

# City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

**REGULAR CITY COUNCIL MEETING**  
**WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS**  
**12111 RANCH ROAD 12, WIMBERLEY, TEXAS**  
**SEPTEMBER 17, 2009, 6:30 P.M.**

## **AGENDA**

**CALL TO ORDER:**                    SEPTEMBER 17, 2009 @ 6:30 P.M.

**CALL OF ROLL:**                    CITY SECRETARY

## **INVOCATION**

## **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**

## **PROCLAMATIONS:**

- (A)    PROCLAMATION DECLARING OCTOBER 6, 2009 AS "NATIONAL NIGHT OUT" IN WIMBERLEY, TEXAS.
- (B)    PROCLAMATION DECLARING SEPTEMBER 17<sup>TH</sup> THROUGH SEPTEMBER 23<sup>RD</sup> AS "CONSTITUTION WEEK".

## **CITIZENS COMMUNICATIONS:**

*THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS ON ISSUES AND ITEMS OF CONCERN, NOT ON THIS AGENDA. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AND OBSERVE A THREE-MINUTE TIME LIMIT WHEN ADDRESSING COUNCIL. SPEAKERS WILL HAVE ONE OPPORTUNITY TO SPEAK DURING THE TIME PERIOD. SPEAKERS DESIRING TO SPEAK ON AN AGENDA ITEM WILL BE ALLOWED TO SPEAK WHEN THE AGENDA ITEM IS CALLED. INQUIRIES ABOUT MATTERS NOT LISTED ON THE AGENDA WILL EITHER BE DIRECTED TO STAFF OR PLACED ON A FUTURE AGENDA FOR COUNCIL CONSIDERATION.*

## **1.    CONSENT AGENDA**

*THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COUNCIL MEMBER OR CITIZEN, IN WHICH EVENT THOSE ITEMS WILL BE PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION.*

- (A)    APPROVAL OF MINUTES OF THE REGULAR CITY COUNCIL MEETING OF SEPTEMBER 3, 2009.

- (B) APPROVAL OF THE MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 1, 2009.
- (C) APPROVAL OF THE APPOINTMENT OF DICK LARSON TO THE CITY OF WIMBERLEY BOARD OF ADJUSTMENT. *(MAYOR TOM HALEY'S NOMINEE)*

2. **CITY ADMINISTRATOR REPORT**

- STATUS REPORT ON THE RECENT FLOODING IN WIMBERLEY
- STATUS REPORT ON WIMBERLEY SALES TAX COLLECTIONS
- STATUS REPORT ON THE DEVELOPMENT OF A NON-POINT SOURCE POLLUTION ORDINANCE
- STATUS REPORT ON POSSIBLE MODIFICATIONS TO THE SLOPE REQUIREMENTS IN THE CITY OF WIMBERLEY CODE OF ORDINANCES
- STATUS REPORT ON THE MANAGEMENT TRANSITION AT THE WIMBERLEY COMMUNITY CENTER
- STATUS REPORT ON ACTIVITIES OF THE WIMBERLEY MUNICIPAL COURT
- STATUS REPORT ON ACTIVITIES OF THE CITY MARSHAL

3. **DISCUSSION AND POSSIBLE ACTION**

- (A) DISCUSS AND CONSIDER ISSUES RELATING TO THE DEVELOPMENT OF THE FISCAL YEAR 2010 OPERATING BUDGET FOR THE CITY OF WIMBERLEY. *(CITY ADMINISTRATOR)*
- (B) DISCUSS AND CONSIDER APPROVAL OF THE ROUTE AND THE PLACEMENT OF PUBLIC NOTICES FOR *THE LIVESTRONG CHALLENGE BIKE* EVENT TO BE HELD IN WIMBERLEY, TEXAS ON OCTOBER 25, 2009. *(CITY ADMINISTRATOR)*
- (C) DISCUSS AND CONSIDER ACTION REGARDING POSSIBLE MODIFICATIONS TO THE BUILDING HEIGHT REQUIREMENTS IN THE CITY OF WIMBERLEY CODE OF ORDINANCES. *(CITY ADMINISTRATOR)*
- (D) DISCUSS AND CONSIDER ACTION DESIGNATING MAYOR TOM HALEY, MAYOR PRO-TEM CHARLES ROCCAFORTE AND CITY ADMINISTRATOR DON FERGUSON AS AUTHORIZED SIGNATORIES ON THE CITY OF WIMBERLEY DEPOSITORY BANK ACCOUNTS AT OZONA NATIONAL BANK. *(MAYOR TOM HALEY)*
- (E) DISCUSS AND CONSIDER ACTION ON A REQUEST FROM THE WIMBERLEY VALLEY ART LEAGUE TO PLACE DIRECTIONAL SIGNAGE ON THE CITY'S RIGHTS-OF-WAY IN CONJUNCTION WITH THE *WIMBERLEY VALLEY ART LEAGUE ARTISTS' STUDIO TOUR* ON SEPTEMBER 18<sup>TH</sup> AND 19<sup>TH</sup>, 2009. *(CITY ADMINISTRATOR)*
- (F) DISCUSS AND CONSIDER POSSIBLE ACTION RELATING TO THE DEVELOPMENT OF A NEW CITY HALL FACILITY FOR THE CITY OF WIMBERLEY, TEXAS. *(MAYOR TOM HALEY)*

4. **CITY COUNCIL REPORTS**

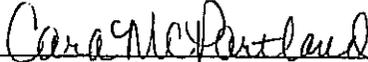
- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

## ADJOURNMENT

THE CITY COUNCIL MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

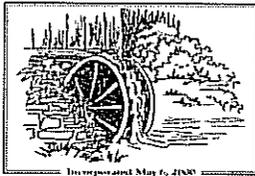
## CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on September 14, 2009 at 5:00 p.m.

  
\_\_\_\_\_  
CARA MC PARTLAND, CITY SECRETARY

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

# City Council Agenda Form



Date Submitted: September 12, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** APPROVAL OF  
SEPTEMBER 3, 2009 MINUTES OF REGULAR  
CITY COUNCIL MEETING

**Funds Required:**  
**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

Attached are minutes for the September 3, 2009 Regular City Council Meeting for review and consideration.

**City of Wimberley**  
City Hall, 12111 Ranch Road 12, Ste. 114  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
September 3, 2009 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

Mayor Haley gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Attorney Cindy Crosby and City Secretary Cara McPartland.

### **Citizens Communications**

Mayor Haley advised of procedures for speakers and stated that Agenda Items 3B and 3C would not include another public hearing. No citizen comments were heard.

### **1. Consent Agenda**

- A. Approval of minutes of the regular City Council meeting of August 20, 2009
- B. Approval of the July 2009 Financial Statements for the City of Wimberley
- C. Approval of the appointment of Rob Pitzer to the Wimberley Economic Development Commission (*Place Four Councilmember Steve Thurber's nominee*).

City Administrator Ferguson pulled Consent Agenda Item 1B and noted the following coding corrections: \$3,250 in the current expenditures should be moved from 631.1 *Administration/Capital Outlay-Technology* to 832.1 *Public Safety-Capital Outlay-Technology*, along with certain "total" amounts. Councilmember Flocke moved to approve all remaining Consent Agenda items as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

After discussion and clarification of specific line item corrections by City Administrator Ferguson, Councilmember Thurber moved to approve Consent Agenda Item 1B. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

### **2. Presentation**

Presentation by Hays County Subdivision Coordinator on the recently approved *Hays County Development Regulations* (Clint Garza).

Mr. Garza presented information on new Hays County development regulations including effective date, purpose, terms, consolidation of departments, and codification of numerous ordinances into one comprehensive document. Highlights included development of a consolidated set of definitions, increased public participation/advance notification, tax status verification, updated minimum lot size requirements, priority groundwater management areas, adoption of expiration dates for dormant projects, and parkland dedication provisions.

Additional requirements were outlined for wells/water availability, sizing for rainwater collection systems, coordination with applicable groundwater conservation districts, addition of "urbanized local roadway" category to roadway standards, building line setbacks, water quality, runoff rate/volume, and erosion/sedimentation control. Under the new regulations, no homeowner maintenance of on-site sewage facilities (OSSFs) would be allowed, pending Texas Commission on Environmental Quality (TCEQ) review and approval. Also updated were provisions relating to separation distances, prohibition of commercial OSSF spray dispersal, recertification, grandfathering of systems, and conservation development.

## **2. City Administrator Report**

- Status report on the search for a City Marshal

City Administrator Ferguson reported approximately twenty applications have been received in response to the City's published notice.

- Status report on the operation and development of *Blue Hole Regional Park*

City Administrator Ferguson reported on the early closing of the Park due to low water levels and season close-out statistics for attendance/revenue, with a complete report to be presented to Council at a later date. He reported on last week's productive meeting of the Blue Hole Development Task Force and the recent reception held for project consultants.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported that the Court's first scheduled jury trial did not occur due to the entry of a guilty plea by the defendant's legal counsel.

- Status report on activities of the City Marshal

City Administrator Ferguson reported on upcoming *National Night Out* activities scheduled for Tuesday, October 6, 2009 to be held in the Wimberley Square.

## **3. Public Hearing and Possible Action**

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Wimberley Independent School District to permit the construction and use of one wireless communications tower structure on approximately 32.116 acre tract of land, known as 100 Carney Lane, Wimberley, Texas zoned Public Facilities (PF); and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions (*Wimberley ISD, Applicant*).

City Administrator Ferguson reviewed the application including current/proposed zoning, subject property/tower location, tower height, and reasoning for allowance of construction on a temporary basis pending conditional use permit approval. No formal opposition to the tower has been received by staff.

Planning and Zoning Commissioner Jean Ross reported on the Commission's discussion of WISD's delayed application and comments from two notified property owners. She concluded with the Commission's unanimous recommendation for approval.

Mayor Haley opened the public hearing. Hearing no comments, Mayor Haley closed the public hearing.

Discussion addressed the tower's exact location, engineering certification requirements, alternative internet access options, and the tower's purpose to serve overall long-term communication needs. Councilmember White moved to approve the item as presented. Councilmember Flocke seconded. Discussion clarified that lighting is not needed on the tower because it does not meet the height threshold. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for a 1.367 acre tract located at 600 FM 2325, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial - Low Impact (C-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Kate Brune Tilton, Applicant; item continued from August 20, 2009 City Council meeting*).

Although the public hearing was closed at Council's last meeting, public comments lasting no longer than three (3) minutes will be allowed.

Mayor Pro-tem Roccaforte recused himself at this time due to a possible conflict of interest.

Mayor Haley noted that approval of this item will require a super majority vote in favor.

Based on safety issues, Parkside Hill Country Community School Director Rene Boschert spoke in opposition to the service of alcohol during school hours occurring within three hundred (300) feet of schools. She stressed the importance of adherence to rules and the sacred nature of school zones.

Mayor Haley reminded that this agenda item deals with zoning of the subject property, not the issue of alcohol sales.

Attorney representing Michael Dickey, Joe Malone, requested that conditional use permit (CUP) terms be included in the zoning ordinance.

Brent Pulley spoke of the requested C1 zoning as appropriate for the subject property and expressed concern with incorporating CUP conditions into the zoning ordinance, which he stated is inconsistent with zoning actions for similar properties.

Discussion addressed reasoning for prior inclusion of CUP conditions into the zoning ordinance, uses of surrounding properties, permitted C1 uses, history of the subject property's uses and associated complaints, additional conditions imposed on commercial properties abutting residential areas, neighborhood opposition, Planning and Zoning Commission's consideration, and careful consideration of property rights. Discussion acknowledged that under City-initiated zoning, the subject property would have been slated for C1 zoning designation.

Councilmember Appleman moved to approve the item as presented. Councilmember White seconded. Mayor Haley called for a vote as follows: Councilmember Flocke, aye; Councilmember Appleman, aye; Councilmember Thurber, aye; Councilmember White, aye. Motion carried on a vote of 4-0 (Mayor Pro-tem Roccaforte recused).

- C. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Kate Brune Tilton to permit an eating establishment: sit-down, including the sale of beer, wine and alcohol for on-premise consumption on an approximately 1.367 acre tract located at 600 FM 2325, Wimberley, Hays County, Texas, zoned Commercial – Low Impact (C-1), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions (*Kate Brune Tilton, Applicant; item continued from August 20, 2009 City Council meeting*).

Clarification was provided to Councilmember Thurber on this continued item's posting as a public hearing. It was recognized that public comments will be allowed.

General manager-in-residence Paul Tilton spoke in favor of the CUP based on the applicant's goals and vision to operate a family restaurant in full compliance with all City and State regulations, and felt that further restrictions would be unfair.

Rene Boschert repeated her concerns over children's safety due to the subject property's location on a major school corridor. As a school owner/director, Mrs. Boschert expressed concern relating to unsafe traffic conditions, should alcohol be served during school hours. She noted Katherine Anne Porter School's (KAPS) after-care programs and cautioned against approving alcohol sales for properties within school zones during school hours. Councilmember Flocke stated that people tend

to drink less when buying individual drinks as opposed to current "BYOB" conditions, which allows beer and wine to be consumed on-premise without Texas Alcoholic Beverage Code (TABC) regulation. Mrs. Boschert stated that she did not feel that the "BYOB" system currently in place was a safe alternative and was not aware of its existence.

Darenda Mallard felt that it is ridiculous to allow alcohol sales across from KAPS and questioned Council's consideration of the waiver request for the three hundred (300) foot distance requirement. She stated that waivers are routinely granted and felt that Planning and Zoning summarily dismissed alcohol issues based on prior precedent-setting alcohol-related zoning actions (specifically the Diamond Shamrock service station/convenience store location). Mrs. Mallard stated that WISD does not oppose alcohol sales because it seeks property tax revenues for funding. She compared Diamond Shamrock's operations to the subject property's proposed use, location, and proximity to existing and future school sites. She expressed concern with KAPS students crossing the street to buy alcohol at the subject property.

In response to Mrs. Mallard, Planning and Zoning Commissioner Jean Ross clarified that the Commission did not summarily dismiss alcohol issues and that discussion with legal counsel established that prior Diamond Shamrock zoning action(s) did not set precedent for future Planning and Zoning decisions, which are determined on a case-specific basis.

Planning and Zoning Commissioner Lila McCall felt that the Tilton's right to make a living must be protected and stated that the proposed restaurant will generate sales tax revenue. She noted that KAPS receives funding from the Lions Club, which plans to apply for a permit to sell beer and wine at Market Days. Commissioner McCall pointed out that a similar conditional use permit was approved for Mima's Kitchen at 701 FM 2325, with no opposition. She felt adequate safeguards are present via TABC regulations of alcohol sales. Due to new expressed opposition, Commissioner McCall stated that this matter should have been referred back to Planning and Zoning for further consideration and closed her remarks by asking for Council's approval.

Michael Dickey's attorney, Joe Malone, spoke of common ground shared by the applicants and neighboring property owners, including agreement on closing time, music confined to the existing structure on Friday nights only, and eight-foot solid fencing. He felt that discussions with the applicant and her attorney Brent Pulley have been productive and yielded successful compromises.

Despite these compromises, Brent Pulley felt that opposition will continue in some form no matter how much the Tiltons concede. He noted that Mima's Kitchen was recently approved for beer/wine sales with no opposition and that other restaurants in immediate proximity to the subject property already allow alcohol under the "BYOB" system. He felt that having a restaurant under TABC control is preferable to the "BYOB" policy and stated that some common-sense flexibility exists regarding the three hundred (300) foot distance requirement. Mr. Pulley asked that Council approve the CUP and assured that all alcohol regulations will be strictly adhered to.

KAPS Board President Rocky Boschert, stated that safety should be considered first and suggested that the proposed restaurant only serve alcohol after 6:00 p.m. on Wednesdays/Thursdays and only after 4:00 p.m. on Fridays. Mr. Boschert noted that KAPS is not within three hundred (300) feet of

Mima's Kitchen, and therefore unable to exert any opposition to its CUP approval. He offered a hypothetical situation that he felt would draw WISD opposition and summarized his position that allowing alcohol to be sold and consumed within three hundred (300) feet of KAPS would be a safety hazard. He pointed out that there are no sidewalks for pedestrians on FM 2325. Mr. Boschert closed by asking Council to make its decision as if its members had school-aged children and strongly recommended denial of the CUP application.

Darenda Mallard stated that discussions occurred between attorneys Joe Malone and Brent Pulley without involving her or most other neighboring property owners. Mayor Haley clarified that the City does not control outside meetings and is not responsible for notification for such outside meetings.

Mayor Haley opened Council discussion. Councilmember Flocke favored approval of the CUP, with amendments as recommended by the Planning and Zoning Commission. After some discussion of pre-existing, non-conforming status, Councilmember Appleman cautioned against arbitrary restrictions and stressed the importance of fairness in application of regulations. Councilmember Thurber commended the parties for compromising on issues and asked for clarification on the effect of denying the three hundred (300) foot distance requirement waiver on the CUP, should it be approved. Clarification was also provided to Councilmember Thurber on the subject property's existing sign, which is considered pre-existing, non-conforming, as long as the sign is not modified (other than text changes to the existing sign).

Councilmember White stated acceptance of all agreed-upon changes, with the exception of the restriction of the music venue to one night only. City Administrator Ferguson clarified language related to operating hours, noting that the applicants wish to cease all restaurant operations by midnight, with the last patrons to be seated between approximately 10:30 p.m. to 11:00 p.m., and all employees out by midnight.

Councilmember Flocke agreed with Councilmember White and moved to approve the item with the following conditions: music shall end no later than 11:00 p.m. (with all restaurant operations to cease no later than midnight) and fencing shall be eight (8) feet in height. Councilmember White seconded.

Based on the agreement reached by Mr. Malone and Mr. Pulley, Councilmember Thurber felt that music should be restricted to only one night per week. Discussion addressed limitation of the music venue, the CUP process in general, Council's consideration of Planning and Zoning's recommendations, and agreements made between certain property owners and the applicant.

Darenda Mallard expressed an objection for not being allowed to speak outside of the time already allowed for public comment.

Should Council approve restriction of music to one night only, Councilmember White questioned the process for the applicant to request future expansion of the music venue. Discussion established

that the applicant would have to apply for a CUP amendment and go through the same process as with the original CUP application.

Hearing no further discussion, Mayor Haley called for a vote as follows: Councilmember Appleman, aye; Councilmember Thurber, nay; Councilmember White, aye; Councilmember Flocke, aye. Motion failed on a vote of 3-1 (Super majority required).

Councilmember Flocke moved to approve the item with the prior motion's stated conditions and the additional condition that music be limited to Friday nights only. Councilmember White seconded.

Mayor Haley called for a vote as follows: Councilmember Thurber, aye; Councilmember White, aye; Councilmember Flocke, aye; Councilmember Appleman, aye. Motion carried on a vote of 4-0.

- D. Hold a public hearing and consider approval of a waiver of the 300-foot distance requirement relating to the sale of beer, wine and alcohol at 600 FM 2325, Wimberley, Hays County, Texas (*Kate Brune Tilton, Applicant; item continued from August 20, 2009 City Council meeting*).

City Administrator Ferguson reviewed the waiver request and Mayor Haley opened the public hearing.

Darenda Mallard emphasized that alcohol will be consumed on-premise and felt that despite the applicant's best efforts, some people will likely leave in their vehicles after drinking too much. She noted KAPS' schedule on standard and non-standard school days and felt that drivers may not realize that they are entering/exiting the subject property within a school zone. She cautioned that teen drivers and inebriated drivers are not best equipped to gauge time and distance. Mrs. Mallard wondered why restrictions exist if Council routinely grants waivers for such restrictions. She quoted Benjamin Franklin regarding the importance of investment in knowledge and stated that it is in KAPS' best interest to deny this CUP application. She stressed the importance of every Council decision to the community. Mrs. Mallard spoke of the permanent nature of zoning actions, which remain with the property, regardless of changes in ownership.

Rocky Boschert stated that restaurant workers cannot check everyone who has consumed alcohol before leaving the premises. He reiterated that compromising on limited hours for alcohol sales will not harm the business and stated that the sale/consumption of alcohol in Wimberley needs to be based not just on moral grounds, but on objective child safety and community health concerns. While commerce and free market add to prosperity, Mr. Boschert stated that unfettered liquor sales can be risky if economic values compromise our young people's safety and our community's integrity. Mr. Boschert stated that his comments are for all the children traveling on FM 2325, not just KAPS students.

Mayor Haley closed the public hearing and opened Council discussion.

Discussion addressed CUPs and waivers in general, revocation of CUPs, complaint/enforcement process, lack of TABC oversight under the "BYOB" system, recognition of traffic/pedestrian safety, the public hearing process, the primary purpose of the business as a restaurant (rather than bar), and TABC enforcement.

Councilmember Appleman moved to approve the item as presented in accordance with the following findings. Council may waive the distance requirements if Council finds that enforcement of the distance provision:

- is not in the best interest of the public
- constitutes waste or the inefficient use of land or other resources
- creates an undue hardship on an applicant
- does not serve its intended purpose
- is not effective or necessary
- for any other reason the Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines in the best interest of the community.

Councilmember Flocke seconded. Mayor Haley called for a vote as follows: Councilmember White, aye; Councilmember Thurber, nay; Councilmember Appleman, aye; Councilmember Flocke, aye. Motion carried on a vote of 3-1.

Mayor Haley called a ten-minute recess at 8:30 p.m. Mayor Haley reconvened at 8:40 p.m.

- E. Hold a public hearing on the Proposed City of Wimberley Fiscal Year 2010 Budget (*City Administrator*).

Mayor Pro-tem Roccaforte rejoined the meeting at this time.

Mayor Haley opened the public hearing.

Clint Frankmann spoke against expenditures related to the City Marshal and felt that replacing the outgoing City Marshal should be postponed. Mr. Frankmann stated that Hays County provides adequate law enforcement staffing for the City and reminded that citizens pay Hays County taxes. He stated the City Marshal's services are unwarranted, redundant, and superfluous, with funds better utilized for items such as road repair and maintenance. He cited specific roads in need of repair. Mr. Frankmann stated that the largest employers in Wimberley do not provide fully funded health insurance for employees and felt that it is not prudent for the City to do so. Mr. Frankmann questioned the statutory need for a city limits survey and asked what purposes would be served by having such a survey completed. He implored Planning and Zoning to revisit the City's slope requirements and considered such restrictions as infringement on property rights.

David Prasifka spoke of the original incorporation mandates to control development and street improvements. He felt that City government has gone far outside of its original purpose by spending in many other areas. Mr. Prasifka stated that the City's biggest priority should be street

maintenance and cited specific problem areas. He estimated savings over ten years that could be realized by discontinuing the City Marshal's position and relying on Hays County for law enforcement for as long as the City is allowed to do so.

Mayor Haley closed the public hearing. No action was taken on this item.

## 5. Discussion and Possible Action

- A. Discuss and consider issues relating to the development of the Fiscal Year 2010 Operating Budget for the City of Wimberley (*City Administrator*).

Discussion addressed:

- City Marshal's salary
- Information on employee health insurance cost estimates, compulsory participation, and survey of employees to determine desire for health benefits
- Effectiveness of City Marshal in addressing citizen complaints regarding speeding in specific areas
- Possible postponement of city limits survey in order to add road improvement funding
- Requiring employees to share costs for health insurance
- Need for large capital outlay expenditures for streets, with limited revenue sources
- Costs/benefits of City Marshal's position and associated expenditures
- Budget areas to cut in order to fund street improvements such as Municipal Court and records management
- Ways to reduce costs for the city limits survey and need to utilize a certified surveyor, at least in a supervisory capacity
- Use of Wimberley Community Center for meetings in order to reduce rent at City Hall's current space
- Prioritization of road improvement projects by City staff and Transportation Advisory Board (TAB)
- Personal responsibility of individuals to provide their own health care
- Need to postpone action on the outgoing City Marshal's replacement

Mayor Haley noted street improvement priorities recommended by TAB and asked for comments from legal counsel relating to the City's obligation to complete a survey of its boundaries.

City Attorney Crosby stated that legal challenges may be raised such as issues related to voting/residency status and annexation. The primary issue is that the City has not been in compliance with State law since incorporation.

Mayor Haley felt strongly that the survey needs to be completed and that the fund balance needs to be preserved. He suggested budgeting \$50,000 and taking \$50,000 out of fund balance in order to pay for the costs of a city limits survey.

Discussion addressed the length of time to complete a survey, project phasing, use of more than one engineering firm to expedite the process, and benefits derived from having the city limits surveyed.

No action was taken on this item.

- B. Discuss and consider scheduling a special City Council meeting on Tuesday, September 22, 2009 to approve the Fiscal Year 2010 Operating Budget for the City of Wimberley (*City Administrator*).

Discussion reached agreement to hold a special meeting on Tuesday, September 22, 2009 at 6:00 p.m. Councilmember Thurber moved to approve the agreed-upon date and time. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider approval of an agreement with Ozona National Bank to serve as a bank depository for the City of Wimberley (*City Administrator*).

City Administrator Ferguson detailed the bid submitted by Ozona National Bank (ONB) and noted certain provisions related to third-party agreements with ONB's safekeeping institution. He stated that the City is comfortable with safeguards for the City's pledged securities and pointed out that ONB will offer the City money market checking at the current interest rate of one-half percent (1/2%). Mr. Ferguson stated that this proposed ONB depositor agreement is not exclusive and that the City may have more than one depository bank.

Councilmember Thurber moved to approve the item as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider issues relating to the existing Community Center use agreements for the Wimberley Lions Club, Meals on Wheels, and the Wimberley Senior Citizens Activities, Incorporated (*Place Three Councilmember Bill Appleman*).

It was agreed that Council should adjourn into Executive Session in order to discuss this item.

M.F. Johnson questioned the need for retiring to Closed Session and City Attorney Crosby advised of the City's right to maintain attorney-client privilege. Councilmember Appleman thanked M.F. Johnson and Wimberley Senior Citizens Activities, Inc. (WSCAI) for its work and vision, but noted the importance of historical review and input from legal counsel. Councilmember Flocke reminded that no action will be taken in Executive Session and Mrs. Johnson requested that Council report on what was discussed in Executive Session. She urged Council to remember how the Community Center was started with "handshake" agreements, rather than formalized contracts.

Mayor Haley adjourned Open Session and convened Executive Session at 9:18 p.m. for consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code.

Mayor Haley reconvened into Open Session at 9:46 p.m. No action was taken during Executive Session.

**6. City Council Reports**

- Announcements
- Future Agenda Items

As future agenda items:

- Councilmember Roccaforte requested discussion of slope/height requirements.
- Councilmember Thurber requested an update on the water quality ordinance and a copy of the City's lease agreement.

Mayor Haley reported on Wimberley Water Supply Corporation's reduced pumpage as a result of implementation of Stage III water rationing.

Hearing no more announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 9:48 p.m.

**Adjournment:** Council meeting adjourned at 9:48 p.m.

Recorded by:

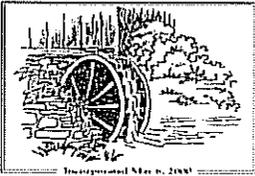
Cara McPartland

These minutes approved on the \_\_\_\_ of September, 2009.

**APPROVED:**

**Tom Haley, Mayor**

# City Council Agenda Form



**Date Submitted:** September 14, 2009

**Agenda Date Requested:** September 17, 2009

**Project/Proposal Title:** APPROVAL OF  
SEPTEMBER 1, 2009 MINUTES OF SPECIAL CITY  
COUNCIL MEETING

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

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**Project/Proposal Summary:**

Attached are the minutes for the September 1, 2009 Special City Council Meeting for review and consideration.

**City of Wimberley**  
City Hall, 12111 Ranch Road 12, Ste. 114  
Wimberley, Texas 78676  
**Minutes of Special Meeting of City Council**  
September 1, 2009 at 5:00 p.m.

City Council meeting called to order at 5:09 p.m. by Mayor Tom Haley.

Councilmembers Present: Councilmembers Bob Flocke, Bill Appleman, Steve Thurber, and John White. Councilmember Roccaforte had an excused absence.

Staff Present: City Administrator Don Ferguson and City Secretary Cara McPartland.

**Workshop Session:**

Workshop to discuss issues relating to the proposed Fiscal Year 2010 City of Wimberley Budget

City Administrator Ferguson highlighted revenues and discussion addressed:

- Reasoning for arriving at the proposed FY 2010 Sales & Use Tax figure and the overall budget timeframe, including any needed amendments to the FY 2009 Budget
- Miscellaneous income
- Increases in franchise fees
- Health fees to be collected for health inspections/permitting and septic permitting
- Parking lot revenue
- Community Center rental fees and transition process as the City assumes operations
- Conservative revenue projection for the Community Center and possible ways to maximize revenue

City Administrator Ferguson highlighted expenditures and discussion addressed:

- No salary adjustments for City personnel
- Additional expenditure for contract Fire Marshal offset by corresponding Fire Inspections revenue line
- Continuation of health benefits monthly stipend versus City-provided health insurance and long-term need to provide benefits
- Consideration of alternative small business program(s) to provide health services
- Specific dues paid to various organizations and benefits derived from membership
- Telephone expenses breakdown
- Rent for City Hall/storage space and certain lease terms
- Specific costs for leased equipment such as copier, postage meter, and emergency radios
- Expenditure for water cooler versus installation of a vending machine

- Records Management including recodification, electronic records, software licenses, system support/back-up, and website update/maintenance
- Capital Outlay – Technology expenditure for computer upgrade
- Advantages of digitizing records and future issues such as data migration and compatibility
- Training/travel related expenses
- Election costs
- Financial Management Services provided contract accountant and audit firm
- Public Relations/Receptions expenses such as fireworks and plaques, some of which will be offset by corresponding revenue lines and the need for volunteer recognition
- Fitness Council expenditures offset by grant revenues
- Decrease in Contract Inspector/Site Plan Reviews costs due to slowing economy
- Public Works operating costs including mileage, training, supplies, fuel, and vehicle maintenance
- Increased Road Maintenance expenditures including contract animal removal and possible collaborative effort to establish a regional incineration facility
- Capital Outlay Roads costs including improvements for LaPais Drive, La Buena Vista Drive, and Las Flores Drive and terms of the Hays County Interlocal Agreement for road maintenance
- Funding options to meet need for immediate and long-term street improvements such as capital improvement programs
- Balancing priorities in order to pay for needed street improvements and identify critical needs
- Itemized Road Engineering costs including expenditures for street assessment
- Specific Signs/Barricades costs
- Master Planning Traffic Studies and Survey Services costs, with discussion of the need for completion a statutorily required city limits survey
- Water Quality Testing costs for analysis, including volunteer testing program and supplemental sampling/analysis
- Public Restroom Wastewater expenses for cleaning, supplies, and purchase of a hand dryer and portable restroom(s)

After calling for a ten-minute recess at 6:12 p.m., Mayor Haley reconvened the meeting at 6:22 p.m.

City Administrator Ferguson highlighted:

- Public Safety personnel costs, noting no salary increase
- Public Safety operating costs including Municipal Court judge, City prosecutor, training, animal control, and fuel
- Specific Public Safety operating supplies such as body armor, handheld radar unit, racial profiling report software, forms/tickets, and ammunition
- City Marshal vehicle maintenance and vehicle lease payment/terms

- Parks & Recreation operating expenses including research and development for a “pocket” park adjacent to the Lumberyard property (with Rotary Club funding assistance for development)
- Nature Trail operations clean-up costs including mowing and tree-trimming
- Community Center personnel expenses and existing agreements
- Community Center operating expenses such as maintenance and repair, advertising/marketing, and occupancy rates
- Community Center security (alarm system) and supplies expenses
- Utilities cost breakdown, energy conservation measures, and air conditioning issues
- Comparison of Community Center revenues/expenditures and resulting budget deficit

City Administrator Ferguson presented Blue Hole Regional Park’s proposed FY 2010 Budget, noting higher grant-related construction expenditures, with operating costs remaining consistent with last season. He anticipated the influx of miscellaneous grant funds into Blue Hole’s budget and outlined the timeframe for project phases. Discussion addressed use of grant funds for personnel expenses (which is not allowed) and development of long-term endowment financing.

Discussion addressed use of Hays County grant funds for development and preliminary endowment financing efforts. City Administrator Ferguson cited gate/rental fees, noting no increases at this time. Expenditures were highlighted for summer labor costs, utilities such as fans and misters, increased money for mowing in anticipation of rain, and trail maintenance. Operational expenses included supplies such as wristbands and shirts, contract supplies, landscaping, and regular trash clean-up. The need for adequate trash receptacles was briefly discussed.

Other highlighted expenditures included:

- Equipment rental, materials, signage
- Public restroom facilities for porta-cans and maintenance
- Capital Outlay Equipment expenses for a turf vehicle to help with hauling and a lightning detection system
- Capital Outlay Facilities reflecting a percentage of the total build-out

Council comments included:

- Councilmember Flocke requested cost estimates for employee health benefits, cost of living increases, and possible future ceilings on certain job classifications
- Councilmember Appleman stressed the need to re-prioritize the budget to focus on basic services and examine the need for continuation of City Marshal and Municipal Court expenditures
- Continued reliance on Hays County law enforcement, future costs, and positive impact of the City Marshal on the local community and code enforcement
- Suggestion by Councilmember Appleman to cut City Hall rental expenses by holding meetings at the Community Center

- Councilmember Thurber concurred with Councilmember Appleman's cost-saving suggestion to move meetings to the Community Center
- Councilmember White stated that law enforcement related expenses could be postponed until more pressure is exerted on the City by Hays County to take over law enforcement. He agreed with previous comments regarding use of the Community Center for meeting space.

Hearing no further comments, Mayor Haley called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 6:59 p.m.

Recorded by:

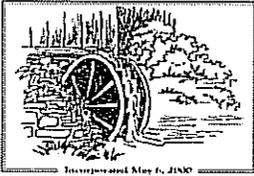
Cara McPartland

These minutes approved on the \_\_\_\_ of September, 2009.

**APPROVED:**

**Tom Haley, Mayor**

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** APPOINTMENT OF DICK LARSON TO THE WIMBERLEY BOARD OF ADJUSTMENT

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

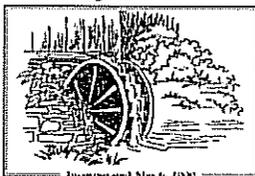
- Ordinance
- Resolution
- Motion
- Discussion

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**Project/Proposal Summary:**

This item was placed on the agenda at the request of Mayor Tom Haley to allow City Council to consider the appointment of Dick Larson to the Wimberley Board of Adjustment.

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

Project/Proposal Title: CITY ADMINISTRATOR'S REPORT

Funds Required:  
Funds Available:

Council Action Requested:

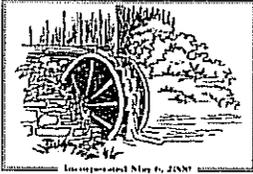
- Ordinance
- Resolution
- Motion
- Discussion

## Project/Proposal Summary:

The City Administrator will present a report on the following items:

- Status report on the recent flooding in Wimberley
- Status report on Wimberley sales tax collections
- Status report on the development of a *Non-Point Source Pollution Ordinance*
- Status report on possible modifications to the slope requirements in the *City of Wimberley Code of Ordinances*
- Status report on the management transition at the Wimberley Community Center
- Status report on activities of the Wimberley Municipal Court
- Status report on activities of the City Marshal

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** CONSIDER ISSUES  
RELATING TO DEVELOPMENT OF FY 2010 BUDGET

**Funds Required:**  
**Funds Available:**

**Council Action Requested:**

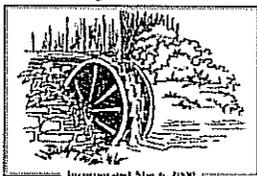
- Ordinance
- Resolution
- Motion
- Discussion

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## Project/Proposal Summary:

This item was placed on the agenda to allow for discussion of issues to be considered in the upcoming development and adoption of the City of Wimberley FY 2010 Budget beginning October 1, 2009. As part of the discussion, City staff will present cost figures relating to employee health insurance along with different budget scenarios which increase funding for street improvements.

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** CONSIDER APPROVAL OF THE ROUTE AND PUBLIC NOTICES FOR THE UPCOMING *LIVESTRONG CHALLENGE*

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

This item was placed on the agenda to allow City Council to consider approval of a route for the *Livestrong Challenge* bike event to benefit the Lance Armstrong Foundation coming up on October 25, 2009. As the proposed route involves the use of City right-of-way, City Council approval of the route is required. The insurance policy for the event will list the City of Wimberley as an additional insured.

Participants in the long distance bike event will enter the City on FM 2325, turn onto Ranch Road 12 at the "Y" and then proceed to River Road where they will turn and head out of the City. The participants are expected to pass through the City at mid-morning. Law enforcement officers will be stationed along the route to control traffic and informational signage will be in place along the route.

There will be no cost to the City associated with the event.



### **Lance Armstrong Foundation (LAF) Mission:**

The Lance Armstrong Foundation believes that in your battle with cancer, knowledge is power and attitude is everything. From the moment of diagnosis, we provide the practical information and tools you need to **LIVESTRONG**.

### **About the LAF:**

Founded in 1997 by cancer survivor and cyclist champion Lance Armstrong, the LAF provides practical information and tools for the nearly 10 Million people living with cancer. We serve our mission through the four core program areas:

- Education
- Advocacy
- Public Health
- Research

### **Description of LIVESTRONG Challenge:**

The **LIVESTRONG** Challenge is the Lance Armstrong Foundation's signature fundraising series. The **LIVESTRONG** Challenge is a series of events, including a fundraising appreciation dinner, a public bike ride with distances ranging from 10 to 100 miles, a 5k run/walk, a Sport and Health Expo, and a Post-Event Party. The cycling and running events inspire and empower people affected by cancer, and in 2008, the series raised more than \$10 Million for cancer research and survivorship initiatives.

The 2009 **LIVESTRONG** Challenge events will be held in Seattle, WA, San Jose, CA, Philadelphia, PA and Austin, TX.

The 2009 schedule is as follows:

- June 20-21<sup>st</sup> – Seattle
- July 11-12<sup>th</sup> – San Jose
- August 22-23<sup>rd</sup> – Philadelphia
- October 24-25<sup>th</sup> – Austin

The general outline of the event weekend includes:

- Saturday packet pick-up and **LIVESTRONG** Village (health and sports expo)
- Saturday evening appreciation dinner for high achieving fundraisers
- Sunday ride of 10, 40, 70 or 100 miles and a 5K fun run

--The average participation for each event is 5,000 riders and runners combined.

**POWER STOP**  
Incremental Distances

From	To	Point to Point	Total
START	#1	4mi	4mi
#1	#1	12mi	16mi
START	#1	4mi	4mi
#1	#2	11mi	15mi
#2	#8	12mi	27mi
#8	#1	13mi	40mi
START	#1	4mi	4mi
#1	#2	11mi	15mi
#2	#3	9mi	24mi
#3	#4	12mi	36mi
#4	#8	9mi	45mi
#8	#1	13mi	58mi

**POWER STOP**  
Incremental Distances

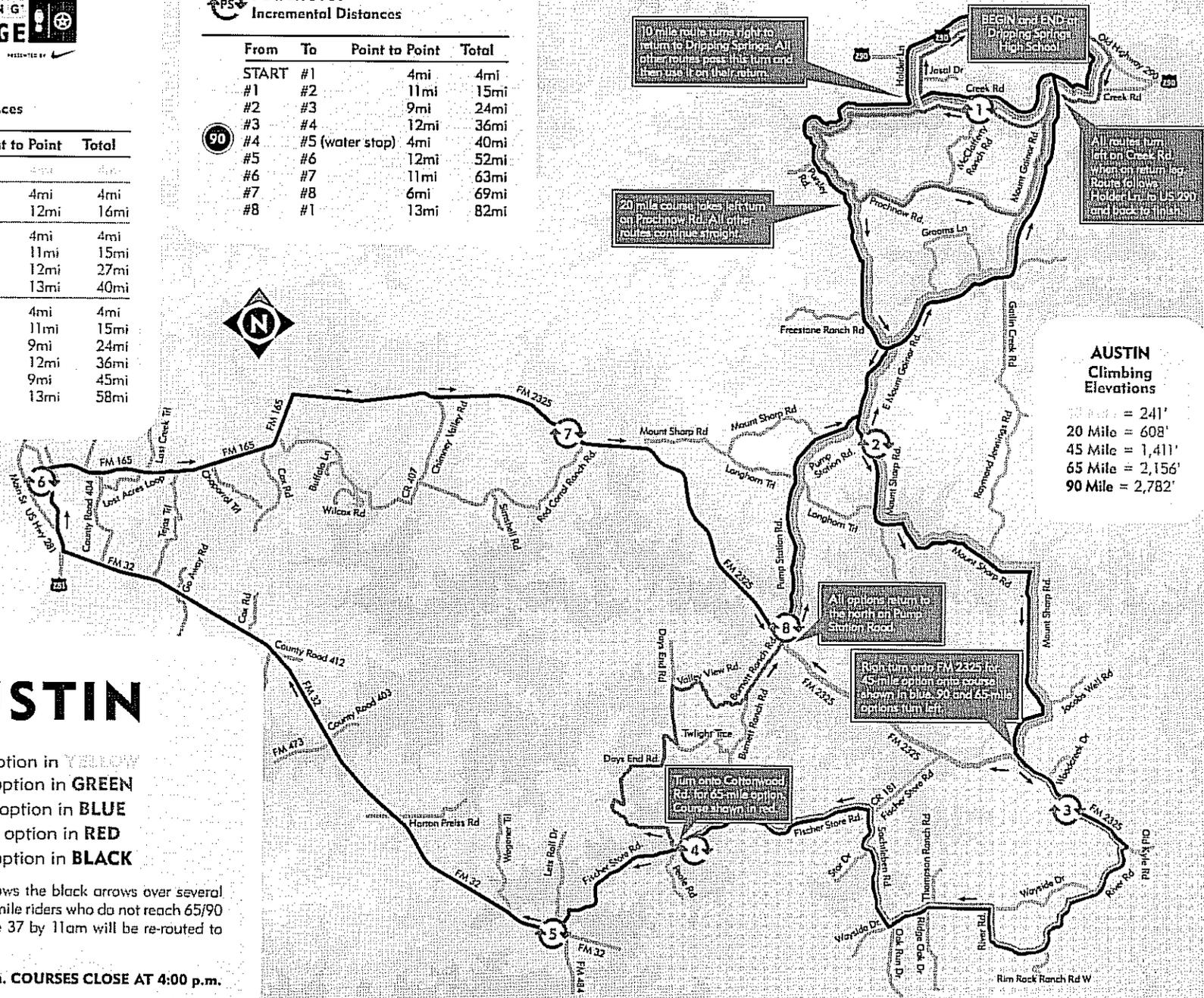
From	To	Point to Point	Total
START	#1	4mi	4mi
#1	#2	11mi	15mi
#2	#3	9mi	24mi
#3	#4	12mi	36mi
#4	#5 (water stop)	4mi	40mi
#5	#6	12mi	52mi
#6	#7	11mi	63mi
#7	#8	6mi	69mi
#8	#1	13mi	82mi

# AUSTIN

- 10-mile option in **YELLOW**
- 20-mile option in **GREEN**
- 45-mile option in **BLUE**
- 65-mile option in **RED**
- 90-mile option in **BLACK**

The 90-mile option follows the black arrows over several of the shorter loops. 90 mile riders who do not reach 65/90 mile course split at mile 37 by 11am will be re-routed to the 65 mile course.

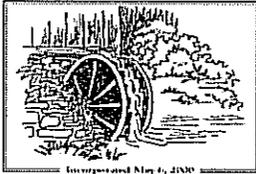
Event begins at 8:00 a.m. COURSES CLOSE AT 4:00 p.m.



**AUSTIN Climbing Elevations**

- 241' = 241'
- 20 Mile = 608'
- 45 Mile = 1,411'
- 65 Mile = 2,156'
- 90 Mile = 2,782'

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** DISCUSS AND CONSIDER POSSIBLE ACTION RELATING TO MODIFICATIONS TO THE CITY'S BUILDING HEIGHT REQUIREMENTS

**Council Action Requested:**

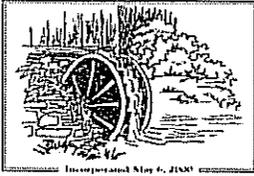
- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

This item was placed on the agenda allow City Council to discuss and consider possible modifications to the building height requirements set forth in the City of Wimberley Code of Ordinances.

Currently, primary structures in the city cannot be more than 2 stories tall and not more than 28 feet in height with a flat roof or 35 feet with a pitched roof. Accessory buildings may not be more than 18 feet in height and not more than one story tall. Decks may not be more than 12 feet in height including a railing or 18 feet including a roof. Per the City Code, the height of a structure is considered to be the greatest vertical distance from any point on the established ground level under the structure to the highest attached component of the structure at that point. The established ground level shall be the lower of the natural grade prior to disturbance of the site or the newly established grade after construction.

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** DESIGNATE NEW  
BANK SIGNATORIES FOR THE CITY OF WIMBERLEY

**Funds Required:**  
**Funds Available:**

**Council Action Requested:**

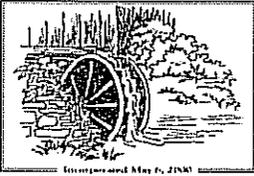
- Ordinance
- Resolution
- Motion
- Discussion

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## Project/Proposal Summary:

This item was placed on the agenda by Mayor Tom Haley to designate himself, Mayor Pro-tem Charles Roccaforte and City Administrator Don Ferguson as authorized signatories on the City of Wimberley depository bank accounts at Ozona National Bank.

# City Council Agenda Form



Date Submitted: September 14, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** CONSIDER REQUEST FROM THE WIMBERLEY VALLEY ART LEAGUE TO PLACE SIGNAGE IN THE RIGHTS-OF-WAY

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

Ordinance

Resolution

Motion

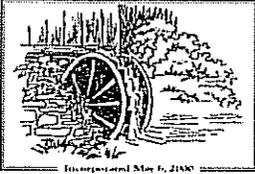
Discussion

**Project/Proposal Summary:**

This item was placed on the agenda to allow City Council to discuss and consider a request from the Wimberley Valley Art League to place directional signage in the City's rights-of-way in conjunction with the Wimberley Valley Art League Artists' Studio Tour on September 18<sup>th</sup> and 19<sup>th</sup>. If approved, the League will put out the signage on the morning of September 18<sup>th</sup> and pick it up the next evening. Attached is a copy of the map showing the proposed locations of the small directional signs.



# City Council Agenda Form



Date Submitted: September 12, 2009

Agenda Date Requested: September 17, 2009

**Project/Proposal Title:** CONSIDER POSSIBLE  
OPTIONS FOR THE DEVELOPMENT OF A NEW  
CITY HALL

**Funds Required:**  
**Funds Available:**

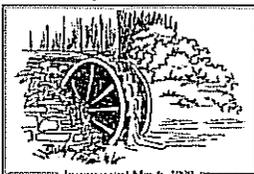
**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

This item was placed on the agenda by Mayor Tom Haley to allow City Council to discuss and consider action regarding the various options that may exist for the development of a new City Hall for the City of Wimberley.

# City Council Agenda Form



Date Submitted: September 12, 2009

Agenda Date Requested: September 17, 2009

Project/Proposal Title: CITY COUNCIL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by the Mayor and members of City Council and for future agenda item requests.