

City of Wimberley
 City Hall
 221 Stillwater
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 February 7, 2013 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

This item was heard after Agenda Item 1 (Consent Agenda).

The *News-Dispatch* Publisher and Editor Dale Roberson provided details of his publication's website and online editions, including content and subscription rates. He anticipated the use of Texas State University and University of Texas senior journalism student interns to report on City of Wimberley news items. He advised that a subscription drive is underway offering the *News-Dispatch* at a reduced rate for Wimberley area residents. He introduced Gary Zupancic, who will cover City Council meetings for the *News-Dispatch*.

1. Consent Agenda

Approval of the minutes of the Regular City Council meeting of January 17, 2013

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

2. City Administrator Report

This item was heard after Agenda Item 5A.

- Status report on development activity in the City of Wimberley

City Administrator Ferguson advised that this report will be presented at Council's meeting on February 21, 2013.

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

City Administrator Ferguson reported on an upcoming article in *Texas Highways* magazine featuring the Park's swimming area, replacement of the existing part-time Park maintenance worker, who is leaving for a teaching position, and some recent vandalism to signage.

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

City Administrator Ferguson reported that the plant is operating well within limits.

- Status report on the installation of speed humps on Las Flores Drive

City Administrator Ferguson reported that recent traffic studies show a notable reduction in speeding vehicles since speed hump installation. There will be continued monitoring and enforcement of traffic regulations.

- Status report on the Ranch Road 12/Old Kyle Road Improvement Project

City Administrator Ferguson anticipated project completion in thirty-five (35) to forty (40) days, weather permitting. He reported on project-related utility line relocations, sidewalk/traffic island installations, tree preservation, landscaping, paving, and drainage work. Future budget amendments are anticipated due to certain cost changes.

- Status report on the proposed partnership between the City of Wimberley and the Wimberley Independent School District (WISD) relating to the construction of tennis courts at the Blue Hole Regional Park

City Administrator Ferguson reported that the WISD Board is considering the proposed partnership as a means to construct additional tennis courts, along with other feasible options. He noted upcoming events honoring Wimberley High School's Athletic Director and Head Football Coach Weldon Nelms, who will be leaving Wimberley to assume a head coaching position in Weatherford, Texas.

City Administrator Ferguson also reported receipt of the largest sales tax check in City history, in excess of \$78,000, representing collections for December 2012.

Councilmember White made an announcement about the 2nd Annual Mardi Gras 2013 event scheduled for Saturday, February 9th from 6:00 p.m. to midnight at Pioneer Town.

3. Ordinances

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, approving an application for a conditional use permit (CUP) submitted by Suzanne Oliver to operate a vacation rental facility on an approximately .212 acre tract located at 220 Old Kyle Road, Wimberley, Texas, zoned Commercial – Low Impact (C-1), 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. (*Suzanne Oliver, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing structure, maximum occupancy, access/parking, and on-site septic facility (OSSF). Based on a review of the City Sanitarian's evaluation report, the applicant has agreed to the maximum occupancy limit of no more than three (3) people. No opposition was received on the CUP application. The Planning and Zoning Commission unanimously recommended approval of the requested CUP at its January 24, 2013 meeting, along with staff-recommended conditions (as cited by City Administrator Ferguson) based on the applicant's house rules and the City's vacation rental facilities regulations. It was noted that signage for the subject property will not be as large as allowed under the City's sign regulations applicable to commercially-zoned properties.

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

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

- B. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas approving an application for a conditional use permit (CUP) submitted by Peggy Sherrill to operate a drive-in facility on an approximately .768 acre tract located at 14000 Ranch Road 12, Wimberley, Texas, zoned Commercial – Low Impact (C-1), 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. (*Peggy Sherrill, Applicant*)

City Administrator Ferguson reviewed the subject property's location and current/proposed zoning and uses. He explained the term "drive-in" for the applicant's intended use, which will be primarily for the sale of frozen yogurt for take-out consumption, with seating provided for twelve (12) sit-down customers. Wastewater service for the subject commercial building is currently provided by an older, on-site septic system, which has a limited capacity. The septic system also serves at least two (2) small commercial operations located on the subject property. On January 24, 2013, the Planning and Zoning Commission recommended approval of the CUP with the condition that at no time shall the combined total water usage for all uses on the subject property exceed two-hundred fifty (250) gallons per day, and should such usage occur, a new septic system shall be installed by the applicant to serve the drive-in facility authorized in the CUP.

Mayor Flocke opened the public hearing.

Dr. Deborah Koeck expressed concerns regarding the adequacy of current wastewater services in the downtown area for existing and new businesses. Dr. Koeck asked how the applicant could be allowed to install a new septic system when other downtown property owners "have been told repeatedly that our systems that are there that are currently functional will not be usable." She reiterated her concerns about re-purposing downtown facilities for food service activity in the absence of a wastewater system. In response to Dr. Koeck's concerns, City Administrator Ferguson explained that the applicant would only install a small system supported by an

adequate drain field area behind the business location, if water usage exceeded the stated limit of two-hundred fifty (250) gallons per day. Applicant Peggy Sherrill cited her commitment to keep water usage under the stated maximum limit.

Mayor Flocke closed the public hearing.

Councilmember McCullough moved to approve the item, as presented. Councilmember Thurber seconded. Councilmember Thurber noted that this CUP application highlights the need for downtown wastewater service and felt that the water usage limitation is necessary and reasonable.

Discussion addressed two (2) other commercial operations on the subject property, existing restroom facilities, water usage research, and procedures to ensure septic system compliance for existing or proposed uses.

Motion carried on a vote of 5-0.

4. Resolution

Consider approval of a resolution of the City Council of the City of Wimberley, Texas, designating the Dripping Springs *News-Dispatch* as the official newspaper of the City of Wimberley, Texas. (*Mayor Bob Flocke*)

Mayor Flocke explained that this item is needed to formalize Council's previous direction to staff to draft the subject resolution. City Administrator Ferguson noted that the draft resolution will be amended to change the name of the designated official newspaper to *News-Dispatch*.

Councilmember Thurber moved to approve the item, including the name change, as recommended by City Administrator Ferguson. Councilmember White seconded. Motion carried on a vote of 5-0.

5. Discussion and Possible Action

- A. Discuss and consider possible action approving the City of Wimberley Annual Financial and Compliance Report for the year ending September 30, 2012. (*City Administrator*)

This item was heard after Citizen Communications.

Preston Singleton of the independent audit firm of Singleton, Clark and Company, PC presented information on the City's Fund Balance, audit report type, and management report. Mr. Singleton's report (distributed to Council) included specifics related to an increase in the General Fund's Fund Balance of slightly more than \$143,000; the importance of Fund Balance to the City's overall financial stability; explanation of the independent auditor's report as a fair representation of the City's financial position; and, lack of any issues with non-compliance or internal control deficiencies. He stated that the City's Fund Balance level covers approximately

one year's worth of General Fund expenditures based on the City's revenue stream, which consists mainly of sales tax and franchise fee collections.

Mayor Flocke favored continued efforts to build the City's Fund Balance.

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

B. Discuss and consider possible action approving the Eagle Scout project of Jack Shine at the Blue Hole Regional Park. (*City Administrator*)

City Administrator Ferguson detailed the proposal to construct a walking trail across a City-owned field that is located off Blue Hole Lane between the swimming area parking lot and the Cypress Creek Nature Trail. The approximately five-foot (5') wide mulch trail will connect the Nature Trail to the Park. Upon completion of the project, individuals will be able to walk from the Wimberley Square to the Park. Shine will be responsible for providing materials, manpower, and supervision for the project, which will be overseen by City staff. City Administrator Ferguson recommended approval of the project, which will be at no cost to the City.

Councilmember Thurber moved to approve the item, as presented, with the understanding that the project will be carefully monitored by the Parks and Recreation Board and City staff. Councilmember White seconded. Motion carried on a vote of 5-0.

C. Discuss and consider possible action accepting the donation of two (2) pieces of artwork from local artist Stan Allen. (*City Administrator*)

City Administrator Ferguson presented Mr. Allen's donations of photo-based digital art featuring images of Blue Hole Regional Park that are valued at approximately \$500. He advised that the artwork would be displayed at the Park and at City Hall and recommended approval.

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

D. Discuss and consider possible action regarding the proposed development of a wastewater system to serve central Wimberley and the possible implementation of an ad valorem tax to fund development of such a system. (*City Administrator*)

City Administrator Ferguson advised that Aqua Texas is in the process of providing updated cost information and stressed that an Aqua Texas option would include an additional impact fee (levied by Aqua Texas) to reserve capacity, which would not be included in the Texas Water Development Board (TWDB) loan application, since it is not a construction cost.

Discussion addressed:

- Discrepancies in Living Unit Equivalent (LUE) calculations between Aqua Texas and City of Wimberley that impede true cost comparisons and volumetric rate determinations

- Rate commitments made by Aqua Texas
- Specific construction costs
- Need for clarification on total costs from Aqua Texas representatives in order to make a valid comparison to other options
- Difficulties associated with identifying sources of pollution from leaking septic systems in central Wimberley
- Possible additional costs of landscape watering, should effluent not be used for irrigation

Discussion favored extending an invitation to Aqua Texas representatives to allow for direct presentation of updated cost information at the next community meeting to be held on February 20, 2013. No vote was taken.

- E. Discuss and consider possible action regarding a proposed presentation by the City of Wimberley to State Representative Jason Isaac relating to his recent decision not to sponsor legislation creating a Municipal Management District (MMD) to help fund development of a central Wimberley wastewater system. (*Place One Councilmember Tom Talcott*)

City Administrator Ferguson reviewed the proposed presentation, which included information on identifying the problems caused by failing septic systems in central Wimberley, water quality comparisons, the benefits of a centralized wastewater system and associated financing options (such as creation of an MMD), and routes for MMD creation [legislative versus through the Texas Commission on Environmental Quality (TCEQ)]. He explained the unintended consequences resulting from Representative Isaac's decision not to sponsor legislation to create an MMD, which requires the City to seek MMD-creation through TCEQ.

Under TCEQ procedures, only registered voters within the MMD would be able to vote on taxing themselves, therefore, only seventeen percent (17%) or nineteen (19) of one-hundred eleven (111) property owners in the proposed district, would be able to vote. This effectively disenfranchises eighty-three percent (83%) of property owners within the proposed MMD from voting on taxing themselves, since many of the properties are commercial with out-of-town owners. TCEQ's MMD-creation process also takes considerably longer, which poses problems with loan application deadlines and continued declining water quality.

The presentation outlined the historical efforts to deal with wastewater for central Wimberley, including the City's acquisition of a package plant from Guadalupe Blanco River Authority (GBRA), time and money spent by the City to date to explore various wastewater financing options, and the advantages of a legislatively-created MMD, which would allow all property owners within the district to vote on taxing themselves, with the wastewater service paid for by users of the system. State Representative Isaac's decision to not sponsor legislation for the MMD made it necessary to amend the City's TWDB funding application to include a pledge that the City will implement an ad valorem tax, if necessary, to secure the loan. It was suggested the presentation stress that the City's need for such a pledge is due to State financing regulations. Other suggested additions to the presentation included specific issues relating to fairness that were raised regarding the implementation of a city-wide ad valorem tax.

Discussion favored submitting the presentation (including suggested additional language) to State Representative Isaac in the hope that he will reconsider his decision in time to introduce legislation in the current session. Mayor Flocke stated the importance of flexibility to accommodate State Representative Isaac's schedule and recommended preparation of legislation to minimize the demand for his time on this issue. No vote was taken.

- F. Discuss and consider possible action regarding the development of an economic development agreement relating to the proposed Mariposa senior housing development.
(*City Administrator*)

City Administrator Ferguson explained that the developers have approached the City about the possibility of entering into an economic development agreement in which the City would waive approximately \$16,000 in building permit fees for the project in return for the developer making a donation of equal or greater value to a City project.

Discussion favored directing staff to present a draft economic development agreement to Council for consideration at its February 21st meeting. It was agreed that Council members will forward suggestions to City Administrator Ferguson on possible City projects to include in the draft agreement. No vote was taken.

6. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Thurber requested an update on results of enhanced testing to help identify sources of pollution in local waterways. In addition, Councilmember Meeks requested discussion of the Water Wastewater Advisory Board, specifically, why the Board has not been holding meetings.

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

Adjournment: Council meeting adjourned at 7:40 p.m.

Recorded by:

Cara McPartland
Cara McPartland

These minutes approved on the 21st of February, 2013.

APPROVED:

Bob Flocke

Bob Flocke, Mayor

