

**City of Wimberley**  
 City Hall  
 221 Stillwater  
 Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
 January 15, 2015 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Steve Thurber.

Pastor Grayson Belvin of Cypress Creek Church gave the Invocation.

Mayor Thurber and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Steve Thurber, Councilmembers Tom Talcott, Cindy Anderson, Matt Meeks, Pam Showalter, and John White.

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

### **Citizens Communications**

Wimberley resident Gail Pigg asked that Council's appointments to the Comprehensive Plan Review Committee represent the entire community and not be limited to special interests, such as businesses on the Square.

#### **1. Consent Agenda**

- A. Approval of minutes of the Special City Council meeting of January 5, 2015
- B. Approval of minutes of the Special City Council meeting (Executive Session) of January 5, 2015
- C. Confirming the appointment of Marilee Wood to the Comprehensive Plan Review Committee (*Mayor Steve Thurber's appointment*)
- D. Confirming the appointment of Mac McCullough to the Comprehensive Plan Review Committee (*Mayor Pro-tem Matt Meeks' appointment*)
- E. Confirming the appointment of Bert Ray to the Comprehensive Plan Review Committee (*Place One Councilmember Tom Talcott's appointment*)
- F. Confirming the appointment of David Conway to the Comprehensive Plan Review Committee (*Place Two Councilmember Cindy Anderson's appointment*)
- G. Confirming the appointment of Camelo Colca to the Comprehensive Plan Review Committee (*Place Four Councilmember Pam Showalter's appointment*)
- H. Confirming the appointment of Bob Flocke to the Comprehensive Plan Review Committee (*Place Five Councilmember John White's appointment*)

Councilmember Meeks moved to approve all Consent Agenda Items, as presented. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

Mayor Thurber explained Council's procedure for appointments to the Comprehensive Plan Review Committee.

## 2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported on the imminent release of the draft wastewater discharge permit by Texas Commission on Environmental Quality (TCEQ) and the upcoming public comment period. He stated the timeframe is being finalized for an expedited joint public notice/meeting process. He explained criteria for funding through the Texas Water Development Board (TWDB) State Water Implementation Fund for Texas (SWIFT), which is primarily a water supply project fund, and noted specific eligibility requirements.

- Status report on the acquisition of Mount Baldy by the City of Wimberley

City Administrator Ferguson reported that the closing date is tentatively scheduled for January 21, 2015. Following the closing, City staff will meet with adjacent property owners to identify user issues to address in Mount Baldy's operating plan. He advised that Council will need to take formal action designating Mount Baldy as a public park.

- Status report on 2014 development activity in the City of Wimberley

City Administrator Ferguson reported on the following: statistics reflecting significant increases in the number and value of residential and commercial building permits issued in 2014, with a large portion of the commercial increase due to Wimberley ISD bond projects; permitting procedures for H-E-B and Wimberley ISD projects; permits for new home construction; and, historical trends in residential/commercial building permit activity.

- Status report on 2014 City Council activities

City Administrator Ferguson reported on the number of regular/special meetings held in 2014, total number of hours spent in meetings, and number of ordinances approved. It was noted that only three (3) of the twenty-three (23) ordinances approved in 2014 imposed new regulations. He thanked Council for its service and substantial time commitment.

## 3. Public Hearing

Discuss and receive public comments on the City's intent to annex into the city limits a 0.572 acre tract of land located at 205 Freedom Drive and to extend the boundary limits of said city so as to include said property. (*City Administrator*)

City Administrator Ferguson explained the voluntary annexation process initiated by property owner, Sue Jones, who has petitioned the City to annex her property in conjunction with a subdivision application seeking to combine her three (3) parcels into one (1) lot. The subject tract is one (1) of three (3) parcels that make up Ms. Jones' Freedom Drive property. It was

noted that the back portions of certain properties fronting Freedom Drive are located outside city limits. He stated required publication and notification procedures, including the public hearing schedule and Council action schedule. He advised that the second required public hearing will be held on January 20, 2015 at 6 p.m. at City Hall.

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

#### **4. Public Hearing and Consider Action**

- A. Discuss and consider approval of an ordinance of the City of Wimberley, Texas, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for property located at 1021 Hidden Valley Road, Wimberley, Hays County, Texas, designating such property from Single Family Residential 2 (R-2) to Rural Residential 1 (R-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. (*Jim & Ellen Balthazar, Applicants*)

City Administrator Ferguson reviewed the request to change the subject property's zoning, required as a result of the recent replat consolidating two (2) lots, each just over an acre in size, to form one (1) 2.28 acre tract. He noted the subject property's location in Planning Area I, which is within the boundaries of the Protected Water Overlay District. The administratively-approved subdivision was necessary to allow the applicants to expand an existing single family residence on the subject property. No comments were received, either for or against, the requested zoning change. It was noted that on January 8, 2015, the Planning and Zoning Commission held a public hearing and afterward voted unanimously to recommend approval of the proposed zoning change.

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

Councilmember Talcott moved to approve the ordinance, as presented. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider approval of an ordinance of the City of Wimberley, Texas, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for property located at 615 Sunset Drive, Wimberley, Hays County, Texas, designating such property from Residential Acreage (RA) to Single Family Residential 2 (R-2); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. (*Matthew & Mary Carr, Applicants*)

City Administrator Ferguson reviewed the zoning change request made in conjunction with the recent subdivision creating Lot 1 of the Boyles Home Subdivision from a 10.01 acre parent tract, which is located in Planning Area I. He advised there is a need to change the zoning from Residential Acreage (RA) to Single Family Residential 2 (R-2) due to the size of the newly

created lot. There is no need to rezone the remaining 8.96 acres of the original 10.01 acre parent tract, as the remaining acreage is greater than five (5) acres in size. He advised the subdivision was necessary to allow the applicants to proceed with plans to construct a single-family residence on the subject property. He reported that a couple of phone inquiries were received on the requested zoning change, but no opposition was expressed. City Administrator Ferguson noted that on January 8, 2015, the Planning and Zoning Commission held a public hearing and afterward voted unanimously to recommend approval of the requested zoning change.

Mayor Thurber opened the public hearing.

Alice Wightman, resident of the Wagon Wheel Subdivision spoke in general about the need for Council to look into enforcing the City's lighting regulations in order to preserve night skies in her neighborhood, as well as in the entire City of Wimberley.

Hearing no further comments, Mayor Thurber closed the public hearing.

Brief discussion addressed the timeframe for the subject property's subdivision/rezoning, which allowed the property owners sufficient time to deal with topographical challenges such as slope and access.

Councilmember White moved to approve the ordinance, as presented. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 155 (Zoning), Sections 155.005 (Definitions), 155.047 (Commercial – Low Impact; C-1), 155.048 (Commercial – High Impact; C-3), 155.050 (Highway Commercial; HC), and Section 155.091 (Village Center Overlay District; VC) of the City of Wimberley Code of Ordinances to amend and clarify permitted and conditional uses relating to the sale of alcoholic beverages; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson explained the proposed ordinance seeks to resolve some ambiguous and conflicting language in the current ordinance and incorporates the following recommendations from the Planning and Zoning Commission's January 8<sup>th</sup> meeting relating to where alcohol sales and consumption should be allowed and under what conditions:

- The sale of beer, wine and alcohol for on-premise consumption in sit down eating establishments should be allowed as a Conditional Use in Commercial-Low Impact (C-1) and Commercial-Moderate Impact (C2-) zoning districts, and as a Permitted Use in the Commercial-High Impact (C-3) zoning district.
- Package Stores, as defined in the Code, should be allowed as a Conditional Use in Commercial-Low Impact (C-1), Commercial-Moderate Impact (C-2) and Commercial-High Impact (C-3) zoning districts.
- Liquor Stores, as defined in the Code, should be allowed as a Conditional Use in Commercial-Moderate Impact (C-2) and Commercial-High Impact (C-3) zoning districts.

- Bars and Taverns, as defined in the Code, should be allowed as a Conditional Use in Commercial-High Impact (C-3) and Highway Commercial (HC) zoning districts.
- Liquor Stores, as defined in the Code, should be a Prohibited Use in the Village Center Overlay.

City Administrator Ferguson recommended removal of Section I from the proposed ordinance.

City Administrator Ferguson noted that Council must approve two (2) readings of the proposed ordinance before implementation, with the second reading scheduled for Council's next regular meeting.

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

Discussion addressed the locations of commercial zoning districts/planning areas and distance requirements from schools and churches.

Councilmember White moved to approve the first reading of the ordinance, as presented, which includes the abovementioned removal of Section I. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

## **5. Ordinance**

Consider approval of an ordinance of the City of Wimberley, Texas, ordering a General Election on May 9, 2015, for the purpose of electing City Council members for Places One, Three and Five of the City of Wimberley City Council; establishing early voting locations and polling places for the election; making other provisions for the conduct of the election; and providing for findings of fact, severability, conflicting provision, governing law, proper notice and open meeting, and an effective date. (*City Administrator*)

City Administrator Ferguson presented the ordinance ordering the General Election for City Council Places One, Three, and Five to be held on May 9, 2015. He reviewed the Election day/early voting dates and times and advised all voting will take place at the Wimberley Community Center. He noted that the City will be contracting with the Hays County Elections Administrator to conduct the election and serve as early voting clerk.

City Administrator Ferguson stated that candidate packets are available in printed or electronic formats and downloadable from the City's website.

Councilmember Talcott moved to approve the ordinance, as presented. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

## 6. Discussion and Possible Action

- A. Discuss and consider possible action regarding a proposed contract for election services with the Hays County Elections Administrator for the May 9, 2015 General Election. *(City Administrator)*

City Administrator Ferguson stated the proposed agreement sets forth the duties and services of both parties and includes a list of estimated expenses associated with conducting the election.

Councilmember White moved to approve the contract, as presented. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding the proposed action plan for the City of Wimberley Comprehensive Plan Review Committee. *(Mayor Steve Thurber)*

Mayor Thurber presented the proposed action plan and opened Council discussion.

Councilmember Showalter moved to approve the action plan, as presented. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action confirming Judy Dunn as Mayor Steve Thurber's appointment to the consensus position of the City of Wimberley Comprehensive Plan Review Committee. *(Mayor Steve Thurber)*

Mayor Thurber explained appointment procedures for consensus positions. Receiving no other names for consideration, Mayor Thurber selected Judy Dunn as the consensus position appointee.

Councilmember White moved to confirm Judy Dunn as Mayor Thurber's appointment to the consensus position of the Comprehensive Plan Review Committee. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action providing direction to City staff regarding the possible development of an ordinance prohibiting the use of portable hand-held electronic devices while operating a moving motor vehicle. *(City Administrator)*

City Administrator Ferguson asked for Council's direction on whether it desires to enact an ordinance prohibiting the use of portable hand-held electronic devices while operating a motor vehicle. He noted that the cities of Austin and San Antonio have prohibited such use.

Mayor Thurber advised that the cities of Kyle, Buda, and San Marcos are considering adopting similar regulations.

Discussion addressed possible future action by the State of Texas to enact a law prohibiting the use of portable hand-held electronic devices by operators of moving vehicles, enforcement issues, inclusion of bicyclists in the draft ordinance, problems with teens texting while driving,

limiting prohibition to drivers of vehicles, inclusion of all types of hand-held electronic devices (such as cell phones, tablets, etc.), hands-free use of devices via wireless technology (such as Bluetooth), and grace period for enforcement, if enacted.

Councilmember Talcott moved to direct staff to draft an ordinance for future Council consideration prohibiting use of all hand-held electronic devices by drivers of moving vehicles and bicyclists. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action regarding a proposed adjustment in the rates charged by Texas Disposal Systems (TDS) for commercial trash, commercial recycle and commercial roll-off services in the City of Wimberley. (*City Administrator*)

City Administrator Ferguson stated the current contract (approved in February 2014) allows TDS to submit a written proposal for a rate increase, encompassing all solid waste services, except residential services, after the first year of the contract. He noted that the rate increase must be based upon increases in the Consumer Price Index-All Urban Customers (CPI), landfill fees charged to the service provider, or cost increases associated with the laws, ordinances, or regulations adopted by local, state, or federal agencies. He reviewed the proposed commercial fee increases.

Discussion addressed whether commercial customers have been contacted by TDS regarding the proposed increases, need for specifics on the proposed fee increases from TDS representatives, lower fuel costs, and obtaining feedback from the community before any action is taken by Council. City Administrator Ferguson noted that the City has the authority to accept or reject any or all of a proposed rate increase.

Councilmember White moved to continue this item to allow for customer notification of the proposed rate increases and for TDS representative(s) to be present at Council's next regular meeting to provide reasoning for the requested rate increases. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- F. Discuss and consider possible action regarding a proposal to call a meeting of the *Central Wimberley Wastewater Stakeholder Committee* to update the Committee on the status of the City's wastewater project. (*Mayor Pro-tem Matt Meeks*)

Mayor Pro-tem Meeks proposed calling a meeting of the Central Wimberley Wastewater Stakeholder Committee to allow the Committee to review and assess the City's action regarding the Committee's recommendations. Councilmembers Talcott and White agreed with Mayor Pro-tem Meeks. Mayor Thurber advised that the Stakeholder Committee may or may not be willing to meet again and noted that City Administrator Ferguson provides regular updates on the Central Wimberley Wastewater Project during Council meetings.

As the Stakeholder Committee fulfilled its specific charge, Mayor Thurber recommended that the City's Water Wastewater Advisory Board might be a more appropriate choice than the Stakeholder Committee for future meetings. City Administrator Ferguson advised that there may

be vacancies on the Water Wastewater Advisory Board that Council needs to address before scheduling any meetings. No vote was taken.

#### 7. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Talcott asked City Administrator Ferguson to invite Hays County Precinct Three Commissioner Will Conley, as well as representative(s) from a company seeking to pump 1.5 billion gallons of water from an unregulated area of the Trinity Aquifer, to speak to Council at its next meeting. City Administrator Ferguson explained the loophole in Hays County's groundwater management jurisdictions that would allow the subject company to sell water to central Texas cities to the possible detriment of local private wells and the Trinity Aquifer. Councilmember Talcott also requested a briefing from Hays County Precinct Three Commissioner Will Conley on the location of water supply pipelines near the City of Wimberley.

City Administrator Ferguson reported on the status of certain water leak repairs and apologized for any inconvenience to the public.

Hearing no further announcements or future agenda items, Mayor Thurber called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 7:13 p.m.

Recorded by:

  
Cara McPartland

These minutes approved on the 19<sup>th</sup> of February, 2015.

**APPROVED:**

  
Steve Thurber, Mayor

