

City of Wimberley
 City Hall
 221 Stillwater
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 November 21, 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, Matt Meeks, Mac McCullough, Steve Thurber, and John White.

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

Citizens Communications

David Wilson of 235 Blanco Drive asked whether underground gasoline tanks had been removed at the former sites of two gas stations. Should remaining underground tanks be discovered at the subject locations, Mr. Wilson asked if they could be removed as part of the City's central wastewater project. City Administrator Ferguson said no evidence of the tanks or their removal has been discovered to date, with the exception of some old wiring.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council Meeting of November 7, 2013
- B. Approval of minutes of the Special Joint Meeting with the Planning and Zoning Commission of November 13, 2013
- C. Approval of the October 2013 Financial Statements of the City of Wimberley

Councilmember Thurber moved to continue Consent Agenda Item 1C until Council's meeting on December 5, 2013, and approve all remaining Consent Agenda Items, as presented.

Councilmember Meeks advised that he wished to abstain from voting on Consent Agenda Item 1A, due to his absence from the November 7th meeting.

Councilmember White seconded Councilmember Thurber's motion.

After discussion of procedural issues, City Administrator Ferguson recommended voting separately on each Consent Agenda Item.

Mayor Flocke entertained a motion for Consent Agenda Item 1A. Councilmember Thurber moved to approve the item, as presented. Councilmember Talcott seconded. Motion carried on a vote of 4-0. Councilmember Meeks abstained.

Mayor Flocke entertained a motion for Consent Agenda Item 1B. Councilmember Thurber moved to approve the item, as presented. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

Councilmember White moved to approve remaining Consent Agenda Item 1C. Mayor Flocke and City Administrator Ferguson advised that no action is needed on Consent Agenda Item 1C, which is to be continued until Council's December 5th meeting.

2. City Administrator Report

- Status report on *The Central Wimberley Wastewater Project Independent Stakeholder Committee*

City Administrator Ferguson reported that the stakeholder committee has met its deadline and reached a consensus on a wastewater system recommendation. He anticipated presentation of the committee's recommendation and preliminary engineering report to Council at a special Council meeting tentatively scheduled for 6 p.m. on December 10, 2013. He commended the committee for its diligence throughout the stakeholder process.

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

City Administrator Ferguson reported on an extreme rainfall event that occurred on the evening of October 30, 2013, resulting in significant area flooding and associated infrastructure damage. He noted that state and federal damage assessment teams have conducted site visits to certain properties meeting specific threshold requirements. Various funding options for assistance were also noted for private property owners and public infrastructure projects, particularly much-needed repairs to Hoots Holler and Cypress Creek Nature Trail. Concerns were expressed about flood-related gravel deposits negatively impacting local creeks and rivers and possible remedies for such deposits. He reminded that any structural repair work, site development, or septic system work needs to be coordinated with the City to ensure that proper permit/inspection procedures are followed.

- Status report on Cypress Creek water quality issues

City Administrator Ferguson stated there is no new data to report.

- Status report on the preparation of the Fiscal Year 2013 Audit for the City of Wimberley

City Administrator Ferguson reported that the preliminary review is complete and that auditors will be performing on-site work at the end of December. He anticipated presentation of the auditor's final report in late January/early February 2014.

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

City Administrator Ferguson reported on post-flood clean-up efforts, including trail repairs and debris pick-up. He noted that local seventh graders made their annual visit to the Park this week, which provided education about plant and wildlife species from volunteer master naturalists.

City Administrator Ferguson also reported on the possible location of a cell phone tower on the post office property. He emphasized that the City has no control or authority over such installations on federal properties, whether owned or leased. Brief discussion addressed forwarding concerns regarding the tower's location and height to appropriate state representatives.

3. Presentation

Presentation by design engineers with HNTB and HDR regarding the proposed design of the Ranch Road 12 Parkway between Wimberley and San Marcos. (*City Administrator*)

Sean Stover of HNTB Corporation gave a presentation detailing the *RM 12 Parkway Project*, including the following:

- Project map, scope, purpose, and characteristics
- Past and proposed safety improvements
- Identification of context-sensitive solutions to address specific issues such as traffic safety, drainage, tree preservation, and pedestrian/bike (shared use) paths
- Design modifications incorporating input from Wimberley Transportation Advisory Board
- Timeframe for the right-of-way acquisition process

Mr. Stover advised that an open house event is planned at the Wimberley Community Center to allow for public comment on December 5, 2013.

Discussion addressed specific drainage issues along Sink Creek and prior area flood events.

4. Public Hearings and Consider Action

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Socorro Franco to allow for the sale of beer and wine for on-premise consumption at a sit-down eating establishment on property zoned Commercial – Moderate Impact (C-2), located at 401 FM 2325, Wimberley, Hays County, Texas, and imposing certain conditions; providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Socorro Franco, Applicant*)

Due to lack of a quorum at the Planning and Zoning Commission's meeting of November 14, 2013, City Administrator Ferguson requested that this item be continued until Council's meeting on December 5, 2013 to allow the Planning and Zoning Commission to consider making a recommendation at its special meeting scheduled for November 25, 2013.

Councilmember Thurber moved to continue the item, as requested 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 Donald Kuhs to operate a vacation rental facility on a tract located at 2916 Flite Acres Road, Wimberley, Hays County, Texas, zoned Single Family Residential 2 (R-2), and imposing certain conditions; providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Donald Kuhs, Applicant*)

Due to lack of a quorum at the Planning and Zoning Commission's meeting of November 14, 2013, City Administrator Ferguson requested that this item be continued until Council's meeting on December 5, 2013 to allow the Planning and Zoning Commission to consider making a recommendation at its special meeting scheduled for November 25, 2013.

Councilmember Thurber moved to continue the item, as requested by City Administrator Ferguson. Councilmember Meeks 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 Nancy Chandler to operate a vacation rental facility on a tract located at 14000 Ranch Road 12, Suite C, Wimberley, Hays County, Texas, zoned Commercial – Low Impact (C-1), and imposing certain conditions; providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Nancy Chandler, Applicant*)

Due to lack of a quorum at the Planning and Zoning Commission's meeting of November 14, 2013, City Administrator Ferguson requested that this item be continued until Council's meeting on December 5, 2013 to allow the Planning and Zoning Commission to consider making a recommendation at its special meeting scheduled for November 25, 2013.

Councilmember Thurber moved to continue the item, as requested by City Administrator Ferguson. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

5. Ordinance

Consider approval of the first reading of an ordinance amending Title XIII (General Offenses), Chapter 130 (General Offenses), Section 130.03 (Discharge of Firearms Prohibited; Exceptions) of the City of Wimberley's Code of Ordinances to regulate the discharge of a bow and arrow within the city limits; and providing findings of fact, a repealing clause, a savings and severability clause; providing for an effective date; and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson reviewed the draft ordinance, revised per prior Council direction, which allows the discharge of bows and arrow on tracts ten (10) acres or greater in size, more than one hundred-fifty feet (150') from a residence or occupied building located on another property, and in a manner not reasonably expected to cause an arrow to cross the boundary of the tract.

Discussion addressed citizen input received, reducing the minimum acreage requirement from ten (10) to four (4) acres, enforcement issues, and bow hunting as deer population control/wildlife management.

Councilmember Talcott moved to approve the ordinance on first reading with the following revision to §130.03(D)(5)(a): “on a tract of land of ~~ten (10)~~ four (4) acres or more and more than 150 feet from a residence or occupied building located on another property; and. . .” Councilmember White seconded. Motion carried on a vote of 5-0.

6. Discussion and Possible Action

- A. Discuss and consider possible action regarding the proposed reinstatement of attendance requirements for members of the Planning and Zoning Commission. (*City Administrator*)

City Administrator Ferguson spoke on recent Commission attendance problems, reviewed past/current attendance requirements, and recommended that Council reinstate the following attendance requirements for Commission members:

“The City Council may, by majority vote, remove a Commission member for lack of confidence, incompetence, corruption, misconduct or malfeasance. Any Commission member who misses three (3) consecutive meetings within a twelve (12) month period of time or four (4) meetings within a twelve (12) month time period shall be deemed to have automatically vacated his or her position on the Commission. Individuals deemed to have automatically vacated his or her position on the Commission may appeal the vacation to the City Council. Such an appeal shall be submitted in writing to the City Council within ten (10) days of receiving written notification of the vacation. A super majority vote of City Council is required to reverse a vacation. For the purpose of this meeting attendance requirement, it shall be considered a missed meeting for any Commission member who leaves a meeting prior to the completion of all action items on the posted agenda for a meeting for any other reason than to avoid a potential conflict of interest. Any Commission member who is removed or automatically vacates his or her position on the Commission shall not be considered for appointment to the Commission or a City Board by City Council for a period of six (6) months from the date of their removal or vacation.”

Discussion addressed number of canceled Commission meetings due to lack of a quorum, inconvenience to applicants due to rescheduled meetings, lack of legal authority to appoint alternate Commission members, issues relating to imposition of ex post facto law(s), role of Council member to discuss absences with respective appointed Commission member, Commission members' attendance records, and Council's authority to remove Commission members. Mayor Flocke spoke on the important role of the Planning and Zoning Commission and the need to serve the public in a timely manner and favored reinstatement of the

aforementioned ordinance language as recommended by City Administrator Ferguson. Councilmember Talcott suggested that those Planning and Zoning members who have missed more than two (2) consecutive meetings or three (3) meetings within a twelve (12) month period should be required to appear before Council to explain reasons for absences.

Councilmember Thurber moved to direct staff to begin the process to reinstate the attendance requirements as recommended by City Administrator Ferguson, and in addition, include Councilmember Talcott's abovementioned suggested language. Councilmember White seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding the proposed intermittent traffic control measures on Wayside Drive and River Road relating to the planned production of "Deliverance Creek." (*City Administrator*)

City Administrator Ferguson advised that producers are requesting permission to periodically shut down traffic in the area of Wayside Drive and River Road for short periods of time, so as to minimize vehicle noise during filming. He noted that law enforcement personnel will handle traffic control during the closures, which will occur mainly overnight, and recommended approval.

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

- C. Discuss and consider possible action regarding a proposed operating plan for the portable restroom trailer recently acquired by the City of Wimberley. (*City Administrator*)

City Administrator Ferguson advised that the restroom trailer has been delivered. He requested continuance of this item until Council's meeting on December 5, 2013, in order to finalize the proposed operating plan.

Councilmember Thurber moved to approve continuing this item until Council's meeting on December 5, 2013. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

7. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reported that Requests for Proposals have been issued for solid waste and recycling services, as well as for development of a downtown master plan.

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

Adjournment: Council meeting adjourned at 7:50 p.m.

Recorded by:

Cara McPartland
Cara McPartland

These minutes approved on the 5th of December, 2013.

APPROVED:

Robert C. Flocke

Bob Flocke, Mayor

