

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
November 3, 2011 at 6:00 p.m.

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

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

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

Staff Present: City Administrator Don Ferguson and City Attorney Cindy Crosby

### **Citizens Communications**

No citizen comments were heard.

#### **1. Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of October 20, 2011
- B. Approval of the September 2011 City of Wimberley Financial Statements

Councilmember Thurber pulled Consent Agenda Item 1B, and moved to approve Consent Agenda Item 1A, as presented. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

Councilmember Thurber commended City Administrator Ferguson and staff on wise budget management, in particular coming in under budget on expenses and over on revenues. He moved to approve Consent Agenda Item 1B, as presented. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

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

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

City Administrator Ferguson reported that Phase II construction is underway on remaining Park elements and detailed progress on specific features, including visuals of work to date.

- Status report on development of a Request for Proposals (RFP) for the operation of the recently acquired wastewater treatment plant at the Blue Hole Regional Park

City Administrator Ferguson reported that an RFP was issued in mid-October in order to secure a firm to operate the plant for the City. He advised that the pre-proposal tour was held on October 28<sup>th</sup> for interested parties. Details were provided on key RFP deadlines and execution of documents related to the transfer of operations from Guadalupe Blanco River Authority (GBRA) to the City of Wimberley.

- Status report on the Ranch Road 12/RM 32 Intersection Improvement Project

City Administrator Ferguson reported on anticipated completion dates and possible transfer to the City of a triangular piece of property currently in the State right-of-way.

### **3. Presentations**

- A. Presentation on issues relating to the implementation of a rainwater collection system program

City Administrator Ferguson advised that this item will be continued until Council's meeting on December 1, 2011.

- B. Presentation of an activities report by representatives of the Pedernales Electric Cooperative (PEC)

PEC's Community Development Representative Tessa Doehrmann reported that franchise payment funds from PEC to the City will now be delivered electronically. Ms. Doehrman provided an update of existing and new PEC's community giving programs, including local programs, such as PEC's Scholarship Fund, Project Graduation, Light the Way, Partners in Learning, and Community Grants, which are detailed on PEC's website. Mayor Flocke expressed appreciation to Ms. Doehrman and PEC for being responsive to the City's needs.

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

- A. Discuss and consider possible action regarding a request to disannex the property known as Sabino Ranch from the city limits of the City of Wimberley. (*City Administrator*)

City Administrator Ferguson reviewed his memo to Council, including background on the subject property, disannexation procedures, and reasoning for staff's recommendation to deny the request. He noted that under State law, municipalities are under no obligation to act on disannexation requests, and it is completely within the Mayor's and Council's discretion to approve such requests. Staff's recommendation to deny considered factors such as the significant size and critical location of the subject property, loss of zoning/land use controls, possible future development detrimental to the small town character of Wimberley, and long-term economic impact to the City. City Administrator Ferguson reviewed Council's options for action.

Transportation Advisory Board Secretary Bert Ray encouraged serious thought by Council on this precedent-setting matter and favored Council's denial of the disannexation request.

Transportation Advisory Board member Bob Bullock cautioned against making landmark, precedent-setting decisions that would seriously affect Wimberley, and any possible future effects on mediation, arbitration, and litigation.

Scott Johnson of Sabino Ranch thanked Mayor Flocke for placing this item on tonight's agenda and asked Council for its careful deliberation on the effects of disannexation.

Eagle Rock resident Clint Frankmann did not fear setting a precedent and was not opposed to the disannexation request.

Councilmember McCullough moved to deny the disannexation request. Councilmember Thurber seconded.

Councilmember White stated that disannexation would set a precedent and asked for more time before Council votes on this matter. He suggested continuing this item until Council's meeting on December 1, 2011.

Councilmember Thurber spoke of Council's duty to citizens, expressed concerns regarding losses to the City (financial and loss of land use control), and stressed the subject property's importance and proximity to Blue Hole Regional Park. He stated that there is very little public support for this disannexation effort and felt Council should take no action on this request.

Councilmember McCullough agreed that more time may be spent on reaching a decision, but ultimately felt that his decision to deny would remain the same, whether or not more time is given to consider the request. He spoke of Council's first obligation to preserve the integrity of the City and acknowledged having mixed emotions on this matter.

Councilmember Meeks favored allowing more time to consider this request, given the importance of the property to the Johnson Family and to the City of Wimberley.

Councilmember Talcott felt caught off-guard by the disannexation request and expressed admiration and respect for the Johnsons. He was surprised by the request and stated that receiving the letter without any kind of notification was upsetting. Councilmember Talcott wished that "we had been able to sit across the table and discuss it." In response to Councilmember Talcott's comments, Councilmember McCullough stated that the Johnsons are completely accessible and easy to engage on this matter.

Norma Stiegler of the River Road Terrace Property Owners Association did not favor disannexation and expressed concerns over setting a precedent for future requests.

Former Councilmember Susan Thurber asked that Council consider the issue at hand, not the personalities or personal relationships that exist in a small community such as Wimberley. She stated that the consequences of disannexation should be carefully considered, including the impact and consequences of possible future land use/development on the remaining citizens.

Councilmember McCullough felt that the Johnsons have given serious thought to disannexation and associated ramifications and they are looking for an answer.

Dot Persohn asked if Council and voters been given sufficient knowledge of this request and stated that she did not receive a notice, but found about the request through other people.

Based on comments heard at tonight's meeting, Councilmember Thurber restated that he saw very little public support for this request.

Mayor Flocke asked Councilmember White if he wished to request an amendment to the previously stated motion that would delay consideration for approximately one more month. Councilmember White withdrew his earlier suggestion to delay consideration.

Mayor Flocke called for a vote as follows: Councilmember Meeks, aye; Councilmember Thurber, aye; Councilmember White, aye; Councilmember Talcott, aye; Councilmember McCullough, aye. Motion to deny carried on a vote of 5-0.

- B. Discuss and consider possible action regarding Senate Bill 18 relating to the City's authority to condemn property. (*City Administrator*)

At Councilmember Thurber's request, Mayor Flocke called for a brief recess at 6:45 p.m.

At 6:49 p.m., Mayor Flocke reconvened the meeting.

City Attorney Cindy Crosby reviewed Senate Bill (SB) 18, enacted by the 82<sup>nd</sup> Legislature, which requires all public and private entities authorized to exercise the power of eminent domain in Texas to submit a letter to the Comptroller of Public Accounts detailing their legal authority to exercise this power. She explained that Council action is needed to authorize either Mayor Flocke or City Administrator Ferguson to sign and submit the necessary form with the Comptroller's office. She noted that the deadline to submit the form to the Comptroller is December 31, 2012. She stressed that the City has no plans to condemn any property and clarified that this action protects the City from waiving any future condemnation authority. Discussion addressed need for renewal, impetus for SB 18, and expiration of the City's eminent domain authority, if proper form(s) are not timely submitted to the Comptroller.

Councilmember Thurber moved to authorize City Administrator Ferguson to sign the documents necessary to preserve the City's rights of eminent domain authority. Councilmember White seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding change orders No. 1, 2, 3 and 4 relating to the 2011 City of Wimberley Street Improvement Project. (*City Administrator*)

City Administrator Ferguson reviewed and recommended approval of each change order representing changes in the scope of the reconstruction of Cliffview Drive and Smith Creek Road to accommodate unforeseen drainage issues associated with the projects.

Discussion addressed associated budget amendments and the drainage work along Cliffview Drive.

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

- D. Discuss and consider approval of the transfer of \$68,186.04 from the City of Wimberley General Fund Balance to fund the remaining costs associated with the 2011 City of Wimberley Street Improvement Program and amend the Fiscal Year 2012 General Fund Budget to reflect the transfer. (*City Administrator*)

City Administrator Ferguson explained the need to amend the Fiscal Year 2012 City General Fund Budget in the amount of \$68,186.04 to reflect that portion of the street/engineering work carried over into the new fiscal year. He noted that \$58,538.48 is for actual construction costs, while the remaining \$9,647.56 is for design, engineering, and construction oversight costs. He recommended approval of the transfer of \$68,186.04 from the City's General Fund Balance to fund the remaining costs associated with the 2011 Wimberley Street Improvement Program and amend the Fiscal Year 2012 City of Wimberley General Fund Budget to reflect the transfer.

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

Councilmember Thurber commented that even including the abovementioned transfer, the City came in under budget on roads for last year.

- E. Discuss and consider possible action regarding plans for the upcoming 2011 *Winters Eve – A Christmas Festival on the Wimberley Square* on Saturday, December 10, 2011. (*City Administrator*)

City Administrator Ferguson recommended approval of the plans, which include closure of certain parking areas at specified times, food/beverage/alcohol sales, ban on fire pits, and provision of law enforcement/security and insurance by event organizers. The City will provide some barricades for the event. Discussion established that the City will not incur costs for providing security for the event and addressed the fire pit ban.

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

- F. Discuss and consider possible action regarding procedures and decorum related to City Council meetings. (*Mayor Pro-tem Steve Thurber*)

Discussion addressed clarification of current procedures for meetings intended to improve order and continuity of meetings, proposed changes to current procedures, and Robert's Rules of Order. Mayor Flocke suggested that Mayor Pro-tem Thurber and Councilmember Talcott work with City Administrator Ferguson to draft changes to the City's governance policies and procedures for future Council consideration.

D'Anna Tindal expressed concerns over Council's ability to restrict public speakers. Mayor Flocke stated his position to give as many people as possible the opportunity to speak.

Discussion agreed on the importance of public comments, guidance provided by Robert's Rules of Order, and possible future presentation to Council on Robert's Rules of Order.

No vote was taken on this item.

## 5. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Talcott requested discussion of community communications, including meeting agendas and notification systems.

City Administrator Ferguson reminded about the city-wide clean up day scheduled for Saturday, November 12, 2011.

Councilmember Meeks requested better public communications with the public on procedural matters.

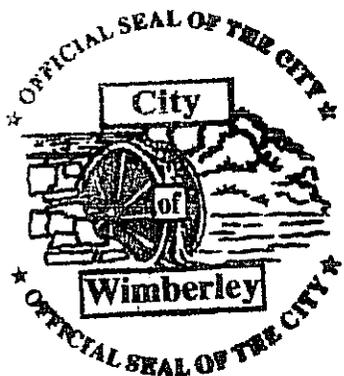
Hearing no further announcements or future agenda items, Mayor Flocke called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 7:20 p.m.

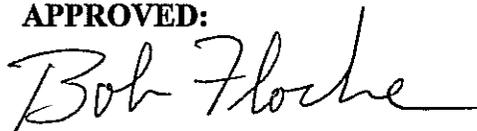
Recorded by:

  
Cara McPartland

These minutes approved on the 17th of November, 2011.



**APPROVED:**



**Bob Flocke, Mayor**