

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
October 1, 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 and City Secretary Cara McPartland

Citizens Communications

M.F. Johnson provided details on the first annual *Full Moon Harvest Walk* sponsored by the Mayor's Fitness Council, and encouraged participation in the first walk to take place on Sunday, October 4, 2009 at 6:30 p.m. starting at the Wimberley Café.

Wimberley Merchants Association representative Kenny Carleton publicly thanked former City Marshal Bill Robinson for his service to downtown merchants.

1. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of September 17, 2009.
- B. Approval of the minutes of the special City Council meeting of September 22, 2009.
- C. Approval of the reappointment of Horace Wilson to the City of Wimberley Building Code Board of Review (*Place Four Councilmember Steve Thurber's nominee*).
- D. Approval of the reappointment of Bert Ray to the Wimberley Transportation Advisory Board (*Mayor Tom Haley's nominee*).

Councilmember Appleman moved to approve all Consent Agenda items. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

2. Presentations

Presentation of the Pedernales Electric Cooperative (PEC) quarterly activities report (*Cele de Leon*).

PEC representative Cele de Leon provided information on how to use PEC's website as a tool for members to monitor and analyze electricity usage and payment history. He reported on the entry

deadline for PEC's 2010 Youth Tour Contest, extension of the reconnection fee waiver period through the end of 2009, and capital credit distributions. Mr. de Leon concluded by presenting Mayor Haley with PEC's quarterly franchise payment in the amount of \$35,284.27.

3. City Administrator Report

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

City Administrator Ferguson reported on the upcoming design charrette schedule and its purpose to gather public input. Mr. Ferguson advised that charrette meetings will be posted should a quorum of Council desire to attend. He provided details on continually updated websites where the public can stay informed on the project's progress.

- Status report on possible additions to the *Transportation Master Plan* relating to mobility and connectivity

City Administrator Ferguson reported on the recent Transportation Advisory Board (TAB) meeting gathering public input on connectivity issues. Saddleridge and River Meadows subdivision representatives expressed respective concerns relating to the extension of Saddleridge Drive/Canyon Gap to Fulton Ranch Road and Leach Lane to Wayside Drive. TAB plans to weigh public input received to date at its next meeting before making final recommendations to the Planning and Zoning Commission.

- Status report on the review and approval process for subdivisions in the City of Wimberley's Extraterritorial Jurisdiction (ETJ)

City Administrator Ferguson reported on Hays County recently adopted subdivision regulations and the process/timeframe related to incorporating those regulations into a new interlocal agreement. He provided details on a less cumbersome joint review process and payment of City of Wimberley/Hays County fees. Interlocal agreement negotiations hope to clarify the role/authority of each party relating to granting of variances.

- Status report on the upcoming *Christmas Parade* in downtown Wimberley

City Administrator Ferguson reported that local realtor Brenda Samford has made significant fund-raising progress and that the City is helping organizers in obtaining approval for street closure(s) from Texas Department of Transportation and securing any needed law enforcement. The parade is scheduled to take place on November 27, 2009.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported on an appealed case to be heard in Hays County Court at Law this month.

- Status report on activities of the City Marshal

City Administrator Ferguson expressed gratitude to City Marshal Bill Robinson whose last day of employment was September 30, 2009. He reported on the process for sale of the City Marshal's vehicle and noted that some interest has been expressed by law enforcement agencies. City Administrator Ferguson reported on *National Night Out* activities scheduled for October 6, 2009 in the Wimberley Square. He noted that the event will be posted should a quorum of Council members desire to attend.

4. 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 property located at 317 FM 2325, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial – Low Impact (C-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*G.K.K. Investments, Applicant*).

Planning and Zoning Commissioner Jean Ross reviewed the subject property's location, existing/proposed uses, allowed uses, requested zoning, and adequate parking. The applicant is proposing to utilize the existing vacant structure (previously used for professional offices) to operate a retail children's clothing store. With no expressed opposition, Planning and Zoning voted unanimously to recommend approval.

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

City Administrator Ferguson noted the subject property's location in Planning Area IV, existing structure(s), and the need for zoning due to change in use. He stated that staff concurs with Planning and Zoning's recommendation for approval.

Councilmember White 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 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 property located at 801 FM 2325, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial – Low Impact (C-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Roger Glenn Bullock, Applicant*).

Planning and Zoning Commissioner Ross reviewed the subject property's zoning application triggered by a change in use. She noted that C-1 zoning is allowed and that the Commission voted unanimously to recommend approval.

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

City Administrator Ferguson noted the subject property's location in Planning Area III and concurred with Planning and Zoning's recommendation for approval.

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

- C. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Roger Glenn Bullock to permit a drive-through or drive-in facility on an approximately 0.890 acre tract located at 801 FM 2325, Wimberley, Hays County, Texas, zoned Commercial – Low Impact (C-1), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions (*Roger Glenn Bullock, Applicant*).

Planning and Zoning Commissioner Ross reported on the proposed use to sell frozen yogurt from a smaller building adjacent to the existing Hill Country Natural Foods business. Customers would walk up to a window to purchase frozen yogurt and either sit at the picnic bench on the property to eat their yogurt or drive away.

Mayor Haley opened the public hearing.

Applicant Roger Glenn Bullock stated that customers will drive up and walk to the window to order.

Hearing no further comments, Mayor Haley closed the public hearing.

City Administrator Ferguson noted that this will be a drive-in facility, which is allowed with a conditional use permit.

In response to Councilmember Thurber's inquiry, City Administrator Ferguson responded that this conditional use permit would specifically allow a drive-in facility and any future change in use to a drive-through facility would require another conditional use permit application.

Councilmember Thurber moved to approve the ordinance with the deletion of the term "drive-through." Councilmember White seconded. Motion carried on a vote of 5-0.

- D. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending the City's Comprehensive Plan and accompanying maps to remove those properties which front Carney Lane, between FM 2325 and the city limits, from Planning Areas I and II and include the subject properties in Planning Area III; and providing for findings of fact; severability; effective date; and proper notice and meeting (*Planning and Zoning Commission*).

Planning and Zoning Commissioner Ross reported that the Commission unanimously recommended approval based on surrounding uses and lack of objections from area property owners.

Discussion addressed specific boundary lines and existing uses of Carney Lane frontage properties.

City Administrator Ferguson noted the Wimberley Independent School District (WISD) properties zoned Public Facilities (PF) are included and provided rationale for inclusion of properties fronting Carney Lane. He concurred with Planning and Zoning's recommendation.

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

Discussion clarified the subject properties' boundaries and responded to Councilmember Thurber's question relating to inclusion of WISD properties. Discussion noted the reasoning for clustering accepted uses in planning areas and recognized that any future change in use (other than PF) of WISD properties would trigger the need for rezoning.

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

- E. Hold a public hearing and consider an ordinance amending Subsection 33.02(E) (Transportation Advisory Board), Subsection 33.03(E) (Water and Wastewater Advisory Board), Subsection 33.04(E) (Parks and Recreation Board), Subsection 150.01(E) (Building Code Board of Review), Subsection 155.108(B)(2) (Board of Adjustment) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the terms of office for individuals appointed to the above referenced boards; providing for findings of fact, and effective date; proper notice and meeting, and severability (*City Administrator*).

City Administrator Ferguson reviewed Council's previously expressed desire for uniform terms and appointment processes for all boards and commissions. He explained the proposed ordinance establishing two-year terms for all board/commission positions and the expiration of members' terms the November following the election of the nominating Council member. He noted Council's similar action providing for a forty-five (45) day wait for Planning and Zoning nominations and suggested the addition of language addressing consensus appointment procedures. Mr. Ferguson cited typical practices such as setting a specific date for appointments to occur and notification procedures for such appointments.

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

Mayor Haley expressed preference for a forty-five (45) day waiting period, rather than six (6) months as in the draft ordinance. Discussion addressed:

- the need and original purpose for this proposed ordinance
- potential politicization of appointments
- maintaining continuity of work in boards/commissions
- uniform terms/waiting period for all boards/commissions
- a ninety (90) day waiting period [versus six (6) months]
- difficulty in filling board/commission positions
- reasoning for a mass appointment schedule
- possible future amendment of the existing forty-five (45) day waiting period for Planning and Zoning appointments
- need to fill current board/commission vacancies
- staggering of appointments

Mayor Haley spoke on the need to revise the proposed ordinance and there was general agreement to table this item. Discussion addressed maintaining continuity on boards/commissions, various appointment/reappointment scenarios affecting board/commission compositions, and staggered terms to avoid wholesale changes to board/commission memberships.

Mayor Haley suggested that Council table this item and provide guidelines for City Administrator Ferguson in order to achieve an acceptable draft ordinance for further consideration.

Councilmember Thurber moved to table this item until Council's next meeting with the understanding that Council will consult with staff in order to revise the ordinance accordingly. City Administrator Ferguson reminded that the draft ordinance presented at tonight's meeting was based on Council's prior request to address concerns related to board/commission appointments. Councilmember Flocke seconded. Councilmember Appleman reminded Council of previous discussion on this issue in July 2009. Motion carried on a vote of 5-0.

5. Discussion and Possible Action

- A. Discuss and consider approval of plans for the *Winter's Eve on the Square* on December 5, 2009 (*City Administrator*).

Councilmember Flocke recused himself from the meeting at this time due to a possible conflict of interest.

City Administrator Ferguson provided event details including location, date, time, street closures, parking, and traffic control/law enforcement. Event features included music, food/alcohol sales, and various activities. Due to alcohol sales, Mr. Ferguson noted the need for adequate law

enforcement and the naming of the City as an additional insured party on insurance coverage. Other points of discussion included event personnel, restroom facilities, parking, and signage.

Wimberley Merchant Association representative Kenny Carleton stated conversations with the alcohol caterer assured that this event will utilize appropriate law enforcement and TABC-certified staffing. He noted that the Wimberley Merchants Association will pay for the \$201 TABC application fee and the additional insurance rider which includes the City of Wimberley. Mr. Carleton noted that safeguards are in place to keep the "alcohol aspect" of this family-oriented event low-key in nature. He hoped that this event will provide expanded opportunities for merchants in difficult times and emphasized that the Merchants Association will do nothing to jeopardize its status.

Due to alcohol sales, Mayor Haley stressed the need for extra care and Mr. Carleton responded to concerns over alcohol sales by stating that safety is of utmost concern to event organizers.

Councilmember Thurber moved to approve the item provided that the City is named as an additional insured and adequate law enforcement is supplied to the City's satisfaction. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

Councilmember Flocke rejoined the meeting at this time.

- B. Discuss and consider action to clarify the process to be used to make consensus appointments to City boards and commissions (*Mayor Tom Haley*).

Mayor Haley felt that every Council member has the right to place any name into consideration for open consensus positions, with terms which are to run concurrently with the mayor's.

Discussion addressed staggering of consensus appointments for boards/commissions with more than one consensus position to fill, various appointment scenarios affecting board/commission composition/continuity, procedures for making appointments, and uniform appointment date(s).

Councilmember Appleman moved to include provisions regarding terms/appointments of consensus nominees in Council's previous direction to revise the draft ordinance relating to tabled Agenda Item 4E. Motion died for a lack of second.

Mayor Haley reiterated his previous statement and stressed each Council member's right and duty to vote for the nominee of his choice.

Councilmember Thurber moved to table this item and take no action at this time. Councilmember White seconded. Mayor Haley recommended that Council convey its feelings on this issue to staff in order to decide whether or not future action is needed. Motion carried on a vote of 5-0.

6. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson stated that TAB has asked to conduct a joint workshop meeting on October 14, 2009 with Council to discuss priorities and planning for road improvements.

Mr. Ferguson announced that he has received notice from the State Energy Conservation Office (SECO) that grant funds in the amount of \$20,000 have been awarded to the City of Wimberley, which may possibly be used to improve energy efficiency at the Wimberley Community Center.

As a future agenda item, Councilmember Thurber requested a lawsuit status update. Mr. Ferguson responded affirmatively to Councilmember Thurber's request for a copy of the finalized and approved FY 2010 Budget for Council. Hearing no more announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 7:47 p.m.

Adjournment: Council meeting adjourned at 7:47 p.m.

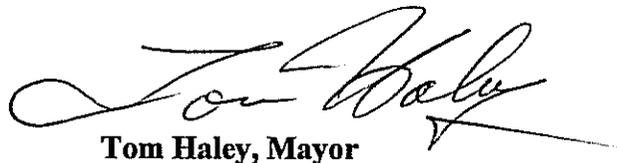
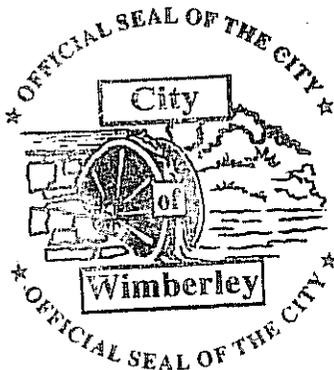
Recorded by:



Cara McPartland

These minutes approved on the 15th of October, 2009.

APPROVED:



Tom Haley, Mayor