

City of Wimberley
 City Hall
 221 Stillwater
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 August 7, 2014 at 6:00 p.m.

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

Mayor Thurber gave the Invocation 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

News-Dispatch reporter Gary Zupancic announced that this will be his last meeting covering City Council, as he has accepted a position with the *Wimberley View*. He advised that a new reporter will be covering City Council meetings for the *News-Dispatch* and expressed his appreciation to Council.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of July 17, 2014
- B. Approval of minutes of the Special City Council meeting of July 17, 2014
- C. Approval of minutes of the Special City Council meeting of July 31, 2014
- D. Approval of the appointment of Thad Nance to the City of Wimberley Planning and Zoning Commission. (*Mayor Steve Thurber's nominee*)
- E. Approval of the appointment of Jenelle Flocke to the City of Wimberley Ethics Commission. (*Mayor Steve Thurber's nominee*)
- F. Approval of the reappointment of Dick Larson to the City of Wimberley Board of Adjustment. (*Mayor Steve Thurber's nominee*)
- G. Approval of the appointment of Darin Maroni to the City of Wimberley Board of Adjustment. (*Place Two Councilmember Cindy Anderson's nominee*)

Councilmember White stated he wishes to abstain from voting on Consent Agenda Item No. 1F, due to possible conflict of interest. Mayor Thurber pulled Consent Agenda Item No. 1F. Councilmember Meeks moved to approve all Consent Agenda items, as presented, with the exception of Consent Agenda Item 1F. Councilmember Showalter seconded. Motion carried on a vote of 5-0. Councilmember Meeks moved to approve Consent Agenda Item No. 1F. Councilmember Showalter seconded. Motion carried on a vote of 4-0, with Councilmember White abstaining.

2. City Administrator Report

- Status report on search for a new city marshal

City Administrator Ferguson reported on former City Marshal Wayne Acton's condition following injuries sustained while on duty at his new place of employment. He anticipated announcement of the city marshal's replacement next week.

- Status report on Central Wimberley Wastewater Project

City Administrator Ferguson reported that the City's permit application has been deemed administratively complete by Texas Commission on Environmental Quality (TCEQ). He advised that the thirty-day public comment window is open and provided information on the project's timeframe.

- Status report on central Wimberley water quality issues

City Administrator Ferguson reported that recent tests revealed bacteria levels at the Cypress Creek Bridge/Ranch Road 12 remain somewhat elevated, while upstream at Blue Hole Regional Park, results remain within acceptable levels.

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

City Administrator Ferguson reported that over 25,000 people have visited the swimming area to date this season and anticipated slightly increased revenue over last year. He noted upcoming fall activities and possible future Council consideration of a pavilion rental fee waiver request from a non-profit organization.

- Status report on the upcoming City Council Goals and Priorities Workshop

City Administrator Ferguson reported that the workshop is scheduled for Saturday, August 16, 2014 at the Wimberley Community Center from 9 a.m. until 2 p.m.

In addition, City Administrator Ferguson recognized Cypress Creek Church volunteers who spent many hours doing landscaping work at the Blue Hole Park, which was coordinated by Park Maintenance Supervisor Tim Brown. City Administrator Ferguson and Mayor Thurber thanked all those involved with this project for their efforts.

3. Public Hearings and Possible Action

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, approving an application for a conditional use permit submitted by Michael and Meredith McClay to allow for the operation of a vacation rental on a tract of land zoned Scenic Corridor (SC), located at 12500 Ranch Road 12, Wimberley, Hays County, Texas, 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. (*Michael & Meredith McClay, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning, existing structures, and applicant's intent to use the vacant home as a vacation rental. He noted that on-site parking will be provided for the 1,852 square-foot, four-bedroom home with a pool and detached garage. He stated City staff's position that the new, properly permitted and functioning on-site septic system is capable of serving the requested maximum occupancy of eight (8) guests. He cited the applicant's house rules and a list of staff-recommended conditions to be made part of the requested conditional use permit (CUP), including a provision relating to emergency access to Barber Drive at times when primary access off Ranch Road 12 is inaccessible. No comments were received either for or against the CUP request. He advised that the Planning and Zoning Commission unanimously recommended approval at its July 24th meeting, with the aforementioned conditions, as stated by City Administrator Ferguson.

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

Councilmember Talcott moved to approve the item, as presented, including the applicant's house rules and list of staff-recommended conditions, as cited by City Administrator Ferguson. Councilmember Showalter requested information on rules concerning the building of fires on the subject property. The applicant replied that use of fire pits on the subject property is prohibited during burn ban periods and that guests will be informed of house rules by the management company. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing 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 1991 Hilltop, 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. (*James and Marta Schreiter, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and need to rezone from Single Family Residential 2 (R-2) to Rural Residential 1 (R-1), due to a recent replat consolidating three lots into one 3.28 acre tract. He noted that the subdivision was necessary to allow the applicants to proceed with plans to expand an existing 2,600 square-foot home located on the subject property. No comments were received either for or against the requested zoning change. He advised that the Planning and Zoning Commission unanimously recommended approval at its July 24th meeting.

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

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

- C. Hold a public hearing and consider approval of an application for the Replat of Lot 12R of Woodcreek Ranch Subdivision, Section 1, establishing Lot 12R-1 and Lot 12R-2, located in Wimberley, Hays County, Texas, and a requested variance from Section 54.063 of the City of Wimberley Code of Ordinances relating to the lot shape and lot depth to width ratio requirements. (*Pamela Showalter, Applicant*)

Councilmember Showalter recused herself from the meeting at this time.

City Administrator Ferguson reviewed the subject property's prior 2006 subdivision and explained that the proposed subdivision will create Lot 12R-1 (4.77 acres) and Lot 12R-2 (2.00 acres). The intended use of both lots is residential, with water/wastewater service provided by private well and on-site sewage facilities, respectively. He noted that the applicant is requesting a variance from Code §154.063 relating to the City's lot shape/depth-to-width ratio requirements and stated that location of existing structures and topography make it difficult to divide the property in such a manner that the subdivision can meet those requirements. He advised that the Planning and Zoning Commission unanimously recommended approval of the subdivision and associated variance request at its meeting on July 24th.

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

Councilmember Talcott moved to approve the item, as presented. Councilmember Anderson seconded. Councilmember White commented that there are numerous properties with similar difficulties in meeting lot shape/depth to width ratio requirements. Brief discussion followed on the pros/cons of possible amendment of the City's regulations versus use of variance requests. Motion carried on a vote of 4-0.

- D. Hold a public hearing 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 501 and 721 Woodcreek Ranch Road, Wimberley, Hays County, Texas, designating such property from Residential Acreage (RA) to Rural Residential 1 (R-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. (*Pamela Showalter, Applicant*)

City Administrator Ferguson explained that the requested zoning change is being made in conjunction with the subdivision (*see previous Agenda Item 3C*) to create two new lots from one 6.77 acre tract. Because the two newly created lots (Lot 12R-1; 4.77 acres) and Lot 12R-2; 2.00 acres) are less than five acres in size, there is a need for the lots to be zoned Rural Residential 1 (R-1). He noted that no comments were received either for or against the requested zoning change. He advised that the Planning and Zoning Commission unanimously recommended approval at its July 24th meeting.

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

Councilmember Meeks moved to approve the item, as requested. Councilmember Anderson seconded. Motion carried on a vote of 4-0.

Councilmember Showalter returned to the meeting at this time.

4. Ordinances

- A. Consider approval of an ordinance of the City of Wimberley, Texas, dissolving the Wimberley Economic Development Commission; repealing Title III (Administration), Chapter 33 (Boards and Commissions), Section 33.05 (Economic Development Commission) of the City of Wimberley Code of Ordinances; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*Mayor Steve Thurber*)

In accordance with Council's discussion at its July 17th meeting, City Administrator Ferguson presented the draft ordinance for consideration.

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

- B. Consider approval of an ordinance of the City of Wimberley, Texas, dissolving the Budget Advisory Board; repealing Title III (Administration), Chapter 33 (Boards and Commissions), Section 33.05 (Budget Advisory Board) of the City of Wimberley Code of Ordinances; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*Mayor Steve Thurber*)

In accordance with Council's discussion at its July 17th meeting, City Administrator Ferguson presented the draft ordinance for consideration.

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

- C. Consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending and replacing Title XV (Land Usage), Chapter 153 (Flood Damage Prevention) of the City of Wimberley Code of Ordinances; 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 ordinance needs to be updated in order for the City to remain part of the National Flood Insurance program. He highlighted key provisions, including the requirement that the finished floor of structures built in the floodplain be elevated at least one (1) foot over the base flood elevation of the property. He noted that such a change is intended to further minimize risk of structure flooding and anticipated that any increased construction costs would be offset by a reduction in flood insurance premiums for the property owner. He recommended approval of the ordinance as presented on first reading.

Discussion addressed the effective date of the proposed ordinance, need to amend the current ordinance, use of the term “100-year flood” within the proposed ordinance (and possible alternative language), clarification of “100-year flood” terminology, floodway versus floodplain development, and overlay district boundaries.

Councilmember Showalter moved to approve the ordinance on first reading, as presented, with inclusion of the abovementioned clarification of terminology related to the “100-year floodplain.” Councilmember Anderson. Motion carried on a vote 5-0.

5. Discussion and Possible Action

- A. Discuss and consider possible action regarding a proposed procedure relating to the appointment of consensus members for City of Wimberley boards and commissions. (*City Administrator*)

City Administrator Ferguson explained current procedures and presented the following proposed policy, in accordance with prior Council direction:

“With the exception of the Mayor, each City Council member shall submit names of qualified individuals to the City Administrator for possible appointment to the consensus place on the board or commission. City Council members may submit *for more* than one (1) name for consideration. The City Administrator shall present the names submitted by City Council members for possible appointment to the Mayor, without designating the Councilmember responsible for the submission. From the list of names submitted, the Mayor shall select the name of a qualified individual for appointment to the consensus place. Should no names be submitted by City Council members, the Mayor shall be responsible for making the appointment. In either case, City Council shall take action confirming the Mayor’s consensus appointment. Once appointed, the consensus member’s term shall run concurrent with the term of the Mayor who made his or her appointment unless sooner removed or resigned.”

Discussion addressed Council’s vote confirming the Mayor’s selection, exception for the Parks and Recreation Advisory Board consensus position, correction to second sentence as noted above (see italics), and process for selection by Mayor in the event no names are submitted by Council.

Councilmember Showalter moved to approve the item, as presented, including the italicized change noted above. Councilmember White seconded. Motion carried on a vote of 4-1, with Councilmember Talcott voting against.

- B. Discuss and consider possible action appointing a consensus member to the City of Wimberley Planning and Zoning Commission. (*Mayor Steve Thurber*)

From names submitted by Council members, Mayor Thurber selected Rick Millinor as the consensus appointment to the Planning and Zoning Commission.

Councilmember White moved to approve the appointment of Rick Millinor to the consensus position on the Planning and Zoning Commission. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action relating to a proposal to extend the compliance deadline for the conditional use permit (CUP) granted for property located at 411 Mill Race Lane. (*City Administrator*)

City Administrator Ferguson reviewed the CUP's conditions, previous deadline extension, and need for an additional extension due to an unresolved legal challenge preventing the property owner from proceeding with a variance request. Due to circumstances beyond the property owner's control, City Administrator Ferguson recommended extending the compliance deadline for a second time, without referencing a specific date.

Councilmember White moved to approve extension of the compliance deadline until such time as any legal challenges relating to the required variances for the CUP have been resolved. Councilmember Showalter seconded.

Brief discussion followed on the anticipated timeframe for a decision by the court on this matter, legal fees incurred by the City, and satisfaction of all other CUP conditions by the property owner.

Motion carried on a vote of 5-0.

- D. Discuss and consider possible action setting the date, time and place for the public hearing on the proposed *Fiscal Year 2015 City of Wimberley Operating Budget*. (*City Administrator*)

City Administrator Ferguson recommended setting Thursday, September 4, 2014, 6 p.m., at City Hall as the date, time, and place for the required public hearing on the proposed *Fiscal Year 2015 City of Wimberley Operating Budget*.

Councilmember Talcott moved to approve the date, time, and place for the public hearing, as recommended by City Administrator Ferguson. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action on issues relating to the development of the Fiscal Year 2015 City of Wimberley Budget. (*City Administrator*)

City Administrator Ferguson requested input from Council as part of the annual budget process and there was brief discussion of several specific items of interest. Mayor Thurber asked that Council members forward any budget-related items of interest or concern to City Administrator Ferguson.

No vote was taken.

- F. Discuss and consider possible action on approving a proposed Lease with Option to Purchase Agreement with *Save Old Baldy Foundation* relating to 4.314 acres of real property located at 31 La Toya Trail within the city limits of the City of Wimberley, Texas and authorizing the mayor to execute the agreement. (*City Administrator*)

Mayor Thurber adjourned Open Session and convened Executive Session at 6:53 p.m. pursuant to §551.072 of the Texas Government Code for discussion of real estate acquisition.

Mayor Thurber adjourned Executive Session and reconvened Open Session at 7:08 p.m.

City Administrator Ferguson highlighted the history of the area landmark known as Mount Baldy, increasing number of problems reported by surrounding property owners related to the public use of Mount Baldy, and recent sale of the property by Trinity Church to a Wimberley Valley resident, who formed a corporation (the *Save Old Baldy Foundation*) to purchase the property for approximately \$153,500. He noted that the corporation has expressed an interest in conveying the property to the City of Wimberley for use as a public park. A public-private partnership is proposed to recover the funds spent through a combination of private fundraising and a contribution of public funds. Details of the possible Lease with Option to Purchase Agreement were provided by City Administrator Ferguson, as well as a list of steps that would need to be taken by the City to manage the public's use of the park and limit its impact on the surrounding neighborhoods. He advised that at this time Hays County does not plan on participating in or allocating funds for the proposed public-private partnership.

Councilmember Talcott moved to approve the proposed Lease with Option to Purchase Agreement with *Save Old Baldy Foundation* and authorize Mayor Thurber to execute the agreement. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

- G. Discuss and consider possible action designating Mayor Steve Thurber to serve on the Capital Area Council of Governments (CAPCOG) General Assembly. (*City Administrator*)

City Administrator Ferguson summarized the roles and duties of CAPCOG's General Assembly and designee Mayor Thurber.

Councilmember Talcott moved to designate Mayor Thurber to serve on the CAPCOG General Assembly. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

6. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Meeks announced that the Hill Country Recreation Association is holding its end-of-season softball tournament and annual HCRA Jamboree on August 8-9, 2014 at the VFW Park grounds on Jacobs Well Road.

As a future agenda item, Councilmember Talcott requested discussion of conditions at an abandoned Flite Acres property.

Audience member Janette Barlow requested information on the upcoming City Council Goals and Priorities workshop and adoption timeframe. Information was provided by City Administrator Ferguson on key workshop and budget dates/times.

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

Adjournment: Council meeting adjourned at 7:25 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 21st of August, 2014.

APPROVED:



Steve Thurber, Mayor

