

Village of Wimberley
Minutes of City Council Meeting
City Hall, 13210 Ranch Road 12, Wimberley, Texas
Thursday, July 1, 2004, 6:30 p.m.

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

Bishop Earl McArthur, Wimberley Episcopal Church, 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 and Citizen Comments: No comments offered.

A. Consent Items.

1. Minutes of City Council Meeting of June 17, 2004.
2. Minutes of Emergency City Council Meeting of June 22, 2004.
3. Appoint Steve Gartside as Member of Board of Adjustment for term ending November 1, 2005 (Place 5, Council Member Czichos).
4. Correct Term of Office for Mark Roden, Member of Transportation Advisory Board, to term ending September 19, 2004 (Place 1, Council Member Nichols).

Council member Graddy moved to approve all Consent Items. Council member Wood seconded. Motion approved by vote of 5 Ayes to 0 Nays.

B. City Administrator Report

1. Change date of Budget Workshop from July 15, 2004, 4:30 p.m. to July 8, 2004, 10:00 a.m.:

City Administrator Steve Harrison asked Council if the budget workshop could be rescheduled because he would be out of town on July 15. Council members discussed rescheduling the workshop and agreed to have it on July 8 starting at 8:00 a.m.

2. Status of Lawsuit Concerning Overflowing Sewer System on Wimberley Square:

Mr. Harrison reminded Council it had authorized the City to file suit against certain properties on the Square because of an overflowing sewer system. He said all concerned businesses voluntarily removed themselves from the noncompliant system before the filing of the suit, and he met with them on June 28 to discuss the situation. He said all eight properties involved are working to develop a management agreement for wastewater that will meet all legal

requirements. Council discussed the situation with Mr. Harrison.

3. Board/Commission Appointment Process:

Mr. Harrison reviewed the list of appointments to City agencies that will be expiring through November and asked Council members to begin thinking about re-appointing or replacing those people.

C. Reports from Boards/Committees/Staff:

Planning & Zoning Commissioner Glenn Fryer summarized actions of the Planning & Zoning Commission at its last meeting and those matters it is currently working on. Council members asked about keeping the Zoning Ordinance book current; Mr. Harrison said the codification of the Ordinance should be finished in approximately three months.

D. Consider & Act:

1. Second Reading - Amendment to Ordinance No. 2001-005 (Commercial Building Code) Establishing a Procedure for Providing Variances to the Building Code. (Recommended by the Building Code Board of Review by a vote of 5 to 0):

Mayor Klepfer and Mr. Harrison briefly reviewed the background to this item. Council member Graddy moved to approve on second reading the amendment to Ordinance No. 2001-005 (Commercial Building Code) providing for variances to the Building Code. Council member Wood seconded. Motion approved 5 Ayes to 0 Nays.

2. Second Reading - Amendment to Ordinance No. 2001-021 Defining the Authority of the Building Code Board of Review in Relation to Hearing Requests for Variances to the Building Code. (Recommended by the Building Code Board of Review by 5 to 0):

Mayor Klepfer introduced the item, noting the Building Code Board of Review had proposed changes to the Amendment after the first reading by Council. Council member Graddy said he had a problem with the wording of Section C.3.ii and proposed additional language. Council members discussed this section at length with City attorney Patty Akers who proposed language to meet Mr. Graddy's concern. Ms. Akers proposed to add the following in Section C.3.ii, after the word "located":

; or the hardship is caused by a strict application of the Commercial Building Code that is impractical and the applicant can achieve equivalent safety through alternatives in design of the project as evidenced by certification of a state licensed design professional; and...

Council member Graddy moved to approve on second reading the amendment to Ordinance No. 2001-021 defining the authority of the Building Code Board of Review to hear requests for variances to the Building Code, as amended at the last Council meeting and including the changes provided by Counsel and the Building Code Board of Review. Council member Wood

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seconded. Motion approved 5 Ayes to 0 Nays.

Mayor Klepfer thanked Council, the Building Code Board of Review, and Counsel Akers for all the work they did to achieve this amendment.

3. Repeal Ordinance No. 2004-012 - 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, adopted May 20, 2004, to become Effective June 4, 2004; and Repeal Ordinance No. 2004-013, Adopted June 3, 2004, extending Effective Date of Ordinance No. 2004-012 to July 2, 2004:

In Public Hearing, Walter Brown urged Council to repeal the exemption created by Ordinance No. 2004-012, noting Council members are elected by all citizens of the Village and not by any particular part or organization in the Village. Public Hearing closed.

Mr. Harrison urged Council to repeal the Ordinance because of the liability it creates for the City.

Council member Nichols said she received an e-mail message from Dean Campbell expressing opposition to creation of an exemption for certain organizations.

Council member Nichols moved to repeal Ordinance No. 2004-012, Amendment to the International Building Code (Commercial). Council member Wood seconded.

Council members discussed the motion at length. Council members Graddy and Manis said the City is widely distrusted and that the people feel intimidated because of rules and restrictions the City imposes. Council members Wood and Nichols and Mayor Klepfer said the City should treat all residents equally and not create exemptions for special applicants.

On roll call vote, Council members Nichols and Wood voted Aye and Council members Czichos, Graddy and Manis voted Nay. Motion failed 2 Ayes to 3 Nays.

4. Authorize Administrator to Sign "Waiver of Citation" Agreeing with Application to Remove a Road Easement on Lot 41, Woodcreek Ranch, Section One:

Mr. Harrison presented the item. A landowner has requested that part of a private road easement which is within City limits and that runs through his property be abandoned. He said he knows of no City interest in the easement, and City attorney Patty Akers advised that Council could authorize him to sign the Waiver.

Attorney Leslie Howe explained the background to the request. Council discussed the waiver with Ms. Howe and Ms. Akers.

Council member Nichols moved to authorize the City Administrator to sign the Waiver of

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Citation concerning removal of a road easement on Lot 41 of Woodcreek Ranch, Section One. Council member Graddy seconded. Motion approved 5 Ayes to 0 Nays.

5. Reimburse Wimberley Community Center Construction Account for Certain Legal Fees (Council Member Manis):

Council member Manis presented the item, noting the City's involvement in the Community Center has caused Wimberley Senior Citizens Activities, Inc. (WSCAI) to incur legal fees which must be met out of funds intended to pay for actual construction and outfitting of the Center. He believes the City should pay some of these expenses and asked for Council opinions.

In Public Hearing, M. F. Johnson, representing WSCAI, said that every time money is taken out of the building fund to pay for legal costs, something else in the budget has to be eliminated or reduced. Public Hearing closed.

Council members discussed the proposal, agreeing the Community Center will serve the entire community and that it would be appropriate for the City to pay part of the legal expenses. They agreed to discuss the issue during the Council budget workshop on July 8.

Council member Manis moved to continue the item to the July 15 Council meeting. Council member Nichols seconded. Motion approved 5 Ayes to 0 Nays.

6. Approval of Final Design Plans of Nature Trail & Preserve for Submittal to Texas Parks & Wildlife (Recommended by Parks Board);

• Authorize City Administrator to Solicit Bids for Construction of the Nature Trail & Preserve Facilities (Upon Design Approval from Texas Parks & Wildlife):

Mr. Harrison introduced Roy Mann of The Rivers Studio, who designed the Nature Trail & Preserve facilities and prepared the bid document. The City had earlier submitted a final design plan to Texas Parks & Wildlife (TPW), but this design is a later version with some changes. TPW informed the City it will accept a newer version of the design and remove the earlier one. Mr. Harrison acknowledged the role of Horace Wilson of the Parks & Recreation Board in overseeing the completion of the design documents.

Mr. Mann reviewed his role in completion of the Nature Trail. He will help the City in the bid process and throughout the construction phase. He said that because it will be too late in the year to put in plants specified in the design by the time construction has reached the appropriate stage, this will be held beyond the 180 day completion date. He also expressed appreciation to Mr. Wilson for his work.

Mr. Harrison reviewed the next steps in completing the Nature Trail. The plans will be submitted to the City building inspector and to the state officer in charge of certifying ADA-compliance. After TPW approves the design, the City will begin the bid process; alternative bids

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will be sought for some parts of the design such as the waste water holding tank and the lower wetland area.

Council member Nichols moved to approve the Final Design Plans for the Nature Trail & Preserve for submittal to Texas Parks & Wildlife and to authorize the City Administrator to solicit bids for construction of the Nature Trail & Preserve Facilities upon design approval from Texas Parks & Wildlife. Council member Graddy seconded.

Council discussed the item with Mr. Mann, Mr. Wilson, Mr. Harrison, City attorney Patty Akers, and consultant Judy Langford. Discussion covered the need for the City to meet minimum wage scale and how time contributed by volunteers should be accounted for in the TPW match, and the total design budget for the project.

Motion approved by vote of 5 Ayes to 0 Nays.

7. PUBLIC HEARING RE: Proposed Request for Rate Increase by Aqua Texas;

- **Adopt Ordinance Outlining Village Position on Request for Rate Increase by AquaTexas:**

City attorney Patty Akers said the City has received two letters from citizens asking for a public hearing and protesting the rate increase proposed by Aqua Texas. She said the City's options are to do nothing; to deny the rate increase; or to suspend it because 10% of customers in the City protest the increase.

Council reviewed the rate increases proposed by Aqua Texas, noting they are the highest increases for both commercial and residential properties in the history of the utility system. Council member Czichos noted the increases will affect the school system as well and that the added cost will be borne by all district taxpayers.

In Public Hearing, Mr. Harrison read two letters from City residents: Linda Allen, and John Hyink on behalf of the Village Library district (copies filed with Minutes). He said the City also received four letters from persons outside the City protesting the increases.

Council member Nichols moved to adopt the Ordinance of the Village of Wimberley suspending the rate request of Aqua Texas Utilities, Inc., for ninety (90) days. Council member Manis seconded. Motion approved 5 Ayes to 0 Nays.

E. Close Open Session and Convene Executive Session

- **Consultation with Attorney Regarding Community Center Status of Appeal of Eminent Domain Court Action on Real Property for Community Center. Texas Government Code Section 551.071 (Consultation with Attorney); and Section 551.072 (Deliberations about Real Property):**

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Council closed the open session at 9:02 p.m. and convened in Executive Session.

D. Reconvene Open Session:

Council reconvened in Open Session at 9:28 p.m.

F. Announcements and Council Requests for Future Agenda Items:

Council member Czichos told Council members of the arrangements for them to ride on the fire truck in the July 4 parade.

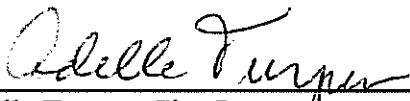
Council member Graddy said he wants action on the Building Code on the agenda.

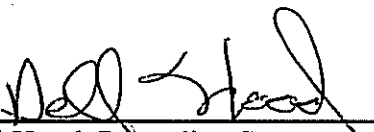
G. Adjournment: Council adjourned at 9:30 p.m.

VILLAGE OF WIMBERLEY

By 
Stephen J. Klepfer, Mayor

ATTEST:


Adelle Turpen, City Secretary


Dell Hood, Recording Secretary