

City of Wimberley
City Hall
221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
October 6, 2011 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 (after Citizens Communications) and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

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

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

Proclamations

- A. Proclamation recognizing the efforts of the Hays-Caldwell Women's Center and the month of October as *Domestic Violence Awareness Month*

Mayor Flocke presented information on the Hays-Caldwell Women's Center's (HCWC) history and services provided. He read the proclamation, which was presented to HCWC representatives Marla Johnson and Charles Vestal who spoke about HCWC programs and expressed appreciation for support of *Domestic Violence Awareness Month*.

- B. Proclamation recognizing October as the Hays County Food Bank's *Turkeys Tackling Hunger Month*

Mayor Flocke presented information on the Hays County Food Bank's (HCFB) services and community impact. HCFB representatives Marsha Cooper and Kirk Sedbury expressed appreciation and provided details on the *Turkeys Tackling Hunger* campaign.

Citizens Communications

Bob Bullock informed Council of the upcoming fourth annual *Livestrong Challenge* bike ride scheduled to be in Wimberley on October 16, 2011 and provided details on this nationwide event. City Administrator Ferguson advised that the same route will be used for the event as in past years.

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of September 15, 2011
- B. Approval of the minutes of the Special City Council meeting of September 19, 2011
- C. Approval of the minutes of the Special City Council meeting of September 21, 2011

D. Approval of the minutes of the Special City Council meeting of September 6, 2011

Councilmember White moved to approve all Consent Agenda Items, as presented. Councilmember Thurber 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 the *Party for Blue Hole Park* scheduled for Saturday, October 8 from 5:30 to 7:30 p.m. at the Park. He provided details on the event celebrating the Park and honoring the Peter Way Family and Hays County Precinct Three Commissioner Will Conley. He noted that tours of the Park will be available and that contingency plans are in place in case of rain. He advised that the Park will remain open weekends only through October 16, 2011 and reminded that the Park will be closed all day on Saturday, October 8, due to the aforementioned event and will be open during normal operating hours on Sunday, October 9, weather permitting.

He reported on post-Labor Day attendance of 435 visitors and year-to-date attendance of approximately 22,000 visitors to the Park. He provided information on Phase II construction, wildlife issues, and a recently acquired stone and wood park bench.

- Status report on the proposed development of boarding house regulations for the City of Wimberley

City Administrator Ferguson reported on the Planning and Zoning Commission's discussion of this issue and advised that recently adopted State regulations will be incorporated into a draft ordinance for later consideration.

- Status report on *The Burning Love Benefit*

City Administrator Ferguson reported on benefit events, which raised approximately \$25,000 for recent wildfire victims, creation of a "seed" fund to help in the event of future area wildfires, and upcoming presentation of benefit proceeds to Bastrop area entities. He commended Councilmember Meeks, who won the chili cook-off competition, and thanked everyone for their participation.

- Status report on the 2011 City of Wimberley Street Improvement Program

City Administrator Ferguson reported that Twilight Trail and Malone Drive are completed and that plans call for new surfacing of Cliffview Drive and Smith Creek Road tomorrow. He noted that the project is running about two weeks behind due to unforeseen drainage issues and expected project completion by next week.

- Status report on the Cypress Creek Nature Trail

City Administrator Ferguson expressed concerns regarding the current conservation easement allowing for adequate trail maintenance and advised that a staff recommendation will be brought to Council in the near future.

- Status report on the Wimberley transportation projects under consideration by the Capital Area Metropolitan Planning Organization (CAMPO)

City Administrator Ferguson reported on the City's various funding applications and anticipated a decision by CAMPO next week on the allocation of available funding for Wimberley projects, including FM 2325 sidewalks, the Wimberley Square Improvement Project, completion of the Hays County-City of Wimberley Regional Hike and Bike Trail, Ranch Road 12 shoulders, and the designation of Wimberley as a "Small Center" in CAMPO's 2035 Transportation Plan. He thanked Mayor Flocke and Transportation Advisory Board member Dorothea Dare for time and testimony at the CAMPO meeting on September 26, 2011, which supported all of the Wimberley projects under consideration, except for the Ranch Road 12 shoulders project.

- Status report on development of a Request for Proposals (RFP) for the operation of the recently acquired wastewater treatment plant at the Blue Hole Regional Park

City Administrator Ferguson reported on the City's acquisition and assumption of operations/maintenance of the plant. He anticipated issuance of an RFP in the next seven to ten days in order to secure a firm to operate the plant for the City. Details were provided on the year-end transfer of operations/maintenance from Guadalupe Blanco River Authority (GBRA) and certain notification procedures. He advised that a meeting is scheduled with Deer Creek Nursing Center representative(s) to discuss the transition in ownership of the plant.

City Administrator Ferguson added that the Code Review Task Force held its first meeting on Tuesday, October 4, 2011 and will meet again in two weeks to strategize the review process. He noted that all meetings will be noticed and encouraged public participation.

Councilmember Thurber announced that over 320 people have purchased tickets to the *Party at the Blue Hole Park* event on Saturday, October 8, 2011 and encouraged attendance. In response to Councilmember Talcott, City Administrator Ferguson provided information on the FY 2012 Street Improvement Project, including Las Flores/La Buena Vista Drives and Mill Race Lane.

3. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas amending Ordinance No. 2009-042 which amended the development regulations for a designated Planned Unit Development located on a 5.3443 acre tract more commonly known as 14835 Ranch Road 12, Wimberley, Hays County, Texas, in order to revise certain development regulations relating to the maximum building square footage, the total project square footage, and parking; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and

meeting. (*John McCrocklin, Applicant; this case was continued from the September 15, 2011 meeting of the City Council*)

City Administrator Ferguson reported that the applicant submitted a written request to delay consideration of the requested amendment for a second time. He recommended that Council vote to continue consideration of this item until its next regular meeting on October 20, 2011. He noted that the Planning and Zoning Commission is scheduled to hear this zoning case on October 13, 2011. Because notices of the new hearings dates need to be mailed and published, the re-notification costs will be incurred by the applicant.

Councilmember Thurber moved to continue this item until the Council's next regular meeting on October 20, 2011. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

City Administrator Ferguson replied affirmatively to Councilmember Thurber's request that on future agendas, a notation is made that the applicant has requested a continuance of the item, so that members of the public will not make plans to attend a hearing on a continued item.

- 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 11552 Ranch Road 12, Wimberley, Hays County, Texas, designating such property from Wimberley Planned Development District (WPDD) with a base zoning of Rural Residential 1 (R-1) to Scenic Corridor (SC); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. (*Mike Williams, Applicant*)

City Administrator Ferguson reported on the subject property's current and proposed zoning/uses and location between two adjacent tracts zoned SC. He advised that the Planning and Zoning Commission held a public hearing on September 22, 2011 and voted unanimously to recommend approval.

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

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

- C. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, amending Chapter 155 (Zoning), creating a new Section 155.006 (Prohibited Uses) of the Code of Ordinances to prohibit wind turbines and accessory equipment of same and utility grid wind energy systems within the City's corporate limits; and providing findings of fact, a repealing clause, to provide a savings clause and severability clause and providing for an effective date. (*City Administrator*)

City Administrator Ferguson stated that this ordinance was originally proposed in response to recent interest in the use of private generators for producing electric power for individual homes.

Currently, the City does not prohibit the installation of wind turbines, which typically have towers with heights ranging from 45 to 85 feet. Planning and Zoning Commission discussion on September 22, 2011 resulted in a recommendation to prohibit the installation of wind turbines until such time that future technology will provide a less intrusive and more economically feasible way to harness wind energy. Concerns were expressed that current technology may create more sight and noise nuisance issues than benefits when used on individual lots in residential areas. Planning and Zoning Commissioner Jean Ross stated that due to earlier stated concerns about height and noise, as well as potential problems with abandonment/demolition of aging turbines, the Commission favored prohibition at this time.

Mayor Flocke opened the public hearing.

Kruger du Plessis spoke on concerns related to battery space and stated that current systems can be tied to the electric grid. He said that vertical systems do not need high wind speeds, are quieter, and more effective.

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

In response to Councilmember Talcott, City Administrator Ferguson and Mayor Flocke advised that a variance cannot be granted for a use that is prohibited.

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

- D. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending portions of Sections 155.107 (Planning and Zoning Commission) and 155.108 (Board of Adjustment; Variances and Appeals) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the removal process for board members appointed to the above referenced boards; providing for findings of fact, an effective date; proper notice and meeting; and severability. (*City Administrator*)

City Administrator Ferguson explained differences between the current and proposed ordinance language and noted that the Planning and Zoning Commission voted unanimously to recommend approval of the proposed ordinance at its September 22, 2011 meeting. Planning and Zoning Commissioner Jean Ross provided reasoning for the Commission's recommendation and details on Commission discussion addressing concerns regarding past problems meeting quorum requirements. As part of its recommendation, the Planning and Zoning Commission requested that staff develop a process to notify appropriate member(s) and the rest of the Commission when attendance problems arise, in order to allow opportunity for corrective action or voluntary resignation, if attendance cannot be improved.

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

Discussion addressed:

- Responsibility of nominating Council member to check with respective appointed Planning and Zoning Commission member who may have attendance problems
- Super majority vote requirement for Council removal of a Planning and Zoning member
- Volunteer nature of board/commission service
- Issues related to politicizing the removal process
- Effectiveness of current ordinance in resolving attendance problems
- Communication among Council and board/commission appointees
- Current automatic removal process for non-attendance versus proposed ordinance language

Councilmember Thurber moved to take no action on this item. Motion died for lack of a second.

Discussion clarified Planning and Zoning's recommendation to address any attendance concerns through Commission discussion and action, before staff involvement or Council consideration of removal. The Commission would make a determination on whether or not a member's absences are cause for removal, depending on how such absence(s) affect the Commission's ability to conduct business in a timely manner.

Councilmember Talcott moved to approve the item, with the understanding that the nominating Council member and appointed Commission member are given the opportunity to correct attendance problems, before the issue would go before Council for further action. Councilmember Meeks seconded. Motion carried on a vote of 3-1. Councilmember Thurber voted against.

4. Ordinances

- A. Consider approval of an ordinance of the City Council of Wimberley, Texas amending Title V (Public Works), Chapter 51 (Water Conservation), of the Code of Ordinances in order to prohibit watering of lawns or landscaping of any type and to impose other supplemental water restrictions in response to recent drought conditions, providing for certain exceptions to such prohibition; and providing findings of fact, a repealing clause, to provide a savings and severability clause and providing for an effective date. (*Mayor Pro-tem Steve Thurber*)

Councilmember Thurber spoke in favor of the proposed ordinance, which would apply regardless of the water source/provider and prohibit certain methods of landscape irrigation. He felt additional restrictions are warranted, given the impact of drought conditions on aquifer levels.

Discussion among Council, staff, and Wimberley Water Supply Corporation General Manager Garrett Allen addressed:

- Length of time that the proposed additional restrictions would need to be in place (drought versus non-drought periods)
- Types of landscape irrigation allowed during specific hours

- Staff's recommendation to set up a review process every 30-45 days as drought conditions change over time
- Development of consistent drought management plans among various entities such as the City of Wimberley, Wimberley Water Supply Corporation, and Aqua Texas
- Concerns that the proposed ordinance amendment may negatively impact the unifying effect of consistent drought management plans, if adopted by the previously mentioned entities
- Need for public education on water conservation
- Concerns relating to §51.21 Xeriscape Requirement and clarification of ordinance language and intent
- River pumps
- Incorporation of proposed ordinance language into existing drought stage restrictions as a way to minimize confusion and avoid possible conflicts among entities
- Policing of violations
- Water usage patterns in certain drought management plan stages
- Need for allowed watering dates/times in the proposed ordinance to be consistent with those specified by Wimberley Water Supply Corporation
- Clarification of the effect of the proposed ordinance's xeriscaping requirements on the building permitting process

Councilmember Thurber moved to approve the item, as presented, with the exception that restricted times are to be consistent with those specified by Wimberley Water Supply Corporation. City Administrator Ferguson asked Councilmember Thurber whether he wanted to modify xeriscaping language. Councilmember Thurber was amenable to modifications. Mayor Flocke reminded that there is a motion on the table without a second. Councilmember Thurber withdrew his motion. City Administrator Ferguson recommended the following change to §51.21 Xeriscape Requirement: "For all building permits submitted for new residential and commercial construction after the effective date of this ordinance, shall utilize drought tolerant plants or xeriscape ~~landscape design approved by the City.~~" Discussion continued on whether ordinance language should focus on encouragement versus requirement of certain types of landscaping.

Councilmember Talcott moved to continue this item until Council's next meeting to allow for the proposed ordinance to be rewritten in order to include input from tonight's discussion and allow for additional input from individual Council members. Councilmember White seconded. Motion carried on a vote of 4-0.

At City Administrator Ferguson's request, discussion after the vote clarified direction to staff on desired changes to the ordinance, including the aforementioned deletion and alignment of City of Wimberley regulations with other entities' drought management stages. In response to Councilmember White, brief discussion continued relating to pumping water from the Blanco River and any associated permitting requirements.

- B. Consider approval of an ordinance of the City of Wimberley, Texas, prohibiting the issuance of building permits for all new construction of in-ground or above ground swimming pools within the city limits; and providing findings of fact, a repealing clause,

to provide a savings and severability clause and providing for an effective date. (*City Administrator*)

City Administrator Ferguson explained that drought conditions have prompted a growing number of area water providers, including Wimberley Water Supply Corporation, to prohibit the filling/refilling of new/existing swimming pools. He added that failing to fill a newly built pool with water could damage the pool. He stated that staff is not comfortable with issuing building permits for new pools that may not be able to be initially filled or refilled with water in the immediate future and recommended approval of the proposed ordinance. Discussion addressed possible negative impact on property owners whose pools need to be constructed prior to main residential structures and the need for evaluation of drought conditions over time to rescind the prohibition in the future, when drought conditions may have eased. During discussion, concerns were expressed about prohibition and it was acknowledged that some property owners may opt to purchase bulk water from various water purveyors for the purpose of filling a swimming pool.

Councilmember Talcott moved to approve the item, as presented. Councilmember Thurber seconded. Motion carried on a vote of 3-1. Councilmember White voted against.

5. Discussion and Possible Action

- A. Discuss and consider possible action regarding a recommendation to amend the City of Wimberley Transportation Master Plan to include a future extension of Green Acres Drive between FM 2325 and Ranch Road 12. (*Mayor Pro-tem Steve Thurber*)

City Administrator Ferguson presented the proposed extension (which includes sidewalks) recommended by the Transportation Advisory Board (TAB) in order to enhance traffic mobility and discourage neighborhood cut-through traffic in the area. He stressed that lines displayed in the Transportation Master Plan (TMP) are to be used as long-range planning tools that indicate general proximity rather than an exact location. TAB member Bob Bullock spoke of the eventual need for an east-west corridor between Ranch Road 12 and FM 2325. Discussion addressed possible cost estimates for such a project, including right-of-way acquisition, and reasoning for a prior recommendation from the Planning and Zoning Commission to *not* approve TMP Component D (Connectivity) for extension of Green Acres Drive.

Councilmember Thurber moved to continue this item until Council's meeting on October 20, 2011. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

- B. Discuss and consider possible action regarding a recommendation to forward to the Texas Department of Transportation and Hays County Precinct Three Commissioner Will Conley a request to construct a deceleration lane on FM 3237 north of Winters Mill Parkway to enhance traffic safety in the City of Wimberley's E-T-J. (*Wimberley Transportation Advisory Board*)

City Administrator Ferguson displayed the subject intersection to illustrate the need for the proposed deceleration lane to enhance traffic safety. He stated TAB's recommendation that Council take action requesting Texas Department of Transportation (TxDOT) and Hays County

Precinct Three Commissioner Will Conley construct the deceleration lane in order to increase safety at this high speed intersection, along with possible improved denotation through signage and/or lighting, and speed limit reduction. There was brief discussion of the need for safety improvements at the intersection of FM 3237 and Flite Acres Road.

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

- C. Discuss and consider possible action regarding a proposal to allow gray water systems and require rain water collection systems on all new residential and commercial development. (*Mayor Pro-tem Steve Thurber*)

Councilmember Thurber requested input from Council on requiring rain water collection systems for all new residential and commercial development. He cited Jacob's Well Elementary School as an example of successful rain water collection/gray water system utilization.

Discussion addressed types of water usage (for example, drinking or bathing), gray water systems for irrigation purposes, impervious cover credit system for properties utilizing rain water collection, cistern/tank placement and type, rain water collection system costs, and concerns over collected rain water's potability. Agreement was reached on the need for more meetings on this issue to gather information from various speakers knowledgeable about rain water/gray water systems. Details were provided on the Rainwater Revival event to be held in Dripping Springs, Texas on October 8-9, 2011. Suggestions were made regarding possible future Council meeting dates/times/locations.

No action was taken on this item.

- D. Discuss and consider possible action regarding a proposal to hold a community brush collection event to help prevent or slow the spread of wildfire. (*City Administrator*)

City Administrator Ferguson presented details on the proposed one-time event, including information on drop-off locations, costs, cooperative efforts with other entities such as Hays County and Texas Disposal Systems, and possible use of a curbside chipper.

Councilmember Thurber moved to authorize staff to research options available for a one-time brush collection event. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

- E. Discuss and consider possible action approving the Fiscal Year 2012 Holiday Schedule for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson presented the following schedule for consideration:

- Veterans Day – Friday, November 4, 2011
- Thanksgiving – Thursday & Friday, November 24 & 25, 2011
- Christmas – Monday, December 26, 2011
- New Years – Monday, January 2, 2012

- Martin Luther King Day – Monday, January 16, 2012
- President’s Day – Monday, February 20, 2012
- Good Friday – Friday, April 6, 2012
- Memorial Day – Monday, May 28, 2012
- Independence Day – Wednesday, July 4, 2012
- Labor Day – Monday, September 3, 2012

Councilmember Talcott stated that more places, including government offices, are closed for Columbus Day than for Good Friday. Mayor Flocke advised that the State of Texas is not closed for Columbus Day.

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

- F. Discuss and consider possible action approving a lease agreement with *Election Systems & Software* for voting machines and associated election services for the May 12, 2012 City of Wimberley General Election. (*City Administrator*)

City Administrator Ferguson highlighted the one-year agreement for up to eight (8) touch screen voting machines, along with various election materials and on-site support services needed for the May 2012 General Election. He noted that the City will continue to contract with the Hays County Elections Administrator for elections in odd-numbered years. He stated that discussions with the City of Woodcreek and Wimberley ISD are continuing about the possibility of sharing costs in a joint election agreement. City Administrator Ferguson recommended approval of the contract in the amount of \$11,639.59. Discussion addressed response time for vendor support personnel.

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

- G. Discuss and consider possible action approving the route for *The Susan G. Komen Breast Cancer Foundation Benefit Walk* in Wimberley on Saturday, October 22, 2011. (*City Administrator*)

City Administrator Ferguson recommended approval of the route, starting at 10 a.m. in front of the Cypress Creek Café, proceeding west on the Ranch Road 12 sidewalk to Broadway Bank, where the route will cross Ranch Road 12 and continue back to the Café.

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

6. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Thurber requested discussion of street fund allocations for this fiscal year.

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

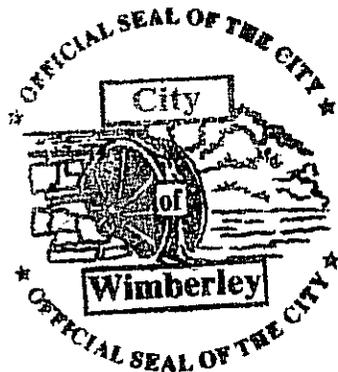
Adjournment: Council meeting adjourned at 8:10 p.m.

Recorded by:

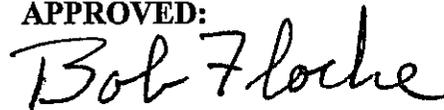


Cara McPartland

These minutes approved on the 20th of October, 2011.



APPROVED:



Bob Flocke, Mayor