

**City of Wimberley**  
City Hall, 221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
December 2, 2010 at 6:00 p.m.

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

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

Councilmembers Present: Mayor Bob Flocke and Councilmembers Marilee Wood, Mac McCullough, Steve Thurber, and John White. Councilmember Appleman had an excused absence.

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

### **Proclamation**

Proclamation recognizing the 2010 Class 3-A State Runner-Up Wimberley High School Lady Texan Volleyball Team

Mayor Flocke read the proclamation aloud and presented one to each team player, coach, and staff member.

### **Citizens Communications**

Wimberley resident Carrie Olson asked questions related to the Transportation Master Plan Segment G connector route and whether the proposed connector was a factor in diverting traffic from Las Flores to La Buena Vista Drive. She inquired whether the City owns or plans to buy private property along the proposed connector. Ms. Olson asked for an exact amount of expenditures for Las Flores improvements and whether or not those expenditures were paid for with tax revenue. She asked Council how it could justify the amount spent on Las Flores improvements, including concrete culverts/drainage, and then decide to close the road. Ms. Olson felt that the City improved private property and questioned Council's decision.

Mayor Flocke replied that Council is unable to reply during Citizens Communications, but that answers will be provided to all of her questions. He noted that the Transportation Master Plan is a vision of transportation needs that may change over time and is subject to review and revision.

RV park owner Bill Wilson requested information on which parties are responsible for advising property owners along Deer Creek to clean up after recent flooding. Mr. Wilson stated that he has spent \$10,000 on replacing caliche at his RV park, which he feared would wash away in the next heavy rain event. City Administrator Ferguson advised that he would contact Mr. Wilson with answers to his questions.

Las Flores resident Stephanie Reynolds asked if the regular minutes of November 18, 2010 could be pulled for discussion. City Administrator Ferguson stated that a citizen can request that a Council member pull the minutes. Mrs. Reynolds spoke of contacts/attempted contacts with specific members of Council and time spent on public records research, which she stated did not explain or answer her questions. She referred to the minutes of July 1<sup>st</sup> and asked for clarification of Council's action, which she felt the public has a right to know. Mrs. Reynolds commented on Council's action at its last meeting relating to approval of a Certificate of Completion and change orders for Chad Springs Construction on the Las Flores-La Pais-Palos Verdes Street Reconstruction Project and questioned whether such action was allowed under the Open Meetings Act. She requested that Consent Agenda Item 1A be pulled by a Council member.

## **1. Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of November 18, 2010
- B. Approval of the minutes of the Special City Council meeting of November 22, 2010

Councilmember McCullough moved to approve the Consent Agenda as presented.

Councilmember Thurber pulled Consent Agenda Item 1A to allow Stephanie Reynolds to voice her concerns.

Due to Councilmember Thurber's request to pull Consent Agenda Item 1A, Councilmember McCullough restated his motion to approve Consent Agenda Item 1B only. Councilmember White seconded. Motion carried on a vote of 4-0.

Stephanie Reynolds stated that the November 18, 2010 minutes should reflect that she understood the speakers' policy related to agenda versus non-agenda items and felt that her comments were relevant to the agenda item in question (Item 4I). Referring to her husband's comments on Council's voting record, Mrs. Reynolds felt that the minutes should reflect what she said were incorrect statements by Mayor Flocke on past Council actions. Councilmember Thurber stated that the minutes accurately reflect Council's actions on separate Las Flores-related agenda items. Mrs. Reynolds stated that she was not personally contacted about the public hearing held on June 29, 2010 at the Wimberley Community Center to discuss the proposed Las Flores closure and asked where specific information is located on the City's website. City Administrator Ferguson advised that proper notification was made, including individual letters to property owners, which Mrs. Reynolds stated she did not receive. Mrs. Reynolds asked for an opportunity to speak to Council as a group, and Mayor Flocke stated that she can schedule individual meetings with Council members.

Councilmember Thurber moved to approve the minutes of November 18, 2010 (Consent Agenda Item 1A), as presented. Councilmember Wood seconded. Motion carried on a vote of 4-0.

## **2. City Administrator Report**

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

City Administrator Ferguson reported that Council will be provided with a legal briefing by outside counsel to be held on Wednesday, December 15, 2010 at 10:00 a.m. He stated that the City's sanitarian conducted a "septic walk" on the Square in order to address any septic issues and needed corrections. No major problems were reported.

- Status report on the development of the River Meadows Subdivision emergency access road

City Administrator Ferguson provided background information on this issue and noted that River Meadows Property Owners Association has satisfactorily completed repairs on the existing road from River Meadows Drive to Wayside Drive, with improvements to safety and access.

- Status report on the Mill Race Lane Project

City Administrator Ferguson anticipated meetings with Mill Race Lane property owners will be scheduled for January 2011, to facilitate mutual agreement on the project.

- Status report on the request for an Attorney General (AG) opinion relating to the authority of the City of Wimberley to regulate firearms within the city limits

Because Representative Patrick Rose is nearing the end of his term, City Administrator Ferguson reported that a letter formerly submitted to Representative Rose has been forwarded to Senator Jeff Wentworth, in order to proceed with the City's request for an AG opinion. There was brief discussion between Councilmember White and City Administrator Ferguson about concerns over specific wording.

- Status report on the installation of street lights on the Wimberley Square

City Administrator Ferguson reported on the locations of three newly Pedernales Electric Cooperative-installed street lights.

- Status report on the installation of solar panels at the Wimberley Community Center

City Administrator Ferguson reported on the projected timeframe for the acquisition and installation of grant-funded solar panels, which is anticipated to begin early in 2011.

### **3. Discussion and Possible Action**

- A. Discuss and consider possible action accepting a financial donation from the Peter Way Family to help fund certain planned improvements at the Blue Hole Regional Park, in accordance with the Friends of Blue Hole – City of Wimberley Partnership Agreement and Blue Hole Element/Amenity Naming Policy, and authorizing the mayor to execute the necessary documents relating to said donation. (*City Administrator*)

Friends of Blue Hole Director Steve Klepfer stated that this is a very special night for Wimberley and introduced Peter and Mary Faye Way. He commended the Ways' generosity and community spirit for their instrumental role in helping the City acquire the Blue Hole property.

Councilmember Wood moved to gratefully accept this donation from the Ways for the enhancement of Blue Hole Regional Park. Councilmember Thurber seconded. Motion carried on a vote of 4-0.

Friends of Blue Hole Chairman Peter Way spoke of naming rights as a fundraising tool and recalled fond memories of envisioning the future park area from the overlook vantage point. Mr. Way was happy to donate \$63,500 toward the overlook construction and other amenities, and hoped his family will be able to observe the completed park next year from the overlook.

- B. Discuss and consider possible approval of an interlocal agreement among the County of Hays, Wimberley Independent School District (WISD) and the City of Wimberley relating to the provision of health inspection services for WISD facilities located within the City of Wimberley. (*City Administrator*)

This item was heard after Agenda Item 3G.

City Administrator Ferguson provided details on the agreement, which would allow Hays County to continue WISD inspections at no charge, rather than incurring pass-through fees by using the City Sanitarian. He noted that under the proposed agreement, Hays County health inspectors will conduct the required inspections, at no cost to the City and WISD, and WISD will provide the City with copies of the required inspection reports from Hays County.

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

- C. Discuss and consider possible action regarding the determination of the future role of the Wimberley Economic Development Commission. (*Mayor Pro-tem Steve Thurber & Councilmember Bill Appleman*)

Councilmember Thurber asked to continue this item until Council's next regular meeting to allow for Councilmember Appleman's participation in the discussion.

Council agreed to continue this item until its meeting on December 16, 2010. No vote was taken.

- D. Discuss and consider possible approval of a proposed change in the non-resident and commercial fee structure for rental of the Blanco and Cypress Rooms at the Wimberley Community Center. (*Parks and Recreation Advisory Board*)

City Administrator Ferguson highlighted the proposed rental fees as follows:

<b><i>MONDAY THRU THURSDAY</i></b>	
<b>Cypress Room</b>	(Non-Resident) \$25 per hour for 2 hours or less/\$70 for 3 hours (Commercial) \$30 per hour for 2 hours or less/\$80 for 3 hours
<b>Blanco Room</b>	(Non-Resident) \$30 per hour for 2 hours or less/\$90 for 3 hours (Commercial) \$40 per hour for 2 hours or less/\$110 for 3 hours
<b><i>FRIDAY, SATURDAY, SUNDAY, HOLIDAYS</i></b>	
<b>Cypress Room</b>	(Non-Resident) \$35 per hour for 2 hours or less/\$95 for 3 hours (Commercial) \$35 per hour for 2 hours or less/\$105 for 3 hours
<b>Blanco Room</b>	(Non-Resident) \$40 per hour for 2 hours or less/\$115 for 3 hours (Commercial) \$45 per hour for 2 hours or less/\$135 for 3 hours

Discussion addressed concerns that the current rental approach may discourage rental of the rooms and the reasoning for the proposed fee structure. He noted that there is an additional hourly fee if the rental period exceeds the three-hour limit.

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

- E. Discuss and consider possible approval of a variance from the City of Wimberley Sign Ordinance for the Wimberley Dental Center located at 181 FM 3237, Wimberley, Texas.  
(*City Administrator*)

City Administrator Ferguson explained the request to install an internally illuminated free-standing sign on FM 3237 in front of the business, with a total surface area of twenty-four (24) square feet. City Code limits the size of such signage to eighteen (18) square feet. The proposed sign would take the place of an existing unlighted free-standing sign. The applicant is requesting the variance in an attempt to enhance visibility of the business, which is located a significant distance from FM 3237. If approved, the sign may not be lighted between 12 a.m. and 6 a.m.

City Administrator Ferguson advised that Council has the ability to grant a sign variance, if Council finds:

- The variance will not authorize a type of sign which is specifically prohibited
- The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan
- The variance is not contrary to the public interest
- Due to special conditions, a literal enforcement of the Sign Ordinance would result in unnecessary hardship. Financial or economic hardship alone will not ordinarily satisfy this requirement;
- The spirit and purpose of the chapter will be observed, and substantial justice will be done.

Discussion among Council, Dr. Jennifer Roe, Scott Martin, and City Administrator Ferguson addressed:

- Size of current signage
- Reasons for the requested variance
- Difficulties encountered by patients trying to find the dental center
- Logo design and the applicant's reasoning for internal illumination versus external illumination
- Character and visibility of surrounding signage
- Proposed sign materials and ease of maintenance
- Compatibility/incompatibility of variance request with the Comprehensive Plan and surrounding signage
- Current and proposed sign setback distances from street
- Use of a timer and dimmer for an internally illuminated sign
- Case-specific nature of sign variance requests
- General agreement on the acceptability of the proposed sign's size, appearance, and placement
- Concerns relating to internal illumination

Carrie Olson spoke in support of the applicant's variance request and felt that Council's lack of support for local businesses (with the exception of bed and breakfasts) disturbing. She asked Council how it could block the requested variance because of the sign's look. Councilmember Wood stated that Wimberley's unique character enhances businesses and that Council is not trying to block the applicants from having a sign. In response to Ms. Olson, Councilmember Wood stated that Council is flexible in considering different views and negotiating with applicants to arrive at an agreeable solution. Ms. Olson stressed that it is important to consider that the subject business provides dental services and may have to deal with emergencies.

Councilmember Thurber pointed out that many residents have moved to Wimberley for its quaint character, unlike more developed areas such as Oak Hill and Bee Caves. He cautioned that with every sign variance granted, Wimberley strays farther from its vision in accordance with the City's Comprehensive Plan, which is reviewed and updated over time with opportunity for citizen input.

Dr. Roe felt that there is not much difference between an eighteen (18) or twenty-four (24) foot sign and asked why Council did not simply prohibit all illuminated signs. City Administrator Ferguson stated that the primary issue is not the proposed sign's size, but its internal illumination. Councilmember Wood recalled past sign subcommittee discussions and the process of negotiation to arrive at size/lighting requirements. Mayor Flocke stated that a sign similar to the Wimberley Inn's, which illuminates only the lettering against a black background, might be worth consideration.

FM 3237 resident Craig Mooty cited problems with light pollution from a nearby business, which prevents him from seeing the stars at night. He agreed with Councilmember Thurber's comments on preserving Wimberley's character, in keeping with the Comprehensive Plan.

The applicants, Dr. Roe and Mr. Martin, stated that they are conscious of their neighbors, appreciate Wimberley's character as much as other residents, and noted that sign lighting will be placed on a dimmer and timed to turn off.

Discussion addressed the difference between light pollution from internally versus externally lighted signs, provided the external lighting is properly focused and shielded.

Acknowledging the difficult nature of this issue, Councilmember Thurber moved to deny the variance, based on a lack of affirmative findings on all of City Administrator Ferguson's previously stated conditions. Councilmember Wood seconded. Mayor Flocke called for a vote as follows: Councilmember Wood, aye; Councilmember McCullough, aye; Councilmember Thurber, aye; Councilmember White, nay. Motion to deny carried on a vote of 3-1.

- F. Discuss and consider possible approval of a variance from the City of Wimberley Sign Ordinance for the Agave Restaurant located at 3201 FM 3237, within the City of Wimberley extraterritorial jurisdiction. (*City Administrator*)

City Administrator Ferguson detailed the proposed signs' size, locations, and lighting. He noted that the restaurant is located within the City's extraterritorial jurisdiction (ETJ) and is adjacent to a residential area.

Discussion included:

- Methods of calculating the area of signs that consist of lettering affixed to a building front
- Permitted external lighting for the free-standing sign
- Applicant's reasoning for requesting an additional ten (10) square feet for the area of the building front sign (to better fit the scale of the wall)
- Other lighting at the restaurant, including landscape and parking lot illumination
- Lighting requirements for locations that face residential areas
- Necessity for illumination of the free-standing sign near FM 3237
- Whether or not the requested variances meet the criteria for granting of sign variances and compatibility of the proposed signs with the Comprehensive Plan
- Need to adequately identify businesses in general and over-regulation
- Shortcomings of the Sign Ordinance in meeting different visibility requirements (for example, businesses that rely on pedestrian versus highway traffic)
- Carrie Olson's comments favoring the proposed signs and asking for more flexibility from Council
- Directional spotlighting of the free-standing sign
- Lack of objection expressed by neighboring resident, Cathy Gould, on the sign's illumination during operating hours (until 10 p.m.)

Based on affirmative findings on the following conditions:

- The variance will not authorize a type of sign which is specifically prohibited

- The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan
- The variance is not contrary to the public interest
- Due to special conditions, a literal enforcement of the sign ordinance would result in unnecessary hardship. Financial or economic hardship alone will not ordinarily satisfy this requirement;
- The spirit and purpose of the chapter will be observed, and substantial justice will be done.

Councilmember White moved to approve the requested variances, with the additional condition that the proposed sign will be illuminated only after dark and turned off nightly at the close of operating hours. Councilmember McCullough seconded.

Mayor Flocke called for a vote as follows: Councilmember White, aye; Councilmember Thurber, aye; Councilmember Thurber, aye; Councilmember McCullough, aye; Councilmember Wood, aye. Motion carried on a vote of 4-0.

- G. Discuss and consider possible action authorizing the Mayor of the City of Wimberley to name a task force to study and report back to City Council on the possible participation of the City of Wimberley in the *Go Texan* Program. (*Mayor Bob Flocke*)

This item was heard after Agenda Item 3A.

Wimberley merchant Cecilia "Cissy" Yates provided details on the benefits of the Texas Department of Agriculture's *Go Texan Rural Community Program*, which promotes rural Texas cities and provides access to free promotion of attractions such as lodging, merchants, and Blue Hole Park. She stated that the program will allow for leverage of funding for promotional advertising for existing and new businesses, such as wineries. She advised that Dean Valentine of Wimberley Valley Winery has offered to serve, should formation of a task force be approved. Ms. Yates noted that there needs to be greater awareness of Wimberley as a destination, particularly among residents of northern Texas.

Mayor Flocke spoke of the advantages of using the program as free promotion and supported the formation of an ad hoc task force in the hopes of bringing merchants together for the benefit of the whole community. Discussion addressed the role of the task force and Ms. Yates in providing guidance for most effective use of the program to achieve common goals.

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

- H. Discuss and consider possible action designating Mayor Bob Flocke, Mayor Pro-tem Steve Thurber and City Administrator Don Ferguson as authorized signatories on the City of Wimberley depository bank accounts. (*City Administrator*)

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

#### 4. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Thurber announced that the Starlight Symphony's annual holiday performances are Saturday, December 4, 2010 at 7:30 p.m. in Blanco and Sunday, December 5, 2010 at 4:30 p.m. at Saint Stephen's Episcopal Church in Wimberley.

Mayor Flocke reminded Council of needed appointments to the Transportation Advisory Board and Economic Development Commission. He asked for Councilmember Wood's assistance in the development of a directional signage program.

City Administrator Ferguson reminded that the Wimberley High School Texans are playing an important football game against Navarro High School on Friday, December 3, 2010, in the hopes of advancing to State semi-finals.

Hearing no further announcements or future agenda item requests, Mayor Flocke called the meeting adjourned at 7:54 p.m.

**Adjournment:** Council meeting adjourned at 7:54 p.m.

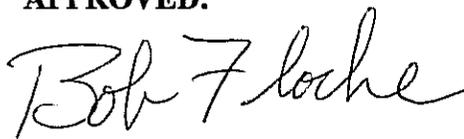
Recorded by:



Cara McPartland

These minutes approved on the 16th of December, 2010.

**APPROVED:**



**Bob Flocke, Mayor**

