

City of Wimberley
City Hall
221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
January 19, 2012 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Bob Flocke.

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

Councilmembers Present: Mayor Bob Flocke and Councilmembers Tom Talcott, Mac McCullough, Steve Thurber, and John White. Councilmember Matt Meeks was absent.

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

Citizens Communications

No citizen comments were heard.

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of January 5, 2012
- B. Approval of the minutes of the Special City Council meeting of January 11, 2012
- C. Approval of the December 2011 City of Wimberley Financial Statements

Councilmember Thurber moved to approve Consent Agenda items, as presented. Councilmember White seconded. Motion carried on a vote of 4-0.

2. City Administrator Report

- Status report on the development and operation of the Blue Hole Regional Park

City Administrator Ferguson reported on nearly completed Phase II construction, including work on pavilion/recreation areas, fencing, and timeframe for soccer field completion. Phase II completion is anticipated in late March/early April 2012. He advised that *Friends of Blue Hole* is planning a grand opening event for Phase II of the Park's development in early May 2012.

- Status report on the operation of the Wimberley Municipal Wastewater Treatment Plant

City Administrator Ferguson reported that Severn Trent has assumed operational duties and that the first customer billing will be in early February. He noted that no problems have been reported and stated that a customer service agreement will soon be forwarded to Council for approval. He reported on a productive meeting held today regarding the possible formation of a

municipal management district to serve as the financing vehicle for downtown wastewater services.

- Status report on the implementation of the community notification system

City Administrator Ferguson reported on completed training and finalization of testing dates. He summarized user-friendly system features and services.

- Status report regarding sales tax collections for the City of Wimberley

City Administrator Ferguson reported on the January 2012 payment in the amount of \$39,981.00, which reflects a seven percent (7%) increase from the same period last year and represents collections from November 2011.

- Status report regarding the update of the Hays County Emergency Management Plan

City Administrator Ferguson reported that the Federal Emergency Management Agency is reviewing the draft updated Plan, which will be presented to Council for future consideration, once finalized.

3. Presentations

- A. Presentation regarding the activities of the Wimberley Village Library. (*Carolyn Manning, Library Director*)

Library Director Carolyn Manning presented information on specific current and upcoming activities, including educational workshops, the “Geek the Library” program, long-range plans, community needs, available services, circulation statistics, and technological trends. She provided details on February’s “Library Lover’s Month” events and activities. Youth Services Librarian Monica Rasco spoke on summer events, including music, magic shows, storytelling, and the summer reading program, which are all free to the public. The Wimberley Village Library was commended for its role in the community as an important educational and recreational resource.

- B. Presentation regarding the Fiscal Year 2012 City of Wimberley Priorities. (*City Administrator*)

City Administrator Ferguson reported on significant progress made on most Council-identified short- and long-term priorities, including goals related to wastewater systems (particularly for the Square area), citizens communications, enhancing public confidence, review/recodification of ordinances, implementation of law enforcement, completion of Blue Hole Regional Park development, master planning efforts, business development, senior housing, completion of the Hays County-City of Wimberley Hike and Bike Trail, underground utilities, maintaining citizen involvement, and alternate water supplies.

4. Public Hearing and Possible Action

Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, amending Chapter 155 (Zoning) of the Code of Ordinances, Section 155.005 (Definitions) to add the definition of “Home Health Facility,” amending Subsection (C) of the following sections: §155.035 Residential Acreage (RA); §155.036 Rural Residential 1 (R-1); §155.037 Single-Family Residential 2 (R-2); 155.038 Single-Family Residential 3 (R-3); §155.039 Single-Family Residential 4 (R-4); §155.040 Two-Family Residential (Duplex) (R-5); §155.041 Multi-Family Residential 1 (Triplex/Quadriplex/Apartments) (MF-1); §155.042 Multi-Family Residential 2 (Apartments) (MF-2); §155.045 Office-Low Impact (O-1); §155.047 Commercial-Low Impact (C-1); §155.048 Commercial-Moderate Impact (C-2); §155.049 Commercial-High Impact (C-3); §155.061 Neighborhood Services (NS); §155.094 Scenic Corridor (SC); and §155.060 Public Facilities (PF) to permit Home Health Facility as a conditional use in each zoning district specified herein; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning & Zoning Commission*)

City Administrator Ferguson summarized key provisions of the proposed ordinance and conveyed reasoning for the Planning and Zoning Commission’s recommendation for approval. Although the proposed ordinance stems from the recent discovery of a care home in a residentially zoned area on the City’s north side, City Administrator Ferguson advised that the focus of tonight’s discussion should be on the first reading of the draft ordinance and should not be directed toward any specific property.

Mayor Flocke opened the public hearing.

Monta Lane of 39 La Toya Trail spoke on safeguards in place for her two elderly residents, including medical personnel who visit her care home on a regular basis. She preferred the use of the term “home” to “facility” to describe her operation. She questioned why she was not informed of any prohibitions against the current use of her property. She stated that none of her immediate neighbors oppose her home “end-of-life” care and felt that there is no negative impact on the neighbors. Mrs. Lane advised that previous septic problems have been corrected and that her back yard is fenced. She spoke of her professional qualifications as a Certified Nursing Assistant (CNA) and mandatory reporting requirements. She did not favor the one-to-one resident/caregiver ratio and cited examples that would make compliance difficult. She noted that a State of Texas license is not required, provided care in her personal home is limited to no more than three (3) residents.

Wimberley Life Care owner Janice Breeze of 845 East Summit spoke of her professional experience and personal research on this matter. She favored the term “personal care home” as used in State regulations to the term “home health facility.” She noted that families who place relatives in personal care homes with three (3) or fewer residents understand that State licensing is not required. She felt that the term “home health facility” may mislead people to assume that services are licensed, regulated, and monitored by the State. Ms. Breeze stated that people with varying need levels (such as husband/wife) are allowed to reside together in personal care homes,

but not in other types of facilities that are geared for specific need levels. She cited problems with compliance and enforcement of the one-to-one resident/caregiver ratio requirement and felt that such ratio requirements should be determined by the residents' needs. She questioned the City's ability to provide inspections, provisions relating to proof of medical personnel licensing, and restrictions on who may reside in a home health facility (other than the owner). Ms. Breeze stressed the need for elder care and its importance to the community.

Wimberley resident Bob Bullock spoke on need for home health facilities and favored control in the form of conditional use permits (CUPs), which allows neighborhoods the opportunity to provide input on any CUP applications.

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

Discussion included:

- Inapplicability of property owner/homeowner association deed restrictions on Council's discussion and action on zoning actions
- Use of terminology in draft ordinance to describe facility (for example, preference for "personal care home" versus "home health facility")
- Resident/caregiver ratio and owner occupancy requirements and associated concerns about compliance and enforcement
- Commercial uses in residentially zoned areas
- Restriction on number of allowed residents
- Regulation via City licensing versus zoning action
- Concerns regarding City inspections of facilities and medical personnel licenses
- Complaint-based enforcement

At City Administrator Ferguson's recommendation, Council reviewed the draft ordinance, including each condition listed under §155.066(E)(1-18). Council agreed upon the following changes:

- Throughout the draft ordinance, replacing the term "home health facility" with "personal care home"
- §155.006(11): "No more ~~two (2)~~ three (3) persons with disabilities or elderly persons, who are unrelated to the owner of the establishment by blood or marriage, may be taken care of for a fee at any given time in the ~~home health facility~~ personal care home."
- §155.006(12): "~~The ratio of patient to caretaker shall be one to one.~~" "At least one (1) caretaker shall be on site twenty-four (24) hours a day, seven (7) days a week."
- §155.006(15): "Copies of all federal, state and local licenses issued for all ~~medical personnel~~ caretakers providing care at the ~~home health facility~~ personal care home shall be provided to the City prior to said individuals providing any care at the ~~Facility~~ home."

Councilmember Thurber moved to approve the first reading of the ordinance, as presented, including the changes listed above. Councilmember White seconded. Motion carried on a vote of 4-0.

5. Ordinance

Consider approval of an ordinance of the City of Wimberley, Texas, amending Title V (Public Works), Chapter 51 (Water Conservation) of the Code of Ordinances in order to allow watering for specified uses to include fruit and vegetable gardens, subject to certain conditions; and providing findings of fact, repealing clause, to provide a savings and severability clause and providing for an effective date. (*City Administrator*)

City Administrator Ferguson reviewed revisions made to the proposed ordinance in accordance with direction to staff to exempt fruit and vegetable gardens from certain restrictions related to outdoor watering.

Councilmember McCullough moved to approve the item, as presented. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

6. Discussion and Possible Action

- A. Discuss and consider possible action regarding the proposed appointment of a Municipal Court judge for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson recommended the appointment of David Garza to the position of Municipal Court Judge at an hourly rate of \$150 per hour, with a two-hour minimum. Councilmember Thurber moved to approve the item, as presented. Councilmember Talcott requested discussion. Councilmember Thurber withdrew his motion. Discussion addressed scheduling of court dates and docketing of cases.

Councilmember White moved to approve the item, as presented. Councilmember Thurber seconded. Motion carried on a vote of 4-0.

- B. Discuss and consider possible action regarding the proposed appointment of a City Marshal for the City of Wimberley. (*City Administrator*)

With the pre-employment screening process nearing completion, Councilmember White moved to continue this item. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

- C. Discuss and consider possible action regarding Change Orders No. 15-B (*Amphitheatre Roof*), No. 22 (*Way Family Overlook*), and No. 23 (*Trails Re-work*) relating to the development of the Blue Hole Regional Park. (*City Administrator*)

City Administrator Ferguson explained each change order as follows:

- Change Order No. 15-B in the amount of \$23,750 (plus mark-up) reflecting the projected cost of a roof for the Wood-Grinstead Amphitheatre. The roof will cover the rear portion of the stage. The improvement work will be completed on a “not-to-exceed” basis.

- Change Order No. 22 in the amount of \$28,231.64 reflecting the projected cost for upgrades to the Way Family Overlook. The upgrades include an expansion of the flagstone standing area, along with the installation of a cable railing system.
- Change Order No. 23 in the amount of \$9,832.50 reflecting the projected cost of correcting some unforeseen drainage issues on the decomposed granite trails in the area of the Way Family Gatehouse and the Wood-Grinstead Amphitheatre. The work includes the repair of an eroded section of the decomposed granite trail and the replacement of another section of the trail with a concrete sidewalk.

It was noted that the abovementioned improvements will be paid from the Blue Hole Development Fund.

Councilmember Thurber moved to approve the item, as presented. Councilmember McCullough seconded. Motion carried on a vote of 4-0.

- D. Discuss and consider possible action regarding a proposal to transfer an amount not to exceed \$50,000 from the City of Wimberley General Fund Balance for the development of a supplemental water storage system for fire suppression and temporary irrigation purposes on the site of the Blue Hole Regional Park and amending the Fiscal Year 2012 Operating Budget to reflect the expenditure and transfer of funds. (*City Administrator*)

City Administrator Ferguson requested that action this item be continued to a future meeting when all Council members will be present. He proposed the development of a supplemental water storage system on the Park site to enhance fire protection for the Park and surrounding properties, as well as to provide a water source for the temporary irrigation of soccer fields under construction. The following development costs were projected:

- \$4,000 for site preparation for the 25,000 gallon storage tank
- \$700 per month for the 36-month lease of the 25,000 storage tank
- \$25,000 for reactivation of the existing water well and the installation of pumps and supply lines

He noted that water from the storage system for soccer field irrigation would be temporary and discontinued after funds are raised to install a wastewater effluent irrigation system. After discontinuation, the sole use of the storage system would be for supplemental fire protection. He recommended approval of development of the system and authorization to transfer an amount not to exceed \$50,000 from the City's Fund Balance to pay for the system and to amend the Fiscal Year 2012 General Fund Budget to reflect the transfer and expenditures.

Discussion noted that this project to enhance public safety will be paid from the City of Wimberley General Fund, not the Blue Hole Fund.

Councilmember White moved to continue this item until Council's next regular meeting. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

- E. Discuss and consider possible amending the Fiscal Year 2012 City of Wimberley Operating Budget to establish a budget for revenues and expenditures associated with the operation of the Wimberley Municipal Wastewater Treatment Plant. (*City Administrator*)

City Administrator Ferguson recommended that Council amend the Fiscal Year 2012 Operating Budget to establish a Wastewater Fund Budget (as shown below) and to designate the fund as a Proprietary Fund in the City's Operating Budget.

<i>FY 2012 WASTEWATER FUND BUDGET</i>		
		FY 2012 Budget
OPERATING REVENUES		
	Service Fees	\$84,785.00
	Total Operating Revenues	\$84,785.00
OPERATING EXPENSES		
	Contract Services	\$52,500.00
	Utilities	\$6,750.00
	Capital Outlay-Facilities	\$25,000.00
	Total Operating Expenses	\$84,250.00
	Net Operating Income	\$535.00

Councilmember Thurber moved to approve the item, as recommended by City Administrator Ferguson. Councilmember McCullough seconded. Motion carried on a vote of 4-0.

- F. Discuss and consider possible action regarding the proposed improvement of the City-owned Oak Drive public parking lot. (*Place Two Councilmember Mac McCullough*)

Councilmember McCullough recounted incidents involving multiple vehicles towed from the parking lot due to muddy conditions that occurred during a recent downtown event. He stated that the City has an obligation to improve lot conditions. Mayor Flocke recommended including improvements in the next budget cycle. Discussion addressed differing views on the immediate need for improvements, cost projections for various types of materials, and drainage issues. Agreement was reached to reconsider this item for inclusion in the next budget cycle. No vote was taken.

7. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reported on upcoming road maintenance on Climbing Way Drive.

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

Adjournment: Council meeting adjourned at 8:28 p.m.

Recorded by:

Cara McPartland
Cara McPartland

These minutes approved on the 2nd of February, 2012.

APPROVED:

Bob Flocke

Bob Flocke, Mayor

