

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
March 17, 2011 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 Marilee Wood, Mac McCullough, Bill Appleman, and Steve Thurber. Councilmember John White was absent.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and City Attorney Cindy Crosby.

Proclamation

Proclamation declaring Saturday, March 26, 2011 as *Wimberley Disaster Preparedness Day* in Wimberley, Texas

Mayor Flocke read the proclamation to be presented to Wimberley E-M-S at the scheduled event.

Citizens Communications

Representing *Arts Fest 2011*, Julie Ray spoke of the need for more public facilities due to expected high turnout for this event scheduled for Saturday, April 30, 2011. She supported Councilmember McCullough's discussion to explore funding sources for infrastructure improvements (see Agenda Item 4D). City Administrator Ferguson offered to provide assistance in seeking additional capacity.

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of March 3, 2011
- B. Approval of the February 2011 City of Wimberley Financial Statements

Councilmember Appleman pulled Consent Agenda Item 1A. Based on discussion with City Administrator Ferguson and City Attorney Cindy Crosby, Councilmember Appleman withdrew his request to pull Consent Agenda Item 1A. Councilmember Thurber moved to approve Consent Agenda Items 1A and 1B, as presented. Councilmember McCullough seconded. Motion carried on a vote of 4-0.

2. City Administrator Report

This item was heard after Agenda Item 6.

- Status report on plans for the annual City Council photograph

City Administrator Ferguson suggested several dates/times/locations and Council agreed on scheduling the photo session for the morning of Tuesday, March 29, 2011 at Mount Baldy.

- Status report on preparations for the 2011 Christmas celebration in Wimberley

City Administrator Ferguson reported on a meeting to take place next week to consider possibly moving this year's Christmas parade one week later to improve participation. Plans are also underway for events at Market Days and Emily Ann Theatre, as well as Breakfast with Santa. Mayor Flocke and City Administrator Ferguson thanked Terrie Bursiel, and all others involved, for all that they do for the community. Mrs. Bursiel recognized celebration contributors, including Jean Ross, Mark Bursiel, and Martha Knies of *Keep Wimberley Beautiful*.

- Status report on the proposed sale of various LCRA water and wastewater systems

City Administrator Ferguson reported that a community has chosen to take legal action against LCRA relating to the sale of one of its systems. He stated that Council will continue to receive regular updates.

- Status report on the voluntary annexation requests for properties located at 301 and 351 River Meadows Road

City Administrator Ferguson reported on the annexation timeframe, including public hearings scheduled for March 31st and April 7th, service plan preparation, and submission to the U.S. Department of Justice.

- Status report on the development of the Blue Hole Regional Park including, but not limited to, the acquisition of the required development permits, soccer field irrigation plans, employment of park staff and fund raising

City Administrator Ferguson recommended that Council take a brief tour of the Park immediately prior to its next regular meeting on April 7, 2011. He noted that contractors are proceeding in a timely manner and reported on specific construction projects. He anticipated an early June 2011 grand opening of the water area of the Park. All required TCEQ permits have been issued and the City is working with Hays County on signage for the Park, to be consistent with the hike/bike trail signage. Interviews were conducted this week with the four finalists for the Blue Hole Park Manager position and appreciation was expressed to Cathy Flocke and Steve Klepfer for participation on the interview panel. *Friends of Blue Hole* continues to work on activities geared toward energizing its fund raising efforts. Due to construction, it was stressed that the Park is strictly off limits to visitors, which is posted on signage at the Park. Heavy use of

the hike/bike trail was reported and Mayor Flocke stated that many positive comments have been received about the trail.

- Status report on the *2011 City of Wimberley Street Improvement Program*

City Administrator Ferguson anticipated that City Engineer Joel Wilkinson will have bid packages prepared in the next two weeks.

- Status report on the selection of a new Wimberley Community Center Director

City Administrator Ferguson was pleased with the four finalists who were interviewed this week. Parks and Recreation Advisory Board members are examining the possibility of privatizing Wimberley Community Center operations and the Request for Proposal process.

- Status report on the preparations for the May 14, 2011 City of Wimberley General Election

City Administrator Ferguson reported on the drawing results for candidates' positions on the General Election ballot and on voting/early voting dates and times at the Wimberley Community Center.

3. Ordinance

Consider approval of an ordinance amending Chapter 33 (Boards and Commission), by adding Section 33.05 (Budget Advisory Board) of the Code of Ordinances of the City of Wimberley, Texas in order to establish the Budget Advisory Board and provide for the duties, appointment, and removal of board members; and providing for findings of fact, an effective date; proper notice and meeting, and severability. (*City Administrator*)

City Administrator Ferguson explained the proposed ordinance to create a Budget Advisory Board in order to give the public a chance to offer feedback and recommendations on the preparation of the annual City budget. He detailed specific provisions of the proposed ordinance, including the Board's purpose and duties.

Councilmember Appleman questioned whether a seven (7) member board is the most effective number of members. Discussion addressed the benefits and disadvantages of five (5) and seven (7) member boards, respectively.

Councilmember Appleman moved to approve the item, as presented, with the following amendment: Change the number of members from seven (7) to five (5) consensus members to be appointed by Council for a term of two (2) years from the date of appointment. Councilmember Thurber seconded. Discussion reached agreement to make Board terms concurrent with the budget cycle.

Councilmember Thurber offered a friendly amendment to Councilmember Appleman's motion to make the Board's terms concurrent with the budget cycle. Councilmember Appleman

accepted Councilmember Thurber's friendly amendment. Should Council approve terms concurrent with the budget cycle, City Administrator Ferguson clarified that appointments would take place at Council's second meeting in October. Motion (as amended) carried on a vote of 4-0.

4. Discussion and Possible Action

- A. Discuss and consider possible action accepting a financial donation from Judy and Lloyd Provost to help fund certain planned improvements at the Blue Hole Regional Park, in accordance with the Friends of Blue Hole – City Wimberley Partnership Agreement and Blue Hole Element/Amenity Naming Policy, and authorizing the mayor to execute the necessary documents relating to said donation. *(City Administrator)*

This item was heard after Consent Agenda Item 1.

Friends of Blue Hole Director Steve Klepfer introduced Judy and Lloyd Provost, who wish to donate \$20,000 to Blue Hole Regional Park to help fund the development and maintenance of a walking trail to be named the *Prince Provost Trail* for the life of the improvement.

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

Mayor Flocke called a brief recess at 6:12 p.m. in order to execute the necessary documents and allow for photographs to be taken. Mayor Flocke reconvened at 6:15 p.m.

- B. Discuss and consider possible action regarding a recommendation from the Wimberley Transportation Advisory Board (TAB) relating to the possible development of sidewalks along and in the area of FM 2325. *(Wimberley Transportation Advisory Board)*

This item was heard after Agenda Item 3.

City Administrator Ferguson reviewed major issues discussed by TAB, including accessibility, drainage, right-of-ways, curbs/gutters, costs, and funding limitations.

TAB member Bob Bullock stated that this is a Texas Department of Transportation (TxDOT) project, which presently lacks interested parties and funding options, therefore, sidewalk construction is not feasible for the near future.

Given the need to explore alternative funding, Mayor Flocke recommended that staff communicate with other interested parties, such as Katherine Anne Porter School, Wimberley ISD, and state representatives, in order to form a uniform position on the need for safe sidewalks.

No action was taken on this item.

- C. Discuss and consider possible action on a proposed mid-year pay adjustment for members of the City staff and the City administrator. *(Mayor Bob Flocke)*

Mayor Flocke proposed a two percent (2%) mid-year pay increase adjustment for City staff and a four percent (4%) increase for the City Administrator to be paid from funds available due to delays in implementation of the City's contract law enforcement program.

Eagle Rock resident Clint Frankmann stated that raises are not in order in the present financial climate. He relayed a statement attributed to former Councilmember Dick Larson, who could not be present for this item: "The private sectors, the taxpayers, they're having to tighten their belts, things aren't easy for them, and he (Larson) said he expects public servants to do the same." Resuming his own statements, Mr. Frankmann felt that if employees cannot accept that the economy does not warrant raises for public employees, then they might consider seeking a better deal elsewhere. He continued: "Take time and advantage of other opportunities. We, the taxpayers, will understand. We can do with smaller government in Wimberley. If you must move on, we wish you well, and again, I say don't take it personally."

Discussion addressed salary histories and generally favored the proposed adjustments as a beneficial investment in reducing employee turnover and improving service.

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

- D. Discuss and consider possible action regarding the proposed development of a plan to explore the implementation of a City ad valorem tax to fund future City infrastructure improvements including, but not limited to, street, drainage and park improvements.
(Place Two Councilmember Mac McCullough)

Eagle Rock resident Clint Frankmann stated his recollection of Councilmember McCullough's campaign comments against proposing a property tax, unless such taxes were wanted by the people. He did not think that residents are clamoring for property taxes to fund wastewater service to the business district. Mr. Frankmann cited U.S. Census figures and felt that: "Serious consideration should be given to reduce the physical size of the City to correspond with the population requirements, then perceived expenditures would be drastically reduced, therefore, something the City could financially handle. The City seems to be able to raise \$4,000,000-plus for Blue Hole Park, fund hike/bike trails, and pay four times the appraised value for a nature park on Cypress Creek at the Square. I venture that the wastewater system for the Square and its immediate environs is driving the quest for property taxes. As mentioned previously, the residential sector is in no mood to fund a wastewater system for the Square. The funds for the wastewater system might be coaxed from the affluent citizens who readily donate money for tennis courts, park benches, and so on. If the City would place the names of donors on lift pumps, grinder pumps, valves, pipes, and manhole covers, then funds might become available. But then, where's the glory?"

Mayor Flocke clarified that Council is not proposing an ad valorem tax tonight, and even if it were, none of the revenue would be used for wastewater service.

In response to Mr. Frankmann's earlier comments, Councilmember McCullough stressed that he is not promoting an ad valorem tax, but is asking Council to consider how to get public input on

needed funding. He felt that there is some level of hypocrisy in Council's approval of a Budget Advisory Board to find funding options for needed infrastructure improvements that cost far more than the City's current sales tax-dependent revenues. He cautioned against living in denial and encouraged soliciting public input to help solve pressing issues such as street repairs, sidewalks, and water/wastewater. He pointed out that alternative funding entities expect the City to take some financial responsibility and show commitment to meeting its own current and future needs. Councilmember McCullough reiterated that he was not advocating placing ad valorem taxation on a future agenda, but supporting public discussion of constructive ways to generate revenue for infrastructure. He favored keeping a balanced budget and asked for public meetings to discuss this issue.

Mayor Flocke suggested a single-topic Council workshop to plan the best way to inform the community and gather public input. Discussion agreed on the need to determine public consensus and set clear goals for scheduled workshop meetings(s).

Mayor Flocke recommended scheduling a workshop for March 31, 2011, prior to Council's special meeting on voluntary annexations at 6:00 p.m. City Administrator Ferguson clarified Council's direction to schedule a workshop to discuss and consider issues related to the proposed development of a plan to explore possible alternative funding sources.

Councilmember McCullough moved to approve scheduling a Council workshop on March 31, 2011 (time to be determined) to discuss and consider issues related to the proposed development of a plan to explore possible alternative funding sources. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

- E. Discuss and consider possible action on parking issues relating to the Hays County-City of Wimberley Regional Hike and Bike Trail. (*Place One Councilmember Marilee Wood*)

Councilmember Wood noted problems associated with parking in certain easement areas along the trail. She suggested that City Administrator Ferguson meet with other entities, such as Hays County and the City of Woodcreek, in order to find permanent parking solutions for those using the increasingly popular trail.

Councilmember Wood moved to authorize City Administrator Ferguson to conduct meetings with interested parties and report back to Council with more information and possible recommendations. Councilmember Thurber seconded. Motion carried on a vote of 4-0.

- F. Discuss and consider approval of the proposed route for the *Wimberley 4* on Saturday, April 30, 2011. (*City Administrator*)

City Administrator Ferguson noted that this increasingly popular event will use the same route as in the past three years, which begins and ends at the Wimberley High School grounds.

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

- G. Discuss and consider approval of the proposed route for the *Wimberley 4th of July Parade* on July 4, 2011. (*City Administrator*)

City Administrator Ferguson detailed the parade route, which is the same route used last year, beginning near Lions Field on FM 2325 and ending at the former First Baptist Church parking lot on Old Kyle Road.

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

- H. Discuss and consider possible action regarding the future development of a sidewalk on River Road. (*Place Three Councilmember Bill Appleman*)

Councilmember Appleman spoke of the feasibility of various options for a sidewalk along River Road, including types of sidewalks, timeframe for construction, and effect of future development on sidewalks, if constructed. Council discussion agreed on the need for sidewalks to improve safety and mobility.

Councilmember Appleman moved that the City move forward with the appropriated funds for the construction of a sidewalk on River Road and direct City staff to conduct an analysis and implement the sidewalk plan. Motion died for lack of second.

Councilmember Thurber moved to authorize City staff to report back to Council with a proposal, including cost estimates, plans, and an updated presentation on safety improvements from Lange Road along the median of River Road. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

5. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember McCullough requested discussion of increased public facilities, particularly to accommodate larger event crowds.

Addendum to the Regular Agenda

6. Resolution

Consider approval of a resolution of the City of Wimberley, Texas, finding no public acceptance of the road known as Mill Race Lane; and providing findings of fact, a repealing clause, to provide a savings and severability clause and providing for an effective date. (*City Administrator*)

This item was heard after Agenda Item 4A.

Councilmember Appleman recused himself from the meeting at this time.

City Administrator Ferguson explained the purpose of this resolution to formalize Council's action at its March 3, 2011 meeting, when a motion to reaffirm that Mill Race Lane is a public street and to direct City staff to continue maintenance of the street failed in a two (2) to three (3) vote. He suggested that Council retire to Executive Session before taking any action.

Before Mayor Flocke announced that he would call for an Executive Session. At this time, Wimberley resident Dick Larson protested Council going into Executive Session and elected to have his name removed from the speakers' sign-in sheet. Mr. Larson stated that he had to leave the meeting due to business obligations.

Mayor Flocke adjourned Open Session and convened Executive Session at 6:20 p.m. pursuant to §551.071 of the Government Code for consultation with legal counsel.

Mayor Flocke adjourned Executive Session and reconvened Open Session at 6:54 p.m.

No action was taken in Executive Session.

Mayor Flocke entertained a motion. Hearing none, the item died for lack of a motion. No action was taken. Anyone interested in speaking on this item was invited to do so at this time.

Attorney Jimmy Alan Hall, representing Creekhaven LLC (located at the end of Mill Race Lane), made the following statement:

"In looking at this issue, I said 'Why is this before the Council?' On one hand, it's really the issue is: 'Is Mill Race Lane a public easement?' and/or 'Is it a public street?' which are two issues. They are really applying law to facts, which is a judicial action, which is not a legislative act, which the City Council is the legislative arm of government, not judicial, so this should be in the courts, rather than here. In looking at the facts, I looked at what the staff put together and the City Attorney, and I was convinced based upon the facts, that it's a public street. It's been a public street for quite some time, the City is maintaining it - the County is maintaining it - County designation - now it's named Mill Race Lane - you've got a TxDOT green sign out there and it's a public street. It's clearly a public easement that the public uses all the time. I've used it in the past. In 2003, I stayed at the Lodges at Creekside and we wouldn't have found it, but for being able to get there before we had reservations - using the street, and the businesses need it to have the public there. I don't know why there would be a desire to deny those who benefit from the street to use their tax dollars they pay, especially people who come in and pay sales taxes, occupancy tax, and all the taxes they pay, in order to come and have a wonderful weekend or week here, have a paved street to get to where they're going. Of course, my client's perspective is, they are at the very end and if you're going to hit a pothole, you're going to hit all of the potholes going the full distance. So, from Creekhaven LLC's perspective, it's a public street and looking at the issues of what happened in the past and the population and all that, I'm not going to spend a lot of time talking about that, because that's really for a court. Hopefully, the City will continue to maintain this street as a public street - a public right of way. It is one. On the issue of acceptance,

acceptance is not necessarily 'It's not a public street unless it's accepted,' because a street can be dedicated as a public street, and the acceptance process is when the person responsible to build those improvements, and the city accepts the improvements to maintain them. But that's a statute that was enacted as part of subdivision regulations. All the streets that were there before, they become part of the public interest without going through that statutory process that wasn't in place at the time they were there. So the public interest, and there's a 1956 case on this that says the city is the trustee for these types of streets that are there for the public interest. Thank you."

Councilmember Appleman rejoined the meeting at this time.

As the next item, Mayor Flocke announced that Council will hear Agenda Item 2.

At the conclusion of Agenda Item 5, Mayor Flocke called the meeting adjourned at 8:26 p.m.

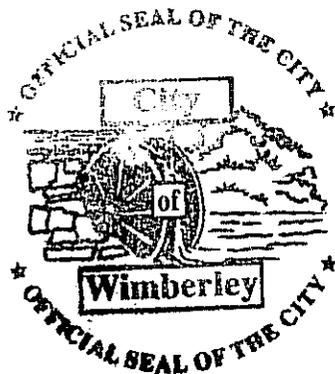
Adjournment: Council meeting adjourned at 8:26 p.m.

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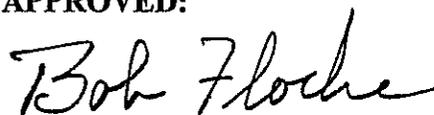


Cara McPartland

These minutes approved on the 7th of April, 2011.



APPROVED:



Bob Flocke, Mayor