

City Council
February 2, 2015

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, February 2, 2015, at 7:00 p.m.

Council Members Present: Kevin Strength, Mayor
Chuck Beatty, Councilmember
David Hill, Councilmember
Mary Lou Shipley, Councilmember

Council Member Absent: Mark Singleton, Mayor Pro Tem

Others Present: Paul Stevens, City Manager
Clyde Melick, Director of Planning
Steve Chapman, City Attorney
Lori Saunders, City Secretary

Mayor Kevin Strength called the meeting to order. Councilmember David Hill gave the invocation, led the pledge of allegiance and the Texas pledge of allegiance.

CONSENT AGENDA:

- a. Minutes of the regular City Council meeting of January 20, 2015
- b. Minutes of the regular Planning and Zoning Commission meeting of January 28, 2015
- c. Minutes of the Tax Increment Reinvestment Zone No. 1 meeting of January 29, 2015
- d. Minutes of the Senior Center Advisory Committee meeting of January 21, 2015
- e. Minutes of the Waxahachie Community Development Corporation meeting of January 20, 2015
- f. Minutes of the Rodeo Board meeting of January 15, 2015
- g. Minutes of the Firemen's Relief and Retirement Fund meeting of January 12, 2015
- h. Minutes of the Airport Board meeting of November 13, 2014

Councilmember Chuck Beatty moved to approve Items a. through h. on the Consent Agenda.
Councilmember David Hill seconded, All Ayes.

Councilmember Mary Lou Shipley introduced Ms. Mikayla Acosta as the Honorary Councilmember for the Month of February.

Mikayla is the daughter of Irene and Orlando Acosta. She is a senior at Waxahachie High School. Mikayla has participated in the following activities: Peer minister at St. Joseph's Catholic Church; Special Olympics volunteer; member of Coronation Court (an award chosen by students and teachers based on academics and citizenship); Never Give Up Club supporting cancer survivors and their families. Mikayla was accepted at Sul Ross State University to be a part of their inaugural year of women's soccer. She will major in nursing with future plan specializing in pediatric care.

Mr. Trent Petty, Petty and Associates and Mr. Greg Schaecher, McCall Parkhurst & Horton, presented a preliminary Service and Assessment Plan and following Resolution for the North Grove Public Improvement District and announced City Council will meet on February 26, 2015 to adopt the Ordinance pertaining to the Public Improvement District.

RESOLUTION NO. 1194

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, RELATED TO NORTH GROVE PUBLIC IMPROVEMENT DISTRICT: DETERMINING TOTAL COSTS OF CERTAIN PUBLIC IMPROVEMENTS; ACCEPTING A PRELIMINARY SERVICE AND ASSESSMENT PLAN, INCLUDING PRELIMINARY ASSESSMENT ROLL; DIRECTING THAT THE PRELIMINARY SERVICE AND ASSESSMENT PLAN BE FILED WITH THE CITY SECRETARY AND MADE AVAILABLE FOR PUBLIC INSPECTION; CALLING A PUBLIC HEARING TO CONSIDER THE LEVY OF SPECIAL ASSESSMENTS AGAINST PROPERTY IN THE DISTRICT TO PAY SUCH COSTS; DIRECTING THE CITY SECRETARY TO PUBLISH, MAIL, AND POST NOTICE OF THE PUBLIC HEARING AS REQUIRED BY LAW; APPROVING THE NORTH GROVE THOROUGHFARE IMPROVEMENTS DEVELOPMENT AGREEMENT; APPROVING THE NORTH GROVE PUBLIC IMPROVEMENT DISTRICT FINANCING AGREEMENT; APPROVING THE FORM AND AUTHORIZING THE DISTRIBUTION OF PRELIMINARY OFFICIAL STATEMENTS FOR "CITY OF WAXAHACHIE, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2015 (NORTH GROVE PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT AREA #1 PROJECT)"; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the governing body (the "City Council") of the City of Waxahachie, Texas (the "City"), is authorized by Chapter 372, Texas Local Government Code, as amended (the "Act"), to create public improvement districts within the City's corporate limits and extraterritorial jurisdiction;

WHEREAS, on July 2, 2014, the owners of property within the corporate limits of the City submitted and filed with the municipal secretary of the City (the "City Secretary") a petition (the "Petition") requesting the creation of the North Grove Public Improvement District (the "District") consisting of approximately 768.90 contiguous acres in the corporate limits of the City east of U.S. Highway 77, between Bessie Coleman Boulevard and Hedgewood Drive, which property is described in the Petition by metes and bounds (the "Property"). The Property is part of the residential and commercial development known as North Grove;

WHEREAS, the Petition requested the creation of the District to undertake the construction of public improvements described in the Petition (the "Public Improvements");

WHEREAS, on July 07, 2014, the City Council passed and approved Ordinance No. 2751 accepting the Petition, calling a public hearing for August 4, 2014 to consider the creation of the District, and directing the City Secretary to publish and mail notices of the public hearing as required by the Act;

WHEREAS, after publishing, mailing, and otherwise providing all notices required by the Act and state law, on August 4, 2014 the City Council opened the public hearing to consider the creation of the District and continued the public hearing to September 2, 2014;

WHEREAS, on September 2, 2014 the City Council continued the public hearing to consider the creation of the District to September 15, 2014;

WHEREAS, after all persons having an interest in the creation of the District were given an opportunity to be heard, the City Council closed the public hearing and passed and approved Resolution No. 1189 on September 15, 2014 creating the District by a unanimous vote of all members of the City Council;

WHEREAS, notice of the creation of the District was published on September 26, 2014, in a newspaper of general circulation in the City;

WHEREAS, only a portion of the Property consisting of approximately 483 acres ("Improvement Area #1") will be developed initially;

WHEREAS, the City Council is required to determine the total cost of the Public Improvements that benefit Improvement Area #1 (the "Improvement Area #1 Improvements");

WHEREAS, after the total cost of Improvement Area #1 Improvements has been determined, the City Council is required to prepare a proposed assessment roll that states the special assessment against each parcel of land in Improvement Area #1 as determined by the method of assessment chosen by the City Council;

WHEREAS, the City Council is required to file the proposed assessment roll with the City Secretary for public inspection;

WHEREAS, after the proposed assessment roll is prepared and filed with the City Secretary for public inspection, and after notices have been published and mailed as required by the Act, the City will conduct a public hearing at which the City Council proposed special assessments against the Property to pay for the Improvement Area #1 Improvements;

WHEREAS, at or on the adjournment of the public hearing to consider the levy of special assessments, the City Council must hear and pass on written and oral objections to the special assessments; and after all objections have been heard and passed on, the City Council, by ordinance, may levy special assessments against the Property to pay for the Improvement Area #1 Improvements;

WHEREAS, the City Council desires to approve the North Grove Thoroughfare Improvements Development Agreement between the City and JHDMC, LLC, as lead developer for Improvement Area #1, which sets forth their understanding and agreement related to the construction of the Improvement Area #1 Improvements and certain road improvements within Improvement Area #1 that are to be funded through the contribution of \$3,200,000 by the City;

WHEREAS, the City Council desires to approve the North Grove Public Improvement District Financing Agreement between the City, JHDMC, LLC, JHH Property Acquisition Services, LLC, Mountain Creek Partners III LLC, 112 LLC, Moritz Interest, LTD., and Margaret H. Lumpkins which sets forth their understanding and agreement related to the apportionment, levying and collection of special assessments on the Property, the construction and acquisition of Public Improvements, the issuance of special assessment revenue bonds to finance Public Improvements, and the reimbursement to the property owners for expenditures for certain Public Improvements;

WHEREAS, this City Council intends to authorize the issuance of the "City of Waxahachie, Texas, Special Assessment Revenue Bonds, Series 2015 (North Grove Public Improvement District Improvement Area #1 Project)" (the "Bonds") to fund the Improvement Area #1 Improvements;

WHEREAS, there has been presented to this City Council a Preliminary Official Statement for the Bonds (the "Preliminary Official Statement"); and

WHEREAS, this City Council finds and determines that it is necessary and in the best interests of the City to approve the form and content of the Preliminary Official Statement and authorize the use of the Preliminary Official Statements in the offering and sale of the Bonds by the underwriter of the Bonds;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, THAT:

SECTION 1. The recitals set forth in the WHEREAS clauses of this Resolution are true and correct and constitute findings and determinations by the City Council acting in its legislative capacity.

SECTION 2. The City Council hereby determines that the estimated total costs of the Improvement Area #1 Improvements is \$4,515,740 as set forth in the Preliminary SAP (defined below). The cost is an estimate subject to change.

SECTION 3. The City caused to be prepared that certain "PRELIMINARY North Grove Public Improvement District Service and Assessment Plan" (the "Preliminary SAP") a copy of which is attached hereto as Exhibit A. The Preliminary SAP includes a proposed assessment roll that states the assessment against each parcel of land in Improvement Area #1 of the District as determined by the method of assessment chosen by the City Council.

SECTION 4. The City Council accepts the Preliminary SAP and directs that it be filed with the City Secretary and made available for public inspection.

SECTION 5. A public hearing (the "Assessment Hearing") is hereby called to take written comments and oral testimony for and against the proposed levy of assessments against the Property to pay the cost of Improvement Area #1 Improvements. The public hearing will be held at 12:00 p.m. (noon) on Thursday, February 26, 2015, in the Waxahachie City Hall, 401 S. Rogers, Waxahachie, Texas.

SECTION 6. The City Secretary is authorized and directed to publish, mail, and post all notices of the Assessment Hearing, and take such other actions with respect to the Assessment Hearing, as required by law. The failure of a property owner to receive notice does not invalidate the proceeding.

SECTION 7. The North Grove Thoroughfare Improvements Development Agreement (the "Thoroughfare Development Agreement") between the City and JHDMC, LLC is hereby authorized and approved in substantially final form attached hereto as Exhibit B and incorporated herein as a part hereof for all purposes and the City Manager or Mayor of the City is hereby authorized and directed to execute and deliver such Thoroughfare Development Agreement with such changes as may be required to carry out the purpose of this Resolution and approved by the City Manager or Mayor, such approval to be evidenced by the execution thereof.

SECTION 8. The North Grove Public Improvement District Financing Agreement (the "PID Financing Agreement") between the City, JHDMC, LLC, JHH Property Acquisition Services, LLC, Mountain Creek Partners III LLC, 112 LLC, Moritz Interest, LTD., and Margaret H. Lumpkins is hereby authorized and approved in substantially final form attached hereto as Exhibit C and incorporated herein as a part hereof for all purposes and the City Manager or Mayor of the City is hereby authorized and directed to execute and deliver such PID Financing Agreement with such changes as may be required to carry out the purpose of this Resolution and approved by the City Manager or Mayor, such approval to be evidenced by the execution

thereof. The PID Financing Agreement includes a "reimbursement agreement" authorized by the Act.

SECTION 9. The form and content of the Preliminary Official Statement attached hereto as Exhibit D and incorporated herein as a part hereof for all purposes is hereby approved, and the City Manager or the Mayor is authorized to approve any changes, addenda, supplements or amendments to said document and to authorize its distribution by the underwriter for the Bonds to prospective purchasers of the Bonds. The City Manager or the Mayor is further authorized, for and on behalf of the City, to deem the Preliminary Official Statement final as of its date (subject to the permissible omissions described in Section (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934) within the meaning of the provisions of Rule 15c2-12.

SECTION 10. This Resolution is effective immediately upon passage and approval.

Councilmember Chuck Beatty moved to approve Resolution No. 1194 as presented.
Councilmember Mary Lou Shipley seconded, **All Ayes.**

Mayor Strength opened the Public Hearing on a request by RML Waxahachie Ford, LLC for the approval of a site plan with alternate exterior materials, within a Commercial (C) Zoning District, for Waxahachie Autoplex, located at 2401 N. IH35. Owner: John Thornhill (ZA 2014-37).

Mr. Kevin Kosoris, Attorney for Applicant, and Mr. Gain Robertson, RML Waxahachie Ford, requested a variance of the exterior materials being metal siding on the exterior and glass covering the storefront.

Mr. Clyde Melick, Director of Planning, stated the site plan includes rebuilding one building at the Ford Autoplex Dealership and Body Shop. Site plan proposes alternate exterior materials, varying from the Zoning Ordinance Design Guidelines. Applicant request metal siding on the exterior, and glass covering the storefront. Mr. Melick explained this is in keeping with the Ford Corporate Design Concept.

There being no others speaking for or against Zoning Amendment 2014-37, Mayor Strength closed the Public Hearing.

Councilmember David Hill moved to approve a request by RML Waxahachie Ford, LLC for the approval of a site plan with alternate exterior materials, within a Commercial (C) Zoning District, for Waxahachie Autoplex, located at 2401 N. IH35. Owner: John Thornhill (ZA 2014-37). Councilmember Chuck Beatty seconded, **All Ayes.**

Mr. Ivan Brigman, 550 Brigman Road, Maypearl, Texas, requested approval of Preliminary Plat of Taylor Ridge Phase 3 for 17 residential lots, being 25.007 acres in the SB Orton Survey Abst 813 in the ETJ – Owner: Ivan Brigman (PLM 2014-47).

Councilmember Mary Lou Shipley moved to approve Preliminary Plat of Taylor Ridge Phase 3 for 17 residential lots, being 25.007 acres in the SB Orton Survey Abst 813 in the ETJ – Owner: Ivan Brigman (PLM 2014-47). Councilmember Chuck Beatty seconded, **All Ayes.**

Mr. Christopher Roberts, 802 Brown Street, Waxahachie, requested approval of Replat of Roberts Addition, Block A, Lots 1 & 2, Being a Replat of Block 359, Lot 272 of the Town Addition Owner: Christopher and Michael Roberts (RP 2014-49).

Councilmember Chuck Beatty moved to approve Replat of Roberts Addition, Block A, Lots 1 & 2, Being a Replat of Block 359, Lot 272 of the Town Addition Owner: Christopher and Michael Roberts (RP 2014-49). Councilmember Mary Lou Shipley seconded, **All Ayes.**

Mr. Michael Scott, Assistant City Manager presented a Contract and Memorandum of Agreement with Lake-Moreno LLC for the sale of the Texas Theater. He stated this includes a cost share for the complete reconstruction of the building's roof structure. The building would be sold for \$200,000 with annual payments of \$40,000 beginning in year six. The deed of record will include language restricting the use to remain for entertainment, and the facility would be upgraded to improve the building and bring it up to current codes. The Tax Increment Reinvestment Zone #1 will fund \$48,170 to pay for roof design, construction oversight and one-half of the construction cost associated with the extensive roof repair. Rehab construction is to be completed with fifteen months of closing.

Councilmember Mary Lou Shipley moved to approve the Contract and Memorandum of Agreement with Lake-Moreno LLC for the sale of the Texas Theater as presented. Councilmember Chuck Beatty seconded, **All Ayes.**

Fire Chief Ricky Boyd presented an In-House Repair Center Agreement for SCBA Equipment with Scott Health & Safety and Resolution No. 1192 approving terms and conditions of the agreement. He explained this agreement will allow the 12 cities of EDUCT to share equipment and resources to inspect, repair and service our SCBA breathing apparatus.

RESOLUTION NO. 1192

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE IN-HOUSE REPAIR CENTER AGREEMENT WITH SCOTT HEALTH & SAFETY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Waxahachie desires to enter into an In-House Repair Center Agreement by and between the City of Waxahachie and Scott Health & Safety; and

WHEREAS, the City of Waxahachie and Scott Health & Safety join to allow the City of Waxahachie's In-House Repair Center (IRC) to perform certified overhaul level inspection, repair and service to Scott Products owned by the IRC;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS;

SECTION 1. That the In-House Repair Center Agreement, which is attached hereto and incorporated as Exhibit A, by and between the City of Waxahachie and Scott Health & Safety is hereby approved; and the City Mayor is hereby authorized to execute the same on behalf of the City.

SECTION 2. That should any word, phrase, paragraph, or section of this Resolution be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Resolution as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Resolution as a whole.

SECTION 3. This Resolution shall take effect immediately upon passage.

Councilmember Chuck Beatty moved to approve In-House Repair Center Agreement for SCBA Equipment with Scott Health & Safety and Resolution No. 1192 as presented.
Councilmember Mary Lou Shipley seconded, *All Ayes.*

City Secretary Lori Saunders presented Ordinance No. 2279 calling for the City Council Election to be held Saturday, May 9, 2015, to elect two Councilmembers. She noted the Ordinance includes contracting with Ellis County Elections Administrator for election services.

ORDINANCE NO. 2779

AN ORDINANCE PROVIDING FOR THE ELECTION TO BE HELD TO ELECT TWO CITY COUNCIL MEMBERS; PROVIDING FOR A JOINT ELECTION WITH THE WAXAHACHIE INDEPENDENT SCHOOL DISTRICT; PROVIDING FOR A CONTRACT FOR ELECTION SERVICES WITH ELLIS COUNTY ELECTIONS ADMINISTRATION; DESIGNATING THE TIME AND PLACE OF SAID ELECTION; DECLARING AN EMERGENCY AND SETTING AN EFFECTIVE DATE

Councilmember Mary Lou Shipley moved to approve Ordinance No. 2779 as presented.
Councilmember Chuck Beatty seconded, *All Ayes.*

City Secretary Lori Saunders presented Resolution No. 1193 approving Joint Election Agreement with Waxahachie Independent School District:

RESOLUTION NO. 1193

JOINT ELECTION WITH WAXAHACHIE INDEPENDENT SCHOOL DISTRICT

WHEREAS, Sec. 11.0581 of the Texas Education Code requires School Districts to hold their Board of Trustees Elections on the same day and jointly with:

1. The election for the members of the governing body of a municipality located in the School District; or
2. The general election for State and County officers;

WHEREAS, the City of Waxahachie (“City”) and the Waxahachie Independent School District (“School District”) anticipate holding an election on May 9, 2015;

WHEREAS, the City has expressed its willingness to hold its election jointly with the School District;

WHEREAS, Section 11.0581(c) requires that the voters of a joint election held under Sec. 11.0581 of the Texas Education Code be served by common polling places consistent with Section 271.003(b) of the Election Code;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE:

THAT the City of Waxahachie agrees to hold its May 9, 2015 election jointly with the Waxahachie Independent School District under the terms of the attached Joint Election Agreement, which is incorporated by reference for approval purposes, and that the Mayor of the City of Waxahachie is authorized to execute this Agreement.

THAT the Waxahachie Independent School District current election day polling place at the cafeteria of Marvin Elementary School, 110 Brown Street in Waxahachie, serve as the common polling location for the City’s joint elections with the Waxahachie Independent School District.

Councilmember Chuck Beatty moved to approve Resolution No. 1193 as presented.
Councilmember David Hill seconded, **All Ayes.**

Mr. Thanasis Kombos, Budget Analyst, presented Fiscal Year 2014-2015 1st Quarter Financial Progress Report noting these are projections only:

- Sales Tax collections in the General Fund totaled \$811,000, exceeding revenues projections by 17%
- Sokoll Water sales to Rockett met revenue projections for the quarter; Sokoll Water sales to Waxahachie, totaling \$67,000, were approximately double than projected revenue as several delinquent payments were collected in the first quarter.
- General Fund expenditures for most expense categories were below quarterly projections.
- General Fund expenditures for street reconstruction and rehabilitation projects totaled \$1,028,000. All first quarter street reconstruction expenditures were associated with fiscal year 2013-2014 encumbrances.
- Through the first quarter, the Water Fund experienced a negative variance (i.e., revenues less expenses equaling a “quarter deficit”) totaling \$410,000. This imbalance is associated in large part to an unanticipated increase in water purchases from Sokoll Water Treatment facility.

No action taken.

CITIZENS' PETITIONS AND REQUEST

Members of the audience referenced the upcoming Marvin Street Rehabilitation project.

Those who spoke in favor: Betsy and Tom Engelbrechtsen, 608 W. Marvin
 Mr. Jim Phillips, 606 W. Marvin
 Cheryl and Jim Farmer, 902 W. Marvin
 Todd Higman, 502 W. Marvin
 Robin Doughty, 902 W. Marvin

Those who spoke against: Christopher Martin, 808 W. Marvin

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

Mayor Strength thanked Ms. Mikayla Acosta as Honorary Councilmember.

Assistant City Manager a tree dedication ceremony honoring Mr. Joe Jenkins will be held Wednesday, February 4, 2015 at 10:00 a.m. Dove's Nest parking lot on Jefferson Street.

Councilmember Mary Lou Shipley thanked Honorary Councilmember Acosta and her family for their attendance.

City Manager thanked Council's decision on items before them. He referenced the West Marvin project noting Council needs to have a workshop and a decision will need to be made to serve the community.

Ms. Amy Hollywood, Director of Communications and Marketing, announced the Daddy/Daughter Dance will be held Thursday, February 12, 2015 at the Civic Center.

There being no further business the meeting adjourned at 8:21 p.m.

Respectfully Submitted,

Lori Saunders
City Secretary