

**Village of Wimberley**  
Minutes of City Council Meeting  
City Hall, 13210 Ranch Road 12, Wimberley, Texas  
Thursday, March 20, 2003, 6:30 p.m.

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

Invocation - Bishop Earl McArthur of St. Stephen's Episcopal Church offered the Invocation.

Mayor Tony McGee led the Pledge of Allegiance to the United States 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 - No comments were received from the public.

Mayor McGee reminded there would be a public meeting by engineers and others on the proposed Wimberley by-pass at the VFW Hall on Monday, March 24, at 6:00 p.m.

**A. Consent Items**

Minutes of City Council Meeting of March 6, 2003:

Council member Manis moved to approve Consent Items as presented. Council member Graddy seconded. Motion approved 5 Ayes to 0 Nays.

**B. Reports from Boards/Committees/Staff**

Jack Clark, C.P.A., presented the City financial report for February 2003. He noted it is the fifth month of the City fiscal year and City's budget figures are in the 55%-60% range. He noted the February revenue figure of \$73,000 is almost the same as it was in February 2002. He called Council attention to fact that franchise tax revenue is behind the prior year's collection. Council discussed this discrepancy; Mr. Clark said he could not explain why but he and City Administrator Steve Harrison will investigate

Council member Klepfer moved to accept the February 2003 financial report. Council member Manis seconded. Motion approved 5 Ayes to 0 Nays.

**B. Consider and Act**

**1. Applications for Zoning, Public Hearing, Recommendations from P&Z:**

a. **C211-03-143;** Laura Romano, applicant; Tom Keyser, agent; 14004 RR 12, Planning Area E; presently zoned C-1, requested zoning PR-2; approval recommended by P&Z

7-0:

Council member Klepfer recused himself as a property owner within the 200-foot notification zone.

P & Z Vice Chair Marilee Wood presented the case. She said the Commission discussed this case at length because it is the first case for this kind of use in the Village. At the Commission public hearing, Sarah Barlow raised concerns of noise and trash, and security was also discussed. She said Commission based its decision only on whether the proposed use is a legitimate and permissible use of the property.

In Public Hearing, Tom Keyser described plans to hold private and public events such as weddings and fund-raising events outdoors on the banks of Cypress Creek at Inoz's Restaurant. He noted Ms. Barlow's concerns were legitimate and he would be very conscientious on noise, security, and trash.

Mr. Harrison read the following letter from the Executive Vice President of Ozona National Bank to the P & Z Commission, dated March 10 concerning this zoning request:

*"Dear Committee Members,*

*"The purpose of this letter is to inform the Planning & Zoning Commission of Ozona National Bank's concerns relating to approving the above referenced applicant's request. It is our understanding the purpose of zoning is to hold special events on the above referenced property with the intent for overflow parking from the village square to occur on the Bank's "lower parking lot.*

*"The Bank has never objected (to) the community's use of the "lower parking lot", which is primarily used as overflow from the village square parking. However, should the community's use of this area become a nuisance or conflict with the daily operation of Bank's business, this privilege would be jeopardized."*

Signed by Kelly Murphy, Executive Vice President and Branch Manager, Ozona National Bank.

Council members discussed use of the property at length with Mr. Keyser, including noise, security, parking, trash cleanup, state of the septic system, and landscaping. Some Council members agreed City should consider using special event permits for such activities, noting that if they approve PR-2 zoning for this property, the zoning remains with the property regardless of who owns it.

The Public Hearing was closed.

Council member Knies moved to accept PR-2 zoning for this case. Council member Graddy seconded. Motion approved 4 Ayes, 0 Nays, 1 recusal (Council member Klepfer).

Council member Klepfer resumed his seat on Council.

b. **C211-03-135**, City-initiated zoning, Paradise Hills Subdivision, Sections 1-4, Painted Rock, Berry's Acres and certain adjoining properties; Planning Area B, proposed zoning RA, R-1, R-2, and R-3; zoning recommended by P&Z Commission by vote 5 Ayes, 0 Nays, 2 Recusals:

P&Z Vice Chair Wood presented the case.

In Public Hearing, Jim Thompson said he bought lots 25, 26, 27, and 28 in Section 2 of Paradise Hills last December. He was aware that City-initiated zoning was underway and believed that the individual lots would be zoned as R-3. The Hays County Central Appraisal District has the four tracts under one tax notice. Mr. Thompson said his deed and closing statement indicate that he bought four lots, and he understood the City would use plat and deed records, which show them as separate lots, not tax records. He asked that these lots be withdrawn from Council action.

In response to question from Mayor McGee, City Attorney Patty Akers said this is City-initiated zoning, and the properties were noticed as R-1. Applicable law allows the City to approve the zoning in part, disapprove it in part, or send it back to Planning & Zoning for further action. Council discussed zoning options with Mr. Thompson. He noted that a house exists on lots 25 and 26, which he will tear down.

Mr. Harrison said City received a letter from Mr. A.L. Kiely concerning lots 3, 4, 5, 6 of Section 4 of Paradise Hills. A facility for institutional care for medically fragile and other special case children is located on these lots and Mr. Kiely asked that these lots be excluded from current zoning case. It was noted these lots were not included in the P&Z recommendation and thus are not included in this application before Council.

Public hearing closed.

Council member Klepfer moved to adopt City-initiated zoning for this case, with the following changes: lots 25 and 26 of Section 2, Paradise Hills, be zoned R-2 together as one unit, and that lots 27 and 28 of that section be zoned R-3 separately. Council member Nichols seconded the motion. Motion approved 5 Ayes, 0 Nays.

c. **C211-03-136**, City-initiated zoning, Paradise Valley Subdivision, Sections 1-3, and certain adjoining properties; Planning Area B, proposed zoning RA, R-1, R-2, R-3; proposed zoning recommended by P&Z 5 to 0, with 2 Recusals:

P&Z Vice Chair Wood presented the case. No comments were received in P&Z public hearing.

In Public Hearing, Mike Bingham said residents of Paradise Valley are concerned that the subdivision park be zoned for recreational use and not for residential use as proposed in the present case. He is concerned that a future property owners association could decide to

subdivide, sell or build on the land. Commissioner Wood and Council members explained the RA zoning is so that it will not be designated as parkland on any maps. With RA zoning it is considered privately owned land. Mr. Bingham said he wants the land zoned so that no home could be built on it.

John Hyink, former president of the Paradise Hills POA, reviewed the history of the setting aside of this land as park land held jointly by Paradise Hills and Paradise Valley subdivision POA's.

Public hearing closed.

Council member Nichols moved to adopt zoning for this case as proposed. Council member Klepfer seconded. Motion approved 5 Ayes to 0 Nays.

d. **C211-03-139**, City-initiated zoning, Oak Hollow Subdivision and adjoining properties, Planning Area A, proposed zoning R-1 and R-2; approval recommended by P&Z by vote 7-0:

Council member Knies recused herself as an owner in the subdivision.

P&Z Vice Chair Wood presented the case.

No comment received in Public Hearing.

Council member Graddy moved to adopt zoning as proposed for this case. Council Member Nichols seconded. Motion approved 4 Ayes, 0 Nays, 1 recusal.

Council member Knies resumed her seat on Council.

e. **C211-03-144**, City-initiated zoning of remaining portions of River Meadows II and Lazy L Estates, Planning Area A; proposed zoning RA and R-1; approval recommended by P&Z by 5 to 0 with 2 Recusals:

P&Z Vice Chair Wood presented the case.

No comment received in Public Hearing.

Council member Knies moved to accept the zoning as proposed for this case. Council member Nichols seconded. Motion approved 5 Ayes to 0 Nays.

## **2. Acceptance of Resignation of Debbie Ferguson as member of Building Code Board of Review:**

- **Commendation of Debbie Ferguson:**

Mayor McGee said Debbie Ferguson has resigned her position on the Building Code Board of Review. He read a letter of commendation for her service to the City.

**3. Appointment of Herschel (Mac) McCullough to Building Code Board of Review:**

Mayor McGee introduced Mac McCullough as his nominee to replace Debbie Ferguson on the Building Code Board of Review, and administered the oath of office to Mr. McCullough.

**4. Approve Resolution to authorize Village of Wimberley to join Texas Building and Procurement Commission Cooperative Purchasing Program:**

Mr. Harrison said participation in this cooperative would allow the City to buy everything from vehicles to office supplies at reduced prices. Membership costs \$100 per year.

Council member Manis moved to approve adoption of the Resolution as presented. Council member Klepfer seconded. Motion approved 5 Ayes to 0 Nays.

**5. Adoption of Ordinance creating the Village of Wimberley Budget, Investment & Finance Advisory Board:**

Council member Klepfer moved that Council adopt Ordinance 2003-03. Council member Nichols seconded.

Council member Nichols said the requirement that at least five Board members be City residents could limit the pool of volunteer talent available from which to select appointees. Council member Klepfer said he proposed this language because the Board will deal with important issues such as tax revenues, franchise fees, purchasing property, and the budgeting process, but he would accept a change in membership residence to 4 City residents to 3 outside.

Council member Graddy asked about the language on filling a vacancy on the Board and suggested a revision.

City Attorney Akers said she is concerned that language in the ordinance allowing telephone participation by one or more Board members may violate the state open meetings act.

Council members Klepfer and Nichols accepted as friendly amendments the following:

A. Change Section 3 to provide that at least four of the members of the Board shall be registered voters resident in the Village of Wimberley;

B. Change Section 5, first line to: *If a vacancy occurs on the Board in a position originally filled by an individual Council member, then the person who originally appointed the Board member*

*or the successor shall appoint a person;*

C. In Section 9, delete the last three sentences of the Section.

Motion to approve the Ordinance as amended approved 5 Ayes to 0 Nays.

**6. Recommendation of Park Board to establish a summer recreation program:**

Council member Knies invited Parks and Recreation Board chair Kris Cusack to present this item.

Miss Cusack said the Parks Board began receiving requests for a summer recreation program early in its work. Fifty percent of high school students surveyed by a City intern said they would attend a summer recreation program. An intern from Southwest Texas State University helped the Board develop the program. She summarized the proposed program for Council, which will be funded from the Parks Board budget.

Council members discussed the program at length, including the proposed registration fee; selection and qualifications of staff that would manage the program; age range of participants; dividing participants by age groups; security for children in the program and background checks on staff; liability issues; and the registration process. Council members suggested a \$15 registration fee would be low and could lead to the program being swamped with applicants. Council member Manis said he would like to have the program limited to applicants resident in the City because it is using City tax revenues. Mayor McGee said this would create problems since the program is a joint undertaking with the school district

Miss Cusack said she would begin publicizing the program, seeking volunteer help, making final arrangements with schools, and getting staff for the program in April. Mayor McGee suggested she begin these tasks with the understanding the Council has not yet formally approved the program. Council members suggested she take their suggestions and questions into consideration and come back to Council at the April 3 meeting with answers.

**7. Adoption of Ground Lease Agreement with Wimberley Senior Citizens Activities, Inc., for short-term lease of land for the Community Center:**

Mayor McGee said that in order for the City to enter into an agreement with Loomis Austin for construction of the Community Center, the City is required to have an ownership interest in the land the Center will occupy. The lease will be at the rate of one dollar per year.

Council member Klepfer moved to adopt the ground lease agreement with Wimberley Senior Citizens Activities, Inc., for lease of land for the Community Center, and to authorize the Mayor to sign such agreement. Council member Nichols seconded the motion. Motion approved 5 Ayes to 0 Nays.

**8. Authorize entering into professional services agreement with Loomis Austin to serve as Village's representative during the design-build of the Community Center, including engineering services associated with site development:**

Mayor McGee reviewed the process for selection of an engineering firm to represent the Village's interest during the design-build process of the Community Center.

Mr. Harrison said three small adjustments are needed in the agreement: in Attachment A, Article 7, the \$22,000 fee for "Architectural Services" has been changed to read "*Time and Material*" instead of "*Lump Sum*"; in Article 8, the word "*coordinate*" should be inserted in place of "*perform*"; and in Attachment B a space is needed between the word *Texas* and the City's zip code.

Council member Knies moved to authorize the City to enter into a professional services agreement with Loomis Austin to serve as Village's representative during the design-build of the Community Center, including engineering services associated with site development, as corrected by Mr. Harrison. Council member Klepfer seconded. Motion approved 5 Ayes to 0 Nays.

**9. Award street repair and maintenance of public right-of-way/property maintenance contracts as follows:**

- Bid schedule A - Seal coat/HMAC overlay. No contract;
- Bid schedule B - Pavement repair. Award to Potholes Plus, L.P., of Boerne;
- Bid schedule C - Debris pickup & removal. Award to Myers Construction, Inc., of Wimberley;
- Bid schedule D - Rotary mower. No contract;
- Bid schedule E - Tree & brush removal. Award to Myers Construction, Inc., of Wimberley;
- Bid schedule F - Drainage structures. Award to Myers Construction, Inc., of Wimberley;
- Bid schedule G - Street/traffic signs and bid schedule. Award to Myers Construction, Inc., of Wimberley;
- Bid schedule H - Labor & equipment only. Award to Myers Construction, Inc., of Wimberley;

Mr. Harrison said Hays County is no longer doing roadwork for Wimberley, so it is important for the Village to award contracts for such work. City Engineer Joel Wilkinson reviewed the bidding process - eight schedules were identified; the projects were widely advertised and circulated. Only three bidders submitted quotes, and only on Schedule B did all three bidders submit bids. For the other seven, only one bid was received for each schedule. Mr. Wilkinson summarized the bids for each of the schedules.

Council member Klepfer moved to accept the bids on Schedules B, C, E, F, G, and H as recommended by Mr. Harrison and Mr. Wilkinson, and authorize the Mayor to sign the contracts. Council member Graddy seconded. Motion approved 5 Ayes to 0 Nays.

**10. Executive Session to Consult with City Attorney regarding application of zoning designations per Zoning Ordinance:**

Council adjourned to Executive Session as authorized by Texas Government Code Section 551.071, Consultations with Attorney, at 9:25 p.m.

Council resumed public session at 10:25 p.m.

**D. City Administrator Report** - Mr. Harrison said he has nothing to report on now.

**E. Announcements, Council Requests for Agenda Items:**

Council member Nichols said there would be a meeting with real estate company representatives to distribute CD-ROM copies of the City's Zoning Ordinance.

Council member Graddy said he would like to switch the City's website to the new service, and repeated his request for people to look at the new site and give him their comments.

**F. Adjournment** - Council adjourned at 10:30 p.m.

**VILLAGE OF WIMBERLEY**

By Tony McGeary

Adelle Turpen  
Adelle Turpen, City Secretary

Dell Hood  
Dell Hood, Recording Secretary