

Village of Wimberley

City Hall, 14500 RR 12, Suite 22
Wimberley, TX 78676

City Council Meeting Minutes Wednesday, July 3, 2002

A. Call Meeting to Order

- Mayor Tony McGee called the meeting to order at 7 pm.
- Rev. Ted Knies, St. Stephens Episcopal Church, gave invocation.
- Mayor McGee conducted the Pledge of Allegiance
- Roll Call: Present were Mayor Tony McGee; Council Members, Steve Klepfer, Martha Knies, Matt Manis, John Graddy, and Carolyn Nichols.

B. Presentations of Citizens

- **Citizen Comments** - None

C. Consent Items

- Minutes of City Council Meeting of June 20, 2002 were amended and accepted as amended.

D. Reports from Board and Committees

- None presented

E. Consider & Possible Action Items

Zoning - The following Applications for Zoning were presented by Mr. Curt Busk, Chairman of the Planning and Zoning Commission:

- 1. C211-02-085; River Road Terrace Subdivision, on River Road approximately one mile west of RR12, Planning Area A; Zoning requested is R-2 and R-3 for residences, PR-1 for subdivision park. Recommended approval by P&Z by a vote of 6-0:**

P&Z Chairman Busk noted that one lot in the subdivision is too small to satisfy the lot size requirement for this Planning Area, but that P&Z policy is to zone according to lot size. This lot will be zoned R-3, and all other residential lots will be zoned R-2. The subdivision-owned parkland will be zoned PR-1. No comments received in Public Hearing.

- 2. C211-02-086; Paul Dunn, 13600 RR 12, Northeast corner of RR12 and Oldham; Zoning Requested is C-3 in Planning Area E; Village Center Overlay District applies; Recommended approval by P&Z by vote 6- 0:**

P&Z Chairman Busk said this application covers two properties, which are being zoned as a

single unit. No comment received in Public Hearing.

3. C211-02-088; Hilltop Place Subdivision, Sec. 1 & 2, on east side of RR12 approximately three-fourths of a mile north of intersection of RR12 and RR32; RA, R-1 and R-2 zoning in Planning Area A; recommended for approval by P&Z by vote of 6-0:

Chairman Busk said Lot 36, Mountain View Lodge, was excluded from this blanket zoning because it is commercial property at present and blanket zoning currently applies only to residential properties. He noted some lots on RR12 apparently have deed restrictions, which allow commercial development, but that P&Z Commissioners voted to zone all lots except Lot 36 as residential, according to lot size. In Public Hearing, Brenda Kilber, owner of lots 1, 2, and 3, showed Council a map of the relevant section of RR12 noting there are more than 25 businesses within 1.7 miles of her properties. She protested the zoning of these lots as residential and said she would like C-2 or C-3 zoning. She said she was told the Interim Comprehensive Plan restricts her area to residential zoning, but said this makes no sense. She said that if Council would delay a decision she would seek her own zoning, although she is trying to sell the properties and wants to leave zoning open to the buyer. Council asked Ms. Kilber if she wanted her lots excluded from the present zoning decision; she said she would like Council's advice. Mayor McGee said it is not proper for Council to advise on what course of action she should take, but her options are to be excluded from the zoning or be included. After further discussion with Council members and City Administrator Steve Harrison about zoning options including a PUD, Ms. Kilber said she would like to be included in the zoning, and thanked Council for its work.

4. C211-02-089, Ray Lewandowski, 785 Sunset, RA zoning in Planning Area A requested, property in Protected Waterway Overlay District:

Chairman Busk said this is an 11-acre property currently divided into two lots but the owner wants it zoned as a single lot. He said the owner might come back in the future for subdivision because he believes there is more than one building site on the lot. It is within the Protected Waterway Overlay District. No comment received in Public Hearing. Council Member Klepfer moved to approve the above four zoning applications, Council Member Knies seconded, motion approved 5-0.

Board of Adjustment:

At 7:30 Council convened as Board of Adjustment to consider a request for Variance from Steep Slope regulation by Ray Lewandowski, 785 Sunset. Administrator Harrison briefed Board on procedures and requirements for granting a variance. Gary Brim, designer and builder of the residence planned for this lot, represented Mr. Lewandowski. He described the property and site plans for the house. In response to a question from Mayor McGee, Mr. Brim said he did not know of any other site on both tracts that a home could be built on unless a driveway all the way from the top of the site to the bottom is built, and this would be visible from off the site. Even if such a drive were built, it still would not meet steep slope requirements. Mr. Brim said he calculates the slope at 21%.

Chairman Busk showed Council photographs of the property, including views from below the hill and from several points on the property. He urged Council not to grant the variance because it would set a precedent. Unless Council finds site-specific reasons to grant the Variance, the Steep Slope ordinance will be invalidated. He said variances are granted for reasons of hardship, and the hardship must be due to the nature of the land. He said there is another relatively flat part of the property, which could be considered a building site near the top of the hill.

Mr. Brim answered Council questions about the site, and said the owner does not have plans to either subdivide the lot or to build a separate bed-and-breakfast structure at present. In response to a question by Mayor McGee, Planning Commissioner Glenn Fryer said the best way to understand the intent of the regulations on ridge lines and steep slopes is to compare the appearance of homes in Spoke Hill with those in Paradise Hills. Houses on Spoke Hill are not lined up in such a way that the ridge is completely populated, while on the north side of Wimberley that is true. Platted lots are platted with an implicit guarantee that they are buildable. When lots were platted years ago, concerns about ridgelines, steep slopes and aesthetics were not considered. The Commission follows the implicit guarantee given by the authority when these lots were platted. A variance should be granted for a lot on which it is clear there is no building site that complies with the Steep Slope Ordinance. The sole question here is whether there is another suitable building site on this property. He said the reason for the present discussion is that a site plan review has not been conducted. If Commission had been able to do a site plan review as provided by the Zoning Ordinance, many of the issues could have been resolved before it came to the Board of Adjustment.

Council member Klepfer said he does not have enough information to decide if there are other suitable building sites, and there has not been a discussion of whether this problem could be handled as a PUD. He moved to continue the matter, and direct the Administrator to get more information to the Board of Adjustment about alternative sites on the property. Council Member Manis seconded. Council Member Knies said she would like to have Council and Commission visit the site to help with a decision. Motion approved 5-0.

Council reconvened as Council.

Consider & Possible Action Items (Continued)

First Reading of Ordinance Outlining Policy for Enacting Ordinances:

Mayor McGee reviewed a memorandum from City Attorney providing guidance for City on requiring two readings of an ordinance. Mayor McGee suggested inserting in Section 2A the language provided by the Attorney, that imposes a penalty, fine or forfeiture; corrected a typographical error in Sec.2.B3, and added the word or City after the words federal or state in Sec. 2.B3.

Council Member Klepfer moved to adopt the Ordinance on legislative procedures, Draft A dated 6/12/02, with the addition of the Section 2A alternative language as proposed in the memo from Counsel, and the changes suggested by Mayor McGee in Section 2B3, and changing Section C to

read that the ordinance be available 72 hours prior to any reading. Council Member Knies seconded, motion approved 5-0.

Mayor Pro Tem Election:

Mayor McGee noted the Local Government Code requires each new City Council to elect a Mayor Pro Tem at its first meeting or as soon thereafter as possible. The term is one year. Council Member Klepfer has served in that position. Council Member Knies nominated Council Member Klepfer, and Council Member Manis asked to be considered a candidate. By vote of Council, Council Member Klepfer received two votes; Council Member Manis received three votes. Mayor McGee named Council Member Manis Mayor Pro Tem.

Proposal for Round Table Discussions with Public:

Council Member Graddy said he thinks Council should hold a regular public round table discussion to communicate directly with citizens and get their views. An agenda would be posted and Council could have a dialog with the public. He proposed to begin with one meeting a month, and the schedule could be adjusted as needed. He suggested an independent moderator.

Council discussed how such a meeting would be conducted, including what questions Council could respond to directly. Council Member Knies said she did not favor another monthly meeting, and that public has perhaps not taken advantage of the public comment time at regular Council meetings. Council Member Nichols agreed, but said there are major issues coming up that community will want to discuss. She noted the constraints on Council members commenting on citizen comments in public hearings at Council meetings. Mayor McGee suggested holding such a meeting on a quarterly basis, and in another place, a neutral site and held in a more informal manner than Council meetings. Council Member Nichols said the Council information subcommittee has been discussing similar concerns, and suggested the subcommittee include this item in recommendations it will make to Council shortly. Council agreed with this proposal by consensus.

Proposal for Filling Vacancies on Commissions, Committees, and Boards:

Council Member Graddy said when Council fills positions on subordinate bodies, it should make sure the people appointed reflect the wishes of the electorate as a whole. The only way to do this is to make the positions reflect the wishes of the Council, because Council is the only elected body. To do that, he proposes that each Council member including the Mayor get one appointment. Each body would have a minimum of six members, and each at large appointment would require a super majority vote by Council. People must apply for positions on City agencies.

Planning & Zoning Commission Chairman Busk noted that the Commission and the Board of Adjustment are statutory bodies, and he hoped these two would be exempted if an ordinance on this proposal is considered. He also raised the issue of continuity of work of City bodies if members are forced off immediately after an election.

Dr. Sally Caldwell said the separation of terms of members of these bodies from those of elected officials was done specifically to keep politics out of the considerations of these bodies.

Council Member Nichols said she looks upon boards and commissions as the City's little bureaucrats that do not get replaced every time an elected official is replaced. She thinks it would tie the volunteers too closely to the political arena and would be contentious. Mayor McGee noted the ordinances establishing these bodies have terms of appointment written into them, and is concerned by the political infighting that would result with such a change.

Council Member Graddy said he has put together a database of every member of the City's agencies, and who appointed them, and said it is not clear who appointed some of the people. Council discussed using application forms to get information about volunteers willing to serve on City bodies. Dr. Caldwell suggested asking Texas Municipal League for information and guidance on this issue. Council Member Knies said she had asked TML about this, and got only very general answer; she has asked for information from some other cities through their websites and asked for more time to work on the proposal. Council Member Nichols said the application part of the proposal is excellent and asked Council consensus to work on the language. Council agreed by consensus.

Zoning Fee Policy for Village-initiated Zoning:

Council Member Nichols said an issue of concern for City staff is handling an application for zoning by a property owner in a subdivision being considered for Village-initiated zoning. Under these circumstances, City policy is not to require the owner to pay fees, even if they press for individual consideration or do not provide the information City requests. She believes staff has been put into difficult situations by having to refuse to ask for fees when extra demands are put on them to process the applications. She wants a statement to make it clear that if an applicant comes in during Village-initiated zoning and presses for individual zoning, City staff can request appropriate zoning fees to handle the application separately. She said she has talked with two property owners in South River who paid for individual zoning before the City zoned the subdivision, and they did not feel their fees should be refunded. Council Member Nichols moved to recommend to City Administrator the following procedure: *If an applicant applies for zoning during the Village Initiated Zoning process for his subdivision, then the applicant can be zoned during the Village Initiated Zoning process at no charge to the applicant. If the applicant wants his zoning application to run ahead of the subdivision zoning, then the applicant can pay the appropriate fees. In addition, no zoning fees paid prior to Village Initiated Zoning will be reimbursed.* Council Member Knies seconded. Council discussed whether to refund fees for someone who requested zoning but does not proceed with the building project, and how to identify such cases. Motion approved 5-0.

Appoint Council Committee to consider policy for request waivers of fees by governmental and 501C(3) organizations:

Mayor McGee suggested appointing a committee of Council to recommend a statement for Council on how to handle these requests. Council members Klepfer and Knies volunteered for this subcommittee.

Adoption of Information Request Policy and Procedure:

Administrator Harrison briefed Council on a memorandum from City attorney, with a draft resolution. Council discussed how City staff and volunteers should handle requests for information

under the Freedom of Information Act (FOIA). Mr. Harrison said volunteers should be briefed on procedures for receiving and handling requests for information. Council Member Nichols moved to adopt the draft Resolution dated 4/1/02 as prepared by City attorney with the addition of an item number three on page two of two stating that all information requests be submitted to the City Attorney immediately upon receipt; Council Member Klepfer seconded, motion approved 5-0.

Authorize Mayor to submit Village's Membership Application to Capitol Area Planning Council:

Mayor McGee noted that City has not yet submitted its application for membership in CAPCO. The fee for the City will be \$50. Council Member Klepfer moved to authorize the Mayor to submit the application to CAPCO, Council Member Nichols seconded, motion approved 5-0.

Council Member moved to appoint Mayor McGee as the Village representative to CAPCO, Council Member Graddy seconded, and motion approved 5-0.

Establish time limits for submission of items for Council agendas and notebook items:

Mayor McGee said City staff has often been under time pressure to prepare Council member's notebooks. Staff suggested that the deadline be 9:00 a.m. on Monday for them to receive all materials for the notebooks including Agenda items. Council discussed the issue, noting the difficulties staff has had at times in preparing all the documents for notebooks. Council Member Nichols moved that Council adopt strong guidelines for submitting Agenda wording by noon on Friday for Council meetings, and by 9:00 a.m. Monday for supporting documentation. Council Member Klepfer seconded, motion approved 5-0.

Authorize City Administrator to Take Specific Actions on Personnel Matters:

Council went into Executive Session at 10:05 p.m. to consider items under Texas Government Code Section 551.074, Personnel Matters.

Council resumed at 10:40 p.m.

Council Member Klepfer moved to increase the monthly rate for City Secretary Adelle Turpin to \$1,800 per month; Council Member Manis seconded. Motion passed 5-0.

Council Member Knies moved that City seek to hire a receptionist at the rate of \$8 per hour for a four-hour day. There was no second to the motion, motion died.

F. City Administrator Report - Mr. Harrison had no new information to report.

G. Announcements:

Council Member Nichols announced that the entire Planning & Zoning Commission was awarded the Commissioner of the Year award for the Central Texas region by the American Planning Association. There will be an awards dinner on July 19. The Commission will then compete on the state and national levels. City staff is working on a press release.

H. Adjourn - Council adjourned at 10:44 p.m.

VILLAGE OF WIMBERLEY

By Tony McGee
Tony McGee, Mayor

Dell Hood
Dell Hood, Recording Secretary