

City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – WIMBERLEY CITY HALL
221 STILLWATER, WIMBERLEY, TEXAS
JANUARY 5, 2017 - 6:00 P.M.

AGENDA

CALL TO ORDER JANUARY 5, 2017 @ 6:00 P.M.

CALL OF ROLL CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

PROCLAMATIONS

- (A) PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, RECOGNIZING FORMER HAYS COUNTY PRECINCT THREE CONSTABLE DARRELL W. AYRES FOR HIS YEARS OF DEDICATED PUBLIC SERVICE TO THE RESIDENTS OF WIMBERLEY, TEXAS.
- (B) PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, RECOGNIZING FORMER HAYS COUNTY ELECTIONS ADMINISTRATOR JOYCE COWAN FOR HER YEARS OF DEDICATED PUBLIC SERVICE TO THE RESIDENTS OF WIMBERLEY, TEXAS
- (C) PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, RECOGNIZING HUGH CAMPBELL FOR HIS YEARS OF DEDICATED SERVICE TO THE VILLAGE STORE IN WIMBERLEY, TEXAS.

CITIZENS COMMUNICATIONS

THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS ON ISSUES AND ITEMS OF CONCERN, NOT ON THIS AGENDA. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AND OBSERVE A THREE-MINUTE TIME LIMIT WHEN ADDRESSING COUNCIL. SPEAKERS WILL HAVE ONE OPPORTUNITY TO SPEAK DURING THE TIME PERIOD. SPEAKERS DESIRING TO SPEAK ON AN AGENDA ITEM WILL BE ALLOWED TO SPEAK WHEN THE AGENDA ITEM IS CALLED. INQUIRIES ABOUT MATTERS NOT LISTED ON THE AGENDA WILL EITHER BE DIRECTED TO STAFF OR PLACED ON A FUTURE AGENDA FOR COUNCIL CONSIDERATION.

1. **CONSENT AGENDA**

THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COUNCIL MEMBER OR CITIZEN, IN WHICH EVENT THOSE ITEMS WILL BE PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION.

- (A) APPROVAL OF MINUTES OF THE REGULAR CITY COUNCIL MEETING OF DECEMBER 1, 2017.
- (B) APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF NOVEMBER 30, 2016
- (C) APPROVAL OF MINUTES OF SPECIAL CITY COUNCIL MEETING OF DECEMBER 7, 2016
- (D) APPROVAL OF NOVEMBER 2016 FINANCIAL STATEMENTS FOR THE CITY OF WIMBERLEY
- (E) APPROVAL OF THE APPOINTMENT OF MATT MEEKS TO THE CITY OF WIMBERLEY PARKS AND RECREATION ADVISORY BOARD. *(PLACE TWO COUNCIL MEMBER CRAIG FORE'S NOMINEE)*

2. **CITY ADMINISTRATOR REPORT**

- STATUS REPORT ON CENTRAL WIMBERLEY WASTEWATER PROJECT (BID PROCESS, DISCHARGE PERMIT, EASEMENTS, POTENTIAL AQUA TEXAS AGREEMENT, PARKLAND CONVERSION, IMPACT FEE ADVISORY COMMITTEE, TIMELINE, ETC.)
- STATUS REPORT ON RIVER ROAD RIVERBANK RESTORATION PROJECT
- STATUS REPORT ON HIDDEN VALLEY LOW WATER CROSSING RECONSTRUCTION PROJECT
- STATUS REPORT ON BLUE HOLE REGIONAL PARK OPERATIONS

3. **PUBLIC HEARINGS AND POSSIBLE ACTION**

- (A) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW FOR THE LIMITED DURATION ON-PREMISE SALE AND CONSUMPTION OF BEER AND WINE ON PROPERTY ZONED PARTICIPANT RECREATION-HIGH IMPACT (PR-2) LOCATED AT 450 OLD KYLE ROAD, WIMBERLEY, HAYS COUNTY, TEXAS. *(WIMBERLEY PLAYERS, APPLICANT)*
- (B) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS), CHAPTER 112 (REGULATION OF VACATION RENTALS AND BED AND BREAKFAST LODGINGS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTION 155.065 (VACATION RENTAL LODGING REQUIREMENTS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES;

AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, A SAVINGS CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING. (CITY ADMINISTRATOR)

4. ORDINANCES

- (A) CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING CITY OF WIMBERLEY ORDINANCE NOS. 2006-010 AND 2007-005, "CODE OF ETHICS," TO EXPAND THE CLASS OF PERSONS WHO MAY FILE AN ETHICS COMPLAINT UNDER THE CITY'S ETHICS ORDINANCE; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING. (PLACE THREE COUNCIL MEMBER SALLY TRAPP)
- (B) CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, ORDERING A GENERAL ELECTION ON MAY 6, 2017, FOR THE PURPOSE OF ELECTING COUNCIL MEMBERS FOR PLACES ONE, THREE AND FIVE OF THE CITY OF WIMBERLEY CITY COUNCIL; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THE ELECTION; MAKING OTHER PROVISIONS FOR THE CONDUCT OF THE ELECTION; AND PROVIDING FOR FINDINGS OF FACT, SEVERABILITY, CONFLICTING PROVISIONS, GOVERNING LAW, PROPER NOTICE AND OPEN MEETING, AND AN EFFECTIVE DATE. (CITY ADMINISTRATOR)

5. DISCUSSION AND POSSIBLE ACTION

- (A) DISCUSS AND CONSIDER POSSIBLE ACTION APPROVING A PROPOSED ELECTION SERVICES CONTRACT WITH THE HAYS COUNTY ELECTIONS ADMINISTRATOR TO CONDUCT THE MAY 6, 2017 GENERAL ELECTION FOR THE CITY OF WIMBERLEY, TEXAS. (CITY ADMINISTRATOR)
- (B) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSAL TO RELOCATE THE WIMBERLEY FARMERS MARKET TO THE WIMBERLEY COMMUNITY CENTER PARKING LOT. (PLACE THREE COUNCIL MEMBER SALLY TRAPP)
- (C) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSAL FROM THE CITY OF WIMBERLEY HOTEL OCCUPANCY TAX ADVISORY COMMITTEE TO REDUCE THE CITY'S HOTEL OCCUPANCY TAX RATE. (HOTEL OCCUPANCY TAX ADVISORY COMMITTEE CHAIRMAN MARK BURSIEL & PLACE THREE COUNCIL MEMBER SALLY TRAPP)
- (D) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSED EMERGENCY TOURISM RESPONSE PLAN AND THE ESTABLISHMENT OF A \$5,000 RESERVE IN THE CITY'S HOTEL OCCUPANCY TAX FUND TO FUND SUCH A PLAN IN THE FUTURE, IF NEEDED. (HOTEL OCCUPANCY TAX ADVISORY COMMITTEE CHAIRMAN MARK BURSIEL)
- (E) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSAL TO DEOBLIGATE \$14,000 IN HOTEL OCCUPANCY TAX FUNDING

PREVIOUSLY ALLOCATED BY CITY COUNCIL FOR THE 2017 PAINT WIMBERLEY EVENT. (CITY ADMINISTRATOR)

- (F) DISCUSS AND CONSIDER POSSIBLE ACTION SETTING THE DATE, TIME AND PLACE FOR A PROPOSED CITY COUNCIL-HOTEL OCCUPANCY TAX ADVISORY COMMITTEE WORKSHOP. (HOTEL OCCUPANCY TAX ADVISORY COMMITTEE CHAIRMAN MARK BURSIEL)
- (G) DISCUSS AND CONSIDER POSSIBLE ACTION ON ISSUES RELATING TO FINANCING FOR THE CENTRAL WIMBERLEY WASTEWATER PROJECT. (PLACE THREE COUNCIL MEMBER SALLY TRAPP)
- (H) DISCUSS AND CONSIDER POSSIBLE ACTION SETTING THE DATE, TIME AND PLACE FOR A CHAPTER 26 PUBLIC HEARING RELATING TO THE USE OF PARK LAND FOR THE CENTRAL WIMBERLEY WASTEWATER PROJECT. (CITY ADMINISTRATOR)
- (I) DISCUSS AND CONSIDER POSSIBLE ACTION SETTING THE DATE, TIME AND PLACE FOR A PUBLIC MEETING ON WASTEWATER RATES RELATING TO THE CENTRAL WIMBERLEY WASTEWATER PROJECT. (CITY ADMINISTRATOR)
- (J) DISCUSS AND CONSIDER POSSIBLE ACTION SETTING THE DATE, TIME AND PLACE FOR A CITY COUNCIL WORKSHOP TO DISCUSS OPTIONS FOR PROVIDING WASTEWATER SERVICE TO CENTRAL WIMBERLEY AND FINANCING ALTERNATIVES FOR SUCH OPTIONS. (PLACE THREE COUNCIL MEMBER SALLY TRAPP)
- (K) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSED INCREASE IN RESIDENTIAL SOLID WASTE COLLECTION FEES IN THE CITY OF WIMBERLEY. (TEXAS DISPOSAL SYSTEMS)
- (L) DISCUSS AND CONSIDER POSSIBLE ACTION RELATING TO FUTURE USE OF THE CITY OF WIMBERLEY GENERAL FUND BALANCE. (CITY ADMINISTRATOR)
- (M) DISCUSS AND CONSIDER POSSIBLE ACTION APPROVING THE PROPOSED ROUTE FOR THE 2017 WIMBERLEY FOURTH OF JULY PARADE. (CITY ADMINISTRATOR)

6. CITY COUNCIL REPORTS

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE CITY COUNCIL MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING

ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

CERTIFICATION

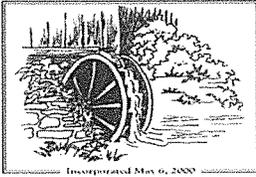
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on December 29, 2016 at 10:00 a.m.



Cara McPartland, Assistant City Administrator/City Secretary

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: APPROVAL OF
DECEMBER 1, 2016 MINUTES OF REGULAR
CITY COUNCIL MEETING

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider approving the minutes for the December 1, 2016, Regular City Council Meeting.

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
December 1, 2016 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Mac McCullough.

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

Councilmembers Present: Mayor Mac McCullough, Councilmembers Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld, and John White.

Staff Present: City Administrator Don Ferguson & City Secretary Cara McPartland

Citizens Communications

Mayor McCullough announced certain changes in order of agenda items and moved this item after Agenda Item 4B. No citizen comments were heard.

1. Consent Agenda

This item was heard after the Pledges to the United States and Texas flags and before Agenda Item 4B.

- A. Approval of minutes of the Regular City Council meeting of November 17, 2016
- B. Approval of minutes of the Special City Council meeting of November 3, 2016
- C. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting of November 9, 2016
- D. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting of November 15, 2016

Councilmember White moved to approve all Consent Agenda items, as presented. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported the latest water quality test results showed elevated levels on Cypress Creek at the Square and noted testing will be conducted again after Market Days.

- Status report on River Road Riverbank Restoration Project

City Administrator Ferguson reported the contractor is ahead of schedule and anticipated completion in about two weeks, weather permitting.

- Status report Hidden Valley Low Water Crossing Reconstruction Project

City Administrator Ferguson anticipated issuance of the sand and gravel permit from Texas Parks and Wildlife within the next few days.

- Status report on City of Wimberley Buyout/Elevation Funding Application

City Administrator Ferguson reported the City's application is currently under review by the State.

- Status report on law enforcement-related issues

City Administrator Ferguson reported positive discussions were held with incoming Hays County Precinct Three Constable Ray Helm on possible use of off-duty officers to help out in school zones when the city marshal is not available. He noted that the special law enforcement committee will be convening on potential expansion of services with Hays County law enforcement representatives and possible modifications to the existing interlocal agreement.

- Status report on Wimberley City Council Parliamentarian Project

City Administrator Ferguson anticipated developing a rotation schedule of several volunteer parliamentarians, hoped to bring a list of names to Council in January, and spoke on Council training available through the Texas Municipal League.

- Status report on 2016 Blue Hole Christmas

City Administrator Ferguson that 2016 Blue Hole Christmas has been cancelled due to threat of inclement weather.

3. Ordinance

Consider approval of the second and final reading of an ordinance of the City of Wimberley, Texas, amending Title VII (Traffic Code), Chapter 70 (Traffic Regulations) to add a new Section 70.06 (Low Water Crossings); providing for findings of fact, repealer, savings, severability, proper notice and meeting, and an effective date. *(This item was continued from November 17, 2016 City Council meeting; City Administrator)*

City Administrator Ferguson recommended approval of the second and final reading of the ordinance, which includes addition of language to §70.06 recommended by Council at its November 17th meeting, as follows: “(C) *Exception.* The prohibitions in this section do not apply to a person who is portaging a watercraft or otherwise crossing a low water crossing from one portion of the river to another, so long as that person does not stop, stand, or park upon the low water crossing.”

Mayor McCullough entertained public comments.

Joanna Booth of Woodcreek North said friends allow her family river access and said there is no public water access for her children to swim. She felt this is sad and “not Wimberley.” She cited public water access in New Braunfels and asked where her child can go to swim. Ms. Booth said that she used to drop people off at the 7A Resort low water crossing and then pick them up later.

Deborah Koeck echoed the previous speaker’s concerns about public access to the navigable Blanco River and asked how the City plans to enforce this ordinance. She said the City does not have enough enforcement for school zones and it is disingenuous for the City to enact an ordinance it is unable to enforce. She said this ordinance will bring about mayhem and conflict. She stated her experience that the sheriff and constable do not come, if called. She felt this would cause more problems and not be helpful at this time.

Gary Zupancic agreed with Ms. Booth and Dr. Koeck. Speaking as a private citizen, he spoke of all the historical locations that are now closed for access or are prohibitively expensive options. He said losing water access takes away one of his biggest enjoyments of living here and takes it in stride when he has to stop to wait for kids to run across the bridge. He said not having any entrances to the river takes a lot away from locals and visitors. He stated his taxes go to pay for the bridge and would like to be represented and have someone looking out for his rights. He noted the devastation of the 2015 floods and said that those who live on the river and received help from the community now want to keep out those people out. He questioned how the ordinance would be enforced and clarified he was speaking specifically about the CR 1492 bridge. He felt it unfair to ask people to pay \$10 for water access. He favored leaving the CR 1492 crossing out of the ordinance, as there is no parking allowed on either side of the street.

Madonna Kimball, speaking as someone who has promoted Wimberley for 27 years, noted limited options for water access, as Blue Hole and Jacobs Well are often at capacity, and cited issues with Cypress Creek and 7A Resort. She said there is no place for people to access the river unless the City has a park where people can get in and swim.

Pam Mitchell, who manages Montezino Ranch near the Little Arkansas low water crossing, spoke of the neighborly way she deals with people on the bridge. She said when police are called about cars in her driveway, they will not write warnings or tickets. She did not want to pull police officers from more important duties and questioned why the City would want an ordinance it cannot enforce. She said if someone is walking on the crossing, she just slows down and said people should “chill out.”

Cindy McShirley spoke of her family’s long ownership history and agreed with comments about having fun and enjoying the river. However, she felt Council is not looking at this from the land owner’s perspective. She said 15-20 will people camp out with grills and bring their dogs, which does not allow owners to enjoy their own properties. She said parked cars are a problem at Hidden Valley, but never sees cars parked at the Little Arkansas bridge. She noted that car loads of people come in from Austin, which ruins the owners’ time at properties they pay taxes on. She said people even park in her driveway and go sit on the banks of private property. Ms. McShirley noted it is a public safety issue and she respects other peoples’ properties. She said

she wants people to enjoy the river and that they are not mean people, but feared the new design of the bridge will be even more inviting.

City Administrator Ferguson advised this is a public safety issue and ordinances are not passed with the intent to have law enforcement there “24-7” writing tickets, but are there as a tool for those who will not comply with courtesy warnings to move. He noted signage will be a key part in deterrence. He said it is important to understand that a low water crossing is a piece of public infrastructure that is meant to move traffic, not pedestrians, and is not for river access. He was sympathetic on the need for public water access, but stressed the ordinance is meant to address public safety and liability issues.

Mayor McCullough liked the bridges the way they are and said they are a part of the City’s ambiance. He noted that he once lived at the CR 1492 bridge and never found anyone who was obstinate and would not move. If he were able to vote, Mayor McCullough stated he would not enact this ordinance. Discussion clarified which low water crossings were included in the ordinance.

Councilmember Fore asked whether someone standing on the bridge and blocking traffic is already against the law. City Administrator Ferguson said it is against State law, but the issue is not just walking on the bridge, but laying on it, fishing on it, etc. Councilmember Fore questioned how this ordinance is going to stop people from breaking the law.

Councilmember White noted that people have the right to walk or portage across the bridge and to be in the river under Texas’s right of passage laws. He said nothing will stop people from walking on the bridge and entering the river. He cited his 37 years of experience with 7A and said it is when people come out of the river that they are trespassing. He spoke of the ordinance as aimed at people sunbathing or fishing on the bridge, which blocks traffic, and in particular, those who will not move off the bridge when asked to do so.

Discussion addressed the ordinance as an enforcement tool for those who do not voluntarily comply and move off the bridge. Councilmember Barchfeld said he wanted people to enjoy the river, but the City has to look at liability and Council has to make difficult decisions. He agrees with Councilmember White’s comments, noted the City will not be regularly enforcing this ordinance and ticketing people, and said the City needs the tools to remove someone, if necessary. Councilmember Trapp spoke of the recent moratorium on short-term rentals due to a few “bad apples,” and questioned how big this problem really is. She felt we are creating ordinances just to create ordinances. Councilmember White said he dealt with these situations about 5-6 times per summer. Councilmember Dussler supported Councilmember White and noted that the ordinance does not prohibit people from walking across the bridge and felt a sign will also help deter people. Councilmember Fore did not see how the ordinance would protect property owners or fix the problem. City Administrator Ferguson stated that signage referencing an ordinance would help as a deterrent.

Councilmember White moved to approve the ordinance, as presented, which includes the aforementioned additional language in §70.06(C). Councilmember Barchfeld seconded.

Mayor McCullough called for a vote as follows: Councilmember Dussler, aye; Councilmember Fore, nay; Councilmember Barchfeld, aye; Councilmember Trapp, nay; and Councilmember White, aye. Motion carried on a vote of 3-2.

4. Discussion and Possible Action

- A. Discuss and consider possible action regarding the proposed 2015 Floods CDBG-Disaster Recovery Fund Allocation Plan for Hays County. (*City Administrator*)

City Administrator Ferguson detailed Hays County's CDBG-Disaster Recovery Fund Allocation Plan and Council's ability to accept all or part of its share under the Plan. He explained that CDBG funding can be used to help match flood mitigation grants awarded to the City for property buy-out or elevation, provided the property to be acquired or elevated meets the low to moderate income requirements set forth in the Plan. He said each home would have to be evaluated on a case-by-case basis to determine whether it meets the low to moderate income requirements. He noted Hays County has allocated significantly more funds to the City of Wimberley than are needed to meet the City's match requirement. Due to the low to moderate income requirements and other specific funding criteria that must be met, City Administrator Ferguson felt comfortable asking for CDGB funding to help match flood mitigation grants awarded for buy-out/elevation.

Discussion addressed specific types of projects that might qualify for funding under the Plan; challenges in meeting funding requirements, including low to moderate income restrictions; and anticipated match amount of approximately \$250,000 to \$300,000.

Councilmember White moved to authorize City Administrator Ferguson to seek matching funds for the flood mitigation grants awarded to the City for buy-out or elevation of flood-damaged properties that meet the Plan's funding criteria and to notify Hays County it may use the rest of the City of Wimberley's allocation in other areas. Councilmember Fore seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding a proposed term sheet relating to the possible provision of wastewater service to Central Wimberley by Aqua Texas and authorizing the City Council Subcommittee on Aqua Texas to request additional information from and continue discussions with Aqua Texas. (*Place Three Councilmember Sally Trapp*)

This agenda item was heard after Consent Agenda Items 1A-1D.

Mayor McCullough entertained public comments on this item and speakers were advised to keep comments to no more than three (3) minutes in length.

Christine Middleton spoke of her personal experience working in a regulated utility (telecommunications) environment when the only choices for local telephone service were Southwestern Bell or some other local telephone company. She said today's sewer system is what was then called a natural monopoly, meaning the cost to build the system precludes

competition. She referenced recent suggestions that investor-owned utilities such as Aqua Texas are subject to an appeals process after being given notice of a rate increase. She said this is true in principle, but stated successfully fighting a large for-profit company with a stable of high-paid lawyers is almost impossible, even with dedicated individuals who refuse to give up and a community willing to support them financially. She spoke of her sister's residence in the City of Woodcreek and recalled yard signs and other details on fighting unfair rates by the Woodcreek Ratepayers Coalition. She spoke of her recent research of Wimberley View archives to better understand the anger that permeated Woodcreek back then. She appreciated Woodcreek's residents' valiant efforts to stand up to Aqua Texas, which was led by a courageous woman who was supported by citizens with both time and money. Ms. Middleton noted that the Woodcreek Ratepayers Coalition actually won their court case, which gave them the right to negotiate with Aqua Texas, but in the end was a "hollow victory." She said Aqua Texas "out-lawyered and "out-moneyed" the small community of 787 households and Aqua Texas slowly but surely wore down the volunteers' energy and the community's ability to support them. She stated that eventually the group was forced to give up. She said we continue to hear complaints from Woodcreek on high water and sewer rates and more recent Wimberley arrivals have indicated they will not consider buying a home in Woodcreek after being told by realtors of Aqua's high rates. Ms Middleton cited her sister's base sewer rate of \$71.50 and base water rate of \$44.85 and noted this is before anyone turns on a faucet or flushes a toilet. She presented a folder of all Wimberley View articles between 2004 and 2007 and distributed a summary of those articles to Council. She quoted Winston Churchill as saying "those who don't learn from history are doomed to repeat it." She asked that Council please consider this piece of local history before making decisions.

Barbara Hopson stated she is very much opposed to working with Aqua Texas in any form or fashion. She wished the people supporting Aqua Texas would compare apples to apples when comparing Aqua Texas to a City-owned system. She said despite hearing of Aqua Texas as a "no cost" option, there really is not a "no cost" option, as she felt the Aqua Texas option may not cost as much upfront, but will cost more than a City-owned system over many years. She stated that if the City gives up its CCN, it loses its right to control growth by controlling where utilities run. She said once the City gives away its CCN, it will never get it back because it would have to repay Aqua Texas every penny paid involving service it has extended. Ms. Hopson said Wimberley is just one small part of a 16-county rate region of Aqua Texas and every single person serviced by Aqua Texas in a single rate region has to have exactly the same rate schedule as every other entity in that district. As an example, she stated Wimberley has to have the same rate as the City of Woodcreek, Meadow Oaks, and every other Aqua Texas facility in 16 counties. Ms. Hopson said the City is really helping to pay not only for its own City water system, but for any Aqua Texas customer water system in 16 counties, which she felt makes it very difficult to make a comparison, and asked Council to "work out your rate sheets accordingly."

Alan Munde spoke as a citizen of Wimberley who is not against anyone, but said it is the right and proper thing for the City to own its own utilities. He said everywhere he has lived has always had publicly owned utilities, which he felt is the right way to go. He felt Aqua Texas is wanting too much and said one reason to incorporate was to control and manage growth. He

questioned whether the City should un-incorporate, if we are not going to manage things ourselves, rather than turning them over to a for-profit group.

Ino's owner, Tom Keyser, said he is in the proposed service area and has been involved with this project for years. He wanted to address Council on the methods by which wastewater rates are established and customers are protected. He felt much has been said by various groups about the City maintaining control of rates south of the creek (Cypress Creek) and concerns regarding rate increases by Aqua Texas. He referenced two forms (published by the Public Utility Commission of Texas) that were distributed to Council. He said the rates established by a City-owned utility are at the sole discretion of the City Council and are not subject to PUC review or approval and no advance notice to customers is required. He said in an investor-owned utility, that is not the case. He stated customers have no right to dispute the City-established rates with the PUC. He stated this group or any future Council at their sole discretion by majority vote could set that rate at whatever they wanted it to be. He said that we saw last night during the rate meeting that the base rate you will pay here in Wimberley is not far off from what you are paying right now in Woodcreek, and that is with the City's \$200,000 contribution. He said you are going to be paying a base fee ("before you flush a toilet") of \$56 per any household. He said without the City's contribution, "it could go as high as \$220 a month," and asked that Council look at the documents that were presented last night. He stated additionally the Texas Water Development Board will require that sufficient rates be charged for repayment of the loan. He said if the City-owned utility rates are subject to the whims of future Councils it provides no consumer protection whatsoever. He encouraged Council to think about these things as it votes and looks at different rate structures.

Andrew Baccus, who lives in Dripping Springs, extra territorial jurisdiction, noted his service on the Hays Trinity Groundwater Conservation District's Board from 2003 to 2010, including his 4-year tenure as Board president. He spoke of the Board's dealings with Aqua Texas and Woodcreek in their water system permitting. He noted they had a tremendously leaky system and when Aqua Texas was asked why they did not fix those leaks, the answer was that TCEQ regulates on pressure and does not have a metric for leakage, "so if we just maintain the pressure, then we're good." Mr. Baccus and the Board did not feel that is a wise use of resources and said eventually there was a continuing fight to get Aqua Texas to improve the system. He believed that the Wimberley community should maintain control, as a corporation's prime objective is its responsibility to return value to the shareholders and does not speak to community service. He referenced a documentary titled "The Corporation," which evaluates a corporation based on the DSMV psychological manual. He said if you had to analyze a corporation based on its by-laws, it would be a "sociopath," because all it cares about is returning value to shareholders. He believed it would be a huge loss of control for our community to hand this over to Aqua Texas.

Candy Spitzer spoke of her business experience with governmental real estate and rights-of way, specializing in water/wastewater lines throughout Texas and the Hill Country. She said the important thing about this project is the CCN and the "use of putting in the pipelines." She stated eminent domain is not a bad thing as long as it is done for the benefit of the public and people understand there are tax benefits. She cautioned that if the City turns over its control to a private wastewater company the City will have a harder time, because the City will have to use

its power of eminent domain to get pipelines put in. She was not sure “how willing the property owners are going to be to allow that under the investor-owned utility.” She felt they might be willing, if it is for the public good and for the City. Mrs. Spitzer said the only way you can control what Wimberley looks like and steer it into a model city (unlike Kyle, Austin, or San Marcos) is with the power of the CCN. She thanked Council and asked to find a compromise among Aqua Texas, the City, and its constituents, and urged the City not to give away its power.

Phil Collins stated he really does not care whether the City goes with Aqua Texas or a City-driven answer, but encouraged Council to please take action and not spend any more money on studies, as Council has a fiduciary responsibility. He also spoke of his support of the City’s Hotel Occupancy Tax, but felt the original process is being circumvented and favored “throwing it back out there for a vote.” He agreed with the 3-minute time limit for speakers and asked that Council be consistent regardless of how excited speakers may be.

Louis Parks reminded that the City of Wimberley has already fought Aqua Texas in a previous court case and provided details on the legal fight that was joined by a small Houston community and its legal team and resulted in Aqua Texas allowing some incorporated communities to get out of their agreements. He pointed to the City of Kyle’s negative experiences with Aqua Texas and asked Council to visit those working within (or formerly within) Kyle’s city government about why Aqua Texas was such a bad partner.

Barbara Clayton spoke of her family’s history, of growing up in the Buda/Kyle area, of her father’s role in founding local school districts, and her own teaching career. She said you can put value on rocks and mountain junipers and spoke of problems faced by the community, including floods that caused people to lose so much due to “a handful of people who made some decisions that were not very good.” She spoke of living off of CR 1492 for nearly 30 years, of her husband’s long illness, and of her continuing real estate career in New Braunfels. She stated her desire to leave her home to her children and said the system that she would pay for would not benefit her or anyone on CR 1492. Mrs. Clayton said she was for incorporation because she thought “we would be protected.” She said “now you are wanting to charge people to cross that bridge” and asked “how the heck does the City own the low water bridges and make decisions as to can walk on it or who can’t.” She felt the community that is dear to her heart is being shred apart by a handful of people who’ve got plans to expand and asked if the flood did not teach anyone a lesson about building “cement, concrete, and asphalt.” She said her house did not get flooded, but “because those ordinances aren’t enforced, my road cost me \$1,000 to fix.”

Judy Thompson expressed concerns about “the money and the loan.” She was worried that the system would cost up to \$10,000,000. She said there are 2,600 citizens and 1,589 households to pay the money back. She felt no option is perfect and stated there is a lot of confusion regarding Aqua Texas acquiring the CCN and controlling all development. She said it would be very helpful if the City could explain why current zoning and development ordinances would not protect the community.

Maurice Guimont said that an agreement that goes on forever makes no sense, as no one knows what the situation will be like in 20-30 years. He asked what would happen if Aqua Texas is sold to offshore owners “who couldn’t care less about us.” He felt contracts should be

renegotiated and updated after 20 years or so. He stated “the idea that Aqua Texas will fix rates for the first 2 years then are free to charge what they want after that is very naïve,” which he said amounts to taxation without representation. He said there should be rules regarding price escalation and there should be some index used that is related to the cost of operating the system. Mr. Guimont said Aqua Texas has no business telling the City that it must limit its zoning or building restrictions and said they are trying to make Wimberley “a company town” like coal companies did to towns in West Virginia and Pennsylvania. He felt Wimberley’s CCN should stay in the City’s possession and to give it away is to give away a method of control over Aqua Texas. He said “lease it to them at an annual rate that is tied to the price they charge the merchants for treating their wastewater or a similar scheme.”

Deborah Koeck of 1 Spalding Circle in the City of Woodcreek stated she owns properties in downtown Wimberley at 250 Blue Heron Run and 136 Henson Road. She suggested that Council ask speakers to state where they live to determine whether they are one of the impacted property owners in the downtown area that will be forced onto this sewer system. She said that will “give us a better perspective on what their thought process is and why they feel the way they do.”

Penny Stone, who lives in Woodcreek North and does not own property in downtown Wimberley, said this issue affects all of us and gets how frustrating it must be for Wimberley residents/property owners to feel they are the ones who have to bear the burden of all this. Ms. Stone questioned how this cost could be spread to a larger audience in Hays County. She said she would be glad to help pay for it if it means our creeks do not get polluted and you do not give away our power to a corporation that has absolutely no interest in anything but making money.

Mayor McCullough concluded public comments.

Councilmember Trapp spoke of the Aqua Texas Subcommittee’s work with Aqua Texas on the proposed term sheet, which contain basic conceptual principles agreed upon by the City and Aqua Texas. She spoke of a meeting held today with Councilmember Barchfeld, City Administrator Ferguson, City Attorney Emily Rogers, and Aqua Texas President Bob Laughman and his legal counsel. She distributed a handout on the term sheet to Council.

Councilmember Barchfeld introduced the term sheet put together in good faith negotiations and took turns reading the document with Councilmember Trapp. (*The full text of the Aqua Proposal to Provide Wastewater Treatment Service to the Wimberley Downtown Business Area is attached to these minutes.*)

Councilmember Barchfeld stated that bids received on the Wimberley sewer system will be turned over to Aqua Texas, in order for Aqua Texas to determine what rates we would pay and then Council can compare bids to make an intellectual, economical, and environmental decision on this subject.

Councilmember Trapp clarified that Aqua Texas’ rates have already been stated, but the City’s rates will have to be evaluated. Councilmember Barchfeld said that effectively we will have the same rates as north of Cypress Creek, with a five-year cap on those rates.

Mayor McCullough opened Council discussion and noted that the City's legal counsel, Emily Rogers, is present to answer questions.

Mayor McCullough adjourned Open Session and convened Executive Session at 6:56 p.m., pursuant to Section 551.071 of the Texas Government Code for consultation with legal counsel.

Mayor McCullough adjourned Executive Session and reconvened Open Session at 7:36 p.m.

No action was taken in Executive Session.

Mayor McCullough requested Council direction on this item and said significant long-term decisions have to be made. He asked what the key "tripping points" are for going with Aqua Texas.

Councilmember Trapp replied: Fairness; as the City-owned system creates a special class of citizens, and our whole Village is paying for this district to have sewer service," which she described as being handed "a golden ticket." She said assets would be taken out of the budget every year that could be spent on roads and bridges and we would be spending it on sewer. She stated the City is even offering to hook up private properties from the house to the main and no one else in town gets that. Affordability, Aqua Texas versus the City's plan. She said that Aqua Texas rates, that have been published and agreed to, are extremely reasonable and very affordable.

Discussion addressed phased versus non-phased development of the collection system under the Aqua Texas proposal. Councilmember Trapp favored the phased approach; Councilmember White favored the non-phased approach; Councilmember Fore said "it depends" and said with the phased option "you have less money invested in the first phase before the CCN is transferred." Councilmember Barchfeld stated his goals are to get the creek cleaned up and affordability, and noted Aqua Texas's preference for not phasing system development. He felt all the data is needed to make a decision. Discussion between Mayor McCullough and Councilmember Barchfeld addressed possible project bid amounts and Councilmember Barchfeld stated that Mr. Laughman expressed concerns that the City's estimates were low and did not want to make a commitment until bid numbers are in. Councilmember Barchfeld said this has always been about having two options so Council can pick the best one. He did not want pollution or spending more money than we have to, or trigger the need for an ad valorem tax. He said there are approximately 2,600 voters in this community that we need to treat fairly. He noted many people do not care about the sewer, but want a decision made, which requires complete fact-finding and comparison of options.

Mayor McCullough said he is getting a strong sense that the Aqua Texas option is the preferred route and Councilmember Barchfeld noted angst regarding costs, those who may or may not receive benefits from the system, the City's contribution, and possible need for an ad valorem tax if all alternatives are not examined.

Councilmember Dussler stated he has a huge issue with Aqua Texas as a company and great issues with giving away our CCN, which he described as a "deal breaker." He agreed with

Councilmember Barchfeld that we need a detailed proposal from Aqua Texas and our own bids to make a thoughtful, unemotional decision and do what is right. He noticed that on the term sheet, the item regarding Aqua Texas's request that the City limit its restrictions on future growth, was missing. Councilmember Trapp said the intent of Mr. Laughman was to request that the City not impose any moratoriums in order to justify Aqua Texas spending "this amount of money in your community." She said Mr. Laughman knows the City's regulations are stringent and was not asking that they be relaxed, but he did ask that moratoriums not be placed on building.

Councilmember Fore expressed his long-term concern is debt. He did not know if Aqua Texas is better than the City's plan, but with the City's plan, he sees the City going deep in debt and does not know how much debt there will be until bids are in. He spoke of paying back the loan amount, operating costs, and other unidentified costs.

Councilmember White said bids are needed and may be higher than anticipated, but asked Council to think back as to why we started discussion of a sewer system many years ago, which is pollution from unknown source(s). He stated the need to have collection system bids in hand in order to make a comparison with Aqua Texas's offer. He stated agreed-upon goals to clean-up the river/creek and have no discharge. He pointed out there will also be maintenance costs for the system as it ages. He reserved his judgment until he has looked at final figures.

Mayor McCullough favored getting bid numbers as soon as possible. City Administrator Ferguson said the engineers are waiting for final paperwork from TXDOT and hoped to have that information by the middle of next week. Discussion favored scheduling a special meeting of Council on Wednesday, December 7, 2016 at 6 p.m. and the need to expedite the bidding process. Discussion addressed possible issues or questions regarding Aqua Texas's proposal, including potential benefits of the proposal to Aqua Texas.

Councilmember Barchfeld stated he would like to make a motion to approve the term sheet and request that Aqua Texas submit a proposed contract based on certified cost estimates for both phases.

Councilmember White moved to authorize discussion between the Aqua Texas subcommittee and Aqua Texas to develop a formal agreement, with a deadline to be determined at Council's special meeting on December 7th. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding a proposal to develop a multi-faceted approach towards the management and allocation of Hotel Occupancy Tax proceeds to replace the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Mayor Mac McCullough*)

This item was heard after Agenda Item 4A.

Madonna Kimball read the following statement by Hotel Occupancy Tax Advisory Committee member Mark Bursiel: "Good evening, Council and Mayor. To those of you who do not know

me, my name is Mark Bursiel and I am a current sitting member of the City's Hotel Occupancy Tax (HOT) Committee. I come before you tonight not as a friend or as a foe. I come to you as a member of the HOT Committee. Approximately 18 months ago, our Committee was given the task to form a cohesive group with a clear objective, rules, regulations, and guidelines. The only information we were given to perform this task was a mediated agreement formed between two groups – the Wimberley Chamber of Commerce and the WVTLA, which was mediated with the oversight of Scott Joslove and then Mayor Steve Thurber. Since the time this Board was formed of seven volunteers (4 lodging; 1 Chamber; 1 arts; and 1 merchant), we worked many hours to create Board guidelines that not only followed the laws of Texas, but also fit into the City's master plan, maintaining the quaint, small town aura. As you well know, these guidelines have been submitted for Council to review and approve 3 times over the past 18 months. Since the acceptance of the guidelines, we have had our first round of proposals and funding requests. As a result, we have discovered, as we thought, there would be some mistakes that need to be corrected. We are the most transparent Board the City has, with published operating guidelines, a City-approved ordinance, and a mediated agreement. With that said, we have approved 63% of the applications that have been submitted to our Committee. However, we are also the most attacked and oppressed Board this City has. We've been talked about, called names, and publicly put down and berated and belittled by City representatives as well as public representatives. All this has been done in a public setting as well as behind closed doors. We have been given a job to do by the City and I feel that we have been doing the best job we can within the approved guidelines and the laws of Texas. Tonight I'm asking the Council, the Mayor, and City staff, and groups within Wimberley to stop the attacks and name-calling and allow us to do our job. Changing the way the Committee is formed or the way it operates will only derail the progress made, causes more instability, and cause further delays."

Bob Cook, part owner of Art on 12 Gallery and HOT Committee member, stated he is speaking personally and not on behalf of the Committee. He noted collections of \$254,000 and spending of about \$10,000. He considered this to be the worst of all worlds, because we have incurred the cost and pain of pulling this money out of the lodging sector, but have not put any of it to work to increase tourism and lodging nights. He said we have only looked at events and have figured out there are not that many events in Wimberley that would justify HOT funds that would come close to \$200,000. He felt what we are missing is baseline spending, or spending not related to an event that goes on over a semi-permanent basis, such as billboards, signage, social media marketing, etc. He referenced WVTLA's DMO proposal, which involves hiring a tourist director, and building a department within the City that focuses on tourism. He said this was explained in great detail to the Committee, which voted 7-0 to recommend approval. He noted that Council did not approve the DMO after hearing opposition and the item was tabled. Mr. Cook recommended that Council accept the DMO plan with a stipulation that the Visitor's Center be kept separate from the DMO, so the DMO could not take over or manage the Visitor's Center. He felt there would be a way to develop baseline projects in a manner that would push tourism.

Mayor McCullough reviewed the history of the HOT tax, 3-year review timeline, revenue projections, Committee formation, and turnover among members. He asked if one Council member can help the Committee work together and possibly make the application process less burdensome. Mr. Cook spoke on the shortage of applicants for events and advocated that the

Committee produce a modified application form to help eliminate some confusion and supported the DMO as an ambitious plan with its own revenue sources allocated. He said the DMO is not necessarily asking for HOT funds, but is asking for a line of credit. He favored holding a workshop with the public who could bring forward projects and noted other projects such as rack card programs that other cities have.

Discussion addressed reasons that HOT fund allocations were returned to the City by an event organizer; functioning of the HOT Committee; possible joint Committee/Council meeting; development of a vision for tourism; primarily unanimous recommendations from the Committee to Council; need for Council direction to the Committee; and implementation of the HOT tax. Mayor McCullough did not feel the Committee was unified. Councilmembers Barchfeld and Trapp felt the Committee functioned very well together. Councilmember White referred to a feud between two entities at odds with each other, which has degenerated into a name-calling contest. Councilmember White felt the DMO was too complicated and favored a 3-year period to target advertising to the appropriate people through HOT tax funds. He said the application is daunting and stated his main goal is to get some peace in the Valley. Mr. Cook felt keeping the DMO as a separate entity would alleviate conflict with the Visitor's Center. He said not much is done to sell Wimberley and we need to bring in experts.

Discussion addressed holding a joint Council/Committee meeting; need for the Chamber and WVTLA to work together; the Chamber's lack of application representation at Committee's meeting; need for a plan to spend HOT tax funds; reasons for Committee turnover; and the HOT Committee's need for clarification on Council's vision before holding a joint workshop. Mayor McCullough envisioned a 3-part organization that would replace the Committee and favored not having the DMO and Visitor's Center as separate locations.

Mayor McCullough announced he is pulling this item and will bring it back to Council later. No action was taken.

D. Discuss and consider possible action regarding the appointment of members to the newly created City of Wimberley Technology Advisory Committee. *(Place Three Councilmember Sally Trapp)*

Councilmember Trapp presented the following appointments for consideration: Ralph Logan, Haidar Khazen, Christy Degenhart, Tera Villaret, and Jerre Cope. Councilmember Trapp anticipated the Committee's first meeting to be held in January 2017.

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

E. Discuss and consider possible action authorizing construction of a proposed maintenance building at the Blue Hole Regional Park. *(Place Three Councilmember Sally Trapp)*

City Administrator Ferguson recommended authorizing construction by the low bidder, Rafter J. Rustic of Wimberley, at a cost of \$23,302.21.

Discussion addressed possible uses for the maintenance building, such as storage space.

Councilmember White moved to approve authorizing construction of the maintenance building at Blue Hole Regional Park by the low bidder, Rafter J. Rustic of Wimberley. Councilmember Dussler seconded. Discussion established that \$25,000 was budgeted for this project and cost overruns are not anticipated. Motion carried on a vote of 5-0.

- F. Discuss and consider possible action regarding a proposal to approach organizers of the Wimberley Farmers Market about the possibility of moving the Farmers Market to the Wimberley Community Center parking lot or to the Blue Hole Regional Park. (*Place Three Councilmember Sally Trapp*)

Councilmember Trapp stated she discussed this matter with the Farmers Market Board president who is receptive to talking with the City about a possible move, but did have some reservations about signage and costs. She asked about getting together a group with some Council/Farmers Market Board members to talk through this proposal. City Administrator Ferguson stated the City would not charge a fee and event signage would be allowed under the City's sign regulations. He felt the Community Center would be a more likely location and has adequate parking.

Councilmember Trapp moved to authorize herself and City staff to meet with Farmers Market Board members in order to discuss moving the Farmers Market to the Wimberley Community Center parking lot or to Blue Hole Regional Park. Councilmember White seconded. Motion carried on a vote of 5-0.

- G. Discuss and consider possible action regarding a proposal to amend the *City Council Governance Policy and Rules of Procedure* relating to decorum and time allotment guidelines for citizen comments at City Council meetings. (*This item was continued from the November 17, 2016 City Council meeting; Place Four Councilmember Gary Barchfeld*)

Councilmember Barchfeld said decorum should go both ways (audience members/speakers *and* Council should maintain civility when addressing each other) and this proposal is not meant to stifle free speech. City Administrator Ferguson noted language drafted by legal counsel that Council might consider as an alternative that addresses freedom of speech concerns: "Comments from speakers should not be directed towards another person, including a member of the City Council or City Staff, in a manner that is derogatory or threatening in nature."

To address concerns that decorum is observed by both Council and audience members/speakers, City Administrator Ferguson recommended the following addition (see italics) to the aforementioned language: "Comments from speakers *and/or members of City Council* should not be directed towards another person, including a member of the City Council or City Staff, in a manner that is derogatory or threatening in nature."

Councilmember Barchfeld moved to approve the amending the *City Council Governance Policy and Rules of Procedure*, as presented, including the abovementioned additional language, as

recommended by City Administrator Ferguson. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

Addendum to Agenda

4. Discussion and Possible Action

H. Discuss and consider possible action regarding a proposed professional services contract with TRC Engineers, Inc. for project management services relating to construction of the Central Wimberley Wastewater System. (*City Administrator*)

Mayor McCullough stated this item will be continued until Council's Special meeting to be held on December 7, 2016 at 6 p.m.

5. City Council Reports

- Announcements
- Future Agenda Items

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

Adjournment: Council meeting adjourned at 9:54 p.m.

Recorded by:

Cara McPartland

These minutes approved on the _____ of January, 2017.

APPROVED:

Mac McCullough, Mayor

AQUA PROPOSAL TO PROVIDE WASTEWATER
TREATMENT SERVICE TO THE
WIMBERLEY DOWNTOWN BUSINESS AREA

This Proposal represents the basic terms and conditions pursuant to which Aqua Utilities, Inc. dba Aqua Texas, Inc. (“Aqua”) and the City of Wimberley (“City”) agree to Aqua extending its wastewater treatment service across Cypress Creek to serve the business and residential owners in the Wimberley downtown business area as hereinafter defined.

Objective and Scope: The objective and scope of this Proposal is the result of a series of meetings with representatives of the City of Wimberley (“City”), including the City Manager, Place Three Council Member Sally Trapp, Place Four Council Member Gary Barchfeld and City Wastewater Ad Hoc Committee Member John Urban, and provides the framework for further negotiations with the intent to formalize a Proposed Agreement between Aqua and City to provide wastewater services to the designated service area with little or no cost to the City and reasonable and fair fees to future customers.

Certificate of Convenience and Necessity (“CCN”): The City of Wimberley holds a wastewater CCN which includes, but is not limited to, the area generally recognized as the downtown business district bounded by Cypress Creek and Blanco River, and more specifically defined by the Citizens Ad Hoc Committee report. For purposes of this Proposal the service area will be the area defined in that report. With respect to the CCN, it will be necessary for the City to transfer the City’s entire CCN to Aqua as follows:

1. Aqua will assume the responsibility and the cost for filing all necessary documents to secure the transfer of the CCN with PUC or any other entity necessary to complete the transfer.
2. City will cooperate with Aqua in completing the transfer and execute any documents necessary for the transfer.
3. City and Aqua would each be responsible for its own legal fees in securing the CCN transfer, and would include any cost related to any protest filed against the transfer of the CCN. City, however, would not encourage any such protests and would show its support for the transfer.
4. Aqua would remove the Blue Hole Regional Park and Deer Creek of Wimberley from the boundaries of the CCN to be transferred to Aqua.
5. Aqua would not pay the City for the CCN as its assumed value is directly proportional to the savings by the City of annually subsidizing its own treatment plant over a 30 year period.

Collection System: The Collection System would be completed as follows:

1. Given the need to commence this project as soon as possible to relieve any seepage of effluent from outdated septic systems into Cypress Creek, the City would commence construction of the collection system prior to the transfer of the CCN.
2. The collection system would include two phases.
 - a. Phase One would involve the construction of a sewer line across Cypress Creek along with construction of a collection system to serve properties on the Wimberley Square ("Square"), properties on Old Kyle Road between FM 3237 and the Square, properties on Ranch Road 12 between Blue Heron and the Square, properties on Oak Drive between the Square and the City owned parking lot, and properties on Henson Road through the Square.
 - b. Phase Two would include the remainder of the service area and would be completed at one time within three years following the transfer of the CCN.
3. Customers within Phase One would be required to connect to the collection system at the time of construction.
4. Customers within Phase Two would be required to connect to the collection system at the time of construction with the exception of those customers who have recently permitted and installed septic systems. Such customers would not be required to hook up until the expiration of ten (10) years following construction of the collection system.
5. The cost of the collection system for Phase One would be paid for by the City and reimbursed by Aqua as follows:
 - a. Aqua will provide through its sister company the funds in the form of a loan or the City may utilize other alternative competitive financial vehicles necessary to fund the cost of constructing the collection system for Phase One.
 - b. City will oversee the construction of the collection system and will provide necessary easements, inspections, coordination, bidding and other matters related to the construction of the collection system.
 - c. City will obtain any necessary easements for Phase Two of the collection system in order to have those in place prior to the transfer of the CCN.

- d. Upon transfer of the CCN, Aqua would reimburse the City for the cost of the collection system constructed during Phase One and the financing would be paid in full. The interest accrued during the construction of the collection system would also be included as a part of the reimbursement to the City.
- e. Aqua agrees to work with the City on a plan that could result in the reimbursement to the City of planning and design costs related to the collection system, but not the treatment plant, provided such costs do not negatively impact the ability of Aqua to maintain current rates. Aqua would be extended the right to use the plans and designs for the collection system.
- f. Aqua would be responsible for funding the collection system for Phase Two as the system is expanded to take in the remainder of the service area.
- g. If the phase development of the collection system is not agreeable to all parties, Aqua is open to the City constructing the entire proposed collection system prior to the transfer of the CCN, with Aqua reimbursing the City for the construction costs plus accrued interest upon the transfer of the CCN to Aqua. Upon completion of the collection system, Aqua will provide retail wastewater service to the service area.
- h. The City will provide Aqua a final certified construction cost estimates for both the phased or entire collection system prior to final execution of an agreement between the parties.

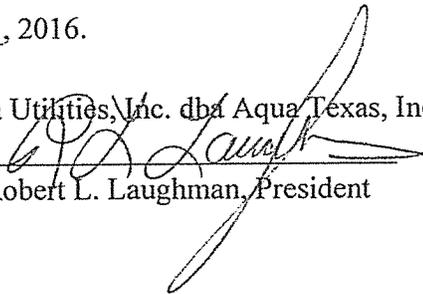
Customer Costs:

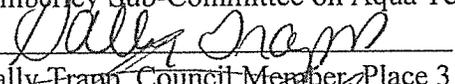
1. Rates in the service area will be the same as those charged to Aqua customers on the north side of Cypress Creek inside of the city. Aqua agrees not to seek an increase in rates for Aqua customers inside the city for a period of five (5) years.
2. Aqua will waive all CIAC fees for all customers who have a mandatory hook up. This provision is subject to final negotiation. This will not apply to customers who choose to delay their hookup because of a recently permitted septic system unless they hook up within one year after the completion of the Phase Two collection system. All customers within Phase One will have a mandatory hook up and will be required to hook up if they are within the Phase One.
3. Private property owners will be responsible for the cost of any service line from the private property owner's structure to the point of connection to the sewer main.

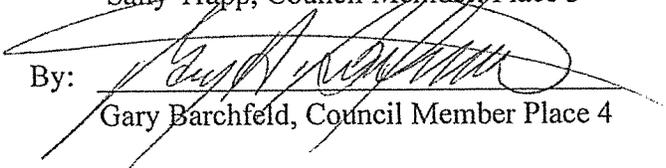
MISCELLANEOUS:

1. This Proposal is for the sole purpose of establishing a framework within which to allow for formal negotiations to take place between Aqua and City. The terms set forth in this proposal are not binding on either party and are subject to further negotiation.
2. This Proposal is intended to be a clear and fair representation of what Aqua and the City are willing to do to provide wastewater services to the service area.
3. Aqua is open to working with the City to further define the scope of the project and to provide an opportunity for the City to complete this project with minimal cost while simultaneously freeing up an annual subsidy that would greatly benefit the City as it seeks to develop the park.

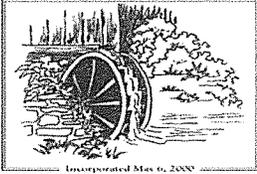
Executed this 1 day of December, 2016.

Aqua Utilities, Inc. dba Aqua Texas, Inc.
By: 
Robert L. Laughman, President

City of Wimberley Sub-Committee on Aqua Texas
By: 
Sally Trapp, Council Member, Place 3

By: 
Gary Barchfeld, Council Member Place 4

City Council Agenda Form



Date Submitted: December 21, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: APPROVAL OF
NOVEMBER 30, 2016 MINUTES OF SPECIAL
CITY COUNCIL MEETING

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider approving the minutes for the November 30, 2016 Special City Council Meeting.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas
Minutes of Special Meeting of City Council
 November 30, 2016 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Mac McCullough

Councilmembers Present: Mayor Mac McCullough; Councilmembers Bob Dussler, Craig Fore, Sally Gibson Trapp, Gary Barchfeld, and John White.

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

Workshop Session

Discuss and consider issues relating to potential service rates and fees for the Central Wimberley Wastewater System with Raftelis Financial Consultants, Inc.

City Administrator Ferguson advised that tonight's meeting is intended to provide updated information on potential rates and noted public meetings will be held before rates are finalized. He introduced Raftelis Financial Consultants, Inc. Manager Rocky Craley, who will present information on the financial plan and rate study and answer questions from Council and audience members.

Mayor McCullough and Council agreed on hearing Mr. Craley's presentation before entertaining questions from Council and/or the audience.

Mr. Craley's presentation included information on the following topics:

- Background information on previous feasibility studies, including historical timeline and study objectives
- Details on study assumptions used to develop a financial plan
- Number of LUEs calculated based on previous year's daily average consumption divided by 300 gallons per day (gpd)
- All connections assigned at least 1 LUE
- Additional fractional LUEs above 1 LUE for demand above 300 pgd
- Rates set for customers for a period of 3-5 years
- Minimum charge and Capital Recovery Fee to be billed based on the customer's number of LUEs
- Monthly minimum charges based on a total of 172 LUEs, calculated based on 300 gpd of flow and growth of 2 connections per year after initial connections
- Total of 133 LUEs assessed the Capital Recovery Fee, which will not be charged to the City's existing customer (Deer Creek of Wimberley)
- 3-year historical average used to estimate billed consumption, with winter averaging for residential customers and 100% usage for commercial customers

- Fiscal Year 2019 billed demand of 12.7 million gallons used to determine appropriate volume charge
- Projected implementation in Fiscal Year 2019 and 18-month construction period
- Operating and Maintenance expenses estimated at \$172,000, with conservative projection of 2% annual increase in operating costs
- Financial assumptions include \$5,255,000 TWDB loan debt service reduced by a \$1,000,000 U.S. EDA reimbursement grant; offsetting revenues of the City's \$200,000 annual contribution (includes reuse) and capital recovery fees from initial connections based on:
 - 133 LUEs
 - \$2,500 per LUE
 - Equal annual payments over 8 years
 - Approximately \$41,500 annually for 8 years
- Comparison of scenarios showing impact on rates if the City's annual contribution was reduced from \$200,000 to \$150,000 or \$100,000 per year
- Rate revenue requirements, with FY 2019 expected to be the first full year of implementation
- Typical monthly bill for customers assigned one (1) LUE
- Future recommendations, including updating of revenue requirements/rate assumptions prior to implementation; inclusion of billing process (LUE calculation and assignment and billed consumption) in rate ordinance; and developing a policy for utilizing surplus funds

Mayor McCullough thanked Mr. Craley and entertained questions from the public.

Judy Thompson said she is confused, as she felt the monthly rates would in no way add up to \$5-8 million "pay back." She said something is "haywire here." She referenced the aforementioned 8-year option and questioned whether users would have an extra tax. Mayor McCullough stated the 8-year option only applies to the LUEs assigned to individual users' homes. He provided an example based on a 1-LUE customer that would allow a customer to pay \$2,500 over a period of 8 years, interest-free. Mrs. Thompson questioned "hook-on" fees to customers and Mayor McCullough said the connection costs are included in the costs of the entire system. She asked "Where's the money?" and said maybe "they have to get a grinder pump." Mayor McCullough replied there is no grinder pump required. She said "this is a heck of a bargain" and asked again "how do we pay the money back?" City Administrator Ferguson noted that commercial customers will pay more than residential customers and the subject area is predominantly commercial. She liked the scenarios reflecting the City's contribution at reduced amounts.

Gail Pigg questioned whether the connection fee is from the main to the property line. City Administrator Ferguson stated it is from the main to the structure, which was an extensively debated issue. Mayor McCullough cited his understanding of Mrs. Pigg's concerns relating to easements. Mrs. Pigg stated that her work experience with the City of Austin is that the connection fee is waived, "but they meet you at the property line." She said Austin's legal department advised that public funds cannot be used to pay for improvements on private property. Mayor McCullough said our legal advice has stated the City does have that authority. City Administrator Ferguson said it is matter of securing the easements. In response to

Councilmember Trapp's inquiry as to whether such expenses are included in the loan, City Administrator Ferguson replied affirmatively. Mayor McCullough stated that this was driven by one or two prominent pieces of property that felt they would be overburdened by having "19 hook-ups within the property," and to be more specific, "we are talking about Rio Bonito." Mrs. Pigg said that is what the businesses on the other side of the creek have to do.

Jenni Marino asked if there is enough revenue generated by users to pay back the loan. Mayor McCullough replied affirmatively. Ms. Marino asked "How fast?" Mayor McCullough replied "30 years."

Tom Keyser said by his calculations "looking at 172 LUEs" would generate revenue based on your typical residential bill, with a \$200,000 City contribution of \$115,000 per year. He asked if \$315,000 would pay back this loan. Mayor McCullough asked if Mr. Keyser counted commercial customers. Mr. Keyser said "I'm going by his (Mr. Craley's) numbers." Mr. Craley detailed his revenue calculations from different sources (including the City's contribution) resulting in about \$400,000 of revenue, which offsets similar revenue requirements of the loan. City Administrator Ferguson cited past conversations with downtown property owners who indicated what their "comfort levels" would be regarding projected monthly bills. He noted that the scenario with the City contributing \$150,000 most closely matched those stated comfort levels.

Haidar Khazen asked for more details on what the aforementioned \$172,000 O & M costs would cover. City Administrator Ferguson noted specific plant operations-related costs and building of a fund balance to deal with repairs. Mr. Khazen questioned customer service and billing costs and City Administrator Ferguson stated that would not be a significant cost to the City. Based on the amount of revenue and expenses, Mr. Khazen said there is not much room for cost overruns, and asked "Who pays?" Mr. Craley explained non-profit utilities typically generate revenues to meet revenue requirements and encouraged allocating excess revenues to build a fund balance for unexpected expenses. Mayor McCullough anticipated that Council would make that policy decision regarding a possible fund balance once an operating history is established.

Judy Thompson said "the grant makes me nervous." She felt there are things in the grant that are hard for the City to perform to perfection "to get that grant." She said there are mistakes in the grant that seem problematic, "assuming we can get it." Mayor McCullough stated that we already have the grant, but whether we accept it or how we use it, remains a choice. Mrs. Thompson felt it would be very difficult to perform to the standards that are in the grant and said "you have to spend the money to get the grant." She said making it look like a bargain does not make sense. Mayor McCullough said the grant has been closely looked at and all those factors have been weighed. He stated his willingness to deal with the grant as it is written and trusted the EDA more than "us second guessing ourselves." Mrs. Thompson said "if we go haywire on this, it's a cloud on this city for 30 years and this could go hog wild when there are so many things in here that are unknowns." She wished people would read the grant. City Administrator Ferguson clarified how grant money can be spent and noted it cannot be spent on private property. He said it will be spent on public right-of-way owned and managed by the City in perpetuity and the City will work closely with the EDA on that. He noted we have accepted the

grant, but the City does not get money until we submit reimbursement and are in compliance. Mrs. Thompson said that regarding compliance, “there are some tricky things in there.”

Tom Keyser said he wanted to make sure he had “numbers from you that I can digest.” He stated his understanding that the City is looking at “a payoff annually of around \$400,000 counting O & M and debt service, total.” He said that the TWDB loan has to be covered by rate users and questioned government’s ability to come in under budget and on time. He referred to the current \$200,000 City commitment and said that in 5 or 10 years, a future Council could say we do not have this in our budget unless “we do an ad valorem” or raise rates. He said a future Council would have no choice because Council agreed to this back in 2016. Mr. Keyser said his discomfort comes from his figuring of a \$55.72 monthly rate that only pays \$115,000 per year. He stated that to cover \$400,000 an average homeowner would have to come up with \$220 per month, which he described as a “worst case scenario” if the the City can’t come up with their obligations and if these prices don’t come in right.”

Haidar Khazen spoke on what other things the City may not be thinking about, such as easements and associated costs. He asked if a previously mentioned cost of \$40,000 is still accurate. City Administrator Ferguson noted the difference between service easements and previously discussed main easements owners are not anticipated to pay for. Mayor McCullough said easements have been negotiated and predominantly settled. Mr. Khazen noted estimates for the number of LUEs and gallons per day (gpd) and referred to the Ad Hoc Wastewater Review Committee’s estimate of about 25,000 gpd. Mayor McCullough noted that in the rate study residential LUEs were rounded up, with a minimum of 1 LUE; however, commercial LUEs allowed for fractions of LUEs. Discussion between Mr. Khazen and Mr. Craley clarified how LUEs were calculated and examples were provided to illustrate variables that affect LUE calculations. Mr. Craley noted that the 172 LUEs are based on the actual consumption of users (not the number of users) and the 300 gpd estimate reflected looking ahead to avoid reaching capacity in a couple of years.

No further public comments were heard.

Council discussion included:

Councilmember Dussler stated he was generally comfortable with the analysis and rates, which he felt are affordable and cover the City’s debt service.

Councilmember Barchfeld questioned the results on page 13 of the financial plan/rate study titled *Results/Baseline-City Contributes \$200,000* and Mr. Craley clarified that the Typical Residential Monthly Bill amount of \$55.72 and Volume Charge of \$6.28 is “per 1,000 gallons.” Mr. Craley said the finalized version will reflect the “per 1,000 gallons” notation. Councilmember Barchfeld asked if Council will receive a spreadsheet in a pro forma format with 30 years of numbers on it. Mr. Craley stated he has copies and City Administrator Ferguson advised this information will also be posted online. Councilmember Barchfeld appreciated Mr. Craley’s inclusion of alternative scenarios that reflect City contributions of \$150,000 and \$100,000. Councilmember Barchfeld explained his analysis of TWDB figures, which he said showed 190 gpd (not 300 gpd), and changes the LUEs and volume. He asked why 300 gpd was used in study

methodology, rather than 190 gpd. Mr. Craley advised that the anticipated flow was developed based on flow per LUE and said that this study used actual consumption data over 3 years. Councilmember Barchfeld noted raised O & M expenses and Mr. Craley advised that 2013 analysis data was used, as opposed to 2012 analysis. Mayor McCullough stated that some of the cost increase was derived from the settlement agreement. Mr. Craley confirmed that a listing of user addresses (not user names) and associated information on LUEs, will be posted online. Councilmember Barchfeld and Mr. Craley discussed future adjustments that can be made to allow for items such as increased expenses or capital costs, should Council choose to approve such adjustments as a policy decision. Mr. Craley said building up a reserve level could be done gradually and re-evaluated on an annual basis. Discussion between Councilmember Barchfeld and Mr. Craley established that Fiscal Year 2017-2018 projections of \$41,000 in capital recovery can be amended, depending on the timing of connections to the system. Councilmember Barchfeld asked if there are any commercial rates included in the study and Mr. Craley replied the commercial rate is a system rate that is the same as the residential rate, however, residential customers pay on their winter averages and commercial rates are based on an actual month's usage.

Councilmember White felt Councilmember Barchfeld covered discussion topics well.

Councilmember Trapp asked whether Mr. Craley anticipated updating the study model with more recent costs versus the 2013 data. Mr. Craley advised that the numbers would be updated approximately six months out from implementation. City Administrator Ferguson spoke on variables such as Council's possible exclusion of "purple pipe," which would lessen system cost. Councilmember Trapp asked Mr. Craley if he could run a model without including the City's \$1,000,000 grant and Mr. Craley replied affirmatively. He said that the grant would effectively shave about \$50,000 off of the anticipated debt service, which is indicative of the rates estimated under the alternative scenario of a \$150,000 annual City contribution.

Councilmember Fore referenced the anticipated \$41,000 capital recovery for the system's first two years and asked how we could expect people to pay those fees when we do not have a system in place yet. Mr. Craley explained the hurdle in the financial plan is in 2017-2018, when the existing debt from the GBRA/Planning and Design (PAD) overlaps in 2018-2019 and was confident that if the PAD loan is not exhausted, there would be remaining funds to mitigate that last debt service. City Administrator Ferguson stated that Council may want to consider paying off the GBRA loan now rather than later. Mayor McCullough added that a number of users are ready to start paying for their LUEs in advance of hookup. City Administrator Ferguson told Councilmember Fore that he could provide the amount of remaining PAD loan funds and noted those funds could possibly be used to pay off the GBRA loan. Councilmember Fore asked Mr. Craley if he could run a scenario with a "0" contribution from the City and \$5,000,000 loan with no grant. Mr. Craley replied affirmatively.

Councilmember Trapp asked about the study's "Future Recommendations" and Mr. Craley replied that Council can consider its approach to those recommendations.

Councilmember Barchfeld felt Council needs to hold a workshop to move forward with establishing policy on the listed "Future Recommendations."

Adjourn

Mayor McCullough called the meeting adjourned at 7:17 p.m.

Recorded by:

Cara McPartland

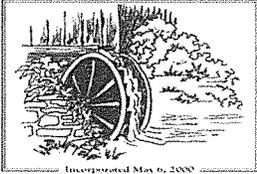
These minutes approved on the ____ of January, 2017.

APPROVED:

Mac McCullough, Mayor

DRAFT

City Council Agenda Form



Date Submitted: December 21, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: APPROVAL OF
DECEMBER 7, 2016 MINUTES OF SPECIAL
CITY COUNCIL MEETING

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider approving the minutes for the December 7, 2016 Special City Council Meeting.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas
Minutes of Special Meeting of City Council
 December 7, 2016 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Mac McCullough.

Councilmembers Present: Mayor Mac McCullough; Councilmembers Bob Dussler, Craig Fore, Sally Gibson Trapp, Gary Barchfeld, and John White.

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

Mayor McCullough asked if anyone wished to speak and audience member Sue Hatton replied affirmatively.

Sue Hatton of 408 Blue Heron spoke of her limited knowledge of “inter-town politics” and her property’s recent renovation due to flood damage. She provided details on the 2011 installation of her property’s new septic system that met the City’s requirements at the cost of \$17,000. She spoke of a prospective buyer for her property and need for disclosure of any information regarding the septic system and possible costs a new buyer would incur. She asked that her property be grandfathered and not be required to hook up to the City system or pay for future expenses that will be incurred with that system. Ms. Hatton referred to her letter dated October 17, 2016 to the city administrator and requested an answer in order to address interested buyers concerns’ over additional septic costs. She spoke of her love for Wimberley, but said they are anxious to sell their creekside property, since there is finally a prospective buyer. She hoped that strong consideration will be given to her request for grandfathered status relating to the septic system. She also hoped that Council will look at every option and make the right financial decision for all constituents of Wimberley.

Mayor McCullough advised Council is looking at multiple choices and stated his understanding that there will be a “grace period” of possibly 5 to 10 years to hook up to the system, but said “everyone will hook up” regardless of the length of the “grace period.” City Administrator Ferguson clarified that Ms. Hatton’s request is for “no connection at all.” Ms. Hatton stated that such a grace period would not help her situation, as there is already a “stigma” on the property due to the flood, which is made worse by the possibility of future connection costs.

Discussion and Possible Action

- A. Discuss and consider possible action authorizing City staff to seek bids for the construction of the Central Wimberley Wastewater System. (*City Administrator*)

City Administrator Ferguson introduced Steve Coonan of Alan Plummer Associates, Inc., who submitted a bid strategy for Council’s consideration and highlighted key timeline dates in the bidding process.

Steve Coonan provided details on the bid strategy, which separated construction into two separate projects, with the hope that such separation will expedite the Texas Water Development Board's (TWDB) review process. He anticipated hearing from TWDB within the next few days and expected to go to bid shortly.

He outlined the two separate bids as follows:

Wastewater Treatment Plant Project; including the treatment plant, site improvements around the treatment plant, storage tank, pumps for reuse system, and reuse pipeline for irrigation. He added that there could be an alternate bid for a storage tank without a roof, in order to save costs.

Pipeline Project; including the collection system, lift station, force main, and additive bids for reuse pipe to the downtown area and for connections to individual users and closures of their septic systems.

Mr. Coonan provided scenarios in which the City could award based on all or certain parts of the bid packages, which was deliberately structured to allow more flexibility in the bid process. He stated that as soon as approval is received from the TWDB, the City can advertise to bid the project.

Discussion established that TWDB comments received to date are contractual in nature, and not engineering-based; the package submitted to TWDB includes decommissioning of the existing Park plant; includes which areas would be spray-irrigated and all terms of the mediated settlement; inclusion of a tap/faucet for possible transport of water to Aqua Texas; tank size; and deductive alternate bid for a tank without a lid. City Administrator Ferguson advised there are alt bids for purple pipe, storage tank without lid; and separating the collection system, if the Aqua Texas wholesale option is chosen. Mr. Coonan said if the City does decide to go with Aqua Texas, there would be a change in the design of the force main, which would have to be redirected. He noted there would be a bid price per linear foot for that force main, but not the price for crossing the creek, as that is not part of the City plan. If the City chose to go with Aqua Texas, Mr. Coonan noted there would have to be some redesign.

Discussion addressed details of Aqua Texas's wholesale option; possible associated construction costs to the City of up to \$250,000; Aqua Texas's "no cost" retail option; "no discharge" options; separate bids for "no discharge" options to truck excess effluent or for extra storage capacity; possible total timeframe for off- and on-site plant construction of 6 to 8 months; likelihood that some contractors may bid both projects and associated advantages/disadvantages; timeframe for completion of plant/collection system; importance of having a project manager, including participating in review of bids; reasoning for/against hiring of a project manager; and provision of collection system cost estimates to Aqua Texas.

Councilmember Dussler moved to approve authorizing City staff to seek bids for the construction of the Central Wimberley Wastewater System, with the bid strategy, as presented. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action establishing a deadline for the delivery of a proposed agreement with Aqua Texas relating to the provision of wastewater service to Central Wimberley. (*City Administrator*)

City Administrator Ferguson advised that TWDB has informed the City of issues with using loan proceeds for the Aqua Texas retail option. He noted that Bob Laughman of Aqua Texas emphasized the need to base any proposal on bid information. He said that legal counsel for the City and Aqua Texas could work on drafting the framework of a proposed agreement, with specific numbers to be added later, as they become available. He said that TWDB indicated that using loan proceeds for the Aqua Texas retail option would be problematic because under the retail option the City would not own the revenue stream once the CCN is transferred. He explained other possible funding sources, such as general obligation bonds or certificates of obligation, which are tax-backed; and revenue bonds, which are not tax-backed and do not require a vote. He said funding could be explored from other agencies such as USDA, however, interest rates would not be as low as TWDB, plus the City would face the same issues as with the TWDB loan, because the City would potentially be giving the collection system to Aqua Texas when the CCN transfers.

City Administrator Ferguson explained that the City could close on the TWDB loan to build only the collection system and enter into a wholesale arrangement with Aqua Texas to treat wastewater, which would involve potential yet to be determined costs to the City such as upfront impact or CIAC fees. He said the City would own the collection system, be responsible for setting rates, retain its CCN, and there would be a wholesale cost included in those rates to help pay for Aqua Texas charges. He felt that TWDB would probably allow the City to close on a smaller loan for the collection system only, since the City would not build the treatment plant. Another option would be to enter into an agreement to surrender the CCN to Aqua Texas, with Aqua Texas becoming a full retail service provider to the City on the south side of Cypress Creek.

Discussion addressed the possible value placed on the CCN; the need for Aqua Texas to obtain bid information before finalizing a retail agreement; and whether a deadline is needed to establish a target date during the negotiations process. City Administrator Ferguson suggested that legal counsel could proceed with drafting a retail agreement based on Aqua Texas's term sheet and at the same time start working on a potential wholesale agreement, with final numbers to be plugged in when bids come in. Discussion continued on whether a deadline is needed to have a target date as a good business practice during the negotiation process or to not place a deadline and provide status updates to Council.

No action was taken. City Administrator Ferguson advised a status update will be provided at Council's January 5, 2017 meeting.

- C. Discuss and consider possible action regarding a proposed professional services contract with TRC Engineers, Inc. for project management services relating to construction of the Central Wimberley Wastewater System. (*City Administrator*)

City Administrator Ferguson reviewed key provisions and minor text changes to the contract, including an addition that would provide for a secondary back-up project manager in the event the primary project manager cannot be present. He recommended approval of the contract that was reviewed along with Planning and Zoning Commission Chair John Urban and hoped a project manager will be on board before getting bids back.

Councilmember Fore questioned how the City will pay for the project manager and City Administrator Ferguson advised that there is about \$87,000 left in the TWDB loan proceeds for planning and design of the Central Wimberley Wastewater System and there is over \$1,000,000 in the City's Fund Balance, with the exact number to be determined when the City's audit is completed. Councilmember Fore expressed concerns about possible payment amounts made from Fund Balance and need to set a cap on those payments. City Administrator Ferguson cited the typical number of months of operating expenses kept on hand in Fund Balance for property tax- versus sales tax-based cities and noted well-managed Fund Balances generally grow on a regular basis. Councilmember Fore favored having a project manager, but was concerned about the City's Fund Balance, as he felt the cost could run \$300,000 or higher. He asked if project manager costs could be included in the City's loan. Councilmember Barchfeld asked if project manager costs could be paid from the City \$1,000,000 grant. City Administrator Ferguson replied that grant funds must be used on infrastructure and said an inquiry can be made to the TWDB about possible inclusion of project management costs in the existing loan. There was general agreement that Council should consider possible action to set a threshold for a minimum Fund Balance amount at a future meeting.

Councilmember Barchfeld moved to approve a proposed professional services contract with TRC Engineers, Inc. for project management services relating to construction of the Central Wimberley Wastewater System. Councilmember White seconded. Motion carried on a vote of 3-2. Councilmembers Fore and Trapp voted against.

Adjourn

Mayor McCullough called the meeting adjourned at 7:28 p.m.

Recorded by:

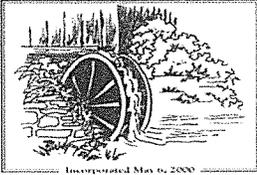
Cara McPartland

These minutes approved on the ____ of January, 2017.

APPROVED:

Mac McCullough, Mayor

City Council Agenda Form



Date Submitted: December 21, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: APPROVAL OF NOVEMBER
2016 FINANCIAL STATEMENTS OF THE CITY OF
WIMBERLEY

Funds Required:
Funds Available:

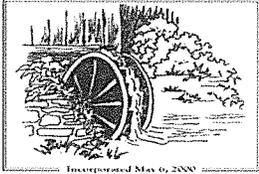
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda for City Council to consider approval of the November 2016 Financial Statements for the City of Wimberley. The Statements will be presented to City Council under separate cover in advance of the meeting.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: APPROVAL OF THE APPOINTMENT OF MATT MEEKS TO THE CITY OF WIMBERLEY PARKS AND RECREATION ADVISORY BOARD

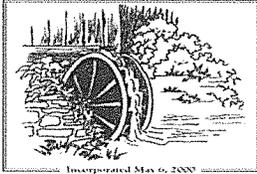
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Two Council Member Craig Fore to allow City Council to discuss and consider approval of the appointment of Matt Meeks to the City of Wimberley Parks and Recreation Advisory Board. Mr. Meeks is Council Member Fore's nominee to the Board.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CITY ADMINISTRATOR'S REPORT

Funds Required:
Funds Available:

Council Action Requested:

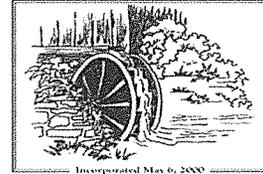
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

The City Administrator will present a report on the following items:

- Status report on the Central Wimberley Wastewater Project (Bid Process, Discharge Permit, Easements, Potential Aqua Texas Agreement, Parkland Conversion, Impact Fee Advisory Committee, Timeline, etc.)
- Status report on River Road Riverbank Restoration Project
- Status report on Hidden Valley Low Water Crossing Reconstruction Project
- Status report on Blue Hole Regional Park operations

Report for CUP-16-021



Summary: A request for a Conditional Use Permit (CUP) to allow for limited duration on-premise sale and consumption of beer and wine at 450 Old Kyle Road

Applicant Information:

Applicant: Wimberley Players
450 Old Kyle Road
Wimberley, TX 78676

Property Owner: Wimberley Players

Subject Property:

Legal Description: Dunn Plaza, Lot 8, 1.071 acres
Location: 450 Old Kyle Road
Existing Use of Property: Performing Theatre
Existing Zoning: Participant Recreation-High Impact (PR-2)
Proposed Use of Property: Performing Theatre
Proposed Zoning: Participant Recreation-High Impact (PR-2) with a CUP
Planning Area IV
Overlay District Village Center Overlay District

Surroundings:

Frontage On: Old Kyle Road

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	PR-1	Park
S of Property	C-2	Commercial
E of Property	C-2	Commercial
W of Property	R-2	Residential

Legal Notice

200' Letters 11/17/16
Published 11/17/16
Sign Placement 11/16/16
Responses None

Comments:

The applicant has requested a Conditional Use Permit (CUP) to allow for the limited duration, on-premise sale and consumption of beer and wine at the *Wimberley Players* performing theatre located at 450 Old Kyle Road.

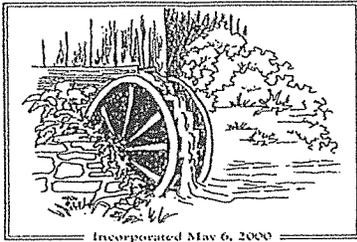
Currently, the subject property is zoned *Participant Recreation-High Impact (PR-2)* and is located in the *Village Center Overlay District* and *Planning Area IV*. The on-premise sale and consumption of beer and wine for limited duration is allowed on PR-2 zoned properties with a conditional use permit. Such alcohol sales would have to occur in conjunction with a recreation event, cultural exhibit, musical or theatrical performance. Alcohol sales are to be limited to the duration of the event and shall not occur more than

one hour before and after the event. Establishments in the zoning district cannot derive more than seventy-five (75) percent of their gross revenue from the on-premise sale of alcoholic beverages.

The applicant is proposing to sell beer and wine for on-premise consumption in conjunction with theatre performances and other activities held at the subject theatre.

To date, City staff has received no comments from the public on the CUP request.

On December 8, 2016, the Planning and Zoning Commission held a public hearing on the CUP request. Afterwards, the Commission voted unanimously to recommend approval of the CUP, as proposed.



Village of Wimberley

CONDITIONAL USE PERMIT APPLICATION

No. CUP-___ - ___

FOR OFFICIAL USE ONLY

Application Date: _____ Tentative P&Z Hearing: _____ Tentative Council Hearing: _____

FEES: \$400.00 DATE PAID: _____ CHECK NO. _____ REC'D BY _____

PROJECT SITE ADDRESS: 450 Old Kyle Road Wimberley, TX. 78676

OWNER/APPLICANT Wimberley Players PHONE (512) 923-0561

FAX () _____ EMAIL: [REDACTED]

Mailing Address: 450 Old Kyle Road CITY: Wimberley STATE: TX ZIP: 78676

APPLICANT UNDERSTANDS that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district. Type your text here

ZONING: PR2 CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging)

BEER & WINE SALES

Planning Area _____ Zoning _____ Total Acreage or Sq. Ft. 1.07 acres

Subdivision: Dunn Plaza Lot 8 Block _____

Appraisal District Tax ID#: R 112622

Deed Records Hays County: Volume 2407 Page 272 ~~278~~

Is property located in an overlay district? (X) Yes () No - If Yes,

Type: Historical District

Is property located in flood plain? () Yes (X) No

Utilities:

Electric Provider: Pedernales Electric Cooperative

Water Provider or Private Well: Wimberley Water Supply Corp

Wastewater Service Provider or Hays County Septic Permit No: _____

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not adversely affect an adjoining site than would a permitted use;
- The use requested by the applicant is set forth as a conditional use in the base district;
- The nature of the use is reasonable;
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base district are being upheld.

ADDITIONAL REQUIREMENTS/DOCUMENTATION

- Metes and bounds description and a survey (i.e., drawing) exhibit showing the property for which the CUP is being requested.
- Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200').
- List of Special Conditions that Applicant agrees apply to property.
- List of all property owners, with mailing addresses located within two hundred feet (200') of any point of the subject property.
- Payment of Application fee \$400.00
- Applicant agrees to attend public hearings before the P&Z Commission as well as the City Council concerning this application; or waives his/her right to appear, understanding that if questions are raised that cannot be answered, the matter may be continued, or denied.
- Applicant has checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and applicant understands that the Village zoning action does not relieve any obligation of these restrictions.
- Applicant agrees to provide additional documentation as needed by the Village.
- Applicant understands that Village review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided may delay the review of the Application. Applicant, by his/her signature below, certifies that to the best of his/her knowledge said information is complete and correct.
- Applicant hereby authorizes the Village representatives to visit and inspect the subject property.

Date _____



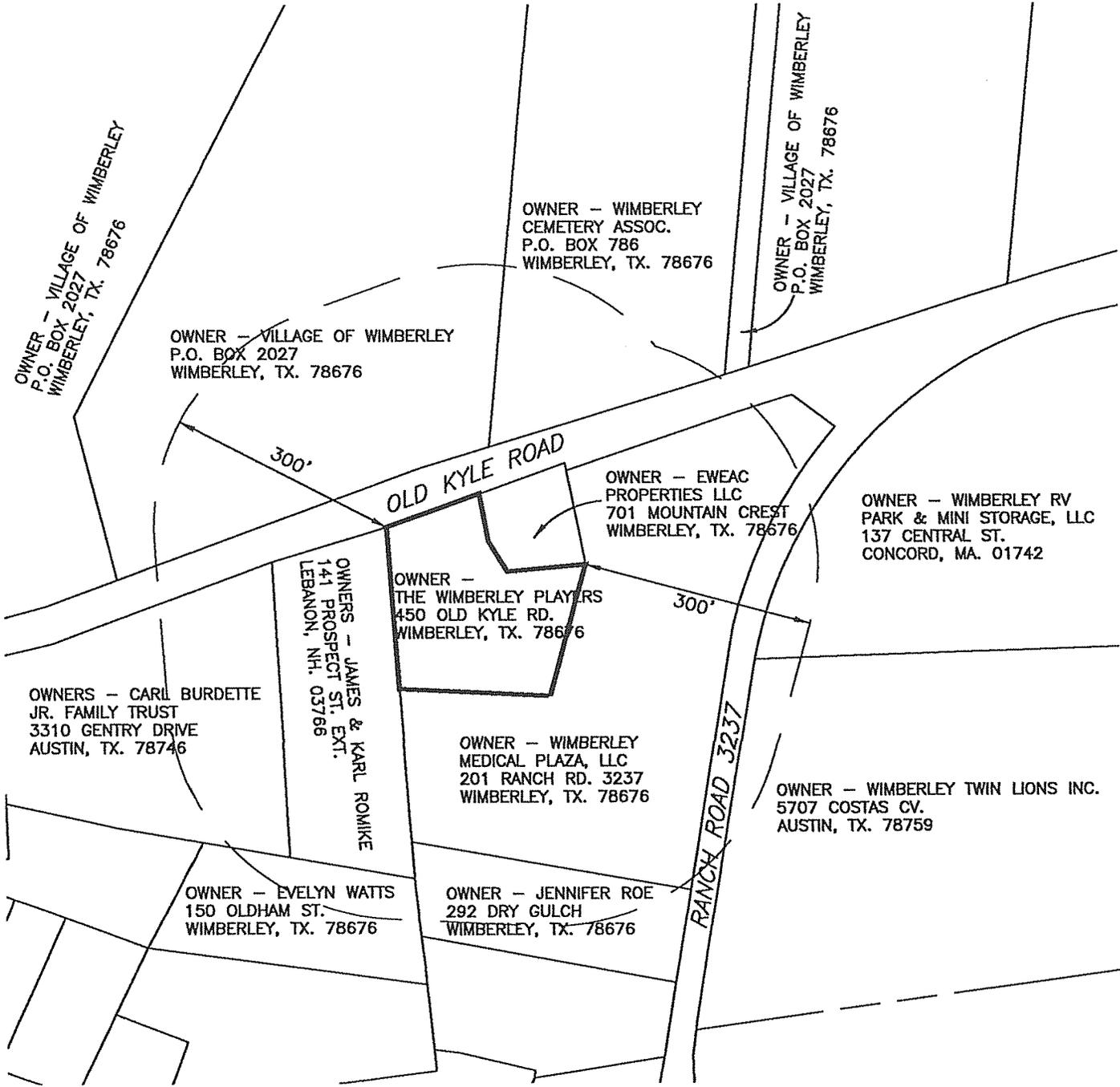
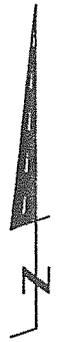
APPLICANT SIGNATURE

WHEN APPLICABLE:

Date _____

AGENT SIGNATURE

ORIGINAL SCALE
1" = 200'



OWNERSHIP MAP OF PROPERTY WITHIN
300 FEET OF LOT 8, DUNN PLAZA, CITY OF
WIMBERLEY, HAYS COUNTY, TEXAS
(OWNED BY THE WIMBERLEY PLAYERS)

Vol. 11 P. 399

STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

That we, Paul J. Dunn, and Mary K. Dunn, the owners of the land included in Lots 3 through 7, as shown hereon, being a portion of that same tract of land described in a deed recorded in Volume 1875, Page 332, of the Official Records of Hays County, Texas, do hereby certify that we are the owners of said land and do hereby dedicate to the Village of Wimberley the streets, alleys, light-of-way, easements, and public places shown hereon for such public purposes as the Village of Wimberley may deem appropriate. This subdivision is known as THE REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA.

TO CERTIFY WHICH, WITNESS by my hand this 16th day of June, 2004 A.D. 2004

Paul J. Dunn, P.O. Box 2708, Wimberley, Texas 78678

Mary K. Dunn, P.O. Box 2708, Wimberley, Texas 78678

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared, Paul J. Dunn and Mary K. Dunn, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they have executed the same for the purposes and consideration therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16th day of June, 2004 A.D. 2004



STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

That I, Allan Eastwood, being the president of the Wimberley Players, Inc., being the owners of Lot 8 as shown hereon, being a portion of that same tract of land described in Volume 2, 2007 hereon, and do hereby consent to all plat note requirements shown hereon, and do hereby dedicate to the Village of Wimberley the streets, alleys, light-of-way, easements, and public places shown hereon for such public purposes as the Village of Wimberley may deem appropriate. This subdivision is known as THE REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA.

TO CERTIFY WHICH, WITNESS by my hand this 21st day of April, 2004 A.D. 2004

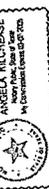
Allan Eastwood, President, Wimberley Players, Inc.
P.O. Box 992
Wimberley, Texas 78678

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared, Allan Eastwood, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he has executed the same for the purpose and consideration therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 21st day of April, 2004 A.D. 2004

Angela Kilcrease, Notary Public in and for Hays County, Texas
My commission expires



STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

I, Lee Carlisle, County Clerk of Hays County, Texas, do hereby certify that the foregoing instrument of writing with the certificate of authentication was filed in my office on this 23rd day of July, 2004, at 1:55 p.m. in the Public Records of Hays County, Texas, in Book 11, Page 399.

WITNESS MY HAND AND SEAL OF OFFICE this 23rd day of July, 2004 A.D. 2004

Lee Carlisle, County Clerk
P.O. Box 1277
Wimberley, Texas 78678

STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

I, Joel Wilkinson, City Engineer of the Village of Wimberley, Texas, do hereby certify that this subdivision plat conforms to all requirements of the Subdivision Regulations as to which approval is required.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 21st day of April, 2004, by the Council of the Village of Wimberley, Texas

Joel Wilkinson, City Engineer
Village of Wimberley, Texas

Accepted and authorized for record by the Village Planning and Zoning Commission of the Village of Wimberley, Texas.

June 21, 04
Adelle Turpin, City Secretary

Scale: 1" = 100'
Date: April 20, 2004
Job No.: 30472/DUNN/PL8_ZAK_cb

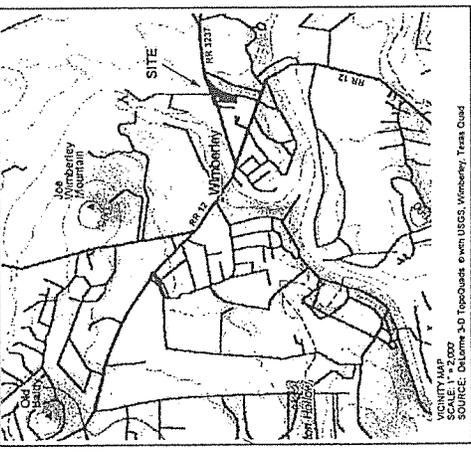
Based on the below representations of the engineer or surveyor whose seal is affixed hereto, and after a review of the plat as represented by the said engineer or surveyor, I find that this plat complies with the requirements of the Village of Wimberley. This Certification is made solely upon such representations and should not be relied upon for any other purpose. It is the responsibility of the engineer or surveyor to verify the accuracy of the representation, factual or otherwise, contained in this plat and the documents associated with it.

Stephen Harrison, City Administrator
DATE: 6-23-2004

Water Supply Statement:

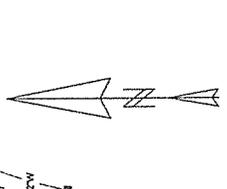
Wimberley Water Supply, CCM# 10314, an approved water supply system, has adequate quantity to supply this subdivision and provisions have been made to provide service to each lot in this subdivision in accordance with the policies of the water supply system.

DATE: 6-23-2004
Wimberley Water Supply representative



NOTES:

- 1) No portion of this subdivision lies within the boundaries of the Edwards Aquifer Recharge Zone.
2) This subdivision lies within the boundaries of the Combining Zone of the Edwards Aquifer.
3) This subdivision is subject to the provisions of the Edwards Aquifer Recharge Ordinance, as amended, adopted on Hays County Community Panel #49203C D RIDE, dated February 18, 1998.
4) This subdivision lies within the Wimberley Independent School District.
5) Water service for this subdivision is to be provided by Wimberley Water Supply in accordance with Title and Subtitle for water service to be provided by individual on-site septic systems. Maximum wastewater discharge is 350 gallons per day per acre.
6) Electric service for this subdivision is to be provided by Pedernales Electric Cooperative, Inc.
7) Telephone service for this subdivision is to be provided by AT&T.
8) No subject, including buildings, fencing, or landscaping which would interfere with conveyance of stormwater, shall be placed or erected within a Drainage Easement. The owner(s) of lots upon which drainage facilities are located, including detention, shall be responsible for maintenance of such drainage facilities.
9) Land 2 Development Plan and all other required engineering/construction plans, including construction of water service to each lot and its drainage consideration, including detention, if required, must be reviewed and approved by the Village of Wimberley prior to issuance of the Development Permit for each lot within this subdivision.
10) The subdivision plat for this subdivision shall be subject to the approval of the Village of Wimberley individual lot owner of each lot shall be responsible for meeting these requirements. The individual site development plan, per note 11 above, for each individual lot is submitted.
11) Access to Ranch Road 3237, by lots 3 through 7 must be approved by the Texas Department of Transportation and shall be addressed in accordance with the provisions of Article 11 above.
12) This project shall be completed in accordance with the Comprehensive Plan.
13) This subdivision contains 6.08 acres.



LEGEND
• = 1/2" iron pin found unless otherwise noted
o = 1/2" iron pin set in red plastic cap marked "EAGLE SURVEYING"
■ = concrete highway monument
PUE = public utility easement
BL = building setback line
(XXXX) = recorded data
[Seal] = Hays County Deed Records
[Seal] = Hays County Plat Records
[Seal] = Legal contours

No structure in this subdivision shall be occupied until connected to an individual water supply or State approved community water system. Due to declining water supplies and diminishing water quality, prospective purchasers are cautioned that the use of private wells for water collection is discouraged and in some areas may offer the best renewable water resource.

No structure in this subdivision shall be occupied until connected to a public sewer system or to an on-site wastewater system, which has been approved and permitted by Hays County Environmental Health.
No construction or other development within this subdivision may begin until all Hays County Development Permit requirements have been met.

Adelle Turpin, City Secretary
DATE: 7-16-04

REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA

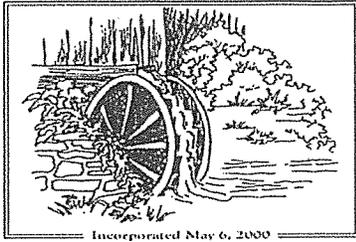
EAGLE LAND SURVEYING (512) 847-1079 P.O. Box 2284 Wimberley, Hays County, Texas



STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS
I, Clyde Barrows, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this plat is true and correctly made from an actual survey made on the ground of the property legally described hereon, and that there are no apparent discrepancies, conflicts, overlapping of improvements, visible utility lines or poles in place, except as shown on the accompanying plat, and that the corner monuments shown thereon were properly found or placed under my supervision. TO CERTIFY WHICH, WITNESS my hand and seal at Wimberley, Hays County, Texas, this 23rd day of July, 2004



Clyde Barrows
DATE: July 23, 2004



City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676
Phone: (512) 847-0025 - Fax: (512) 847-0422

Mac McCullough, Mayor - John White, Mayor Pro-Tem
Council Members - Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld
Don Ferguson, City Administrator

November 17, 2016

NOTICE OF PUBLIC HEARING

Re: **File No. CUP-16-021**
450 Old Kyle Road, Wimberley, Texas

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

The applicant, Wimberley Players, has applied for a Conditional Use Permit to allow for the *Limited Duration On-Premise Sale and Consumption of Beer and Wine* on property zoned Participant Recreation-High Impact (PR-2) located at 450 Old Kyle Road, Wimberley, Texas.

The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **December 8, 2016, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **January 5, 2017, at 6:00 p.m.** in the Wimberley City Hall.

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY

EWEAC PROPERTIES LLC
701 MOUNTAIN CREST DR
WIMBERLEY, TX 78676-3368

WIMBERLEY MEDICAL PLAZA
9811 S IH 35,
BLDG 3, SUITE 100
AUSTIN, TX 78744-7929

ROMIKE JAMES RANDALL &
KARL LEE ROMIKE
141 PROSPECT ST EXT
LABANON, NH 03766

BURNETTE CARL W JR FAMILY
TRUST & STORM LYNNE
3310 GENTRY DR
AUSTIN, TX 78746-5507

WIMBERLEY CEMETARY ASSN
PO BOX 786
WIMBERLEY, TX 78676

ORDINANCE NO. 2017-_____

AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY WIMBERLEY PLAYERS TO ALLOW FOR THE LIMITED DURATION ON-PREMISE SALE AND CONSUMPTION OF BEER AND WINE ON PROPERTY LOCATED AT 450 OLD KYLE ROAD, WIMBERLEY, HAYS COUNTY, TEXAS, ZONED PARTICIPANT RECREATION-HIGH IMPACT (PR-2), 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.

WHEREAS, an application for a Conditional Use Permit has been filed by Wimberley Players (“Applicant”) requesting authorization for the limited duration on-premise sale and consumption of beer and wine on real property, described as Dunn Plaza, Lot 8, zoned Participant Recreation-High Impact (PR-2); and

WHEREAS, the limited duration on-premise sale and consumption of beer and wine is an authorized use in areas zoned Participant Recreation-High Impact (PR-2) upon the approval of a Conditional Use Permit; and

WHEREAS, after conducting a public hearing on the matter, the Planning and Zoning Commission recommended approval of the CUP application; and

WHEREAS, Applicant has submitted a Conditional Use Permit Application and site plan, attached hereto as Exhibits “A” and “B”, respectively, and incorporated herein, and other necessary information, and has complied with the requirements of the Wimberley Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and City Council have conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application; and

WHEREAS, the City Council finds that the use of the subject property, subject to the conditions imposed by this Ordinance, is an appropriate use for the property and is a compatible use with the surrounding properties and neighborhoods.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

ARTICLE I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

ARTICLE II. APPROVAL - TERMS AND CONDITIONS

The CITY COUNCIL HEREBY GRANTS the Application for a Conditional Use Permit submitted by Wimberley Players (“Applicant”) for the limited duration on-premise sale and consumption of beer and wine on real property, described as Dunn Plaza, Lot 8, as more particularly described by survey in Exhibit “C”, attached and incorporated by reference, zoned Participant Recreation-High Impact (PR-2), Wimberley, Hays County, Texas, subject to the following terms and conditions:

1. The only alcoholic beverages allowed to be sold and consumed on-premise are beer and wine, in accordance with the regulations of the Texas Alcoholic Beverage Commission.

ARTICLE III. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the Conditional Use Permit established by this Ordinance.

ARTICLE IV. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

ARTICLE V. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

ARTICLE VI. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance 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, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED by the Wimberley City Council on the 5th day of January, 2017 by a vote of ____ (Ayes) and ____ (Nays).

WIMBERLEY, TEXAS

By: _____
Herschel "Mac McCullough, Mayor

ATTEST:

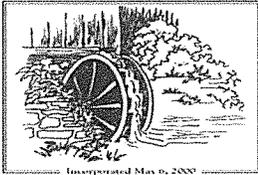
Cara McPartland, City Secretary

(SEAL)

APPROVED AS TO FORM:

Catherine B. Fryer, City Attorney

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: PUBLIC HEARING AND CONSIDER APPROVAL OF THE FIRST READING OF A PROPOSED ORDINANCE AMENDING THE REGULATIONS FOR VACATION RENTAL FACILITIES OPERATING IN THE CITY

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the City Council to hold a public hearing and consider approval of the first reading of a proposed ordinance amending the City Code requirements for vacation rental facilities. Specifically, the proposed ordinance makes the following changes recommended in the recent short-term rental regulatory review conducted by the Planning and Zoning Commission and City Council:

- Requires vacation rental facilities to have a non-transferable license that must be renewed every two (2) years and establishes a procedure for those facilities with a history of complaints.
- Establishes a refund procedure for application fees when vacation rental CUP applications are withdrawn prior to presentation to the Planning and Zoning Commission.
- Establishes a 20% percent rule, similar to that which exists for the City Council, for the Planning and Zoning Commission when considering vacation rental CUP applications.
- Establishes size and location requirements for property address signage for vacation rental properties.
- Requires the operators of vacation rental facilities to provide guests with a property map showing property boundaries and advising that trespassing is prohibited.
- Prohibits vacation rental facility operators from advertising an occupancy for the rental property that is greater than the septic capacity for the rental property, as established by the City.
- Requires individuals responsible for responding to complaints regarding vacation rentals to be able to respond within thirty (30) minutes of receiving such complaints.

In addition to the above-mentioned ordinance changes, the City will be modifying the Conditional Use Permit application for vacation rental facilities to incorporate the changes recommended in the recent regulatory review conducted by the Planning and Zoning Commission and City Council.

On December 8, 2016, the Planning and Zoning Commission held a public hearing on the proposed ordinance. Afterwards, the Commission voted unanimously to recommend approval of the ordinance with changes relating to the permit and signage requirements noted on the attached copy of the ordinance.

ORDINANCE NO. ____

AN ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS), CHAPTER 112 (REGULATION OF VACATION RENTALS AND BED AND BREAKFAST LODGINGS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTION 155.065 (VACATION RENTAL LODGING REQUIREMENTS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, A SAVINGS CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley, Texas (the “City”) seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, sections 215.033 and 215.034 of the Texas Local Government Code provide the City with the authority to issue licenses for businesses to be operated within the City; and

WHEREAS, the City’s Code of Ordinances provides that the use of property for new vacation rental facilities requires the property owner to obtain a Conditional Use Permit (CUP); and

WHEREAS, the City requires all operators of vacation rental facilities to obtain an operator’s permit, regardless of whether the property has a CUP or is a nonconforming use; and

WHEREAS, the Council finds that it is important for the City to provide an effective avenue for the owners and residents of neighboring properties to report alleged violations of permit terms and for the City to address such violations;

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the City’s history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

WHEREAS, the following enactments are a valid exercise of the City’s broad police powers and based upon the City’s statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, 211, and 213; and

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals, and general welfare; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing, and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS

Section 1. Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Amendment.

A. Title XI (Business Regulations), Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings), is hereby amended as follows:

**“CHAPTER 112: REGULATION OF VACATION RENTALS
AND BED AND BREAKFAST LODGINGS**

§ 112.01 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BED AND BREAKFAST LODGING. A “bed and breakfast lodging” as defined by section 155.005 of the City of Wimberley Code of Ordinances.

BED AND BREAKFAST BOOKING AGENCY. A person or entity that provides reservation services, billing services, or other related services on behalf of the owner of a bed and breakfast lodging.

VACATION RENTAL AGENCY. A person or entity that provides reservation services, billing services, or other related services on behalf of the owner of a vacation rental.

VACATION RENTAL. A “vacation rental” as defined by section 155.005 of the City of Wimberley Code of Ordinances.

§ 112.02 PERMIT REQUIRED

(A) A person commits an offense if the person owns or operates a bed and breakfast lodging or a vacation rental without a valid permit issued by the City.

- (B) A permit holder must satisfy the following requirements:
- (1) The property must have a valid Conditional Use Permit (CUP) for the operation of a bed and breakfast lodging or vacation rental, or the property must be eligible to operate as a bed and breakfast lodging or vacation rental as a nonconforming use:
 - (2) Unruly gatherings are prohibited. An “unruly gathering” means a gathering of more than one person that is conducted on a premises within the city and by which, by reason of the conduct of those persons in attendance, results in the occurrence of one or more of the following conditions or events on public or private property: rioting; trespassing; the unlawful sale, furnishing, possession, or consumption of alcoholic beverages; the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights, or quarrels; public urination or defecation; indecent or obscene conduct or exposure; or any other occurrence that results in a call for service by a law enforcement agency.
 - (3) The property owner shall comply with all requirements of any applicable CUP.

(C) Additional Permit Requirements for Vacation Rentals. In addition to the foregoing, a vacation rental permit holder must satisfy the following requirements:

- (1) Staff review. Prior to permit renewal, City staff will review the history of the permitted site, including but not limited to, the number of complaints received by the City during the most recent permit period. In the event that a permitted property has received two (2) or more registered unresolved complaints relating to a violation of City ordinances, CUP requirements, and/or State law during the most recent permit period, the owner of the property must appear before the City Council as a condition to permit renewal.
- (2) The subject property owner shall provide the City and property owners, within 200 feet of the subject property, with the current name and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owner shall notify the City and property owners within 200 feet of the subject property, with the current name and contact information.

- (3) All vacation rentals must display an address sign no more than ten (10) feet from the street with address numbers at least four (4) inches high and two (2) inches tall.

§ 112.03 PERMIT APPLICATION PROCEDURES

A person required by section 112.02 to have a permit shall do the following:

- (A) Complete and file a permit application on a form prescribed by the City Administrator;
- (B) Submit with the application proof of ownership of the property;
- (C) Submit with the application the name and primary contact information of the owner of the bed and breakfast lodging or vacation rental and of the reservation agent, if applicable ~~the person or entity who will operate the bed and breakfast lodging or vacation rental~~. For purposes of this subsection, the contact information must identify a person or person(s) who can respond to communications from the City regarding the property in the event of an emergency.
- (D) Provide any additional information requested by the City Administrator.

§ 112.04 ISSUANCE AND DISPLAY OF PERMIT.

- (A) The City Administrator may issue a permit after the applicant pays all applicable fees and satisfies all of the requirements of this Code, including, if applicable, obtaining a Conditional Use Permit (CUP).
- (B) A permit shall be valid for two (2) years ~~one (1) year~~ from the date of its issuance, unless suspended or revoked.
- (C) A permit shall not be transferable.
- (D) The City Council shall set a permit fee for each registered bed and breakfast lodging or vacation rental.
- (E) The permit holder shall cause a copy of the permit to be posted in a conspicuous location on the premises of the bed and breakfast lodging or vacation rental.

§ 112.05 ~~UN-PERMITTED~~ MARKETING OF PROPERTY FOR USE AS VACATION RENTAL OR BED AND BREAKFAST LODGING

- (A) It shall be unlawful for any person, including, but not limited to, a bed and breakfast booking agency, to facilitate a reservation between the owner of a bed and breakfast lodging and a third party when the bed and breakfast booking agency has actual or constructive knowledge that the bed and breakfast lodging does not comply with the requirements of section 155.064 of

this Code (Bed and Breakfast Lodging Requirements), including, but limited to, the requirement that a bed and breakfast lodging obtain an approved CUP.

(B) It shall be unlawful for any person, including, but not limited to, a vacation rental agency, to advertise an occupancy limit for a vacation rental that exceeds the septic capacity for the vacation rental property as established by the City or to otherwise facilitate a reservation between the owner of a vacation rental and a third party when the vacation rental agency has actual or constructive knowledge that the vacation rental does not comply with the requirements of section 155.065 of this Code (Vacation Rental Requirements), including, but limited to, the requirement that a vacation rental obtain an approved CUP. The owner of the property or the owner's agent, which may be a vacation rental agency, shall provide each renter a property map for the vacation rental property that shows the boundaries of the property and advises that trespassing on adjacent property is prohibited.

(C) It shall be unlawful for any person to list or otherwise market a property for sale as a new vacation rental or new bed and breakfast lodging without disclosing to the buyer that such property may not be used for the purpose of a vacation rental or bed and breakfast lodging without an approved CUP. It shall constitute a defense to prosecution under this subsection (C) that the defendant provided the buyer with a written notice that reads, in bold-faced type: "THIS PROPERTY HAS NOT BEEN APPROVED BY THE CITY OF WIMBERLEY FOR USE AS A BED AND BREAKFAST LODGING OR VACATION RENTAL."

§ 112.06 ENFORCEMENT PROCEDURE

(A) The City shall record a complaint from any person regarding a bed or breakfast lodging or vacation rental.

(B) Upon receipt of such a complaint, the City shall promptly notify the owner of the property and listing agent (if applicable) and take other appropriate action as necessary.

(C) If the City Administrator receives two or more complaints relating to unruly gatherings on a single property within a one-year period, the City Administrator shall place the matter on the next available City Council agenda so that the Council may consider whether the property owner has violated the terms of the permit.

(D) In the event that the Council determines that the terms of the permit have been violated, the Council may revoke the permit.

(E) In the event that the Council revokes a permit under this subsection, the City shall not accept a new permit application for that property until the expiration of one year from the date of revocation."

B. Title XV (Land Usage), Chapter 155 (Zoning), Section 155.065 (Vacation Rental Lodging Requirements) of the City of Wimberley Code of Ordinances is hereby amended as follows:

“§ 155.065 VACATION RENTAL LODGING REQUIREMENTS

- (A) *Purpose.* The requirements listed below are intended to promote the orderly development and use of property as vacation rentals in order to promote the public health and safety of the community. Vacation rental facilities are permitted in residential zoning districts and as such the regulations herein are the minimal necessary to mitigate any possible impact of such uses on the surrounding neighborhood, while allowing property owners to reasonably use their property. The residential feel and character of a vacation rental property shall be maintained and not unnecessarily intrude upon the adjacent neighbors.
- (B) An approved Conditional Use Permit (CUP) shall be required for a vacation rental lodging facility.
- (C) All approved CUP shall comply with any conditions imposed as part of the CUP application process, this section 155.065 and any other applicable ordinance, law or regulation.
- (D) The review for CUP approval of a vacation rental lodging facility shall consider the impact of tenant activity on the surrounding residential properties, the neighborhood and environment, and other factors as the Commission deems appropriate. Factors for review of a CUP application shall include but not be limited to consideration of the following:
 - (1) Permitted uses in the applicable zoning district;
 - (2) The proposed occupancy and the size of the property, and whether a smaller occupancy level is appropriate;
 - (3) Setbacks and proximity to other dwellings;
 - (4) Rental regulations (such as no large parties, no extra guests) imposed by the owner and the degree of owner involvement in property management;
 - (5) Occupant access to waterways and other environmentally sensitive areas;
 - (6) Vehicle access and on-site parking and the number of parking spaces available;
 - (7) Compliance with all state, county, and city ordinances, laws, rules, and regulations, including the Building Code and Fire Code; and
 - (8) Adequacy of wastewater treatment systems.

(E) In addition to any conditions imposed as part of the approved CUP, the following regulations shall be applicable to all vacation rental lodging facilities and shall be incorporated into the terms of the CUP:

(1) An approved Conditional Use Permit (CUP) shall be required.

(2) Property shall be subject to inspection at any time by designated City representatives, if compliance is in question, with property notice provided if feasible.

(3) The CUP shall terminate and be considered abandoned if and when there is evidence of no rental activity, based in part on the State Occupancy Tax Reports, for a period of nine (9) consecutive months. The burden is on the property owner to prove that the use of the property has been in continuous use. One (1) smoke alarm shall be provided in each guest bedroom along with a fire extinguisher visible and accessible to guests. A fire escape plan shall be developed and graphically displayed in each guest room. A second exit from the lodging facility structure shall be provided.

(4) Signage for vacation rentals located in Planning Areas I and II shall be limited to one (1) non-illuminated sign not to exceed four (4) square feet in area and shall be of traditional hill country design and color. Signage on such properties located in all other Planning Areas shall be subject to the regulations set forth in the City Sign Ordinance.

(5) A valid taxpayer number for reporting any Texas tax shall be provided to the City along with a copy of the completed *State of Texas Hotel Occupancy Tax Questionnaire (form AP-102)* no later than thirty (30) days following the approval of the CUP.

(6) If there is a change in ownership of the property, the City shall be notified of any change in property ownership within thirty (30) days of such change.

(7) If guests have water access, guests may not enter upon any property which is not part of the owner's property for the purpose of entering or exiting the water.

(8) The on-site sewage facility shall be inspected and shall be sufficient to provide adequate capacity for the maximum occupancy permitted. The City may request that written proof of capacity be provided at any time.

(9) A copy of the requirements set forth in the CUP shall be made available to all guests.

(10) On-street parking is prohibited. One (1) parking space is required per room rented subject to modification as part of the CUP approval process. Required off-street parking shall be provided on the same site as the use it is to serve. Parking areas shall be clearly identified on the property and adequate maneuvering space shall be provided for vehicle ingress and egress. In Planning Areas I and II, all vehicle parking shall be on a suitable parking surface approved by the City. In all other Planning Areas, all off-street parking shall be surfaced in accordance with the parking lot surfacing requirements in the City's ordinances. In such areas, no parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces.

(11) The maximum occupancy allowed shall be reviewed and determined in each individual CUP application based on number of rooms, beds, parking, neighborhood input, septic system capacity and any other factor determined to be relevant by the Commission or Council. Owner occupancy is permitted but not required. However, the subject property owner shall provide the City and property owners, within 200 feet of the subject property, with the current name and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owner shall notify the City and property owners within 200 feet of the subject property, with the current name and contact information.

(12) In Planning Areas I and II, property used as a vacation rental may be used for receptions, private parties or the like attended by paying guests and a limited number of non-paying guests, provided adequate parking and septic system capacity exists for such a gathering. At any given time, the total number of renting and non-renting guests attending such gatherings shall not exceed a number equaling the maximum occupancy as established in the CUP plus thirty (30) percent of that maximum capacity... All outdoor activities associated with such gatherings shall end at 10 p.m. Unruly gatherings are prohibited. Unruly gathering means a gathering of more than one person which is conducted on a premises within the city and which, by reason of the conduct of those persons in attendance, results in the occurrence of one or more of the following conditions or events on public or private property; rioting; trespassing, the unlawful sale, furnishing, possession or consumption of alcoholic beverages; the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights, or quarrels; public urination or defecation; or indecent or obscene conduct or exposure.

(F) Special Procedures for Planning and Zoning Commission Consideration of CUP Application. If a proposed CUP application is protested in accordance with this subsection, the proposed change must receive, in order to proceed as an affirmative recommendation for approval by the Planning and Zoning

Commission, the affirmative vote of at least three-fourths of all members of the Commission. The protest must be written and signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed CUP and extending 200 feet from that area. In computing the percentage of land area under this subsection, the area of streets and alleys shall be included.

(G) *Partial Refund of Application Fee.* An applicant for a vacation rental CUP who withdraws his or her application prior to presentation to the Planning and Zoning Commission is entitled to a refund of all but \$100 of the applicant's application fee. No fees shall be refunded if the CUP application is withdrawn after presentation to the Planning and Zoning Commission."

Section 3. Savings. Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

Section 4. Repealer. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

Section 5. Severability. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

Section 6. Effective Date. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

Section 7. Proper Notice and Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance is 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 Meeting Act, Chapter 551, Texas Government Code.

PASSED AND APPROVED this _____ day of _____, 20__, by a vote of ____ (Ayes) to ____ (Nays) ____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

Hershel "Mac" McCullough, Mayor

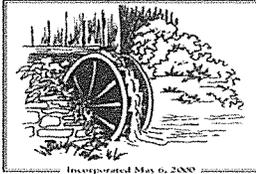
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

City Attorney

City Council Agenda Form



Date Submitted: December 22, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSED ORDINANCE AMENDING THE CITY'S ETHICS ORDINANCE TO EXPAND THE CLASS OF PERSONS WHO MAY FILE AN ETHICS COMPLAINT WITH THE CITY

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Three Council Member Sally Trapp to allow the City Council to discuss and consider approval of a proposed ordinance amending the City's Ethics Ordinance.

Currently, the City Ethics Ordinance allows any City Official, City Employee, or eligible voter of the city, who believes that there has been a violation of the Ordinance to file a sworn complaint with the City. The proposed ordinance expands the class of persons who may file an ethics complaint to include individuals who rent or own property within the city limits.

Attached is a copy of the proposed ordinance.

ORDINANCE NO. _____

“Amending Class of Persons Who May File Ethics Complaints”

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING CITY OF WIMBERLEY ORDINANCE NOS. 2006-010 AND 2007-005, “CODE OF ETHICS,” TO EXPAND THE CLASS OF PERSONS WHO MAY FILE AN ETHICS COMPLAINT UNDER THE CITY’S ETHICS ORDINANCE; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVEREABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council (“Council”) of the City of Wimberley (“City”) finds that a position in government is a position of public trust that demands a high standard of behavior; and

WHEREAS, the Council finds it desirable and necessary to amend its comprehensive ethics ordinance to permit all persons who own or rent property within the City to file an appropriate ethics complaint; and

WHEREAS, the Council seeks to inspire public confidence and trust in city officials and employees through this amendment to the City’s Code of Ethics; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENTS

A. Ordinance No. 2006-010, Exhibit A (Code of Ethics), Section XI (Complaint Process), Subsection A (Filing), Subparagraph (1), as amended, is hereby amended as follows:

- “1. Any City Official, City Employee, or eligible voter of the Village City, or person who owns or rents property within the city limits, who believes that there has been a violation of this Ordinance may file a sworn complaint. A complaint alleging a violation of this Code of Ethics must meet the requirements herein and must be filed with the City Secretary. A complaint alleging a violation of this Code of Ethics by the City Attorney must be filed with the persons named in

subsection X(D) of this Code. A complaint must be filed within one (1) year from the date of the alleged violation.”

B. Ordinance No. 2007-005 is hereby repealed in its entirety.

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION V. REPEALER

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by law.

SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this ordinance 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 this ____ day of _____, 2017.

CITY OF WIMBERLEY, TEXAS

Hershel "Mac" McCullough, Mayor

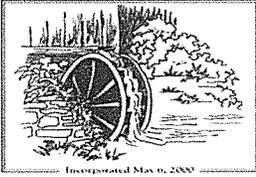
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

Catherine Fryer,
City Attorney

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 7, 2017

Project/Proposal Title: CONSIDER APPROVAL OF AN ORDINANCE ORDERING THE MAY 6, 2017 GENERAL ELECTION FOR THE CITY OF WIMBERLEY

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

The item was placed on the agenda to allow City Council to discuss and consider calling the General Election for the City of Wimberley in May 2017. Wimberley voters will be electing Council Members for Places One, Three and Five.

Election Day will be Saturday, May 6, 2017. The election day polling place will be the Wimberley Community Center where the polls will be open from 7 a.m. to 7 p.m.

Early voting by personal appearance will also be conducted at the Community Center on Monday, April 24, 2017, from 7 a.m. to 7 p.m.; Tuesday, April 25, 2017, through Friday, April 28, 2017, from 8 a.m. to 5 p.m.; Saturday, April 29, 2017, from 10 a.m. to 2 p.m.; Monday, May 1, 2017, from 7 a.m. to 7 p.m.; and Tuesday, May 2, 2017, from 8 a.m. to 5 p.m.

The City will be contracting with the Hays County Elections Division to conduct the election. The County Election Administrator will serve as the early voting clerk.

Approval of the attached ordinance is necessary to proceed with preparations for the election.

ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, ORDERING A GENERAL ELECTION ON MAY 6, 2017, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBERS FOR PLACES ONE, THREE AND FIVE OF THE CITY OF WIMBERLEY CITY COUNCIL; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THE ELECTION; MAKING OTHER PROVISIONS FOR THE CONDUCT OF THE ELECTION; AND PROVIDING FOR FINDINGS OF FACT, SEVERABILITY, CONFLICTING PROVISIONS, GOVERNING LAW, PROPER NOTICE AND OPEN MEETING, AND AN EFFECTIVE DATE.

WHEREAS, the City of Wimberley desires to hold a General Election on May 6, 2017 for the purpose of electing Council Members for Places One, Three and Five; and

WHEREAS, this ordinance is in furtherance of the public interest, for the good of government, peace and order of the City, and necessary and proper for carrying out the power granted by law to the City.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

SECTION 1. Call of Election; Date; Eligible Electors; and Hours. A General Election ("election") is ordered to be held, at a polling place and election precincts within the corporate limits of the City of Wimberley, as hereinafter designated, on Saturday, May 6, 2017, from the hours of 7:00 a.m. to 7:00 p.m., at which election there shall be elected One (1) City Council Member for Place One; One (1) City Council Member for Place Three; and one (1) City Council Member for Place Five for the City of Wimberley. The three (3) Council Members shall be elected to serve a term of two (2) years. All residents, qualified electors of the City shall be entitled to vote in the election.

SECTION 2. Voting Precincts. The boundaries and territory of the respective Hays County Election Precincts that are partially within the territorial boundaries of the City are hereby designated as the voting precincts of the City for the election. The precinct numbers for the City's election precincts shall be the corresponding Hays County Election Precinct Number of each precinct.

The Council finds that combination of the territory of the three Hays County Election Precincts (election precincts 333, 335 and 337) that are partially within the City into one voting precinct of the City served by a single polling place for the purposes of this election will result in a more convenient voting opportunity for the voters and a more efficient and cost effective administration of this election and such voting precincts are hereby combined and are designated with the corresponding numbers of the three Hays County Election Precinct Numbers of the underlying precincts (Precinct No. 333/335/337).

SECTION 3. Voting Locations. The polling place for the combined election precincts for this election shall be as follows:

City of Wimberley
Community Center
14068 Ranch Road 12
Wimberley, Texas 78676

SECTION 4. Conduct of Election and Election Services Contract. Pursuant to Subchapter D of Chapter 31 of the Texas Election Code and Chapter 791 of the Texas Government Code, the City Council orders that this election be conducted under the terms and conditions of a Contract for Election Services between the City and County of Hays ("County"), attached as "Exhibit A" and incorporated herein for all purposes. Pursuant to Chapter 271 of the Texas Election Code, the City election shall be conducted by Hays County Elections Administrator under the terms and conditions of an Election Services Contract. The election shall be held under, and in accordance with the laws of the State of Texas.

SECTION 5. Appointment of Election Officers. The City Council shall appoint the persons described on Exhibit "B", attached and incorporated by reference, for purposes of presiding judge and alternate presiding judge to serve for this election including early voting, which shall act in accordance with the Texas Election Code and all applicable ordinances. The presiding judge may appoint up to two clerks to serve and assist in conducting the election.

Each presiding and alternate presiding judge shall be given written notice of the appointment in accordance with Texas Election Code Section 32.009. Each presiding judge shall be served with a writ of election (notice of election) in accordance with Texas Election Code Section 4.007.

The Presiding Election Judge shall be compensated at the rate of \$10 per hour and election clerks shall be compensated at the rate of \$8 per hour. In addition, election judges responsible for delivering the ballots and other election materials and records to the Return Center shall be paid \$10 for such delivery. Compensable hours shall be determined in accordance with the provisions of the Texas Election Code, as amended (the "Election Code") and other applicable laws.

SECTION 6. Early Voting. Jennifer Anderson is appointed early voting clerk for early voting for the City.

SECTION 7. Early Voting by Personal Appearance. The polling place for early voting by personal appearance for the City election is:

City of Wimberley
Community Center
14068 Ranch Road 12
Wimberley, Texas 78676

Early voting by personal appearance shall be conducted on Monday, April 24, 2017, from 7 a.m. to 7 p.m.; Tuesday, April 25, 2017, through Friday, April 28, 2017, from 8 a.m. to 5 p.m.; Saturday, April 29, 2017, from 10 a.m. to 2 p.m.; Monday, May 1, 2017, from 7 a.m. to 7 p.m. and Tuesday, May 2, 2017, from 8 a.m. to 5 p.m.

SECTION 8. Early Voting by Mail. Early voting by mail shall be conducted in accordance with applicable provisions of the Texas Election Code. Ballot applications and ballots voted by mail shall be sent to: Hays County Elections Administrator, 712 South Stagecoach Trail, Suite 1045, San Marcos, Texas, 78666. Applications for ballot by mail must be received no later than the close of business on Tuesday, April 25, 2017.

SECTION 9. Early Voting Ballot Board. The City Council will appoint the Presiding Judge of the Early Voting Ballot Board at a subsequent meeting. The Presiding Judge shall appoint two or more election clerks, and such judge and clerks shall constitute the Early Voting Ballot Board. All early votes and other votes to be processed in accordance with early voting procedures pursuant to the Texas Election Code shall be delivered to the Early Voting Ballot Board at the Hays County Election Administrator's Office, 712 South Stagecoach Trail, Suite 1045 in the City of San Marcos, Texas in accordance with the Election Code. The Early Voting Ballot Board shall perform its duties in accordance with applicable provisions of the Election Code.

SECTION 10. Ballots and Election Expenditures Authorized. All ballots shall be prepared in accordance with the Texas Election Code. Paper ballots shall be used for early voting by mail and eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System. The Board hereby adopts for use in early and Election Day the eSlate Direct Recording Electronic (DRE) Voting System as approved by the Secretary of State. All expenditures necessary for the conduct of the election, the purchase of materials, the securing of election services from the Hays County Elections Administrator pursuant to an Election Service Contract and the employment of all election officials is hereby authorized.

SECTION 11. The election shall be held under, and in accordance with the laws of the State of Texas.

SECTION 12. Notice. Notice of the election, including a Spanish translation thereof, shall be published at least once in a newspaper published within the territory of the City of Wimberley on or before April 26, 2017 and shall be posted on the bulletin board at City Hall on or before April 14, 2017.

SECTION 13. Election Information to be provided in Spanish. Election notices, instructions, orders, ballots and other written material pertaining to the Election shall be translated into and furnished to voters in both the English and the Spanish language.

SECTION 14. Severability. If any portion of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance and the application of such provision to other persons and

circumstances shall remain valid and in full force and effect, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 15. Conflicting Provisions. All orders and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Order shall be and remain controlling as to the matters ordered herein.

SECTION 16. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 17. Proper Notice and Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was acted upon 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.

SECTION 18. Authorization to Execute. The Mayor is authorized to execute and the City Secretary is authorized to attest this Ordinance on behalf of the Board; and the Mayor is authorized to do all other things legal and necessary in connection with the holding and consummation of the Election.

SECTION 19. Effective Date. This Ordinance is effective immediately upon its passage and approval.

PASSED AND APPROVED by the City of Wimberley City Council on the ____ day of January, 2017, by a vote of ____ (Ayes) and ____ (Nays).

CITY OF WIMBERLEY

By: _____
Herschel "Mac" McCullough, Mayor

ATTEST:

Cara Mc Partland, City Secretary

(SEAL)

APPROVED AS TO FORM:

Catherine B. Fryer, City Attorney

THE COUNTY OF HAYS

Elections/Voter Registration
712 S. Stagecoach Trail, Suite 1045
San Marcos, TX 78666-7751



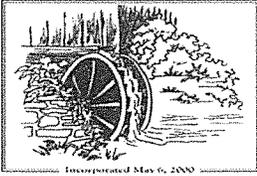
Phone: (512) 393-7310
www.co.hays.tx.us

Joyce A. Cowan
Elections Administrator/Voter Registrar

EXHIBIT "A"
ESTIMATED COST FOR ELECTION EXPENSES
City of Wimberley General Election, May 6, 2017

	Estimate
1. Electronic voting system programming and testing	
A. General	\$ 375.00
2. Rental of voting equipment (Election Day & Early Voting)	
A. General	
a. Number of DREs/eSlate systems	
4 X rental rate of \$100.00 =	\$ 400.00
b. Number of DAUs/Disable Access Units	
2 X rental rate of \$100.00 =	\$ 200.00
c. Number of JBCs/ Judges Booth Comptroller	
2 X rental rate of \$100.00 =	\$ 200.00
3. Election kits and other election supplies	
A. General	\$ 76.00
4. Precinct election judges and clerks	
A. Election Day	
4 X 130.00 =	\$ 520.00
number of election judges and clerks hourly rate (max. \$10.00)	
B. Early Voting	
3 X 790.00(8 days) =	\$2,370.00
number of early voting clerks hourly rate (max. \$10.00)	
5. Election judges/clerk's fee for pickup & delivery of supplies	
A. Election Day	
1 X 25.00 =	\$ 25.00
number of workers fee (max. \$25.00)	
6. Early Voting Ballot Board Personnel (\$ 81.121*)	
A. General	
2 X 20.00 =	\$ 40.00
number of workers hourly rate (\$10.00)	
7. Central Counting Station Personnel (\$ 81.121*)	
A. General	
3 X 60.00 =	\$ 180.00
number of workers hourly rate (\$20.00)	
a. Manager and technical support personnel	\$ 100.00
8. Miscellaneous election costs	
A. General	\$ 350.00
<u>sample ballots, processing payroll, postage, telephone, travel, additional supplies, training poll workers, etc.</u>	
9. County Election Services Contract Administrative Fee (\$81.132)	
A. General	\$ 483.60
10. Total Cost of General	\$5,319.60

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER APPROVAL OF AN ELECTION SERVICES CONTRACT WITH HAYS COUNTY

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the City Council to discuss and consider approval of a proposed contract with the Hays County Elections Administrator to conduct the City of Wimberley May 2017 election. The proposed agreement calls for the City to be responsible for the following:

- Preparing and adopting all orders and resolutions necessary to conduct the election
- Preparing and publishing all required election notices
- Providing the ballot language including the list of candidates, or any measures that are to be printed on the ballot with the exact form, wording and spelling that is to be used
- Providing the services necessary to translate any election documents into Spanish
- Providing technical assistance requested by the Elections Administrator

The Hays County Elections Administrator would be responsible for providing all equipment, supplies, manpower, and oversight for the election.

As for the cost, the agreement calls for the City to be responsible for all expenses incurred for the Election, or any runoff election that may be required. In addition, the City would be required to pay an administrative fee relating to the total cost of the election. Last May's election cost the City approximately \$3,500.

City staff recommends approval of the proposed contract with the Hays County Elections Administrator.

4. Procure, prepare, and distribute election equipment, transport equipment to and from the polling places, and issue election supplies to the precinct judges.
5. Supervise the conduct of early voting by personal appearance and by mail, and supply personnel to serve as deputy early voting clerks.
6. Assist in providing general overall supervision of the Election and provide advisory services in connection with the decisions to be made and actions to be taken by officers of the City who are responsible for holding the Election.
7. Other incidental related services as may be necessary to effectuate the Election.
8. Remit to the City a detailed listing of expenses incurred to conduct the Election for payment within the time period set forth in Article 4. (Cost of Services).

NOTHING IN THIS AGREEMENT IS INTENDED TO LIMIT THE DISCRETION OF THE OFFICER IN THE EXECUTION OF HER DUTIES. IT IS FOR THE OFFICER, IN THE EXERCISE OF REASONABLE DISCRETION, TO DETERMINE HOW THE EFFORTS OF HER OFFICE SHOULD BE ALLOCATED THROUGHOUT THE COUNTY.

Article 2. CITY'S DUTIES AND SERVICES. The City agrees to perform the following duties:

1. Prepare and adopt all orders and resolutions necessary to conduct the Election.
2. Prepare and publish all required election notices.
3. Deliver to the Officer as soon as possible, but not later than legally required before the Election, the ballot language including the list of candidates, or any measures that are to be printed on the ballot with the exact form, wording and spelling that is to be used.
4. Provide the services necessary to translate any election documents into Spanish.
5. Pay any additional costs incurred by the Officer if a recount for said Election is required, or the Election is contested in any manner.
6. Provide technical assistance requested by the Officer.

Article 3. ADMINISTRATION. The Officer will be responsible for administering this Agreement and providing supervisory control and command over all agents, officers, and other personnel performing services pursuant to this Agreement. The contact person and representative for the Elections Office is the Officer, or her designee, and the contact person and representative for the City is the City Administrator.

Article 4. COST OF SERVICES. The City shall reimburse the Officer for all expenses incurred for the Election, or any runoff election that may be required and which is conducted by the Officer and, in addition, the City shall pay an administrative fee of 10% of the total cost of the Election. An itemized list of estimated elections expenses is attached as Exhibit “A” and incorporated by reference for all purposes. In the event the services are provided for a joint election, the cost shall be equally prorated between the participating entities. A runoff election shall be treated as a separate election. Within 20 days of the completion of the Election, the Officer shall submit a statement to the City listing all of the expenses and the administrative fee. The City shall pay the total amount within 45 days of the Election or any runoff election.

Article 5. LIABILITY. The City shall be responsible for any actual expenses for repairs for any damage that occurs to the DRE machines by the City to the extent that any such repairs are not covered under the vendor’s warranty. The City shall not be liable for any damage to a DRE machine that is caused by a third party outside of the control of the City.

Article 6. GENERAL CONDITIONS. The following general conditions shall apply:

1. Nothing contained in this contract shall authorize or permit a change in the office with whom or the place at which any document or record relating to the Election is to be filed, or place at which any function of the canvass of the election returns is to be performed, or the officer to serve as custodian of voted ballots or other election records.
2. The Officer may assign deputies to perform any of the contracted services.
3. The Officer may contract with third persons for Election services and supplies; and the Officer will pay the claims for those election expenses, and shall remain responsible for the supervision and conduct of such third parties.
4. This contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hays County, Texas.
5. In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
6. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereof.

Article 7. MISCELLANEOUS. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defenses available at law or in equity to the County, the City or the Officer, or to create any legal rights or claim on behalf of any third party. Neither the County, the City,

nor the Officer waives any defenses whatsoever, including, but not limited to, governmental immunity.

Article 8. NOTICE. Any notice provided for under this Agreement shall be forwarded to the following addresses:

Hays County
Elections Administrator
712 South Stagecoach Trail, Suite 1045
San Marcos, TX 78666

City of Wimberley
City Administrator
PO Box 2027
Wimberley, TX 78676

SIGNED AND AGREED UPON THIS THE ____ DAY OF _____, 2017.

HAYS COUNTY

CITY OF WIMBERLEY

JENNIFER ANDERSON
Elections Administrator

HERSCHEL "MAC" MCCULLOUGH
Mayor

EXHIBIT "A"

ESTIMATED ELECTION EXPENSES

THE COUNTY OF HAYS

Elections/Voter Registration
712 S. Stagecoach Trail, Suite 1045
San Marcos, TX 78666-7751



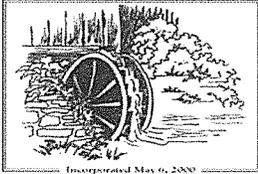
Phone: (512) 393-7310
www.co.hays.tx.us

Joyce A. Cowan
Elections Administrator/Voter Registrar

EXHIBIT "A"
ESTIMATED COST FOR ELECTION EXPENSES
City of Wimberley General Election, May 6, 2017

	Estimate
1. Electronic voting system programming and testing	
A. General	\$ 375.00
2. Rental of voting equipment (Election Day & Early Voting)	
A. General	
a. Number of DREs/eSlate systems	
<u>4</u> X rental rate of <u>\$100.00</u> =	\$ 400.00
b. Number of DAUs/Disable Access Units	
<u>2</u> X rental rate of <u>\$100.00</u> =	\$ 200.00
c. Number of JBCs/ Judges Booth Comptroller	
<u>2</u> X rental rate of <u>\$100.00</u> =	\$ 200.00
3. Election kits and other election supplies	
A. General	\$ 76.00
4. Precinct election judges and clerks	
A. Election Day <u>4</u> X <u>130.00</u> =	\$ 520.00
number of election judges and clerks hourly rate (max. \$10.00)	
B. Early Voting <u>3</u> X <u>790.00(8 days)</u> =	\$2,370.00
number of early voting clerks hourly rate (max. \$10.00)	
5. Election judges/clerk's fee for pickup & delivery of supplies	
A. Election Day <u>1</u> X <u>25.00</u> =	\$ 25.00
number of workers fee (max. \$25.00)	
6. Early Voting Ballot Board Personnel (§ 81.121*)	
A. General <u>2</u> X <u>20.00</u> =	\$ 40.00
number of workers hourly rate (\$10.00)	
7. Central Counting Station Personnel (§ 81.121*)	
A. General <u>3</u> X <u>60.00</u> =	\$ 180.00
number of workers hourly rate (\$20.00)	
a. Manager and technical support personnel	\$ 100.00
8. Miscellaneous election costs	
A. General	\$ 350.00
<u>sample ballots, processing payroll, postage, telephone, travel, additional supplies, training poll workers, etc.</u>	
9. County Election Services Contract Administrative Fee (§81.132)	
A. General	\$ 483.60
10. Total Cost of General	\$5,319.60

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSAL TO RELOCATE THE *WIMBERLEY FARMERS MARKET* TO THE WIMBERLEY COMMUNITY CENTER PARKING LOT

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

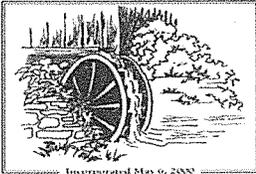
This item was placed on the agenda by Place Three Council Member Sally Trapp to allow City Council to discuss and consider action regarding a proposal to relocate the *Wimberley Farmers Market* to the Wimberley Community Center parking lot.

Currently, the *Wimberley Farmers Market* is held weekly in the parking lot of the *Seniors Thrift Shop*, adjacent to the Wimberley Community Center property. Recognizing the Market's space limitations at its current venue, Council Member Trapp recently approached Market organizers about the possibility of relocating the Market to the parking lot of the Community Center.

Market organizers have identified an area, near the eastern edge of the Community Center parking lot and adjacent to the *Patsy Glenn Refuge*, that would provide adequate space for the Market. Barricades could be placed around the Market site to restrict vehicle access but allow pedestrian access. The proposed Market site should not interfere with events and activities at the Community Center.

To relocate the Market to the Community Center, City Council approval of the above-detailed relocation plan is necessary. That plan would require the Market to provide proof of liability insurance with the City listed as an additional insured party. No fee is proposed for use of the referenced portion of the Community Center parking lot.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION
REGARDING A PROPOSAL TO REDUCE THE CITY'S HOTEL
OCCUPANCY TAX RATE TO 0% EFFECTIVE JANUARY 31,
2017

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

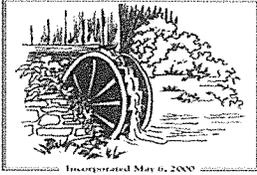
This item was placed on the agenda to allow City Council to discuss and consider a proposal from the City's Hotel Occupancy Tax ("HOT") Advisory Committee to reduce the City's hotel occupancy tax rate from 5% to 0%, effective January 31, 2017.

On December 13, 2016, the HOT Advisory Committee voted 6-1 to recommend reducing the City's hotel occupancy tax rate to 0%. The vote came after a lengthy Committee discussion regarding the significant amount of tax revenue collected versus the limited allocation of occupancy tax revenues to date.

To date, the City Council has allocated \$27,000 in hotel occupancy tax revenues for community events. The current balance of the Hotel Occupancy Tax Fund is \$266,078.75.

No further background information was provided for this agenda item.

City Council Agenda Form



Date Submitted: December 23, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSED TOURISM EMERGENCY RESPONSE PLAN AND THE CREATION AN EMERGENCY RESERVE IN THE CITY'S HOTEL OCCUPANCY TAX FUND

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action regarding a proposed tourism emergency response plan and the establishment of a \$5,000 emergency reserve in the City's Hotel Occupancy Tax Fund (the "Fund") to fund such a plan.

On December 13, 2016, the HOT Advisory Committee voted unanimously to recommend the City Council approval of the attached tourism emergency response plan and creation of a \$5,000 reserve in the Fund to fund such an emergency marketing effort, if needed.

Attached is a copy of the background briefing from the Committee regarding the post disaster marketing proposal.

Tourism Emergency Response Plan (DRAFT)

Research Questions:

1. What can we learn about Tourism "Get Well" or emergency response plans from other small to medium sized cities that have experienced loss of tourism due to environmental events – i.e. fires, floods, hurricanes.
2. What are the most effective steps to take pre, during, and post an environmental event to bring back the tourism.
3. What structures should be in place to implement and oversee a Get Well Tourism plan.
4. How much money should be allocated toward implementing the Get Well Tourism plan.
5. Where does the money come from – i.e. sources of funding

Approach:

- Popular and academic literature review of how small cities have dealt with tourism loss due to environmental events
- Calls to Chambers, Visitors Bureaus, City Staff, Merchants, and Lodging providers to have them share their story
- Benchmarked cities – Bastrop (fires), Bastrop County (fires/floods), Galveston (Hurricanes/Tanker Oil spills/flooding)

Key findings:

- The response should be in proportion to the magnitude of the event
- Throwing money at the problem does not work.
- Advertising in print publications like Texas Monthly, AAA Magazine, Tour Texas, etc., is a waste of money since any new prospective tourists will be scared off by the broader news media "crisis" message.
- The most likely tourists to come are those that have visited before.
- The best solutions are free and leverage existing social networks.
- Most effective solution is to manage the media messages during the crisis and immediately after – have clear, concise, and deliberate talking points for all officials and association leaders. Deliver the messages consistently and frequently.
- Dwell on the losses internally with citizens but have a "we are open for business" face to the outside world.
- Leverage past guests, they are the first to come back.
- Leverage social media and video – i.e. Facebook, Twitter, YouTube
- Pre-establish a Tourism Get Well Response team that gets to work as soon as the environmental event or crisis occurs.
- Don't outsource get well efforts to a PR or Marketing Firm. You will spend way too much money and get little to no tangible result. You also fail to build the internal response capability within the City.

- Plan on a budget of \$1000 (mostly social media) for every one million dollars of lost tourism revenue.
- Funding comes from general fund and from HOT funds, if available. 50/50 or 60/40 splits, respectively.

Specific Recommendations for Wimberley:

Organizational, structure, and communications

1. City should develop talking points for all Council members and the Mayor. The points should express concerns, acknowledge losses, and ask for the general public to visit Wimberley and help us recover. Talking points should be included in the City's emergency response plan and playbook.
2. All City leaders, Chamber, and Association leaders should have the same talking points and receive media training.
3. All newspaper articles should emphasize the same talking points.
4. Meet with the editors of the local newspapers and get them on board with the emergency response / tourism get well plan.
5. Pre-Establish a Tourism Get Well Committee to manage and oversee the plan. Committee should include City Council member, Chamber Member, Merchant Member, Artist Member, Lodging member, Venue/Event operator Member. Alternatively, the HOT Committee can also serve in this capacity during the crisis.

Here are some specific, no cost actions local store owners, merchants, hoteliers, associations, and business advocacy leaders can take right away after the crisis/event:

1. Reach out to your past customers. Let them know we are open for business. Ask them to tell their friends and encourage tourism to the area. Leverage existing customer mailing lists and message frequently for the first 30 days after the crisis.
2. Update your business websites and Facebook pages with special messages reflecting you and the City are open for business and ask people to come to Wimberley to help those in need and support the local economy.
3. Update your FaceBook page, share success stories and videos of your customers and guests talking about their visit to Wimberley and how we are open for business. Stop posting pictures of the damages. Instead post pictures and videos of what is working and going well.
4. Call your advertisers - i.e. travel sites, newspapers, magazines, news

channels, radio stations, etc. ask them to help us by promoting articles, ads, features, tweets, etc., on the area and that we are open for business, and in need of our tourists to come back.

5. Call your vendors and suppliers. Ask them to reach out to their customers and suppliers to help us spread the word that we are open for business and need tourism.
6. Make sure all events, and activities continue as planned. Yes, this includes market days, music festivals, 4th of July, etc. Consider organizing and sponsoring your own event. Don't cancel planned events.

And, here are some no cost specific actions our City officials and the Chamber can help with:

1. Media Plan - the media reports post crisis kills our tourism. We need a proactive plan to engage the media and manage the message. Let's balance the devastation language and imagery with proactive messages on the rebuild efforts, highlight all the City has to offer, and encourage tourism as a way to help the City recover. Don't stand in front of the press to tell them how bad things are without telling them we are open for business and need the support of all past visitors to help Wimberley recover.
2. County and State tourism support plan - We need a proactive plan with the County and State to help promote the area. The same way the Governor will declare an area a disaster, he can promote an area and say that it is time to visit the area.
3. Chamber Cross Promotions and support plan - We need a plan for getting the chambers in Houston, Austin, San Antonio, Dallas and all the surrounding smaller cities to partner with us and help promote Wimberley. We can do the same to support them in their time of crisis. It's a reciprocal agreement.
4. Tax relief and incentives - Avoid the temptation and mistake of seeking City revenue through more taxes - i.e. sales, property, hotel, etc., immediately following the crisis. Instead, seek relief from Hays County and the federal government, consider stimulating tourism and rebuild efforts through tax abatement or incentives – e.g. no cost for rebuild permits, HOT 90-day moratorium, come shop and save on City local tax for 90 days, etc.

Budget

1. Using the \$1000 for every one million of lost revenue guideline, Wimberley would need \$1000 in the emergency fund to compensate for the combined losses of the Memorial Day and Halloween 2015 floods.
2. If all tourism were wiped out – i.e. \$5 million of revenue, a maximum budget of \$5000 would be required.
3. The HOT Committee will set a \$5,000 emergency reserve fund allocated from HOT Collections to cover the worst possible scenario of 100% Tourism loss.
4. The City Council should match the budget from the general fund if they want to have more money than required or needed for the Tourism emergency response plan.

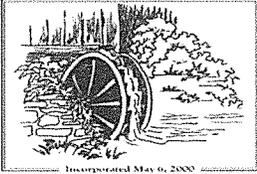
Next Immediate Steps:

- HOT Committee approval
- City Council Approval
- Write-up Talking points
- Earmark \$5000 of HOT funds as committed for Get Well Tourism Plan.

References:

- <http://www.bastropcountylongtermrecovery.org>
- <http://htexas.com/edit/summer-season-puts-galveston-tourism-back-on-track>
- <https://www.frbatlanta.org/-/media/Documents/regional-economy/econsouth/12q2grassroots.pdf>
- <http://kxan.com/2015/10/15/how-2015-bastrop-county-wildfire-differs-from-2011/>
- <http://www.digett.com/blog/09/12/2011/role-social-media-bastrop-texas-fires>
- https://www.researchgate.net/publication/271585520_Use_of_Social_Media_in_Natural_Disaster_Management
- <https://www.scientificamerican.com/article/how-social-media-is-changing-disaster-response/>
- <https://www.facebook.com/notes/disaster-response-on-facebook/using-social-media-before-during-and-after-a-natural-disaster/10150290416059936/>
- <http://www.ipedr.com/vol39/009-ICITE2012-B00019.pdf>
- <http://www.adweek.com/socialtimes/social-media-travel-hospitality/466163>
- <http://anandasanyal.blogspot.com/2011/04/role-of-media-in-tourism.html>

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSAL TO DEOBLIGATE HOTEL OCCUPANCY TAX REVENUE PREVIOUSLY ALLOCATED FOR THE 2017 PAINT WIMBERLEY EVENT

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action regarding a proposal to deobligate hotel occupancy tax revenues previously allocated for the *2017 Paint Wimberley* event.

On November 3, 2016, the City Council approved the allocated of \$14,000 in hotel occupancy tax revenues to help fund the *2017 Paint Wimberley* event.

Prior to the release of the allocated funds, the City was notified by email that the *Paint Wimberley* event, planned for April 2017, has been postponed until March 2018. As such, event organizers have indicated they will not be utilizing the recently allocated funds. Attached is a copy of the referenced correspondence.

There is a need City Council to formally vote to deobligate the \$14,000 in hotel occupancy tax revenues previously allocated for *2017 Paint Wimberley*.

Subject: Paint Wimberley - HOT Funds

Date: Wednesday, November 30, 2016 10:31:51 AM Central Standard Time

From: Lynn Myers

To: Don Ferguson

CC: Kaye Collins, Rob Pitzer, Tim Leibrock, Stan Allen, Myra McCormick Allen

November 30, 2016

Wimberley HOT Committee
City of Wimberley
Attn: Don Ferguson

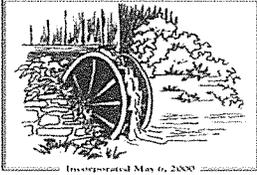
Wimberley Valley Art League, organizers for Paint Wimberley, are informing you that we will not be using the \$14,000 allocated by the HOT Committee for our event in April 2017. We appreciate your consideration for the event however we simply did not have enough time or funding to host this event in the spring of 2017.

Our goal for Paint Wimberley is draw the best plein air painters in the country and buyers from all over. To do this, we need to use national media and line up judges and "keynote painters" well in advance. We will also need to solicit a number of sponsorships as the costs for an event of this nature are well beyond \$14,000 – as much as 2x or 3x that amount. The deadline for the nationally published Plein Air event schedule is in mid-October and we missed that deadline. In view of this, we have decided to postpone Paint Wimberley until March 2018; most likely March 20-25. Paint Wimberley will also be separated from Arts Fest.

We plan to submit a new application in the coming months and hope the Committee will be able to act on it once again. We thank you in advance for your consideration.

Lynn Myers
Marketing and Promotion Chair
Wimberley Valley Art League
PO Box 1652
Wimberley TX 78676

City Council Agenda Form



Date Submitted: December 23, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION SETTING A DATE, TIME AND PLACE FOR A CITY COUNCIL - HOTEL OCCUPANCY TAX COMMITTEE WORKHOP

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action setting the date, time and place for a City Council - Hotel Occupancy Tax (the "HOT") Advisory Committee workshop.

The HOT Advisory Committee is proposing to meet in a workshop session with City Council on Tuesday, January 31, 2017 at 5 p.m. to discuss the development of a tourism vision for the Wimberley. Attached is "working draft" of a proposed tourism vision developed by the Committee for use as a starting point for the workshop discussion.

Tourism Vision (DRAFT)

Sourced from the Wimberley Comprehensive Plan

Research Objective

Establish a Tourism Vision for Wimberley as articulated in City Documents that govern policies and ordinances.

Approach

Review the Comprehensive Plan documents for key themes relating to tourism, growth, infrastructure, environment, community values and interests. The Comprehensive Plan has its roots in earlier expressions of the community's shared values and goals. These resources include the booklet, "Wimberley—Preserving the Magic," sponsored by the Wimberley Chamber of Commerce and Keep Wimberley Beautiful, Inc. and the 1996 draft report, "Wimberley Community Vision Charrette," which followed a series of informal public meetings on the future of Wimberley. On January 15, 2015, City Council appointed the Comprehensive Plan Review Committee to review the City of Wimberley Comprehensive Plan. All members were appointed by consensus of City Council. Participants of the Comprehensive Plan review include: Marilee Wood, Bert Ray, David Conway, Mac McCullough, Camelo Colca, Bob Flocke, and Judy Dunn.

Key Messages from the Comprehensive Plan

*Promote and preserve the small town business character and culture of the Wimberley area... Rejecting over-commercialization and development of any kind that is inappropriate in size, character, purpose or appearance...The City should encourage small non-polluting, non-offensive businesses which promote, through their appearance and character, the nature of the area...**The City should discourage enterprises that are inclined to produce overcrowding, traffic, pollutants or that are in other ways inappropriate to the small town City way of life...** Citizen input consistently emphasized the desire to maintain the small town, or "City" atmosphere... Growth in the population and the growth in the number of visitors are making local traffic more and more congested and difficult...The City should consider the availability of wastewater disposal in granting new building permits or approving new developments...The City should consider roadway adequacy when permitting new developments... citizens' expressed desires to see the City remain mostly residential in character... **Maintaining the quaint small town aura.***

Additional Current Day Considerations

- Wimberley infrastructure does not support additional tourism during weekdays or weekends in calendar year Q2 and/or Q3.

- Any responsible tourism growth must be limited to Q1 and Q4 Sunday through Thursday (i.e. off-peak season) since weekends during the same quarters are at capacity.
- Citizens oppose any additional growth in tourism at any time during the year.
- Businesses are hesitant to have more tourism during the off-peak Sunday – Thursday time period since this time is frequently used for downtime, personal vacations, restocking stores, maintenance, etc.
- Blue Hole and Jacobs Well are at capacity and we have no public use of water ways – i.e. access to public swimming holes, 7A river access.
- We have limited public parking and access to public restrooms.
- Traffic disrupts the “small town aura” on weekends and during all days in Q2 and Q3.
- The sewer project will make Wimberley unattractive to visitors during the 12 to 24 months of construction.

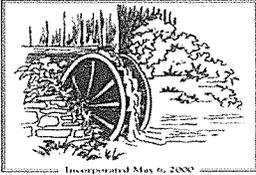
HOT Committee Recommendation

The Comprehensive Plan makes little to no mention of tourism or growth in tourism related industries. In fact, the plan makes a very strong case for keeping Wimberley as a unique, small town community that is not overrun by urban sprawl or tourism.

The derived tourism vision from the comprehensive plan is therefore to grow tourism organically and responsibly as it has since the City’s incorporation while making certain any increased tourism is incremental and low impact. It is clear from our research that citizens don’t want additional tourism, our infrastructure can’t handle the burden of additional visitors, and our professional business owners are operating profitably with the current level of tourism.

For the next 36 to 48 months we recommend our tourism vision should be consistent with the Comprehensive Plan direction. To this end, we should maintain the 450,000 annual visitors we already attract. 300,000 of which are day trippers, and 150,000 of which are overnight guests to our City. Further, we recommend dialing back our efforts to promote tourism until such time as our City infrastructure including: parking, public restrooms, sidewalks, public water access, and waste water management are upgraded, and our citizens and our businesses collectively agree by majority vote that additional tourism is warranted and needed for our community’s well-being and economic prosperity.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION ON ISSUES RELATING TO FINANCING FOR THE CENTRAL WIMBERLEY WASTEWATER PROJECT

Commission Action Requested:

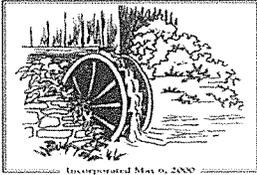
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Three Council Member Sally Trapp to allow City Council to discuss and consider action on issues relating to financing for the Central Wimberley Wastewater Project.

No background information was provided on this agenda item.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION SETTING A DATE, TIME AND PLACE FOR A CHAPTER 26 PUBLIC HEARING RELATING TO THE USE OF PARKLAND FOR THE CENTRAL WIMBERLEY WASTEWATER PROJECT

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action setting the date, time and place for Chapter 26 Public Hearing relating to the use of park land for the Central Wimberley Wastewater Project (the "Project").

Currently, the City owns and operates a wastewater treatment plant and drain field on approximately 3.16 acres of City-owned property located adjacent to the Park. The City is proposing to abandon the referenced drain field and relocate and expand the existing treatment plant on approximately 1.3 acres of parkland that is located in the northeast corner of the Park. The former plant site and drain field would become part of the Park while the new plant site would be removed from the Park.

The City has obtained the required State and Federal approval of the above-mentioned property conversion. In addition, the City must hold a public hearing in accordance with Chapter 26 of the Texas Parks and Wildlife Code, a copy of which is attached.

City staff is requesting the City Council set the date for the required public hearing for Monday, February 13, 2017 at 6 p.m. at City Hall.

PARKS AND WILDLIFE CODE

TITLE 3. PARKS

CHAPTER 26. PROTECTION OF PUBLIC PARKS AND RECREATIONAL LANDS

Sec. 26.001. PROTECTED LAND; NOTICE OF TAKING. (a) A department, agency, political subdivision, county, or municipality of this state may not approve any program or project that requires the use or taking of any public land designated and used prior to the arrangement of the program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the department, agency, political subdivision, county, or municipality, acting through its duly authorized governing body or officer, determines that:

(1) there is no feasible and prudent alternative to the use or taking of such land; and

(2) the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking.

(b) A finding required by Subsection (a) of this section may be made only after notice and a hearing as required by this chapter.

(c) The governing body or officer shall consider clearly enunciated local preferences, and the provisions of this chapter do not constitute a mandatory prohibition against the use of the area if the findings are made that justify the approval of a program or project.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.002. NOTICE OF HEARING. (a) When any program or project requires notice and a public hearing before approval, the notice must be given in writing to the person, organization, department, or agency that has supervision of the land proposed to be used or taken.

(b) The notice must state clearly the proposed program or project and the date and place for the public hearing. The notice must be given at least 30 days before the date for the public

hearing.

(c) Notice must also be given to the public by publishing a notice similar to that specified in this section once a week for three consecutive weeks. The last days of publication must not be less than one week or more than two weeks before the date of the hearing. The notice must be published in a newspaper of general circulation, which paper must be published at least six days a week in the county where the land proposed to be used or taken is situated.

(d) If there is no newspaper that qualifies under Subsection (c) of this section, the notice must be published in a qualifying newspaper that is published in any county adjoining the county where the land is situated. If there is no qualifying newspaper published in any adjoining county, then the notice must be published in a qualifying newspaper published in the nearest county to the county where the land is situated. If there is no qualifying daily newspaper published therein, the notice must be published in any newspaper of general circulation published in the political subdivision affected. If no newspaper is published in the political subdivision, the notice must be published in a newspaper published in the political subdivision nearest the political subdivision affected.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.003. LIMITATIONS ON JUDICIAL REVIEW. A petition for the judicial review of the approval or disapproval of a program or project under this chapter must be filed within 30 days after the approval or disapproval is announced, or the review is barred.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.004. EXCLUDED LANDS. A department, agency, board, or political subdivision having control of the public land is not required to comply with this chapter if:

(1) the land is originally obtained and designated for another public use and is temporarily used as a park, recreation

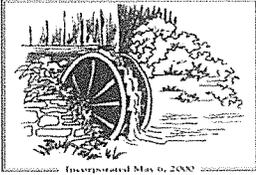
area, or wildlife refuge pending its use for the originally designated purpose;

(2) the program or project that requires the use or taking of the land being used temporarily as a park, recreation area, or wildlife refuge is the same program or project for which the land was originally obtained and designated; and

(3) the land has not been designated by the department, agency, political subdivision, county, or municipality for use as a park, recreation area, or wildlife refuge before September 1, 1975.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION SETTING A DATE, TIME AND PLACE FOR A PUBLIC MEETING ON WASTEWATER RATES RELATING TO THE CENTRAL WIMBERLEY WASTEWATER PROJECTS

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

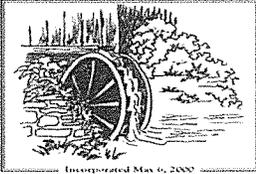
Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action setting the date, time and place for a public meeting on wastewater rates relating to the Central Wimberley Wastewater Project.

In November 2016, the City's wastewater rate consultant briefed City Council on potential wastewater rates for the planned Central Wimberley Wastewater Project. At that meeting, there was interest expressed in holding a public meeting, following the holidays, where customers in the proposed wastewater service area could attend and be informed about the potential monthly rates for wastewater service.

City staff is proposing City Council schedule the above-mentioned public hearing for late January, if not early February. This will allow time for notification of the meeting to be provided to individual property owners in the proposed wastewater service area.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION SETTING A DATE, TIME AND PLACE FOR A CITY COUNCIL WORKSHOP TO DISCUSS CENTRAL WIMBERLEY WASTEWATER SERVICE OPTIONS AND PROJECT FINANCING

Commission Action Requested:

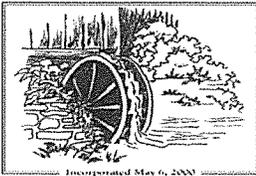
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Three Council Member Sally Trapp to allow City Council to discuss and consider action setting the date, time and place for a City Council Workshop to discuss options for providing wastewater service to central Wimberley and financing alternatives for such options.

No background information was provided on this agenda item.

City Council Agenda Form



Date Submitted: December 23, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER APPROVAL OF A PROPOSED RATE INCREASE FOR RESIDENTIAL SOLID WASTE COLLECTION SERVICES

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the City Council to discuss and consider action regarding a proposed rate increase for residential solid waste collection services provided by Texas Disposal Systems (the "TDS") – the City's solid waste collection service provider.

The City's current contract with TDS (the "Contract"), which was approved in February 2014, allows TDS to submit written requests for rate increases for residential solid waste collection services. The proposed rate increase must be based upon increases in the *Consumer Price Index – All Urban Customers* (the "CPI"), landfill fees charged to the service provider or cost increases associated with the laws, ordinances or regulations adopted by local, state or federal agencies. The City has the authority to accept or reject any or all of a proposed rate increase.

Attached is a spreadsheet breaking down the proposed increases for commercial trash, recycling and roll-off services. If approved, the proposed rates will go into effect February 1, 2017.

TDS representatives will be present at the meeting to brief City Council on the rate proposal and answer questions.



TEXAS DISPOSAL SYSTEMS

TEXAS DISPOSAL SYSTEMS, INC. TEXAS DISPOSAL SYSTEMS LANDFILL, INC.

P.O. Box 17126
Austin, TX 78760-7126
512.421.1300
512.421.1325 (FAX)
www.texasdisposal.com

11/18/2016

City of Wimberley
P.O. Box 2027
Wimberly, TX 78676

GREETINGS:

In accordance with the 2014 City of Wimberley Contract for Solid Waste and Recycling Collection and Disposal services contract pricing, your annual residential rate adjustment will become effective on 2/1/17.

Please contact me if you have any questions regarding your rate adjustment. Furthermore, if you will be presenting this information to a board or governing body, I will be happy to attend and respond to any questions.

Thank you for your continued business.

Respectfully,

Ray Bryant
HOA ad Municipal House Accounts Supervisor
(512) 487-2716
rbryant@texasdisposal.com

Village of Wimberley
2017

Last Year CPI	237.838	Original	24.37	Last Year landfill	9.375
This Year CPI	241.729			This Year landfill	9.375

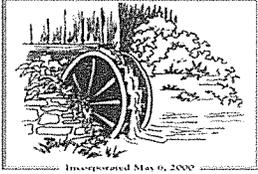
CPI			
Date	Index #	% Allocation	% Inc
10/1/2015	237.838		
10/1/2016	241.729		
Diff	3.891		
Ratio Change	0.01636	0.80	1.31%

Landfill			
Date	Index #		% Inc
10/1/2015	9.375		
10/1/2016	9.375		
Diff	0.000		
Ratio Change	0	0.20	0.00%

% Increase			1.31%
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Current Price \$ 24.37
 Increase \$ 0.32
 New Resi Rate \$ 24.69 extra carts \$9.77

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER ACTION
REGARDING FUTURE USE OF THE CITY OF WIMBERLEY
GENERAL FUND BALANCE

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider action relating to future use of the City of Wimberley General Fund Balance.

Attached is a copy of the required Fund Balance Policy reviewed and adopted by City Council on September 1, 2016.

CITY OF WIMBERLEY
COMPREHENSIVE FUND BALANCE POLICY

BACKGROUND

The Governmental Accounting Standards Board (“GASB”) has issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions (“GASB-54”)*. The primary objective of this new standard is to improve the usefulness and comparability of fund balance information by reporting fund balance in more intuitive and meaningful components. This standard also clarifies the definitions of the different types of funds that a governmental entity may set up for financial reporting purposes.

GASB-54 now requires the City of Wimberley to classify the fund balance amounts reported within our financial statements in accordance with five new and more detailed classifications shown below. These categories are as follows:

Non-spendable Fund Balance. Fund balance reported as “non-spendable” represents fund balance associated with inventory or prepaid items. The cash outlay for these types of items has already been made and therefore the resources represented by this fund balance category cannot be spent again; hence the term “non-spendable”.

Restricted Fund Balance. Fund balance reported as “restricted” represents amounts that can be spent only on the specific purposes stipulated by law or by the external providers of those resources.

Committed Fund Balance. Fund balance reported as “committed” includes amounts that can be used only for the specific purposes determined by a formal action of City Council.

Assigned Fund Balance. Fund balance reported as “assigned” represents amounts intended to be used for specific purposes, but not meeting the criteria to be reported as committed or restricted fund balance. In addition, the City Council may grant to the City administrator the authority to “assign” fund balance.

Unassigned Fund Balance. Fund balance reported as “unassigned” represents the residual classification of fund balance and includes all spendable amounts not contained within the other classifications.

GASB-54 is effective for periods beginning after June 15, 2010. Therefore, the City of Wimberley was required to implement this new standard starting with Fiscal Year 2011.

A written Comprehensive Fund Balance Policy is recommended to be formally adopted by the governing body of our organization depicting the procedures that will be used for committing fund balance, assigning fund balance, how stabilization funds, if any, will be determined, order of spending the fund balance categories, minimum fund balance levels, and use of governmental fund types.

COMPREHENSIVE FUND BALANCE POLICIES

1.0 Policy on Committing Funds

In accordance with GASB-54, it is the policy of the City of Wimberley that fund balance amounts will be reported as “Committed Fund Balance” only after formal action and approval by the City Council. The action to constrain amounts in such a manner must occur prior to year end; however, if the actual dollar amount is not known that may be determined in the subsequent period.

For example, the City Council may approve a motion prior to year end to report within the year-end financial statements, if available, up to a specified dollar amount as Committed Fund Balance for Capital Projects. The exact dollar amount to be reported as Committed Fund Balance for Capital Projects may not be known at the time of approval due to the annual financial audit not yet being completed. This amount can be determined at a later date when known and appropriately reported within the year-end financial statements due to the governing body approving this action before year-end.

It is the policy of the City of Wimberley that the City Council may commit fund balance for any reason that is consistent with the definition of Committed Fund Balance contained within GASB-54. Examples of reasons to commit fund balance would be to display intentions to use portions of fund balance for future capital projects, stabilization funds, or to earmark special General Fund revenue streams unspent at year-end that are intended to be used for specific purposes.

After approval by the City Council, the amount reported as Committed Fund Balance cannot be undone without utilizing the same process required to commit the funds. Therefore, in accordance with GASB-54, it is the policy of the City of Wimberley that funds can only be removed from the Committed Fund Balance category after motion and approval by the City Council.

2.0 Policy on Assigning Funds

In accordance with GASB-54, funds that are *intended* to be used for a specific purpose but have not received the formal approval action by City Council may be recorded as Assigned Fund Balance. Likewise, redeploying assigned resources to an alternative use does not require formal action by the governing body.

GASB-54 states that resources can be assigned by the governing body or by another internal body or person whom the governing body gives the authority to do so, such as the City Administrator.

Therefore, having considered the requirements to assign fund balance, it is the policy of the City of Wimberley that the City Administrator will have the authority to assign fund balance of this organization based on intentions for use of fund balance communicated by the City Council.

3.0 Policy on Order of Spending Resources

It is the policy of the City of Wimberley that when expenditures are incurred that would qualify as expenditures of either Restricted Fund Balance or Unrestricted Fund Balance (Committed, Assigned, or Unassigned), those expenditures will first be applied to the Restricted Fund Balance category.

Furthermore, it is the policy of the City of Wimberley that when expenditures are incurred that would qualify as a use of any of the Unrestricted Fund Balance categories (Committed, Assigned, or Unassigned), those expenditures will be applied in the order of Committed first, then Assigned, and then Unassigned.

4.0 Policy on the Acceptable Minimum Level of Fund Balances

It is the policy of the City of Wimberley to maintain at all times an overall Unrestricted Fund Balance (Committed Fund Balance, Assigned Fund Balance, and Unassigned Fund Balance) of not less than three months of regular General Fund operating expenditures, measured based on the most recently completed fiscal year. If it is determined that the City of Wimberley is below this minimum established fund balance level, the City Council will be informed of this condition and take necessary budgetary steps to bring the fund balance level into compliance with this policy through budgetary actions.

5.0 Review of Governmental Fund Classifications

The City of Wimberley desires that the governmental fund types available for use in governmental financial reporting be appropriately selected based on the GASB-54 definitions of these fund types. Furthermore, the fund balance categories utilized within each these fund types are also to be appropriately selected from the new GASB-54 classifications.

Therefore, after consideration of the purpose of each governmental fund type, it is the policy of the City of Wimberley to limit the fund balance categories that may be used with each governmental fund type as follows:

General Fund

Non-spendable Fund Balance
Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance
Unassigned Fund Balance

Debt Service Funds

Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

Capital Projects Funds

Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

Special Revenue Funds

Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

CITY OF WIMBERLEY FUND BALANCE DESIGNATION

General Fund

Restricted Fund Balance

- 0% of funds

Committed Fund Balance

- 40% of the funds for public works (roads, drainage, etc)
- 25% of the funds for future grant matches
- 35% of the funds for wastewater improvements

Assigned Fund Balance

- 0% of funds

Blue Hole Parkland Fund (*Special Revenue Fund*)

Restricted Fund Balance

- 0% of funds

Committed Fund Balance

- 100% of funds for Blue Hole Park & Park Operations

Assigned Fund Balance

- 0% of funds

Blue Hole Development Fund (*Special Revenue Fund*)

Restricted Fund Balance

- 0% of funds

Committed Fund Balance

- 100% of funds for development of Blue Hole Park

Assigned Fund Balance

- 0% of funds

Municipal Court Funds (*Special Revenue Fund*)

Restricted Fund Balance

- 0% of funds

Committed Fund Balance

- 100% of funds for Municipal Court

Assigned Fund Balance

- 0% of funds

Sidewalk Fund (*Special Revenue Fund*)

Restricted Fund Balance

- 100% of funds for sidewalk development

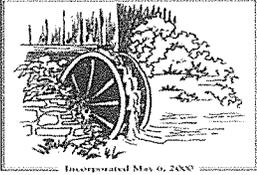
Committed Fund Balance

- 0% of funds

Assigned Fund Balance

- 0% of funds

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CONSIDER PROPOSED CHANGES IN THE ROUTE FOR THE 2017 FOURTH OF JULY PARADE

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider approval of the proposed route for the *2017 Wimberley Fourth of July Parade*.

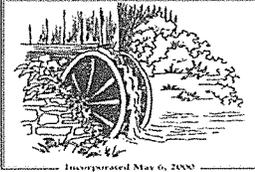
The proposed parade route starts on FM 2325 near Lions Field and proceeds south to Ranch Road 12. From that point, the route continues on Ranch Road 12 through the Square and continues down Ranch Road 12 to Blue Heron Lane where the parade ends. The proposed route allows for groups of walkers and horses to exit the parade route at Blue Heron Lane while cars and trucks exit the route via FM 3237, with the option to return to town via Old Kyle Road or Winters Mill Parkway. Large vehicles and trailers continue across the Ranch Road 12 bridge over the Blanco River and exit onto Stillwater where ample space exists to park and turn.

The above-mentioned route has been utilized the last two (2) years, with very few problems reported. In addition to reducing vehicle and pedestrian congestion at the end of the parade route, the proposed route allows for use of the former Baptist Church parking lot for spectator parking, thus eliminating the large amount of on-street spectator parking that historically has occurred on FM 3237.

The proposed route is supported by the parade sponsor, the Wimberley Valley Chamber of Commerce.

City staff recommends approval of the proposed route for the *2017 Wimberley Fourth of July Parade* scheduled to take place on Tuesday, July 4, 2017.

City Council Agenda Form



Date Submitted: December 28, 2016

Agenda Date Requested: January 5, 2017

Project/Proposal Title: CITY COUNCIL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by the Mayor and members of City Council and for future agenda item requests.