

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
August 1, 2013 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Bob Flocke.

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

Councilmembers Present: Mayor Bob Flocke and Councilmembers Tom Talcott, Mac McCullough, Matt Meeks, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson and City Secretary Cara McPartland

### **Citizens Communications**

Wimberley Water Supply Corporation (WWSC) Board member Scott Johnson advised that despite some recent rainfall, WWSC has extended Stage III restrictions due to continuing drought conditions. He noted a significant reduction in pumpage last month, stressed the importance of conservation, and hoped the trend will continue.

#### **1. Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of July 18, 2013
- B. Approval of the minutes of the Special City Council meeting of July 15, 2013

Councilmember Meeks moved to approve both Consent Agenda items, as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

#### **2. City Administrator Report**

- Status report on the *City of Wimberley Central Wimberley Wastewater Project*

City Administrator Ferguson reported that Council will hold a special meeting on August 6, 2013 at 5:15 p.m. to interview three (3) respondents to the City's Request for Qualifications (RFQ) for the planning, design, and construction management of the Central Wimberley Wastewater Project, with awarding of the contract anticipated at Council's regular meeting on August 15, 2013. He noted that an item will be placed on the August 15, 2013 agenda relating to issuance of tax notes and stated closing of the City's Texas Water Development Board (TWDB) loan is scheduled for mid-September.

- Status report on the possible acquisition of alternative public official liability insurance for members of the Wimberley City Council

City Administrator Ferguson reported on continuing efforts to obtain coverage and advised that Council will receive future updates.

- Status report on the implementation of the Wimberley Independent School District's (WISD) 2013 Bond Program

City Administrator Ferguson reported that a meeting of officials/engineers representing the City and WISD was held to coordinate implementation of bond improvements. He provided specific information on the proposed work schedule, time frame, and need for future variance requests. He stated WISD expressed appreciation for the City's waiver of certain building permit fees.

- Status report on reconstruction of the Ace Hardware store

City Administrator Ferguson reported on recent concrete work for the building site and parking area and anticipated reconstruction completion in December 2013.

- Status report on the CR 1492 Traffic Safety Project

City Administrator Ferguson reported on traffic enforcement efforts, improvements to regulatory signage, pavement grooving, and traffic studies showing a decline in the average 85<sup>th</sup> percentile speed.

- Status report on central Wimberley water quality issues

City Administrator Ferguson reported additional dye testing will be conducted this Market Days' weekend in areas that have shown recent spikes in bacteria levels. He stated letters are being mailed next week to property owners along Cypress Creek regarding newly installed public notice signs about the possible health risks of contact with natural bodies of water.

- Status report on the Blue Hole Regional Park

City Administrator Ferguson reported on record attendance to date this season (in excess of 21,000 visitors), reliance on rain for landscape irrigation, and off-season rejuvenation of Park grounds.

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

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas amending Chapter 155 (Zoning) of the Code of Ordinances, Subsection 155.055 (C) (Lodging (L-2); Conditional Uses) to allow eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption, as a conditional use; and providing for the following: penalty; findings of fact; repealer; severability; effective date: proper notice and meeting. (*City Administrator*)

City Administrator Ferguson explained that it is not uncommon for moderate lodging operations, as allowed in the L-2 zoning district, to include sit-down eating establishments, some of which

serve beer, wine, and alcohol. He noted that current regulations allow such establishments to sell beer, wine, and alcohol as a conditional use in all commercial zoning districts. He stated that the proposed ordinance would expand this provision to include the L-2 zoning district. Reasoning was given for not including the Lodging (L-1) zoning district in the proposed ordinance. It was noted that the Planning and Zoning Commission held a public hearing on July 25, 2013 and unanimously recommended approval of the ordinance, as presented.

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

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

- B. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Leaning Pear, LLC to allow for the sale of beer and wine for on-premise consumption at a sit-down eating establishment located on a tract of property zoned Lodging (L-2), located at Unit 110, 111 River Road, Wimberley, Hays County, Texas, and imposing certain conditions; providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Leaning Pear, LLC, Applicant*)

City Administrator Ferguson reviewed the subject property's location, L-2 zoning, and proposed use as the new site of the *Leaning Pear Restaurant*, including the sale of beer and wine for on-premise consumption. He stated that a conditional use permit (CUP) allowing the sale of beer and wine for on-premise consumption exists for the soon-to-be former location of the restaurant, which is located on an adjacent tract zoned Commercial – Low Impact (C-1). Council's action on the previous Agenda Item 3A, amending the City's Zoning Code to allow the subject conditional use in the L-2 zoning district, allows for consideration of the applicant's CUP request. It was noted that on July 25, 2013, the Planning and Zoning Commission held a public hearing and unanimously recommended approval, as presented.

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

Councilmember Thurber moved to approve the item, as presented. Councilmember Meeks 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 Glenda Wilcox to allow for a secondary residential building on a .523 acre tract of land zoned Single Family Residential 2 (R-2), located at 100 Donna Drive, Wimberley, Hays County, Texas, and imposing certain conditions; providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Glenda Wilcox, Applicant; This item was continued from the July 18, 2013 meeting of the Wimberley City Council*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and current structures. He stated the applicant desires to construct a one (1) bedroom, one (1) bath, 841 square-foot secondary single family residence on the property intended to house a relative of the applicant. It was noted that access to both residences would be from Mary Stephenson Lane and that a new septic system would be installed to service both residences. The new septic system would require a variance from the City's on-site sewage facility (OSSF) lot size requirements to be granted by Council.

City Administrator Ferguson advised that to date staff has received written opposition to the CUP request from owners of properties representing twenty-six percent (26%) of notification area. He noted that due to the amount of opposition received, a super majority vote by City Council would be needed to affirm the zoning change. He stated that on July 25, 2013, the Planning and Zoning Commission voted 5-1 to recommend approval of the CUP, with the condition that the secondary residence may never be made available for rent.

Mayor Flocke opened the public hearing.

Resident of the subject property, Jennifer Anderson, advised that her mother is the applicant/property owner. She spoke of her family's history as Wimberley residents and of their need for the secondary residence. She stated that the proposed use is allowed under her deed restrictions and the City's Zoning Code and asked for Council's approval of her mother's CUP request. City Administrator Ferguson clarified that secondary single family residences are allowed in R-2 zoned properties, if a CUP is approved.

Lawrence Kuvet, resident of Cindi Circle, spoke in opposition to the CUP request, citing concerns about construction of separate residences that could possibly be used as future rentals.

Elpidio Jimenez, resident of Cindi Circle, concurred with concerns expressed by Mr. Kuvet and suggested that the applicant consider an addition to the existing single family residence, rather than building a separate structure.

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

Discussion addressed the applicant's attempts to engage neighbors about the proposed secondary residence, the applicant's desire to build a separate residential building (as opposed to an addition and/or structure connected by a breezeway), the additional condition prohibiting any rental of the secondary residence, and parking at the subject property.

Councilmember McCullough moved to approve the item, as presented, which includes the additional following condition: "At no time shall the secondary single family residential building be made available for rent." Councilmember Talcott seconded.

Discussion addressed the opposition received subsequent to the Planning and Zoning Commission's public hearing on July 25<sup>th</sup>, and objections based on concerns regarding possible use of the secondary residence as a rental, as well as density issues. Brief discussion between Mr. Kuvet and Ms. Anderson established Mr. Kuvet's preference for an addition/breezeway

option to the main residence, rather than a secondary residential building facing a side street. Ms. Anderson responded that the secondary residence will architecturally match the existing primary residence and that the property's curb appeal will be improved. Discussion established that Council has the ability to grant a variance from the City's OSSF lot size requirements upon review of the septic system design and specifications.

Motion carried on a unanimous vote of 5-0.

#### 4. Ordinance

Consider approval of an ordinance of the City of Wimberley, Texas, amending and replacing Chapter 152 (Signs) of the City of Wimberley Code of Ordinances and providing for the following: findings of fact, severability, repealer, and effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson reviewed the draft ordinance, which includes revisions per Council's direction, as well as a comparison chart of current versus proposed language. He reviewed key provisions of the revised draft ordinance, including simplified definitions, commercial complex/window signage, wall signs, daily display signs, illuminated signs, temporary signs/banners, construction signs, mobile/vehicular signs, "spirit" signs, garage sale signs, real estate signs, electronic message boards, and variance procedures.

Discussion among Council, staff, and Sign Ordinance Task Force members Scott Vaughan and Gary Callon addressed:

- Pre-existing, non-conforming signage
- Provision that sign illumination must be turned off at 10 p.m. or close of business (whichever is later)
- Concerns regarding sign sizes and luminance
- Inclusion of illustrations, City map, and/or comparison chart in final version of proposed ordinance

Councilmember Thurber move to continue this item to allow for further review. Councilmember McCullough seconded.

Councilmember McCullough offered a friendly amendment to review the comparison chart in order to reach consensus on specific aspects of the proposed ordinance. Mayor Flocke favored action approving the ordinance in its entirety, with the understanding that Council may make future changes to the ordinance, if deemed necessary. Councilmember Thurber did not accept Councilmember McCullough's friendly amendment and favored allowing more time to review the proposed ordinance and accompanying comparison chart. Councilmember McCullough's friendly amendment died for lack of a second. Councilmember McCullough withdrew his second to Councilmember Thurber's motion to continue this item. Councilmember Thurber's motion died for lack of a second.

Councilmember Talcott moved to approve the item, as presented. Councilmember White seconded.

Mayor Flocke called for a vote as follows: Councilmember White, aye; Councilmember Thurber, nay; Councilmember Meeks, aye; Councilmember McCullough, nay; Councilmember Talcott, aye. Motion carried on a vote of 3-2.

## 5. Discussion and Possible Action

- A. Discuss and consider possible action regarding the appointment of an independent citizen stakeholder group to participate in the planning and design phase of the Central Wimberley Wastewater Project. (*City Administrator*)

Mayor Flocke called on speakers at this time.

Debby Spears expressed her support and requested information on specific procedures for appointments to the stakeholder group and felt that there are qualified citizens present at tonight's meeting.

Sheila Wollam felt that Council has an opportunity to create a feeling of inclusiveness and community involvement. She urged Council to carefully consider the appointment process and the importance of public input. She asked if information was available to the public on the City's recent Request for Qualifications. City Administrator Ferguson advised that information on the wastewater project, including the Request for Qualifications is available for viewing on the City's website. She asked that Council empower potential stakeholder group members beyond their roles to act in an advisory capacity and felt that engineering firms should not be presented with a predetermined scope of work. She felt that careful consideration is needed in appointing members who can reach consensus.

City Administrator Ferguson stressed that the project engineer will work directly with the stakeholder group to explore all options, not just those explored to date. He presented a stakeholder committee development process (*attached to these minutes*) that identifies affected parties, outlines the appointment process, and recommends three (3) options that would appoint five (5), seven (7), or nine (9) members, respectively.

Discussion addressed:

- Ensuring that no bias exists toward those who have previously expressed views
- Ability of potential members' ability to make objective decisions and reach consensus
- Importance of diverse representation, including affiliated and non-affiliated organizations/property owners
- Representation of a concerned citizen group named *Residents for Community Stewardship*
- Possible inclusion of a member representing Texas State University's River Systems Institute, perhaps in an advisory capacity (without voting rights) to provide perspective on broader watershed issues

- Submission of possible appointees' names to Mayor Flocke for nomination and Council's subsequent confirmation of those nominations versus submission of names to Council for nomination
- Optimum number of stakeholder committee members
- Inclusion of a member representing "north side property owners"
- Reasoning for including one member who is a non-affiliated, non-central Wimberley property owner in all three options
- Council's preference for Option #2 (Seven-member stakeholder committee)
- Process for submission of nominees names and scheduling of interviews to be conducted by Mayor Flocke

Councilmember Talcott moved to approve Option #2 (seven-member stakeholder committee) with names to be submitted to City Administrator Ferguson to forward to Mayor Flocke, who will advise Council of interviews scheduled for each name submitted. City Administrator Ferguson reminded that should Council member(s) desire to accompany Mayor Flocke on interviews, care should be taken to adhere to rules governing assembly of a quorum of Council members. Councilmember Talcott advised that he would like to accompany Mayor Flocke in the interview process. Councilmember Meeks seconded Councilmember Talcott's motion.

Discussion addressed whether organizations should be allowed to submit their choice of representative versus determination by Council and established that individual citizens can submit their own names for consideration.

Councilmember Talcott amended his previous motion by adding that organizations can submit nominations for their own representatives to City Administrator Ferguson. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action on steps to be taken by the City of Wimberley to address wastewater concerns that may arise in central Wimberley during the design and development of a central Wimberley wastewater system. (*City Administrator*)

City Administrator Ferguson reviewed previous discussions to deal with interim issues during the design and development phase of the project. He presented cost estimates/cost sharing for: enhanced water testing to help identify pollution sources and portable restroom facilities for the Square area, along with associated operating costs of pumping and hauling waste, supplies, and staffing. He stated that ordinances could be drafted to establish a "pump and haul" policy and associated licensing program.

Discussion addressed issuance of an Request for Proposal (RFP) for water testing; possible partnership(s) to defray costs, specifications on the portable restroom trailer and imposition of user/license fees to help pay for operating costs; conditions pertaining to new businesses or changes in use at existing businesses; prohibition on increased loading of septic systems; sharing of restrooms by multiple businesses; need for broad policy on new businesses versus case-specific review; multiple businesses on one septic system; and requiring businesses with restrooms to make those facilities available for public use.

At the conclusion of Council discussion, City Administrator Ferguson clarified Council's direction to staff as follows:

- Develop and issue a Request for Proposals (RFP) related to enhanced water testing
- Develop approaches relating to changes in use in the downtown area
- Develop requirements that businesses with restrooms must make those facilities available for public use
- Pursue further discussions with Carl Leineweber on the possible acquisition of a portable restroom trailer and development of a proposal for Council consideration
- Development of ordinance(s) establishing a pump and haul policies, procedures, and licensing

Councilmember Thurber moved to direct staff in accordance with City Administrator Ferguson's abovementioned list of actions. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

C. Discuss and consider possible action regarding the proposed Fiscal Year 2014 Goals and Priorities for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson noted that the goals and priorities defined by Council at its workshop meeting on July 16<sup>th</sup> have been prioritized in three stages as follows:

Stage I:

1. Develop central Wimberley wastewater system
2. Develop and secure alternate water supplies for Wimberley
3. Develop central Wimberley master plan
4. Develop community development master plan
5. Maintain citizen involvement

Stage II:

1. Develop a Capital Improvements Program (CIP) and CIP Funding Plan (*Drainage, Street Lighting, Sidewalks*)
2. Support establishment of a community radio station
3. Develop a sidewalk on FM 2325 (*The "Y" to Wimberley High School*)
4. Complete development of the Regional Hike and Bike Trail

Stage III:

1. Develop a central Wimberley underground utility program
2. Develop the "Y" park in partnership with adjacent business
3. Acquire additional Oak Drive property for enhanced public access/restroom location

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

- D. Discuss and consider possible action on issues relating to the development of the Fiscal Year 2014 Operating Budget for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson spoke on specific expenses for Fiscal Year 2014, including debt service on the City's loan for development of a central wastewater system, employee health insurance, landscaping/tree trimming, development of downtown/community master plans, equipment acquisition and a vending cart for Blue Hole Regional Park. He noted certain revenue adjustments such as decreased sales tax collections and possible increases in development/court/park fees. Due in part to the loss of Ace Hardware business until the end of this year, City Administrator Ferguson stated that sales tax revenue projections remain conservative.

Discussion addressed upcoming parking lot/sidewalk improvements. Mayor Flocke advised Council to forward any specific budget items to City Administrator Ferguson for future discussion and consideration. Certain street/signal improvements were discussed, as well as increased enforcement of traffic regulations requiring vehicles to yield to pedestrians in crosswalks.

No action was taken.

- E. Discuss and consider possible action on plans for *The 2014 Wimberley Arts Fest*. (*City Administrator*)

City Administrator Ferguson recommended approval of plans for The 2014 Wimberley Arts Fest scheduled for April 12-13, 2014.

Councilmember Thurber moved to approve the plans, as presented. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

## **6. City Council Reports**

- Announcements
- Future Agenda Items

Councilmembers Thurber and McCullough favored expeditious development of the central Wimberley master plan. Councilmember Meeks provided an announcement on events and activities at the Hays County Recreation Association's (HCRA's) Third Annual Jamboree being held this weekend.

Hearing no further announcements or future agenda items, Mayor Flocke called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 8:24 p.m.

Recorded by:

*Cara McPartland*

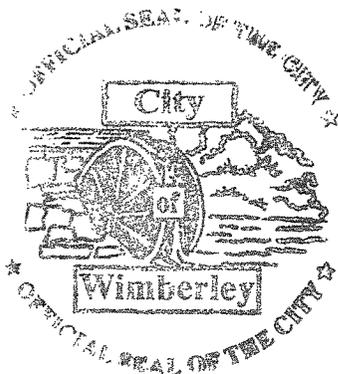
Cara McPartland

These minutes approved on the 15<sup>th</sup> of August, 2013.

**APPROVED:**

*Bob Flocke*

**Bob Flocke, Mayor**



## ***WASTEWATER STAKEHOLDER COMMITTEE DEVELOPMENT PROCESS***

### **Affected Parties**

- Wimberley Central Improvement Area (WCIA) Organization
- Concerned Citizen Coalition (CCC)
- Wimberley Merchants Association (WMA)
- Non-affiliated, central Wimberley business owners
- Non-affiliated, central Wimberley commercial and residential property owners
- Non-affiliated, property owners north of Cypress Creek
- Non-affiliated, downstream property owners
- Non-affiliated, non-central Wimberley property owners

### **Appointment Process**

- Members of City Council would submit names to Mayor for appointment consideration by April 8, 2013
- Mayor would nominate members to serve on the Stakeholder by August 12, 2013
- City Council would confirm the Mayor's nominations to the Stakeholder Committee on August 15, 2013

***Option #1 Five (5) Member Stakeholder Committee***

- One (1) member representing the Wimberley Central Improvement Area (WCIA) Organization
- One (1) member representing Concerned Citizen Coalition (CCC)
- One (1) member who is a non-affiliated, north side property owner
- One (1) member who is a non-affiliated, downstream property owner
- One (1) member who is a non-affiliated, non-central Wimberley property owner

***Option #2 Seven (7) Member Stakeholder Committee***

- One (1) member representing the Wimberley Central Improvement Area (WCIA) Organization
- One (1) member representing Concerned Citizen Coalition (CCC)
- One (1) member representing Wimberley Merchants Association (WMA)
- One (1) member who is a non-affiliated, central Wimberley commercial or residential property owner
- One (1) member who is a non-affiliated, property owner north of Cypress Creek
- One (1) member who is a non-affiliated, downstream property owner
- One (1) member who is a non-affiliated, non-central Wimberley property owner

***Option #3            Nine (9) Member Stakeholder Committee***

- One (1) member representing the Wimberley Central Improvement Area (WCIA) Organization
- One (1) member representing Concerned Citizen Coalition (CCC)
- One (1) member representing Wimberley Merchants Association (WMA)
- One (1) member who is a non-affiliated, central Wimberley business owner
- One (1) member who is a non-affiliated, central Wimberley commercial property owner
- One (1) member who is a non-affiliated, central Wimberley residential property owner
- One (1) member who is a non-affiliated, property owner from north of Cypress Creek
- One (1) member who is a non-affiliated, downstream property owner
- One (1) member who is a non-affiliated, non-central Wimberley property owner