

City of Wimberley
 City Hall
 221 Stillwater
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 June 20, 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

Wimberley Water Supply Corporation Board Member Scott Johnson advised that Stage 3 restrictions are in effect and encouraged conservation during this period of continuing drought. He noted the drought's effect on Cypress Creek and hoped for rainfall to alleviate drought conditions.

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of June 6, 2013
- B. Approval of the May 2013 Financial Statements for the City of Wimberley

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

2. City Administrator Report

- Status report on the City of Wimberley's loan from the Texas Water Development Board to fund the planning and design of a central Wimberley wastewater system

City Administrator Ferguson reported that the TWDB is anticipated to act at its July meeting on the City's request to modify loan term modifications in accordance with Council's direction to utilize issuance of tax notes, rather than certificates of obligation. He reported that City staff will present several options to Council at its July 18th meeting relating to the appointment of an independent stakeholder committee. He advised that notice of a Request for Qualifications (RFQ) will be published next week for the selection of an engineering firm and highlighted key elements included in the RFQ such as the scope of services and facilitation of the independent stakeholder process as part of project planning, design, and construction management.

He noted the anticipated dates for submission of RFQ responses and contract award. He estimated a thirty-six (36) month timeframe for completion of the project planning, design, and construction. There was brief discussion on grading criteria for RFQ responses.

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

City Administrator Ferguson reported that the June sales tax check, representing April sales tax collections, totaled \$43,346, which is down six percent (6%) from the same period last year, reflecting temporary loss of revenue from Ace Hardware, which is in the process of rebuilding. Year-to-date collections are up approximately two percent (2%) from the same period last year.

- Status report on the upcoming Fourth of July celebration

City Administrator Ferguson reported on Fourth of July parade/celebrations, parade route, security, and associated road closures. He asked for input from Council on the possibility of a City float for Council and their family members.

- Status report on central Wimberley water quality issues

City Administrator Ferguson reported on test results showing bacteria levels remain in the 250-300 range at the Cypress Creek Bridge. He expected higher future readings, unless there is adequate rainfall. He noted results of specific target tests both upstream and downstream, with one upstream result significantly higher than the other locations. Additional testing will attempt to target potential sources of high readings. Enhanced testing will be conducted downstream by the confluence of Cypress Creek and the Blanco River, where there have been significant recent algae blooms. Brief discussion addressed enhanced testing criteria and established that dye testing will continue to help isolate specific systems. No issues were reported with water quality at Blue Hole Regional Park.

- Status report on the *2013 Blue Hole Concerts for the Park*

City Administrator Ferguson reported on the success of this event, which helped expose the Park to many new visitors. The swimming area's grounds are recovering and a few minor repairs were needed due to event crowds. He hoped the event will continue to grow in popularity, with the goal to eventually move the venue to the upper part of the Park. He commended *Friends of Blue Hole* for an outstanding job in planning and executing the event, which received favorable public feedback. Councilmember Thurber thanked Council and staff for an exceptional team effort that helped to make the event an overwhelming success.

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

City Administrator Ferguson reported on attendance, water quality, grinder pump repair, and installation of new benches. He invited volunteers to participate in the annual "weed-pull" at the Park on the morning of June 29, 2013.

- Status report on the operation of the Wimberley Community Center

City Administrator Ferguson reported that revenues are running slightly ahead of budget projections, with expenses slightly under budget. He expected the Center to continue to run at a deficit and noted that various incentive packages and restructured rates are being examined. Moderate rental activity is planned through August.

- Status report on the Wimberley Municipal Court

City Administrator Ferguson reported favorably on court operations, including statistics on total number of violations, pretrial/show cause hearings held, and trials conducted. He commended Judge Garza for an outstanding job.

There was brief discussion of the status of Ace Hardware's plan review, building site pad preparation, and expected store re-opening date.

3. Presentation

Presentation of proposed revisions to the sign regulations for the City of Wimberley, Texas.
(*Sign Ordinance Review Task Force*)

City Administrator Ferguson highlighted key revisions, including simplified language, user-friendly formatting/layout changes, and the regulations relating to the following types of signs:

- Public service signs
- Realty signs and associated sizing issues
- Community service signs
- Flags and governmental flags
- Events (on- and off-site) signs
- Name plate signs
- Political signs
- Single-family address signs
- Daily display signs
- Single commercial building signage
- Commercial complex signage
- New business signs
- Commercial sign illumination
- Temporary banners
- Bed and breakfast/vacation rental identifier signs
- Construction signs
- Directional signs
- Lighted signs
- Model home signs
- Portable signs
- Residential development signs

- Prohibited sign types, including mobile billboards and vehicular signs
- Recommendation for one (1) electronic community message board
- Sign permitting
- Sign maintenance and nuisances
- Pre-existing, non-conforming signs

It was noted that after considerable discussion, the Sign Ordinance Review Task Force recommended that any sign variance applications be submitted to the city administrator and reviewed by the Board of Adjustment, which shall forward a recommendation on the variance request to City Council.

City Administrator Ferguson advised that proofreading continues on the draft document to simplify and clarify language. Visual depictions of various types of signs will also be added to the draft ordinance before Council is scheduled to take action at its meeting on July 18, 2013. City Administrator Ferguson requested direction and input from Council on draft revision, as well as on “billboard-type” signage along Ranch Road 12 and the options available for possible removal of those signs. Mayor Flocke asked Council to submit their comments on the proposed revisions to City Administrator Ferguson, who will present a final draft to Council for consideration and action at its meeting on July 18, 2013.

4. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Gregory Dunham to operate a vacation rental facility on a approximate 5.67 acre tract located at 100 Leath Hollow, Wimberley, Texas, zoned Residential Acreage (RA), 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 condition. (*Gregory Dunham, Applicant*)

City Administrator Ferguson reviewed the subject property’s location, current/proposed zoning and uses, existing residence, and parking. Based on a review of the existing, properly functioning on-site septic system, the City Sanitarian has indicated that no more than four (4) guests may occupy the vacation rental. The applicant has agreed to the occupancy limit. He stated that the applicant will operate the vacation rental in an environmentally friendly manner. In addition to the applicant’s list of house rules, City Administrator Ferguson read a list of conditions to be made part of the requested conditional use permit (CUP), if approved. He noted that no comments or inquiries were received by City staff on the requested CUP and that the Planning & Zoning Commission voted unanimously at its June 13, 2013 meeting to recommend approval of the CUP, as presented, which includes the abovementioned conditions.

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

Councilmember Thurber moved to approve the item, as presented, including the conditions as read by City Administrator Ferguson. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Patrick and Kristie Gaines to operate a vacation rental facility on an approximate 0.47 acre tract located at 275 Stoney Creek, 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. (*Patrick & Kristie Gaines, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing residence, and parking. Based on a review of the existing, properly functioning on-site septic, the City Sanitarian has indicated that no more than three (3) guests may occupy the vacation rental. The applicant has agreed to the occupancy limit. In addition to the applicant's list of house rules, City Administrator Ferguson reviewed a list of conditions to be made part of the requested CUP, if approved.

It was noted that to date City staff has received written opposition from the owners of six (6) of the thirteen (13) tracts located within the required two hundred (200) foot notification area, representing fifty-four percent (54%) of the notified property area and more than seventy percent (70%) of the property in the notified area. The opponents are concerned about the possibility of increased noise and traffic and negative impact on quality of life for neighborhood residents. He explained that due to the amount of opposition received, a super majority vote of Council would be needed to affirm the zoning change. He noted that the Planning & Zoning Commission voted unanimously at its June 13, 2013 meeting to recommend denial of the requested CUP.

Mayor Flocke opened the public hearing.

Surrounding property owner Perla Trevino spoke in opposition to the CUP request based on concerns regarding negative effect of increased traffic on neighborhood roads, which are maintained by residents. She also cited concerns related to trespassing by vacation rental guests, personal safety, and close proximity of residences clustered on small lots.

Susan Godfrey, former owner of the subject property, concurred with the concerns cited by Perla Trevino, and stated that she was not aware that the new owners intended to use the subject property as a vacation rental. As a trustee of the neighborhood's road maintenance organization, she was very concerned about increased traffic and deterioration of the roads. She expressed three (3) primary concerns as follows: renters feel they have access to every property in the neighborhood; neighborhood children are put at risk due to speeding vehicles; and long-term residents are put in the uncomfortable position of monitoring and policing the activities of vacation renters in order to protect their families. She stated that surrounding residents do not feel comfortable leaving their houses for any length of time and feared that renters may cause a widespread and fast-moving fire due to use of fireworks.

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

Discussion addressed the significant amount of opposition to the requested CUP.

Councilmember Thurber moved to deny the requested CUP. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Charles Criswell to operate a vacation rental facility on an approximate 0.42 acre tract located at 281 Cliffview Drive, Wimberley, Texas, zoned Single Family Residential 3 (R-3), 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. (*Charles Criswell, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing residence, parking, signage, and water access. Based on a review of the existing, properly functioning on-site septic, the City Sanitarian has indicated that no more than five (5) guests may occupy the vacation rental. The applicant has agreed to the occupancy limit. In addition to the applicant's list of house rules, City Administrator Ferguson reviewed a list of conditions to be made part of the requested CUP, if approved. He noted that to date City staff has received written opposition from fifty-two percent (52%) of the notified property area and explained that due to the amount of opposition received, a super majority vote of Council would be needed to affirm the zoning change. He noted that the Planning & Zoning Commission voted unanimously at its June 13, 2013 meeting to recommend denial of the requested CUP.

Mayor Flocke opened the public hearing.

Rick Brushaber of 150 Rockwood spoke on the ownership history of his property and expressed concerns regarding the negative impact of a vacation rental on his family's quality of life, including transient traffic, trespassing, and the safety of his children. He asked that Council deny the requested CUP.

Teri Brushaber of 150 Rockwood expressed opposition to the requested CUP based on the abovementioned concerns cited by her husband, Rick Brushaber.

Mary Rose Lam of 260 Cliffview stated that she can overhear most conversations at the subject property and advised that the subject property's residence is not a two-story house. She expressed concerns regarding increased traffic and the new owner's intended use as a rental to be made part of an adjacent bed and breakfast operation. She wanted to maintain the integrity of her neighborhood and did not favor commercial uses in a residential area.

El Ray Busch-Mann of 606 River Road spoke of her family's ownership history and expressed opposition to the requested CUP.

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

Brief discussion addressed the significant opposition expressed by surrounding property owners.

Councilmember Thurber moved to deny the requested CUP. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

5. Discussion and Possible Action

- A. Discuss and consider possible action regarding the proposed placement of informational signage at certain locations on the Cypress Creek in the City of Wimberley, Texas, relating to the presence of bacteria in the Creek. (*City Administrator*)

City Administrator Ferguson reported on the number and location of signs to be placed in public rights-of-way, and read the following proposed sign copy (on red sign with white lettering):

Public Notice

Cypress Creek is a natural body of water. From time to time, elevated bacteria levels are found in the Creek. Please be advised that during times of elevated bacteria levels, water contact may pose a health risk.

City of Wimberley

Notices of the signs would be sent to all applicable property owners along specified waterways within city limits.

Discussion addressed including the City's contact/website information on the sign, possible installation of a changeable sign to indicate times of elevated bacteria levels (analogous to burn ban signs), general warnings of the existence of risk versus notice of specified periods of risk, and posting of latest water quality test results on the City's website.

Councilmember Thurber moved to direct staff to install the signs, as presented by City Administrator Ferguson, and to post notices of the latest readings of bacteria levels on the City's website. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action setting a date, time and place for a City Council Goals and Priorities Workshop. (*Mayor Bob Flocke*)

After several suggested dates/times/meeting places, including former workshop locations, Council agreed on scheduling the Goals and Priorities Workshop for Saturday, July 27, 2013, with City Administrator Ferguson to check on availability of the Meadows Center at Texas State University as a possible meeting location. No vote was taken.

- C. Discuss and consider possible action regarding the proposed allocation of Fiscal year 2013 City of Wimberley social service funding. (*Budget Advisory Board*)

City Administrator Ferguson reviewed Council's previous action to allocate \$5,000 from the Fiscal Year 2013 City of Wimberley Community Support Program to eligible local non-profit

organizations that provide social services to Wimberley residents. He presented the Budget Advisory Board's recommendation to allocate \$2,500 to the Hays-Caldwell Women's Center (HCWC) and \$750 to Wimberley Adoption Group and Rescue (WAG).

Discussion addressed possible future funding requests from other local non-profit organizations, notification for submission of funding proposals, the review and selection process, and reasoning for the Budget Advisory Board's recommendation.

Councilmember Thurber moved to approve the allocations, as recommended by the Budget Advisory Board. Councilmember Meeks seconded.

Councilmember McCullough offered a friendly amendment to Councilmember Thurber's motion to eliminate allocation of funds to WAG and increase HCWC's allocation to \$3,000. Discussion addressed the community benefits provided by WAG's spay/neuter services.

Councilmember McCullough amended his friendly amendment to include allocation of \$750 to WAG and to increase the allocation for HCWC to \$3,000.

Discussion addressed the Council's concerns related to maintaining certain levels of funding allocations for specific organizations in future years.

Councilmember Thurber accepted Councilmember McCullough's friendly amendment to allocate \$750 to WAG and to increase HCWC's allocation to \$3,000. Councilmember Meeks seconded. Motion on the friendly amendment carried on a vote of 5-0.

Mayor Flocke called for a vote on Councilmember Thurber's motion, as amended, to allocate \$750 to WAG and \$3,000 to HCWC. Motion carried on a vote of 5-0.

D. Discuss and consider possible action on issues relating to the possession of firearms at public buildings and facilities owned and operated by the City of Wimberley. (*Place One Councilmember Tom Talcott*)

In the interest of enhancing safety, Councilmember Talcott favored allowing the lawful possession of concealed firearms in City buildings and facilities. City Administrator Ferguson noted that under State law, licensed concealed handgun holders may not bring weapons into governmental facilities unless the governmental entity has authorized them to do so in a properly posted meeting.

Discussion addressed safety concerns and whether Council desires to allow the lawful possession of firearms only at public governmental meetings or to extend such possession to any City-owned buildings or facilities. Subsequent discussion included wording for posted signage related to firearms possession, use of law enforcement to provide protection, and development of a draft policy on possession of concealed firearms in City of Wimberley buildings/facilities.

Councilmember Talcott moved to direct staff to develop a draft policy for consideration at Council's July 18th meeting to allow the lawful possession of concealed firearms in City of

Wimberley buildings and facilities. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action on a proposal to stripe Flite Acres Road to enhance traffic safety. (*Transportation Advisory Board*)

City Administrator Ferguson advised that the Transportation Advisory Board (TAB) reviewed survey responses from Flite Acres property owners and held a public hearing on this issue, before unanimously voting to recommend approval of the painting of centerline stripes, at minimum, to enhance traffic safety along Flite Acres Road.

Discussion addressed survey responses, which were two-to-one in favor of striping, input received at TAB's public hearing, effectiveness of striping in helping to slow traffic and defining edge of roadway, and history of accidents. Various reasons were cited supporting or opposing striping.

Councilmember Thurber moved to approve centerline and edge striping on Flite Acres Road. Motion died for lack of a second.

Discussion among Council, City Administrator Ferguson, and TAB Vice Chair Bob Bullock continued on whether striping should be centerline only or include edge striping.

Councilmember Thurber moved to approve centerline striping only on Flite Acres Road. Motion died for lack of a second.

No action was taken.

- F. Discuss and consider possible action cancelling the regular Wimberley City Council meeting scheduled for July 4, 2013. (*Mayor Bob Flocke*)

Councilmember White moved to cancel the July 4, 2013 City Council meeting. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

Mayor Flocke reminded that a special meeting can be called, if necessary.

6. City Council Reports

- Announcements
- Future Agenda Items

Mayor Flocke advised that he will not be in attendance at Council's July 18, 2013 meeting and requested that consideration of the central Wimberley wastewater system stakeholder group be delayed until he is present.

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

Adjournment: Council meeting adjourned at 8:06 p.m.

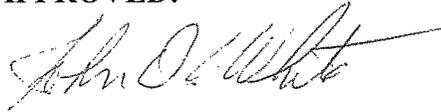
Recorded by:



Cara McPartland

These minutes approved on the 18th of July, 2013.

APPROVED:



John D. White, Mayor Pro-tem

