

RESOLUTION NO. R-77-2004

A RESOLUTION OF THE CITY COUNCIL OF THE VILLAGE OF WIMBERLEY, TEXAS (“VILLAGE”), AUTHORIZING THE CITY ATTORNEY AND COUNSEL FOR THE VILLAGE TO INITIATE NEW LITIGATION, AND COMPLETE PENDING LITIGATION, AS NECESSARY, TO DETERMINE AND RESOLVE ALL TITLE ISSUES, AND LEGAL AND FACTUAL ISSUES, REGARDING AN ALLEGED REVERSIONARY INTEREST PERTAINING TO A PORTION OF A TRACT OF LAND MADE THE SUBJECT OF THE COMMUNITY CENTER PROJECT, AND AUTHORIZING SAID COUNSEL TO TAKE ALL ACTIONS NECESSARY OR DESIRABLE TO COMPLETE THE LITIGATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the Village of Wimberley (“City Council”) has determined it is in the best interest of the citizens of the Village of Wimberley (“Village”) to construct a community center on certain property located on Ranch Road 12 in Wimberley, Texas (“the community center project”); and

WHEREAS, the City Council previously found, and now hereby again finds, ratifies, and confirms, that the construction and operation of the community center project for the benefit of the people and community of Wimberley, Texas, is a worthwhile and desirable public project and public purpose, and that the acquisition of land and real property interests by purchase or eminent domain authority and proceedings are necessary to accomplish said public project and public purpose, including the acquisition of the real property and alleged reversionary interest described below; and

WHEREAS, the Village identified real property owned by Wimberley Senior Citizens Activities, Incorporated (“WSCAI”) as being necessary and desirable for the purpose of constructing and operating the community center project, and previously acquired said land by purchase and deed, said land being more particularly described in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, the Village has taken possession of the land described in Exhibit A, has executed contracts for the construction and operation of the community center project, and has begun preliminary construction activities on said land pursuant to the community center project; and

WHEREAS, it appears that the Johnnie L. McNeil Trust (“McNeil Trust”) owns a certain alleged, but not activated, reversionary interest (“the alleged reversionary interest”) relating to a portion of the land described in Exhibit A, but substantial questions now exist regarding certain title issues, and other legal and factual issues, pertaining to the alleged reversionary interest, including but not limited to: the specific type or nature of the alleged reversionary interest; the current owner or owners of the

alleged reversionary interest; and whether the recent acquisition by purchase and deed of the land described in Exhibit A by the Village, for the purpose of the construction and operation of a community center, and related possession and construction activities by the Village, activated the alleged reversionary interest; and

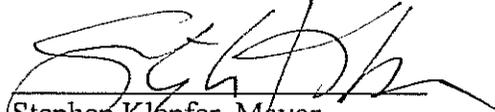
WHEREAS, the Village is currently a party-plaintiff in that certain eminent domain proceeding in the District Court of Hays County, Texas, pursuant to Cause No. 04-0013 therein, styled *Village of Wimberley v. James H. McCrocklin, Trustee for the Johnnie L. McNeil Trust*, relating to the acquisition by condemnation of the alleged reversionary interest by the Village for the community center project, and the resolution of the aforementioned title, legal, and factual issues are important to a final resolution or adjudication of said eminent domain proceeding, and also important to a determination by the Village of whether additional eminent domain preliminary procedures and proceedings are necessary due to the existence of additional or other owners of the alleged reversionary interest.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE VILLAGE OF WIMBERLEY, HAYS COUNTY, TEXAS ("CITY COUNCIL"):

- (1) The City Council hereby authorizes the City Attorney and counsel for the Village to initiate new litigation, and complete pending litigation, as necessary, to determine and resolve all title issues (including but not limited to the issues previously described herein) regarding the alleged reversionary interest, and all other legal and factual issues, and to take all actions necessary or desirable to complete said litigation, for the purpose of going forward with the construction and operation of a community center project for the benefit of the community of Wimberley.
- (2) The City Council hereby authorizes the City Attorney and counsel for the Village to take all actions necessary or advisable to complete all pending or new litigation pertaining to the construction or operation of the community center project.
- (3) The City Council hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Council hereby incorporates such recitals as a part of this Resolution.
- (4) This Resolution shall take effect immediately from and after its passage and publication, as may be required by governing law.
- (5) It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

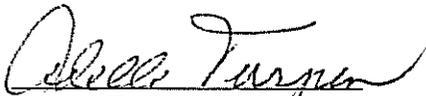
PASSED AND APPROVED by the City Council of the Village of Wimberley, Texas this 27th day of July, 2004 by a vote of 4 (Ayes) 0 (Nays) 0 (Abstain).

VILLAGE OF WIMBERLEY

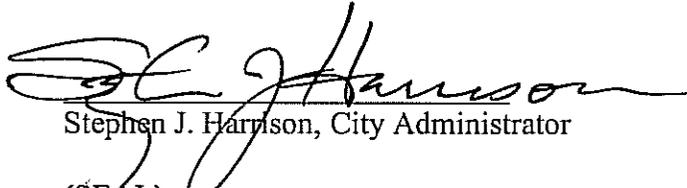


Stephen Klepfer, Mayor

ATTEST:



Adelle Turpen, City Secretary



Stephen J. Harrison, City Administrator

(SEAL)

Attachments Upon Passage:

- meeting agenda
- meeting minutes
- publisher's affidavit (if required)
- other: _____

EXHIBIT A

All that certain tract or parcel of land, being and situated in Hays County, Texas, a part of the Amasa Turner Survey therein, and more particularly described and depicted as Lot 2 of the Wimberley Community Center Subdivision of the Village of Wimberley, Hays County, Texas, as shown on that certain plat of record, in Volume 11, at Page 187 of the Hays County Plat Records, and as depicted on that certain copy of plat attached hereto and incorporated by reference for all purposes.

L37	S 30°19'51" E	62.05'
L38	S 37°24'38" W	38.26'
L39	N 37°24'38" E	59.80'
L40	N 88°34'34" E	66.02'
L41	N 57°24'19" E	64.47'
L42	S 76°18'50" E	96.66'

(0.26 ACRES)
WILLIAM A. JOHNSON JR.
VOL. 122, PG. 167
O.P.R.H.C. TX

1/4 SECTION SURVEY
ABSTRACT NO. 365
34 TURNER SURVEY

UTILITY STATION EASEMENT TO
RESOURCE UTILITY, INC.
O.C. # 01026915
O.P.R.H.C. TX

(15.399 ACRES)
BROOKSHIRE INVESTMENT CO.
VOL. 124, PG. 117
O.P.R.H.C. TX

0.37 AC.
DRAINAGE
EASEMENT

(1.856 ACRES)
WIMBERLEY SENIOR CITIZENS ACTIVITIES, INC.
VOL. 490 & VOL. 1349, PG. 54
O.P.R.H.C. TX

(5.84 ACRES)
WILLIAM A. & NANCY K. WILCOX
VOL. 1117, PG. 195
O.P.R.H.C. TX

1.87 AC.
NATURE AREA
(PORTION OF LOT 2)

(2.03 ACRES) DAVID CURTIS WARD
VOL. 443, PG. 202 R.P.R.H.C. TX

(0.83 ACRES) GRAHAM WARD
VOL. 1362, PG. 404 R.P.R.H.C. TX

(5.061 ACRES)
WIMBERLEY SENIOR CITIZENS ACTIVITIES, INC.
VOL. 1312, PG. 495
O.P.R.H.C. TX

REMAINDER OF 4.15 ACRES
LILIAN K. GROESBECK
VOL. 366, PG. 195
D.R.H.C. TX

(0.50 ACRES)
LILIAN K. GROESBECK
VOL. 371, PG. 352
R.P.R.H.C. TX

LOT 1
3.14 ACRES

0.71 AC.
PROPOSED
UTILITY/ACCESS/PARKING
EASEMENT FOR LOT 2

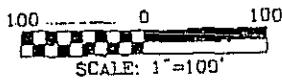
LOT 2
4.37 ACRES

MILL RACE LANE

RIGHT-OF-WAY
EASEMENT
VOL. 136,
PG. 295
O.P.R.H.C. TX

RANCH ROAD 12
(80' RIGHT-OF-WAY)

RIGHT-OF-WAY
EASEMENT
VOL. 136,
PG. 298
O.P.R.H.C. TX



SHEET 1 OF 2

FINAL PLAT
WIMBERLEY COMMUNITY CENTER
SUBDIVISION
VILLAGE OF WIMBERLEY
HAYS COUNTY, TEXAS

LAND • WATER • PROPERTY

1101 San Diego Road, Suite 225, Austin, Texas 75745 (512) 327-1180
www.lanmic.com

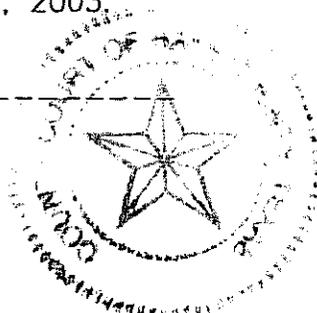
STATE OF TEXAS)(
COUNTY OF HAYS)(

I, LEE CARLISLE, Clerk of the County Court of Hays County, do hereby certify that the foregoing instrument of writing, with its certificate of authentication was filed for record in my office on the 2nd day of October, A.D. 2003, at 1:00 o'clock P.M. in the Plat Records of Hays County, Texas, in Book 11, Page 187-188

TO CERTIFY WHICH, WITNESS my hand and seal at the County Court of Hays County, at my office in San Marcos, Texas this 2nd day of October, 2003.

Lee Carlisle Deputy

LEE CARLISLE
COUNTY CLERK
HAYS COUNTY, TEXAS



NOTES:

- 1) Easements as required by the Village of Wimberley have been dedicated as indicated on the plat, and no building area will be permitted within the areas designated as an easement or public right-of-way, except as permitted by Section 34030 of the Subdivision Ordinance of the Village of Wimberley.
2) No object including buildings, accessory buildings, fencing, or landscaping which would interfere with the conveyance of storm water, shall be placed or erected within Drainage Easements.
3) A Site Plan and all other required engineering/construction plans, including landscaping plans, must be reviewed and approved by the Village of Wimberley prior to issuance of a Site Development Permit for each lot within this subdivision, in accordance with applicable laws.
4) This project shall be completed in accordance with the Village of Wimberley Comprehensive Plan, and the provisions of that Planned Unit Development Agreement adopted by, and set out in, Ordinance No. ZA-01-037 of the Village of Wimberley, as the same may be hereafter amended from time to time.
5) Maintenance and upkeep of drainage easement(s) shall be the responsibility of the owner of the lot on which a drainage easement(s) is located, in accordance with the requirements of applicable law.
6) The proposed 0.71 acre utility/access/parking easement for the benefit of Lot 2, as designated on the plat, will be granted and more fully described in that certain Deed to Lot 2 from the Wimberley Senior Citizens Activities, Inc. to the Village of Wimberley, to be executed and recorded