

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, APRIL 18, 2019 – 5:30 P.M.

MINUTES

CALL TO ORDER

Mayor Susan Jagers called the meeting to order at 5:35 p.m.

CALL OF ROLL

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

Council Members Absent: Allison Davis Place Three

City Staff Present: Shawn Cox City Administrator
Laura Calcote City Secretary
Charlie Zech City Attorney
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.

CITIZENS COMMUNICATIONS

There were no citizen's comments.

(Motion to move Item No. 12.D. – PEC Fence Variance to the next item on the agenda was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

Discuss and consider possible action regarding a fence variance for Pedernales Electric Cooperative (PEC) for the PEC Wimberley Substation. *(City Administrator Shawn Cox)*
Motion to approve a fence variance for Pedernales Electric Cooperative for the PEC Wimberley Substation was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

PRESENTATION AND POSSIBLE ACTION

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

1. Merry Gibson spoke regarding the potential special meeting that was to be held for adjacent property owners to the Cypress Creek Nature Trail and Preserve and asked to know when the meeting would be scheduled.
2. Ashley Gibson addressed Council regarding the draft Preserve Master Plan and requested protection for the Preserve due to signage removal in the area. She asked Council to take temporary measures to protect the area until a plan had been approved.

Wimberley Valley Watershed Association Executive Director David Baker presented an update regarding the draft Cypress Creek Nature Trail and Preserve Master Plan. Mr. Baker had sent Council a memo earlier in the day regarding the status of the planning efforts underway, including the need to extend the planning period to comply with the public engagement process. Mr. Baker stated the draft master plan was not ready and requested an additional 30 days to complete and submit to Council for review. There was discussion among Council members and Mr. Baker regarding the riparian area and habitat, as well as the Conservation Easement. City Council requested a riparian expert be brought in to assist in the planning process. No formal action was taken.

EXECUTIVE SESSION

City Council adjourned into Executive Session at 6:02 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 an Aqua Texas contract.
- B. Section 551.071 (Consultation with Attorney) to receive legal advice regarding the issuance of City of Wimberley Series 2019 bonds.
- C. Section 551.071 (Consultation with Attorney) to receive legal advice regarding the short-term rental/conditional use permit ordinance.

OPEN SESSION

Regular Session reconvened at 6:22 p.m.

Bond Counsel Attorney Stephanie Leibe advised Council regarding their options to adopt an ordinance exchanging the current revenue bonds for the Texas Water Development Board (TWDB) to exchange refunding bonds or to adopt a resolution for plan to finance the new bonds. The revenue bonds would need to be exchanged as part of the four conditions set forth by the TWDB for the approval of the change in scope to the Central Wimberley Wastewater Project. The resolution would support the issuance of the exchange refunding bonds but not authorize them, as the ordinance would. Additionally, Ms. Leibe advised on the stipulations for exchange refunding bonds, which are secured by a combination of revenues and ad valorem tax. The original revenue bonds were issued for Project design. No election would be required for the exchange refunding bonds. In conclusion, the resolution would be a lesser action of Council, until the other conditions could be met before reissuance of bonds. There was discussion among Council members regarding the bonds and the subsequent action that should be taken during this timeframe.

Motion to adopt a resolution approving the City's plan of finance pertaining to obligations to be designated as "City of Wimberley, Texas exchange refunding bonds, Series 2019"; and authorizing other matters related to the foregoing was made by Council Member Gary

Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

CONSENT AGENDA

Motion to approve the Consent Agenda was made by Council Member Craig Fore. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).

A. Approval of minutes from the Regular City Council Meeting held March 21, 2019.

B. Approval of minutes from the Regular City Council Meeting held April 4, 2019.

CITY ADMINISTRATOR REPORT

City Administrator Shawn Cox updated Council regarding the Central Wimberley Wastewater Project. The City was actively working to adhere to the four conditions set forth by the Texas Water Development Board for the approval of the change in scope for the Project. Additionally, Mr. Cox noted the City's sales tax had increased nine percent from the same time last year. Lastly, the quote for the new Wimberley Community Center sign had come in higher than anticipated, and the increased cost would need to be brought back to City Council for consideration and approval at the next meeting.

PUBLIC HEARINGS AND POSSIBLE ACTION

A. Hold a public hearing and consider approval regarding case CUP-19-001, an application for a Conditional Use Permit to allow for the operation of a vacation rental on property zoned Single-Family Residential 2 (R-2) 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, Applicant*)

Applicant Sibyl Burrows addressed Council regarding her request to operate a short-term/vacation rental on her property. The Planning and Zoning Commission had unanimously voted to approve the application, with one abstention, at their April 11th meeting.

Mayor Susan Jaggars opened the public hearing at 7:06 p.m.

There were no public comments.

Mayor Susan Jaggars closed the public hearing at 7:06 p.m.

Motion to approve the Conditional Use Permit was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

B. Hold a public hearing and consider approval regarding case ZA-19-002, an application to change the zoning from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2) for property located at 151 Oldham Street, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. (*Mike Oldmixon, Applicant*)

Mayor Susan Jaggars opened the public hearing at 7:07 p.m.

There were no public comments.

Mayor Susan Jaggars closed the public hearing at 7:07 p.m.

The Planning and Zoning Commission had voted to unanimously approve the application, with one abstention, at their April 11th meeting. Council Member Erik Wollam recused himself from the discussion. Applicant Mike Oldmixon addressed Council regarding the zoning change request. He stated once the sewer system was operational, it would allow for new development in the area, which was why he was requesting the zoning change. Mr. Oldmixon

was not sure what the property would be utilized for in the future, but the zoning change would allow for more flexibility. There was discussion among Council members pertaining to impervious cover and new commercial development. Council agreed details surrounding impervious cover in the City's zoning districts needed to be discussed further before approving the change.

Motion to postpone the item until the second Regular City Council Meeting in June was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).

There was a recess at 7:19 p.m.

Mayor Susan Jagers left the meeting at 7:19 p.m. due to an emergency.

Regular Session reconvened at 7:27 p.m. with Mayor Pro Tem Gary Barchfeld presiding.

- C. Hold a public hearing and consider approval of the first reading of Ordinance No. 2019-08 of the City of Wimberley, Texas amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 4, (Use Requirements and Restrictions) Section 9.03.141 (Bed and Breakfast Lodging Requirements) 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.

Mayor Pro Tem Gary Barchfeld opened the public hearing at 7:28 p.m.

There were three public comments. They were as follows:

1. Suzanne Davis, a Short-Term Rental Review Committee member, disagreed with the Planning and Zoning Commission's recommendation to remove the annual renewal fee for short-term rentals. Additionally, Ms. Davis called for a balance to be struck between short-term rental owners and residents of the community and noted the renewal process is important to those property owners who live by or near a short-term rental property.

2. Jenni Marino, a Short-Term Rental Review Committee member, also spoke on the importance of the annual renewal process, which the Planning and Zoning Commission had struck from the ordinance.

3. Phil Collins, a Short-Term Rental Review Committee member, addressed Council regarding the background of the short-term rental topic and the number of short-term rentals in Wimberley. He urged Council to reconsider the academic renewal process and not to cut the fees out of the ordinance, as the Planning and Zoning Commission had recommended. He stated the fees could be reduced, instead of eliminated.

City Attorney Charlie Zech advised the renewal fee was not a part of the current ordinance.

Mayor Pro Tem Gary Barchfeld closed the public hearing at 7:38 p.m.

There was lengthy discussion among Council members, the three STR Review Committee members and a couple of Planning and Zoning Commissioners regarding the renewal fees and process. Planning and Zoning Commissioner Rebecca Minnick addressed Council regarding the renewal fee for conditional use permits (CUPs). Ms. Minnick stated that this fee would only apply to short-term rental conditional use permits and no other CUPs. It appeared to set an unfair precedence for short-term rental operators. Tim Dodson, a Planning and Zoning Commissioner and Short-Term Rental Review Committee member, also addressed Council pertaining to short-term rental CUPs, and the STR software locating illegal operators within the City. Council Member Erik Wollam asked why the two groups were in opposition when it came to the renewal fee/process. Both groups advised regarding their standpoint on the issue. City Council discussed short-term rental compliance and the annual renewal cost. City Attorney Charlie Zech advised the ordinance being presented was not needed to make current illegal operators come into compliance.

Motion to approve of the first reading of Ordinance No. 2019-08 of the City of Wimberley, Texas amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 4, (Use Requirements and Restrictions) Section 9.03.141 (Bed and Breakfast Lodging Requirements) 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, and furthermore to include the Short-Term Rental Review Committee's recommendation of an annual administrative renewal process was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).

DISCUSSION AND POSSIBLE ACTION

- A. Discuss and consider possible action to utilize Specialized Public Finance, Inc. as financial advisors for the City of Wimberley. *(City Administrator Shawn Cox)*
The City had utilized Specialized Public Finance, Inc. previously for the issuance of the City's Combination Tax and Surplus Revenue Anticipation Notes, Series 2013, and Sewer System Revenue Bonds, Series 2017. As a condition of the Texas Water Development Board (TWDB) approved change in scope for the Central Wimberley Wastewater Project, the City must exchange the City's Sewer System Revenue Bonds, Series 2017 for Exchange Refunding Bonds, Series 2019.
Motion to utilize Specialized Public Finance, Inc. as financial advisors for the City of Wimberley was made by Council Member Mike McCullough. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).
- B. Discuss and consider possible action to declare the items in the storage unit for surplus. *(City Administrator Shawn Cox)*
There was discussion among Council members regarding what items were in the storage unit.
Motion to declare the items in the storage unit for surplus, with the exception of the generators, was made by Council Member Craig Fore. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).
- C. Discuss and consider possible action to approve Hays County's estimate in the amount of \$36,337 for the paving of and the replacement of a drainage culvert at Rocky Springs Road. *(City Administrator Shawn Cox)*
Motion to approve Hays County's estimate in the amount of \$36,337 for the paving of and the replacement of a drainage culvert at Rocky Springs Road as made by Council Member Craig Fore. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).
- D. Discuss and consider possible action to approve authorization of payment in the amount of \$13,380 to BEFCO for the Hazard Mitigation Grant Program (HMGP) surveys. *(City Administrator Shawn Cox)*
In September 2018, Council approved spending \$4,250 to have the required surveys completed for five properties affected by the 2015 Memorial Day Flood. The surveys had been completed, but the City was required by the HMGP project to pay the full invoice of \$13,380 to BEFCO. After payment, the City could seek reimbursement for seventy-five percent (75%) of the costs, equaling \$10,035.
Motion to approve authorization of payment in the amount of \$13,380 to BEFCO for the Hazard Mitigation Grant Program (HMGP) surveys and for the City to be reimbursed \$10,035 before the end of Fiscal Year 2019 was made by Council Member Gary

Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

- E. Discuss and consider possible action to authorize an expenditure to the Texas General Land Office of an amount not to exceed \$2,350 for the application for and use of a State Miscellaneous Easement/Right-of-Way. *(Place Four Council Member Gary Barchfeld)*
The City was in the process of completing the General Land Office Application for State Land Use Lease. The filing fee for the application was \$2,350. The completion of this application is one of the conditions for a Favorable Finding from the Texas Water Development Board's Environmental Review for the Central Wimberley Wastewater Project. The application is for a ten-year easement/lease for the installation of the wastewater line under Cypress Creek.
Motion to authorize the expenditure to the Texas General Land Office of an amount not exceed \$2,350 for the application for State Land Use Lease was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).
- F. 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 Wimberley Code of Ordinances. *(City Administrator Shawn Cox)*
There was discussion among Council members pertaining to the requirements for removal of trees for commercial properties. Council Member Craig Fore noted the ordinance would be more for development and the permitting process for site plan approval. City Council members agreed the ordinance needed to be revised once more, and members would provide feedback for the document.
Motion to postpone this item until the May 2nd City Council Meeting to allow time for feedback and editing of the ordinance was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).
- G. Discuss and consider possible action to support the completion of Friends of Blue Hole's playscape shade canopy project. *(City Administrator Shawn Cox and Parks Director Rebecca Manning)*
Motion to postpone this item until the May 2nd City Council Meeting was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).
- H. Discuss and consider possible action to approve Ordinance No. 2019-10, disannexing an area of approximately 90 acres contiguous to the City Limits, generally known as 801 Wayside Drive, and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. *(City Administrator Shawn Cox)*
Motion to postpone this item until the May 2nd City Council Meeting was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

CITY COUNCIL REPORTS

- A. Announcements – Council Member Mike McCullough commended the Wimberley High School athletic teams for a great spring season, especially the baseball team.

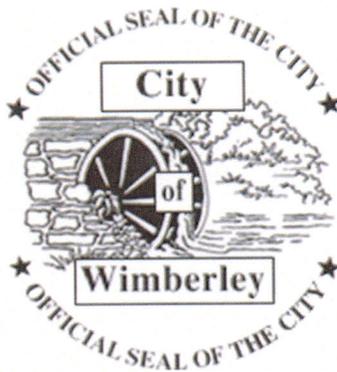
B. Future agenda items – Council Member Craig Fore requested to add the topic of impervious cover to all zoning areas. Council Member Gary Barchfeld requested funding for the General Land Office requirements be placed on the next agenda. Council Member Erik Wollam requested the removal of Bickerstaff Heath Delgado Acosta LLP as legal counsel for all on-going litigation for The City.

ADJOURNMENT

Mayor Pro Tem Gary Barchfeld adjourned the meeting at 8:56 p.m., without objection.

RECORDED BY:

Laura J. Calcote
Laura J. Calcote, City Secretary



APPROVED BY:
[Signature]
~~Susan Jagers, Mayor~~
Gary Barchfeld, Mayor Pro Tem