

**City of Wimberley**  
Wimberley Community Center  
14068 Ranch Road 12  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
January 16, 2014 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, Matt Meeks, Mac McCullough, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson

### **Citizens Communications**

No citizen comments were heard.

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

- A. Approval of minutes of the Regular City Council Meeting of January 2, 2014
- B. Approval of the City of Wimberley Financial Statements for December 2013

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

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

- Status report on the October 2013 Flood in the City of Wimberley

City Administrator Ferguson reported that a FEMA briefing was held last week on the City's application for public assistance to repair infrastructure damage, with a site visit planned for next week.

- Status report on Cypress Creek water quality issues

City Administrator Ferguson reported that ongoing Cypress Creek testing indicated elevated bacteria levels in Cypress Creek just south of the bridge on Ranch Road 12.

- Status report on the possibility of calling a May 2014 Bond Election for street, drainage and wastewater improvements

City Administrator Ferguson reported on the timeframe for holding a bond election and special Council meeting(s) that may be held, as needed.

In addition, City Administrator Ferguson reported on a recent news event regarding detonation of explosive materials found in a cave on property just outside city limits by law enforcement personnel. He reported on contract negotiations with Design Workshop representatives on the central Wimberley master plan and provided details on the master planning process, including public input and participation.

Brief discussion addressed specifics of FEMA's funding timeframe for certain flood-related infrastructure repairs.

### **3. Public Hearings and Consider Action**

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Geno and Susan Baiamonte to operate a vacation rental facility on a tract located at 1402 East Spoke Hill Road, Wimberley, Hays County, Texas, zoned Residential Acreage (RA), 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. (*Geno and Susan Baiamonte, Applicants*)

City Administrator Ferguson advised that the applicants have requested that this item be continued until Council's next Special meeting to be held January 22, 2014.

Councilmember Thurber moved to continue this item, as requested, until Council's meeting on January 22, 2014. Councilmember Talcott 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 Jill Wedel to operate a vacation rental facility on a tract located at 2225 River Road, Wimberley, Hays County, Texas, zoned Rural Residential 1 (R-1), 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. (*Jill Wedel, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing structures, maximum occupancy requested by the applicant, and septic system capacity. Based on the City Sanitarian's review, City staff recommended a maximum occupancy of no more than four (4) persons. He noted that prior to using the guest house as a vacation rental, written evidence will need to be provided to the City by the applicant showing that the septic system has been inspected and found to be properly functioning and capable of serving the recommended maximum capacity. In addition to the applicant's house rules, City Administrator Ferguson read a list of staff-recommended conditions to be made part of the requested conditional use permit (CUP), should Council desire to recommend approval. He noted that the Planning and Zoning Commission unanimously recommended approval at its January 9<sup>th</sup> meeting.

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

Councilmember Thurber moved to approve the item, as presented, which includes the applicant's house rules and list of staff-recommended conditions, as read by City Administrator Ferguson. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider approval of an ordinance changing the zoning designation for approximately 8.0 acres of property located at 14501 Ranch Road 12 and 100 Emergency Lane, Wimberley, Hays County, Texas from Public Facilities (PF) to Wimberley Planned Development District (WPDD), with a base zoning district of Commercial – Moderate Impact (C-2); and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. (*H-E-B, Applicant*)

This item was heard after Agenda Item 5C.

Mayor Flocke highlighted procedures for speakers.

City Administrator Ferguson reviewed certain provisions of the proposed development, including definitions of key land use/zoning terms and acronyms. He provided an overview of the subject property's location, existing structure(s), proposed phased development, traffic mitigation measures, and environmental issues. He noted that the proposed development meets or exceeds many of the City's development standards, including those related to drainage, storm water management, water quality protection, impervious cover, building height, building cover, landscaping, parking, and lighting. He outlined plans for drainage, parking, lighting, signage, and landscape irrigation. Information was displayed illustrating which aspects of the development meet or do not meet City Code requirements.

City Administrator Ferguson stated the importance of making a well-reasoned decision on land use based on facts and sound planning and development principles.

H-E-B representative Ben Scott expressed appreciation and introduced the project's team members. He spoke of H-E-B's commitment to the community, positive economic impact, support for local community/organizations, charitable donations, and support for education. He provided specific benefits of H-E-B to Wimberley residents, such as jobs created, employee programs/benefits, keeping shoppers and their money in Wimberley, and increased tax revenue.

Mr. Scott presented information on certain development standards such as building footprint, LEED certification, and architectural details, including building materials, roofline, and color palette. He noted that the project's phasing and timeframe for completion and stated that Phase 2 and Phase 3 (car wash) will not be built concurrently, with Phase 3's construction dependent on gas sales. He highlighted ingress/egress to the site and stated that building the store at the Junction or on the "bypass" would be a huge economic disadvantage, given the amount of H-E-B's investment.

Michelle Haussmann of Land Use Solutions provided an overview of the site's layout; environmentally sensitive construction and operation; elevations; design elements such as use of glass, stone, and articulated roofline; signage; drainage/water quality measures; fencing; water conservation measures; drought-tolerant native landscaping; tree preservation; and traffic mitigation measures, including deceleration/turn lanes and signal timing; sidewalk construction; and aspects of the development that meet or exceed City Code requirements.

Mayor Flocke outlined procedures for speakers, noted H-E-B's willingness to accommodate the City's requests, and advised that due to health reasons he must leave the meeting at this time.

Mayor Flocke left the meeting at 7:23 p.m.

Mayor Pro-tem White assumed duties as Presiding Officer.

Mayor Pro-tem White opened the public hearing.

Sissy Dupre spoke in support of H-E-B, which she felt as a single woman on a fixed income will help her save money on groceries.

Gary Keil of Flite Acres Road spoke of his personal history as a Wimberley resident, WISD Board member, and his professional background in commercial construction. He felt that community interest is a key factor for successful projects and that defined processes should be followed for all voices to be equally heard. He cited H-E-B's philanthropic donations of scholarships, meals, school supplies, and assistance for recent flood victims. Mr. Keil acknowledged the critical nature of tonight's decision and stated that this is the right time and place for H-E-B to come to Wimberley.

Wimberley resident Margaret Palmer of 43 Wood Bend Drive was excited about the prospect of H-E-B coming to Wimberley, which would eliminate her weekly trip to the H-E-B in Dripping Springs, saving time and gasoline costs.

Hugh Campbell spoke of his positive personal experiences with H-E-B and was thoroughly impressed by its hiring practices, employee training, and safety of products. He hoped to be able to shop at H-E-B and continue to shop at Brookshire Brothers.

Joe Maverick of 231 South River Drive spoke in favor of H-E-B's proposed store, which he felt will be a first class development that will be beneficial for citizens and WISD. He stated that sales tax revenue the City may gain from an H-E-B store will help forestall the need for a City property tax.

Connie Maverick of 231 South River Drive stated that she is in complete agreement with her husband's remarks (see prior speaker) and that this is the time for an H-E-B store to come to Wimberley. She felt H-E-B will be a good neighbor and is definitely in favor of the proposed store.

Bill Malone of 575 Winding Trail felt this proposed development will be beneficial for Wimberley as an effective land use that will enhance opportunities for senior citizens. As retired member of the military, he also noted H-E-B's policy of hiring veterans.

Ken Strange, WISD Board President, who lives outside city limits, spoke in favor of H-E-B, which he felt will work with the City to be good partners. He stated that the development will show future developers that the City has high expectations and hoped to attract more neighbors like H-E-B. He asked to look into the future and see what is going to build this community into a great community.

Loyal White of 1501 Windmill Run in River Mountain Ranch spoke of Wimberley as a great town, with good businesses, including the existing grocery store. However, he noted the distance that he and his wife must drive to shop in surrounding cities for groceries and other necessities. Mr. White stated that time, gas, and money can be saved by being able to shop at an H-E-B in Wimberley.

Frederick Carney of 757A Winding Trail supported H-E-B as a terrific company that has made a lot of concessions. He felt that competition will make everybody better, including Brookshire Brothers. He stated that if H-E-B cannot develop a store at the old Bowen school site, WISD will build a brightly lit ball field. He asked for a unanimous vote in favor of the proposed H-E-B store.

Frank Williams of 264 Blanco spoke of the Lions Club as the "gold standard" for being a community partner and felt that H-E-B is comparable to that standard. He stated future developers coming in will have to beat that standard.

WISD Superintendent Dwain York explained the impact and benefit of WISD's recent bond projects on the Bowen school property. He stated that H-E-B is noted for its support for public education, charitable organizations, and the community's citizens. He presented information on what the site would look like if H-E-B were not allowed to develop a store there and stated that WISD cannot afford to build to the same aesthetic standards as H-E-B. He stated the advantages of moving the ball field and consolidating multiple facilities to 13.5 acres outside of central Wimberley, which would also accommodate future expansion and reduce traffic. He said the H-E-B development would have far less negative impact on traffic, parking, lighting, trees, and water usage than under WISD's bond project plans. Mr. York provided details on bids received by WISD for the Bowen site and stated that H-E-B has bent over backwards for this community. Mr. York acknowledged the strife caused by this issue and concerns expressed over losing Wimberley's charm and made the following statement he paraphrased from a social media site posting by a community member: "When was a community's character, charm, and friendly atmosphere ever measured by the architecture of the community? Isn't it the friendly, welcoming attitude and character of the citizens who make up that community?"

Norman Long of 296 Hills Edge questioned WISD's changes from its original bond issue project plans and wondered why citizens were not informed about decisions WISD made behind closed doors. He felt it teaches kids that the end justifies the means in this process. Mr. Long acknowledged that he shops at the H-E-B in Dripping Springs, which he felt lacks the character

of Wimberley. He expressed concerns that there has not been enough community input and stated that Council should not rubber stamp decisions made by WISD. He wanted to see the community decide where it wants to go before making a significant decision on the use of the Bowen property. Although he supports H-E-B, he stated the relevant issue is determining the best use of the property for the City of Wimberley.

Wimberley resident Nanette Kraklow expressed concerns relating to H-E-B truck traffic and asked several friends to monitor trucks coming through town at different times and locations. She said H-E-B trucks were observed driving through town. She asked whether H-E-B will allow non-profit organizations to conduct sales or promotions on store property. She asked Council to consider the issues of truck traffic and H-E-B's policy on allowing non-profit organizations to conduct sales or promotions on H-E-B property.

Jan Dorsey of Skyline Ridge Lookout expressed concerns that if an H-E-B store is built other businesses such as Wal-mart and McDonald's will be next. She felt that big businesses may be hard to stop, but felt we should have the courage to try. She stated that having another 6,000 cars every 24 hours is going to be like Market Days every day. Ms. Dorsey said that with proper planning, one can shop at H-E-B stores in surrounding cities and that she moved to Wimberley to live in the country.

Cindy Forsyth of 421 Bluff View in River Mountain Ranch, spoke in favor of H-E-B as beneficial for families trying to raise children and senior citizens on fixed incomes due to its competitive pricing on food and gasoline. She felt that this is a better use for the vacant Bowen property and stated the importance of doing what is best for our kids, who are the future of this community.

Ken Roberts of 4000 FM 2325 stated he has seen a lot of changes over many years in Wimberley and felt that H-E-B's proposed development takes care of a lot of problems by avoiding a brightly lit ball field with associated traffic congestion in the City's center. He spoke of the benefits of consolidating WISD's ball field and other facilities to a location away from congestion and said that there will never be a better partner than H-E-B.

Tom Fulkerson strongly favored the H-E-B project and said if H-E-B is denied the ability to build a store at the old Bowen school site, it would cost WISD 2.15 million dollars and give back to them a property he described as decrepit. If H-E-B were denied its WPDD request, Mr. Fulkerson feared no other entity would want to buy the property, and its value would be substantially diminished. He stated there is no reason why a decision in favor of H-E-B would open the door to developments such as Wal-mart, because each zoning case is different. Mr. Fulkerson stated that people would no longer have to make 20-mile trips each way to shop at other H-E-B stores, saving on gas and pollution. He felt the location at Ranch Road 12 and FM 2325 helps to split and reduce traffic and said that 40 seconds of inconvenience is offset by 10-20 minutes of happy shopping.

Mayor Pro-tem White called for a brief recess at 8:10 p.m.

Mayor Pro-tem White reconvened the meeting at 8:15 p.m.

Mayor Pro-tem White requested that repetitive speaker comments be minimized, but invited speakers who had nothing new to add to address Council as to their positions either in support or opposition.

Nancy Carney of River Mountain Ranch spoke in favor of H-E-B and the children of WISD. She said this is a fantastic once-in-a-lifetime opportunity to help Wimberley's children and the people of the Wimberley Valley. She asked for a unanimous vote in favor of approving H-E-B's WPDD request.

Dorothy Evans spoke of the differences in opinion about what is "my beautiful little Wimberley." She said we have to think about change and embracing the future. She expressed concerns regarding impact on the subject property's value should H-E-B not be allowed to develop a store there. She stated H-E-B has already demonstrated they will be good partners, have respected their neighbors, and have collaborated with many community groups. She said there is no way to divorce who is going to occupy the property from the proposed use of the property. She felt that H-E-B will use the property wisely, take care of it, and preserve what citizens want Wimberley to look like.

Shirley Hunt of River Mountain Ranch stated her history as an established resident who spends money with Wimberley merchants. She cited survey statistics indicating 471 supporters (approximately sixty percent) in favor of the proposed H-E-B store and asked Council to vote in favor of H-E-B's WPDD request.

Wimberley High School Principal Greg Bonewald appreciated the public's input at tonight's meeting and spoke on changes observed over the past fourteen years in the student population. He stated that there are now more economically disadvantaged students and families who truly need the cheaper grocery and gas prices that H-E-B will bring, as well as job opportunities for parents and students. He stated this information was sent via email to Council and referenced Councilmember Talcott's response that Wimberley's charm is its heart and soul and must remain intact or property values may be negatively affected. Mr. Bonewald stated that if Council denies H-E-B's WPDD request, it therefore will be denying Wimberley families more convenient access to economical options for obtaining basic needs, as well as increased employment opportunities to work for a respected business leader. Mr. Bonewald stated it would be reasonable to question Council's definition of what exactly makes up the "heart and soul" of Wimberley, and he submitted that the "heart and soul" of any community is the people who make up that community. He asked that Council's vote acknowledge the evolving community and its changing needs.

Charles Crook of 20 Lakewood Circle in Woodcreek stated that Council needs to look at the human factor and said senior citizens need the benefit of American competition. He favored bringing in H-E-B and felt the City should not continue to be built on the backs of senior citizens on fixed incomes.

Janette Barlow of Winn Valley Drive felt that vision statements regarding land use can be manipulated to create opportunities for new businesses. She had no complaints about H-E-B as a

corporation and recognized it has benefitted schools. She spoke of Wimberley as a valley with unique features that distinguish it from other surrounding cities. She begged Council to slow down, listen, and recognize there is only one way out of the Wimberley Valley. She cautioned that urban sprawl is on its way here and stated that Council is incorrect that doors cannot be shut to development. She also begged Council to think long-term, not just consider increased sales tax revenue, and to recognize that area water resources are limited, which could threaten the sustainability of the Blanco River, Blue Hole, Cypress Creek, and Jacob's Well.

Carol Scheel spoke of her love and respect for the community, commended H-E-B for its presentation, and noted her support for schools. However, she questioned the location of the proposed store and offered possible alternate locations at Junction, the bypass, or FM 2325. She feared that large trucks will come through the center of Wimberley and asked for a traffic plan to divert such traffic. She stated Wimberley does need an H-E-B store to bring competition and recognized Brookshire Brothers' history of community support. Mrs. Scheel questioned WISD's original plans to locate the ball field at the Bowen school site given the amount of lighting that would be needed. She did not object to having an H-E-B store, but felt it should be at a location that does not impact the downtown area of Wimberley.

Amy Anderson of 220 Canyon Gap hoped that Council's minds are not already made up on this issue. Ms. Anderson also hoped that Wimberley can sustain both Brookshire Brothers and H-E-B stores. She felt that H-E-B's proposal has come at the right time, since WISD's use of the property as a ball park would not have provided facilities as adequate as those that could be developed at a more favorable location farther out of the City's center. She asked that Council vote in favor of H-E-B.

WISD employee Jason Valentine of 10 Caliche Court spoke in favor of an H-E-B store as a great fit from the perspectives of its proposed location next to the new Ace Hardware, store design, and scale.

Joe Malone spoke in support of an H-E-B store as a momentous opportunity. He said there is no better partner than H-E-B for use of this tract of land that will provide benefits to WISD and the City. He stated to have an H-E-B in this location is vital to the future of the City, urged Council to follow the Planning and Zoning Commission's approval recommendation, and unanimously grant H-E-B's WPDD request.

Susan Rigby of 609 West Summit Drive stated that the City's incorporation was supposed to help keep out big box developments. She did not oppose an H-E-B store in Wimberley, but opposed the Bowen school property as the proposed location. She said Winter's Mill Parkway is a perfect location and that H-E-B can afford to put in utilities. She expressed concerns about the number of bids received by WISD for the subject property and feared that Wimberley's quaintness will be lost, should H-E-B build a store in the center of town. She said that Buda, Kyle, and Gruene have no big box stores near their downtown areas. Ms. Rigsby asked that Council consider slowing down on this decision.

WISD Assistant Superintendent Dee Howard expressed appreciation for H-E-B's support of education and its positive impact on area communities. She was excited about the prospect of an

H-E-B in the heart of Wimberley and noted accommodations made by H-E-B in support of the community's expectations and desires. She felt this is a win-win situation that will help WISD do more to meet future needs, thus keeping WISD taxes from increasing for a longer period of time.

Joe Williams of Canyon Gap in Saddleridge stated he and his wife drive approximately 25,000 miles per year to travel to San Marcos for shopping, including trips to H-E-B for grocery shopping, with sales taxes staying in San Marcos. He favored having an H-E-B at the Bowen school site, which he felt benefits WISD and the City of Wimberley. He said H-E-B has done a tremendous job of coordinating and cooperating with the City.

Anita Fournier of 49 Woodacre Drive said that progress plus change equals growth. She stated the gate will not close on development and was delighted to have H-E-B as a partner. She was fine with the proposed store's location, urged Council to vote in favor, and felt that all merchants will benefit from competition.

Jules Alexander of 31 Flaming Cliff spoke on the differences in employee pay scales between H-E-B and Brookshire Brothers and compared Brookshire Brothers starting hourly rate for cashiers at \$7.92 with H-E-B's rate of \$9.27. He said that the number of jobs created by H-E-B will make quite a difference to a lot of people who do not make much money. He highly favored having an H-E-B store in Wimberley, but asked if Council could take a strong look at Winter's Mill Parkway as a possible alternate location due to concerns over truck traffic through town. However, if Winter's Mill Parkway is not viable, Mr. Alexander said his second choice is the proposed Bowen school site.

Alan Munde of 408 Mountain View expressed opposition to an H-E-B store at the proposed location and said it is three times larger than what's allowed in its zoning district. He stated H-E-B is paying way too much for the subject property and giving the City \$100,000 to upgrade roadways, but felt that money is a renewable resource, but lifestyle lost is lost forever. He said H-E-B should be asked for more money (if Council approves its WPDD request) to help fix downtown and asked to go somewhere else if it cannot contribute more. Mr. Munde quoted song lyrics cautioning against allowing big box-type development and expressed fears regarding future development. He said H-E-B will bring more jobs to Wimberley, but will destroy jobs at Brookshire Brothers and threaten existing businesses. He asked Council to negotiate for more money from H-E-B, if it wishes to vote for approval.

Avril Wakefield, who lives outside city limits on FM 2325, spoke of her informal surveys of H-E-B employees, who all gave affirmative responses on their employer. She noted H-E-B's superior product quality control, its positive treatment of employees, its philanthropic work, and commitments to value and delivering as promised. She felt that the Bowen school site and ball field are eyesores that should be moved and asked Council to strongly consider approval of H-E-B's WPDD request.

Brandon Ducote of 21 Sprucewood opposed allowing variances to the City's Zoning Code that he felt would be a disservice to those who developed the City's Comprehensive Plan, which is very specific about building size and scale. He felt bringing in big businesses will cause a chain

reaction of similar developments. Mr. Ducote spoke of community features he particularly liked and would hate to see disappear. He feared that existing smaller businesses made business plan decisions based on the City's Comprehensive Plan and felt the Plan's vision should be honored. He questioned whether Wimberley needs two grocery stores and feared that there will be vacant buildings when smaller businesses close.

Guy Rollins of 26 Chisholm Trail spoke of his experience as an architect, acknowledged he is not a traffic specialist, and expressed concerns about traffic problems if anything happens on either FM 2325 or Ranch Road 12. He asked if the possibility exists to create a new east-west road on the north side of the site. If that is not possible, Mr. Rollins asked if H-E-B could dedicate a road on the north side of the site (where the service road is currently planned) and stated it is the responsibility of the City to think about the impact on traffic. He said there is a need for more cross streets in this town to facilitate traffic.

Charles Lancaster of 1650 Flite Acres spoke of his long history as a Wimberley resident and of the City's original incorporation, which he felt was predicated on keeping big box-type developments from coming to Wimberley. He stated he does not favor ad valorem taxation and felt that running businesses out of town to other cities will cause Wimberley to lose sales tax revenue. He stated that competition will help existing stores and the City of Wimberley. Mr. Lancaster said H-E-B has done an excellent job, noted his attendance at numerous meetings, and does not feel that Council is moving too quickly.

WISD Board member Gina Fulkerson of 131 River Bend Road spoke of her historical support of local schools and noted that WISD's prospect of selling the Bowen property to H-E-B was considered from the perspectives of what is best for both WISD and the community as a whole. She felt this is an incredible opportunity that will benefit the school community and Wimberley area residents through carefully managed growth. She stated that H-E-B is a family-owned Texas business that has bent over backwards to meet all requests to ensure that the store will not look like a big box. She felt that competition will help families with grocery costs, as well as gasoline and time now spent driving to other cities deriving the benefit of sales tax revenue that could stay in the City of Wimberley.

Shannon du Plessis of 301 Shade Road said that Wimberley meets most of her family's needs, but did not expect to be charged higher prices for necessities. She felt competition will bring lower prices and noted H-E-B's efforts to meet concerns. Ms. du Plessis welcomed jobs that H-E-B will create at higher than minimum wage, lower prices on food/gasoline, and greater selection of produce and healthier foods. She did not object to the proposed location and felt an H-E-B store preferable to the old Bowen school site that was used as a filming location. She believed that big box stores will be less likely to want to come to Wimberley because the bar was set high for H-E-B's development standards.

Vicki McCuiston of 706 Turtle Hill, Driftwood, spoke of her work with a local church's outreach program servicing those in need. She saw H-E-B as an opportunity to raise the quality of life in Wimberley through lower prices and opportunities for good quality jobs. She spoke of H-E-B as a consistent funding sponsor of her organization's back-to-school event, even though there is not an H-E-B in Wimberley. She favored competition, felt that WISD's sale of the

subject property to H-E-B may help improve WISD salaries, and looked forward to the quality of life H-E-B can bring to Wimberley.

Traci Maxwell, who lives just outside city limits, said that Council's vote on this matter will affect every single person in this room whether they live in or outside the City. Citing her success as a real estate agent and recognizing the issue as a question of land use, Ms. Maxwell noted that H-E-B approached WISD about purchasing the Bowen site after the bond election. She stated WISD then put the subject property up for sale, with proper public notice as required, and reminded that the choice of uses comes down to either an H-E-B store or as a WISD baseball field. If the use is as a baseball field, Ms. Maxwell stated there will be lots of light, traffic, and noise. Regarding earlier suggestions of Winter's Mill Parkway as an alternate location, she said H-E-B could not make a dent in what the seller is asking and that there is no existing infrastructure to support a store. As a single mother on a budget, Ms. Maxwell said Brookshire Brothers prices are too high and asked that Council approve H-E-B's WPDD request. She noted that the City's Comprehensive Plan is just that – a plan – and variances may be granted for what is best for the community, which wants this project.

Jo Kathryn Quinn of 1988 Hilltop recommended Council's unanimous approval of H-E-B at the proposed location. She felt it is an excellent use of that space and that H-E-B is a wonderful company that will be an engaged and generous community member.

Dr. Prince Altom, Director of Fresh Start Center, spoke of his work with un- and under-employed people in Wimberley. He said there is a need to create good private sector jobs and loved the employment opportunities an H-E-B store can bring. He felt an H-E-B will be good for the community and other businesses.

Jeanette Redden favored H-E-B as a responsible business with a parking lot that will be safer than having a parking lot with "a large piece of dirt in the middle" that cars have to drive around. Regarding concerns about H-E-B truck traffic through town, Ms. Redden hoped that existing truck routes will be enforced so that trucks will not speed through the Square.

Thomas Linton of 7 Woodlark Way feared that turning down H-E-B after all of the accommodations that have been made will shut off economic growth and stifle job full- and part-time opportunities, particularly for students who need to save for college. He stated once students start leaving town for jobs, it is hard to get them back. Relating to the proposed Bowen site, Mr. Linton said it is not a good idea to have a ball field at that location, which does not meet WISD's long-term needs and will necessitate another bond issue in the future.

Terry Sones of 211 Little Ranches Road expressed concerns regarding traffic, which she feared will bring in vehicles from Blanco, Fischer, Canyon Lake and other surrounding cities. She said the City needs to do a traffic study and that H-E-B's traffic study is flawed because it does not take into account school and Ace Hardware traffic. She favored locating the store at the Junction to address the public's traffic concerns and H-E-B's marketing concerns. Ms. Sones said H-E-B is an asset, but not in the middle of town. She asked that Council respect the values of the City's Zoning Ordinance and Comprehensive Plan and protect those values by supporting smaller, denser development in central Wimberley. She noted that Wimberley is in a fast-growing county

that developers are watching and that allowing an H-E-B in the center of town will set the stage for future developments. Ms. Sones asked Council to take Wimberley's values seriously, to guide growth by voting against approval, and force H-E-B to get more creative. She acknowledged that Council is faced with a complex dilemma involving numerous entities and residents who reside both inside and outside city limits, but felt most of the speakers live outside of the City. Though Council's decision will impact all parties involved, Ms. Sones said that Council represents those that live in the City and asked for a "no" vote in order to move forward and get creative.

David Glenn of 500 Outback Trail spoke of his long service as a Wimberley Planning and Zoning Commission member and reminded that the issue at hand is a land use decision. He reviewed the land use process, including the original and revised versions of the City's Comprehensive Plan. He explained the Plan's use as a basis for development of City regulations, such as those related to zoning, development standards, and signage. He clarified that if certain development thresholds are exceeded, then those designated thresholds become negotiable via the WPDD process. He pointed out that the City's five largest existing WPDDs are all north of Cypress Creek. Mr. Glenn asked that Council to not micromanage plans, to think strategically, and make its decision tonight.

Dottie Sweeton 5 Logans Run recalled her earliest memories of a sparsely-developed Wimberley with dark skies and noted her professional background as a social worker. She stated that people in Wimberley need help and described H-E-B's use of subject property as a win-win situation. She said WISD will not have the money to put the ball field anywhere except the old Bowen property, unless it sells the property to H-E-B, which would allow for relocation of the ball field to a better site. Ms. Sweeton said that Council must not overlook the importance of economic development and noted that Wimberley does not have enough businesses here now to support and feed its people. She stated all those who love this town want to see it grow in a positive way, appreciated the work that went into the Comprehensive Plan, but said we must remember that Wimberley is changing and we need to reflect that change.

Roberta Shoemaker Beal who resides in the City's extra territorial jurisdiction (ETJ) said that she loves the Wimberley Valley and noted its environmental uniqueness. Although in the ETJ, Ms. Beal felt she lives in Wimberley, which is also part of the Wimberley Valley. She expressed main concerns regarding the critical nature of limited water resources and conservation. She commended H-E-B's pursuit of LEED certification, praised its environmentally sensitive design of H-E-B's Mueller store, and asked that H-E-B consider rainwater collection in Wimberley, which she felt is critical for conservation and mitigation of runoff. She asked for clarification on H-E-B's policy relating to fundraising at the store by local organizations. Ms. Beal asked that Council delay action tonight and send this issue back to committee to address points brought up at tonight's meeting.

Fred Young spoke of his military background and experience working as an energy expert with H-E-B and many other grocery chains. He said the H-E-B's people are honorable and will do exactly as they promise. He described H-E-B's standards and pursuit of LEED certification as amazing and stated Wimberley is too small to attract a big box store such as Wal-mart. He stated

it is not a good thing to disavow looking at what H-E-B wants to do and said that the old Bowen site probably contains asbestos. He felt the City has an opportunity to work with some real pros.

Alice Wightman repeated earlier statements stressing that Council is making a decision on land use. She described H-E-B as a fine company, but did not think the proposed site is the best location for the store. She felt the Junction is a more appropriate location for a large-scale building and stated that Wimberley is a tourist community of small scale buildings, which brings people and sales tax revenues here, along with its two-lane roads and historic atmosphere. She said both H-E-B and Brookshire Brothers are wonderful grocery stores, but stated Brookshire Brothers is set back from Ranch Road 12 and does not dominate downtown. She favored preserving Wimberley's way of life and its tourism. Ms. Wightman asked Council to consider a better location for a store that does not fit the vision described in the City's Comprehensive Plan. She said there may be time to look at other options if Council delays action tonight and would like the community she chose to live in to stay the way it is and grow at the same time.

Wimberley Planning and Zoning Commissioner Tracey Dean stated a lot of time has been spent vetting this issue. He said H-E-B knows where the store needs to go and that WISD cannot wait any longer. He described this as a "now or never" situation and that a decision is needed tonight. Mr. Dean stated the majority of those who spoke at Planning and Zoning's meeting favored H-E-B and that opposition has surfaced since that meeting, but said Council can see the public's mood tonight. He felt the community could not have a better partner than H-E-B and encouraged Council to do the right thing. Mr. Dean said that most of the people worried about change in the next ten years will probably not be here at that time, and told Council of its responsibility to meet the needs of future citizens, not just to those who live here today. He believed the future citizens who move to Wimberley will be a different group of people, but will also be part of this town. He said Wimberley is not just the people who want to hold on so hard to the past that they can't reach out and embrace the future. He noted that the Planning and Zoning Commission recommended approval and if Council does not agree, then it can appoint Commission members who are in more agreement with them, then the voters of the community can decide if they need someone else to serve on Council who has a different vision.

Hearing no further comments, Mayor Pro-tem White closed the public hearing.

Councilmember Talcott expressed appreciation for the hundreds of thoughtful, well-written emails he has received and apologized for not being able to answer every one personally, although he endeavored to do so. He respected and recognized WISD's position and challenges, which are now under consideration by Council, and noted that if the WPDD is approved, it would lead to permission for H-E-B to build a store on the eight acres currently owned by WISD. Councilmember Talcott stated that there are a lot of people here tonight supporting H-E-B; however, emails indicated there are a lot of people who expressed opposition that are not present tonight, with the town split on this issue. Although Councilmember Talcott admired H-E-B as a grocery store and wonderful corporation to work for, he felt that the critical issues are whether to allow another large corporate store in the City and create a daily deluge of traffic that Wimberley has never experienced, with the exception of certain Market Days weekends. He spoke of his research on two small towns in Pennsylvania and New Hampshire that allowed very large corporate stores in the hopes of financial gains. He said both towns experienced loss of revenue

from other stores that went out of business, that people were hired from surrounding towns (as opposed to the towns' citizens), and eventually both towns suffered loss of tourism because their towns became nothing special. He said that bed and breakfasts closed and property values fell in those towns. Based on his personal observation of "surge time" at Brookshire Brothers, Councilmember Talcott stated that as many as 1,000 cars per hour, plus school and commuter traffic could cause major traffic delays, including those trying to reach the post office by closing time, and impede access back onto Ranch Road 12. He stated it is unfortunate this vote has to be rushed through without the proper economic impact or independent transportation study. He closed by saying that right now Wimberley is at a crossroads.

Councilmember McCullough spoke of his first impressions of Wimberley as utopian and his almost immediate purchase of a home here. He spoke highly of H-E-B as a community partner, but expressed reservations and anger over what he described as "the way we were put in this box right now." Councilmember McCullough brought up the City's efforts to construct a downtown sewer system, which is an issue that he stated he ran on when seeking his seat on Council. As a parent, he respected the needs of WISD's students, but questioned why another \$2,000,000 could not have been added to the amount just passed in WISD's recent bond election. He felt if WISD had asked for an extra \$2,000,000, it would have not added much to the tax rate, and Council would not be asked to "sell ourselves out" and change the City's destiny. He provided an explanation for calculating how he derived a figure of \$1,500,000 based on a back-up bid received by WISD for the subject property, which he described as \$1,000,000 less than H-E-B's offer. He felt that the City will forever be sorry if \$500,000 is not added to initial sewer treatment costs in order to enhance quality to the highest possible level. He said he knows of two separate entities to bid on the subject property if H-E-B's WPDD is denied tonight and H-E-B decides to abandon any pursuit of future development in Wimberley. Councilmember McCullough referenced the stakeholder committee formed to make a recommendation on a central wastewater system and wondered if a similar endeavor to work with H-E-B would be advisable. He felt that if such an endeavor were undertaken, he said the City would have a moral obligation to tell H-E-B that the City would be bound to accept whatever recommendation was agreed upon. Councilmember McCullough felt torn between the intellectual argument favoring an H-E-B store and the emotional argument against it, but thought Council was being pressured by WISD representatives and wished that WISD had added \$2,000,000 to its bond issue amount. He said he was not afraid to turn down H-E-B tonight and believed that if H-E-B does not come back, someone else will make an offer on the subject property.

Councilmember Meeks thanked H-E-B for its willingness to work with citizens and City officials as a good neighbor by making accommodations to address concerns and also appreciated public input voiced at tonight's meeting, as well as those received in many emails. As a fourth generation Wimberley citizen, he noted many changes observed in Wimberley over the years, including the advent of traffic lights and the impending demolition of the old Bowen Elementary School, which he attended. Despite his emotional attachments, Councilmember Meeks felt that H-E-B has shown its willingness to work with the community from the start of this process, spoke highly of H-E-B's reputation, and welcomed H-E-B to the community.

Councilmember Thurber assured the public that Council listens to everyone's input and takes all comments to heart. He thanked H-E-B representatives and City Administrator Ferguson for their

hard work and described H-E-B as a joy to deal with. He said that the issue tonight is one of land use, not whether or not we want an H-E-B store in Wimberley. He stated there is no question that H-E-B is a great corporate neighbor, but the question is do we want a facility of that size to dominate our City from now on at that location. He noted that we all moved here for the quaint, small-town atmosphere that is described in the City's Comprehensive Plan, which is our guiding document for development that will preserve that atmosphere. Councilmember Thurber stated that Council is obligated to consider the Comprehensive Plan before making any zoning decisions, no matter what type of development is proposed. He recalled the work that went into developing and revising the Comprehensive Plan by a broad-based cross section of community members, who articulated a vision for this community that included a building size of no more than 15,000 square feet in the subject property's planning area. He noted that the Comprehensive Plan Review Committee spent a great deal of time discussing big box stores and where such stores should be located. Councilmember Thurber said we do not want to throw out our vision and community character, so despite the advantages that H-E-B brings as a good corporate partner, there should be consideration of a more appropriate location for the store. Regarding the original planned use of the subject property as a WISD ball field, Councilmember Thurber closed his remarks by stating what could be more all-American than a ball field in the middle of town.

Mayor Pro-tem White recalled his personal history as a Wimberley resident dating back to the 1950s and said we cannot go back. He felt that the City could not find a better partner than what has been offered here tonight.

Mayor Pro-tem White entertained a motion.

Should Council wish to approve the requested WPDD, City Administrator Ferguson asked that the motion to approve include two minor typographical changes to correct the total number of parking spaces from 286 to 256 spaces and to list the exact acreage (based on the subject property's metes and bounds description) as 7.845 acres.

Councilmember Thurber moved to deny the requested WPDD, as presented. Councilmember McCullough seconded.

Discussion addressed the project size, scaling of the building to meet H-E-B/community needs, market value of the subject property, effect of zoning decision on market value, construction timeframe, new information presented at tonight's meeting, and need for further studies on economic impact/traffic.

H-E-B representative Ben Scott spoke on two other WPDDs that have been approved for developments in excess of 15,000 square feet in the subject property's immediate area, since Comprehensive Plan adoption. He said H-E-B has gone above and beyond to accommodate concerns and has heard a great deal of community input to build something Wimberley can be proud of and feel a part of at the end of the day. He noted that Wimberley is made up different people who spent a lot of time meshing together a lot of great ideas and hard thinking. He clarified any misunderstanding about H-E-B's possible timeframe for building and noted that it has never been said that H-E-B will not build for five (5) years and offered to cut that number

back to three (3) years. Addressing prior comments on possible alternate locations at the Junction or on the bypass, Mr. Scott stressed those locations are not economically viable and provided reasoning posing constraints at those locations. He closed by stating H-E-B's absolute commitment to this town and hoped that everyone present can see that a lot of time and energy has been spent to come up with a plan everyone can be proud of.

Discussion between Mr. Scott and Council addressed H-E-B's commitment to high standards, affording H-E-B the same opportunities as other retailers, size of the proposed H-E-B store compared to existing large retail buildings, and concerns regarding negative impact on tourism due to the potential loss of Wimberley's small-town, quaint character.

Hearing no further discussion, Mayor Pro-tem White called for a vote on the motion to deny as follows: Mayor Pro-tem White, nay; Councilmember Thurber, aye; Councilmember Meeks, nay; Councilmember McCullough, nay; Councilmember Talcott abstained. Motion to deny failed on a vote of 1-3, with one abstention.

Mayor Pro-tem White moved to approve the WPDD, as presented, including the aforementioned typographical changes as listed by City Administrator Ferguson to correct the total number of parking spaces from 286 to 256, and to list the exact acreage of the subject property as 7.845 acres. Councilmember Meeks seconded.

Mayor Pro-tem White called for a vote on the abovementioned motion to approve as follows: Councilmember Talcott, aye; Councilmember McCullough, aye; Councilmember Meeks, aye; Councilmember Thurber, nay; Mayor Pro-tem White, aye. Motion carried on a vote of 4-1.

Councilmember McCullough told Councilmember Thurber that he admires and respects his vote on this item.

#### **4. Ordinances**

- A. Consider approval of an ordinance of the City of Wimberley, Texas granting Texas Disposal Systems, Inc., its successors and assigns certain rights to operate and maintain solid waste and recycling collection and disposal routes and services within the City of Wimberley for a period of five (5) years with renewal provisions, providing an exclusive franchise, prohibiting the operation of any other residential or commercial solid waste and recycling collection business or entity, providing for certain rights, duties, terms, and conditions, providing for payment of franchise fees of ten (10) percent of grantee's gross revenues, civil and criminal penalties not to exceed \$2,000, effective dates, severability and other provisions related to the grant of a solid waste and recycling franchise. (*City Administrator*)

This item was heard after Agenda Item 3B.

As contract details are being finalized, City Administrator Ferguson requested continuance of this item until Council's Special meeting on January 22, 2014.

Councilmember Thurber moved to continue this item, as requested, until Council's Special meeting on January 22, 2014. Councilmember White seconded. Motion carried on a vote of 5-0.

- B. Consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Title XI (Business Regulations) of the City of Wimberley Code of Ordinances and creating a new Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings); and providing findings of fact, a repealing clause, a savings and severability clause, an effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson explained provisions of the ordinance that would prohibit anyone, including but not limited to, real estate agents/offices, or professional services from listing or renting unauthorized vacation rental and bed and breakfast properties in the City. Additionally, the ordinance establishes an annual business permit for the operators of vacation rentals and bed and breakfasts. He explained the purpose of the proposed ordinance to enhance the City's ability to regulate the short-term rental industry and recommended approval.

Discussion established that the business permit would be in the name of the property owner, not the realtor/rental agent.

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

## **5. Discussion and Possible Action**

- A. Discuss and consider possible action granting a variance from the on-site sewage facility (OSSF) requirements to allow for the placement of a portable restroom trailer on the septic drainage field for 101 Wimberley Square. (*City Administrator*)

Per Council's direction to staff at its January 2, 2014 meeting to explore the possibility of relocating the trailer to the drain field at 101 Wimberley Square, City Administrator Ferguson recommended that the following steps be taken before the restroom trailer can be located on the subject septic drain field:

- City Council will need to grant a variance from the OSSF Rules which prohibit the placement of structures on septic drain fields.
- The septic drain field will need to be probed by a licensed septic installer to locate the edge of the field and the buried drain lines. This probing effort will help determine the best location for the trailer in the drain field.
- Plans must be developed to minimize the trailer's physical contact with the surface of the drain field.

If at any time there is evidence that the drain field is not properly functioning, City Administrator Ferguson noted that the restroom trailer will need to be relocated to another site.

Discussion addressed the projected location of the trailer on the drain field and continued monitoring of the drain field to ensure its proper functionality.

Councilmember Thurber moved to approve the item, as recommended. Councilmember White seconded. Councilmember Talcott stated for the record that there is a petition signed by local residents/shopkeepers reflective of their feelings on the trailer's location and requested a survey of petition signers in the interest of clarification. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding a proposed operating plan for the recently acquired portable restroom trailer. (*City Administrator*)

City Administrator Ferguson requested that Agenda Items 5B and 5C be continued until Council's Special meeting on January 22, 2014.

Councilmember Thurber moved to continue Agenda Items 5B and 5C, as requested, until Council's Special meeting on January 22, 2014. Councilmember White seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding a proposed policy relating to commercial photography in the Blue Hole Regional Park. (*Wimberley Parks Board*)

See Agenda Item 5B.

## 6. City Council Reports

- Announcements
- Future Agenda Items

This item was heard after Agenda Item 3C.

City Administrator Ferguson advised that a Special Council meeting is scheduled for next week.

Hearing no further announcements or future agenda items, Mayor Pro-tem White called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 10:30 p.m.

Recorded by:

*Cara McPartland*  
Cara McPartland

These minutes approved on the 20<sup>th</sup> of February, 2014.

**APPROVED:**  
*Bob Flocke*  
Bob Flocke, Mayor

