

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
May 5, 2016 at 6:00 p.m.

City Council meeting called to order at 6:00 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 Bob Dussler, Cindy Anderson, Mac McCullough, Pam Showalter, and John White.

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

### **Citizens Communications**

Dorothea Dare asked about the City's parking requirements for new businesses and expressed concerns regarding a possible parking lot to be located in a residential area on Lange Road. As this matter is not on tonight's agenda, City Administrator Ferguson advised Ms. Dare to contact him after the meeting to further discuss this issue.

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

- A. Approval of minutes of the Regular City Council meeting of April 21, 2016
- B. Approval of March 2016 Financial Statements for the City of Wimberley

Councilmember Showalter moved to approve Consent Agenda items, as presented. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

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

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson anticipated finalizing a detailed timeline for the project based on a projected June closing on financing, including surveys, grant applications, and property acquisition.

- Status report on economic studies relating to the Blue Hole Regional Park and Market Days

City Administrator Ferguson anticipated a Texas A & M University impact study to be presented to Council at its next meeting.

- Status report on operation of the Blue Hole Regional Park

City Administrator Ferguson reported on May through Labor Day dates/hours of operation and attendance at the May 1<sup>st</sup> concert marking the fifth anniversary of the Concert in the Park Series. He said notification was received from the Texas Commission on Environmental Quality (TCEQ) of a citizen complaint regarding pollution at Blue Hole. He advised that the problem was identified as starting upstream near Jacobs Well due to properly permitted gravel removal by property owners. He said that inadequate sediment control caused the water to become cloudy, but has started to clear up.

- Status report on upcoming Wimberley city-wide clean up

City Administrator Ferguson reported that Keep Wimberley Beautiful has scheduled roadside and river clean-ups on the morning of May 21, 2016. He advised that the memorial event remembering the 2015 Memorial Day Weekend Flood is also scheduled for later in the morning on May 21<sup>st</sup> at Blue Hole Regional Park and will include a free meal. He reported that a lost and found will be set up for items that were recovered in the clean-up.

- Status report on prescription drug take-back program

City Administrator Ferguson reported that the City Marshal's office, in coordination with the Drug Enforcement Administration (DEA) and the Wimberley ISD Drug Education Committee, offered residents the opportunity to safely dispose of any unused or unwanted prescription medications on Saturday, April 30<sup>th</sup> at the City Hall parking lot. He stated that a significant amount of prescription drugs were collected, which were turned over the DEA to be safely disposed of. Plans are to continue the program on an annual basis.

- Status report on 2015 Flood Recovery

City Administrator Ferguson reported on the community-wide commemorative event to be held Saturday, May 21<sup>st</sup> at Blue Hole Regional Park, thanked event sponsors, and encouraged attendance at the event, which will include a free community picnic, music, and fellowship. He advised that Hays County/San Marcos emergency coordinators issued an "after action" report on the 2015 flood events, which highlighted what worked well and what areas need improvement, such as more effective early warning communication systems.

In addition, City Administrator Ferguson reported on the status of the Hidden Valley low water crossing reconstruction project, including surveying, design work, and timeframe for completion. He noted that FEMA is looking favorably at elevation and buy-out assistance applications. He noted that the City has been invited to apply for a \$1,000,000 Economic Development Administration (EDA) grant to help with costs associated with the wastewater project. Discussion addressed improving emergency communications with the public and details regarding the aforementioned EDA grant.

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

- A. Hold a public hearing and consider action regarding an ordinance approving an application for a conditional use permit submitted by Carl and Brynn Anderson to allow for the operation of a vacation rental on property located at 505 Rocky Springs Road, Wimberley, Hays County, 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. *(Carl and Brynn Anderson, Applicants; this item has been withdrawn from consideration by the applicants)*

Mayor Thurber stated that the applicants submitted a written request to withdraw their conditional use permit (CUP) application from further consideration.

Councilmember McCullough moved to accept the request for withdrawal. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider action regarding the second and final reading of an ordinance amending the City's Comprehensive Plan and accompanying maps to remove those properties which front FM 2325, between Rhodes Lane and Carney Lane, from Planning Area III to Planning Area IV; and providing for findings of fact; severability; effective date; and proper notice and meeting. *(City of Wimberley)*

City Administrator Ferguson recommended approval of the ordinance on second and final reading, which would change the subject area on FM 2325 between Rhodes Lane and Carney Lane from Planning Area III to Planning Area IV in order to be more reflective of the long-time existing uses in the area.

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

Discussion addressed the applicable overlay district and associated setback requirements.

Councilmember McCullough moved to approve the ordinance on second and final reading, as presented. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

#### **4. Ordinance**

Consider approval of an ordinance of the City Council of the City of Wimberley, Texas, and ordinance amending Title XI (Business Regulations), Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings) of the City of Wimberley Code of Ordinances to create a procedure to address permit violations; and providing findings of fact, a repealing clause, a savings and severability clause, and effective date, and proper notice and meeting. *(City Administrator)*

City Administrator Ferguson advised that per Council's direction at its April 21<sup>st</sup> meeting, the proposed ordinance includes modifications removing references to municipal court.

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

## 5. Discussion and Possible Action

- A. Discuss and consider possible action amending the City of Wimberley's existing professional services agreement with *Alan Plummer Associates, Inc.* (API) for additional design services relating to the Central Wimberley Wastewater Project. (*City Administrator*)

City Administrator Ferguson advised that due to changes made to the City's wastewater project since the City contracted with API for project engineering, there is a need to amend the professional services agreement for additional design services. He noted the following changes:

1. Following the Stakeholders Task Force Process, the City agreed to changes in the project that will result in the following additional design services:
  - a. The treatment plant will be moved to a different location within the Park, requiring additional piping and all improvements, as well as coordination with TxDOT.
  - b. The City will include the customer service connections and decommissioning of the existing septic tanks into the construction contract.
2. During the TCEQ Contested Case negotiations for the TPDES Permit, the City agreed to several changes that will require additional design services, as follows:
  - a. Provide enhanced treatment of wastewater prior to either discharge or reuse. Specifically, the treatment plant will be designed to remove both phosphorus and nitrogen.
  - b. Utilize UV disinfection instead of chlorination.
  - c. Double the amount of effluent storage provided.

City Administrator Ferguson recommended approval of the amendment and noted that additional costs not to exceed \$68,415 will be funded from loan proceeds from the previously approved \$650,000 loan for planning and design of the wastewater project.

API representative Steve Coonan provided a status report on project design, including a determination that the collection system could be reconfigured to eliminate two of the planned lift stations, which would reduce the long-term cost of the project; easement issues; and treatment plant design.

Discussion addressed potential construction cost savings from eliminating two lift stations, need for additional gravity mains, and long-term overall savings.

Gail Pigg, spoke on behalf of the Blanco River Cypress Creek Water Association and as a citizen. She favored the proposed amendments for additional services, many of which are environmentally protective. She recognized the efforts of the stakeholder group and Council in working through the contested case hearing process and settlement agreement and supported the

additional design services. However, Ms. Pigg asked for the following additions: planning for incremental expansion of the irrigation area over time and additional design services for odor control. She asked that master plan language reflect the proposed system's 75,000 gallon per day limit. Ms. Pigg referenced required baseline monitoring and establishment of oversight committees on collection and treatment to track current and future water quality.

City Administrator Ferguson advised that the City is obligated to conduct and fund baseline/ongoing monitoring. He said Comprehensive Plan language could easily be modified to include the 75,000 gallon per day limitation. Mr. Coonan advised that odor control has always been part of the project and said planning for future irrigation area expansion is feasible, although associated cost projections may be difficult to determine.

Discussion addressed estimated the proposed system's starting flows, discharges subject to variables such as weather conditions, and the parkland conversion process.

Councilmember McCullough moved to approve amending the professional services agreement, as presented. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action authorizing the mayor to submit a letter to the Texas Attorney General relating to Twin Mountain Manor Apartments locate at 401 Lange Street, Wimberley, Hays County, Texas. (*Mayor Steve Thurber*)

City Administrator Ferguson advised that the Texas Attorney General has not yet made a decision on whether to intervene in litigation at this point. He asked for Council input on the submission of a letter from the City encouraging the Attorney General to get involved in this matter.

Councilmember McCullough favored submitting a letter as a moral obligation due to Twin Mountain Manor's status as a public corporation. He felt the letter would slow the case down and show support for the community and Twin Mountain Manor.

Mayor Thurber favored Council action that benefits the public; however, he expressed concerns regarding the perception that the City could be seen as intervening in a way that takes a side on this issue.

Councilmember White favored submitting a letter requesting that the Attorney General look into this issue and felt that such a request does not take sides.

Councilmember Showalter favored a letter that helps seek resolution for the community, but does not take sides. She asked if there is any precedent on the City's submission of a letter to the Attorney General by other entities under similar circumstances. City Administrator Ferguson said such a request may not be frequent, but is not unheard of.

Councilmember Anderson did not have a problem with submitting a letter, but agreed with earlier comments that such a letter should not indicate that the City is taking sides, and said more information is needed.

Councilmember Dussler agreed with previous comments cautioning against taking sides and felt that presentation of both sides of this issue is needed to avoid just reacting to a request for submission of a letter.

Mayor Thurber said the intent of the letter is not to get involved in the Twin Mountain Manor lawsuit and asked specifically what the letter should ask the Attorney General to do.

City Administrator Ferguson said the letter could state that this is an issue of public interest and requests the Attorney General act as intervener in the interest of the public.

Discussion addressed the City's position of neutrality, Twin Mountain Manor as a matter of public interest, wording of letter to encourage the Attorney General to review and consider possible involvement without taking sides, and importance of Twin Mountain Manor as public housing benefitting the community.

Councilmember White moved to authorize Mayor Thurber to sign a letter requesting that the Attorney General exercise its statutory authority and look into Twin Mountain Manor as a matter of public interest. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding current and future issues relating to the Pedernales Electric Cooperative's transmission lines in the Wimberley area. (*Place One Councilmember Bob Dussler*)

Councilmember Dussler recommended appointment of a seven-member advisory committee to work on solving transmission line issues between Pedernales Electric Cooperative (PEC) and Wimberley residents and to help create a long-term strategic plan. In addition to Janette Barlow and Sam White, it was suggested that Council consider appointment of five nominees at its next meeting.

Janette Barlow spoke on a past workshop with PEC that indicated a lack of planning for the future and the content of documents presented to property owners by PEC. She felt that there needs to be more interaction between PEC and property owners.

Mayor Thurber favored Councilmember Dussler's proposal to help with long-range infrastructure planning. Discussion favored more focus on long-range planning and greater public input.

Another resident said the common feeling is that due to property owner opposition, this issue will likely come before the Public Utilities Commission (PUC). She spoke of meetings with PEC representatives and said assurances were given that there would be no clear-cutting beneath lines. She felt that property owners would have more bargaining power if they are proactive and have Council's support.

Mayor Thurber asked that Council bring names of nominees for the advisory committee to Council's next meeting.

Audience member Juniper Schneider said he had raised his hand and questioned why he was not called onto to speak during the discussion regarding Twin Mountain Manor. Mayor Thurber said he did not see Mr. Schneider's hand or his name on the speakers' sign-in sheet. Mr. Schneider said he brought up the issue of the City writing a letter to the Attorney General due to scarcity of affordable rental properties, particularly after the flood. He said the letter could simply state that affordable housing and the poor in this community are important to Council, without taking sides. He felt it incredible that we are worrying about where power lines go, when certain parts of our community might not have housing. Mr. Schneider spoke of his personal research into Twin Mountain Manor and said what he knows is not hearsay. He questioned why the City is willing to stand behind some people and not others and cited the amount of discussion given to PEC's transmission lines. Mr. Schneider cautioned that Twin Mountain Manor's owner has a long-term plan to turn the property into vacation housing and said that people will lose their housing if the City and the Texas Attorney General does not get involved.

Mayor Thurber apologized for not seeing Mr. Schneider's hand and stressed that Council is concerned about every citizen in this community and will listen to any citizen at any time about their needs and wants.

#### **6. City Council Reports**

- Announcements
- Future Agenda Items

As future agenda item requests: Councilmember Anderson requested discussion of potential traffic issues from development along Lange Street; Councilmember McCullough requested discussion of Twin Mountain Manor.

Juniper Schneider offered to attend any executive sessions regarding Twin Mountain Manor. Mayor Thurber appreciated the offer and advised that Mr. Schneider's attendance is not allowed, but assured Mr. Schneider that he will be satisfied with the City's previously discussed letter to the Attorney General.

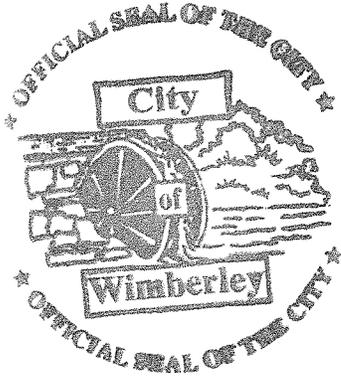
Hearing no further announcements or future agenda items, Mayor Thurber called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 7:20 p.m.

Recorded by:

  
Cara McPartland

These minutes approved on the 19<sup>th</sup> of May, 2016.



APPROVED:

A handwritten signature in black ink, appearing to be "H Mac", written over a horizontal line.

Herschel "Mac" McCullough, Mayor