

City of Wimberley
City Hall
221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
February 2, 2012 at 6:00 p.m.

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

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

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

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

Citizens Communications

No citizen comments were heard.

1. Consent Agenda

Approval of the minutes of the Regular City Council meeting of January 19, 2012

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

2. City Administrator Report

- Status report on the development and operation of the Blue Hole Regional Park

City Administrator Ferguson reported on nearly completed Phase II construction, including work on pavilion/recreation areas and soil donated by Texas Disposal Systems. Phase II completion is anticipated in early April 2012.

- Status report on the operation of the Wimberley Municipal Wastewater Treatment Plant

City Administrator Ferguson reported favorably on the first month of operation and advised that the first customer billing will be sent out in the coming week.

- Status report on the implementation of the community notification system

City Administrator Ferguson reported on plans for upcoming city-wide system testing and provided background information on the system and its implementation.

- Status report on recent storm damage

City Administrator Ferguson reported on slight damage at Blue Hole Regional Park and increased waterway levels. He noted certain temporary low water crossing closures due to high water.

- Status report on the employment of a city marshal

City Administrator Ferguson reported on continuing review of candidates.

In addition, it was noted that City Attorney Cindy Crosby will be assuming a new position as deputy city attorney for the City of Austin. She will be replaced by Cathy Fryer of Bickerstaff Heath Delgado Acosta LLP. There was brief discussion of barricade placement/monitoring.

3. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, amending Chapter 155 (Zoning) of the Code of Ordinances, Section 155.005 (Definitions) to add the definition of "Personal Care Home," and amending Subsection (C) of the following sections: §155.035 Residential Acreage (RA); §155.036 Rural Residential 1 (R-1); §155.037 Single-Family Residential 2 (R-2); 155.038 Single-Family Residential 3 (R-3); §155.039 Single-Family Residential 4 (R-4); §155.040 Two-Family Residential (Duplex) (R-5); §155.041 Multi-Family Residential 1 (Triplex/Quadriplex/Apartments) (MF-1); §155.042 Multi-Family Residential 2 (Apartments) (MF-2); §155.045 Office-Low Impact (O-1); §155.047 Commercial-Low Impact (C-1); §155.048 Commercial-Moderate Impact (C-2); §155.049 Commercial-High Impact (C-3); §155.061 Neighborhood Services (NS); §155.094 Scenic Corridor (SC); and §155.060 Public Facilities (PF) to permit Personal Care Home as a conditional use in each zoning district specified herein; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning & Zoning Commission*)

This item was heard after Agenda Item No. 4B.

City Administrator Ferguson summarized key provisions of the proposed ordinance, which includes modifications requested at Council's first reading on January 19, 2012.

Planning and Zoning Commission Vice Chair Tom Haley commented on the Commission's recommendation on the patient-to-caregiver ratio requirement. He stated that the proposed ordinance will allow for a valuable service, while providing protection for neighboring residential property owners.

Mayor Flocke opened the public hearing.

Monta Lane of 39 La Toya Trail spoke of her professional background, lack of negative impact to surrounding neighbors, and adequate oversight measures for her end-of-life care operation.

She took exception to §155.066(E)(14) relating to the City's access to books, records, and other documents maintained by a personal care home and stated that the City must be consistent in implementing such requirements. City Administrator Ferguson clarified that such access would only be requested in the event of complaint investigation/enforcement.

Wimberley Life Care owner Janice Breeze of 845 East Summit did not favor language in §155.066(E)(2) related to inspections and questioned the qualifications of City representatives to make such inspections. She felt that the property should be subject to inspection in order to investigate complaints related to the CUP and favored removal of references "to ensure the residents' health, safety, comfort, and protection from fire hazard." Referencing §155.066(E)(15), Ms. Breeze cited scenarios that would make compliance difficult, particularly providing the City with copies of licenses for all caretakers prior to said individuals providing any care at the home. She recommended adding "upon request" to the beginning of §155.066(E)(15) to mitigate her concerns. She questioned intent of language in §155.066(E)(18) stating: "Individuals related to the home owner by blood or marriage may not be paid or charged rent to reside in the home." As an example, Ms. Breeze stated such a prohibition would not allow parents to charge rent to adult children living in their home. She thanked Council for its consideration of this important community issue.

Jill Jones spoke highly of the end-of-life care her mother receives in Monta Lane's home and questioned any negative effects on the surrounding residential area.

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

Discussion included:

- Complaint-based enforcement
- Right to inspect personal care homes
- Provision of copies of caregivers' licenses
- Amending §155.066(E)(15) as recommended by City Administrator Ferguson: "Upon request by the City, copies of all federal, state and local licenses issued for all caretakers providing care at the personal care home shall be provided to the City."

Councilmember Thurber moved to approve the second and final reading of the ordinance, as presented, with the inclusion of the recommended amendment as stated above by City Administrator Ferguson. Councilmember Meeks 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 Carla Cawley to permit an eating establishment: sit-down, including the sale of beer and wine for on-premise consumption on a commercial tract located at 500 River Road, Wimberley, Texas, and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Carla Cawley, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and prior restaurant operations. The applicant is proposing to sell beer and wine for on-premise consumption as part of the sit-down eating establishment, which would occur inside the restaurant, as well as in fenced-in outside areas. Two phone inquiries were received, but no comments were made either for or against the CUP request. On January 26, 2012, the Planning and Zoning Commission voted to recommend approval with the following conditions:

- The applicant shall secure the permits necessary from the Texas Alcoholic Beverage Commission (TABC) and the City of Wimberley prior to the sale of any alcohol on the subject property.
- The alcohol to be sold for on-premises consumption shall be limited to beer and wine.
- No alcohol shall be sold on the property solely for the purpose of off-premise consumption.
- Any beer and wine, purchased with a sit-down meal, that has not been consumed, may be taken off-premise by the customer provided the appropriate license from TABC allowing such is in place.
- Alcohol consumption on the property shall be limited to areas inside the restaurant and to outside areas within the fenced backyard on the subject property.
- All activities set forth in the CUP shall be limited to only those commercially zoned portions of the subject property.

Discussion among Council, Planning and Zoning Commission Vice Chair Tom Haley, City Administrator Ferguson, and Lance Cawley addressed:

- Possibility of expansion of the outside fenced-in area
- Conditional uses allowed only on commercially zoned portions of the subject property
- Limitation on expansion of conditional uses to residentially zoned tracts of the subject property due to planning area boundaries

Mayor Flocke opened the public hearing.

Neighboring property owner Ross Griswold expressed concerns over alcohol consumption, particularly adjacent to residential properties, and cited past problems with former restaurant patrons, including alcohol consumption outside of allowed areas and noise issues.

Lance Cawley clarified that the applicant does not intend to serve alcohol on the subject property's residentially zoned lots or allow music. Service and consumption of alcohol would occur only in fenced-in areas on commercially zoned lots. Games such as horseshoe pits would only be allowed on commercial lots.

Mayor Flocke closed the public hearing.

Discussion addressed operating hours, possible addition of time restrictions, surrounding uses, and applicable TABC regulations.

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

4. Discussion and Possible Action

- A. Discuss and consider action on the proposed plans for the Wimberley Civic Club Chili Cook-off at the Blue Hole Regional Park. (*City Administrator*)

City Administrator Ferguson detailed event plans, including parking, staging, entertainment, registration/admission fees, on-site security, and event insurance. Because proceeds from the event benefit the community, staff recommended approval of the plans, with a discounted rental fee of \$250 for use of the Park. No City personnel will be needed for the event.

Discussion among Council and event organizers addressed cook-off specifics, including trash receptacle donations, parking, and community involvement.

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

- B. Discuss and consider approval of the City of Wimberley Annual Financial and Compliance Report for the year ending September 30, 2011. (*City Administrator*)

This item was heard after Agenda Item No. 2.

Preston Singleton of Singleton, Clark and Company, PC, presented the City's Annual Financial and Compliance Report for the Fiscal Year ended September 30, 2011. His presentation included:

- Explanation of fund balance levels and use of fund balance statistics as measurements of financial health
- Favorable report on the City's fund balance relative to its operating expenses and revenue streams
- Details of the Independent Auditor's Report and type/scope of the financial audit report and accompanying issued opinion
- Summary of the *Statement of Revenues, Expenditures, and Changes in Fund Balance*
- Favorable report on compliance and other matters, including internal controls, control deficiencies, and material weaknesses

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

- C. Discuss and consider a proposed Memorandum of Understanding (MOU) with the Wimberley Central Improvement Area, Inc. (WCIA) relating to the possible development of a wastewater system to serve the area of the Wimberley Square. (*City Administrator; this is a discussion item only*)

This item was heard after Agenda Item 4A.

Mayor Flocke and Councilmember Meeks recused themselves from the meeting at this time due to possible conflicts of interest.

Mayor Pro-tem Thurber assumed duties of presiding officer at this time.

City Administrator Ferguson presented detailed historical information on efforts to develop a centralized wastewater system for the downtown area and secure funding for such development. Past studies were reviewed, including assessments of existing septic systems and associated environmental issues. Currently, an owner group called Wimberley Central Improvement Area (WCIA) is proposing the development of a Municipal Management District (MMD) to provide infrastructure and other services within the district according to a district-approved service plan. Information was provided on the process for MMD creation, potential funding sources (including tax exempt bonds, special assessments, property taxes, and impact fees), and permitted services. City Administrator Ferguson explained the need for a feasibility study prior to the formation of an MMD to examine the cost of any proposed improvements to be funded by the MMD and the methods to be used. He advised that a Council workshop on this issue is scheduled for Monday, February 6, 2012 at 5 p.m.

WCIA representative and downtown business owner Temple Wynne read a statement highlighting the need for a downtown wastewater system based on serious economic and environmental concerns caused by aging septic systems. She recounted past unsuccessful funding efforts and commended the City for ranking downtown wastewater service as a priority issue. She detailed the WCIA's proposal to form a MMD to build infrastructure and explore possible funding sources. WCIA meetings have been held to examine past studies and build initial financial models. She described the proposed MOU as a simple, non-binding document that outlines the parties' mutual interests and sets forth responsibilities for consulting costs to complete the feasibility study. She hoped for Council's support of the MOU and looked forward to working with Council on this serious issue.

Citizens Alliance for Responsible Development (CARD) representative David Glenn spoke in favor of a resolution supporting the creation of a MMD in central Wimberley to facilitate sanitary sewer improvements. He stated CARD's purpose and mission and read the text of the proposed resolution.

Discussion addressed the need for inclusion of more detailed information in the MOU, upcoming WCIA/property owner meetings, laws/procedures related to MMD formation, purpose of the MOU, and certain funding application deadline(s).

No action was taken on this item.

After discussion and a brief recess, Mayor Flocke and Councilmember Meeks rejoined the meeting and Mayor Flocke assumed duties as presiding officer.

- D. Discuss and consider possible action regarding a proposal to transfer an amount not to exceed \$50,000 from the City of Wimberley General Fund Balance for the development of a supplemental water storage system for fire suppression and temporary irrigation purposes on the site of the Blue Hole Regional Park and amending the Fiscal Year 2012 Operating Budget to reflect the expenditure and transfer of funds. (*City Administrator*)

City Administrator Ferguson proposed the development of a supplemental water storage system on the Park site to enhance fire protection for the Park and surrounding properties, as well as to provide a water source for the temporary irrigation of soccer fields under construction. The following development costs were projected:

- \$4,000 for site preparation for the 25,000 gallon storage tank
- \$700 per month for the 36-month lease of the 25,000 storage tank
- \$25,000 for reactivation of the existing water well and the installation of pumps and supply lines

He stated that the closest hydrant to the subject area is more than 1,000 feet away and that Wimberley Water Supply Corporation does not plan to increase the size of the water line to allow for installation of a fire hydrant. He noted that water from the storage system for soccer field irrigation would be temporary and discontinued after funds are raised to install a wastewater effluent irrigation system. After discontinuation, the sole use of the storage system would be for supplemental fire protection. He recommended approval of development of the system and authorization to transfer an amount not to exceed \$50,000 from the City's Fund Balance to pay for the system and to amend the Fiscal Year 2012 General Fund Budget to reflect the transfer and expenditures. Councilmember Talcott asked if \$250 per month could be paid from the Blue Hole Park Fund to cover expected expenditures.

Councilmember McCullough moved to approve the item, as presented. Councilmember Thurber seconded.

Discussion included:

- Councilmember Meeks' discussion earlier today with Wimberley Fire Chief Carroll Czichos regarding the proposed water storage system
- Quality of the water from the existing well and its use for firefighting purposes
- Monitoring of pumping from the well
- Location of various fire hydrants
- Use of water from creek/river for firefighting
- Primary purpose of system for supplemental fire protection (as opposed to irrigation)
- Extending an invitation to Fire Chief Czichos to speak to Council on this issue

In order to allow Fire Chief Czichos to address Council, Councilmember Thurber withdrew his second to the motion. Councilmember McCullough withdrew his earlier motion and moved to continue this item until Council's next regular meeting. Councilmember Thurber seconded the motion to continue. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action on a proposed Advanced Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) relating to the Ranch Road 12/Old Kyle Road Improvement Project. (*City Administrator*)

City Administrator Ferguson recommended approval of the proposed AFA, which defines the scope of work, labor, material resources, and cash funding responsibilities to be contributed by each party. He noted that funding for this project will be coming from the Capital Area Metropolitan Planning Organization (CAMPO) and not from City funds.

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

Councilmember McCullough left the meeting at this time.

Discussion addressed questions regarding the designation of monitor(s) and clarified financial obligations under the agreement.

Motion carried on a vote of 4-0.

- F. Discuss and consider possible action regarding the proposed operating dates and hours of operation for the summer of 2012 at the Blue Hole Regional Park. (*Parks and Recreation Advisory Board*)

City Administrator Ferguson presented the following proposed operating dates/hours, as recommended by the Parks and Recreation Advisory Board at its January 18, 2012 meeting.

DATES OPEN:

May 12-13; 19-20

May 26 through September 3 (daily)

September 8-9; 15-16; 22-23; 29-30

HOURS OF OPERATION:

10 a.m. to 6 p.m. all days, except Saturdays

On Saturdays and holidays (Wednesday, July 4th and Sunday, September 2), hours are from 10 a.m. to 8 p.m.

Discussion established past attendance patterns and noted that the abovementioned operating dates/hours may be changed by Council, if needed.

Councilmember Talcott moved to approve the item, as presented. Councilmember Thurber seconded. Motion carried on a vote of 4-0.

- G. Discuss and consider possible action regarding a proposed preferred customer discount program for the Blue Hole Regional Park. (*Parks and Recreation Advisory Board*)

City Administrator Ferguson presented "The Hole Works" package options/pricing, as recommended by the Parks and Recreation Advisory Board at its January 18, 2012 meeting:

The cost of "The Hole Works" package is \$75, if purchased separately.

When purchased with a season pass or ten-punch pass, the total cost, including the pass, is \$100.

Details were provided on coupon booklets for various discounts that will be valid until May 2013. Revenue generated from the program will help fund Park operations and maintenance.

Councilmember Thurber moved to approve the item, as presented. Councilmember White seconded. Motion carried on a vote of 4-0.

5. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Talcott informed Council that he will serve as a citizen representative involved with the Hays County Transportation Plan review/update.

Councilmember Meeks encouraged participation in an upcoming youth sports fundraising event.

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

Adjournment: Council meeting adjourned at 8:58 p.m.

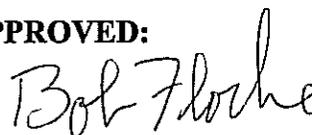
Recorded by:


Cara McPartland

These minutes approved on the 16th of February, 2012.



APPROVED:



Bob Flocke, Mayor