

**THE VILLAGE OF WIMBERLEY**  
**City Council Meeting**  
**Wednesday, October 11, 2000**  
**Senior citizens Center**  
**7:00 p.m.**

**\*\*\* MINUTES \*\*\***

A REGULAR MEETING OF THE Village of Wimberley City Council was held on Wednesday, October 11, 2000, a notice of said meeting having been posted at least 72 hours in advance and in accordance with Section 551, Texas Government Code. Mayor Linda Hewlett called the meeting to order at 7:00 p.m. in the Senior citizens Center, 14050 RR 12.

**1. CALL TO ORDER**

**2. INVOCATION**

Reverend Kent Singleton, Minister of the Church of Christ delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL** All Council members were present.

**5. CONSENT ITEMS**

A. Approval of Minutes

B. Approval of Proclamation of Appreciation for Service to the Community by Is and Mel Larkin.

There being no objection, the minutes were approved.

**6. PRESENTATION OF CITIZENS**

Commissioner Bill Burnett spoke to the Council regarding Hays County Proposed Legislative Agenda. He asked that the City of Wimberley consider joining with the other cities in Hays County to endorse and support proposed legislative action that would give the county more authority to deal with uncontrolled growth in the county outside of corporate limits. This legislation would establish a structured transition whenever urban areas become part of established cities.

Commissioner Burnett also outlined the county's plan for allowing tax incentives for rainwater collection systems that would include cutting \$100 from the permit fee on

septic permits and are requesting that every city and school district in Hays County to exempt these systems from ad valorem taxes as well as asking taxing jurisdictions to exempt sales tax on the systems. . Commissioner Burnett stated that he had contacted three school districts and they did not express an objection to exempting these taxes for something as beneficial as these systems. There is a form in the packet that the purchaser can take to the appraisal district and they will not add the addition to property values. Currently, the systems are not separate from property evaluations and although the law as written now states you must file for exemptions every year, they will ask that it be changed to every five years.

The Mayor stated these two items would be placed on the next Council agenda.

**7. OLD BUSINESS** There was no old business.

**8. NEW BUSINESS**

A. Discussion and Possible Action on an Amendment to The Village of Wimberley Sign Ordinances No. 2000-007.

Councilman Walter Brown informed the Council that subsequent to passing of Ordinance No. 2000-007, creating a moratorium on sign permitting in the Village until a permanent sign ordinance was crafted, it became apparent the ordinance as enacted had loopholes that allowed violations of this ordinance – if not in the "letter" of the law, certainly in the "spirit." He requested that the following insertion be included in Paragraph V., (Restriction for On-premises signs):

"The redesign, repainting, or other modification of an existing on-premises sign for the purpose of advertising a change in use on any non-residential property shall require a permit and the approval of the Village of Wimberley Planning Commission and City Council.

**Criteria for Permit Application Review.**

The Village Planning Commission and City Council shall review all permit applications and the City Council is authorized to issue a permit in the following situations:

1. The proposed modified sign will maintain the same dimensions (above ground height, display area width and height) as the existing sign.
2. The proposed modified sign will be compatible and in appearance with existing signs in the immediate area and/or on adjacent properties.
3. The proposed modified sign will be compatible with the Council's goals for the general appearance of commercial signage in the community, as expressed in citizen-sponsored publications such as the Keep Wimberley Beautiful publication "Preserving the Magic."
4. The proposed modified sign will be free of distracting elements and/or colors that would constitute a public safety hazard by exerting a distracting influence

on vehicle drivers on adjacent roadways. Examples of signs containing distracting elements and/or colors include, but are not limited to, signs which mimic traffic control signs in shape or design and/or contain colors such as bright yellows, oranges, reds, or 'fluorescent' colors.

5. The proposed modified sign will not provide the property owner special treatment or advantages not enjoyed by other, similarly situated properties.
6. The proposed modification is necessary to avoid undue hardship and literal enforcement of the ordinance is found not to be in the public interest."

All of these conditions need to be true for the Council to grant a permit. This amendment will be attached to the temporary moratorium and will carry the same penalty for violation, namely \$2,000 per offense. (Amendment No. 01 to Ordinance No. 2000-007 is attached.)

Mike Robinson spoke to the Council regarding his property on Ranch Road 12, stating he bought the property and had ordered his sign before the sign ordinance was enacted. He stated he had no intention of violating the law and felt his sign was in compliance but would accept Council ruling, and if the Council would give him additional time, he would repaint the sign to make it more "Wimberley".

Councilman Walter Brown moved that the Council adopt the recommended amendment to Ordinance 2000-007. Seconded by Councilman Steve Klepfer, who requested that enforcement of the sign ordinance be undertaken immediately to avoid presumption of laxity on the part of the city. Councilman Brown clarified ordinance provisions in that a business owner cannot completely redesign a sign for a "new use" of the property without a permit because "new use" will be considered, in the context of the ordinance, as a "new" business and cannot be larger than the existing sign. Routine maintenance and care of an existing sign is completely acceptable. It was pointed out that a new permanent sign ordinance would be enacted soon.

Councilwoman Knies exhibited the booklet "Keeping the Magic" which outlines recommended signage for the Village and that it was available at the Chamber of Commerce.

The motion carried 5-0.

- B. Discussion and Possible Action on an Amendment to the Village of Wimberley 90 Day Moratorium on Commercial Construction and Development and the Expansion of Commercial building.

Councilman Walter Brown presented amendment to Ordinance No. 2000-004 as follows:

No person shall make a change in the principal use of non-residential building, lots or properties; and establishing a requirement for review by the Village of

Wimberley Planning Commission and City Council; and providing for a fine not to exceed \$2,000.

**Criteria for Review:**

"The City council may approve a permit if it finds that the following conditions apply:

1. The proposed change in use will not constitute an endangerment to the health, welfare and safety of the community;
2. The proposed change in use will promote the general compatibility of land uses in the area immediately adjacent to the subject property;
3. The proposed change in use does not constitute special treatment of the property with respect to other, similarly-situated properties;
4. The proposed change in use will not pose a threat to the security and tranquility of properties and property owners in proximity to the subject property; and
5. The proposed change in use will not increase levels of noise, traffic, congestion, or increased demands for parking in the immediate vicinity of the property."

This amendment will also be in effect for the duration of the moratorium. Councilman Walter Brown recommended the adoption of amendment to Ordinance No. 2000-004. Seconded by Tony McGee. The motion carried 5-0. (Amendment 0001 to Ordinance 2000-004 attached.)

C. Discussion and Possible Approval of replacement to fill vacancy on the Roads Advisory Board.

Councilman Steve Klepfer moved that Gentry Carr be appointed to the Road Committee, replacing Dwayne Patylek who had declined to serve. Seconded by Councilman Walter Brown. Motion carried 5-0.

Councilman Klepfer announced that the Roads Advisory Committee would meet Wednesday, the 18<sup>th</sup> at the Village Hall.

D. Discussion and Possible Action to create a Village of Wimberley Comprehensive Plan Steering Committee and to appoint members to the Committee.

Councilman Walter Brown asked that this item be continued until the next meeting in that implementation details had not been completed and asked for Input from the Council. Clarification of this committee's duties were defined as presenting drafts of recommendation to the Planning Commission (who will oversee this committee) and that two members of the Commission had evinced interest in working with this steering committee.

E. Discussion of the Village of Wimberley Planning Commission *Short Term Plan* and the development of a Permanent Zoning Ordinance.

Councilman Brown told the Council that the Planning Commission members will be sworn Saturday, (October 14) and immediately convene its first meeting. A regular meeting schedule has not been established. However, there has been some discussion regarding the immediate formulation of a permanent zoning ordinance because they have great resources to guide them and will probably have a proposed ordinance ready to present to the Council by December. A Zoning Ordinance will be the first one ready for presentation and the next one will be for sub-divisions. He pointed out that the city must ready for the permitting process as soon as the ordinances are put into effect.

Mayor Hewlett stated that she had attended all the committee meetings and said that she had really been impressed by the dedication of the talented people that the voters of Wimberley had chosen to represent them in forming their city government.

F. Discussion and Possible Action on an Ordinance prohibiting the discharge or firing of any firearm within the city limits of the Village of Wimberley.

Councilman Tony McGee moved that the following ordinance be enacted:

An ordinance prohibiting the discharge of firearms and explosive weapons and zip guns within the corporate city limits of the village; providing for exceptions; restricting the discharge of air guns; providing for findings of fact; providing for a purpose; providing for definitions; providing for an effective date; providing an enforcement clause including injunctive relief and a fine not to exceed \$2,000.

Citizens addressing the Council regarding this enactment of this ordinance is as follows:

Ted Knies read a letter from Jack Massengale (who could not be present) encouraging the Council to pass this ordinance. The letter stated that for many years, their neighborhood had been subjected to numerous occasions of gunfire being set off in the woods near their property. Further that the county was seemingly unable to make any laws to protect citizens from these actions. They asked the Council to pass an ordinance prohibiting the discharging of firearms within the Village of Wimberley

Dorothy Kerbow addressed the Council regarding many years of enduring firearms being discharged in their neighborhood, possibly endangering the lives of citizens. She informed the Council that there was a shooting range nearby and permission to shoot in the area was given by some of the property owners. She presented the

results of poll taken of 28 of her neighbors requesting the enacting of this ordinance prohibiting discharging firearms within the city limits.

Clint Frankmann requested that the Council consider the exemption of certain property owners with larger tracts of land that might wish to use their property for target shooting.

Discussion was held regarding the enforcement within the ETJ of the Village. Councilman Tony McGee stated that the ordinance provisions would apply at the time of the enactment until a court says it will not apply. Council McGee mad a motion that an ordinance be enacted as follows:

"An ordinance of the Village of Wimberley, Texas prohibiting the discharge of firearms and explosive weapons and zip guns within the village limits; providing for exceptions; restricting the discharge of air guns; providing for findings of fact; providing for a purpose; providing for definitions; providing for an effective date; providing an enforcement clause including injunctive relief and a fine not to exceed \$2,000."

Councilman Steve Klepfer seconded the motion.

Councilman McGee further defined "weapon" (as referred to in this ordinance) as, any device made to expel a projectile through a barrel using the energy or force generated by the release of a spring or compressed gases. In response to Councilman Manis' question, it was determined that it was not unlawful to kill in defense of one's life or the defense of a third person. Also, a person legally licensed to carry a weapon would be regulated under the rules pertaining to that license.

Councilman Steve Klepfer stated that he felt an ordinance excluding large tracts of land from this ordinance would be difficult to enforce and that within the ETJ there are some large tracts that , at some point, sometimes abutted property with residences close enough that it would present a danger to those homeowners.

Councilman Matt Manis made the motion to exclude 100 acre tracts from the ordinance. Motion died for lack of a second.

Councilman Walter Brown introduced a "friendly amendment" to Councilman McGee's motion to adopt this ordinance for the corporate limits of the Village of Wimberley – making it clear that the ETJ would not be included – and with the possibility of the ordinance being revisited at a later time. Councilman Tony McGee accepted the "friendly amendment" as did the seconder, Councilman Steve Klepfer. The motion passed 5-0.

The motion to enact the ordinance with rewording to specify enforcement within the "corporate city limits". The motion passed 5-0.

- G. Discussion and Possible Action to authorize the Mayor to sign a lease for Suite 22 in the Wimberley Mountain Plaza for the City Hall and to cancel the lease for Suite 5 at the same location.

Councilman Tony McGee moved that the Council authorize the Mayor to sign the lease on behalf of the Village of Wimberley to lease Suite 22 in the Wimberley Mountain Plaza.

The provisions of the current lease differ from those in the lease for Suite 5. One of the main differences is that the owner insists on being indemnified for all reasons. And he insisted that he be named as an insured under the city's insurance policy. Since the city is insured by the Texas governmental risk pool, that could not be done. However, the insurance company issued an endorsement insuring the city for any liability under the city's indemnity provision that would include the landlord (even though it does not name him in the policy). Also, the landlord stated that if the Sales Tax Initiative was not passed, the lease would be immediately terminated. In addition, in the event the Travel Agency removes the sign at the end of the building; the city must put their sign in its place, same size. He also wants to assign parking spaces. Additionally, he wanted to include in the lease that he was indemnified against any claims regarding the American Disabilities Act.

Councilman Walter Brown seconded the motion. Motion passed 5-0.

The Mayor informed those present that the City Office is painted through volunteer efforts of the Mayor and council members and citizen volunteers. Some furniture is being donated and it will soon be ready to open.

- H. Discussion and Possible Action on an ordinance regulating antenna facilities within the corporate limits and extraterritorial jurisdiction of the Village of Wimberley.

Councilman Tony McGee withdrew this item from the agenda, stating that there had been the possibility this Interim ordinance might be contested in court but there has been an understanding reached whereby an ordinance that might be acceptable to the city and to a prospective purchaser of certain property in order to reach a compromise on the matter. This arrangement will not interfere with the Zoning Committee but additional information will be obtained from lawyers with expertise in the regulation of ham radio operators. Mayor Hewlett read a letter from John Stansbury questioning the placement of these radio antennas in a neighborhood where the new property owner had not even met his new neighbors. He asked that the Council delay this action and study it thoroughly before making their decisions. Councilman Tony McGee stated that there were federal regulations regarding radio operators that had to be considered in drawing up this ordinance and that the modified ordinance will be better than the original one. Councilman Klepfer stated that the Council did not back down on

better than the original one. Councilman Klepfer stated that the Council did not back down on the moratorium because Wimberley citizens clearly do not want the hillsides littered with towers.

- I. Discussion and Possible designation of a bank for a line of credit of \$50,000 for the Village of Wimberley.

Councilman Matt Manis told the Council that the Finance Committee met before the meeting and discussed the proposals that had come in on the \$50,000 line of credit, having received information from Balcones, Wells Fargo, and Ozona banks. The Finance Committee recommended that we borrow the \$50,000 from the Balcones Bank.

Councilman Matt Manis made the motion that Council accept the Finance Committee's recommendation to borrow the money from Balcones Bank and to authorize the Mayor and himself to sign the necessary papers to borrow the \$50,000 from Balcones Bank.

In answer to Councilman Brown's query, Councilman Manis informed the Council that the reason for choosing the Balcones Bank was based on the interest rate as well as certain requirements by the other two banks that the Finance Committee declined. The interest rate is 6.5%.

Seconded by Councilman Tony McGee. The motion passed 5-0.

Councilman McGee stated that the Council had previously listed agenda items whereby the Mayor and Councilman Matt Manis were to be authorized to establish a \$50,000 line of credit and a bank depository for the city, but that these item had not be acted upon by Council, having been "continued". Hence, it is appropriate and within the Open Meeting Act to approve a motion authorizing the Mayor and/or Matt Manis to sign all documents required by the bank to obtain the \$50,000 line of credit from Balcones Bank.

- J. Discussion and Possible designation of a bank for a temporary checking account for the Village of Wimberley.

Councilman Matt Manis stated that now that we have some money, the city can establish a bank account. However, there are requirements the city must meet, in that, Council must advertise for quotes and bids. There must be a 28-29 day period before the bids are accepted from the banks who return bids to act as the city's depository; these bids include all banking, checking, electronic transfers, etc. Those bids will be opened at the on the 23<sup>rd</sup> and then a permanent banking account will be established. Councilman Manis moved that the city authorize the Mayor and himself to set up a temporary banking account at the Balcones Bank. Seconded by Councilman Tony McGee. Councilman Manis stated that the account will require double signatures on the checks. Motion passed 5-0.



Councilman Klepfer informed the Council that the Wastewater Advisory Board met two weeks ago and is up and running – meet again Thursday, October 26<sup>th</sup>, at City Hall. At 10- a.m. The Road Advisory Board meet again Wednesday the October, 18<sup>th</sup>.sy 10 a./m. and it is also a Public Hearing on the stop sign at Wayside and River Road .

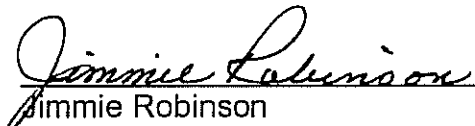
Mayor Hewlett stated that she had received a letter from the mayor of San Marcus that stated that because of the late timing of the request to change unable to receive resolutions and cannot proceed with the proposal at this time. We hope to submit resolutions at another time.

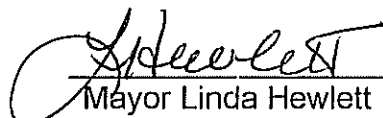
The Mayor read a proclamation from Mayor Ken Jacob and the Woodcreek Council congratulating them on the election and extending their offer of assistance in any way possible.

The Mayor emphasized that the Sales Tax Initiative election is very important to the Village of Wimberley and everyone should contact voters to make sure they get out and vote for it and asked that everyone talk it up in the community.

Discussion was held regarding setting a permanent meeting date for the Council Councilman McGee stated that it was very importantt for the Council to establish a REGULAR meeting day because of some voting requirements for passing ordinances and resolutions. In that, at a REGULAR meeting day, an ordinance can be passed with three votes in favor. Any other meetings, such as a "called meeting", there must be four votes to pass an item on the agenda. The Mayor will put this item on the agenda.

There being no future business, the meeting was adjourned, at 9:30 p.m.

  
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Jimmie Robinson  
Acting City Secretary

  
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Mayor Linda Hewlett

Next Council Meeting will be October 25<sup>th</sup>  
7 p.m. at the City Hall