

City of Wimberley
City Hall
221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
January 7, 2016 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Steve Thurber.

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

Councilmembers Present: Mayor Steve Thurber, Councilmembers Bob Dussler, Cindy Anderson, Mac McCullough, Pam Showalter, and John White.

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

Citizens Communications

No citizen comments were heard.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of December 17, 2015
- B. Approval of minutes of the Special City Council meeting of December 8, 2015
- C. Approval of a resolution designating Mayor Steve Thurber and City Administrator Don Ferguson as the City of Wimberley's authorized representatives for matters relating to the Texas Local Government Investment Pool ("Texpool/Texpool *Prime*")

Councilmember Showalter moved to approve all Consent Agenda items, as presented. Councilmember McCullough seconded. Motion carried on a vote 5-0.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported that Texas Commission on Environmental Quality (TCEQ) staff is conducting its final review of the discharge permit. He advised that the City's loan application to the Texas Water Development Board (TWDB) is expected to be considered at the Board's March 2016 meeting. He noted that the TWDB staff has indicated willingness to support a full revenue bond without a tax pledge to fund construction. Plant system design work continues.

- Status report on sales tax collections for the City of Wimberley

City Administrator Ferguson reported that the January check (representing November sales tax collections) totaled \$65,007, which is up about thirty-five percent (35%) from the same period last year. Also, Fiscal Year-to-date collections are up approximately twenty percent (20%) from the same period last year and running ahead of budget.

- Status report on the Cypress Creek Project

City Administrator Ferguson reported that the Environmental Protection Agency (EPA) has approved the Cypress Creek Watershed Protection Plan and summarized possible related future Council action.

- Status report on street maintenance program

City Administrator Ferguson reported on extensive pothole repairs that were performed recently by a private contractor due to the heavy workload experienced by Hays County crews. He said the City will be seeking unit bid pricing from private contractors for ongoing maintenance and will continue to use Hays County whenever feasible.

- Status report on the Wimberley City Marshal

City Administrator Ferguson reported on the City Marshal Kyle DeHart's swearing-in, hours of employment, required training, and responsibilities.

- Status report on 2015 Flood Recovery

City Administrator Ferguson reported that Council will consider awarding a contract for design of the new Hidden Valley Road low water crossing at its January 21st meeting. He anticipated completion of the project by mid-summer 2016. He noted funding for the project is covered by insurance. He advised installation of stream gauges on the Blanco River upstream from Wimberley is scheduled to begin later this month, with future Council action needed on gauge maintenance/operation funding. He advised that siren testing will be conducted on January 14, 2016 to determine coverage areas for warning sirens along the Blanco River. He noted that the Private Property Debris Removal (PPDR) program is still accepting applications and highlighted benefits to affected property owners still dealing with debris that poses a public safety hazard. He advised that the Disaster Recovery Center in San Marcos will be open through January 15, 2016 and stressed the importance of registering for federal assistance by the January 25th deadline (for the October flood). He provided statistics on distribution of flood disaster loans to date.

- Status report on the Paradise Hills Tree Trimming Project

City Administrator Ferguson reported that Backyard Escapes will begin work next week and is expected to finish in approximately three weeks. He noted this is the optimal time for tree trimming and advised that contractors will be working with individual property owners throughout the project. Property owners will receive advance notifications of work to be performed and trimming along roadways will be a project priority.

In addition, brief discussion addressed speed limit enforcement in the Square.

3. Ordinances

- A. Consider approval of the first reading of an ordinance amending Title XI (Business Regulations) of the City of Wimberley's Code of Ordinances to add a new Chapter 114, providing hours for door-to-door sales and "No Soliciting" properties; and providing findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson reported on recent complaints received by City staff and explained that there are currently no regulations in place regarding solicitors. He noted that the proposed ordinance prohibits door-to-door sales on residential properties where "Peddlers and Solicitors Prohibited" signs are posted. If signs are not posted, peddling would be allowed between 9 a.m. and 6 p.m., Monday-Friday, and between 10 a.m. and 6 p.m. on Saturday, Sunday and on any federal, state, and City holidays. He advised that after-hours solicitation would be allowed by specific appointment or invitation.

Discussion addressed enforcement (triggered by citizen complaint); penalty for non-compliance; choice given to residents as to whether they want to allow solicitors or peddlers on their property; total versus partial prohibition of solicitation; specific types of prohibition signs/stickers; and possible locations of signage (subdivision entrance/individual residences).

Councilmember Showalter moved to approve the ordinance on first reading, with direction to staff to add language on second reading that would allow homeowner/property owner associations to prohibit peddlers and solicitors and to allow the placement of no soliciting signage at any conspicuous location on a property. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- B. Consider approval of the first reading of an ordinance amending Title XIII (General Offenses), Chapter 130 (General Offenses) of the City of Wimberley's Code of Ordinances to add a new Section 130.21, prohibiting the possession of certain firearms on City property; and providing findings of fact, a repealing clause, a savings and severability clause; providing for an effective date; and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson presented the following options on regulating firearms in public meetings and City buildings and facilities:

- Option #1 – "do nothing" for all facilities and follow State regulations
- Option #2 – prohibit firearms, except for license holders
- Option #3 – prohibit firearms at City Hall (as long as the City Hall building contains court facilities); prohibit firearms, with the exception of license holders, at City parks; prohibit all firearms at public meetings

City Administrator Ferguson explained key provisions of the proposed ordinance, which would prohibit license holders from carrying handguns into any public meeting of the City of Wimberley that is subject to the Texas Open Meetings Act. In addition, the proposed ordinance prohibits the carrying of handguns on the premises of any City building in which the municipal court and offices used by the court are located, including, but not limited to, City Hall. He advised that the proposed ordinance also prohibits firearms in any City park, unless specifically allowed under state or federal law. He noted that firearms are prohibited at the Wimberley Community Center when used as an election polling place, whether or not the firearm is carried by a licensed holder or not.

Discussion addressed the advisability of guns in public meetings generally, safety concerns for elected officials/City staff, whether prohibition would impact those determined to carry and/or use a firearm, improperly trained or untrained gun users, possible deterrent effect of signage, and enforcement issues. Should Council desire to take action, City Administrator Ferguson recommended the following change to §130.30(D): “All persons are hereby prohibited from carrying a firearm ~~in the Wimberley City Hall or~~ in a city park unless specifically allowed under state or federal law.”

Councilmember McCullough moved to table this item. Discussion between City Administrator Ferguson and Councilmember White addressed the ability of a municipal court judge to order modification of a prohibition. Councilmember White seconded.

Discussion clarified that “tabling” this item allows Council to reconsider it at a future date-specific time and further established that if no motion is made, the item dies for lack of a motion. Councilmember McCullough stated that he did not want this item to be considered in the future and withdrew his motion. Councilmember White withdrew his second.

Councilmember Showalter moved to approve the ordinance on first reading, as presented, including the abovementioned change to §130.30(D), as recommended by City Administrator Ferguson. Councilmember Anderson seconded.

Mayor Thurber called for a vote as follows: Councilmember Dussler, aye; Councilmember Anderson, aye; Councilmember McCullough, nay; Councilmember Showalter, aye; and Councilmember White, nay. Motion carried on a vote of 3-2.

- C. Consider approval of an ordinance of the City of Wimberley, Texas, ordering a General Election on May 7, 2016, for the purpose of electing a Mayor and City Council members for Places Two and Four of the City of Wimberley City Council; establishing early voting locations and polling places for the election; making other provisions for the conduct of the election; and providing for findings of fact, severability, conflicting provisions, governing law, proper notice and open meeting, and an effective date. (*City Administrator*)

City Administrator Ferguson explained key provisions of the proposed ordinance ordering a General Election on May 7, 2016; early voting locations/dates/times; and services to be provided

by Hays County Elections Administrator for conduct of the election. He noted that appointment of election judges will be considered by Council at a later date.

Councilmember White moved to approve the ordinance, as presented. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

4. Discussion and Possible Action

- A. Discuss and consider possible action regarding a proposed rate increase for residential solid waste collection in the City of Wimberley, Texas. (*City Administrator*)

City Administrator Ferguson reviewed the City's current contract with Texas Disposal Systems (TDS) and specific provisions related to rate increases. He advised that the proposed rate increase submitted by TDS would be \$1.62 per month. If approved, the monthly cost for residential solid waste collection services would increase from \$22.75 per month to \$24.37 per month. The fee hike is based on a 1.47% CPI increase and a 5.64% increase in the price per ton fee at the landfill.

Discussion addressed the percentage of citizens using TDS for solid waste collection, TDS's basis for the requested rate increase, fuel costs, and effective date of the rate increase.

Councilmember Dussler moved to approve the rate increase, as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action approving the proposed route for the 2016 Wimberley Fourth of July Parade. (*City Administrator*)

City Administrator Ferguson provided details on the route, unchanged from last year, which reduced vehicle and pedestrian congestion at the end of the route. He noted that the proposed route is supported by the parade's sponsor, the Wimberley Valley Chamber of Commerce.

Councilmember Showalter moved to approve the 2016 Wimberley Fourth of July Parade route, as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action approving a proposed election services contract with the Hays County Elections Administrator to conduct the May 7, 2016 General Election for the City of Wimberley, Texas. (*City Administrator*)

City Administration Ferguson recommended approval of the proposed contract, including each party's responsibilities under the agreement, and projected costs.

Councilmember White moved to approve the contract, as presented. Councilmember Anderson seconded.

Discussion addressed prior Council reasoning for holding City elections in May, rather than November.

Motion carried on a vote of 5-0.

- D. Discuss and consider possible action regarding a requested waiver from the subdivision requirements for a 1.019 acres tract of land located at 401 River Road, Wimberley, Hays County, Texas. (*City Administrator*)

City Administrator Ferguson explained that the subject property owners, whose home was destroyed by the 2015 Memorial Day Weekend Flood, have applied for a building permit to reconstruct their home, originally built in 1993. Although plans call for the new home to be built on the previous home's footprint, that footprint crosses over a shared property line of two of the three lots that make up the subject property. Typically construction of improvements over property lines is not permitted and homeowners are asked to combine the lots in order for a building permit to be issued. He advised that granting of the waiver would avoid time delays and costs associated with the subdivision process, and that such waivers by cities are allowed under state law. He noted that any future expansion of the structure's footprint would require the property owners to consolidate the lots and recommended approval of the waiver request.

Discussion addressed the subject property's specific location and intent of the homeowner to rebuild above the Advisory Base Flood Elevation (ABFE).

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

5. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reported on site work currently underway on a building project near the Leaning Pear on River Road. He advised Council's next agenda will include an item related to senior housing. Councilmember Showalter requested that the Planning and Zoning Commission consider discussion of so-called "granny pods" in its Zoning Code review.

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

Adjournment: Council meeting adjourned at 7:21 p.m.

Recorded by:

Cara McPartland
Cara McPartland

These minutes approved on the 21st of January, 2016.

APPROVED:



Steve Thurber

Steve Thurber, Mayor