

In lieu of giving notice of appeal, we propose the following. Primary Media will take down one billboard structure by the court's deadline, and we will pay the city of Waxahachie \$10,000. in attorneys fee.

In return, the city of Waxahachie will allow Primary Media to leave one billboard unit up for 18 month, and Primary Media will agree not to pursue an appeal. At the conclusion of that term, the billboard will be removed.

*Josh Feferman
Managing Partner*

*Primary Media Outdoor Advertising
2511 Boll Street
Dallas, TX 75204*

Mayor Pro Tem Buck Jordan moved to accept the settlement offer as presented above. Councilman Chuck Beatty seconded, All Ayes.

Councilman Chuck Beatty moved to instruct the City Attorney to prepare the settlement documents authorizing the Mayor or City Manager to execute on behalf of the City. Mayor Pro Tem Buck Jordan seconded, All Ayes.

There being no further business, the meeting adjourned at 8:36 p.m.

Respectfully submitted,

Lori Saunders
City Secretary