

The Village of Wimberley
City Council Meeting
14500 RR 12, Suite 22
Wimberley, Tx 78676
Wednesday, November 8, 2000



A REGULAR MEETING of the Village of Wimberley City Council was held on Wednesday, November 8, 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 Wimberley City Hall, *Wimberley Mountain Plaza #22*.

1. CALL TO ORDER
2. INVOCATION

Reverend Ted Knies delivered the invocation.

- 3. PLEDGE OF ALLEGIANCE** was led by Mayor Linda Hewlett
- 4. ROLL CALL** All Council Members were present.

Mayor Hewlett expressed appreciation to the voters of Wimberley and, in particular, to the council members for their efforts in promoting the sales tax initiative, which passed on November 8, 2000 by a vote of 926 for and 159 against.

5. CONSENT ITEMS

Minutes of the previous minute were accepted without correction.

6. PRESENTATION OF CITIZENS

- A. Presentation by the Wimberley Planning and Zoning Commission on Vision Statement and Planning Guidelines.
- B. Request by Wimberley Planning and Zoning Commission for review of Committee Work Products related to community planning.

Glenn Fryer, Chairman of the Planning and Zoning Commission, informed council members that the Planning Commission had voted unanimously to ask that the Commission be provided a copy of the work product of the various Council appointed committees, so that that the Planning Commission might review – prior to Council action – committee recommendations. It is not the Commission's intention to modify or amend committee recommendations in any way, but simply to incorporate them into the Planning Commission's thinking as they work on the planning matters for the city. In this way, all the workings of the various committees will be coordinated.

Chairman Fryer informed the Council that a Comprehensive Plan Steering Committee (as contemplated by the Council) had been constituted and installed by the Commission. Twelve people were appointed to the Comprehensive Plan Committee whose task would

be to formulate guidelines for preparation of a plan for future development within the Village. Chairman Fryer read into the minutes the mission and purpose of the Comprehensive Plan and what it means to the people of the Village of Wimberley. (The full text of this statement as well as the *Vision Statement & Planning Guidelines* is attached to and made a part of these official minutes.)

Chairman Fryer named the members of the Comprehensive Plan Steering Committee, as follows: Rita Anderson, Magie Baines, Rodger Burson, Mike Dickey, Tevis Grinstead, Kay Henderson, John Hyink, Bert Ray, Carl Scudder, Dody Spencer, Elizabeth Sumter, and James Thompson.

David Glenn presented the Council with the Village of Wimberley Vision Statement, in part as follows: "This Vision Statement reflects the shared values and goals of the community based on public input from the 1996 Charrette and Booklet "Wimberley-Preserving the Magic". It will be used as a standard to guide the Village of Wimberley Planning and Zoning Commission in carrying out its duties. (The full text is attached to and made a part of these minutes.)

Marilee Wood spoke regarding the process of establishing guidelines as a backup for enforcing the ordinances that will be put in place regarding development and zoning considerations in the Village of Wimberley. As people come before the Commission asking for decisions on development and zoning consideration, it is necessary to have guidelines that point to prior consideration of these matters as they pertain to the preservation of the traditional character of the community and provide for the health, safety and welfare of the population and to assist Village officials as they take actions to help the Planning and Zoning Commission as it addresses the future of the Village.

C. Citizens Forum

Elizabeth Sumpter wished to thank everyone for his or her support during the recent election and issued an invitation to a "thank you" get together at the Senior Citizens Center at 1 p.m. on Sunday.

7. OLD BUSINESS None.

8. NEW BUSINESS

- A. Discussion and possible action to extend Non-Residential Construction Ordinance #2000-004, as amended, for a period of 60 days beyond its present expiration date.

Councilman Walter Brown reminded council members that one of the first acts of the Council after taking office was the enactment on September 7th, of Ordinance #2000-004 - moratorium on non-residential construction - with no provision to extend past its expiration date of December 7th. The Planning Commission has reassessed the time needed to develop city codes and zoning ordinances and, it does not appear the Commission will be able to get all of this done by December 7th. Because of the magnitude of the task, they have determined that a more realistic timeframe would be early February for completion of the task. Councilman Brown proposed that the non-

residential moratorium be extended for 60 days from the December 7th date, with a 30-day extension, if necessary. Because this proposed ordinance has just been received from the attorneys, and copies just this afternoon transmitted to Commission members, they have not had time to review it and to present a proposed ordinance by November 22nd for possible Council action on November 30th. Councilman Brown moved that the proposed ordinance be transmitted to the Planning Commission to be placed on their agenda in order to receive public input before submitting to Council for action. Seconded by Councilman Tony McGee, Councilman Klepfer stated he hoped the commission would have this on at least a couple of their agendas because there is certain to be citizen wishing to have input, especially because of some developments that are being held in check by this and would like to express their concern. Councilman Brown stated that it will be on the agenda for at least three meetings before it is voted on, however, he hoped the Planning Commission will be able to move faster. Notice will be placed in the newspaper to hear from the citizens. Motion passed 5-0.

B. Discussion and possible approval of an outline for Village of Wimberley Code of Ordinances, Volume II, Land Uses and Development.

Councilman Walter Brown outlined the concept of a two volume **Code of Ordinances** record; one to include general provisions, i.e., fire arm ordinances and other miscellaneous ordinances, and Volume Two being for the Land Development Code which would contain ordinances involving zoning, comprehensive planning, and subdivision rules, as well as for the Board of Adjustment (if we have one). Other volumes will be added as needed to and would include water and wastewater matters as needed. There were no objections by council members.

C. Discussion of Sign Ordinance proposed compliance procedures and possible authorization for Mayor to appoint a Compliance Administrator.

Councilman Brown stated it had taken some time to realize that some things simply cannot be accomplished by announcements and that there must be some means for enforcement. He referred to the sign ordinance as an example of ordinance enactment that needed additional amendments, including variance standards, in order to cover all the necessary provisions of sign enforcement. The sign committee is working hard and will soon have something for adoption. Meantime, they have simply been talking to people to try and enforce the ordinance. A bright orange notice has been designed for posting on non-conforming signs in order to notify citizens they are possibly violating the sign ordinance and giving them instructions as to how to proceed in correcting the violation. A citizen volunteer has offered to track sign violations and make a report to the city. Hopefully, there will soon be an effective method for enforcement.

Councilman Steve Klepfer stated that there is an e-mail address – signordinance@ev1.net – for reporting sign violations as well as to answer questions of citizens wishing information regarding sign compliance.

Councilman Walter Brown made a motion that the Mayor be authorized to appoint a Compliance Administrator, who will take the steps necessary to assure that all of the proper actions will be taken to achieve the successful enforcement of the Interim

Sign Ordinance #2000-007, to smooth and effect the transition to the implementation of the permanent sign ordinance. Seconded by Councilman Klepfer, the motion passed 5-0.

D. Discussion and possible action to create a Village of Wimberley municipal court system and name a judge and a prosecutor.

Councilman Tony McGee introduced this agenda item in order to discuss and receive input from Council regarding the possibility of a proposed resolution to set up a method to ensure compliance with ordinances and imposing fines, if necessary. The two possible methods are, to 1) establish a "municipal court", or 2) establish a "municipal court of record". The "municipal court of record" being more expensive to establish, but it can impose a fine and collect that fine – which then goes to the city. The "municipal court" (that is: not a "court of record") can hold a hearing and impose a fine. But, if the defendant chooses, he can immediately appeal to a county court for a new trial (and that is all it takes) then the proceeding in the Wimberley Court is wiped out and the new trial occurs on a county level, wherein, any fine – if levied – will go to the county – not to Wimberley. The advantage of having a "court of record" is that, the Wimberley court retains complete control over the case and we collect the fines here in the city. What the "court of record" requires (that a "municipal court" does not) is that both the judge and the prosecutor must be lawyers; so, we will have additional expenses if this form is adopted. The designated city secretary (office administrator) can act as the docket clerk for the court and maintain the detailed docket system until such a time that the case load requires that the city hire a docketing clerk.

Councilman McGee recommended that he be permitted to prepare a resolution to establish a "municipal court of record". He reported on conversations with two people who are qualified, one having gone through the necessary training necessary for the position of municipal judge and to a local lawyer who would be willing to hold the position of prosecutor. Both would approach the jobs in a very professional manner and would employ fair and impartial judgements in handling violations. They would probably charge on an hourly rate (around \$100 per hour). The prosecutor role would be to prepare each case for trial which would entail the city furnishing the necessary facts to enable him to prosecute cases under each ordinance. The city committees would be provided guidelines as to what information the city would have to furnish the prosecutor in order for him to do his job.

Discussion centered around the amount of money involved to establish a municipal court and if it would be possible for a retired local attorney to do this on a volunteer basis. Councilman McGee stated that if the city decided to include so-called "housekeeping" ordinances such as animal control, traffic fines, etc. money would be generated to cover court expenses but those ordinances currently on the books would not generate much revenue for the expenses of the court since they would customarily be worked out without fines as the citizen and the city worked together to try and solve the problem. He felt that the attorneys' fees would possibly "even" themselves out and that the persons fined might also be ordered to pay court costs. Mayor Hewlett asked Councilman McGee if he would look into the possibility of seeking a volunteer to do this job; he said he would do so. There being no opposition to the idea of setting up a "municipal court of record", Councilman McGee will continue to research the matter with a view to making a resolution proposal for Council action.

- E. Discussion and possible acceptance of hand-carved eagle by Doran Teague, on Loan, to be hung in the Wimberley City Hall.

Councilwoman Martha Knies stated that Doran Teague, Master Woodcarver Artist, was present at the last City Council meeting and later offered to furnish a carved wooden eagle for the City Hall, similar (but larger) than the one carved for the Wimberley Chamber of Commerce Office. He requested that the one carved for the city hall be considered as "on loan", rather than an outright gift. The reason being that, if – for some reason – the city at a later date, did not want the eagle carving, he would like to have it back for his family. Councilwoman Knies moved that the city accept the gift of the carved eagle as conditioned by the artist's request. Seconded by Councilman Klepfer, the motion passed 5-0.

- F. Discussion and possible action to create a Parks and Recreation Committee and to appoint members.

Councilwoman Martha Knies stated that after being assigned the task of looking into the possibility of establishing a Historical Preservation District for Wimberley, she had contacted Kate Johnson, who lives in Kyle and is Chair of the Hays County Historical Preservation Committee. Kate has addressed the Wimberley Valley Alliance meeting and explained the various kinds of historic districts. Ms. Johnson has planned to be at the meeting was unable to attend. However, she had prepared some written remarks that Councilwoman Knies read regarding suggestions on how to implement this committee to preserve valuable and non-renewable buildings in this area in order to ensure that future generations of Wimberley might be able to appreciate our unique and important historical buildings. This committee would undertake the important responsibility of formulating goals and objectives to achieve this mission. The committee would study and review the existing Hays County survey of historic structures in the Wimberley area and then conduct their own survey.

If, at that time, the study warrants it, the committee would draft a historic preservation ordinance that would respond to the specific needs of the community. She said that any such designation of a historic district would be an overlay of any existing land use determined by the Planning & Zoning Commission and it would be a cooperative effort. Ms. Johnson recommended that in regard to this cooperative effort, there should be a liaison member from the P&Z Commission who would attend the committee meeting and a member of the committee would attend the P&Z meetings. Betsy Markland has stated that, as a P&Z member, she would volunteer to be liaison to the committee if it is approved. Ms. Johnson stated that the work of this committee should take from six to nine months and would make regular reports to the Council. Councilwoman Knies stated that, ultimately, the goal would be for the committee to bring a proposed ordinance to the Council regarding creation of a Historic Commission whose appointed members would have more authority in terms of enforcing what the Historic Committee recommended. Councilwoman Knies made the motion that Council establish a Historic Preservation District Committee (five to seven members) to survey the historical assets of the Village, explore options for their preservation and to make recommendations to the Council. Seconded by Councilman Tony McGee, the motion passed 5-0.

Councilwoman Knies recommended approval of the following persons who have agreed to serve on this committee; they are: Bruce Calkins, Owner of Cypress Creek Restaurant, Della Broderick, member of the Hays County Preservation Committee, Treece McWaters, owner of Teeks Gallery; Kathy Guillott, Everlastings on the Square, and Dorothy Kerbow. Gary Weeks has offered to serve for a few weeks.

G. Discussion and possible action to create a Parks and Recreation Committee and to Appoint members.

Councilwoman Knies reported that persons addressing the Council and the Wimberley Valley Alliance meeting had called attention to the need for the community to promote and assist in developing more recreational opportunities for our young people. Councilwoman Knies made a motion that the Council appoint a Parks and Recreation Committee to research recreational needs and develop a vision for leisure activities in Wimberley, as well as parkland. Seconded by Councilman Tony McGee. Bill Johnson informed the Council he had requested information from Don Nyland, Texas Department of Transportation, regarding TWA-21 Federal Grants for Hike and Bike Trail information that will be useful to the community. Motion passed 5-0.

Councilwoman Knies informed Council that the following persons had agreed to serve on a Parks and Recreation Committee: Kathleen Kline, Karen or Thad Nance, Chris Cusak, and Fred Franz; preferably there would be five to seven members on this committee.

H. Public hearing and discussion and possible action on Aqua Source Rate Increase.

Councilman Steve Klepfer began the hearing by stating that the Village of Wimberley is a regulatory authority under the Texas Water Code and has original jurisdiction over water and waste/water rates for any provider within the corporate limits of the city. Basically, the procedure is that a utility prepares a rate change; the municipality studies that rate change, and has the obligation to either accept those rates or deny them and set new rates, or deny the rates in whole. And, at that point, the utility has the option of going back to TNRCC and justifying the new rates.

During the time between Village incorporation and the election of its officials, AquaSource filed a rate increase, which included their service area within the Village's jurisdiction. The Water/Wastewater Advisory Committee was quickly brought up to speed on what is necessary for the Village to act; part of the process being a public hearing wherein Aqua Source presents its rate proposal to the city in a public hearing; that is the purpose of this meeting.

Craig Sherwood, Central Texas Area Manager for AquaSource, and Georgia Crump, attorney, were present representing AquaSource. Ms. Crump informed the Council that AquaSource Company is located in Houston and for the past three years has been acquiring utilities all over the State of Texas that were falling into disrepair, one of those being the Woodcreek Utilities; that AquaSource serves Wimberley with sewer service only and that the WISD Administration Building, Bowen Intermediate School and Brookshire

Bros. currently are the only customers and they are receiving these services without charge pending approval of a permit application to TNRCC to expand services beyond its originally approved service area.

Earlier in the year, AquaSource filed a statewide rate increase with the Texas Natural Resource Conservation Commission which has been denied by all but one of the Texas cities being served by them. Crump pointed out that as a for-profit company, AquaSource was entitled to a reasonable return on its investments. Councilmembers Brown and Manis stated they considered it unfair for Wimberley to pay for the maintenance of all the state's failing systems acquired by the company. Councilwoman Knies opined that she felt TNRCC was negligent during the time these utilities were failing into a state of decay and now they expect the cities to pay for their negligence. In response to a question by Councilman Brown, Ms. Crump informed the Council that the company's rate of profitability is around 12% and is included in the rate increase. Councilman Klepfer stated that, in his opinion, AquaSource was not highly regarded by the public in Wimberley because of the myriad of problems within the system after they purchased it and that these increases in revenue were not small change, in that, the increase would go from 16.3 million to 23.3 – 43% water and 38% sewer annual revenues.

In response to Glenn Fryer's question, it was ascertained that AquaSource would charge a flat rate of \$34.97 for residential use and that the water use would be unlimited. Elizabeth Sumter stated that the flat rate was problematic because the Wimberley area relies primarily on groundwater and a flat rate does nothing to provide an incentive to conserve water.

Councilman Steve Klepfer moved that the public hearing be closed. Seconded by Matt Manis, the motion passed 5-0. Councilman Klepfer introduced the ordinance denying the rate request and requested a refund, with interest, of the increased cost to customers since July when the new rates went into effect, and he moved that it be adopted by Council. Seconded by Councilman Water Brown. By individual polled vote, all five Council members voted "yes". The motion passed (ordinance attached).

9. Items From Council

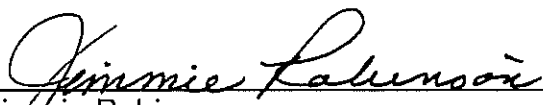
Councilman Matt Manis distributed budget information.

10. Announcements

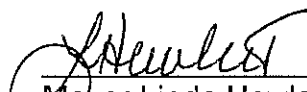
Mayor Hewlett thanked Wayne and Mary Pokenheffer for donating the PA System and expressed thanks to those persons who had donated various items towards the furnishing of the city hall.

The Mayor announced there would be a Called Meeting for Monday, November 13th, 7 p.m., to Canvass the Sales Tax Initiative Vote

There being no further business, and no objections, Mayor Hewlett adjourned the meeting at 9:15 p.m.



Jimmie Robinson
Acting Secretary



Mayor Linda Hewlett

Called meeting to Canvass Votes to be held on Monday, November 13, 2000 7 p.m.
Next regular council meeting to be held Thursday, November 30th.