

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
September 5, 2013 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 and City Secretary Cara McPartland

### **Citizens Communications**

No citizen comments were heard.

### **Proclamation**

A proclamation of the City of Wimberley, Texas proclaiming the week of September 17-23, 2013, as *Constitution Week*.

Mayor Flocke presented the proclamation to Daughters of the American Revolution representative Julie Clements who thanked Mayor Flocke and Council and spoke on the contribution made by women during framing of our Constitution.

### **1. Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of August 15, 2013
- B. Approval of the minutes of the Special City Council meeting of August 19, 2013
- C. Approval of the July 2013 Financial Statements for the City of Wimberley

Councilmember Meeks moved to approve all Consent Agenda items, as presented. Councilmember Talcott seconded. Motion carried on a vote of 5-0 on Consent Agenda Item 1C. Motion carried on a vote of 4-0 on Consent Agenda Items 1A and 1B (Councilmember Thurber abstained).

### **2. Presentation**

Presentation regarding the recent certification of the Blue Hole Regional park in Wimberley, Texas by the *Sustainable Sites Initiative*. (Steven Spears, Design Workshop)

Design Workshop representative Steven Spears highlighted Blue Hole Regional Park's history and gave a presentation on the Sustainable Sites Initiative (SITES) program and award-winning development of the Park, which implemented SITES' sustainable strategies. Mr. Spears presented Mayor Flocke and City Council with the SITES certificate, which gave the Park a One-Star Certification rating and he noted that the Park is the largest site nationwide to receive such certification. He provided information on previous design awards and survey results showing improvements in user satisfaction, visual appeal, parking/access, safety, and increased visitation. Design Workshop representative Emily Risinger also gave an overview of the SITES certification process, including the points/ranking system, and comparison to other SITE-certified projects nationwide.

Mayor Flocke thanked Design Workshop and major Park benefactors Peter and Mary Faye Way for their contributions to the successful development of the Park. Mr. Way expressed appreciation to committee members who had the foresight to select Design Workshop for its outstanding planning, design, and construction management of the Park's development project, including the firm's generous contribution to the project.

### **3. City Administrator Report**

- Status report on the possible modification of the intersection of Ranch Road 12 and FM 3237

City Administrator Ferguson reported on upcoming replatting due to redevelopment of property at the subject intersection and issues related to right-of-way acquisition for possible future improvements as outlined in the Hays County Transportation Master Plan.

- Status report on the search for a manager for the Blue Hole Regional Park

City Administrator Ferguson reported on significant interest in the Park Manager position, with interviews scheduled for next week involving staff, the Parks and Recreation Board, and Friends of Blue Hole.

- Status report on preparations for the *2013 National Night Out Against Crime* in Wimberley, Texas

City Administrator Ferguson reported on upcoming activities scheduled for Tuesday, October 1, 2013, with updates to follow on event location and activities.

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

City Administrator Ferguson reported on record attendance over Labor Day weekend, with Park capacity exceeded at certain times on Sunday, September 1, 2013. He advised Council of procedures in place to accommodate those visitors who were temporarily turned away due to capacity limits. He noted post-Labor Day operating dates/times, estimated season attendance (approximately 36,000 visitors), and off-season restoration measures.

Discussion addressed implementing mechanisms such as various types of guest paging systems to help notify visitors of the Park's entry status during peak times. There was brief discussion of cross-promotion of Jacob's Well as an alternative recreation site, in the event Blue Hole Regional Park is not admitting visitors due to capacity limits.

#### **4. Public Hearing and Possible Action**

- A. Hold a public hearing on the Proposed Fiscal Year 2014 City of Wimberley Budget. (*City Administrator; no action will be taken on this item*)

City Administrator Ferguson summarized the Proposed FY 2014 Budget process and provided details on revenues/expenditures for the General Fund and certain Special Funds. He highlighted specific proposed expenditures, including the City's first payment on the anticipated Texas Water Development Board (TWDB) loan, street maintenance, central Wimberley master plan study, Public Works vehicle, Code republication, tree-trimming/landscape maintenance, social service funding, court/marshal operations, Community Center operations/maintenance, personnel, contract services, and materials. He noted the need to address funding for road/drainage improvements. He provided a summary of revenue sources, including Special Revenue Funds related to Blue Hole Regional Park and the wastewater treatment plant. He anticipated that adequate surplus revenue will be available for the City's initial payment on the TWDB loan. Revenue projections were provided for sales tax/franchise fee collections, various permitting/development fees, Community Center fees, and Municipal Court fines.

Mayor Flocke opened the public hearing.

Wimberley resident Gail Pigg felt that not enough funding is allocated for roads. She expressed concerns that too much funding is allocated for central Wimberley and felt that a gate is needed on the City side of the Little Arkansas low water crossing. City Administrator Ferguson shared Ms. Pigg's concerns regarding the gate and noted that when Hays County abandoned its gate at the subject crossing, the City's gate was severely damaged several times and that alternatives are being considered.

Hearing no further comments, Mayor Flocke closed the public hearing.

Mayor Flocke stressed that the City is facing over \$4,000,000 in badly needed road improvements, not including drainage work, and felt that an ad valorem tax will be needed to fund those improvements. He stated the importance of specifically identifying the purposes of such a tax for capital improvements, which would be implemented only for the timeframe needed to issue and pay off bonds associated with needed road improvements. City Administrator Ferguson noted that the City's Budget Advisory Board has also expressed concerns regarding funding of capital projects and is open to considering alternative funding options, including ad valorem taxation.

Council discussion addressed the possible need for ad valorem taxation to fund future capital improvement projects, particularly road infrastructure, and the importance of public involvement.

Mayor Flocke advised that Council action to approve the Fiscal Year 2014 City of Wimberley Budget is scheduled for September 19, 2013. No action was taken.

- B. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Alison Courtney Campbell to allow for a secondary residential building on a 2.05 acre tract of land zoned Single Family Residential 2 (R-2), located at 411 Mill Race Lane, Wimberley, Hays County, Texas, and imposing certain conditions; providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Alison Courtney Campbell, Applicant*)

City Administrator Ferguson requested that Council continue this item to allow the Planning and Zoning Commission to meet and present a recommendation on this application. On August 22, 2013, the Planning and Zoning Commission was scheduled to consider the application, however, the Commission's hearing was delayed until September 12, 2013, due to lack of a quorum.

Councilmember Thurber moved to continue this item until Council's meeting on September 19, 2013. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

## **5. Ordinance**

Consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending Title XI (Business Regulations) of the City of Wimberley Code of Ordinances, and creating a new Chapter 111 (Liquid Waste Hauler Permit); and providing findings of fact, a repealing clause, savings, severability, proper notice and meeting, and an effective date. (*City Administrator*)

City Administrator Ferguson explained key provisions of the proposed ordinance, which would establish licensing procedures for commercial liquid waste haulers who service septic systems in the City.

Discussion addressed specifics of licensing/permitting procedures, including reporting requirements, usefulness of reporting information to the City in helping to identify problem systems, and existing Texas Commission on Environmental Quality (TCEQ) requirements.

Councilmember Thurber moved to approve the ordinance on first reading, as presented.

Discussion continued on the need for the proposed ordinance, its purpose as a tool to help identify problem systems, concerns regarding duplication of reporting to the City and TCEQ, and minimal proposed permit fees.

Councilmember Talcott seconded Councilmember Thurber's motion to approve the ordinance on first reading, as presented. Motion carried on a vote of 4-1. Councilmember McCullough voted against.

## 6. Discussion and Possible Action

- A. Discuss and consider possible action authorizing the city administrator to execute a contact with Pape-Dawson Engineers to provide planning, design, and construction management phase engineering services for the *Central Wimberley Wastewater Project*.  
(City Administrator)

City Administrator Ferguson stated that contract negotiations with Pape-Dawson were terminated at the firm's request due to the recent resignation of Pape-Dawson's lead project engineer. Since Alan Plummer Associates was Council's second choice of firms interviewed at its August 6<sup>th</sup> meeting, City Administrator Ferguson advised that negotiations were initiated with Alan Plummer Associates, Inc. and felt that the contract can be finalized in time to meet the TWDB loan closing deadline. He spoke highly of the designated facilitator for the stakeholder committee, who is committed to a fair and unbiased process that will look at all project options. He noted that the facilitator will sign a disclosure agreement to address any potential conflict of interest issues and reiterated the facilitator's commitment to a fair and unbiased process. City Administrator Ferguson advised that the proposed contract's total cost for professional services came in well below the \$650,000 TWDB loan amount.

Discussion established that the City will make Pape-Dawson's presentation available for review by Alan Plummer Associates, addressed the importance of examining all wastewater project options, and included the proposed stakeholder committee meeting schedule. City Administrator Ferguson stated that a special Council meeting is scheduled for Monday, September 9, 2013 at 5:30 p.m. to allow Council's consideration and action on the proposed contract with Alan Plummer Associates. No action was taken.

- B. Discuss and consider possible action appointing individuals to serve on the independent stakeholder group that will be involved in the *Central Wimberley Wastewater Project*.  
(Mayor Bob Flocke & Place Four Councilmember Steve Thurber)

Mayor Flocke noted receipt of an email from the Wimberley Merchants Association (WMA) nominating Randy Uselton (owner of Cypress Creek Café) as its replacement representative for the *Central Wimberley Wastewater Project* stakeholder committee.

Central Wimberley business owner, Temple Wynne, expressed concerns over past failed efforts to provide central wastewater service and reviewed Wimberley Central Improvement Area (WCIA) efforts to bring such service to the downtown area. She spoke on Council's prior actions on designated preferred option(s) and the formation of the stakeholder committee. Ms. Wynne stated that she was baffled by Council's efforts to enhance its credibility by delineating a specific process, then arbitrarily changing the rules by denying the WMA its properly and carefully chosen initial representative, Steven Klepfer, who is a former WCIA member. She asked Mayor Flocke how Council's credibility is enhanced by stacking the committee with two leading opponents of the proposed solutions, but denying Steve Klepfer a seat at the table. She did not feel that Council acted with a sense of fair play.

Councilmember Thurber recognized and thanked all those who volunteered for service on the stakeholder committee. He read a statement expressing his concerns and stressed such concerns are about the process of stakeholder committee selection and not directed at any individuals who were appointed or their abilities to carry out their duties. He questioned why Steve Klepfer's nomination was rejected by Council on the basis of his respective current and former affiliation with WMA and WCIA, when Mike Stevens was appointed as the "Non-affiliated, central Wimberley commercial or residential property owner" despite his former affiliation with the Residents for Community Stewardship (RCS), which he felt stacked the committee with those holding views in opposition to WCIA. *The full text of Councilmember Thurber's comments is attached to these minutes.*

Councilmember Thurber asked that each appointee to the stakeholder committee submit a conflict of interest disclosure statement and requested that an end date be included in the stakeholder committee's mission statement to designate completion of the committee's duties.

Councilmember McCullough agreed with Councilmember Thurber's statements and questioned Mayor Flocke's handling of committee appointments. Mayor Flocke and Councilmember McCullough discussed the appointment process in general, particularly issues of fairness and bias, and relating to the denial of the WMA's original nominee, Steve Klepfer. Mayor Flocke stated that Council can vote to approve WMA's second nominee, Randy Uselton. Councilmember Talcott felt that the appointment process has been fair and unbiased. Councilmember White felt that WCIA and Mr. Klepfer compromised their positions as trustworthy parties due to their handling of certain issues.

Discussion addressed caution against biased hearsay, emphasized the importance of the public's trust in the appointment process, and broad representation among affected groups.

Due to concerns regarding the appointment of two WCIA opponents [Gail Pigg/RCS and Mike Stevens/Non-affiliated, central Wimberley commercial or residential property owner and alleged former RCS member), Councilmember Thurber moved that only one person affiliated with RCS be appointed to the stakeholder committee.

Discussion addressed whether Mr. Stevens' could be characterized as a RCS member and his role in certain past meeting(s) and the TWDB hearing(s). Questions were raised regarding fairness and bias in the appointment process and whether broad representation of viewpoints on the stakeholder committee was achieved. It was established that Mr. Klepfer has withdrawn his name from consideration as the WMA nominee.

Councilmember McCullough moved that Council not accept the WMA's appointment of Randy Uselton and asked that the WMA reconsider its appointment. Motion died for lack of a second.

Mayor Flocke called for a vote on WMA's appointment of Randy Uselton to the stakeholder committee.

Councilmember Talcott moved to accept the nomination of Randy Uselton, as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding a proposed policy placing limitations on the permitting of new commercial establishments in central Wimberley until such time as a wastewater system is in place to serve the subject area. (*City Administrator*)

City Administrator Ferguson presented the following moratorium policy developed per Council's direction to place limitations on commercial permitting in central Wimberley until such time that the *Central Wimberley Wastewater Project* is completed:

"It shall be the policy of the City of Wimberley, Texas that a Certificate of Occupancy (CO) is required for any new commercial establishment in central Wimberley, regardless of whether construction has been done, prior to occupancy of the new establishment. Prior to the issuance of a CO in the subject area, City staff shall verify the new commercial establishment has a properly functioning septic system that is capable of servicing the proposed establishment. No CO shall be issued for any new commercial establishment that will increase wastewater production in the subject area. The boundaries of central Wimberley are shown on the attached map. This policy shall remain in place until such time as a properly permitted wastewater system is in place to serve the subject area."

Councilmember McCullough wanted any new business that opens, regardless of type of use, to be required to have public restroom facilities, with no exceptions. He felt the proposed policy is ambiguous enough to be circumvented.

Discussion addressed problems with certain businesses that are required to limit water usage and must impose restrictions in order to meet those requirements, legal issues with Councilmember McCullough's proposed requirement, and dealing with changes in land use.

Councilmember Thurber moved to direct staff to present Council with a proposed ordinance concerning the permitting of new commercial establishments in central Wimberley until such time as a wastewater system is in place to serve the subject area. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action authorizing the transfer of an amount not to exceed \$35,000 from the General Fund balance for the purchase of a mobile restroom trailer and amending the FY 2013 General Fund Budget to reflect the transfer and purchase. (*City Administrator*)

City Administrator Ferguson recommended the purchase of a new nineteen-foot (19') restroom trailer that contains separate suites for men and women. He provided details on the facility's amenities, capacity, purchase price, and estimated operating costs. He noted that the City's FY 2013 General Fund Budget will need to be amended to reflect the transfer and trailer purchase, should Council desire to proceed with the purchase.

Discussion addressed delivery options and other possible uses for the trailer, besides its purpose to provide additional restroom facilities for those who work in and visit the downtown district. City Administrator Ferguson recommended driving to the manufacturer to take possession of the trailer, in order to mitigate delivery costs.

Councilmember Talcott moved to approve the purchase of the restroom trailer and accompanying budget amendment, as presented. Councilmember White seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action on issues relating to the development of the Proposed *Fiscal Year 2014 City of Wimberley Budget*. (*City Administrator*)

No discussion or action occurred on this item (see Agenda Item 4A).

- F. Discuss and consider possible action on a proposal to prohibit on-street parking on both sides of River Road between its intersection with County Road 1492 and 2000 River Road. (*City Administrator*)

City Administrator Ferguson explained the proposed parking prohibition intended to address a growing problem with Blanco River users who are parking along a narrow, heavily traveled stretch of River Road, and blocking traffic to create a safety hazard. In addition to the proposed “no parking” zone, City staff recommended the proposed zone be designated as a “tow-away” zone, in order to allow law enforcement to tow illegally parked vehicles, if necessary.

Discussion favored expanding the proposed area where parking would be prohibited and Council requested that staff present a revised proposal that would include the expanded area. No vote was taken.

- G. Discuss and consider possible action approving the routes for the *2013 Spirit of Texas Ride* cycling event on October 6, 2013, and authorizing the placement of route identification signage within the City right-of-way. (*City Administrator*)

City Administrator Ferguson presented information on the proposed routes, traffic control, signage, and event insurance, and recommended approval.

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

## **7. City Council Reports**

- Announcements
- Future Agenda Items

Councilmember McCullough announced he will not be able to attend Council’s meeting on September 19, 2013.

In response to Mayor Flocke, City Administrator Ferguson commented briefly on a large through truck that was issued a citation for violating the City’s through-truck ordinance that prohibits through-truck traffic on County Road 1492.

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

**Adjournment:** Council meeting adjourned at 9:00 p.m.

Recorded by:

*Cara McPartland*  
Cara McPartland

These minutes approved on the 19<sup>th</sup> of September, 2013.

**APPROVED:**

*Bob Flocke*

**Bob Flocke, Mayor**



## Comments to Wimberley City Council meeting September 5, 2013– Wastewater Stakeholder Committee

First I would like to thank all the citizens who volunteered to be selected for the committee. They are:

Submitted by councilmember Talcott – Cindy Meeks, Gail Pigg

Submitted by councilmember McCullough – Gay Sullivan, Peter Way, Richard Kilcrease, John Urban, Rick Millinor

Submitted by councilmember Meeks – Gail Pigg, Grady Burnette, Terrie Bursiel, Mike Stevens

Submitted by councilmember Thurber – Rick Millinor, Peter Way, John Urban

I don't believe councilmember White submitted any nominees.

Submitted by Mayor Flocke – Chris Nichols, Sheila Wollam.

Submitted by the Wimberley Community Improvement Area (WCIA) – John David Carson

Submitted by Citizens for Responsible Stewardship (CRS)– Gail Pigg

Submitted by the Wimberley Merchants Association (WMA) – Steve Klepfer

If I've missed anyone, I apologize and want to recognize them now. Anyone want to add to these names.

My comments tonight are in no way directed at or to any of the citizens who were appointed to the stakeholder group at the last council meeting on August 15<sup>th</sup>. I have no concerns about their abilities to carry out the duties of this committee and again applaud their willingness to volunteer for the city. My comments are directed at the process by which the appointments were made. I have some concerns, as do some of our citizens, that the process that was followed was not what the council agreed to and not what the council intended the outcome to be. So I'm asking you tonight, after hearing my concerns, to share your thoughts with me and the council.

The councils' primary stated goal in the selection of the committee members was that the make-up would be fair and unbiased. I don't feel it came out that way, and these are my reasons.

First, council (at the August 1<sup>st</sup> meeting) stated they would respect the nominees of the 3 group members, WCIA, Wimberley Merchants Association (WMA) and Citizens for Responsible Stewardship (CRS). At the time we approved the membership list, CRS group was not known by the name CRS and was identified as "a group with opposing views to the WCIA. At the August 15<sup>th</sup> meeting the mayor asked council to reject the nominee from the WMA. The mayor stated "that appointment would effectively give the WCIA two voices on the committee...." And the mayor further stated while the appointment "meets the letter of the rules we set forth, I don't think it meets the spirit of those rules." The mayors position has 2 areas of concern. First, it doesn't follow the "rules" concerning respecting committee nominations as council set forth (as noted by the mayor). Second, it treats WCIA and CRS differently. If it violates the public perception of fairness that WCIA has 2 voices, why does the "group with opposing views of the WCIA" (CRS) have 2 members (voices). Both Ms. Pigg and Mr. Stevens are, or at least have been, active in that group.

The mayor also stated that even though Mr. Klepfer had resigned from WCIA, he “had been affiliated” with them indicating that any affiliation at any time disqualified him from this stakeholder committee.

Second, the mayor told this council he would personally interview every nominee submitted before he made his choices. I can’t speak for other councilmembers nominees, but none of my nominees were interviewed. One was out of town and the mayor left a voicemail but didn’t speak to him. No attempt was made to contact the others.

Third- Not one of the nominees made by either councilman McCullough or myself were selected. While there were only 4 slots to be filled by nominations from the council (or by public submission), only 3 councilmembers and the mayor submitted names. While this “meets the rules,” it leaves open the perception of fair and unbiased issue. To add to that issue, neither councilman McCullough nor myself were able to attend the August 15<sup>th</sup> meeting. The fact that 2 councilmembers were absent, none of their nominees were appointed and one of those councilmember’s nominees were not even interviewed does not pass the fair and unbiased test.

Fourth – Taking into consideration of the primary goal in selecting this committee, to be fair and unbiased, 3 of the selected committee members are either on the board of the Wimberley Water Supply Corporation or represents them as their legal counsel. Again, this meets the rules, but does it meet the “fair and unbiased” perception test.

Fifth, let’s look at who is not represented on the committee 1) no one living in the service area is on the committee; 2) no one who is directly affected by the water quality of the creek is on the committee.

Another observation –There are folks on the committee potentially making recommendations regarding ad valorem taxes who will not be affected by their recommendation.

Thank you for listening and I would appreciate your comments.

Steve Thurber

Wimberley City Council, Place 4