

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
February 18, 2010 at 6:30 p.m.

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

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

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

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

Proclamation

Proclamation recognizing the Texas State University Cancer Awareness Group

Mayor Haley read a proclamation recognizing Texas State University's Cancer Awareness Group for its commitment to community education about cancer prevention and supporting efforts of the student-led Bone Marrow Donor Registration Drive with the National Bone Marrow Program.

Citizens Communications

Paradise Hills' resident Linda Webb expressed gratitude for improved water service and stated concerns related to drainage issues, including worsening problems with standing water allegedly resulting from recent Wimberley Water Supply Corporation system improvements.

1. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of February 4, 2010
- B. Approval of the January 2010 City of Wimberley Financial Statements

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

2. Presentation

Presentation by representative(s) of *The PEC Triangle Development Task Force* on the development of a park plan for the property recently donated to the City of Wimberley by the Pedernales Electric Cooperative

Bert Ray recognized task force members Christine Byrne, Martha Knies, Rob Pitzer, Cathy Flocke, and Mark Roden. He outlined reasoning for certain recommendations based on the proposed park's unique size/location and its intended purpose and possible uses. Mr. Ray displayed three-dimensional models of the proposed park showing placement of features such as trees, benches, walkways, landscaping, sculpted artwork, and parking. He asked for Council's feedback and direction on the task force's proposals. Discussion addressed specifics of certain features, commended task force members, and generally agreed on proposals for the park as presented.

3. City Administrator Report

- Status report on the efforts underway to secure federal funding for the downtown wastewater project

City Administrator Ferguson reported on the timeframe for the Texas Water Development Board's review of the City's application and its recommendations for preferred treatment and customer financing options. He reported that the Planning and Zoning Commission, with input from the Water Wastewater Advisory Board and Economic Development Commission, is proceeding with review of development standards, particularly for the downtown area.

- Status report on preparations for the upcoming May 8, 2010 City of Wimberley General Election

City Administrator Ferguson reported on the timeframe for the upcoming election, including specific election-related dates, poll location, voting/early voting days/times, deadline for filing for a place on the ballot, and voter registration deadline.

- Status report on issues relating to the acquisition of property for the new City Hall

City Administrator Ferguson reported that the signed contract and earnest money has been delivered to the title company, with closing anticipated in about sixty (60) days. He stated that certain inspections, reports, and assessments are pending, including staff review of any needed building modifications. He reported that the City's current landlord is open to working with the City on an acceptable move-out date.

- Status report on the City of Wimberley website redesign project

City Administrator Ferguson reported that the Economic Development Commission has started the preliminary process of redesigning website elements and plans to schedule a public hearing in order to gather input and receive feedback.

- Status report on sales tax collection for the City of Wimberley

City Administrator Ferguson reported on the critical nature of sales tax revenues for the City and stated that the most recent payment remained flat compared to previous payments. He reported that

close monitoring continues of both sales tax revenues and budget expenditures, which will be reassessed as needed.

- Status report on the development of the Winters Mill Parkway hike and bike project

City Administrator Ferguson reviewed the history of this project, including funding challenges and the need for action by Capitol Area Metropolitan Planning Organization (CAMPO), which has an impact on the trail's timeline for completion.

4. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Herschel McCullough to permit an eating establishment: sit-down, including the sale of beer, wine and alcohol for on-premise consumption on a tract located at 101A Wimberley Square, Wimberley, Hays County, Texas, zoned Commercial – Low Impact (C-1); and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Herschel McCullough, Applicant*)

City Administrator Ferguson reviewed the conditional use permit (CUP) application including the subject property's location, current/existing zoning, uses, and recent similar applications. He stated that no comments have been received either for or against this request and advised of staff's recommendation for approval. He reported that the Planning and Zoning Commission unanimously recommended approval with the condition that alcohol will be served and/or consumed only in those areas on the subject property where food is served. He noted that if this CUP is approved, the applicant must secure a waiver from the City's distance requirements relating to the sale of beer, wine, and alcohol within three hundred feet (300') of a church, daycare, school, or hospital.

Councilmember Flocke recused himself from the meeting at this time due to a possible conflict of interest.

No public comments were heard.

Councilmember Thurber moved to approve the item as presented, including Planning and Zoning's previously stated condition that the sale of beer, wine, or alcohol for on-premise consumption shall be limited to those areas where food service occurs. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

- B. Hold a public hearing and consider approval of a waiver of the 300-foot distance requirement relating to the sale of beer, wine and alcohol at 101A Wimberley Square, Wimberley, Hays County, Texas (*Herschel McCullough, Applicant*)

City Administrator Ferguson stated that a waiver is required due to the subject property's proximity to a daycare facility and noted that no public comments have been received either for or against the requested waiver. He stated that City Council may waive the distance requirements if it finds that enforcement of the distance provision in a particular case:

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

No public comments were heard.

Councilmember Appleman moved to approve the item as presented, including the previously stated findings. Councilmember White seconded. Motion carried on a vote of 4-0.

Councilmember Flocke rejoined the meeting at this time.

5. Discussion and Possible Action

- A. Discuss and consider possible approval of the transfer of an amount not to exceed \$400,000 from the City of Wimberley Fund Balance for the purpose of funding costs associated with the acquisition of a .814 acre tract of land located at 211 Stillwater Drive, Wimberley, Hays County, Texas, and amending the Fiscal Year 2010 City of Wimberley General Fund Budget to reflect the transfer and expenditures. (*City Administrator*)

City Administrator Ferguson explained that this funding allocation for acquisition of a new City Hall facility includes the purchase price of \$380,000 and up to \$20,000 for associated costs related to the move. Discussion addressed anticipated remodeling costs.

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

City Administrator Ferguson advised that Council will be updated on costs as needed. Mayor Haley stated that he is proud of the City's pending ownership of its new permanent home.

- B. Discuss and consider possible approval of proposed revisions to the rental policies and fees for the Wimberley Community Center. (*Wimberley Parks Board*)

City Administrator Ferguson reported on the revision process to date, reasoning for proposed revisions, and specific key changes in rental rates/policies relating to deadlines, cancellations, alcohol, firearms, deposits, refunds, clarifications about use of adhesive tape, staff support, and rate

structure. Details on the proposed rate structure were provided including rental classifications for various types of users, competitive rate pricing, and marketing of large and small spaces. *The proposed revisions are attached to these minutes.*

If adopted, City Administrator Ferguson requested a fifteen to twenty (15-20) day delay for the revised policies/fees to become effective in order to allow for preparation of forms. He stated that staff recommends approval of the proposed revisions.

Discussion addressed which rentals may be “grandfathered” and set March 15, 2010 as an acceptable effective date. Councilmember Thurber asked about the possibility of adjusting fees for those non-profit organizations’ events that can be documented to bring in a certain amount of revenue to the City. In response to Councilmember Thurber, City Administrator Ferguson replied that it might be challenging to document the amount of revenue deemed necessary to receive fee adjustments, but noted the possibility of joint sponsorship of an event by the City in conjunction with a non-profit organization. Mr. Ferguson stated the importance of establishing an even playing field, but noted that consideration might be given to those organizations that rent space for multiple events and make advance payment in full.

Councilmember Appleman felt that the Wimberley Community Center (WCC) should be run as a self-sustaining business and that other governmental entities should pay at least a nominal fee to cover costs. City Administrator Ferguson stated that there is a nominal fee for the largest space, which is Johnson Hall. Councilmember Appleman stated that contracting out WCC’s operations should be considered at some point. Discussion clarified policies relating to clean-up of rented spaces and responsibilities of renters and staff, including checklist procedures to determine compliance. Discussion established that approximately seven (7) or eight (8) events are held each year that require rental of the entire facility and addressed problems associated with set-up and tear-down time for rentals, which can be alleviated by incorporating such times into the rental period.

Councilmember Flocke moved to approve the proposed revisions to the rental policies with an effective date of March 15, 2010. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

C. Discuss and consider possible action on priority transportation projects recommended by the Wimberley Transportation Advisory Board. (*Transportation Advisory Board*)

Rob Pitzer spoke in support of the Transportation Advisory Board’s (TAB’s) recommendations and encouraged Council’s approval. City Administrator Ferguson addressed Council’s previous ranking of projects and Councilmember Flocke stressed the importance of street repairs, sidewalks and lighting for residents/visitors. Councilmember Appleman expressed disappointment in the list of recommended projects and lack of inclusion of certain streets that have received unfavorable (“D” and “F”) assessments. He stated the importance of fulfilling Council’s commitment by bringing all City streets at least up to a “C” level. Councilmember Thurber emphasized the importance of sidewalks/lighting and cost phasing of the top three listed priority projects in order to preserve enough funds to ensure downtown sidewalk development and seriously needed street repairs.

Councilmember White ranked sidewalks as his second ranked priority project. In response to Councilmember White's question about lighting, City Administrator Ferguson replied that lighting of planter boxes is included in cost estimates for sidewalks. Discussion addressed total sidewalk costs, including movement of water lines. Councilmember Thurber commented on earlier sidewalk discussion that included the possibility of funding through the *Safe Routes to School* program. City Administrator Ferguson stated some common practices regarding sidewalks and water line placement. In response to Councilmember Appleman, City Administrator Ferguson replied that measures will be taken to minimize negative impact to newly built sidewalks, if downtown wastewater lines are laid at a later date. Subsequent discussion addressed optimum timeframes for sidewalk/wastewater-related construction posing the least inconvenience to merchants.

Councilmember Flocke moved to direct staff to provide information on staging of TAB-recommended project numbers 3, 4, 5, and 7. [*TAB's list of nine (9) proposed transportation projects is attached to these minutes.*] Councilmember Thurber seconded. Motion carried on a vote of 5-0.

At 7:49 p.m., Mayor Haley called for a five (5) minute break at this time.

Mayor Haley reconvened the meeting at 7:54 p.m.

- D. Discuss and consider possible action on issues relating to the possibility of reducing the corporate limits of the City of Wimberley. (*Place Five Councilmember John White*)

Temple Wynne, owner of 104 Wimberley Square, stated that her decision to purchase was based on the Comprehensive Plan, which impressed her with the City's commitment to safeguard against development that is "out of sync" with the feel of the community. She stated that she would never have purchased a downtown property without the City's promises of regulation, preservation and conservation as protections for her investment. She strongly opposed any proposal to reduce the size of the Wimberley city limits and favored expanding the City's boundaries as much as possible, which she felt would enhance property values. She stated that reducing the size of the City would lessen its ability to protect water sources and roadways from unnecessary strain, commercial advertising, and "big box" franchises. Ms. Wynne thanked City Council for directing the Planning and Zoning Commission to keep development standards updated and applauded the City for pursuing the development of a downtown wastewater treatment system in order to provide a viable option for septic system improvements and to protect the at-risk Cypress Creek. She felt that having good development regulations will keep new development aligned with the Comprehensive Plan. Ms. Wynne cautioned against shrinking the size of the City as counterproductive in a real estate market that is conducive to investors "snatching up as much of this valley as they possibly can get their hands on and doing whatever they want to with it." In response to Councilmember Flocke's request for the benefit of the audience, Ms. Wynne stated the name of her business as *River House*.

Rob Pitzer stated his personal opinion that discussion of this item is a waste of the City's time, energy, and money. He asked Councilmember White why this item is on the agenda for discussion.

Mayor Haley stated that Councilmember White can address Mr. Pitzer's comments/questions during Council's discussion of this matter and invited Mr. Pitzer to return for further comments after Council discussion, if he still has any unanswered questions.

Councilmember White felt that Wimberley did not meet the population threshold at the time of incorporation and stated the importance of conforming to State law and the original intent of incorporation, which was to protect the historical Square area. He suggested incorporated boundaries that concentrate on the Square and main corridors as sufficient to provide better protection for Wimberley at less cost. He cited expenses of road maintenance and acquisition of wastewater service as too high and felt that drawing back on the City's boundaries and losing the "donut hole" would contain costs. He questioned the legality of the "donut hole" and stated that the City should make its population and size "what is legal." Councilmember White stressed that discussion of this item is not based on any intent to unincorporate Wimberley and felt that "we need a more manageable size commensurate with our population."

Councilmember Flocke questioned Councilmember White on the procedural aspects of making the City smaller in size. Councilmember Flocke outlined procedures for disannexation, changing the City's status as a Type A municipality, and unincorporation, which all require a petition and election. He stated that changing the City's "type" would not change its boundaries and that there is a two-year waiting period for an unincorporated municipality to reincorporate that would leave the City without any rules or safeguards during that time. He speculated on possible 2010 U.S. Census population statistics and noted that even if his prediction of around 3,700 is correct, the City's status would not change. Councilmember Flocke closed by stating that Council as a body cannot change the City limits and that "only the citizens can change the area of the City."

Councilmember Thurber agreed with Councilmember Flocke and did not share Councilmember White's view that there are positive aspects to reducing the City's size. Regardless of the necessary procedures, Councilmember Thurber stated that he has heard more interest in expanding the City's boundaries, rather than reducing them. He cited a past successful annexation and stated his knowledge of several property owners who have shown interest in being annexed into the City. Councilmember Thurber agreed with Councilmember Flocke that "this isn't really any of the Council's business."

Councilmember Appleman felt it is time to air this issue out and determine what the facts are. He trusted Councilmember Flocke's statements as accurate and asked City Attorney Crosby for enlightenment on this matter, particularly the "donut hole" issue.

City Attorney Crosby thanked Councilmember Flocke for his brief synopsis on some applicable laws, but noted that there are far more details on disannexation of property from the city limits. She stated she would answer any questions relating to the validity of incorporation in Executive Session. She advised that Council may discuss this issue with constituents, but cautioned against using City resources in any manner to promote or discourage an effort to hold an election.

Councilmember Appleman asked City Attorney Crosby for advice on Councilmember White's statement questioning the legality of the so-called "donut hole." Ms. Crosby reiterated that she will not provide legal advice to the City in Open Session, but felt that ten years after the fact of incorporation it is likely that any challenge would be futile.

Councilmember Thurber requested an Executive Session and asked if there was anyone else present who wished to speak on this item before Council retired to Executive Session.

Business owner Rob Pitzer of 13909 Ranch Road 12 expressed appreciation for Council's comments and stated that as a land owner he felt reducing the City's boundaries would be a movement backward. He favored expansion of boundaries and the accompanying greater population as a way to allow the City the revenue streams needed to meet its responsibilities. Mr. Pitzer said that he would like Council to find new revenue streams in order to take care of all of its stated priorities and thanked Council for the opportunity to speak.

Local business owner Bill Johnston stated that he does not live in the City and therefore cannot vote. He questioned the City's "liability for the fact that this was not legally consummated as a city under the law by population" and asked if there is liability incurred by the City "on fraudulent acquisition." City Attorney Crosby reiterated her statement that she will provide legal advice in Executive Session and Mr. Johnston stated that he did not need an answer, but wanted to push for Council's reconsideration of this issue. Because he felt that fifty (50) people do not live in the "donut hole," Mr. Johnston asked how this issue could be resolved if fifty (50) disannexation petition signatures are required. City Attorney Crosby replied that the "donut hole" is not part of the City; therefore, there is no need to disannex that area.

As a non-resident unable to vote, Jimmy Alan Hall favored wider inclusion of the Wimberley Valley into the City's incorporated limits as a means to work together toward common goals such as the community center and road improvements. As a former city attorney, Mr. Hall stated that he does not know of anything that would make the "donut hole" or the City's incorporation illegal and cited case law relating to the City of Abilene. He thanked Council for its service to Wimberley.

Mayor Haley commented that he did not want the City to lose assets such as Blue Hole and Planning and Zoning Commissioner David Glenn mentioned the Wimberley Community Center as another valuable asset.

Councilmember White stated the importance of tonight's discussion and clarified that he did not mention "deannexing" or losing any of the City's assets. He stated that the cavalier attitude over the City's initial incorporation without meeting the population threshold is bothersome.

It was agreed that Council will proceed with discussion and action on the remaining agenda items before retiring to Executive Session for discussion of this item.

Immediately after Agenda Item 5G, Mayor Haley adjourned Open Session and convened into Executive Session at 8:29 p.m. for consultation with legal counsel pursuant to Chapter 551.071 of

the Texas Government Code relating to Agenda Item 5D (*Discuss and consider possible action on issues relating to the possibility of reducing the corporate limits of the City of Wimberley*).

Mayor Haley adjourned Executive Session and reconvened Open Session at 8:46 p.m. No action was taken during Executive Session.

Councilmember Thurber thanked City Attorney Crosby for providing information to Council. No action was taken on this item.

- E. Discuss and consider possible action declaring the 2007 Chevrolet Tahoe formerly utilized by the City Marshal as surplus property and approving the sale and transfer of the vehicle to the office of Hays County Precinct Three Constable. (*City Administrator*)

City Administrator Ferguson explained the need for this item based on discontinuation of the City Marshal program and a recent accident resulting in the total loss of a Hays County Constable's vehicle. He stated that Hays County has approved the purchase of the subject vehicle in the amount of \$19,000. He noted that the City will pay \$31.16 to meet the total payout amount.

Councilmember Appleman moved to approve the item as presented. Councilmember Thurber seconded. Councilmember Thurber asked if Council needed to authorize the expenditure of \$31.16 and City Administrator Ferguson replied that the budget can be amended. Motion carried on a vote of 5-0.

- F. Discuss and consider possible action on issues relating to the negotiation and development of a contract for the preparation of a boundary survey of the City of Wimberley (*City Administrator*).

City Administrator Ferguson reported that negotiations with Pro-Tech Engineering have resulted in preliminary agreement on the project's scope and deliverables, but the preliminary cost estimate provided by the firm far exceeds the City's budget for the project. He asked for Council's direction on this matter and reminded that if Council chooses to begin negotiations with its second-ranked choice, staff may not go back and continue negotiations with its original first-ranked firm (Pro-Tech Engineering).

Councilmember Flocke moved to direct staff to initiate negotiations with Baker-Aicklen and Associates. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- G. Discuss and consider possible approval of plans for the *2010 Wimberley Arts Fest* on Saturday, April 24, 2010. (*City Administrator*)

City Administrator Ferguson provided details on the event, including street closures, parking, and planned activities. He noted that organizers will be responsible for providing insurance and traffic control at no cost to the City.

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

6. City Council Reports

- Announcements
- Future Agenda Items

This item was heard after Executive Session was held pertaining to Agenda Item 5D.

As a future agenda item, Councilmember Flocke requested discussion and possible action on business permits/licenses.

Hearing no further announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 8:47 p.m.

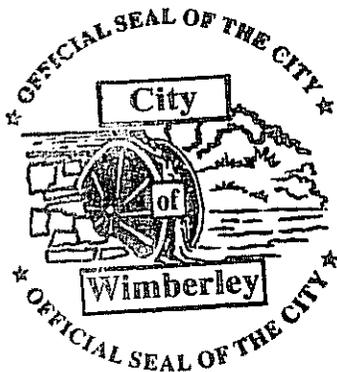
Adjournment: Council meeting adjourned at 8:47 p.m.

Recorded by:

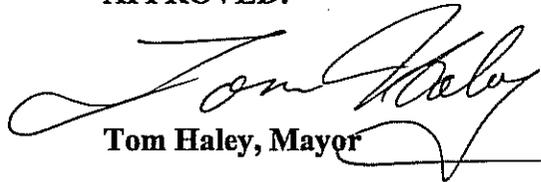


Cara McPartland

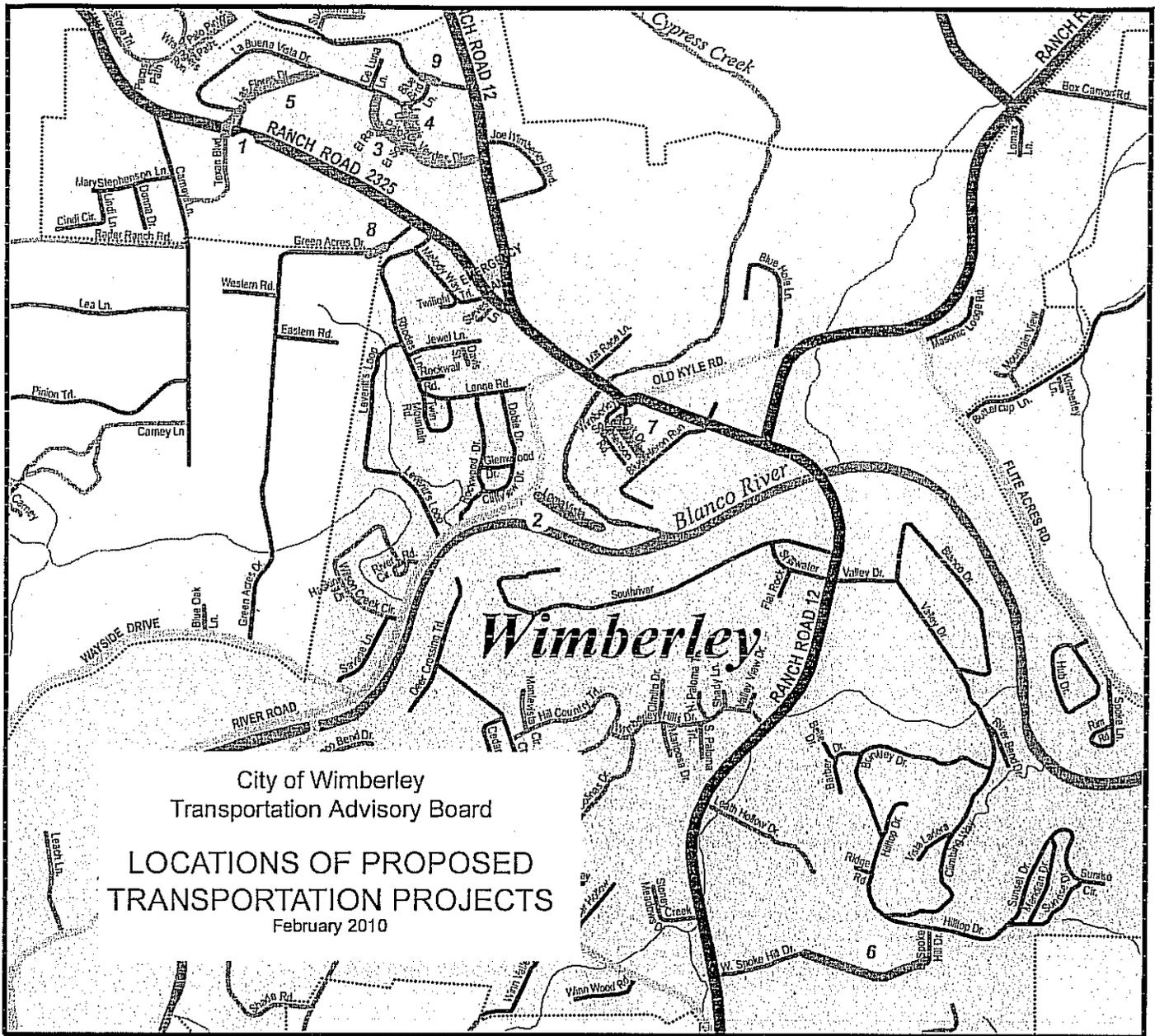
These minutes approved on the 4th of March, 2010.



APPROVED:


 A handwritten signature in cursive script that reads "Tom Haley". Below the signature is a horizontal line.

Tom Haley, Mayor



1. TEXAN BLVD. / LAS FLORES DR. / RR2325 INTERSECTION REALIGNMENT	\$170,500 w/o land acquisition
2. LOMA VISTA DRIVE PAVMENT REPAIR---Asphalt overlay and concrete valley	\$36,500
3. PALOS VERDES DRIVE REPAVEMENT---Base repair and new asphalt paving	\$96,000
4. LAS PAIS DRIVE REPAVEMENT---Base repair, new asphalt paving and realignment	\$35,000
5. LAS FLORES DRIVE REPAVEMENT---Base repair and new asphalt paving	\$130,000
6. EMERGENCY ACCESS TO PARADISE HILLS---Grading, base and minium asphalt	\$82,000
7. NEW SIDEWALK IN WIMBERLEY SQUARE---826 ft. of 6 ft. sidewalk with planters	\$88,500 w/o water line replacement
8. DRAINAGE ON GREEN ACRES RD.---5 new box culverts for 100-yr. flood reqmts.	\$132,000
9. DRAINAGE ON CYPRESS CREEK LN.---2 new box culverts & new outflow channel	\$61,000 w/o easement acquisition

WIMBERLEY COMMUNITY CENTER RENTAL POLICIES AND PROCEDURES

I. REQUESTING AND RESERVING USE OF FACILITIES

- A. Reservations for use of the facilities shall be made in writing on the Facility Use Agreement provided by the City of Wimberley for that purpose. The event time for facilities may not go past 12 a.m. on the date of the reservation. One (1) hour following the conclusion of the event will be allowed for clean up. If event/cleanup time exceeds the allowable time, the renter will be charged an hourly fee for the additional time required. The amount will be deducted from the deposit. (Time limit exceptions will be made on a case-by-case basis).
- B. Telephone inquiries are not binding and do not constitute a reservation.
- C. A reservation will be considered firm only when a Facility Use Agreement has been signed and approved by the Community Center Director or his/her designee, all fees have been paid in full and all permits and other required documents have been submitted no later than *fifteen (15) days* prior to the event.
- D. Cancellation of a rental or changing a confirmed date will result in loss of the deposit. If the facility can be re-booked with a comparable rental (one equal or greater in size), then 75% of the applicant's deposit will be returned. Cancellation fourteen (14) days or less prior to an event will result in the loss of any rental fees paid in addition to the deposit.
- E. All applications for use are subject to the approval of the Community Center Director or his/her designee, who shall have the right to deny service to any applicant based on provisions established in this set of rules and regulations.

II. FACILITY RESERVATION GUIDELINES

- A. Community Center Staff will not permit individuals into the reserved facility until the Permit Holder or designee is present. Individuals will not be permitted into the facility before the specified event start time. *Staff will allow items to be dropped off and stored in the kitchen if available.*
- B. Community Center Director or his/her designee shall have the right to assign or reassign meeting rooms as he/she deems appropriate based on the nature of the event, estimated number of participants, continued cancellations by a group, etc.
- C. Reservations will be revoked, at any time, by the Community Center Director or his/her designee when a violation of the approved rules and regulations has occurred and will result in cancellation of the event and/or loss of deposit.
- D. City equipment shall not be removed from the facility.
- E. Use of tobacco products are prohibited inside the Community Center.

- F. Propane is *NOT* allowed inside the facility. Any use of barbecues or propane in an outside area of the City of Wimberley Community Center requires prior approval by the City of Wimberley and Wimberley Fire Department and must be done in an approved location.
- G. Decorations require prior approval by Community Center Director or his/her designee. No signs or decorations will be nailed or permanently affixed to the City of Wimberley Community Center walls, ceilings, windows or drapes. Decorations must be fireproof. No glitter, rice, birdseed or other similar items will be allowed to be thrown in or around the facility.
- H. No open flame candles are allowed inside the Community Center. No smoke, bubble machines or pyrotechnics are allowed. If smoke alarms are activated due to the use of such items, which result in the call out of the Wimberley Fire Department, applicant will be responsible for all charges incurred by the Fire Department and the City of Wimberley.
- I. DJ's or bands are permitted at the event; however, **all music must conclude at least thirty (30) minutes prior to the end of the event.**
- J. The rental ending time means the facility must be empty of all guests and event staff. The clean-up time means all decorations, food, etc. must be removed and the facility cleaned according to the checklist provided to the renter. The Community Center Director or his/her designee will conduct a walk through with the renter both prior to and after the event noting the items on the checklist. The Center will provide trash bags for use when cleaning the facility. Community Center staff will take down the tables and chairs. If event/clean up time exceeds the event end time, the renter will be charged twice the hourly rate. The amount will be deducted from the deposit.
- K. Under *NO* circumstances are tips or gratuities of any kind allowed to be offered to the Community Center staff. The staff is *NOT* allowed to accept any form of tips or gratuities in lieu of allowing an event to run longer than scheduled.
- L. The Community Center Director or his/her designee is responsible for, and has authority over, the facility, equipment, and activities. The Community Center Director or his/her designee shall have the authority to request changes in activities or cessation of activities for public safety and well-being. Applicants must comply with instructions, requests, all policies, and rules and regulations. Failure to comply with a Community Center staff request will result in the cancellation of the event, and loss of all fees and deposits paid.
 - A. The Community Center staff will not sign for any items that have been rented. All rented items (dance floors, lights, etc.) will need to be delivered during the set up time and picked up during the clean up time. If items are delivered before or picked up after the rental times, the applicant will be charged the regular hourly rate.
- M. All established fees have been reviewed and approved by City Council. Any exceptions or special requests not covered by this policy must be submitted in writing and shall be reviewed by the City. City Council approval is required for waiving of deposits and fees for non-City uses.
- N. Failure to comply with any of these rules and regulations will result in the cancellation of the event, and loss of all fees and deposits paid.
- O. Any willful, malicious damage to the Center or City property shall be prosecuted to the full extent of the law and may result in civil action to recover the cost.

III. CATEGORIES OF USE

The following group categories are for determining fees and charges. As per City Ordinance, activities sponsored or co-sponsored by the City of Wimberley shall be given preference in the use of the Community Center.

Group 1: City of Wimberley

Group 2: Local Government Agencies (Hays County, Wimberley ISD, Wimberley Fire Department, Wimberley EMS & Wimberley Village Library)

Group 3: Wimberley Chamber of Commerce, Wimberley Charitable and Social Welfare Organizations, Homeowner Associations, Sports Leagues and Non-Profits

Group 4: Resident/Non Commercial

Group 5: Non-resident/Non Commercial

Group 6 - Commercial

IV. PROOF OF RESIDENCY

A resident is defined as:

- A. A person who resides within the Wimberley Valley with a zip code of 78676.

V. PROOF OF NON-PROFIT STATUS

In order to qualify for non-profit status, an organization must submit the following:

- A. A copy of tax exempt IRS letter showing proof of current 501 (C) status.
- B. A roster of officers, including names, titles, addresses, and phone numbers.

VI. REASONS FOR DENYING A REQUEST OR CANCELING AN EVENT

The City of Wimberley may deny an applicant the privilege of using the facilities, even if they are available, and/or cancel an event for any of the following reasons:

- A. Violation of the rules and regulations.
- B. Failure to cooperate with City staff.
- C. Previous incidents wherein use of the facility resulted in damage, or misuse of facilities or equipment.

- D. Use of room would interfere with other activities at the Community Center (loud music, etc.).
- E. Misrepresentation of an event.
- F. Failure to provide all the necessary documentation as requested per the Facility Use Agreement or staff *fifteen (15) days* prior to the event date.
- G. If full payment is not received *fifteen (15) days* prior to the event date.
- H. Any action which may result in harm and/or damage to attendees, participants, City personnel, security personnel, or where the public is in danger or harm.
- I. Applicant, participants, and visitors causing damage to City or non-City property.
- J. Improperly supervising or monitoring children, attendees, and visitors.
- K. Selling/dispensing any food or liquor item(s) without proper permits and licenses.
- L. Any acts by the renter that the City of Wimberley deems as a public safety issue or health risk.
- M. Inclement weather.

VII. PAYMENT OF FEES AND DEPOSITS

- A. Reservations are not final until the Facility Use Agreement has been signed and approved by the Community Center Director or his/her designee, all fees have been paid in full and all permits and other required documents have been submitted. User groups will be notified if the Facility Use Agreement has not been approved.
- B. Full payment of rental fees is due *fifteen (15) days* prior to the date of the event.
- C. Cancellation of a rental or changing a confirmed date will result in loss of the deposit. If the facility can be re-booked with a comparable rental (one equal or greater in size) then 75% of the applicant's deposit will be returned. Cancellation fourteen (14) days or less prior to an event will result in the loss of any rental fees paid in addition to the deposit.
- D. A facility security and damage deposit is required for all parties and large events. Full payment of the deposit is due at the time the Facility Use Agreement is signed. Deposits are refundable after the facility and/or equipment is found to be in satisfactory condition as determined by the Community Center Director or his/her designee. If the facility is found in satisfactory condition, refund of the deposit (via City Check) will be mailed to the address on the Facility Use Agreement approximately four (4) weeks after the event date. Refunds on deposits will be processed on the first regular business day following the event date. NOTE: Deposit checks will be cashed. Failure to meet and comply with the terms and conditions of the user agreement will result in the loss of the full deposit, all monies paid, and cancellation of the event.

VIII. INSURANCE REQUIREMENTS

If complimentary alcoholic beverages are to be served at an event with 100 or more participants or if alcohol is to be sold at any event, general and alcohol liability insurance in the amount of \$1 million, for bodily injury and property damage, will be required. The liability insurance shall be endorsed naming the City of Wimberley, its officers, agents, employees and volunteers as an additional insured. Each policy required by this clause shall be endorsed to state that coverage shall not be canceled or changed except after thirty (30) days written notice has been given to the City. Use of the facility will be denied if satisfactory proof of the required insurance is not timely received prior to the event. It is the responsibility of the user to keep the insurance current. In addition to the required insurance, applicant shall further agree to indemnify, defend and hold harmless the City of Wimberley, its officers, agents and employees from any and all liabilities, claims, losses and expenses, including attorney's fees and court costs and interest, in any manner caused by, of whatsoever kind of nature, arising out of, or in connection with, use or occupancy of City property. The user agrees to furnish such liability or other insurance for the protection of the public as the City as City Administrator may require.

The City of Wimberley requires that original certificates and separate endorsements be presented before the approval of the Facility Use Agreement.

IX. EQUIPMENT AND SERVICES

Tables and chairs are provided, and will be set up and taken down by Community Center staff. Set up diagrams must be submitted at least two (2) weeks prior to the event. Unless otherwise agreed, tables and chairs are not to be taken outside by the renting party.

A Facility Manager will be on duty during the entire event. The Manager will open the facility and provide information and direction. The Manager is there to help you hold a successful event. The Manager is authorized to enforce all facility use rules and regulations.

X. PUBLICITY FOR RENTAL EVENTS

No publicity of any meeting or event held at the City of Wimberley Community Center may be released until a Facility Use Agreement is signed and the required deposit is received by the Community Center Director or his/her designee.

All persons, organizations, and companies who rent the Center, or make a presentation at the Center offering advice, assistance, description, or offer for sale any form of financial investment, will provide the City with the following items:

1. The person(s), organization, group, or company must provide proof of attorney and/or investment counselor license (i.e., State Bar, Insurance, or Securities License).
2. Proof that a disclaimer be placed on all flyers, poster boards, promotional items, and advertising which states: "Not recommended by, endorsed by, or affiliated with the City of Wimberley" in 14 point type/font or larger.

NOTE: For-profit businesses, organizations, and companies will *NOT* be allowed to conduct financial and/or legal paperwork at the City of Wimberley Community Center.

Legal paperwork and financial matters for participants must be scheduled at the for-profit business' normal business location.

XII. FACILITY USE AGREEMENT PROCEDURE

Facility Use Agreement applications can be obtained at the City of Wimberley Community Center. If the date of the event is available, a Facility Use Agreement will be executed upon receipt of the facility deposit. No Facility Use Agreement will be considered final until the application has been signed and approved by the Community Center Director or his/her designee, all fees have been paid in full and all permits and other required documents have been submitted. Applicants will be responsible to supply information including, but not limited to:

1. Type of event
2. Number of persons expected to attend the event
3. If alcohol will be served or sold
4. Room setup sheet
5. Security Guard contract if required by the City of Wimberley

All fees, the room setup sheet, permits, and the Security Guard contract are due no later than *fifteen (15) days* prior to the event date. Rental fees include a Facility Manager to open and close the building and to provide facility assistance.

XIII. CLEANING THE FACILITY

General cleanup is the applicant's responsibility. The applicant shall make sure all decorations, food, gifts, and rental equipment are removed from the facility at the end of the event. Applicant shall make sure the facility is clean before leaving the event.

Trash must be put in the proper receptacles and the room must be returned to an "as found" condition. The facility, parking lot, grounds and equipment shall be left in the same condition as they were prior to the event.

A Facility Manager will be present during your event and will supply trash bags for cleaning. The Manager will be able to assist you with any problems with the facility and advise you what needs to be done in order for your deposit to be refunded. Facility staff cannot assist with the installation of decorations and will be responsible for take down of tables, chairs, and lock up the facility.

After your event at the City of Wimberley Community Center has been completed, the Facility Manager will conduct a walk-through inspection with the renter. This inspection will determine the amount for processing, either your full deposit refund or retaining a determined amount to cover any damages or vandalism to City property as well as to cover any additional cleaning needed to be done by the Center staff.

XIV. SECURITY GUARD REQUIREMENTS

Security may be required for certain types of events held at the Community Center. Each renting party will be notified if their event requires security and the number of uniformed officers needed. Only Certified Texas Peace Officers may be used to provide security for events requiring security. If security is required, the applicant is required to pay all fees directly to the security guard company.

XV. ALCOHOL REQUIREMENTS

Complimentary Alcohol: Serving complimentary alcohol with the meal or a toast is allowed with prior approval of the Community Center Director or his/her designee. Bringing any alcoholic beverage into a function not approved in the original Use Agreement will result in the event being immediately canceled and all fees will be forfeited. All complimentary alcohol must be served in individual non-breakable containers. No alcohol shall be served to or consumed by individuals under the age of 21. All champagne bottles must be opened in the kitchen. Complimentary alcohol must remain only in the room specified for such use in the rental agreement. Complimentary alcohol is not allowed outside the facility. Types of complimentary alcohol are restricted to beer, wine, and champagne only.

Selling Liquor: Any applicant who will be selling liquor (i.e., cash bar, tickets, and drinks for a fee) is required to provide liquor liability insurance and a license from the Texas Alcoholic Beverage Commission. Liquor sales must, by law, be conducted by an entity licensed to do so by the TABC. If the applicant and/or seller is not licensed, the applicant must contract with a licensed person to conduct any liquor sales. Any questions as to the need for, and requirements of, obtaining the appropriate Alcoholic Beverage Control license(s) should be directed to the TABC.

The applicant must provide a copy of the TABC permit to Facility Reservation personnel *fifteen (15) days* prior to the event if liquor is to be *sold*.

The TABC license must be posted in plain public view near the bar or any other location where liquor is being served during the event.

Liquor may *NOT* be served to minors. The applicant's failure to comply, monitor, and enforce this law is grounds for terminating the event and forfeiting all deposits and fees. Injuries caused to any person as a result of alcoholic beverages being served and/or consumed by a minor on City premises shall be the sole responsibility of the applicant, user, group, organization, its sponsors, or its adult representative.

Alcohol may be served and consumed only in the room specified for such use in the rental agreement. Facility staff and, if required, Security Guards will be monitoring the event and have the authority to suspend the serving or selling of liquor and/or close the event. If it is necessary to contact the Sheriff's Department for any disturbances caused by the applicant, clients, or guests, the applicant will be held liable for all police and additional charges incurred by the City.

XVI. FIREARMS REQUIREMENTS

The display of firearms requires approval by the Community Center Director in advance. Exhibitors displaying firearms must comply with all federal, state and local laws governing the possession and/or sale of such. Firearms may not be loaded or fired in the facility. Firearms must be deactivated by the removal of the firing pin, the bolt or otherwise altered so they are incapable of being fired (i.e. by a metal lock through the trigger mechanism, a plastic strap securing the trigger or hammer mechanism, a plastic strap securing the firearm's "action" mechanism in an "open" state or otherwise). Firearms to be display must be in a display case. Powder or primers are prohibited in the facility. Sample live ammunition may be displayed in exhibits that are kept separate from the firearm exhibit or by exhibitors who do not display firearms. Firearms and ammunition may be inspected by an authorized safety inspector approved by the City of Wimberley during move-in, show and move-out. Violations must be corrected before an exhibit is allowed to open. The applicant will be assessed all fees associated with such inspection.

Exhibitors may give away free items to event attendees, with the exception of firearms and other weapons.

Permitted concealed gun holders may not be excluded from the facility. Applicants may not post signs at the outside entrances to the facility or at entrances of other events prohibiting the lawful carrying or possession of firearms.

XVII. ADDITIONAL REQUIREMENTS

- A. Any decorations used must be completely removed and disposed of at the conclusion of the event. No alteration of existing facilities is permitted.
- B. No pets (other than those necessary for assistance of the physically disabled) are permitted on the premises without prior approval of the Director of the Community Center.
- C. Smoking is prohibited in all areas within the facility and outside entryways.
- D. The facility, parking lot, grounds, and equipment shall be left in the same condition as they were prior to the event. Any loss or damage shall be deducted from the deposit. If the facility is not left clean, the City shall have it cleaned, all charges will be deducted from the deposit, and the remainder (if any) will be mailed to the address on the Facility Use Agreement. If there was no damage or loss to the facility, and the facility was cleaned according to the rules and regulations, expect the deposit refund check approximately four (4) weeks after the event date.
- E. The deposit will be processed on the next business day following the event if no damage or loss of equipment occurs. If damage or loss does occur, the deposit will be held until estimates can be obtained. All replacement and/or repair fees will be deducted from the deposit and the remainder (if any) will be mailed to the address on the Facility Use Agreement.
- F. All organizations utilizing space in the City of Wimberley Community Center must comply with all local, state, and federal laws. This includes necessary licenses, insurance, sales tax permits, workers compensation, alcoholic beverage control, and other laws pertaining to the particular organization.
- G. No organization may use the City of Wimberley Community Center address as a mailing address.
- H. Telephones in the City of Wimberley Community Center are for City business use only.
- I. No organization may use the common areas, parking lots, or grounds of the center for solicitations, sales, or any other type of transaction. Common areas are defined as those areas not available on a rental basis, including, but not limited to, the lobby and office area unless otherwise approved by the Director or his/her designee.
- J. Storage of property of any organization using the center is prohibited unless authorized to do so by the Director of the Community Center.
- K. Publicity for organizations using the center is permitted within the center on a limited basis. Flyers and brochures will be distributed subject to space available, and must be approved and posted by the Community Center Director. Publicity is limited to activities occurring at the City of Wimberley Community Center only.

- L. Rental of center space does not convey any sanction of an organization's philosophy or practices by the City of Wimberley. No organization may state, or infer, any official sanction by the City of Wimberley unless so ordered by the City Council.
- M. No organization, business, club, or group will infer, or intentionally convey to the public the City's support, endorsement, or recommendation of their product, advice and/or philosophy without official sanction by the City of Wimberley City Council. The only exception to this will be City of Wimberley sponsored events.
- N. All publicity will have a disclaimer on all flyers, poster boards, promotional items and advertising which states: "Not recommended by, endorsed by or affiliated with the City of Wimberley" in a 14-point type/font or larger.

DRAFT

Proposed Rental Fee Structure (Monday thru Thursday)

<u>Meeting Room</u>	<u>Size</u>	<u>Capacity</u>	<u>COW</u>	<u>LGE</u>	<u>WVNP</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Commercial</u>	<u>Additional Hours</u>	<u>Additional Set Up</u>
Cypress	432	27/43	NC	NC	35	35	70	80	\$25 each additional hour	0
Blanco	864	54/86	NC	NC	45	45	90	110	\$25 each additional hour	0
Johnson Hall	3960	264/350	NC	100	165	190	300	375	\$50 each additional hour	\$25 per hour
Senior Lounge	1282	50/85	NC	NC	75	100	110	150	\$25 each additional hour	\$25 per hour
Art Gallery	816	86/42	NC	NC	220	225	315	415	\$25 each additional hour	\$25 per hour
Entire Facility			NC	200	750	1000	1500	2000	\$25 each additional hour	\$25 per hour
Kitchen			NC	NC	65	65	85	100	\$20 each additional hour	
"Big" Screen TV			NC	NC	25	25	25	25		
Projector			NC	NC	25	25	25	25		

Proposed Rental Fee Structure (Friday, Saturday, Sunday & Holiday)

<u>Meeting Room</u>	<u>Size</u>	<u>Capacity</u>	<u>COW</u>	<u>LGE</u>	<u>WVNP</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Commercial</u>	<u>Additional Hours</u>	<u>Additional Set Up</u>
Cypress	432	27/43	NC	NC	60	60	95	105	\$25 each additional hour	0
Blanco	864	54/86	NC	NC	70	70	115	135	\$25 each additional hour	0
Johnson Hall	3960	264/350	NC	100	190	215	325	400	\$50 each additional hour	\$25 per hour
Senior Lounge	1282	50/85	NC	NC	100	125	135	175	\$25 each additional hour	\$25 per hour
Art Gallery	816	86/42	NC	NC	245	250	340	440	\$25 each additional hour	\$25 per hour
Entire Facility			NC	200	1000	1250	1750	2250	\$25 each additional hour	\$25 per hour
Kitchen			NC	NC	65	65	85	100	\$20 each additional hour	
"Big" Screen TV			NC	NC	25	25	25	25		
Projector			NC	NC	25	25	25	25		

Current Rental Fee Structure (Monday thru Friday)

<u>Meeting Room</u>	<u>Size</u>	<u>Capacity</u>	<u>COW</u>	<u>LGE</u>	<u>WVNP</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Commercial</u>	<u>Additional Hours</u>	<u>Set-Up Fee</u>
Cypress	432	27/43	NA	NA	NA	35	60	70	\$10 each additional hour	0
Blanco	864	54/86	NA	NA	NA	45	75	110	\$10 each additional hour	0
Johnson Hall	3980	264/350	NA	NA	NA	165	275	350	\$40 each additional hour	\$25 per hour
Senior Lounge	1282	50/85	NA	NA	NA	75	85	125	\$10 each additional hour	\$25 per hour
Art Gallery	816	86/42	NA	NA	NA	220	290	390	\$10 each additional hour	\$25 per hour
Entire Facility			NA	NA	NA	500	750	750	\$10 each additional hour	0
Kitchen										
"Big" Screen TV						65	75	85	\$10 each additional hour	
Projector						50	50	50		
						25	25	25		

(\$25 weekend surcharge is applied to all rentals on Saturday and Sunday except special event priced above)

COW-City of Wimberley
 LGE-Local Government Entity
 WVNP-Wimberley Valley Non-Profit
 Resident-Within 78676 zip code
 Non-Resident-Outside 78676 zip code
 Commercial-For profit entity