

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
March 21, 2013 at 6:00 p.m.

City Council meeting called to order at 6:24 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 Emily Rogers

**Citizens Communications**

Al Sander of 301 Loma Vista expressed concerns related to E. coli levels in Cypress Creek and presented analysis data compiled from Guadalupe Blanco River Authority (GBRA) water testing. He noted different methodologies used to analyze water quality test data and reviewed results of GBRA-conducted testing. Readings at specific locations were presented, with particular concerns expressed about consistently elevated E. coli levels right below the Cypress Creek Bridge downtown. He distributed detailed graphs to Council and compared water quality trends and flows at various locations. Regarding his complaint filed with the Texas Commission on Environmental Quality (TCEQ), Mr. Sander requested that Council keep him informed of the City’s efforts to identify and remedy sources of pollution.

**1. Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of March 7, 2013
- B. Approval of the February 2013 Financial Statements for the City of Wimberley

Councilmember McCullough pulled Consent Agenda Item 1A.

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

Relating to Consent Agenda Item 1A, Councilmember McCullough referred to comments on page 8 of the minutes made by Councilmember Talcott, wherein Councilmember Talcott requested an amendment to Councilmember Thurber’s motion to schedule a special meeting to further discuss all of the central Wimberley wastewater options before Council. Councilmember McCullough stated that he took exception to Councilmember Talcott’s request for a special meeting based on his records of past discussions and studies. After discussion between Mayor

Flocke and Councilmember McCullough, it was determined that Councilmember McCullough was questioning the content and validity of Councilmember Talcott's comments, not whether the minutes accurately reflected the comments made by Councilmember Talcott. Mayor Flocke advised Councilmember McCullough that if he desires discussion to dispute Councilmember Talcott's comments on this issue to request such discussion under Agenda Item 5 (Future Agenda Items).

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

## **2. City Administrator Report**

- Status report on the planned reconstruction of the Ace Hardware store

City Administrator Ferguson reported that demolition is almost complete and that the City is expediting the permitting process in order to accelerate the store's rebuilding. He explained the need for a Wimberley Planned Development District (WPDD) agreement to allow for the store's reconstruction plans, which would not meet development requirements under the subject property's current Commercial - Moderate Impact (C-2) zoning.

In the interest of speeding up the process, City Administrator Ferguson advised that a joint Planning and Zoning Commission/City Council meeting is tentatively scheduled for 6 p.m. on April 11, 2013. Discussion established that the joint meeting could not be held earlier due to State law regarding publication of hearing notices, which requires that notices be published at least fifteen (15) days prior to the hearing date. The plan review process will also be expedited to allow for faster issuance of building permits. It was noted that the Ace Hardware merchandise may be ordered at the temporary annex facility.

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

City Administrator Ferguson anticipated project completion by the end of March. He reported on project-related sidewalk/traffic island installations, tree-planting/landscaping, and the schedule for Ranch Road 12 paving/stripping.

- Status report on central Wimberley water quality issues

City Administrator Ferguson reported on specific results from enhanced testing and dye tests taken after Market Days weekend, which will serve as a reference point for future tests that will hopefully help isolate sources of pollution. He advised that TCEQ has forwarded Al Sander's aforementioned complaint to the City and anticipated providing TCEQ with updated information within the next thirty (30) days based on updated test results.

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

City Administrator Ferguson reported on preparations for the upcoming summer season and increased reservations for special events. He noted that the Park's swimming area will be open

weekends only, beginning the first weekend in May, with the regular daily schedule to start Memorial Day weekend. After Labor Day, the Park will be open on weekends only through the end of September. Details were provided on the Concert in the Park series to be held every Friday night in April. Although admission to the concerts will be free, donations to the Park will be accepted.

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

City Administrator Ferguson noted that the plant is operating well within permit limits.

City Administrator Ferguson added that the portion of the decommissioned Texas-New Mexico pipeline that runs through the Blue Hole Regional Park will be sealed off rather than extracted in the interest of tree preservation.

### 3. Ordinance

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, approving an application for a conditional use permit (CUP) submitted by Melanie Pittman to permit a manufactured home on .24 acres of land, zoned Single Family Residential 3 (R-3), located at 255 Lange Road, Wimberley, Hays County, Texas, and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Melanie Pittman, Applicant*)

City Administrator Ferguson advised that the applicant has submitted a written request for withdrawal of her CUP application.

No public comments were heard.

Councilmember Thurber moved to accept the applicant's withdrawal of the CUP application. Councilmember White seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, amending Chapter 154 (Subdivision Control), Section 154.059 (Streets and Alleys) of the Code of Ordinances of the City in order to clarify the width requirements for dedicated street right-of-way adjacent to an existing street; providing for an effective date; proper notice and meeting, severability and repealer. (*City Administrator; this item was continued from the March 7, 2013 City Council meeting*)

City Administrator Ferguson explained that current language implies that right-of-way shall be dedicated in subdivisions proposing to replat property adjacent to an existing street that does not comply with the City's width requirements for streets and alleys. In response to Council's direction on March 7, 2013 to simplify the amendment language to help avoid confusion in the subdivision process, the City Attorney has recommended that the right-of-way requirement be more clearly stated by amending §154.059 to add Section C as follows:

“In the event that the City needs additional right-of-way to satisfy the standards set forth in the City’s Transportation Master Plan, the applicant shall dedicate his share of the right-of-way needed as part of the platting process.”

No public comments were heard.

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

At this time, in reference to Council’s action on previous Agenda Item 3A, notified property owner Joseph Humphrey thanked Council and departed the meeting.

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

- A. Discuss and consider possible action on issues relating to the existing wastewater Certificate of Convenience and Necessity (CCN) for the central Wimberley area. (*City Administrator*)

City Administrator Ferguson advised that the City’s legal counsel on utility matters, Emily Rogers, is present to brief Council on the legal parameters of the subject CCN.

Gail Pigg of 2212 Flite Acres spoke on her prior suggestion to relinquish the City’s CCN to Aqua Texas and to refigure estimated costs, if such relinquishment occurred and Aqua Texas provided service. Ms. Pigg felt that previous information provided by the City gave the impression that the Square area was served by a joint City of Wimberley/GBRA CCN, however, her research indicated that CCN #20936, which covers the Square area, is owned solely by the City of Wimberley. She felt that relinquishing the City’s CCN to Aqua Texas is the fastest option for provision of wastewater services, because any option that includes discharge is not acceptable to the public and will be protested. Ms. Pigg stated that the community is against Option 4 and felt that the quickest, fairest, and most cost-effective way to provide central wastewater service is through Aqua Texas. She questioned the placement of the proposed 75,000 gallon per day plant, as well as the quality of the effluent that may be discharged. Ms. Pigg asked that area waterways be protected and encouraged working on a solution with Aqua Texas.

Mayor Flocke stated that the Aqua Texas option is the most expensive option (per Living Unit Equivalent). City Administrator Ferguson clarified that there is not a joint-owned City of Wimberley/GBRA CCN for the immediate downtown area, however, as stated in the City’s 2011 wastewater service and operations agreement with GBRA, there are three service areas: a Wimberley service area, a GBRA service area, and a dually certificated area, which gives GBRA the ability to have some influence on how the City provides service.

Mayor Flocke adjourned Open Session and convened Executive Session at 6:57 p.m. pursuant to §551.071 of the Texas Government Code for consultation with legal counsel.

Mayor Flocke adjourned Executive Session and reconvened Open Session at 7:34 p.m.

No action was taken in Executive Session.

- B. Discuss and consider possible action on issues relating to the proposed creation of a Public Improvement District (PID) to help fund development of a wastewater system to serve central Wimberley. (*City Administrator*)

The City's legal counsel, Emily Rogers, provided a briefing on the PID-creation process, including details on the following topics:

- Definition and purpose of PIDs
- City's role and authority
- Authorized improvements
- Specific petition requirements (whether the petition is initiated by the City or the private sector)
- Boundaries of the proposed PID
- Assessment methods and apportionment of costs between the PID and municipality
- Proposed management of the PID
- Suggested establishment of an advisory body to develop and recommend an improvement plan and associated membership requirements
- Need for feasibility report and adoption of a resolution as to the advisability of the proposed improvement, its estimated cost, method of assessment, and apportionment of cost
- Public hearing/notification requirements
- Timeframe for actual construction of improvements and protest procedures
- Development of a five-year service plan, which includes an assessment plan
- Determination of assessment, preparation of assessment roll, and applicable public notice requirements
- Levy/enforcement of assessments, including interest or liens on assessments
- Methods for payment of improvement costs, including installments and possible reimbursement agreements with developers
- Usefulness of PIDs as financing mechanisms
- Flexibility that PIDs offer in terms of assessment methods

Discussion addressed:

- Reasoning for PIDs versus Municipal Management Districts and alternative financing methods such as city-wide ad valorem taxation (or a combination of various methods)
- Need for revenue pledge in the form of ad valorem taxation to secure financing
- Determination of costs to be borne by system users
- Possible exemption(s) for property owners with properly functioning septic systems and how to draw contiguous service area boundaries that would exclude those owners
- Delayed connection mandate for property owners who have made significant recent investments in their septic systems
- Proposed legislation that would allow for changes in PID boundaries

- Process for dissolution of PIDs under current regulations

Councilmember Thurber moved to direct staff to prepare documents necessary to proceed with creation of a PID to help fund development of a wastewater system to serve central Wimberley. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action on a proposal to request the Texas Department of Transportation (TxDOT) implement changes to TxDOT's permitting system for oversized vehicles so as to minimize the risk of damage to trees and public infrastructure along the State highways and City streets in Wimberley, Texas. (*City Administrator*)

Due to numerous incidents involving damage to power lines, traffic lights, and trees, City Administrator Ferguson recommended that the City send a request to TxDOT to make the necessary changes to its permitting procedures for large vehicles/loads that would ensure safe routes through Wimberley.

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

- D. Discuss and consider possible action on a proposal to place temporary directional signage in the City right-of-way for the 18<sup>th</sup> annual Garden Club Tour on Saturday, April 13, 2013. (*City Administrator*)

City Administrator Ferguson recommended approval of the request to place small directional signage at certain key locations to help those participating in the tour more easily find designated tour stops. Signage would be set out in the morning of the event and removed at the conclusion of the tour.

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

## **5. City Council Reports**

- Announcements
- Future Agenda Items

As future agenda items:

Councilmember McCullough requested that staff present a comprehensive history of the City's efforts to provide wastewater service to central Wimberley.

Councilmember Talcott requested discussion of removing Blue Hole Regional Park irrigation as a component of any options for central Wimberley wastewater service, in order to establish Park irrigation as a separate issue from provision of central wastewater service.

Councilmember White requested discussion of efforts to identify failing downtown septic systems.

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

**Adjournment:** Council meeting adjourned at 8:11 p.m.

Recorded by:

*Cara McPartland*  
Cara McPartland

These minutes approved on the 4<sup>th</sup> of April, 2013.

**APPROVED:**

*John D. White*

**John D. White, Mayor Pro-tem**

