

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
July 2, 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 Assistant City Attorney Cindy Crosby.

Proclamation

Presentation of a proclamation recognizing Purple Heart and Bronze Star recipient Army Sergeant Charles McMillan of Wimberley.

Mayor Haley presented the proclamation to Sergeant McMillan honoring his service and designating July 3, 2009 as *Sergeant Charles McMillan Day*. Sergeant McMillan thanked the City for its recognition of his service.

Citizen Communications

No citizen communications were heard.

1. Consent Agenda

Approval of minutes of the regular City Council meeting of June 18, 2009.

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

2. City Administrator Report

- Status report on City sales tax revenue

Although sales tax revenues are slightly ahead of last year, City Administrator Ferguson reported flat sales tax revenues, presented historical revenue trends, and advised that sales tax collections will be closely monitored.

- Status report on the development of new Hays County subdivision regulations

City Administrator Ferguson reported on an upcoming Hays County Commissioners Court meeting on this issue to be held on July 21, 2009 at 6:00 p.m. at Wimberley City Hall Council Chambers, which will be posted for City Council should a quorum decide to attend.

- Status report on the selection of a City audit firm

City Administrator Ferguson reported that a Request for Proposal has been issued for a City audit firm, with responses due by June 30, 2009. Council consideration is expected in early August.

- Status report on the operation and development of Blue Hole Regional Park

City Administrator Ferguson reported a significant overall increase in revenues over last year and a decrease in the number of season passes purchased this season. He noted a decrease in attendance for this week, possibly due to extreme heat and publicity about the drought. Weekly testing has yielded acceptable levels, but Mr. Ferguson reminded that Blue Hole is a natural body of water.

City Administrator Ferguson reported that the first installment of grant-funded benches and picnic tables arrived this week. Other development under way includes the construction of a youth rope swing deck, as well as hike and bike trail landscaping. Brief discussion addressed a possible walk of the hike and bike trail by Council members. Blue Hole Regional Park Development Task Force will hold its first meeting this month with the project consultant. A memorial donation policy for park benches will be considered by the Parks Advisory Board for future Council consideration.

- Status report on efforts underway to secure state and federal funding for the Downtown Wastewater Project

City Administrator Ferguson reported that the Texas Water Development Board (TWDB) is still considering the City's application and expects to have a substantive discussion next week to discuss funding through TWDB. Rural development funding applications are being reviewed by staff for future Council consideration. He reminded Council of its joint meeting with Water Wastewater Advisory Board scheduled for July 8, 2009 at 5:30 p.m.

- Status report on Fourth of July activities

City Administrator Ferguson reported on parade specifics such as route, street closures, and Fourth of July Jubilee access/parking at Blue Hole Regional Park. He thanked the Chamber of Commerce for its work on Fourth of July events. Mr. Ferguson reported on the fireworks display scheduled for approximately 9:00 p.m. on July 3rd and thanked Mayor Haley and family for donating music for the event. With the VFW Rodeo in progress as well, Mr. Ferguson reported that traffic should be heavy for the holiday weekend. Councilmember Flocke reminded that a flag ceremony will be held on

Saturday, July 4th at 10:00 a.m. at Veterans Memorial Plaza at EmilyAnn Theatre, with a flyover by vintage aircraft.

- Status report on activities of the Wimberley Municipal Court
- Status report on activities of the City Marshal

City Administrator Ferguson advised that there is nothing new to report at this time on activities of the Municipal Court or City Marshal.

3. Presentations

A. Presentation of Pedernales Electric Cooperative (PEC) quarterly activities report (*Cele deLeon*)

Mr. deLeon thanked proclamation recipient Sergeant McMillan for his service, reported on PEC's annual meeting, congratulated new PEC board members, and reported on upcoming open houses in the Wimberley area. He reported that fifty (50) area students received \$1,000 PEC scholarships, noted holiday office closures, and outlined operating hours. Mr. deLeon closed by presenting Mayor Haley with PEC's franchise payment in the amount of \$18,239.62. Mayor Haley looked forward to positive changes at PEC and thanked Mr. deLeon. Brief discussion addressed open house meeting topics such as rate structure and line extensions discussion.

B. Presentation on the impact of the current drought on the Trinity Aquifer in Hays County (*Hays Trinity Groundwater conservation District*)

Hays Trinity Groundwater Conservation District (HTGCD) Wimberley representative Jack Hollon presented information on drought statistics, historical drought patterns, area aquifer/river levels/flows, and well levels, including Jacob's Well flow information. He stressed the importance of water conservation and education, particularly with no rain forecast for the immediate future. Mr. Hollon reported on recent changes in HTGCD Board membership and budget limitations.

Discussion addressed drought management/planning, regulatory relationships with water suppliers, main role/authority of HTGCD, voluntary cutback measures, rate hikes, City water conservation regulations, applicability of certain regulations on public providers and private wells, and enforcement. Mr. Hollon stressed the importance of groundwater districts in order to study the aquifer, capacity, and impact of growth. He felt that rainwater collection should be encouraged. Mr. Hollon closed by stating that a permit hearing will be held at Wimberley City Hall Council Chambers on July 9, 2009 at 9:00 a.m. Mayor Haley thanked Mr. Hollon, who replied that he is honored to serve as Wimberley's representative.

4. Public Hearing and Possible Action

- #### A. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Chapter 155 (Zoning) of the Code of Ordinances, certain

subsections of Section 155.23 (Districts Established; Designation and Review) in order to add the “Scenic Corridor (SC)” as a base zoning district, create Planning Area VII, and revise the planning areas accordingly; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting (*City Administrator*).

Planning and Zoning Commissioner Jean Ross reviewed the process to date and highlighted major areas of discussion culminating in tonight’s recommendation, including rationale for required setbacks. Discussion addressed specifics on allowable percentages/locations for parking, buffering, limitations due to topography, variance procedures, and reasoning for arriving at fifty (50) as a minimum setback amount. City Administrator Ferguson provided an overview of ordinance language and detailed SC permitted/conditional uses, setbacks, landscaping, parking, signs, and fencing. Mr. Ferguson noted the following change to §155.023(I)(2) on page 5 of the proposed ordinance:

“In order to promote reasonable transitions between districts within the city and ensure the compatibility of neighboring uses, zoning district boundaries may not be approved if the difference between the intensity of the requested district and an adjoining district is greater than 2, except if *as* recommended by the Planning and Zoning Commission, and as may be approved by the City Council.”

City Administrator Ferguson displayed in map form the relatively small number of SC properties affected by the proposed setback and discussion addressed SC boundaries and public input.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing.

Councilmember Appleman requested amending the proposed ordinance to state that in instances where the property owner designates a minimum front setback of one hundred (100) feet or more, then parking (including ADA) shall be allowed up to seventy-five percent (75%) in the front, with all remaining parking at the side or rear of the property.

Councilmember Flocke spoke in support of the proposed ordinance which he felt corrects overly restrictive regulations on properties appropriate for the type of attractive commercial activity envisioned by the Economic Development Commission. Councilmember Flocke moved to approve the first reading of the ordinance with the inclusion of Councilmember Appleman’s previously requested amendment. Councilmember Appleman seconded.

Hearing no more comments, Mayor Haley called for a vote as follows: Councilmember Roccaforte, aye; Councilmember Flocke, aye; Councilmember Appleman, aye; Councilmember Thurber, nay; Councilmember White, aye. Motion carried on a vote of 4-1.

Councilmember Thurber stated his vote against was due to the fifty (50) foot setback provision and commended the Comprehensive Plan Review Commission and Planning and Zoning Commission for their diligent work.

- B. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Chapter 155 (Zoning) of the Code of Ordinances Section 155.093 Entrance Corridor Overlay District (EC) in order to revise the setback requirements and add requirements related to construction type and materials, landscaping and signage; and providing for the following: penalty; findings of fact; repealer; severability; effective date; and proper notice and meeting (*City Administrator*).

City Administrator Ferguson displayed maps showing EC boundaries, provided details on required setbacks, parking, signage, and fencing. He noted that existing structures would be considered pre-existing, non-conforming (grandfathered).

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing. Councilmember Appleman requested the same amendment as stated in the previous agenda item.

Councilmember Appleman moved to approve the first reading of the ordinance with inclusion of the same amendment as previously stated in Agenda Item 4A. Councilmember Roccaforte seconded.

Mayor Haley called for a vote as follows: Councilmember Flocke, aye; Councilmember Appleman, aye; Councilmember Thurber, nay (voting against approval due to the setback issue); Councilmember White, aye; Councilmember Roccaforte, aye. Motion carried on a vote of 4-1.

- C. Hold a public hearing and consider approval of the first reading of an ordinance amending Chapter 155 (Zoning) of the Code of Ordinances to allow bars and taverns in Commercial High Impact (C-3) zoning districts with a conditional use permit; liquor stores in Commercial Moderate Impact (C-2) and Commercial High Impact (C-3) zoning districts with a conditional use permit, and prohibiting the use within the Village Center Overlay District; allowing the on-premise consumption of alcohol in restaurants in Commercial Low Impact (C-1), Commercial Moderate Impact (C-2) and Commercial High Impact (C-3) zoning districts with a conditional use permit; creating and revising related definitions and deleting references to private clubs; and providing for the following: penalty; findings of fact; repealer; severability; effective date; and proper notice and meeting (*City Administrator*).

Commissioner Ross provided reasoning for the Commission's unanimous recommendation to require conditional use permits, which would necessitate public notification and hearings.

Discussion addressed specific businesses in the Village Center Overlay District, rationale for restrictions on liquor stores in the tourist-oriented Square, and clarification of certain terms/definitions.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing. Councilmember Roccaforte stated that reference(s) to "Village" should be changed to "City," with acknowledgement by City Administrator Ferguson. Councilmember Appleman moved

to approve the first reading of the ordinance with the following amendment: prohibit liquor stores within the City Center Overlay District with the exception of those stores that limit their sales to wine only for on- and off-premise consumption. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- D. Hold a public hearing and consider adoption of a resolution authorizing the submission of an application for grant assistance under the 2009 Texas Department of Agriculture Downtown Revitalization Program to fund sidewalk design and construction and other associated improvements on the Wimberley Square and approval of an associated Citizen Complaint Procedure (*City Administrator*).

City Administrator Ferguson recommended approval of the resolution and associated Citizen Complaint Procedure in order to apply for \$150,000 in grant funds to assist in completing improvements detailed in the recently adopted *Wimberley Square Mobility Plan*. He noted that the City will be obligated to provide \$45,000 in matching funds should the grant be awarded.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing. Discussion addressed grant specifics including impact of expenditures to date on the City's match funding, requirement for complaint procedure, and status of Hays County road bond funding earmarked for certain projects.

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

5. Discussion and Possible Action

- A. Discuss and consider approval of the transfer of \$50,000 from the City of Wimberley restricted General Fund balance to meet a prior commitment to provide matching funds for a Texas Parks and Wildlife grant received for the acquisition and development of the Blue Hole Regional Park and amending the Fiscal Year 2009 Budget to reflect the transfer (*City Administrator*).

City Administrator Ferguson explained the need to complete spending under State grant requirements to help pay for the initial phase of the hike and bike trail and other improvements.

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

- B. Discuss and consider approval of a Letter of Engagement with the law firm of Bickerstaff Heath Delgado Acosta, LLP to provide legal services to the City of Wimberley (*City Administrator*).

City Administrator Ferguson explained the need for this item due to the resignation of current City Attorney Patty Akers and detailed certain terms, conditions, and fees in the agreement.

Serving as Interim City Attorney, current Assistant City Attorney Cindy Crosby respectfully asked that Council approve her designation as City Attorney, noted certain revisions to the agreement, and directed Council's attention to informational brochures on the legal team at Bickerstaff Heath Delgado Acosta, LLP.

Councilmember Flocke moved to approve the Letter of Engagement designating current Assistant City Attorney Cindy Crosby as the new City Attorney. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding the proposed City Council priorities developed in the June 24, 2009 City Council workshop (*Mayor Tom Haley*).

City Administrator Ferguson thanked Council for its input and noted the need to add the Blue Hole improvement project to the priorities list.

Councilmember Thurber moved to approve the item with the stated addition. Councilmember White seconded. Based on citizen safety concerns, Councilmember Thurber recommended the addition of sidewalks in proximity to schools as a priority. General agreement was reached to add Blue Hole improvements to the Critical priority list and Councilmember Thurber's recommended addition as a Critical Moderate priority (No. 4). Discussion addressed school safety and recognized that funds may or may not be available to completely accomplish Council's prioritized goals. Motion (including recommended additions) carried on a vote of 5-0.

- D. Discuss and consider action relating to the process used to appoint members to City boards and commissions and the terms for those appointees (*Place Four Councilmember Steve Thurber & Place Three Councilmember Bill Appleman*).

Councilmember Appleman recommended creating uniform two-year terms and allowing six (6) months for newly elected Council members to make better informed appointment decisions. Councilmember Thurber felt that all Council members should be involved in the process of consensus appointments. Discussion addressed the inclusion of formal acceptance of board/commission members' resignations on Council's agendas, creation/expiration dates of various boards/commissions, vacancies, and consensus appointment procedures.

Councilmember Appleman moved to approve two-year terms for all boards and commissions and to have the expiration of those terms coincide with the election of their City Councilperson designate six (6) months after their election and have the consensus designee be in line with the Mayor's election.

Councilmember Thurber offered the following friendly amendment: "In November of the year of your election" rather than "six (6) months after their election." Councilmember Appleman accepted the friendly amendment. Councilmember Thurber seconded. Motion carried on a vote of 5-0. Councilmember Flocke stated the need to enlist volunteers to serve on boards/commissions.

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

Mayor Haley adjourned to Executive Session at 8:38 p.m. for discussion of real estate acquisition pursuant to Chapter 551.072 of the Texas Government Code.

Mayor Haley reconvened into Open Session at 9:02 p.m. No action was taken during Executive Session.

6. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Thurber requested a possible workshop on Community Center operations with Parks and Recreation Board.

Hearing no further announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 9:03 p.m.

Adjournment: Council meeting adjourned at 9:03 p.m.

Recorded by:

Cara McPartland

Cara McPartland

These minutes approved on the 16th of July, 2009.

APPROVED:

Tom Haley
Tom Haley, Mayor

