

Village of Wimberley
Minutes of City Council Meeting
City Hall, 13210 Ranch Road 12, Wimberley, Texas
Thursday, May 6, 2004, 6:30 p.m.

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

Invocation for National Day of Prayer - Father Everett Trebtoske offered the Invocation.

Mayor Steve Klepfer led the Pledge of Allegiance to the United States Flag.

Council member Matt Manis led the Pledge of Allegiance to the Texas Flag.

Roll Call: Present were Mayor Steve Klepfer and Council members Carroll Czichos, John Graddy, Matt Manis, Carolyn Nichols, and Marilee Wood.

Presentations of Citizens

Citizen Comments - No comments received.

A. Consent Items.

Minutes of Regular City Council Meeting of April 15, 2004 and Special Council meeting of April 22, 2004 were approved as written.

B. City Administrator Report

1. Telecommunications Rate Increase:

City Administrator Steve Harrison reported the Texas Public Utilities Commission has approved rate increases for residential and commercial services by telecommunications companies.

2. Election Update:

City Secretary Adelle Turpen is coordinating with County election officials on conduct of the City election May 15. Early voting numbers are higher than in previous years. No City staff will be at City Hall on Election Day, but there will be a posted notice on the door with information about where to vote and where to call to contact election officials.

3. Budget Process FY 2005:

The budget planning process for next fiscal year is underway. All City agencies have been asked to provide their budget requests by May 7.

C. Reports from Boards/Committees/Staff:

Building Code Board of Review:

Board chairman Mac McCullough said the Board has included costs for engineering studies in its next budget request. The Board is reviewing the City building fee schedule and will have a recommendation for Council soon.

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Budget, Finance, Investment Advisory Board:

Board Chairman Curtis Cadenhead said the Board is looking at how the City can get more income from its franchise fee system. A subcommittee is reviewing the practices of other cities on trash collection services. One idea under consideration is to reduce the number of services permitted to operate in the Village to one; this could improve collection service, reduce the number of heavy trucks using City roads, and improve franchise fee collection. The proposal would affect only residential collection at the beginning; the Board will consider commercial collection service and hazardous materials collection later. The full Board will review the proposal at its May 27 meeting.

Council and Mr. Cadenhead discussed how and when to hold public hearings on this proposal.

Economic Development Advisory Board:

No report given.

D. Consider & Act:

1. Applications for Zoning (Public Hearing):

- a. **C211-04-183, 45 La Buena Vista Drive; Planning Area B, Proposed Zoning Neighborhood Services (NS);
CUP-04-003, 45 La Buena Vista Drive; for a Conditional Use Permit—Proposed Use: Private Primary Educational Services; Office-Residential;
Recommended by Planning & Zoning Commission for NS zoning and CUP by 7 to 0:**

P&Z Commissioner Curt Busk presented the item, noting this is the first case the City has considered for the Neighborhood Services District. No comment was received from neighbors during the Commission public hearing.

No comment was received in the Council Public Hearing. Council members discussed the application with Commissioner Busk. Council member Nichols moved to adopt the Neighborhood Services district for this case and to approve Conditional Use Permit No. 04-003 as proposed for the same address. Council member Graddy seconded. Motion approved 5 Ayes to 0 Nays.

- b. **C211-04-185, FM 3237 at Box Canyon; Planning Area A, Proposed Zoning: Neighborhood Services (NS);
Recommended by Planning & Zoning Commission for NS zoning by a vote of 7 to 0:**

Council member Nichols recused herself from action on this item. Commissioner Busk presented the item. Applicant wants to construct a model house which will be used as a sales office for a residential construction firm. The Commission asked for a more detailed site plan before it will consider the Conditional Use Permit requested by applicant. Two neighboring property owners registered concerns about lighting, traffic, and intensity of use at the Commission public hearing.

No comment received in Public Hearing. Council member Czichos moved to approve the NS zoning district for this application. Council member Wood seconded. Motion approved 4 Ayes to 0 Nays.

Council member Nichols resumed her place at Council table.

2. Second Reading--Amendment to Zoning Ordinance No. 2001-010 (Public Hearing):**VILLAGE CENTER OVERLAY DISTRICT - SECTION 49.6.E Minimum Setbacks.****Street Side: Six feet****Side Lot Line: The greater of three feet from the property line or six feet from the nearest existing structure, except zero in the case of a party wall agreement.****Rear Lot Line: Six Feet****Recommended by Planning & Zoning Commission by a vote of 7 to 0.**

Mayor Klepfer noted Council is considering the draft amendment dated May 5, 2004. Commissioner Busk summarized the amendment. He said definitions have been added for the terms *Common Lot Line*, *Party Wall*, and *Party Wall Agreement*, which will be incorporated into the Ordinance. No comment received in Public Hearing. Council member Czichos moved to accept the amendment to Zoning Ordinance No. 2001-010 as presented on second reading. Council member Nichols seconded. Motion approved 5 Ayes to 0 Nays.

3. Appointment of Member to Parks & Recreation Board (Council Member Manis):

Council member Manis proposed Mark Bursiel as his appointee to the Parks and Recreation Board. Council member Czichos moved to accept Mr. Bursiel as Council member Manis' appointee. Council member Graddy seconded. Motion approved 5 Ayes to 0 Nays.

4. Application for Variance to Sign Ordinance No. 2001-002 (Rickey Wright):**SV-04-003 for Four Paws Animal Hospital, 8401 RR 12 (ETJ).****Section 8. Restrictions on Certain Types of Signs, paragraph Z. Self supported Signs says in part 1..."the area of sign...may not exceed 24 square feet..." Existing sign area is 36 square feet.****Section 8. "the height of a self-supported sign may not exceed 10 feet..." Existing sign height is 17 feet:**

City Code Enforcement Officer Rickey Wright presented the case. He said the applicant erected the sign without realizing it was just inside the City ETJ and without a sign permit. When applicant applied for the permit, it was denied because the sign violated size and height limits in the Sign Ordinance. After evaluating the extenuating circumstances of this case, including how far back the sign has to be from the street, Mr. Wright said he would recommend granting the Variance for size and height limits.

Mayor Klepfer read the requirements for a Council decision in this case. Council members discussed the sign, the conditions requiring the setback from RR 12, the extenuating circumstances of this case, and whether the conditions for a Variance are satisfied.

Council member Graddy read the following motion:

I move that the Sign Variance request, # SV04-003 for Four Paws Veterinary Hospital, at 8401 RR 12, be approved with respect to Sign Ordinance 2001-002, specifically Section 8. Restrictions on Certain Types of Signs, to allow the area of the sign to exceed 24 square feet (up to 36 square feet) and the height to exceed 10 feet (up to 17 feet), for a self-supported sign; AND that the Council make the following affirmative findings with respect to the Variance:

1. *The variance will not authorize a type of sign which is specifically prohibited by Section 9 of Ordinance 2001-002;*
2. *The variance will not authorize a type of sign which is specifically prohibited by Section 10 of Ordinance 2001-002;*
3. *The sign meeting the requirements of the Design Guidelines set forth in Section 6 of Ordinance 2001-002 is not contrary to the public interest;*
4. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, that the hardship is not self induced, the hardship is not financial or economic, and that the special condition results from a large highway setback requirement thereby minimizing visibility of standard signage; AND*
5. *The spirit and purpose of the ordinance will be observed and the design guidelines set forth in Section 6 of Ordinance 2001-002 are substantially met and substantial justice will be done.*

Council member Manis seconded. Motion to approve Variance approved 5 Ayes to 0 Nays.

5. Approve Selection of Judges for May 15, 2004 Village of Wimberley General Election per Recommendation of County Election Administrator:

Della Broderick – Judge

F. Rene Gonzales – Alternate Judge & Clerk

Joyce Cowan, Holly Wiley, Fred Meinke, Marva Filla, Dottie Busby, Ann Marie, Julie Marie, Judy Dunn, JoAnn Gonzalez, Alana Busby, Julie Gonzalez, Clerks.

Mr. Harrison presented the item. Council member Graddy moved to approve the selection of judges for May 15, 2004 General Election per the recommendation of the County Election Administrator. Council member Manis seconded. Motion approved 5 Ayes to 0 Nays.

E. Close Open Session and Convene Executive Session

- **Consultation with Attorney Regarding Liability Associated with Building Code Amendments. Texas Government Code Section 551.071 (Consultation with Attorney).**
- **Consultation with Attorney Regarding Community Center Appeal Status on Real Property for Community Center. Texas Government Code Section 551.071 (Consultation with Attorney); and Section 551.072 (Deliberations about Real Property).**
- **Deliberations Concerning Real Property Regarding Proposal to Sell a Portion of the Blue Hole Property to the Wimberley First Baptist Church; and Consultation with Attorney Regarding Proposal to Sell a Portion of the Blue Hole Property to the Wimberley First Baptist Church. Texas Government Code, Section 551.071 (Consultation with Attorney); and 551.072 (Deliberations about Real Property).**

Mayor Klepfer closed the Open Session at 7:46 p.m. and Council adjourned to Executive Session per the above stipulations.

F. Reconvene Open Session

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Mayor Klepfer declared Council convened in Open Session at 8:52 p.m.

D. Consider & Act (Continued):

Council member Graddy moved that the subcommittee of Council created to work on the possible sale of property to the Baptist Church meet to propose a counter offer to the Church and report within 15 days. Council member Nichols proposed a friendly amendment stating that the subcommittee should reconvene to consider the new information Council now has and within 15 days report to Council. Council member Graddy accepted the friendly amendment. Council member Czichos seconded. Motion approved 5 Ayes to 0 Nays.

6. First Reading—Amendment to 2000 International Building Code (Commercial), Section 903.2.1.3, Group A-3, adding Exemption for "...Churches, Gymnasiums, Skating Rinks, Swimming Pools, and Defined Areas of Enclosed and Unenclosed Stadiums and Arenas..." from Requirement for Sprinkler Systems (Council Member Czichos):

Council member Czichos read the following document from the Building Code Board of Review:

RECOMMENDATION TO CITY COUNCIL OF VILLAGE OF WIMBERLEY:

The Building Code Review Board of the Village of Wimberley, having been made aware of the role the NTPA 101, Life Safety Code has played in the work of Fire Officials in Hays County and the wording of certain provisions; and

Having reviewed the wording of the IBC Section 903, with regard to exemptions for requirements for installation of sprinkler systems in certain public assembly occupancies,

Recommends that Section 903.2.1.3 Group A-3 of the EBC as adopted by the Village of Wimberley, be amended as follows:

Under the heading EXCEPTIONS, delete the existing paragraph. Add the following:

- 1) Assembly occupancies used primarily for worship with fixed seating, and are not a part of a multiple occupancy protected as a mixed occupancy.*
- 2) Gymnasiums, skating rinks and swimming pools used exclusively for participant sports with no audience facilities for more than 300 persons.*
- 3) In the following locations in stadia and arenas:*
 - a) Over the floor area used for contest, performance, or entertainment.*
 - b) Over the seating areas.*
 - c) Over open-air concourses where an approved engineering analysis substantiates the ineffectiveness of the sprinkler protection due to building height and combustible loading.*
- 4) In the following areas in unenclosed stadia and arenas:*
 - a) In press boxes less than 1000 sf in area.*
 - b) In storage facilities less than 1000 sf, if enclosed with not less than 1-hour fire resistance rated construction.*
 - c) In enclosed areas underneath grandstands that are kept free of flammable or combustible materials meeting one or more of the following conditions:*
 - i.) Area is less than 300 s.f. and utilizing noncombustible or fire-resistive construction and is used as ticket booths, restrooms, or concession booths in an otherwise non-sprinklered facility.*
 - ii) Area enclosed with not less than one hour fire resistance rated construction and has less*

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than 1000 s.f. in an otherwise non-sprinklered facility.

Building Code Board of Review:

Chairman: Herschel P. McCullough 25 March 2004

Council member Czichos moved to approve the amendment as proposed on first reading. Council member Manis seconded.

Mr. McCullough reviewed the background and intent of the amendment. He said the request for exemption to the requirement for sprinkler systems in their sanctuaries came from both the Methodist and Baptist Churches. He noted both churches are not seeking relief from financial hardship imposed by the requirement, because neither body had incorporated such a system in their original building plans. Both churches plan to rely on other design measures for faster emergency evacuation of their sanctuaries.

Council members discussed the item in detail with Mr. McCullough. Discussion included whether the water supply system could maintain the pressure needed to make sprinklers effective in the church sanctuaries; the responsibility of architects to be aware of building code requirements; the difference between the requirements of the Life Safety Code and the International Building Code; whether to consult with City attorney for clarification of legal implications; using a variance procedure as an alternative to amending the Building Code; and the effect this action may have on City insurance rates and liability issues.

In Public Hearing, Pastor Bill Jones of the First Baptist Church said sprinkler systems do not justify the inherent beauty of worship, and this is an important consideration for the Church's worshippers. He knows of no church in the Wimberley area with a sprinkler system in its sanctuary. The Church is using several other design and construction features to improve its fire protection and evacuation system.

On roll call vote, Council members voted as follows:

Council member Czichos	Yes
Council member Graddy	Yes
Council member Manis	Yes
Council member Nichols	No
Council member Wood	No.

Motion approved 3 Ayes to 2 Nays.

7. Agreement with Hays County Outlining Terms, Conditions and Possible Cost Sharing to Reconstruct the Intersection of Spoke Hollow Road and RR 12:

Mr. Harrison presented the item, noting Hays County had budgeted \$50,000 for improvement of Spoke Hollow Road. Kelly Kilber's estimate for the City is the project will cost \$63,000. Through this Inter-Local Agreement, Hays County is asking the Village to cover any amount over the \$50,000 it will provide, up to \$63,000.

Council members discussed the proposed agreement. Council member Nichols moved to authorize Mayor Klepfer to sign the Inter-Local Agreement with Hays County Outlining Terms, Conditions and Possible Cost Sharing to Reconstruct the Intersection of Spoke Hollow Road and RR 12 and for the cost

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to the City not to exceed \$13,200 to be taken from the Special Road Fund. Council member Graddy seconded. Motion approved 5 Ayes to 0 Nays.

I. Announcements and Council Requests for Future Agenda Items:

Council member Graddy suggested the Building Code Board of Review look at coming up with a variance procedure.

Council member Nichols said she received a letter complaining about dumping of building spoil from the Methodist Church property into the creek on CR 1492.

Council member Wood said chatterbox orchids are in bloom along Cypress Creek on the Blue Hole property.

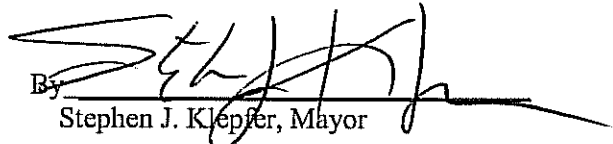
Mayor Klepfer said the Board of Directors of Lower Colorado River Authority certified and awarded \$200,000 to the City for the Blue Hole property at its meeting on April 21. He thanked the LCRA and Council for helping to move the grant process forward.

Mayor Klepfer said there have been three very hateful pieces of unsigned mail circulating in the Village and distributed to members of Council. He said election is a very important process in American democracy and such letters are not appreciated. He said no member of Council or candidate for Council deserves such letters.

Mayor Klepfer said the City has received an offer from the owners of the Lumber Yard to enter into negotiations to use their parking lot for public parking.

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

VILLAGE OF WIMBERLEY

By 
Stephen J. Klepfer, Mayor

ATTEST:


Adelle Turpen, City Secretary


Dell Hood, Recording Secretary