

City of Wimberley
City Hall
221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
February 6, 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 Mac McCullough, Matt Meeks, Steve Thurber, and John White. Councilmember Tom Talcott was absent.

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

Citizens Communications

No citizen comments were heard.

1. City Administrator Report

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

City Administrator Ferguson reported on FEMA's site visit and future meetings to finalize plans on project funding. He anticipated reimbursement for certain infrastructure damages, provided timeframe for repairs, and noted discussions with FEMA regarding stream dredging and debris-clearing of the Paradise Hills low water bridge crossing. He said that the State is awaiting a decision on its appeal of FEMA's denial of individual flood assistance and reminded that the deadline has passed for submitting an application for assistance from the Small Business Administration.

- Status report on implementation of *The Wimberley Valley Truck Route*

City Administrator Ferguson reported that the State has approved the route to direct traffic around the downtown area and noted that signage is being installed.

- Status report on the operation of the portable restroom trailer on the Wimberley Square

City Administrator Ferguson reported on frequency of pumping to date, operational costs, opposition from some Square property owners to the trailer's proposed drain field location, possible alternate locations, and multi-faceted approach to funding operations (such as user fees, City contribution, advertising revenue, and a contribution from the Wimberley Merchants Association).

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

City Administrator Ferguson reported the City's January check totaled \$42,391, with year-to-date collections up three percent (3%) over the same period last year. He advised that Ace Hardware is scheduled to re-open for business tomorrow; however, the City will not see Ace's impact on sales tax collections until receipt of the City's April check.

- Status report on preparations for the *May 2014 City of Wimberley General Election*

City Administrator Ferguson provided details on the upcoming May 10, 2014 General Election for the positions of Mayor and Council Places Two and Four. He noted the deadlines for filing an application for a place on the ballot and to register to vote in time to vote in the May 10th election. He advised that complete election information, including candidate packets, is available on the City's website under the 2014 Election tab.

- Status report on preparations for the *2014 Concerts in the Park Series* at Blue Hole Regional Park

City Administrator Ferguson reported that eight (8) representatives from the City of Austin Parks Department visited the Park yesterday morning as part of their planning efforts to develop a park in the area of Onion Creek. He provided information on the *Blue Hole Concerts in the Park Series* schedule (Friday nights in April), sponsorship by Dripping Springs Vodka, and lineup of musicians. He advised that no admission will be charged, however, donations to the Park are encouraged.

2. Presentations

- A. Presentation of the City of Wimberley Annual Financial and Compliance Report for the year ending September 30, 2013. (*Singleton, Clark & Company, PC*)

Preston Singleton of Singleton, Clark & Company, PC noted Council's role in the City's financial oversight process and highlighted key sections of the report, including Statement of Revenues, Expenditures, and Changes in Fund Balance (Page 16), Audit Report (Opinions - Page 1), and Schedule of Findings and Questioned Costs (Page 44). He commented favorably on the City's Fund Balance and noted that there were no material weaknesses or significant deficiencies reported as a result of the audit. He commended administration for achieving an unmodified audit and thanked staff for its help and cooperation during the audit process.

Discussion commended staff for budget management resulting in an increased Fund Balance and recognized Council's conservative financial oversight.

- B. Presentation by representatives of the Paradise Hills Property Owners Association regarding concerns about recent flood damage in the subdivision and the need for all-weather access into and out of the subdivision. (*Place Two Councilmember Mac McCullough*)

This item was heard after Agenda Item 4A.

Paradise Hills Area Residents' Association (PHARA) President Janice Mullenax gave a presentation on changing demographics resulting in fewer vacant lots and more homes that are permanent residences, with an increase in the number of residents aged sixty-five (65) or older.

The presentation included the following concerns:

- Build-up of debris at the low water crossing
- Future flooding causing additional debris that may make the low water crossing impassable
- Washed away flood markers
- Damage to the low water crossing bridge
- Flood-related erosion
- Access by first responders and residents' ingress/egress during flood events
- Sole emergency exit from Paradise Hills via Jubilee and West Spoke Hill Dr, which is not a reliable option in an emergency

The presentation included the following short-term solutions, which Ms. Mullenax stated should not be reliant upon receipt of FEMA funds:

- Remove upstream gravel and restore pond
- Replace necessary signs, including flood gauge
- Determine and install additional signage, if necessary
- Reinforce stream banks to repair/reduce erosion on downstream side of crossing
- Improve sight lines, particularly from the north approach to crossing
- City plan (and back-up plan) for emergency evacuations
- Installation of signage at both ends of Spoke Hill Drive ("Private Road," "No Through Street," "Emergency Access Only," or similar signage)

Ms. Mullenax stated that the long-term solution should be to build a bridge to replace the current crossing bridge and acknowledged funding challenges.

The presentation cited the following additional concerns:

- Need to resurface Climbing Way
- Road and right-of-way maintenance such as tree trimming, mowing, clearing, pot hole repair, edge reinforcement, proper drainage, and ditch repairs
- Need for additional speed limit signs and enforcement of speed limits
- Need for "Children at Play" sign on Climbing Way
- Negotiating for emergency access across private property and problematic aspects of enforcing an agreement with a private property owner, particularly if ownership changes

Discussion addressed culvert clean-out/repairs; the City's interlocal agreement with Hays County for road maintenance; drainage/re-vegetation; signage for speed limits, truck traffic, and children

at play; relocation of mailboxes to avoid residents having to cross street to retrieve mail; damage to neighborhood roads from large trucks; cost to replace crossing bridge; upcoming tree trimming/debris removal; possible funding options for projects; prioritization of projects; improving connection between West and East Spoke Hill; FEMA project ranking process; and resurfacing of Climbing Way by Hays County.

3. Ordinances

- A. Consider approval of the second and final reading 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*)

City Administrator Ferguson reviewed the following two (2) revisions to Exhibit "A" (Contract for Solid Waste and Recycling Collection and Disposal Services for the City of Wimberley) of the draft ordinance since Council's first reading on January 22, 2014:

- Deletion of last paragraph under Section V (F) to avoid repetitive language
- Additional language in Attachment A stating that residential rates are guaranteed not to increase for a period of two (2) years

City Administrator Ferguson reviewed key enhancements to the agreement to strengthen performance standards, lower the residential rate, and increase bulky waste service.

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

- B. Consider approval of the second and final 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*)

Mayor Flocke stated that Councilmember Talcott requested continuance of this item until Council's meeting on February 20, 2014.

Councilmember Thurber moved to approve continuance of this item, as requested. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

4. Discussion and Possible Action

- A. Discuss and consider possible action accepting the City of Wimberley Annual Financial and Compliance Report for the year ending September 30, 2013. (*Singleton, Clark & Company, PC*)

This item was heard after Agenda Item 2A.

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

- B. Discuss and consider possible action regarding a proposal to call a bond election on May 10, 2014 for the purpose of funding various street, drainage and wastewater improvements in the City of Wimberley. (*Place Two Councilmember Mac McCullough*)

This item was heard after Agenda Item 3B.

City Administrator Ferguson presented a proposed timeline for ordering and holding a special bond election on May 10, 2014, including prospective dates for Special Council meetings, if needed. He explained the Transportation Advisory Board's ranking system for prioritization of street improvements and stated that costs for such improvements continue to rise over time. He provided details on specific needed capital improvement projects and presented cost estimates for the following capital improvements totaling approximately \$10,325,000:

- Street improvements: \$2,750,000
- Drainage study: \$75,000 - \$100,000
- Wastewater system:
 - Core system (south of Cypress Creek) - \$5,600,000
 - North side (of Cypress Creek) only - \$1,900,000

City Administrator Ferguson presented estimates on possible tax rates; length of debt service (scenarios for 10-year term and 25-year term); and amounts of annual debt service payments. He asked Council to reflect on the following points in order to provide direction to staff:

- Whether adequate time exists to educate the public on the proposed bond election
- Identification of specific improvements to be included in the bond issue
- Long-term ramifications of defeat of the City's first bond election
- Ad valorem tax-backed bond to fund wastewater system versus ad valorem tax-backed loan to fund wastewater system
- Inclusion of all or part of wastewater system costs
- Structuring of bond issue ballot to allow voting on separate capital improvement elements or combination of elements

Discussion addressed:

- Critical nature of street/drainage improvements and need for drainage study

- Importance of educating the public on how bond funds will be used
- Wastewater system funding via tax-backed bonds versus funding via tax-backed Texas Water Development Board (TWDB) loan
- Potential change of Council composition and differing perspectives of possible future Councils on ad valorem taxation
- Structuring of individual elements of bond issue
- May 2014 versus November 2014 bond election dates
- Risk of rushing into bond election without adequate time for public education and possible ramifications of defeat
- Need for specific details on improvements during public education efforts

Continued discussion addressed gauging public opinion on ad valorem taxation, possible special Council meetings, timeframes for ordering election and public education process, and detailed costs for certain street improvements.

Audience member Janette Barlow cautioned Council against calling a bond election too quickly and facing possible defeat due to lack of time for adequate public education. She felt that Council rushed its decision on H-E-B's WPDD request without conducting enough studies. She acknowledged the need for road improvements, but encouraged Council to carefully consider the timeframe for calling a bond election.

Mayor Flocke stated that there is more time available to educate the public on a potential bond issue than was available for consideration of H-E-B's WPDD request. Mayor Flocke felt that if a bond election is not on the May ballot, it will not be on the November ballot. It was noted that the present Council has had several years to gauge public input and contemplate ad valorem taxation as the only way to find adequate funds for major capital improvements and incoming Council members may not feel ready to take on the issue of implementing a property tax. Mayor Flocke reminded that tonight's action is not about calling the bond election, but rather committing to making a decision by the deadline of February 28, 2014. He noted that the bond issue will ultimately be decided by citizens who will vote for or against it.

City Administrator Ferguson advised that he will forward to Council an updated list of streets identified in need of improvements and various tax rate/debt service term scenarios.

Councilmember McCullough moved to approve Council's commitment to making a decision on calling a bond election by the deadline of February 28, 2014. Councilmember White seconded. Motion carried on a vote of 3-1. Councilmember Thurber voted against.

- C. Discuss and consider possible action establishing the amount of the annual permit fee for owners and/or operators of vacation rental and bed and breakfast properties in the City of Wimberley (*City Administrator*)

In accordance with Councilmember Talcott's request, City Administrator Ferguson asked that this item be continued until Council's meeting on February 20, 2014.

Councilmember Thurber moved to approve the continuance, as requested. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

- D. Discuss and consider possible action on a proposal to prohibit on-street parking in the 100 block of Oak Drive. (*Wimberley Transportation Advisory Board*)

City Administrator Ferguson explained the Transportation Advisory Board's (TAB's) recommendation to prohibit on-street parking on the east side of the roadway in the 100 block of Oak Drive, due to recent complaints regarding the inability of traffic to flow freely in the subject area. He advised that staff will install the appropriate signage needed to identify the zone and enforce the parking prohibition, should Council desire to approve this item.

Councilmember McCullough did not favor prohibiting parking in the subject area unless the City pursues the process of building sidewalks there. Citing his personal observation of traffic flow problems, Mayor Flocke favored the prohibition.

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

- E. Discuss and consider possible action on a proposal to establish a reduced rate schedule for the use of rooms at the Wimberley Community Center for community fitness-oriented classes and activities. (*Wimberley Parks Board*)

City Administrator Ferguson presented the Parks Board's recommendation to offer a reduced rate schedule for fitness-oriented classes (such as Yoga and Tai Chi) in recognition that such classes promote and improve the overall health and fitness of the community. The following Community Fitness Room Rental Rate Schedule is proposed:

| Room | Current Hourly Rate | Proposed Hourly Rate |
|---------------|---------------------|----------------------|
| Johnson Hall | \$125 | \$80 |
| Blanco Room | \$40 | \$25 |
| Cypress Room | \$30 | \$20 |
| Senior Lounge | \$50 | \$30 |

He noted that reduced rates would be available for those fitness-oriented classes and activities that are open to all members of the general public and where the admission fee per class or activity is no more than \$5 per person. Those renting rooms would also be required to provide the City with evidence of insurance for the class or activity. Staff concurred with the Park Board's recommendation.

Discussion addressed current fitness activities at the Community Center and advantages to the public and the City by offering the reduced rate schedule.

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

- F. Discuss and consider possible action approving the *2013 Racial Profiling Report* and associated policy for the Wimberley City Marshal. (*City Administrator*)

City Administrator Ferguson explained that State law requires each law enforcement agency to have a written policy prohibiting racial profiling and to submit an annual report to Council containing information from the preceding calendar year. He highlighted report statistics, which do not show any indication of racial profiling, and recommended approval of the policy and report.

Councilmember White moved to approve the *2013 Racial Profiling Report* and associated policy for the Wimberley City Marshal. Councilmember Thurber seconded. Motion carried on a vote of 4-0.

- G. Discuss and consider possible action regarding the proposed development of rules for conduct for members of the City's boards and commissions as it relates to their communication with City Council in public meetings. (*Place Four Councilmember Steve Thurber*)

Councilmember Thurber felt that there was a lack of decorum by a Planning and Zoning Commission member who publicly addressed Council at its January 16, 2014 meeting. He said the member stated his position on the issue at hand, but did not discuss the opposing positions of other Commission members. Councilmember Thurber stated he would not have had a problem with the speaker's comments, but for the fact that the speaker identified himself as a member of the Planning and Zoning Commission. He noted that another Planning and Zoning Commission member spoke earlier in the same meeting on the same issue, but did not state his position as a member of the Commission. Councilmember Thurber felt that it was totally inappropriate for a Commission member to "threaten us as a Council," and was personally offended. He stated that the Planning and Zoning member whose conduct is in question was wearing an H-E-B sticker when addressing Council.

Discussion addressed how other cities handle rules of conduct and governance policies, role of public officials versus private citizens, need to train board/commission members on their roles and responsibilities, challenges associated with the subjective nature of defining the term "disparaging," ability of presiding officer to deal with inappropriate conduct, possible inclusion of rules of conduct in the City's governance policy or Ethics Ordinance, and obligation of board/commission representatives to fairly represent to Council their discussion and action on a given issue. Agreement was reached that City Administrator Ferguson will forward a copy of the City's governance policy to Council for review. No action was taken.

5. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reported on the possibility of freezing rain later this evening and noted that there will be a conference call held with emergency management officials early tomorrow morning.

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

Adjournment: Council meeting adjourned at 8:37 p.m.

Recorded by:

Cara McPartland
Cara McPartland

These minutes approved on the 20th of February, 2014.

APPROVED:

Bob Flocke

Bob Flocke, Mayor

