

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
NOVEMBER 3, 2016 - 6:00 P.M.

AGENDA

CALL TO ORDER NOVEMBER 3, 2016 @ 6:00 P.M.

CALL OF ROLL CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

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 OCTOBER 20, 2016.
- (B) APPROVAL OF MINUTES OF SPECIAL JOINT CITY COUNCIL-PLANNING AND ZONING COMMISSION MEETING OF OCTOBER 11, 2016.
- (C) APPROVAL OF MINUTES OF THE SPECIAL JOINT CITY COUNCIL-PLANNING AND ZONING COMMISSION MEETING OF OCTOBER 18, 2016.

- (D) APPROVAL OF THE REAPPOINTMENT OF TOMAS PALM TO THE CITY OF WIMBERLEY HOTEL OCCUPANCY TAX ADVISORY COMMITTEE. *(WIMBERLEY VALLEY TOURISM AND LODGING ASSOCIATION'S NOMINEE)*
- (E) APPROVAL OF THE REAPPOINTMENT OF DAN STURDIVANT TO THE CITY OF WIMBERLEY HOTEL OCCUPANCY TAX ADVISORY COMMITTEE. *(WIMBERLEY VALLEY TOURISM AND LODGING ASSOCIATION'S NOMINEE)*
- (F) APPROVAL OF THE REAPPOINTMENT OF BOB COOK TO THE CITY OF WIMBERLEY HOTEL OCCUPANCY TAX ADVISORY COMMITTEE. *(WIMBERLEY VALLEY ARTS AND CULTURAL ALLIANCE'S NOMINEE)*
- (G) APPROVAL OF THE REAPPOINTMENT OF TRACI FERGUSON TO THE CITY OF WIMBERLEY HOTEL OCCUPANCY TAX ADVISORY COMMITTEE. *(WIMBERLEY MERCHANTS ASSOCIATION'S NOMINEE)*
- (H) APPROVAL OF THE REAPPOINTMENT OF BARRY TYLER TO THE CITY OF WIMBERLEY BOARD OF ADJUSTMENT. *(PLACE FOUR COUNCIL MEMBER GARY BARCHFELD'S NOMINEE)*
- (I) APPROVAL OF THE SEPTEMBER 2016 FINANCIAL STATEMENTS FOR THE CITY OF WIMBERLEY

2. CITY ADMINISTRATOR REPORT

- STATUS REPORT ON CENTRAL WIMBERLEY WASTEWATER PROJECT
- STATUS REPORT ON HIDDEN VALLEY LOW WATER CROSSING RECONSTRUCTION PROJECT
- STATUS REPORT ON REGULATORY FLOOD MAP UPDATE FOR THE CITY OF WIMBERLEY
- STATUS REPORT ON REGIONAL FLOOD MITIGATION STUDY
- STATUS REPORT ON HOTEL OCCUPANCY TAX COLLECTIONS FOR THE CITY OF WIMBERLEY
- STATUS REPORT ON MIXED BEVERAGE TAX COLLECTIONS FOR THE CITY OF WIMBERLEY

3. PRESENTATION

PRESENTATION OF HOTEL OCCUPANCY TAX FUNDING RECOMMENDATIONS FOR THE PERIOD FROM JANUARY 2017 THROUGH MARCH 2017. *(CITY OF WIMBERLEY HOTEL OCCUPANCY TAX ADVISORY COMMITTEE CHAIR TOMAS PALM)*

4. PUBLIC HEARING AND POSSIBLE ACTION

HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTIONS 155.005 (DEFINITIONS), AND 155.059 (PARTICIPANT RECREATION – HIGH IMPACT; PR-2) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO ADD A CONDITIONAL

USE FOR LIMITED DURATION/ON-PREMISE ALCOHOL SALES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING. (CITY ADMINISTRATOR)

5. ORDINANCE

CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE VII (TRAFFIC CODE), CHAPTER 70 (TRAFFIC REGULATIONS) TO ADD A NEW SECTION 70.06 (LOW WATER CROSSINGS); PROVIDING FOR FINDINGS OF FACT, REPEALER, SAVINGS, SEVERABILITY, PROPER NOTICE AND MEETING, AND AN EFFECTIVE DATE. (CITY ADMINISTRATOR)

6. DISCUSSION AND POSSIBLE ACTION

(A) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING HOTEL OCCUPANCY TAX FUNDING PROPOSALS FOR THE PERIOD FROM JANUARY 2017 THROUGH MARCH 2017. (HOTEL OCCUPANCY TAX ADVISORY COMMITTEE)

(B) DISCUSS AND CONSIDER POSSIBLE ACTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT WITH TRC ENGINEERS, INC. FOR PROJECT MANAGEMENT RELATING TO THE CONSTRUCTION OF THE CENTRAL WIMBERLEY WASTEWATER SYSTEM. (CITY ADMINISTRATOR)

(C) DISCUSS AND CONSIDER POSSIBLE ACTION APPROVING A PROPOSED LEASE WITH WIMBERLEY ACE HARDWARE FOR USE OF CITY-OWNED PROPERTY LOCATED AT THE INTERSECTION OF RANCH ROAD 12 AND FM 2325. (PLACE FOUR COUNCIL MEMBER GARY BARCHFELD)

(D) DISCUSS AND CONSIDER POSSIBLE ACTION AWARDDING A CONSTRUCTION CONTRACT FOR THE RIVER ROAD RIVERBANK RESTORATION PROJECT. (CITY ADMINISTRATOR)

(E) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING THE PROPOSED CREATION OF A CITY OF WIMBERLEY TECHNOLOGY ADVISORY COMMITTEE. (PLACE THREE COUNCIL MEMBER SALLY TRAPP)

(F) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING THE PROPOSED ADDITION OF LANGUAGE TO FUTURE CITY COUNCIL AGENDAS RELATING TO THE CONDUCT OF PUBLIC SPEAKERS. (PLACE FOUR COUNCIL MEMBER GARY BARCHFELD)

7. CITY COUNCIL REPORTS

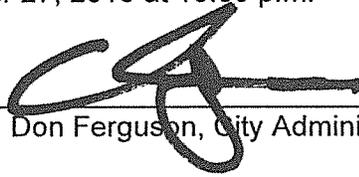
- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

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

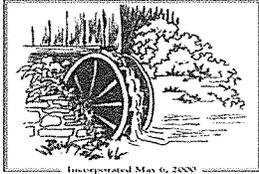
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on October 27, 2016 at 10:00 p.m.

A handwritten signature in black ink, appearing to read 'DF', is written over a horizontal line.

Don Ferguson, City Administrator

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

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF
OCTOBER 20, 2016 MINUTES OF REGULAR
CITY COUNCIL MEETING

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider approving the minutes for the October 20, 2016 Regular City Council Meeting.

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
October 20, 2016 at 6:00 p.m.

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

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

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

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

Citizens Communications

No citizen comments were heard.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of October 6, 2016.
- B. Approval of minutes of the Special City Council meeting of October 7, 2016.
- C. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting of October 4, 2016.
- D. Approval of the reappointment of Jimmy Lee to the City of Wimberley Building Code Board of Review. (*Place Two Councilmember Craig Fore's nominee*)
- E. Approval of the reappointment of Charles Savino to the City of Wimberley Planning and Zoning Commission. (*Place Two Councilmember Craig Fore's nominee*)
- F. Approval of the reappointment of John Dunn to the City of Wimberley Ethics Commission. (*Place Three Councilmember Sally Trapp's nominee*)

Councilmember White moved to approve all Consent Agenda items, as presented. Councilmember Trapp requested the following typo correction on page 8 (*see italics*): "Councilmember White suggested a two-week timeframe, rather than the aforementioned thirty (30) day period." Councilmember White restated his motion to approve all Consent Agenda items, as amended. Councilmember Fore seconded. Motion carried on a vote 5-0.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported TCEQ is finalizing the City's Chapter 210 permit application (for irrigation) and TWDB's staff review continues on the City's collection system/treatment plant design. He noted water use data for the service area has been submitted

to the City's water rate consultants. He advised the parkland conversion process is in its final stage of review by the National Parks Service.

- Status report on sales tax collections for the City of Wimberley

City Administrator Ferguson reported the City's October check totaled just over \$62,000, up 12.5 percent from the same period last year, and continuing an upwards trend. He noted that collections to date are running ahead of budget. He provided a breakdown of local tax rates by governmental entity.

- Status report on the Community Electronic Message Board Project

City Administrator Ferguson reported on the history of the project and ongoing discussions with Pedernales Electric Cooperative (PEC) and Wimberley ISD (WISD) on possible joint partnership opportunities. WISD installed power and data lines for the project; however, PEC advised the deadline for requesting funding assistance for the electronic sign has passed and would not be extended. He stated that WISD is interested in asking PEC to reconsider its decision on the funding request. City Administrator Ferguson requested Council input on this issue before resuming discussion on this matter. Discussion included possible reinstatement of an over-the-road or pole-mounted banner program and associated cost projections and concerns. City Administrator Ferguson stated that cost estimates could be updated and WISD Superintendent Dwain York could speak to Council on the Project.

- Status report Hidden Valley Low Water Crossing Reconstruction Project

City Administrator Ferguson reported that execution of the contract with Myers Concrete Construction is underway and temporary construction easements are being secured along both sides of the Blanco River. He anticipated construction to tentatively begin later this month. He advised a Special Council meeting is planned to accept right-of-way dedication for the Project, to approve additional funding for site inspection work, and also to approve an ordinance intended to address safety concerns at all low water crossings.

- Status report on CDBG Flood Recovery Funding

City Administrator Ferguson reported on statewide allocation of federal funds, including \$7,400,000 to Hays County, criteria to receive funding, types of eligible projects, including flood mitigation, associated match requirements, and project ranking process. He said a request will be submitted to Hays County for \$518,000 to help the City meet its match requirements.

3. Presentation

Presentation by Aqua Texas President Robert Laughman regarding possible options for the provision of wastewater service to central Wimberley. (*Aqua Texas President Robert Laughman*)

Aqua Texas President Robert Laughman described his company's role as providing additional options to the City to evaluate and consider as it goes through a challenging, decision-making process. He said this will be the fourth option Aqua Texas has presented to the City, with the other options to include the provision of wholesale service; to accept excess effluent to avoid the possibility of discharge; to become the retail provider of all wastewater service in Wimberley Valley, and to pay for all of the infrastructure necessary to provide that service. He stated under the retail scenario the City would break away a portion of its Certificate of Convenience and Necessity (CCN) to Aqua Texas, which would provide retail service to the rest of the community and for the entire Wimberley Valley. He recognized there are a lot of variables to the retail option, including the construction requirements in the downtown area to put in a collection system. He stated Aqua Texas would need to partner with the City because Aqua Texas does not have eminent domain rights. Mr. Laughman advised this is a straightforward proposal that simply makes Aqua Texas the retail provider of wastewater services to the Wimberley Valley.

Councilmember Dussler asked for details on the CCN process. Mr. Laughman defined CCN and summarized the City of Wimberley/Aqua Texas partnership, which would request from the Texas Public Utilities Commission (PUC) the right to transfer an agreed-upon portion of CCN, and outlined PUC's approval process.

Councilmember Fore asked for clarification on the CCN transfer as being for an agreed-upon portion and not for the entire service area. Mr. Laughman said he suggested to prior Councils that the CCN would be defined and the City would have the opportunity to treat the effluent to a higher discharge capability for Blue Hole and that area.

Councilmember Barchfeld read the PUC's definition of a CCN which gives the CCN holder the exclusive right to provide retail water and/or sewer utility services to an identified geographic area and requires the CCN holder to provide continuous and adequate service to the area within the CCN boundaries. He continued that municipalities and districts are not required to have a CCN, however some municipalities and districts do have a CCN. Councilmember Barchfeld said his definition of a CCN is a monopoly that provides water or sewer to a specific area. He said if there is capacity they must grant individuals the right to connect. He stated that a CCN can expand its capacity in service areas and a CCN may, but not always, help to restrict growth. Councilmember Barchfeld felt the best way to restrict growth is through the Mayor, the City Council, Planning and Zoning, and our ordinances. Councilmember Barchfeld asked for a tentative timeframe, should the City give up its CCN to Aqua Texas. Based on recent PUC action timeframes, Mr. Laughman hoped that the process improves, estimated it might take about 8 months, but said right now the timeframe is 12 months, if uncontested. Mr. Laughman said that Aqua Texas's parent company could offer construction financing to the City and envisioned the City paying negotiated financing costs to construct, if needed, and upon receipt of the CCN, every dollar the City spent on that CCN would be reimbursed immediately through Aqua. Councilmember Barchfeld asked to read a statement at the end of Council discussion.

Councilmember Trapp thanked Mr. Laughman for his time and asked him to explain how the south side of the creek (Cypress Creek) would be different from the north side of the creek. Mr. Laughman said it would not be different and development of the north side has been driven by the City and not Aqua, which he said has only accommodated and provided the service after City

Council approval. He stated there are two reasons “that make it almost a throw down,” namely that Aqua already has a plant built and it has regional rates. He explained that the value of a regional approach is that costs are regionalized and through regionalization, Aqua has avoided having to go through another rate case. Mr. Laughman stated that methodical growth coupled with regional rates stabilize existing rates. Councilmember Trapp asked if the north side’s rates would increase due to infrastructure being placed downtown and Mr. Laughman replied negatively. Mr. Laughman said providing service from an existing facility helps Aqua spread costs and generate more revenue. He recognized that dealing with the capital associated with putting in the collection system is a big number, but said there is a larger customer base for the spreading of costs. He committed to holding rates the same for the next five years, if the City’s collection system costs are anywhere near being correct.

Councilmember Trapp and Mr. Laughman discussed Aqua America’s (Aqua Texas’s parent company) ability to offer financing, including the understanding that Aqua America’s conservative lending policy would require the loan to be collateralized in such a way that Aqua America is not left holding something that is of zero value. He noted that the loan would be of zero value if the CCN did not transfer to Aqua Texas.

Discussion continued on the following topics:

- Aqua Texas’s acceptance of existing engineering estimates
- Possibility of a contested case hearing if the City of Wimberley and Aqua Texas file a joint application for CCN transfer and associated impact on project timeframe
- Aqua Texas’s protection of financial and contractual interest in the event of a newly elected Council that may wish to pursue a different option
- In addition to its earlier stated regional approach, Aqua Texas’s offer to provide interim services to help with collection and treatment
- Possible Aqua Texas loan interest rates

Councilmember Barchfeld read a statement of his position stating it is incumbent on Council members to review all feasible solutions to this long-existing downtown sewer problem. He believed to make the best decision for our community that he must remain neutral in his stance on any wastewater treatment solutions until we have complete data for analysis. He did not think it fair to make a major decision based on preconceived ideas and prejudices, whether his own or others. He appreciated input from friends, colleagues, and residents, but said in the end he must remain neutral in order to make a decision that is fact-based and not emotional. He stated when we have all the numbers worked from Aqua Texas’s proposal, along with numbers from the wastewater treatment plant bids, Council can make analytical, not emotional, decisions. He said we must have an open mind to pick the best alternatives for our wonderful city. He stated anything less than an open-minded analysis is being unfair to our community. Councilmember Barchfeld said if we do not study the alternatives and assign risk reward analysis to the process, we are being fiscally irresponsible. He noted we now have two alternative solutions from Aqua Texas and to tell you one way is more expensive than the other without direct comparison is wrong and misleading. He said that type of decision making promotes personal agendas and is not an objective resolution of this issue. As a duly elected Council member, he felt honored to represent citizens, and stated he will do his best to make decisions that are good for the entire

Wimberley Valley, but his loyalty is to the citizens of Wimberley, as the decision on the wastewater treatment plant is about the citizens of Wimberley. He noted it is these citizens, not those who live outside the city, who will be financially affected. He stressed that fairness to the entire community is important. He said he ran on the issue of “no discharge” and an affordable wastewater treatment plant, and believed that both of those promises can be satisfied now with one of our two options. Councilmember Barchfeld stated it is important to go into the decision making process with all the available data to make a fair and sound choice on value rather than prejudging an issue based on external pressures. Lastly, Councilmember Barchfeld recognized the sewer has been thought by many minds or many years and thanked everyone for their efforts, but said he is one of five people sitting at this dais that get to vote on it. He said he must in good conscience review all the alternatives before signing documents to go with either Aqua Texas or build our own sewer plant. He closed by repeating he will remain neutral, open-minded, and face his decision with hard numbers and the probability of success.

4. Public Hearing and Possible Action

Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 155 (Zoning), Sections 155.005 (Definitions), and 155.059 (Participant Recreation - High Impact; PR-2) of the City of Wimberley Code of Ordinances to add a conditional use for limited duration/on-premise alcohol sales; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson advised that the operators of the *Wimberley Players Theatre* have sought permission to serve alcoholic beverages in conjunction with their performances. He noted that the subject property is zoned PR-2 and on-premise sale and consumption of alcoholic beverages is not a permitted or conditional use in that zoning district. He stated the current Zoning Code allows the on-premise sale and consumption of alcoholic beverages on commercially zoned properties with a CUP, in conjunction with certain uses, such as sit-down restaurants. After review of available options, City Administrator Ferguson advised that an amendment to the City’s Zoning Code could be made to add the limited on-premise sale and consumption of alcohol as a conditional use in the PR-2 zoning district. He noted that alcohol sales would be limited to the duration of the event and shall not occur more than one hour before and after the event. He provided reasoning for including a requirement that no more than seventy-five percent (75%) of gross revenue could be derived from the on-premise sale of alcoholic beverages. He noted that on October 13, 2016, the Planning and Zoning Commission held a public hearing and voted unanimously to recommend approval of the ordinance.

Councilmember White moved to approve the ordinance on first reading, as presented.

Mayor McCullough opened the public hearing.

Wimberley Players Board member Terri Burney-Bisett stated that plans are to sell beer and wine only. City Administrator Ferguson noted the ordinance amendment is for alcoholic beverages,

but advised when the CUP application is received it can be limited to requesting on-premise sale and consumption of beer and wine only.

Hearing no further comments, Mayor McCullough closed the public hearing.

Councilmember Trapp seconded Councilmember White's previously stated motion. Motion carried on a vote of 5-0.

Discussion established that the proposed ordinance would allow mixed beverages; however, CUP applications may be limited to beer and wine only.

5. Discussion and Possible Action

- A. Discuss and consider possible action authorizing the city administrator to negotiate a service agreement with Aqua Texas relating to the acceptance of effluent from the City of Wimberley Wastewater Treatment Plant to reduce the potential of effluent discharge.
(City Administrator)

City Administrator Ferguson reviewed prior Council discussions on reducing or eliminating the possibility of discharge from the proposed wastewater treatment plant. He noted that Aqua Texas President Robert Laughman has indicated a willingness to accept treated effluent hauled from the City's plant, as needed, at the Aqua Texas Plant off FM 2325. He said that Laughman indicated that Aqua Texas would charge the City a fee per 1,000 gallons of effluent delivered. It was noted that TCEQ approval may be necessary for such an arrangement. City Administrator Ferguson felt that the need to truck excess effluent will be very rare, if at all, but said this is an alternative to ensure we have a zero-discharge facility. He noted the City would be sending higher quality Type I effluent to a plant that produces Type II effluent. Once drafted, the negotiated agreement will be presented to Council for approval.

Mayor McCullough said this is a solid solution based on multiple group efforts.

Councilmember Fore stated his understanding there are at least four options for excess effluent (the bypass, holding pond, extra storage tank, and the option to haul to Aqua Texas). As we have gotten estimates on these options, Councilmember Fore questioned why we are negotiating this agreement, if we do not know where we want to go yet. City Administrator Ferguson said we do not lose by entering into an agreement, as the service may not be needed at all. Councilmember Fore said we have not decided how we are going to get rid of excess effluent and asked why negotiate that now. City Administrator Ferguson advised having an agreement in place as a back-up, even if Council exercises another option.

Councilmember Dussler spoke in favor of authorizing negotiations and said this is a huge step in eliminating the possibility of discharge and satisfying the desires of many in the community. He stated he is also in favor of accepting the \$1,000,000 U.S. EDA grant for development of the Central Wimberley Wastewater Treatment Project, which is an enormous accomplishment for Wimberley and has been under study for decades. He said we can finally clean up the Blanco River and Cypress Creek and eliminate serious pollution. He stated design work is essentially

complete and is under review by TCEQ, the City has received its TCEQ permit and TWDB loan, and we will have our \$1,000,000 EDA grant to allow moving ahead with the bid process and construction. He said the \$1,000,000 EDA grant means a 20% savings on plant cost and is money we do not have to borrow and pay back over 20 years with interest. He stated this is a great benefit for the City and users. In addition, Councilmember Dussler said we will meet our commitment to provide irrigation to Blue Hole Park and complete the final development phase of this great community asset. He stated Wimberley will remain in control of the project and its own destiny, accountable to its own citizens, and not the shareholders of a large public company with a constant need to improve its stock price by continually raising service rates. He said despite all of this, there are some in the community still interested in turning over the entire project to Aqua Texas. He noted his strong opposition to Aqua Texas and referenced statements made at City Council meetings about Aqua Texas. Councilmember Dussler highlighted the following key issues regarding Aqua Texas:

- BBB rating of “D-“
- Deplorable customer service
- Experiences with numerous pipeline leaks, including leaking raw sewage, which has happened at the Wimberley High School six times
- Aqua Texas is being sued and has been sued by a number of customers for poor performance
- Disastrous experiences by our neighboring cities of Woodcreek and Kyle
- A business model that buys water/wastewater systems and hikes rates
- Regular rate increases and surcharges on system improvements are necessary to continue Aqua Texas’s revenue growth
- No effluent would be available to irrigate Blue Hole Park, breaking a commitment from the City to the Park
- If Wimberley turned over its wastewater project to Aqua Texas, we would lose our permit, our \$5,500,000 loan, and our \$1,000,000 grant, but would still be responsible for building a collection system, which would cost approximately \$3,000,000 and we would have no financial resources to build that system.

Councilmember Dussler said the most serious concern is the loss of our CCN, which gives the holder the exclusive right to provide water and sewer service to an identified geographic area. He stated Wimberley’s CCN includes downtown and along Ranch Road 12 to the Junction, with a market value of \$5,000,000 to \$10,000,000. He said if Wimberley abandoned its CCN, we would no longer be able to control development in the area, which is the key item Aqua Texas is interested in. Councilmember Dussler stated this could spur big development in that area such as big box retailers, chain motels, fast food franchises, and perhaps a large-scale condominium development. He said Wimberley would have no control over this development and noted Wimberley’s Comprehensive Plan is strongly opposed to those big box type of developments. He stated that you need to follow the trail if you are wondering why Aqua Texas is so interested in Wimberley and why some Wimberley residents are interested in Aqua Texas, and that trail leads to the CCN. Councilmember Dussler stated in his opinion that this is a bad idea for Wimberley and its citizens and this is why he is opposed to Aqua Texas.

Councilmember Trapp stated that we have worked for months to eliminate discharge into the Blanco River and this provides that, however, as Councilmember Fore said, we have got a number of options (such as tanks and trucking of effluent). She felt at Council's last meeting, we got into a gray area by taking the Hotel Occupancy Tax funding applications as a group instead of considering one by one, resulting in chaos. Referring to this agenda item (5A), Councilmember Trapp believed that Mr. Laughman made compelling arguments for his services in his presentation on the retail option. She favored postponing action on this item until Council can go over all of these options and vote on them together. In response to Councilmember Dussler, Councilmember Trapp respected his comments, but found it interesting that Aqua Texas's "F" BBB rating is referenced, as the City's existing plant contractor Severn Trent also gets an "F" rating from the BBB. She said it is worth it to do your due diligence because information is not always what it appears to be.

Councilmember Barchfeld was pleased that Robert Laughman said Aqua Texas would take our discharge to avoid dumping into rivers or creeks here. He said he would like to see the rate negotiated as he felt we could get a better rate than Mr. Laughman originally gave us. With respect to Councilmember Fore, Councilmember Barchfeld said he would wait until we get a little closer to summing things up to vote on negotiation.

Councilmember White said he sees no reason not to go ahead with authorizing negotiations, as this is just one of five options, and what Council has been working toward is "no discharge." He noted we may never use this option and it does not cost anything to go ahead and put it in place.

Mayor McCullough asked for speakers on this agenda item (5A).

Grady Burnette said he keeps hearing about the tremendous value of the CCN because it helps the City control growth. He stated there is a flip side and that when you control the CCN and provide wastewater service within that geographic area, you are obligated to provide service to anyone who applies. He said by law you must have a plan in place to expand capacity so that you do not run out of capacity. He asked how you use the CCN to control growth and directed his question to Mayor McCullough and Councilmember Dussler. Mayor McCullough said this is Mr. Burnette's opportunity to share his thoughts and Mr. Burnette challenged Councilmember Dussler's statement regarding the CCN's monetary value. Mayor McCullough said there is a common misperception that a citizen can ask for sewer service and the City is required to provide that service; however, it was pointed out by City Administrator Ferguson that the citizen would pay to get the service to him. He noted that a cost estimate was provided to someone who wanted to connect to the City's existing plant, and that if the City is unable to provide service, the law allows the citizen to petition another provider, who will also require payment to connect to their service. Mayor McCullough clarified that the City is not obligated to come to the citizen requesting service. City Administrator Ferguson said Aqua Texas would also make the requestor pay to extend the line, which is not uncommon. Mr. Burnette referenced the fear of big box developments and asked why there are none on the north side of Cypress Creek.

Linda Lang spoke of her excitement of moving to Wimberley many years ago and her concerns about its rivers and creeks for a long time. She supported the City's efforts to resolve its wastewater problem and speaking as a 10-year citizen of Woodcreek and as an Aqua Texas

customer, she would not use Aqua Texas “in any large form.” Ms. Lang spoke of her testimony at a natural resources committee in Austin, which was specifically about Aqua Texas, which she described it as a company that buys up small water systems that are really bad and then they do not fix them. She spoke of water leaks and odors and said Aqua Texas is not a good steward of our water.

Casey Craig thanked Council and the Ad Hoc Wastewater Review Committee for consideration of all the options and said now with presentation of the retail option Council has a decision to make. She asked Council to consider the following: cost for Aqua Texas to the community is zero; no subsidy, no long-term loan, no ad valorem tax, and no discharge; it would keep all wastewater customers equal and not create a special class of subsidized customers downtown; the Community Center and Mill Race Lane residents as “happy customers” of Aqua Texas; concerns that the City’s permit could allow discharge environmentally risky location of lift station; zero discharge with Aqua Texas; fiscally irresponsible to water soccer fields and plants at Blue Hole Regional Park; convert existing Deer Creek plant to Type I effluent and use its effluent for Park irrigation, with CARD and Friends of Blue Hole to raise funds to achieve this; the CCN does not control growth and development, but is done through City Council/Planning & Zoning, with citizen input. She hoped that Council will decide Aqua Texas is the better solution for the Square and allows our money to be spent on concerns for all of us, not just a few. She said the City of Wimberley is more than the Square and building and subsidizing a plant that will only serve about 4% of our population is wasteful and unnecessary. She believed the community would overwhelmingly support the Aqua Texas option if it were put to a citizen vote. She said Council represents all of Wimberley and urged it to make a decision that is financially, environmentally, and ethically best for all of us.

Haidar Khazen of 300 Mill Race Lane thanked Council for its due diligence and for inviting Robert Laughman from Aqua Texas to explore a sewer solution fair to all citizens of Wimberley. He said his extended family and neighbors live and work in houses and buildings like those in the downtown area and face the same septic issues. He stated that one would think not much separates them except for being on opposite sides of Cypress Creek and Ranch Road 12 Bridge. However, he said we are about to be separated by more than geography. He stated we are about to be separated by fairness. He spoke of Aqua Texas’s recent efforts toward providing service for Mill Race Lane and found discussions with Aqua Texas to be extremely professional. He said “our family has committed to \$20,000 to help run a sewer line and our neighbors have committed to similar sums.” He noted this amount does not include the cost of current system abandonment, pumps, tanks, pipes, and anything else needed to connect our properties to the new line. He said “we are bearing the cost ourselves and no one else is paying for us, nor are we asking them to.” He asked that Council keep an open mind and ultimately decides not to divide Wimberley by giving special treatment and financial consideration to some and not to others.

Bryan Ferrar of 303 CR 1492 cautioned against giving an exclusive monopoly to a private corporation over one of the core subsistence items in the community – our water and our sewers. He noted that Mr. Laughman mentioned his driver is revenue and he promised to keep rates fine for five years, but after that five years, questioned what recourse customers would have. He spoke of Aqua Texas’s “D-“ rating in the City of Woodcreek and does not know anyone in Woodcreek who likes Aqua Texas’s service. He said there are a great many unknowns about this

proposal and felt Councilmember Dussler accurately captured the sentiment of many who are concerned about that sort of monopoly coming in and the type of control it would have. He noted reasons for wanting to move to Wimberley and of his 5-year search for a house here and was concerned about private monopolies coming in to take over our natural resources. He said it feels like opening a door to more development, which was what he wanted to move away from.

Wimberley Valley Watershed Association Executive Director David Baker spoke of his former service on a committee in the 1990's on the downtown sewer issue. He noted a ton of work on the current plan, and supported Aqua Texas's acceptance of excess effluent to prevent discharge. He spoke of numerous contested cases with Aqua Texas and fights to keep Aqua from discharging into Cypress Creek and Wilson Creek. He said one of the issues with lifting that water to the upper watershed is that the area they (Aqua Texas) have to spray is directly above Jacob's Well, which has lots of karst formations and sinkholes, allowing it to infiltrate back into the groundwater and come out of the Cypress Creek. He said this simply moves the problem upstream from Blue Hole and the areas we are trying to protect. He noted that Aqua Texas is a private utility with about 1,700-2,000 customers, \$4,000,000 in annual revenue, and \$600,000 in operating costs, which means \$120,000,000 leaves this community over a 30-year period. He said it sticks in his craw that we are allowing that revenue to be bled off of this community. He stated economy of scale is an issue and said Mr. Laughman's pumping of wells in Woodcreek North causes Cypress Creek to drop proportionately to what they pump, which is a huge economic issue for the Valley. He feared negative economic impact if such pumping continues and draws down and/or pollutes Cypress Creek. Mr. Baker said the City needs to move forward with its City-owned plan, including the option to send excess effluent to Aqua Texas, as the best environmentally sound decision. He stated that going with Aqua reduces the water quality immensely from the quality fought for in the current permit. He said the City has done all it can, including the \$1,000,000 grant improving affordability, and fiscally for the long-term we have to get control of their (Aqua Texas's) CCN and not let them take ours.

Peter Way spoke as a third generation property owner who started coming here in 1945 and bought family property in 1969. He spoke of his deep love for the Hill Country and his purchase of Blue Hole property to be held until Friends of Blue Hole could raise funds and buy back the property at Mr. Way's cost. He noted that he is the largest individual contributor to Friends of Blue Hole to help develop the Park and is very proud of what has been accomplished. In the Park's planning stages, he noted pollution of Cypress Creek from human waste in the downtown area had been increasing each year. He spoke of the opportunity taken to replace the old Deer Creek plant to reduce pollution. He said that before development, the Park was mostly caliche and cedar; however, with water from the treatment plant, it could be green and verdant. Mr. Way stated that every year E coli levels in the Creek have increased and this past summer was 2-5 times past the safe amount for swimming. He said his family lives beside the creek downstream from Wimberley's center and the City's pollution flows past his home into the Blanco River. He said there are very few days when it was safe for his family to get in the water. It was amazing to him that people are allowed to swim in Cypress Creek behind Inoz when the City knows E coli levels are over 5 times the safe level and feared that someone will get very sick. Mr. Way said he plans to do everything he can to protect people in Cypress Creek, including his friends and family. He stated he has hired a very experienced legal team ready to file a federal lawsuit if the Council continues to dither in taking care of this problem. He asked to imagine what the first

meeting with the federal judge would be like, when you will have to say under oath you knew about the pollution, had a solution, and turned it down. He stated the process to get the solution has been extensive, inclusive, fair, and unanimously accepted by City Council, but we turned it down. Mr. Way said the design was complete, financing was guaranteed, and we even received a \$1,000,000 grant (20-25% of the total project cost), and we turned it down. He said there is a good chance the judge will be furious enough to say the downtown area must be shut down until this is solved. He noted TCEQ's only reason for not stopping the primary polluters is because the City was working on a solution. He said it is unconscionable that this Council lets this continue. Mr. Way assured that he will file a lawsuit and begged Council not to put the City and the wonderful businesses in the downtown area through this. He also said talking to news reporters will be harder than talking to a federal judge, when Council "kicks this can down the road." Referencing Mr. Laughman's earlier comments, Mr. Way stated "you guys can have Blue Hole, you can treat the water and we'll carve that out of the CCN you give to me." but he did not mention that the City would have to build a plant to treat his Type II effluent to a Type I standard that we could spray on soccer fields and other Park areas. Mr. Way said it has got to be at least \$1,000,000 to build that additional sewer treatment plant. Mr. Way also said Mr. Laughman did not mention that he was not going to give the City \$1,000,000 and believed it would cost the City less to build the plant ourselves.

Bryan Burke said when looking for a home here he was warned not to buy a home in Woodcreek because of the utility bills, which he described as outrageous. He said this is the smallest town he has ever lived in and had never heard of such high water bills. He noted that Aqua Texas is a publicly traded company whose job is to please shareholders, not customers. He questioned privatizing a public service, which he said sounds horrible, as the City will look down the road and say "we made a deal with the devil." He said we will pay, maybe not in the first 5 years, but will eventually.

Mayor McCullough closed public comments and opened Council discussion.

Councilmember Trapp moved to postpone the decision on this item until Council analyzes all the options presented for discharge and the four options presented by Mr. Laughman. Councilmember Fore seconded.

Councilmember Barchfeld said he wants to ultimately get to negotiations to truck water to Aqua Texas.

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

- B. Discuss and consider possible action approving the terms and conditions relating to the formal acceptance of funding assistance awarded to the City of Wimberley from the U.S. Economic Development Administration for the development of the Central Wimberley Wastewater System. (*City Administrator*)

City Administrator Ferguson reviewed key grant terms:

- This is a reimbursement grant
- Grant money has to be spent on what is in the application, which is for a system/treatment plant that is owned, operated, and maintained by the City (a publicly-owned system).
- The grant will not pay reimbursements if the City does anything that differs from the application and reimbursements cannot be claimed until such time the City closes on its TWDB loan.
- Acceptance of the grant requires that a 20-year lien be placed on the system by the federal government, which is a common requirement.

City Administrator Ferguson noted that legal counsel has reviewed the standard grant application and stressed that this grant cannot be used to fund an Aqua Texas system and the TWDB loan is for a City-owned and operated system. He advised that U.S. EDA has stated the Aqua Texas wholesale option (City builds the collection system and routes waste to Aqua Texas for treatment) would be a significant change in the application and disqualify the City's grant funding. He noted that the City has 30 days to accept the grant and stressed that Council is accepting the conditions and terms of the grant, but no grant money reimbursements will be received until the City closes its TWDB loan and adheres to the plan as presented in the grant application. City Administrator Ferguson recommended accepting the grant, as it reduces bottom-line project costs. He noted this is the second time the City has explored this grant, and the application has gone through an extensive review process by U.S. EDA.

Mayor McCullough opened public comments.

Dale Dugger said that Councilmember Dussler told his story, asked everyone to read the local newspaper, and confirmed his support for accepting the grant.

Alan Munde of Mountain View spoke in favor of accepting the grant as it is the right and proper thing to do for a City to operate its own utilities and not be beholden to a private entity located in New Jersey or wherever this group happens to be.

Jim McMeans spoke of his history as a Wimberley property owner and retired engineer with water/wastewater experience. He said he has been involved in many wastewater discussions and observed early on that Aqua Texas violated many state standards and cited frequent sewer overflows in Woodcreek North that went unrepaired for days. He noted that reported water line leaks went unrepaired for months, with multiple complaints about poor service, and system leaks resulting in Aqua Texas losing over 40% of precious groundwater it pumped. He recalled Commissioner Conley's 2010 convening of the Wimberley Valley water talks, which invited Aqua Texas to participate in discussions. He said as a result of those meetings, Aqua Texas agreed to undertake repairs to its Woodcreek/Woodcreek North water systems to reduce water losses to less than 15%, and pledged to spend \$5,000,000 over a 5-year period to reach that goal. He said that to date Aqua Texas has only completed two projects, one in Woodcreek North and one in the City of Woodcreek, with their water losses still exceeding 30% (double the state standard). Mr. McMeans expressed his opinion that Aqua Texas's word means nothing. He said the message here is that Aqua Texas cannot be trusted to do what they pledge to do and are part

of a giant, for profit, corporation that only cares about profit. He stated Wimberley now has the means and responsibility to solve the pollution problem in the Cypress Creek and Blanco River caused by outdated and leaking septic systems. He said the City has known about this problem for 30 years and finally has developed a plan that is affordable, fair to all future customers, and environmentally acceptable. He said this is a win-win for Wimberley and ready to build. He described a deal with Aqua Texas as a lose-lose proposition and the City would be subject to higher initial costs, a 2-year or more delay, have no irrigation water for Blue Hole Regional Park, and no control over the future cost of wastewater service. Mr. McMeans urged Council to unanimously accept the \$1,000,000 EDA grant and say "no" to Aqua Texas.

As a point of clarification, City Administrator Ferguson explained that the City's first inquiry about applying for the EDA grant indicated the City would not qualify and that this is the City's first formal application.

Shannon du Plessis of Shade Road said when moving here in 2010, she was also warned not to move to Woodcreek. She said water is vital and necessary for life, not optional, and turns to those she trusts. She stated she does not outsource help from outsiders who may not have her best interests above their own desire for profit. She understood that acceptance of the \$1,000,000 grant from the EDA eliminates the option to outsource, which she said may seem scary, but felt this grant is giving the City a vote of confidence to do this. She implored Council to accept this vote of confidence and \$1,000,000 grant and felt the sewer system will help the heart of Wimberley (the Square). She recognized comments made about two classes of people, but said the Square does generate substantial sales tax revenue that does benefit all of us. Ms. du Plessis noted her shirt, which says "a little piece of heaven," and asked Council to please not make this shirt a lie.

Wimberley property owner Mike Bachers expressed his support for moving ahead with the City-owned wastewater treatment plant, made more appealing by \$1,000,000 EDA grant offer. He said much time has been spent on this polarizing issue and all can find common ground about what makes Wimberley a special place to live. He said those affiliated with VOW have more than fulfilled their obligation to that PAC and vetted every option carefully. He stated the only logical path forward is to accept this grant and to allow our city administrator to begin negotiations in earnest. He stated "your duty is to choose the best option for all of the citizens of Wimberley, and not just for special interests." He noted this decision will impact generations to come and said please do not make the historic mistake of negotiating what may appear to be a comparable deal with Aqua Texas, when such an incredible win-win opportunity is on the table. He stated Aqua Texas specializes in closing deals with small communities like Wimberley, but that this is the beginning of a slippery slope with a very slippery corporation. He said the argument repeated ad nauseam against a publicly owned facility is based on the political stance that government is always bad and that the free market solves everything. He stated that approach does not hold water at the local level when you are talking about long-term contracts and permanent infrastructure. He asked how many other bids from other private companies was the City able to solicit and said free market economics are not in play here. He asked what makes any member of this Council think they can negotiate a contract with Aqua Texas that puts Wimberley in a better position than every other small town that has made that mistake of signing up. Mr. Bachers said you are dealing with a powerful water corporation with an obligation to its

shareholders to turn a profit and grow its margins year after year into perpetuity. He believed Council is assured that early numbers would make their own tenures on Council look fiscally responsible, but this system will be in the ground long after each member has moved on, long after VOW has dissolved, and long after Aqua Texas would have any obligation to those who opened the flood gates in 2016. Mr. Bachers said the best and only choice for the future of Wimberley is to own and control its own facility and to ensure its elected Council members are willing to enforce its regulations around growth and expansion.

Former Mayor Steve Klepfer displayed a July 1974 newspaper clipping from the *Village Crier* with an article titled "Growth May Limit Septic Tanks in Area." He said the article continued on creek pollution and the need to address it immediately. Mayor Klepfer praised and congratulated Council for where we are right now. He stated you have completed a sanitary sewer design for a system that will begin to solve environmental and business problems. He said the collection/treatment plants/effluent reuse options are designed, TCEQ is in final review of construction plans, and the project is shovel-ready. Mayor Klepfer congratulated Council for a job well done after a fair and thorough process. He said we have a TCEQ permit in hand with all parties in the contested case agreeing on the plan, which he noted is a better plan because of the contested case hearing, as terms were added to the permit that made it safer for this town. Mayor Klepfer said the plan is further improved by contracting with Aqua Texas for acceptance of possible excess effluent to eliminate discharge. He was disappointed that Council decided to delay negotiations with Aqua Texas on the matter of accepting excess effluent. He stated the \$5,500,000 TWDB loan at 2.2% interest is waiting for construction, money was already borrowed for the design, a \$300,000 grant was received for "green" portions of the project; and now the City has obtained a \$1,000,000 EDA grant. He said all 15 prior City Councils tried, but this Council has successfully reduced the project cost and rates can now be set that "don't make people gag." Mayor Klepfer was proud of this Council for finally completing the hard work that prior Councils and citizens have done for over 40 years.

Citizens for Responsible Development (CARD) representative Louis Parks said a great solution is finally within our grasp, but at risk of being put aside for a poor solution that will have a major negative impact on Wimberley. He stated we heard a lot of promises from Aqua Texas tonight, but as the conversation continued he heard more and more "asterisks." He felt that negotiations are not finalized and he did not believe in any gifts promised from Aqua Texas. He cited examples of numerous negative reports on Aqua Texas's record across the country and its mistreatment of small towns. Mr. Parks felt that Aqua Texas is being considered so a large profit can be made by Aqua Texas and by those few who stand to make big money from the people of Wimberley. He feared runaway growth and development when people no longer have power to control it through their city government. He said thanks to hard work and a good plan Wimberley has been blessed with this \$1,000,000 grant to save a huge portion of the cost of building our sewer system. He stressed the importance of affirming the grant as the deadline is a few days away. He expressed concerns that Council will try to delay voting on the grant, which would be an insult to the people of Wimberley. He said if Council does not accept this grant either by vote or letting it die next week, it is further insulting its constituents both financially and personally and putting at serious risk what they love about this town and the City's future. Mr. Parks stated that Aqua Texas has been the bane of the City of Woodcreek and is the company the City of Kyle sued in order to end an agreement due to endless fines and pollution

problems. Mr. Parks said he spoke with City of Kyle personnel who wondered why no one has come to speak with them about their experiences with Aqua Texas. He cautioned that Aqua Texas has said they will work strongly to bring major development into Wimberley along Ranch Road 12 south and elsewhere, because their business is to make money for shareholders. He feared that such development would forever change Wimberley for the worse. He stated a few people will stand to profit from the overdevelopment, but most will hate it. Mr. Parks said failure to vote to accept the grant is a vote for Aqua Texas. He advised Council use the following litmus test by asking which system (the City's versus Aqua Texas) will make big profits for a few select people at the expense of the very nature of Wimberley; which system will make no big money for individuals; which system will include savings for sewer customers; and which system will preserve Wimberley's lifestyle. Mr. Parks stated the City still does not know what can be negotiated with Aqua Texas, but said Council needs to accept this grant, whatever plan is chosen. He did not favor postponing this item and letting it die and urged Council to vote to accept the EDA grant today.

Mayor McCullough closed public comments and opened Council discussion. Councilmember White said we need to approve the grant regardless of what decision is made later.

Councilmember Trapp read the following letter: "The grant award letter from the EDA was dated 9/29/16. Council was not informed of the approval until one week later during the 10/6 meeting. The conditions of the acceptance packet were not available until the agenda packet came out one week after that meeting. I have read and re-read both the application and acceptance language and there are a number of points that I would like to have clarified by legal counsel. I have concerns over B.8, B.9, B.10, C.1, C.3, D.2, D.4, lack of form ED-900B, ED-900A and statement about conflict of interest. In addition, I have concerns about the acceptance packet. While some say that the application has been online since June, and I should have questioned it earlier, quite frankly, until we received approval, there was no need to raise my concern. As a member of Council being asked to affirm, which is part of this packet, that all statements are true and facts are correct, and there is even a clause that if any untruths are found in the future, we would have to repay the grant funds. It is good business policy and our fiduciary responsibility that we should review with our legal team. There are still nine days until the deadline, plenty of time for us to schedule a special meeting open to the public to resolve any issues."

Councilmember Barchfeld stated: This EDA grant for \$1,000,000 is only for a city-owned sewer and will reduce the cost of the project approximately 20 percent. It is a grant - not a loan - that is funded after the work is completed. It is a benefit that we reduce the City's subsidy on this project. He said it is helpful in making financial decisions on this project and reduces the City's long-term indebtedness, which is important, in that we would need to go out and borrow money. If no sewer or wastewater treatment plant were built, we don't get the money. We don't have to use it, if we accept it. He stated "Do not misinterpret my vote to accept this \$1,000,000 EDA grant as an automatic vote for the City-owned sewer. This \$1,000,000 is just another arrow in the quiver to help us make the proper decision. So I support going and taking the \$1,000,000 grant."

Councilmember Fore said he respects Councilmember Dussler, but has studied the 38-page grant application and has several questions. He asked for some clarification before moving forward. His questions are in regard to information submitted on the application concerning costs of the project, which do not seem to be correct, and the economic distress numbers submitted, which include two cities in Caldwell County. He said according to the terms of the grant, if any of the information on the application turns out to be incorrect we may be required to repay the grant. He stated the grant is also tied to the \$5,400,000 TWDB loan and the loan must be accepted to receive the grant. He said he had to go to page 28 of the grant application before it became clear to him that the grant is only available if the City owns the entire wastewater treatment plant and collection system, which was not his understanding from the beginning. He said every opportunity was available from the onset to be totally honest and forthright regarding the terms and conditions attached to this grant, but the exact opposite was the case. Councilmember Fore said he was never told this grant was specifically for a City-owned system and when he questioned the wording was told directly that as long as we took care of the sewer problem on the Square we could qualify for the money. He said he voted in favor of the resolution based on those assurances. Councilmember Fore said he pledged to represent citizens with honesty and integrity and said he cannot go back on his word, and for these reasons, cannot support this grant.

Councilmember Dussler favored accepting the grant now as a great accomplishment and gift to Wimberley and said we would look like fools to turn it down.

Councilmember Trapp stated she has always learned that “I would be a fool to sign something until I understood it, so I don’t understand if we have nine days, why we can’t have a meeting to discuss questions.” She said this is the only legal way we get to talk about anything and asked if she was being denied legal counsel. Mayor McCullough asked Councilmember Trapp if she asked for legal counsel earlier, and Councilmember Trapp said she had not. Mayor McCullough asked for City Administrator Ferguson’s comments, who advised that the grant has been reviewed by legal counsel who feels it is legal and the language is very standard and straightforward. He noted that the City is not obligated to use the grant money, if it chooses to do so later, but the City is obligated to accept it within the stated timeframe.

Mayor McCullough entertained a motion. Councilmember White moved to approve formal acceptance of the U.S. EDA grant, as presented. Councilmember Dussler seconded.

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

Mayor McCullough called for a recess at 8:15 p.m.

Mayor McCullough reconvened the meeting at 8:25 p.m.

- C. Discuss and consider possible action awarding a contract for wastewater impact fee preparation services. (*City Administrator*)

City Administrator Ferguson stated that he and Councilmember Fore reviewed the two proposals received and recommended awarding the contract to HDR Engineering, Inc. in an amount not to exceed \$7,194.00. He highlighted the scope of services, which includes creating an advisory committee to work with consultants in developing impact fees.

Councilmember Fore said there were only two applicants and they picked the one they felt was best. He stated the amount of money is minimal and was in favor of the recommendation.

Councilmember Trapp felt Agenda Items 5C and 5D are prematurely on the agenda, as we have just heard the Aqua Texas retail proposal. She said Council voted in June to create agendas one week prior to the meeting to have adequate time to perform due diligence. She stated Council voted at its last meeting to have Council representation during the interview process, but now understands that City Administrator Ferguson and Councilmember Fore met; however, she thought they were going to interview firms and had some more information. She said she did not know if the same process has happened with the project manager position. Councilmember Trapp said we are a working Council who repeatedly states the need for information and involvement with decisions, but it does not appear this is happening. She noted specific times for receipt of notification of the recommended firms for project management and for the impact fee firm. She said the delayed notification is not sufficient notice and not in keeping with our agreed one week deadline. Councilmember Trapp stated she has not been able to vet any information about either the project manager or the rate specialist, nor did she get to see all the submissions. She favored postponing the vote on these items until Council has had time to review them. She respectfully requested that we adhere to our policies and publish a complete agenda one week ahead of time.

Councilmember White moved to approve awarding the contract for wastewater impact fee preparation services to HDR Engineering, Inc., as presented and recommended by Councilmember Fore and City Administrator Ferguson. Councilmember Dussler seconded.

Mayor McCullough called for a vote as follows: Councilmember White, aye; Councilmember Trapp, nay; Councilmember Barchfeld, aye; Councilmember Fore, aye; Councilmember Dussler, aye. Motion carried on a vote of 4-1.

D. Discuss and consider possible action awarding a contract for project management relating to the construction of the Central Wimberley Wastewater System. (*City Administrator*)

City Administrator Ferguson advised that he and Mayor McCullough extensively interviewed the top four firms out of six submissions and recommended awarding the contract to TRC Engineers. He explained the scope of services, to include on-site management at all times when contractors are present, significant reporting requirements, resolving issues, and seeking ways to cut costs. He spoke of TRC's extensive experience in this field and its very good reputation. Mayor McCullough said all four interviews were lengthy and stressed that the project manager will be one and the same person through the duration of the project to provide continuity and the firm will be dogged in how the contract is administered. He offered to share his interview notes with Council.

City Administrator Ferguson noted the project manager will be the face of the City on site and needs to have the best public communication skills with citizens and interfacing with other agencies in the funding process. City Administrator Ferguson said a negotiated contract will be brought back to Council and suggested including Council/Ad Hoc Committee member(s) in contract negotiations that can build in incentives and cost savings.

Councilmember Trapp favored having a project manager and did not doubt the recommended choice, but objected to the timeframe, as more time is needed to look at it.

Discussion addressed anticipated total costs of project management (approximately \$100,000 to \$150,000), ability of project manager to find cost savings, grant condition requiring project management, need to have a project manager on board before bidding the project, and inclusion of a cancellation clause should the City choose an Aqua Texas option. Councilmember Trapp asked when Council will be deciding on a wastewater system option, as money is being spent that is not covered by loan proceeds.

Councilmember Dussler favored moving forward with approval of the contract award.

Councilmember Fore favored having a project manager, but agreed with Councilmember Trapp that none of Council has had a chance to review the information. He had a problem with the wording of the agenda item to award a contract (rather than negotiate a contract) and City Administrator Ferguson advised the motion could be worded to authorize negotiation rather than to award the contract. Councilmember Fore favored postponing action and involving John Urban in the negotiations. Councilmember Barchfeld said he had no problem with postponement.

Councilmember White asked if it is acceptable to make a motion to authorize negotiation of a contract for project management relating to construction. Councilmember Fore did not agree and wanted this item continued until Council's next meeting. Mayor McCullough urged Council to not postpone this item as the contract has yet to be negotiated. Councilmember Fore questioned why the decision has to be made today when it was agreed to have information seven days in advance.

Councilmember Fore moved to postpone action on this item until Council's next meeting on November 3, 2016. Councilmember Trapp seconded. Motion carried on a vote of 4-1. Councilmember White voted against.

- E. Discuss and consider possible action regarding a proposed amendment of the Wimberley City Council Governance Policy to include requirements relating to the change of City Council meeting dates, times and places. (*City Administrator*)

City Administrator Ferguson presented the proposed amendment per Council's prior direction and reviewed the revised language that states "an attempt shall be made to contact all members of the City Council about the proposed change prior to the change being made."

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

6. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Trapp requested an item to discuss implementation of a technology oversight committee. As all the options have been presented by Robert Laughman of Aqua Texas, Councilmember Trapp asked for an item on the next agenda to decide on a wastewater system option.

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

Adjournment: Council meeting adjourned at 8:55 p.m.

Recorded by:

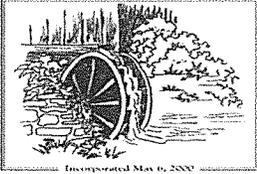
Cara McPartland

These minutes approved on the ____ of November, 2016.

APPROVED:

Mac McCullough, Mayor

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF
OCTOBER 11, 2016 MINUTES OF THE SPECIAL
JOINT CITY COUNCIL-PLANNING AND ZONING
COMMISSION 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 October 11, 2016 Special Joint City Council-Planning and Zoning Commission meeting.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
**Minutes of Joint Special Meeting of the City Council and
 Planning and Zoning Commission**
 October 11, 2016 at 6:00 p.m.

City Council and Planning and Zoning Commission joint meeting called to order at 6:00 p.m. by Mayor Mac McCullough.

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

Planning & Zoning Commission Members Present: Chair John Urban, Commissioners Austin Weeks, Natalie Meeks (arrived at 6:02 p.m.), Charles Savino, Rebecca McCullough, Gail Pigg and John Espinoza.

Staff Present: City Administrator Don Ferguson

Mayor McCullough spoke briefly on the purpose of tonight's meeting and noted the divisiveness of this issue for cities, specifically the City of Austin.

1. Presentation of Overview of Short-Term Rental Review Project. *(Place Four Councilmember Gary Barchfeld)*

Councilmember Barchfeld thanked everyone for attending and stated Council's goal to unite a divided community to work cohesively as a community. He noted the moratorium in effect for short-term rentals and highlighted the meeting schedule with specific groups, with tonight's meeting to focus on non-property owners of short-term rentals. He posed the question: "Should short-term rentals be a part of the landscape here in Wimberley, and if so, where should we have them?" He asked for public comments on not only short-term rental problems, but possible solutions to those problems. He outlined meeting/speaker procedures.

2. Presentation of Overview of Short-Term Rental Industry and Local Regulations. *(City Administrator)*

City Administrator Ferguson provided an overview of the short-term rental industry, including:

- Definitions of the two types of short-term rentals, which are vacation rentals and bed and breakfasts, and the differences between the two types
- Significant role of short-term rentals on the local economy and City revenues
- Approximately 66 short-term rentals currently exist in the City, including a breakdown of vacation rentals versus bed and breakfasts, and grandfathered status of some existing rentals
- Twenty-six percent (26%) of short-term rentals are located on Flite Acres Road
- Thirty-one percent (31%) of short-term rentals are located along or near the Blanco River

or Cypress Creek

- Remaining short-term rentals are scattered throughout City
- Short-term rentals require approval of a Conditional Use Permit (CUP) or grandfathered status (pre-existing, non-conforming use)
- CUPs as zoning actions that “go with” the subject property, regardless of changes in ownership
- Compliance issues such as enforcing CUP conditions and complaint procedures

3. Public Hearing

Hold a public hearing to gather input relating to the operation of short-term rental facilities from those who do not own, operate, and/or serve as reservation agents for short-term rental facilities.

Mayor McCullough stressed that tonight’s meeting only allows for speakers who do *not* own or operate short-term rentals. He noted that he has re-ordered the speakers names on the sign-in sheet, which will not be called in the order as originally listed.

Mayor McCullough opened the public hearing.

Bill Zinkgraf of 306 Summit Loop spoke of increased traffic on his privately maintained neighborhood roads and cited recent costs of about \$4,000 incurred due to wear and tear that has occurred. He said he is a proponent of property rights, except when it encroaches upon his peace or goes against neighborhood covenants. Mayor McCullough stated the City does not enforce deed restrictions, which Mr. Zinkgraf was aware of. Mr. Zinkgraf spoke of his wife’s history as a Wimberley resident and presence of permanent residents after the flood who helped each other out, as opposed to short-term rental owners who were not around after the flood. He did not feel money should be made off the back of his neighborhood and the hard work residents have put into it, with no benefits. As the father of three daughters, he said having a “rotating frat party” creates traffic and noise. Although an advocate of property rights, he did not feel the activities next door are conducive to an environment he wants live or raise children in.

In response to Mayor McCullough’s inquiry about complaints on Summit Loop, City Administrator Ferguson replied that the City has taken enforcement action on some complaints.

Tommy Hayden of 614 W. Summit is a realtor who spoke of clients interested in property to use as a short-term rental until they can retire permanently to Wimberley. He noted a shortage of properties within Wimberley that have obtained an existing vacation rental CUP. He expressed concerns that the moratorium would last longer than three months, which would prevent his clients from making timely decisions on buying properties. City Administrator Ferguson advised the moratorium is scheduled to end in early December 2016 and an extension is not planned at this time. Councilmember Barchfeld said the intent is to not extend the moratorium past the end of the year and suggested waiting to submit any CUP applications, in the event changes are made to the application form. City Administrator Ferguson provided clarification on the City’s boundaries and regulatory authority in the ETJ.

Mike Crowley of 413 Hidden Valley Crossing spoke in opposition to approval of short-term
 Joint City Council/P & Z Special Meeting Minutes – October 11, 2016

rental CUPs based on his belief that when he signed the contract on his house that short-term rentals were not allowed and his investment was protected. He questioned why the City would want to get involved in this type of thing and whether the City has obtained legal advice on this issue. He spoke of his rights as a property owner and said approving CUPs seems counterintuitive to the American way of self-government. He asked Council to consider what Wimberley wants and questioned enforcement of CUP compliance with one city marshal to handle complaints. Mr. Crowley said there is plenty of commercial space for hotels.

Chris Webre of 2205 Spoke Hollow pointed out that long-term rentals are still a possible option for property owners. Mr. Webre and his wife oppose short-term rental CUPs for previously stated reasons, including negative impact to property values. He said a recent property owners meeting was held and not one person in the group favored short-term rental CUPs, as they wanted to keep the area as a neighborhood.

Jim Randall of 1530 FM 3237 expressed his objections to short-term rental CUPs and cited his interest in protecting his investment, which he said does not include having vacation rentals next door. He said if had known vacation rentals would be allowed he would not have bought his property.

Judy Bass of 208 Summit Loop appreciated the opportunity to speak and said Summit Loop has a privately owned and maintained road and water system, which is a lot of responsibility placed on the shoulders of twelve homeowners. She said short-term renters are extremely taxing on the road and water system and cited instances of up to 20 guests per weekend. She cited lack of street lights, secluded location, and undesirable activities by renters that are hard to enforce. She said complaints to homeowners and the sheriff's office resulted in no responses. She stated there is constant noise and disturbance of her peace and quiet. Ms. Bass referenced positions taken by Texas Attorney General Ken Paxton and the City of Austin on short-term rentals and asked "what about our rights as property owners?" Ms. Bass asked what benefits she gets as a property owner from having short-term rentals in our community. She regretted not speaking in opposition at the Board of Adjustment's meeting when statements were made that short-term rentals help property values and said she knows of no one who agrees with that statement. She cited problems with maintenance and upkeep of short-term rental properties. Ms. Bass invited Council and Commission members to visit her deck on Summit Loop on weekends to personally experience the negative impact of renters.

Dick Adams of 202 River Bluff Lane spoke of previous visits with Council and City Administrator Ferguson on problems with nearby renters and was disappointed that short-term rental CUPs had subsequently been issued. He said the property owners association has voted against rentals three times, including the most recent vote conducted by written ballot. He noted the deed restrictions against short-term rentals will be filed with Hays County within 90 days, regardless of the City's issuance of CUPs or grandfathered status. He advised that the association will actively pursue legal action for those in violation of the aforementioned deed restrictions.

Greg Douglas of 513 Summit Loop agreed with earlier comments by Bill Zinkgraf and Judy Bass and added there is a serious problem with the narrow, winding roadway with several blind spots. He said now there is a caravan of cars coming up and down a road drivers are not familiar

with and make turns too fast. He also noted that with weekend rentals it is likely renters will be drinking alcohol which exacerbates traffic safety problems, as speed and recklessness increases.

Craig Reitz of 504 Rocky Springs Road objected to the grandfathered vacation rental next to his home. He said this is an important issue for permanent, full-time residents and cited the advent of “airbnb” and “vrbo” as causing problems nationwide with rentals. He noted differences between vacation rentals and bed and breakfasts and cited legal definitions that he felt categorize vacation rentals as “boarding houses.” He referred to the City of Austin’s position on vacation rentals. Mr. Reitz compared full-time residents to absentee owners and described a community of residentially-zoned neighborhoods as being for residents, not for commercial businesses. Mr. Reitz noted that the City denied a CUP that would have allowed *The Hog Pound* to serve alcohol, while “the guy next door to me is serving liquor to the people that are there.” He said it is always about following the money and said he does not get any services for the \$200,000 revenue generated from short-term rentals. He spoke of the economic gain to short-term rental owners who run a business. Mr. Reitz cited the City’s ordinance regarding grandfathering of pre-existing short-term rentals and said when the Hotel Occupancy Tax was enacted people were caught operating illegally and those without a CUP were given an opportunity to apply for grandfathered status under a newly adopted policy. Mr. Reitz said the City grandfathered 24 short-term rentals with minimal or no documentation and felt it needs to be reconsidered and modified. He did not feel the yellow signs placed on properties with pending CUP applications and letters sent to surrounding property owners provided adequate public notification. He questioned why CUPs are allowed to operate when properties change ownership without review and why grandfather applications are reviewed and approved only by the city administrator. Mr. Reitz did not believe that CUP complaints can be effectively investigated or enforced and felt there should be an annual review. He said that turning residential units into commercial units increases the property’s value. He understood that renters want to have a good time on vacation, but did not feel there is adequate protection for neighbors who deal with issues such as noise and foul language.

Barry Tyler of 100 Sunrise Circle spoke of the long-standing battle against short-term rental CUPs waged by well-organized Paradise Hills residents who were able to get two of three CUP applications denied. He referenced a letter sent to all Paradise Hills residents surveying their feelings on short-term rentals and noted 95 percent of the letters returned were against issuance of CUPs. He stated that it would take about \$150,000-200,000 in legal fees to change his neighborhood’s deed restrictions; therefore, neighborhood organization was favored over legal action. Mr. Tyler said he intends to remain in his home, despite traffic problems created by a nearby bed and breakfast. As a citizen of Wimberley, he stated this is a community intended for homeowners and not businesses.

Lee Ann Bower of 3020 Flite Acres Road spoke of flood damage to her home and plans to rebuild a new home on one lot, while using the existing house as a bed and breakfast. She said they would be there all the time to monitor guests. She recognized problems with some existing Flite Acres short-term rentals and cited her history of complaint reporting. She did not want Wimberley to have areas of nothing but rentals as is the case in certain parts of Fredericksburg. She did not feel CUPs should continue when properties are sold and felt this encourages areas made up exclusively of short-term rentals. Ms. Bower felt the “commercial vultures” came swooping down after the flood to buy up river properties to turn into commercial rentals.

Jenni Marino of 2908 Flite Acres spoke of her new job policing nearby short-term rentals and cited problems with having to confront renters who speed, litter, and trespass. She said there is a whole section of Flite Acres that is all short-term rentals, but noted that renters wander up and down the river and cause problems. She spoke of liability incurred from people trespassing on her property. She stated noise is also an issue, as well as diminished property values. Ms. Marino agreed with earlier comments to create "term limits" if a short-term rental property is sold and would not allow the CUP to continue under a new owner.

Barbara Reitz of 504 Rocky Springs expressed appreciation for the opportunity to speak on common problems for the betterment of our community as a whole. She said this issue has turned neighbor against neighbor. She stated there are eight homes on her one way in/out street. Mrs. Reitz said they now have a grandfathered situation that should never have been allowed. She spoke of strangers coming in and out every 3-5 days, new cars, trash problems, and said these homes are now businesses, with management companies making money managing multiple properties. She said the yard is not maintained as well as it would be by a permanent resident. Mrs. Reitz felt that every single CUP should be judged by each subject neighborhood, cited her neighborhood's deed restrictions, and asked about her property rights compared to someone who lives out of town. She also asked short-term rental owners if they want to keep Wimberley a high-end, sought-out place to be or if they want it to become just a rental. Mrs. Reitz did not blame renters, but stressed she lives here full-time and cares about her neighbors and community. She feared that Wimberley will become a transient place if short-term CUPs continue to be allowed.

Sandy Dunn of 466 Flite Acres Road spoke of her experience with Flite Acres rentals and said she found most properties improved by having vacation rentals. She said some of the smaller neighborhoods may need to be reviewed as appropriate locations and complaints need to be addressed and possibly revoked if there is going to be a problem with the community. Ms. Dunn observed the divisiveness around this issue and thought that after the major flood disaster the community is still hurting. She believed we need to look at each individual case and feared that if CUPs are removed there will be unregulated short-term rentals with no oversight or recourse. She favored coming up with a plan to address CUP-related issues, such as possible revocation, if needed. She noted that people do not come here to stay in hotels and that they want to stay in a place on the river. She felt that properly maintained rentals can improve the properties and benefit our community.

Carmen Polhemus of 200 Wilson Creek Circle lives within walking distance from the Blanco River and favored taking a pro-active stance on this issue. She thanked bed and breakfast people who "do it right," and was for anything that would prohibit an ad valorem tax. She recognized the City's position on deed restrictions, but asked if the City's CUP application could include information on checking with home/property owners associations regarding covenants and rules and requiring "sign-off" from those associations before approving CUPs. In closing, Ms. Polhemus spoke briefly about the Wimberley Cemetery Association.

Kathy McClain of 301 Rocky Springs Road spoke of a grandfathered vacation rental next door to her property and asked if real estate companies are responsible for telling clients there are vacation rentals nearby. She said neighbors have been pitted against each other and asked why

the focus has to be “on just the little town” and not on the residents, who create income just as vacation renters do. Ms. McClain said she might have to put up a sign that says vacation rental people are not welcome and says “please go home.” She was fine with vacation renters having a good time, but wanted the rentals to be somewhere else. Ms. McClain thanked everyone for having a public hearing.

Donna Coffman of 2218 Flite Acres Road did not favor any more short-term rentals in her neighborhood. She said she bought her property in the country 25 years ago to enjoy peace and quiet and the privacy of the Blanco River, which she does not have to share with the public. She stated renters are not told by rental people that they do not have free access to the river. Ms. Coffman spoke of her property rights that renters feel they can take away and changes that have come to Wimberley.

River Meadows resident Fred Young spoke of his military background and personal property rights versus constitutional rights. He understood grandfathered rentals and noted one riverfront property in his neighborhood that charges \$1,500/night and does not blame the owners. But he said there should be limitations, as he has heard repetitive gunfire in the middle of the night, which he felt is likely target shooting.

Christine Byrne of 205 Blue Hole Lane spoke of a bed and breakfast/vacation rental across from her on Cypress Creek. She said there are seven people on her one way in/out street and two of them have short-term rental CUPs. She stated she has never had the experiences of some previous speakers and said that rentals on her street have not caused any problems. If there were any problems, Mrs. Byrne said they would take appropriate actions, such as calling the City or law enforcement. She spoke of the close-knit nature of her street and noted that the Aults, who feared returning after flood events, are now able to rent their house and buy another place in Wimberley. She said the Aults can still enjoy their Blue Hole Lane house when it is not being rented. Mrs. Byrne stated there are some positives to short-term rentals.

Edward Davis of 3000 Flite Acres Road spoke of his past comments opposing short-term rental CUPs and expressed the same concerns of previous speakers. He said vacation renters do not have the same reasons for being on the river as those who live here. Mr. Davis stressed that noise travels along the river and visitors have no clue that people can hear them 200 yards away. He did not want his visiting grandchildren to be exposed to certain renter activities and offensive language. He recognized the City does not enforce deed restrictions, but felt a list of neighborhoods with deed restrictions could be maintained and the City could deny CUPs to those applicants with deed restrictions against short-term rentals. Mr. Davis also expressed concerns that those renters unfamiliar with the dangers of flooding can put their personal safety at risk. He said most neighborhoods oppose short-term rentals, particularly those with smaller lots or water frontage, and hoped a reasonable solution could be found.

Phil Collins of 1900 Flite Acres Road spoke of his ownership of 6 residential properties inside city limits, one of which has a CUP in place (2312 Flite Acres Road). In keeping with agenda item language, Mayor McCullough admonished Mr. Collins about speaking from the perspective of a short-term rental owner. Mr. Collins said he has more than a vested interest in the good of the neighborhood than of one single property. As an owner of properties in the extra territorial jurisdiction (ETJ) and commercial properties, Mr. Collins stated he is a long-term investor who

benefits the community. He said his existing permitted short-term rental is on just over 3 acres and has no signage. He made the following suggestions: keep signage to a minimum (or none); have sufficient off-street parking; require privacy fencing/vegetative barriers; no outdoor speakers; limit outdoor lighting; require annual inspections (with fee paid by property owner); clarify the CUP process; have a defined policy on day guests; set minimum age for renters; define a simple grading system to determine how well a certain CUP applicant could be successful and still be friends with neighbors; empower the Planning and Zoning Commission to conduct reviews and honor their recommendations 95% of the time; and more stringent grandfathering requirements. Mr. Collins spoke of his post-flood property acquisitions and building plans that will benefit the community. He asked Council and the Commission to look at the economic impact of their actions and cited statistics showing his personal expenditures bolstering local businesses and favored supporting local vendors.

Discussion between Mayor McCullough and an audience member asked about the precedent set by allowing Mr. Collins to speak at tonight's meeting, as its purpose is to gather input relating to the operation of short-term rental facilities from those who do *not* own, operate, and/or serve as reservation agents for short-term rental facilities. Mayor McCullough stated he was trying to walk a line that would not be totally rude and keep Mr. Collins from deviating from the agenda item.

Judy Thompson of West Blanco Bend spoke on the possibility of maintaining a database including information such as short-term rental owners, locations, deed restrictions, and complaints. She said that when grandfathered, income-producing properties go on the market they are worth more money and that realtors try hard to inform potential buyers of surrounding short-term rentals.

Mayor McCullough closed the public hearing.

From the audience, Barry Tyler asked a question about Hotel Occupancy Tax (HOT) funding. Mayor McCullough said funding is currently being reviewed. City Administrator Ferguson clarified that HOT funds are to be used for specific purposes such as projects that benefit the lodging industry or put "heads in beds." He stressed HOT funds are to be used for items such as special events or marketing projects, and not for items such as sidewalks. Mayor McCullough noted there is income brought in by renters who spend money at local businesses. In response to Mayor McCullough's inquiry regarding deed restrictions, City Administrator Ferguson explained that cities in general do not get in the middle of deed restriction enforcement because they are particular to specific neighborhoods, subject to change, some are outdated, and some have significant civil rights liabilities.

Craig Reitz felt the City should consider (as opposed to enforce) deed restrictions in deliberations on the approval of CUPs. Mayor McCullough said deed restrictions may be brought up, but not enforced by the City. City Administrator Ferguson stated that CUP applications could be amended to require that the applicant research deed restrictions as part of the process, much like when people apply for building permits. He stressed the City's decision would not be based on deed restrictions but would give the applicant an opportunity to become informed on those restrictions.

Relating to the transferability of CUPs to subsequent owners, City Administrator Ferguson clarified that CUPs are zoning actions allowing for an additional use(s) that go with the property and do not change the base residential zoning. He said there could be performance reviews conducted on a yearly basis, including surrounding property owner notification, which would allow neighbors to provide input on existing short-term rentals. City Administrator Ferguson explained the State's "Twenty-percent Rule" that requires a super majority vote of Council to overturn a Planning and Zoning Commission recommendation of denial.

Discussion included questions and answers on the following topics:

- Limited number of short-term rental complaints received by the City
- Revocation of grandfathered status for one short-term rental due to complaints
- Documentation of complaints and preference for written complaints
- Public education on complaint procedures
- Allowing commercial operations in residential areas
- Code enforcement for CUP compliance

Councilmember Barchfeld thanked audience members for their comments and spoke of Council's intent to be inclusive and fair to everyone. He said we need public input from all stakeholders to improve the CUP process.

Mayor McCullough asked each Commission member on their individual perspectives of tonight's meeting and all agreed that this public meeting process is a valuable tool to use during the moratorium while considering various options. Certain legal questions were brought up for future discussion and Councilmember White said deed restrictions do weigh heavily on his decisions regarding commercial activities in residential areas.

Discussion continued on deed restrictions generally and confusion surrounding the City's position and their role in decision-making by Commission/Council members. City Administrator Ferguson cautioned that taking a deed restriction into account and basing a zoning decision on that consideration would be enforcing a deed restriction. Audience members provided comments on efforts to pursue civil actions against neighbors who have businesses in residential neighborhoods and effect of commercial activities on residents.

Mayor McCullough appreciated all of the comments received tonight and advised more meetings will be held in the coming weeks.

Adjournment: Joint City Council/Planning & Zoning Commission joint meeting adjourned at 8:33 p.m.

Recorded by:

Cara McPartland

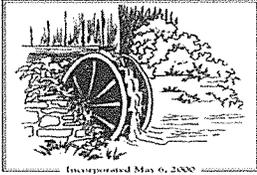
These minutes approved on the ____ of October, 2016.

APPROVED:

Mac McCullough, Mayor

DRAFT

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF
OCTOBER 18, 2016 MINUTES OF THE SPECIAL
JOINT CITY COUNCIL-PLANNING AND ZONING
COMMISSION 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 October 18, 2016 Special Joint City Council-Planning and Zoning Commission meeting.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
**Minutes of Joint Special Meeting of the City Council and
 Planning and Zoning Commission**
 October 18, 2016 at 6:00 p.m.

City Council and Planning and Zoning Commission joint meeting called to order at 6:00 p.m. by Mayor Mac McCullough.

Council Members Present: Mayor Mac McCullough and Councilmembers Craig Fore, Sally Trapp, Gary Barchfeld, and John White. Councilmember Bob Dussler was absent.

Planning & Zoning Commission Members Present: Chair John Urban, Commissioners Austin Weeks, Natalie Meeks (arrived at 6:02 p.m.), Charles Savino, Rebecca McCullough, and John Espinoza. Commissioner Gail Pigg was absent.

Staff Present: City Administrator Don Ferguson

1. Presentation of Overview of Short-Term Rental Review Project. (Place Four Councilmember Gary Barchfeld)

Councilmember Barchfeld advised that tonight's meeting is to allow public input from short-term rental property owners. He stated reservation/leasing agents will have an opportunity to speak at a future meeting.

2. Presentation of Overview of Short-Term Rental Industry and Local Regulations. (City Administrator)

City Administrator Ferguson provided an overview of the short-term rental industry, including:

- Definitions of the two types of short-term rentals, which are vacation rentals and bed and breakfasts, and differences between the two types
- Significant role of short-term rentals on the local economy and City revenues
- Approximately 66 short-term rentals currently exist in the City, including a breakdown of vacation rentals versus bed and breakfasts, and grandfathered status of some existing rentals
- Twenty-six percent (26%) of short-term rentals are located on Flite Acres Road
- Thirty-one percent (31%) of short-term rentals are located along or near the Blanco River or Cypress Creek
- Remaining short-term rentals are scattered throughout City
- Short-term rentals require approval of a Conditional Use Permit (CUP) or grandfathered status (pre-existing, non-conforming use)
- CUPs as zoning actions that "go with" the subject property, regardless of changes in ownership

- Compliance issues such as enforcing CUP conditions and complaint procedures
- Commonly expressed complaints regarding rental activities included:
 - Increased traffic on neighborhood streets, some of which are privately owned and maintained
 - Increased parking on streets and in yards
 - Noise (particularly along the Blanco River) and in limited cases, excessive alcohol consumption/drug use
 - Foul language by some renters
 - Some fear adverse impact on surrounding property values from short-term rentals
 - Absentee landlords and property managers are not always responsive to complaints and concerns
 - Renters show lack of respect for property rights of adjacent owners
 - Trespassing by renters unfamiliar with surroundings
 - Short-term rentals located in some areas where prohibited by deed restrictions
 - Failure of realtors to disclose existence of short-term rentals to clients in some cases
 - Trash left by renters
 - Renters unaware of surroundings in the event of flooding
 - Discharge of fireworks/firearms by renters
 - Lewd activities by some renters
 - Lack of adequate notification regarding proposed short-term rentals
 - Objections to short-term rentals as commercial businesses in residentially-zoned neighborhoods

City Administrator Ferguson reviewed the public hearing process to date and upcoming meetings intended to provide input on what types of modifications might be needed to the City's short-term rental regulations and procedures. Suggested regulatory changes offered to date include the following:

- Modification of CUP application to include written certification of adjacent property notification, deed restriction acknowledgement statement, etc. (City Administrator Ferguson explained that the City cannot consider deed restrictions in decision-making process, but the City would not be prohibited from having applicants check a box showing that they have researched their deed restrictions.)
- Regular performance reviews with notification of such performance reviews provided to adjacent property owners
- Require realtor disclosure of existence of short-term rentals
- Require fencing/vegetative barriers on short-term rental properties
- Prohibition of outdoor speakers/lights
- Establish minimum age requirements for renters
- Establish defined "day" guest policy
- Grandfather requirements should be "tightened"

3. Public Hearing

Hold a public hearing to gather input relating to the operation of short-term rental facilities from those who own short-term rental properties.

Councilmember Barchfeld outlined procedures for speakers and opened the public hearing.

Buttercup Hill Scenic Cabins owner Glenda Carruthers, whose bed and breakfast is located at 901 Buttercup Lane, spoke of her three adults-only rental cabins and amenities that have been in operation for about two and one-half years. She noted that she cannot vote on any positions as she is located in the City's extra territorial jurisdiction (ETJ), but said "yet you can tax me." She said this upsets her greatly and referred to "taxation without representation." Mrs. Carruthers spoke of her 23 years as a Wimberley resident and her family's history. She stated the cabins are very secluded and spoke of other nearby vacation rentals, which said do allow families with children. Mrs. Carruthers felt that families and children may occasionally get loud on weekends, but the noise was minimal and did not bother her. She said that people who complain about short-term rentals can call the police and asked whether reports have been filed. She noted that her guests seek quiet and privacy. She questioned complaints on other vacation rentals alleging lewd acts in a hot tub and too many cars and wondered how neighbors could see such activities unless they trespassed or went to the fence line and looked through vegetation. She also questioned why the subject complaining neighbors did not call the police. Mrs. Carruthers asked if the City would really want to shut down short-term rental lodging and lose the support of visitors who frequent local businesses. She spoke of her facility's rules and regulations and said owners are not going to let renters destroy their properties and they want people to keep coming back.

Vacation rental owner Carole Boatner of 401 Rocky Springs spoke of her ownership history, love for Wimberley, and pride in her home, which is the original home on her street. She said the many of the complaints expressed at last week's meeting were not based on fact, but more on speculation and "what if" scenarios. Mrs. Boatner stated her facility is professionally managed and that guests must abide by the rules. She spoke of hosting an annual New Year's party each year for all of her neighbors, who were well aware that her home was used as a short-term rental. She stressed that no one has ever voiced a complaint or concern about rental activity and there are no records of any complaints to law enforcement. Mrs. Carruthers asked why one neighbor called the City recently when her septic alarm went off, rather than calling her directly. Mrs. Boatner noted that the City approved grandfathered status for her vacation rental and subsequently a neighbor succeeded in dividing the neighborhood on this issue and filed litigation against her and Mr. Boatner. She emphatically denied the referenced neighbor's assertion that the Boatners were serving liquor to guests. She spoke of her home as "better maintained and more aesthetic" than most of the others on her street and cited specific rental agreement rules. She noted there is a front porch camera, a 4-person maximum occupancy, prohibition on parties and pets, minimum renter age (25 years old), and management company-provided cleaning crew. Mrs. Boatner said they are not in violation of deed restrictions and pointed out that taking away short-term rentals takes income away from local businesses and the City. She noted that renters appreciate the quiet and privacy of a private home. She said the recent rage and panic over short-term rentals is unfounded, unsupported, and based primarily on irrational fear and myth. Mrs. Boatner asked that careful consideration be given before making adverse decisions, as short-term rental owners contribute by paying property taxes, collecting hotel occupancy taxes, and

sales tax collections from renters who spend money during their visit.

Bruce Boatner (husband of previous speaker, Carole Boatner) of 401 Rocky Springs echoed many of his wife's earlier comments regarding their history here and love for Wimberley, including the building of their home and pride in ownership. He was shocked by comments made at last week's meeting, in particular by neighbor he referred to as "Utah." He cited Utah's comments and pointed out inaccuracies such as the aforementioned allegation regarding liquor, and rebutted claims that trash was strewn in the street, frat parties were frequent, and foul language was used by renters. He said these are unsubstantiated allegations and read excerpts of written comments from his guests about the comfort, peace, and quiet of his beautiful home and surroundings. He cited these comments as indicative of the type of renters that stay in his rental and questioned why law enforcement was not called, if the complaints were severe enough to warrant such action.

Mary Sue Rabe of 110 River Bluff stated that she bought her property in 2008 as a family home, but due to a change in circumstances, now finds the need for rental income. She said in late 2013, a management company was hired to help, as the 5-plus acre property contains a 4-bedroom, 2-story home. She acknowledged that she knew of her deed restrictions, but noted that an adjacent property and another on her street had both been operating as rentals at least since 2008. As she feared losing money if forced to sell, Ms. Rabe stated that she chose the short-term rental option, but said there has been no rental activity for the last seventeen months because of the damage to her home in the 2015 Memorial Day weekend flood. Ms. Rabe stated she wants to comply with the City's CUP requirement and hoped that when she is able to rent again it will help her recoup some of her losses and benefit the City as well. She sympathized with homeowners having issues with short-term rentals, but felt having 3 lots (of about 3 acres each) between herself and the closest neighbor mitigates possible complaints. She noted there is ample parking on her property and no complaints of noise. Ms. Rabe felt her house is a great place for special events, such as families visiting for weddings. She believed that noise and parking regulations should be enforced and calling the police is the best remedy. Ms. Rabe closed by saying she did not buy this property as a rental, but would like to be able to rent it in order to be able to keep it.

Sharon Whipple, owner of Rock n Wood at 201 Panorama Drive stated over the past 5-6 years the most common comment in her guest book is that her home is a place of refuge and peace. She noted it is not on the river or creek and has never had a complaint or serious problem. She pointed out advantages of having short-term rentals including the ability to ask short-term renters to leave immediately in the event of problems and the need to keep the property in pristine condition. She said the City received no financial benefits from long-term renters and that it is not as easy to get rid of them, if there are problems. She felt that short-term rentals increase both the rental home and neighborhood home values, as well as being good for Wimberley businesses. She compared use of privately owned/maintained roads by long-term renters versus short-term renters and felt long-term renters create more traffic, citing problems with the number of cars and teenaged drivers. Ms. Whipple noted that homes in her neighborhood are on 5-acre tracts, which lessens the impact on neighbors. She hoped that a few bad experiences or a few problematic neighbors will not affect short-term rentals that draw people to stay and shop in Wimberley. She said vacation rentals maintain our small-town feel and provide income for the City, the owners, the restaurants, and shopkeepers.

Councilmember Barchfeld called for a brief recess at this time (6:55 p.m.), reconvened at 7:00 p.m., and resumed receiving public comments from speakers.

Councilmember Barchfeld spoke with local reservation agent Terrie Bursiel, who advised she would not be speaking at tonight's meeting, however; wished to have written correspondence from owners read by Councilmember Sally Trapp.

Lisa Risoli of 310 Summit Loop spoke of her ownership history and of her professional background in the cities of Bellaire and Houston. She provided information on her now-revoked grandfathered status and disputed the maximum occupancy limit placed in her conditional use permit conditions. She said she was not aware that installing a hot tub later was considered an expansion in use and assumed that expansion meant adding a room. Ms. Risoli said her neighbors who now complain have had no problems contacting her when they want to rent her property for themselves or family members. Ms. Risoli said her management is top-notch and she pays for the road and maintenance, with her home's traffic confined to weekends only. She stated all of the complaints are bogus and there have been no calls on her street. Ms. Risoli said she has not received any letters from the City about what she can or cannot do on her property, such as expansion. She asked that Council reconsider her grandfather revocation, which said she was unfair. Referring to complaints about overflowing trash, Ms. Risoli said one of her neighbors uses her trash can when she is not there. Regarding hot tub complaints, Mrs. Risoli noted that neighbors would have to go behind their unpermitted shed and trespass on her property to see it. She said everything the Zinkgrafs have said have been complete lies. Ms. Risoli stated that she does not rent to those under the age of 30 and there have been no frat parties. She questioned why she was not called if there was lewd behavior on her property, as her neighbors have no problem contacting her to inquire about renting. Ms. Risoli spoke of her love for her home and belief that she has been treated unfairly. She cited other neighbors who run businesses from their homes. She stated her phone number and email address for neighbors who wish to contact her. She asked for reconsideration of her grandfather revocation and cited complaining neighbors who have been trespassing on her property, including tampering with her pump/meters and breaking glass.

Gregory Dunham, who owns vacation rental properties at 3100/3150 FM 3237 and 100 Leath Hollow spoke of high property values/taxes and Wimberley's eco-tourism. He said it makes good business sense to be excellent stewards of the land and cited examples of his own environmentally responsible actions. As necessary for most vacation rentals, he said his rentals and grounds are extremely clean and perfectly maintained. Mr. Dunham stated that long-term renters have no pride in ownership and properties often fall into disrepair. He noted that 99 percent of the time short-term renters are lovely people who are quiet, clean, courteous, and kind. Mr. Dunham spoke of the many excellent reviews received from guests and by various media, which helped bring more tourists to Wimberley. He said no tourists would mean no shops downtown, no restaurants, no Market Days, and no jobs for those who service rentals. Mr. Dunham stated that renting out their cabins allows him and his wife to practice their art, take care of their land, and raise their daughters in an amazing environment. He said part of what makes Wimberley a wonderful place is the diversity of its people, including artists, craftsmen, musicians, writers, organic farmers, and teachers. He feared Wimberley would become a place where only the wealthy could afford to live and provided examples of the effects of loss of

Joint City Council/P & Z Special Meeting Minutes – October 18, 2016

tourism.

Jennifer Ober (wife of previous speaker Gregory Dunham) said they are a hard-working couple who provides a service that is completely in line with the vision of Wimberley. She spoke of Wimberley's reliance on tourists who support local businesses and events, which in turn supports periphery businesses such as plumbing, electrical, maintenance, construction, housekeeping, painting, lawn maintenance, etc. She felt surprised by the idea that some view Wimberley vacation rentals as a plague on our community. She asked if complaints were based on actual experiences or worst-case scenario fears. Ms. Ober stated that she and her husband, Gregory Dunham, live beside their rentals said her guests are quiet, conscientious, respectful, and totally in love with our peaceful little town, with many coming back to visit and spend money here. She said there were only three occasions of problem "party" renters and that problem was solved by raising the minimum age of renters. Ms. Ober always admired Wimberley's ability to work together to create a caring community and noted many families rely on the extra income from vacation cabins make ends meet. As property values and taxes have risen, Ms. Ober said we must support creative business endeavors if we want to maintain a diverse community of residents, which takes understanding and compassion from our residents who do not need the extra income and it takes responsibility and dedication from the families who cater to the tourism industry. She cited their observations on a recent Colorado vacation that tourism-based towns are maintained at a higher level. She asked to find more compassion for our neighbors and understanding that vacation rentals are vital to our town's well-being and not a threat to our peace in any way.

Dan Sturdivant, who owns short-term rental properties on Smith Creek, spoke of vacation rentals as helping tourism and asked if the Council/Commission wanted to support such rentals or give us a property tax. He said those are the two serious choices, as vacation rentals support, built, and maintain this town. He preferred some type of license or permit to the conditional use permit and questioned the legality of placing different conditions on similar properties.

Gary Stadler of 211 Blue Hole Lane spoke of his family's ownership history and said management companies take care of every single issue brought up. He stated that his house was built with the intent to rent the top two floors to help offset the property tax costs. He could not imagine what Wimberley would be like without bed and breakfasts and thought people would not come if not able to stay here. He spoke of his small lot size and noted there have been no issues such as noise complaints from neighbors. Mr. Stadler said if we do not let people come to our community we are doing ourselves a disservice.

Vincent McGranahan (fiancé of previous speaker Lisa Risoli) of 310 Summit Loop spoke of his experience as a commercial superintendent in Austin, San Antonio, and Arkansas. He said the hot tub permit issue has been resolved and a fence permit has been issued for an 8-foot fence. Mr. McGranahan stated there is a neighbor's fence encroaching onto Ms. Risoli's property and that he will be living on the property while improvements are being made. Citing his personal experience building big hotel projects, Mr. McGranahan said the biggest issues are often resolved by having "a face" or someone to talk to about their problems, which can include calling the police. He spoke of damage to Ms. Risoli's property, specifically having her water meter shot out, having her water turned off, and otherwise intimidating her.

Lissa Burnette-Rabon of 210 Spoke Lane spoke of her family's ownership history and her brother and local builder Grady Burnette. She said she currently lives on the Storm Ranch. Ms. Burnette-Rabon noted her family's ownership of the River House at 251 Spoke Lane, which is a professionally managed short-term rental. She advised that while staying at the River House with her son, a Hub Drive property owners association representative threatened to call law enforcement because she and her son waded in the River. Ms. Burnette-Rabon favored calling law enforcement as a way to deal with those who do not behave right. She noted that the subject house was destroyed by the flood and has been rebuilt by all local people. She could not imagine people wanting to stop short-term rentals and having a large hotel built somewhere close by like is happening in Dripping Springs.

Suzanne Oliver said renters' behavior can be inappropriate or illegal whether the rental is short- or long-term. Ms. Oliver spoke of her management of family-owned rental properties, the lack of complaints regarding short-term rentals, and problems encountered with long-term renters who live next door to her in Woodcreek. She said the two most common guest comments are about how incredibly clean her properties are and how restful, peaceful, and beautiful they are. She noted that her properties are very well-maintained to high standards and did not feel that a management company should be a requirement for short-term rentals. Ms. Oliver spoke of her rules (including no children), minimum age requirements, screening of renters, and prohibition on fireworks/firearms. She felt confident that if someone is behaving illegally that law enforcement would be called by herself or her neighbors.

Henry Ault, owner of 201 Blue Hole Lane, questioned the CUP process for the short-term rental industry, including maximum occupancy limits. He said management companies want to rent to as many people as possible to maximize profits and there are problems with enforcing maximum occupancy limits. He spoke of an experience with one rental that involved too many renters, who also invited party guests, and an excessive number of vehicles. Mr. Ault said his neighbors were mad about this, so he is happy with a maximum occupancy of four people. Mr. Ault questioned what types of conditional uses are allowed (in addition to short-term rentals), noted restroom requirements for restaurants, and felt short-term rentals are singled out.

Councilmember Barchfeld allowed Lisa Risoli to make additional comments on the Board of Adjustment's consideration of her appeal of revocation of grandfathered status. She said the Board was misled that it would be easy for her to obtain a CUP and alleged that when the Board called for an executive session, such session was in violation of the Open Meetings Act. Ms. Risoli said there is no way she could have gotten a CUP because her neighbor would have protested.

After hearing all of the speakers, Councilmember Barchfeld asked Councilmember Trapp to read written correspondence into the record.

Councilmember Trapp read a letter dated October 15, 2016 from David Buse, owner of short-term rental at 1830 Flite Acres Road (*full text attached to these minutes*).

Councilmember Trapp read a letter from short-term rental owner Barbara Dugger (*full text attached to these minutes*).

In response to Robbie Walker's request to speak, Councilmember Barchfeld replied that tonight's meeting is for property owners to provide input.

Councilmember Barchfeld read a letter from Peggy Collins, owner of short-term rental at 2312 Flite Acres Road (*full text attached to these minutes*).

Councilmember Barchfeld stated that additional written correspondence from Paul Wright and several others will be distributed to Council/Commission members.

Councilmember Barchfeld asked if there are any further public comments to be heard.

Comments were exchanged between Councilmember Barchfeld and an unidentified audience member regarding consistency in applying rules for speakers. There was an exchange of comments among several audience members about the use of certain septic system data versus number of bedrooms for calculating maximum occupancy.

Councilmember Barchfeld reminded that tonight's meeting is to discuss short-term rentals, not to discuss details related to a specific property.

Hearing no further speakers, Councilmember Barchfeld closed the public hearing and opened Council/Commission discussion.

Discussion among Council and Commission members addressed:

- Appreciation for speakers and all public comments
- A process that is fair and just to all parties and optimism that the moratorium's public process will result in a solution that works for everyone
- Need to consult with legal counsel
- Emphasis that there has been no intent expressed by the Council or Commission to "shut down" short-term rentals

Mayor McCullough thanked everyone and asked for people to work with the process and give it a chance to work for all of us.

Adjournment: Joint City Council/Planning & Zoning Commission joint meeting adjourned at 7:52 p.m.

Recorded by:

Cara McPartland

These minutes approved on the ____ of October, 2016.

APPROVED:

Mac McCullough, Mayor

DRAFT

October 15, 2016

City of Wimberley

Atten: Wimberley City Council & Planning and Zoning Commission

Re: Vacation Rentals and our property at 1830 Flite Acres.

First let me express my regret that I will not be in town for the Oct 18th meeting and will regretfully not be able to attend the meeting. I have asked Terrie Bursiel, owner of All Wimberley Lodging to read this letter on my behalf.

Terrie Bursiel with All Wimberley Lodging has been renting and representing our property located at 1830 Flite Acres Road as a short term vacation rental since we purchased the property in 1995. Over the past 21 years of renting our property to area visitors, we have never had a complaint from any of the surrounding neighbors, including the neighbors across the river from us. All Wimberley Lodging has taken great care in screening the guests that have rented our house. ~~They~~ renters that we have had over the years have been very respectful of the property and ~~they~~ neighbors. We have not had any major damage to our house nor have the surrounding property owners.

Having a guest book in our house has helped us to understand the clientele that our rental house gets. Over the years, a majority of our renters are families with children. These groups spend a vast majority of their time sitting in or by the river, not having large parties with loud music.

By allowing vacation rental to exist in Wimberley, not only are these families allowed a short weekend trip to the hill country to enjoy what we take for granted, they also spend their money shopping. They buy groceries from Brookshire, they buy floats, sun screen, and fishing equipment from Ace, they buy gas from our local gas stations, they eat at our local restaurants, and mostly they enjoy the shops and love to take home that all important Wimberley t-shirt.

By eliminating, or reducing the number and quality of the short term rentals in Wimberley, would, in my opinion greatly impact the Wimberley economy. The groups that we get to our home are not the kind of groups that would enjoy a hotel room here or in San Marcos. Wimberley was built around tourism and vacation rentals back to when Raymond Czichos opened 7A in 1954. This is the lifeblood of Wimberley and I am asking you not to kill it.

Thank you for allowing ^{Sally} Terrie to read this letter.

Dave Buse

Property owner – 1830 Flite Acres Road

To whom it may concern:

I apologize for not being able to attend tonight's meeting, ~~as I had a prior arrangement~~. Many of you know me, so I will try my best to keep this short and sweet. Dale and I bought our property on the river many years ago and prior to building our main house, we built a one bedroom guesthouse ~~to live in while we were building our main house~~ to live in while we were building our main house. After finishing and moving into our main house, we decided to rent our little guest house and I can't tell you what a blessing it has been.

We have been renting our property for many many years, and have met some of the nicest people, who have been so appreciative to us and to the community for opening our home for them to enjoy. All of our guests have enjoyed sitting and quietly listening to the river flow by or driving into town to enjoy the square.

As property owners, we love being able to offer our property for others to enjoy, we have even invited some guests to come and join in on our family BBQ's, Fourth of July celebrations and even Dale's birthday party. The renters that we have renting from us are genuinely great people that are just looking for a quiet place to come to relax and get away from the "big city". We have never had any issues with any of our guests, or their children violating the rules we have asked them to follow. They have respected us, our property, and our neighbor's property.

We have a gem in this valley and I just love that I am able to share this beautiful place with so many other people.

Thank you,

Barbara Dugger

Dear Mayor, City Council, Planning and Zoning Committee,
I am Peggy Collins, resident of Wimberley, and have a CUP at 2312 Flite Acres.

I'm sorry I can't be there to say this in person. Previously made travel plans prevent us from being here tonight.

We've owned and operated a successful nightly rental at 2312 Flite Acres for over 10 years now. We were told when we bought the property that there were no restrictions. At that time, we were not sure of our plans. We were looking for a 2nd home to enjoy. As it turned out, we decided to help pay for the taxes and upkeep by renting it out nightly. And for these past 10 years we've worked hard to provide a home NOT BOARDING HOUSE, as one called them last week but a HOME away from home that our guest can come to, be comfortable and enjoy their stay as they visit Wimberley. They tell us that they love renting a home because they love being together in one place. They don't want to rent hotel rooms. They want a home where they can sit together in the evenings, eat together at meals and relax in private together. I have several emails, if you want, from guest telling why they love being in a home, our home, and really why they love Wimberley as their choice for their family vacation.

Our guests come from all over. Most come from the Texas area, but we do get guest anywhere from the east to west coast, to guests from overseas. And, we EVEN GET Wimberley residents.

We've had one Wimberley family that have booked this particular home for many years for their annual family gathering and as matter of fact just booked this past weekend again. The husband even came to work for us for a time till he was not able to due to health reasons.

We've also had to turn down locals when they call and want to host a party at our home because they don't want to use their own home. No, we don't allow that. If you can't have a party at your own home, then don't do it at ours.

We have a great group of workers that help us run our properties keeping them in great shape. We try very hard to be good neighbors. We provide phone numbers / emails for them to contact us with any concerns. We urge them to contact us. We live on Flite Acres and can be there within minutes. As of August, our son and his wife are managing this property for us. They too live on Flite Acres and are planning on building a home for themselves and their future family here. They have done a great job of screening guests, meeting each guest as they arrive to make sure they are who they are. They have no problem telling someone that has not represented themselves correctly that they cannot stay. We would rather turn down revenue and give back money, than have a bad guest. In fact, we have turned down many potential guests. I'd rather send them to another town where I feel it would be more suitable for them.

With that said we've been blessed with wonderful guests. Many have been booking our home every year for, well the longest one is 8 years now. They even wanted to come after the flood so they could support the area. They did not care that our home that had flooded, and did not have the kitchen counter tops yet but were still covered with boards. They did not care that the house itself was not perfect, yet but it only mattered to them to come and stay and support Wimberley, they said. In fact, those that oppose nightly rentals have said visitors did not support Wimberley after the flood. They are wrong. They did support our area. They sent emails, they called and wanted to know what they could do to help. They sent money, they sent supplies and YES, some that live close came and volunteered and helped with the cleanup. The guest that stayed at our home that flooded that horrible night, took in the neighbor next door and her guest. She took in other people she found on the street, taking them to the 2nd floor to stay safe till help arrived. She was interviewed and quoted, speaking highly of the people of Wimberley. How sad she would be now if she knew how some residents really felt about visitors. She came back from her home in Virginia this past May, one year later, and sat on the porch of 2312 and cried. It finally hit her what she had gone through here with her family and what many lost here. But, she wanted to come back and support Wimberley again and she was happy to see that recovery was going well for many.

These visitors LOVE Wimberley. These are people that probably like most of the residents that live here now came here years ago to a camp or for a family vacation and have wonderful memories of Wimberley. They want to relive those days. They tell me they would love to live here but can't, but they want to share the experience they had as a child with their families and their grandkids. They want to have a moment of time to sit in the Blanco river again and play like they did when they were kids. They tell me they love that our home is close to town. They want to stroll down the streets of Wimberley, shop / eat, have a piece of pie, some ice cream, have breakfast at the Wimberley café. (I hear that one a lot!) They want to go to the movie at the Corral Theater. They want to visit one of the wineries in our area. They come to celebrate their grandmother's birthday, to celebrate a 50th wedding anniversary. These are not rowdy / ruffraff (as some have called them) just many nice families just like most of the residents here. They just want to visit our beautiful town for a moment of time to relive past experiences and create new family memories. And, they want to do it in a home together.

Here is a letter from one of our long time guest.

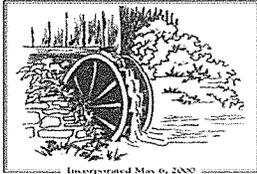
And, I have other letters if you want them for your file.

Thank you for taking time to listen to us all and hopefully bring a solution that works for everyone including our fine visitors.

Regards,

Peggy Collins

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF THE REAPPOINTMENT OF TOMAS PALM TO THE HOTEL OCCUPANCY TAX ADVISORY COMMITTEE

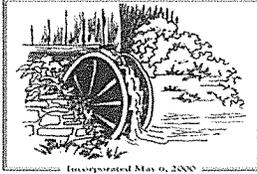
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider the reappointment of Tomas Palm to serve as the Wimberley Valley Tourism and Lodging Association's representative on the City of Wimberley Hotel Occupancy Tax Advisory Committee.

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF THE REAPPOINTMENT OF DAN STURDIVANT TO THE HOTEL OCCUPANCY TAX ADVISORY COMMITTEE

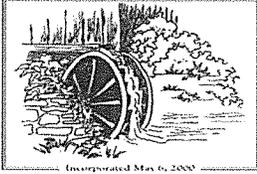
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider the reappointment of Dan Sturdivant to serve as the Wimberley Valley Tourism and Lodging Association's representative on the City of Wimberley Hotel Occupancy Tax Advisory Committee.

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF THE REAPPOINTMENT OF BOB COOK TO THE HOTEL OCCUPANCY TAX ADVISORY COMMITTEE

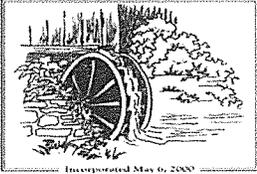
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider the reappointment of Bob Cook to serve as the Wimberley Valley Arts and Cultural Alliance's representative on the City of Wimberley Hotel Occupancy Tax Advisory Committee.

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF THE REAPPOINTMENT OF TRACI FERGUSON TO THE HOTEL OCCUPANCY TAX ADVISORY COMMITTEE

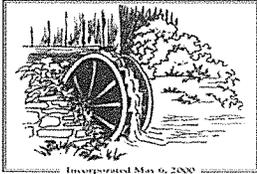
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider the reappointment of Traci Ferguson to serve as the Wimberley Merchants Association's representative on the City of Wimberley Hotel Occupancy Tax Advisory Committee.

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: APPROVAL OF THE REAPPOINTMENT OF BARRY TYLER TO THE CITY OF WIMBERLEY BOARD OF ADJUSTMENT

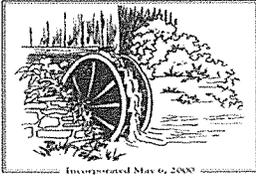
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider the reappointment of Barry Tyler to the City of Wimberley Board of Adjustment. Mr. Tyler is Council Member Barchfeld's nominee.

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

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

Funds Required:
Funds Available:

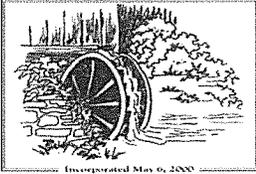
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

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

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: CITY ADMINISTRATOR'S REPORT

Funds Required:
Funds Available:

Council Action Requested:

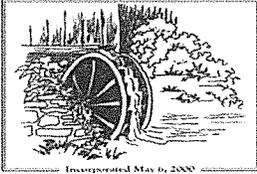
- Ordinance
- Resolution
- Motion
- Discussion

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 regulatory flood map update for the City of Wimberley
- Status report on regional flood mitigation study
- Status report on Hotel Occupancy Tax collections for the City of Wimberley
- Status report on Mix Beverage Tax collections for the City of Wimberley

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: PRESENTATION OF HOTEL OCCUPANCY TAX FUNDING RECOMMENDATIONS FOR THE PERIOD FROM JANUARY 2017 THROUGH MARCH 2017

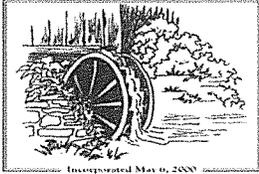
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the City of Wimberley Hot Occupancy Tax (the "HOT") Advisory Committee to present HOT funding recommendations for the period from January 2017 through March 2017. Committee Chairman Tomas Palm will brief Council on the recommendations.

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: PUBLIC HEARING AND CONSIDER APPROVAL OF THE SECOND READING OF A PROPOSED ORDINANCE ESTABLISHING A CONDITIONAL USE PERMIT TO ALLOW FOR THE LIMITED ON-PREMISE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE PR-2 (HIGH IMPACT) ZONING DISTRICT

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 amendment to the City's Zoning Code (the "Code") establishing a Conditional Use Permit (the "CUP") that would allow for the limited on-premise sale and consumption of alcohol on properties zoned Participant Recreation-High Impact (the "PR-2").

The City recently received an inquiry from the operators of the *Wimberley Players Theatre* seeking permission to serve alcoholic beverages in conjunction with their performances. The subject property is zoned PR-2 and the on-premise sale and consumption of alcoholic beverages is not a permitted or conditional use in the subject zoning district.

Currently, the City Zoning Code allows the on-premise sale and consumption of alcohol on commercially zoned properties with a CUP, in conjunction with certain uses such as sit-down restaurants, tasting rooms, package stores and bars.

The attached ordinance would amend the Code to add the limited on-premise sale and consumption of alcohol as a conditional use in the PR-2 zoning district. Such alcohol sales would have to occur in conjunction with a recreation event, cultural exhibit, musical or theatrical performance. Alcohol sales would be limited to the duration of the event and shall not occur more than one hour before and after the event. Establishments in the zoning district could not derive more than seventy-five (75) percent of their gross revenue from the on-premise sale of alcoholic beverages.

On October 20, 2016, the City Council held a public hearing on the proposed ordinance. Afterwards, the Council voted unanimously to approve the first reading of the ordinance.

Ordinance No. 2016-_____

“Limited Duration/On-Premise Alcohol Sales”

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTIONS 155.005 (DEFINITIONS), AND SECTION 155.059 (PARTICIPANT RECREATION – HIGH IMPACT; PR-2) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO ADD A CONDITIONAL USE FOR LIMITED DURATION/ON-PREMISE ALCOHOL SALES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley (“City Council”) seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and

WHEREAS, on May 9, 2009, a majority of the voters of Hays County voted to allow the public to purchase alcohol in stores and to purchase and consume alcoholic drinks at restaurants and bars in Justice of the Peace Precinct Three of Hays County; and

WHEREAS, amendments to the City’s Zoning Code are necessary to allow certain sales and on-premise consumption of beer, wine, and liquor in order to permit such uses in the City’s various zoning districts; and

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 Planning and Zoning Commission and City Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses, with a view toward conserving property values and encouraging the most appropriate use of land in the City; 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 on the City’s statutory regulatory authority, including, but not limited to, Texas Local Government Code Chapters 51, 52, and 211; 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 hearings;

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

SECTION I. FINDINGS OF FACT

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

SECTION II. AMENDMENTS

- A. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.005 (Definitions), is hereby amended to add the following:

“LIMITED DURATION/ON-PREMISE ALCOHOL SALES AND CONSUMPTION. Establishment located within another permitted land use that derives 75% or less of the establishment's gross revenue from the on-premise sale of alcoholic beverages and that is open to the public only in conjunction with a recreation and entertainment event, cultural exhibit, or musical or theatrical performance, during the time that the event is in progress and no more than one hour before and after the event.”

- B. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.059 (Participant Recreation – High Impact; PR-2), Subsection C (Conditional Uses), is hereby amended as follows:

“(C) Conditional uses.

- (1) Campgrounds without facilities; and
- (2) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and
- (3) Limited duration/on-premise alcohol sales and consumption.”

SECTION III. SAVINGS

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

SECTION IV. SEVERABILITY

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

SECTION V. REPEALER

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

SECTION VI. EFFECTIVE DATE

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

SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Article was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

FIRST READING PASSED AND APPROVED this ____ day of _____, 2016.

SECOND AND FINAL READING PASSED AND APPROVED this ____ day of _____, 2016.

Herschel "Mac" McCullough
Mayor

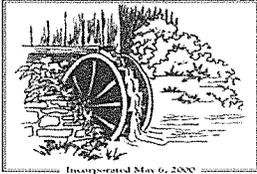
ATTEST:

Cara McPartland,
City Secretary

APPROVED AS TO FORM:

Catherine Fryer,
City Attorney

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: CONSIDER ACTION REGARDING THE FIRST READING OF A PROPOSED ORDINANCE PROHIBITING RECREATIONAL ACTIVITY ON THE CITY'S LOW WATER CROSSINGS OVER THE BLANCO RIVER

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 approval of the first reading of a proposed ordinance prohibiting recreational activity on the City's three (3) low water crossings over the Blanco River.

The proposed ordinance prohibits stopping, standing, parking, fishing or recreating upon the low water crossings at CR 1492, Hidden Valley and Little Arkansas. The prohibition is intended to enhance public safety.

In recent years, the City has received numerous complaints from residents about vehicles parking on and pedestrians walking, sitting, laying and fishing on the Blanco River low water crossings. Such activity creates a public safety hazard.

City staff is recommending approval of the proposed ordinance, a copy of which is attached for review and consideration. If approved, visible regulatory signage will be placed on approaches to the crossings.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE VII (TRAFFIC CODE), CHAPTER 70 (TRAFFIC REGULATIONS) TO ADD A NEW SECTION 70.06 (LOW WATER CROSSINGS); PROVIDING FOR FINDINGS OF FACT, REPEALER, SAVINGS, SEVERABILITY, PROPER NOTICE AND MEETING, AND AN EFFECTIVE DATE.

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

WHEREAS, the Council finds that stopping, standing, parking, fishing, or otherwise recreating on low water crossings creates a hazard to public health and safety;

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.

The City of Wimberley Code of Ordinances, Title VII (Traffic Code), Chapter 70 (Traffic Regulations) is hereby amended to create a new Section 70.06 (Low Water Crossings) as follows:

“§ 70.06 LOW WATER CROSSINGS

(A) *Stopping, Standing, or Parking.* A person may not stop, stand, or park a vehicle upon a low water crossing.

(B) *Activities Prohibited.* A person may not fish from or otherwise recreate upon a low water crossing.

(C) *Low Water Crossings Affected.* The prohibitions under this section shall apply to the following low water crossings:

- (1) County Road 1492 over the Blanco River;
- (2) Hidden Valley Road over the Blanco River; and
- (3) Little Arkansas Road over the Blanco River.”

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

Section 4. 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. 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. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases may provide.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code.

FIRST READING PASSED AND APPROVED this ___ day of _____, 2016, by a vote of ___ (Ayes) to ___ (Nays) ___ (Abstain) of the City Council of the City of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this ___ day of _____, 2016, by a vote of ___ (Ayes) to ___ (Nays) ___ (Abstain) of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

Herschel "Mac" McCullough, Mayor

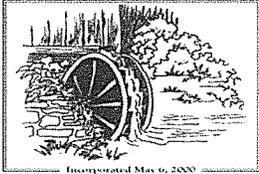
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

Catherine B. Fryer, City Attorney

City Council Agenda Form



Date Submitted: October 27, 2016

Agenda Date Requested: November 3, 2016

Project/Proposal Title: CONSIDER ACTION
REGARDING THE HOTEL OCCUPANCY TAX FUNDING
PROPOSALS FOR THE PERIOD FROM JANUARY 2017
THROUGH MARCH 2017

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 possible action regarding the Hotel Occupancy Tax funding proposals for the period from January 2017 through March 2017.

Earlier in the City Council meeting, the Chairman of the City's Hotel Occupancy Tax Advisory Committee briefed the Council on the Committee's recommendations regarding the various funding proposals.

HOT COMMITTEE RECOMMENDATION

Proposal Name: Wimberley Valley Tourism & Lodging Association

Date Evaluated: Sept 7, 2016

HOT COMMITTEE RECOMMENDS: FUNDING

UPDATED OCTOBER 25, 2016

HOT COMMITTEE RECOMMENDS - Table this application for future discussion after workshop between City Council and HOT Committee

Proposal Summary:

a) Total Project Proposal Cost	\$205,000.00 (1st yr)
b) HOT funds requested	\$80,000.00 (1st yr)
c) Equity Required (30%) verifiable	Not at this time
d) Anticipated Overnight Lodging - (x\$130)	See Appendix 8
e) Anticipated Community Impact	See Appendix 8
f) Primary ROI (f/b)	2:1
g) Secondary ROI (g/b)	3:1

Committee Votes: Fund: 7 Don't Fund: 0

Committee Notes: The committee recommended funding the full three year request for this proposal. This is a well thought out and researched plan to incrementally increase tourism to the City of Wimberley and its ETJ.. The plan is extensive and the council is encouraged to study the entire plan. The \$80,000 first year request is in the form of a line of credit rather than actual cash and decreases incrementally over years 2 and 3 to become a self sustaining entity.

Recommendation to Proposal Submitter: The committee feels that WVTLA has presented a well thought out proposal and encourages the organization to work with existing organizations within the city to bring this vision to light. The business plan shows a path to the DMO becoming a self sustaining entity over the course of its first 3 years in operation, and incrementally increasing overnight lodging to Wimberley and its ETJ.

HOT COMMITTEE RECOMMENDATION

Proposal Name: Wimberley Valley Convention & Visitors Bureau Foundation

Date Evaluated: Sept 7, 2016

UPDATED OCTOBER 25, 2016

HOT Committee recommends not funding per Cathy Moreman that the Chamber is withdrawing the funding request.

HOT COMMITTEE RECOMMENDS: NOT FUNDING

Proposal Summary:

a) Total Project Proposal Cost	\$18,600.00
b) HOT funds requested	\$13,020.00
c) Equity Required (30%) verifiable	Yes
d) Anticipated Overnight Lodging - (x\$130)	\$ not provided
e) Anticipated Community Impact	\$ not provided
f) Primary ROI (f/b)	not provided
g) Secondary ROI (g/b)	not provided

Committee Votes: Fund : 2 Don't Fund: 5

Committee Notes: The committee recommended not funding this proposal. The proposal is to offset operating costs for the Visitor Center, currently being operated by the Wimberley Valley Chamber of Commerce. While a Visitor Center is an expense that qualifies by the Texas law, it doesn't meet the ROI requirements of the City of Wimberley HOT Guidelines. No information was provided to document the impact that the Visitor Center has on overnight lodging.

Recommendation to Proposal Submitter: The committee feels that the Visitor's Center is not currently promoting overnight tourism in the area, but is offering information to visitors who are already in the area. The proposal needs to provide a plan for increasing overnight tourism to the Wimberley Valley, and targeting visitors during the specified times, 1st and 4th quarter and Sun-Thurs. The Visitor Center is encouraged to submit a plan including a path to a break even or profit status. We encourage the Visitor Center to work with other organizations within the City to promote overnight tourism.

HOT COMMITTEE RECOMMENDATION

Proposal Name: EmilyAnne Theatre & Gardens

Date Evaluated: Sept 7, 2016

UPDATED OCTOBER 25, 2016

COMMITTEE RECOMMENDS NOT FUNDING - timeline is no longer feasible, funding request withdrawn

HOT COMMITTEE RECOMMENDS: NOT FUNDING

Proposal Summary:

a) Total Project Proposal Cost	\$16,315.00
b) HOT funds requested	\$3,000.00
c) Equity Required (30%) verifiable	Yes
d) Anticipated Overnight Lodging - (x\$130)	\$54,600.00
e) Anticipated Community Impact	\$21,000.00
f) Primary ROI (f/b)	18:1
g) Secondary ROI (g/b)	7:1

Committee Votes: Fund : 3 Don't Fund: 4

Committee Notes: The committee recommended not funding this plan. Although it showed an increase in total nights stay, it didn't show an increase in stays of two nights or more. It is also a long standing event and the committee would like to focus on new events.

Recommendation to Proposal Submitter: The committee feels that the EmilyAnne Trail of Lights is a long standing asset to Wimberley. We'd like to see the EmilyAnne Trail of Lights track their visitors accommodations this season and bring a proposal to show how they can increase the overnight accommodations for the following season.

HOT COMMITTEE RECOMMENDATION

Proposal Name: Wimberley Valley Art League

Date Evaluated: Oct 25,, 2016

HOT COMMITTEE RECOMMENDS: PARTIAL FUNDING

Proposal Summary:

a) Total Project Proposal Cost	\$61,500.00
b) HOT funds requested	\$20,000.00
c) Equity Required (30%) verifiable	YES
d) Anticipated Overnight Lodging - (x\$130)	\$ 29,000.00
e) Anticipated Community Impact	\$ 26,250
f) Primary ROI (f/b)	4.81
g) Secondary ROI (g/b)	3.94

Committee Votes: Fund : 6 Don't Fund: 1

Committee Notes: The committee recommended partially funding this proposal, in the amount of \$14,000.00. This number was reached after calculating the ROI for the portion of the Paint Wimberley portion without the Arts Fest dates.

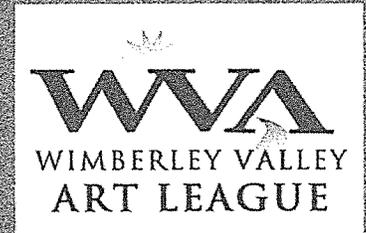
Recommendation to Proposal Submitter: The committee feels that the dates for this submission don't fall into the HOT's guidelines, however, this is a strong proposal from a well respected group. The committee feels that this group has a plan for future sustainability and growth with this event.

NOTE TO COMMITTEE: THIS EVENT REQUIRES NATIONAL ADVERTISING AND RECRUITMENT WHICH WILL NEED TO START IN OCTOBER. A YES VOTE FOR THIS APPLICATION BY OCTOBER 15 IS APPRECIATED AND WILL ENSURE OUR SUCCESS.

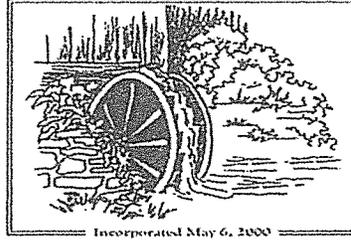
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BY: _____

2016

APPLICATION FOR WIMBERLEY HOT FUNDS



WIMBERLEY VALLEY ART LEAGUE
PO BOX 1652 WIMBERLEY, TX 78676
9/27/2016



APPLICATION FOR CITY OF WIMBERLEY HOT FUNDS

ORGANIZATION INFORMATION

Organization/Group: Wimberley Valley Art League

Address: PO Box 1652, Wimberley, TX 78676

Contact Names:	Tim Leibrock	713.569.6399	traibu6@yahoo.com
	Lynn Myers	830.708.7433	lynncmyers@live.com
	Kaye Collins	512.847.7825	okaye_kc@yahoo.com
	Rob Pitzer	512.983.1085	rob@pitzersart.com

Tim Leibrock is an accomplished artist who frequently paints outdoors and has recently moved to Wimberley. Lynn Myers has experience in marketing and was on the team for Bootiful Wimberley. Kaye Collins has headed up Arts Fest for several years, is past president of the Wimberley Art League and has extensive experience in tourism marketing. Rob Pitzer is a gallery owner of 40+ years, has many artist contacts, and was active in setting up art festivals in Carmel.

Website Address for Event/Organization: wimberleyartleague.org
wimberleyartsfest.com
paintwimberley.org (TBD)

Non-Profit Status: 501(c)3
Fed. Tax ID # 74-2596025

Purpose/Mission of Organization: (as stated in bylaws)

Wimberley Valley Art League (WVAL) is a proactive, non-profit organization that promotes interest in and recognition of artists in all aspects of visual and functional arts.

WVAL provides educational opportunities for artists at all levels of experience through demonstrations and workshops led by respected local, regional and national artists and craftspeople.

To build public interest in and exposure to the arts, WVVAL sponsors and manages community-wide projects and displays, including but not limited to:

- **Gallery Exhibits** – bimonthly juried shows in the WVVAL Gallery where WVVAL members exhibit for viewing and purchase by the public. One annual show is devoted to work by area students.
- **Studio Tour** – an annual event that provides the public an opportunity to look inside selected artists’ studios and purchase work for sale.
- **Show and Sale** – a 2-3 day event for WVVAL artists to display and sell work, usually held prior to the holidays at the Wimberley Community Center
- **Arts Fest** – a major outdoor art exhibit with invited participation by a variety of artists as well as WVVAL members. Now in its 9th year, this festival has garnered a national reputation among traveling artists and art collectors and attracts exhibitors from many states as well as outside the US.
- **Art in Public Places** – the placement of WVVAL member artwork in civic venues and businesses on a rotating basis.
- **Other** – the Board may approve additional events or activities that meet the mission of the organization and serve a worthwhile community purpose.
 - In 2015, WVVAL sponsored the “100@100” exhibit where over 400 pieces of donated art were sold for \$100 each. This highly popular fundraiser resulted in a contribution to Barnabas Connection for Flood Relief of over \$40,000.
 - In 2016, WVVAL collaborated with the Wimberley Village Library on an adult coloring book in which WVVAL artists donated the drawings. Sales of the books are ongoing with revenue sharing between the Library and WVVAL.
 - In 2017, WVVAL will expand the Arts Fest event to include a plein air (outdoor painting) competition and exhibition known as “Paint Wimberley.”

GENERAL EVENT INFORMATION

Name of event/program to be funded:

PAINT WIMBERLEY
A PLEIN AIR COMPETITION AND EXHIBITION
APRIL 18-24, 2017



Primary location of event/program:

In 2017, Arts Fest will be held at The Waters Point Retreat at Rio Bonito. This is a new location for Arts Fest which was held at Blue Hole Regional Park for the past five years, and around Wimberley Square from 2009 to 2012.

The Paint Wimberley event will occur throughout "downtown" Wimberley where artists will set up their easels to capture the unique architecture and scenic views that make up our city. A second day will feature painting at Rivers and Ranches throughout Wimberley. A third half-day will be Artists' Choice of locations in Wimberley. An invitational preview party and fundraiser is planned for Friday night in a location TBD. Paint Wimberley will culminate in an exhibit at Arts Fest and a "paint out" competition at Rio Bonito. A central gathering spot and pre-event party for the plein air artists will likely be at Pitzer's Fine Arts and Art on 12.

<u>Date of event/program</u>	<u>Expected attendance</u>
Paint Wimberley	
Artist check-in & reception	Tues evening, April 18 150-175
Paint days	Wed-Thu-Fri, April 19-21 250-300
Jurying	Fri, April 21
Invitational pre-sales dinner	Fri evening, April 21 150
Exhibit and sales	Sat-Sun, April 22-23 3500-4000
Tear-down	Sun-Mon, April 23-24 50
Workshops	Mon-Wed, April 24,25,26 12-15
Arts Fest	
Set up for the artists	Fri, April 21 200
Exhibition and music	Sat-Sun, April 22-23 3500-4000
Artists' reception	Sat, April 22 200
Tear-down	Sun-Mon, April 23-24 200

How many times have you held this event/program?

Wimberley Arts Fest is held annually and is in its ninth consecutive year. Paint Wimberley will preview in 2017 and, if successful, will become an annual event.

Number of visitors who are staying in Wimberley lodging?

Paint Wimberley – Our goal is to attract a minimum of 50 juried artists. We expect about 50%-60% of the artists will stay in local accommodations since we will be marketing to plein air associations throughout Texas and nationwide. We are advertising lucrative cash awards so that we can pull in well-known artists who are on the plein air circuit. The 50 artists and their guests arrive on Tues, April 18 and stay throughout Arts Fest which will be a stay of 5-6 nights.

The public will be excited about this event and will come to watch the painters work and to see their exhibits. During the exhibition at Arts Fest, it will be impossible to distinguish those visiting Paint Wimberley and those for Arts Fest alone. However, we expect Paint Wimberley to help increase attendance at Arts Fest.

We may also encourage specific plein air artists to schedule workshops immediately following Arts Fest. Workshops are likely to last 2-3 days, depending on the artist, and some may want to use a B&B facility for the workshop.

2017 Arts Fest – Since we do not sell tickets to Arts Fest, it is impossible to have a specific headcount for the event. We are expecting 85 to 100 artists to exhibit, a dozen or more musicians, 3-5 food vendors, and around 3,500 guests. Historically, the attendance has grown each year. We estimate from 2016 raffle ticket entries that about 65% of the attendees are from outside Wimberley.

For each of the last three times the event/program has been held, list the year held, the number of attendees and the method of determining attendance (crowd estimates, ticket sales, sign-in sheet, etc.

Year Held	Number of Attendees	Methodology
2014	2500-3000	Estimated by festival reception personnel
2015	4500	Based on statistics from Blue Hole personnel*
2016	3500	Raffle ticket entries and estimated by personnel
2017	3500-4000	

** Clickers were used by Blue Hole personnel to count attendance during several periods of the day. It is highly possible that some people were counted twice as visitors tend to stay for longer periods of time to enjoy music, eat, and see all of the booths.*

Identify the HOT category for which the event/program will benefit (refer to Page 1):

Promotion of the arts in Wimberley over nearly a week which will result in increased lodging and hospitality revenue.

What is the primary purpose of the event/program for which this application applies?

Promotion of the arts in Wimberley, specifically to attract a wider audience to Arts Fest and to establish Wimberley as a major arts destination in Texas.

FUNDING REQUEST

Total Event/Program Budget:

Approximately \$61,500 for the combined events of Paint Wimberley and 2017 Arts Fest. These monies will come out of the Wimberley Valley Art League coffers and will be replenished as registrations and other funds are collected. Please refer to the WWAL Balance Sheet.

Total Amount Requested:

\$20,000

Percentage of total event or program cost to be covered by the requested HOT funds:

Approximately 33%

How will the funds be used?

Primarily for expanded promotion and prize money for the artists. Please refer to our budget for details.

ADVERTISING AND PROMOTION

Please refer to the attached Promotion Plan.

Will you submit press releases about the event/program?

Yes, we use press releases with publications and broadcast, and shorter blurbs for event calendars. Each submission is customized depending on the publication. Beyond press releases, we will be using a wide variety of print, broadcast, and online media. Please refer to the Promotion Plan.

If so, list the number of releases plus target media outlets.

We expect to use over 100 media placements and an expenditure of over \$15,000. Please refer to the Promotion Plan.

What geographic area does your advertising and promotion reach?

We cater to various market segments, including local, regional, state and national media. In addition, we will be marketing to artists, art leagues, and to arts collectors. Please refer to the Promotion Plan.

PROJECTED PROMOTIONS AND TOURISM BENEFITS

Over the last three times your event/program was held, how much HOT fund assistance did your organization receive and how many hotel rooms were occupied as a result?

This will be our first year to receive HOT funds.

How many people attending this event/program are expected to stay in Wimberley hotels?

We expect to increase hotel occupancy in Wimberley by as many as 200 rooms.

Artists – estimated at 20 rooms for plein air artists; 30 rooms for Arts Fest artists.

Public – conservatively assume 5% of the total attendance, or 200 rooms

How many nights will they stay?

If staying for Paint Wimberley: 5 nights* (Tues-Sat)

**We would like to work with the Wimberley Lodging Assn to offer special weekly rates for the artists involved in Paint Wimberley.*

If staying only for Arts Fest: 3-4 nights (Fri-Sun)

What is the estimated primary ROI for this event/program?

Wimberley Valley Art League is a non-profit organization. We only seek to cover our costs and to promote the arts. Additional revenue, if any, is set aside as seed money for the following year's events.

Projected ROI for the hospitality industry is calculated as follows:

Paint Wimberley Artists: 20 rooms @ \$130 x 5 nights	\$13000
Paint Wimberley Audience: 50 rooms @ \$130 x 4 nights	26000
Arts Fest Artists: 20 rooms @ \$130 x 2 nights	5200
Arts Fest Audience: 200 rooms @ \$130 x 2 nights	52000
Total Revenue	96200
Investment	20000
ROI	4.81

What is the estimated secondary ROI for this event/program?

Conservatively estimated at \$35 per person per day for restaurants, shopping.

Paint Wimberley: 150 persons x 5 days x \$35	\$26250
Arts Fest: 500 persons x 3 days x \$35	52500
Total Revenue	78750
Investment	20000
ROI	3.94

How will you measure the impact of this event on Wimberley hotel activity?

We expect the hoteliers and innkeepers to determine if their visitors are in town for either of these events and to report their revenue to us. This will be invaluable to us going forward. We will also be using a raffle ticket promotion or some other avenue to measure the number of attendees at Arts Fest.

Please list other organizations, government entities and grants that have offered financial support to your event/program.

None yet. However, if we may pursue a grant with the Texas Commission on the Arts. We may also pursue sponsorships for specific events such as the Invitational Dinner.

REQUIRED SUPPLEMENTAL INFORMATION AND DOCUMENTATION

Please attach the following to the application prior to submission:

- ✓ *Proposed marketing plan for the event/program for which funds are being requested.*
- ✓ *Schedule of activities relating to the event/program.*
- ✓ *Current budget for the event/program.*

Documentation demonstrating the potential to generate overnight guests such as historical

information or surveys on the number of hotel rooms resulted from previous years of the same event/program.

- ✓ Source and verification of the 30 percent of funding you are contributing toward the event/program.

Please sign and initial where indicated below acknowledging that the information provided in this application is true and correct. By signing below, you also agree that you and your organization will be held responsible for compliance with all HOT funding guidelines, requirements and remedies.

I fully understand the HOT funding application process, rules governing the application and the process established by the city council. I intend to use this grant for the aforementioned event to forward the efforts of the City of Wimberley in directly enhancing and promoting tourism and the hotel industry by attracting visitors from outside Wimberley into the city.

MA Initial

I have read the HOT Funding Application process including the rules governing the application and the reimbursement process.

MA Initial

I understand that if I am awarded HOT funding by the city, any deviation from the approved project or from the rules governing the application may result in the partial or total withdrawal of HOT grant funds.

MA Initial

I understand that all the records that relate to the use of HOT funds shall be kept by WVAL, subject to Chapter 351 of the Texas Tax Code as amended and Chapter 552 of the Texas Government Code as amended. Records of WVAL concerning HOT funds are public and the city shall, upon written request, have the right to inspect and or obtain all books and records pertaining to the fulfillment of this Agreement.

MA Initial

I understand that the city may terminate this Agreement by giving the other party notice in writing of such termination sixty days in advance. Any municipal hotel occupancy tax proceeds, not used, shall revert to the city upon the termination of this Agreement.

MA Initial

Myra L. Allen

Authorized Signature

9/29/2016
Date

Myra L. Allen

Print Name

Wimberley Valley Art League - President

Title and Organization

Applications may be submitted by mail, email or in person to:

City of Wimberley
P.O. Box 2027
Wimberley, Texas 78676
Email: dferguson@cityofwimberley.com

PAINT WIMBERLEY

A PLEIN AIRE COMPETITION AND EXHIBITION HOSTED BY THE WIMBERLEY VALLEY ART LEAGUE APRIL 18-24, 2017

What

Paint Wimberley is planned to be a 6-9-day outdoor painting competition and exhibition in conjunction with 2017 Arts Fest. Arts Fest is held annually by the Wimberley Valley Art League and is now in its 9th consecutive year. This art event expansion will enlarge the reputation and excitement surrounding Arts Fest and bring visitors into Wimberley earlier in the week to aid hospitality and shopping venues. We will be applying for hotel tax dollars and possibly a State grant to fund this event. We will work with the hospitality booking agencies/B&B organizations and Merchants Association to secure special weekly rates for artists and/or synergistic promotion.

We envision using sizeable monetary awards and extensive national media to recruit top notch artists and art aficionados. Our goal is at least 50 artists and at least 150 pieces of art. We would like to build a reputation for this event as solid as Arts Fest, which is highly regarded by the arts community.

Why

When doing internet searches for Wimberley images, the most predominant photos are those of our waterways, and especially the flooded and devastated rivers. This negativity can be overcome by emphasizing other aspects about Wimberley, i.e. shopping, unique architecture of old buildings, charm of our "Western" hill country atmosphere and lodging. We will solicit shops and lodging venues to allow artists to paint at their locations.

A goal of the arts community in Wimberley is to build our city's panache equal to other arts destinations, like a "Taos of Texas." By recruiting outdoor painters, we will have a huge selection of scenes that are beautiful and favorable for Wimberley promotion.

Where

We will encourage artists to set up their easels throughout Wimberley so that there will be a good array of scenes. We would like special attention paid to Wimberley "downtown" in addition to country scenes of rivers and ranches.

The courtyard at Pitzers Fine Arts will be a central spot for artist check-in and for daily hospitality. It will be staffed by WVVA artists throughout the event for canvas stamping, pre-sales, maps, etc.

An opening reception for the visiting artists and WVVA is planned as well as an invitational dinner/fundraiser for juried art presales. The venue for these events is TBD.

The actual paintings will be displayed during Arts Fest at Rio Bonito on Saturday and Sunday, April 22-23. The works will be juried and winners selected. The public will also vote for People's Choice awards.

A public "paint out" will take place on Sunday afternoon as a way of drawing a crowd to a normally slower day at Arts Fest and to get non-juried artists a chance to compete for awards.

When

8/1–12/31 Funding and planning; building committee with volunteers, establishing alliances with innkeepers, shopkeepers and others

9/30 Submittal of application for HOT funding

10/15 Expected approval of HOT funding so that advertising and recruitment can occur

	10/15–2/1	Artist recruitment via online applications
	11/1–4/20	National, local and regional media promotion
	4/15	Build artist packets, print maps, hang banners, print event schedules
Tues	4/18	Artist registration and canvas stamping
	4/18 5-8pm	Cocktail reception for artists, donors and WWAL at TBD
Wed	4/19 8-6pm	Paint: Wimberley Town (map to designate acceptable areas)
	4/19 3-6pm	Preview paintings in Wet Canvas Tent – location TBD
Thur	4/20 8-6pm	Paint: Rivers and Ranches (map to designate acceptable areas)
	4/20 3-6pm	Preview painting in Wet Canvas Tent
Fri	4/21 8-noon	Paint: Artists' Choice of Area
	4/21 1-2pm	All paintings turned in for judging and sales (2 per artist for judging; additional paintings may be sold at Arts Fest) – paintings to be framed and priced
	4/21 2-4pm	Jurying by judge(s)
	4/21 6-9pm	Invitational and ticketed dinner with presales of juried art (location TBD)
		Juried awards presented
Sat	4/22 10-6pm	Show and sale of paintings at Arts Fest
		Voting for People's Choice by Arts Fest attendees
Sun	4/23 11-5pm	Show and sale of paintings at Arts Fest
	4/23 11-12pm	Registration for Paint Out (non-juried artists)
	4/23 12-2pm	Paint Out at Waters Point
	4/23 2-2:30	Paint Out paintings displayed
	4/23 3:00	Voting for Paint Out People's Choice ends
	4/23 3pm	Awards for Paint Out

Mon	4/24	Potential Workshop
Tues	4/25	Potential Workshop
Wed	4/26	Potential Workshop

How

WVAL will put together a team to take responsibility for this event.

- Team Lead: Tim Leibrock
- Funding Prime: Rob Pitzer
- Marketing and Promotion Prime: Lynn Myers
- Recruiting Prime : TBD
- Operations and Logistics Prime: TBD
- Hospitality Prime: TBD

How Much

Because this event is in concert with Arts Fest, there may be some opportunities to capitalize on media rates and placement. We will follow the 2016 Arts Fest budget, with some additional monies required for Paint Wimberley, specifically monetary awards, promotion, display costs, hospitality.

Artists will pay an entry fee of \$100 to participate in the competition plus 25% commission on sold paintings to WVAL. We may also solicit sponsorships for certain categories of expense, such as the Invitational Dinner. Potential sponsors: Jerry's Artarama, Plein Air magazine, Ampersand, etc.

BUDGET FOR 2017 WIMBERLEY ARTS FEST AND PAINT WIMBERLEY

REVENUE	2016	2017	2017	
	<u>ARTS</u>	<u>ARTS</u>	<u>PAINT</u>	
<u>ITEM</u>	<u>FEST</u>	<u>FEST</u>	<u>WIM</u>	<u>TOTAL</u>
BEVERAGE SALES	800	1200	250	2000
APPLICATION FEES	1550	2000	5000	7000
MERCHANDISE SALES	1400	2000	0	2000
BOOTH SPACE SALES	23000	28000	0	28000
COMMISSIONS			3500	3500
TICKET SALES INVITATIONAL DINNER (50@\$100)			5000	5000
APP FEES PAINT OUT (\$15@50)			750	750
HOT FUNDS GRANT			20000	20000
TOTAL	26750	33200	34500	68250

EXPENSE	2016	2017	2017	
	<u>ARTS</u>	<u>ARTS</u>	<u>PAINT</u>	
<u>ITEM</u>	<u>FEST</u>	<u>FEST</u>	<u>WIM</u>	<u>TOTAL</u>
ADMIN/OTHER	600	600	300	900
APPLICATION SERVICE	1000	1000	1000	2000
AWARDS	0	0	12000	12000
ENTERTAINERS	1800	1800	500	2300
HOSPITALITY	400	500	4000	4500
INSURANCE	1250	1250	500	1750
JUROR FEES			750	750
MEDIA	9000	7600	8200	15800
OTHER PROMOTION	3000	3000	0	3000
PRINTING	2500	4000	1000	5000
RENTAL FACILITY	0	600	500	1100
RENTAL EQUIPMENT	6030	6000	0	6000
SECURITY	2185	2185	1500	3685
STAGE/SOUND	2220	2300	0	2300
WORKSHOPS	0	0	500	500
TOTAL EXPENSES	29985	30835	30750	61585
NET PROFIT/LOSS	-3235	2365	3750	6665

2017 Arts Fest & Paint Wimberley Promotion Plan

Market Segment	Sub market	Media	Insertion	Arts Fest	Wimberley	Total
Arts	Local	Canyon Lake Art Guild	Press release			
Arts	Local	WVACA website	Insertion			
Arts	Local	WVAL website	Insertion			
Wimberley	Local	Wim. Valley News & Views	1/2 page H, March issue	270.00	270.00	540.00
Wimberley	Local	Wim. Valley News & Views	Full page, April issue	170.00	170.00	340.00
Wimberley	Local	Wimberley Chamber of Commerce	Calendar listing			-
Wimberley	Local	Wimberley Valley News & Views	Feature article, event calendar			-
Wimberley	Local	Wimberley Valley Radio	Interview			-
Wimberley	Local	Wimberley View	3x10.5 V x 2	260.00	260.00	520.00
Wimberley	Local	Wimberley View	Inserts 2100	90.00	90.00	180.00
Wimberley	Local	Wimberley.org	Web banner, Feb, Mar, April	300.00	-	300.00
Wimberley	Local	WVACA Facebook page				-
Wimberley	Local	WVACA Newsletter				-
Wimberley	Local	WVACA Website				-
Wimberley	Local	WVAL Facebook page				-
Arts	National	Southwest Art	Press release and event calendar			-
Arts	National	Southwest Art Mag.	1/4 page, March issue	615.00	615.00	1,230.00
Arts	National	Western Art	1/4 page, Jan issue		600.00	600.00
Arts	National	Art of the West	1/4 page, Jan issue		600.00	600.00
Arts	National	Cowboys and Indians	1/4 page, Jan Issue		600.00	600.00
Arts	Texas	Austin Outdoor Painters	Press release			-
Arts	Texas	Fredericksburg Art Guild	Press release			-
Arts	Texas	Lone Star Art Guild	Press release			-
Arts	Texas	New Braunfels Art League	Press release			-
Arts	Texas	San Marcos Area Arts Council	Press release			-
Austin	Texas	Austin 360.com	Banner ad on line, 4/1 - 4/10; 4/10-4/20	520.00	520.00	1,040.00
Austin	Texas	Statesman.com Banner Ad	Banner ad on line, 4/1 - 4/10; 4/10-4/20	520.00	520.00	1,040.00
Austin	Texas	Austin American Statesman - Arts	Press release and feature	-		-
Austin	Texas	Austin American Statesmen, Austin360.com	Event calendar listing			-
Austin	Texas	Austin Chronicle Event Listings	Event calendar listing			-
Austin	Texas	Austin Eventful.com	Event calendar listing			-
Austin	Texas	Austin Social Planner	Event calendar listing			-
Austin	Texas	Do 512.com	Event calendar listing			-
Austin	Texas	Edible Austin	Event calendar listing			-
Austin	Texas	Event Brite	Event calendar listing			-
Austin	Texas	Haute ATX	full page ad, Spring issue	300.00	300.00	600.00
Austin	Texas	Impact News	Event calendar listing			-
Austin	Texas	KBTC TV 7 (Fox)				-
Austin	Texas	KENS TV 5 (CBS)				-
Austin	Texas	KUT-FM	PSA			-
Austin	Texas	KVUE TV 24 (ABC)	Possible TV interview?			-
Austin	Texas	KXAN TV 36 (NBC)				-
Austin	Texas	News 8 Austin (YNN)				-
Austin	Texas	Pulsr	Press release			-
Austin	Texas	We are Austin KEYE-TV	Event calendar listing			-
DFW	Texas	DallasVoice.com	Press release			-
DFW	Texas	DFW Events	Press release			-
DFW	Texas	DFW Listings	Press release			-
DFW	Texas	DFW.com	Press release			-
DFW	Texas	DFW-CBS Local Events	Press release			-
DFW	Texas	Fort Worth Weekly	Press release			-
DFW	Texas	My Fox DFW	Press release			-
General	Texas	Facebook ads to selected demographics	Assorted postings	250.00	250.00	500.00
Houston	Texas	Bellaire Examiner	Event calendar listing			-
Houston	Texas	Chronicle - N Edition of Entertainment	1-4 page ad & online listing, 3/31, 4/7, 4/14	335.00	335.00	670.00

Houston	Texas	Chronicle - SW Edition of Entertainment	1-4 page ad & online listing, 3/31, 4/7, 4/14	335.00	335.00	670.00
Houston	Texas	Chronicle -NW Edition of Entertainment	1-4 page ad & online listing, 3/31, 4/7, 4/14	335.00	335.00	670.00
Houston	Texas	Houston Chronicle	Press release and event calendar	-	-	-
Houston	Texas	Houston Chronicle	Banner ad on line, 4/13 - 4/20	400.00	400.00	800.00
Houston	Texas	Houston Press	digital banner ad	175.00	175.00	350.00
Houston	Texas	Houston Press	2 promo newsletters, 4/6 and 4/13	150.00	150.00	300.00
Houston	Texas	Houston Press	(2) 1-4 page ad & online listing, 4/14 and 4/18	400.00	400.00	800.00
Houston	Texas	HoustonPress.com	Event calendar listing	-	-	-
Houston	Texas	Katy Rancher	Event calendar listing	-	-	-
Houston	Texas	Memorial Examiner	Event calendar listing	-	-	-
Houston	Texas	Sugarland Sun	Event calendar listing	-	-	-
Houston	Texas	West University Examiner	Event calendar listing	-	-	-
Houston	Texas	Woodlands Villager	Event calendar listing	-	-	-
Houston	Texas	YourHoustonNews.com	Event calendar listing	-	-	-
Regional	Texas	BastropAdvertiser	Press release and event calendar	-	-	-
Regional	Texas	Blanco County News	Press release and event calendar	-	-	-
Regional	Texas	Boerne Star	Press release and event calendar	-	-	-
Regional	Texas	Dripping Springs News Dispatch	Press release and event calendar	-	-	-
Regional	Texas	Dripping Springs News Dispatch	1/2 pg V, April 14, April 21	300.00	200.00	500.00
Regional	Texas	Dripping Springs Outlook	1/2 page H, March issue	-	-	-
Regional	Texas	Dripping Springs Outlook	Full page, April issue	-	-	-
Regional	Texas	Guidelive.com	Press release and event calendar	-	-	-
Regional	Texas	Hays County Echo	Press release and event calendar	-	-	-
Regional	Texas	Hays County Free Press	Press release and event calendar	-	-	-
Regional	Texas	Hays Free Press	1/4 pg V, April 15	200.00	100.00	300.00
Regional	Texas	Hill Country Portal	Press release and event calendar	-	-	-
Regional	Texas	Hill Country Visitor	Press release and event calendar	-	-	-
Regional	Texas	Horseshoe Bay Beacon	Press release and event calendar	-	-	-
Regional	Texas	Johnson City Record Courier	Press release and event calendar	-	-	-
Regional	Texas	KNBT-FM	PSA	-	-	-
Regional	Texas	Kyle-Buda Eagle	Press release and event calendar	-	-	-
Regional	Texas	New Braunfels Herald Zeitung	Press release and event calendar	-	-	-
Regional	Texas	New Braunfels Herald-Zeitung online	Press release and event calendar	-	-	-
Regional	Texas	San Marcos Daily Record	Press release and event calendar	-	-	-
Regional	Texas	Seguin Gazette	Press release and event calendar	-	-	-
Regional	Texas	The Llano News	Press release and event calendar	-	-	-
San Antonio	Texas	My SA.com	featured ad	90.00	90.00	180.00
San Antonio	Texas	San Antonio Current	1/2 page, 4/13	500.00	200.00	700.00
San Antonio	Texas	San Antonio Express News - My San Antonio	Press release and event calendar	-	-	-
San Antonio	Texas	San Antonio Express News Weekender	Press release and event calendar	-	-	-
San Antonio	Texas	SanAntonioMag.com	Press release and event calendar	-	-	-
Texas	Texas	AAA Texas Journey Current Events	Press release and event calendar	-	-	-
Texas	Texas	Texas Coop Power Magazine/online	Press release and event calendar	-	-	-
Tourist	Texas	Hill Country Current	Press release and event calendar	-	-	-
Tourist	Texas	Hill Country Current & Web	full page V, April issue	400.00	400.00	800.00
Tourist	Texas	Hill Country Sun	Press release and event calendar	-	-	-
Tourist	Texas	Hill Country Sun	1/2 page, April issue	300.00	300.00	600.00
Tourist	Texas	Southern Living Events Calendar	Press release and event calendar	-	-	-
Tourist	Texas	Texas Hill Country Magazine	Press release and event calendar	-	-	-
Tourist	Texas	Texas Monthly	Press release and event calendar	-	-	-
Tourist	Texas	Texas Tripper.com	Press release and event calendar	-	-	-
Tourist	Texas	Tour Texas	Press release and event calendar	-	-	-
Tourist	Texas	Tour Texas/AJR Media	Web Ad, 3/1-31	425.00	-	425.00
Tourist	Texas	VisitWimberley.com		-	-	-
Tourist	Texas	Wimberley View	Press release and event calendar	-	-	-
Total Advertising				7,640.00	8,215.00	15,855.00
Printing		T-shirts		2,574.00		2,574.00

Printing	Posters		50.00	25.00	75.00
Printing	Large Posters --10		27.65	-	27.65
		Republic Printing; 3900 for handout, 2100 for insert in Wimberley View			
Printing	Programs -4000 & 3000		1,000.00	450.00	1,450.00
Printing	Outdoor banners (6)		100.00	100.00	200.00
Printing	Rack Cards, 500 cards		125.00	125.00	250.00
Printing	Tickets, Stamps		127.00	50.00	177.00
Total Printing			4,003.65	750.00	4,753.65
Grand Total			11,643.65	8,965.00	20,608.65

Wimberley Valley Art League
Balance Sheet
 As of August 31, 2016

	Aug 31, 16
ASSETS	
Current Assets	
Checking/Savings	
Arts Fest Restricted Funds	5,230.41
Edward Jones	11,046.64
Ozona National Bank	18,159.53
Total Checking/Savings	34,436.58
Accounts Receivable	
Accounts Receivable	0.02
Total Accounts Receivable	0.02
Total Current Assets	34,436.60
Fixed Assets	
Accumulated Depreciation	-15,349.00
Arts Fest Pavilions	1,066.05
Fixed Assets	13,068.00
Gallery Fixed Assets	659.38
Total Fixed Assets	-555.57
Other Assets	
Demonstration Mirror	100.00
Display Panels	4,302.96
Street Banner	992.00
Total Other Assets	5,394.96
TOTAL ASSETS	39,275.99
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	5.29
Total Accounts Payable	5.29
Other Current Liabilities	
*Sales Tax Payable	845.14
Arts from the Heart Raffel	41.00
state sales tax collected	-2,474.38
Total Other Current Liabilities	-1,588.24
Total Current Liabilities	-1,582.95
Total Liabilities	-1,582.95
Equity	
Opening Bal Equity	18,925.49
Restricted Fund Arts Fest	10,377.02
Retained Earnings	12,692.63
Net Income	-1,136.20
Total Equity	40,858.94
TOTAL LIABILITIES & EQUITY	39,275.99

HOT COMMITTEE RECOMMENDATION

Proposal Name: Hill Country Writing Symposium

Date Evaluated: Oct 25, 2016

HOT COMMITTEE RECOMMENDS: PARTIAL FUNDING

Proposal Summary:

- | | |
|---------------------------------------------|---------------|
| a) Total Project Proposal Cost | \$10,000 |
| b) HOT funds requested | \$7,500 |
| c) Equity Required (30%) verifiable | |
| d) Anticipated Overnight Lodging - (x\$130) | 50-75 persons |
| e) Anticipated Community Impact | |
| f) Primary ROI (f/b) | |
| g) Secondary ROI (g/b) | |

Committee Votes: Fund: 6 Don't Fund: 1

Committee Notes: The committee recommended partial funding for this proposal.

Recommendation to Proposal Submitter: The committee advises that advertising for this event must be geared toward 50+ miles from Wimberley to qualify for HOT funds and hope to see this event grow in the future.



DEAR TEXAS

Drop Everything And Read Texas

1712 E Riverside Dr., Ste. 56, Austin, TX 78741 – 512 299 4810

September 29, 2016

City of Wimberley
Community Outreach Program
PO Box 2027
Wimberley TX 78676

RE: Hotel & Occupancy Tax Assistance Program

Dear City of Wimberley:

Enclosed you will find our formal application for community program support through your HOT program. While this is a first-time event, we have done another event in Wimberley on June 11, 2017, that did bring in an estimated \$15,000 to your local economy. That was a one-day event, and we anticipate tripling that amount for this three-day event.

Technically, since this is a first-time event of this type that we have produced on behalf of Texas Authors Institute of History, there is no previous years information to support our program and our request. We hope you will take into consideration our previous event, the Wimberley Book Festival and the fact that we are doing it again on June 10, 2017. The majority of the tablespace has already been sold out, and the remaining few table spaces will be gone way before the event happens.

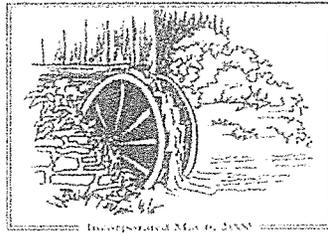
If you should need any additional information, please do not hesitate to contact me directly, or our board member Madonna Kimball who is a resident of your fine city.

We thank you for taking this under consideration and look forward to producing a worthwhile event with your cooperation.

Sincerely yours,



B. Alan Bourgeois
Director/Author/Founder



Application for City of Wimberley HOT Funds

Instructions: Type or print clearly. If not enough space is provided please attach additional pages.

Organization/Group/Facility Information

Organization/Group/Facility Name: Dear Texas, Inc.

Address: 1712 E Riverside Dr 56

City: Austin State: TX Zip: 78741

Contact Name: B Alan Bourgeois, Director & Madonna Kimball, Board Member Contact Phone: 512-210-0568

Contact Email: info@DearTexas.info

Website Address for Event or Organization: http://Writing.TexasAuthors.Institute

Non-Profit or For-Profit Status: Non-Profit

Federal Employer Identification Number (FEIN) (if available) 47-1149389

Purpose/Mission of Organization: _____

Drop Everything And Read (DEAR) Texas is designed to encourage ALL agest to read and with our partnership with other organizations, to help write more as well.

We work hard to bring a diverse group of authors to communities to ensure a greater interest in books, while also helping to support the back bone of the Texas economy.

General Event/Program Information

Name of event/program to be funded: Hill Country Writing Symposium

Primary location of event/program: Wimberley Village Library

Date of event/program: March 16-18, 2017 Expected attendance: 50-100

How many times have you held this event/program? First time for this event, but second event in Wimberley

If the funding requested is for a permanent facility rather than a specific event (e.g. museum, visitor center, convention facility), please complete this section:

Anticipated number of visitors/attendance monthly/annually: 50-100 Annually

Number of those visitors/attendance who are staying in Wimberley lodging: 50-75

For each of the last three times the event/program has been held, list the year held, the number of attendees and the method of determining attendance (crowd estimates, ticket sales, sign-in sheet, etc.)

Year Held	Number of Attendees	Methodology
_____	_____	_____
_____	_____	_____
_____	_____	_____

Identify the HOT category for which the event/program will benefit (refer to Page 1): _____

What is the primary purpose of the event/program for which this application applies? _____

To encourage writing of various forms, help educate the process of book publishing and to present authors books to the community.

Funding Request

Total Event/Program Budget: \$ 10,000.00 Total Amount Requested: \$ 7,500.00

Percentage of total event or program cost to be covered by the requested HOT funds: 75 %

How will the funds be used? _____

Advertising is the major expense, with hotel and food costs being the second and third highest expense. There are extra costs involved for speakers fees, programs, and other production costs.

Advertising and Promotional Activities

Please indicate all the promotional efforts your organization is coordinating:

X Newspaper X Radio _____ TV
 X Internet X Social Media X Email
_____ Other

Will you submit press releases about the event/program? X Yes _____ No

If so, list the number of releases plus targeted media outlets. _____

PRs will be distributed at least 12 times from December through March to the Central Texas market.

What geographic area does your advertising and promotion reach? _____

Advertising will be Austin and central Texas, while other promotional campaigns will be across Texas.

Projected Promotions and Tourism Benefits

Over the last three times your event/program was held, how much HOT fund assistance did your organization receive and how many hotel rooms were occupied as a result?

Month/Year	Assistance Amount	Number of Occupied Rooms
n/a		

How many people attending this event/program are expected to stay in Wimberley hotels? 50-75

How many nights will they stay? 2-3

What is the estimated Primary ROI for this event/program? hotel rentals

What is the estimated Secondary ROI for this event/program? Food and Shopping expenses

How will you measure the impact of this event on Wimberley hotel activity? _____

Each event we have produced always has a financial survey attached to help us determine money spent during the event in the community in which it was held. For our June 11th one day, Book Festival, we estimated that a total of \$15,000 was spent on hotel, food, shopping.

Please list other organizations, government entities and grants that have offered financial support to your
event/program. None at this time

REQUIRED Supplemental Information and Documentation

Please attach the following to the application prior to submission:

- Proposed marketing plan for the event/program for which funds are being requested.
- Schedule of activities relating to the event/program.
- Current budget for the event/program.
- Documentation demonstrating the potential to generate overnight guests such as historical information or surveys on the number of hotel rooms resulted from previous years of the same event/program.
- Source and verification of the 30 percent of funding you are contributing toward the event/program.

Please sign and initial where indicated below acknowledging that the information provided in this application is true and correct. By signing below, you also agree that you and your organization will be held responsible for compliance with all HOT funding guidelines, requirements and remedies. I fully understand the HOT funding application process, rules governing the application and the process established by the city council. I intend to use this grant for the aforementioned event to forward the efforts of the City of Wimberley in directly enhancing and promoting tourism and the hotel industry by attracting visitors from outside Wimberley into the city.

_____ Initial

I have read the HOT Funding Application process including the rules governing the application and the reimbursement process.

_____ Initial

I understand that if I am awarded HOT funding by the city, any deviation from the approved project or from the rules governing the application may result in the partial or total withdrawal of HOT grant funds.

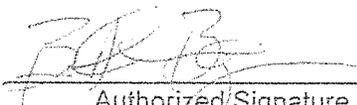
_____ Initial

I understand that all the records that relate to the use of HOT funds shall be kept by _____ (Organization), subject to Chapter 351 of the Texas Tax Code as amended and Chapter 552 of the Texas Government Code as amended. Records of _____ (Organization) concerning HOT funds are public and the city shall, upon written request, have the right to inspect and or obtain all books and records pertaining to the fulfillment of this Agreement.

_____ Initial

I understand that the city may terminate this Agreement by giving the other party notice in writing of such termination sixty days in advance. Any municipal hotel occupancy tax proceeds, not used, shall revert to the city upon the termination of this Agreement.

_____ Initial



Authorized Signature
B Alan Bourgeois

Sept. 29, 2016
Date

Print Name
Dear Texas, Inc.

Title and Organization

Applications may be submitted by mail, email or in person to:

City of Wimberley
P.O. Box 2027
Wimberley, Texas 78676

Email: dferguson@cityofwimberley.com

HONOREES

2016 Honorees

Laura Bush

Billy Dawson

Texas Book Festival

Hill Country Writing Symposium

🕒 Published: Saturday, 27 August 2016 13:10

✍️ Written by Super User



Welcome to the Hill Country Writing Symposium

March 16 - 18, 2017

Wimberley Village Library

400 FM 2325 - Wimberley Texas 78676

Special Opportunity: The first 25 people who register for the Hill Country Writing Symposium literary agent Johnnie Bernhard who works for Loiacono Literary Agency, www.LLALLC.com

Thursday, March 16, 2017 - Meet & Great Reception

More information on location to follow.

Friday, March 17, 2017 - Sessions

9:30 AM Five Forms to Use to Awaken the Poet in You

10:30 AM Writing for Non-Fiction

1 PM How Many Ways Can You Say ____?

2 PM Writing for Young Audiences

2:30 PM The Economy of Words

3 PM Journaling

4 PM Write Like a Comedian and Tell An Awesome Story!

Saturday, March 18, 2017 - Sessions 10 AM to Noon

9 AM Writing for Different Media

9:30 AM Developmental Editing and Content Editing

10 AM Beyond The Pen – What To Do After Your Book Is Published

11 AM IRS: Record Keeping 101

Saturday, March 18, 2017 - Book Fair in Library 1 PM to 4 PM

Attendee Fees - Discount Purchase before December 1, 2016 and save over 40%

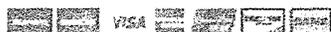
Advance Purchase - \$65.00

Regular Purchase \$125 All Inclusive -- Save \$45

10 Sessions plus Cocktail Reception

Plus 1 Free book from a presenter of their choice.

(hotel, food, misc at attendee's own expense)



Or \$15 per session. No extras included

Selection of Which Sessions to Enjoy

Awaken the Poet



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 IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 06-19-2014

Employer Identification Number:
47-1149389

Form: SS-4

Number of this notice: CP 575 E

DEAR TEXAS INC
DEAR TEXAS
1712 E RIVERSIDE DR
AUSTIN, TX 78741

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 47-1149389. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it's very important that you use your EIN along with your complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information shown above isn't correct, please send us the correction using the attached tear-off stub.

Annual filing requirements

Most organizations with an EIN have an annual filing requirement, even if they engage in minimal or no activity.

A. If you are tax exempt, you may be required to file one of the following returns or notices:

Form 990, Return of Organization Exempt From Income Tax
Form 990-EZ, Short Form Return of Organization Exempt From Income Tax
Form 990-PF, Return of Private Foundation
Form 990-N, e-Postcard (available online only)

Additionally, you may be required to file your annual return electronically.

If an organization required to file a Form 990, Form 990-PF, Form 990-EZ, or Form 990-N does not do so for three consecutive years, its tax-exempt status is automatically revoked as of the due date of the third return or notice.

Please refer to www.irs.gov/990filing for the most current information on your filing requirements.

B. If you are not tax-exempt, you may be required to file one of the following returns:

Form 1120, U.S. Corporation Income Tax Return
Form 1041, U.S. Income Tax Return for Estates and Trusts
Form 1065, U.S. Return of Partnership Income

Please refer to Publication 1635, Understanding Your EIN, for more information about which forms you may be required to file.