

**The Village of Wimberley
Regular City Council Meeting
14500 RR 12 – Suite 22
Thursday, December 21, 2000**

A REGULAR MEETING of the Village of Wimberley City Council was held on Thursday, December 21, 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.** Mayor Hewlett called the meeting to order at 7 p.m.
2. **Invocation** was delivered by Reverend Ken Singleton, Wimberley Church of Christ.
3. **Pledge of Allegiance** was led by Mayor Hewlett.
4. **Roll Call.** Present were:
 - Mayor Linda Hewlett
 - Councilman Walter Brown
 - Councilman Steve Klepfer
 - Councilwoman Martha Knies
 - Councilman Tony McGee
 - Councilman Matt Manis
5. **Consent Items.** The minutes of the November 30th Council meeting were approved as submitted.
6. **Presentations of Citizens.** None.
7. **Reports from Committees**
 - A. Building Code Committee.

Sam White, Chair of the Building Code Committee, reported that the Building Committee has been working since October 1st on the building code ordinance for the city. It is now ready for review by the city attorney. After which, there will be the addition of a fee schedule, and it will subsequently be presented to Council for approval and adoption. This should take place just after the first of next year. In the formulation of the building code, the committee took into consideration the fact that there have been some major changes throughout the country related to building codes during the past year. Heretofore, there have been three major codes in the United States, in addition to some local codes such as New York, South Florida, who had their own unique situations. About four years ago, the major codes were integrated to produce ONE major code to be used in the United States. This formulated code (International Building Code) will be the one the committee plans to recommend for Wimberley. It also has several little companion codes that deal with specific things such as plumbing and electrical. Previous codes will no longer be recognized or supported by code organizations in the United States.

Councilman Klepfer reminded the Council that in implementing city ordinances that authorized such things as the building code, it was very important that the services of the city be self-supporting by fee schedules since Wimberley city government operations must be supported as long as possible with sales tax revenues. He stressed that permitting fees, must be adequate to cover the costs of city personnel time and forms, etc. Sam White said that the committee was in the process of seeking data to ascertain exactly what

level of service might be anticipated by the city. However, the committee believes the program would be monitored well enough that it should be self-supporting; and that Wimberley might adopt the method used by Buda, i.e., utilizing building inspectors on a contract basis.

8. Old Business

A. Discussion and Possible Action to establish a Municipal Court of Record for the Village of Wimberley.

Councilman Tony McGee reminded the Council that while they had the authority to pass ordinances, there was currently no method for enforcement. This agenda item provides the mechanism whereby the Village can enforce ordinances. A Municipal Court of Record, staffed with a prosecutor and a judge, can act on violations that are brought to their attention and impose fines or other remedial devices. He presented the proposed ordinance establishing the court and outlining the terms and procedures under which the court will operate. The ordinance not only authorizes the establishment of the court, it provides for the appointment of a municipal judge to preside. Also, under the statute, a prosecutor (who must not be the same person as the judge) will be hired. By establishing this Court of Record, any fines levied within its jurisdiction, will remain the property of the city, even if the case is appealed. Hopefully, whatever fines are levied will keep the court costs neutral. However, this cannot be guaranteed. Councilman McGee moved that the Council pass the ordinance setting up the Municipal Court. Except for the payment to the judge and the prosecutor, the ordinance does not call for any expenditure of moneys by the Village. Seconded by Councilman Walter Brown, the motion passed 5-0.

In response to the Mayor's inquiry, Councilman McGee stated that the city would be able to use Judge Andy Cable's courtroom in the evenings, which is the normal time for municipal court to be held, and that the city hall offices might also be utilized for court purposes since most of these activities take place in the evening for the convenience for all concerned.

B. Discussion and Possible Action for the Mayor to hire Don Campbell as Village of Wimberley Municipal Court Judge; and David Sander as Municipal Court Prosecutor.

Councilman McGee said he had previously given Council a copy of resumes of both of these persons who have practiced law in Wimberley for a number of years. Don Campbell has been an attorney since 1948 and is certified by the Texas Municipal Court Association as a Municipal Court Judge, having taken courses prescribing the duties and responsibilities of this office. He is qualified to practice in all state courts and several of the federal courts as well as being admitted to practice before the Supreme Court. He has practiced law in Wimberley since 1993. Councilman McGee moved that Don Campbell be appointed Municipal Judge of Wimberley Court Number One for a term of two years under the provisions outlined in the enabling municipal court ordinance and that he will be paid \$100 for each hour of his service as judge of the court.

Additionally, Councilman McGee said that Don Campbell was the Municipal Court Judge for the City of Woodcreek and they are well satisfied with his services. In response to a question by Councilman Klepfer, Councilman McGee noted that there should never be an opportunity for conflict of judicial duties by Mr. Campbell since his rulings would apply to ordinance violations only. Seconded by Councilman Matt Manis, the motion passed 5-0.

Councilman McGee made the motion that David Sander be appointed as prosecutor for the Village of Wimberley Municipal Court of Record Number One and that he shall be paid \$100 for each hour of his services as prosecutor for the court. David has an office in Wimberley and is with the firm of Scanlan, Buckle and Young in Austin. He is qualified before courts in both Texas and Louisiana and his practice involves civil/commercial litigation and municipal law. He is a graduate of LSU Law School and also

received a degree in economics from the University of Texas. Councilman McGee stated that the Village of Wimberley maintains complete control of the prosecutor in that the prosecutor will only handle cases involving complaints filed with the clerk of the court. He then will determine whether or not there is enough evidence to try them. He does not, of his own, enforce city ordinances. That aspect remains solely within the right of the Council and commissions. He pointed out that a citizen also has the right to come in and file a complaint. It was noted that, initially until the volume increases, Adele would be able to serve as the Court Clerk. The prosecutor serves at the pleasure of the Council and in the event he would ever decline to vigorously prosecute a case, the city could bring in someone else to do so. The motion passed 5-0.

Mayor Hewlett requested that Councilman McGee inform these two individuals of the Council decisions and that they be invited to come before the Council and meet with the members.

C. Discussion and Possible Action to approve Pedernales Electric's Franchise Agreement.

Councilman Matt Manis introduced the ordinance prepared by the city attorney providing for a franchise agreement between the Village of Wimberley and the Pedernales Electric Company at the rate of 2% of the gross sales from electric service within the boundaries of Wimberley and moved that it be adopted. Councilman Manis stated that the company would like to come to the council meeting each quarter to present the Village with a check. The 2% franchise fee is the maximum rate allowed and is the same set for Dripping Springs and Kyle and is the maximum fee allowed by the Public Utilities Commission. Seconded by Councilman McGee, the motion passed 5-0.

9. New Business

A. Discussion and Possible Action regarding the City Seal.

Mayor Linda Hewlett stated there had been several occasions that she has been asked to affix a Village seal and she presented four designs for a city seal and asked for a council decision in that regard. The official seal design chosen by majority vote (designed by Glenn Fryer) incorporated the waterwheel motive which will be used as the logo on Village checks.

B. Discussion and Possible Action to extend the Sign Moratorium for 30 days.

Councilman Walter Brown reported that the final action by the sign committee on a permanent sign ordinance would take place next week, on the 28th. After which, it will go to the Planning Commission for their recommendation. However, since the original temporary moratorium had been passed on September 7th, is expiring. The ordinance originally enacted contains within itself an option to extend the moratorium for 30 days, and he moved that this option be exercised. He stated the ordinance also contains an amendment attachment which covers changes in the use of commercial properties (especially, in putting up new signs when the use of the business changes) and the process for permitting based on a set of criteria as adjudged by the City Council. He moved that Council re-enact Ordinance 2000-008 adopted September 20, 2000 (as amended) to be effective for an additional 30 days from its current expiration date of December 20, 2000. Seconded by Councilman Matt Manis. Councilwoman Knies asked for a clarification of "change of use" – Councilman Brown said that it means that if a building was used as a restaurant and was closed down for awhile and re-opens as a restaurant – it is not a "change of use". Councilman Klepfer stated that he felt that the permitting process should follow the owner, instead of the business, to effectively monitor sign compliance. Currently, the ordinance allows change of use or same use of sign with the new owner not having to get a permit. Councilman Brown said he new ordinance will state that in the event a business changes ownership, a permit must be acquired and will assure sign compliance. He also told the members that the Council will have the opportunity to review the new ordinance when it is presented for enactment.

Councilman Brown stated that the permanent ordinance - now being drafted - has a clause in it stating that any sign put up after September 20th, and is not compliant will be required to be moved – or brought into compliance. The motion to extend the moratorium for 30 days was passed 5-0.

C. Discussion and Possible Action concerning Village Expenditures for legal services.

Councilman Tony McGee reported to the Council that legal fees for the work of the Village (through December 18) has amounted to approximately \$36,800, which means that there is only \$11,200 left in the current budget allocated for legal fees. An estimated cost of the ordinances now in progress is \$34,000, putting us over the budget by approximately \$22,000. In addition, the city must anticipate significant legal costs related to the AquaSource litigation. It is evident that the budget allocation for legal services will be exceeded. Some remedial options are: 1) to borrow additional funds, or, 2) to extend the repayment period of the present bank loan, if possible. Councilman Matt Manis stated that, to date, only \$28,000 has been borrowed and there is \$22,000 left to draw down from the note. Originally, Council had thought there would be some franchise fees coming in December, but that was not the case. Nothing definite was discussed with the bank officer; however, there was some indication the Village might be able to extend the note, paying only the interest. 3) The Council could delay making a decision until funds were exhausted and then examine options, depending on whatever franchise moneys might come in, and adjusting the budget categories. In that case, we could make some partial payments on the legal bills without allowing them to escalate significantly. Or 4) cut back on legal expenditures. However, Councilman McGee stated he did not think that would be productive in view of the commitments Council made as to what they wanted to accomplish for the city. He thinks it would be more expedient for Council to work at solving the money problem rather than backing away from planned activities.

Councilman McGee offered his legal assistance to assist some of the groups working on ordinances. In this way, an ordinance rough draft might be formulated and then sent to the city attorney for his review; noting that one of the committees has a lawyer in their group and could possibly help the city with that committee's work. This would provide an internal remedy that might cut down on these legal costs and the city attorney agreed that it would. Councilman Matt Manis said the city was obliged -- to date -- for approximately \$70,000 in legal fees. Councilman Klepfer requested that a plan for adjusting budget items be brought to the full Council for debate, which would not only allow them to make recommendations but would keep them fully informed on a regular basis. Councilman Manis said he would bring adjusted budget recommendations from the Budget Committee for Council consideration.

10. Items from Council

Councilman McGee remarked that he had spent a large part of the day in the city hall and he commended Office Manager Adelle Turpen for her helpfulness, diligence and attention to duty. He said that she had stayed after her assigned hours to assist citizens with city business. All of the council members agreed that she was doing an outstanding job. Mayor Hewlett stated that, as far as she knew, Adelle had never left promptly at 2 p.m., always being very professional and helpful; and she would be pleased to pass on the compliments of the Council.

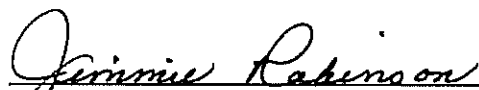
Councilman Brown informed the council that the Planning Commission would bring the recommended Sign Ordinance to the Council for approval on January 18th. There will be a joint presentation by both the Planning Commission and the Sign Committee.

Councilman Manis informed everyone that according to the government code, contributions to the Village's government operations are fully tax deductible and all donors will be given an appropriate receipt of the value of their donation.

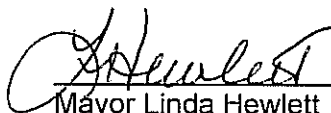
Mayor Hewlett announced that a credenza had been donated to the city and that in a collaborative effort with Southwest Texas, Dr. Pam Showalter's students are producing maps of the Village and its ETJ (under a shared cost agreement) and these maps will in turn be sold to the public

The Mayor stated that on January 25th, there would be a "called" meeting specifically inviting all volunteers on the various Village committees to be present. This meeting will be dedicated to presentations from each chairperson updating the Council and the public about the work the various committees and/or boards are doing for the good of the community. She noted that there were 79 persons volunteering on committees or boards.

There being no objection, the meeting was adjourned at 8:35 p.m.



Jimmie Robinson
Acting City Secretary



Mayor Linda Hewlett

January Council Meeting Schedule:

January 4, 2000 - Regular Meeting
January 18, 2000 - Regular Meeting
January 25, 2000 - Called Meeting for Committee Presentations