

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
June 7, 2012 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**

This item was heard after Agenda Item 2.

Marilee Wood thanked Mayor Flocke and City Administrator Ferguson for the proclamation presented at the official opening of Phase 2 of the Blue Hole Regional Park, which was well-attended. She also thanked Councilmembers Thurber and Meeks for their work on “Plant the Park” Day. Fundraising efforts are ongoing to complete Phase 2 and begin Phase 3 development, with almost \$500,000 raised in this calendar year to date. She stressed the importance of the Park as a community asset and expressed appreciation for strong support from elected officials. Information was provided on the concert to benefit the Park scheduled for Saturday, June 9, 2012.

Dale Dugger of 3206 Flite Acres Road asked City Administrator Ferguson whether the property across the street from his own is within the city limits. Mr. Dugger spoke highly of City Marshal Wayne Acton for his help in addressing trespassing problems along Flite Acres. Mr. Dugger also brought up paving issues with Little Arkansas.

Jim Henderson spoke of problems he communicated to Councilmember Talcott associated with a significant number people driving down Fulton Ranch Road from San Marcos, who park along Little Arkansas and Flite Acres. Just prior to this meeting, Mr. Henderson stated that he encountered eight illegally parked cars and the unloading of people and supplies for tubing excursions on the Blanco River. He noted that this activity was in the area of 2630 Flite Acres Road and asked about the placement and possible extension of “no parking” signs. He felt it disconcerting that property owners along Flite Acres have to deal with disruptions caused by trespassers, including noise and profanity. Mr. Henderson hoped there is a way to deal with these problems through support from the City and cohesive neighborhood efforts among Flite Acres property owners.

Bill Appleman of 400 Mill Race Lane did not support the proposed agreement between the Mill Race Lane Association and the City of Wimberley. He stated that Mill Race Lane is a public road, whether or not the Mill Race Lane Association pays for improvements, and cautioned the City on possible future legal ramifications of entering into the proposed agreement. He recalled prior attempts to privatize Mill Race Lane, differences in rights-of-way figures/road widths, and previous estimates for improvements. He questioned the current estimate of \$8,000 obtained by the Association and felt that Council should move forward with paving of Mill Race Lane to a standard that the City can live with and in keeping with the health, safety, and welfare of the citizens.

Clint Frankmann of 18 La Toya Trail read certain excerpts from Eagle Rock Ranchitos Section 3 deed restrictions prohibiting commercial activities. He acknowledged that individual homeowners and/or the homeowners association would be responsible for deed restriction enforcement, but felt that the City has a responsibility to see that the owners of the assisted living facility operating in the Eagle Rock subdivision obtain the required conditional use permit. City Administrator Ferguson advised that the enforcement process is underway and replied negatively to Mr. Frankmann's inquiry as to whether there has been a conditional use permit application submitted by the owners in question. Mr. Frankmann requested immediate action by the City.

## 1. **Consent Agenda**

- A. Approval of the minutes of the Regular City Council meeting of May 17, 2012
- B. Approval of the minutes of the Special City Council meeting of May 17, 2012
- C. Approval of the reappointment of Jesse Brown to the City of Wimberley Building Code Board of Review. *(Mayor Bob Flocke's nominee)*
- D. Approval of the reappointment of Bob Bullock to the consensus position on the City of Wimberley Building Code Board of Review. *(Mayor Bob Flocke's nominee)*
- E. Approval of the reappointment of Mike Stevens to the City of Wimberley Ethics Commission. *(Mayor Bob Flocke's nominee)*
- F. Approval of the reappointment of Paul Polhemus to the consensus position on City of Wimberley Ethics Commission. *(Mayor Bob Flocke's nominee)*
- G. Approval of the appointment of Christine Byrne to the City of Wimberley Parks and Recreation Board. *(Mayor Bob Flocke's nominee)*
- H. Approval of the reappointment of Dell Hood to consensus position on the City of Wimberley Parks and Recreation Board. *(Mayor Bob Flocke's nominee)*
- I. Approval of the reappointment of Tracey Dean to the City of Wimberley Planning and Zoning Commission. *(Mayor Bob Flocke's nominee)*
- J. Approval of the reappointment of Beth Mitchell to the consensus position on the City of Wimberley Planning and Zoning Commission. *(Mayor Bob Flocke's nominee)*
- K. Approval of the reappointment of Dorothea Dare to the consensus position on the City of Wimberley Transportation Advisory Board. *(Mayor Bob Flocke's nominee)*
- L. Approval of the reappointment of Craig Mooty to the City of Wimberley Water Wastewater Advisory Board. *(Mayor Bob Flocke's nominee)*
- M. Approval of the reappointment of Joe Malone to the consensus position on the City of Wimberley Water Wastewater Advisory Board. *(Mayor Bob Flocke's nominee)*

- N. Approval of the reappointment of Dick Larson to the City of Wimberley Board of Adjustment. (*Mayor Bob Flocke's nominee*)
- O. Approval of the reappointment of Bill Cline to the consensus position on the City of Wimberley Board of Adjustment. (*Mayor Bob Flocke's nominee*)

Councilmember Thurber pulled Consent Agenda Item 1J, in order to allow interested parties to submit applications. Councilmember Thurber moved to approve all remaining Consent Agenda items, as presented. Councilmember Meeks seconded. Motion carried on a vote of 5-0. No action was taken on Consent Agenda Item 1J.

## **2. Oath of Office**

Administer the oath of office to the mayor-elect, and councilmembers-elect for Place 2 and Place 4 of the City of Wimberley City Council.

This item was heard after the pledges to the United States and Texas flags.

Hays County Commissioners Court Judge Bert Cobb, M.D. administered the oaths to Mayor-elect Bob Flocke, Place 2 Councilmember-elect Mac McCullough, and Place 4 Councilmember-elect Steve Thurber. Judge Cobb thanked Place 4 Councilmember-elect Steve Thurber for his work on Blue Hole Regional Park development and City Administrator Ferguson welcomed councilmembers-elect.

## **3. Discussion and Action on Election Related Matters**

Consider approval of an appointment of mayor pro tempore for a term of one (1) year. (*Mayor Bob Flocke*)

Current Mayor Pro-tem Thurber nominated Councilmember White for the position of mayor pro tempore for a term of one (1) year. Councilmember Talcott seconded. Motion carried on a vote of 5-0.

## **4. City Administrator Report**

- Status report on the Ranch Road 12/Old Kyle Road improvement project

City Administrator Ferguson reported on the project's scope, including narrowing of traffic lanes, creation of turn lanes, pedestrian paths, drainage/parking improvements, and installation of a decorative wall identifying the Wimberley Square. He anticipated construction would begin late September and last approximately forty-five (45) days. He noted that measures will be taken to minimize impact to merchants, including temporary parking arrangements. While the project will help improve pedestrian safety, City Administrator Ferguson advised that alternative solutions are being explored for future Council consideration. Details were provided on project funding and cost-sharing.

- Status report on the Climbing Way street improvement project

City Administrator Ferguson reported that the project is on Hays County's list of upcoming road work anticipated to begin in mid- to late-summer.

- Status report on Flite Acres Road trespassing problem

City Administrator Ferguson reported that a plan is being developed for presentation at Council's next meeting, which will be a joint effort among neighborhood residents and law enforcement. He also reported on possible extension of the "no parking" signage, the need for clarification on what constitutes trespassing, associated enforcement issues, and education about the lack of public river access along Flite Acres. Discussion addressed the need to communicate with absentee property owners, whose primary residences are outside of Wimberley. It was noted that trespassing enforcement along Flite Acres may increase trespassing in other areas where people seek to gain water access.

- Status report on possible changes to the conditional use permit requirements for secondary residential structures

City Administrator Ferguson reported on an upcoming Planning and Zoning Commission public hearing on the need to require conditional use permits for secondary residential structures, particularly those that are to be occupied by family members and are on larger tracts.

- Status report on preparations for the Fourth of July Parade

City Administrator Ferguson provided details on the event and asked Council members to advise him of their desire to participate. Mayor Flocke commented that Council should participate as a whole group, if it desires be part of the event.

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

City Administrator Ferguson commended Marilee Wood, Tevis Grinstead, Steve Klepfer, and Friends of Blue Hole for their valuable contributions to the Park's development. He noted that Phase 2 opens to the public on Saturday, June 9<sup>th</sup> and provided details on specific amenities such as the basketball court (with thanks to Myers Construction for its donation toward the pouring of the court), as well as the "donor tree" installation.

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

City Administrator Ferguson reported that the Texas Commission on Environmental Quality audit has been completed and found no violations.

- Status report on city marshal program

City Administrator Ferguson requested a short recess to invite Council members and all in attendance to step outside Council chambers in order to view the newly acquired city marshal's vehicle.

Mayor Flocke called a recess at 6:42 p.m. Council re-entered chambers and Mayor Flocke reconvened the meeting at 6:50 p.m.

## 5. Ordinances

- A. Consider approval of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 151 (Building Regulations; Construction), Sections 151.01 (Residential Building Code Adopted; Amendments) and 151.02 (Commercial Building Code Adopted; Amendments) of the Code of Ordinances to allow ordinary non-structural residential repairs and renovations to be performed without a building permit and requiring all structural repairs and renovations of residential and commercial properties to be performed upon issuance of a building permit; and providing findings of fact, a repealing clause, to provide a savings and severability clause, proper notice and meeting, and providing for an effective date. (*Code Review Task Force*)

City Administrator Ferguson explained the Code Review Task Force's recommendation to clarify Code language relating to building permit requirements for structural repairs and renovations. Discussion addressed the possible addition of examples illustrative of structural versus non-structural repairs and renovations.

Councilmember White moved to approve the item, as presented. Councilmember Talcott seconded and added that he would like the addition of the aforementioned examples to the proposed ordinance. Discussion established that examples can be provided through other means, such as website information, rather than through inclusion in the proposed ordinance. Motion carried on a vote of 5-0.

- B. Consider approval of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 151 (Building Regulations; Construction), Sections 151.01 (Residential Building Code Adopted; Amendments) and 151.02 (Commercial Building Code Adopted; Amendments) of the Code of Ordinances to allow certain non-structural residential roofing repairs and reroofing performed by the property owner to be conducted without a building permit and to require a building permit for all residential roofing projects performed by persons other than the property owner and in all cases where structural changes are required and to require a building permit for all commercial roof repairs and reroofing regardless of who is performing the work; and proving findings of fact, a repealing clause, to provide a savings and severability clause, proper notice and meeting, and providing for an effective date. (*Code Review Task Force*)

City Administrator Ferguson explained the Code Review Task Force's recommendation intended to ease restrictions for specified non-structural roofing/reroofing work performed by the property

owner (such as replacing shingles). Building permits would still be required for all commercial roofing/reroofing repairs regardless of who is performing the work, in part due to public safety issues. Councilmember Talcott asked whether the ordinance caption be rewritten in a more concise, understandable manner. City Administrator Ferguson replied affirmatively. Mayor Flocke entertained a motion.

Councilmember Talcott requested continuance of this item until Council's next meeting on June 21, 2012 to allow for the abovementioned simplification of ordinance language. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

## **6. Discussion and Possible Action**

- A. Discuss and consider action authorizing the city administrator to execute a contract for professional financial services with Water Resources Management, LLC for an amount not to exceed \$12,870 to conduct a wastewater financial feasibility analysis and amending the Fiscal Year 2012 Operating Budget to reflect the expenditure and transfer of funds. (*City Administrator*)

City Administrator Ferguson reported on the need for a comprehensive wastewater feasibility analysis for the downtown area, which will provide the City and the Wimberley Central Improvement Area (WCIA) with information necessary to determine the affordability of providing wastewater collection and treatment services to properties in the proposed Municipal Management District (MMD) and the feasibility of creating such a district. He recommended approval of the proposed financial services contract with Water Resources Management, LLC (WRM), based on the firm's excellent reputation and commitment to refine cost estimates and help identify areas of savings.

WRM representatives Bill Riley and Nelisa Heddin each spoke on their firm's areas of expertise, which focus on the business function of utilities such as rate design, impact fees, financial planning studies, and engineering review. Major steps were outlined, including development of growth projections for the study area (downtown) and performance of an engineering review and financial analysis, which are expected to be completed within a 30-45 day period.

WCIA representative John David Carson spoke on WCIA's objective to study ways to address the economic and environmental issues impacted by the use of septic systems in the central business area. He stated that downtown property owners seek the most practical, affordable and long-term solution, guided by principles such as fairly allocating costs only to users of the system. He thanked the City for entering into a Memorandum of Understanding (MOU) with WCIA to enhance possibilities for long-term, low interest financing and help identify cost-saving areas. He reported on WCIA's development of a study area database to help with the financial feasibility analysis, and ultimately help acquire favorable financing terms. Mr. Carson stressed the importance of the City's role as CCN holder and rate setter and asked for the City's continued support in this process.

Discussion addressed examination of all options, including tying into existing system(s); MOU cost reimbursement provisions, in the event an MMD is formed; and potential cost savings. Councilmember McCullough encouraged Council to attend WCIA meetings.

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

- B. Discuss and consider action authorizing the city administrator to execute a contract with Singleton, Clark & Company to prepare the City of Wimberley annual Financial and Compliance Report for the year ending September 30, 2012. (*City Administrator*)

City Administrator Ferguson recommended approval of the contract for audit services to allow Singleton, Clark & Company to conduct the annual financial review and prepare the required audit report for a cost of \$13,400.

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

- C. Discuss and consider possible action setting a date for a workshop to establish City Council goals and objectives. (*City Administrator*)

As a possible location for the workshop, Mayor Flocke suggested meeting at the Texas Disposal Systems Exotic Game Ranch event facility in Creedmoor, which is available free of charge. He offered June 23<sup>rd</sup> as a possible date. Discussion agreed on Saturday, June 23, 2012 from 9 a.m. to 3 p.m., with lunch provided. No vote was taken.

- D. Discuss and consider possible action on a request from the Wimberley Village Library for complimentary daily admission passes to the Blue Hole Regional Park for a summer reading program. (*City Administrator*)

City Administrator Ferguson advised that the Library is requesting ten (10) daily admission passes to the Blue Hole Regional Park as prizes for the Library's summer reading program. Discussion addressed past practices and possible establishment of a policy for future requests that would allow staff approval.

Councilmember White moved to approve the Library's request for ten (10) daily admission passes to the Blue Hole Regional Park to be used as prizes for the Library's summer reading program. Councilmember Talcott seconded. Discussion addressed consideration of future policy regarding issuance of complimentary Park passes. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action designating mayor, mayor pro-tem and city administrator as authorized signatories on the City of Wimberley depository bank accounts. (*City Administrator*)

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

- F. Discuss and consider possible action approving the calendar for preparation of the Fiscal Year 2013 City of Wimberley Budget. (*City Administrator*)

City Administrator Ferguson recommended approval of the calendar, which is subject to change, if needed.

Councilmember Meeks moved to approve the item, as presented. Councilmember Thurber seconded. Councilmember Talcott and City Administrator Ferguson discussed the phasing-in of zero-based budgeting. Motion carried on a vote of 5-0.

- G. Discuss and consider possible action regarding issues relating to the Mill Race Lane Improvement Project. (*City Administrator*)

City Administrator Ferguson reviewed recent meetings with Mill Race Lane property owners, resulting in the drafting of a proposed agreement (attached to these minutes). Key provisions of the agreement were highlighted, including respective responsibilities of each party relative to project scope, funding, liability, risk allocation, alternate routing, and agreement term.

Discussion included:

- Condition of Mill Race Lane
- Past maintenance/repair efforts by Mill Race Lane property owners
- Aesthetics of Mill Race Lane improvements
- Status of Mill Race Lane as a public or private roadway
- Prescriptive easement rights
- Varying specifications on width of Mill Race Lane (12 to 18 feet)
- Need to continue working with Mill Race Lane property owners on finding a mutually agreeable solution
- City oversight of the project via required permitting
- Adequacy of the \$8,000 cost estimate from Harris Road Co., Inc.
- Prospects of reaching resolution with Mill Race Lane property owners

Councilmember McCullough made a statement about his recent comments in a Wimberley View article and stressed his respect and support for Council. Councilmember McCullough did not want his article comments to be construed as separating him from the rest of Council and apologized for his lack of participation in Executive Sessions on this issue. He felt that the proposed agreement is a wonderful gesture and proves the property owners' intent, but did not see the repairs specified in the agreement as being a long-term solution.

Mayor Flocke encouraged action and direction to staff on this item, whether or not Council approves the proposed agreement or seeks to continue the bidding process.

Councilmember Talcott suggested continuing this item until Council's next meeting on June 21, 2012. Councilmember Thurber recommended having the City's legal counsel present, should Council desire to continue this item. City Administrator Ferguson advised that bids are

scheduled to be opened next week and asked for clear direction from Council on how to proceed. Councilmember White felt that the City does have a prescriptive easement and favored proceeding with bid opening and paving to City specifications. Discussion clarified that if Council takes no action on this item, the process of opening bids and awarding of the contract will continue according to schedule.

Councilmember McCullough moved to approve the proposed agreement, as presented. Motion died for lack of a second.

City Administrator Ferguson advised that bids on the project will be opened next week and an item will be placed on Council's next agenda for action on awarding of a contract.

### **Addendum to the Regular Agenda**

- H. Discuss and consider possible action authorizing Wimberley Shaved Ice to operate a shaved ice stand at the Blue Hole Regional Park for the 2012 summer season. (*City Administrator*)

City Administrator Ferguson requested that this item be pulled. No action was taken.

### **7. City Council Reports**

- Announcements
- Future Agenda Items

Councilmember Meeks offered condolences to family and friends of recently deceased Wimberley residents, Jason Burchfeld and Bobby Salmons. Councilmember Talcott congratulated Bill and M.F. Johnson on their 65<sup>th</sup> wedding anniversary.

Mayor Flocke reminded Council of Open Meetings Act requirements.

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

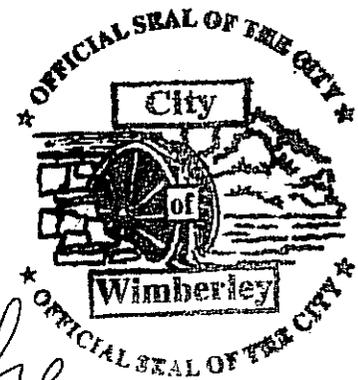
**Adjournment:** Council meeting adjourned at 8:02 p.m.

Recorded by:

  
Cara McPartland

These minutes approved on the 21<sup>st</sup> of June, 2012.

**APPROVED:**  
  
**Bob Flocke, Mayor**



AGREEMENT

STATE OF TEXAS

§

COUNTY OF HAYS

§

§

THIS AGREEMENT ("Agreement"), effective May\_\_\_\_, 2012 is made and entered by and between the City of Wimberley, Texas ("City") and the Mill Race Lane Association ("Association").

**Article I - Purpose**

**Section 1.01 - Purpose; Entire Agreement**

WHEREAS, the Association has indicated its intent to repave Mill Race Lane at its own expense, and the City seeks to enter into an agreement with the Association related to the repaving of Mill Race Lane for the mutual benefit of the parties.

NOW, THEREFORE, the parties enter into this Agreement in order to provide a full statement of their respective responsibilities. This Agreement supersedes any and all other understandings or agreements between the parties, either oral or in writing, with respect to the subject matter hereof. Any understanding, agreement, statement, or promise relating to the subject matter hereof that is not contained in this Agreement or an addendum hereto shall not be valid or binding, unless in writing and agreed to by the parties.

**Article II - Statement Regarding Ownership of Mill Race Lane**

The parties acknowledge that there is a dispute regarding ownership of Mill Race Lane. The City Council of the City of Wimberley publicly has stated that Mill Race Lane is a public road of the City of Wimberley. The Association maintains that Mill Race Lane is a private road. It is agreed that this Agreement shall not be interpreted as an admission by any party of the public or private character of Mill Race Lane.

## Article III – Rights and Obligations of Parties

### Section 3.01 – Improvements to Mill Race Lane

The Association agrees, at its own expense, to proceed to complete the improvements to Mill Race Lane pursuant to contractor proposal Exhibit "A" to this Agreement (the "project"). The association understands that the city shall require a permit to be issued for the work to be performed.

### Section 3.02 – Alternate Routing

The Association will provide an alternate route for traffic during the project and will provide consents from landowners where such route proceeds through private property and will provide appropriate notices to the public and emergency services for the alternate route.

### Section 3.03 – Risk allocation

The Association understands and agrees that the city shall have no liability arising from the work of the Association or its contractor with respect to the project nor for the quality of the work performed. The Association agrees that any claims arising from the performance of the work shall be the responsibility of and shall be handled by the Association. The provisions of this paragraph shall apply to any damage to, encroachments upon, trespasses upon or drainage issues with respect to property along or adjacent to the path of the project. The provisions of this paragraph shall also apply to any motorist claims such as windshield damage from the paving work carried out.

### Section 3.04 – Limitation of Liability

Nothing in this Agreement is intended to or shall have the effect of adding to or changing the liability limits and immunities for a governmental unit provided by the Texas Tort Claims Act, Texas Civil Practice and Remedies Code chapter 101, or other applicable law.

The parties agree that this Agreement is not a written contract stating the essential terms of an agreement for providing goods or services

to the City of Wimberley within the meaning of Chapter 271, Subchapter I, of the Texas Local Government Code.

#### Article IV - General Provisions

##### Section 4.01 - Term

The term of this Agreement shall commence on May \_\_\_\_ 2012, and shall continue until the completion of the Improvements or December 31, 2012, whichever occurs first.

#### Article V – Miscellaneous

##### Section 5.01- Governing Law.

This Agreement shall be governed by the laws of the State of Texas and the current ordinances of the City of Wimberley.

##### Section 5.02 - Venue.

Venue for any actions arising from or related to this Agreement shall be and lie exclusively in the state and county courts of Hays County, or in the United States District Court for the Western District of Texas, Austin Division.

##### Section 5.03 - Force Majeure.

If either party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, then such obligations of that party to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall mean: acts of God; acts of the public enemy, or war; orders of any kind of any governmental entity or any civil or military authority; acts, orders or delays thereof of any regulatory authorities with jurisdiction over the parties; insurrections, riots, civil disturbances, explosions, or epidemics; arrests or restraints of government and people; strikes, lockouts, or other industrial disturbances; landslides, lightning, earthquakes, fires, hurricanes, tsunamis, tornadoes, ice ages, floods, washouts, droughts, or other

acts of Nature; breakage of, damage to, or accidents involving necessary machinery or other infrastructure; interruption or other limitation of fuel or other necessary supplies or utilities or utility services; or any other conditions that are not within the reasonable control of the party claiming force majeure.

**Section 5.04 - Duplicate original counterparts.**

This Agreement may be executed in duplicate original copies by the parties.

**Section 5.05 - No third party beneficiaries.**

This Agreement is not intended to and does not create rights or remedies in favor of any third parties.

**Section 5.06 - Complete agreement; amendment in writing.**

This Agreement is the sole agreement between the parties concerning the subject matter hereof, and supersedes any and all prior understandings, agreements, representations or undertakings between the parties concerning that subject matter. This Agreement may be amended or modified only in writing duly executed by both parties. No official, employee, agent or representative of either party has the authority to amend or modify this Agreement without the official approval of that party's governing body.

**Section 5.07 -No assignment.**

This Agreement is not assignable in whole or part by either party without the express written consent of the other.

**Section 5.08 -Non-waiver.**

Any act of forbearance by either party will not constitute and will not have the effect of an amendment of this Agreement. The failure of either party to exercise any right under this Agreement under certain circumstances does not imply a waiver of such right under like circumstances later occurring.

Section 5.09 -Severability.

If any part of this Agreement is held unenforceable by a court of competent jurisdiction and authority, the remainder of the Agreement shall be construed as if that portion held unenforceable were not part of the Agreement, and effect shall be given to the remainder of the Agreement to the extent possible without internal contradictions created by such severance.

Signed and agreed this \_\_\_\_ day of June, 2012.

MILL RACE LANE ASSOCIATION  
A Texas Voluntary Association

By \_\_\_\_\_  
Its duly authorized representative

Comment [A1]: Needs to be  
seal member of the Association

CITY OF WIMBERLEY

By \_\_\_\_\_  
Mayor

To: Mr. Scott Johnson  
Mill Race Lane  
Wimberley, TX 78676

From: Harris Road Co., Inc.  
P.O. Box 1001  
Wimberley, TX 78676

Date: Cost Estimate  
May 9, 2012  
Location: Mill Race Lane  
Wimberley, TX

Item No.	Estimated Quantity	Unit	Item Description	Unit Price (\$/Unit)	Amount (\$)
1	1	LS	Mill Race Lane Single Coarse Surface Treatment Approx. 1500' x 12' wide	\$8,000.00	\$8,000.00

Scope of Work: Sweep, Patch Potholes, Prep for Surfacing  
Single Coarse Surface Treatment

Single Coarse Specification: HFRS-2 Oil (.32 to .38 gal/sy), Grade 4 White Coverstone (90 to 110 sy/cy)

Alternate: For each additional 1' of width add \$500

Approved: \_\_\_\_\_ Total \$8,000.00

Harris Road Co., Inc.

5/9/12  
Date

Owner

Date