

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

- A. Introduction of County Sheriff Tommy Ratliff to Wimberley City Council by Hays County Judge Liz Sumter
- B. 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

- A. 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 Flocke 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 meting; 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.

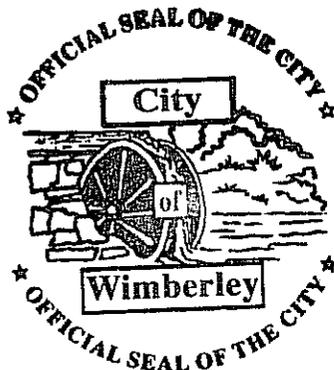
Recorded by:

Cara McPartland

Cara McPartland

These minutes approved on the 19th of March, 2009.

APPROVED:



Tom Haley
Tom Haley, Mayor