

Village of Wimberley
City Hall, 13210 Ranch Road 12
Wimberley, Texas
Thursday, November 4, 2004
City Council Meeting Minutes

City Council Meeting was called to order at 6:30 p.m. by Mayor Pro-Tem Carolyn Nichols.

Josh Lowry, Youth Pastor of Cypress Creek Church offered the invocation. The Pledge of Allegiance to the United States Flag was led by Mayor Pro-Tem Nichols; and Council Member Manis led in the Pledge of Allegiance to the Texas Flag.

The following were present: Mayor Pro-Tem, Carolyn Nichols, Council Member Carroll Czichos, Council Member John Graddy, Council Member Matt Manis, and Council Member Marilee Wood. Mayor Stephen Klepfer was absent.

Presentations of Citizens

Citizen Comments: None

Commendation: Mayor Pro-Tem Nichols presented John Hyink with a Commendation for His Service on the Planning & Zoning Commission. Council Member Wood said that he had made significant contributions to the Commission and that his services were greatly appreciated.

Oath of Office: Mayor Pro-Tem Nichols administered the Oath of Office to Herschel "Mac" McCullough as a New Appointee to the Planning & Zoning Commission.

A. Consent Items.

- Council Member Czichos made a motion that the Minutes of City Council Meeting of October 21, 2004 be accepted as submitted with the correction of the spelling of Mr. Czichos' name. The motion was seconded by Council Member Wood. The motion was approved by a vote of 5 (Ayes) 0 (Nays).
- Mayor Pro-Tem Nichols pulled the Proclamation Honoring the 25th Anniversary of The Wimberley Players, from the consent items. She then read the proclamation. Council Member Graddy made a motion that Council adopt the Proclamation Honoring the 25th Anniversary of the Wimberley Players, and declare week of November 7-13, 2004 as "Wimberley Players Week." The motion was seconded by Council Member Wood. The motion was approved by a vote of 5 (Ayes) 0 (Nays).

B. City Administrator Report.

- **Procedure for Processing Complaints to Ethics Commission:**

The City Administrator provided an overview of the procedures outlined in the Ethics Ordinance for initiating an ethics complaint. He also noted that it is proper for the Council to refer questions to the Ethics Commission for their advice. Council Member Manis questioned whether ethics complaints should be directed to the chair of the Ethic Commission rather than to the City Secretary, City Administrator or Mayor as currently outlined in the Ordinance.

- **Street Locations for Traffic Counters:** Rickey Wright reported that traffic counters had been placed at three locations the first week—Las Flores at RR 2325, Palos Verdes at RR 12, and Cypress Creek Lane at RR 12. Council members were presented with a list of future locations for placement of counters. It was suggested that the City might give advance notice of placement. Council members requested that they be apprised of the results of the counts.

- **Follow-up to Inquires Concerning Pedernales Electric Cooperative Expansion:** Mr. Harrison said that Russ Adamiak of Pedernales electric did not come to the last council meeting as he felt it was not the right format to discuss electrical service expansion plans; and Pedernales had no expansion plans at the present time. Mr. Harrison asked that the City Attorney advise the City of its authority with the Public Utilities Commission. Attorney Patty Akers was present and stated that traditionally a municipality's only authority was in its right-of-way. Cases are pending before the courts to clarify municipality authority and attorneys are watching the outcome.

Sam White spoke as a citizen of his concerns about future expansion by Pedernales and that there was no mechanism for public input in the process. Mr. Harrison stated that the Mayor directed him to continue to pursue means for the City to facilitate discussions with PEC.

- **Fire Marshall Authority in Building Process:** Mr. Harrison was contacted by the Methodist Church who informed him that the Hays County Fire Marshall had met with the Church concerning fire alarms. Mr. Harrison and Council Member Czichos met with the Fire Marshall on November 3, 2004. At the present time, the City does not have an inter-local agreement with Hays County, and work is now done based on a handshake. Hays County now uses the Life/Safety Code, whereas the City has adopted the International Building Code (IBC). Mr. Harrison said that the Fire Marshall has extensive expertise in investigating fires, which could be helpful to the City, as well as in the enforcement of violations, and his advice could help the City avoid liability issues. Mr. Harrison will look into the development of an inter-local agreement with Hays County which would eliminate confusion regarding codes.

C. Reports from Boards/Committees/Staff:

- **Concept Plan for Safe Vehicle/Pedestrian Movements along RR 12 at the Village Square:** Corwin Vansant, Chair of the Transportation Advisory Board, said that TAB had prepared a Master Plan, and that sub-committees had looked into vehicle and pedestrian movements on the Square as well as RR 12 and Old Kyle Road. Specifically, these committees were concerned with parking on the Square, including handicapped parking. In this regard, surveys were done of the Square and Old Kyle Road. Meetings were held with TxDOT in relation to RR 12, the Bridge and vehicle and pedestrian traffic on the Square and Old Kyle Road. There were concerns about drainage and the need to state requirements. They received a positive feedback from TxDOT.

Bert Ray showed, by power point, sketches of the traffic flow on the square as it exists now and has existed for many years. He then showed sketches of a proposed plan that would place three lanes through the Square that would include turning lanes. The proposed changes would be within the state's maintenance line—the existing right-of-way. This plan was presented to the Merchants' Association and they provided a written recommendation of the proposal. Future plans would include sidewalks throughout the area and well-planned crosswalks. Council Member Nichols suggested that perhaps some of the area indicated as green space on the Square could accommodate motorcycles. Mr. Ray said that TxDOT had indicated that they might fund a portion of the project with an extension of the funds from the ongoing project. There was also some discussion of new devices that had been invented for crosswalk signaling that were implanted in paving.

- **Economic Development Advisory Board:** Chair, Jean Ross, said that the Board had been working on a master plan for economic development; however, they would not be able to complete the plan before the end of the year. She stated that the plan should be completed by April 2005 including all public hearings and Council acceptance. Ms. Ross offered her opinion that it might make sense to hold off in replacing persons who resign from the Board while the plan is being developed. She felt it would be difficult to bring new members "up to speed."

Council Member Nichols indicated that to change the quorum would require a change in the ordinance—that the number of volunteers set out in the ordinance was done to obtain as much input as possible from the public. She said that Council appreciated the work the Board was doing, but that democracy takes a long time.

- **Parks & Recreation Board:** Malcolm Harris, Chair, said that the various committees had been very active. In October, the Board had a presentation from a swimming facility operator who is interested in contract for the Blue Hole. He stressed the importance of opening Blue Hole next summer. They are also considering placing Blue Hole concessions in private hands and the need for an assessment of the present facilities. The Blue Hole Fundraising Committee is planning a kick-off party on Memorial Day—"Welcome Back to Blue Hole." The Board is enthusiastic about the progress on the nature trail. Horace Wilson has been on top of the planning. There are still some issues regarding drainage and sidewalks, and the ramp project may be split off from the other contract. The wetlands may also be a separate contract. Volunteers have spent several Saturdays since August in preparation of the site. Junk has been taken out by trailer loads and the trail itself has been cleared so one may walk on the trail. Much more work is required. Council members were encouraged to walk the trail. The Board had been in touch with the J.W. Anderson landscape firm who did the design for the L.B.J. Wildlife Center. They have proposed development of a plan for Blue Hole for \$30,000-\$50,000. This is only about 10% of what others have proposed.

D. Consider & Act:

1. Appointment of Members to the Planning & Zoning Commission:

- Council Member Wood made a motion that Curt Busk to serve as a Commissioner on the Planning & Zoning Commission two-year term ending November 1, 2006. The motion was seconded by Council Member Graddy. The motion was approved by a vote of 5 (Ayes) to 0 (Nays).
- Council Member Czichos made a motion that David Glenn to serve as a Commissioner on the Planning & Zoning Commission for a two-year term ending November 1, 2006. The motion was seconded by Council Member Manis. The motion was approved by a vote of 5 (Ayes) 0 (Nays).

2. Resignation of Herschel P. "Mac" McCullough from the Economic Development Advisory Board:

- Mayor Pro-Tem Nichols indicated that Council had been provided with a letter of resignation from the Economic Development Advisory Board by Mac McCullough. The resignation was accepted.

3. Plan Outlining City's Participation in the Trail of Lights:

Council Member Graddy said that he had met with Ann Rolling at Emily Ann Theatre concerning the City's participation in the Trail of Lights. He suggested that the City approve the expenditure of an amount of not more than \$500 for decorations and refreshments for the event. Council Member Wood expressed that the Economic Development Advisory Board was very supportive of this project and that such participation would promote cooperation between the City and community-based projects. This project would be a huge benefit, promoting the dignity of the human spirit. These are public funds that would benefit anyone. Council Member Manis was concerned that this was included in the budget.

Council Member Graddy made a motion that the City participate in the Trail of Lights and that approval be given to spend an amount not to exceed \$500 on the project. The motion was seconded by Council Member Manis. The motion was approved by a vote of 5 (Ayes) 0 (Nays).

4. Council Policy Regarding Assignment and Duties of Council Members as Liaisons to City Boards/Commissions:

Council Member Czichos stated that there was a need for clarification of the role of council liaisons to the various committees. Council Member Manis said that the original intent was that council be there to answer questions and carry information back and forth between the committees and council members so Council would be informed of their activities. City Attorney Patty Akers expressed her concern that actions of committees, although the committee process seems to work in Wimberley,

could be troublesome and that there was a need for management to stay within the law.

Council Member Czichos made a motion to continue this matter. The Motion was seconded by Council Member Manis. The Motion was adopted by a vote of 5 (Ayes) 0 (Nays).

5. Amendment to Ordinance No. 2001-026, Section 7.G to Increase City Administrator's Purchasing Authority:

Council Member Graddy proposed that Council increase the City Administrator's purchasing authority because the present limit hinders processing a need, especially in the area of public works.

The Council discussed various uses associated with the City purchasing policies and the City Administrator's authority. It was pointed out that the current \$1,000 spending limit was adopted when the City was newly incorporated and didn't have a City Administrator. After discussion of the various mechanisms in place to ensure that the Council is aware of expenditures, it was agreed that raising the purchasing limit would help expedite some spending decisions.

Council Member Wood made a motion to Amend Ordinance No. 2001-026, Section 7.G to Increase City Administrator's purchasing authority to \$10,000. The Motion was seconded by Council Member Czichos. The Motion was adopted by a vote of 5 (Ayes) 0 (Nays).

6. Sign Variance Request for Property at 104 Wimberley Square (Ordinance No. 2001-002, § 8BB (b): Requirement that Delineates Allowable Size for Wall Sign:

This matter was tabled on October 21, 2004. Council Member Wood made a motion to take the item off the table. The Motion was seconded by Council Member Nichols. The Motion was approved by a vote of 5 (Ayes) 0 (Nays).

Rickey Wright stated that Mr. Wise, the owner of the former Golden Spoon, had requested that he be granted a variance to leave as sign on his building at 104 Wimberley Square with a 48 sq. ft. surface, which is in excess of the 30 sq. ft. surface allowed by the Sign Ordinance. The existing lettering had been removed and the sign painted white. City Attorney Akers said that the "sign" does not meet the definition of a sign since it conveys no message. Mr. Sidaway, who was representing Mr. Wise in this matter, withdrew the application for a variance.

7. Acquisition of Tax Notes:

This matter was tabled at Council Meeting on October 21, 2004. Council Member Nichols made a motion to remove the item from the table. The motion was seconded by Council Member Wood. On a vote of 2 (Ayes) 3 (Nays) the motion failed. Council Members Nichols and Wood voted (Aye). Council Members Graddy, Czichos and Manis voted (Nay).

8. Addendum to Professional Services Agreement with The Rivers Studios, LLC to Provide Design of Drainage Culvert and Sidewalk at the Cypress Creek Nature Trail:

Mr. Harrison remarked that the City had faced challenges in the design of the nature trail and that upon professional review by the City Engineer that all of the ordinances and state law had not been fully addressed and that it was absolutely necessary to meet all of the FEMA requirements. The drainage needed to be improved and that it could be fixed with the grant money. Bert Ray, Transportation Advisory Board Member, became involved to make sure that the proposed sidewalks in this area fit into future plans. This would include sidewalks extending to the Lumberyard property. Mr. Harrison proposed an increase of not more than \$4,500 be approved as an addendum to The Rivers Studios, LLC contract to design the culverts and sidewalk to be included in the contract bid. Rivers Studios had promised to return the completed design within 14 days.

Council Member Graddy made a motion to approve the City Administrator's Design Addendum to the Professional Services Agreement with The Rivers Studios, LLC to provide design of a drainage culvert and sidewalk at the Cypress Creek Nature Trail in an amount not to exceed \$4,500 and with the

changes suggested by legal council. The motion was seconded by Council Member Czichos. The motion was adopted by a vote of 5 (Ayes) 0 (Nays).

E. Close Open Session and Convene Executive Session

Mayor Pro-Tem Nichols announced that Council would go into Executive Session at 9:09 p.m. to consult with attorney regarding pending litigation and potential litigation relating to Community Center project, related settlement offers, related purchase and value of certain property interests, *Texas Government Code Section 551.071 (Consultation with Attorney); and Section 551.072 (Deliberations about Real Property)*.

D. Reconvene Open Session (Consider & Act):

Mayor Pro-Tem Nichols closed the Executive Session at 9:28 p.m. and reconvened Open Session at 9:29 p.m.

Council Member Wood made a motion that Council approve the settlement agreement authorizing the Mayor to execute the documents in Cause No. 04-0013 in the District Court of Hays County, Texas and from other alleged interest regarding the purchase and value of certain real property interests related to the Community Center Project. This settlement will be payable out of the Community Center Account. The motion was seconded by Council Member Graddy. The motion was adopted by a vote of 5 (Ayes) to 0 (Nays).

F. Announcements and Council Requests for Future Agenda Items.


- Council Member Graddy announced that the Baptist Church has agreed to let the City use their parking lot and covered pavilion for food service for the Memorial Day Blue Hole event.
- Council Member Nichols requested that the City Administrator provide a sample of an inter-local agreement for the proposed inter-local agreement with the Hays County Fire Marshall
- Possible Franchise Agreement Re: Water service

G. Adjournment.

Council Meeting was adjourned at 9:30 p.m.

VILLAGE OF WIMBERLEY

By 
Carolyn Nichols, Mayor Pro-Tem



Adelle Turpen, City Secretary