

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
February 19, 2015 at 6:00 p.m.

City Council meeting called to order at 6:14 p.m. by Mayor Steve Thurber.

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

Councilmembers Present: Mayor Steve Thurber, Councilmembers Tom Talcott, Matt Meeks, Pam Showalter, and John White. Councilmember Cindy Anderson was absent.

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

### **Citizens Communications**

No citizen comments were heard.

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

- A. Approval of minutes of the Regular City Council meeting of January 15, 2015
- B. Approval of minutes of the Special City Council meeting of January 20, 2015
- C. Approval of minutes of the Special City Council meeting of February 5, 2015
- D. Approval of the December 2014 Financial Statements for the City of Wimberley
- E. Approval of the January 2015 Financial Statements for the City of Wimberley

Councilmember Talcott moved to approve all Consent Agenda Items, as presented. Councilmember Showalter seconded. Motion carried on a vote of 4-0.

#### **2. Presentation**

Presentation of the City of Wimberley Annual Financial and Compliance Report for the Fiscal Year ending September 30, 2014. (*Singleton, Clark & Company, PC*)

Preston Singleton of Singleton, Clark & Company, PC presented the Annual Financial and Compliance Report and briefed Council on the following: the Independent Audit Report, the Fund Balance, and the summary of overall audit results. He detailed the Independent Audit Report, including management/auditor responsibilities, review of financial statements/audit evidence, and auditor's unmodified opinion that financial statements are materially correct. He reviewed the Statement of Revenues, Expenditures, and Changes in Fund Balance (Page 16) and explained certain definitions of terms, including General Fund, Fund Balance, and specific revenues/expenditures. It was noted that revenues exceeded expenditures. Mr. Singleton explained that the City's ending Fund Balance is equal to approximately sixteen (16) months of

expenditures, which is a very solid Fund Balance figure. He highlighted the Schedule of Findings and Questioned Costs (Page 47) and favorably reported that the type of auditors' report issued is unmodified, no material weaknesses/significant deficiencies were identified, and no problems were found regarding internal controls. He closed by stating that the City is well-managed and in sound financial condition.

Mayor Thurber thanked Mr. Singleton for the report and commended City Administrator Ferguson, City staff, and Council for their careful budget management and positive report results.

### **3. City Administrator Report**

This item was heard after Agenda Item 7B.

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported on the publication of the Texas Commission on Environmental Quality (TCEQ) Combined Notice of Public Meeting and Notice of Application for the City's draft water quality permit amendment. He noted the timeframe for the public comment period, including the public meeting scheduled for March 12, 2015 at 7 p.m. at the Wimberley Community Center. He stated the project design task force has met with the project engineer and anticipated its next meeting to occur in late March/early April to continue work on design of the collection system. He advised that discussions are imminent with downtown property owners regarding possible lift station locations and associated property acquisition issues. It was noted that the project was a major topic of discussion at the February 17<sup>th</sup> Town Hall meeting held at the Community Center. He stated the Frequently Asked Questions list is being updated to reflect the parameters set forth in the draft permit and reminded that project-related documents are available for viewing on the City's website.

Mayor Thurber responded to recent reports of seepage from the City's plant into Cypress Creek and the Blanco River and stressed that TCEQ could find no evidence of seepage and that there is no basis for such claims.

- Status report on the acquisition of Mount Baldy by the City of Wimberley

City Administrator Ferguson reported that the City now owns Mount Baldy, with no issues reported at closing. He stated that the City will receive additional funds from the Save Old Baldy Foundation (from donations in excess of the amount raised for Mount Baldy's purchase), which will be dedicated for future maintenance/development costs. He noted Council's upcoming Agenda Item 5B to consider action dedicating Mount Baldy acreage as a public park. He anticipated a recommendation from the Parks Advisory Board on the naming of the park facility and advised that meetings are scheduled with surrounding residential property owners. He expressed appreciation to Andrew and Lin Weber and the Save Old Baldy Foundation for their successful efforts to preserve Mount Baldy for public enjoyment.

- Status report on the review and update of the City of Wimberley Comprehensive Plan

City Administrator Ferguson reported on the Comprehensive Plan Review Committee's first meeting, with regular meetings to be held each Monday at 9 a.m. at City Hall. He anticipated a late April deadline for completion of the review, commended committee members, and reported that a community survey is being developed.

- Status report on the Cypress Creek gravel removal project

City Administrator Ferguson reported on efforts to secure a contractor for the project, areas identified for gravel removal, finalization of costs, and timeframe for completion.

Wimberley Valley Watershed Association Executive Director David Baker stated that he had no concerns about the impact of gravel removal on nature preserves, since City Administrator Ferguson's report clarified that the removal project would not affect those areas.

- Status report on the use of water from fire hydrants in the City of Wimberley for purposes other than fire protection or water system maintenance

City Administrator Ferguson reported on recent reports of such use and explained Wimberley Water Supply Corporation (WWSC) policies that disallow uses such as the pumping of water from hydrants by contractors, except under very specific exemption requirements. He noted that Aqua Texas does allow pumping from certain hydrants that are located outside city limits by bulk water contractors for various purposes, which may have contributed to confusion regarding the aforementioned recent reports. He explained the intent of the City's Water Conservation Ordinance that prohibits the filling of swimming pools with water provided by WWSC. It was noted that Council may want to revisit this issue, given that both WWSC and Aqua Texas draw water from the aquifer. Cost estimate scenarios of bulk water delivery versus use of water from residential faucets were compared, using the filling of a standard swimming pool as an example. Councilmember Talcott felt that the City's Water Conservation Ordinance penalizes those who build and fill pools, due to the cost of bulk water delivery, and suggested possible pool permitting requirements to act as a deterrent to building of pools.

To most effectively address preserving the intent of the Water Conservation Ordinance, City Administrator Ferguson asked if Council might consider a prohibition against using water that comes from the Trinity Aquifer, regardless of the water provider. Discussion established that there have been no reports of direct pumping from the Blanco River, with the only known exception for such pumping for firefighting purposes by the Wimberley Volunteer Fire Department. City Administrator Ferguson asked that any incidents of unauthorized use of water from fire hydrants within city limits be reported to him.

In addition, City Administrator Ferguson recognized City Secretary Cara McPartland on her certification/recertification as a Texas Registered Municipal Clerk (TRMC) and spoke on the benefits of such certification to the City.

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

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas annexing a 0.572 acre tract of land located at 205 Freedom Drive into the City limits of the City of Wimberley, Texas and extending the boundary limits of said city so as to include said property; directing the city secretary to file a certified copy of this ordinance with certain authorities; directing that the map of the city boundaries and extraterritorial jurisdiction be corrected to include the annexed territory; providing for the attachment of the service plan and granting to said property and all future inhabitants all of the rights and privileges of other citizens and binding said future inhabitants by all of the acts and ordinances of said city. (*City Administrator*)

City Administrator Ferguson explained the property owner's request for voluntary annexation submitted in conjunction with a recently filed subdivision application seeking to combine her three parcels into one lot. While two of the three parcels are located within city limits, the third tract is contiguous to, but actually located outside city limits. He stated that the required public hearings on the proposed annexation were held on January 15 and January 20, 2015 and that no public comments were received. He noted that the proposed ordinance includes the required Service Plan and property description.

Mayor Thurber received no public comments on this item.

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

- B. Hold a public hearing and consider approval of the second and final reading of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 155 (Zoning), Sections 155.005 Definitions), 155.047 (Commercial – Low Impact; C-1), 155.048 (Commercial – Moderate Impact; C-2), 155.049 (Commercial – High Impact; C-3), 155.050 (Highway Commercial; HC), and Section 155.091 (Village Center Overlay District; VC) of the City of Wimberley Code of Ordinances to amend and clarify permitted and conditional uses relating to the sale of alcoholic beverages; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson pointed out that Council previously directed staff to modify the ordinance on second reading to allow wine shops in the Village Center Overlay District, therefore, the caption for the second reading of the proposed ordinance is amended as follows:

An ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 155 (Zoning), Sections 155.005 Definitions), 155.047 (Commercial – Low Impact; C-1), 155.048 (Commercial – Moderate Impact; C-2), 155.049 (Commercial – High Impact; C-3), 155.050 (Highway Commercial; HC), of the City of Wimberley Code of Ordinances to amend and clarify permitted and conditional uses relating to the sale of alcoholic beverages; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting.

City Administrator Ferguson advised the proposed “clean-up” ordinance is easier to understand and would allow liquor stores in C-2 zoning districts, with approval of a conditional use permit.

Mayor Thurber received no public comments on this item.

City Administrator Ferguson responded affirmatively to Councilmember Talcott’s request for a non-markup version of the ordinance.

Councilmember Talcott moved to approve the second and final reading of the ordinance, as presented. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

## 5. Resolutions

- A. Consider approval of a resolution of the City of Wimberley, Texas, supporting legislation to establish the proper local regulation of commercial and non-exempt groundwater production in aquifer areas currently outside of the respective groundwater conservation districts in Hays County. (*City Administrator*)

City Administrator Ferguson presented the resolution and noted that Hays County Commissioners Court adopted the same resolution on February 2, 2015. He advised that the legislation referred to in the resolution comes in response to the controversial Electro Purification, Inc. (EP) plan to drill wells and export 5,300,000 gallons of groundwater each day from the middle Trinity Aquifer, northeast of Wimberley, in Hays County.

Mayor Thurber spoke on his attendance at a Citizens Alliance for Responsible Development (CARD) meeting held yesterday and was encouraged to see diverse groups working together on this issue, which has prompted serious discussion of protecting our water resources and the need for conservation. He expressed appreciation for the proposed legislation and asked for the support of Council, as well as other governmental entities and elected officials.

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

Brief discussion ensued on the State’s Right of Capture law and the need for reform.

- B. Consider approval of a resolution of the City of Wimberley, Texas, dedicating 4.36 acres out of the Eliza Snedcor Survey No. 66 and the R.S. Rankin Survey No. 65, Hays County, Texas (aka Old Baldy Mountain) for use as a public park. (*City Administrator*)

City Administrator Ferguson explained the resolution declaring the dedication and intent to use the subject property as a public park.

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

Mayor Thurber called a brief recess at 7:03 p.m.

Mayor Thurber reconvened the meeting at 7:07 p.m.

## 6. Ordinance

Consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending Title VII (Traffic Regulations) of the City of Wimberley Code of Ordinances to add a new Chapter 72 relating to the use of a portable electronic device while operating a vehicle; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson reviewed the proposed ordinance prohibiting the operator of a vehicle, which includes cars and cyclists, on a public street or highway from using a portable electronic device while the vehicle is in motion. Types of prohibited portable electronic devices and affirmative defenses to prosecution were listed. He advised that a violation of the ordinance would be a Class C misdemeanor punishable by a fine of up to \$2,000.

Mayor Thurber stated that Council may wish to consider a policy to implement a grace period for enforcement of the ordinance, if approved.

Councilmember Talcott favored a grace period of one to two months before enforcement begins, in order to allow for public notification and education on the ordinance. Discussion established that use of a hands-free system such as Bluetooth for drivers and cyclists would be allowed.

Councilmember Talcott moved to approve the ordinance on first reading, as presented. Councilmember White seconded. Motion carried on a vote of 4-0.

City Administrator Ferguson advised that Council may formalize its grace period policy relating to enforcement after its second and final reading of the ordinance.

Brief discussion addressed exceptions to the ordinance applicable to commercial truck drivers.

## 7. Discussion and Possible Action

- A. Discuss and consider possible action accepting the City of Wimberley Annual Financial and Compliance Report for the Fiscal Year ending September 30, 2014. (*Singleton, Clark & Company, PC*)

This item was heard after Agenda Item 2.

Councilmember Meeks moved to accept the City of Wimberley Annual Financial and Compliance Report for the Fiscal Year ending September 30, 2014, as presented. Councilmember Talcott seconded. Motion carried on a vote of 4-0.

- B. Discuss and consider possible action approving the *2014 Racial Profiling Report* and associated Policy for the Wimberley City Marshal. (*City Administrator*)

City Administrator Ferguson introduced City Marshal James Loving and explained State laws regarding the prohibition of racial profiling and adoption of a written policy prohibiting such profiling.

City Marshal Loving presented the results of the *2014 Racial Profiling Report*, which indicated no evidence of racial profiling, along with the City Marshal's Racial Profiling Policy.

Mayor Thurber complimented Marshal Loving on positive public feedback and invited Marshal Loving to visit with downtown business owners.

Councilmember Showalter moved to accept the *2014 Racial Profiling Report* and associated Policy for the Wimberley City Marshal, as presented. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

- C. Discuss and consider possible action regarding a proposal to offer an extended hours swimming program for Wimberley area residents for the 2015 summer season at the Blue Hole Regional Park. (*Wimberley Parks Advisory Board*)

This item was heard after Agenda Item 7D.

City Administrator Ferguson presented the following unanimous recommendation from the Wimberley Parks Advisory Board: Under the extended hours swimming program, the swimming area would close to the public at 6 p.m. and then reopen from 6:30 p.m. to 8:30 p.m. on Wednesday nights for season pass holders and only those Wimberley area residents who reside in the 78676 zip code. There would be no admission fee for season pass holders, while the admission fee for Wimberley area residents who do not have a season pass would be \$2 per person. A \$20 unlimited-access pass for the extended hours program would also be available for Wimberley area residents without a season pass.

Discussion addressed program pricing (valid for visitors of all ages), park procedures related to closing/reopening the swimming area during the 6:00 to 6:30 p.m. time period, database access to passholder information, and possible distribution of a newsletter on Wimberley events/activities.

Councilmember Showalter moved to approve the extended swimming hours program, as recommended by the Wimberley Parks Advisory Board. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

- D. Discuss and consider possible action on a request from *The Village Store* to waive a portion of the City building permit fees associated with the planned relocation of *The Village Store – A Community Thrift Shop*. (*City Administrator*)

This item was heard after Agenda Item 6.

City Administrator Ferguson introduced *The Village Store – A Community Thrift Shop* ("Thrift Shop") representative Fred Hagemeyer and explained plans to relocate and expand the Thrift

Shop on River Road. He stated that a partial reimbursement request has been submitted by Mr. Hagemeyer asking the City to waive a portion of the building fees for the planned construction project, with the understanding that *The Village Store* would be responsible for plan review and inspection fees from the City's contract building inspection firm. He noted that cities are allowed to waive building permit fees under State law, if Council makes the determination that waiving the fees serves a valid public purpose.

Fred Hagemeyer provided details on the relocation and construction project that will expand and improve the Thrift Shop. He noted that all proceeds help to support five (5) non-profit community organizations and that since the Thrift Shop's inception almost \$1,500,000 has been returned to the community.

Discussion established that *The Village Store* does collect sales tax, which benefits the City of Wimberley, and that the Thrift Shop's relocation and expansion should help to increase sales tax collections.

Councilmember Talcott moved to approve building permit fee waiver request, as presented, including the determination that the waiver serves a valid public purpose. Councilmember Showalter seconded. Motion carried on a vote of 4-0.

- E. Discuss and consider possible action regarding a request from the *Wimberley Community Civic Club* to place signage in the public right-of-way relating to the Club's Annual Chili Cook-Off on Saturday, March 28, 2015. (*City Administrator*)

This item was heard after Agenda Item 7C.

City Administrator Ferguson recommended approval of the Civic Club's request to place small directional signage in the public right-of-way to help individuals locate the Chili Cook-Off that will take place at Lions Field.

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

- F. Discuss and consider possible action regarding a proposal to create a food vendor permit for Market Days. (*City Administrator*)

City Administrator Ferguson noted the City's current food permit requirements (for single day or six-month permits) and recommended creation of a seasonal permit for food vendors at Market Days. The seasonal permit would be valid for ten (10) months at a cost of \$100, which represents a \$25 discount on the cost of a pro-rated ten (10) month fee of \$125. He advised that a seasonal permit will help streamline the administrative permitting process to a single event at the beginning of the Market Days season and not require vendors to reapply for an additional permit. He noted that the proposed ten (10) month seasonal permit will not replace the current Market Day \$25 single-day permit that is usually issued to temporary vendors.

Discussion clarified that six-month and single-day permits will still be available, in addition to the proposed seasonal permit, if approved.

Councilmember Showalter moved to approve the creation of a food vendor permit for Market Days, as presented. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

- G. Discuss and consider possible action regarding a proposed information outreach program relating to the proposed Central Wimberley Wastewater System. (*Mayor Steve Thurber*)

Mayor Thurber asked for Council input on this item due to the amount of misinformation regarding the City's proposed wastewater system and permit application.

Discussion did not favor the possibility of a direct mail campaign and questioned whether such an effort is effective from both informational and cost perspectives.

Councilmember Talcott advised that there is a new organization meeting tonight for the purpose of monitoring progress on the proposed wastewater system. He suggested publishing weekly facts on the wastewater system in the local newspaper to disseminate positive information about the project. Discussion favored weekly press releases and addressed the availability of newspaper space, importance of transparency, cost of a direct mail campaign, town hall meetings, and possible meetings of downtown business owners.

No vote was taken.

- H. Discuss and consider possible action regarding a proposed tree trimming project in the Paradise Hills/Paradise Valley area. (*City Administrator*)

City Administrator Ferguson spoke on the need for the project due to tree growth in the right-of-way. He stated that staff is proposing to contract with a tree trimming professional to raise the tree canopy over the roadways in the subject area to seventeen (17) feet in height and trim the shrubs an average of three (3) feet back from the edge of the pavement. He advised that staff and the contractor will meet with residents prior to commencement of work and that great care will be taken with oak trees due to the risk of spreading oak wilt. He noted that the contractor performed a sample project along Climbing Way this week and did a very good job cleaning up that area. He anticipated the project to take place over a two-week period in mid-summer.

Discussion addressed the approximate project cost of \$21,000 and authorization for City Administrator Ferguson to execute a contract for professional services.

Councilmember White moved to approve the project, as presented, including authorization for City Administrator Ferguson to negotiate and execute a professional services agreement with a contractor. Councilmember Meeks seconded. Motion carried on a vote of 4-0.

- I. Discuss and consider possible action regarding a proposal for the City of Wimberley to jointly fund, with the *Wimberley Institute of Cultures* (WIC), the purchase of a boot monument depicting the history of Wimberley. (*City Administrator*)

City Administrator Ferguson presented the joint funding proposal between the City and WIC to purchase the last boot produced in the highly successful *Bootiful Wimberley* campaign. The cost to acquire the boot is \$2,750, and under the proposal, the City and WIC would each contribute \$1,375 toward the boot purchase. He noted the proposed location of the boot monument and certain conditions to be met under the proposal. He requested input from Council on color preferences for the boot's artwork.

Mayor Thurber favored the boot purchase and spoke on discussions with WIC on the boot's location near the entrances to the Winters-Wimberley House and Zach House. Discussion addressed possible color schemes favoring earth tones and installation options.

Councilmember Talcott moved to approve the proposal for the City to jointly fund the purchase of a boot monument with WIC, as presented, with authorization provided to Mayor Thurber to enter negotiations on the color scheme of the boot. Councilmember Showalter seconded. Motion carried on a vote of 4-0.

- J. Discuss and consider possible action approving the updated Hays County Emergency Plan. (*City Administrator*)

City Administrator Ferguson recommended approval of the updated Plan, which contains no significant changes. He advised that Hays County must update the Plan and submit it to the State every five years.

Discussion questioned the absence of specific references to the City/Mayor of Wimberley in the updated Plan.

Councilmember Talcott moved to approve the Hays County Emergency Plan, as presented. Councilmember White seconded. Motion carried on a vote of 4-0.

City Administrator Ferguson advised that Council members will be provided information on completing FEMA's National Incident Management System (NIMS) Training Program online.

## **8. City Council Reports**

- Announcements
- Future Agenda Items

Councilmember Meeks announced the grand opening of the new baseball field and alumni game to be held tomorrow night.

As a future agenda item, Councilmember Talcott requested action on positive plans the City can take to prevent the pumping and sale of water by Electro Purification (EP) and felt that the City needs to be included in all discussions and meetings on this issue.

Mayor Thurber requested a future agenda item on reviewing and updating the City's water conservation regulations, particularly in the area of rainwater collection.

Audience member Marcilia Anderson commented on the condition of the City-owned and leased downtown parking lots and offered to donate pea gravel to the City for the purpose of filling potholes in the City-owned parking lot.

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

**Adjournment:** Council meeting adjourned at 8:07 p.m.

Recorded by:

  
Cara McPartland

These minutes approved on the 5<sup>th</sup> of March, 2015.

**APPROVED:**

  
Steve Thurber, Mayor

