

**City of Wimberley**  
City Hall  
221 Stillwater  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
August 20, 2015 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Steve Thurber.

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

Councilmembers Present: Mayor Steve Thurber, Councilmembers Bob Dussler, Cindy Anderson, Mac McCullough, Pam Showalter, and John White.

Staff Present: City Administrator Don Ferguson

### **Citizens Communications**

Wimberley resident David Glenn spoke of his attendance at the Town Hall meeting held on August 18, 2015. He said Council members are responsible to every Wimberley resident and need to be prepared about the complexities and oppositional positions on each issue. He referenced ongoing legal issues related to the status and maintenance of Mill Race Lane and felt that there is an opportunity for Council to save budget capital and build political capital at the same time. Regarding Mill Race Lane, he asked that Council members personally investigate the long sequence of events that have occurred over four administrations and possibly demand second legal opinions and staff briefings. Mr. Glenn said not to spend more legal funds to harass residents who have expressed a willingness to personally pay for maintaining this low volume roadway.

Wimberley resident Lila McCall reiterated Mr. Glenn's abovementioned comments and cautioned that the City could lose the lawsuit and be liable for several hundred thousand dollars. She asked that Council should table consideration of a hotel occupancy tax (HOT), which she felt would be detrimental to businesses such as Rio Bonito and the local economy in general. Ms. McCall cautioned against pushing people too far and said that anyone owning more than twenty-six acres could be asked to be de-annexed, which would be very severe for the City. She closed by stating the City needs to get its priorities straight.

Wimberley resident Ian Green spoke of his extensive involvement in numerous local arts/cultural/service organizations. As an arts and cultural destination, he stated visitors come to Wimberley for its uniqueness, scenic beauty, shopping, art, music, and top-class theatrical productions. He expressed full support for any activity (including a HOT tax) that would widen the scope for arts-related products for our visitors, who spend money to help build our City and its infrastructure. He stated the Chamber of Commerce directors should be recognized and commended for their tireless work to expand membership to record levels, and on behalf of the arts community, described their efforts as exemplary.

Wimberley resident Janette Barlow spoke on the Pedernales Electric Cooperative (PEC) planned transmission line upgrade and stressed that Council must understand the scope of the project in order to make a decision that will not be regretted later. She invited Council to attend an August 25<sup>th</sup> meeting between PEC and affected property owners. Ms. Barlow felt that the City should be there because it has an interest as a property owner due to PEC's lines crossing City rights-of-way and streets. She asked that Council personally walk along the proposed line's path and favored an alternate route for the line. Ms. Barlow cited the City's Comprehensive Plan, which encourages future upgraded lines to be placed underground. She said an attorney advised that the proposed line's voltage would not be healthy for citizens in its vicinity.

Alan Daniel, who lost family members in the Memorial Day weekend flood, spoke on continuing efforts to search for those still missing, and expressed appreciation to all authorities, churches, pilots, and canine teams who have helped in search and rescue operations. He expressed his family's interest in rebuilding and welcomed any help Council could provide toward that effort.

## 1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of August 6, 2015
- B. Approval of minutes of the Special City Council meeting of August 3, 2015
- C. Approval of minutes of the Special City Council meeting of August 12, 2015
- D. Approval of the July 2015 Financial Statements for the City of Wimberley
- E. Confirmation of Mayor Steve Thurber's appointment of Gary Barchfeld to the consensus position on the City of Wimberley Transportation Advisory Board. (*Mayor Steve Thurber*)

Councilmember Showalter pulled Consent Agenda Item 1C.

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

Councilmember Showalter proposed the following corrections to Page 5 (see italics) of Consent Agenda Item 1C:

~~"She noted her own personal research that indicated~~ *One study that she found indicated that a HOT tax has a depressing effect on small lodging institutions. . ."*

~~"She was concerned about a 7% HOT tax rate and felt that 2.25% was more reasonable understood the reasoning behind a 2.25% HOT tax rate, but was not choosing a percentage at this time."~~

Councilmember Dussler moved to approve Consent Agenda Item 1C, as corrected. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

## 2. City Administrator Report

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

City Administrator Ferguson reported the City received its August check (representing June collections) totaling \$93,557, which is up 14% from the same period last year and running well ahead of budget.

- Status report on the Pedernales Electric Cooperative Transmission Line Project

City Administrator Ferguson reported that PEC is anticipated to brief property owners at a meeting to be held on August 25, 2015 on various line options based on community input. PEC has been asked to present those options to Council at its September 3, 2015 meeting.

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported that mediation begins tomorrow in Austin. He advised that permit hearing dates are set for January 25-29, 2016 and anticipated TCEQ's decision by late spring/early summer 2016.

- Status report on the search for a new city marshal

City Administrator Ferguson reported that background checks are being conducted and hoped to extend an offer within the next week. Preliminary discussions with the City of Woodcreek have taken place regarding the possible development of a future joint law enforcement agency to serve both communities.

- Status report on the CAMPO funding applications for sidewalks on Ranch Road 12, Old Kyle Road and Oak Drive

City Administrator Ferguson reported that applications have been submitted and expected a decision from CAMPO by October 30, 2015. He stated that the City's Transportation Advisory Board will be integrally involved with every one of these projects and anticipated setting up a task force on the Ranch Road 12 project.

- Status report on the operation of the Blue Hole Regional Park

City Administrator Ferguson reported operations running at or near capacity, with over 28,500 visitors to the swimming area this season. He noted \$235,000 in revenue has been generated so far, with daily operations to continue through Labor Day. He encouraged residents of the 78676 zip code to take advantage of "Wimberley Wednesdays" discounted rates for the swimming area. He reported plans are underway for the Concert in the Park series and a proposed steak cookoff event.

There was brief discussion between Councilmember McCullough and City Administrator Ferguson regarding the successful imposition of staggered swimming times due to capacity limits for Blue Hole visitors.

### **3. 2015 Memorial Day Weekend Flood Matters**

- A. Presentation of an update regarding recovery efforts relating to the 2015 Memorial Day Weekend Flood in the City of Wimberley, Texas. (*City Administrator*)

This item was heard after Agenda Item 4.

City Administrator Ferguson presented information on the following topics:

- The Disaster Recovery Center (DRC) will remain open at least through August 27, 2015, Monday-Friday from 9 am. to 6 p.m. at the Community Center
- FEMA registration deadline of August 27, 2015 and the importance of registering
- Volunteer Resource Center at 211 Stillwater continues to operate during limited hours
- Contact phone number (512-715-4134) provided for those who need volunteers to request help with property clean-up
- Details on the recently formed Blanco River Regional Recovery Team
- FEMA's issuance of advisory maps showing new base flood elevation data for the Blanco River and Cypress Creek, which will likely show wider floodplain areas and higher base flood elevations
- Community meeting scheduled for August 26<sup>th</sup> from 2 – 8 p.m. at the Community Center to allow property owners an opportunity to view the new advisory maps and to meet with representatives from FEMA and City of Wimberley staff
- Damaged infrastructure, including low-water crossings and shoulder cuts on River Road
- Hidden Valley neighborhood meeting that resulted in unanimous consensus on rebuilding the same type/design of crossing that existed before the flood, with construction anticipated to be completed within a 9-month period
- Total amount of debris removed to date
- Anticipated end-of-August start date for the private property debris removal program and details on the scope of the program
- Plans for debris removal from the Blanco River
- Riparian and restoration efforts along the Blanco River

City Administrator Ferguson reminded that there will be a Community Flood Mitigation meeting held Monday, August 24, 2015 at 6 p.m. at the Community Center.

- B. Discuss and consider possible action regarding plans for *The Walk of Remembrance and Gratitude – A Tribute to Those Who Lost Their Lives and Property in the Memorial Day Weekend Flood* on Thursday, October 22, 2015. (*City Administrator*)

This item was heard after Agenda Item 3C.

City Administrator Ferguson introduced Judy Roach who provided details on the proposed event, which will take place at Rio Bonito Resort and include a brass band walk along Ranch Road 12 followed by a concert.

Councilmember McCullough moved to approve the plans, as presented. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding a proposal to partially fund the development and publication of a book that will document the stories of those impacted by the 2015 Memorial Day Weekend Flood in Wimberley. (*Mayor Steve Thurber*)

This item was heard after Agenda Item 2.

Mayor Thurber provided background information on this proposal and introduced Nancy Williams, who also spoke on behalf of Carroll Wilson of the Wimberley Village Library and Steve Klepfer, owner of Old Mill Store. She said an important part of helping people deal with crises is letting them tell and preserve their stories through means such as journaling. She felt publishing a book would be a powerful tool in the healing process and also valuable as an historical record of events. She said that Wimberley Institute of Cultures (WIC), the Chamber of Commerce, the Wimberley Arts and Cultural Alliance, and the community in general have expressed support for this proposal to tell and record Wimberley's story. She highlighted the proposal to publish a book that will feature stories and photographs from first-hand experiences, primarily in the Wimberley area, that focus on the initial 48 hours after the flood. She said the book will include stories about courage, strength, faith, kindness, generosity, determination, and hope.

Ms. Williams reported receiving many requests from people eager to share their stories and described this proposed book as being community-driven. She provided details on the proposed book's design and size, including information on photographs and possible titles. She said a committee will be formed to consider submitted book designs and a tape recorder has been ordered that will be placed at the Wimberley Village Library for the convenience of those who wish to tell their stories. Stories will be reviewed and edited by seasoned professionals before being sent to the publisher. She advised that the Library is also offering the use of computers, interview space, and personal time for this print-on-demand book project. Ms. Williams explained that this is not a fundraising project and gave details on plans to use proceeds to cover the cost of producing and publishing the book, with all funds managed through a 501(c)(3) non-profit organization. She noted cost estimates and timeframe for various phases of the book's publication. Ms. Williams asked for Council's support for funding this proposal, including possible grant opportunities.

Discussion addressed the projected page count and scope of the book's content, which Ms. Williams said would only be limited by budget/funding constraints. It was noted submissions can be emailed to the Wimberley Village Library.

Councilmember McCullough suggested that the City match whatever funding the foundation receives. Mayor Thurber favored setting a specific amount, which could be increased later, if necessary. Discussion addressed initial fixed costs, estimated publication cost per book, estimated book purchase price, and support from other organizations received to date.

Councilmember Anderson suggested the City contribute an amount to cover publication of the first 500 books and Councilmember Showalter concurred and added the book will honor the people who were flooded by letting them tell their stories. Councilmember Anderson noted that digital format copies are also an option that Ms. Williams might want to consider.

Councilmember Showalter moved to fund the development and publication of the proposed book for the total number of 500 copies, in the amount of \$7,860. Councilmember Anderson seconded. Councilmember White requested a friendly amendment to increase the dollar amount to \$8,000. Councilmember Anderson seconded. Councilmember Showalter accepted the friendly amendment and moved to fund the development and publication of 500 copies of the proposed book in the amount of \$8,000. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

Ms. Williams said the goal is to have the book available for purchase by Christmas 2015 and encouraged people to submit their stories.

#### **4. Ordinance**

Consider approval of the first reading of an ordinance of the City of Wimberley, Texas, to set forth the tax rate to be imposed on hotel occupancy within the corporate limits and extraterritorial jurisdiction of the City; setting forth the duties of persons responsible for collection of the tax; providing for criminal penalties and fines; providing for severability; and providing for an effective date. (*Mayor Steve Thurber*)

This item was heard after Agenda Item 3B.

Mayor Thurber commended both sides on this issue for working to together in a positive way for the betterment of the community and outlined procedures for speakers.

Local bed and breakfast owner and Flite Acres Road resident Wayne Kochenderfer stated his property did not sustain flood-related structural damage and spoke of his past ownership of Hill Country Accommodations. He said he is speaking on behalf of former City Council member Terrie Bursiel, who has owned All Wimberley Lodging for the past 17 years. Mr. Kochenderfer said that merchants enthusiastically support a HOT tax and get collateral benefits of a HOT tax at no cost to them. Mr. Kochenderfer spoke of past 2009 hotel occupancy tax (HOT) discussions and referred to comments made in 2009 by Scott Joslove, President of the Texas Hotel and Lodging Association related to “heads in beds” rules governing expenditures of HOT tax funds. Mr. Kochenderfer felt there are not many options available to spend HOT tax funds in Wimberley, given that there are limited facilities (such as lack of a convention hall, sports center, or multi-unit rentals). He recalled Mr. Joslove’s 2009 remark cautioning against implementing a HOT tax unless lodging owners support it. He described the City of Woodcreek’s adoption of a HOT tax as being unsuccessful, in spite of Woodcreek’s lowering of its tax rate over several years. He said the City of Woodcreek is unable to spend all of the HOT tax money it collected. Mr. Kochenderfer cited record June sales tax revenue for the City of Wimberley, despite the impact of the Memorial Day weekend flood, and without having a local HOT tax in place. He said hoteliers do not tell merchants how to spend their advertising dollars, and felt that the merchants and the art league need not tell bed and breakfasts how to spend theirs. He stated a mediated management of HOT tax revenue should include four members from the bed and breakfast industry and one each from the merchants and art league. He did not favor passing a HOT tax without a plan to manage its disposition.

Wimberley Valley Tourism and Lodging Association Chair Albert Valera, and owner of Hotel Flora and Fauna and Cypress Creek Cottages, said hoteliers believe responsible tourism is the path forward. He defined responsible tourism as bringing in tourists at a time when the City's infrastructure can accommodate them. He said the focus should be on increasing occupancy in the first and fourth quarters, specifically Sundays through Thursdays. He emphasized that HOT is a funding tool, not a tourism strategy, and that the strategy should have a specific target. He believed a 2.25 % HOT tax rate would generate approximately \$100,000-\$125,000 annually, which he felt is sufficient to implement the target strategy. He stated that research has proven that in small cities, a HOT tax can have a negative impact on tourism and on occupancy rates. He said hoteliers will subordinate their interests, if Council adopts a HOT tax, and recommended a HOT tax rate not to exceed 2.25%.

Bob Cook questioned the effectiveness of spending a couple of hundred thousand dollars on advertising to promote Wimberley as a tourism destination, to put more heads in beds, and to overcome the issue of a somewhat higher price that lodging owners will have to charge due to a local HOT tax. He was impressed by datum showing that 80% of cities in Texas charge a HOT tax, but felt that advertising is successful when it correlates positively with the desirable product. He provided corporate examples of an ineffective ad campaign waged using large advertising expenditures and an effective ad campaign waged with far less advertising expenditures. He described Wimberley as a product comparable to the way Apple described the iPhone as a product and provided examples of Wimberley's many attractions for visitors. He pointed to differences between Wimberley and Buda and cited information listed on Buda's tourism website. He felt that Wimberley is comparable to the "iPhone" example, said that advertising will go a long way to improve our economic conditions, and expressed support for a HOT tax.

Hotel Flora and Fauna General Manager Kharma Palmer spoke of the hundreds of signatures on a petition (distributed to Council) against a local HOT tax from all of the opposing hoteliers. She said that customers were appalled at the prospect of paying a HOT tax and expressed concern that lack of guests could cause hotel employees to lose their jobs.

Before speaking on the HOT tax issue, Tom Talcott said he was glad Wimberley is supporting the book proposed earlier by Nancy Williams (*see Agenda Item 3C*) and felt the "Wimberley Strong" flag is an important symbol that is unique to Wimberley. Regarding the HOT tax issue, Mr. Talcott stated concerns expressed by bed and breakfast owners, who were afraid that a HOT tax will hurt their business, and by shop owners, who feared the City's infrastructure will not support larger crowds. He spoke of the "Wimberley experience" that everyone comes here for, which might be compromised by lack of facilities and cautioned that a HOT tax will increase advertising and bring in more people than Wimberley can handle. He said these were always the major objections to a HOT tax. He also said "you are creating a bias" between the bed and breakfasts that are here in Wimberley and those that are outside of Wimberley. He felt that people checking out rates will pick a facility outside of Wimberley that is a few dollars cheaper due to lack of a HOT tax. Speaking as a former Council member, Mr. Talcott noted that most Council members ran on a "no new tax" pledge and said this is not consistent with what was promised.

Lodge at Cypress Falls General Manager Hunter Jones described the City of Woodcreek's adoption of a HOT tax as a failure that took five minutes to pass and five years to correct. He said the City of Wimberley is headed down the same path and that the following arguments remain the same: 1.) Every city has a HOT tax; 2.) HOT is not a tax on hoteliers, but on their guests; 3.) The money collected will be managed by the City or its delegates to bring in more tourism; and 4.) A committee consisting of interested parties will make sure the money is spent wisely. He cited statistics on the number of cities with a local HOT tax, detailed the concept of comparative advantage, and provided examples of the City of Woodcreek's five-year experiment that collected over \$120,000 in HOT tax revenue, including accounts of two lodging owners that went out of business and those that remained experiencing margin erosion as they lowered prices to absorb the 7% HOT tax and avoid declining occupancy. Mr. Jones said Woodcreek's HOT tax committee was disbanded after two meetings because it could not agree on how HOT tax funds would be allocated. He also stated that Woodcreek gave the Wimberley Chamber of Commerce HOT money that has not been fully accounted for or willingly disclosed. Mr. Jones said statistics revealed less than fifty overnight guests were reeled in over a five-year period as a result of HOT tax-funded marketing expenditures that amounted to \$2,400 per guest. He cited calculations indicating the cost to acquire each of the fifty guests based on a two-night stay at an average nightly rate of \$139 and said the City of Woodcreek spent 8.63 times more than the overnight tourism revenue it brought in. He concluded by thanking Council and hoped it would explore all of the reasons given that do not support a HOT tax.

Blair House Inn owner/Wimberley Valley Tourism and Lodging Association (WVTLA) representative Chris Mahoney distributed a handout to Council and referenced a recent WVTLA workshop meeting on responsible tourism. He directed Council's attention to the handout and noted that the graph indicated a visitor shortfall in the first and fourth quarters during the Sunday-Thursday time period. He believed the only way to solve this tourism problem is to develop a plan to bring visitors in during off-peak times and have a specific marketing plan that targets people, groups, and industries. He did not feel the problem would be solved by throwing money at advertising in various magazines and websites, which he said does not allow for targeted marketing. He said everyone knows about Wimberley, and that we just need to concentrate on getting people to come here during off-peak times. If a local HOT tax becomes a reality, Mr. Mahoney said funds have to be spent on bringing in tourism and putting heads in beds, and any other expenditure would be considered a misuse of funds.

Bill Appleman of Creekhaven Inn/Wimberley Artists Workshop spoke of his involvement over the years on the issue of a local HOT tax. He said the Chamber of Commerce believed a HOT tax to be beneficial to them, but noted that none of the proposals from the Chamber had anything to do with meeting the legislative objectives of bringing in more heads in beds. He referred to a past HOT tax committee's membership composition and noted that he was the lead lodging community representative on that committee. Mr. Appleman said the conclusion of that prior committee was that Wimberley had a tourism problem, namely the need to increase Thursday-Sunday visitors, and stated that no one could come up with a plan to solve this problem. He questioned implementing a HOT tax without a plan to spend the money on. He believed the committee concurred it was better left up to individual lodging owners to come up with their own marketing plans to attract interest in Thursday-Sunday tourism. Mr. Appleman noted that Blair House has done well with its cooking school; however, he felt there are currently no ideas or

plans on spending HOT tax revenue. If Council does vote to approve a HOT tax, Mr. Appleman recommended that no more than a 2.25% tax rate be implemented.

Speaking on behalf of WVTLA, Robbie Walker did not believe a HOT tax is right for Wimberley and cited City of Salado as an example. However, if a HOT tax is the will of the community, Mr. Walker said that a mediated settlement needs to include an advisory committee consisting of four lodging members, one Chamber member, one merchant, and one artist. He stated that the committee would make recommendations much like a bank and proposals for funds would meet specific criteria. He said if proposals meet the stated criteria, funds would be approved, and if not, declined. He referred to a performance metric that would need to be met for future funding requests. Mr. Walker believed this is a very serious topic for the lodging industry and the City. He said sales tax revenue is up and people are coming to Wimberley to show support after the flood. Mr. Walker said Council is taking a huge chance that might affect the City in a negative way, but if Council chooses to approve a HOT tax, he asked to adopt a tax rate that does not exceed 2.25%.

Local property owner Tomas Palm expressed concerns about post-flood image re-building and thought the timing is really off for consideration of a HOT tax. He said if a HOT tax is approved, it has to be administered properly, or it will be a waste of money. He anticipated a decline in visitors for the next couple of years, considerable infrastructure repairs, and the negative long-term-impact of the flood on first impressions of visitors to Wimberley. He distributed handouts to Council and emphasized the importance of administrative oversight by the committee for a HOT tax to be effective.

Hill Country Premier Lodging owner Dan Sturdivant spoke of his representation of over 125 properties in the Wimberley Valley area. He respectfully encouraged Council to vote against a HOT tax and cited his personal expenditure of thousands of advertising dollars over the last 13 years to bring tourists to Wimberley. He said tourism is up and the City's infrastructure cannot handle any more people in the summer. He noted sales tax revenues are also up and said we do not need a HOT tax. Mr. Sturdivant stated that "winter Texan" visitors rent houses for months at a time, which makes the occupancy rates go down according to State records. He thought the occupancy rate is higher than what the State shows. During the past 13 years, Mr. Sturdivant said his company and the lodging industry have prospered without a HOT tax, and merchants and artists have prospered as well. He said the City has done a remarkable job, considering it operates without a property tax or a HOT tax and felt that energy should be expended toward infrastructure improvements to support more tourists. Referencing arguments that most cities have a HOT tax, Mr. Sturdivant stated that Wimberley is not comparable to other cities in Texas, because most of its rentals are houses, not hotels. Mr. Sturdivant spoke of his support for Council, but asked that it keep its promises of no more taxes and asked for a vote against a HOT tax.

Business owner Rob Pitzer spoke in support of a HOT tax as beneficial to the entire community and encouraged Council to stand strong and not be coerced by a small group of individuals who in a recorded meeting stated "they don't care about downtown or the merchants or even the small B and B owners." He said that WVTLA's full-page newspaper ads attempted to mask this statement by saying they support the business community. In response to Mayor Thurber's

caution against personal attacks, Mr. Pitzer stated that his comments speak to the issue of credibility. Mr. Pitzer found it difficult to accept much credibility in what is being offered by opposition, based on what has been uncovered by facts and figures and based on actions that have been taken by a few of the lodging members in the community. Mr. Pitzer said Council knows and understands the real, non-distorted facts and the potential upside of this program. He submitted that 500 other cities in the State of Texas did not get it wrong and that a HOT tax is beneficial. He applauded Council's efforts to do the right thing, which he said is not the easiest task.

Kiss the Cook owner Brenda Isgitt distributed a handout to Council and spoke on her store's projected loss of approximately \$11,102 for the period from June 1 – August 19, 2015. The commonality of remarks made by her customers since June indicated that there is a perception that Wimberley was washed away and that they should not come. After the flood, Ms. Isgitt said the Chamber of Commerce did a great job of publicizing that Wimberley is open for business through local news coverage. She noted Kiss the Cook was the very first business to go through the approval process in 2001 for the newly formed City of Wimberley. She recalled that merchants asked the City in 2001 for help with advertising, but were told that what was needed was a HOT tax. As a business owner, Ms. Isgitt applauded the Chamber for its support of a HOT tax and felt that "HOT" stands for "Here on Time." She asked that Council move forward as soon as possible with approval of a HOT tax to help Wimberley's economy and let people know through the Chamber of Commerce advertising that Wimberley is still here and is ready to serve customers.

Wimberley resident Aurora LeBrun, who has volunteered at the Visitor's Center for the last six years, said the Center does a very good job of promoting Wimberley. She spoke in support of the HOT tax and concurred with earlier comments by Brenda Isgitt indicating that there is a perception that Wimberley "was wiped off the map" by the flood. She answered many calls from those inquiring about events such as Market Days and encouraged those callers to visit Wimberley. Ms. LeBrun felt a HOT tax would have been helpful to provide resources to promote Wimberley as open for business after the flood. As a frequent traveler, Ms. LeBrun said she has never based her travel decisions on whether or not her hotel charges a HOT tax, but does base them on what the destination has to offer and how she is treated. She did not believe that people will stop coming to Wimberley if it adopts a HOT tax. Regarding fundraising in general, she said Wimberley is a limited market and needs a known source of income to promote this town and make it better.

Mayor Thurber called a brief recess at 7:35 p.m.

Mayor Thurber reconvened the meeting at 7:40 p.m.

Visitor's Center volunteer Patti Morgan spoke of her involvement with numerous local organizations and supported a HOT tax, which she felt will not keep visitors from coming to Wimberley for its many attractions and events. She said we can take better care of visitors with additional funding and spoke of the spirit of "Wimberley Strong." She asked that Council consider a HOT tax paid by visitors who will be well taken care of at the Visitor's Center.

Santa Fe Connection owner Dan Moore said the only way a HOT tax will work is if the community is behind it and we are strong together. He supported a HOT tax, though he recognized the pros and cons of this issue. He stated this is really a user fee on visitors, rather than a tax. Mr. Moore said to do an effective job of promoting Wimberley, a 7% HOT tax is needed and anything less will not do an adequate job and cause the program to fail. He spoke of his personal observations of fluctuating numbers of tourists, and used the number of cars in Mr. Valera's parking lot at Hotel Flora and Fauna as a benchmark. He said it is a difficult situation mid-week for business and agreed with Mr. Valera that increasing weekday business is important. As a community, Mr. Moore said we need to come together and the committee needs to come up with a plan everyone can agree on and present it to Council. He asked that Council make a good decision for the community.

Former Woodcreek City Council member Brent Pulley spoke on the City of Woodcreek's experience with a HOT tax program and said that earlier comments describing it as a failure are incorrect. He stated that Woodcreek's HOT tax was not repealed and that HOT funds were not misused. He said HOT funds were spent to advertise the community of Woodcreek and raise its profile by conducting web- and print-based campaigns, with the web campaign generating 16,000 referrals annually to bed and breakfast websites or their reservation services. He noted that 100 requests per month were received for promotional materials. Mr. Pulley said that research on the impact of Woodcreek's HOT tax on area businesses, such as Mr. Valera's Hotel Flora and Fauna, revealed that during the two-year period that Woodcreek's HOT tax was in place, Mr. Valera's revenues almost doubled. He felt that we can agree that more mid-week tourism is needed at certain times of the year and hoped we can go forward.

Wimberley Valley Chamber of Commerce Executive Director Cathy Moreman stated that there are pros and cons of a HOT tax and spoke of her limited marketing budget. She felt a HOT tax is important to do the marketing that is needed and said if we are a tourist town, we need to act like one, including the use of targeted marketing. She pointed out that a HOT tax is paid by tourists, not residents, and supports tourism and all businesses, not just one section of our community. She said the Visitor's Center is manned seven days a week, which is not common, and greets up to 25,000 visitors per year. Ms. Moreman said a lot of volunteer time is spent raising money for the Visitor's Center and commended Patti and Mike Morgan for their generous donation to help with remodeling costs. She believed we are a tourist town and our businesses and residents depend on the success of our efforts. Regardless of how Council votes on a HOT tax, Ms. Moreman hoped that the Chamber and hoteliers will come together for a common goal - a community that works together to promote prosperity.

Wimberley resident Nancy Carney spoke of her active volunteerism for numerous local organizations and reinforced earlier remarks by Aurora Lebrun and Patti Morgan. As a frequent traveler, she said a HOT tax does not have a negative impact, and felt that a 7% tax rate has a very minimal effect on total cost. She did not believe that most people on vacation think about whether they are paying a HOT tax. She concurred with Cathy Moreman's comments and cited Bastrop's Visitor's Center as a beautiful example of a center that provides many services, including a museum. Ms. Carney felt that targeted advertising would help with increasing mid-week tourism and that a committee-developed master plan is needed to address tourism issues in a cooperative manner. She said it does the community no good to be at odds with one another

and questioned statistics on lowered occupancy rates in places such as Salado, which she felt could be attributed to other factors such as a severe economic depression.

Wimberley resident and Bent Tree Gallery owner Stan Allen spoke of Wimberley as an arts destination for events such as Arts Fest and the contributions of artists toward Wimberley's national recognition as an arts center. He stated there are many artists who show their art in Wimberley and felt that artists are getting the word out about Wimberley, even though there's not a lot of extra money to spend on advertising. He said any help would be appreciated. Mr. Allen did not feel that 2.25% HOT tax rate would raise an adequate amount of revenue to be effective.

Belinda Smith, owner of Bella Vida Bed and Breakfast, said her business is outside of the City's jurisdiction, but if it were possible, she would gladly collect a HOT tax from guests. She said Wimberley is not always well-known, even to people in Austin. She pointed to other factors that negatively impact tourism in places such as Salado and Woodcreek and asked that Council not believe that a HOT tax is to blame for every town's problems. She noted that Bella Vida is rated the top bed and breakfast in Wimberley by Trip Advisor and her advertising is through the Chamber of Commerce.

Julie Ray spoke of her successful former advertising career and said this is the first time she has heard the argument that visitors and their money are not wanted due to infrastructure issues. She noted that people who come here do not currently pay a HOT tax or property taxes, but do spend money and pay sales tax, which is a major part of the City's budget. She said sales tax revenues can be used help strengthen the City's infrastructure and HOT tax revenues can only be spent toward promotion of more visitors, which is a benefit to all.

Wimberley business owner Jackie Greene spoke of decreased business and blamed it on the sensationalism of the media after the flood. He referred to a video he posted on Facebook, which got 10,000 views and showed that Wimberley is still here and open for business. He spoke of his City Council service in Snyder, Texas and cited its HOT tax program, which he helped administer. In Snyder, Mr. Greene said there were a number of exceptionally good uses for HOT tax funds, especially to promote good ideas that are valuable to the community. He said the City of Snyder raised its HOT tax rate twice and the funds are being well-used.

Matt Meeks spoke on why people come here and felt that Wimberley's beauty and all of the things it has to offer as a whole are the main reasons. He said Wimberley must work together to be strong, as the "Wimberley Strong" flags say. He felt the local HOT tax issue causes division in Wimberley, which he has observed during his years serving on City Council, and did not know where that will lead us, if a HOT tax passes. He believed that we cannot be strong, if we are divided. He stated people will come to Wimberley and acknowledged there are peak tourism seasons, but said some lodging people do not want to be full all year long and some do. Mr. Meeks felt that HOT tax approval should only be considered if those who collect the tax come forth in support of it. He closed by saying he does not support a HOT tax.

Madonna Kimball spoke on checks distributed to flood victims from donations to My Neighbor's Keeper and Wimberley Strong flag sales. She was not speaking to support or oppose a HOT tax,

but has always supported and promoted Wimberley in her 25 years here through her work for various publications. Although she no longer owns any publications, Ms. Kimball spoke of her current freelance work and referenced Texas Hill Country magazine's regular articles on Wimberley. She said there is so much advertising out there and cited her own experience advertising and promoting Market Days. She noted numerous advertising options and found that everyone she encounters knows of Wimberley. She stated that most of her ads for Market Days include an editorial write-up. She felt blessed to live in Wimberley and reported almost normal attendance for June Market Days because the word was out through marketing and social media that Wimberley is open for business.

Sissy Dupre did not state a position on the HOT tax, but said there are tons of tourists and that traffic is horrible on her street.

Wimberley Inn owner Denese Washam said there is a misperception that the lodging industry does not support the arts. Along with her partners, Ms. Washam said that she has supported the Arts from the Heart program for years and cited Pam and Bill Appleman's support of the arts, as well. She stated that by promoting her business, she also promotes Wimberley. She believed there are limitations to what her guests can afford and the first question she receives from her guests is on room prices. She said the idea that a HOT tax is a "pass-through" is absurd. She said we all want to see Wimberley grow in the right way and have had to turn away guests because we are promoting too much at the wrong time. She stated that she wants guests all year long, but when it comes to responsible tourism, she said we really have to look at our infrastructure's capacity. She felt that responsible tourism is the most critical concept and cited examples of private efforts working together for the good of the City. Ms. Washam stated that a HOT tax is not the cure-all and would be a burden on the lodging industry and its guests. She felt strongly that there are other ways to build Wimberley in proper, responsible, and respectful ways without a HOT tax.

Former Wimberley Mayor Bob Flocke spoke on disinformation that he felt needs to be corrected, namely that the HOT tax is a tax on lodging owners. He said the HOT tax is no more a tax on lodging owners than sales tax is on businesses, which is paid by the customer, not the business/lodging owner. He cited personal contacts with visitors to his store, who were asked if they came to Wimberley because it did not have a HOT tax. He said no one has ever answered "yes" to that question. He said most travelers expect to pay a HOT tax and the argument that travelers will bypass Wimberley if it has a HOT tax is ludicrous, since every other town in the Hill Country already has a HOT tax. Of the nine incorporated cities in Hays County, Mayor Flocke stated that besides Wimberley, only Mountain City, Niederwald, and Uhland do not have a HOT tax, and noted that Mountain City, Niederwald, and Uhland do not have any lodging facilities. He said Wimberley is unique among Hill Country destinations and has no competition. Because Wimberley is not on a major highway, people do not discover Wimberley by passing through on the way to somewhere else. He stated Wimberley is a good place as a base to stay, but is a destination in its own right. He agreed that we need to concentrate on increasing Thursday-Sunday and off-peak season tourism and felt that we do not need any more tourists during Market Days.

Wimberley resident Charles Lancaster spoke of his long history and connection to Wimberley and of the recent loss of his home as a result of the flood. He said people come to Wimberley for a lot of different reasons and we want them to stay more than just two days a week, but do not always have places for them to stay. He cited full capacity at peak times at Blue Hole and felt there should not be a HOT tax without a specific plan for promotion and advertising.

Mayor Thurber thanked the Chamber of Commerce and WVTLA for coming together and summarized the following points of agreement: makeup of the advisory committee; the marketing plan should be designed by the committee; the marketing plan should emphasize increasing visitors during off-peak periods, but not to the exclusion of other periods; the committee should work closely together to make Wimberley's plan for the benefit of the entire community and be a model for other communities; no HOT funds should be spent until a marketing plan is adopted; efforts should be made by all to keep politics out of the process as much as possible; a reserve fund should be established to provide for future emergency needs; and parties should agree to work together to effectively administer and oversee the expenditures of HOT funds and must work cooperatively to make it a successful resource for enhancing lodging and tourism activity through investment in the statutorily authorized categories for HOT expenditures.

Councilmember White cited studies that show HOT taxes hurt occupancy and felt a lot of real thought has been put into passing a HOT tax, but there is a dearth of planning on the spending of HOT tax revenues. He said we all talk about targeted advertising, but after thirty-plus years of trying to target an audience (speaking personally of his family business), people do not want to come here in January or February when it is cold and rainy. He stated it has been a long-standing dilemma and did not believe targeted advertising will entice individuals to come here when it is cold and wet. He noted his luck in getting a couple of corporate customers, but said it is a rarity to get business people as visitors. He did not support passing a HOT tax before a spending plan is developed. He said regardless of what a HOT tax is called, it will be a government-mandated increase in his room rates that he cannot support. He said too many people are at the tax trough living off the labor of others.

Councilmember Pam Showalter said there has been a lot of hard work on both sides of this issue, but felt that State-generated data about occupancy rates cannot be used to determine the relative success or failure of a HOT tax in any specific community in Texas, because "there is no one size fits all." She said the key component from all of the research is that HOT tax success or failure is going to be based on where it is implemented (for example, Snyder as compared to Wimberley) and how HOT tax money is planned to be spent. She stated the plan to put together a committee with very specific goals to target mid-week tourism and off-peak quarters is really the critical factor. She felt that in Wimberley there is a strong volunteer spirit among those who will make up the committee and she trusts that they will expend 100% to make a HOT tax program a success. She noted that "the flood changed everything" and the pre-flood model to market Wimberley is gone and said we now need a post-flood model. Councilmember Showalter felt that a HOT tax program will be the first step in that post-flood model to give us the money to do the extra and different kinds of advertising that we have never done before and to bring disparate groups together who currently are spending money out of their own pockets to talk and get some good, creative ideas to market Wimberley the way it needs to be marketed

post-flood. Lastly, and possibly most importantly, Councilmember Showalter stated that we live and work in a representative democracy and she said in her experience here since 1997, the vast majority of people have consistently told her that we need a HOT tax. She felt very strongly that the majority of the people of Wimberley want a HOT tax and said it is not her job to impose her will on citizens, but it is her job to try to carry out the will of the majority, which she sees as right now as being for a HOT tax. Therefore, she closed by saying she will vote for a HOT tax.

Councilmember McCullough regretted the divisiveness of this issue, including the “mass exodus” of Chamber members, but commended Mayor Thurber for bringing both sides together to get this far. His personal dilemma with a HOT tax is the City’s lack of infrastructure, particularly in the immediate downtown area. He said roads, sidewalks, street lights, core parking, public restrooms, central wastewater all need attention and because of inadequate infrastructure, he did not favor a HOT tax.

Councilmember Anderson felt it important to go with her core values and belief in what is right when making decisions for the community as a whole. She said we desperately have an infrastructure problem, but felt that a HOT tax will help solve that problem, because bringing in more tourists will increase sales tax revenues, which is the only form of revenue that the City can use to repair its failing streets and lack of sidewalks, unless the City adopts a property tax that no one seems to want. She asked why not tax those who come here from out of town and visit our community to help pay for infrastructure that we are sorely lacking. She felt it worthwhile to try a HOT tax and would vote in favor of it.

Councilmember Dussler said both sides made outstanding presentations and was encouraged that both the Chamber and WVTLA agreed on the need for an advisory committee, which will be critical to the effectiveness of a HOT tax. He said the focus needs to be on getting heads in beds during mid-week, accountability, performance measurement, and the involvement of not just lodging owners but the entire community. He closed by stating he favors a HOT tax, which he felt can work.

Mayor Thurber made the following statement:

“I believe that a HOT will benefit the entire community, if all parties work together to make it work. Both the lodging folks and the Chamber have expressed many times that they are willing to do this. The evidence shows that where there is a well-run, well-designed plan (and this is the case here) - I have confidence in our hoteliers, our business community, and our arts and non-profit communities to make Wimberley’s plan a model plan to be proud of. That’s something that Albert (Valera) brought up and the lodging association brought up at the last meeting. I believe that’s critical and I believe the Chamber is also supportive of that. The lodging association has told us it is more about how the HOT program works and less about whether or not we have a HOT, and that’s part of responsible tourism. I agree with that and I think the HOT will very much help that. There have been concessions made by all parties, which tells of willingness by all to move positively forward and we all appreciate that. Therefore, I support a local HOT accompanied by a well-designed, well-vetted marketing plan.”

Discussion on the proposed ordinance addressed determination of a HOT tax rate percentage, the 1% that may be retained by hoteliers under state law, HOT tax reporting requirements, Texas Tax Code §351.0025 relating to the maximum combined rate of state, county, and municipal HOT taxes and concerns that the City might not be able to impose a tax in its ETJ, if the state and county have adopted HOT taxes that exceed 15% of the price paid for a hotel room. City Administrator Ferguson clarified that a municipality may not impose a tax under Texas Tax Code §351.0025, if as a result of the adoption of a HOT tax, the combined rate of state, county, and municipal HOT taxes in the ETJ exceeds 15% of the cost paid for a hotel room.

Mayor Thurber felt that language limiting the composition of the advisory committee to four specific groups takes a lot of people out of the equation and is not good public policy. Discussion addressed the ability of groups to nominate potential members, Council approval process for nominees, and concerns on future status of the subject nominating groups, should a group disband or otherwise cease to exist. Discussion continued on clarifying and verifying specific provisions of the proposed ordinance relating to collection (by the operator) of the tax and separate deposit/accounting procedures for tax proceeds, tax exemptions and reporting requirements, compliance with state law, and suggested modifications of language in the ordinance's second reading to help resolve concerns.

Mayor Thurber opened discussion on possible HOT tax rates and various percentages were suggested as follows: Councilmember Dussler, 7%; Councilmember Anderson, 7%; Councilmember McCullough, no lower than 5%; Councilmember Showalter, 7%; and Councilmember White, no more than 4%. In the spirit of compromise, Mayor Thurber offered the possibility of a 5% HOT tax rate as a viable option.

Councilmember Showalter moved to approve the ordinance on first reading, as presented, including aforementioned suggested modifications of language related to collection/deposit/accounting procedures by the operator and tax exemptions and associated reporting requirements, with the tax rate to be set at five percent (5%). Councilmember White seconded.

Mayor Thurber called for a vote as follows: Councilmember Showalter, aye; Councilmember McCullough, nay; Councilmember Anderson, aye; Councilmember Dussler, aye; Councilmember White, abstained. Motion carried on a vote of 3-1, with Councilmember White abstaining.

After the vote, Mayor Thurber called a brief recess and reconvened at 9:26 p.m.

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

- A. Discuss and consider possible action adopting the *Wimberley Strong* flag as the official flag of the City of Wimberley, Texas. (*City Administrator*)

This item was heard after Agenda Item 3A.

Mayor Thurber advised that this item is pulled at this time and no action will be taken.

- B. Discuss and consider possible action on issues relating to the development of the Fiscal Year 2016 City of Wimberley Budget. (*City Administrator*)

City Administrator Ferguson provided details on specific line items for various funds listed in the Proposed Fiscal Year 2016 Budget, including increased funding from the General Fund for wastewater to help cover debt service, first phases of the wayfinding signage program, legal counsel costs, and amount budgeted for road improvements. He noted that the Blue Hole budget includes money for a maintenance barn. He advised that the public hearing on the Fiscal Year 2016 Budget is scheduled for Council's meeting on September 3, 2015. No action was taken.

#### 6. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Mayor Thurber requested discussion of staff appreciation.

Councilmember Anderson requested information on the sidewalk task force and City Administrator Ferguson advised that Council is scheduled to discuss this matter at its next meeting.

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

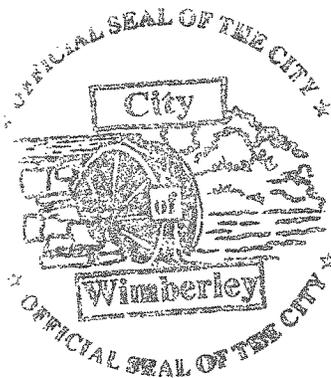
**Adjournment:** Council meeting adjourned at 9:41 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 3<sup>rd</sup> of September, 2015.



**APPROVED:**



Steve Thurber, Mayor