

**City of Wimberley**  
City Hall, 221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
August 4, 2016 at 6:00 p.m.

City Council meeting called to order at 6:03 p.m. by Mayor Mac McCullough.

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

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

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

### **Citizens Communications**

Chapel in the Hills authorized representative Jim Henderson referenced Agenda Item 5E to discuss and consider action on Fiscal Year 2017 City of Wimberley Goals & Priorities. He expressed objections to Goal No. 6 (“Acquire the necessary right-of-way and develop the extension of Green Acres Road from FM 2325 to Ranch Road 12”), as the Chapel in the Hills has no interest in giving up any parking lot space. He provided details on existing church facilities and uses and demand for parking. Mr. Henderson quoted past news coverage of the subject extension and cited conversations with former Mayor Thurber, who assured Mr. Henderson that no acquisition would take place without mutual agreement between the Chapel and the City and the City would not pursue eminent domain as an option. Mr. Henderson understood that former Mayor Thurber could not guarantee future Councils’ actions and sought a similar commitment from Mayor McCullough, who concurred with former Mayor Thurber and respected Mr. Henderson’s position. Mr. Henderson stressed for the record that Chapel in the Hills has no interest in contributing land at this point.

Robbie Walker of Hills of Texas Lodging spoke on the divisive issue of vacation rentals and said there has got to be a way for neighbors to get along with each other. He cited prior comments made about different people staying in homes every weekend and said that situation may occur regardless of whether the home is a vacation rental or not. He favored holding a Council workshop to figure out how to work together in the interest of fairness to all involved and not let this issue be divisive.

Deborah Koeck spoke on “needs” versus “wants,” specifically defining and comparing “wants” and “needs.” She stated some of us need a wastewater system downtown more than others and said the need of the few does not constitute the need of the majority of the 80 property owners. Dr. Koeck said that somehow needs for Blue Hole Regional Park have come about with strident demands about contractual liability. She stated this desire for sewer water could best be thought of as an aesthetic at the apex of a triangle of needs where the need for wastewater removal is at the bottom and the effluent is at the top. She said this is the epitome of the confusion of “needs”

versus “wants” and felt watering non-existent soccer fields at the cost of millions of dollars as the height of folly. Dr. Koeck said sewer water irrigation of the arid acres of Blue Hole Regional Park is not a need and not necessary for the businesses or for the City to survive. She stated Aqua Texas is the best, simplest, safest, and most economical solution, as it has the capacity to receive and treat wastewater and has the area for storage.

Rocky Springs resident Craig Reitz asked Council to enact a moratorium on all vacation rental Conditional Use Permit (CUP) approvals. He cited actions taken by the City of Austin regarding short-term rentals which he said would be permanently phased out in the future. He expressed concerns that short-term rentals are used like hotels and said Wimberley is not equipped to deal with vacation rental “party houses” which he did not feel should be allowed in peaceful residential neighborhoods. He cited previous complaints from merchants relating to parking, restrooms, water access, and traffic. Mr. Reitz quoted from recent articles in *USA Today* and the *Wimberley View* that contained comments indicating that Wimberley is being overwhelmed by guests. Mr. Reitz said there are too many short-term and not enough long-term rentals in Wimberley.

Rebecca McCullough stated that she is a new member of the Planning and Zoning Commission and spoke on the need for direction, guidance, and information on short-term rentals and CUPs for vacation rentals. She cited statistics indicating that the City had low occupancy rates and noted that the City of Austin has “stopped doing short-term rentals.” She expressed concerns that CUPs permanently change a property’s zoning, regardless of deed restrictions and neighbors concerns. She said other cities use a permitting process that does not stay with the property. Ms. McCullough favored “a pause” in short-term rentals in order to evaluate our situation and figure out where we need to go. She said Council members have a choice to continue as we have been and become a destination city of weekend renters or have a comprehensive plan and be a community of pride and sharing.

Chris Webre of 2205 Spoke Hollow spoke of his family’s selection of Wimberley as a retirement location and love of its small town atmosphere. He feared that vacation rentals will cause Wimberley to lose some of its small town neighborhood character, which he felt would hurt his family and the entire community. He recalled a conversation with a visitor on the Blanco River this past weekend that was staying in a vacation rental for a “bachelor weekend.” Mr. Webre said one of his fears is that venues such as wedding chapels will cause more people to come to Wimberley vacation rentals and the number of people allowed in a rental will be exceeded. He said “we just want to keep it as a neighborhood,” and hoped Council would agree.

## 1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of July 21, 2016
- B. Approval of minutes of the Special City Council meeting of July 6, 2016
- C. Approval of minutes of the Special City Council meeting of July 11, 2016
- D. Approval of minutes of the Special City Council meeting of July 27, 2016
- E. Approval of the appointment of Jennifer Marino to the City of Wimberley Ethics Commission. (*Place Four Councilmember Gary Barchfeld’s nominee*)
- F. Approval of the June 2016 Financial Statements for the City of Wimberley

Mayor McCullough pulled Consent Agenda Item 1E for separate consideration.

Councilmember Barchfeld moved to approve all remaining Consent Agenda items, as presented. Councilmember Fore seconded. Motion carried on a vote 5-0.

Mayor McCullough announced that Councilmember Barchfeld would be swearing in Jennifer Marino, his nominee to the Ethics Commission. Councilmember Barchfeld thanked Mayor McCullough and administered the Oath of Office to Jennifer Marino.

## **2. City Administrator Report**

- Status report on the Central Wimberley Wastewater Project including but not limited to design, easements and project management

City Administrator Ferguson provided details on lift station site acquisition, the status of the parkland conversion process, and proposed addition of restrictions to the funding agreement limiting the plant to no more than 75,000 gallons per day. He anticipated issuance of a Request for Qualifications (RFQ) next week for project management in hopes of getting a project management group or person on board in October. He noted wastewater rate design discussions are underway with Raftelis Financial Consultants, Inc. to perform a rate study and anticipated bringing a contract to Council at its August 18<sup>th</sup> meeting. He advised rate setting is a very public process, including public meetings.

City Administrator Ferguson spoke on discharge minimization alternatives, including an additional storage tank and probable associated costs (approximately \$18,000 in engineering costs and \$420,000 in construction costs); the bypass purple pipe project and associated costs (approximately \$72,000 in engineering costs and \$770,000 in construction costs); and purple pipe interconnect to Aqua Texas during times when the City cannot irrigate (approximately \$57,000 in engineering costs and \$410,000 in construction costs). He provided details on this option involving installation of a force main with a valve and compared its cost to purple pipe going to downtown, which would have a probable cost of \$32,000 in engineering costs and \$220,000 in construction costs. He advised that an effluent trucking plan is under development and hoped to bring the plan to Council at its next meeting.

City Administrator Ferguson noted that the effluent irrigation authorization request must be submitted in September in order to get permission from Texas Commission on Environmental Quality (TCEQ) for Blue Hole Park irrigation. He stated Council will be presented with an amendment to the Alan Plummer contract to prepare that submission, which will cost approximately \$9,200. He expected treatment plant and collection system design to be submitted to the Texas Water Development Board (TWDB) by the end of August and said any changes that may result from the review process will be brought to Council prior to going out for bid. He advised that the project timeline is being updated and will be submitted to Council next week.

- Status report on proposed changes in Zoning Code relating to dormancy requirements for Conditional Use Permits

City Administrator Ferguson stated this issue was brought up by Councilmember Fore during a recent CUP amendment case changing some portions of the original concept plan. He noted that CUPs for short-term rentals contain a dormancy requirement, but the proposed amendment to the Zoning Code placing a two-year deadline on commencement of development would apply to all CUPs. He advised that a public hearing will be held by the Planning and Zoning Commission, followed by two City Council public hearings scheduled for August 18<sup>th</sup> and September 1<sup>st</sup>.

- Status report on the Downtown Restroom Trailer Project

City Administrator Ferguson reported that some strong opposition has been received from adjacent property owners on the trailer's location and concerns have been expressed on emergency vehicle access. Based on analysis of input received from all parties, he said the trailer will be moved to the back-up location, which will be in the leased parking lot.

- Status report on contractual obligations of the City of Wimberley

This item was heard after the Status Report on 2015 Flood Recovery.

City Administrator Ferguson highlighted the following current contractual obligations and approximate costs to the City: Texas Water Development Board loan for the Central Wimberley Wastewater Project; Alan Plummer Associates, Inc. for engineering services; Guadalupe Blanco River Authority for the existing package plant; Bury, Inc. (now Stantec) for the Hidden Valley low water crossing; BEC-LIN Engineering for the River Road Bank Restoration Project; and Hays County for debris removal. He reported on operating agreements, including those for downtown landscape maintenance, security/monitoring; TMRS retirement plan; employee health insurance; property/liability insurance; records management; City of Wimberley website; Lower Colorado River Authority (for radio service); workers compensation; GIS/court software licensing; and copier/postage machine leasing/support. He reported on service agreements, including ATS Engineering (for inspection services); Neptune-Wilkinson (for engineering services); Bickerstaff Heath Delgado Acosta LLP (for legal services); Aqua Texas (for the Wimberley Community Center); Wimberley Water Supply Corporation; and Pedernales Electric Cooperative (PEC).

- Status report on operation of the Blue Hole Regional Park

This item was heard after the Status Report on the Downtown Restroom Trailer Project.

City Administrator Ferguson reported capacity is reached at the swimming area almost every day. He stated there was a water leak near the Pavilion, which has been repaired. He noted summer camp sessions are over, with lots of positive comments on the received on the program. He advised that planning has already started on *Blue Hole Christmas*. He noted rental activity is up for private events. He said the swimming area turf is being evaluated for long-term viability.

- Status report on the La Buena Vista Drive Improvement Project

City Administrator Ferguson stated that bids on the project for long overdue overlay and scarification are due by August 12, 2016. He anticipated the project to take less than a week to complete.

- Status report on 2015 Flood Recovery

City Administrator Ferguson reported that Hays County is in the process of wrapping up flood debris program paperwork and hoped to know the amount of the City's portion (if any) for curbside debris collection.

In response to Councilmember Trapp's inquiry, City Administrator Ferguson reported that the City's grant application to the Economic Development Administration (EDA) is still under review and the EDA has indicated it will finalize its decision when the City nears closing on the TWDB loan for the Central Wimberley Wastewater Project.

### **3. Presentation**

Presentation from the City of Wimberley Hotel Occupancy Tax Committee regarding the upcoming review and approval process for Hotel Occupancy Tax funding applications. *(Mark Bursiel, Hotel Occupancy Tax Committee)*

Hotel Occupancy Tax (HOT) Committee representative Mark Bursiel provided background information on the Committee's roles and responsibilities and believed that the Committee has formed a "model city" for Wimberley on how to spend HOT funds. He said it is very clear the City of Wimberley cannot handle any more tourism during the 2<sup>nd</sup> and 3<sup>rd</sup> quarters due to lack of infrastructure and resources. He defined problems such as the need to increase 1<sup>st</sup> and 4<sup>th</sup> quarter tourism, detailed "responsible" tourism, and provided information on submittals received for funding applications and timeframe for the Committee's review and recommendations on the applications. He advised there is an accountability process for allocating HOT funds. Mr. Bursiel presented graphs showing a 14-year analysis of tourism during specific quarters and summarized the Committee's membership and responsibilities. He said this Committee is collaborative and not political and has worked well together to form guidelines with almost unanimous consensus. He stated the five applications received will be subject to very specific ROI criteria on funding events, with the primary purpose being to put "heads in beds," which he said is the reason the tax was implemented.

Mr. Bursiel cited specific criteria to be met to receive funding and noted Council has the final authority in approving the Committee's recommendations, which he hoped would be honored. He stated that based on the criteria cited, there is a fiscal responsibility to the lodging industry that collects the tax, because the City has asked the lodging industry to collect the tax and raise their rates at a time when it should be offering discounts to attract visitors. Mr. Bursiel reviewed all of the guidelines used to evaluate applications, including whether HOT funds are used effectively in order to assess future or recurring funding requests and ROI requirements. He stressed this is a lodging-based tax and said 20-percent of HOT funds collected will be reserved in the event emergency funding is needed. Mr. Bursiel stated that data collected indicates the City is over-collecting the tax and the Committee may recommend reducing the tax rate. He

highlighted the Committee's meeting schedule and timeframe for recommendations to Council, and encouraged Council to attend the Committee's meetings. He said unless the Committee and City Council work together, this would become a political train that will wreck and create a more divisive issue than we already have and questioned why the City has a HOT tax. Mr. Bursiel spoke of Wimberley as a model of responsibility, with respectful tourists, and said the Committee did not want to do things just because other cities do them.

Discussion addressed the number of applications received for funding, presentation of Committee recommendations to Council at a workshop meeting, education on what HOT tax money can be used for, possible extension of the deadline to submit applications, and the Committee's role as an advisory body. Mr. Bursiel invited Council to attend the Committee's August 9<sup>th</sup> meeting and Mayor McCullough advised the meeting could be posted for a possible quorum of Council.

#### **4. Resolution**

Consider approval of a resolution of the City of Wimberley, Texas, adopting a policy regarding openness and transparency in the conduct of City business. (*Mayor Mac McCullough*)

Mayor McCullough stated this resolution is meant to show the City's resolve and asked for a motion to approve this item.

Discussion addressed whether this resolution is needed; concerns regarding this resolution as redundant and over-legislation; possible removal of specific language in the resolution such as "on an as needed basis;" and the resolution as a public declaration of commitment to comply with the law. After discussion of possible options for motion language to define Council's commitment, no motion was made on the proposed resolution and no action was taken.

#### **5. Discussion and Possible Action**

- A. Discuss and consider action on a request to reconsider the City Council vote taken on July 21, 2016, regarding an ordinance approving an application for a Conditional Use Permit submitted by Robert Weber to operate a vacation rental on property located at 1824 Flite Acres Road, Wimberley, Hays County, Texas, zoned Single Family Residential 2 (R-2), and imposing certain conditions. (*Mayor Mac McCullough*)

Mayor McCullough stated he requested this agenda item due to concerns relating to Council's vote on this matter at its last meeting. He spoke of the super majority requirement when the so-called "Twenty-Percent Rule" is in effect and questioned whether or not he should have recused himself from discussion and action. He encouraged the Webers and the opposition to talk amongst themselves to reach an accord on this issue. Mayor McCullough recognized the acrimony surrounding this issue and welcomed comments from affected parties that are specific to this CUP application. City Administrator Ferguson advised that if no action is taken at tonight's meeting, this item would be subject to re-notification requirements and cautioned not to stray from the agenda item, as written.

Flite Acres resident Charles Lancaster said the CUP applications for river properties should state clearly that people can float down the middle of the river, but cannot “drag bottom” without trespassing on private property. He recounted that there were twelve people floating down his part of the river last weekend and that those people parked on an individual’s private property, entered the river, and walked upriver to swim. He said he does not want to call the City every time this happens and felt the City needs to include a statement in its application form to prevent trespassing.

Mayor McCullough welcomed Mr. Lancaster to attend upcoming workshop meeting(s) to express his concerns. An unidentified audience member referenced a list on the City’s website of grandfathered vacation rental/bed and breakfast properties that are no longer there. City Administrator Ferguson clarified those properties were grandfathered as a result of Council action following the flood, which would allow property owners to rebuild and resume operations within a certain timeframe. Discussion addressed various options available to Council to reconsider this item, including the need for Councilmember Trapp (who made the original motion at Council’s July 21<sup>st</sup> meeting) to make a motion to reconsider Council’s previous action. City Administrator Ferguson reminded that the “Twenty-percent Rule” remains in effect and a super majority would be required to approve the CUP, should the parties reach an accord.

Mayor McCullough called a recess at 7:47 p.m.

Mayor McCullough reconvened at 7:53 p.m.

At 7:58 p.m. (after Agenda Item 5B), Mayor McCullough recused himself at this time and Mayor Pro-tem White assumed duties as presiding officer.

Mayor Pro-tem White asked whether the parties involved in Agenda Item 5A have reached an agreement.

Applicant’s representative Andrew Weber stated that the parties did not reach an agreement.

Mayor Pro-tem White stated the only way to proceed is for the Council member who made the original motion to make a motion to reconsider Council’s previous action at its July 21<sup>st</sup> meeting.

No motion was heard and Mayor Pro-tem White stated that Council’s original ruling stands.

- B. Discuss and consider action authorizing additional surveying services relating to the designation of right-of-way on sections of Hidden Valley Road and Spoke Hollow Road.  
(*City Administrator*)

City Administrator Ferguson explained the need for additional survey work to define the boundaries of the proposed right-of-way on and noted costs are estimated at \$15,120, which will not be paid for with insurance proceeds, as the additional survey work is outside the scope of the original Hidden Valley low water crossing reconstruction project.

Discussion addressed the need to clean up easements and provide a final survey to affected property owners and established that the additional survey work would not slow down the reconstruction project.

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

- C. Discuss and consider possible action to direct City staff to request representatives of Aqua Texas meet with the City Administrator, two City Council members and a member of the former Ad Hoc Wastewater Committee the week of August 15, 2016 to discuss the vision and scope of the City of Wimberley's Wastewater Project and to request proposals from Aqua Texas to the City of Wimberley for wastewater services. *(Place Three Councilmember Sally Trapp)*

At 8:00 p.m. (after reconsideration of Agenda Item 5A), Mayor McCullough rejoined the meeting, assumed duties as presiding officer, and introduced Agenda Item 5C.

Councilmember Trapp stated that Aqua Texas has been sent a letter by the City requesting proposals and has responded to that letter and asked for a meeting to discuss the proposals.

Councilmember Trapp moved to designate two Council members, City Administrator Ferguson, and two members of the former Ad Hoc Wastewater Review Committee to attend the meeting with Aqua Texas to discuss the vision and scope of the City of Wimberley's Wastewater Project and to request proposals from Aqua Texas to the City for wastewater services. Mayor McCullough said Aqua Texas did not answer all of the City's original questions, but was encouraged by Aqua Texas's letter opening up the possibility of a meeting.

Councilmember Dussler spoke on results of his research on Aqua Texas and highlighted key points on Aqua Texas business practices. *(The full text of Councilmember Dussler's comments is attached to these minutes.)*

Councilmember White stated he felt the same way as Councilmember Dussler regarding Aqua Texas's obligation to turn a profit for their stockholders, which he did not blame Aqua Texas for, but said he does not want to do business with them. Mayor McCullough noted the City of Kyle recently terminated its agreement with Aqua Texas, but said Councilmember Trapp is trying to give the City another avenue and was amenable to appointing two Council members to attend the meeting. Councilmember Trapp felt the Ad Hoc Wastewater Review Committee chair person could attend or designate an attendee.

City Administrator Ferguson stated the response letter from Aqua Texas was responsive regarding treatment, as needed, to try to avoid discharge. He said there is some confusion in the proposal sent by Aqua Texas and the meeting will be beneficial to clarify certain information on rates/costs. He noted that the cost information included in Aqua Texas's proposal is very similar to cost information received from Aqua Texas in the past.

Councilmember Fore said as elected members of Council all options should be considered as part of its due diligence and wanted to do what is best for Wimberley. He favored meeting with Aqua Texas to see what they have to offer.

Councilmember Trapp stated she requested Council members to attend the meeting (as opposed to Mayor McCullough) because Mayor McCullough has stated he is against doing business with Aqua Texas. Mayor McCullough referenced documentation from 2010 providing a history of numerous discussions with Aqua Texas attempting to nail down costs. In the interest of clarity and expediency, Mayor McCullough suggested meeting with Robert Laughman of Aqua Texas. Mayor McCullough expressed a preference for sending Councilmember Dussler to the meeting, as he has done extensive large deals, but did not want to see this issue turn into a popularity contest among Council.

Councilmember Trapp moved to direct City staff to request representatives of Aqua Texas meet with the City Administrator, two City Council members and a member of the former Ad Hoc Wastewater Committee the week of August 15, 2016 to discuss the vision and scope of the City of Wimberley's Wastewater Project and to request proposals from Aqua Texas to the City of Wimberley for wastewater services. Councilmember Fore seconded.

City Administrator Ferguson requested that the motion clearly define the scope of the meeting's discussion to avoid misunderstanding and ensure all topics are covered. Councilmember Trapp said it would be a meeting to request proposals and establish communications. City Administrator Ferguson asked for clarification on the proposals requested (such as emergency service only, year-round service, retail service, etc.). Councilmember Trapp and Councilmember Fore said all options should be discussed. Mayor McCullough did not favor discussion of retail services. Councilmember Fore said all possibilities would be discussed. Councilmember Barchfeld stated the motion is to have the meeting and City Administrator Ferguson recommended placing a deadline on the end result of that meeting (for example, Council would have 10 days after the meeting to place an item on the agenda). Councilmember White favored including the aforementioned 10-day deadline.

After discussion of rules for motions and amendments, Councilmember White requested an amendment to Councilmember Trapp's motion to add the 10-day deadline to commence from the meeting date. To provide clarification on motion language discussion, City Administrator Ferguson recommended the motion state that upon completion of meeting discussion, proposals will be presented to Council ten (10) days after the date of the first meeting (if more than one meeting is needed). Mayor McCullough did not anticipate a significant shift in pricing from previous Aqua Texas proposals and felt Aqua Texas should be able to provide complete numbers.

Councilmember White asked if he should include the names of the two Council members in his amendment to Councilmember Trapp's motion. Councilmember Trapp replied negatively, as that can be resolved separately.

Councilmember Fore seconded Councilmember White's aforementioned amendment to the motion by Councilmember Trapp, as clarified by City Administrator Ferguson.

Mayor McCullough called for a vote on the amendment to the motion, as follows: Councilmember Dussler, nay; Councilmember Fore, aye; Councilmember Trapp, nay; Councilmember Barchfeld, nay; and Councilmember White, aye. Motion failed on a vote of 2-3.

City Administrator Ferguson clarified that the original motion does not include the abovementioned 10-day deadline and Councilmember Trapp said she was for the initial meeting, but did not want to bind herself to a timetable for a discussion that has not happened yet. Councilmember Barchfeld agreed with Councilmember Trapp.

City Administrator Ferguson suggested that Council schedule the Aqua Texas meeting on August 16, 2016 and stated an item relating to results of that meeting can be placed on Council's August 18<sup>th</sup> agenda.

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

Councilmembers Trapp and Barchfeld volunteered to participate in the Aqua Texas meeting to represent the two Council members. Councilmember Trapp favored appointing Ad Hoc Wastewater Review Committee Chair Grady Burnette (or his designee) to attend the Aqua Texas meeting and asked for a vote.

Councilmember Trapp moved to approve sending herself and Councilmember Barchfeld as the two Council members to attend the August 16, 2016 meeting with Aqua Texas, as well as Chairman Grady Burnette (or his designee) and City Administrator Ferguson. Councilmember White seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action to authorize the Mayor to enter into discussions with certain property owner(s) on Mill Race Lane regarding the execution of sewer easements required for the provision of wastewater service from Aqua Texas for properties on Mill Race Lane. (*Mayor Mac McCullough*)

Councilmember Trapp recused herself at 8:29 p.m.

Mayor McCullough said all but one of the property owners on Mill Race Lane are agreeable to having Aqua Texas provide sewer service to their properties and favored trying to get a consensus on this issue.

Discussion addressed concerns expressed regarding Mayor McCullough entering into discussions without any other Council members present; status of easements/property ownership on Mill Race Lane; undivided interests of Mill Race Lane property owners; and agreement to have another Council member accompany Mayor McCullough during discussions.

Councilmember Barchfeld moved to authorize Mayor McCullough to enter into discussions with certain property owner(s) on Mill Race Lane regarding the execution of sewer easements

required for the provision of wastewater service from Aqua Texas for properties on Mill Race Lane, with the addition of one (1) Council member, as designated by Mayor McCullough, to accompany him during said discussions. Councilmember White seconded. Motion carried on a vote of 5-0.

Councilmember Trapp rejoined the meeting at 8:34 p.m.

- E. Discuss and consider action regarding the proposed Fiscal Year 2017 City of Wimberley Goals and Priorities. (*Mayor Mac McCullough*)

City Administrator Ferguson noted this item was continued from Council's last meeting. Mayor McCullough stated the list is not a mandate and favored approval.

Gail Pigg expressed disappointment that the list did not include drainage and lacked the provision of basic services to Wimberley. She said the list focused on money to the Square. She noted her house floods because the drainage culverts are crushed downstream. She spoke on the need for mowing/trimming in the rights-of-way, which also impedes drainage. Mrs. Pigg stated the City does not need an \$80,000 drainage study, but needs basic maintenance money. She did not feel that the City's public works employee should be weed-eating and said this is not an efficient use of taxpayer money. She did not understand why there is a maintenance contract for downtown landscaping, but there is no contract for mowing/tree trimming. She noted that "citizen involvement" was last on the list and cited community division on short-term rentals. Mrs. Pigg urged Council to not approve the list of goals and priorities.

Mayor McCullough said Mrs. Pigg's points are well made; however, the list is part of an overall bigger plan, while Mrs. Pigg's comments are focused on everyday needs. City Administrator Ferguson cited issues with past contractors and advised the City is in the process of contracting for mowing along all of Flite Acres Road and for some clean-up on River Road.

Casey Craig agreed with Gail Pigg's comments regarding the list and questioned why the Green Acres extension would be included as it is private church property and felt it was one of the worst ideas proposed. She asked that Council strike that item from the list.

Mayor McCullough provided background on how the list is developed and the "big picture" approach taken to include ideas that may be far into the future. He reiterated that Council has already indicated it has no intention of implementing the extension across church property or limiting ideas as part of a bigger overall picture. It was noted that the extension is part of the Transportation Master Plan (TMP), which was approved by Council, but it was stressed that recommendations for future transportation needs are made as part of a long-range plan. City Administrator Ferguson noted the TMP is periodically updated and reminded that master planning includes very long-term, forward-thinking ideas that may or may not ever be implemented, as public input and Council approval is required.

Councilmember Barchfeld recommended moving Stage I, No. 6 ("Acquire the necessary right-of-way and develop the extension of Green Acres Road from FM 2325 to Ranch Road 12") to Stage II and stated he has received comments from the Degenharts that they would be interested

in pursuing a possible partnership to develop the “Y” park (*see No. 8 of Stage I, FY 2017 Goals and Priorities list*).

Councilmember Trapp provided some history on how goals and priorities workshops are conducted, including a review of lists that past Councils have approved. She stated that time ran out and Council did not finish at its workshop meeting.

Councilmember Trapp moved to schedule another workshop to develop FY 2017 Goals and Priorities for the City of Wimberley.

City Administrator Ferguson recommended a motion to table consideration of this item, until scheduling of another workshop, in order for Council to finish its discussion of goals and priorities.

Councilmember White moved to table this item until another workshop meeting has been held.

Councilmember Barchfeld questioned how many motions have been made and not seconded.

After discussion of procedure for motions, Councilmember Trapp moved to schedule a workshop to continue discussion of the FY 2017 City of Wimberley Goals and Priorities in order to finish the list. Councilmember Barchfeld seconded.

City Administrator Ferguson clarified additional language should be added to table this item and hold another workshop in order to bring a finalized list for consideration on a future Council agenda. Councilmember Trapp agreed to the additional language, as stated by City Administrator Ferguson. Mayor McCullough favored specifying a date for the additional workshop and Council agreed on Friday, August 19, 2016 at 7:30 a.m. at City Hall. Motion carried on a vote of 5-0.

- F. Discuss and consider possible action setting the date, time and place for the public hearing on the Proposed *Fiscal Year 2017 City of Wimberley Operating Budget*. (*City Administrator*)

This item was heard after Agenda Item 5G.

City Administrator Ferguson recommended setting the date, time, and place for the subject public hearing on Thursday, September 1, 2016, 6 p.m., at City Hall.

Councilmember White moved to approve setting the date, time, and place, as recommended. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

Discussion addressed the budget calendar and certain tentative dates, if needed.

- G. Discuss and consider possible action setting the date, time and place for a City Council workshop to discuss issues and concerns relating to short-term rental properties in the City of Wimberley. (*Place Four Councilmember Gary Barchfeld*)

This item was heard after Agenda Item 5E.

Councilmember Barchfeld spoke on the divisiveness of this issue and said the process needs to be re-evaluated to get a sense of where Wimberley wants to go on short-term rentals. He recommended a moratorium of 60 to 90 days on approval of short-term rental CUPs to avoid an influx of applicants while Council considers potential action.

Discussion addressed the number of pending CUP applications, Council's adoption of a grandfathering policy for short-term rentals, and amount of interest in future CUP applications. Mayor McCullough reminded that Council has the obligation to hear and serve both sides on this issue.

Audience member and lodging owner Terrie Bursiel said there is so much contention she would like to see at least a 30-day moratorium so that Council can talk to people. She said Wimberley is a tourism town no matter who does or does not like it and stated if people do not like it they should not have come here. She said agreement has to be reached to make people as happy as they can be. Mrs. Bursiel stated that she advised a prospective vacation rental owner to buy property outside the City. She said lodging is what makes this city turn and asked Council to approve the moratorium. Mrs. Bursiel cited inflammatory comments about short-term rentals, was proud of her promotion of "quiet" tourism, and objected to the use of terms such as "boarding house" or "party house."

City Administrator Ferguson said that pending CUP applications submitted prior to any moratorium would proceed and not be subject to a moratorium. He advised there is a legal process involved in implementing a moratorium that requires public input/notification.

Discussion addressed statistics on short-term CUP applications, length of the moratorium, need for public input and guidelines for applicants, evaluation of CUP procedures, and enforcement of CUP conditions.

Councilmember Barchfeld moved to direct staff to prepare the process for the next agenda to initiate a moratorium on short-term rental CUPs for a period of 90 days. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

H. Discuss and consider possible action regarding proposed modifications to the City of Wimberley ordinance regulating to the keeping of chickens. (*Place Three Councilmember Sally Trapp*)

This item was heard after Agenda Item 5F.

As a hen owner, Councilmember Trapp questioned the need for the minimum 2-acre requirement for keeping of chickens and the inclusion of the term "single family" in the current ordinance.

Discussion addressed language in the proposed ordinance that would allow chickens on properties of any size in a residentially zoned district and prohibition of roosters and commercial activity.

After discussion of points of order for speakers, Mayor McCullough advised that speakers will not be heard at this time.

Discussion continued on possible regulation of the number of chickens allowed; reasoning for the existing ordinance; health/odor issues associated with chicken coops, particularly on small lots; setback requirements; other cities' chicken-keeping regulations; and possible addition of a half-acre minimum lot size requirement to the proposed ordinance.

Councilmember Trapp moved to direct staff to amend the proposed ordinance to add a minimum lot size requirement of one-half acre and remove the reference to "single family" from §98.02(A). Councilmember Fore seconded. Motion carried on a vote of 4-1. Councilmember White voted against.

- I. Discuss and consider possible action regarding a proposal to fund a public handicap accessible portable toilet in the area known as *The Quarter* on the Wimberley Square. *(Place Three Councilmember Sally Trapp)*

Councilmember Trapp stated she was not aware when Council voted to remove the porta-potties in favor of the new restroom trailer, that the new trailer was not handicap-accessible and noted the need to provide a handicap accessible toilet in the subject area of the Square.

Councilmember Trapp moved to fund a public handicap accessible portable toilet in the area known as *The Quarter* on the Wimberley Square. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

- J. Discuss and consider action regarding a request to operate a food service trailer at 14012 Ranch Road 12 for *Wimberley Thursdays* in Wimberley, Texas. *(City Administrator)*

City Administrator Ferguson presented the request to allow the subject trailer to operate in front of *Wall Street Western* on *Wimberley Thursdays*. Discussion established that *Wall Street Western's* owner is in favor of the food trailer.

Councilmember Barchfeld moved to approve the request to operate a food service trailer at 14012 Ranch Road 12, as presented. Councilmember White seconded. Discussion established that public restrooms are available. Motion carried on a vote of 5-0.

- K. Discuss and consider action regarding a request to operate a food service trailer at 14306 Ranch Road 12 in Wimberley, Texas. *(City Administrator)*

City Administrator Ferguson presented the request to allow the subject trailer to operate at the "Y" shopping center, where an existing BBQ trailer is located. He advised the subject business is named *Texan Snow* and noted the applicant plans to use existing on-site restrooms for the food service operation.

Councilmember Trapp moved to approve the request to operate a food service trailer at 14306 Ranch Road 12, as presented. Councilmember Dussler seconded. Motion carried on a vote of 5-0.

- L. Discuss and consider possible action regarding the plans for the *2016 Livestrong Challenge Bike Ride* on October 16, 2016. (*City Administrator*)

City Administrator Ferguson recommended approval of the annual event, highlighted the route, anticipated number of riders, and advised that event organizers will provide contract law enforcement and insurance for the event.

Councilmember White moved to approve the plans for the *2016 Livestrong Challenge Bike Ride* on October 16, 2016, as presented. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

- M. Discuss and consider possible action regarding the plans for the American Diabetes Association's *Tour de Cure Bike Ride* on September 17 and 18, 2016. (*City Administrator*)

City Administrator Ferguson recommended approval of the plans for the event and highlighted the route to travel through Wimberley between 9 a.m. and 12 p.m. on Sunday, September 18, 2016. He advised event organizers will provide law enforcement and insurance for the event.

Councilmember Fore moved to approve the plans for the American Diabetes Association's *Tour de Cure Bike Ride* on September 17 and 18, 2016. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

## **6. City Council Reports**

- Announcements
- Future Agenda Items

As a future agenda item, Mayor McCullough requested a proclamation for a 100-year old Wimberley resident and various options were discussed on presentation of the proclamation to the recipient.

Mayor McCullough spoke on precedents set for speaker rules and procedures and stated the importance of hearing the public in a manner that is not subjective. Discussion established that rules of governance allow for flexibility.

Councilmember White asked for details on the process for handling a complaint regarding a grandfathered vacation rental and City Administrator Ferguson provided clarification on the validation process for complaints, which if deemed valid, would come before Council as an agenda item for consideration.

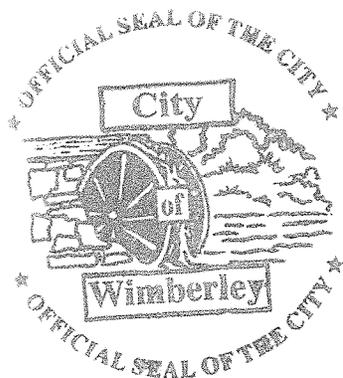
Hearing no further announcements or future agenda items, Mayor McCullough called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 9:34 p.m.

Recorded by:

  
Cara McPartland

These minutes approved on the 18<sup>th</sup> of August, 2016.



**APPROVED:**



**Mac McCullough, Mayor**

**Statement read by Councilmember Dussler during City Council meeting  
on August 4, 2016 (Agenda Item 5C)**

“Aqua America focuses on buying water systems and hiking water prices. After taking over and building out its systems, the company seeks to increase water rates. The ability to hike consumer bills is the key to its earnings. On top of regular rate increases, the company also pursues state approvals to implement surcharges on system improvements to increase its revenues and speed up returns. This surcharge allows the company to increase customer bills without full public scrutiny. Six states where they operate allow this surcharge and the company is exploring how to get the surcharge authorized in two more states - Texas and Virginia. After rapid growth in the late 1990s-early 2000s, the company seemingly flat-lined with lackluster expansions and strong public resistance to its rate plans. The public opposition has apparently scared the company out of New York and Florida where it sold its operations and faced municipal efforts and strong public scrutiny of its rates and services. In Florida, the company sold its systems to the Florida Governmental Utility Authority. Many customers were deeply dissatisfied with the company and reported chronic water quality and customer service problems and the customers paid some of the highest water rates in the state. Aqua charged twice as much as comparable publicly-owned utilities. They had the most customer complaints. Aqua had forty-percent of the total water and sewer complaints filed with the Commission and received seven times more complaints than the regulated utility with the next highest number. In Fort Wayne, Indiana, the city took public control of Aqua’s Indiana water systems in and around the city in 2008 after winning a lengthy battle that went to the state’s Supreme Court. It then took more than five years to finalize the purchase agreement because Aqua sued the city over the purchase price. The city planned to provide better water, improved service, and rejuvenate the systems, all at a lower price. Also, the city will implement long-term and locally accountable rate control to help ensure that prices are affordable for its residents. This may sound like a great feat, but the city can accomplish its goals because it does not have to turn a profit. It’s not driven to increase their profit and this should be a lesson for us in Wimberley. Finally, in Pennsylvania Aqua has purchased more than twelve small municipal water systems since 1990. After buying a water system, the company begins to increase the rates of its new customers over time, and then applying service charges to further increase profits. Typical households were paying nearly five times as much for water service on average as they paid before Aqua took over their systems. Residential bills increased by an average of 240%, which is an average increase of 10% a year. So, this is another reason why I’m strongly opposed to doing business with Aqua Texas and subjecting our community to this type of business model. Thank you.”