



City of Wimberley

221 Stillwater, Wimberley, Texas 78676

REGULAR CITY COUNCIL MEETING

WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676

THURSDAY, SEPTEMBER 21, 2023 - 6:00 PM

MINUTES

1. **CALL TO ORDER** September 21, 2023, at 6:00 PM
Mayor Gina Fulkerson called the Regular Meeting to order at 6:00 p.m.

2. **CALL OF ROLL**

Council Members Present:

Gina Fulkerson, Mayor
Rebecca Minnick, Place 1
Teresa Shell, Place 2
Chris Sheffield, Place 3
Jim Chiles, Place 4
David Cohen, Place 5

Staff Members Present:

Tim Patek, City Administrator
Tammy Heller, City Secretary
Nathan Glaiser, Director of Planning & Public Works
Lee Simmons, City Attorney

3. **INVOCATION**

Scott Tidwell, Fellowship of the Crossroads Church

4. **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**

Mayor Fulkerson led the pledges of allegiance.

5. **CITIZENS COMMUNICATIONS**

There were no citizen comments this evening.

6. **PROCLAMATIONS/RECOGNITIONS**

- 6.1. A Proclamation of the City of Wimberley, Texas proclaiming October as "Domestic Violence Awareness Month."

Mayor Fulkerson recognized October as "Domestic Violence Awareness Month".

Micaela Aranda and Diana Flores of the Hays-Caldwell Women's Center (HCWC), expressed appreciation for the continued support provided by the City of Wimberley and the City Council. She discussed the services HCWC provides and who they serve.

- 6.2. A Proclamation of the City of Wimberley, Texas proclaiming October as "Hill Country Night Sky Month."

Mayor Fulkerson recognized October as "Hill Country Night Sky Month".

6.3. A Proclamation of the City of Wimberley, Texas proclaiming October 5, 2023 as "Teachers Day."

Mayor Fulkerson recognized October 5, 2023 as "Teachers Day".

7. CONSENT AGENDA

A motion was made by Council Member Cohen, seconded by Council Member Chiles to approve the consent agenda. The motion carried unanimously (5-0).

7.1. Consider approval of the September 7, 2023 Regular City Council Meeting Minutes.

7.2. Approval of the August 2023 Revenue and Expenditure Report for the City of Wimberley. (*Tim Patek, City Administrator*)

8. PRESENTATION AND POSSIBLE ACTION

8.1. Receive an update from Hays County Constable, Don Montague. (*Don Montague, Constable*)

Don Montague, Hays County Precinct 3 Constable, provided an update on the constables department, including their budget, increased personnel and vehicles in the coming year, active attack and responsive training the department is participating in within our schools, and the solar eclipse event next year.

8.2. Receive an update from the City Administrator, Tim Patek, on the vandalism and theft that occurred in the Downtown Wimberley Square last week.

Tim Patek, City Administrator, provided an update on the vandalism that occurred downtown last week prior to the Pride Parade event on Saturday, September 16, 2023. Mr. Patek stated a report was made and the Hays County Sheriff's office is investigating. Mr. Patek stated the parade was well attended and there were no reported issues.

9. PUBLIC HEARINGS AND POSSIBLE ACTION

9.1. Hold a public hearing and consider action on Ordinance 2023-28, on an application submitted by Bent Rods LLC, for a Conditional Use Permit (CUP-23-010) to allow for the operation of a bar/tavern at 107 Old Kyle Rd, Wimberley, Texas. (*Nathan Glaiser, Director of Planning & Public Works*)

Nathan Glaiser, Director of Planning and Public Works, provided a presentation on an application for a Conditional Use Permit (CUP-23-010) to allow for the operation of a bar/tavern on a property located at 107 Old Kyle Road.

Mayor Fulkerson opened the Public Hearing at 6:44 p.m.

Paul Torres, applicant and owner of Grateful Angler, explained the intentions of this project and spoke in support of this request.

There being no further comments, Mayor Fulkerson closed the Public Hearing at 6:47 p.m.

Council inquired about the variance process that will be considered by the Board of Adjustment (BOA) next Monday in relation to this application. Mr. Glaiser stated the BOA will be considering a request from the applicants for a wood deck to be constructed on the existing structure. He explained a motion could be made by the Council this evening to make the conditional use permit dependent upon the granting of the variance by the BOA.

Upon completion of discussion related to the variance, parking spaces, intended use, and the preserve next to the property, a motion was made by Council Member Cohen, seconded by Council Member Sheffield to approve Ordinance 2023-28, on the condition the Board of Adjustment grants the variance at their next meeting. The motion carried unanimously (5-0).

- 9.2.** Hold a public hearing and consider action on Ordinance 2023-29, on an application submitted by Edward A. Foster, for a Conditional Use Permit (CUP-23-013) to allow for the operation of a Vacation Rental (STR2) on a property located at 2240 FM 3237, Wimberley, Texas. (*Nathan Glaiser, Director of Planning & Public Works*)

Nathan Glaiser, Director of Planning and Public Works, provided a presentation on a Conditional Use Permit application (CUP-23-013) that would allow for the operation of a Vacation Rental (STR2) on a property located at 2240 FM 3237.

A motion was made by Council Member Minnick, seconded by Council Member Chiles to approve Ordinance 2023-29, as presented. The motion carried unanimously (5-0).

- 9.3.** Hold a public hearing and consider action on Ordinance 2023-30, amending the official zoning map by zoning approximately 22.6 acres of land generally located in the Wimberley downtown area and roughly bounded by Cypress Creek, Old Kyle Rd., Oldham Rd. and Henson Rd., including Wimberley Square and extending south and east to include properties on RR 12, Old Kyle Rd., Oak Dr., and Oldham St., to Historic Preservation Overlay District (HD). (*Nathan Glaiser, Planning & Public Works Director*)

Nathan Glaiser, Director of Planning and Public Works, provided a presentation regarding the proposed Historic Preservation Overlay District. The presentation included the purpose of creating a Historic District, the criteria for a contributing building, the certificate of appropriateness process and design guidelines. Mr. Glaiser provided a map of the non-contributing and contributing buildings and the proposed boundary map. Mr. Glaiser then proceeded with answering questions presented by the council with the assistance of Ellis Mumford-Russell of Post Oak Preservation Solutions.

Mayor Fulkerson opened the Public Hearing at 7:14 p.m.

Those who spoke:

Richard Mason, expressed support of the concept of preserving historical buildings and documenting historical memories. However, he expressed his opposition to the Historic District, citing the following:

1. The undue burden it will create for small business owners.
2. The guidelines are vague and subjective.
3. He believes this is an overreach of the City.
4. Outside consultant fees
5. Selection for criteria into the district is arbitrary and preferential.
6. Potential to become a legal issue for the city, he feels this circumvents a new law by the state of Texas.

Angela Pereira, business owner of Blue Willow located at 14008 RR 12, spoke in opposition to the proposed Historic Preservation Overlay District. She expressed concern about the lack of communication with the business owners and the process outlined in the design guidelines. She asked that the City ensure all legal avenues were followed in this process.

Greg McBride, 110 Old Kyle, spoke in opposition to the proposed Historic Preservation Overlay District. Mr. McBride provided a handout and claimed a violation of the Local Government Code, the Texas Constitution and the Civil Rights Act.

Bill Johnston, 13709 RR 12, the Wild West Store, spoke in opposition to the proposed Historic Preservation Overlay District and read his grievance and stated he denies consent to include his property within the proposed Historic District. The authority of law he will claim remedy under include The

U.S. Constitution and Senate Concurrent Resolution No.12 - Texas 87th Legislature, 2021-06-16.

Rocky Romano, spoke in opposition to the proposed Historic Preservation Overlay District. He asked if anyone checked the work of Post Oak Preservation Solutions or did an abstract on the properties downtown. He noted that his property has been flooded numerous times and each time the building was architecturally changed inside and out. He stated this decision could cause a long period of litigation.

Dana Lombard, provided a handout to the Council and stated she and her family value the history of our City. She requested that Council honor the recommendation made by the Planning and Zoning Commission to remove her property from the proposed district. She stated they are a residence, not commercial, and they don't border a historic property on any side.

Will Rothelle, owner of Ceremony Botanical, inquired about one of the structures on their property that was built in 1982 and asked if this would be subject to the requirements of the district.

An unnamed citizen spoke on behalf of Carol White and stated she owns a residence downtown.

Mayor Fulkerson read a letter of opposition from Phil Collins, owner of the Supper Club, located at 13900 Ranch Road 12.

Mayor Fulkerson read a letter of support from Suzanne Oliver, property owner of 220 Old Kyle Road.

There being no further comments, Mayor Fulkerson closed the Public Hearing at 7:52 p.m.

Ellis Mumford-Russell, stated they used best practices in creating the proposed boundaries and stated it was somewhat difficult to identify all the historic properties in Wimberley because there are not many historic maps. She spoke about some of the concerns addressed by citizens, including property values, regulations and design standards.

Council discussed the recommendation made by the Planning and Zoning Commission to remove property# 22, 180 Oak Drive.

Council discussed property #8C be changed to a non-contributing property.

Upon completion of discussion, a motion was made by Council Member Cohen, seconded by Council Member Sheffield to approve Ordinance 2023-30, as presented, with the removal of empty lot #22 (address: 180 Oak Drive) and changing structure #8C to non-contributing. The motion carried by a vote of 3 in favor, 0 opposed, and 2 recused.

10. DISCUSSION AND POSSIBLE ACTION

- 10.1.** Discuss and consider possible action on Resolution No. 11-2023, designating the Wimberley View the official newspaper for the City of Wimberley, Texas for Fiscal Year 2024 - per Local Government Code Section 52.004. *(Tammy Heller, City Secretary)*

Tammy Heller, City Secretary, presented this item and noted that Local Government Code Section 52.00 states an official newspaper should be designated as soon as practicable after the beginning of each municipal year. The Wimberley View currently serves, and will continue to serve as our designated official newspaper for the City of Wimberley, with the passage of this Resolution. A motion was made by Council Member Sheffield, seconded by Council Member Minnick to approve Resolution No. 11-2023, as presented. The Motion carried unanimously.

- 10.2.** Consider the action on an amended and restated employee agreement with City Administrator, Tim Patek. *(Mayor Gina Fulkerson)*

Mayor Fulkerson presented the proposed amended and restated employee agreement with Mr. Patek and outlined the minor revisions that were made to the agreement. These include updated terms, salary, and effective dates. A motion was made by Council Member Sheffield, seconded by Council Member Chiles to approve an amended and restated employee agreement with Mr. Patek for a term of 3 years beginning on October 16, 2023 with an annual salary of \$136,500 with all other provisions being consistent with the prior agreement. The motion carried

unanimously (5-0).

11. CITY COUNCIL REPORTS

11.1. Announcements

A Joint City Council/Parks and Recreation Board meeting to review the Parks Master Plan is scheduled for Tuesday, September 26 at 4:00 p.m.

The Texas Municipal League (TML) annual conference is scheduled for October 4-6, 2023 in Dallas.

11.2. Future Agenda Items

Council Member Chiles requested an update on the Fish Weir at the Hidden Valley Crossing Bridge.

12. ADJOURNMENT

A motion was made by Council Member Cohen, seconded by Council Member Minnick to adjourn the regular meeting at 8:41 p.m. The motion carried unanimously (5-0).

RECORDED BY:

Tammy Heller, City Secretary

APPROVED BY:

Gina V. Fulkerson, Mayor

