

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
February 16, 2017 at 6:00 p.m.

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

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

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

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

Citizens Communications

Mayor McCullough announced that he is pulling Agenda Item 5B.

Mayor McCullough advised that Bob Cook is here tonight with a special request on behalf of Kathy Kelsey.

Kathy Kelsey spoke of her granddaughter's chemotherapy treatment for leukemia, which has placed a great emotional and financial burden on her family, and is expected to continue until November 2018. She spoke of her granddaughter's fighting spirit, and her daughter's head injury from a car accident, which has placed further stress on her family. Mrs. Kelsey said the Cooks have organized fundraising efforts to help her family.

Bob Cook spoke of Wimberley's open-heartedness and noted approximately \$5,000 has been raised to date from art sales and through Mrs. Kelsey's church. He advised that donations can be made anonymously through the GoFundMe website and distributed cards with website links for GoFundMe and the family's Facebook page. Mayor McCullough handed Mr. Cook an IOU and thanked Mrs. Kelsey for speaking.

Greg Douglas of 513 Summit Loop asked that Council explore Option No. 3 as a way to "eliminate 50 septic tanks on or near the creek in downtown Wimberley for \$1,100,000 and we can provide 250,000 gallons of Type I effluent for Blue Hole Park per month for \$400,000 – that comes to about \$1,500,000." He said the natural question is "if those are the issues we are addressing, then why are we spending \$5,000,000 - \$6,000,000 to get that done?" He favored Option No. 3.

INOZ owner Tom Keyser of 341 Thomas Oaks Road asked Council to vote on its own, not "rubber stamp" certain things, and urged its members to stay the course. He stated he does not like to get on social media or speak publicly, but he said "they tell me constantly to keep doing what you're doing." He felt Council should stay the path, regardless of what email volumes it

may get, or what telephone calls it is receiving from outside sources, and asked Council to do what is right and use its best judgment. Mr. Keyser questioned why the wastewater project collection system and treatment plant were put out as separate bids. He also asked if the expenses of the final hook-up to the customer and the decommissioning of all the septic tanks are included in the wastewater budget and part of the \$5,500,000 loan. Lastly, he asked for detailed information on the recent wastewater spill at Blue Hole.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of February 2, 2017
- B. Approval of minutes of the Special City Council meeting of February 2, 2017
- C. Approval of minutes of the Special City Council meeting of January 31, 2017
- D. Approval of minutes of the Special City Council meeting of February 1, 2017
- E. Approval of the January 2017 Financial Statements for the City of Wimberley

Councilmember Trapp moved to approve Consent Agenda Items 1A-1D, as presented, and to continue Consent Agenda Item 1E until Council's next regular meeting. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported on EDA grant requirements and reimbursement process. He reported that the City will be issuing a Request for Qualifications (RFQ) for a grant consultant, whose cost will be reimbursable through the EDA grant. He noted that the EDA asked that the City pull its bid documents for about one week to allow for review by EDA. He anticipated bringing easement agreements to Council on March 2, 2017. He advised that the contract with Zara Environmental has been executed for enhanced water quality testing and noted that dates are being coordinated. Relating to Mr. Keyser's earlier questions, City Administrator Ferguson replied that bidding the wastewater project in two separate pieces may allow for better pricing on the treatment plant. He noted that there are also variables in the collection system (such as "purple pipe"). He said the budget still includes money for connections to properties and decommissioning of tanks. He advised once bids are received, there will be a better idea on final costs.

- Status report Hidden Valley Low Water Crossing Reconstruction Project

City Administrator Ferguson reported the City is awaiting the final ruling on the sand and gravel permit from Texas Parks and Wildlife (TPW), which is required for construction to begin. He noted that meetings with our local TPW representative are continuing in an effort to expedite the approval process. He stated that the public and property owners have been contributing to this effort by sending correspondence to legislators.

- Status report on Blue Hole Regional Park operations

City Administrator Ferguson reported that Council will be presented a new proposal for maintenance barn construction, as a result of issues encountered with the original construction proposal. He reported applications are being accepted for seasonal positions. He reported on a minor overflow at the lift station in the Park this weekend, which was due to an internal power issue related to the controller that shut the pumps down. He noted that the problem was caught quickly and the estimated spill was 500-1,000 gallons and absorbed into the ground within 50 feet of the tank, with no overflow into waterways. He advised there is a backup power system if the entire station loses main power, but in this case it was an internal power supply. He said because the problem was quickly corrected, there was no need to pump.

- Status report on proposed Tractor Supply store development

City Administrator Ferguson reported that a community meeting will be held on February 22, 2017 at 6 p.m. at the Wimberley Community Center. He noted it will be posted as a Joint Special City Council/Planning and Zoning Commission meeting, with Mayor McCullough introducing the developer, who will present information on the proposed development. He stressed that formal public hearings will be held on March 9th by the Planning and Zoning Commission and on March 16th by City Council. He noted the proposed Wimberley Planned Development District (WPDD) will be posted on the City's website for review in advance of the community meeting, where public comments will be allowed.

3. Presentations

- A. Presentation of the City of Wimberley Annual Financial and Compliance Report for the Fiscal Year ending September 30, 2016. (*Armstrong, Vaughan & Associates, P.C.*)

Bill Vaughan reported no significant findings or issues and presented information on the City's Revenues, Expenditures, Other Financing Sources (insurance proceeds), and Fund Balance statistics. He noted additional Major Fund columns titled Hotel Occupancy and Low Water Crossing. He reviewed an increase in the Fund Balances for Blue Hole. Mr. Vaughan reported on Operating/Nonoperating Revenues/Expenditures for the Wastewater Utility Fund, including a transfer in from General Fund, with an end-of-year net position of \$625,715, comprised of Net Investment in Capital Assets (\$321,661) and Unrestricted (\$304,054). He noted total revenues of roughly \$1,360,000, compared original/final budget amounts, and stated revenues were up \$112,000 from the previous year, primarily due to sales tax collections. He said expenditures came in under the Final Budget, with most departments coming in close to their budgeted amounts, except for highways and roads. He stated the reason for the highways and roads overage was due to the 2015 flood clean-up, which after calculating donated services, is estimated to be about \$47,000. As this was a reasonably estimated number, the referenced \$47,000 was booked to this year, which makes up almost the entirety of the highways and roads overage. City Administrator Ferguson stated that the City was notified this week that the chances of the City getting billed for that \$47,000 are not likely.

Councilmember Trapp asked about the \$610,027 listed on page 42 as the City's proportionate share of flood debris collection costs. Mr. Vaughan replied that when this report is issued, all available information is included at that time, but after taking into account expected state and

federal support and applying volunteer hours toward the local match requirement, it is anticipated that the City's responsibility may be approximately \$47,000. City Administrator Ferguson reiterated that Hays County Precinct Three Commissioner Will Conley has indicated the City will likely not be billed for the referenced \$47,000.

Councilmember Barchfeld questioned "Culture and Recreation" expenditures (page 45) and Mr. Vaughan explained that this is primarily for the Wimberley Community Center and noted that Total Expenditures were under budget by about \$82,000. He advised transfers for wastewater debt service resulted in a \$152,545 net decrease in General Fund, which was better than the Original Budget amount. He explained that the Final Budget included some insurance proceeds, which were moved to a new fund, and if that were taken into account, then the net change in Fund Balance would be better than the Final Budget. Mr. Vaughan pointed out that the City's Fund Balance covers over one year of operating costs, which is considerably beyond the recommended three to six-month minimum. However, because the City does not have a property tax, Mr. Vaughan recommended retaining a minimum of six months operating expenses. He noted the City will have a continuing obligation for helping with wastewater debt service. Mr. Vaughan advised that the \$96,278 Prior Period Adjustment on page 45 is to reflect the City's change to an accrual of two months for sales tax collections to better match the sales tax collection cycle.

Councilmember Trapp questioned the Transfers In of \$93,887 (for 2015) and \$230,249 (for 2016) listed in the Wastewater Utility Fund. City Administrator Ferguson explained it is the debt service and GBRA payment, which was doubled this year per our bond document obligations, and noted that "bump" will not occur going forward.

Mayor McCullough asked Mr. Vaughan for input on a specific percentage for a sufficient minimum Fund Balance. Mr. Vaughan recommended setting a target of six months of operating costs as a floor. He said if the City is bond-averse for expenditures such as roads, then such expenditures would be funded through the General Fund. He said some cities will set a minimum in the General Fund and annually transfer any excess to roads. He recommended a self-supporting General Fund with six months of operating expenses as the ideal, with the aforementioned transfer of excess funds into a separate street fund that could grow over time. Mayor McCullough thanked Mr. Vaughan for his presentation.

B. Presentation by Wimberley ISD Superintendent Dwain York regarding signage issues.
(*Dwain York, WISD Superintendent*)

Superintendent York provided historical background on the issue of WISD, Pedernales Electric Cooperative (PEC), and the City partnering an electronic message sign. He explained that everything is ready for installation of an electronic sign at the new WISD administration building. He noted that PEC is no longer interested in partnering on the sign. He proposed possible signage at each WISD campus that would display school/city-related information and noted the need for a sign at Wimberley High School, which currently does not have one. He spoke of WISD's due diligence in promoting "dark skies" in its lighting program. He asked if the City would be willing to partner on an electronic sign at the administration building, even if it is temporary, as WISD has spent about \$5,000 on electrical and data for a sign at that location.

Mayor McCullough, Councilmember White and City Administrator Ferguson recalled the history of discussions on a joint electronic sign project that in part was initiated due to PEC's termination of the over-the-road banner program. Superintendent York asked if the City is willing to consider an electronic sign partnership.

Discussion addressed parents' interest in proposed signage, a permanent sign at Wimberley High School, Mr. York's plans to present this issue to the Sign Committee, and the sign's display of shared WISD/City-related information.

4. Public Hearings and Possible Action

- A. Hold a public hearing and consider approval of the second and final reading of an ordinance amending Title XI (Business Regulations), Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings) of the City of Wimberley Code of Ordinances; and amending Title XV (Land Usage), Chapter 155 (Zoning), Section 155.065 (Vacation Rental Lodging Requirements) of the City of Wimberley Code of Ordinances; and providing for the following: findings of fact, a savings clause, a repealing clause, a severability clause, and effective date, and proper notice and meeting. *(City Administrator)*

This item was heard after Agenda Item No. 5K.

City Administrator Ferguson advised that Council has expressed the desire to hold a workshop pending review of research done by Phil Collins on short-term rentals. Councilmember Barchfeld felt that Mr. Collins should give a presentation at the workshop. Mayor McCullough recommended providing copies of Mr. Collins' report for all Council members and Councilmember Barchfeld said he will coordinate a possible workshop date with Mr. Collins.

No action was taken.

- B. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for Lots 23A and 23B, Hilltop Place Subdivision, Section 1, Wimberley, Hays County, Texas, designating such property from Residential Acreage (RA) to Rural Residential 1 (R-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. *(David Estey, Applicant)*

City Administrator Ferguson reported on the subject property's recent subdivision that created two new lots and triggered the need to rezone the property to bring the zoning designation into compliance with lot size requirements. He noted the Planning and Zoning Commission unanimously voted to recommend approval at its February 9th meeting.

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

- C. Hold a public hearing and consider approval of an ordinance approving an application for a Conditional Use Permit submitted by David Estey to operate a vacation rental facility on property located at 171 Panorama Drive, Wimberley, Hays County, Texas, zoned Rural Residential 1 (R-1); and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. *(David Estey, Applicant; this case was continued from the January 19, 2017 City Council meeting)*

City Administrator Ferguson advised that the Planning and Zoning Commission unanimously recommended continuance of this item until its March 9th meeting to allow for the applicant to be present. He recommended continuing this item until Council's meeting on March 16, 2017.

Councilmember White moved to continue this item until Council's meeting on March 16, 2017. Councilmember Fore seconded. Motion carried on a vote of 5-0.

5. Discussion and Possible Action

- A. Discuss and consider possible action accepting the City of Wimberley Annual Financial and Compliance Report for the Fiscal Year ending September 30, 2016. *(City Administrator)*

Councilmember Trapp moved to approve the City of Wimberley Annual Financial and Compliance Report for the Fiscal Year ending September 30, 2016. Councilmember Fore seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action regarding a proposal to narrow the list of wastewater service options to be considered for serving central Wimberley to Option 1 and Option 2 from the list of service options currently under consideration. *(Mayor Mac McCullough)*

Mayor McCullough pulled this item from consideration at the beginning of tonight's meeting.

- C. Discuss and consider possible action regarding a proposed wastewater service agreement relating to the acquisition of reuse water for the Blue Hole Regional Park. *(City Administrator)*

City Administrator Ferguson outlined the draft agreement, which does not contain specific dollar amounts, and is meant to provide a basic format for Council's review. He advised the City's TWDB loan requires that an agreement be in place for the Park to purchase treated effluent. Mayor McCullough invited Council's comments and none were heard. No action was taken.

- D. Discuss and consider possible action regarding a proposed deed restriction limiting the capacity of the proposed Central Wimberley Wastewater Treatment Plant. *(City Administrator)*

City Administrator Ferguson advised that the City's legal staff is finalizing the proposed deed restriction for Council's consideration on March 2, 2017.

No action was taken.

- E. Discuss and consider possible action regarding a proposed amendment to the professional services agreement with Alan Plummer Associates, Inc. to prepare an application for a minor amendment to the City of Wimberley wastewater permit. *(City Administrator)*

City Administrator Ferguson spoke of Council's last discussion on the need for this minor amendment to the City's existing wastewater permit at a cost of approximately \$20,000. He recommended approval of this amendment, as it would allow the City to continue use of the existing drain field, as the June 2017 deadline cannot be met, and an extension will not be granted.

Discussion addressed the interim phased approach as a viable option, as opposed to requesting an extension of the June 2017 deadline; interim phases involving disinfection that would allow for public access; Plummer's cost to prepare the application; and lack of other viable options.

Councilmember Trapp moved to approve the amendment to the professional services agreement with Alan Plummer Associates, Inc. to prepare an application for a minor amendment to the City of Wimberley wastewater permit, at a cost not to exceed \$19,200. Councilmember Dussler seconded. Motion carried on a vote of 5-0.

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

City Administrator Ferguson noted that two more appointees are needed, as Council approved three of the five members at its February 2nd meeting.

Audience members Linda Kaye Rogers and Ruth Mince offered to serve on the Committee. Discussion addressed eligibility requirements. Councilmember Barchfeld moved to approve the appointment of Linda Kaye Rogers and Ruth Mince to the Wastewater Impact Fee Advisory Committee. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

- G. Discuss and consider possible action regarding a proposal to request the Parks and Recreation Advisory Board to examine the need for improvement of the soccer fields at the Blue Hole Regional Park. *(Place Four Councilmember Gary Barchfeld)*

Councilmember Barchfeld favored having Parks Board members study how much irrigation and what type of soil/turf grass is needed and to report their findings to Council. Councilmember Barchfeld felt that consulting with experts would de-politicize this issue.

Councilmember Barchfeld moved to approve requesting the Parks Board examine the needs of the soccer fields at Blue Hole Regional Park and make a presentation to Council. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

H. Discuss and consider possible action regarding a proposal to develop a tree protection ordinance. (*Place Three Councilmember Sally Trapp*)

Councilmember Trapp said she was approached by a constituent who asked why the City does not have a heritage tree ordinance. She stated her sensitivity to private property rights and said a prospective tree ordinance would be intended toward protecting certain large trees from commercial development. She asked for Council's input to gauge community opinion on this issue.

Discussion addressed the City's limited regulations relating to commercial landscaping, tree removal as part of the WISD field house construction, and study of other area cities' tree ordinances. Councilmember Trapp advised she will bring some examples to Council's next meeting.

No vote was taken.

I. Discuss and consider possible action confirming the mayor's appointment of an ad hoc committee to assist City Council with the search for a new city administrator. (*Mayor Mac McCullough*)

Mayor McCullough stated that his original proposal has changed due to former Mayor Steve Thurber's candidacy for City Council Place One and appointment of Marilee Wood as his campaign treasurer. As a result, he recommended former Mayors Bob Flocke, Steve Klepfer, and Tom Haley; as well as current Mayor Pro tem White and current Place Three Councilmember Fore. Mayor McCullough noted that two Council members indicated to him that they want more responsibility in the selection process. He said no one questioned former use of ad hoc committees and those choices made by former mayor(s). He favored a committee with broad community backing and a keen sense of what is involved in the city administrator's role and duties. Mayor McCullough stated his expectations of how the selection process may work.

Wimberley Hills' resident Casey Craig asked that Council make this process as streamlined and transparent as possible. She did not want the process to be political, as she said the community is already so divided. She felt the best person should get the job and she expressed the utmost confidence that this diverse Council will be thoughtful and meticulous in its decisions. She did not favor appointing an ad hoc committee.

Tom Keyser of 341 Thomas Oaks Road concurred with Ms. Craig's remarks. He said it will be tough to replace City Administrator Ferguson and hoped Council will find someone as smart, or smarter, than he is. He felt it needs to be a non-political decision and was upset at the thought of having an ad hoc committee involved in the selection process. He said it appeared political because three of Mayor McCullough's proposed appointees were also the experts at the CARD

town hall meeting on the sewer system, which he said “turned out to be a very one-sided, very slanted affair.” He encouraged the selection process to be left to each member of Council.

Ruth Mince felt all of our elected Council members should be the ones to make this very important selection.

Mayor McCullough stated the committee would not make the choice, but “drill down” applicants. He said this should not be a political process. He said balance came from former mayors of differing political persuasions, but noted that his original proposal has changed, as mentioned earlier. He said he could make the case “that this is the same group that effectively made the case that we separate our situation from Don – that was political.” Discussion addressed what constitutes being “political.”

Mayor McCullough asked Council if they want to take any more public comments and Councilmember Barchfeld replied negatively.

Councilmember Fore said he was unaware his name was included in the possible committee appointments and said he did not volunteer. He felt it is Council’s responsibility to review every application and narrow it down with no one else’s input.

Councilmember Trapp agreed with Councilmember Fore’s comments and said she would like to be involved in the structure of the job position, what we are looking for, placement of ads, what our goals are, and wanted to be the one to look at all of the applicants. She said this is Council’s job.

Councilmember White said it is a City Council job, but to be aware it will be time-consuming.

Councilmember Barchfeld felt this Council has changed this City for the better and said “we started this – we should finish this.” He questioned having an ad hoc committee as slowing things down.

Councilmember Dussler said he would be okay with the committee as proposed tonight (comprised of former Mayors Klepfer, Flocke, and Haley, and Councilmembers White and Fore), but noted if there is consensus for Council to decide, it is fine with him.

No action was taken.

- J. Discuss and consider possible action scheduling a City Council workshop to discuss the transition of the city administrator’s duties and responsibilities. (*Place Four Councilmember Gary Barchfeld*)

Mayor McCullough spoke of pending/unfinished projects facing the City. Discussion addressed the importance of holding a workshop to discuss criteria for transitioning to City Administrator Ferguson’s replacement and how to advertise the position.

After discussion of various dates/times, consensus was reached to hold Council workshop meetings on Monday, February 20th and 27th at 9 a.m. at City Hall.

- K. Discuss and consider possible action regarding a law enforcement service option proposal from Precinct Three Constable Ray Helm. (*Place Two Councilmember Craig Fore*)

This item was heard after Agenda Item No. 3B.

Councilmember Fore spoke of the part-time city marshal/sanitarian position and his discussions with Mayor McCullough, a Hays County Commissioners Court representative, and Constable Helm, to consider providing additional law enforcement services, particularly on weekends and after hours.

Constable Helm presented his proposal, similar to the existing agreement his office has with the City of Woodcreek for Code and traffic enforcement. He highlighted the number of personnel, primary days of service on Wednesday-Sunday from 10 a.m. to 6 p.m., with on-call deputies providing service Mondays and Tuesdays. He proposed a 2-year agreement, stated types of Code violations to be enforced, and noted that traffic citations would be filed with the Hays County Precinct Three Justice of the Peace (JP) court and Code violations would be filed in Wimberley Municipal Court. He advised his office would also provide Municipal Court bailiff duties and general calls for service regardless of the day/time.

Discussion addressed types of cases to be filed in Wimberley Municipal Court and the Hays County JP court; deputy constables' experience and qualifications; purchase of the city marshal's vehicle by Hays County; contracting with the current city marshal to continue as City Sanitarian; drafting of a contract by Hays County's legal counsel; and cost analysis/funding for the proposed interlocal agreement. Mayor McCullough spoke on the need for a "summer plan" to address water access issues and suggested forwarding comments on this item to Councilmember Fore.

No action was taken.

Addendum to Agenda

5. Discussion and Possible Action

- L. Discuss and consider possible setting the date, time and place for a rescheduled Chapter 26 public hearing relating to the use of park land for the Central Wimberley Wastewater Project. (*City Administrator*)

City Administrator Ferguson advised that the public hearing has been rescheduled for Tuesday, March 21, 2017 at 6 p.m. at City Hall.

6. City Council Reports

- Announcements
- Future Agenda Items

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

Adjournment: Council meeting adjourned at 8:26 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 2nd of March, 2017.

APPROVED:



Mac McCullough, Mayor

