

City of Wimberley
City Hall
221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
June 21, 2012 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Bob Flocke.

Mayor Flocke gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Bob Flocke and Councilmembers Tom Talcott, Mac McCullough, Matt Meeks, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and City Attorney Brad Young

Proclamation

Mayor Flocke presented a proclamation to representatives of Dripping Springs Vodka in recognition of its support and title sponsorship of the Blue Hole Regional Concert in the Park Series held during April 2012.

Citizens Communications

Mill Race Lane resident Mr. Jerre Cope felt that Council does not understand the stakes involved for property owners (related to the issue of Mill Race Lane street improvements) and stated that the City is beginning the condemnation of his home. Mr. Cope referred to correspondence and verbal communication he received from Bill Appleman regarding the scope of proposed improvements (attached to these minutes) and expressed concerns about expanding the scope of said improvements. He feared expansion of the proposed street improvements beyond the existing road surface and stated that such expansion could "make my house go away." Mr. Cope advised that he has personally put concrete in potholes and that his wife has cleared culverts on Mill Race Lane.

Attorney Mark Cusack, who was contacted by certain Mill Race Lane property owners, felt that the City cannot proceed with street improvements without permission of the land owners. As legal representative for Mill Race Lane property owners Dean and Alison Campbell, Mr. Cusack advised of impending civil litigation against neighboring Mill Race Lane resident Bill Appleman and stated that the City of Wimberley may be included as a party, if necessary. Mr. Cusack spoke of his intention to request an injunction and suggested a meeting with the City Attorney to try to reach consensus on this issue before any further legal action is taken.

Merry Gibson of 310 Mill Race Lane read a letter signed by specific Mill Race Lane property owners regarding "Protest of Expenditure of Public Funds to Pave Mill Race Lane." She submitted the signed letters to Council (attached to these minutes).

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of June 7, 2012
- B. Approval of the reappointment of Beth Mitchell to the consensus position on the City of Wimberley Planning and Zoning Commission. (*Mayor Bob Flocke's nominee*)
- C. Approval of the May 2012 City of Wimberley Financial Statements

Mayor Flocke pulled Consent Agenda Items [1B and 1D (See Addendum to Regular Agenda on page 7 of these minutes for Item 1D)]. Councilmember Thurber moved to approve Consent Agenda Items 1A and 1C, as presented. Councilmember Meeks seconded. Motion carried on a vote of 5-0.

Mayor Flocke and Councilmember Thurber spoke on their respective nominees' qualifications. After discussion of nominating/voting procedures among City Administrator Ferguson and Council, Councilmember Thurber nominated Pat Rehmet to the consensus position on the Planning and Zoning Commission. Councilmember White nominated Beth Mitchell to the consensus position on the Planning and Zoning Commission. Mayor Flocke called for a vote on the nominations as follows:

	Nominee Beth Mitchell	Nominee Pat Rehmet
Councilmember White	X	
Councilmember Thurber		X
Councilmember Meeks	X	
Councilmember McCullough		X
Councilmember Talcott	X	

The reappointment of Beth Mitchell to the consensus position on the Planning and Zoning Commission was approved by a vote of 3-2.

2. City Administrator Report

- Status report on preparations for the Fourth of July Parade

City Administrator Ferguson reported on barricades/law enforcement, community notification system message regarding the event, parade route, and start/end times. He asked Council for its input on participation in the parade.

- Status report on the acquisition of a new copier for City Hall

City Administrator Ferguson reported on the upcoming acquisition of a replacement multi-function copier with enhanced features at a cost comparable to the current copier.

- Status report on water quality of the Blanco River and Cypress Creek

City Administrator Ferguson reported that E-coli levels are well within acceptable limits for recreational water quality. Higher counts noted in the Square area, with monitoring to continue.

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

City Administrator Ferguson reported record attendance for the Park's swimming area, with season pass sales running ahead of last year. Park capacity levels are closely monitored and adhered to. He reported on the success of the Friends of Blue Hole Concert in the Park held June 9th, thanked Council for its participation, and advised that this event will continue on an annual basis, and possibly expand into a one-day music festival. He noted regular use of the upper portion of the Park containing the playscape and trails. Phase 2 construction efforts are almost finished and establishment of soccer field grasses is being closely monitored. Dedication of the donor tree is scheduled for Sunday, June 24, 2012 from 3 to 5 p.m., in recognition of donors to the Park. Regarding comments made during recent budget meetings, City Administrator Ferguson clarified that the entire Park property is largely grant-funded and dedicated park land that cannot be used for cemetery space. Councilmember McCullough requested an official summary of the City's position on this issue and City Administrator Ferguson responded affirmatively. Personally speaking and on behalf of Friends of Blue Hole, Councilmember Thurber thanked the entire staff for its team effort ensuring a flawless and successful Concert in the Park on June 9, 2012.

- Status report on the operation of the Wimberley Municipal Wastewater Treatment Plant

City Administrator Ferguson reported that the fence installation around the drain field is complete. He provided details on the fence's specifications and building materials. He provided information on the Texas Water Development Board's allocation process for potential funding of downtown wastewater service, project ranking, and feasibility study progress.

- Status report on preparations for the City Council workshop on goals and priorities

City Administrator Ferguson reported that the workshop is scheduled for Saturday, June 23, 2012 from 9 a.m. to 2 p.m. at the Texas Disposal Systems events pavilion in Creedmoor.

3. Ordinance

Consider approval of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 151 (Building Regulations; Construction), Sections 151.01 (Residential Building Code Adopted; Amendments) and 151.02 (Commercial Building Code Adopted; Amendments) of the Code of Ordinances to allow property owners to perform certain non-structural residential roofing repairs and reroofing work without a building permit and to require a building permit for all commercial roof repairs and reroofing regardless of who is performing the work; and providing findings of fact, a repealing clause, to provide a savings and severability clause, proper notice and meeting,

and providing for an effective date. (*Code Review Task Force; this item was continued from the June 7, 2012 City Council meeting*)

City Administrator Ferguson reviewed draft ordinance language, which has been simplified in accordance with Council's direction.

Councilmember McCullough questioned the need for permits for residential roofing work, whether the work is being done by the homeowner or by a roofing contractor. Discussion addressed the permitting process as needed in part to protect the public from possibly unscrupulous contractors, particularly after disasters such as hail storms. The use of insurance company-approved contractors and effect of local ordinance(s) on homeowners' insurance rates was also discussed.

Councilmember Meeks moved to approve the item, as presented. Councilmember McCullough seconded. Councilmember McCullough made a friendly amendment to the motion to remove the requirement for residential building permits when non-structural work is being done by the homeowner or by a third party. Councilmember Talcott seconded the friendly amendment.

Discussion addressed the need for a system of checks and balances as protection for homeowners.

Mayor Flocke called for a vote on the friendly amendment as follows: Councilmember White, nay; Councilmember Thurber, nay; Councilmember Meeks, nay; Councilmember McCullough, aye; Councilmember Talcott, aye. Motion on the friendly amendment failed on a vote of 2-3.

Mayor Flocke called for a vote on the original motion to approve the item, as presented. Motion carried on a vote of 5-0.

4. Discussion and Possible Action

- A. Discuss and consider possible action awarding a contract for the Mill Race Lane Improvement Project. (*City Administrator*)

City Administrator Ferguson summarized the scope of work to be done under the bid schedules. He recommended Bid Schedule "A" to be performed by the Aaron Concrete Contractors, which will subcontract to Cummings Paving Company of Blanco. If approved, he anticipated work to start within two (2) weeks and to be completed within thirty (30) days. He advised that meetings will be scheduled with Mill Race Lane property owners to discuss the improvement project.

Councilmember McCullough felt that there is no rush to make improvements in light of residents' expressed concerns, particularly comments made by Mill Race Lane property owner Jerre Cope. Mayor Flocke advised that the project will not impact the Copes' property because improvements will not extend past the existing roadway and not widen the roadway.

Councilmember Thurber moved to approve the item, as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action on a proposal to address the parking and trespass issues on Flite Acres Road. (*City Administrator*)

City Administrator Ferguson recommended the following proposed multi-faceted approach:

- Install signage prohibiting on-street parking on both sides of Flite Acres Road from University Drive to Little Ranches Road
- Meet with the Hays County District Attorney and Wimberley Municipal Prosecutor to discuss the case information needed to successfully prosecute trespassers
- Meet with property owners in the target area to enlist their support for a plan to curb trespassing by river users
- Secure release forms from property owners in the target area authorizing peace officers to access their property to apprehend trespassers and agreeing to prosecute trespassers found on their property
- Install uniform no-trespassing signage on each of the properties in the target area
- Coordinate parking and trespassing enforcement efforts with personnel from the Texas Parks and Wildlife Department, Hays County Sheriff's Department, Hays County Precinct 3 Constable and the Wimberley City Marshal

He stated that a public information campaign on the proposed anti-trespassing measures would be implemented and acknowledged that trespassing problems could appear elsewhere once enforcement begins in the target area.

Discussion addressed property ownership rights, trespassing laws on navigable waterways, coordination with Hays County for certain properties outside city limits, proposed no-trespassing signage, participation of homeowners in the proposed program, and problems associated with identification of residents versus bed and breakfast guests.

City Marshal Wayne Acton spoke on the need for proper identification of possible trespassers, law enforcement presence, and continued monitoring.

Discussion addressed problems associated with recent groups of trespassers on specific properties.

Councilmember Thurber moved to approve the item, as presented. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action on a request from the EmilyAnn Theatre & Gardens for the City to reimburse a portion of the building permit fees associated with a current construction project on the non-profit organization's grounds. (*City Administrator*)

City Administrator Ferguson explained the scope of the construction project and Council's authority to waive building permit fees under State law, if Council determines that such a waiver serves a valid municipal purpose. He noted that waivers have been granted to date only for the City's permit fees (not "pass-through" inspection fees charged to the City by A-T-S Engineers)

and those limited fee waivers have only been granted for other local political subdivisions such as the Wimberley ISD and the Wimberley Fire Department. He advised that the Texas Constitution prohibits cities from waiving a building permit fee for an individual or organization and from granting public money or anything of value in aid of an individual, association, or corporation. Based on staff's review of this request, City Administrator Ferguson recommended that Council deny the request as such a waiver does not serve a valid municipal or public purpose.

Discussion addressed the intended use of the building under construction, economic development issues, fee waivers for taxing entities versus non-profit organizations, and problems with setting a precedent for other non-profit organizations, which may request permit fee waivers in the future. Discussion established that the City's permit fee, which does not include A-T-S Engineers' pass-through fees, amounts to \$491. Councilmember McCullough felt that the City should waive its \$491 permit fee.

Councilmember Thurber moved to deny the request. Motion died for lack of a second.

Councilmember McCullough moved that the City waive its building permit fee and reimburse EmilyAnn Theatre & Gardens the amount of \$491. Councilmember Talcott seconded.

City Administrator Ferguson reminded that the motion needs to include Council's determination that there is a declared public purpose for the waiver.

Discussion addressed whether fee waiver eligibility exists for certain types of non-profit organizations (as opposed to taxing entities such as the Wimberley ISD and the Wimberley Village Library) and an organization's impact on the local economy through its ability to bring in visitors. Councilmembers McCullough and Talcott favored approving the fee waiver based on the beneficial effect that the EmilyAnn Theatre/Veterans Memorial has on the local economy through increased visitation and sales tax revenue and defining that benefit as serving a valid public purpose.

In response to Mayor Flocke's request for suggestions, City Administrator Ferguson reiterated staff's concerns about associating fee waiver requests with sales tax revenue generation and possible future requests from other non-profit organizations. Discussion addressed economic development agreements; difficulties in projecting increased sales tax revenues; and differences among the various types of local non-profit organizations that may request fee waivers in the future, including whether such organizations are open to the public and/or charge admission fees.

Councilmember McCullough called the question.

Mayor Flocke restated Councilmember McCullough's motion to waive the \$491 building permit fee (seconded by Councilmember Talcott) and stated the public purpose as sales tax generation. Mayor Flocke called for the vote. Motion carried on a vote of 4-1. (Councilmember Thurber voted against.)

- D. Discuss and consider possible action on proposed rules and regulations for Blue Hole Regional Park. (*Parks & Recreation Advisory Board*)

City Administrator Ferguson requested that this item be pulled to allow the Parks & Recreation Advisory Board to consider recommendations on comprehensive rules and regulations for all City parks. No vote was taken.

Addendum to the Regular Agenda

1. Consent Agenda

- D. Approval of the appointment of Pat Rehmet to the consensus position on the City of Wimberley Planning and Zoning Commission. (*Place Four Councilmember Steve Thurber's nominee*)

See action taken under Consent Agenda on page 2 of these minutes.

5. City Council Reports

- Announcements
- Future Agenda Items

Councilmember McCullough requested that the Parks & Recreation Advisory Board work with Ace Hardware to draft a long-term lease agreement for the "triangle" property at Ranch Road 12 and FM 2325, which was deeded to the City by Pedernales Electric Cooperative. Mayor Flocke felt that Ace Hardware can work with the Parks Board on helping to develop the property without a long-term lease agreement. City Administrator Ferguson clarified that the key issue is that the property must be used for public, not commercial use.

Councilmember Talcott announced that he will not be able to attend Council's next meeting on July 5, 2012.

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

Adjournment: Council meeting adjourned at 7:28 p.m.

Recorded by:


Cara McPartland

These minutes approved on the 5th of July, 2012.



APPROVED:

Bob Flocke

Bob Flocke, Mayor

June 20, 2012

Honorable Mayor and City Council
City of Wimberley
P.O. Box 2027
Wimberley, TX 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 is laying plans for unilaterally 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 adjoining properties owned by the respective property owners. 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 Mill Race Lane property owners 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 actions of the City of Wimberley in laying plans to pave or alter any part or aspect of the road. We do not and will not accept the actions of the city in undertaking unilaterally to pave the road and we do vigorously protest against such expenditure of public funds for use on private property. We do hereby reserve our rights as property owners to take such action as may be necessary to protect Mill Race Lane from such unauthorized invasion by city authorities.

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

Sincerely,

A handwritten signature in black ink, appearing to read "M. J. Johnson". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

June 20, 2012 Mill Race Lane Property Owners Protest Letter to the City of
Wimberley

Mill Race Lane Property Owner:

Signature and Printed Name

Address

Telephone #

M. F. JOHNSON

512 847 2745

M. F. Johnson 602
SABINO
RANCH
WIMBERLEY TX. 1010
78676

June 20, 2012

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

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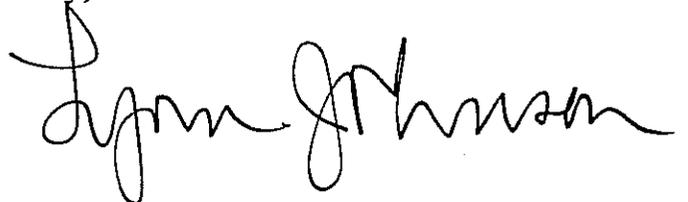
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We do hereby, once again, respectfully request that the City CEASE AND DESIST from expenditure of public monies for paving or other alteration of our road.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Johnson". The signature is written in a cursive style with a large initial "L".

June 20, 2012 Mill Race Lane Property Owners Protest Letter to the City of Wimberley

Mill Race Lane Property Owner: Lynn Johnson

Signature and Printed Name

Address

Telephone #

Lynn Johnson (512) 757-3643

604 Sabrina Ranch Rd

109 Mill Race Ln.

June 20, 2012

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

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Sincerely,

June 20, 2012 Mill Race Lane Property Owners Protest Letter to the City of
Wimberley

Mill Race Lane Property Owner:

Signature and Printed Name Address Telephone #

Jerre M Cope 109 Mill Race LN *Jerre M Cope*

Jeanne Anne Cope 109 Mill Race LN *Jeanne Anne Cope*
512 8473464

Shellye Arnold
B

To: The Honorable Mayor and City Council, City of Wimberley

From: Shellye Arnold, 330 Mill Race Lane, Wimberley, TX 78676

CC: Patrick Mahoney, Dore Mahoney Law Group

Date: June 21, 2012

Re: Expenditure of Public Funds to Pave Mill Race Lane

Dear Mayor and City Council,

It is my understanding that the City of Wimberley plans to pave Mill Race Lane, despite the plans that we, the private citizens and owners of Mill Race Lane, have to do so ourselves. More disturbing is the fact that the City plans to again pave a privately-owned road.

Mill Race Lane was created and remains a private easement for road access to adjoining properties owned by the respective property owners. It has never been dedicated to the public, nor has there ever been any conveyance of title to the City of Wimberley or any other governmental body. In his letter to you on December 20, 2010 after researching the ownership issue, County Commissioner Will Connelly stated that "no foundation of (public) ownership could be determined" and that "it appears that the County's designation of Mill Race Lane as a public road was in error." This letter is attached for your reference.

I continue to vehemently protest any City of Wimberley work done on my, and the adjacent landowners', private property which is Mill Race Lane, as I have done in letters to the City of Wimberley on March 27, 2006; August 10, 2009; August 16, 2009; October 18, 2010; personal visits to City Hall; and multiple City Council testimonies.

The September 24, 2010 paving that was done on Mill Race Lane was done despite previous protests, and with no notification of any property owners except for the one property owner who wanted this work done, Bill Appleman. Mr. Appleman had the opportunity to move his cars to the end of the Lane unlike all other property owners on the Lane when this work was done.

The road base that was laid by the City at the end of Mill Race Lane on March 17, 2006 as well on Mr. Appleman's private parking lots and driveways was not only done illegally (using public funds) but also against the directives of the Transportation Advisory Board, who had directed that no roadwork be done on Mill Race Lane until a survey and research on ownership were completed (which had not been undertaken at that time). Further, the work order was written for Mr.

Appleman's personal address. It is my understanding that this has never been repaid to the City by the private party who benefitted from this work.

When will the City of Wimberley stop using public funds for the benefit of one private citizen, and in direct opposition to 19 of 23 property owners who live along Mill Race Lane? How many tens of thousands of tax dollars have already been spent on paving, surveys, research, and attorneys' fees to benefit one citizen's personal and business interests?

Once again, I respectfully request that the City of Wimberley CEASE AND DESIST from expenditure of public monies for paving or otherwise altering our road.

Please make this letter a part of the City of Wimberley public record.

My mailing address and phone number for future communications is:

P.O. Box 1823
Wimberley, Texas 78676
713/200-0237

Thank you,

Shellye Arnold

310 MRL

June 20, 2012

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

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Sincerely,

June 20, 2012 Mill Race Lane Property Owners Protest Letter to the City of Wimberley

Mill Race Lane Property Owner:

Signature and Printed Name

Address

Telephone #

Mary L. Gibson 310 Mill Race Ln 512-722-3507
Wimberley

Mary L. Gibson

300 Mill Race

June 20, 2012

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

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Sincerely,

Sally Trapp

June 20, 2012 Mill Race Lane Property Owners Protest Letter to the City of Wimberley

Mill Race Lane Property Owner:

Signature and Printed Name

Address

Telephone #

Sally Trapp for the Lodge at Creekside Condominium Owners Association	300 Mill Race Ln. Wimberley, TX 78676	512-423- 5294
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Sally Trapp

June 20, 2012

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

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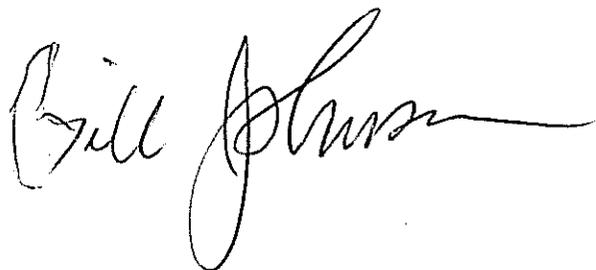
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Sincerely,

A handwritten signature in black ink, appearing to read "Bill Johnson", with a long, sweeping horizontal stroke at the end.

June 20, 2012 Mill Race Lane Property Owners Protest Letter to the City of
Wimberley

Mill Race Lane Property Owner:

Signature and Printed Name

Address

Telephone #

WM.P. "BILL" JOHNSON 602 SABINO RANCH

572-847-2745

June 2012 Mill Race Lane Property Owners Protest Letter to the City of Wimberley

As a Mill Race Lane Property Owner, I do hereby join in the protest submitted by the Mill Race Lane Association:

Signature and Printed Name

Address

Telephone #

H: 512-847-6116

alison courtney campbell alison courtney campbell	411 Mill Race Lane Wimberley, TX 78676	H: 512-847-6116 H: 512-847-6116	cell # 512-567-1148
Den Campbell DEN CAMPBELL	411 Mill Race Ln WIMBERLEY, TX 78676		512-585-5574

Alison Campbell
411 Mill Race Lane
Wimberley, TX 78676

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

June 20, 2012

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

Dear Mayor Flocke and City Council,

I am writing to register my official complaint over your plans to pave the private, dead end, road to nowhere, that is Mill Race Lane. I am appalled at the blatant disregard for private property rights demonstrated by your actions.

Tom Talcott, one of the city councilmen, says in his Facebook profile that he is "Fiscally conservative". His political views state that he will "Protect property rights. Keep government from over taxing. Protect the environment." That's a campaign slogan if I ever heard one!

Talcott's words are a pleasant sentiment, but his actions and voting record, along with ^{that of} every other council member except for Mac McCullough, demonstrate ~~that the council has~~ an unspoken agenda for our quaint hill country town.

I suspect ^{there exists a} ~~that someone~~ ⁱⁿ the pocket of local business interests, whose vision of Wimberley's future ^{that} is not to maintain our country charm. Maybe some of you hope to turn Wimberley into the next Fredricksburg. That would turn ~~the~~ property investments into gold, wouldn't it? All this graft will be the death of our "Little Piece of Heaven", if you aren't careful.

I live on a quiet road. It is narrow and winding, with blind curves and long stretches that flood during heavy rains. The city of Wimberley can't afford to make this road meet current environmental specs, and you have already paid for the proof with the thousands of dollars you have spent on surveys,

title opinions, mediations, and environmental studies. Why don't you just leave Mill Race Lane alone?

Our road is a step back in time. It is "old Wimberley". It is calm and *populated* ~~scattered~~ with raccoons and deer. We and our children and grandchildren ride bikes and walk along the lane. We don't want a super-smooth road that rubber-neckers and out-of-towners can whoosh down at 30 MPH.

My daughter and I have a graveyard on our property where we have buried the dead bodies of many fawns killed at the deer crossing behind Malcolm Harris's place, on the blind curve.

The only property owners on the lane who are in favor of your plan are an absentee owner/real estate investor and a bed and breakfast owner.

What would the citizens of Wimberley think about your plans to use what meager funds we have available to maintain Wimberley's roads on the paving of a privately owned, dead-end road? If anyone read the newspaper, they would rise up against you.

Please stop this land grab, and leave us to maintain our road ourselves, as we have since the 1930s. I/we do not consent to the transfer of our title or of the city's plans to repave our road. We respectfully request that you cease and desist from expenditure of public money for any more attention to or handling of Mill Race Lane.

Respectfully,



Alison Campbell
411 Mill Race Lane
Wimberley, TX 78676

847-6116

Subject: Fwd: RE: Mill Race Lane

From: Jeanne Ann [REDACTED]

Date: 07/07/2011 08:21 PM

To: Jerre M Cope [REDACTED]

I think this is the one you are talking about.

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

Subject: RE: Mill Race Lane

Date: Tue, 2 Feb 2010 12:31:12 -0600

From: Pat Appleman [REDACTED]

To: 'Scott Johnson' [REDACTED], 'Shellye Arnold'

[REDACTED], 'Jeanne & Jerre Cope' [REDACTED]

CC: [REDACTED], [REDACTED], [REDACTED]

Scott,

Thank you for your email and previous communication concerning Mill Race Lane.

Historical deeds of the property along Mill Race Lane do indeed describe a twenty-five foot unobstructed road right away, the Mill Race itself, and a five foot easement going along the northwest side of the Mill Race to be held in joint ownership of the respective property owners. After the mill was closed, the mill race and the water running in the mill race was to be used to supply water for drinking, power and irrigation purposes to the property owners who had joint ownership of the forty plus foot easement. In today's terms, I think we could view the jointly owned forty plus ft. as a road, a utility easement and a pedestrian walkway for all of the property owners up and down the road.

Although I don't have the exact date, the property owners along Mill Race Lane gave up their ownership of the road sometime in the last forty years when they first allowed the county to take over paving and maintenance of the road. I'm in possession of surveys of property along the lane which identify the road as County Rd. 177. This was the same designation of the county road sign that still existed when I bought my property in February of 2003. I've been in communication with a former Hayes county commissioner who oversaw the paving and repair of the lane during his tenure before city incorporation. Since incorporation, the city, although poorly, has maintained the roadway and there has been a green "Mill Race Lane" sign at the end of the road identifying it as a public roadway.

In 1992 the last 300 feet of Mill Race Lane was publicly dedicated to the county in the creation of the "End of Mill Race" subdivision. The county could not have accepted this portion of the roadway unless the rest of the lane was already a county roadway. In 2006, the city spent \$25,000 on a survey in an attempt to identify the 25 foot city right of way known as Mill Race Lane.

Before I bought my property, Mill Race Lane was identified as one of the top three road repair priorities of the young city and the monies needed to repair the road had been appropriated. Unfortunately, the legitimate need to look at drainage issues allowed for the successful politicking by a select few property owners along the lane to keep us as the worst public road in Wimberley. This has affected my property value as well as my livelihood.

All of the above information can be substantiated.

I have attached a document prepared by Jerre Cope some five years ago summarizing the feelings at that time of most of us along the lane. We subsequently learned that we had no legitimate argument with regard to ownership of the 25 ft. right of way. We answered that question then, we know it now, so let's put an end the falsehoods regarding ownership claims to Mill Race Lane and move on to working with the city to repair a city road to the satisfaction of

everyone The city administrator informed me that if 100% of the property owners who gain access to their properties from Mill Race Lane are in favor of "privatization" we can move in that direction, but standards would have to be agreed on. We went down that road (pun intended) five years ago, and I personally have never heard one valid argument to support this scheme and would not be in favor of it. If you are interested, I am willing to host a meeting with all interested parties to discuss our desires and concerns to the city, and determine how to clean up and beautify those areas that remain in joint ownership.

Bill Appleman

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ILYISPFMTU

From: Scott Johnson [mailto:████████████████████]
Sent: Monday, February 01, 2010 4:20 PM
To: Shellye Arnold; Bill Appleman ; Jeanne & Jerre Cope
Subject: Mill Race Lane

Last week I mailed out the attached letter to your mailing address regarding Mill Race Lane. I've resent it in this email to be sure that you do receive it in case the mailing address was incorrect. Please let me know if you have any questions.

Thanks,
Scott

Scott Johnson, President
Cedar Stump, LP
P.O. Box 1435
Wimberley, TX 78676
512-925-1973 (cell)

—Attachments:

RoadWayPartOne.pdf

30.4 KB