

Wimberley City Council Minutes, December 19, 2002

Village of Wimberley
Minutes of City Council Meeting
City Hall, 13210 Ranch Road 12, Wimberley, Texas 78676
Thursday, December 19, 2002, 6:30 p.m.

Call Meeting to Order - Mayor Tony McGee called Council to order at 6:30 p.m.

Invocation - Council member Martha Knies offered the Invocation.

Pledge of Allegiance to United States Flag - Mayor McGee led the Pledge of Allegiance to the United States flag.

Pledge of Allegiance to Texas Flag - Mayor Pro Tem Matt Manis led the Pledge of Allegiance to the Texas flag.

Roll Call - Present were Mayor Tony McGee and Council Members John Graddy, Steve Klepfer, Martha Knies, Matt Manis, and Carolyn Nichols.

Presentations of Citizens

Pam Sullivan, Director of Tourism for the Chamber of Commerce, presented Council a copy of an assessment of tourism in Hays County done by the Texas Economic Development Department and Pedernales Electric Cooperative. The study focuses on tourism potential, problems, and opportunities. Mayor and Council thanked Ms. Sullivan for the report and the Chamber for the Trail of Lights along Cypress Creek.

A. Consent Items

Minutes of City Council meeting of December 5, 2002, were approved as submitted.

B. Reports from Boards/Committees/Staff

Mr. Josh Stewart reviewed for Council the City financial report for November 2002. City Administrator Steve Harrison reported City has transferred \$191,000 to the TX POOL investment pool, and will transfer more funds Friday (December 20). Council members said they were pleased with the new format of the financial report and asked Mr. Stewart to convey their thanks to Mr. Jack Clark and their wishes for his speedy recovery from illness.

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C. Consider and Act

1. Applications for Zoning per Zoning Ordinance No. 2001-010

- a. C211-02-127, W. C. Carson, 111 River Road Landing and Lange Road, Planning Area C/E, requested zoning C-1 and L-2; approval recommended by P&Z 7-0:

Planning & Zoning Commission Chairman Curt Busk presented the case. The part to be zoned C-1 is in Planning Area C, that to be zoned L-2 is in Planning Area E. Mr. Busk said that in the P&Z public hearing one person expressed concern about the L-2 zoning because of the problem of trespassers entering private properties along the creek.

In public hearing, Christine Moore, owner of property across the creek, saying she represented the views of other owners along the creek, expressed concern about the possibility for an RV park under L-2 zoning. She objected to the inclusion of RV parks as a permitted usage for the L-2 district.

Council members discussed with City attorney Patty Akers ways to change permitted uses in the L-2 zoning district. Amy Frederick, agent for Mr. Carson, said the owners are opposed to RV use of the property, noting it is worth much more than could be gained from RV use. She said this project has been delayed a month already and they do not want further delays. Council member Klepfer moved to adopt the requested zoning. Council member Manis seconded. Motion approved 5-0.

- b. C211-02-130, City-initiated zoning, Trainer Vista Subdivision, Planning Area B, proposed zoning R-2; P&Z recommends approval of R-2 zoning 7-0:

Mr. Busk presented the case. No comment received in public hearing. Council member Knies moved to adopt zoning as requested; Council member Graddy seconded. Motion approved 5-0.

- c. C211-02-131, City-initiated zoning, Arrow Lake Subdivision and adjacent properties, in Planning Area A; proposed zoning RA, R-1 and R-2; P&Z recommended zoning as requested by 6-0, with one Commissioner recused:

Mr. Busk presented the case. No comment received in public hearing. Council member Graddy moved to adopt zoning as requested. Council member Manis seconded. Motion approved 5-0.

- d. C211-02-132, City-initiated zoning, Rocky Springs Subdivision Sec. 1 & 2, and Pebblebrook Subdivision, Planning Area A; proposed zoning R-1 & R-2. P&Z recommended R-1 & R-2 zoning by 7-0:

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Mr. Busk presented the case. No comment received in public hearing. Council member Knies moved to adopt zoning as requested; Council member Graddy seconded. Motion approved 5-0.

e. C211-02-133, City-initiated zoning, Roselle Subdivision, Planning Areas A, B, & D, proposed zoning R-2 & R-3; P&Z recommended R-2 & R-3 zoning by 7-0:

Mr. Busk presented the case. He said Commissioners heard from about one fourth of the residents during the process, all of whom favored residential zoning. One person not a resident opposed blanket residential zoning, saying City should let market forces drive the zoning. No comment received in public hearing. Council member Nichols asked about the Non-Conforming Use designation of two properties, noting the City initiated the zoning and the owners did not request it. Mr. Harrison and Mr. Busk agreed those words can be taken off documents that are filed. Council member Klepfer asked why one property owned by Hays County is not included in the zoning, noting county could put a materials yard in a residential area. Council member Graddy moved to approve the requested zoning; Council member Knies seconded. Motion approved 5-0.

f. C211-02-134, City-initiated zoning, Cross Addition and adjoining properties, Planning Area A; proposed zoning RA, R-1 & R-2; P&Z recommended zoning as proposed 7-0:

Mr. Busk presented the case. No comment received in public hearing. Council member Klepfer moved to adopt the zoning as proposed; Council member Manis seconded. Motion approved 5-0.

Mayor McGee commended Planning & Zoning Commissioners, City staff, and Council member Nichols for their work on City-initiated zoning, noting that City has reached a point where a great deal of residential land in the City has been zoned under City initiative.

2. Public Hearing on Zoning Ordinance Amendments, First Reading:

- \$ Sec. 9.2 - Modify P&Z Membership Clause to allow up to 2 members from the ETJ
- \$ Sec. 10.2 - Change Wording of Board of Adjustments
- \$ Sec. 11.5 - Amend Requirements of "Failure to Appear"
- \$ Sec. 13.1 - Modify to Adjust for New Comprehensive Plan and Zoning Ordinance Structures
- \$ Sec. 13.8 - Modify to Adjust for New Comprehensive Plan and Zoning Ordinance Structures
- \$ Sec. 13.9 - Modify to Adjust for New Comprehensive Plan and Zoning Ordinance Structures
- \$ Sec. 14.2.D - Insert Permitted Uses in RA Zoning District and Add to R-1 District

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- \$ Add Maximum Lot Sizes for each Single Family Residential District
- \$ Add to Special Requirements of RA, R2, and MH
- \$ Delete from Sec. 16.2, 20.2 and 22.2 and add Sec. 47.16
- \$ Sec. 21.1 - Change Number of Units per Acre from 4-12 to 7-12
- \$ Sec. 25.5 - Correct Omission
- \$ Sec. 27.3 - Move/Change list of Conditional Uses Districts C-2, C-3
- \$ Sec. 33 -RV Parks moved to "conditional use"
- \$ Sec. 34 - RV Parks moved to "conditional use"
- \$ Sec. 39.2 - Change list of Permitted Uses in PF Zoning
- \$ Sec. 41 - Extensive amendments to entire section concerning the Wimberley Planned Development District (WPDD)
- \$ Sec. 46 - Extensive amendments to entire section concerning the Development Plan Review
- \$ Sec. 47.8.C - Simplify Table Regulation lot size as a function of average slope, and make minor language changes, but retain existing numbers which are consistent with the values of the net site area definition
- \$ Sec. 47.4 - Modify language to relate to changes in the height regulation in recent amendments.
- \$ Sec. 47.8.D - Modify language to make it agree with the language in Residential Districts
- \$ Sec. 47.8.I.3, 47.8.I.4 and 47.8.B - Place three existing definitions for Methods of Calculating Slope in App. A and remove from present locations in ordinance
- \$ Sec. 47.13 - Replace "the method of Sec. 47.8 with "any Average Slope method set forth in Appendix A".
- \$ Sec. 52.4 - Site Development Standards
- \$ Make Uniform Reference to Net Site Area in Impervious Cover Regulations and Maximum Building Coverage Regulations
- \$ Change in Roof Definitions in All Districts with Maximum Building Height Restrictions
- \$ Add to Special Requirements of RA, R2, and MH
- \$ Delete Special Requirements for pools from R1, R3, R4, R5, MF1, and MF2
- \$ Add to Definitions

Mayor McGee said Council considered these amendments one by one in a workshop with Planning & Zoning Commissioners on November 13. The Commission proposed them to correct and adjust the Ordinance and to make it consistent. Attorneys reviewed them and suggested some changes. The amendments do not change any property owner rights under the Ordinance. Council agreed to consider the amendments as a package.

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P&Z Chairman Busk commented on some of the items. He read the following suggested changes:

A. Section 9.2 is amended to allow up to two members of the Planning & Zoning Commission to come from the ETJ of Wimberley; the wording of this provision will define them as: *Resident citizens, taxpayers and qualified voters of Hays County, Texas whose principal residence is within the extra-territorial jurisdiction of the Village of Wimberley.*

B. Section 13.8.A.3 - Strike the paragraph concerning supply of utilities to a residential property; the paragraph is not needed because the issue is covered in the Building Code.

C. The following paragraph is inserted in Section 13.8:

The Comprehensive Plan of the Village of Wimberley notes that it is the responsibility of the City Council, with the assistance of the Planning and Zoning Commission, to develop a system for general application of zoning districts to the Comprehensive Plan map planning areas. The following is a list of planning areas and zoning districts that are appropriate to the areas.

D. Section 11.5, Failure to Appear: The following revised language is proposed:

The applicant or his/her representative must appear before the Planning & Zoning Commission for each public hearing. Failure of the applicant or his/her representative to appear before Planning & Zoning Commission for more than one hearing without an approved delay by the Commission chair or his/her designee shall constitute sufficient grounds for the Planning & Zoning Commission to postpone consideration or deny the application. If the applicant notifies the Village in writing at least 72 hours prior to the hearing, then the application will be automatically continued.

The applicant or his/her representative must also appear before City Council for each public hearing unless the applicant has filed a written waiver with the Village. The applicant must waive his/her right to appear before the Council for the zoning matter in question, and the waiver must be available to the City Council at the time the zoning matter is to be considered.

E. In the Definitions section of the Ordinance, the definition of a flat roof is reworded to:
Any roof with a pitch of two inches or less in 12 inches.

Mr. Busk said there were other changes suggested by counsel but P&Z will take these up in the next round of amendments to the Ordinance. Mayor McGee asked City attorney Patty Akers if she agreed with this procedure; she agreed.

Mayor McGee opened a public hearing for comments for or against the amendments. No comment received in public hearing.

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In discussion, Council member Graddy said he was concerned about having documents presented to Council without having complete information before the meeting; he believes this is the wrong way to proceed. Mr. Harrison noted these amendments require two readings, and any changes Council may want to make can be made either at this or the second reading. Council member Manis said he is also concerned about the process and asked if City's lawyers could review the changes before they come to Council. Mayor McGee said the changes were sent to the lawyers after the November workshop.

Council member Klepfer moved to approve on first reading the Zoning Ordinance amendments as amended at this meeting by Council per Planning & Zoning recommendation (enumerated above). Council member Nichols seconded. Motion approved 5-0.

In public comment, Amy Frederick asked for reconsideration of the class intensity levels in Planning Areas as specified in Sections 13.8 or 13.9, noting that C-2, L-2, and O-2 are all the same intensity levels, but while C-2 and O-2 are allowed in Planning Area B, L-2 is not permitted in that Planning Area.

3. Adoption of Ordinance Establishing Traffic Regulations for Village - First Reading:

City Administrator Harrison summarized the intent of the ordinance as creating the process for the City to put up new traffic control devices. Council member Klepfer moved to adopt the ordinance; Council member Graddy seconded.

In discussion, Council member Klepfer said he wants more specific language in Section 4 to state that authority for traffic control devices stay with Council or Council's designee. City attorney Akers said that section could be rewritten to state that any changes must come before Council for approval. Each action on traffic matters would be handled as an amendment to this enabling ordinance. Council member Klepfer noted the Ordinance does not say Council will seek Transportation Advisory Board advice first. Rickey Wright said TAB discussed whether to have one enabling ordinance or using separate ordinances for each action at its last meeting, and approved this one as an all-encompassing enabling ordinance.

Council member Nichols said the City Public Works officer should make a photographic record of signs throughout the Village, to document what signs are where for an accurate historic record.

Council member Klepfer offered an amendment to his motion to provide:

1. that Sections A and B be reworded so that Council or Council's designee be named in these sections;
2. that City attorney will review the revised sections before the second reading; and
3. that the Transportation Advisory Board has voted on and passed what comes to

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Council.

Council member Graddy accepted the amendment. Motion to approve amended Ordinance passed 5-0.

4. Public Hearing and Action on Ordinance to Adopt Comprehensive Plan:

Mr. Busk presented the Ordinance, acknowledging the "absolutely spectacular work" of the Comprehensive Plan Steering Committee over the past two years. P&Z at its last hearing passed a recommendation unanimously to forward the Plan to Council for adoption, with the following amendments:

A. The following language to be inserted at the end of the first paragraph on legal aspects in the introduction to the Plan, to clarify the authority of City to adopt a Comprehensive Plan under Section 211.004 of the Texas Local Government Code:

When the Village adopts zoning regulations, such regulations must not only be in accordance with this Plan but must also be designed to:

1. *lessen congestion in the streets;*
2. *secure safety from fire, panic, and other dangers;*
3. *promote health and the general welfare;*
4. *provide adequate light and air;*
5. *prevent the overcrowding of land;*
6. *avoid undue concentration of population; or*
7. *facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements. (Texas Local Government Code Sec. 211.004)*

B. Six changes to the Planning Areas land use map, each approved separately by P&Z. Mr. Busk explained each of the changes on the map.

Mayor McGee confirmed that the recommendation of Planning & Zoning Commission is to approve the Planning Areas map with the changes as described.

Mayor McGee opened the public hearing on the Comprehensive Plan. He asked if anyone present wished to speak against the ordinance adopting the Comprehensive Plan; there was no response from public. He said that those present have made their views known, and Council has 22 signed letters from SaddleRidge residents concerning the Planning Area designation for the property at the intersection of RR 12 and RR 32. Council also has a letter from Charles Patterson disagreeing with the view of SaddleRidge residents. He said those in favor of the map as presented do not have to repeat their views, although they are free to do so if they wish.

Corwin Vansant said SaddleRidge residents "had a terrific meeting" with Planning &

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Zoning Commissioners and Steering Committee chairman Bert Ray, and the result was a win-win situation. He said residents are concerned that they not get high-intensity, high-traffic development on the property; they know it will be developed and would like to see a well-done, low-impact commercial use with buffers between it and residential properties. If Council keeps the plan as it was recommended unanimously, SaddleRidge residents will be satisfied.

Francis Savage concurred with Mr. Vansant's views, and said his concern is to protect the pristine beauty of the entrance to the Village from the south; it is the first impression people have of Wimberley. Residents are concerned not only about SaddleRidge but about Wimberley as their home.

Council member Nichols asked to have a letter from Bob Elkins addressed to Council Members, dated Dec. 14, 2002, read as part of the public record:

Dear City Council Members,

This week I attended one of the review meetings sponsored by the Comprehensive Plan Committee. I found the event informative and useful. I was very impressed by the thoroughness, sophisticated methodology balanced by common sense and above all, impartiality of the plan presented.

I want to commend the efforts of the hard-working Committee. My wife Donna and I support the plan fully.

Council member Klepfer moved to adopt the Village of Wimberley Comprehensive Plan fourth draft as amended by Planning & Zoning Commission and presented to Council, together with the land use map as presented. Council member Nichols seconded.

Council member Manis said he would like to have a second reading of the Ordinance and asked if Council member Klepfer would accept a friendly amendment so providing. Council member Klepfer said there have been more than 50 public meetings on the plan as it was being drafted, in addition to the two public hearings held last week. He said he wants the Plan to pass unanimously, noting there has been very little objection to the Plan thus far. Mayor McGee said the process has been going on for two years and the public has had many opportunities to come forward to speak about the plan. He said Council would be delaying something that deserved to be approved because of the work that has gone into it and the community input reflected in it. Council member Nichols said the Plan has been put before the community through workshops, hearings, newspaper articles, advertising and published notices, and expressed concern about setting a precedent for an arbitrary requirement for two readings. Council member Graddy said Council owes it to those who have spoken elsewhere to hear what they have to say and should give one more opportunity for comment at one more public hearing. Council members Klepfer and Nichols both said they want the Plan to be accepted by unanimous Council vote and reluctantly accepted Council member Manis' friendly amendment for a second reading.

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Mr. Vansant said that if Council has another public hearing and changes the plan from the present recommendation, which was unanimous, there should be a further hearing for SaddleRidge representatives to present their views. He asked for an understanding to this effect and said it was not fair for one person's views to cause a delay.

Council member Klepfer asked Council members if any of them have any changes they want to make to the text of the Plan or the land use map. No one proposed any changes.

Council member Manis withdrew his amendment to the motion.

Motion to approve the Ordinance providing for adoption of the Comprehensive Plan and the Planning Areas land use map was approved by Council vote 5-0.

Mayor McGee commended Bert Ray and the members of the Comprehensive Plan Steering Committee for their "tremendous job" in preparing the Plan and bringing it to Council in final form. Mr. Ray thanked Council on behalf of the Committee and said it was an honor and privilege to work with many talented people of the community.

5. Retain Services of Langford Associates to Administer Parks & Wildlife grant:

Council member Knies said Langford Associates prefers to be present for discussion of their contract, but no one from the firm could attend tonight's meeting. She moved to continue the item; Council member Klepfer seconded. Motion to continue approved 5-0.

6. Discussion and Action on Real Property (Purchase of City Hall Building):

Council adjourned public session at 8:43 p.m. to discuss the possible purchase of City Hall, under Section 551.072 of Texas Local Government Code, Deliberations about Real Property.

Council resumed public session at 9:20 p.m. Council member Knies moved that Council form a committee to study the question of purchase of the City Hall building. Council member Klepfer seconded. Motion approved 5-0.

Council member Knies moved that the Mayor and Council members Manis and Nichols be appointed to the committee. Council member Graddy seconded. Motion approved 5-0.

7. Creation of an Economic Development Advisory Board:

Mayor McGee suggested this item be continued to next Council meeting. Council agreed by consensus.

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8. Authorization to Waive Building Permit Fee for WISD Building Project:

City Administrator Steve Harrison said Wimberley Independent School District is doing a major construction project costing more than one million dollars. WISD filed a Building Permit with the City but asked that the Building Permit fee, which is based on cost of the project, be waived. The fee would be \$2,472 as presently calculated.

City attorney Patty Akers said it is customary for municipalities to waive fees for other governmental entities, but that the City may not be able to waive the fee if there is no specific provision for such action. Council members noted they have no provision in the Building Code for fee waivers, and agreed they would like to have interlocal agreements setting out clear procedures for fee waivers as well as the terms for City use of WISD facilities, before acting on this request. Council member Klepfer moved to continue the item; Council member Nichols seconded. Motion to continue approved 5-0.

9. Cancellation of Regular City Council Meeting of January 2, 2003:

Council member Nichols moved to cancel the Council meeting of January 2, 2003. Council member Knies seconded. Motion approved 5-0.

10. Adoption of City Holiday Schedule for 2003:

Council member Knies moved to adopt the proposed schedule of City holidays for 2003. Council member Nichols seconded. Motion approved 5-0.

D. City Administrator Report:

1. Mr. Harrison reported the agreement between the City and Wimberley Senior Citizens Activities, Inc., on the community center, has been signed by both parties. A steering committee has been formed and is working on details of the project including appraisal and transfer of land. An RFQ is being drafted to find a firm for design and construction of the center.

Mayor McGee thanked M. F. Johnson for working with the City on this project.

2. The City building inspector is resigning, and staff has begun the process to hire a new one. City may have to consider a temporary arrangement if there is a gap in the position.

E. Announcements, Future Agenda Items:

Council member Knies will set a date for a joint Council/Parks Board workshop on the Cypress Creek Nature Trail grant. She reminded Council members of the Christmas tree at the Y, noting it was donated by Silverleaf Nursery, with PEC providing the wiring, and a crew of volunteers erected and decorated it.

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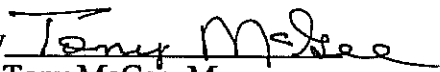
Council member Nichols asked for a resolution of Council to the Comprehensive Plan Steering Committee expressing thanks and appreciation for its work in developing the Comprehensive Plan.

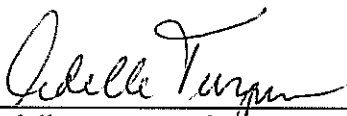
Mayor McGee thanked City staff and Council members for the basket of goodies sent to his wife in hospital and for the meals they have provided him during her hospitalization.

Mayor McGee said Council has received a certificate of appreciation from the Katherine Anne Porter School and a gift, in thanks for the furniture City donated to the school.

F. Adjournment - Council adjourned at 9:50 p.m.

VILLAGE OF WIMBERLEY

By 
Tony McGee, Mayor


Adelle Turpen, City Secretary


Dell Hood, Recording Secretary