

City of Wimberley
 Wimberley Community Center
 14068 Ranch Road 12
 Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
 September 3, 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 and City Secretary Cara McPartland

Proclamation

A proclamation of the City of Wimberley, Texas declaring the month of September 2015 as Hunger Action Month in Wimberley, Texas. (*Hays County Food Bank*)

Mayor Thurber presented the proclamation to representatives from Hays County Food Bank. Hays County Food Bank Board member Pam White thanked Council for its support and reiterated statistics on the importance of hunger awareness and collaboration among various entities to help provide food to those in need in during times of crisis, holidays, and all year-round.

Citizens Communications

Wimberley resident Janette Barlow spoke on the Pedernales Electric Cooperative (PEC) planned transmission line upgrade and said that Council has the power to act as more than a facilitator of meetings between affected property owners and PEC. She cited the City's Comprehensive Plan language related to preservation of scenic vistas and encouragement of underground placement of upgraded utility lines. She asked that each Council member state his/her position on this major infrastructure upgrade and urged Council to support property owners.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of August 20, 2015
- B. Approval of minutes of the Special City Council meeting of August 28, 2015

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

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported that mediation continues and advised that permit hearing dates are set for January, 2016, should mediation prove unsuccessful.

- Status report on the H-E-B Development Project

City Administrator Ferguson reported that the store is scheduled to open on September 18, 2015. Stocking of the store is underway and a VIP ceremony is set for September 16, 2015.

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

City Administrator Ferguson reported swimming area operations running at or near capacity, with similar crowds expected through Labor Day weekend, which is the final weekend of the season. He noted finalized figures on season attendance and revenues will be presented at Council's next meeting.

3. Presentation

Presentation by representatives of the Pedernales Electric Cooperative (PEC) regarding the PEC Transmission Line Improvement Project

PEC's Vice President of Engineering and Energy Innovations Brad Hicks provided information on input received from property owners at recent meetings. He noted that additional meetings were scheduled with homeowners who were unable to attend initial meetings. Based on input from property owners, Mr. Hicks hoped to have a finalized design to present to property owners in the near future. He stressed that PEC takes input and feedback from each and every property owner and modifies the project's design to accommodate that input as much as possible.

Mayor Thurber advised that Council is scheduled to hold a workshop meeting on this project with PEC representatives on September 22, 2015.

Discussion addressed the possibility of an alternate route for the transmission line; need for PEC to file for a Certificate of Convenience and Necessity (CCN) with the Public Utilities Commission (PUC), if there is a deviation from the existing route; PUC's authority to decide on the line's route and width of easements, should a CCN application be filed; and significantly higher cost of placing lines underground.

4. 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*)

City Administrator Ferguson presented information on the following topics:

- FEMA’s release of advisory maps containing new base flood elevation data for the Blanco River and Cypress Creek, which show wider floodplain areas and higher base flood elevations
 - Collaboration among various entities regarding riparian and restoration efforts along the Blanco River
 - Preliminary USGS determination on grading of Memorial Day Weekend Flood
 - Regional volunteer efforts over the next 4-6 months, including the upcoming National Day of Service on September 11, 2015, as well as massive infiltration of volunteer rebuilding groups that will be going door-to-door to identify unmet needs
- B. Presentation by representatives of the Federal Emergency Management Agency (FEMA) regarding the advisory base flood elevation map for the City of Wimberley. (*City Administrator*)

City Administrator Ferguson introduced FEMA representatives Larry Boyce and Diane Howe, who gave a presentation on the following topics:

- Flood risk data and risk reduction
- Coordination among Guadalupe Blanco River Authority (GBRA), National Flood Insurance Program (NFIP), State of Texas, and U.S. Army Corps of Engineers to update flood analyses
- Significant increases in floodwater elevations
- Revised advisory base flood elevation (ABFE) maps
- Explanation of Special Flood Hazard Areas
- Preliminary statistical analysis describing the Memorial Day Weekend flood as a “1% annual chance flood” (or 100-year flood)
- Release of revised ABFE data does not impact flood insurance rates, which are based on the Flood Insurance Rate Map (FIRM)
- ABFE maps showing 1% and 0.2% annual chance flood zones
- Estimated flood depth grids determining flood depths relative to sea level
- Developing regulatory FIRMs and timeframe for release of preliminary maps
- Benefits of ABFEs and adoption of ABFEs as a community decision that can help decrease the cost of flood insurance
- Details on finding, viewing, and querying online maps at FEMA’s website
- Media coverage of release of advisory ABFE maps/open houses, including community websites and social media
- Upcoming FEMA workshops specifically for real estate agents and insurance agents
- Availability of public webinars

Discussion among Mr. Boyce, Council, staff, and audience members addressed the importance of ABFEs to those who are rebuilding; impact of non-adoption of ABFEs on future FEMA grant funding; clarification that currently filed individual claims will not be impacted, should the City not adopt the ABFEs; clarification on grant funds available for rebuilding elevated structures; clarification that a 1% annual chance flood (or 100-year flood) does not literally mean “every 100 years”; wider floodway widths and a minimal number of anomalies that may occur, which

does not affect BFEs or make flood zone(s) wider; public process for adoption of ABFEs; ABFEs impact on “substantially damaged” homes related to future floods; and ability to pinpoint structure location on specific properties using online aerial maps.

- C. Discuss and consider possible action regarding a proposed resolution in support of a collaboration of multiple agencies and groups to provide data collection equipment for the Blanco River Basin and rivers downstream; authorizing the city administrator to enter into Letters of Agreement for funding; operational functionality and implementation of the subject project. (*City Administrator*)

City Administrator Ferguson explained the proposed resolution to develop a plan to enhance the monitoring of rainfall and stream flows in the Blanco River basin. He provided specifics on the total number of rain/stream flow gauges, their placement at key locations, and the gathering and reporting of data in 15-minute intervals. He noted that grant funding will be sought from federal and state sources to fund the hardware acquisition and that annual operating costs for the monitoring program would be shared among the participating parties, which include the City of Wimberley, Hays County, Blanco County, Caldwell County, City of San Marcos, USGS, National Weather Service, Edwards Aquifer Authority, Guadalupe Blanco River Authority, and the Lower Colorado River Authority. Should Council desire to approve the proposed resolution, City Administrator Ferguson requested that Mayor Thurber be authorized to enter into Letters of Agreement for funding, operational functionality, and implementation of the subject project. Brief discussion addressed projected costs for the proposed monitoring system.

Councilmember McCullough moved to approve the resolution, as presented, and to authorize the Mayor to enter into Letters of Agreement for funding, operational functionality, and implementation of the project. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

5. Public Hearings and Possible Action

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, Texas, amending Ordinance No. 2011-017, which designated the geographic boundaries for a Wimberley Planned Development District (WPDD) zoning district classification for real property located at 333 Wayside Drive, Wimberley, Hays County, Texas, in order to permit camping with recreational vehicles, travel trailers, and tent trailers on the property, with certain restrictions relating to their use; and providing for the following: findings of fact; severability; effective date; and proper notice and meeting. (*7-A Resort*)

Councilmember White recused himself from the meeting at this time (7:24 p.m.).

City Administrator Ferguson reviewed the subject property’s location, existing WPDD agreement, planning area, overlay district, and base RA zoning. He advised that the current WPDD allows for a mix of resort lodging (cabins, lodges, primitive camping), recreational amenities (pool, soccer/baseball fields, Pioneer Town), and single-family homes. In addition, the WPDD allows for the continued use of 50 parking spaces in the Pioneer Town parking lot for non-guest parking for a fee for those wishing to access the Blanco River. He noted that currently

camping with RVs, travel trailers, and tent trailers is prohibited and at full development the total impervious cover on the subject property cannot exceed 20 percent.

City Administrator Ferguson explained that the applicants wish to explore available options before spending money on a concept plan and requested a text amendment to WPDD conditions requiring that a concept plan be submitted at such time the applicant wishes to pursue RV/trailer camping. He noted that any future concept plan submittal would be subject to the same public notification process used for all zoning requests, including public hearings before the Planning and Zoning Commission and City Council.

City Administrator Ferguson stated the applicant is proposing to replace the existing wording of Condition #12 of the WPDD, with the following language, intended to address concerns expressed at the Planning and Zoning Commission meeting on August 27, 2015:

12. Camping with Recreational Vehicles (RV), Travel Trailers and Tent Trailers is permitted on the property for up to thirty (30) spaces, provided that the property satisfies the following requirements:

- a) Development and construction of the RV, Travel Trailer and Tent Trailer portion of the property shall be in conformance with a city-approved "RV/Trailer Camping Concept Plan," depicting site layout and square footages, parking, proposed signage, vehicle access, screening, and lighting plan, attached as Exhibit "A-1" and incorporated by reference for all purposes.*
- b) Electric, water, and sewer hook-up are required for each RV, Travel Trailer and Tent Trailer site.*
- c) Permanent secure building space is required for storm refuge for RV, Travel Trailer and Tent Trailer tenants.*
- d) No more than ten (10) RVs shall be located on the portion of the subject property that fronts River Road and said RVs shall be set back at least one hundred twenty (120) feet from River Road and screened with a vegetative buffer (trees, tall grasses, shrubs, etc.).*
- e) No Travel Trailers and Tent Trailers shall be placed on the portion of the property that fronts River Road.*
- f) RVs in excess of ten (10) years old shall be prohibited on the subject property.*
- g) Individual camping with RVs, Travel Trailers and Tent Trailers shall be allowed for a period not to exceed one hundred fifty (150) consecutive days within any twelve (12) month period.*

Additional recreational vehicles, owned by permanent residents residing on the property, may be parked on the property but shall not be used for on-site dwelling purposes.

City Administrator Ferguson explained that Condition 12(g) is intended to allow for visitors who want to stay in the winter months only, but stressed that the applicants do not wish to have year-

round camping. He advised that the Planning and Zoning Commission unanimously recommended approval at its August 27, 2015 meeting.

The applicant's representative, Carroll Czichos sought to clarify that the proposed WPDD text amendment is not a zoning change. He stated that the request is intended to help restore income from the flood-related loss of 15 rental units and that rebuilding of the cabins may not be feasible due to elevation and ADA requirements. He noted that RVs can be placed in the floodway, but was unsure as to the exact number and placement at this time, pending studies to determine factors such as turning radius. He noted that the request is for a *maximum* of ten (10) RVs in the indicated areas fronting River Road, however, any remaining pads could be placed in the back acreage of the subject property. He said that pads in Area #1 would meet all requirements as spelled out in the abovementioned conditions. He distributed a handout to Council detailing the amount of revenue and number of visitors lost as a result of the Memorial Day Weekend flood and said that loss of visitors decreases sales tax revenue for the City. Mr. Czichos stated if RVs/trailer camping is to be pursued, he would come back later with a concept plan that can be tweaked to make everyone happy.

Mayor Thurber opened the public hearing at 7:37 p.m. and outlined procedures for speakers.

Brian Ferrar of 303 CR 1492 spoke in opposition to the proposed amendment. He stated that as a local resident, increased traffic and development affects his property. He said that 7-A is listed for sale at \$6,100,000 and asked if this amendment is to protect the applicant's current income stream or intended for future developers. He asked: "What about my property value?" and said he scrimped and saved to buy his house specifically in Wimberley in order to protect his property rights. He stated that if the WPDD is changed, it will hurt the integrity of the neighborhood. Referencing the recent flood and risk of future flooding, Mr. Ferrar asked that Council keep the safety of RV/tent campers in mind. He said that his rights as a taxpayer have just as much value as 7-A and Pioneer Town and the applicants have room in the back of their property to put in RVs to protect their revenue stream.

Ace Hardware store owner Christy Degenhart spoke in support of 7-A and the Czichos family's long history of their service to Wimberley. She said the Czichos' have spent the last 69 years helping to make Wimberley what it is and would never do anything to make it worse. She stated her own experience with the loss of her store to fire and hoped the Czichos family would be able to rebuild their business.

Ben Sorrell, who lives in Green Acres RV Park, said he appreciates the goodwill of 7-A and is not concerned about the effect of 7-A on surrounding property values, but is opposed to the amendment because the Blanco River is a "jewel" that deserves a beautiful frame. He recognized the flood's devastation and said it will take years for trees to recover and felt this is an opportune time to actually improve upon what was there before. He said 7-A has deteriorated in appearance in recent years and did not favor RVs along River Road. He questioned the insistence on RVs, which he stated are not a panacea and will not improve vacations at 7-A for its faithful customers. He noted that there is plenty of land at the back of the property and asked if the City would make these changes if the applicants were an unknown entity. He did not want Council to lower the bar for the appropriate frame for the scenic beauty of the Blanco River.

Clarise Watson, whose mother owns property on East Blanco Bend, stated the applicants have other remedies under the current WPDD, such as rebuilding the cabins on another part of their property. She said this amendment would pass through to the next owner and only revert to RA base zoning if the property owner defaulted on the agreement. She asked Council to add language that would not allow this amendment to pass on to a new owner. She said despite remarks that this is not a zoning change, it looks like spot zoning that benefits one owner, is not compatible with surrounding uses, and is not in keeping with the City's Comprehensive Plan. She stated that preferential treatment is the antithesis of planning and zoning and cited case law on spot zoning. She said cost of utilities construction in the Edwards Aquifer Recharge Zone would be expensive due to TCEQ regulations. Ms. Watson asked that Council deny the amendment request as it could harm neighbors and felt that the applicants have other remedies available to them.

David Achilles spoke in support of the applicants, because he said Council's approval of the amendment would not be giving 7-A permission to build anything, but would help the applicants see what possibilities exist. He said Council cannot kill an idea when it has not seen the full idea yet. He felt that concerns relating to aesthetics cannot be regulated due to differing preferences and said he cannot tell people what to build on their property, as long as it is not dangerous. He spoke of an RV park in Port Aransas that he believed improved the value of very expensive surrounding homes that were adjacent to it. Mr. Achilles said if 7-A does not reopen, shops in the Square will lose money, due to fewer visitors. He closed by stating that if 7-A goes away, it hurts everyone.

Diane Lunow stated she appreciated 7-A, but expressed concerns about tents along the Blanco River, felt that fences would not be attractive, and said she would like to keep the water clean. Regarding buffering, she noted that plants grow very slowly and did not want the ordinance changed, especially since those changes would pass on to the next owner.

Liz Starrett, who lives on the Blanco River at the CR 1492 low water crossing, expressed concerns that 7-A visitors would not be able to get out in time, should another extreme flood event occur. She recounted her experiences during the Memorial Day Weekend flood and noted the short amount of time available to get a few valuables as the water was rapidly rising. She asked Council to consider whether they would want their families camping where floods can happen that quickly.

Attorney Tom Hoekstra, speaking on behalf of River Road resident Jerry Fields, claimed that this agenda item/public hearing was not properly noticed and said all efforts should be set aside if the City did not follow its own ordinances. He said the use of the subject property is non-conforming for residentially zoned properties. He stated the property owners can rebuild 7-A without coming to the Planning and Zoning Commission or City Council, if their cabins were damaged by natural means or relocate the cabins outside the floodplain. He said this is a radical change that could set a dangerous precedent for future development that is tantamount to constructive condemnation. He recognized many suffered damage from the Memorial Day flooding, but asked how many of those damaged would ask for help that hurts their neighbors. Mr. Hoekstra questioned how many applicants have applied for a WPDD amendment without having to file a concept plan. He closed by stating his client's opposition to the requested

amendment. Relating to Mr. Hoekstra's remarks on public notification, City Administrator Ferguson advised that this agenda item was properly published and noticed.

Local resident and business owner Matt Polhemus said this is a tense, emotional, and unprecedented time for the community and described River Road as a catastrophe. He stated that he has heard good points both for and against this item. He felt that Council's approval of this amendment would go a long way to show the Czichos family that the City is behind them and would help them make the best of a bad situation.

Bob Harla of 111 CR 1492 spoke in opposition to the amendment and felt that RVs in view of River Road/Wayside Drive would be an unsightly use for the subject property. He noted there are 120-140 acres of flat land that could be used by the applicant. He felt that if Council approved this item, that campers could be put in the back portion of the property and still generate income for the loss of cabins.

Kylie Achilles spoke in favor of 7-A as beneficial to economic growth in our community and cited her personal observations that 7-A brings in tourists, which she said puts money in every pocket. Regarding opposing remarks about safety issues, Ms. Achilles stated that new flood gauges will make it easier in the future to get the word out about impending flooding and felt that RVs can move very quickly, if necessary. She said 7-A did not ask for this disaster to happen and believed that if Council does not give 7-A a chance, it will hurt the community as a whole.

Stan Starrett spoke of his 27-year ownership of property directly across the Blanco River from 7-A, and said when the flood hit it caused tremendous damage to his family. He noted the amount of losses suffered in his neighborhood and said no one on his side has asked for special consideration. He believed 7-A's generosity should not be overlooked, but also felt it should not be able to circumvent City of Wimberley regulations. He cited specific issues communicated via his earlier email and said that 7-A's plans are in conflict with the City's Comprehensive Plan, particularly relating to protection and preservation of scenic vistas. He cited a definition of the term "spot zoning" and cautioned Council against such action.

Nick Edwards spoke on the ability to get people out quickly in disaster situations, including his trust in Chief Czichos to communicate the need to evacuate. He said there are three elements of land use, including forestry/farming, commercial, and residential, and noted examples of taxes paid by property owners in each category and costs of providing community services to each of those categories. He believed if Council makes it unattractive to keep 7-A in operation, the tax base could be reduced to the point that there might be a need for ad valorem taxation that he said everyone is against.

Wimberley resident Madonna Kimball spoke of the support shown for 7-A at the Planning and Zoning Commission meeting and cited her conversations with people at travel conventions who express their affection for 7-A and its 69-year history. She also noted that people have those same feelings for landmarks such as Rio Bonito Resort and the Corral Theatre. She cited the many contributions the Czichos family has made to Wimberley over the years, including establishment of the water company, a bank, and EMS service. She noted that the applicant's plan calls for RVs that are less than 10 years old and said this will not be an unsightly trailer

park. She hoped that Council will give the Czichos' the opportunity to get their life back so they can keep giving back to Wimberley.

Wimberley resident Jeff Anderson spoke of his experience as a combat veteran who specializes in management of mass evacuations. He compared evacuation of people from 15 cabins with 15 cars to the evacuation of large RVs, which must be disconnected from utilities once owners make the decision to leave, and noted that River Road is narrow. He said that everyone would not be able to get out within an hour and could get trapped in low-lying areas. Even if campers are located in the back portion of the property, Mr. Anderson stated there has to be an alternate means of evacuation to get out in time.

Wimberley resident and 7-A employee Kathy Cisneros expressed appreciation to the Czichos' for her housekeeping position at 7-A and said they have treated her as one of the family. She asked Council to consider allowing 7-A to grow and to keep people working there. She said people need to work, which helps the community. She noted there were 26 employees before the flood who worked hard to keep 7-A running smoothly and ensure that customers follow the rules that keep 7-A family-oriented. She told Council the Czichos family will submit great plans and they are looking into the future for us.

The applicant's representative, Carroll Czichos responded to comments on the following topics: the subject property's "for sale" listing (described as only one of several future options to consider); ability to evacuate 7-A's campsites quickly, including examples of successful evacuations during the Memorial Day Weekend flooding; Green Acres use as an evacuation route, not River Road; RV campers preference for a Blanco River view, which sets 7-A apart from other area RV parks; 7-A's location over the Glen Rose Aquifer (as opposed to the Edwards Aquifer); all utility construction would have to comply with City ordinances; and the initial RA zoning of the subject property, which Mr. Czichos said was not of his choosing, but designated by the City. He thanked Council for this second opportunity to consider approval.

Mayor Thurber closed the public hearing at 8:32 p.m. and called for a brief recess.

Mayor Thurber reconvened the meeting at 8:41 p.m. and opened Council discussion.

Councilmember Dussler expressed sympathy for 7-A's losses and its owners who are struggling to deal with this tragedy. He questioned the urgency for going forward with the requested amendment in the absence of a plan that the applicants may or may not pursue. Referencing the existing WPDD agreement, he said that the City felt strongly enough about this issue to prohibit RV/trailer camping and wondered what in the City's position has changed since that time to call for a revision of the current WPDD. He believed that if Council approved this amendment, it would open the gate to other groups wanting to operate trailer parks, which he felt could change the character of the Wimberley in a negative manner. Councilmember Dussler referred to the City's Comprehensive Plan that encourages preservation of the beauty of our natural environment, rejects commercialization that is inappropriate, and protects natural resources, including local waterways. He favored waiting until 7-A's owners decide what they want to do with the subject property and said if they do not submit a plan or decide to sell, there is no need to change the zoning. He stated that Council was elected to protect the best interests of

Wimberley and thought this amendment was a short-term fix with long-term negative and unintended consequences.

Councilmember Anderson said this is a very personal and difficult decision that must be viewed as a business decision based on what the community wants. She said that RVs in the proposed location on the subject property do not align with our master plan. She felt changing the WPDD agreement to allow 7-A to have RVs will set a precedent for others who would want to do the same. Councilmember Anderson cited her conversations with a wide variety of Wimberley residents and all were opposed to the request, except for one person. Based on those personal contacts, Councilmember Anderson stated that she was opposed to the requested amendment.

Councilmember McCullough said he wanted to give the Czichos' a chance to review their options and felt that concerns could be addressed when a plan is submitted. He had no safety concerns, cited multiple emergency notifications on the Memorial Day Weekend flood, and expressed gratitude to Mr. Czichos and Wimberley Fire/EMS for getting everyone out. Regarding concerns expressed about lowered property values, he noted that 7-A has been in existence since the 1946 and property values have only gone up. He said that people who do not like the look of trailers are being elitist. Councilmember McCullough stated his wholehearted support of the request and favored giving the applicants an opportunity to decide on a plan, without having to spend money on such a plan until they receive a tacit agreement from the City.

Councilmember Showalter stated she respects the Czichos family and 7-A for all they have done for the community and noted her own past experience as a Planning and Zoning Commission member. She admonished the Planning and Zoning Commission for sending this case to Council with a unanimous recommendation for approval without having addressed the opposition's many concerns and without more complete plans in the application. She asked about possible inclusion of a provision that would not allow for the WPDD carry over to future owner(s) of the subject property. She said there were valid points expressed by those in opposition regarding uncertainty over what future owner(s) might want to do with the property and how the City would ensure that any new owner(s) are abiding by WPDD conditions. Without a "crystal ball" to predict future economic impact, she said economic considerations should be put aside. She felt the applicant's request could not be accepted in its incomplete state and would have to vote against it.

Hearing no further comments, Mayor Thurber acknowledged 7-A as a great asset to the City and entertained a motion.

Councilmember Showalter moved to deny approval of the requested WPDD amendment. Councilmember Anderson seconded.

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

Mayor Thurber called a brief recess after the vote and reconvened the meeting at 8:56 p.m.

- B. Hold a public hearing and consider approval of an Amending Plat of Lots 18 and 19, Paradise Hills Subdivision, Section 3, and a requested variance from the lot size requirement of the City's steep slope regulations. (*Chris Chicko, Applicant*)

Councilmember White returned to the meeting at this time.

City Administrator Ferguson explained the proposed subdivision will remove the common side lot line of Lots 18 and 19 to create Lot 18A that will be 3.126 acres in size. The intended use is residential and the property is currently zoned R-2. He noted the newly created lot will be greater than two (2) acres in size and require rezoning. He advised the proposed subdivision will obtain water supply from Wimberley Water Supply Corporation and wastewater service will be provided by on-site sewerage facilities. He added that the applicant is requesting a variance from the City's minimum lot size requirement of the City steep slope regulations. He noted that the applicant is unable to meet the lot size requirement due to the limited size of the tracts that are being consolidated. He concurred with the Planning and Zoning Commission's unanimous recommendation for approval of the Amending Plat and variance request at its August 27, 2015 meeting.

Mayor Thurber opened the public hearing. Hearing no comments, Mayor Thurber closed the public hearing.

Councilmember McCullough moved to approve the Amending Plat and variance request, as presented. Councilmember Showalter seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing on the proposed *Fiscal Year 2016 City of Wimberley Budget*. (*City Administrator; no action will be taken on this item*)

City Administrator Ferguson provided an overview of the proposed FY 2016 Consolidated Annual Budget, including a summary of each of the nine (9) fund budgets. He noted the Budget totals \$1.84 million – an increase of approximately 1% from FY 2015, due in large part to added capital costs. He provided key details on funds for wastewater, street maintenance, capital expenditures, contract services, as well as revenue estimates. He compared each of the FY 2016 fund budgets to FY 2015, including the percentage of change between each fiscal year.

Mayor Thurber opened the public hearing. Hearing no comments, Mayor Thurber closed the public hearing.

No action was taken.

6. Ordinance

Consider approval of the second and final 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; creating a Hotel Occupancy Tax Advisory Committee; and providing for findings of fact,

savings, severability; repealer, an effective date, and proper notice and meeting. (*Mayor Steve Thurber*)

City Administrator Ferguson reviewed the revisions to the ordinance in accordance with Council's direction following its first reading on August 20, 2015. He noted revisions to include the maximum one (1) percent collection reimbursement for hotel operators and to eliminate the requirement that hotel operators maintain a separate account for City room tax proceeds. He clarified procedures for handling exemptions to the City tax.

Mayor Thurber suggested the following addition to the last sentence of Section II (E)(3) (*see italics*): "The reimbursement permitted by this paragraph shall be forfeited if the person collecting the tax fails to *timely* pay the tax to the City or fails to *timely* file the reports required by this Ordinance."

Councilmember White suggested the following change to Section III (B)(1)(a)(ii): "One small lodging facility representative (operator with less than three lodging rooms ~~and~~ *or* less than \$250,000 in annual lodging revenue)."

Discussion addressed the addition of a "sunset clause" to allow for Council's evaluation of the HOT tax program's effectiveness and whether 2 or 3 years would be a sufficient amount of time to properly assess the program. Discussion favored reviewing continuance of the HOT tax after an initial 3-year period and if renewed, the program would be re-evaluated every 2 years thereafter. Mayor Thurber noted that at a recent meeting, hoteliers asked if Council has any interest in setting a 4% local HOT tax rate.

Councilmember White favored setting the rate to achieve a revenue goal of \$200,000 mentioned in prior discussions, which he said would be possible at a 4% tax rate and stated that the tax rate can be adjusted any time.

Councilmember Anderson preferred a 7% tax rate, but was willing to accept a tax rate no lower than 5% as an expression of good faith. She noted that the rate could be raised after the 3-year sunset period to 7% if the plan proves to be successful.

Councilmember Showalter could not recall the aforementioned \$200,000 revenue goal, but said she could not come up with a rational reason for setting the rate at 4%, and favored setting the rate at 5%.

Councilmembers Dussler and McCullough expressed no objections to setting the rate at 5%.

Councilmember Anderson moved to approve the ordinance, as presented, including the abovementioned suggested wording changes, and the addition of a "sunset clause" to review the HOT tax program's effectiveness after an initial 3-year period, and if renewed, to be re-evaluated every 2 years thereafter. Councilmember Dussler seconded.

Mayor Thurber called for a vote on second and final reading as follows: Councilmember Dussler, aye; Councilmember Anderson, aye; Councilmember McCullough, nay;

Councilmember Showalter, aye. Motion carried on a vote of 3-1, with Councilmember White abstaining.

7. Discussion and Possible Action

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

Mayor Thurber recognized City Administrator Ferguson for the monumental effort he puts forth and many hours he works. He commended City Administrator Ferguson for his personal efforts that saved lives during the Memorial Day Weekend flood and hoped Council could find a way to recognize his dedication. Councilmember Anderson thanked City Administrator Ferguson for leading Wimberley through dark days and thought Council should consider some collective action to recognize his service. No action was taken.

- B. Discuss and consider possible action regarding the Comprehensive Fund Balance Policy and Fund Balance Classification Plan for the City of Wimberley. *(City Administrator)*

City Administrator Ferguson explained the need to annually review the Policy and Plan to identify how dollars in the fund balance are to be classified and recommended no changes. He noted that Council may change classifications at any time, with the exception of those funds classified as non-spendable or restricted.

Councilmember Showalter moved to approve the Plan and Policy, as presented. Councilmember Anderson seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding the City of Wimberley Investment Policy. *(City Administrator)*

City Administrator Ferguson advised that State law requires that Council review the Policy on an annual basis and recommended no changes to the Policy.

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

8. City Council Reports

- Announcements
- Future Agenda Items

Councilmember Showalter expressed interest in having the Planning and Zoning Commission review the current process used for WPDDs.

Councilmember McCullough requested a meeting with legal counsel to discuss the Blue Hole Regional Park boundaries.

City Administrator Ferguson appreciated earlier kind remarks, but stressed that he is part of a team effort, which includes Council and staff, and was not interested in any kind of pay adjustment.

Councilmember White requested discussion of remedies available to the subject property owners for the harm he felt was caused by the City-initiated RA zoning of 7-A Resort.

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

Adjournment: Council meeting adjourned at 9:32 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 3rd of September, 2015.

APPROVED:


Steve Thurber, Mayor