

City of Wimberley
 City Hall
 221 Stillwater
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 August 2, 2012 at 6:00 p.m.

City Council meeting called to order at 6:02 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

Pedernales Electric Cooperative (PEC) Community and Economic Development Representative Tessa Doehrman provided information on upcoming energy conservation workshops, PEC's annual meeting, election of board members and officers, an approved change to PEC's Articles of Incorporation, "Beat the Peak" education campaign, and the Lower Colorado River Authority's Community Development Partnership grant application submission deadline for capital improvement project funding requests from governmental entities and non-profit organizations. Discussion included PEC's "smart meter" pilot program and distribution of cooperative credits to customers.

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of July 19, 2012
- B. Approval of the minutes of the Special City Council meeting of July 19, 2012 relating to wastewater
- C. Approval of the minutes of the Special City Council meeting of July 19, 2012 relating to Cause No. 12-1259, Shellye Arnold, Merry Gibson, and Allison Campbell vs. Village of Wimberley
- D. Approval of the minutes of the Special City Council meeting of July 23, 2012.
- E. Approval of the appointment of Jan Barr to the City of Wimberley Parks and Recreation Board. *(Place Four Councilmember Steve Thurber's nominee)*
- F. Approval of the reappointment of Rick Burselson to the City of Wimberley Planning and Zoning Commission. *(Place Four Councilmember Steve Thurber's nominee)*

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

2. City Administrator Report

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

City Administrator Ferguson reported on strong attendance figures for the Park's swimming area, with this season's revenues to date totaling \$135,740, running well ahead of last year. Phase 2 construction is in its final stages and very near completion. He noted the Park's amphitheatre was recently rented for its first ever wedding, and anticipated more such rentals in the future. He reported on increased usage in other recreational areas of the Park.

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

City Administrator Ferguson advised that effluent remains within permit limits. He anticipated presenting water feasibility study results to Council at its August 16th meeting. He provided encouraging information received from the Texas Water Development Board on the City's funding application for downtown wastewater service.

- Status report on development activity within the City of Wimberley

City Administrator Ferguson reported an eight percent (8%) increase in total building permit activity and a four to five percent (4%-5%) increase in the value of construction, with about an equal number of residential and commercial permits issued.

- Status report on the Mariposa at Ranch Road 12 senior housing project

City Administrator Ferguson reported that the project ranked high in Texas Department of Housing and Community Affairs' funding allocation process, however, funding is not yet available for the project. The developers are exploring other financing alternatives in order to proceed with the project. He noted that the Planning and Zoning Commission is scheduled to hold a public hearing and consider an amendment to the existing Wimberley Planned Development District zoning for the subject property.

- Status report on the implementation of an enforcement agreement regarding 39 La Toya Trail

Relating to a recently denied conditional use permit application for the subject property, City Administrator Ferguson reported that an enforcement agreement has been executed to allow the sole existing resident to remain in the personal care home until such time that care is no longer needed.

Discussion clarified that the City is not partnering with Mariposa at Ranch Road 12 developers, but is simply working with them on zoning and development-related matters. There was brief discussion of the construction and development currently underway in the area of the Leaning Pear restaurant.

3. Public Hearing and Possible Action

Hold a public hearing and consider approval of the second and final reading of an ordinance of the City of Wimberley, Texas, amending Chapter 155 (Zoning) of the Code of Ordinances as follows:

- 1) Amending subsection (B) of the following section: §155.035 (Residential Acreage; RA), to add “one secondary single-family residential building built onsite, provided the secondary residence is not used for short- or long-term rental” as a permitted use; and
- 2) Amending subsection (C) of the following section: §155.035 (Residential Acreage; RA), to delete “one secondary single-family residential building built onsite” as a conditional use;

providing for the following: findings of fact; repealer; severability; effective date; proper notice and meeting. (*City Administrator*)

City Administrator Ferguson provided clarification regarding an erroneous report by the Austin American Statesman, which stated that the City was considering changing short-term rental regulations. He explained current requirements and reviewed the Planning and Zoning Commission’s recent favorable recommendation proposing “one secondary single-family residential building built onsite, provided the secondary residence is not used for short- or long-term rental” as a permitted use (rather than currently as a conditional use) in R-1 and RA zoning districts.

Mayor Flocke opened the public hearing.

Real estate appraiser/broker and former Wimberley resident Stacy Bass expressed concerns about restricting rights of private property owners and read a brief statement outlining specific concerns. Ms. Bass favored deed restrictions over City ordinances as a means to regulate certain types of usage (particularly commercial activity in residential areas) and felt it important to support the values of home ownership in Wimberley. She asked Council to consider the impact of restrictions on the stability of Wimberley’s real estate market and local economy.

Mayor Flocke and City Administrator Ferguson clarified for Ms. Bass that the proposed ordinance gives property owners more rights than under the current zoning regulations, because secondary residences (not used as rentals) would be allowed as permitted uses, and no longer require the approval of a conditional use permit. Mayor Flocke explained reasoning for requiring conditional use permits for properties to be used as rentals and cited advantages of the conditional use permit process, which includes public notification and provides the opportunity for individual neighborhood input.

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

Councilmember Thurber moved to approve the item, as presented.

Councilmember Talcott expressed his objection to the proposed ordinance.

Councilmember White seconded Councilmember Thurber's motion.

Councilmember Talcott stated that limiting secondary single-family residences as permitted uses to only those lots zoned RA (minimum lot size of five or more acres) is too restrictive to many people wishing to build a second home as a starter home before they build their main residence. He felt that the formal conditional use permit procedure should not be required and stated that he will continue to vote against the proposed ordinance.

Councilmember Thurber's motion to approve the item, as presented, carried on a vote of 3-2, with Councilmember Talcott and Councilmember McCullough voting against.

4. Discussion and Possible Action

- A. Discuss and consider possible action approving a variance to the City of Wimberley sign regulations for a business located at 14410 Ranch Road 12. (*City Administrator*)

City Administrator Ferguson presented the sign variance request to increase the size of the pre-existing, non-conforming sign to seventy-six (76) square feet, which is twelve (12) square feet larger than the size currently allowed by the City for such signs. The applicant states the larger sign is needed to increase visibility of the business. The height of the existing sign exceeds the City's height requirements for such signs by six (6) feet. In order to grant the sign variance request, City Administrator Ferguson reminded Council that it must affirmatively find that each of the following standards have been met:

- The variance will not authorize a type of sign which is specifically prohibited.
- The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan.
- The variance is not contrary to the public interest.
- Due to special conditions, a literal enforcement of the Sign Ordinance would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement.
- Financial or economic hardship alone will not ordinarily satisfy this requirement.
- The spirit and purpose of the chapter will be observed, and substantial justice will be done.

Discussion addressed the pre-existing, non-conforming ("grandfathered") status of the current sign, similar past sign variance requests, height of the proposed sign, compliance with lighting requirements, and possible alternative options available to the applicant relating to the height of the proposed sign.

Councilmember Thurber did not feel the larger sign is needed to increase visibility and noted that another business was previously able to comply with size requirements, when it replaced a sign similar in nature to the applicant's proposed sign. He favored changing the City's Sign Ordinance (which is currently under review by the Sign Ordinance Task Force), rather than

granting variances to existing regulations. He explained that the City's current Sign Ordinance is business-friendly, because its requirements provide fairness and protection to businesses from over-sized signs, and cited City of Austin examples of ineffective sign regulations resulting in improperly scaled-signs that he felt are detrimental to businesses. He believed that this sign variance request is contrary to the goals and objectives outlined by the City's Comprehensive Plan.

Discussion addressed possible changes to the proposed sign's height and structure, consistency with prior sign variance requests for other businesses, Councilmember McCullough's objections based on the inclusion of "Tacos" to the bottom of the proposed sign, Council's desire to help Wimberley businesses succeed, and scope of Council's authority over sign regulation and enforcement.

Councilmember Talcott moved to approve the item, as presented, with affirmative findings on all six (6) standards, as previously listed by City Administrator Ferguson. Councilmember Meeks seconded.

Councilmember McCullough offered a friendly amendment to recommend lowering of the proposed sign. Councilmember White requested clarification on the benchmark used to determine the proposed sign's height. City Administrator Ferguson advised that height is measured from the top of the sign, not the sign's light. Councilmember McCullough's friendly amendment died for lack of a second.

Councilmember Thurber objected to approval of the variance request and believed affirmative findings cannot be made on the following aforementioned standards as read by City Administrator Ferguson: the variance is not contrary to the goals and objectives outlined by the City's Comprehensive Plan; and, financial and economic hardship alone will not ordinarily satisfy this requirement.

Mayor Flocke called for a vote as follows: Councilmember White, aye; Councilmember Thurber, nay; Councilmember Meeks, aye; Councilmember McCullough, nay; Councilmember Talcott, aye. Motion to approve the sign variance request, as presented, including affirmative findings on each of the six (6) aforementioned standards, as listed by City Administrator Ferguson, carried on a vote of 3-2.

- B. Discuss and consider possible action relating to the development of the proposed Fiscal Year 2013 City of Wimberley Budget. (*City Administrator*)

City Administrator Ferguson reviewed the City of Wimberley Budget Advisory Board's discussions on identification/prioritization of needs, which included the following topics:

- Need for employee health insurance benefits
- Proposed three percent (3%) salary increase for all employees, with the exception of the city administrator, which is a separately negotiated contract position
- Budgeting for credit card convenience fees, which are not to be passed on to credit card holders

- Acquisition of tools for implementation of a volunteer program
- Right-of-way maintenance (associated with the Ranch Road 12/Old Kyle Road Improvement Project)
- Increased municipal court costs
- Recodification of the City's Code of Ordinances
- Mayor's Fitness Council expenses
- Cost of creating a master plan to provide long-term guidance for future downtown development
- Capital improvements, including drainage repairs; expansion for records storage through enclosure of the existing carport area; partial development of the Oak Drive parking lot; wayfinding signage; taser for the city marshal; and replacement of Council chairs
- Paperless agenda packets for Planning and Zoning Commission meetings

City Administrator Ferguson stated that work on the preliminary budget is proceeding according to schedule and provided specifics on budget procedures and deadlines. He encouraged input from Council on any possible budget items, including suggestions for both expenditures and revenues.

No vote was taken on this item.

- C. Discuss and consider possible action regarding the development of a historic preservation program. (*Mayor Bob Flocke*)

Mayor Flocke read the following statement:

“There’s a common misconception that historic preservation is just another attempt by government to control private property. That’s not the case at all, but it’s all about economic development. It’s about building on local assets to improve the overall economy of the community. As with all aspects of our Comprehensive Plan, which we mentioned earlier this evening, there must be popular support for protecting our cultural assets. In other words, this is not something the government can do, it’s got to be a people-driven initiative. I envision historic preservation as a community effort, rather than that of the government. Government can be involved in developing ordinances, and we can assist to a certain extent in funding, but the bulk of the work is going to be done by volunteers. Preserving our community’s heritage doesn’t just save part of the past. Historic preservation is a vital part of a promising future. It creates new jobs, increases economic development, and revitalizes the downtown business district. Wimberley’s historic assets serve to enhance the quality of life for residents, as well as forming a basis for economic development. People want to visit authentic rural communities and experience real small town life. Wimberley has that. It doesn’t have to invent a downtown area, like a lot of suburban communities are having to do today. We’ve got it already now and don’t have to artificially create a downtown. Protecting these assets will benefit all residents to increase sales tax generation, as well as protecting our rural character. Historic properties are linked to a shared past and are worthy of protection. A historic preservation district will allow these resources to be protected, but also provide an economic benefit to the owners and community as a whole.”

Mayor Flocke stated that the key issues are citizen involvement and support. He recommended proceeding with initial meetings of citizen groups to gauge interest and determine the scope of the area in question. Discussion included possible formation of an advisory board/committee, its composition, duties, and authority; the City's role in developing a historic preservation program; and possible funding sources. Related to property rights concerns, Mayor Flocke stressed that he favors a historic preservation program, rather than designation of a state historic district, and anticipated bringing a plan to develop such a program to Council for future consideration.

5. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Talcott requested that the Transportation Advisory Board consider making a recommendation to Council on removal of the stop sign on Las Flores Drive that is closest to FM 2325.

Mayor Flocke reminded Council of needed board/commission appointments.

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

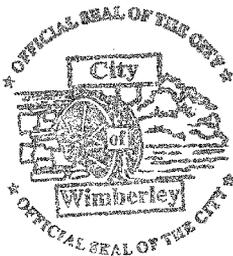
Adjournment: Council meeting adjourned at 7:33 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 16th of August, 2012.



APPROVED:



Bob Flocke, Mayor