

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
November 1, 2012 at 6:00 p.m.

City Council meeting called to order at 6:02 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.

### **1. Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of October 18, 2012
- B. Approval of the minutes of the Special City Council meeting of October 23, 2012
- C. Approval of the September 2012 City of Wimberley Financial Statements

City Administrator Ferguson pulled Consent Agenda Item 1C and requested that Council continue consideration of this item until its next meeting on November 15, 2012. Councilmember Thurber moved to approve Consent Agenda Items 1A and 1B, as presented, and to continue Consent Agenda Item 1C, until Council's meeting on November 15, 2012. Councilmember White seconded. Motion carried on a vote of 5-0.

### **2. City Administrator Report**

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

City Administrator Ferguson reported on construction of primitive camping sites, establishment of soccer fields, negotiations with San Marcos Youth Soccer Association regarding use and maintenance of soccer fields, and production of trail maps.

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

City Administrator Ferguson reported that levels remain within permit limits and that Severn Trent has been authorized to replace the inflow meter. He advised that the City has submitted its funding application to the Texas Water Development Board (TWDB) for planning and design

costs related to the proposed development of a wastewater system for central Wimberley. He reported that bacteria levels remain high in the central Wimberley portion of Cypress Creek and displayed data indicative of a steady decline in its water quality, while improvement was noted in water quality at Blue Hole.

- Status report on the Ranch Road 12/Old Kyle Road Improvement Project

City Administrator Ferguson reported that project letting is scheduled for December 2012, with construction anticipated to begin in late January 2013.

- Status report on the update of the Hays County Transportation Plan

City Administrator Ferguson reported on certain Plan recommendations affecting Wimberley and encouraged citizen participation in public meetings scheduled for November 8, 13, 14, and 15, 2012 at various county-wide locations. He advised that the draft Plan should be available for viewing on the Hays County website by November 8, 2012. Mayor Flocke noted that Wimberley's Transportation Master Plan has been included in Hays County's draft Transportation Plan. There was discussion of certain bypass routes, associated concerns, and future Council action on the Plan.

### **3. Discussion and Possible Action on Issues Relating to the Proposed Provision of Wastewater Service to the Central Area of Wimberley**

Mayor Flocke and Councilmember Meeks recused themselves from the meeting at this time due to possible conflicts of interest.

Mayor Pro-tem White assumed duties as Presiding Officer.

- A. A presentation from and discussion with Robert Laughman with Aqua Texas regarding the possible provision of wastewater service by Aqua Texas to central Wimberley. *(Place One Councilmember Tom Talcott)*

Aqua Texas President Robert Laughman presented the following proposal:

- Provision of wastewater service to central Wimberley, which is not located within Aqua Texas' Certificate of Convenience and Necessity (CCN), under the assumption that the City of Wimberley would be billed as one commercial customer
- Offer of capacity in Aqua Texas' existing wastewater facility at the rate that Aqua Texas would charge if the subject service area were in Aqua Texas' CCN
- Estimated cost of \$2,500 per Living Unit Equivalent (LUE)
- Billing for a ten-inch meter at one wholesale customer rate quoted for the central Wimberley area (with the downtown district as the sole customer)
- Rate protection against increases for a period of five (5) years

Aqua Texas Field Supervisor Bryan Robinson answered questions relating to physical location/upgrade of pipelines/infrastructure, need for lift station(s), and capacity. President Laughman stressed that Aqua Texas would only be responsible for wastewater service within the capacity limits of their facility and for treatment at the same monthly rate that the City of Woodcreek currently pays, but not for the collection system.

Discussion included:

- Costs for LUEs and the collection system, including pipeline construction crossing Cypress Creek
- Current and future plant capacity
- Possible Aqua Texas/Aqua Source lending services for collection system development and construction
- Need to consider elements of collection *and* treatment in order to arrive at complete cost estimates
- Concerns regarding long-term rate protection
- Aqua Texas' obligations as a CCN holder and lack of plans for expansion of its treatment plant at this point in time
- Various financing options through Aqua Texas/AquaSource and lack of specifics
- Use of Aqua Texas as a wholesale provider and impact on current City of Wimberley wastewater customers (Deer Creek Nursing Center and Blue Hole Regional Park)
- Infrastructure costs and various means of paying for those costs

Mayor Pro-tem White opened public comments.

Gail Pigg of 2214 Flite Acres thanked Councilmember Talcott for requesting this agenda item. She questioned how specific feasibility study numbers relating to Option No. 5 treatment plant costs were determined. Due to lack of information from Aqua Texas, WCIA representative Bert Ray stated that reasonable assumptions were made about pipelines and cost calculations. Ms. Pigg stated that actual costs can be adjusted, if significantly less than projected. She favored a regional approach and expressed concerns about effluent discharge under Option No. 4, which she feared would negatively impact those downstream. Relating to the collection system, Ms. Pigg favored phasing in only those septic systems on the Square that can be confirmed as failing. She recommended putting in a splitter box at the existing City plant to send part of the system's effluent to Blue Hole Regional Park to be used for irrigation, with the rest to be sent to Aqua Texas' treatment facility. She felt that this recommendation needs to be included as an addendum in the feasibility study report and sealed by an engineer.

Debbie Spears of 428 Flite Acres expressed concerns about possible discharge of effluent into the Blanco River. She felt that signage stating "Do Not Drink" would have to be placed along the Blanco River, which would have a negative effect on tourism. Ms. Spears said that her neighbors and all of Wimberley should be informed of the possibility that such discharge may occur and questioned whether all of the other options considered by Council included discharge into the Blanco River. Discussion established that discharges would only occur during emergencies as a result of extremely heavy rain events and that under normal conditions, effluent would be used for irrigation of Blue Hole Regional Park.

Dr. Deborah Koeck stated that with new information received from Aqua Texas, survey responses received to date are no longer valid. She said that accurately informed, non-biased presentations are needed by survey respondents and called for a vote of property owners.

Tim Fulfer asked if Council would consider a phased approach that would add property owners within the proposed MMD over time. Discussion addressed identifying failing septic systems in the downtown area, extension of Aqua Texas lines, and allocating the burden for paying associated costs.

WCIA representative John David Carson, Aqua Texas President Laughman, and Council discussed future adjustments in impact fees should there be LUEs added in the future, cost for building lines to connect to Aqua Texas' treatment facility, ownership of lift stations, and CCN conflict issues.

Mayor Pro-tem White thanked Aqua Texas President Laughman for his presentation.

- B. Discuss status of efforts by the Wimberley Central Improvement Area to communicate with central Wimberley property owners regarding the proposed creation of a Municipal Management District to help fund the development of a wastewater system to serve central Wimberley. (*City Administrator*)

WCIA representative John David Carson thanked City Administrator Ferguson for his work on the City's funding application to the TWDB and expressed appreciation to his fellow WCIA Board members for their efforts.

Regardless of which option is approved, Mr. Carson stated that MMD-creation will be required. He noted 28 property owners are not in support of the proposed MMD and that 20 property owners have not responded to WCIA's survey. Of the 90 properties in support of the proposed MMD, 27% are residential, 55% are commercial, and 18% are either vacant, open space, or public property.

<b>WITHIN THE PROPOSED MMD:</b>	<b>Number in Support</b>	<b>Total</b>	<b>Percent</b>
Property Owners	63	111	57
Properties within Proposed MMD	90	164	55
Assessed Value of Properties within Proposed MMD (in millions of dollars)	16.3	29.9	56
Acreage	187	273	69
Annual Water Use (in millions of gallons)	11.6	15.5	75

He provided details on the support forms sent to property owners and noted that a vote of property owners within the proposed MMD will be needed in order for the MMD to set and ratify the tax rate, which will have to occur before the City closed on any TWDB loan, if approved. Mr. Carson found Aqua Texas' presentation enlightening and discussion addressed specific system costs relating to treatment, collection, and connection.

Discussion included:

- Information requested from Aqua Texas and unanswered questions relating to firm cost estimates
- Lack of long-term rate control with Aqua Texas option
- Future capacity issues
- Comprehensive comparison of Aqua Texas' option versus expansion of the City's wastewater treatment plant
- Effect of phased-in approach on project costs
- Financial/risk analysis of various options
- Validation of signatures received in support by Councilmember Talcott, including specific wording of questions posed to those property owners
- WCIA's goal to keep costs to prospective users as low and equitable as possible

Mayor Pro-tem White opened public comments.

WCIA representative Bert Ray asked that Council review correspondence exchanged to date between Aqua Texas and the City of Wimberley. He noted Aqua Texas' refusal to provide further details on costs and future charges for service unless the City committed to exclusive negotiations with Aqua Texas. He stated that WCIA has worked hard to provide property owners with the most accurate information possible.

Gail Pigg acknowledged efforts to keep rates as low as possible and expressed concerns about the City's preferred Option No. 4, which she stated is not the most environmentally sensitive approach. She referred to the original report prepared by Alan Plummer & Associates, which did not include an option that discharged effluent. She noted differences in flow/LUE information in reports produced by Plummer and Water Resources Management (WRM) and expressed concerns that discharges would occur during busy weekends, such as Market Days. She said that there are certain properties with sufficient acreage for septic systems and felt that more information is needed. Discussion followed on Texas Commission on Environmental Quality (TCEQ) enforcement regulations, flow calculations, plant capacity, potential problems with the permitting process, and discharge concerns, particularly for those downstream from the plant.

Debbie Spears asked if those property owners who have indicated support for the proposed MMD would be so supportive if discharges allowed under Option No. 4 were released under the Cypress Creek Bridge. Ms. Pigg said that there has not been public communication with downstream property owners about discharge under the least expensive Option No. 4.

Dr. Deborah Koeck said that she is very upset about possible effluent discharges. She distributed and read a letter from an anonymous property owner, who alleged coercion by WCIA members to garner support for MMD-creation and feared being driven out of her home by high user costs. She asked that the map showing support be considered without the inclusion of City properties. Dr. Koeck stated that it distresses her "to find so many of the Council members taking the WCIA point." She said it was inappropriate for Council to take sides and should remain neutral. Discussion between Councilmember Thurber and Dr. Koeck addressed specifically what the map

in question represents, Council's previous vote to approve a resolution in support of MMD creation, and whether or not there should be a vote of property owners.

Mary Kate Brown of 250 Cedar Hollow distributed a handout and presented arguments that she felt showed WCIA's non-compliance with open meetings requirements. She cited a five-prong test for creation of an MMD and stated examples of how she felt the City did not comply with said test. She read specific statutory language applicable to her arguments and questioned the MMD-creation process, including concerns with voting and ballot language. Ms. Brown stated that WCIA has usurped the City's Water Wastewater Advisory Board's authority, which she felt is more qualified as an appointed body.

No further public comments were heard.

- C. Discuss and consider possible action relating to the November 1<sup>st</sup> deadline set by City Council for the Wimberley Central Improvement Association to present City Council with the signatures from 51 percent of the property owners in support of creating a Municipal Management District. (*Place One Councilmember Tom Talcott*)

Discussion addressed the process for signature validation, specific changes to Councilmember Talcott's proposed validation form wording, and Councilmember Talcott's suggestion to conduct his due diligence on November 12, 2012.

Mayor Pro-tem White opened public comments.

Gail Pigg suggested that Council delay action until State Representative Jason Isaac has made a determination on whether or not to assist the City in its efforts to legislatively create the MMD.

Relating to allegations of coercion, John David Carson noted that a contribution of \$100 to join the WCIA membership does not count the contributor as being in support of MMD-creation.

Mary Kate Brown stated that the City is going to overrule State law to create a MMD based on signatures received (not ballots), and questioned how the City could go to the legislature "without it every going to a vote." Ms. Brown clarified she was not referring to a vote on setting the tax rate, if an MMD is created. Ms. Brown stated the following: "I want to hear from all of you that you're saying that you're allowing your own personal ventures that have been colored by the WCIA and not by the Wastewater Advisory Board to say that you're going to take 63 signatures instead of a vote."

Discussion addressed disagreeing views on certain legal issues and statutory requirements of MMD creation via the legislative process.

Mary Kate Brown conveyed her conversation with State Representative Jason Isaac, and stated that "some of the stipulations that he is talking about coming to the table with is not something that commercial aspects are going to enjoy." She said that there will be a better chance of getting legislation passed the first time, if a ballot is created.

Dr. Deborah Koeck noted that surveys (not ballots) were sent out and that some people did not understand them. She asked why Council does not want a vote on this issue.

Bert Ray clarified the wording on the last support form sent out by WCIA.

Mayor Pro-tem White closed public comments. No action was taken.

- D. Discuss and consider possible action regarding a proposed City of Wimberley communications initiative relating to the possible creation of a Municipal Management District in central Wimberley. (*Place Four Councilmember Steve Thurber*)

Councilmember Thurber believed that clarification is needed to highlight key facts, in particular, to stress that this is a City project, with the MMD serving as the financing mechanism. He expressed appreciation to all who have tried to help the City solve wastewater problems, but felt that the City needs to better communicate certain facts about the project, including Council's actions and commitments to date.

Discussion addressed citizen apathy, encouraging public participation, and concerns about possible confusion created by more communications. Councilmember McCullough cautioned against City-initiated communications that may confuse those already contacted by WCIA. Councilmember Thurber acknowledged the concerns expressed, and will upon further consultation and consideration, bring this issue back to Council at a later time, if necessary.

Mayor Pro-tem White opened public comments.

Mary Kate Brown felt that the WCIA, a non-profit organization, is speaking for the City, without looking at the City of Wimberley as a whole. She stated that the City should take responsibility for a City project and that a town hall meeting is needed. Ms. Brown recognized the need for a sewer system, but objected to its financing vehicle. Councilmember McCullough asked Ms. Brown to bring a solution to the table. Ms. Brown said she wants to see an environmental impact statement, phasing of the project (targeting the highest level of polluters first), and exclusion of residential customers in initial phases. Ms. Brown asked why the City wants to rescue her and the other property owners within the proposed MMD from Aquasource, but not those on the north side of Cypress Creek. She felt that information on the project should come from the City, not a non-profit organization, such as WCIA.

John David Carson welcomed City involvement and participation and felt that WCIA has helped resurrect interest in a long-needed project. He believed WCIA should continue to operate as an advocate for property owners and seek the most cost-effective solution.

Gail Pigg stated that the City, which has committed to making an annual contribution toward the project, needs to inform all Wimberley residents of the proposed project, particularly about potential effluent discharges. She questioned how the City will budget for its annual wastewater contribution and speculated on the reasoning for Council's recent discussions of ad valorem taxation to pay for capital expenditures, specifically road improvements.

Mayor Pro-tem White stated that Council has discussed the City's lack of sufficient funds for street improvements numerous times over the years.

Hearing no further comments, Mayor Pro-tem White called a brief recess.

Mayor Pro-tem White reconvened the meeting.

Mayor Flocke and Councilmember Meeks rejoined the meeting at this time. Mayor Flocke assumed duties as presiding officer.

#### **4. Discussion and Possible Action**

- A. Discuss and consider possible action regarding the future provision of solid waste services in the City of Wimberley. (*City Administrator*)

City Administrator Ferguson advised that the City's current solid waste contract with Texas Disposal Systems (TDS) expires in October 2013. The contract allows for the agreement to be extended for successive three-year terms. To date, the City has granted one three-year extension, and City staff requests direction from Council on whether to rebid the contract or negotiate another three-year extension.

Discussion addressed overall satisfaction with TDS, minimal complaints regarding TDS service, value of certain services relative to their cost, success of the recycling program, and customer rebates. In the interest of good government, discussion favored rebidding the project.

Councilmember Thurber moved to direct staff to rebid the contract. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding a proposal to acquire and locate an electronic community message board at the Wimberley Community Center. (*City Administrator*)

City Administrator Ferguson recommended approval of the proposed sign to be located at the Wimberley Community Center. The sign, if approved, would be available to promote events at the Community Center and for local non-profit groups to display public notices. He provided details on the electronic sign's specifications and noted that Pedernales Electric Cooperative (PEC) will be contributing \$25,000 towards the sign's purchase cost of \$30,000. The City would be responsible for the remaining purchase cost and any ongoing costs associated with the sign.

Discussion addressed estimated monthly utility costs for sign operation, revenue generated from sign rentals, sign location, aesthetics of the sign's display, potential vandalism, and appearance of conflict with the City's Sign Ordinance. Due to various concerns, Council favored continuance of this item until its next regular meeting on November 15, 2012. Mayor Flocke encouraged immediate Council action and noted that there are different standards for entities regarding signage for specific purposes. He stated that the Merchants Association, the Chamber of Commerce, and other local organizations are in favor of the proposed sign.

Councilmember Thurber moved to approve continuance of this item until Council's meeting on November 15, 2012. Councilmember McCullough seconded. Motion carried on a vote of 3-2. Councilmembers Meeks and Talcott voted against.

- C. Discuss and consider possible action regarding the development of alternative sources of funding for the City of Wimberley's current and future street, drainage and other capital needs, with the exception of wastewater. (*Mayor Bob Flocke*)

Councilmember Thurber moved to continue this item until Council's meeting on November 15, 2012. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

#### 5. City Council Reports

- Announcements
- Future Agenda Items

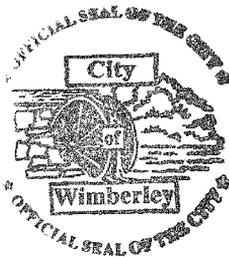
Hearing no further announcements or future agenda items, Mayor Flocke called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 9:40 p.m.

Recorded by:

*Cara McPartland*  
Cara McPartland

These minutes approved on the 15<sup>th</sup> of November, 2012.



**APPROVED:**

*Bob Flocke*

**Bob Flocke, Mayor**