

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 25, 2016 at 6:00 p.m.

City Council and Planning and Zoning Commission Joint Special Meeting called to order at 6:01 p.m. by Mayor Pro-tem John White.

Council Members Present: Councilmembers Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld, and John White. Mayor Mac McCullough arrived at 6:11 p.m. and assumed duties of Presiding Officer at that time.

Planning & Zoning Commission Members Present: Chair John Urban, Commissioners Austin Weeks, Natalie Meeks, Charles Savino, Rebecca McCullough, Gail Pigg and John Espinoza.

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 reservation agents.

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 on various lot sizes
- 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 noted 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 included 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"

City Administrator Ferguson reviewed the schedule for upcoming City Council/Planning and Zoning Commission meetings.

3. Public Hearing

Hold a public hearing to gather input relating to the operation of short-term rental facilities from reservation agents for short-term rental properties.

Mayor McCullough advised that Councilmember Barchfeld will act as moderator for tonight's speakers.

Councilmember Barchfeld outlined procedures for speakers, noted the Council/Commission's role to help improve the short-term rental process, stated the type of input needed from reservation agents, and opened the public hearing.

Robbie Walker of Hills of Texas Lodging felt that some comments made at previous meetings need to be debunked. As a case in point, Mr. Walker spoke of personal research for a specific property indicating the road was used only 52 days per year and questioned who uses the road more – the guests or the permanent residents. He asked how much tourism Wimberley wants and said many towns would love to have Wimberley's synergy. Mr. Walker questioned the number of complaints and offered to provide copies of records obtained from an open records request to Hays County Sheriff's Office for all calls in Wimberley during 2015-16. He disputed assertions that calls were made to the Sheriff's Office regarding certain properties. Mr. Walker said the community has worked nicely together "until HOT came," but was not here to talk about the HOT (Hotel Occupancy Tax). He spoke of anxiety caused by the yellow signs placed in yards notifying of a pending zoning action. He cited statistics indicating that 5.4% of the homes in Wimberley are vacation rentals, with most cities typically at about 10 percent (10%). Mr. Walker said people and families come to Wimberley to enjoy Wimberley, not to stay in a hotel. He noted comments made about "boarding houses"; "terrible people"; and "undesirable people." He cited a survey of guests that showed most respondents were professional people who spend between \$600-\$1,200 on goods and services during their visits. Mr. Walker said those who are interested in buying short-term rentals here are watching Wimberley and some are going to buy elsewhere due to uncertainty. He spoke of his agency's minimum age requirements (no guests under age 25), restrictive rental agreements, and consequences for violating rental agreements. He said his agency's phone is answered 24 hours a day/7 days a week and said calls are rarely received, but if so, are responded to immediately. Mr. Walker recommended that whatever additional regulations the City might consider, the City needs to make sure they are legal. He said people need to think about the fact that renters are there only for a few days. He said his agency cannot do anything about complaints, if people do not call the agent, law enforcement, or the City. He noted that it is harder to make long-term renters leave, in the event of problems. In general, Mr. Walker felt there are enough short-term rental rules and regulations, but they need to be used. In response to Councilmember Barchfeld, Mr. Walker stated his agency leases about 14-15 homes within city limits. Discussion among Mr. Walker, Council, and audience members included agency rules, agency contact information (for complaints), and provision of his agency's phone number to neighbors.

Terrie Bursiel of All Wimberley Lodging said "ditto" to everything Mr. Walker said, but was disappointed "that we are to the point that we are with this." She said there has only been one reported problem (from Charles Lancaster) in her 30 years in lodging, and the complaint was taken care of immediately. She stated a lot of things said by people are "a little over the top" and

some may be true, but there are rules and regulations people must follow. Mrs. Bursiel felt that some of the previous suggestions for regulatory changes are “way over the top” of where we need to be. She said people who have good investment properties are leaving town, which she stated will continue to happen unless we control what we have. She felt “we are in good shape,” was disappointed about the need for these meetings, and said it would be wrong to put more regulations in place. Mrs. Bursiel advised she would provide Council with her agency’s list of rules and stated her agency generally requires renters to be at least 25 years old, with some specific examples of exceptions provided.

Pam Mitchell, manager of Montesino Ranch, said she has personally dealt with over 3,000 overnight guests. She stated there have been over 9,000 wedding guests in the last five years and during that time there have been “zero” problems with guests. However, Ms. Mitchell said she has had problems with the grandson of a permanent resident on Flite Acres who drives his Jeep onto Montesino’s property to swim at the Blanco River. She also cited problems with six teenagers who came from the Little Ranches duplexes (permanent rental residents) and another party from San Marcos who was asked to leave. Regarding adding restrictions, Ms. Mitchell felt we need to get back to small-town attitudes and shake our neighbors’ hands, talk to them, and pass out phone numbers in the event of complaints. She said she might want a hedge or fence if she was a neighbor and would not want noise or bright lights. Ms. Mitchell questioned why we are spending time fixing something that does not need to be fixed. She said a lot of permanent residents on Flite Acres have overflowing trash cans. Ms. Mitchell felt the City is listening to who cries the loudest and she favored neighbors working out differences together amongst themselves.

Scott Teuton of Skyrun Vacation Rentals appreciated the opportunity to speak and was empathetic to both vacation rental owners and surrounding neighbors. He said vacation rental owners have invested heavily in their homes, rely on the income they provide, and many see their Wimberley properties as allowing them the means to come and enjoy the town for themselves. He could relate to neighbors who want to live in peaceful, well-kept residential communities. Mr. Teuton referenced previous meetings and said “we can be sure of a few things – vacation rentals are economically beneficial to the City of Wimberley and many local businesses.” In addition to the Hotel Occupancy Tax, Mr. Teuton noted that guests spend money at local shops and restaurants, continuing to support the community and families who rely on the businesses driven by tourism. He said supporting services businesses such as HVAC techs, plumbers, and construction companies benefit from rentals. He listed neighbors’ concerns and stated they are worth consideration, but felt none are especially unique to vacation rental homes. Mr. Teuton said that although there has been an increased fear of vacation rentals destroying the fabric of the community, Wimberley seems stronger and more appealing to guests than ever. He also reminded that vacation rentals are nothing new to Wimberley. He said short-term rental homes demand a high level of attention and excellence in order to be successful, as compared to annual leases where many aspects of the property upkeep such as lawn maintenance and trash pick-up is the tenant’s full responsibility after the lease is signed. Mr. Teuton stated Wimberley’s current CUP conditions (such as maximum occupancy, parking, trash, etc.) already benefit neighbors by helping to regulate rental activity, and such regulations are not in place for a standard lease of over 30 days. Although recognizing the City does not enforce deed restrictions, he noted that many of the City’s CUP conditions go beyond deed restrictions. Mr. Teuton suggested that Planning and Zoning/City Council only consider specific categories of feedback

(those types of complaints that are not unique to short-term rentals) from neighbors to be used as grounds for denial of a CUP, especially given data indicating that 75% of existing short-term rentals are on 1-acre (or greater) sized lots. He recommended that the permit application be revised to clearly indicate that neighboring property owners' feedback plays a deciding role in the approval or denial of a permit. He also recommended that the focus be on neighbors within 200 feet of the subject property when addressing questions and concerns, and noted previous instances when neighbors beyond 200-foot mark have swayed votes one way or the other. He recommended establishing an easily accessible and publicly shared database of vacation rentals and 24-hour contact numbers for the associated management company. Mr. Teuton suggested that complaints to the City can be noted and management notified in order to address the complaint directly and make sure the resident has the publicly documented on-call phone number. He said that contrary to many opinions expressed, vacation rental managers in Wimberley want to address concerns as quickly as possible, in order to protect property values and relationships. He said no one wants unruly guests at homes they own or manage. Mr. Teuton felt that the rental should be judged by the responsiveness of the management company/property owner, and not the occasional complaint. He suggested that in addition to the current 200-foot notification letter regarding pending CUPs, a follow-up letter could be sent after CUP approval, which would include management contact information. He recommended consideration of a second path for permitting of vacation rental properties that have been in operation for one year or more, as it is easier for the City to check on complaints and review a property's track record. He said if a property is proven to be managed effectively and in harmony with the neighborhood it should be allowed to proceed. Mr. Teuton recognized the difficulties faced in resolving short-term rental issues and expressed appreciation for the hard work of the Council and Commission.

Woodcreek Property Owners Association (WPOA) President Dottie Sweeton was present to speak, but was informed by Councilmember Barchfeld that this meeting is for reservation agents.

Short-term rental owner Henry Ault questioned why every business is not required to obtain a CUP. He said he manages his own rentals and spoke of problems with one of his neighbors, which he named as the "City of Wimberley." He stated the City will not fix roads, runs a business ("the Blue Hole") without a CUP, and puts someone in middle of the road telling him "to go back" when he is trying to go home (referring to times that Blue Hole Park is closed when over capacity). He noted his other neighbors ("the graveyard") are quiet, but did speak of a funeral blocking the road. He felt there are people who cannot get along and asked if people want to shut everything down. He said everyone should have to get a CUP and suggested raising the CUP fee as a way to "cut it down a lot." Mr. Ault said he has rules for his rentals and there is a system called "911" for people to deal with problems. He felt too much is being made of this issue and said if you have problems, call "911."

No further public comments were heard. Commissioner Pigg questioned Councilmember Barchfeld on his decision not to allow Ms. Sweeton to speak earlier, and Councilmember Barchfeld explained that this meeting's agenda is specifically for reservation/leasing agents. City Administrator Ferguson advised Ms. Sweeton that written comments may be submitted for consideration and will be forwarded to Council and Commission members.

Discussion included: possible signage for vacation rentals; associated concerns that such signage
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may signal the property is vacant at times; and discreet signage that does not identify the property as a vacation rental, but makes it easier to find.

Councilmember Barchfeld thanked everyone for attending tonight's meeting and Mayor McCullough also thanked Council and Commission members.

Adjournment: Joint City Council/Planning & Zoning Commission joint meeting adjourned at 7:05 p.m.

Recorded by:


Cara McPartland

These minutes approved on the 17th of November, 2016.

APPROVED:



Mac McCullough, Mayor

