

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
FEBRUARY 2, 2017 - 6:00 P.M.

AGENDA

CALL TO ORDER FEBRUARY 2, 2017 @ 6:00 P.M.

CALL OF ROLL CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

PROCLAMATION

PROCLAMATION OF THE CITY OF WIMBERLEY, TEXAS PROCLAIMING THE MONTH OF FEBRUARY 2017 AS DATING VIOLENCE AWARENESS AND PREVENTION MONTH.

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 JANUARY 19, 2017.

- (B) APPROVAL OF THE MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF JANUARY 12, 2017.
- (C) APPROVAL OF THE MINUTES OF THE SPECIAL CITY COUNCIL MEETINGS OF JANUARY 23, 2017.

2. **CITY ADMINISTRATOR REPORT**

- STATUS REPORT ON CENTRAL WIMBERLEY WASTEWATER PROJECT
- STATUS REPORT ON HIDDEN VALLEY LOW WATER CROSSING RECONSTRUCTION PROJECT
- STATUS REPORT ON DEVELOPMENT ACTIVITY IN THE CITY OF WIMBERLEY
- STATUS REPORT ON BLUE HOLE REGIONAL PARK OPERATIONS
- STATUS REPORT ON RELOCATION OF WIMBERLEY FARMERS MARKET

3. **PUBLIC HEARINGS AND POSSIBLE ACTION**

HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF THE SECOND AND FINAL 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. **DISCUSSION AND POSSIBLE ACTION**

- (A) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSAL TO PERFORM ENHANCED WATER TESTING ON THE CYPRESS CREEK IN CENTRAL WIMBERLEY. *(PLACE FOUR COUNCIL MEMBER GARY BARCHFELD)*
- (B) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING THE CREATION OF A WASTEWATER IMPACT ADVISORY COMMITTEE AND APPOINTMENT OF MEMBERS TO THE COMMITTEE. *(CITY ADMINISTRATOR)*
- (C) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSAL TO AMEND THE CITY OF WIMBERLEY GENERAL FUND BALANCE POLICY RELATING TO THE ESTABLISHMENT OF A REQUIRED MINIMUM FUND BALANCE. *(CITY ADMINISTRATOR)*
- (D) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSAL TO REQUEST AN EXTENSION FROM THE TEXAS WATER DEVELOPMENT BOARD ON THE CLOSING DEADLINE FOR THE CITY OF WIMBERLEY'S WASTEWATER CONSTRUCTION LOAN. *(CITY ADMINISTRATOR)*

- (E) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING THE JUNE 2017 DEADLINE FOR THE CITY OF WIMBERLEY TO CEASE USE OF THE EXISTING WASTEWATER DRAIN FIELD AT THE BLUE HOLE REGIONAL PARK. (CITY ADMINISTRATOR)
- (F) DISCUSS AND CONSIDER ISSUES RAISED AT THE FEBRUARY 1, 2017 COMMUNITY WASTEWATER MEETING HELD AT THE WIMBERLEY COMMUNITY CENTER. (PLACE THREE COUNCIL MEMBER SALLY TRAPP; NO ACTION WILL BE TAKEN ON THIS AGENDA ITEM)
- (G) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSED FACILITY USE AGREEMENT FOR USE OF THE SOCCER FIELDS AT BLUE HOLE REGIONAL PARK. (PARKS AND RECREATION ADVISORY BOARD)
- (H) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSED SERVICE AGREEMENT WITH TEXAS STATE UNIVERSITY'S CENTER FOR ARCHAEOLOGICAL STUDIES. (CITY ADMINISTRATOR)

5. 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.

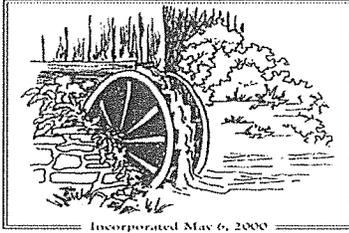
CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on January 26, 2017 at 10:00 p.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 of Wimberley

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

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL - CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS
FEBRUARY 2, 2017 – 6:00 P.M.

ADDENDUM TO AGENDA

PROCLAMATION

- (A) PROCLAMATION OF THE CITY OF WIMBERLEY, TEXAS PROCLAIMING THE MONTH OF FEBRUARY 2017 AS DATING VIOLENCE AWARENESS AND PREVENTION MONTH.
- (B) PROCLAMATION OF THE CITY OF WIMBERLEY, TEXAS PROCLAIMING SATURDAY, FEBRUARY 11, 2017, AS "NANCY BANE DAY" IN HONOR OF NANCY BANE'S 100TH BIRTHDAY.

4. DISCUSSION AND POSSIBLE ACTION

- (I) DISCUSS AND CONSIDER POSSIBLE ACTION APPROVING THE *2016 RACIAL PROFILING REPORT* AND ASSOCIATED POLICY FOR THE WIMBERLEY CITY MARSHAL. *(CITY ADMINISTRATOR)*
- (J) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSED AMENDMENT TO THE CITY OF WIMBERLEY'S EXISTING AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS, INC. TO PERFORM ADDITIONAL WASTEWATER RATE ANALYSIS. *(PLACE FOUR COUNCIL MEMBER GARY BARCHFELD)*

CERTIFICATION

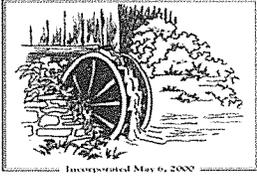
I hereby certify the above Addendum to Agenda was posted on the Bulletin Board at the City of Wimberley City Hall on January 30, 2017 at 5:45 p.m.



Cara McPartland
Cara McPartland, Assistant City Administrator/City Secretary

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City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: APPROVAL OF
JANUARY 19, 2017 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 January 19, 2017 Regular City Council Meeting.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 January 19, 2017 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

Oath of Office

Administer the Oath of Office to newly appointed Parks and Recreation Advisory Board member Matt Meeks

Mayor McCullough administered the Oath of Office to newly appointed Parks and Recreation Advisory Board member Matt Meeks.

Citizens Communications

Citizens for Responsible Development (CARD) representative Louis Parks thanked everyone for interest in last week's meeting and stated he is open to answering questions at any time.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of January 5, 2017
- B. Approval of minutes of the Special City Council meeting of January 5, 2017
- C. Approval of November 2016 Financial Statements for the City of Wimberley
- D. Approval of December 2016 Financial Statements for the City of Wimberley

City Administrator Ferguson provided an example of the modified balance sheet to be presented to Council when considering the January 2017 Financial Statements.

Councilmember Trapp asked why hotel occupancy tax funds are listed in assets and City Administrator Ferguson explained that upon the Committee's submission of a budget those funds will be placed in a separate fund. He explained there is no co-mingling of hotel occupancy tax funds.

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

City Administrator Ferguson stated printed copies of future Financial Statements will be provided to Council. Discussion of large agenda packet files included a preference for receiving a link to the files in their entirety, as opposed to receiving multiple PDF email attachments, as well as consistency in page orientation within PDF files.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported the Texas Water Development Board (TWDB) continues its review of the construction bid package. He reported the Wastewater subcommittee members (Councilmembers Barchfeld and Trapp, Planning and Zoning Commission Chair John Urban, and himself) met with Aqua Texas's Robert Laughman in advance of the scheduled special workshop meeting to be held on January 23, 2017, which will present information on wastewater options. City Administrator Ferguson noted that the U.S. Economic Development Administration (EDA) has notified the City that federal grant funds cannot be used for the wholesale service plan option or for any system that enriches a for-profit, private entity. He advised that TCEQ is exploring options relating to the upcoming June 27th deadline for decommissioning the existing Blue Hole drain field.

- Status report Hidden Valley Low Water Crossing Reconstruction Project

City Administrator Ferguson reported the City is awaiting the issuance of the sand and gravel permit from Texas Parks and Wildlife (TPW), which is required for construction to begin. He spoke on an extensive meeting with TPW, including Mayor McCullough and project engineers, which was held in the hopes of expediting permit issuance. Mayor McCullough noted frustrations with project delay associated with the permit issuance and expected some progress early next week.

- Status report on sales tax collections

City Administrator Ferguson reported the City's January sales tax check, representing November 2016 collections, totaled \$68,249, which is a five percent increase from the same period last year. He noted collections continue to run ahead of sales tax revenue budget.

- Status report on flood recovery efforts

City Administrator Ferguson reported an archeological survey will be required for one property at a cost of approximately \$3,000 to be reimbursed from grant funds. He advised of a meeting with TDA representatives on the status of the City's application for funding to help cover matching funds. He reported on the anticipated close-out with FEMA on the 2013 & 2015 floods. In response to Councilmember Trapp regarding release of updated BFE maps, City Administrator Ferguson anticipated the initial release within the next sixty days. He noted certain timelines associated with approval of the updated maps and the appeals process. He advised citizens to call City Hall for assistance in viewing the Region 6 map online.

- Status report on Blue Hole Regional Park operations

City Administrator Ferguson reported minimal trail damage from heavy rains earlier this week. He advised that the Wimberley Valley Dark Sky/Friends of Blue Hole representatives are planning a site visit to the Park. He noted the Parks Board recommended approval of a facility use agreement for use of the soccer fields scheduled for Council consideration on February 2, 2017. He advised preparations are underway for the 2017 summer season, including hiring of seasonal park staff.

- Status report on relocation of Wimberley Farmers Market

City Administrator Ferguson reported Farmers Market representatives are working out details of insurance coverage for the new location and he anticipated March 1st as the target date for relocation.

- Status report on Short-term Rental Outreach Project

City Administrator Ferguson reported on finalizing revisions to the application, development of a website page, and holding informational public meetings.

3. Public Hearings and Possible Action

- A. Hold a public hearing and consider approval of the second and final 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, and effective date, and proper notice and meeting.
(*City Administrator*)

City Administrator Ferguson stated this is the second reading, which incorporates revisions resulting from Council's discussion on first reading.

Discussion addressed concerns regarding enforcement procedures and need for further review and defining terms such as "valid" and "unresolved."

Mayor McCullough opened the public hearing.

Phil Collins proposed specific changes to the proposed ordinance: clarification on the requirement for "separate permit from the CUP" and confusion on language in §112.02(B)(1) relating to the requirement that vacation rentals have either a valid CUP or be "nonconforming"; §112.02(B)(2) relating to "any other occurrence that results in a call for service by a law enforcement agency." He also questioned how to determine whether a complaint is valid and felt that vacation rental permits should be transferable and proposed "audit" procedures for new owners who would be subject to inspections. He proposed changing the language in §112.05(B)

regarding septic capacity from “. . . as established by the City” to “as established by the County.” He suggested clarifying “capacity” as starting at two people per bedroom, limited by septic system capacity or adjusted for other factors, such as lot size and proximity to neighbors. Discussion established that the City is the designated representative and obligated to follow the State’s calculations relating to maximum occupancy/septic capacity. Regarding §155.065(E)(13), Mr. Collins proposed putting a capacity for a group specifically on that house or meeting room and not on paying guests who sleep there. He spoke of his consultation with two attorneys who said this ordinance is not enforceable. He felt the best way to handle complaints is to call law enforcement to help determine if a complaint is frivolous and to have documentation of the complaint.

No further public comments were heard.

Councilmember Trapp referred to §112.04(D) and felt the permit fee should be discussed before the ordinance is approved. She questioned how complaints would be recorded by the City under §112.06(A). She asked to change §112.06(C) to read “staff” instead of “City Administrator.” Referencing §112.06(E), Councilmember Trapp asked if there is a fine or fee as part of Council’s determination that a permit’s terms have been violated and the permit revoked. Councilmember Trapp said she thought §112.06(E)(2) relating to property inspection had been struck from the ordinance. City Administrator Ferguson noted that there are specific procedures that have to be followed to inspect property.

Mayor McCullough questioned whether the ordinance can be approved at this meeting, due to the number of questions brought up tonight.

Councilmember Barchfeld moved to hold a workshop to further discuss the proposed ordinance. Councilmember Trapp seconded.

Councilmember White moved to postpone action on this item until a workshop is held.

Councilmember Barchfeld rescinded his prior motion and Councilmember Trapp’s second.

Councilmember Fore seconded Councilmember White’s motion.

Various workshop dates/times were discussed, with agreement to meet on January 27th at noon.

Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas approving an application submitted by David Estey for a conditional use permit to allow for the operation of a vacation rental facility on residentially zoned property located at 171 Panorama Drive, Wimberley, Hays County, Texas. (*David Estey, Applicant*)

City Administrator Ferguson recommended continuing this item until Council’s meeting on February 16, 2017, in order to allow for republication of the public hearing notice due to a technical issue.

Councilmember White moved to continue this item, as recommended by City Administrator Ferguson. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas approving an application submitted by the City of Wimberley requesting a change in the zoning from Rural Residential 1 (R-1) to Single Family Residential 2 (R-2) for a property located 25 La Toya Trail, Wimberley, Hays County, Texas. (*City of Wimberley, Applicant*)

City Administrator Ferguson reported the rezoning is necessary due to a zoning error made when the City initiated residential zoning shortly after incorporation.

Councilmember Trapp moved to approve the ordinance, as presented. Councilmember Fore seconded. Motion carried on a vote of 5-0.

4. Ordinance

Consider approval of an ordinance of the City of Wimberley, Texas, to reduce the tax rate to be imposed on hotel occupancy within the corporate limits and extraterritorial jurisdiction of the City; and providing for findings of fact, savings, severability, repealer, an effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson noted Council's approval of the City's Hotel Occupancy Tax Advisory Committee's recommendation to reduce the tax rate to zero percent (0%) from five percent (5%) at its January 5, 2017 meeting and advised the ordinance is needed to formalize the rate change.

Councilmember Trapp questioned the wording regarding the effective date and discussion established that the tax rate change is effective for stays beginning February 1, 2017. City Administrator Ferguson advised the ordinance can be amended to clarify the effective date as February 1, 2017.

Councilmember Trapp moved to approve the ordinance, as presented, including the correction that the effective date of the 0% tax rate is February 1, 2017. Councilmember Barchfeld seconded. Motion carried on a vote of 4-1. Councilmember Dussler voted against.

5. Discussion and Possible Action

- A. Discuss and consider possible action regarding a proposal to perform enhanced water testing on the Cypress Creek in Central Wimberley. (*Place Four Councilmember Gary Barchfeld*)

Dr. Deborah Koeck spoke of her professional and educational background, qualifications, and experience in many positions as a scientist and researcher. She asked Council to consider enhanced professional water testing for Cypress Creek and look at microbial source testing for

DNA attribution. She said current testing is done by “citizen scientists,” cited text from the Meadows Center’s Cypress Creek Watershed Protection Plan webpage, and questioned data collection, testing methods, and accuracy.

Linda Kaye Rogers spoke of her love for the Wimberley Valley and changes over the last 17 years that she is not happy with. She expressed concerns that “we get what we pay for” regarding the wastewater project and said money is not the only thing that is important. She favored keeping Wimberley in the “hands of the locals” and was opposed to Aqua Texas. She stated the City has spent about \$800,000 to date on planning and engineering and stated that if the City goes with Aqua Texas that money will be wasted. She offered her understanding of funding details and noted that the \$1,000,000 grant could not be used for the Aqua Texas option, nor could the City receive loan forgiveness. She spoke of her dealings with Aqua Texas, specifically its line losses and 5-year plan to correct those losses, which she said was not completed past Phase 2. She spoke of the need for fire hydrants, which do not work due to lack of pressure. She asked that money not be made the bottom line and said Blue Hole will dry up if we have another drought. She said Blue Hole brings a huge amount of money into this community. She asked Council to look carefully into the future and consider what this community is really worth.

No further public comments were heard.

Councilmember Barchfeld questioned spending money on a plant and if it was found that E coli was all or mostly from animals. He said he was confused on various wastewater reports and referred to some Cypress Creek data from 1998-2013 that showed temperature ranges that he felt should be more consistent for artesian springs. He favored the “trust, but verify” approach and noted a chart that shows a linear regression and questioned certain variations. He proposed DNA testing on Cypress Creek by professionals to obtain data in a way that ensures fair testing. He spoke of his contact with Microbial Source Tracking, which he said had reasonable rates of about \$800 per single test. He felt that a single test would not be adequate and suggested spending money on professional testing before spending \$5,000,000 on a wastewater system. He also felt that baseline testing should be done by professionals. Councilmember Barchfeld suggested that he and City Administrator Ferguson speak with Microbial Source Tracking about the possibility of multiple studies and associated costs. City Administrator Ferguson advised that Microbial Source Tracking tests are for the presence (as opposed to percentages) of certain markers, and the company does not have a test to detect markers for bats. He said multiple DNA tests at several locations would be advisable over time in conjunction with companion bacteria testing to help find spikes in certain locations.

In response to an inquiry from the audience, Councilmember Barchfeld asked Dr. Koeck if she had experience with such testing. Dr. Koeck replied affirmatively but insisted that she is bound by professional ethics and would require that she be accompanied by other parties, such as City Council and competing organizations to ensure that there is agreement samples were taken in the appropriate locations. She said she can also do fecal coliform counts to help determine where the spikes might be and that might direct the research to provide cost savings to the City. She said she could provide her data and analysis but would ask for a second opinion.

Councilmember Barchfeld said there was another testing company he would like to look into.

An audience member asked if the testing would include the presence of pharmaceuticals, which she said would indicate human contact.

Mayor McCullough asked about the intent of this item and Councilmember Barchfeld said this would not delay or stop the project, as the City is still waiting for approval to bid the project. Mayor McCullough questioned what would result from the data and City Administrator Ferguson noted the categories of fecal sources that are tested for. Discussion addressed the impetus for source testing, its usefulness to help clean up Cypress Creek, its relevance, and its effectiveness in testing for specific sources, such as bats. Mayor McCullough said the City could choose to do additional testing beyond the baseline testing that is included in the settlement agreement, but asked what the City would do with the additional data. Councilmember Barchfeld said he heard many people question the source of pollution.

Councilmember Dussler referenced David Baker's detailed statements on test results that indicated presence of pharmaceuticals, but asked if there is an underlying basis to prove claims that there are not aging, leaking septic systems, and that the problems are due to bats under the bridge. He did not favor going down another "rabbit trail" that would delay the project for six months and was skeptical.

Councilmember Fore understood Councilmember Dussler's skepticism, but said if there is another problem and the testing identifies it, then that is another problem to take care of besides the sewer. He stated we cannot address the problem if we do not know what it is and said it has nothing to do with the sewer.

Councilmember Trapp agreed with Councilmember Fore's comments.

Councilmember White felt this might be used to postpone or kill the sewer. He said he is past the point of delaying it in any shape, form, or manner. He said "let's run the test" and see what comes back, but did not want it tied to putting in the sewer system.

Councilmember Barchfeld stated he does not want to delay the project and hoped we would be a lot farther along than we are right now. He said taking one sample to start with would give us some idea, will not cost much or take much time, and said the testing could be done before going out for bids. He favored further testing and said the price is reasonable, can include citizen involvement, and delays nothing.

Councilmember Fore said this is in addition to the sewer to achieve the goal of cleaning up the creek and did not see how the additional testing is related to the sewer or any delays. Councilmember Trapp asked if there were clear ideas on pricing. City Administrator Ferguson proposed working with Councilmember Barchfeld to work on testing locations and number of markers to test for in order to estimate costs. Discussion included the possibility of testing for pharmaceuticals and contacting another testing company that tests for bats.

City Administrator Ferguson recommended bringing a proposal to Council at its next meeting that includes items such as costs and testing locations.

Councilmember Barchfeld made a motion to work with City Administrator Ferguson on developing a proposal recommending costs, locations, and other items (such as who will conduct sampling) and present to Council at its next regular meeting. Councilmember White seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding the creation of a Wastewater Impact Advisory Committee and appointment of members to the Committee. (*City Administrator*)

City Administrator Ferguson explained the statutory requirement to appoint an advisory committee to work with the City's impact fee consultant, the committee's role/composition, and anticipated 90-day timeframe for impact fee development and approval. He noted that at least 40% of the committee members must be representative of the real estate, development, or construction industries (not employees or officials of a political subdivision or governmental entity). He cited various members of existing City boards/commissions and their respective eligibility to serve on the committee based on the aforementioned required membership representative percentage.

Discussion addressed specific duties of the committee and fee development; committee's purpose; application of the impact fee to future development only; factors limiting large-scale developments; utilizing Planning and Zoning Commission members, with possible additional members to meet committee composition requirements; and anticipated meeting schedule of twice annually.

Councilmember Trapp moved to postpone action on creation of the Wastewater Impact Advisory Committee and appointment of members until Council's February 2, 2017 meeting. Councilmember Fore seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action relating to future use of the City of Wimberley General Fund Balance. (*City Administrator*)

City Administrator Ferguson explained that Council is required to adopt Fund Balance Designation/Policy and noted that percentages can be changed at any time by Council. He reviewed the existing Designation/Policy and restricted/committed fund balances. He referred to December's balance sheet and pointed out that the percentages listed could be changed as Council sees fit. He said Council could set aside Fund Balance money to address concerns about future wastewater expenses, grant matches, or other unexpected needs.

Mayor McCullough noted Councilmember Fore's diligence in bringing up this topic. Councilmember Fore favored setting a minimum threshold to keep in Fund Balance. City Administrator Ferguson advised auditors typically recommend retaining a minimum of 3-4 months of operating expenses. However, as the City relies on sales tax revenue, he recommended maintaining a level of 50% of the City's operating budget as a good business

practice. He explained that setting a minimum threshold level based on percentage of operating budget would not entail changing the percentage allocation.

Discussion addressed historical Fund Balances; freezing of unbudgeted expenditures once threshold is met; possible use of an uncommitted fund balance; consideration of various percentages to maintain in Fund Balance; fiscal year-to-date Fund Balance expenditures; possible investment of part of Fund Balance; and use of Fund Balance for unexpected or emergency expenditures. City Administrator Ferguson advised that he could present a proposal at Council's February 2nd meeting based on tonight's discussion.

No vote was taken.

D. Discuss and consider possible action relating to the proposed creation of an *Honor Wall* in the City Council Chamber at Wimberley City Hall. (*City Administrator*)

City Administrator Ferguson spoke of the need to update Council photographs with individual portraits and group photos of past and present City Councils/mayors. Councilmember Barchfeld spoke of his professional experience as a photographer and offered his services at no cost to help create the *Honor Wall*. Discussion favored creation of the *Honor Wall*. No vote was taken.

6. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Trapp requested scheduling a follow-up meeting to Council's January 23rd workshop at the Wimberley Community Center, as there may not be time for questions and answers. Mayor McCullough was unsure about a follow-up meeting and said he was good with taking questions and answers on Monday, January 23, 2017. Discussion included reasoning for holding an additional meeting, if necessary, given the potential length of Monday's workshop and amount of information presented. Mayor McCullough stated he would announce at Monday's workshop that public comments will not be taken following the presentation of wastewater options. Discussion agreed to hold an additional public meeting on January 30, 2017 at 6 p.m. at the Wimberley Community Center.

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

Adjournment: Council meeting adjourned at 8:10 p.m.

Recorded by:

Cara McPartland

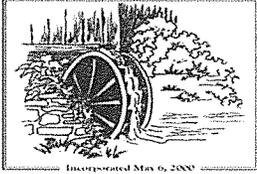
These minutes approved on the ____ of February, 2017.

APPROVED:

Mac McCullough, Mayor

DRAFT

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: APPROVAL OF
JANUARY 12, 2017 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 January 12, 2017 Special City Council Meeting.

**MINUTES
SPECIAL CITY COUNCIL MEETING
WIMBERLEY COMMUNITY CENTER
14068 RANCH ROAD 12, WIMBERLEY, TEXAS
JANUARY 12, 2017 – 6:00 P.M.**

The City Council of the City of Wimberley, Texas met for the purpose of participating in a Citizens Alliance for Responsible Development (CARD) Town Hall Meeting, located at 14068 Ranch Road 12, Wimberley, Hays County, Texas on Thursday, January 12, 2017.

Those present were: Mayor Mac McCullough, Place One Councilmember Bob Dussler, Place Four Councilmember Gary Barchfeld, and Place 5 Councilmember John White.

Members of the City of Wimberley City Council attended the special meeting for the purpose of participating in a CARD Town Hall Meeting. No action was taken during the meeting that began at 6:00 p.m. and ended at 9:00 p.m.

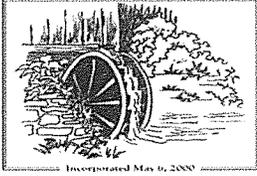
DATE APPROVED: February __, 2017

Mac McCullough, Mayor

ATTEST:

Cara McPartland, City Secretary

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: APPROVAL OF
JANUARY 23, 2017 MINUTES OF SPECIAL CITY
COUNCIL MEETINGS

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 January 23, 2017 Special City Council Meetings.

Attached are the minutes for the 2 p.m. Special Meeting on January 23rd. The minutes for the 6 p.m. Special Meeting on January 23rd will be presented under separate cover in advance of the meeting for review and approval.

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Special Meeting of City Council
January 23, 2017 at 2:00 p.m.

City Council meeting called to order at 2:00 p.m. by Mayor Mac McCullough.

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, and City Attorney Brad Young

Executive Session

After it convenes in Open Session, the City Council will recess into an Executive (closed) Session for the following:

Deliberate the appointment, employment, reassignment or duties of the city administrator, in accordance with Section 551.074 of the Texas Government Code.

Upon completion of the Executive Session, the City Council will reconvene in Open Session before taking action, if necessary.

Mayor McCullough adjourned Open Session and convened Executive Session at 2:03 p.m., pursuant to §551.074 of the Texas Government Code for discussion of personnel matters.

Mayor McCullough adjourned Executive Session and reconvened Open Session at 3:40 p.m.

No action was taken in Executive Session.

Discussion and Action

Discuss and consider action regarding the appointment, employment, reassignment or duties of the city administrator, in accordance with Section 551.074 of the Texas Government Code.

No discussion was held. No action was taken.

Adjourn

Mayor McCullough called the meeting adjourned at 3:42 p.m.

Recorded by:

Cara McPartland

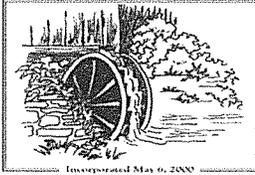
These minutes approved on the ____ of February, 2017.

APPROVED:

Mac McCullough, Mayor

DRAFT

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CITY ADMINISTRATOR'S REPORT

Funds Required:
Funds Available:

Council Action Requested:

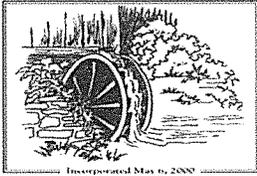
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

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

- Status report on the Central Wimberley Wastewater Project
- Status report on Hidden Valley Low Water Crossing Reconstruction Project
- Status report on development activity in the City of Wimberley
- Status report on Blue Hole Regional Park operations
- Status report on relocation of Wimberley Farmers Market

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: PUBLIC HEARING AND CONSIDER APPROVAL OF THE SECOND AND FINAL 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 second and final 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.

On January 5, 2017, the City Council held a public hearing on the proposed ordinance. Afterwards, the Council approved the first reading of the ordinance with amendments relating to permit procedures, signage requirements, and enforcement procedures.

Attached is a copy of the proposed ordinance with the modifications approved by City Council.

On January 19, 2017, the City Council voted to continue the second reading of the proposed ordinance until the February 2, 2017, City Council meeting.

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 vacation rental without a valid permit issued by the City.

City Administrator 1/12/2017 8:25 AM
Deleted: bed and breakfast lodging or a

(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 vacation rental, or the property must be eligible to operate as a 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.

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(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 valid 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.

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

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§ 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 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.

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§ 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).

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(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 MARKETING OF ~~UN-PERMITTED~~ 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 valid unresolved 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 valid unresolved 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 six (6) months from the date of revocation."

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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 CUPs 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.

(4) 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. One (1) smoke alarm shall be provided in each guest bedroom along with a fire extinguisher visible and accessible to guests.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

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

(11) 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

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City Administrator 1/12/2017 8:33 AM
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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.

(12) 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.

(13) 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.

FIRST READING PASSED AND APPROVED this 5th day of January , 2017, by a vote of _____ (Ayes) to _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

SECOND READING 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

(D) Provide any additional information requested by the City Administrator.

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.

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§ 112.02 PERMIT REQUIRED

(A) A person commits an offense if the person owns or operates 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 vacation rental, or the property must be eligible to operate as a 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 valid 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 edge of pavement with address numbers at least four (4) inches high and two (2) inches wide.

§ 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 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.

§ 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 ~~MARKETING OF UN-PERMITTED~~ 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 valid unresolved 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 valid unresolved 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 six (6) months 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 CUPs 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.

(4) 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. One (1) smoke alarm shall be provided in each guest bedroom along with a fire extinguisher visible and accessible to guests.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

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

(11) 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.

(12) 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.

(13) 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.

FIRST READING PASSED AND APPROVED this 5th day of January , 2017, by a vote of ____ (Ayes) to ____ (Nays) ____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

SECOND READING 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

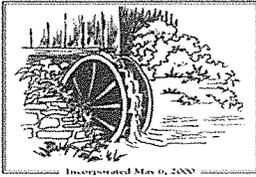
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

City Attorney

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSAL TO PERFORM ENHANCED WATER TESTING ON THE CYPRESS CREEK IN CENTRAL WIMBERLEY

Commission 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 proposal to perform enhanced water testing on the Cypress Creek in central Wimberley.

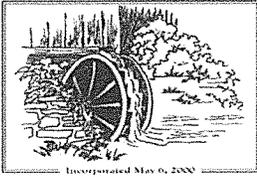
In recent months, there has been increased interest in performing enhanced water testing on the waters of the Cypress Creek to identify the various sources of bacteria found in the creek. While there is a strong belief that leaking septic systems are contributing to the elevated bacteria levels in the Creek, there is speculation that there may be other sources, such as cattle, bats and deer, that may be adding to the pollution problem.

In an attempt to further define sources of bacteria in the Creek, Place Four Council Member Gary Barchfeld has worked with City staff to develop a proposed water-testing project that will utilize microbial source testing (MST). The proposal calls for two (2) water samples to be drawn from three (3) locations on the Cypress Creek. The samples would be shipped to a DNA lab where they would be tested to determine the presence of fecal bacteria from humans, cattle, deer, ducks and bats.

The water samples would be drawn by local scientist Dr. Deborah Koeck.

The estimated cost of the testing project is \$7,950 or \$1,325 per sample. This cost can be reduced by conducting eColi tests at the same time the MST samples are drawn and only running the full DNA analysis on those samples from those locations that showed elevated eColi levels. As no funds were allocated in the FY 2017 Budget for the project, funding for the project would come from the General Fund Balance.

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION
ESTABLISHING A WASTEWATER IMPACT ADVISORY
COMMITTEE AND APPOINTING MEMBERS TO THE
COMMITTEE

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to establish a Wastewater Impact Advisory Committee and appoint individuals to the Committee.

State law requires City Council to appoint an advisory committee that will be responsible for advising and assisting City Council in adopting and updating land use assumptions, capital improvement plans, and impact fees for the soon-to-be-built Central Wimberley Wastewater System. The advisory committee must be composed of at least five (5) members that meet at least twice per year. At least 40% of the members must be representative of the real estate, development, or construction industries, who are not employees or officials of a political subdivision or governmental entity.

Once appointed by City Council, the advisory committee will work with the City's impact fee consultant to develop a wastewater impact fee proposal for City Council to consider. The impact development and approval process is expected to take approximately ninety (90) days to complete.

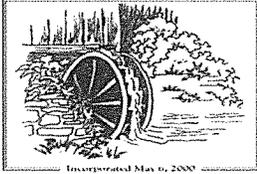
Adoption of an impact fee for the new wastewater system is required by State law. The wastewater impact fee will be imposed against a future development in the wastewater service area to pay for the costs of capital improvements or facility expansions that are necessitated by and benefit the new development.

This agenda item was continued from the January 19, 2017, City Council meeting.

Sec. 395.058. ADVISORY COMMITTEE.

- (a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvements advisory committee.
- (b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.
- (c) The advisory committee serves in an advisory capacity and is established to:
 - (1) advise and assist the political subdivision in adopting land use assumptions;
 - (2) review the capital improvements plan and file written comments;
 - (3) monitor and evaluate implementation of the capital improvements plan;
 - (4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and
 - (5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.
- (d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.
- (e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION
REGARDING A PROPOSAL TO AMEND THE OF THE CITY
OF WIMBERLEY GENERAL FUND BALANCE POLICY

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 amend the City of Wimberley General Fund Balance Policy.

The proposed amendment would require the City to maintain at all times an unrestricted Fund Balance (Committed Fund Balance, Assigned Fund Balance, and Unassigned Fund Balance) of not less than six (6) months of regular General Fund operating expenditures, measured and based on the current fiscal year budget.

Attached is a copy of the Fund Balance Policy with the amended language for review and approval.

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 six (6) months of regular General Fund operating expenditures, measured and based based on the current fiscal year budget. 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

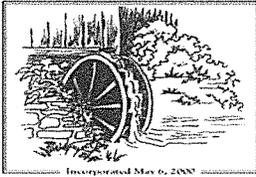
Capital Projects Funds

Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

Special Revenue Funds

Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSAL TO REQUEST AN EXTENSION OF THE CLOSING DEADLINE FOR THE CITY OF WIMBERLEY WASTEWATER CONSTRUCTION LOAN FROM THE TEXAS WATER DEVELOPMENT BOARD

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 possible action regarding a proposal to request an extension of the closing deadline for the City of Wimberley wastewater construction loan from the Texas Water Development Board.

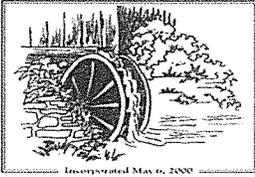
On April 11, 2016, the Texas Water Development Board ("TWDB") approved a resolution authorizing financial assistance in the amount of \$5,498,000 to the City of Wimberley to fund construction of a wastewater system to serve central Wimberley. The financing package approved consists of a \$5,255,000 loan and \$243,005 in loan forgiveness from the Clean Water State Revolving Fund.

The City has until April 11, 2016 to close on the construction loan. The closing process must be initiated at least sixty (60) days prior to the closing deadline.

With the City awaiting TWDB authorization to seek construction bids and process of vetting wastewater service alternatives still underway, it will be extremely difficult, if not impossible, to meet the April 11th closing deadline. As a result of the above-mentioned circumstances, there is a need for City Council to seek an extension of the closing deadline from the TWDB.

Based on discussions with the TWDB staff, City staff recommends City Council request a one (1) year extension of the closing deadline. If additional time is needed beyond April 2018, the TWDB staff has indicated the City would be able to request a second deadline extension.

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING THE JUNE 2017 DEADLINE FOR THE CITY TO STOP USE OF THE EXISTING WASTEWATER DRAIN FIELD AT THE BLUE HOLE REGIONAL PARK

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

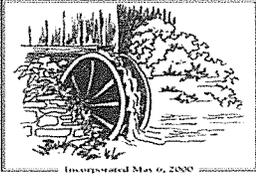
Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider possible action regarding the June 2017 deadline for the City of Wimberley to stop use of the existing wastewater drain field at the Blue Hole Regional Park ("Park").

With the City awaiting Texas Water Development Board authorization to seek bids for construction of the Central Wimberley Wastewater System ("System") and the vetting of wastewater service alternatives still underway, the City is not going to meet the June 2017 deadline for the City to cease use of the existing wastewater drain field at the Park. The deadline provision is included the new wastewater permit recently obtained by the City for the soon-to-be-built System.

City staff has been in discussion with the Texas Commission on Environmental Quality regarding the status of the City's wastewater project and the upcoming deadline. A briefing on the on-going discussions and potential alternatives to address the deadline will be presented to City Council at the meeting for consideration.

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: DISCUSS AND CONSIDER
ISSUES RAISED AT THE FEBRUARY 1, 2017 COMMUNITY
WASTEWATER MEETING

Commission Action Requested:

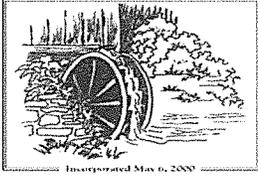
- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider issues raised at the February 1, 2017, Community Wastewater Meeting at the Community Center.

No action will be taken on this agenda item.

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION REGARDING A PROPOSED FACILITY USE AGREEMENT FOR USE OF THE SOCCER FIELDS AT THE BLUE HOLE REGIONAL PARK

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 possible action regarding a proposed facility use agreement for use of the soccer fields at the Blue Hole Regional Park.

The San Marcos Area Youth Soccer Organization ("SMAYSO") and a newly formed Wimberley club have expressed interest in utilizing the soccer fields at the Park for practice and some games. Attached is the proposed Facility Use Agreement for the two (2) organizations that would allow them to use the fields at no cost. Each organization would be responsible for providing their own soccer goals and proof of liability insurance with the City shown as an additional insured.

While this initial use agreement does not levy a user fee, both organizations are aware that a user fee will be charged at some point in the future when the City has the water to adequately water the fields to enhance the playing surface.

In January 2017, the City Parks and Recreation Advisory Board reviewed the proposed use agreement and unanimously voted to recommend its approval.

BLUE HOLE REGIONAL PARK SOCCER FIELD RENTAL APPLICATION

Applicant: _____ Date _____

Address: _____
City State Zip

Email Address: _____

Telephone (Main Contact) _____ (Alternate Contact) _____

Field (s) Requested _____ Intended Use _____

Estimated Participants: _____

RULES APPLICABLE TO ALL USERS

- Must be 21 years of age and provide proof of residency to reserve facility. Initial _____
- A copy of liability insurance with proper address is required with application. Initial _____
- Alcohol, illegal drugs and weapons are prohibited. Smoking is not permitted. Initial _____
- Activities for minors shall be sponsored by an adult and shall be properly chaperoned. Initial _____
- The City reserves the right to inspect the premises during an activity. Initial _____
- The rental group may begin set-up at _____ (time) and all activities shall cease and clean-up must be completed by _____ (time). Initial _____
- All trash generated from this activity must be removed from the site or removal fees may be assessed. Initial _____
- City property shall not be removed from premises. Initial _____
- The City of Wimberley is not responsible for items left on the premises. Initial _____
- Damage restitution may be required in the event of damage or trash removal at the Property. Initial _____
- In case of an emergency you may call _____, Contact person: _____
- Other (specify): _____

RISK ACKNOWLEDGEMENT/HOLD HARMLESS:

I, the undersigned, acknowledge that I am aware of and understand the potential risks associated with being the responsible party for any and all activities conducted during this facility reservation. I and/or the organization being represented further agree that I/we shall indemnify and hold harmless the City of Wimberley, Blue Hole Regional Park Department its officials, employees, agents and assigns from and against any and all claims, damages, losses, actions, liabilities and expenses, including but not limited to reasonable attorneys fees, arising from or in connection with the undersigned's access to and use of the reserved facility.

I understand the stipulations of this reservation and agree to abide by all facility rules and policies. I have reviewed the regulations governing the use of athletic facilities on the reverse side and have been advised of the free use and fee based policies.

Signature _____ Print Name _____ Date _____

Organization _____

Regulations Governing the Use of School and City Athletic Facilities

All Users Shall Observe The Following Regulations:

1. User shall be responsible for all damage or loss of property and equipment.
2. User shall provide goals and other equipment needed for their use
3. Users shall conform to policies and regulations established by the City Council and the Blue Hole Parks Department
4. No alcoholic beverages may be carried or consumed on Park property.
5. Smoking is prohibited on the sidelines, spectator areas and other areas of the Park.
6. Only those specified in the request may be used.
7. Placing a sign, banner or other device on Park property is prohibited without prior approval
8. Prior to use of the Park facilities, User shall provide a Certificate of Insurance in an amount specified below with the City of Wimberley and Blue Hole Regional Park being named as additionally insured
9. User agrees to Hold Harmless and Indemnify the City of Wimberley and Blue Hole Regional Park with respect to any claim of loss, injury, or damage because of negligence of the user or user's employees or agents, including damage to Park property.
10. User agrees to comply with Safety Regulations and Policies of the Blue Hole Regional Park.
11. User agrees that activities will be orderly and lawful and not of a nature to incite others to disorder.
12. The sale of merchandise, food and beverages must be approved by the Blue Hole Regional Park Manager.
13. Pets are allowed and all pets must be leashed at all times.

A REQUEST MAY BE DENIED WHEN PREVIOUS USAGE WAS UNSATISFACTORY, THE ACCOUNT IS DELINQUENT, THE ACTIVITY IS ESSENTIALLY A PRIVATE GATHERING, OR IT IS JUDGED NOT TO BE IN THE BEST INTEREST OF THE CITY OF WIMBERLEY AND BLUE HOLE REGIONAL PARK OR WOULD RESULT IN AN UNACCEPTABLE RISK.

INSURANCE REQUIRED WITH APPLICATION

All athletic facility use request requires that the group or organization furnish a Certificate of Insurability to show the following:

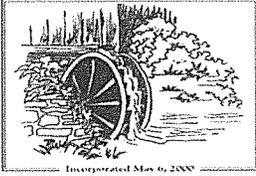
Commercial General Liability	\$1,000,000	Each Occurrence	Bodily Injury
	\$2,000,000	General Aggregate	Bodily Injury
	\$500,000	Each Occurrence	Property Damage

OR

A combined single limit of \$1,000,000 is required.

Coverage is to include Products Liability, Personal Injury and Fire Damage Legal Liability. The Certificate shall certify that the policy has been endorsed to name as an additional insured, City of Wimberley, P.O. Box 2027, Wimberley, Texas, 78676 and the Blue Hole Regional Park, 100 Blue Hole Lane, Wimberley, Texas, 78676.

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 2017

Project/Proposal Title: CONSIDER ACTION
REGARDING A PROPOSED SERVICE AGREEMENT WITH
TEXAS STATE UNIVERSITY'S CENTER FOR
ARCHAEOLOGICAL STUDIES

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 possible action regarding a proposed service agreement with the Texas State University's *Center for Archaeological Studies*.

In its review of the City's flood mitigation funding application for property buyout and elevation, the State Historical Preservation Office ("SHPO") has identified the need for a Cultural Resource Survey for one of the sites targeted for funding.

The subject site is 171 River Bend Road. Records show that an archaeological site has been reported nearby the structure that is to be removed. SHPO's request is that an archaeologist survey the area immediately surrounding the house and utilities to determine whether cultural deposits are located at the depths of potential impact.

The cost of the survey is \$3,477 and it will take approximately three (3) to six (6) weeks to complete. The City will be reimbursed the cost of the survey if the City's mitigation funding application is approved and grant funds are awarded to the City for buy out and elevation.

As the need for a survey was not identified prior to adoption of the FY 2017 City Budget, funding for the survey was not budgeted. As a result, the City's General Fund Balance would be used to fund the survey, if approved.

City staff recommends approval of the service agreement with the *Center for Archaeological Studies* to complete the required Cultural Resource Survey and allow the City's mitigation funding application to proceed in the review process.

Center for Archeological Studies Services Agreement

This agreement is entered into by Texas State University located at 601 University Dr. San Marcos TX 78666 (University) and City of Wimberley located at PO Box 2027, Wimberley, TX 78676 (Recipient).

1. Term and Termination.

(A) This agreement is effective as of January 17, 2017 and shall terminate on June 17, 2015.

(B) Either party may terminate this Agreement sooner for any reason by giving the other party at least 30 days' written notice of its intent to terminate. Upon termination, the Contractor will pay the University for all work completed prior to the date of termination and for any non-cancelable obligations that the University has incurred in connection with this Agreement.

2. Scope and Consideration.

(A) The University will perform the work set forth in Exhibit A.

(B) The Contractor will pay the University as provided in Exhibit B.

3. Liability.

(A) Each party agrees to be solely responsible for the wrongful acts of its own employees, contractors, and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity.

(B) Neither party will be liable to the other under this Agreement in an amount that exceeds the payment that the University will receive from the Contractor or for any special, consequential, incidental, or exemplary damages, including damages for lost profits, savings, or business opportunities.

4. Copyright & Publication

(A) **Project Intellectual Property** "Project Intellectual Property" means the legal rights relating to inventions copyrights, trademarks and service marks, mask projects, and computer software first made or generated in performance of the project described in this Agreement.

(B) University retains title to Project Intellectual Property first produced solely by its employees under this agreement. Jointly developed Project Intellectual Property shall be jointly owned.

(C) Either party may publish works based on the data collected under this agreement without prior consent of the other party.

(D) Each party grants to the other a non-exclusive, royalty-free right to use Project Intellectual Property for educational and internal purposes, including academic publications.

5. Independent Contractor

The parties are acting as independent contractors in this arrangement. Neither party will be an employee of the other, nor will neither party have any claim or right arising from employee status. This Agreement does not create a partnership, joint venture, or other arrangement that would make one party liable for the acts or omissions of the other.

6. Miscellaneous.

This is the only agreement of the parties respecting this subject, and it supersedes any prior written or oral agreements between the parties regarding this subject. The parties may not amend this agreement except in writing, dated after the date of this agreement and signed by each party's representative.

7. Venue.

This agreement shall be governed, construed and enforced in accordance with the laws of the State of Texas. Any legal action relating to this agreement shall be brought in Travis County, Texas.

8. Disputes. Any dispute arising under this agreement shall be resolved according the regulations established in Texas Government Code chapter 2260.

9. OTHER TERMS AND CONDITIONS

9.1 NONDISCRIMINATION

In their execution of this agreement, all contractors, subcontractors, their respective employees, and others acting by or through them shall comply with all federal and state policies and laws prohibiting discrimination, harassment, and sexual misconduct. Any breach of this covenant may result in termination of this agreement.

Witness:

University

Recipient

By: _____

By: _____

W. Scott Erwin,
Director, Office of Sponsored Programs

Don Ferguson
City Administrator, City of
Wimberley

Date: _____

Date: _____

ATTACHMENT A

Scope of Work

The Center for Archaeological Studies (CAS) at Texas State University is pleased to present this proposal to the City of Wimberley (City) for an archaeological survey of lot 171 River Bend in Wimberley, TX. As part of the Federal Emergency Management Agency's (FEMA) Hays County Hazard Mitigation Plan Update, FEMA is proposing to remove housings remains from property that were damaged during the 2015 floods in Wimberley. This will involve shallow ground disturbance related to the removal of a house foundation, slab, and associated utilities. During consultation with the Texas Historical Commission (THC), it was determined that an archaeological site was located nearby and an archaeological survey of the property was necessary prior to the proposed ground disturbance. CAS is proposing to conduct an archaeological survey of 171 River Bend, Wimberley, TX to satisfy the requirements of the THC in regards to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR Part 800 (as amended) and the Texas Antiquities Code (if applicable). All work will be conducted in accordance with the guidelines for archaeological survey set forth by Council of Texas Archeologists (CTA) and adopted by the THC.

The proposed project area is located adjacent to the Blanco River where numerous known archaeological sites are present in proximity to the project area. Therefore, it is highly probable that the project area contains significant cultural deposits at local, regional, and national levels. The THC estimates that there is at least one archaeological site in the project area that may contain buried deposits. CAS proposes to conduct and complete an archaeological survey of the proposed project area that will consist of archaeological background research, intensive pedestrian survey, and subsurface testing. This survey will consist of 100% systematic pedestrian coverage, with careful ground inspection. Per CTA guidelines, CAS will excavate 2 shovel tests per acre, up to a total of 15 shovel tests. The locations of all survey areas, shovel tests and significant findings will be recorded by a Trimble Geoexplorer 6000 GeoXT Global Positioning System (GPS) unit on a map of the project area. Any archaeological materials noted during the survey will be thoroughly described and documented in the field. Only temporally diagnostic artifacts and cultural material and sediment samples associated intact cultural deposits and/or features will be collected; these will be prepared for permanent curation at CAS. It is estimated that no more than one field day for a two-person crew will be needed to travel to the site and conduct the backhoe trenching and shovel test survey and collect the information necessary for plotting these investigative units on a map.

Any sites or buildings 50 years old or older that are located during this work will be thoroughly documented, assessed for their eligibility for listing to the National Register of Historic Places (NRHP), a Federal listing of culturally significant properties, and considered for their worthiness of being designated as a State Archeological Landmark (SAL). Texas Archeology Site Data Forms will be filled out for each site recorded, and these will be filed at the Texas Archeological Research Laboratory (TARL) at the University of Texas at Austin.

DELIVERABLES

Upon conclusion of the work, CAS will prepare a fully illustrated technical report that complies with THC and CTA guidelines for survey reports. This document will describe the work carried out and will consist of the following sections: Definition of Study Area, Management Summary, Research Design, Results, Recommendations, and References Cited. CAS will submit an electronic copy of the report to the City and FEMA for review. If the report is acceptable, CAS will prepare two printed copies and two electronic copies of this report for submission by FEMA to the THC for their review and comment. Upon receipt of THC comments, CAS will finalize and prepare 30 copies of the report; 5 copies will be made available to the City and FEMA and 15 will be distributed to University –based libraries and archaeological research facilities around the state.

This work and deliverables will be conducted as fixed fee contract. CAS reserves the right to move funds between budget categories without increasing the overall costs of the project. All artifact materials collected during the field work and all documents that are generated through the course of this project will be prepared for permanent curation at CAS. Prior to curation, CAS will need a letter of transfer/ownership to be signed by FEMA, and a deed of gift signed by the landowner if the landowner wishes not to retain any collected materials or associated records. Estimated costs for this curation service are included in the total cost estimate for this project.

Schedule and Budget

Assuming a February 2, 2017 award date, CAS will be able to commence the background research the following day. We anticipate that the fieldwork can be completed within a week of project award and a draft report to follow within two weeks, or sooner. The reporting will occur concurrently with the fieldwork and can be submitted by the end of February 2017. A final report will be submitted after receiving comments from you and the THC.

CAS can complete the tasks outlined above for \$3,447. If more than two archaeological sites are found or the project area changes, an adjustment to this budget may be required.

ATTACHMENT B

Recipient shall pay a total of \$3,447 to **Texas State University** for the contract period on a fixed price cost-reimbursable basis.

Cost reimbursable agreements shall be invoiced on a monthly basis.

Fixed price Agreements: List schedule of payment and deliverable below:

\$3,447 upon acceptance of final report

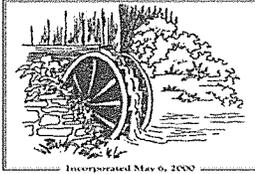
Invoices for services shall be submitted to:

City of Wimberley
Attn: Don Ferguson
PO Box 2027,
Wimberley, TX 78676
512.847.0025
dferguson@cityofwimberley.com

Payment shall be remitted to:

Texas State University
601 University Dr., JCK 420
San Marcos, TX 78666

City Council Agenda Form



Date Submitted: January 26, 2017

Agenda Date Requested: February 2, 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.