

**City of Wimberley**  
City Hall, 12111 Ranch Road 12, Ste. 114  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
November 5, 2009 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

Mayor Haley gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland and City Attorney Brad Young.

### **Proclamations**

A. Proclamation recognizing *National Hospice Month*

Mayor Haley read the proclamation issued to Hope Hospice representatives who thanked the City for its support.

B. Proclamation recognizing the Hays County Food Bank's *Tackle Hunger Week*

Mayor Haley read the proclamation issued to Hays County Food Bank representatives who provided information on partners, specific sponsors, past food distribution efforts, and the need for this campaign, particularly during the holiday season. Information on eligibility, volunteering, and donating to this cause was provided, along with appreciation to the City for its support. Hays County Precinct Three Commissioner Will Conley, who also serves on the Hays County Food Bank Board, spoke on the efficiency of this organization, pointed out the need for food assistance in the Wimberley Valley, and encouraged donations.

### **Citizens Communications**

No citizen communications were heard.

#### **1. Executive Session**

Consultation with attorney regarding pending litigation in Cause No. 08-1984, Cyndi Brown, Individually v. City of Wimberley, Tom Haley, Individually and Don Ferguson, Individually in the 428<sup>th</sup> District Court of Hays County, Texas

This item was heard after Agenda Item 7A.

Mayor Haley adjourned Open Session and convened Executive Session at 6:49 p.m. for consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code.

Mayor Haley reconvened Open Session at 6:59 p.m. No action was taken during Executive Session.

## **2. Consent Agenda**

- A. Approval of the minutes of the special City Council meeting of October 14, 2009.
- B. Approval of the minutes of the regular City Council meeting of October 15, 2009.
- C. Approval of the appointment of one (1) consensus member to the Wimberley Parks Board
  - Aubrey Weeks (*Place Four Councilmember Steve Thurber's Nominee*)
- D. Approval of the resignation of Julie Harris from the Wimberley Economic Development Commission and the appointment of Nancy Britner to the Wimberley Economic Development Commission (*Place Two Councilmember Bob Flocke's Nominee*)
- E. Approval of the September 2009 City of Wimberley Financial Statements

Councilmember Thurber pulled Consent Agenda Items 2B and 2E.

Councilmember Appleman pulled Consent Agenda Items 2A and 2B.

Councilmember Thurber moved to approve Consent Agenda Items 2C and 2D. Councilmember White seconded. Motion carried on a vote of 5-0.

Councilmember Flocke moved to approve Consent Agenda Item 2A as presented. Councilmember Thurber seconded. Councilmember Appleman abstained due to his absence at Council's October 14, 2009 meeting. Motion carried on a vote of 4-0.

Relating to Consent Agenda Item 2B, Councilmember Thurber requested the following change to page 4, paragraph 3, of Council's October 15, 2009 minutes: amend language to reflect that the item in question was *continued* rather than *tabled*. Councilmember Thurber moved to approve the minutes with the suggested language. Councilmember White seconded. Motion carried on a vote of 4-0. Councilmember Appleman abstained due to his absence at Council's October 15, 2009 meeting.

In response to Councilmember Thurber's inquiry regarding *Capital Outlay Roads* expenditures of \$12,055.55, City Administrator Ferguson clarified that improvements were made to Cypress Creek Lane and Wayside Drive. Councilmember Thurber moved to approve Consent Agenda Item 2E as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

### **3. Presentation**

Presentation by a representative of the United States Census Bureau regarding the upcoming 2010 United States Census (*Henry Dickens, U.S. Census Bureau*).

Henry Dickens distributed an informational folder on the 2010 Census, outlined census procedures making the process easy and safe, noted the importance of participation/response, cited sample resolutions supporting census efforts, and specific area demographics. He asked that Council approve a resolution of support for the 2010 Census.

Discussion addressed the difficulties associated with mailing out Wimberley area questionnaires to physical addresses due to the large number of residents who use post office boxes as mailing addresses. Mr. Dickens stated that questionnaires must be mailed to physical addresses, but noted that census takers will follow up with personal visits to addresses where no initial responses were received. Discussion established that the City has offered to provide space for assistance centers to help ensure Census participation. Mr. Dickens thanked Council for its support.

### **4. City Administrator Report**

City Administrator Ferguson reported that a Request for Qualifications (RFQ) has been issued for the City limits survey project and noted the response deadline, certain terms, and overall project timeframe. Councilmember Flocke requested that Council be more involved in the selection process for this project and discussion addressed posting a future agenda item in order to designate Council members to participate in reviewing responses.

- Status report on the efforts to secure state and/or federal funding for the development of a centralized wastewater system for downtown Wimberley

City Administrator Ferguson reported that the City has received an invitation from the Texas Water Development Board (TDWB) to apply for Tier III funding assistance in the form a \$4.3 million low-interest loan. He provided specifics on loan interest rates/terms, application procedures, necessary documentation, and certain funding process deadlines. Mr. Ferguson noted differences between Tier II and Tier III funding requirements and the possible need to call special Council meeting(s) due to funding application deadlines.

- Status report on the preparation of an ordinance relating to slope development

City Administrator Ferguson reported that an ordinance is being drafted for review and consideration by the Planning and Zoning Commission at its November 12, 2009 meeting.

- Status report on the 2009/2010 City-initiated zoning project

City Administrator Ferguson reported on specific areas and time deadlines relevant to upcoming phases of the project.

- Status report on the preparation of the Fiscal Year 2009 Financial Report

City Administrator Ferguson reported preliminary financial information has been submitted to the City's auditor and anticipated bringing a completed report to Council in late January or early February 2010.

- Status report on the designation of a truck route around Wimberley

City Administrator Ferguson updated Council on recent efforts, including communications with Texas Department of Transportation (TxDOT) and the City of Woodcreek. Concerns were expressed by City of Woodcreek Council members regarding the possible increase of cut-through truck traffic. Discussion with the City of Woodcreek continues consideration of available deterrents such as routing signage both inside and outside Woodcreek's boundaries.

- Status report on activities of the Pedernales Electric Cooperative (PEC) Electrical Distribution System Upgrade Task Force

City Administrator Ferguson reported that pending receipt of requested information from PEC the task force anticipates holding public hearings in December 2009 or January 2010.

- Status report on the possible development of a Texas Department of Transportation grant application for pedestrian and mobility improvements on the Wimberley Square

City Administrator Ferguson reviewed the history of the City's application for a federally-funded, state-administered transportation enhancement grant. He reported on matching fund requirements, reimbursement schedules, and noted the importance of carefully monitoring the availability of fund balance dollars to meet up-front funding and matching requirements. Mr. Ferguson reported on upcoming meeting(s) including Transportation Advisory Board Secretary Bert Ray and Mayor Haley to determine project scale and to help meet specific application deadlines.

## **5. Resolutions**

- A. Consider approval of a resolution of the City Council of the City of Wimberley, Texas accepting State Energy Conservation Office (SECO) grant funding to be used in furtherance of the City of Wimberley's goals of energy efficiency (*City Administrator*).

City Administrator Ferguson reported on the City's qualification for SECO funding and the need for approval of a resolution in order to proceed with the City's application. He stated that funds may possibly be used to upgrade the heating/air conditioning system at the Wimberley Community Center.

Councilmember Thurber moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- B. Consider approval of a resolution of the City Council of the City of Wimberley, Texas supporting the United States Census 2010 (*Henry Dickens, U.S. Census Bureau*).

This item was heard after Agenda Item 3.

Councilmember Flocke moved to approve the item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

## **6. Public Hearing and Possible Action**

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for a tract located at 14211 Ranch Road 12, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial – Moderate Impact (C-2) and imposing certain conditions; and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Charli Manross, Applicant*).

City Administrator Ferguson reported that the subject property was due to be recommended for C-2 zoning in the next phase of City-initiated zoning, but the applicant felt it necessary to proceed with zoning at this time. Mr. Ferguson noted the subject property's location, existing/proposed uses and structures, parking, and access.

Because this zoning action will allow the proposed uses as permitted uses (with no conditional use permit required), Planning and Zoning Commissioner Ross reported that in the interest of safeguarding the adjacent residential area, additional conditional language was added to the ordinance mandating the maintenance of a vegetative buffer at the rear of the property to limit the impact of commercial uses. This additional condition would prevent future property owners from clear-cutting trees/vegetation and maintain buffering for neighboring residential properties. Commissioner Ross stated that the Commission voted unanimously (5-0) to recommend approval.

In response to Councilmember Appleman's safety concerns relating to access, City Administrator Ferguson reported that there is no history of accidents at the subject location. Planning and Zoning Commissioner Ross added that the cumbersome aspect of the subject property's access was deemed to be more of a hindrance to the business owner(s) than the general public. Councilmember Thurber thanked the Planning and Zoning Commission for its foresight in adding the buffering condition to the zoning ordinance.

No public comments were heard.

Councilmember Thurber moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance amending portions of Sections 33.02 (Transportation Advisory Board), Section 33.03 (Water and Wastewater Advisory Board), Section 33.04 (Parks and Recreation Board), and Section 150.01 (Building Code Board of Review) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the process for appointment and terms of office for individuals appointed to the above referenced boards; and providing for findings of fact; an effective date; proper notice and meeting, and severability (*City Administrator; Item continued from the October 15, 2009 City Council meeting*).

City Administrator Ferguson reviewed the draft ordinance based on Council's discussion and input to date. Councilmember Appleman provided reasoning outlining advantages in delaying post-election appointments by Council until either July or November. Councilmember Thurber expressed no preference for either July or November appointments, but suggested that consensus appointments (for those boards/commissions with two consensus appointees) run concurrent with the Mayor and Council Place One, which alternate election years. Discussion addressed whether there is a need for staggering consensus appointments.

No public comments were heard.

Councilmember Appleman moved to approve the item with the addition of Councilmember Thurber's previously stated suggestion. City Administrator Ferguson clarified that should a board/commission have two consensus members, the term of one consensus member shall be consistent with the Mayor's term, and the second consensus member's term shall be consistent with Council Place One. Elections for Mayor and Council Place One are held in alternate years. Councilmember Thurber seconded. Mayor Haley called for a vote as follows: Councilmember Roccaforte, aye; Councilmember Flocke, aye; Councilmember Appleman, aye; Councilmember Thurber, aye; Councilmember White, aye. Motion carried on a vote of 5-0.

## **7. Discussion and Possible Action**

- A. Discuss and consider approval of a request to waive the fees for the Starlight Symphony Orchestra to utilize the Wimberley Community Center (*Place Four Councilmember Thurber*).

This item was heard after ***Proclamations*** were presented by Mayor Haley.

Councilmember Thurber introduced Starlight Symphony Orchestra's Artistic Director Don Miller and Treasurer Wellborn Gregg. Information was provided on past and upcoming events, including details on the *Messiah Community Sing-Along*.

Councilmember Thurber moved to approve the item as presented and commended the Starlight Symphony for its contribution to the community, including performances provided free to the public. Councilmember Flocke seconded. Motion carried on a vote of 4-1. Councilmember Appleman voted against.

- B. Discuss and consider action on issues relating to the implementation of an on-site sewage facility permitting and inspection program (*City Administrator*).

City Administrator Ferguson advised that Kyle deHart will serve as the City's contract sanitarian and consultations with Water and Wastewater Advisory Board and Texas Commission on Environmental Quality (TCEQ) yielded agreement on adoption of existing Hays County regulations, with a draft to come before Council for consideration and action before the end of 2009. Future modifications may be recommended as needed once the program is fully implemented. Mr. Ferguson stated that the City is well under way in preparation for the January 1, 2010 transition, when the City assumes septic/food service permitting/inspection responsibilities. No action was taken on this item.

- C. Discuss and consider approval of plans for *Rudolph's 5K Fun Run/Walk* on Saturday, December 5, 2009 (*Wanda Martinez, Deer Creek Nursing Center*).

On behalf of Wanda Martinez, Deer Creek Nursing Center representative Bo Mrozek provided details on this fundraising event benefiting local food banks, including date/time, location, route, parking, insurance, traffic control, and partial lane closure on Old Kyle Road.

City Administrator Ferguson recognized Wanda Martinez of Deer Creek for her organizational efforts and Deer Creek representatives thanked the City for its support.

In response to Councilmember Appleman's expressed safety concerns due to heavily-scheduled weekend activities, Ms. Mrozek stated that this event is not timed and is non-competitive, which should provide a safer, slower-paced environment for both vehicle and pedestrian traffic.

Councilmember Flocke moved to approve the item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider approval of a request to install banners on utility poles on the Wimberley Square (*Wimberley Merchants Association*).

City Administrator Ferguson stated that the Merchants Association is developing a "pole banner" program to promote community events. Merchants Association representative Kenny Carleton displayed a sample banner and City Administrator Ferguson noted that a generous donation (from *Keep Wimberley Beautiful*) will help purchase banners and necessary hardware. Discussion addressed the need for adoption of a formal pole banner program and PEC approval. Mayor Haley expressed concern regarding long-term maintenance of banners and discussion established that the proposed banners will advertise specific seasonal events and not remain as permanent fixtures. Discussion included location/number of banners, maintenance issues, longevity of banner materials, and specifics of hardware placement. Mayor Haley thanked the Merchants Association for its beautification efforts.

Councilmember Thurber moved to approve the request to install banners on utility poles on the Wimberley Square contingent on written PEC approval. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider approval of a proposed change to the Wimberley Ethics Commission by-laws (*Wimberley Ethics Commission*).

Wimberley Ethics Commission Chairman John Meyer stated that current by-laws require four meetings per year. Chairman Meyer reported that Ethics Commission members voted affirmatively to hold one (1) mandatory meeting per year in September in order to hold a thorough workshop dealing with the Commission's duties and responsibilities. He noted that the Commission will schedule additional meetings as deemed necessary.

Councilmember Flocke moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0. In response to Councilmember Thurber, Chairman Meyer advised that no ethics complaints have been received in the past two years.

- F. Discuss and consider possible action relating to the development of a new City Hall facility for the City of Wimberley, Texas (*Mayor Tom Haley*).

Mayor Haley adjourned Open Session and convened Executive Session at 8:09 p.m. for discussion about real estate acquisition pursuant to Chapter 551.072 of the Texas Government Code.

Mayor Haley reconvened Open Session at 8:26 p.m. No action was taken during Executive Session.

## 8. City Council Reports

- Announcements
- Future Agenda Items

Hearing no announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 8:26 p.m.

**Adjournment:** Council meeting adjourned at 8:26 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 19th of November, 2009.

**APPROVED:**

*Tom Haley*  
**Tom Haley, Mayor**

