

**City of Wimberley**  
 City Hall  
 221 Stillwater  
 Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
 March 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 Tom Talcott, Mac McCullough, Matt Meeks, Steve Thurber, and John White.

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

### **Citizens Communications**

Mayor Flocke welcomed a local Boy Scout troop in attendance at tonight's meeting.

*Wimberley View* representative Dalton Sweat, introduced himself, spoke on the paper's formatting, welcomed community input, and encouraged submission of photos on any items of public interest.

### **1. Consent Agenda**

- A. Approval of minutes of the Regular City Council meeting of February 20, 2014
- B. Approval of minutes of the Special City Council meeting of February 20, 2014
- C. Approval of January 2014 Financial Statements for the City of Wimberley

After discussion of Councilmember Thurber's wish to abstain from Consent Agenda Item 1A due to his partial absence at the Regular February 20<sup>th</sup> meeting, Mayor Flocke pulled Consent Agenda Item 1A and entertained a motion for remaining Consent Agenda items.

Councilmember Thurber moved to approve Consent Agenda Items 1B and 1C, as presented. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

Councilmember White moved to approve Consent Agenda Item 1A, as presented. Councilmember Meeks seconded. Motion carried on a vote of 4-0. Councilmember Thurber abstained.

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

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

City Administrator Ferguson reported that FEMA's field agent is finalizing his report and anticipated funding for shoulder repairs, some gravel removal upstream from Climbing Way, repairs to Hoots Holler, Flite Acres culvert work, and flood debris removal at low water crossing(s).

- Status report on drought conditions in the Wimberley Valley

City Administrator Ferguson stated a report will be given on drought conditions at Council's next meeting.

- Status report on implementation of the Wimberley Truck Route

City Administrator Ferguson reported that the truck route is in effect and that the large signs designating the truck route are located and sized according to State standards. Due to concerns about placement and possible confusion over routing, he advised that the City has asked the State to reconsider the location of one sign along FM 2325. He noted that citations have been issued for truck route violations and that a zero tolerance policy is in place.

- Status report on proposed revisions to the attendance and removal requirements for the Planning and Zoning Commission

City Administrator Ferguson reported on the Commission's unanimous recommendation made on February 27<sup>th</sup> to deny the proposed revisions, extensive Commission discussion of alternatives, and planned Commission discussion and possible action. There was brief discussion of scheduling a joint Council/Planning and Zoning Commission workshop meeting, which favored the Commission's attendance at a future Council meeting to further discuss this issue.

- 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 that a drawing will be held tomorrow, May 7<sup>th</sup> at 12:00 p.m. to determine the order of candidates' names on the ballot. He provided dates and times for voting/early voting to be held at the Wimberley Community Center.

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

City Administrator Ferguson said that plans are underway to move the trailer to its new location on the west side of the Garden Gate shops behind Bent Tree Gallery. He noted that directional signage will be installed.

In addition, City Administrator Ferguson announced that Blue Hole Park Director Lauren Shrum has given birth to a baby girl, with mother and baby doing well.

### 3. Public Hearing and Consider Action

Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Ed and Debra Foster to operate a vacation rental facility on an approximate 0.775 acres located at 335 Smith Creek Road, Wimberley, Texas, zoned Single Family Residential 2 (R-2), 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. (*Ed and Debra Foster, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing structures (main house and guest house), proposed maximum occupancies, and parking. He noted that there is an existing aerobic septic system designed to serve both the main house and guest house. Based on the City Sanitarian's review of the septic permit, City staff recommended a maximum occupancy of four (4) persons for the main house and two (2) persons for the guest house. He stated that prior to using the two (2) structures as vacation rentals, written evidence will need to be provided to the City by the applicants showing that the septic system has been inspected and found to be properly functioning and capable of serving the proposed maximum capacity. In addition to the applicant's submitted house rules, he read a list of staff-recommended conditions to be made part of the requested conditional use permit (CUP), should Council desire to approve the CUP.

City Administrator Ferguson advised that no comments were received either for or against the requested CUP. He noted that on February 27, 2014, the Planning and Zoning Commission unanimously recommended approval of the CUP, as presented, which includes the list of staff-recommended conditions.

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

Councilmember Talcott asked why the applicant has been renting the subject property for the last five (5) years and now has come forward with a CUP application. He favored continuing this item until the applicant can be present to explain why he failed to obtain a CUP for a vacation rental prior to its use as a rental. Discussion addressed possible reasoning for delaying action on this CUP, including the applicant's status as a candidate for City Council and relevance of past lack of compliance on approving or denying the CUP request.

Discussion addressed:

- Applicant's statements at Planning and Zoning's public hearing regarding prior use of the subject property as a vacation rental, duration of such use, and confirmation that proper hotel occupancy tax reporting procedures were followed
- Lack of compliance with CUP requirements as a factor in approving/denying CUP
- Neighborhood opposition to prior specific CUP requests as a dominant factor in previous Council decisions to deny (rather than lack of Code compliance)

- Possible additional condition that the applicant provide two (2) years of hotel occupancy tax reports filed with the State of Texas
- Establishment of the staff-recommended maximum occupancy of four (4) persons and two (2) persons for the main and guest houses, respectively
- Clarification that the proposed CUP would not allow a combined maximum occupancy of six (6) persons for the main house
- Applicant's plans to sell the subject property and current long-term rental of the guest house

Councilmember Thurber moved to approve the CUP as presented, which includes the list of staff-recommended conditions, compliance with the Code requirement to obtain a City vacation rental permit, and additional provision that the applicant provide two (2) years of hotel occupancy tax reports filed with the State of Texas. Councilmember White seconded. Motion carried on a vote of 5-0.

#### **4. Resolutions**

- A. Consider approval of a resolution of the City of Wimberley, Texas, providing for the use of public funds to dredge portions of the Blanco River, Cypress Creek, and Pierce Creek to offset the effects of the October 31, 2013 floods. *(City Administrator)*

Councilmember Meeks recused himself from the meeting at this time.

City Administrator Ferguson detailed specific sites in need of dredging to offset flooding effects.

City Administrator Ferguson explained the State's permitting process for dredging projects, federal funding procedures, and breakdown of needed work in order to better manage projects, minimize costs, and maximize funding. He noted that removed gravel becomes public property that must be disposed of and/or reused in accordance with regulatory requirements. He stated that necessary easements must be acquired before commencing any dredging work. He explained FEMA criteria for providing funding assistance for publicly maintained infrastructure projects.

City Administrator Ferguson also reported on a recent meeting with Natural Resources Conservation Service (NRCS) representatives and noted challenges with NRCS's lengthy application procedures and timeframes for project completion, as well as grant matching requirements. He expressed concerns with availability of NRCS funding and length of time it would take to complete gravel removal work. He explained that the flood-related gravel deposits have redefined the flood plain and that when permitting development, the City must follow Flood Insurance Rate (FIRM) maps which may no longer be accurate. He stated that feedback from NRCS indicated that modification of FIRM maps would be unlikely should the gravel deposits remain in place.

City Administrator Ferguson asked that Council allow more time to obtain firm cost estimates on gravel removal, should the Council desire to proceed with use of City funds to remove such deposits. He advised that NRCS does not have a program to reimburse the City for project

expenditures; however, FEMA will provide reimbursement, but only if the dredging meets its criteria for publicly maintained infrastructure. He stated main concerns as deposits in the area of the confluence of the Blanco River and Cypress Creek and effects on possible future flood events.

Discussion addressed possible help from state legislator(s) and deposits in specific portions of the Blanco River and Cypress Creek.

Council agreed to continue this item for an additional two (2) weeks, until its meeting on March 20<sup>th</sup>, to allow for development of a proposal that includes permitting information and cost estimates. No vote was taken.

Councilmember Meeks returned to the meeting at this time.

- B. Consider approval of a resolution of the City Council of the City of Wimberley, Texas, outlining the City's responsibilities for maintenance of the Texas Department of Transportation Ranch Road 12 Picnic Area. (*City Administrator*)

City Administrator Ferguson explained that Council approval of the resolution is required to formalize the maintenance agreement and recommended approval.

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

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

- A. Discuss and consider possible action regarding a proposed Memorandum of Understanding (MOU) between the City of Wimberley, Keep Wimberley Beautiful and the Wimberley Rotary Club relating to the ongoing maintenance of the Texas Department of Transportation (TxDOT) Ranch Road 12 Picnic Area. (*City Administrator*)

City Administrator Ferguson explained that under the proposed MOU, the City will be responsible for grounds mowing, tree maintenance, and trash bag collection following clean-ups. He advised that the Rotary Club will be responsible for maintenance of on-site structures and that Keep Wimberley Beautiful (KWB) will be responsible for the installation/maintenance of appropriate landscaping. He noted that the Rotary and KWB will schedule all work with the City in advance. He stated any proposed improvements or upgrades to structures, signage, or landscaping will require prior approval from the City and may also require TxDOT approval, according to the proposed MOU. He said all parties are in agreement with the MOU's provisions and recommended approval.

Councilmember White moved to approve the MOU, as presented. Councilmember McCullough seconded. Discussion addressed future mowing of the site and associated estimated costs. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding a proposed professional service agreement with Design Workshop, Inc. relating to the development of a Central Wimberley Master Plan. (*City Administrator*)

City Administrator Ferguson highlighted key provisions of the proposed agreement, including scope and responsibilities of the parties, and project cost/timeframe for completion. He noted specific procedures to maximize public input, such as scheduling of a three-day charrette, and other planned public meetings. He advised that the Master Plan will address a wide variety of issues, including, but not limited to, land use, transportation, mobility, aesthetics, and public infrastructure. He introduced Design Workshop representative, Emily Risinger to Council.

Councilmember Thurber favored inclusion of City Council at the Planning and Zoning Commission's initial kick-off meeting.

Councilmember Thurber moved to approve the agreement, as presented, with the modification that the project's initial kick-off meeting scheduled to be held by the Planning and Zoning Commission is to be held jointly with City Council. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action relating to a proposal to extend the compliance deadline for the conditional use permit (CUP) granted for property located at 411 Mill Race Lane. (*City Administrator*)

City Administrator Ferguson explained that due to an unresolved legal challenge appealing the Wimberley Board of Adjustment's granting of a variance on the subject property, the owners have been unable to meet the March 2014 deadline to secure all required variances for the CUP. He noted that the City's legal counsel is pursuing filing of pleadings to hopefully expedite a decision by the court.

Discussion addressed extending the deadline to a specific date versus making the deadline contingent on a decision by the court on the pending appeal and whether all other CUP conditions have been met.

Councilmember Talcott moved to approve extension of the compliance deadline until June 1, 2014. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action regarding the proposed development of rules of 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 stated that it is hard to regulate good behavior and felt that it is the responsibility of appointing Council members to help resolve issues with their respective board/commission appointees, should the need arise. He felt that an ordinance is not needed and withdrew this item from consideration. Discussion established the value of Council members in communicating rules of decorum to their appointees. No action was taken.

- E. Discuss and consider possible action regarding a proposed amendment to the Fiscal Year 2014 City of Wimberley General Fund Budget in the amount of \$3,268 to fund a three (3) percent salary adjustment for the City Administrator. (*Mayor Bob Flocke*)

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

- F. Discuss and consider possible action on a proposal to modify the fee for use of the McCord-Welp Overlook and Fire Pit at the Blue Hole Regional Park. (*Wimberley Parks Board*)

City Administrator Ferguson concurred with the Parks Board's recommendation to change the current flat rate to a \$25 per hour fee, with a two-hour minimum rental time for standalone use. He noted that if the Overlook and Fire Pit are to be used as part of a campground rental, a fee of \$10 would be charged as an additional use.

Councilmember White moved to approve the modified fee of \$25 per hour, with a minimum rental period of two (2) hours, for standalone use of the Overlook and Fire Pit; and to approve a \$10 fee for use of the Overlook and Fire Pit, if such use is in conjunction with rental of the Park's campground facilities. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

## 6. City Council Reports

- Announcements
- Future Agenda Items

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

**Adjournment:** Council meeting adjourned at 7:12 p.m.

Recorded by:

  
Cara McPartland

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



**APPROVED:**



**John D. White, Mayor Pro-tem**