

City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS
221 STILLWATER DRIVE, WIMBERLEY, TEXAS
JULY 1, 2010 6:00 P.M.

AGENDA

CALL TO ORDER: JULY 1, 2010 @ 6:00 P.M.

CALL OF ROLL: CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

CITIZENS COMMUNICATIONS:

THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS ON ISSUES AND ITEMS OF CONCERN, NOT ON THIS AGENDA. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AND OBSERVE A THREE-MINUTE TIME LIMIT WHEN ADDRESSING COUNCIL. SPEAKERS WILL HAVE ONE OPPORTUNITY TO SPEAK DURING THE TIME PERIOD. SPEAKERS DESIRING TO SPEAK ON AN AGENDA ITEM WILL BE ALLOWED TO SPEAK WHEN THE AGENDA ITEM IS CALLED. INQUIRIES ABOUT MATTERS NOT LISTED ON THE AGENDA WILL EITHER BE DIRECTED TO STAFF OR PLACED ON A FUTURE AGENDA FOR COUNCIL CONSIDERATION.

1. CONSENT AGENDA

THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COUNCIL MEMBER OR CITIZEN, IN WHICH EVENT THOSE ITEMS WILL BE PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION.

- (A) APPROVAL OF MINUTES OF THE REGULAR CITY COUNCIL MEETING OF JUNE 17, 2010.
- (B) APPROVAL OF THE REAPPOINTMENT OF NANCYE BRITNER TO THE CITY OF WIMBERLEY ECONOMIC DEVELOPMENT COMMISSION. (MAYOR BOB FLOCKE'S NOMINEE)
- (C) APPROVAL OF THE REAPPOINTMENT OF JESSE BROWN TO THE CITY OF WIMBERLEY BUILDING CODE BOARD OF REVIEW. (MAYOR BOB FLOCKE'S NOMINEE)
- (D) APPROVAL OF THE REAPPOINTMENT OF M.F. JOHNSON TO THE CITY OF WIMBERLEY PARKS AND RECREATION BOARD. (MAYOR BOB FLOCKE'S NOMINEE)

- (E) APPROVAL OF THE REAPPOINTMENT OF TRACEY DEAN TO THE CITY OF WIMBERLEY PLANNING AND ZONING COMMISSION. *(MAYOR BOB FLOCKE'S NOMINEE)*
- (F) APPROVAL OF THE REAPPOINTMENT OF BERT RAY TO THE CITY OF WIMBERLEY TRANSPORTATION ADVISORY BOARD. *(MAYOR BOB FLOCKE'S NOMINEE)*
- (G) APPROVAL OF THE APPOINTMENT OF BETH MITCHELL TO THE CITY OF WIMBERLEY WATER WASTEWATER ADVISORY BOARD. *(MAYOR BOB FLOCKE'S NOMINEE)*
- (H) APPROVAL OF THE REAPPOINTMENT OF CHRISTINE BYRNE TO THE CITY OF WIMBERLEY PARKS AND RECREATION ADVISORY BOARD. *(PLACE THREE COUNCIL MEMBER BILL APPLEMAN'S NOMINEE)*
- (I) APPROVAL OF THE REAPPOINTMENT OF BOB BULLOCK TO THE CITY OF WIMBERLEY BUILDING CODE BOARD OF REVIEW . *(CONSENSUS NOMINEE)*
- (J) APPROVAL OF THE REAPPOINTMENT OF GARY WEEKS TO THE CITY OF WIMBERLEY ECONOMIC DEVELOPMENT COMMISSION. *(CONSENSUS NOMINEE)*
- (K) APPROVAL OF THE REAPPOINTMENT OF DELL HOOD TO THE CITY OF WIMBERLEY PARKS AND RECREATION ADVISORY BOARD. *(CONSENSUS NOMINEE)*
- (L) APPROVAL OF THE REAPPOINTMENT OF MIKE JONES TO THE CITY OF WIMBERLEY PLANNING AND ZONING COMMISSION. *(CONSENSUS NOMINEE)*
- (M) APPROVAL OF THE REAPPOINTMENT OF GENE WOODRUFF TO THE CITY OF WIMBERLEY TRANSPORTATION ADVISORY BOARD. *(CONSENSUS NOMINEE)*
- (N) APPROVAL OF THE REAPPOINTMENT OF JOE MALONE TO THE CITY OF WIMBERLEY WATER WASTEWATER ADVISORY BOARD. *(CONSENSUS NOMINEE)*

2. PRESENTATIONS

- (A) PRESENTATION OF THE QUARTERLY ACTIVITIES REPORT FOR THE PEDERNALES ELECTRIC COOPERATIVE (PEC). *(CELE DELEON, PEC)*
- (B) PRESENTATION BY REPRESENTATIVE(S) OF THE CITY OF WIMBERLEY TRANSPORTATION ADVISORY BOARD REGARDING TRAFFIC CONTROL ALTERNATIVES FOR LAS FLORES DRIVE. *(BERT RAY, TRANSPORTATION ADVISORY BOARD MEMBER)*

3. CITY ADMINISTRATOR REPORT

- STATUS REPORT ON THE EFFORTS UNDERWAY TO SECURE FEDERAL FUNDING FOR THE DOWNTOWN WASTEWATER PROJECT
- STATUS REPORT ON THE *WIMBERLEY SQUARE IMPROVEMENT PROJECT*
- STATUS REPORT ON DEVELOPMENT ACTIVITY IN THE CITY OF WIMBERLEY
- STATUS REPORT ON THE *RANCH ROAD 12 PARKWAY PROJECT*

- STATUS REPORT ON THE OPERATION OF THE BLUE HOLE REGIONAL PARK
- STATUS REPORT ON FOURTH OF JULY FESTIVITIES IN THE CITY OF WIMBERLEY

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 *LEANING PEAR, LLC* TO PERMIT A SIT DOWN EATING ESTABLISHMENT INCLUDING THE SALE OF BEER, WINE AND ALCOHOL FOR ON PREMISE CONSUMPTION ON A TRACT OF LAND LOCATED AT 111 RIVER ROAD, WIMBERLEY, HAYS COUNTY, TEXAS, ZONED COMMERCIAL-LOW IMPACT (C-1), 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. (*LEANING PEAR, LLC, APPLICANT*)
- (B) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE AMENDING CHAPTER 155 (ZONING) SUBSECTIONS 155.107(B)(2) AND (B)(3) (PLANNING AND ZONING COMMISSION) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS IN ORDER TO REVISE THE APPOINTMENT PROCESS FOR PLANNING AND ZONING COMMISSION MEMBERS; AND PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, AND SEVERABILITY. (*CITY ADMINISTRATOR*)

5. DISCUSSION AND POSSIBLE ACTION

- (A) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING THE PROPOSED CLOSURE OF LAS FLORES DRIVE AT THE 500 BLOCK OF LA BUENA VISTA DRIVE. (*MAYOR BOB FLOCKE*)
- (B) DISCUSS AND CONSIDER POSSIBLE APPROVAL OF POLICY RELATING TO THE INSTALLATION OF SPEED HUMPS. (*TRANSPORTATION ADVISORY BOARD*)
- (C) DISCUSS AND CONSIDER APPROVAL OF A REQUEST FROM THE GUADALUPE BLANCO RIVER AUTHORITY (GBRA) FOR THE CITY OF WIMBERLEY TO FILE AN AMICUS CURIAE BRIEF, INDIVIDUALLY OR AS A MEMBER OF A GROUP, IN SUPPORT OF THE STATE OF TEXAS AND GBRA'S MOTION TO DISMISS THE FEDERAL LAWSUIT FILED BY "THE ARANSAS PROJECT" (TAP) UNDER THE FEDERAL ENDANGERED SPECIES ACT AGAINST THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) ALLEGING A "TAKE" OF ENDANGERED WHOOPING CRANES. (*CITY ADMINISTRATOR*)
- (D) DISCUSS AND CONSIDER ACTION DESIGNATING A *POET LAUREATE* FOR THE CITY OF WIMBERLEY, TEXAS. (*PLACE TWO COUNCIL MEMBER MAC MC CULLOUGH*)

6. CITY COUNCIL REPORTS

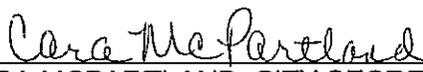
- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE CITY COUNCIL MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

CERTIFICATION

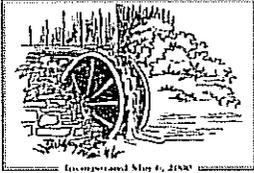
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on June 28, 2010 at 5:00 p.m.



CARA MCPARTLAND, CITY SECRETARY

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: APPROVAL OF JUNE 17,
2010 MINUTES OF REGULAR CITY COUNCIL
MEETING

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are minutes for the June 17, 2010 Regular City Council Meeting for review and consideration.

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
June 17, 2010 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 Charles Roccaforte, Mac McCullough, Bill Appleman, and John White. Councilmember Thurber had an excused absence.

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

Citizens Communications

Bernie Jensen of 200 CR 1492 expressed concerns about trespassing in the Blanco Bend area and felt that the majority of trespassers are guests of 7A Ranch Resort. He recounted specific incidents involving both his and his neighbors' properties and trespassing reports to Hays County Sheriff's Office. Mr. Jensen suggested to 7A Resort ownership that posting signs along the Blanco River containing the same river access information as printed in guest brochures as a possible means to curb or eliminate trespassing. Mr. Jensen stated that he did not receive a favorable response to this suggestion and asked for the City's assistance in finding a solution for this problem.

Wimberley ISD Superintendent Dwain York explained an upcoming tax rate rollback election to be held in August 2010. He cited specific proposed tax rate changes affecting allocations for M & O (maintenance and operation) and I & S (interest and sinking) funds that would not affect the overall tax rate. He stated that the ballot will be published and an informational brochure will explain the election in more detail. Superintendent York requested that an item be placed on a July Council agenda to allow for further discussion on this matter.

1. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of June 3, 2010
- B. Approval of the May 2010 City of Wimberley Financial Statements
- C. Approval of the appointment of Steve Klepfer to the City of Wimberley Planning and Zoning Commission. *(Place Two Councilmember Mac McCullough's nominee)*
- D. Approval of the reappointment of Jenelle Flocke to the City of Wimberley Economic Development Commission. *(Place Two Councilmember Mac McCullough's nominee)*
- E. Approval of the reappointment of Cathy Flocke to the City of Wimberley Parks and Recreation Advisory Board. *(Place Two Councilmember Mac McCullough's nominee)*

F. Approval of the appointment of Zack Ezer to the City of Wimberley Economic Development Commission. (*Place Four Councilmember Steve Thurber's nominee*)

Councilmember Appleman moved to approve the minutes as presented. Councilmember McCullough seconded. Motion carried on a vote of 4-0.

2. Presentation

Presentation by representatives of *Design Workshop* on the *Design Development Phase* of the Blue Hole Regional Park Development Project.

Design Workshop Principals Steven Spears and Rebecca Leonard presented information on the following:

- Upcoming, current, and completed phases of the project and associated timeframes
- Anticipated construction completion date by May 2011
- Summary of project-related activities/team meetings
- Availability of project information and progress at www.blueholeregionalpark.com
- Selection by Sustainable Sites Initiative (SITES) of Blue Hole Regional Park as one of the first landscapes to participate in a new program testing the nation's first rating system for green landscape design, construction, and maintenance
- Overall site plan and specific features including, cisterns, rainwater collection/reuse, trails/paths, picnic area, ADA compliance, office/bath house, pavilions, fire pit, interpretive signage, and parking
- Cross section of site plan
- Recreation area plan including playground, equipment, tennis, soccer, volleyball, and basketball courts, as well as creative uses for leftover materials
- Design features of the Community Pavilion and water reuse
- Design features of the Recreation Pavilion
- Interpretive, free-standing, and integrated signage, including incorporation of educational elements
- Environmental goals, including details on ecosystem protection, light pollution, hydrology, and user education
- Community goals related to recreation, open space, and activities
- Governance goals, including an operation and maintenance plan
- Artistic goals in keeping with the Hill Country vernacular
- Economic goals, including sustainable long-term operations, maintenance, and funding

Discussion addressed roofing materials, contingency plans for rainwater collection during drought periods, minimal impervious cover (natural and man-made), and Code-compliant lighting. Councilmember Appleman felt that consideration should be given to closing the park at dusk to mitigate the need for lighting. He offered to donate bald cypress seedlings growing on his property

along Cypress Creek to the park for re-planting. Mr. Spears thanked Councilmember Appleman and noted that it is important to use native, indigenous plants for this project.

3. City Administrator Report

This item was heard after Agenda Item 5B.

- Status report on the efforts underway to secure federal funding for the downtown wastewater project

City Administrator Ferguson reported that presentation of the City's Tier III, Phase I loan application is anticipated during the Texas Water Development Board's (TWDB's) August meeting agenda. The process is continuing for the Phase II funding application and study of wastewater effluent/reuse. He noted that Wimberley Water Wastewater Advisory Board will meet on June 28, 2010.

- Status report on the preparation of a boundary survey for the City of Wimberley

City Administrator Ferguson reported on recent meetings, including near completion of deed research, selection of monument locations, scheduling of survey teams, and timeframe for completion. He noted that the survey crews will have identification badges and clearly marked vehicles. He stated that notices will be sent out to applicable property owners relating to survey activity and property access. In response to Councilmember White, City Administrator Ferguson replied that Baker-Aicklen employees' photos will appear on identification badges.

- Status report on the proposed closure of Las Flores Drive

City Administrator Ferguson reported that a public hearing has been scheduled for Tuesday, June 29, 2010 at 6:00 pm, detailed notification procedures, and noted that meetings will be held with the "reserve" property owner and emergency service providers.

- Status report on the upcoming City Hall dedication and open house

City Administrator Ferguson reported that the dedication and open house is scheduled for Wednesday, June 30, 2010 at 5:30 p.m. He reported that a brief open house and dedication ceremony will be held and attended by state, county, and local representatives (past and present).

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

City Administrator Ferguson cited statistics showing increased attendance/revenues, season pass purchases, and gate receipts to date that are forty-five percent (45%) above last year. He reported that a temporary resolution has been achieved addressing Rocky River Ranch's traditional day at Blue Hole, which serves as a merit program reward for campers. Rocky River Ranch will have use of the park at the bulk rate, before it opens for the public, so as not to interfere with normal park

operations. He stated that the Parks Board will recommend a long-term reservation policy for Council consideration. Discussion addressed typical park capacity and clarified existing reservation policy.

4. Public Hearing and Possible Action

Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas approving an application to change the zoning from Neighborhood Services (NS) to Public Facilities (PF) and remove an existing conditional use permit for a 1.5 acre tract of land located at 45 La Buena Vista, Wimberley, Hays County, Texas. (*Renee Boschert, Applicant*)

City Administrator Ferguson presented staff's report, including subject property location, current/proposed zoning and uses, acreage, notification, and reasoning for the request. The applicant is proposing to operate a charter school in conjunction with Katherine Anne Porter School District, which requires that the property be rezoned from Neighborhood Services (NS), along with removal of the existing condition use permit, and zoned Public Facilities. City Administrator Ferguson stated that no opposition has been received and recommended approval. He noted significant support was shown for this application via public comments submitted to the Planning and Zoning Commission, which unanimously recommended approval.

No public comments were heard.

Discussion addressed long-term needs for future expansion, increased traffic, access, and public versus private school funding.

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

5. Discussion and Possible Action

A. Discuss and consider approval of the plans and information in the *Design Development Phase Report* for the Blue Hole Regional Park Project. (*City Administrator*)

This item was heard after Agenda Item 2.

City Administrator Ferguson advised that *Design Workshop* representatives will present construction designs at their next presentation to Council and recommended approval.

Councilmember McCullough moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

B. Discuss and consider approval of a proposed Eagle Scout project at the Patsy Glenn Refuge in Wimberley, Texas (*City Administrator*)

City Administrator Ferguson outlined the proposal to construct two (2) small wooden foot bridges and one (1) wooden wheelchair ramp at the Patsy Glenn Refuge. He stated that plans have been sealed by a local engineer and approved by the City's inspection firm. He noted that Council needs to consider approval of the plans, along with a waiver of all City fees totaling \$398 for the project, as a benefit to the community.

Eagle Scout George Gage presented plans to make the refuge more accessible and inviting.

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

Mayor Flocke thanked Mr. Gage and presented him with his building permit for the project.

- C. Discuss and consider possible action awarding a contract for the completion of street improvements to Las Flores Drive, Palos Verdes and La Pais Drive in Wimberley, Texas. *(City Administrator)*

City Administrator Ferguson reviewed the bid process, submitted bids, anticipated completion date, public notification/hearing process, and recommended approval of the low bid submitted by CAS Construction, Inc. in the amount of \$146,927.81, with the condition that the Performance and Payment Bonds with Certificates of Insurance in the required amounts be provided.

Discussion addressed the overall budget for street improvements, effect on proposed Las Flores Drive closure and associated public meetings, striping, lane size, and possible inclusion of speed humps.

Councilmember Appleman moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

- D. Discuss and consider approval of a calendar for the preparation of a Fiscal Year 2011 Operating Budget for the City of Wimberley. *(City Administrator)*

City Administrator Ferguson presented key dates and noted that meetings can be added or deleted as needed throughout the budget process.

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

- E. Discuss and consider approval of plans for participation by the City of Wimberley in the upcoming Independence Day Parade on July 5, 2010. *(Place Four Councilmember Steve Thurber)*

City Administrator Ferguson recounted past City participation and asked for Council's input. Discussion addressed possible ideas, including types of floats and vehicles. Council agreed to direct

staff to coordinate prospective plans with Councilmember Thurber according to his preferences. No vote was taken.

- F. Discuss and consider possible action regarding funding for the upcoming Fourth of July fireworks display on July 4, 2010. (*Mayor Pro-tem Charles Roccaforte*)

Discussion addressed specific amounts collected/committed and remaining amount of funds needed. Available options included increased individual/private fundraising efforts, use of City funds, and possible collections at the event. Specific potential donors were mentioned. Council agreed to proceed with all feasible options. No vote was taken.

- G. Discuss and consider possible action setting a time, date, and location for a City Council workshop to discuss goals and objectives for the City of Wimberley. (*Mayor Bob Flocke*)

Discussion addressed possible dates/times and locations that are amenable to Council and the public. It was agreed to meet on Wednesday, July 21, 2010 at 10:00 a.m. at Peter Way's ranch.

Councilmember McCullough moved to schedule the workshop for the above mentioned date, time, and location. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

6. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reported that the City's legal firm will try hold a local orientation session for new Council members. He encouraged Council to use recently assigned public email addresses and stated that reported problems with various email functions will be addressed.

Hearing no further announcements or future agenda item requests, Councilmember White moved to adjourn. Mayor Flocke called the meeting adjourned at 7:45 p.m.

Adjournment: Council meeting adjourned at 7:45 p.m.

Recorded by:

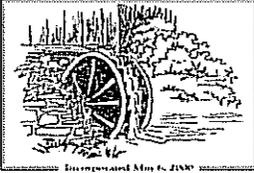
Cara McPartland

These minutes approved on the ____ of July, 2010.

APPROVED:

Bob Flocke, Mayor

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF
NANCYE BRITNER TO THE ECONOMIC
DEVELOPMENT COMMISSION

Funds Required:

Funds Available:

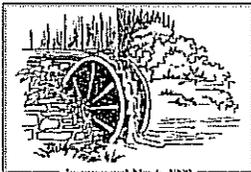
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Nancye Britner to the City of Wimberley Economic Development Commission.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF
JESSE BROWN TO THE BUILDING CODE
BOARD OF REVIEW

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

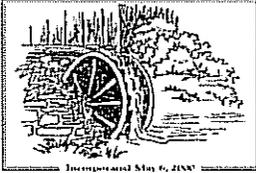
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Jesse Brown to the City of Wimberley Building Code Board of Review.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF
M.F. JOHNSON TO THE PARKS AND
RECREATION ADVISORY BOARD

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

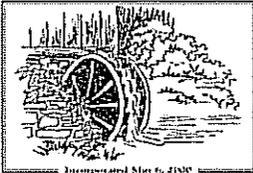
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of M.F. Johnson to the City of Wimberley Parks and Recreation Advisory Board.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF TRACEY DEAN TO THE PLANNING AND ZONING COMMISSION

Funds Required:

Funds Available:

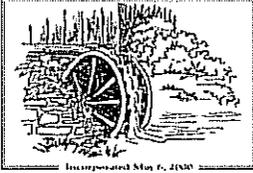
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Tracey Dean to the City of Wimberley Planning and Zoning Commission.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF
BERT RAY TO THE TRANSPORTATION
ADVISORY BOARD

Funds Required:
Funds Available:

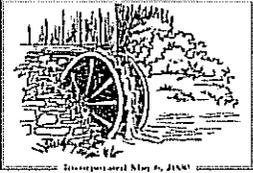
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Bert Ray to the City of Wimberley Transportation Advisory Board.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: APPOINTMENT OF
BETH MITCHELL TO THE WATER-
WASTEWATER ADVISORY BOARD

Funds Required:
Funds Available:

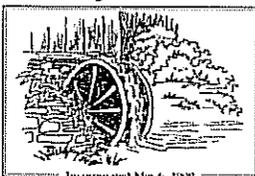
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the appointment of Beth Mitchell to the City of Wimberley Water-Wastewater Advisory Board.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF CHRISTINE BYRNE TO THE PARKS AND RECREATION ADVISORY BOARD

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

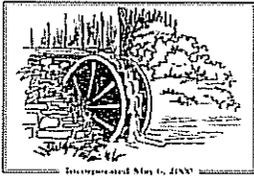
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Place Three Council Member Bill Appleman to allow City Council to consider the reappointment of Christine Byrne to the Parks and Recreation Advisory Board.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF BOB BULLOCK TO THE BUILDING CODE BOARD OF REVIEW

Funds Required:

Funds Available:

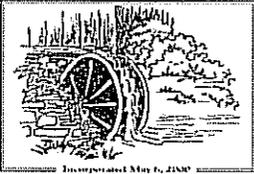
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Bob Bullock to the Building Code Board of Review, as the consensus member.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF GARY WEEKS TO THE ECONOMIC DEVELOPMENT COMMISSION

Funds Required:

Funds Available:

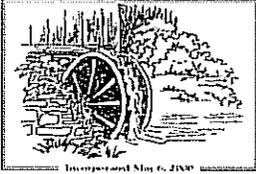
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Gary Weeks to the Economic Development Commission, as the consensus member.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF DELL HOOD TO THE PARKS AND RECREATION ADVISORY BOARD

Funds Required:

Funds Available:

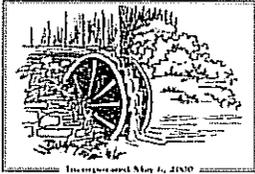
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Dell Hood to the Parks and Recreation Advisory Board, as the consensus member.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF MIKE JONES TO THE PLANNING AND ZONING COMMISSION

Funds Required:

Funds Available:

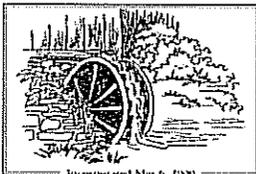
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Mike Jones to the Planning and Zoning Commission, as the consensus member.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF GENE WOODRUFF TO THE TRANSPORTATION ADVISORY BOARD

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

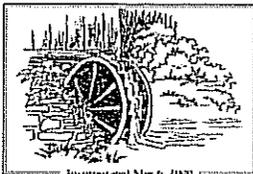
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Gene Woodruff to the Transportation Advisory Board, as the consensus member.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: REAPPOINTMENT OF JOE MALONE TO THE WATER WASTEWATER ADVISORY BOARD

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

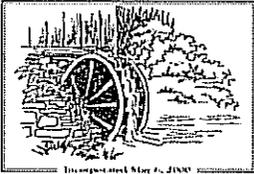
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Mayor Bob Flocke to allow City Council to consider the reappointment of Joe Malone to the Water Wastewater Advisory Board, as the consensus member.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: PRESENTATION OF
QUARTERLY REPORT BY PEC

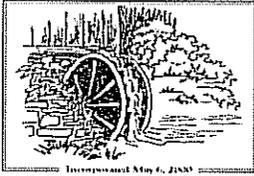
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow representative(s) of the Pedernales Electric Cooperative (PEC) to present a quarterly franchise payment to the City along with a status report on PEC activities.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: PRESENTATION BY
TRANSPORTATION ADVISORY BOARD OF TRAFFIC
CONTROL ALTERNATIVES FOR LAS FLORES DRIVE

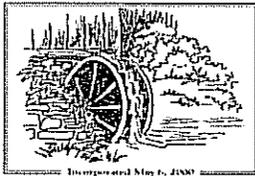
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow representative(s) of the Transportation Advisory Board to present alternatives for addressing traffic concerns on Las Flores Drive. No further background was provided for the agenda packet.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: CITY ADMINISTRATOR'S REPORT

Funds Required:
Funds Available:

Council Action Requested:

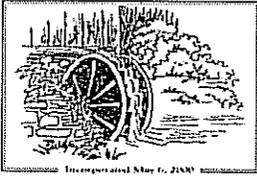
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

The City Administrator will present a report on the following items:

- Status report on the efforts underway to secure federal funding for the downtown wastewater project
- Status report on the *Wimberley Square Improvement Project*
- Status report on development activity in the City of Wimberley
- Status report on the *Ranch Road 12 Parkway Project*
- Status report on the operation of the Blue Hole Regional Park
- Status report on Fourth of July festivities in the City of Wimberley

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: A PUBLIC HEARING AND
CONSIDER APPROVAL OF AN ORDINANCE
GRANTING A CONDITIONAL USE PERMIT FOR
111 RIVER ROAD

Funds Required:

Funds Available:

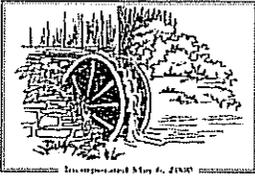
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

City staff is recommending the City Council vote to continue this item until the July 15, 2010, City Council meeting to allow the Planning and Zoning Commission to consider making a recommendation on the subject zoning case. The Commission was scheduled to consider the case at its June 24, 2010 meeting, but the meeting was cancelled due to a lack of quorum. The case is now scheduled to be heard by the Commission on July 8, 2010.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: PUBLIC HEARING AND
CONSIDER APPROVAL OF AN ORDINANCE
RELATING TO THE APPOINTMENT OF
PLANNING AND ZONING COMMISSION
MEMBERS

Funds Required:

Funds Available:

Council Action Requested:

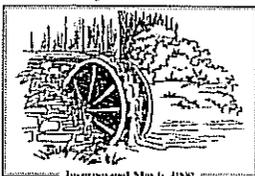
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

The purpose of this agenda item is to allow the City Council to discuss and consider approval of the first reading of a proposed ordinance relating to the appointment of Planning and Zoning Commission members and their terms.

City staff is recommending the City Council vote to continue this item until the July 15, 2010, City Council meeting to allow the Planning and Zoning Commission to consider making a recommendation on the proposed ordinance. The Commission was scheduled to consider the ordinance at its June 24, 2010 meeting, but the meeting was cancelled due to a lack of quorum. The proposed ordinance is now scheduled to be heard by the Commission on July 8, 2010.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: CONSIDER ACTION ON
THE PROPOSED CLOSURE OF LAS FLORES
DRIVE AT LA BUENA VISTA DRIVE

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

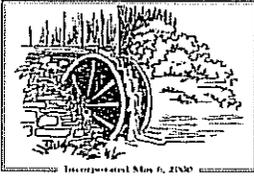
Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action on the proposed closure of Las Flores Drive at the 500 block of Las Buena Vista Drive.

At the May 20, 2010 City Council meeting, several residents on Las Flores Drive addressed Council regarding their on-going concerns with thru-traffic and speeding vehicles on their street. The residents requested Council consider the installation of speed humps. As an alternative, several members of City Council suggested a mid-block closure of Las Flores drive at La Buena Vista Drive to eliminate the problem with thru-traffic and to help slow down traffic. City staff examined the proposal and reported back to Council on its feasibility at the June 3, 2010 City Council meeting. On June 29, 2010, City Council held a public hearing on the proposal. All property owners in the affected neighborhood were notified about the hearing in advance.

With the public hearing having been held on the proposal, City Council must now decide if it wants to move forward and approve the proposed street closure.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: CONSIDER APPROVAL OF A POLICY RELATING TO INSTALLATION OF SPEED HUMPS

Funds Required:

Funds Available:

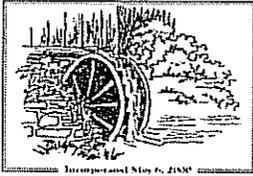
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider approval of a policy relating to the installation of speed humps on city streets. The proposed policy outlines the criteria for when speed humps would be considered for installation by the City. In addition, the proposed policy assigns responsibility for the cost of installing the humps to the citizens requesting the humps. At the time of production of the agenda packet, the policy was being finalized. The proposed policy will be presented to Council under separate cover in advance of the meeting.

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: CONSIDER ACTION ON A REQUEST TO SUPPORT TCEQ AND GBRA IN AN ENDANGERED SPECIES ACT LAWSUIT

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action on a request from the Guadalupe Blanco River Authority (GBRA) to support the Texas Commission on Environmental Quality (TCEQ) in a federal lawsuit, filed by The Aransas Project "TAP", which alleges the TCEQ has violated the federal Endangered Species Act. TAP claims that TCEQ was guilty of a "take" of whooping cranes in the Winter 2008/2009 by failing to regulate water users in the Guadalupe and San Antonio River Basins so as to ensure adequate fresh water inflows to the bay and estuary habitat of the cranes. TAP is asking the Court to require TCEQ to condition existing water users' rights to ensure fresh water inflows to protect the cranes.

It is the position of the GBRA – an intervenor in the suit – that the relief being sought by TAP would have a far-reaching, adverse impact on all people and the environment in the Guadalupe River and San Antonio River Basins. The GBRA contends that conditioning existing water users' rights could put in jeopardy the ability of cities in the basins to maintain their present and future water supplies.

GBRA is asking cities, including the City of Wimberley, to support the TCEQ by adding their names to the filing of an amicus brief with the Court supporting the State and GBRA. Attached is a copy of the proposed amicus brief for review and consideration.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

THE ARANSAS PROJECT,	§	
Plaintiff	§	
V.	§	Civil Action No. 2:10-cv-00075
BRYAN SHAW, et al.	§	
	§	
Defendants	§	

CITY MAYORS'
AMICUS CURIAE BRIEF IN SUPPORT OF STATE DEFENDANTS AND
DEFENDANT – INTERVENOR GUADALUPE-BLANCO RIVER AUTHORITY'S
MOTIONS TO DISMISS

**CITY MAYORS’
AMICUS CURIAE BRIEF IN SUPPORT OF STATE DEFENDANTS AND
DEFENDANT – INTERVENOR GUADALUPE-BLANCO RIVER AUTHORITY’S
MOTIONS TO DISMISS**

Amicus Mayor _____; Mayor _____; Mayor _____ are the chief executive officers of the Cities of _____, _____, and _____ respectively. We are keenly interested in ensuring our citizens have a clean and dependable water supply. Amicus has a vital interest in water permits issued by TCEQ for the Guadalupe River Basin, and the orderly management and administration of water regulation and planning in the Guadalupe River Basin and statewide.

Amicus joins the arguments of the State Defendants and Defendant-Intervener GBRA in urging the Court to dismiss the Plaintiff’s Complaint. By focusing on only one factor in a complex, diverse water management system, the Plaintiff’s Complaint ignores the many other stakeholders and multiple water management efforts addressing drought, water supply, water quality, and endangered species in the Guadalupe River Basin and the State. If the Court were to grant the Plaintiff’s requested relief, it would have far-reaching adverse and unintended consequences for all people and the environment in the Guadalupe River Basin. One such consequence would be to put in jeopardy our respective cities present and future water supplies. If existing water rights are amended or “reallocated” then the dependability of our respective cities present and future water supplies is in question. Reducing rights to take water out of the Guadalupe River Basin will cause severe economic and social hardship.

Respectfully Submitted

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been served through the Court’s ECF electronics filing system to the known users of the Court’s ECF filing system below on this ___ day of _____ 2010:

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Administrative Law Division
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TEXAS LITIGATION SOLUTIONS

Bickerstaff Heath Delgado Acosta LLP
Austin-Dallas-El Paso-Houston-Rio Grande Valley

June 2010

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WHOOPING CRANE LAWSUIT

A federal lawsuit alleging that the Texas Commission on Environmental Quality has violated the federal Endangered Species Act was filed by The Aransas Project, or "TAP," on March 10, 2010. TAP asserts that TCEQ was guilty of a "take" of whooping cranes - in ESA parlance, harm to cranes or their habitat - over the winter of 2008-09 during the recent drought, by having failed to act to guarantee sufficient fresh water inflows to the bay and estuary habitat of the cranes.

The whooping cranes winter on various marshy islands and other locations in and around San Antonio Bay, including Aransas, Carlos and Mesquite Bays. TAP claims that high salinity water compromises the cranes' ability to feed, by

adversely affecting the blue crabs and berries that form cranes' principal food sources, and to find fresh water to drink. TAP alleged there was a significant die-off of cranes that winter

water inflows.

TAP sued the three TCEQ Commissioners and the Executive Director, and the South Texas Water Master, rather than TCEQ



because of TCEQ's failure to regulate water users in the Guadalupe and San Antonio River Basins so as to ensure adequate fresh

water inflows. TAP sued the three TCEQ Commissioners and the Executive Director, and the South Texas Water Master, rather than TCEQ

RECENT CASES OF INTEREST

On May 7, 2010, the judge in *Bragg v. Edwards Aquifer Authority*, No. 06-11-18170-CV, Medina County, Texas, indicated in a letter to the parties that EAA's denial of "initial Regular Permits" (IRP) to pump water from the Edwards Aquifer was a regulatory taking with total damages owed by EAA of \$732,493.40. EAA denied any permit for the Bragg's D'Hanis Orchard, and

granted an IRP for only about half of the water requested for their Home Place Orchard. The Braggs sued. Although the act creating the EAA had not deprived the Braggs of all economically viable use of their property, the implementation of the Act and the denial by EAA of requested water permits was a regulatory taking of property by EAA under the principles of *Penn Central Transportation Co. v.*

City of New York, 98 S.Ct. 2646 (1978) and *Sheffield Devel. Co., Inc. v. City of Glenn Heights*, 140 S.W.3d 660 (Tex. 2004). Home Place Orchard damages of \$597,575 are based on the value of the water denied by EAA, while D'Hanis Orchard damages of \$134,918.40 are based on the difference in value of dry farm land versus irrigated farm land. EAA will no doubt appeal.

ENDANGERED SPECIES SUIT (CONT'D)

sure fresh water inflows. This approach - relying on a so-called "failure to regulate" theory of liability under the ESA - is to target regulators instead of water rights holders themselves, presumably because TAP believes it can more easily require the regulators to do what would be more complicated and expensive if challenging myriad rights holders directly. Alternatively, TCEQ might be compelled to enact and enforce a "habitat conservation plan" under the ESA, which could indirectly accomplish the same thing.

Water rights holders have sought to participate in the case, however. The Guadalupe-Blanco River Authority has successfully intervened, in part as a water rights holder, and also as a water supplier and a governmental entity with statutory duties. Others are seeking intervention, including the Texas Farm Bureau (irrigators and domestic and livestock water rights holders), Union Carbide Corporation

and the Texas Chemical Council (industrial water rights holders). The San Antonio Water System (SAWS), the San Antonio River Authority (SARA), and the City Public Service Board of San Antonio may also seek to intervene.

The state defendants and GBRA have filed motions to dismiss, in part on grounds that TCEQ does not have authority to retroactively modify vested water use rights. The state defendants have also asked the court to "abstain" - refrain from hearing the case, on grounds that the state and local entities are already acting to deal with the issue of fresh water inflows, and the court should not interfere with that process. The court has not yet ruled on any of these motions.

Moreover, there are "causation" issues. The facts may not be as clear as TAP asserts. The alleged die-off may instead have been a combination of circumstances such as fewer cranes returning to winter than in years past; and re-

maining crane deaths may have been caused by viral infection rather than adverse effects of high salinity. And there are apparently questions about whether the cranes are as dependent on the blue crabs and berries as TAP alleges.

The case is of significance beyond the two river basins involved. The "failure to regulate" approval differs from the more usual situation where a governmental or private action-not inaction- is the alleged cause of a "take." If successful here, such a "failure to regulate" legal challenge might be urged anywhere based on a state or local government's alleged failure to act by regulation to ensure endangered species' habitats are not in any way adversely affected. For instance, in Texas, mussel species being in all or nearly all Texas rivers estuaries or surrounding bays are now being considered for listing under the ESA; they could be the basis for similar cases.

"The case is of significance beyond the two river basins involved."

PROFILES: WATER AND ENVIRONMENTAL LITIGATORS

Doug Caroom practices in the firm's Austin office. He focuses his practice on issues related to water rights and water development. Doug is a Super Lawyer as designated by Texas Lawyer and an Administrative Law specialist as certi-



fied by the State Board of Legal Specialization. He represents river authorities, cities, counties, special districts, and water rights owners in every area of the state. Doug was formerly the Chief of the Environmental Protection Division, Office of the Attorney General of Texas, 1978-1981. He is Board Certified - Administrative Law by the Texas Board of Legal Specialization.

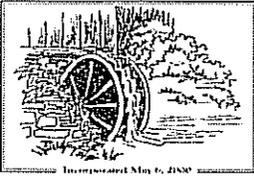
Syd Falk also practices in the Austin office. He handles litigation involving endangered species, voting rights, contracts and governmental issues such as immunity. His educational and professional credentials include a Ph.D. in



Astronomy [Theoretical Astrophysics]. His scientific and analytical background provides a strong base for handling complex and technical matters.

Other members of this team include Bill Dugat, Emily Rogers, Susan Maxwell, Josh Katz, Eno Peters, and Claudia Russell. More information is available at the following website: http://www.bickerstaff.com/practice_areas.php?id=24

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: CONSIDER ACTION
DESIGNATING A *POET LAUREATE* FOR THE
CITY OF WIMBERLEY

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Place Two Council Member Mac McCullough to allow City Council to discuss and consider designating a *Poet Laureate* for the City of Wimberley. Attached is the background information provided on the agenda item.

-----Original Message-----

From: libbysales [mailto:libbysales@austin.rr.com]
Sent: Saturday, June 26, 2010 12:20 PM
To: Don Ferguson
Subject: Re: Draft Agenda

I would like to add that we consider and adopt Wimberley declaring and having a designated Poet Lauriat and name Ode Lisa as that person.

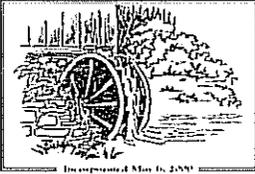
this is an honoree title and position, it does not pay or expect to be compensated in any way or fashion..

A poet Lauriat is a person who on direction will write poems for events, situations surrounding city events, activities' including ceremony's, dedications and the like ..

Ode Lisa [no last name] is local, lives on Mill Race Ln. is blind, has 3 teenage to adult children and is well recognized locally as a poet.

typically all states and large cities have these persons in this title and position .. we well know Wimberley is an emerging area for artist , writers and musicians. this position would seem fitting for our community and image .. mac/mc

City Council Agenda Form



Date Submitted: June 28, 2010

Agenda Date Requested: July 1, 2010

Project/Proposal Title: CITY COUNCIL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by the Mayor and members of City Council and for future agenda item requests.