

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
May 21, 2009 at 6:30 p.m.

City Council meeting called to order at 6:50 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, Jeri Xiques, Steve Thurber, and Dick Larson.

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

Citizen Communications

No citizen communications were heard.

1. Oath of Office

Administer the Oath of Office to the three (3) Councilmembers-elect of the City of Wimberley City Council.

Hays County Precinct Three Justice of the Peace Andrew W. Cable administered the Oath of Office to Councilmembers-elect Charles Roccaforte, Bill Appleman, and John White.

2. Discussion and Action on Election Related Matters

- A. Consider approval of a resolution of the City Council of the City of Wimberley, Texas recognizing the public service rendered by Jeri Xiques as Councilmember of the City of Wimberley, Texas (*Mayor Tom Haley*).
- B. Consider approval of a resolution of the City Council of the City of Wimberley, Texas recognizing the public service rendered by Dick Larson as Councilmember of the City of Wimberley, Texas (*Mayor Tom Haley*).

Mayor Haley read the resolutions and presented them to the recipients along with plaques recognizing their service. Councilmember Roccaforte moved to approve Agenda Items 2A and 2B. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- C. Consider approval of an appointment of Mayor Pro-tempore for a term of one (1) year (*Mayor Tom Haley*).

Councilmember Thurber moved to appoint Councilmember Flocke as Mayor Pro-tempore. Councilmember Flocke moved to appoint Councilmember Roccaforte. Councilmember White seconded. Motion carried on a vote of 5-0.

3. Consent Agenda

- A. Approval of minutes of the regular City Council meeting of May 7, 2009.
- B. Approval of minutes of the special City Council meeting of May 7, 2009.
- C. Approval of minutes of the special City Council meeting of May 15, 2009.
- D. Approval of the appointment of Mac McCullough to the City of Wimberley Water Wastewater Advisory Board (*Mayor Tom Haley's nominee*).
- E. Approval of the appointment of Dave Estey to the City of Wimberley Water Wastewater Advisory Board (*Place One Councilmember Charles Roccaforte's nominee*).

Councilmember Thurber moved to approve all Consent Agenda items as presented. Councilmember Flocke seconded. Motion carried on a vote of 3-0 for Consent Agenda Items 3A, 3B, and 3C (Councilmember Appleman and Councilmember White abstained). Consent Agenda Items 3D and 3E were approved by a vote of 5-0.

4. City Administrator Report

- Status report on May 2009 General Election for the City of Wimberley

City Administrator Ferguson thanked election workers and anticipated returning to the hours of 7 a.m. to 7 p.m. for the two twelve-hour early voting days in future elections.

- Status report on Blue Hole Regional Park summer operations

City Administrator Ferguson reported on operating days/times, staffing, road improvements, and the purchase of a golf cart to facilitate movement of visitors and staff. He noted that Park rules will no longer allow jumping from trees into Blue Hole due to public safety concerns. Discussion clarified operating hours, signage, admission fees, and strict enforcement of Park rules requiring that children under the age of thirteen (13) must be accompanied by an adult. Councilmember Appleman expressed concern over the negative impact that reservations of the Park may have on season pass holders, particularly on weekends. City Administrator Ferguson replied that weekday reservations are strongly encouraged and that higher fees are imposed for weekend reservations.

- Status report on efforts underway to secure state and federal funding for the Downtown Wastewater Project

City Administrator Ferguson reported on encouraging signs from the Texas Water Development Board (TWDB) on the proposed project's potential "green" classification. He provided specifics on a new wastewater treatment plant with increased capacity to replace the non-compliant plant servicing Deer Creek Nursing Center. The new plant will go on line on June 1, 2009.

- Status report on the development of a *Non-Point Source Pollution* ordinance

City Administrator Ferguson reported that a meeting will be held next week to continue work on this proposed ordinance, with focus on potential regulatory impact on single family home owners/builders.

- Status report on Fourth of July fireworks sponsorship demonstration

City Administrator Ferguson reported on a public fireworks demonstration to be held for prospective sponsors on Wednesday, May 27, 2009 from 8:45 p.m. to 9:15 p.m. near the South River soccer field on Ranch Road 12. Discussion addressed contributions to date, length of the demonstration, and lack of conflict between the VFW July 4th fireworks events and the City's display scheduled for July 3, 2009.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported that a letter of resignation has been received from Municipal Court Judge Don H. Campbell. He noted that Council's next agenda will contain items requesting acceptance of the resignation and possible Council consideration of an interim appointment. Mr. Ferguson advised of a current Request for Proposal (RFP) for a replacement judge and thanked Judge Campbell for his service.

- Status report on activities of the City Marshal

City Administrator Ferguson reported on increased traffic enforcement efforts in construction zones and activation of new traffic lights.

5. Presentations

- A. Presentation of results of Wimberley Square Septic System Survey by City of Wimberley and Hays County Environmental Health Division (*City Administrator*).

City Administrator Ferguson's presentation covered regulatory history, critical issues, and Wimberley Square Septic System assessment goals/approach, and findings. Findings included:

- number of operational systems

- properties with Hays County-issued septic permits
- problems with specific drain fields/piping
- water seepage from two systems
- significant grease build-up on one drain field
- septic system(s) not found for at least one business
- use of portable toilets at one business location
- one approved cluster system servicing six small businesses along Cypress Creek
- regular pumping of systems by some Square businesses

City Administrator Ferguson completed his presentation by noting that follow-up inspections will be conducted, as well as development and implementation of a pro-active compliance inspection program. He stated that monitoring of Cypress Creek water quality will continue along with efforts to fund the design and development of a centralized wastewater system to service Square properties.

Discussion addressed Cypress Creek water quality and testing results, with no general overall decline reported for Cypress Creek.

B. Presentation on City of Wimberley Governance Policy and Rules of Procedure (*City Administrator*).

City Administrator Ferguson highlighted major categories of the Governance Policy and Rules of Procedure as a guiding document for Council and the public. Councilmember Appleman recommended language revisions to Sections 4.4 and 5.6 to be considered for future action at Council's next regular meeting.

In response to Councilmember Appleman, discussion among Council, City Administrator Ferguson, and Assistant City Attorney Crosby provided clarification on the impact of public service on individual rights for elected officers, which under State law requires the abstention of officers from debating/voting on any matter due to conflict of interest issues. Discussion between Councilmembers Appleman and Thurber clarified specific rules of order related to Section 5.12 (Motions) on "calling the question."

6. Public Hearing and Possible Action

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 0.90 acre tract located at 419 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 (*Steven Dunks, Applicant*).

City Administrator Ferguson reviewed the application, including subject property location, current/proposed zoning and uses, parking accommodations, proposed structures, and lack of

negative input from notified property owners. He stated that staff concurs with Planning and Zoning Commission's unanimous recommendation for approval.

Mayor Haley opened the public hearing. Applicant Steven Dunks thanked Council and felt that the proposed business and associated structures will be an attractive asset to the community. Council was provided photographs showing the cleaned-up property and proposed structures and City Administrator Ferguson commended the applicant on the thoroughness of his application.

Mayor Haley closed the public hearing. Councilmember Thurber moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

7. Ordinances

- A. Consider approval of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage) of the Code of Ordinances Chapter 152 (Signs) in order to establish regulations regarding temporary real estate signs; and providing findings of fact, a repealing clause, to provide a savings and severability clause and providing for an effective date (*City Administrator*).

City Administrator Ferguson reviewed prior Council actions on sign variances, which currently contain no stated exceptions for temporary real estate signage. Councilmember Thurber recommended deleting references to "rent/lease" signs due to the potentially permanent nature of such signage.

Discussion addressed ordinance language allowing temporary signage of up to thirty-two (32) square feet along major entrance corridors. Councilmember Thurber moved to approve the ordinance with the recommended deletion of references to "rental/lease" signs. Councilmember Roccaforte seconded. Assistant City Attorney Crosby clarified that deletion of references to "rent/lease" applies to both §152.05 (*Definitions*) and §152.09(D) (*Temporary Real Estate Signs*). Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- B. Consider final approval of an ordinance of the City of Wimberley, Texas, repealing Ordinance No. 2009-013 regarding Aqua Texas, Inc.; and providing for findings of fact, repeal, savings clause, effective date, and proper notice and meeting (*City Administrator*).

City Administrator Ferguson reviewed past Council action approving an ordinance granting a ten (10) year non-exclusive franchise to Aqua Texas, Inc. and noted the necessity to repeal said ordinance based on a request by Aqua Texas that the franchise be written as a formal agreement authorized by City Council resolution rather than in the form of an ordinance. He noted that the requested format change does not alter the original intent and enforceability of the proposed franchise agreement. In order to consider the resolution (see Agenda Item No. 8), Council must repeal the previously approved ordinance.

Discussion established that staff and legal counsel are comfortable with the enforceability of the requested format change. Councilmember White moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

8. Resolution

Consider approval of a resolution of the City Council of the City of Wimberley, Texas authorizing the Mayor to sign a Franchise Agreement with Aqua Texas, Inc. (*City Administrator*).

Councilmember Thurber moved to approve the resolution as presented. Councilmember White seconded. Motion carried on a vote of 5-0. City Administrator Ferguson advised that franchise agreements with both Aqua Texas and Wimberley Water Supply Corporation will go into effect on June 1, 2009.

9. Discussion and Possible Action

- A. Discuss and consider possible action providing direction to the Planning and Zoning Commission on the regulation of alcohol sales in the City of Wimberley (*Mayor Pro-tem Bob Flocke*).

City Administrator Ferguson requested Council's input and direction to Planning and Zoning as it prepares to discuss the issue of recently approved alcohol sales in various City establishments and outlined current regulations.

Discussion reached general consensus on a recommendation to the Planning and Zoning Commission that would allow alcohol sales in restaurants zoned Commercial Low Impact (C-1), but would require Commercial High Impact (C-3) zoning for liquor stores and bars.

- B. Discuss and consider possible approval of a contract with *Design Workshop* to provide design services for the development of the Blue Hole Regional Park (*City Administrator*).

City Administrator Ferguson detailed various features/options of the proposed contract, including timeframe/costs for two segments to be completed in eight phases, which allow for flexibility to manage costs and design. Mr. Ferguson highlighted optional consulting costs for creation of a business/maintenance plan and project website as useful tools for cost-tracking and fundraising.

Discussion addressed the importance of erosion and bank stabilization measures along Cypress Creek, contract format/attachments, legal review, indemnification, adherence to Blue Hole Master Plan, pricing benchmarks, and use of project management software. Councilmember Appleman expressed his preference for a time and materials contract as more easily manageable by the City. City Administrator Ferguson stressed that cost control/management is critical for this design services contract and reviewed funding sources. Councilmember Thurber thanked staff for its work

on contract negotiation and felt that fundraising efforts will be enhanced by an effective website and *Design Workshop's* reputation for designing "legacy" projects.

Councilmember Thurber moved to approve the item as presented. Councilmember Flocke seconded. Mayor Haley called for a vote as follows: Councilmember Roccaforte, aye; Councilmember Flocke, aye; Councilmember Appleman, nay; Councilmember Thurber, aye; Councilmember White, aye. Motion carried on a vote of 4-1.

- C. Discuss and consider possible action setting the date for a City Council workshop with the City of Wimberley Water Wastewater Advisory Board (*Place Four Councilmember Steve Thurber*).

Discussion addressed the need for the workshop and the number of remaining appointments to Water Wastewater Advisory Board, with general agreement reached to set the workshop date for Tuesday, June 16, 2009 at 6:00 pm.

Councilmember Thurber moved to hold the workshop with Water Wastewater Advisory Board on the previously stated day and time. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action setting a date for a workshop to establish City Council goals and objectives (*City Administrator*).

City Administrator Ferguson outlined the process for arriving at Council goals and objectives and discussion generally agreed on setting the workshop for Wednesday, June 24, 2009 at 6:00 p.m.

Councilmember Thurber moved to set the workshop for the previously stated day and time. Councilmember White seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action on a request from the Wimberley Village Library for complimentary admission passes to the Blue Hole Regional Park (*City Administrator*).

Councilmember Thurber recused himself from the meeting at this time due to a possible conflict of interest. In response to Councilmember Flocke, City Administrator Ferguson explained that Council action is necessary in order to give away City services.

Discussion established the monetary value of the passes to be given for reading achievement. Councilmember Flocke moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0 (Councilmember Thurber recused).

10. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Thurber rejoined the meeting at this time. Councilmember Thurber commended former Mayor Pro-tem Flocke for his efforts in submitting the City's application for the *Envision Central Texas Community Stewardship Award*, which earned the City of Wimberley a place as a top four finalist.

As future agenda items, Councilmember Roccaforte requested reconsideration of steep slope requirements and review of all City ordinances three years after approval.

City Administrator Ferguson reminded Council of Planning and Zoning Commission's special meeting scheduled for Tuesday, May 26, 2009 at 6:00 p.m. to receive public input on proposed entrance corridor setbacks, which will be posted should a quorum of Council desire to attend.

Councilmember Appleman requested a report on the status of future Community Center operations. City Administrator Ferguson replied that Council will receive a status update at its next meeting, including a report on the City's Request for Proposal (RFP).

In response to Mayor Haley, City Administrator Ferguson advised that an updated list of needed appointments will be sent out to Council.

In order to better understand Planning and Zoning's perspective, Councilmember Thurber requested that presentation of zoning cases be made to Council by a designated member of the Planning and Zoning Commission.

Hearing no more announcements or future agenda item requests, Mayor Haley called the meeting adjourned.

Adjournment: Council meeting adjourned at 8:50 p.m.

Recorded by:

Cara McPartland

Cara McPartland

These minutes approved on the 4th of June, 2009.

APPROVED:

Tom Haley
Tom Haley, Mayor

