

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
MARCH 19, 2009 6:30 P.M.

AGENDA

CALL TO ORDER: MARCH 19, 2009 @ 6:30 P.M.

CALL OF ROLL: CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

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 MARCH 5, 2009.
- (B) APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF MARCH 11, 2009.

2. CITY ADMINISTRATOR REPORT

- STATUS REPORT ON CITY OF WIMBERLEY SALES AND USE TAX COLLECTIONS
- STATUS REPORT ON PREPARATIONS FOR THE MAY 9, 2009 CITY OF WIMBERLEY GENERAL ELECTION
- STATUS REPORT ON CITY COUNCIL HOTEL OCCUPANCY TAX WORKSHOP
- STATUS REPORT ON RANCH ROAD 12 ROADWAY IMPROVEMENTS ON THE WIMBERLEY SQUARE

- STATUS REPORT ON EFFORTS UNDERWAY TO SECURE STATE AND FEDERAL FUNDING FOR THE DOWNTOWN WASTEWATER PROJECT
- STATUS REPORT ON ACTIVITIES OF THE WIMBERLEY MUNICIPAL COURT
- STATUS REPORT ON ACTIVITIES OF THE CITY MARSHAL

3. PRESENTATIONS

PRESENTATION OF THE WIMBERLEY PARKS ADVISORY BOARD QUARTERLY ACTIVITIES REPORT.

4. RESOLUTIONS

- (A) CONSIDER APPROVAL OF A RESOLUTION OF THE CITY OF WIMBERLEY, TEXAS ESTABLISHING A TEMPORARY POLICY ON THE INITIAL ZONING OF REAL PROPERTY WITHIN THE CITY LIMITS. *(CITY ADMINISTRATOR)*
- (B) CONSIDER APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS RELATING TO THE FUTURE CONSIDERATION OF A HOTEL OCCUPANCY TAX IN THE CITY OF WIMBERLEY. *(PLACE FIVE COUNCILMEMBER DICK LARSON)*

5. ORDINANCES

- (A) CONSIDER APPROVAL OF AN ORDINANCE GRANTING AQUA TEXAS INC. A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A RETAIL WASTEWATER UTILITY SYSTEM WITHIN THE RIGHTS-OF-WAY OF THE CITY OF WIMBERLEY FOR A TERM OF TEN YEARS WITH RENEWAL PROVISIONS; PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS; PROVIDING FOR A FRANCHISE FEE BASED ON THE GROSS RECEIPTS RELATED TO SAID SYSTEM; PROVIDING FOR FORM OF ACCEPTANCE AND TERMINATION; CONTAINING MISCELLANEOUS PROVISIONS; SEVERABILITY; PROPER NOTICE AND MEETING; AND PROVIDING AN EFFECTIVE DATE. *(CITY ADMINISTRATOR)*
- (B) CONSIDER APPROVAL OF AN ORDINANCE REPEALING ORDINANCE NOS. 2006-015 AND 2007-009 OF THE CITY OF WIMBERLEY, TEXAS, ESTABLISHING THE ECONOMIC DEVELOPMENT COMMISSION IN ORDER TO DISSOLVE SUCH COMMISSION; AND AMENDING TITLE III (ADMINISTRATION), CHAPTER 33 (BOARDS AND COMMISSIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO CREATE SECTION 33.05 ESTABLISHING AN ECONOMIC DEVELOPMENT COMMISSION, ITS PURPOSE, MEMBERSHIP REQUIREMENTS AND DUTIES; PROVIDING FOR AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, SEVERABILITY AND REPEALER. *(CITY ADMINISTRATOR)*

6. DISCUSSION AND POSSIBLE ACTION

- (A) DISCUSS AND CONSIDER APPROVAL OF A REQUEST TO ALLOW THE USAGE OF THE BLUE HOLE REGIONAL PARK FOR A RECOGNITION EVENT FOR THE WIMBERLEY HIGH SCHOOL SWIM TEAM AND THE WAIVER OF FEES FOR SUCH USE. *(CITY ADMINISTRATOR)*

- (B) DISCUSS AND CONSIDER AUTHORIZING THE PURCHASE OF COMPUTER SOFTWARE FOR THE CITY OF WIMBERLEY MUNICIPAL COURT. (CITY ADMINISTRATOR)

7. CITY COUNCIL REPORTS

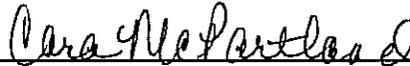
- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

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

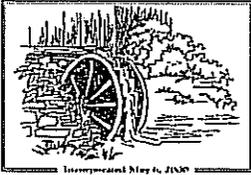
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on March 16, 2009 at 5:00 p.m.



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: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: APPROVAL OF MARCH 5,
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 March 5, 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
March 5, 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, Jeri Xiques, Steve Thurber, and Dick Larson.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and Assistant City Attorney Brad Young.

Proclamation

Proclamation recognizing the accomplishments of the Wimberley Texan High School Swim Team

Mayor Haley presented a proclamation to Coach Jill Johnson and swim team members in recognition of their successful 2008-2009 Season.

Presentations of Citizens:

- Citizen Communications

No citizen communications were heard.

1. Consent Agenda

- A. Approval of minutes of the regular City Council meeting of February 19, 2009.
- B. Approval of the January 2009 City of Wimberley Financial Statements.

Councilmember Flocke moved to approve Consent Agenda items as presented. Councilmember Larson seconded. Motion carried on a vote of 5-0.

Wimberley Independent School District (WISD) Superintendent Dwain York thanked the City for working with WISD on building project issues.

2. City Administrator Report

- Status report on downtown parking lot property acquisition

City Administrator Ferguson reported that the City closed on acquisition of the property last week and that an announcement will be made on the sale next week. He thanked the Calkins family for working with the City to acquire the property.

- Status report on proposed workshop on Hotel Occupancy Tax

At Councilmember Thurber's request, City Administrator Ferguson reported that Scott Joslove has agreed to hold a public workshop meeting with Council on March 11, 2009 from 5:00 p.m. until 7:00 p.m. Mr. Joslove will present information on the pros and cons of implementing a Hotel Occupancy Tax in Wimberley. Council agreed that the aforementioned meeting date/time is acceptable.

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

City Administrator Ferguson reported receiving positive feedback on the City's application for funding from certain officials who recognize Wimberley's critical immediate need for this project. He provided details on the septic review underway with Hays County staff in order to better assess existing problems and to help form an action/response plan.

Discussion addressed the reasoning for the amount of funds requested from the Texas Water Development Board and specific criteria related to estimated costs for various phases of the project. Mr. Ferguson anticipated action on the City's submitted application in approximately 30-45 days and stated that alternative funding is also being sought through sources such as United States Department of Agriculture (USDA).

- Status report on Mayor's Fitness Council

City Administrator Ferguson directed Council's attention to materials distributed at tonight's meeting to Council members, including event brochures and pedometers. He detailed upcoming organized events and commended individuals on the Mayor's Fitness Council and M.F. Johnson for a job well done at the recent Women's Conference held at the Community Center.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported that the court's docket has been light and introduced City Prosecutor Brad Young, who is present at tonight's meeting in order to fill in for Assistant City Attorney Cindy Crosby.

- Status report on activities of the City Marshal

City Administrator Ferguson reported on efforts of the City Marshal to set up a downtown business network to facilitate email distribution of crime prevention information to business owners, with plans to expand distribution at a later date.

3. Presentations

- Introduction of County Sheriff Tommy Ratliff to Wimberley City Council by Hays County Judge Liz Sumter
- Presentation of the Wimberley Parks Advisory Board Quarterly Activities Report

Agenda Items 3A and 3B were not presented due to the absences of Sheriff Ratliff and Parks Chair Thad Nance.

4. Public Hearing and Possible Action

- Hold a public hearing and consider approval of the second reading of an ordinance amending Subsection 155.107(B)(1) (Planning and Zoning Commission), of the Code of Ordinances of the City of Wimberley, Texas, in order to revise the membership requirements; providing for an effective date, proper notice and meeting, severability and repealer (*Place Five Councilmember Dick Larson*).

City Administrator Ferguson reviewed the history of this proposed ordinance and outlined major differences between existing and proposed requirements. Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing and opened Council discussion.

Councilmember Thurber felt that the proposed ordinance is more restrictive than other boards/commissions due to its additional requirement of owning and operating a business within city limits. He stated the need to define what constitutes a business and questioned the purpose of the ordinance since the current membership is primarily comprised of business owners.

Councilmember Floeke felt that there is existing adequate representation of business owners on Planning and Zoning and questioned the need for this proposed ordinance given that Council listens to concerns of the business community.

Councilmember Larson recalled comments made to him during his campaign that indicated business owners did not feel that they were properly represented. His request for this proposed ordinance was based on furthering improved public relations with the business community and requiring those prospective Planning and Zoning members who reside in the Extra Territorial Jurisdiction to have a vested interest in the City.

Mayor Haley entertained a motion. Councilmember Larson moved to approve the item as presented. Councilmember Xiques seconded. Mayor Haley called for a vote as follows: Councilmember Roccaforte, aye; Councilmember Flocke, nay; Councilmember Xiques, aye; Councilmember Thurber, nay; Councilmember Larson, aye. Motion carried on a vote of 3-2.

- 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 0.477 acre tract located at 500 Blue Heron Run, Wimberley, Hays County, Texas, designating initial zoning for such tract as Single Family Residential 2 (R2); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Betty Sue Cooper, Applicant*).

City Administrator Ferguson detailed the application and noted that there is no room to expand the footprint of the building or add additional structures. He advised that staff and the Planning and Zoning Commission recommend approval. At Planning and Zoning's public hearing, no comments were heard in opposition, and one neighboring property owner spoke in support of the application.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing and opened Council discussion. Brief discussion addressed the subject property's location and surrounding uses. Councilmember Flocke moved to approve the item as presented. Councilmember Larson seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider approval of an ordinance approving an application for a Conditional Use Permit submitted by Betty Sue Cooper to operate a bed and breakfast lodging facility on an approximately 0.477 acre tract located at 500 Blue Heron Run, Wimberley, Texas, zoned Single Family Residential 2 (R2), 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 (*Betty Sue Cooper, Applicant*).

City Administrator Ferguson detailed the application, noting specifics relating to maximum occupancy, parking, septic system adequacy, management, and water access restrictions. He stated that no opposition was heard at Planning and Zoning's public hearing and that both staff and Planning and Zoning recommend approval.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing and opened Council discussion. Councilmember Xiques moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- D. 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 tract located at 114B Wimberley Square, Wimberley, Texas, designating initial zoning for such tract as

High Impact Commercial (C3); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Beth Mitchell/Jill Frazier, Applicants*).

City Administrator Ferguson reviewed the subject property's current/proposed zoning and uses. The applicants wish to move their existing retail wine sales business to a new location on the Square and Mr. Ferguson noted that this move will necessitate a waiver request from distance requirements relating to the sale of alcohol within 300 feet of a child care facility (see Agenda Item 4E). Mr. Ferguson reviewed permitted/conditional uses in zoning districts C-1, C-2, and C-3 and stated that one neighboring property (Wimberley Senior Citizens Craft Shop) expressed opposition. He advised that staff and Planning and Zoning both recommend approval of the application.

Discussion addressed the reasoning for the requested zoning, prior location of the business, types of surrounding Square businesses, concerns expressed by Senior Citizens Craft Shop, and the need for the distance requirement waiver request.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing. Councilmember Thurber moved to approve the item as presented. Councilmember Xiques seconded. Motion carried on a vote of 5-0.

- E. Hold a public hearing and consider approval of a waiver of the 300-foot distance requirement relating to the sale of beer and wine for off premise consumption at 114B Wimberley Square, Wimberley, Hays County, Texas (*Beth Mitchell/Jill Frazier, Applicants*).

City Administrator Ferguson reviewed distance requirements in general relating to the sale of beer and wine for off-premise consumption. Because the subject property is located a short distance from a day care center, the applicants are seeking a waiver from the 300-foot distance requirement. Public notices were sent to all property owners within 300 feet of the subject property and no public comments against the requested waiver have been received by the City. The property owner submitted written correspondence to the City in favor of the requested waiver. City Administrator Ferguson noted specific criteria that Council must consider when deliberating waiver requests.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing and opened Council discussion.

Councilmember Thurber moved to approve the item as presented based on satisfaction of the following stated findings determining that enforcement of the distance requirement:

- 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 the applicant(s)
- 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 Larson seconded. Motion carried on a vote of 5-0.

5. Resolutions

Consider approval of a resolution of the City of Wimberley, Texas establishing a temporary policy on the initial zoning and rezoning of real property within the city limits (*City Administrator*).

City Administrator Ferguson summarized actions to date, including Council's last direction to staff to draft the proposed resolution. Major issues highlighted in the resolution include the following: zoning of unzoned properties according to existing use; to allow those property owners who wish to rezone a 90-day window to apply for such zoning without incurring application fees; and, implementation of zoning regulations regarding the entry corridors according to the updated Comprehensive Plan. He reviewed the process to date and provided examples of zoning according to least intensive use for unzoned properties, and noted exceptions such as pre-existing, non-conforming businesses with higher intensity uses than those proposed for the applicable zoning district.

Discussion addressed notification/zoning procedures, property-specific nature of notices, setback requirements along entry corridors, and the need for revision of resolution language.

Councilmember Thurber recommended changes to subheading No. 1 in the draft resolution (handout stating same distributed and read to Council).

Discussion addressed the intent of Mayor Haley's proposal, which is to make the zoning process as inclusive as possible. Planning and Zoning Commissioner Jean Ross spoke on the issue of making the process less cumbersome and eliminating the potential need to zone, then rezone, the same property. Discussion also addressed the number of unzoned properties and possible burden to Planning and Zoning and Council should properties be zoned individually.

Councilmember Thurber moved to approve the resolution as restated in the aforementioned handout with the understanding that legal counsel and staff will adjust the wording to reflect Council's desired direction to Planning and Zoning Commission relating to "improved" versus "unimproved" properties and any other language deemed necessary to define the stated items agreed upon by Council. Councilmember Xiques seconded. Motion carried on a vote of 5-0.

6. Ordinances

- A. Consider approval of a second reading of an ordinance amending Chapter 70 (Traffic Regulations) of the Code of Ordinances of the City of Wimberley, Texas, in order to add a

subsection entitled "Through-Truck Traffic"; providing for a penalty, findings of fact, an effective date, proper notice and meeting, severability and repealer (*City Administrator*).

City Administrator Ferguson noted that the ordinance has been amended to reflect clarification requested by Council on first reading adding language specific to truck traffic on CR 1492 and recommended approval. Councilmember Thurber moved to approve the item as presented. Councilmember Larson seconded. Motion carried on a vote of 5-0.

- B. Consider approval of an ordinance granting Wimberley Water Supply Corporation certain powers, licenses, privileges and franchise to operate and maintain a water system within the City of Wimberley; to use the rights-of-way in said city for a period of ten years with renewal provisions; prescribing certain rights, duties, terms and conditions; providing for the payment to the City of up to three percent of grantee's gross receipts related to said system; providing for form of acceptance and termination; containing miscellaneous provisions; severability; proper notice and meeting; and providing an effective date (*City Administrator*).

Mayor Haley and Councilmember Roccaforte recused themselves at this time due to possible conflicts of interest related to their duties associated with Wimberley Water Supply Corporation.

Mayor Pro Tem Flocke assumed duties as presiding officer. City Administrator Ferguson outlined the City's obligation to manage its rights-of-way and noted certain terms and conditions of the proposed franchise agreement, with the ability of Council to modify the agreement as needed in the future. He stated that a similar agreement will be presented to Council for the granting of a franchise to Aqua Texas and closed with staff's recommendation for approval.

Discussion addressed the staggering of percentages (common with new agreements) and issues of taxation and fairness (due to other entities that are already subject to franchise agreements). Councilmember Larson expressed opposition based on his arguments against additional taxation. Councilmember Thurber moved to approve the item as presented. Councilmember Xiques seconded. Motion carried on a vote of 3-1 (Councilmember Larson voted nay).

Mayor Haley and Councilmember Roccaforte rejoined the meeting at this time. Mayor Haley resumed duties as presiding officer.

7. Discussion and Possible Action

- A. Discuss and consider action on a proposed interlocal agreement with Hays County relating to road maintenance and construction (*City Administrator*).

City Administrator Ferguson reviewed the process resulting in the draft agreement before Council and outlined major provisions. He noted that this interlocal agreement does not require the City to use Hays County resources, but gives the City the option to do so in order to reduce costs. Discussion addressed details of the agreement including Exhibit A (designated County roads within the City limits); responsibilities of the parties; specific streets affected; clarification on references to

project expenditures of \$50,000 or less; shared costs versus costs borne by each of the parties; effect of the upcoming City boundaries survey on this agreement; and, signage referring to responsibility for road maintenance.

Hearing no further discussion, Mayor Haley entertained a motion. Councilmember Xiques moved to approve the item as presented. Councilmember Larson seconded. In response to Councilmember Thurber, City Administrator Ferguson replied that service agreements are not required to be presented to the Planning and Zoning Commission. Motion carried on a vote of 5-0.

- B. Discuss and consider action establishing user fees for the 2009 season at the Blue Hole Regional Park (*Parks Advisory Board*).

City Administrator Ferguson advised of the Parks Board's recommendation and outlined the proposed fee schedule. Due to complaints last season, Mr. Ferguson noted that reservations will be encouraged during the week as opposed to busier weekend times. Discussion addressed the reasoning for group and individual rates, allowing reservations on weekends, and different pricing for weekdays versus weekends. General agreement was reached (relating to reservations) to establish one rate that applies to both groups and individuals and to establish higher weekend rates.

Councilmember Thurber moved to approve the user fees with the following exceptions:

- Eliminate the distinction between individual and group rates
- Maintain the two-hour minimum and five-hour maximum for group reservations
- Establish the weekend rate for reservations at \$150 per hour for Valley residents (within 78676 zip code) and \$200 per hour for non-Valley residents
- Establish the weekday rate at the current group rate (\$100 per hour for Valley residents and \$125 per hour for non-Valley residents)

Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding the future operation of the Wimberley Community Center (*City Administrator*).

City Administrator Ferguson advised that the City has received a notice of termination from the Wimberley Senior Citizens Activities, Inc. (WSCAI) effective September 30, 2009. This decision was due to WSCAI's desire to return to the group's original scope of work and uncertainty and inconsistency of the group's cash flow. Mr. Ferguson commended WSCAI for doing an excellent job, requested Council direction on how to proceed, and reminded Council that typically community centers are not cash flow positive endeavors. Suggestions included in-house staffing, putting out Requests for Proposals (RFPs), limited outsourcing, and the scheduling of a joint workshop with Council and the Community Center. General agreement was reached to schedule a one-hour joint workshop. No vote was taken on this item.

- D. Discuss and consider approval of a request by Wimberley EMS to hold a Duck Race at the Blue Hole Regional Park on Saturday, May 23, 2009 (*City Administrator*).

Mayor Haley stated that this item refers to the Wimberley EMS annual fundraiser and City Administrator Ferguson noted that there will be no charge for using Blue Hole Regional Park. Councilmember Thurber moved to approve the item as presented. Councilmember Larson seconded. Motion carried on a vote of 5-0.

8. City Council Reports

- Announcements
- Future Agenda Items

As future agenda items, Councilmember Thurber requested continued updates on the septic review of Square businesses, and discussion and possible action on an Aqua Texas franchise agreement and the Hotel Occupancy Tax.

Hearing no further announcements or future agenda items, Mayor Haley entertained a motion. Councilmember Larson moved to adjourn. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

Adjournment: Council meeting adjourned at 8:20 p.m.

Recorded by:

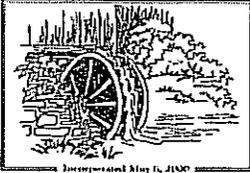
Cara McPartland

These minutes approved on the _____ of March, 2009.

APPROVED:

Tom Haley, Mayor

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: APPROVAL OF MARCH 11,
2009 MINUTES OF SPECIAL CITY COUNCIL MEETING

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are minutes for the March 11, 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
March 11, 2009 at 5:00 p.m.

City Council meeting called to order at 5:01 p.m. by Presiding Officer Mayor Pro Tem Bob Flocke.

Councilmembers Present: Councilmembers Charles Roccaforte, Jeri Xiques, Steve Thurber, and Dick Larson. Mayor Haley had an excused absence.

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

Workshop

Discuss and consider issues relating to the possible implementation of a Hotel Occupancy Tax (HOT) in the City of Wimberley and State law requirements related to the same.

Mayor Pro Tem Flocke explained the format of tonight's meeting and introduced Scott Joslove, President/CEO of the Texas Hotel and Motel Association.

Mr. Joslove highlighted his background and directed Council's attention to his article entitled *What Cities Need to Know to Administer Hotel Occupancy Tax*. Mr. Joslove's presentation and discussion among Council, staff, and the public included:

- Cities may pass an ordinance to adopt a HOT for dedicated purposes without requiring an election
- Need for a plan stating how HOT revenues should be used to best serve the City's overall economy (preferably *before* implementation of the HOT)
- Advisability of creating a partnership between lodging and other business owners
- Rules governing expenditures of HOT revenues
- Formation of a committee with strong representation from different types of lodging operations to study HOT issues
- Compilation/analysis of information via surveys of other cities that have successfully/unsuccessfully implemented the HOT
- Specific examples of comparable cities that have had varying degrees of success with HOT implementation
- Need for a plan to increase the number of weekday/"shoulder" season visitors to Wimberley and how to increase "heads in beds"
- Coordinated efforts to hold special events (preferably multi-day events) benefiting lodging and other businesses and ways to gauge impact of events on short- and long-term returns
- Impact-based budgeting for expenditures
- Wimberley's natural scenic beauty and unique qualities
- Wimberley's proximity to major metropolitan areas and other popular tourist destinations

- Common problem of slow mid-week business shared by lodging and business owners and possibility of adopting uniform/evening hours for merchants
- Complaints from bed and breakfast/hotel guests that businesses' hours are not long enough
- Assessment of increased business from higher occupancy rates versus business potentially lost due to alienation of customers who object to extra HOT charges
- Typical HOT rates charged by other cities (Tax rate may range from 1% to 7%, but most cities impose the maximum of 7%.)

Mr. Joslove's major points stressed the need to meet the following two-part test when considering expenditures of HOT revenues: *Every expenditure must directly promote tourism and the hotel and convention industry.*

He also emphasized that revenues can only be expended on the following categories in accordance with State law: convention centers, registration of convention delegates, advertising/promotion, arts promotion that generates hotel activity, historical restoration/preservation, sporting-related expenses, sporting-related facilities, and shuttles between area hotels and attractions. He noted certain special conditions for some categories.

Mr. Joslove encouraged the formation of a strong partnership, creation of a vision, completion of a feasibility study, and statement of goals as beginning steps when considering implementation of a HOT. Examples of successful partnerships included strong support for the HOT from lodging owners, adoption of uniform operating hours for businesses, planning events that require overnight stays, and marketing to certain target groups in different seasons.

Mayor Pro Tem Flocke thanked Mr. Joslove for presenting the pros and cons of this issue and challenged representatives of the lodging industry, Wimberley Merchants Association, and Wimberley Chamber of Commerce to work together on common goals beneficial to all parties.

Adjournment: Council meeting adjourned at 6:25 p.m.

Recorded by:

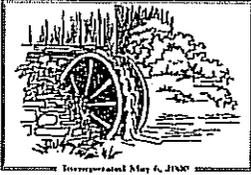
Cara McPartland

These minutes approved on the _____ of March, 2009.

APPROVED:

Tom Haley, Mayor

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CITY ADMINISTRATOR'S
REPORT

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

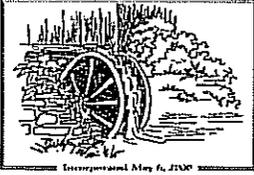
Discussion

Project/Proposal Summary:

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

- Status report on City of Wimberley Sales and Use Tax collections
- Status report on preparations for the May 9, 2009 City of Wimberley General Election
- Status report on City Council Hotel Occupancy Tax Workshop
- Status report on Ranch Road 12 roadway improvements on the Wimberley Square
- Status report on efforts underway to secure state and federal funding for the Downtown Wastewater Project
- Status report on activities of the Wimberley Municipal Court
- Status report on activities of the City Marshal

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: QUARTERLY REPORT
FROM PARKS ADVISORY BOARD

Funds Required:

Funds Available:

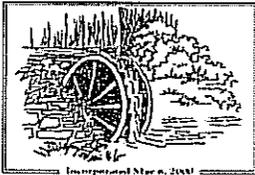
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the Chairman of the Wimberley Parks Advisory Board to brief City Council on the Board's various activities.

City Council Agenda Form



Date Submitted: March 16, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CONSIDER ACTION ON A RESOLUTION RELATING TO THE INITIAL ZONING OF REAL PROPERTY IN WIMBERLEY

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

On February 19, 2009, the City Council directed City staff to stop further consideration of a proposed City Wide Zoning map drafted by the Planning and Zoning Commission. The action came on the heels of considerable public opposition to the proposed map. At the same time, the City Council directed staff to prepare a resolution for future consideration directing the City's Planning and Zoning Commission to proceed with the process of zoning only those unzoned tracts of property based on their existing use. On March 5, 2009, the City Council reviewed a proposed resolution and directed staff to modify the wording to provide more specific direction.

Attached is a copy of the revised resolution for City Council consideration.

RESOLUTION

A RESOLUTION OF THE CITY OF WIMBERLEY, TEXAS ESTABLISHING A TEMPORARY POLICY ON THE INITIAL ZONING AND REZONING OF REAL PROPERTY WITHIN THE CITY LIMITS.

WHEREAS, shortly after incorporation, the City of Wimberley ("City") adopted its first Comprehensive Plan, and the City began the process of zoning the real property located within the city limits in accordance with the Plan; and,

WHEREAS, the City only zoned property for agricultural and residential uses leaving much of the property in the city unzoned; and,

WHEREAS, in January 2008, the City Council identified as one of its critical priorities the need to proceed with a City initiated commercial zoning project and complete the zoning of the real property in Wimberley; and,

WHEREAS, in July 2008, the Comprehensive Plan was updated to further direct future growth of the City; and,

WHEREAS, in September of 2008, the City Planning and Zoning Commission ("P&Z") launched the process of developing a city-wide zoning map to facilitate the proper growth and development of the city; and,

WHEREAS, the P&Z and the City Council have provided members of the public the opportunity to give testimony and present written evidence; and,

WHEREAS, the City Council wishes to adopt guidelines and provide direction to the P&Z and staff on how to complete the zoning process initiated in the City; and,

WHEREAS, the City Council finds that having all property zoned in the City and rezoned as requested is essential to establishing a development pattern which complies with the Comprehensive Plan, and that a waiver of application fees for a limited period time is in the public interest in further accomplishing this and other municipal goals regarding development and regulation of land use within the City; and,

WHEREAS, the City Council finds that the direction given herein will provide the public with ample opportunity to provide further comment and is the minimum necessary to promote the public health, safety and welfare.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, COUNTY OF HAYS, STATE OF TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

II. RESOLUTION

THAT the following is the desire and wish of the City Council regarding the City initiated City wide zoning project and that City staff is hereby directed to take the necessary steps to comply with the Council's direction and return to Council for final action in accordance with the Code of Ordinances:

1. Planning and Zoning Commission shall recommend a zoning classification for all remaining unzoned real property in the City of Wimberley to reflect the current use of the property. If the current legal use does not conform to the City's Comprehensive Plan and zoning regulations, the existing use shall be considered a legal non-conforming use and the least intense allowable zoning classification shall be recommended for the subject property. If there is no current land use, the least intense allowable zoning classification shall be recommended. The subject property owners shall be notified of the recommended zoning classification for their property and be given ninety (90) days, from the date of notice, to request a different allowable zoning classification, if they so desire; however, understanding there is no guarantee of the requested zoning. At the conclusion of the ninety (90) day period, the Planning and Zoning Commission shall proceed with the process of zoning the subject properties in accordance with the law and present a final recommendation to City Council.
2. Planning and Zoning Commission shall review the City's current zoning regulations regarding the entry corridors (RR 12, FM 3237, FM 2325) to the City to include, but not limited to, permitted and conditional uses, creation or amendment of overlay and zoning districts and development standards regarding height, setback, construction materials, design standards, parking, lighting, landscaping and signage and present recommended changes, if any, to City Council to ensure the regulations conform with the current City of Wimberley Comprehensive Plan.

PASSED AND APPROVED this _____ day of _____, 2009, by a _____
(Ayes) _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

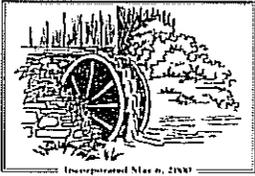
CITY OF WIMBERLEY

By: _____
Tom Haley, Mayor

ATTEST:

Cara McPartland, City Secretary

City Council Agenda Form



Date Submitted: March 16, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CONSIDER APPROVAL OF A RESOLUTION OF CITY COUNCIL RELATING TO THE FUTURE CONSIDERATION OF A HOTEL OCCUPANCY TAX IN THE CITY OF WIMBERLEY

Council Action Requested:

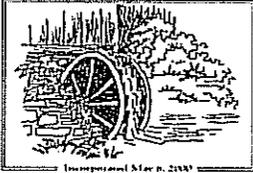
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Five Councilmember Dick Larson to allow City Council to discuss and consider a proposed resolution setting forth the conditions for when the City Council may consider the possible future implementation of a Hotel Occupancy Tax in the City of Wimberley.

A final draft of the resolution was being developed at the time of agenda packet production and will be forwarded to City Council under separate cover upon completion.

City Council Agenda Form



Date Submitted: March 16, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CONSIDER PROPOSED
WASTEWATER FRANCHISE AGREEMENT FOR AQUA
TEXAS

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 consider an ordinance granting a 10-year non-exclusive franchise to Aqua Texas for the operation of a retail wastewater system in Wimberley.

Through the proposed ordinance, the City allows the utility to use the City's right-of-way to maintain and upgrade its existing wastewater system infrastructure, move its facilities to make way for new buildings or developments, excavate and replace streets and alleys, and bury pipe. In return, the City is compensated for the use of its right-of-way by a franchise fee, collected from customers, on whose behalf Aqua Texas is operating, maintaining and improving its system. In the first three years of the agreement, Aqua Texas will pay the City an annual fee amounting to two percent (2%) of its gross receipts collected from customers and three percent (3%) for the remaining term of the agreement.

Aqua Texas has reviewed the terms of the franchise and is in agreement of the terms.

ORDINANCE NO. 2009- _____

AN ORDINANCE GRANTING AQUA TEXAS INC. A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A RETAIL WASTEWATER UTILITY SYSTEM WITHIN THE RIGHTS-OF-WAY OF THE CITY OF WIMBERLEY FOR A TERM OF TEN YEARS WITH RENEWAL PROVISIONS; PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS; PROVIDING FOR A FRANCHISE FEE BASED ON THE GROSS RECEIPTS RELATED TO SAID SYSTEM; PROVIDING FOR FORM OF ACCEPTANCE AND TERMINATION; CONTAINING MISCELLANEOUS PROVISIONS; SEVERABILITY; PROPER NOTICE AND MEETING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Aqua Texas Inc. ("Grantee"), a subsidiary of Aqua America, Inc., operates a retail sewer system located partially in the corporate limits of the City of Wimberley ("City") pursuant to Wastewater Certificate of Convenience and Necessity Number 20453 and wishes to continue to provide such services within the City of Wimberley; and

WHEREAS, the Grantee is a publicly traded corporation regulated by state authorities with appropriate jurisdiction, including the Texas Commission on Environmental Quality ("TCEQ"); and

WHEREAS, the City may adopt an order, act, law or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the City; and

WHEREAS, the City may adopt ordinances, rules or police regulations that are for the good government, peace or order of the City or for the trade and commerce of the City, and that are necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City has exclusive control over the public grounds, highways, streets and alleys of the City pursuant to the Texas Local Government Code; and

WHEREAS, an incorporated city or town may make a reasonable lawful charge for the use of a city street, alley, or public way by a public utility in the course of its business pursuant to the Texas Tax Code; and

WHEREAS, the City Council believes it in the best interest of the City to offer the Grantee a franchise on the terms and conditions enumerated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, THAT:

Section 1. Definitions.

1.1. For the purposes of this Ordinance, when not inconsistent with the context, words, used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever

the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. Words not defined in this Section 1 shall be given their common and ordinary meaning.

1.2. For the purposes of this Ordinance, the following words, terms, phrases and their derivations shall have the meaning given in this Section 1.2.

1.2.1. “City Council” shall mean the governing body of the City of Wimberley.

1.2.2. “City Secretary” shall mean the City Secretary of the City of Wimberley.

1.2.3. “Consumer” shall mean any person or organization receiving and using retail sewer service from the Grantee for his or her own appliances or equipment, whether or not the retail sewer service is billed directly to him or her, or to a second party. (As an example, in the case of a rental unit where the cost of utilities is part of the rent, the landlord is a Customer and the tenant is a Consumer.)

1.2.4. “Customer” shall mean any person or organization billed for retail and sewer service by the Grantee whether used by him or her, or by others.

1.2.5. “Effective Date” shall mean, _____, 2009 which is the date this Franchise shall become effective.

1.2.6. “Emergency” shall mean an occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.

1.2.7. “Franchise” shall mean this Ordinance, and all rights and obligations established herein or as it may be amended.

1.2.8. “Grantee” shall mean Aqua Texas Incorporated, a corporation authorized under Texas law to transact business in the State of Texas, its successors and assigns.

1.2.9. “Gross Receipts” shall mean the total amount collected by the Grantee for retail sewer service provided to Consumers by the Grantee within the corporate limits of the City. Gross Receipts shall not include charges for taxes or regulatory charges on services furnished by the Grantee herein that are imposed directly upon any Consumer or Customer by the State, the City or other governmental unit and collected by the Grantee on behalf of the governmental units (including, without limitation, Texas Limited Sales Tax), nor shall it include any amounts refunded to Customers or Consumers.

1.2.10. “Rights-of-Way” shall mean the area on, below or above all publicly owned, dedicated or maintained streets, avenues, easements, alleys, highways, sidewalks, bridges, and other similar means of public access in the City.

1.2.11. “System” shall mean the system of pipes, distribution and transmission lines, pumps and pump stations, storage facilities, equipment, treatment facilities, land, and other appurtenances used or necessary for the provision of retail sewer utility service to/for

Consumers or Customers in the City, including, without limitation, those owned or used by the Grantee.

1.2.12. "TCEQ" shall mean the Texas Commission on Environmental Quality, or its successor agency.

1.2.13. "Uniform ROW Management Ordinance" shall mean Ordinance No. 2001-015, titled Uniform Right-of-Way Ordinance, passed and approved by the City on May 17, 2001, and as may be subsequently amended.

1.2.14. "City" shall mean the City of Wimberley, Texas, a municipal corporation and a political subdivision of the State of Texas; and any area annexed thereto from time to time. For purposes of this Franchise, any annexation shall become effective within sixty (60) days of the City's written notification to Grantee of the annexation.

Section 2. Grant of Franchise and Term.

2.1. There is hereby granted to the Grantee a non-exclusive franchise to maintain, construct, equip, extend, replace, repair, alter and otherwise establish and operate in the City, as constituted as of the Effective Date, or as may hereafter be constituted, works, systems, plants, collection, distribution and transmission lines, treatment facilities and all related facilities (including those now in service and including all parts and portions of the System) necessary or appropriate to sell, collect, convey or otherwise conduct, serve or furnish the inhabitants of the City, and to the City, retail sewer service, and the Grantee is hereby granted passage and rights-of-way in, under, along and across the Rights-of-Way of the City and beneath the surface of same, and the right to occupy and use in any lawful way during the term of this Franchise said Rights-of-Way as they now or hereafter may exist, for every and any such service, use, effect, and lawful purpose as herein mentioned; provided that all such work, activity and undertakings by the Grantee shall be subject to the terms and provisions of this Franchise and the Uniform ROW Management Ordinance. Nothing herein shall be construed to require or authorize Grantee to exceed any rights granted herein or by the TCEQ, or its successor agency.

2.2. The construction, maintenance, and operation of the System and property of the Grantee within the City shall be subject to the terms of this Franchise and all other applicable ordinances, rules and regulations adopted by the City, including the police powers of the City to adopt and enforce ordinances of general applicability necessary to the health, safety and welfare of the public that are not otherwise inconsistent with the terms and conditions of this Franchise.

2.3. In exercising its operations under this Franchise, the Grantee reserves the right to use affiliated entities or third party contractors or subcontractors.

2.4. The Grantee shall be allowed to operate and maintain all lines existing on the Effective Date within City parks, greenbelts, and similar property, or then existing on land hereinafter designated as a City park. Except in an Emergency, the Grantee shall not undertake a replacement of such lines or install new lines within said parks, greenbelts or similar property without the

permission of the City Administrator. Such permission shall not be unreasonably withheld or delayed.

2.5. The term of this Franchise shall be for a period of ten (10) years from the Effective Date, unless terminated sooner pursuant to the terms herein; provided that this Franchise shall not be or become effective unless accepted by the Grantee as stated herein. The Franchise may be renewed in accordance with applicable law.

2.6. The Grantee shall have full authority to repair and replace pipes and facilities within any Rights-of-Way existing on the effective date of this Ordinance and to expand and enlarge such facilities for the purpose of providing for growth and expansion both within and outside the City, subject to the terms of this Franchise and the Uniform ROW Management Ordinance.

2.7. This Franchise is non-exclusive, and the City retains the right and power to grant any other person, political subdivision, firm, or corporation a franchise to use its streets, highways, Rights-of-Ways, and City parks, greenbelts, or similar property.

2.8. Grantee shall be subject to applicable City ordinances governing rights-of-way construction permits for conducting land disturbing activities in the public rights-of-way, including but not limited to the Uniform ROW Management Ordinance, prior to the commencement of any construction in the Rights-of-Way. Such permits shall be issued only in compliance with applicable City ordinances.

2.9. As Built Plans. Upon the Effective Date of this Franchise, Grantee shall provide, without cost to the City a hard copy and electronic version of the existing System located within the Rights-of-Way. Within sixty (60) days of completion of each new permitted section of Grantee's facilities, Grantee, shall supply the City with a complete set of "as built" plans of record for the new permitted section in a format used in the ordinary course of business, but excluding customer specific, proprietary or confidential information and as reasonably prescribed by City, and as allowed by law. The City may, at its discretion, accept any reasonable alternative to as built plans of record which provides adequate information as to the location of facilities in the Rights-of-Way.

Section 3. Use of Rights-of-Way.

3.1. The Grantee is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this Franchise, provided the same do not conflict with existing water or sewer lines, electric power lines, telephone lines, cable television lines and other authorized installations, and provided that all work done in said Rights-of-Way by the Grantee shall be done with reasonable diligence, without unreasonable interference to the public or individuals, and in compliance with any applicable City ordinances rules or regulations regarding the Rights-of-Way. In the event of unreasonable interference to the public or Rights-of-Way, such facilities shall be moved by Grantee, temporarily or permanently, as determined by the City Administrator or his designee upon reasonable notice. The City shall take commercially reasonable precautions to avoid conflicting with Grantee's facilities in such Rights-of-Way. The City shall include as a requirement in all franchises that are granted or renewed after the Effective Date that all other franchised entities

occupying Rights-of-Way shall also take commercially reasonable precautions to avoid conflicting with the Grantee's facilities in such Rights-of-Way. It is not the intention of either the City or the Grantee to create any liability, right or claim for the benefit of third parties and this Franchise is intended and shall be construed for the sole benefit of the City and the Grantee.

3.2. The City reserves the right to lay, and permit to be laid, sewer, cable television, water, telephone, electric, and other lines, cables and conduits, and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over or under any Rights-of-Ways or other public place occupied by the Grantee.

3.3. Grantee shall restore the Rights-of-Way and provide notification of any repairs and Emergency work to the City in accordance with the Uniform ROW Management Ordinance.

Section 4. Modification and Relocation of Facilities.

If, during the period of this Franchise, the City, for a public purpose, use or convenience, reconstructs, improves or changes any Rights-of-Way including, but not limited to, changing the grade or alignment of the Rights-of-Way or any distribution or transmission line, or any overhead or underground structure within the corporate limits of the City, so as to conflict with the distribution or transmission lines, treatment facilities, equipment and appurtenances of the Grantee or the System, the Grantee shall remove or relocate, as necessary, all of its distribution or transmission lines, equipment, and appurtenances at the Grantee's expense. Designated representatives of the Grantee and the City shall develop schedules for this work. If such representatives cannot agree on the schedules, the City, after consultation with the Grantee, shall establish a schedule which shall accommodate the Grantee's statutory obligation to obtain construction plan approval from the TCEQ, if required, prior to commencing any work. Additionally, if the City's plans require the Grantee to relocate its facilities, the City may, to the extent possible, identify Rights-of-Way to accommodate the Grantee's System.

Section 5. Franchise Fee.

5.1. The Rights-of-Way to be used by the Grantee in the operation of the System within the boundaries of the City as such boundaries exist as of the Effective Date, and as hereafter modified from time to time, are public properties acquired and maintained by the City at expense to its taxpayers. The Grantee will receive and obtain material benefits and operating efficiencies from this Franchise and the Grantee's rights to use the City Rights-of-Way. Without this Franchise, the Grantee would be required to invest in right-of-way cost and acquisition. The City will incur significant and material cost and expense in regulating, administering and carrying out actions necessary to give effect to this Franchise and thus, the Grantee shall, commencing on the Effective Date and continuing through the term of this Franchise, pay to the City of the Grantee's Gross Receipts collected from Customers and Consumers within the corporate limits of the City as a franchise fee. Such franchise fee shall be based on the following percentages of the gross receipts collected from Customers and Consumers within the corporate limits of this City for the term of the franchise agreement, and paid as provided herein, as follows, two percent (2%) for the first three years, and three percent (3%) for the remaining term of the franchise agreement.

5.2. The franchise fee shall be payable quarterly to the City and delivered to the City Secretary, or successor in function, together with a statement indicating the derivation and calculation of such payment. Each such quarterly payment shall be due on the fifteenth (15th) day of the month following the end of the quarterly period for which said payment is due and shall be based upon the Gross Receipts during that same calendar year period. The statement shall be presented in the form of generally accepted accounting procedures. At all times, the Grantee shall cause accurate books and records of account to be maintained as are necessary to permit the verification of the amount of such franchise fee. For purposes of verifying the amount of such fee, the books and records of account of the Grantee shall at all reasonable times be subject to inspection by the City and its duly authorized representatives. The Grantee shall file annually with the City Secretary, no later than four (4) months after the end of the Grantee's fiscal year, a statement of revenues attributable to the operations of the Grantee within the City.

5.3. If the franchise fee payment is not paid on the due date specified herein, an interest charge shall be assessed at the rate of ten percent (10%) per year for each day that the franchise payment is late, and payment for the interest due shall accompany the late franchise fee payment.

5.4. The franchise fee shall be in lieu of any and all other City imposed rentals or compensation or franchise, license, privilege, instrument, occupation, excise or revenue taxes or fees and all other exactions or charges (except ad valorem property taxes, special assessments for local improvements, City sales tax, and such other charges for utility services imposed uniformly upon persons, firms or corporations then engaged in business within the City) or permits upon or relating to the business, revenue, franchise, collection lines, installations and systems, fixtures, and other facilities of the Grantee and all other property of the Grantee and its activities, or any part thereof, in the City which relate to the operations of the System.

5.5. No acceptance of any franchise fee shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount, nor shall such acceptance of any payment be construed as a release of any claim that the City may have for further additional sums payable under this Ordinance. All amounts paid shall be subject to audit and recomputation by the City.

5.6. The period of recomputation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment is due from Grantee.

Section 6. Termination of Franchise.

6.1. Either party (provided such party is not then in material breach of this Franchise) may terminate this Franchise upon a material breach thereof by the other party (the "Breaching Party") by giving not less than forty-five (45) days' prior written notice of such termination (containing reasonable detail of the material breach) to the Breaching Party; provided, however, in the event that the Breaching Party shall have cured the specified material breach within the above-referenced forty-five (45) day notice period (or, if the material breach is of a type which is not reasonably capable of being cured within such a period, and the Breaching Party has then commenced action to cure such breach), the above-referenced notice shall be of no further force or effect.

6.2. The Grantee may terminate this Franchise at any time upon written notice to the City in the event the Grantee is then no longer providing service to Customers or Consumers within the corporate limits of the City.

6.3. In the event this Franchise is terminated, easements and real property purchased and acquired by the Grantee, and held in the name of the Grantee, shall be and remain the property of the Grantee, according to the terms, conditions and limitations of the instruments conveying such property and interest in property to the Grantee.

6.4. The City retains the right to terminate this Franchise upon written notification to the Grantee, whenever in its judgment revocation is necessary to secure efficiency of public service at reasonable rates or to assure that the property is maintained in good order throughout the life of the grant, the Grantee practices any fraud upon the City, or the Grantee becomes insolvent, unable or unwilling to pay its debts, or it is adjudged bankrupt or a receiver is appointed to it.

6.5. Upon termination of this Franchise for whatever reason, the Grantee shall upon request of the City, at the Grantee's sole expense, remove any or all of the System from the Rights-of-Way, and restore the Rights-of-Way to its original condition or better.

Section 7. Severability.

If any section, paragraph, subdivision, clause, part or provision hereof shall be adjudged invalid, illegal or unconstitutional, the same shall not affect the validity hereof as a whole or any part or provision other than the part or parts held invalid or unconstitutional.

Section 8. Captions and Headings.

The use of captions or headings for the various sections of this Franchise are for convenience of parties only and do not reflect the intent of the parties. The rule of interpretation to resolve ambiguities in a contract against the party drafting such contract shall not apply to this Franchise.

Section 9. Open Meetings.

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, as required by the Open Meetings Act, Chapter 551, Texas Government Code.

Section 10. Publication.

The full caption of this Ordinance shall be published one (1) time in a weekly newspaper published within or in general circulation within the City and the expense of such publication shall be borne by the City. This Ordinance shall take effect only upon its acceptance by the Grantee within the time and manner herein above provided and publication, as may be required by governing law. In the event this Franchise is not accepted by the Grantee, this Ordinance shall expire and be and become null and void at midnight on the thirtieth (30th) day after date hereof.

Section 11. Endorsements and Records.

The City Secretary is hereby authorized and directed to make appropriate endorsements, for the public records and convenience of the citizens over her official hand and the seal of the City and on the form provided at the conclusion of this Franchise, of the date upon which this Ordinance is finally passed and adopted by the City Council; the date upon which the caption or notice of this Ordinance is published in the local newspaper, the date upon which this Ordinance shall expire if not first accepted by the Grantee and, if the Grantee shall accept this Franchise, the date of such acceptance by the Grantee.

Section 12. Entire Agreement; Amendments.

This Franchise contains the entire agreement between the parties with respect to the subject matter herein and all prior negotiations and agreements are merged herein and hereby superseded. This Franchise may not be amended or revised except upon agreement of both parties, which agreement shall be in writing signed by the parties after approval and formal action of the City.

Section 13. No Waiver.

13.1. The failure of the City or the Grantee, upon one or more occasions, to exercise a right or to require compliance or performance under this Franchise or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver or compliance or performance, unless such right has been specifically waived in writing.

13.2. Waiver of a particular breach of this Franchise shall not be construed as a waiver of any other breach. No provision of this Franchise shall operate as a waiver by the City or the Grantee of any right guaranteed by the federal or state constitutions or other applicable law.

Section 14. Assignment; Transfer; Sale or Conveyance by Grantee.

14.1. The Grantee shall not assign or transfer this Franchise or any of its rights and privileges granted hereunder to any person, without the prior written consent of the City expressed by Ordinance.

14.2. Subject to the provisions in Section 15.1, this Franchise shall be binding upon and inure to the benefit of the City and the Grantee and their respective successors and permitted assigns, and nothing express or mentioned in this Franchise is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Franchise or any provisions of this Franchise, and conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person.

Section 15. Notices.

15.1. Any notice, request, instruction or other document deemed by any party hereunder to be necessary or desirable to be given to any other party shall be deemed delivered three (3) days after deposit in the U.S. mail if such written notification is sent by registered mail or certified mail, postage prepaid, with return receipt requested, correctly addressed as follows:

If to City: City Administrator, City of Wimberley
12111 RR12
PO Box 2027
Wimberley, Texas 78676

If to Grantee: Aqua Texas Inc.
1421 Wells Branch Parkway, Ste. 105
Pflugerville, Texas 78660

or to the last address for notice, which the sending party has for the receiving party at the time of mailing. Either party may change its address for notice designating the new address in a written notice served upon the other party in the manner provided herein. Notices or other information delivered in any other manner will be deemed delivered if and when actually received.

Section 16. Force Majeure.

Each party shall be excused for failures and delays in performance of its respective obligations under this Franchise due to any cause beyond the control and without the fault of such party, including without limitation, any act of God, war, riot or insurrection, law or regulation, strike, flood, fire, explosion or inability due to any of the aforementioned causes to obtain necessary labor, materials or facilities. This provision shall not, however, release such party from using its best efforts to avoid or remove such cause and such party shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Upon claiming any such excuse or delay for non-performance, such party shall give prompt written notice thereof to the other party, provided that failure to give such notice shall not in any way limit the operation of this provision.

Section 17. Findings.

All of the Whereas clauses are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 18. Insurance and Bond.

18.1. The Grantee shall maintain throughout the term of the Franchise, and thereafter for a period of not less than twelve (12) months, general liability insurance with limits not less than:

- a. One Million and No/100 Dollars (\$1,000,000) primary; and,
- b. One Million and No/100 Dollars (\$1,000,000) umbrella, or other securities as acceptable to the City Administrator or his designee. Insurance policies and certificates must be issued from an insurance company licensed to do business in the State of Texas and acceptable to the City, insuring

against claims for liability and damages for the benefit of the City. The insurance shall include the City as an additional insured; however, the policy must provide that insurers shall have no right of recovery against the City and no recourse against the City for payment of any premiums or assessments.

18.2. The Grantee shall maintain through the term of the Franchise the requisite statutory workers' compensation insurance.

18.3. A copy of the insurance policy, or policies, obtained by the Grantee in compliance with this section shall be provided to the City, and such insurance policy, along with written evidence of payment of required premiums, shall be filed and maintained with the City Secretary during the term of this Franchise, and shall be changed from time to time to reflect changing liability limits, as reasonably required by the City Council. The City shall be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable requests for deletion or modification of particular terms, conditions, limitations, or exclusions. If the City determines that a certificate of insurance is acceptable evidence for insurance coverage, a copy of the required endorsement shall be attached to the certificate of insurance.

18.4. The policy shall contain a provision that it may not be canceled, revoked or annulled by the insurer without giving the City ten days' prior written notice. The Grantee shall not surrender or release such policy without filing in lieu thereof another policy complying with the requirements of this section.

18.5. Neither the City or any officer or employee thereof shall be liable for the financial responsibility of any insurer, or in any manner become liable for any claim, act or omission, relating the Grantee's use of the public right-of-way.

18.6. The Grantee shall immediately advise the City of any significant litigation, actual or potential, that may develop and would affect this insurance.

18.7. Grantee shall annually obtain, maintain and file with the City Secretary, a corporate surety bond with a surety company authorized to do business in the State of Texas, and found acceptable by the City Attorney, in the amount of Seventy-Five Thousand and No/100 Dollars (\$75,000), or of the estimated amount of the value of work anticipated to be completed that year, whichever is greater, to guarantee the restoration of the Rights-of-Way in the event Grantee leaves a job site unfinished, incomplete, unsafe or unreasonably delays the completion of the construction. Grantee shall provide this corporate bond within thirty (30) days of the issuance of a permit under this Franchise but prior to commencement of construction. Should Grantee without a bond in place leave a job site in the Rights-of-Way unfinished, incomplete, unsafe or unreasonably delays the completion of the construction, Grantee shall pay the actual cost of restoring the Rights-of-Way, plus any administrative fee to reimburse the City's cost of overseeing any such restoration.

18.8. The rights reserved to the City with respect to the insurance or bond are in addition to all other rights of the City, whether reserved by this Franchise or authorized by law; and no action, proceeding or exercise of a right with respect to such insurance or bond shall affect any other right the City may have.

Section 19. Indemnification and Hold Harmless.

19.1. The Grantee shall, at its sole cost and expense, indemnify, defend and hold harmless the City, board, its agents, officers and employees, against and from any and all claims, demands, causes of actions, suits, proceedings, damages, liabilities and judgments of every kind by or on behalf of any person, firm, corporation or other entity, arising from or due to the Grantee's construction or operation of the System, or arising from any act of negligence of the Grantee, or any of its agents, contractors, servants, employees or licensees, and from and against all costs, attorneys fees, expenses and liability incurred in or about any such claim or proceeding brought thereon, and from any and all claims arising from any breach or default on the part of the Grantee to be performed pursuant to the terms of this Franchise.

19.2. The Grantee shall, at the sole risk and expense of the Grantee, upon demand of the City, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, or otherwise brought or instituted or had by third persons or duly constituted authorities, against or affecting the City, its officers, board, agents or employees arising out of or due to the Grantee's construction or operation of the System in the City.

19.3. The Grantee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand, rendered made or issued, against the Grantee, the City, its officers, board, agents or employees, for the foregoing; and such indemnity shall exist and continue without reference to or limitation by the amount of any policy of insurance, or other assurance required hereunder or otherwise.

Section 20. Interpretation.

Each of the parties has been represented by legal counsel of their choosing in the negotiation and preparation of this Franchise. Regardless of which party prepared the initial draft of this Franchise, this Franchise shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.

Section 21. Governmental Function.

All of the lawful regulations and activities required by this Franchise are hereby declared to be governmental for the health, safety and welfare of the general public.

PASSED AND APPROVED on this the ____ day of _____, 2009 by a vote of ____ (ayes) to ____ (nays) to ____ (abstentions) of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

City Administrator
City of Wimberley, Texas

ATTEST:

Cara McPartland, City Secretary
City of Wimberley, Texas

[SEAL]

APPROVED AS TO FORM:

Carolyn J. Crosby, Assistant City Attorney

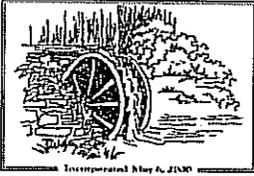
The caption of the foregoing Ordinance was published in the newspaper on the ____ day of _____, 2009.

Cara McPartland, City Secretary

Aqua Texas, Inc., accepted the foregoing Franchise by written instrument filed on the ____ day of _____, 2009.

Cara McPartland, City Secretary

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CONSIDER APPROVAL OF AN ORDINANCE CREATING AN ECONOMIC DEVELOPMENT COMMISSION

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

With the recent adoption of an economic development strategy for the City of Wimberley, the City Council has expressed a desire to establish a standing advisory committee to assist with the implementation of the adopted strategy.

Attached is a proposed ordinance formally establishing a seven-member Economic Development Commission to be appointed by the City Council. At least four (4) of the members of the Commission must be City residents.

Once the ordinance is adopted, the City Council can proceed with the process of making appointments to the Commission.

ORDINANCE NO. 2009-_____

AN ORDINANCE REPEALING ORDINANCE NOS. 2006-015 AND 2007-009 OF THE CITY OF WIMBERLEY, TEXAS, ESTABLISHING THE ECONOMIC DEVELOPMENT COMMISSION IN ORDER TO DISSOLVE SUCH COMMISSION; AND AMENDING TITLE III (ADMINISTRATION), CHAPTER 33 (BOARDS AND COMMISSIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO CREATE SECTION 33.05 ESTABLISHING AN ECONOMIC DEVELOPMENT COMMISSION, ITS PURPOSE, MEMBERSHIP REQUIREMENTS AND DUTIES; PROVIDING FOR AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, SEVERABILITY AND REPEALER.

WHEREAS, the City of Wimberley ("City") is authorized to establish boards and commissions to receive public input and provide recommendations to the City Council; and,

WHEREAS, the City Council strives to consider qualified individuals who represent a broad sampling of the community when appointing members to the City's boards and commissions; and,

WHEREAS, the City wishes to maintain and develop sound economic development guidelines for the enhanced promotion of tourism and development of the economy within the City; and,

WHEREAS, the City Council of the City of Wimberley, Texas desires to create a citizen advisory commission to investigate and research the various elements of the City's current economic development plan and continue to review the long-range economic development plan, including new available funding sources for the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of Wimberley and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. DISSOLUTION OF ECONOMIC DEVELOPMENT COMMISSION

- A. The Economic Development Commission of the City of Wimberley is hereby dissolved.
- B. Ordinances Nos. 2006-015 and 2007-009 are hereby and in all things repealed in their entirety.

III. AMENDMENT

THAT Title III (Administration), Chapter 33 (Boards and Commissions) of the Wimberley Code of Ordinances is hereby amended to add Section 33.05 (Economic Development Commission) to read as follows:

“§ 33.05 ECONOMIC DEVELOPMENT COMMISSION.

(A) *Purpose.* The purpose of this section is to create a citizen advisory Commission to provide recommendations and advice to the City Council with respect to the promotion of business, civic and cultural affairs of the community in order to enhance and promote economic development in the City. This section is adopted so that the Economic Development Commission (the “Commission”) created hereby may advise the City Council with respect to these matters.

(B) *Creation and composition of Commission.*

(1) The Commission created by this chapter, shall be an independent advisory Commission to the City Council, and shall be comprised exclusively of volunteer members appointed by the Council.

(2) The Commission shall be comprised of seven (7) members from within the corporate limits of the City and US postal zip code 78676, at least four (4) of whom shall be residents of and registered to vote in the City. The members shall be nominated for selection to the Commission as follows: one (1) each by the Mayor and each Member of the City Council, as individual appointments, and the remaining member is to be chosen by a majority vote of the City Council.

(3) Members of the Commission may be selected from among the following: (1) a representative of a local business, (2) a representative of a real estate company, (3) a representative of an arts and/or culture organization, (4) a representative of a lodging business, and (5) a representative of the Wimberley Merchants Association.

(4) No member of the Commission shall hold any other public office of honor, trust or profit in the government of the city during their term of office.

(5) The members shall serve without pay.

(C) *Duties of the Commission.* The Commission shall review and recommend amendments to the Economic Development Plan of the City to City Council on an annual basis. The Commission shall make recommendations to the City Council regarding other matters related to the policies and procedures of the economic development health and vitality of the City.

Further, the Commission shall have the following responsibilities and advise the Council with respect to:

- (1) Short- and long-term economic development goals;
- (2) Alternative methods to achieving the economic development goals and milestones detailed in the Economic Development Plan;
- (3) Informing the citizens of the City and Wimberley Valley Community about the information contained in the Economic Development Plan and programs adopted by the City Council;
- (4) Monitoring and reporting to the City Council economic development opportunities to include grants;
- (5) Investigating financing options for public projects and public/private partnerships or agreements, including capital items and real property acquisitions;
- (6) Implementation of certain tasks as specifically outlined and detailed in the approved Economic Development Plan of the City; provided, however, in no event shall the Commission or individual members have the power or authority to contract or otherwise encumber or obligate the City to participate in any economic development program, contract with third parties or pay any fees, expenses or matching funds for any contract, economic development program or incentive without the prior approval of the City Council; and,
- (7) Other matters as the Council from time to time by resolution may request.

(D) *Vacancies on the Commission.* If a vacancy occurs on the Commission in a position originally filled by the Mayor or an individual Council Member, then the person who originally appointed the Commission member or the successor shall appoint a person to fill that vacancy. In the event that a vacancy occurs on the Commission that results in the majority of the Commission members not being registered voters within the city limits of the City, then the Commission will not meet or conduct business until such time as the vacancy can be filled by appointment of the City Council so that a majority of the Commission members are registered voters within the city limits. For purposes of this section, if a member moves out of the corporate limits of the city or no longer resides within US postal zip code 78676, then the member shall be deemed to have automatically resigned from the Commission.

(E) *Terms of Commission members.* At the first regular meeting, all Commission members shall either agree among themselves, or draw lots to determine which three (3) members shall serve an initial term of one (1) year. Thereafter, all members terms shall be two (2) years.

(F) *Removal of Commission members.* The City Council may by majority vote remove a Commission member for incompetence, corruption, misconduct, malfeasance, or for any other reason stated in the vote. Any Commission member who misses 3 consecutive meetings, or 1/3 of all regular meetings within a 12-month time period, shall be deemed to have automatically vacated his or her position on the Commission. This provision shall not apply to a Commission member who applied for and received an excused absence from the Commission chairperson for

the meeting(s) at issue. If any member of the Commission changes his or her residence or voter registration with the result that fewer than 4 members of the Commission are residents of and registered to vote in the city, then that member of the Commission is deemed to have automatically vacated his or her position on the Commission.

(G) *Commission officers.* The Commission shall elect officers from among its members. The officers shall be the chairperson, vice-chairperson, and secretary. Officers shall be elected for terms of one (1) year. The Commission chairperson shall preside over all meetings and may vote. If the chairperson is absent, or fails or refuses to act, the vice-chairperson shall perform the duties of the chairperson. If the chairperson and vice-chairperson are absent or fail or refuse to act, then any Commission member may be appointed by the Commission to preside over the meeting. The secretary shall keep the minutes of the meetings of the Commission. If the secretary is absent or fails or refuses to act, then any Commission member may be appointed by the Commission to take the minutes of the meeting. The officers of the Commission shall have those other duties as the Commission may determine.

(H) *Commission meetings and rules of proceedings.* The Commission shall conduct regular meetings no less frequently than once a month at a time and place determined by resolution adopted by the Commission. Special meetings may be called by the Commission chairperson or by three (3) Commission members. A majority of the Commission shall constitute a quorum. The Commission may determine the rules of its proceedings.

(I) *Proper Notice and Open Meeting.* The Commission shall comply with the provisions of Chapter 551, Texas Government Code, commonly referred to as the Open Meetings Act, including posting notices and agendas so as to adequately inform the public of the time, location and substance of business to be undertaken. Meetings closed to the public or executive sessions are normally not appropriate for Commissions, commission and committees and will not be conducted without the advice and consent of the City Attorney. All Commissions, commissions, and committees must keep at least summary records of their proceedings and these records will be accessible to the public.

Except as provided herein, of the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED on this _____ day of _____, 2009, by a _____ (Ayes) _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By: _____
Tom Haley, Mayor

ATTEST:

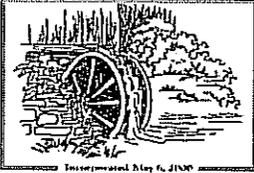
Cara McPartland, City Secretary

SEAL

APPROVED AS TO FORM:

Carolyn J. Crosby, Assistant City Attorney

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CONSIDER ALLOWING THE USE OF THE BLUE HOLE REGIONAL PARK FOR AN EVENT TO RECOGNIZE THE WIMBERLEY HIGH SCHOOL SWIM TEAM

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the City Council to discuss and consider authorizing the use of the Blue Hole Regional Park for an event on Sunday, March 29, 2009 from 3 to 6 p.m. to recognize members of the award-winning Wimberley High School Swim Team and its coach. In addition, team supporters have asked the City to consider waiving the usage fee for the event. The request was submitted by local resident M.F. Johnson on behalf of team members, their parents and supporters.

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 2009

Project/Proposal Title: CONSIDER AUTHORIZING CITY STAFF TO PROCEED WITH THE PURCHASE OF A MUNICIPAL COURT SOFTWARE PACKAGE

Funds Required:

Funds Available:

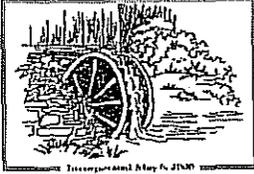
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the City Council to discuss and consider authorizing City staff to proceed with the purchase of a computer software package for the City of Wimberley Municipal Court. The software is needed to assist with the tracking of cases and fines processed by the Court. City staff has been evaluating various software packages and will present a recommendation under separate cover.

City Council Agenda Form



Date Submitted: March 14, 2009

Agenda Date Requested: March 19, 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.