

# City of Wimberley

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

**REGULAR CITY COUNCIL MEETING**  
**WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS**  
**221 STILLWATER, WIMBERLEY, TEXAS**  
**THURSDAY, FEBRUARY 1, 2018 – 6:00 P.M.**

## **AGENDA**

1. **CALL TO ORDER**      February 1, 2018 at 6:00 p.m.
2. **CALL OF ROLL**      City Secretary
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**
5. **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. Comments from speakers should not be directed towards any specific member of City Council or City staff. Comments should not be accusatory, derogatory or threatening in nature.*

## 6. **PROCLAMATION**

Proclamation of the City of Wimberley, Texas proclaiming February 2018 as dating violence awareness and prevention month.

## 7. **EXECUTIVE SESSION**

*In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council may convene in a closed session. After the Executive Session, discussion on any of the following items, any final action or vote taken will be in public.*

- A. Executive Session pursuant Section 551.071 of the Texas Government Code for Consultation with Attorney to receive legal advice regarding Open Records Requests. *(Mayor Mac McCullough)*

- B. Executive Session pursuant Section 551.071 of the Texas Government Code for Consultation with Attorney to receive legal advice about litigation in Case No. 16-2419; *Risoli v. City of Wimberley and Wimberley Board of Adjustment*; 207<sup>th</sup> District Court, Hays County, Texas.
- C. Executive Session pursuant Section 551.071 of the Texas Government Code for Consultation with Attorney to receive legal advice about litigation in Case No. 13-0895-C; *Creekhaven, LLC, and William D. Appleman v. City of Wimberley Board of Adjustment*.
- D. Executive Session pursuant Section 551.074 of the Texas Government Code for Personnel Matters regarding the hiring of a City Attorney. (*Interim City Administrator Paul Parker*)
- E. Executive Session pursuant to Section 551.071 of the Texas Government Code for consultation with attorney to receive legal advice regarding reimbursement to Mayor Mac McCullough for legal expenses incurred during the ethics hearing/case.
- F. Discussion and possible action regarding items discussed in Executive Session.

**8. CITY ADMINISTRATOR EMPLOYMENT CONTRACT**

Consider approval of City Administrator Employment Contract with Shawn Cox.

**9. CONSENT AGENDA**

*The following item/s 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 from the Special Called City Council Meeting held January 18, 2018.
- B. Approval of minutes from the Regular City Council Meeting held January 18, 2018.

**10. PARKS DIRECTOR REPORT**

- A. Implementation of a "Congratulations Graduating Seniors Day" at Blue Hole Regional Park swimming hole (*Parks Director Rebecca Manning*)
- B. Extension of the Blue Hole swim season to include weekends (Saturdays and Sundays) in September (*Parks Director Rebecca Manning*)

## **11. PUBLIC HEARING AND POSSIBLE ACTION**

Hold a public hearing and consider approval of the first reading of an ordinance amending Title XV (Land Usage), Chapter 155 (Zoning), Section 155.091 (City Center Overlay) of the City of Wimberley Code of Ordinances; and providing for the following: delineation on zoning map; findings of fact; a savings clause; a repealing clause; severability; effective date and proper notice and meeting. *(Council member Allison Davis)*

## **12. HOTEL OCCUPANCY TAX**

- A. Consider approval of Ordinance No. 2018-02 to increase the tax rate to be imposed on hotel occupancy within the corporate limits and the extraterritorial jurisdiction of the City from zero percent (0%) to five percent (5%), effective April 1, 2018. *(Interim City Administrator Paul Parker)*
- B. Discuss and consider possible action regarding the Visitor Center Operations Agreement between the City of Wimberley and the Wimberley Convention and Visitors Bureau Foundation. *(Place One Councilmember Steve Thurber)*
- C. Consideration and action regarding Resolution No. 05-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 6) providing for the transfer of funds in the Hotel Occupancy Tax Unobligated Fund Balance to the Hotel Occupancy Tax Operation Fund. *(Interim City Administrator Paul Parker)*
- D. Consideration and action regarding Resolution No. 06-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 7) providing for an increase of revenue in the Hotel Occupancy Tax Fund and to increase expenses in the Hotel Occupancy Tax Fund. *(Interim City Administrator Paul Parker)*

## **13. CITY COUNCIL REPORTS**

- A. Announcements
- B. Future agenda items

## **14. 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 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

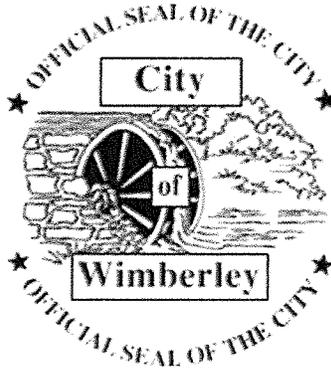
of the Texas Government Code; discussion of economic development pursuant to Chapter 551.087 of the Texas Government Code; action, if any, will be taken in open session.

**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on Monday, January 29, 2018, by 5:00 p.m.

Laura J. Calcote  
Laura J. Calcote, City Secretary

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Laura Calcote, City Secretary, 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.



# PROCLAMATION

WHEREAS,

All young people deserve to be treated with respect; and,

WHEREAS,

Respectful, supportive and non-violent relationships are key to safety, health and academic success; and

WHEREAS,

Dating abuse is a significant health issue; where one in three adolescents is a victim of physical, sexual, emotional, or verbal abuse from a dating partner ; and

WHEREAS,

Victimization increases teens' and young adults' risk for injury, substance abuse, eating disorders, unwanted pregnancy, and suicide, and young people exposed to violence are at greater risk for becoming victims and perpetrators in adult relationships;

WHEREAS,

HCWC provided 258 dating violence prevention and healthy relationships presentations to 7,654 teens and young adults in 2017;

WHEREAS,

Family, friends, teachers, coaches, healthcare providers, clergy, artists, musicians, and other important people in young peoples' lives have the power to influence youth in positive ways;

We urge citizens to join HCWC in promoting healthy dating relationships and call upon youth and adults to observe National Dating Violence Awareness and Prevention Month with activities and conversations about respectful and non-violent relationships in their homes, schools and communities.

NOW, THEREFORE, I, Hershel P. "Mac" McCullough, by virtue of the authority vested in me as Mayor of Wimberley, Texas do hereby proclaim the month of February 2018 as Dating Violence Awareness and Prevention Month for teens and young adults.

And do hereby call upon the citizens of Wimberley to work together to raise awareness and prevent dating violence in our community and beyond.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of Wimberley, Texas, this 1<sup>st</sup> day of February 2018.

# City Council Agenda Form



Date Submitted: January 30, 2018

Agenda Date Requested: February 1, 2018

Project/Proposal Title: CONSENT AGENDA

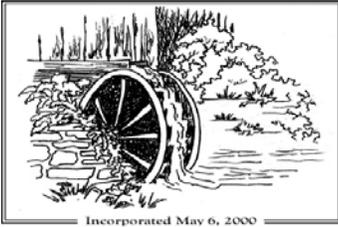
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Please see attached minutes from four City Council meetings:

- Special Called January 18, 2018 at 1:00 p.m.
- Regular January 18, 2018 at 6:00 p.m.



# City of Wimberley

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

**SPECIAL CITY COUNCIL MEETING**  
**WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS**  
**221 STILLWATER, WIMBERLEY, TEXAS**  
**THURSDAY, JANUARY 18, 2018 – 1:00 P.M.**

**MINUTES**

**CALL TO ORDER**

Mayor Pro Tem Steve Thurber called the meeting to order at 1:04 p.m.

**CALL OF ROLL**

Councilmembers Present: Mac McCullough Mayor  
Steve Thurber Place One  
Craig Fore Place Two  
Allison Davis Place Three (*arrived at 1:07 p.m.*)  
Gary Barchfeld Place Four  
Roberta Holland Place Five

**EXECUTIVE SESSION**

City Council adjourned into Executive Session at 1:04 p.m. in accordance with Texas Government Code, Chapter 551, Subchapter D for the following purpose: Section 551.074 of the Texas Government Code (Personnel Matters) to conduct interviews of applicants for the City Administrator position.

Regular Session reconvened at 5:11 p.m.

**DISCUSSION AND POSSIBLE ACTION**

**Motion to authorize the City Administrator to proceed forward with discussions in Executive Session was made by Councilmember Steve Thurber. Motion was seconded by Councilmember Craig Fore. Motion carried unanimously (5-0).**

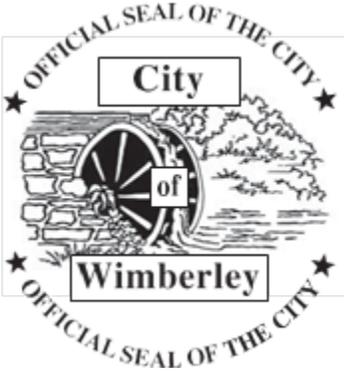
**ADJOURNMENT**

Mayor Pro Tem Steve Thurber adjourned the meeting at 5:11 p.m., without objection.

**RECORDED BY:**

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**Laura J. Calcote, City Secretary**



**APPROVED BY:**

\_\_\_\_\_  
**Herschel P. "Mac" McCullough,  
Mayor**

DRAFT



# City of Wimberley

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

**REGULAR CITY COUNCIL MEETING**  
**WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS**  
**221 STILLWATER, WIMBERLEY, TEXAS**  
**THURSDAY, JANUARY 18, 2018- 6:00 P.M.**

**MINUTES**

**CALL TO ORDER**

Mayor Pro Tem Steve Thurber called the meeting to order at 6:00 p.m.

**CALL OF ROLL**

Council members Present: Mac McCullough Mayor  
Steve Thurber Place One  
Craig Fore Place Two  
Allison Davis Place Three  
Gary Barchfeld Place Four  
Roberta Holland Place Five

**INVOCATION**

Wimberley First Baptist Church Pastor Scott Weatherford led the invocation.

**PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**

Mayor Mac McCullough led the pledges to the United States and Texas flags.

**CITIZENS COMMUNICATIONS**

Steve Thurber commented on the new Council Chamber configuration, and thanked all who contributed to reorganizing the room, including fellow Council member Craig Fore and City staff.

Sara Dishman spoke to Council regarding two issues: potholes on City streets and the upcoming Wimberley Square sewer system impact on elderly citizens. Ms. Dishman voiced concern on the safety issues presented by the numerous potholes on City streets and roads. Additionally, Ms. Dishman noted information is not being adequately disseminated regarding the Wimberley Square Wastewater Project. She stated the citizenry who do not use social media are not aware or have limited knowledge of the impact/s the project may have on them.

**EXECUTIVE SESSION**

City Council adjourned into Executive Session at 6:14 p.m. in accordance with Texas Government Code, Chapter 551, Subchapter D for the following purposes:

- A. Section 551.071 of the Texas Government Code for Consultation with

- Attorney to receive legal advice about litigation in Case No. 16-2419; Risoli v. City of Wimberley and Wimberley Board of Adjustment; 207<sup>th</sup> District Court, Hays County, Texas.
- B. Section 551.071 of the Texas Government Code for Consultation with Attorney to receive legal advice about litigation in Case No. 13-0895-C; Creekhaven, LLC, and William D. Appleman v. City of Wimberley Board of Adjustment.
- C. Section 551.074 of the Texas Government Code for Personnel Matters regarding the hiring of a City Attorney. (*Interim City Administrator Paul Parker*)
- D. Section 551.071 of the Texas Government Code for consultation with attorney to receive legal advice regarding reimbursement to Mayor Mac McCullough for legal expenses incurred during the ethics hearing/case.

Mayor Mac McCullough left Executive Session at 7:00 p.m.

Regular Session reconvened at 7:15 p.m.

No action was taken.

### **CONSENT AGENDA**

**Motion to approve the consent agenda was made by Council member Steve Thurber. Motion was seconded by Council member Craig Fore. Motion carried unanimously (5-0).**

- A. Approval of minutes from the Special Called City Council Meeting held January 4, 2018.
- B. Approval of minutes from the Regular City Council Meeting held January 4, 2018.
- C. Approval of minutes from the Special Called City Council Meeting held January 10, 2018.
- D. Approval of minutes from the Special Called City Council Meeting held January 11, 2018.

### **PRESENTATION AND POSSIBLE ACTION**

Anne Gilford of the Wimberley Community Civic Club spoke regarding the upcoming 2018 Wimberley Wine Walk set for Thursday, April 5, 2018. It was anticipated the event will be well attended by the public this year. There would be numerous vendors and wineries participating.

**Motion to approve the plans for the 2018 Wimberley Wine Walk was made by Council member Steve Thurber. Motion was seconded by Council member Allison Davis. Motion carried unanimously (5-0).**

### **PUBLIC HEARINGS AND POSSIBLE ACTION**

- A. Hold a public hearing and consider possible action regarding case CUP-17-010, an application for a Conditional Use Permit to allow for the operation of a Vacation Rental on property zoned Commercial-Low Impact (C-1) for property located at

13510 Ranch Road 12, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. (*Sherry Macha, Applicant*)

Planning and Development Coordinator/GIS Analyst Sandy Floyd presented the CUP to allow for the operation of a two bedroom, two bathroom vacation rental. The Planning and Zoning Commission had unanimously recommended Council approval.

(*A public hearing was not held when this item was originally discussed.*

*Therefore, City Council had to backtrack during the meeting in order to hold the public hearing.*)

Mayor Mac McCullough opened the public hearing at 7:45 p.m.

There were no citizen comments.

Mayor Mac McCullough closed the public hearing at 7:45 p.m.

**Motion to approve was made by Council member Steve Thurber. Motion was seconded by Council member Craig Fore. Motion carried unanimously (5-0).**

- B. Hold a public hearing and consider possible action regarding case CUP-17-011, an application for a Conditional Use Permit to allow for the operation of a drive-in eating establishment on property zoned Commercial-High Impact (C-3) for property located at 14015 Ranch Road 12, Ste. 100, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. (*Tiffany Paul, Applicant*)

Ms. Floyd presented the CUP to allow for the establishment of a grab n' go business. The business would provide sandwiches, salads and smoothies on a carryout basis. The Planning and Zoning Commission had unanimously recommended Council approval.

Mayor Mac McCullough opened the public hearing at 7:27 p.m.

There were four citizen comments. First, Jeanne Ann Cope spoke regarding traffic and parking issues in the area where the business would be located. Next, Brooke Burnett spoke in support of the new business, and stated it would be another eatery option around the Wimberley Square. Third, Bex Hale offered her support for the business. Lastly, the business owners Tiffany Paul and Jeff Jacobson addressed Council regarding noted concerns on parking and traffic in the area, along with not having restroom facilities in the business. The owners stated the concept is to have lunch counter, where the public can quickly grab a bite to eat and be on their way.

Mayor Mac McCullough closed the public hearing at 7:44 p.m.

**Motion to approve was made by Council member Steve Thurber. Motion was seconded by Council member Allison Davis. Motion carried unanimously (5-0).**

- C. Hold a public hearing and consider approval of the second and final reading of an ordinance amending Title IX (General Regulations), Chapter 95 (On-Site Sewage Facilities Regulations), and Section 95.02 (Definitions) of the City of Wimberley

Code of Ordinances; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. (*Planning & Development Coordinator/GIS Analyst Sandy I. Floyd*)

This was the second reading of a proposed ordinance amending the City Code requirements for on-site sewage facility regulations.

Mayor Mac McCullough opened the public hearing at 7:46 p.m.

There were no citizen comments.

Mayor Mac McCullough closed the public hearing at 7:46 p.m.

**Motion to approve was made by Council member Steve Thurber. Motion was seconded by Council member Roberta Holland. Motion carried unanimously (5-0).**

## **RESOLUTIONS**

- A. Consideration and action regarding Resolution No. 03-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 4) providing for increased revenue in the General Fund Court Costs, Fees and Charges and to increase expenses in the Municipal Court Operation Funds. (*Interim City Administrator Paul Parker*)

Interim City Administrator Paul Parker updated Council regarding Municipal Court operations. The Court had not been active since mid-2017, and allowing for increased revenue in the budget would help the Court effectively and efficiently operate once more.

**Motion to approve Resolution No. 03-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 4) providing for increased revenue in the General Fund Court Costs, Fees and Charges and to increase expenses in the Municipal Court Operation Funds was made by Council member Steve Thurber. Motion was seconded by Council member Allison Davis. Motion carried unanimously (5-0).**

- B. Consideration and action regarding Resolution No. 04-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 5) providing for the transfer of funds in the General Fund Unobligated Fund Balance to the Administration Department. (*Interim City Administrator Paul Parker*)

Interim City Administrator Paul Parker presented Resolution No. 04-2018, which would allow for technology improvements in the City Council Chambers. The lowest quote for the improvements was greater than the funds that had been allocated for the project in the 2017/2018 Operating Budget.

**Motion to approve Resolution No. 04-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 5) providing for the transfer of funds in the General Fund Unobligated Fund Balance to the Administration Department was made by Council member Craig Fore. Motion was seconded by Council member Gary Barchfeld. Motion carried unanimously (5-0).**

Council member Steve Thurber recognized Boy Scouts Troop 127 of Wimberley. The young gentleman attended the Council meeting to earn badges for their Boy Scout program.

### **HOTEL OCCUPANCY TAX**

**Motion to table Hotel Occupancy Tax Items A-D was made by Council member Steve Thurber. Motion was seconded by Council member Roberta Holland. Motion carried unanimously (5-0).**

- A. Consider approval of Ordinance No. 2018-02 to increase the tax rate to be imposed on hotel occupancy within the corporate limits and the extraterritorial jurisdiction of the City from zero percent (0%) to five percent (5%), effective April 1, 2018. *(Interim City Administrator Paul Parker)*
- B. Discuss and consider possible action regarding the Visitor Center Operations Agreement between the City of Wimberley and the Wimberley Convention and Visitors Bureau Foundation. *(Place One Councilmember Steve Thurber)*
- C. Consideration and action regarding Resolution No. 05-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 6) providing for the transfer of funds in the Hotel Occupancy Tax Unobligated Fund Balance to the Hotel Occupancy Tax Operation Fund. *(Interim City Administrator Paul Parker)*
- D. Consideration and action regarding Resolution No. 06-2018 amending the 2017/2018 Operating Budget (Budget Amendment No. 7) providing for an increase of revenue in the Hotel Occupancy Tax Fund and to increase expenses in the Hotel Occupancy Tax Fund. *(Interim City Administrator Paul Parker)*

### **DISCUSSION AND POSSIBLE ACTION**

- A. Discuss and consider possible action regarding the City of Wimberley Investment Policy. *(Interim City Administrator Paul Parker)*  
Interim City Administrator Paul Parker presented the City of Wimberley Investment Policy and noted the City Council must adopted the Policy by state law on an annual basis.  
**Motion to approve the City of Wimberley Investment Policy was made by Council member Steve Thurber. Motion was seconded by Council member Craig Fore. Motion carried unanimously (5-0).**
- B. Discuss and consider possible action to approve the contract between the City of Wimberley and Jim Schoonover for project management services for the Central Wimberley Wastewater Project. *(Interim City Administrator Paul Parker)*  
Interim City Administrator Paul Parker spoke regarding the contract to hire Jim Schoonover for professional management services for the Central Wimberley Wastewater Project. The proposal for project management services had previously been discussed at a prior Council meeting. The presented contract had been reviewed by the City and Mr. Schoonover, who agreed to the terms.

Council member Craig Fore noted there was no limit for mileage reimbursement in the contract, which he would prefer. Mr. Parker responded that a mileage rate was provided instead of a mileage limit, in case other traveling expenses were incurred throughout the project.

**Motion to approve the contract between the City of Wimberley and Jim Schoonover for project management services for the Central Wimberley Wastewater Project was made by Council member Steve Thurber. Motion was seconded by Council member Roberta Holland. Motion carried unanimously (5-0).**

### **SEWER COLLECTION SYSTEM**

Edward Davis addressed Council and provided reports/results regarding Cypress Creek E. coli levels. Mr. Davis stated he believed the wastewater collection system would only solve ten percent of the problem regarding the E. coli levels. He suggested the Council consider alternate solutions for the problem and offered some suggestions.

- A. Discuss and consider possible action regarding alternate solutions to the City's existing Wastewater Collection System. (*Place Four Council member Gary Barchfeld*)

Council member Gary Barchfeld provided an overview and background information regarding the City's wastewater project. Mr. Barchfeld stated he had environmental and financial concerns when it came to the project. He noted the collection system plans were poorly drawn, and Council should consider rethinking the project. Mr. Barchfeld suggested alternate solutions should be explored before moving forward with the project.

- B. Discuss and consider possible action regarding options to save funds on the Sewer Treatment Plant bid. (*Place Two Council member Craig Fore*)

Council member Craig Fore also spoke on the wastewater project. Mr. Fore stated he would like the City to investigate downsizing the wastewater treatment plant from 75,000 to 50,000 gallons to save money. Mr. Fore also noted the plant would not reach capacity during its life expectancy at 75,000 gallons. Furthermore, Council member Fore said there would be significant cost savings if a pond was dug in Blue Hole Regional Park for wastewater collection, instead of having a plant. Council member Steve Thurber agreed cost savings could be explored, but the treatment plant had already been awarded to Black Castle. Council member Allison Davis added the City Administrator could explore options regarding the size of the plant. Council member Gary Barchfeld suggested the topic be brought back to the next regularly scheduled City Council meeting on February 1<sup>st</sup>.

- C. Discuss and consider possible action to award the Sewer Collection System Contract to Capital Excavation. (*Interim City Administrator Paul Parker*)

Interim City Administrator Paul Parker discussed the bidding process that occurred in April 2017 for the sewer collection system. Persons Service Company, LLC was the original low bidder for the project. However, after several months of negotiations between the company and the City, Persons withdrew

their bid for the project, leaving Capital Excavation as the next lowest bidder. After time had passed, Capital Excavation would not honor their original bid without a change order, due to increased prices in supplies, fuel and labor caused by Hurricane Harvey. There was discussion among Council members regarding the increased cost of the collection system portion of the wastewater project. Council member Gary Barchfeld noted he supported the sewer project, but the City needed to explore other ways to fund it. Council member Craig Fore also stated he was in favor of the project but wanted it to be affordable. Council member Allison Davis contended that delays in the project have cost the City money over time and supported awarding the contract to Capital Excavation to get the project moving.

**Motion to award the Sewer Collection System Contract to Capital Excavation was made by Council member Steve Thurber. Motion was seconded by Council member Roberta Holland. Motion carried as follows (3-2):**

<b>Steve Thurber</b>	<b>Aye</b>
<b>Allison Davis</b>	<b>Aye</b>
<b>Roberta Holland</b>	<b>Aye</b>
<b>Craig Fore</b>	<b>Nay</b>
<b>Gary Barchfeld</b>	<b>Nay</b>

- D. Discuss and consider possible action to amend the original contract with Capital Excavation to allow for the approval of Change Order No. 1. (*Interim City Administrator Paul Parker*)

Interim City Administrator Paul Parker advised that once the original contract with Capital Excavation was awarded in the previous motion, then the next step was to approve Change Order No. 1 for the increased cost of the contract. There was once again discussion among Council members on the cost of the project.

**Motion to amend the original contract with Capital Excavation to allow for the approval of Change Order No. 1 was made by Council member Steve Thurber. Motion was seconded by Council member Allison Davis. Motion carried as follows (3-2):**

<b>Steve Thurber</b>	<b>Aye</b>
<b>Allison Davis</b>	<b>Aye</b>
<b>Roberta Holland</b>	<b>Aye</b>
<b>Craig Fore</b>	<b>Nay</b>
<b>Gary Barchfeld</b>	<b>Nay</b>

### **CITY COUNCIL REPORTS**

- Announcements – There were no announcements.
- Future agenda items – Council member Steve Thurber announced the Special Called Council Meetings to be held Monday, January 22<sup>nd</sup>, and Wednesday, January 24<sup>th</sup>, at the Wimberley Community Center to discuss the Wastewater System.

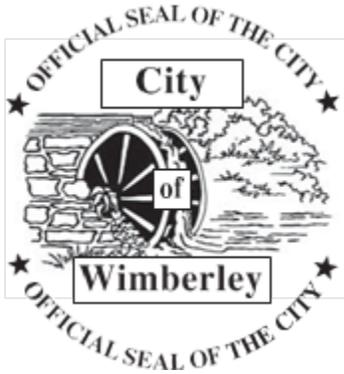
**ADJOURNMENT**

Mayor Mac McCullough adjourned the meeting at 8:35 p.m., without objection.

**RECORDED BY:**

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**Laura J. Calcote, City Secretary**



**APPROVED BY:**

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**Herschel P. "Mac" McCullough,  
Mayor**

DRAFT

# City Council Agenda Form



Date Submitted: January 23, 2018

Agenda Date Requested: February 1, 2018

**Project/Proposal Title:**

"Congratulations Graduating Seniors Day" at Blue Hole Regional Park swimming hole – Parks  
Director Rebecca Manning

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

The park staff at Blue Hole and Wimberley parks board are constantly looking for opportunities to better connect with our Wimberley community. We have implemented things like Wimberley Nights in the swim season, lower rates in the summer two days a week, holiday events such as Blue Christmas and Boo! Hole, Movies in the Park, Concerts in the Park, and our day camps in summer months to help out working parents.

Now, we are looking to offer an additional amenity to the Wimberley community for the graduating seniors. Seniors currently have a week or so off after classes end and their graduation ceremony. We would like to offer a four-hour time period that week (from 12:00 pm – 4:00 pm) on one day to all graduating senior in Wimberley: WISD, KAPS, and home school. This totals around 200 students, which stays below our recommended capacity. This will fall on a weekday before our swim season begins, so it does not interfere with the public swimming days. There would be no charge for this time period. This day would only be open to graduating seniors, not friends or family.

Staff recommends approval.

# City Council Agenda Form



Date Submitted: January 23, 2018

Agenda Date Requested: February 1, 2018

## Project/Proposal Title:

Blue Hole Swim Season – Parks Director Rebecca Manning

## Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

## Project/Proposal Summary:

Blue Hole Regional Parks has traditionally held its last day of the swim season each year on Labor Day, the first Monday each September. As we all know, the Texas heat is still around for at least a few weeks following. At Blue Hole, we have many visitors still expecting to have public access to swim on weekends in September when it is still close to 100 degrees outside.

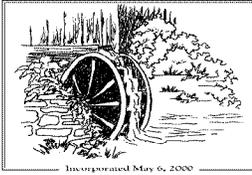
It would be simple to replicate the beginning of swim season where we're open for Saturdays and Sundays in May, every day from Memorial Day – Labor Day, then continue the season through Saturdays and Sundays in September. This would add a total of 8 days to the 2018 swim season, so it will not put a large strain on environmental restoration. We predict this will be a big hit to the public, especially locals that may not want to visit during the busier months.

Regarding staff limitations, we predict that staff will be able to handle the additional 8 days with no issues. In September of 2017, staff could have handled the additional days with ease. Our new reservation system takes so much strain off staff all summer as well. Many employees are back to a Monday-Friday school schedule in September, so working Saturdays and Sundays should not pose an issue.

This could also provide a small boost in revenue in the summer months to help keep the park financially self-sustaining for as long as possible.

Staff recommends approval.

# City Council Agenda Form



**Date Submitted:** January 30, 2018

**Agenda Date Requested:** February 1, 2018

**Project/Proposal Title:** PUBLIC HEARING & FIRST READING AMENDING THE CITY CENTER OVERLAY DISTRICT TO REMOVE LIQUOR STORE AS A PROHIBITED USE

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

This item was placed on the agenda to allow the City Council to hold a public hearing and consider approval of the first reading amending the City Center Overlay district to remove liquor stores as a prohibited use. Liquor stores are allowed in the C-3 zoning district with an approved Conditional Use Permit (CUP) but are prohibited in the City Center Overlay District per Ordinance 2009-031.

On December 14, 2017 the Planning & Zoning Commission voted 6-1 to recommend allowing liquor stores in the City Center Overlay that have an area of 1,300 square feet or less. Proper notice of meetings for the zoning amendment have now been posted, therefore on January 25, 2018 this item returned to Planning & Zoning for consideration of a recommendation to Council. This latest meeting produced the recommendation 4-3 that is before you tonight, to allow liquor stores in the City Center Overlay that have a showroom area of 1,300 square feet or less. (Councilmember Davis)



**DISCLAIMER:** The map is not a survey and is not a substitute for a professional survey. The City of Wimberley assumes no liability for any errors or omissions in this map. The City of Wimberley assumes no liability for any errors or omissions in this map. The City of Wimberley assumes no liability for any errors or omissions in this map.

20 Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

# The Wimberley

## FOR VARIANCES

Public hearings will be held at the City of Dripping Springs Planning & Zoning Commission meeting at 6:30 p.m. on January 23, 2018 and at the City Council meeting at 6:30 p.m. on February 13, 2018 at Dripping Springs City Hall, 511 Mercer Street, Dripping Springs, Texas, to consider the approval of a Variance from the Dripping Springs Code of Ordinance as follows: Chapter 6, Section 6.04.002(a) regarding the sale of alcoholic beverages in proximity to schools, churches and hospitals for the property located at 251 Baird Lane, Dripping Springs, TX 78620 / Sportsplex Subdivision NO. 3, Lot 7, ACRES 2.274, (W/ Private ROW), commonly known as the Garage Sports Bar. The Variance Application is available for viewing at City Hall, 511 Mercer Street. Comments regarding the variance may be emailed to [acunningham@cityofdrippingsprings.com](mailto:acunningham@cityofdrippingsprings.com) or mailed to PO Box 384, Dripping Springs, TX 78620. For more information, call City Hall at 858-4725. Written comments received by Wednesday, January 17, 2018 will be forwarded to the Planning and Zoning Commission prior to their meeting.

## NOTICE TO CREDITORS

Notice is hereby given that original Letters Testamentary for the Estate of Miller Paul Van Eaton, Deceased, were issued on December 20, 2017, in Cause No. 17-0332-P, pending in the County Court at Law of Hays County, Texas, to: Anne Walker Van Eaton.

All persons having claims against this Estate which is currently being administered are required to present them to the undersigned within the time and in the manner prescribed by law.

c/o Joseph J. Malone  
Attorney at Law  
Stevens & Malone, LLP  
P.O. Box 727  
Wimberley, Texas 78676

DATED the 21 day of December, 2017

Joseph J. Malone  
Attorney for Anne Walker Van Eaton  
State Bar No.: 24050982  
Stevens & Malone, LLP  
P.O. Box 727  
Wimberley, Texas 78676  
Telephone: (512) 847-9277  
Facsimile: (512) 847-5131  
E-mail: [joe@stevensmalonelaw.com](mailto:joe@stevensmalonelaw.com)

## NOTICE OF PROPOSED AMENDMENT TO THE CITY OF WIMBERLEY ZONING CODE

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, January 25, 2018 at 6:00 p.m. on AN ORDINANCE AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTION 155.091 (CITY CENTER OVERLAY) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, A SAVINGS CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AND EFFECTIVE DATE, AND PROPER NOTICE AND MEETING. Upon recommendation of the Planning & Zoning Commission, the City Council will hold a public hearing and first reading at its regular Council meeting on Thursday, February 1, 2018, and a second reading on Thursday, February 15, 2018 at 6:00 p.m. at City Hall to consider the ordinance referred to herein. Comments from any member of the public may be presented in person at City Hall, by mail (P.O. Box 2027) or email ([sfloyd@cityofwimberley.com](mailto:sfloyd@cityofwimberley.com)) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, located at 221 Stillwater, Wimberley, Texas 78676.

## NOTICE OF APPLICATION FOR SUBDIVISION

Public hearings will be held at the City of Dripping Springs Planning & Zoning Commission meeting at 6:30 p.m. on January 23, 2018 and at the City Council meeting at 6:30 p.m. on February 13, 2018 at Dripping Springs City Hall, 511 Mercer Street, Dripping Springs, Texas, to consider the proposed SUBDIVISION application for the REPLAT of SPRINGLAKE SUBDIVISION LOTS 122-A3 AND 122-A4, located at 1802 & 1804 Spring Valley Drive, Dripping Springs TX 78620 / Springlake Subdivision Lots 122-A3 and 122-A4. The Application for Subdivision (Replat) is available for viewing at City Hall, 511 Mercer Street. Comments regarding the Application for Subdivision (Replat) may be emailed to [acunningham@cityofdrippingsprings.com](mailto:acunningham@cityofdrippingsprings.com) or mailed to PO Box 384, Dripping Springs, TX 78620. For more information call City Hall at (512)858-4725. Written comments received by Wednesday, January 17, 2018 will be forwarded to the Planning and

Testamentary for the Estate of Doris Davis Williamson a/k/a Doris Mae Giles, Deceased, were issued on November 28, 2017, in Cause No. C-1-PB-167-000865, pending in the Probate Court No. 1, Travis County, Texas, to: Brenda Giles Ahrens. All persons having claims against this Estate which is currently being administered are required to present them to the undersigned within the time and in the manner prescribed by law.

c/o: Robert M. Avera  
Attorney at Law  
310 US 290 West, Suite C  
Dripping Springs, TX 78620

DATED the day of, 2017.

Robert M. Avera  
Attorney for Brenda Giles Ahrens  
State Bar No.: 24064113  
310 US 290 West, Suite C  
Dripping Springs, TX 78620  
Telephone: (512) 615-3578  
Facsimile: (512) 615-3583  
E-mail: [robert@averalaw.com](mailto:robert@averalaw.com)

## NOTICE OF APPLICATION FOR VACATED PLAT

Public hearings will be held at the City of Dripping Springs Planning & Zoning Commission meeting at 6:30pm on (January 23, 2018) and at the City Council meeting at 6:30pm on (February 13, 2018) at Dripping Springs City Hall, 511 Mercer Street, Dripping Springs, Texas, to consider the proposed Vacated Plat Application for Arrowhead Ranch Section One-A (SUB2017-0003), located at 1601 Creed Road, Dripping Springs, TX 78620 (Arrowhead Ranch Sec One Lot 1 8.656 Acres and Lot 2 3.885 Acres). The Vacated Plat application is available for viewing at City Hall, 511 Mercer Street. Comments regarding the proposed Vacated Plat Application may be emailed [acunningham@cityofdrippingsprings.com](mailto:acunningham@cityofdrippingsprings.com) or mailed to PO Box 384, Dripping Springs, TX 78620. For more information call City Hall at (512)858-4725.

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Did you know?

**Ordinance No. 2018-\_\_\_\_**

**“Sale of Alcohol in VC -Village Center Overlay District”**

**AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTION 155.091 (VILLAGE CENTER OVERLAY DISTRICT; VC) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO PERMIT LIQUOR STORES WITH A MAXIMUM AREA OF 1,300 SQUARE FEET; 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 of alcoholic beverages 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 Council finds that the proposed amendment will lessen restrictions and will not impose additional restrictions on certain persons holding a state-issued alcohol license or permit, as permitted by section 109.57(c) of the Texas Alcoholic Beverages Code; 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 15<sup>th</sup> 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. AMENDMENT**

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 definition:

**“SHOWROOM.** The portion of a retail establishment to which the public has access and that provides area for the regular transaction of business, including the presentation of displayed merchandise in a finished building setting.”

B. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.091 (Village Center Overlay District; VC), Subsection E (Prohibited Uses), is hereby amended to read as follows:

**“(11) Liquor Stores, excluding establishments that have a maximum showroom area of 1,300 square feet.”**

**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.

PASSED AND APPROVED this \_\_\_ day of \_\_\_\_\_, 2018.

---

Hershel "Mac" McCullough,  
Mayor

ATTEST:

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Laura Calcote,  
City Secretary



ORDINANCE NO. 2009- 031

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 155 (ZONING) OF THE CODE OF ORDINANCES AS FOLLOWS:

1. SECTION 155.005 (DEFINITIONS) TO AMEND, ADD AND DELETE DEFINITIONS RELATED TO ALCOHOL USES;
2. PORTIONS OF SECTION 155.047 (COMMERCIAL - LOW IMPACT (C-1), SECTION 155.048 COMMERCIAL – MODERATE IMPACT (C-2)), AND SECTION 155.049 (COMMERCIAL – HIGH IMPACT (C-3)) TO ALLOW EATING ESTABLISHMENTS: SIT-DOWN, TO SELL BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION AS A CONDITIONAL USE;
3. PORTIONS OF SECTION 155.047 (COMMERCIAL - LOW IMPACT (C-1)), AND SECTION 155.048 (COMMERCIAL – MODERATE IMPACT (C-2)) TO ALLOW PACKAGE STORES OF BEER AND WINE AS A CONDITIONAL USE;
4. PORTIONS OF SECTION 155.049 (COMMERCIAL – HIGH IMPACT (C-3)) TO ALLOW LIQUOR STORES AS A CONDITIONAL USE;
5. PORTIONS OF SECTION 155.049 (COMMERCIAL – HIGH IMPACT (C-3)) TO ALLOW PACKAGE STORES OF BEER AND WINE AS A PERMITTED USE; AND,
6. SECTION 155.091(E) CITY CENTER OVERLAY DISTRICT (CC) ADD LIQUOR STORE AND PACKAGE STORES OF BEER AND WINE AS PROHIBITED USES;

AND PROVIDING FOR THE FOLLOWING: PENALTY; FINDINGS OF FACT; REPEALER; SEVERABILITY; 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 is 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, further the P&Z and Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses; with a view of 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 upon 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 several 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 15<sup>th</sup> day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

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

### **I. FINDINGS OF FACT**

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

### **II. AMENDMENTS**

A. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Section 155.005 (Definitions) shall be amended as follows:

1. The following definitions shall be amended to read as follows:

**"BARS AND TAVERNS.** Establishments or places of business where customers are seated and served which are primarily engaged in the sale, mixing, or dispensing of beer, wine and alcoholic beverages for consumption on the premises, and which fifty

percent (50%) or more of gross revenue is derived from the on-premises sale of alcoholic beverages. Typical uses include a tavern, bar or cocktail lounge with minimal or no kitchen facilities and little or no food items served.

***EATING ESTABLISHMENTS: SIT-DOWN.*** Establishments or places of business where customers are seated and served, and that are primarily engaged in the sale of prepared foods and beverages, and may include alcoholic beverages, for on-premises consumption upon approval of a conditional use permit. They are located at high capacity or high volume sites that are easily accessed by vehicles and pedestrians. Typical uses include restaurants, short-order eating places, cafeterias, and coffee shops.

***FOOD AND BEVERAGE RETAIL SALES.*** Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption, including beer and wine beverages. Typical uses include grocery stores and delicatessens, but does not include sale of alcoholic beverages.

***RETAIL SALES AND SERVICES: GENERAL.*** Establishments engaged in the sale or rental of goods and services, both retail and wholesale, of commonly used goods, merchandise, and services, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption.

***RETAIL SALES AND SERVICES: LIMITED.*** Establishments engaged in the sale or rental of commonly used retail goods and services, and serving primarily neighborhood or localized population centers, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption.

***SPECTATOR SPORTS AND ENTERTAINMENT: LOW IMPACT.*** Establishments or places engaged in the provision of cultural, entertainment, athletic, and other events to spectators as well as parking space for social or fraternal gatherings. These uses are conducted in open facilities or within an enclosed building with a capacity of 100 or fewer people and include retail sales, storage facilities, and other activities incidental to the operation. Typical uses include theaters or amusement places, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption.”

2. The following definition shall be deleted in its entirety:

***ALCOHOLIC BEVERAGE SALES***

3. The following definitions shall be added alphabetically to read as follows:

***“ALCOHOLIC BEVERAGE*** means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

**PACKAGE STORE** means a store that sells bottled or canned beer and wine beverages for consumption off the premises.

**LIQUOR STORE** means a store that sells bottled or canned alcoholic beverages for consumption off the premises.”

- B. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047(B)(7) (Commercial – Low Impact (C-1)), Permitted Uses, is hereby amended to read as follows:

“(B)(7) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;”

- C. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047(C) (Commercial – Low Impact (C-1)), Conditional Uses, is hereby amended to add subsection (6) to read as follows:

“(6) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption.”

- D. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048(B) (Commercial – Moderate Impact (C-2)), Permitted Uses, is hereby amended to read as follows:

“(8) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;”

- E. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048(C) (Commercial – Moderate Impact (C-2)), Conditional Uses, is hereby amended to add subsection (9) to read as follows:

“(9) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption.”

- F. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsections 155.049(B)(3) and (5) (Commercial – High Impact (C-3)), Permitted Uses, are hereby amended to read as follows:

“(3) Food and beverage retail sales (such as grocery), not including the sale of beer, wine, or alcohol for on or off premise consumption;

(5) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;”

G. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.049(C)(2) (Commercial – High Impact (C-3)), Conditional Uses, is hereby amended to read as follows, and subsection (17) is added to read as follows:

“(2) Liquor and package stores;

(17) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption;”

H. **THAT** the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Section 155.091(E) (City Center Overlay (CC)) is hereby amended to add subsection (11) to read as follows:

“(11) Liquor Stores, excluding establishments that solely serve and sell wine for on and off-premise consumption.”.

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

### **III. REPEALER**

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

### **IV. SEVERABILITY**

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

### **V. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

### **VI. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public 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 2<sup>nd</sup> day of July, 2009, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this 16 th day of July, 2009, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By: Tom Haley  
Tom Haley, Mayor

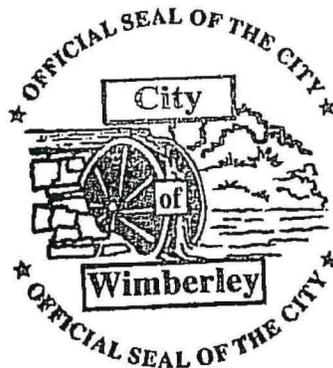
ATTEST:

Cara McPartland  
Cara McPartland, City Secretary

(SEAL)

APPROVED AS TO FORM:

Carolyn J. Crosby  
Carolyn J. Crosby, City Attorney



ORDINANCE NO. 2015-005

**AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTIONS 155.005 (DEFINITIONS), 155.047 (COMMERCIAL – LOW IMPACT; C-1), 155.048 (COMMERCIAL – MODERATE IMPACT; C-2), 155.049 (COMMERCIAL – HIGH IMPACT; C-3), AND 155.050 (HIGHWAY COMMERCIAL; HC), OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO AMEND AND CLARIFY PERMITTED AND CONDITIONAL USES RELATING TO THE SALE OF ALCOHOLIC BEVERAGES; 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 15<sup>th</sup> 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 read as follows:

***"EATING ESTABLISHMENTS: SIT-DOWN.*** Establishments or places of business where customers are seated and served, and that are primarily engaged in the sale of prepared foods and beverages, and, depending on the zoning district, may include alcoholic beverages for on-premises consumption either as a permitted use or upon approval of a conditional use permit. They are located at high capacity or high volume sites that are easily accessed by vehicles and pedestrians. Typical uses include restaurants, short-order eating places, cafeterias, and coffee shops.

...

***FOOD AND BEVERAGE RETAIL SALES.*** Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption, ~~including beer and wine beverages~~. Typical uses include grocery stores and delicatessens, but does not include sale of beer, wine, or alcoholic beverages for on or off premise consumption."

- B. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.047 (Commercial – Low Impact; C-1), Subsection B (Permitted Uses), is hereby amended to read as follows:

“(7) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;”

- C. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.047 (Commercial – Low Impact; C-1), Subsection C (Conditional Uses), is hereby amended to read as follows:

“(6) ~~Sale of beer and wine for off-premise consumption~~ Package store; and

(7) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption.”

- D. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.048 (Commercial – Moderate Impact; C-2), Subsection B (Permitted Uses), is hereby amended to read as follows:

“(8) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;

...

~~(22) Sale of beer and wine for off-premise consumption.”~~

- E. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.048 (Commercial – Moderate Impact; C-2), Subsection C (Conditional Uses), is hereby amended to read as follows:

“(9) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption;

(10) Package store; and

(11) Liquor store.”

- F. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.049 (Commercial – High Impact; C-3), Subsection B (Permitted Uses), is hereby amended to read as follows:

“(3) Food and beverage retail sales (such as grocery), ~~not including the sale of beer, wine, or alcohol for on or off-premise consumption;~~

...

(5) Eating establishments: sit-down, ~~not~~ including the sale of beer, wine, or alcohol for on-premise consumption;

...

~~(22) Sale of beer and wine for off-premise consumption.”~~

- G. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.049 (Commercial – High Impact; C-3), Subsection C (Conditional Uses), is hereby amended to read as follows:

“(2) Alcoholic Beverage Sales and consumption in a private club as defined and registered by the Texas Alcoholic Beverage Code;

~~(2) Liquor and package stores;~~

(3) Bars/taverns ~~(50% sales derived from alcohol);~~

...

~~(17) Eating establishments: sit down, including the sale of beer, wine, and alcohol for on-premise consumption.~~

(17) Liquor store; and

(18) Package store.”

- H. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.050 (Highway Commercial; HC), Subsection C (Conditional Uses), is hereby amended to read as follows:

“(2) Bars/taverns ~~(50% sales derived from alcohol);~~”

### 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 OF ORDINANCE PASSED AND APPROVED this 15<sup>th</sup> day of January, 2015 by 5 (Ayes) to 0 (Nays) 0 (Abstain) of the City Council of the City of Wimberley, Texas.

SECOND AND FINAL READING OF ORDINANCE PASSED AND APPROVED this 19<sup>th</sup> day of February, 2015 by 4 (Ayes) to 0 (Nays) 0 (Abstain) of the City Council of the City of Wimberley, Texas.



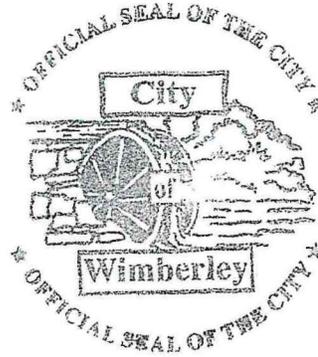
\_\_\_\_\_  
Steve Thurber  
Mayor

ATTEST:

Cara McPartland  
Cara McPartland,  
City Secretary

APPROVED AS TO FORM:

Catherine B. Fryer  
Catherine B. Fryer,  
City Attorney



# City Council Agenda Form



Date Submitted: January 30, 2018

Agenda Date Requested: February 1, 2018

Project/Proposal Title: ORDINANCE NO. 2018-02 - Interim City Administrator Paul Parker

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

On January 19, 2017 the City Council reduced the hotel occupancy tax from five percent (5%) to zero percent (0%). The Council minutes reflect this action was due to the fact that a fund balance over \$300,000 had accumulated, and the Council suspended the tax until a plan was developed to better allocate funds.

If the Council desires to enter into contract with the Visitor's Center, hire a Tourism Director, and fund tourism projects a stream of revenue must be reestablished.

The proposed reestablishment of a hotel occupancy tax would raise the tax rate from zero percent (0%) to five percent (5%), effective April 1, 2018. This would allow time to contact the hotel related facilities within the City.

**ORDINANCE NO. 2018-02**

**“HOTEL OCCUPANCY TAX”**

**AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, TO INCREASE THE TAX RATE TO BE IMPOSED ON HOTEL OCCUPANCY WITHIN THE CORPORATE LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY; AND PROVIDING FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City is authorized by Chapter 351 of the Texas Tax Code to impose a hotel occupancy tax for the purpose of promoting tourism and the convention and hotel industry, and further for the general purposes of convention center facilities or visitor information centers; advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity; the encouragement, promotion, improvement, and application of the arts, historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums; for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity; and signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;

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

**SECTION I. FINDINGS OF FACT**

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

**SECTION II. AMENDMENT**

Ordinance No. 2015-017, Section II (Hotel Occupancy Tax), Subsection D (Tax Rate; Exemptions), Subparagraph (1), is hereby amended as follows:

**“D. Tax Rate; Exemptions.**

1. A tax of **five percent (5%)** of the consideration paid for a hotel room located within the corporate and extraterritorial limits of the City is levied on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays the consideration for the use or possession or for the right to the use or possession of a hotel room that costs two dollars or more each day and is ordinarily used for sleeping.”

### **SECTION III. SAVINGS**

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

### **SECTION IV. SEVERABILITY**

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

### **SECTION V. REPEALER**

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance, including, but not limited to, City of Wimberley Ordinance No. 2017-004, are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

### **SECTION VI. EFFECTIVE DATE**

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

### **SECTION VII. PROPER NOTICE AND MEETING**

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

**PASSED AND APPROVED this 1<sup>st</sup> day of February, 2018.**

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Herschel P. "Mac" McCullough,  
Mayor

ATTEST:

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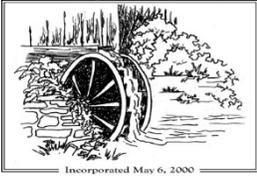
Laura J. Calcote,  
City Secretary

APPROVED AS TO FORM:

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City Attorney

# City Council Agenda Form



Date Submitted: January 30, 2018

Agenda Date Requested: February 1, 2018

**Project/Proposal Title:** HOTEL OCCUPANY TAX  
Visitor Center Operations Agreement - Place  
One Council member Steve Thurber

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

Please see attached the proposed Visitor Center Operations Agreement between the City of Wimberley and the Wimberley Convention and Visitors Bureau Foundation.

## Visitor Center Operations Agreement

The **City of Wimberley**, a Texas general law Type A municipal corporation, (“City”), and the Wimberley Convention and Visitors Bureau Foundation, a Texas non-profit corporation, (“Visitor Center”), enter into this Operations Agreement (“Agreement”) on \_\_\_\_, 2018, upon the terms and conditions set forth below:

WHEREAS, Chapter 351 of the Texas Tax Code (the “Act”) addresses expenditures of the municipal hotel occupancy tax; and

WHEREAS, section 351.101(a)(1) of the Code authorizes expenditures for the equipping, repairing, operation, and maintenance of visitor information centers; and

WHEREAS, the Visitor Center is a non-profit corporation in the City of Wimberley that operates a visitor information center within the meaning of section 351.101(a)(1); and

WHEREAS, the City has included and thereby finds that this Agreement promotes tourism and the convention and hotel industry within the City, and further meets the requirements contained in the Act;

NOW, THEREFORE, in consideration of the promises, covenants, terms and conditions herein contained, the parties mutually agree:

### I. Findings Incorporated

Each of the above recitals is hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration, and promises that bind the parties.

### II. Term

This Agreement shall be effective beginning on the Effective Date (\_\_\_\_) and shall remain in effect until 9-30, 2022, subject to the termination provision described in Section VII below.

### III. Definitions

3.1 **Act.** The word “Act” means Chapter 351 of the Texas Tax Code, as amended.

3.2 **Agreement.** The word “Agreement” means this Visitor Center Operations Agreement, together with all exhibits and schedules attached to this Visitor Center Operations Agreement from time to time, if any.

3.3 **City.** The word “City” means the City of Wimberley, Texas.

3.4 **Effective Date.** The words “Effective Date” mean the earliest date on which all parties have executed this Agreement by and between the Visitor Center and the City.

3.5 **Fiscal Year.** The words “Fiscal Year” mean the twelve-month period beginning October 1 and ending September 30.

3.6 **Local Hotel Occupancy Tax Revenue.** The words “Local Hotel Occupancy Tax Revenue” mean the municipal hotel occupancy tax levied by the City pursuant to the Act, at such rates as are permitted by state law and approved by the Wimberley City Council, which tax is collected from guests staying at hotels or other taxable lodging within the City.

3.7 **Term.** The word “Term” means the term of this Agreement as specified in Section II of this Agreement.

3.8 **Visitor Center.** The words “Visitor Center” mean the Wimberley Convention and Visitors Bureau Foundation.

#### **IV. Services to be Provided**

4.1 **Obligation of City.** As part of its obligation under the Act to use Local Hotel Occupancy Tax Revenue for attracting and promoting tourism and the convention and hotel industry, the City hereby agrees to provide funds to the Visitor Center for the purposes described in section 351.101(a)(1) of the Act and according to the schedule attached as **Exhibit A** out of funds actually received by the City from the local hotel occupancy tax.

4.2 **Obligations of Visitor Center.** The Visitor Center agrees as follows:

- (a) The Visitor Center shall provide the following services to the City:
  - i. The Visitor Center will operate and maintain the Visitor Center facility and provide information to area visitors. The Visitor Center agrees to treat all tourist lodging facilities in a reasonably consistent manner and to provide information to tourists regarding all lodging options within the City.
- (b) The Visitor Center shall establish a separate checking account or banking account for receipt of the Local Hotel Occupancy Tax Revenue; and
- (c) Any proposed change to the use by the Visitor Center of Local Hotel Occupancy Tax Revenue according to the schedule attached as **Exhibit A** and as described by this Agreement must be approved in advance by the City Council and authorized by the City in writing as an amendment to this Agreement.

#### **V. Budget, Accounting, and Reporting Requirements**

5.1 **Budget.** Prior to the Effective Date of this agreement, and no later than December 31 of each year thereafter, the Visitor Center shall provide to the City a proposed written request for reimbursement of the previous year's operating expenses and for anticipated expenses for which there may be no historical experience as may be required. The budget shall also reflect the results of consultation between the Visitor Center and appropriate City staff concerning, projected available Local Hotel Occupancy Tax Revenue for the ensuing Fiscal Year, any amounts available

in the Visitor Center's reserve funds, and estimated costs of the services provided by this Agreement. The City agrees that, in the event of unforeseen emergencies which may occur from time to time during the course of this agreement, the Visitor Center may submit special requests for additional funding, if required. Funding for each request will be due within ninety days of the receipt of the request in year one, and March 31 for each year thereafter. Each request may be submitted in a form similar to that illustrated in **Exhibit A**.

**5.2 Reporting Criteria.** During the Term of this Agreement, the Visitor Center shall track and report the following criteria for purposes of historic reporting and goal measurement: (1) Visitor Guide Requests; (2) Phone Inquiries; (3) Email Inquiries; and (4) Retail Revenue resulting from the sale of merchandise offered for sale in the Visitor Center.

**5.3 Accounting.** The Visitor Center shall maintain separate, complete and accurate books and records of all financial activities, which the City may audit at any time upon reasonable notice. The Visitor Center shall maintain financial records on a regular basis in accordance with generally accepted accounting principles, subject to any variations as are required by state law or that are agreed to in writing by the City. Specifically, the Visitor Center shall account separately for the Local Hotel Occupancy Tax receipts and expenditures, and for any other funds provided to it by the City, including the activities identified in **Exhibit A**.

**5.4 Annual Audit.** At the conclusion of each year, during the term of this agreement, the Visitor Center shall engage an independent firm of certified public accountants to audit its financial statements in accordance with generally accepted auditing standards. The Visitor Center shall include such additional supplemental information as the City may request to be included in the auditor's report and shall deliver to the City Administrator a copy of its audited financial statements and related supplemental information, no later than 120 days after the end of each Fiscal year.

**5.5 Quarterly Financial Reporting.** Within 30 days after the end of each quarter in the Fiscal Year, the Visitor Center shall deliver to the City a (i) written report of its expenditures and (ii) unaudited financial statements for the quarter just ended, including at a minimum a balance sheet and an income statement.

**5.6 Additional Quarterly Reporting.** The Visitor Center will provide the City with monthly reports containing detailed information on performance of this Agreement. The Visitor Center shall also provide the City with copies of any reports or documentation required by federal or state law, as such laws may be amended from time to time during the Term of this Agreement.

## **VI. Payments by the City**

**6.1 Payments Subject to Annual Appropriation.** In addition to any particular limitations and conditions that may be specifically stated in this Agreement, all obligations of the City are subject to annual appropriation by the City for this Agreement from proceeds of the Local Hotel Occupancy Tax Revenue that are available to pay for the services provided under this Agreement, and further subject to the ability of the City to collect such tax proceeds. This Agreement imposes no obligation upon the City to levy and collect the tax. Under no

circumstances shall this Agreement be construed to require the City to transfer monies from any other fund owned by the City to the Visitor Center.

6.2 **Payments Due Annually.** The City shall pay to the Visitor Center annually, by October 1 for each year under this agreement, with exception of the first year, the items and amounts listed in Appendix A, plus any additional items or amounts as may be approved by the City from time to time based upon the most recent fiscal year end and any other directives from the City as may apply.

6.3 **Limitation on Use of Funds.** The Visitor Center shall spend Local Hotel Occupancy Tax Revenue solely to perform this Agreement. It is understood and agreed by and between the parties that this Agreement creates a fiduciary duty by the Visitor Center to the City to spend the Local Hotel Occupancy Tax Revenue that it receives in accordance with this Agreement.

6.4 **Conflicts of Interest.** None of the Local Hotel Occupancy Tax Revenue funds hereby granted shall be paid, directly or indirectly, to a Wimberley City Council member, the head of any department of the City, an officer of the Visitor Center, a member of the Wimberley Hotel Occupancy Tax Advisory Committee, a member of the immediate family of the foregoing persons, or a business in which any of the foregoing persons has an economic interest.

## **VII. Termination**

Either party may terminate this Agreement by written notice to the other party of such other party breaches any of its obligations under this Agreement and does not cure such breach within thirty (30) days after receiving written demand from the other party specifying the breach in question and demanding that it be cured. Such right to terminate shall be without prejudice to the other legal and equitable rights of the parties.

## **VIII. Miscellaneous**

8.1 **Independent Contractor.** The Visitor Center is an independent entity, and the relationship between the Visitor Center and the City is and shall remain that of independent contractors. The City is not and shall not be liable for any of the Visitor Center's debts or obligations, including any operating deficit that may arise. The Visitor Center shall not hold itself out as an agent of the City nor in any way purport to bind the City with respect to any contract or other obligation.

8.2 **Indemnity.** The Visitor Center shall indemnify, save, and hold harmless the City, its officers, employees, agents, and licensees against any and all liability, damage, loss, claims, causes of action, expenses or demands (collectively "Costs") of any nature whatsoever, on account of personal injury (including without limitation, Workers' Compensation and death claims), or property loss or damage of any kind whatsoever, which arises, or is claimed to arise, out of or is, or is claimed to be, in any manner connected with the operations or activities of the Visitor Center. The Visitor Center must, at its own expense, investigate all those claims and demands, attend to their settlement or other disposition, defend all actions based thereon using counsel satisfactory to

the City Council, the approval of which shall not be unreasonably withheld, and pay all other costs and expenses of any kind arising from any of such claims, demands or causes of action.

8.3 **Insurance.** The Visitor Center shall maintain a comprehensive general liability policy or policies with an insurance company or companies authorized to do business in the State of Texas, which shall include bodily injury, property damage, contractual, and automobile liability coverage with a minimum of not less than \$1,000,000 per occurrence with \$2,000,000 aggregate. The Visitor Center shall furnish the City with appropriate certificates of insurance along with copies of policy declaration pages and all policy endorsements evidencing the required coverage throughout the Term of this Agreement. The Visitor Center shall obtain an endorsement to the above policy that names the City as an additional insured and that waives the right of subrogation against the City. The Visitor Center shall not cause the insurance to be canceled nor permit any insurance to lapse during the term of this Agreement.

8.4 **Amendment.** This Agreement may not be amended without the written consent of the parties.

8.5 **No Third-Party Beneficiaries.** This Agreement is for the benefit of the City and the Visitor Center only, and no other party may seek to enforce or assert any rights under it.

8.6 **Assignment.** The Visitor Center may not assign this Agreement without the prior written consent of the City.

8.7 **Venue.** Venue for all lawsuits concerning this Agreement must be in the State District courts of Hays County, Texas.

8.8 **Waiver of Default.** Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default. Delay by a party in enforcing, or failure by such party to enforce, a right under this Agreement shall not be deemed a waiver of the same. A waiver of a party's rights shall be effective only if in writing and shall be limited to the single even or occurrence specified.

8.9 **Application of Law.** This Agreement must be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts must be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

8.10 **Multiple Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

8.11 **Entire Agreement.** This Agreement, including its exhibits and attachments, if any, represents the entire agreement between the parties regarding the subject matter, and there are no other representations, understandings, or agreements between the parties relative to such subject matter.

8.12 **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all parties. The City warrants and represents that the individual signing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to its terms. The Visitor Center warrants and represents that the individual signing this Agreement on behalf of the Visitor Center has full authority to execute this Agreement and bind the Visitor Center to its terms.

8.13 **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations under this Agreement is delayed by reason of war, civil commotion, acts of God, natural disaster, fire, or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing its obligations during the period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

8.14 **Ordinance Applicability.** The parties shall be subject to all ordinances of the City, whether now existing or in the future arising. This Agreement does not confer any vested rights on the Visitor Center unless specifically identified herein.

8.15 **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part of the Agreement.

8.16 **Undocumented Workers (required by TEX. GOV'T CODE Ch. 2264).** The Visitor Center certifies that it does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, the Visitor Center is convicted of a violation under 8 U.S.C. § 1324a(f), the Visitor Center shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120<sup>th</sup> day after the City notifies the Visitor Center of the violation.

*[Remainder of page intentionally left blank.]*

**APPROVED AND AGREED:**

**FOR THE CITY OF WIMBERLEY:**

By: \_\_\_\_\_  
Hershel P. "Mac" McCullough  
Mayor  
City of Wimberley, Texas

Date: \_\_\_\_\_

**FOR WIMBERLEY CONVENTION AND VISITORS BUREAU FOUNDATION:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

REVISED JANUARY 30, 2018

Year-to-Year Multiplier 3%

	Historical		PROPOSED HOTEL TAX FUNDING					
	Fiscal Yr	CITY	Fiscal Yr	Fiscal Yr	Fiscal Yr	Fiscal Yr	Fiscal Yr	Total
	Ended	HOT	Ending	Ending	Ending	Ending	Ending	
9/30/2016	SHARE	9/30/2018	9/30/2019	9/30/2020	9/30/2021	9/30/2022	Proposed	
<b>Operating Expenses</b>								
<b><u>PROPOSED SHARED OPERATING EXPENSES</u></b>								
Advertising	478	75%	369	380	392	403	416	1,960
Hospitality	1,047	75%	809	833	858	884	910	4,294
Copier Lease	1,648	75%	1,273	1,312	1,351	1,391	1,433	6,761
Insurance	1,192	75%	921	948	977	1,006	1,036	4,889
Office Supplies	1,066	75%	824	848	874	900	927	4,372
Postage	780	75%	602	620	639	658	678	3,198
Professional Fees	950	75%	734	756	779	802	826	3,896
Cleaning	2,482	75%	1,918	1,975	2,035	2,096	2,158	10,181
Repairs/Maintenance*	2,851	75%	2,202	2,268	2,337	2,407	2,479	11,693
Utilities - Electric	2,231	75%	1,724	1,775	1,829	1,884	1,940	9,152
Utilities - Water	632	75%	488	503	518	533	549	2,590
Utilities - Trash	841	75%	650	669	689	710	731	3,450
Telephone	1,858	75%	1,435	1,479	1,523	1,569	1,616	7,621
Staff Wages (New Part-time Position Non-management)**	-	100%	23,400	24,102	24,825	25,570	26,337	124,234
Staff Payroll Taxes (Non-management)	-	100%	1,865	1,921	1,979	2,038	2,099	9,902
Salaries - Management	92,146	25%	23,728	24,439	25,173	25,928	26,706	125,973
Payroll Tax Management	7,049	25%	1,815	1,870	1,926	1,983	2,043	9,637
	<b>117,252</b>		<b>64,757</b>	<b>66,700</b>	<b>68,700</b>	<b>70,762</b>	<b>72,884</b>	<b>343,803</b>
<b><u>EXPENSES TO BE TOTALLY FUNDED BY HOT</u></b>								
Lobby Renovation (To accommodate lodging, tourism)	-	100%	5,000	-	500	-	500	6,000
Furniture/Fixtures (Per Above)	-	100%	2,500	-	500	-	500	3,500
Computers	-	100%	750	-	750	-	750	2,250
Computer Maintenance	-	100%	500	525	551	579	608	2,763
	-		<b>8,750</b>	<b>525</b>	<b>2,301</b>	<b>579</b>	<b>2,358</b>	<b>14,513</b>
<b>TOTAL</b>	<b>117,252</b>		<b>73,507</b>	<b>67,225</b>	<b>71,002</b>	<b>71,340</b>	<b>75,242</b>	<b>358,315</b>

\* \$1,800 has been added to repair and maintenance costs above actual expense for the period ended 9/30/16.  
 Landscaping maintenance is currently done by volunteers, which may not continue in the future.

\*\*Proposed wage is based upon 30 hrs/week up to \$15/hr.

# City Council Agenda Form



Date Submitted: January 30, 2018

Agenda Date Requested: February 1, 2018

Project/Proposal Title: RESOLUTION NO. 05-2018 (Budget Amendment No. 6) - Interim City Administrator Paul Parker

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Proposed Resolution No. 05-2018 (Budget Amendment No. 6) will allocate \$120,000.00 for an advertising and marketing firm to conduct a tourism marketing strategy and implement a multi-media marketing plan to promote the City of Wimberley. The plan will be designed to promote tourism, especially during the next year of potential sewer installation, but will also establish a long-range plan for tourism.

Councilmembers Steve Thurber and Gary Barchfeld are assisting with the interview of two potential marketing firms. A recommendation will be presented to the City Council and its next meeting. The staff estimates the cost of this study, plus advertising, to be approximately \$120,00.00. Therefore, a portion of this change order assumes that a marketing firm will be hired in the near future.

The second portion of this proposed budget amendment is based on the City Council approving the proposal with the Visitor's Center. Their request for the first year is \$73,507.00. The total of these two projects is \$193,507.00.

**RESOLUTION NO. 05-2018**

**A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2017/2018 OPERATING BUDGET (BUDGET AMENDMENT NO. 6), PROVIDING FOR THE TRANSFER OF FUNDS IN THE HOTEL OCCUPANCY TAX UNOBLIGATED FUND BALANCE TO THE HOTEL OCCUPANCY TAX OPERATION FUND; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council approved the 2017/2018 Operating Budget and appropriated the necessary funds out of the Hotel Occupancy Tax Unobligated Fund Balance; and

**WHEREAS**, the City Council has reviewed and approves the need for increased appropriations in the Hotel Occupancy Tax Operation Fund (6370 — Contract Services).

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

**Section 1**

The City Council of the City of Wimberley, Texas, hereby authorizes and approves an amendment to the 2017/2018 Operating Budget (Budget Amendment No. 6) for the purpose and in the amounts shown below, the amounts to be appropriated from the Hotel Occupancy Tax Unobligated Fund Balance:

**Hotel Occupancy Tax Unobligated Fund Balance**

**Transfers — Transfer from Hotel Occupancy Tax Unobligated Fund Balance**

Decrease fund balance (\$299,157.15 by \$193,507.00)

**Transfers — Transfer to Hotel Occupancy Tax Operation Fund  
(6370 — Contract Services)**

Increase expenditure balance in 6370 — Contract Services from  
\$0.00 to \$193,507.00

**The effect of these transactions will reduce fund balance in the Hotel Occupancy Tax Unobligated Fund Balance by \$193,507.00, and increase expenditures in the Hotel Occupancy Tax Operation Fund (6370 Contract Services) by \$193,507.00.**

**Section 2**

**The City Council of the City of Wimberley, Texas, hereby amends the 2017/2018 Operating Budget, increasing appropriations in the funds stated in Section 1 above.**

**Section 3**

This resolution shall be and become effective immediately upon and after its adoption and approval.

**PASSED AND APPROVED** this 1<sup>st</sup> day of **February, 2018.**

The City of Wimberley, Texas

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Herschel P. "Mac" McCullough, Mayor

ATTEST:

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Laura J. Calcote, City Secretary

# City Council Agenda Form



Date Submitted: January 30, 2018

Agenda Date Requested: February 1, 2018

Project/Proposal Title: RESOLUTION NO. 06-2018 (Budget Amendment No. 7) - Interim City Administrator Paul Parker

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Proposed Resolution No. 06-2018 (Budget Amendment No. 7) will allow for the hiring of a Tourism Director for the City of Wimberley. The budget amendment represents the anticipated cost for the remainder of Fiscal Year 2018. There will be savings in the General Fund not reflected in this budget amendment because the proposal is to eliminate the part-time Wimberley Community Center Director and combine her duties into the duties of the Tourism Director.

If the Council approves this budget amendment, staff will begin advertising for the Tourism Director position.

**RESOLUTION NO. 06-2018**

**A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2017/2018 OPERATING BUDGET (BUDGET AMENDMENT NO. 7), PROVIDING FOR AN INCREASE OF REVENUE IN THE HOTEL OCCUPANCY TAX FUND AND TO INCREASE EXPENSES IN THE HOTEL OCCUPANCY TAX FUND (205); AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council approved the 2017/2018 Operating Budget and projected revenue for the Hotel Occupancy Tax Fund; and

**WHEREAS**, the City Council has reviewed and approves the need for increased appropriations in the Hotel Occupancy Tax Fund (205) related to expenses for hotel tax operations.

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

**Section 1**

The City Council of the City of Wimberley, Texas, hereby authorizes and approves an amendment to the 2017/2018 Operating Budget (Budget Amendment No. 7) for the purpose and in the amounts shown below.

**Hotel Occupancy Tax**

**Revenue Increase – Hotel Occupancy Tax Fund (205) by \$136,000.00 from \$0.00 to a total of \$136,000.00**

**Increase Expenditure Line Items:**

<b>6110</b>	<b>Salaries &amp; Wages</b>	<b>\$40,000.00</b>
<b>6210</b>	<b>Healthcare</b>	<b>\$2,000.00</b>
<b>6620</b>	<b>Payroll Taxes</b>	<b>\$2,500.00</b>
<b>6230</b>	<b>TMRS</b>	<b>\$4,000.00</b>
<b>6250</b>	<b>Unemployment Compensation</b>	<b>\$20.00</b>
<b>6660</b>	<b>Office Supplies</b>	<b>\$1,000.00</b>
<b>6791</b>	<b>Capital Outlay Technology</b>	<b>\$6,000.00</b>
<b>6270</b>	<b>Dues</b>	<b>\$1,000.00</b>
<b>6551</b>	<b>Printing</b>	<b>\$500.00</b>
<b>6570</b>	<b>Travel</b>	<b>\$5,000.00</b>
<b>6572</b>	<b>Training</b>	<b>\$1,000.00</b>
<b>6651</b>	<b>Postage</b>	<b>\$500.00</b>

**The effect of these transactions will increase revenue in the Hotel Occupancy Tax Fund (205) by \$136,000.00, and increase expenditures in the Hotel Occupancy Fund Services and Charges by \$63,520.**

**Section 2**

**The City Council of the City of Wimberley, Texas, hereby amends the 2017/2018 Operating Budget, increasing appropriations in the funds stated in Section 1 above.**

**Section 3**

This resolution shall be and become effective immediately upon and after its adoption and approval.

**PASSED AND APPROVED** this 1<sup>st</sup> day of **February, 2018.**

The City of Wimberley, Texas

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Herschel P. "Mac" McCullough, Mayor

ATTEST:

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Laura J. Calcote, City Secretary