

# City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

**REGULAR CITY COUNCIL MEETING**  
**WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS**  
**221 STILLWATER, WIMBERLEY, TEXAS 78676**  
**THURSDAY, MARCH 21, 2019 – 5:30 P.M.**

## **MINUTES**

### **CALL TO ORDER**

Mayor Susan Jagers called the meeting to order at 5:34 p.m.

### **CALL OF ROLL**

Council Members Present:	Susan Jagers	Mayor
	Mike McCullough	Place One
	Craig Fore	Place Two
	Allison Davis	Place Three
	Gary Barchfeld	Place Four
	Erik Wollam	Place Five

City Staff Present:	Shawn Cox	City Administrator
	Laura Calcote	City Secretary
	Rebecca Manning	Parks Director

### **INVOCATION**

Council Member Gary Barchfeld gave the invocation.

### **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**

Mayor Susan Jagers led the pledges to the United States and Texas flags.

***(Motion to move Item No. 6 – Executive Session to Item No. 5 on the agenda was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (5-0)).***

### **EXECUTIVE SESSION**

The City Council adjourned into Executive Session at 5:38 p.m. in accordance with Texas Government Code, Chapter 551, Subchapter D, for the following purposes:

- A. Section 551.071 (Consultation with Attorney) to receive legal advice regarding Aqua Texas contract.
- B. Section 551.071 (Consultation with Attorney) to receive legal advice regarding the disannexation of Sabino Ranch.

## OPEN SESSION

Regular Session reconvened at 6:35 p.m. Mayor Susan Jagers stated possible action on these items would be considered after Citizens Communications. Any and all action was taken after Citizens Communications.

- A. Discuss and consider possible action to authorize the City of Wimberley to execute an agreement with Aqua Texas.

**Motion to postpone this item until the next City Council meeting was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (5-0).**

- B. Discussion and possible action resulting from Executive Session.

There was lengthy discussion regarding the disannexation of Sabino Ranch. It was noted the ordinance for the disannexation was provided in Executive Session, and not before the meeting for review. Council Member Gary Barchfeld provided a history of the property and read aloud the state statute allowing for disannexation. Furthermore, the ordinance language was reviewed by Council members during the discussion. Council Member Craig Fore stated he had concerns about removing the property from the City Limits, which might set a precedence for other property owners to petition the City to do the same. He noted his job was to protect the City. Council Member Allison Davis voiced her concerns about removing nearly 100 acres from the middle of the City and stated the county's restrictions on development were less stringent than the City's, which could lead to unmanaged growth in the future on the property. She questioned Council's right to bargain away their legislative authority by approving the disannexation. Council Member Mike McCullough noted he was in favor of the disannexation request, and Council Member Erik Wollam had no comment.

**Motion to accept the ordinance allowing for the disannexation of Sabino Ranch was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried as follows (3-2-1):**

<b>Mike McCullough</b>	<b>Aye</b>
<b>Gary Barchfeld</b>	<b>Aye</b>
<b>Susan Jagers</b>	<b>Aye</b>
<b>Craig Fore</b>	<b>Nay</b>
<b>Allison Davis</b>	<b>Nay</b>
<b>Erik Wollam</b>	<b>Abstain</b>

## CITIZENS COMMUNICATIONS

There were six citizen's comments. They were as follows:

1. Michael Bachers addressed Council regarding the disannexation of Sabino Ranch, and the Johnson Family's role in the move to Aqua Texas for the Central Wimberley Wastewater Project. Mr. Bachers stated there were red flags involved in the actions and contended quid pro quo was occurring with the disannexation of the property.

2. M.F. Johnson acknowledged City Council members for their thankless job.

3. Scott Johnson thanked City Council for hearing the family's disannexation request, and stated the Johnsons would not be leaving Wimberley, even if the disannexation was approved. Mr. Johnson highlighted the family's history in the Wimberley community, and noted their continued contribution to the Wimberley Valley.

4. Susan Neeney, Friends of Blue Hole's Executive Director, spoke regarding the Texas Parks and Wildlife Department's (TPWD) response letter from January 2019 pertaining to the proposed change in scope to the Central Wimberley Wastewater Project. Ms. Neeney advised on the endangered species mentioned in the letter, including the Golden-cheeked warbler that had recently been sighted in Blue Hole Regional Park, and how the Council needed to heed the concerns of the TPWD when considering the project area and how it may negatively impact the bird's habitat.

5. Christine Middleton addressed Council regarding riparian areas and advocated for more education surrounding the topic. Ms. Middleton also stated the Cypress Creek Nature Preserve's riparian area could be utilized as an educational resource and urged City Council to keep the trail open to the public.

6. Martha Knies asked questions relating to the Cypress Creek Nature Preserve Trail, including who was interested in barrier fencing for the area, what was the recommendation for fencing, where would the proposed fencing take place and why fence the trail. Ms. Knies also questioned the timing of the issue being brought before Council, and asked Council to wait to vote until a proposed master plan had been presented.

#### **CONSENT AGENDA**

**Motion to approve the Consent Agenda was made by Council Member Erik Wollam.**

**Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (5-0).**

A. Approval of minutes from the Special Joint City Council and Wastewater Ad Hoc Advisory Committee Meeting held February 28, 2019.

B. Approval of minutes from the Regular City Council Meeting held March 7, 2019.

C. Approval of January 2019 Financial Statements for the City of Wimberley.

#### **CITY ADMINISTRATOR REPORT**

City Administrator Shawn Cox updated Council regarding the status of the Central Wimberley Wastewater Project. Mr. Cox noted the Texas Water Development Board was close to finalizing draft statements for the requested change in scope for the Project. Additionally, Mr. Cox advised sales tax for Fiscal Year 2019 was currently higher than the same time period in 2018. Lastly, Mr. Cox highlighted completed and on-going road projects, including the completion of the crosswalks and speed humps at Carney Lane and the grate improvement at the Hidden Valley Bridge.

#### **PUBLIC HEARING AND POSSIBLE ACTION**

Hold a public hearing and consider approval of the first reading regarding an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3, (District Regulations) Section 9.03.098 (Planned Development District; WPDD) of the City of Wimberley Code of Ordinances; and providing for the following: findings of fact, a savings clause, a repealing clause, a severability clause, effective date, and proper notice and meeting. *(Place Two Council Member Craig Fore)*

City Administrator Shawn Cox presented the proposed ordinance, which would require all proposed WPDD amendments to go through the public hearing process versus the potential of

City staff approval. The Planning and Zoning Commission had recommended this ordinance amendment by a unanimous vote at their March 14<sup>th</sup> meeting. Mayor Susan Jagers opened the public hearing at 7:27 p.m. There were no citizen's comments.

Mayor Susan Jagers closed the public hearing at 7:27 p.m.

There was discussion among Council members regarding the proposed change and the approval process for WPDDs. Council Member Allison Davis noted the expanded oversight on private property owners by allowing for the change.

**Motion to approve the first reading regarding an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3, (District Regulations) Section 9.03.098 (Planned Development District; WPDD) of the City of Wimberley Code of Ordinances; and providing for the following: findings of fact, a savings clause, a repealing clause, a severability clause, effective date, and proper notice and meeting was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (5-0).**

### **DISCUSSION AND POSSIBLE ACTION**

A. Discuss and consider possible action regarding the appointment of a consensus member to the Board of Adjustment. (*Place Four Council Member Gary Barchfeld*)

Council Member Gary Barchfeld nominated Michael Crowley as the consensus member to the Board of Adjustment.

**Motion to appoint Michael (Mike) Crowley as the consensus member to the Board of Adjustment was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (5-0).**

B. Discuss and consider possible action regarding a request to operate a food service trailer at 9595 RR 12 in Wimberley, Texas. (*Randy Engemoen/Rondooley's, Applicant*)

Rhonda Matthews addressed Council regarding the request to move the Rondooley's food truck to the junction of Ranch Road 12 and FM 32 behind Milagros.

**Motion to approve the request to operate a food service trailer at 9595 RR 12 in Wimberley, Texas was made by Council Member Allison Davis. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (5-0).**

C. Discuss and consider possible action regarding an ordinance adding Article 4.12, Landscaping and Tree Preservation to Chapter 4, Building Regulations of the City of Wimberly Code of Ordinances. (*City Administrator Shawn Cox*)

There was lengthy discussion among Council members and staff regarding a proposed tree ordinance, which had been discussed at previous meetings. It was suggested that instead of an ordinance, a development plan should be implemented for tree preservation. Council Member Craig Fore noted a monetary value could not be placed on trees. Council Member Allison Davis stated tree preservation, especially for heritage trees, is needed and should be considered when permitting new projects. Council agreed tree protection and preservation within the City was important. No action was taken on this item, and staff requested input or feedback on the proposed ordinance before the April 4<sup>th</sup> meeting.

**Motion to take a 5-minute recess at 7:54 p.m. was made by Council Member Allison Davis. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (5-0).**

Council Member Allison Davis left the meeting at 7:54 p.m.

Regular Session reconvened at 8:04 p.m.

- D. Discuss and consider possible action approving the proposed route for the 2019 Wimberley Fourth of July Parade. *(City Administrator Shawn Cox)*  
**Motion to approve the proposed route for the 2019 Wimberley Fourth of July Parade was made by Council Member Erik Wollam. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).**
- E. Discuss and consider possible action regarding continued legal expenditure related to the development of the short-term rental (STR) conditional use permit (CUP) ordinance. *(City Administrator Shawn Cox)*  
City Administrator Shawn Cox advised the City had spent roughly \$4,800 on the short-term rental ordinance since November 2018 and requested Council's approval before expending further funds on the topic. There was discussion among Council members and Mr. Cox regarding the long process of drafting and reviewing the ordinance and the short-term rental bills that had been introduced during the on-going 86<sup>th</sup> Texas Legislative Session. There was also discussion on the delay from the Planning and Zoning Commission to make a recommendation to City Council regarding the ordinance.  
**Motion to continue legal counsel funding for the short-term rental ordinance was made by Council Member Erik Wollam. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**
- F. Discuss and consider possible action regarding short-term rentals and conditional use permits. *(Place Four Council Member Gary Barchfeld)*  
Council Member Gary Barchfeld continued the discussion on short-term rentals and conditional use permit topic. Mr. Barchfeld stated that the matter had been drug out long enough and would like to see progress made by completing the short-term rental ordinance and the Planning and Zoning Commission to make a recommendation to Council regarding the ordinance. There was discussion on the timeline to complete each task.  
**Motion to instruct City staff to move forward as expeditiously, effectively and fairly as possible to complete the short-term rental ordinance and address related issues was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**
- G. Discuss and reconsider possible action regarding case ZA-19-001, an application to change the zoning from Single-Family Residential 2 (R-2) to Commercial-Low Impact (C-1) for property located at 13301 Ranch Road 12, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Mystic Hill, LLC, Sibyl Burrows, Applicant)*  
There was one citizen comment. Applicant Sibyl Burrows addressed Council regarding her zoning change request. Ms. Burrows noted the property was small and not much development could occur because of such. City Council members discussed the property and the potential issues with the zoning change from residential to commercial, including part of the property being in located a floodplain area. There was discussion among the applicant and Council on the type of zoning to consider and contended C-1 might not be appropriate for what the applicant was trying to accomplish.

**Motion to postpone the item until the applicant further reviewed the requested zoning change was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).**

- H. Discuss and consider possible action to approve the termination of the Financial Assistance Award Agreement with the Economic Development Administration (EDA) and accept reimbursement from the EDA in the amount of \$177,548.31. *(Place Four Council Member Gary Barchfeld)*

**Motion to approve the termination of the Financial Assistance Award Agreement with the Economic Development Administration (EDA) and accept reimbursement in the amount of \$177,548.31 was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

- I. Discuss and consider possible action to fund a barrier fencing for the Cypress Creek Nature Preserve. *(Mayor Susan Jagers)*

There was one citizen comment. Merry Gibson voiced her support for the barrier fencing at the Cypress Creek Nature Preserve and highlighted certain aspects from the Conservation Easement allowing for fencing and a gate in the area.

Mayor Susan Jagers requested funding not to exceed \$8,000 for a barrier fence at the Preserve to aid in trespassing offenses. Council members were not in support and opted to wait until the Wimberley Valley Watershed Association had a chance to present a draft master plan for the Preserve at an upcoming meeting in April.

No action was taken on this item.

### CITY COUNCIL REPORTS

A. Announcements – None.

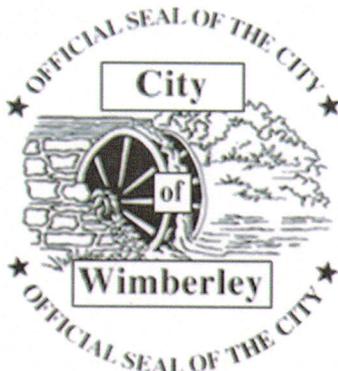
B. Future agenda items – Council Member Craig Fore stated he would like to discuss the topic of impervious cover at a future meeting.

### ADJOURNMENT

**Motion to adjourn the meeting at 9:00 p.m. was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

### RECORDED BY:

*Laura J. Calcote*  
Laura J. Calcote, City Secretary



### APPROVED BY:

*[Signature]*  
Gary Barchfeld, Mayor Pro Tem