

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
October 21, 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, Steve Thurber, and John White. Councilmember Appleman had an excused absence.

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

Citizens Communications

Wimberley resident Malcolm Harris distributed a handout to Council and spoke of the history of Mill Race Lane relating to property ownership, easements, and past improvements. He stated that Mill Race Lane has never been dedicated to the public and that it should remain as a private road easement that is a quaint, country lane with slow-moving traffic. Mr. Harris referred to a letter dated October 15, 2010 signed by residents expressing concerns about problems with drainage and impervious cover that he feared would be caused by changes to Mill Race Lane. Mr. Harris stressed the importance of protecting Wimberley's waterways

Merry Gibson, 310 Mill Race Lane, read the aforementioned letter dated October 15, 2010, as well as a letter from Shellye Arnold of 330 Mill Race Lane. Both letters protested any improvements to Mill Race Lane and the expenditure of any public funds for such improvements. *The full text of both letters is attached to these minutes.*

Scott Johnson spoke on the formal organization of the Mill Race Lane Road Association and advised that contact has been made with Hays County Precinct 3 Commissioner Will Conley in order to research records on Mill Race Lane and its maintenance.

Stephanie Reynolds, who resides at the intersection of Las Flores and La Buena Vista Drives, asked that Council place consideration of removal of the Las Flores barricades on its November 4, 2010 agenda. She felt there needs to be accountability for the decision to close Las Flores and believed that the barricades are not in keeping with "Welcome to Wimberley" signs. Ms. Reynolds cited problems with exiting her driveway and noted that certain Las Flores residents feel that the street is now their personal playground, which she stated is dangerous for children.

1. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of October 7, 2010
- B. Approval of the minutes of the special City Council meeting of October 7, 2010

Councilmember Thurber moved to approve Consent Agenda Items 1A and 1B, as presented. Councilmember McCullough seconded. Motion carried on a vote of 4-0.

Addendum to the Regular Agenda

- C. Approval of the appointment of Rick Burleson to the City of Wimberley Planning and Zoning Commission. (*Place Four Councilmember Steve Thurber's nominee*)

Councilmember Thurber moved to approve Consent Agenda Item 1C, as presented. Councilmember McCullough seconded. Motion carried on a vote of 4-0.

2. City Administrator Report

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

City Administrator Ferguson reported that Guadalupe Blanco River Authority (GBRA) voted unanimously to continue to work with the City of Wimberley to secure funding, but GBRA did not indicate willingness to pledge its system revenues to back the loan. He advised that a special meeting is scheduled for November 1, 2010, so that Council may be briefed by legal counsel on wastewater funding options.

- Status report on the Blue Hole Regional Park development

City Administrator Ferguson reported on submitted bids, most of which were under budget. He anticipated Council action on contract approval at its regular November 4, 2010 meeting. He noted that a groundbreaking ceremony is scheduled for Sunday, November 7, 2010 at 2:00 p.m.

- Status report on the development of an ordinance to regulate non-point source pollution within the City of Wimberley and its extra territorial jurisdiction

City Administrator Ferguson anticipated a recommendation on the proposed ordinance from the Planning and Zoning Commission on November 11, 2010, with Council action scheduled for November 18, 2010.

- Status report on the Ranch Road 12 billboard enforcement effort

City Administrator Ferguson reported on the City's coordinated effort with Texas Department of Transportation (TxDOT) to address complaints about billboard-type signs along Ranch Road 12.

- Status report on the operation of the Wimberley Community Center (WCC)

City Administrator Ferguson reported on an upcoming Parks Board recommendation to modify the fee structure for certain room rental rates. He stated that the process of developing a WCC business plan and Request for Proposal (RFP) is underway.

City Administrator Ferguson spoke briefly on issues with election-related signs at the WCC and clarified the recent policy change regarding temporary signage. He also reported on beautification efforts to improve the look of the Las Flores barricades.

3. Presentations

- A. Presentation of the Wimberley Parks and Recreation Advisory Board Quarterly Activities Report. (*Parks and Recreation Advisory Board Chairman Thad Nance*)

Due to Chairman Nance's scheduling conflict, City Administrator Ferguson stated that this item will be continued until Council's next regular meeting.

- B. Presentation of an update on the City of Wimberley City Limit Boundary Survey Project. (*Baker-Aicklen and Associates*)

Jack Avis of Baker-Aicklen and Associates presented a progress report on the project, including research, scheduling, GPS monumentation, CAD drawings, and GIS layers. He anticipated completion of the project in early November 2010.

Discussion addressed prescriptive easements, inclusion/exclusion of certain areas adjacent to City of Woodcreek, and the associated petition process.

4. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending the City's Comprehensive Plan and accompanying maps to revise the boundaries of Planning Areas II and III, in the general area between the Blanco River and the Wimberley Square, and as further shown on the exhibit attached hereto; and providing for findings of fact; severability; effective date; and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson explained the proposed extension of Planning Area III to include the area of land bounded by Blue Heron Road, Blue Heron Run, Ranch Road 12, and the Blanco River. He noted that property owners with pre-existing, non-conforming uses in the subject area (which includes *The Vineyard* and *Rio Bonito* Resort) requested the change to allow for possible expansion of those commercial uses in the future. He advised that Planning and Zoning unanimously recommended approval at its October 14, 2010 meeting.

No public comments were heard.

Discussion clarified the subject area location. Councilmember McCullough moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

- B. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Wimberley Lions Club to allow the sale of beer, wine and alcohol for on-premise consumption on 15.523 acres located at 601 FM 2325, 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. (*Wimberley Lions Club, Applicant*)

City Administrator Ferguson reported that the Lions Club requested to expand the sale of beer, wine, and alcohol for on-premise consumption to the entire Market Days grounds. He reminded Council that the existing conditional use permit (CUP), which was granted in May 2010, allowed for such sales in the area known as "Hamburger Hill." He stated that no alcohol-related problems have been reported to date. No comments were received from notified property owners and it was noted that sales would be allowed only on Market Days (first Saturday of each month from March through December). Any change to the dates of Market Days would require a CUP amendment. He advised that Planning and Zoning unanimously recommended approval at its October 14, 2010 meeting.

Councilmember Thurber recused himself from the meeting at this time due to a possible conflict of interest.

No public comments were heard.

Discussion addressed reasoning for the scope of this request to extend sales to the entire Lions Club property.

Councilmember McCullough moved to approve the item as presented, which includes the condition that sales would only be allowed during Market Days. Councilmember White seconded. Motion carried on a vote of 3-0.

- C. Hold a public hearing and consider approval of a waiver of the 300-foot distance requirement relating to the sale of beer, wine and alcohol at 601 FM 2325, Wimberley, Hays County, Texas. (*Wimberley Lions Club, Applicant*)

City Administrator Ferguson stated that Council is allowed to waive the distance requirements if it finds enforcement of the distance provision in a particular case:

- Is not in the best interest of the public
- Constitutes waste or the inefficient use of land or other resources
- Creates an undue hardship on an applicant
- Does not serve its intended purpose
- Is not effective or necessary
- For any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines in the best interest of the community.

No public comments were heard.

Citing affirmative findings on all six conditions listed above, Councilmember McCullough moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 3-0.

Councilmember Thurber rejoined the meeting at this time.

5. Discussion and Possible Action

- A. Discuss and consider possible action on a request from the Wimberley Community Civic Club to place signs in the public right of way and an off-premise sign on the site of the Wimberley Visitors Center to promote the *Wimberley Home Tour* scheduled for November 19th and 20th, 2010. (*City Administrator*)

City Administrator Ferguson explained the need for Council approval and recommended approval of the request. Discussion addressed problems with the Civic Club's scheduling and placement of over-the-road banners.

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

- B. Discuss and consider possible action regarding the determination of the future role of the Wimberley Economic Development Commission. (*Mayor Bob Flocke*)

Due to Councilmember Appleman's absence, Mayor Flocke announced that this item will be placed on a future agenda.

- C. Discuss and consider approval of the Fiscal Year 2011 Holiday schedule for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson presented the schedule as follows:

Veteran's Day	Thursday, November 11, 2010
Thanksgiving	Thursday, November 25 Friday, November 26, 2010
Christmas	Friday, December 24, 2010
New Year's Day	Friday, December 31, 2010
Martin Luther King, Jr. Day	Monday, January 17, 2011
Presidents Day	Monday, February 21, 2011
Good Friday	Friday, April 22, 2011
Memorial Day	Monday, May 30, 2011
Independence Day	Monday, July 4, 2011
Labor Day	Monday, September 5, 2011

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

6. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Mayor Flocke requested discussion and possible action on the hiring of a Blue Hole Regional Parks director/superintendent.

Hearing no further announcements or future agenda item requests, Mayor Flocke called the meeting adjourned at 6:58 p.m.

Adjournment: Council meeting adjourned at 6:58 p.m.

Recorded by:

Cara McPartland

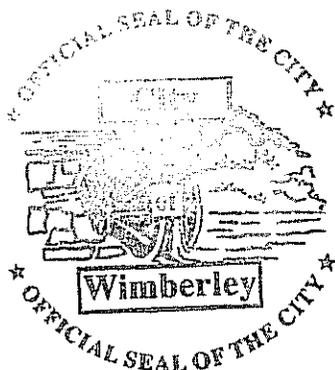
Cara McPartland

These minutes approved on the 4th of November, 2010.

APPROVED:

Bob Flocke

Bob Flocke, Mayor



October 15, 2010

Honorable Mayor and City Council
City of Wimberley
P.O. Box 2027
Wimberley, Texas 78676

Re: Protest of Expenditure of Public Funds to Pave Mill Race Lane

Dear Mayor and City Council:

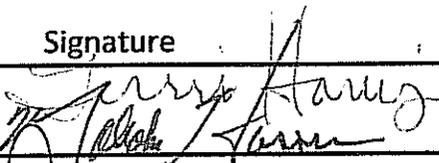
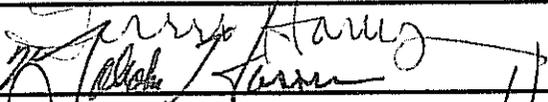
It has come to the attention of the undersigned owners of the private road easement that constitutes Mill Race Lane that the City of Wimberley has embarked on a program of paving and otherwise changing our private road without authorization or consent of the undersigned owners.

Mill Race Lane was created and remains a private easement for road access to the adjoining properties owned by the undersigned persons. It has never been dedicated to the public nor has there ever been any conveyance of title to the City of Wimberley or to any other governmental body.

The undersigned persons do not consent and have never consented to any transfer of our title to the road nor to any dedication of Mill Race Lane to the public.

Accordingly, we do hereby protest the action of the City of Wimberley in undertaking to pave or alter any part or aspect of the road. We do NOT accept the actions of the city in undertaking to pave the road and we do vigorously protest against such expenditure of public funds for use on private property.

We do hereby respectfully request that the City CEASE AND DESIST from expenditure of public monies for paving or other alteration of our road.

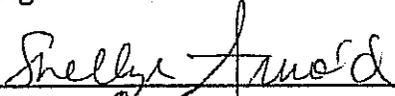
Name	Signature	Mill Race Lane #
TERESA HARRIS		210
MALCOLM HARRIS		210
	DEAN CAMPBELL	411

R10441
R17191

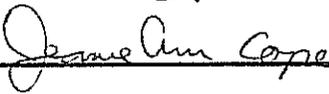
Name

Signature

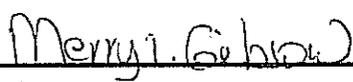
Mill Race Lane #

Shellye Arnold  330 R27103

SCOTT JOHNSON  R17198

Jeanne Ann Cope  #109 & 111 R18438
R18461

Jimmie Robinson (WSEA1) R-107228

Mary G. Gibbs  R27102 - #310

Mary G. Gibbs for Tugay-Himmer Inc. R 18392 #300

Julian and Mary Ann Ward 113, 115, 117 R18584

October 18, 2010

Physical Address

330 Mill Race Lane
Wimberley, Texas 78676

Mailing Address

P.O. Box 1823
Wimberley, Texas 78676

Mobile number: 713/299-0237

The Honorable Bob Flocke
Mayor, City of Wimberley
The Honorable Charles Roccaforte
Place One City Councilmember
The Honorable Mac MacCullough
Place Two City Councilmember
The Honorable Bill Appleman
Place Three City Councilmember
The Honorable Steve Thurber
Place Four City Councilmember
The Honorable John White
Place Five City Councilmember
Mr. Don Ferguson
City Administrator

Dear Mayor Flocke, Honorable City Council Members and Mr. Ferguson:

I am writing to protest the ongoing work on Mill Race Lane by the City of Wimberley. I would appear before Council to deliver this letter in person but am traveling on business.

I have contacted the City many times over the years to protest the use of public funds for this private road. I have protested the City doing any work on my property.

Most recently, on September 24, 2010, the City laid blacktop paving on the end of Mill Race Lane, which was not previously paved (it was caliche). I object to this paving on the following grounds:

1. This was done **on my private property**. The black top paving covers my survey pins (the ones on record with the county in my deed), and I can no longer identify my property lines. I did not authorize this work, and as mentioned have repeatedly demanded that the City cease and desist doing work on my property. This was a use of public funds to pave my private property, which is illegal and to which I vehemently object.
2. The work was done on **others' private property** as well. As a taxpayer, I object to this use of public funds for work on private land that serves private interests.
3. What was on the road (**caliche**) was a permeable surface, allowing rain to soak into the ground and minimize runoff. This serves to **protect the environment and specifically Cypress Creek**. Every step we take such as this one degrades the environment and potentially harms Cypress Creek.
4. The asphalt-paved road contains **Benzene**, which cuts through clay and runs fast and deep with rainwater. It will likely run to the nearest water source, Cypress Creek.
5. Permeable surfaces also help **prevent flooding**. I am not aware of any engineering study that was done to evaluate the effect that this impermeable surface would have on water flow. My home has never flooded since I have owned it, and I certainly hope it does not flood in the future due to this roadwork.

6. The new paving has created a **dangerous traffic issue** in the form of drivers driving too fast. With the recent paving, neighbors and I have witnessed drivers accelerating down the end of the lane at speeds that could potentially endanger people and wildlife. While unattractive and inconvenient, the potholes served as de facto speed humps and slowed traffic. The new paving – with no road humps or signage – removes barriers to speed.
7. This is a private road paved by City funds with the apparent purpose of serving Council member Appleman's private property.

With this letter I want to go on record again asking the City to CEASE and DESIST work on my private property and on the private property referred to as Mill Race Lane.

Thank you.

Respectfully submitted,

A handwritten signature in black ink that reads "Shellye Arnold". The signature is written in a cursive, flowing style.

Shellye Arnold
Owner
330 Mill Race Lane
Wimberley, TX 78676