

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
November 3, 2016 at 6:00 p.m.

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

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

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

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

Citizens Communications

Tom Keyser spoke of recent budget workshops and asked if there was an extra \$200,000 there, which he said would be needed if Council approves this plan, as it is currently written. Mr. Keyser said tonight's meeting was going to "talk about letting out a contract for the person to oversee this project." Mr. Keyser said he was pretty sure he read somewhere "that it's \$150,000 for that contract." He stated at the going rate for engineers that is about a 25-week supply of income, which he thought is not going to be quite enough. He asked if "we have another \$150,000 to do that, or is that all going to come out of this new loan as well?" Mr. Keyser said many people have tried for many years to get a sewer for this town and one is needed. He said the real key is "at what expense." Mr. Keyser said if we can't find the money to do it, we can't buy a Cadillac, not when there is another vehicle ready to go, at a much reduced rate, not having to be subsidized. He stated he is fully prepared to pay his way either with the City or "AT" (Aqua Texas), but said there are a lot of people who will not be able to pay with a City-owned system. He asked Council to take this into consideration moving forward. He asked again where the money would be coming from.

Casey Craig stated her support for the Aqua Texas retail option and was impressed with Councilmember Barchfeld's comments regarding his commitment to making a decision based strictly on facts. She read the following statement: "I strongly agree that this should be at the very core of your decision. Unfortunately, there has been a long and disturbing list of statements, emails, and newsletters that have been full of false claims in an effort to scare and sway the Council and the community to support the City wastewater treatment plant. But here are the facts: Cypress Creek is not on a TCEQ watch list, even though our city administrator and previous Council testified before the Texas Water Development Board to this effect. The polluted Cypress Creek cited by previous Council is actually near Conroe. The EPA is not going to shut down the businesses on the Square, as there are no violations. There has never been a DNA test on E coli. No one knows if the source is human, or bats, buzzards, and geese. The City does not have a legal, contractual obligation to provide effluent to Blue Hole. This was finally confirmed by Don Ferguson through a Freedom of Information request. Relinquishing

our CCN to Aqua Texas will not spur uncontrolled development. It does not control growth, our ordinances, Planning and Zoning, and City Council do. After debunking all of these false claims, the latest one is that Aqua Texas rates will skyrocket because they are a profit-driven corporation that only cares about money and we must have local control and shouldn't do business with the company from Pennsylvania. The City contracts out for services that include phone, electricity, internet, water, and trash. It is not unusual for small municipalities to do this and no one seems to be advocating that we recreate these services here just so they will be local. No one is accusing these outside providers of not meeting needs or being only concerned with profits. The City owns the sewer plant at Blue Hole that serves Deer Creek and they are charging \$20,000 a month for sewer service. The argument that a City-owned plant is a better option financially literally just went down the toilet. Also, the company the City hired to run the plant is based in the United Kingdom. That's not local, that's on another continent. Aqua Texas rates will be regulated by the Public Utilities Commission, but a City-owned plant will not and can charge whatever is needed for debt service. Then there's the baffling love-hate relationship with Aqua Texas. We shouldn't do business with Aqua Texas, but we are happily doing business with Aqua Texas now, but we don't want Aqua Texas to handle the effluent, but we're okay with them handling the excess effluent. This convoluted line of reasoning is absurd. Again, the cost of the Aqua Texas option to the community is zero – no subsidy, no long-term loan. This is not a decision that only involves money and data, this is also a human connection here. The cost associated with the mandatory hook-up to the City-owned plant would destroy Rio Bonito. This is a family business that has been a Wimberley treasure since the 1930's. The Memorial Day flood devastated their property and livelihood and they're trying their best to move forward. The loss of income from the flood damage, combined with the huge amount of money it would take for the mandatory sewer hook-up would be the end of their business.”

Mayor McCullough asked Ms. Craig to stop at this point.

Ms. Craig continued: “Does this sound familiar? (Deborah Koeck called from the audience to cede 30-seconds of her time.) Do we repeat the travesty of the shameful 7A decision with Rio Bonito? (Mayor McCullough asked Ms. Craig to stop.) Are we going to let another long-term family down to see their business disappear so that developers can make a land grab? Is building a sewer plant this community can't afford, doesn't want, worth that? Is this the new Wimberley Way? I sincerely hope it is not what we have become. The decision will be yours, please make it wisely, as it will change the face of Wimberley forever. Thank you for your continued service.” Ms. Craig said this is a new precedent, no one was timed last time, and wanted to make this a point of record.

Deborah Koeck read a statement: “Today and for the next few weeks, we are surrounded by a great ‘cloud of witnesses.’ Billy Henson, Sidney Pyland, John Henry Saunders, Pleasant Wimberley, and scores of Wimberley pioneers watch and wait to see the decisions this City Council is going to make. Tradition demands that we give voice to this absent class of citizens who worked and built this town and passed on, secure in the knowledge that their families and their friends were carrying on after them. The democracy of the dead should not be neglected by the arrogance of the few who happen to be here today. A City-owned and operated sewer plant is estimated to cost \$5,000,000 after grants and outside funding. A City Council, perhaps not even this City Council, has almost absolute authority to set rates for the less than one hundred

citizens that occupy Billy Henson's and John Henry Saunders' home town. Even with the City's \$200,000 per year subsidy, the numbers for the cost today and for many years in the future, remain unsecure, unsure, and fiscally irresponsible. An option exists that provides no discharge in Cypress Creek or the Blanco River, no ad valorem tax, no long-term loan, no long-term bondage to the whims of this or any other City Council. We have not had a vote on this City sewer, as the Texas Water Development Board told us we would. We have had no referendum on the options that the City Council will consider, as the Texas Water Development Board told us we would. This mayor and past mayors and Council members have worked and planned in conflict of interest for to build this sewer system for themselves and for their own financial benefit." (Mayor McCullough called Ms. Koeck out of order at this time.) Ms. Koeck continued: "I urge City Council to aim for Aqua Texas. Wimberley is more than just a few businesses on the Square." (Mayor McCullough called Ms. Koeck out of order.) Ms. Koeck asked if she went over 3 minutes and Mayor McCullough said "No, ma'am, you've changed your attack to something else. Thank you, you're excused."

Several audience members questioned speaker procedures and Mayor McCullough said speakers have 3 minutes. Ms. Koeck asked if she went over 3 minutes and Mayor McCullough replied negatively. Ms. Koeck asked: "Did I attack you, Mr. McCullough?" Mayor McCullough replied affirmatively. Ms. Koeck asked: "And is that why you called me down, Mr. McCullough?" Mayor McCullough replied: "Yes, ma'am, it is." There were comments from several audience members referring to speakers' rights during Citizens Communications and Mayor McCullough said speakers may address Council as a body, but not individually.

Merry Gibson read a statement written by and on behalf of Jim Thompson, who could not attend tonight's meeting: "I have owned property for over 20 years in what is now the City of Wimberley and have been a resident and registered voter since incorporation. I strongly support the Aqua Texas alternative sewer service for specific areas of the Square because of the positive financial impact for the City of Wimberley and equity for property and business owners. After more than 40 years, which some have said is the timeframe that a sewer system has been discussed, we are now in a position to assess two alternatives. The City plan is documented in the April 2016 project funding request, which includes a \$5,300,000 new incremental loan, with an additional \$2,200,000 interest charge over 30 years, a \$6,000,000 City subsidy for the loan payments, the obligation to fund undefined operating, maintenance, and replacement costs over the life of the loan and beyond. Two - the Aqua Texas plan, which includes no cost for installation of specific collector lines, no cost to construct a treatment plant, no City subsidy, utilization of treatment capacity with no direct discharge, flat residential rate with no volume add-on, at 25% less than estimated recently by a City official. Essentially equal connection charges for all users. This should be a decision about financial impact on the City, and equity for all owners within the City. How can anything beat no cost? While you gather additional fact-based information in your analytical process, please do not be distracted by the CARD members' rhetoric, who admittedly have not considered the financial impact or equity on the property owners, residents, or business owners in the City of Wimberley. Do not be distracted by the naysayers about Aqua Texas. If the opinions represented were a majority, people and businesses would be fleeing Aqua Texas service areas, which is not the case. New families are moving in, businesses are expanding, and new development is occurring. Do not be distracted by the false threat that Aqua Texas will bring big box retail. And finally, do not be distracted by the threats

and demands of bullies. I strongly support the Aqua Texas plan because it's a no loan, no subsidy alternative with equity for all Wimberley residents. Please move forward, get it on the agenda, debate it, vote it, then we need to tackle potholes, roads, drainage, bridges, safety, and multitudes of other issues.”

Councilmember Trapp said “just to clarify, we are holding to 3 minutes.” Mayor McCullough and Councilmember Barchfeld said “yes.” Councilmember Trapp was uncomfortable with how the meeting started. Mayor McCullough said he has sometimes let people go on. Councilmember Trapp said this needed to be announced at the beginning of the meeting.

Judy Thompson questioned where the money will come from to pay for this big loan. She said for a while the \$200,000 was assessed to the users, now it's going to be the \$200,000 subsidy that is not currently in the budget. Ms. Thompson said she is not for Aqua Texas or the wastewater plant, but just wondered where the money comes from. She stated if we have got a choice of a zero plan, “why don't we take it?” She spoke of the struggles since the flood and said this loan for \$5,000,000 to \$8,000,000 is for 30 years and again asked how do we ever pay for it. She said we forget there are approximately 2,600 citizens and maybe 1,580 households and asked that we divide that into what could turn out to be \$8,000,000-plus, “with interest and loan and maintenance and everything else on a plant.” Ms. Thompson said please “show me the money” and could not figure out where the money would come from.

Pam Kirkland spoke of her written requests to Council asking for a public forum to openly discuss details of the two options available, so the citizens of Wimberley can understand what the options are and more importantly, what they cost. She said subsidizing a City-owned sewer system will burden our limited budget and further deplete it to operate and maintain the system. She did not believe spending \$8,000,000 to serve just 4% of this community makes sense, “when all of us will have to pay ad valorem taxes, when the budget does not have the funds to provide City services.” She said “simply put, we cannot afford a City-owned wastewater removal system.” She said now Aqua Texas is on the record with a proposal at a substantially lower cost and one that will prevent the City from taking out a huge loan and felt a solution has become obvious. Ms. Kirkland said she supports the Aqua Texas proposal and did not believe that having Aqua Texas provide sewer service will compromise our City any more than PEC does providing electric, or Wimberley Water does providing water. She said with Aqua Texas providing wastewater collection, our City can focus on providing City services and much needed road repairs and upgrades and Council will be able to use the Comprehensive Plan and Zoning Code to oversee growth that will complement this City that we all love. She thanked Council for listening and their service.

Pam Mitchell asked if the City has enough to do besides running a sewage plant, which she said is huge. She said one person on City Council ran “for no dumping into the river” and appreciated that, but her concern is that “you can't guarantee 20 years from now, 40 years from now, what's going to happen.” She said “we really need to not be short-sighted” and “I'll have coffee with you in the morning.”

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of October 20, 2016.
- B. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting of October 11 2016.
- C. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting of October 18, 2016.
- D. Approval of the reappointment of Tomas Palm to the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Wimberley Valley Tourism and Lodging Association's nominee*)
- E. Approval of the reappointment of Dan Sturdivant to the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Wimberley Valley Tourism and Lodging Association's nominee*)
- F. Approval of the reappointment of Bob Cook to the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Wimberley Valley Arts and Cultural Alliance's nominee*)
- G. Approval of the reappointment of Traci Ferguson to the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Wimberley Merchants Association's nominee*)
- H. Approval of the reappointment of Barry Tyler to the City of Wimberley Board of Adjustment. (*Place Four Councilmember Gary Barchfeld's nominee*)
- I. Approval of the September 2016 Financial Statements for the City of Wimberley

City Administrator Ferguson requested continuing Consent Agenda Item II (Approval of the September 2016 Financial Statements) until Council's meeting on November 17, 2016.

Councilmember Trapp moved to approve all Consent Agenda items, *except for Items 1D and 1I*, as presented. Referring to Consent Agenda Item 1D, Mayor McCullough noted that Tomas Palm has submitted his resignation from the Committee, which was accepted. Councilmember Fore seconded. Motion carried on a vote 5-0.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported TCEQ issued the City's Chapter 210 permit application (for Blue Hole Park irrigation) and TWDB's staff review on the City's collection system/treatment plant design is nearing completion. He noted public meetings are being planned with the rate consultants for later this month to talk about wastewater rates. He advised staff work continues on a comparison of the City's and Aqua Texas's wastewater service options to assist Council in its upcoming decision-making process.

- Status report Hidden Valley Low Water Crossing Reconstruction Project

City Administrator Ferguson reported the approximately \$1,300,000 contract with Myers Concrete Construction has been executed and will be funded through insurance proceeds. He said permits are in place, but Texas Parks and Wildlife has asked the City obtain a sand and gravel permit for the project, as cities are not exempt from this requirement. He cited project timelines and incentives for early completion.

- Status report on regulatory flood map update for the City of Wimberley

City Administrator Ferguson reported on confusion surrounding this issue and reviewed FEMA's release of ABFE maps, its re-mapping of Hays County as a result of the flood, and noted data from new studies have been rolled into a new map. He said in late October, FEMA delivered drafts of the preliminary map to communities for their staffs to conduct an internal technical review. He stressed it is a working document still under review at this point, and not yet a public document. He reported final review comments are due on November 18, 2016. He said a public release of all maps for Hays County, including Wimberley, is expected to be available for public review in March 2017. He noted the public meetings will likely be held in May 2017 and after a series of public meetings, there will be a 90-day public comment window. He anticipated adoption of the final map to occur in March 2018 and reminded that until then, property owners who wish to elevate will need to sign an affidavit if they do not build to the ABFE levels.

- Status report on Regional Flood Mitigation Study

City Administrator Ferguson reported on a recent agreement between GBRA and U.S. Army Corps of Engineers to begin looking at potential flood control projects upstream from the Wimberley Valley. He noted several flood control dam projects have been slated for a full feasibility analysis to start the Congressional funding process. He stated that more funding is needed and the Corps and GBRA are asking cities to help fund the project. Because the City would be a primary beneficiary of the project, City Administrator Ferguson said GBRA is requesting \$20,000 per year for 3 years, and the City would be a partner in the project.

- Status report on Hotel Occupancy Tax collections for the City of Wimberley

City Administrator Ferguson reported that \$236,640.64 has been collected to date, with July 2016 showing the largest amount of collections.

- Status report on Mixed Beverage Tax collection for the City of Wimberley

City Administrator Ferguson reported the State's allocation to cities/counties, and noted significant growth in collections in the last five years.

In addition, City Administrator Ferguson recognized Assistant City Administrator/City Secretary Cara McPartland for her appointment to the Texas Municipal Clerks Association's (TMCA's) Board of Trustees. He spoke of TMCA's organizational purpose and goals, including its administration of the Texas Municipal Clerks Certification Program and provided details on the certification program.

Discussion clarified the wastewater rate public meeting schedule and timeframe for the rate consultant's presentation to Council.

3. Presentation

Presentation of Hotel Occupancy Tax funding recommendations for the period from January 2017 through March 2017. (*City of Wimberley Hotel Occupancy Tax Advisory Committee Chair Tomas Palm*)

Hotel Occupancy Tax Advisory Committee representative Traci Ferguson presented the following funding recommendations to Council:

- 1) Wimberley Valley Convention and Visitor's Bureau: The Committee recommended not funding this proposal and the request was sent back to the Committee by Council for reconsideration. Ms. Ferguson noted that the funding request has been withdrawn by Cathy Moreman.
- 2) EmilyAnne Theatre & Gardens: The Committee recommended not funding this plan and the request was sent back to the Committee by Council for reconsideration. Ms. Ferguson noted that this request has also been withdrawn, as the timeline is no longer feasible.
- 3) Wimberley Valley Tourism and Lodging Association: The Committee recommended funding the full 3-year request for this proposal and the request was sent back to the Committee by Council for reconsideration. Ms. Ferguson noted that the Committee is now recommending that this application be tabled, until a workshop can be held with the Committee and City Council.

City Administrator Ferguson pointed out that no Council action is necessary on the three abovementioned recommendations, as two have been withdrawn, with one tabled to a future date.

Ms. Ferguson presented funding recommendations on the following requests:

- 1) Hill Country Writing Symposium: The Committee recommended partial funding in the amount of \$6,000 (application requested \$7,500). Discussion addressed the Committee's reasoning for not recommending funding the full amount requested.
- 2) Wimberley Valley Convention and Visitor's Bureau: The Committee recommended not funding this proposal, which requested 100% funding and did not complete an application. Ms. Ferguson noted that the Committee encouraged the Visitor's Center to submit a plan for increasing overnight tourism and targeting visitors during specified times.
- 3) Wimberley Valley Art League: The Committee recommended partial funding in the amount of \$14,000 (application requested \$20,000). Ms. Ferguson noted that the \$14,000 amount was arrived at by calculating the ROI for the Paint Wimberley portion, without including the Arts Fest dates.

4. Public Hearing and Possible Action

Hold a public hearing and consider approval of the second and final reading of an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 155 (Zoning), Sections 155.005 (Definitions), and 155.059 (Participant Recreation - High Impact; PR-2) of the City of Wimberley Code of Ordinances to add a conditional use for

limited duration/on-premise alcohol sales; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

This item was heard after Agenda Item 6A.

City Administrator Ferguson advised that the operators of the *Wimberley Players Theatre* have sought permission to serve alcoholic beverages in conjunction with their performances. He noted that the subject property is zoned PR-2 and on-premise sale and consumption of alcoholic beverages is not a permitted or conditional use in that zoning district. He stated the current Zoning Code allows the on-premise sale and consumption of alcoholic beverages on commercially zoned properties with a CUP, in conjunction with certain uses, such as sit-down restaurants. After review of available options, City Administrator Ferguson advised that an amendment to the City's Zoning Code could be made to add the limited on-premise sale and consumption of alcohol as a conditional use in the PR-2 zoning district. He noted that alcohol sales would be limited to the duration of the event and shall not occur more than one hour before and after the event. He provided reasoning for including a requirement that no more than seventy-five percent (75%) of gross revenue could be derived from the on-premise sale of alcoholic beverages. He noted that the Planning and Zoning Commission held a public hearing and voted unanimously to recommend approval of the ordinance and on October 20, 2016, Council voted unanimously to approve the first reading of the ordinance.

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

Councilmember White moved to approve the ordinance on second and final reading, as presented. Councilmember Dussler seconded. Motion carried on a vote of 5-0.

5. Ordinance

Consider approval of the first reading of an ordinance of the City of Wimberley, Texas, amending Title VII (Traffic Code), Chapter 70 (Traffic Regulations) to add a new Section 70.06 (Low Water Crossings); providing for findings of fact, repealer, savings, severability, proper notice and meeting, and an effective date. (*City Administrator*)

City Administrator Ferguson recommended approval of the ordinance, as the City has received numerous complaints from residents about vehicles parking on and pedestrians walking, sitting, etc. on the Blanco River low water crossings.

Discussion addressed enforcement of the ordinance by the city marshal, putting up signage with an ordinance number on it, and public safety hazards caused by people walking/laying/sitting on the crossings. Councilmember Trapp said she was for health and safety and understood the purpose of the ordinance, but was not in favor of another regulation and wondered if we need it. Mayor McCullough recognized the frustration of vehicles trying to cross, but also wondered if this is a big problem. City Administrator Ferguson stated that adjacent property owners have expressed interest in the proposed ordinance. Councilmember Barchfeld felt people on the

crossings create a public safety hazard, but questioned whether people would pay attention to the signs. Councilmember Dussler agreed with Councilmember Barchfeld and favored approving the ordinance. Councilmember Fore agreed with Councilmember Trapp on creating more regulations, but acknowledged he is “on the fence” about the proposed ordinance.

Councilmember White moved to approve the ordinance on first reading, as presented. Councilmember Barchfeld seconded.

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

6. Discussion and Possible Action

- A. Discuss and consider possible action regarding Hotel Occupancy Tax funding proposals for the period from January 2017 through March 2017. (*Hotel Occupancy Tax Advisory Committee*)

This item was heard after Agenda Item 3.

Mayor McCullough called for public speakers.

Stan Allen of Bent Tree Gallery appreciated the recommendation for \$14,000 in funding, stated that Paint Wimberley will be before Arts Fest, and spoke of the success of Arts Fest. He said Paint Wimberley brings in artists from all over the United States and would be a weeklong event starting on a Tuesday, when hotels are looking for guests. He acknowledged the April date for the event was not what the Committee preferred and was surprised at the Committee’s calculation of ROI for the event. Ms. Ferguson noted that the Paint Wimberley portion was separated from Arts Fest and Mr. Allen said he did not understand that. Mr. Allen was disappointed in the general feeling from the HOT meeting, which he described as very negative. He felt Paint Wimberley will definitely help Wimberley become more and more of an arts destination and was proud of Wimberley’s artists and the arts community.

Several audience members questioned Mr. Allen’s length of speaking time and Mayor McCullough felt it reasonable to allow Mr. Allen time to justify his request for funding the full \$20,000, as Council will be voting on the amount of funding to be received. Councilmember Barchfeld stated “3 minutes is 3 minutes and it doesn’t matter” and said they feel equally strong about their positions. Concurring with Councilmember Barchfeld, Councilmember Trapp also felt there needs to be consistency, as there has been some leniency in the past. City Administrator Ferguson said rules of decorum allow Council to change the time for speakers. Councilmember Trapp suggested that in the future people who are speaking on HOT items should be listed as presenters, along with the HOT Committee, to avoid confusion. Mayor McCullough asked Mr. Allen to conclude his comments.

Stan Allen preferred receiving the full request for \$20,000 mainly because the event planned for expenses that will now have to be cut, if only \$14,000 is approved. He said alternate funding

sources would have to be found or costs would have to be cut. He stated “we want to do it right, or we won’t do it.” Mr. Allen asked if \$14,000 is approved, and it is determined that the event cannot proceed with that amount of funding, if it would be acceptable to Council to return the check to the City.

Councilmember Trapp said she attended the HOT Committee meeting that Mr. Allen referenced, and felt there was not a negative atmosphere. She said the Committee is trying to work under its guidelines and it was clear to her how the ROI was calculated. She thought that the Wimberley Valley Art League (WVAL) was agreeable to receiving partial funding, if that was to be the Committee’s recommendation. Mr. Allen said the League did not fully understand that they would only receive half of the \$14,000 at first and get the rest after the event, with \$7,000 as the amount they would have for advertising. He did not want any hard feelings if the \$14,000 was returned, and mentioned that the HOT Committee asked why WVAL did not try to get funding from the Wimberley Valley Arts and Cultural Alliance (WVACA). Councilmember Trapp said she took that statement as the HOT Committee as trying to help WVAL find other sources of money and not meant as a criticism. Mr. Allen said the implication was the WVAL should have gone to WVACA before coming to the HOT Committee.

Councilmember Barcheld said he heard good things about the project and supported funding in the amount of \$14,000. Councilmember Dussler agreed with Councilmember Barchfeld and hoped for a successful event.

Councilmember Trapp moved to approve the \$14,000 funding request for the Wimberley Valley Art League Paint Wimberley event, as presented. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

Hill Country Writing Symposium representative Alan Bourgeois spoke on this first-time weekend (Thursday-Saturday) event with its goal to bring in about 45-50 people. He provided details on event sessions on writing and publishing and advertising to date.

Councilmember Trapp thought this is a fantastic event and looked forward to funding it. Councilmember Barchfeld and Mr. Bourgeois discussed event dates and activities.

Councilmember White moved to approve the \$3,000 funding request for the Hill Country Writing Symposium, as presented. Councilmember Fore seconded. Motion carried on a vote of 5-0.

City Administrator Ferguson noted that there is not a representative in attendance from the Wimberley Valley Convention & Visitor’s Bureau to present the request for \$100,500 in funding for Mind Ecology, LLC.

Councilmember Trapp noted that there were no Wimberley Valley Convention & Visitor’s Bureau representatives available to answer questions and was not in favor of approving funding. Traci Ferguson noted the presentation was amazing, but there was no application submitted, and the Committee recommended not funding the request. Councilmember Dussler felt something was “off track” with this request, as no application was submitted.

Councilmember Fore moved to not approve the funding request. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action authorizing the city administrator to negotiate a professional services agreement with TRC Engineers, Inc. for project management relating to the construction of the Central Wimberley Wastewater System. (*City Administrator*)

This item was heard after Agenda Item 5.

Haidar Khazen spoke of his prior comments to Council voicing his support for financial fairness in the wastewater solution decision. He said after Mr. Laughman's presentation regarding Aqua Texas' "zero City costs" – zero discharge proposal," he is voicing his support for selecting the Aqua Texas retail solution as "the only one that meets the financial fairness criteria most of us are after." He also thanked past/present volunteer groups, organizations, neighbors, and elected officials for their hours and in some cases, years of tireless work. He said it really did take a village for us to all arrive at this current moment where we have a viable and financially affordable solution. Mr. Khazen said that since Aqua Texas is the right solution, there is no need to waste any more money on our own sewer and "let's not award any contracts prematurely. Thank you."

City Administrator Ferguson stated this item is simply an authorization to negotiate an agreement to bring back to Council, whether or not Council chooses the Aqua Texas retail option or not. He said project management will be needed, regardless of which option is chosen. He noted that this item is not to execute an agreement, but to negotiate an agreement that would be brought back to Council for consideration.

Mayor McCullough spoke of the profound response on the need for project management and said the City did get seven responses to its Request for Qualifications (RFQ).

Councilmember White reiterated City Administrator Ferguson's earlier statement that project management will be needed, even if the Aqua Texas retail option is chosen, because we are expected to build it, pay for it, manage and oversee it, until we sign over the CCN and system to Aqua Texas. Councilmember White said it will be at that time that we will know what interest rate it will cost the rate holders, so it is not exactly a "zero-sum" game at no cost to anyone in Wimberley, as it is going to cost either way, and no matter what, a project manager will be needed.

Councilmember Dussler agreed with Councilmember White and said the mayor and city administrator went through a thorough vetting of prospective companies. He said looking at their background and experience, it appears they (TRC) will do a satisfactory job, and whichever option the City goes with, a project manager will be needed. He favored approving this item.

Councilmember Fore requested a ball park figure and asked if \$150,000 was a fair estimate. City Administrator Ferguson explained that they were careful in their interview questions, because in the RFQ process, you cannot base your selection on dollar amounts. City Administrator

Ferguson felt that \$150,000 was a fair estimate based on discussion and said some responses ran as high as \$450,000. Councilmember Fore asked if \$150/hour was a fair rate and City Administrator Ferguson explained that would be discussed in the negotiation process. Councilmember Fore cited his personal research using the number of working hours in a typical month (172 hours) at \$150/hour, which would result in a total of \$25,000 per month. He said that in 6 months, \$150,000 would be gone, so in his estimation an 18-month project at that rate would total \$450,000 (at the \$150/hour rate). City Administrator Ferguson stated the hourly rate has not been negotiated, but noted TRC's comments indicated that \$150,000 was a ball park figure. Councilmember Fore asked if they (TRC) were going to work fewer hours or work for \$50/hour. City Administrator Ferguson said that is a discussion you cannot get into in the RFQ process, but will be discussed in contract negotiations. He noted that the plan is to have the project manager on site at all times when the contractor is on site. Councilmember Fore questioned where the money is going to come from and City Administrator Ferguson replied it would be a General Fund expense, and not come from loan or grant proceeds.

Councilmember Barchfeld spoke of earlier Council discussion of having another person sit in on negotiations and City Administrator Ferguson stated that Planning and Zoning Chair John Urban will participate in contract negotiations.

Councilmember Trapp asked about the interviewing of Mr. Bell, site visits, inspections, and location for project management offices. She said it was not clear whether the site visits would be just once-a-day visits. City Administrator Ferguson stated the intent is to have the project manager on site at all times that the contractor is on site, so they stay on top of the project, including finding ways to save costs. Councilmember Trapp favored having a project manager, but said these gentlemen probably interviewed on the City of Wimberley project, and felt if the City changed the project, the contract would not be valid. City Administrator Ferguson explained that we are building the City of Wimberley project, and if we end up going with Aqua Texas, it will be turned over to Aqua Texas. He stated Aqua Texas has indicated they want the City to build what is proposed. Mayor McCullough noted that TRC did not predicate their bid on the total dollar amount of the project. Councilmember Trapp felt it should be very clear what project we are negotiating for. She asked if we are cutting something to fund this salary. City Administrator Ferguson said this was talked about in initial budget discussions, which identified this as an essential expense that would come from Fund Balance, which currently has over \$1,000,000. Mayor McCullough referred to his notes that indicated TRC would be on site full-time and City Administrator Ferguson said all respondents indicated they would be on site full-time, with the same person on site.

Councilmember Trapp read specific statements from TRC's RFQ response and felt that although she favors having a project manager, the timing is wrong.

Mayor McCullough said the City will build a sewer and likely will have plans ready for bid in November or December. He did not see any advantage to delaying negotiations and noted all respondents wanted to be on board from the very outset. He said sometimes negotiations break down and favored starting negotiations and seeing where they go.

Councilmember Dussler favored authorizing negotiations at this time.

Councilmember Fore wondered where the money is going to come from when we do not know how much it is.

Councilmember Barchfeld felt it prudent to get two qualified people together to start negotiations process on a contract that would be needed regardless of which direction Council takes and would be brought before Council.

Councilmember White favored negotiations, as the system is going to be built, no matter who it is for.

Councilmember White moved to authorize the city administrator to negotiate a professional services agreement with TRC Engineers, Inc. for project management relating to the construction of the Central Wimberley Wastewater System. Councilmember Dussler seconded. Councilmember Trapp asked if Councilmember White would accept a friendly amendment to discuss both projects with TRC. City Administrator Ferguson said that would be discussed anyway. Councilmember White accepted the friendly amendment. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action approving a proposed lease with Wimberley Ace Hardware for use of City-owned property located at the intersection of Ranch Road 12 and FM 2325. *(Place Four Councilmember Gary Barchfeld)*

Mayor McCullough introduced the item and opened discussion.

Barbara Hopson opposed the proposed lease as PEC intended the property to be used by the City for the City and did not want it want under any one group's control. She understood Ace puts up a Christmas tree there every year, but felt it would be nice if the public could do that. She said it is a very visible location and would like to see it used for various purposes and did not want it to be under one person's or group's control. She thought various organizations could decorate it for different holidays. She was not concerned about the amount of the lease (\$1 per year), but did not want to give control of City land to one group of people.

Councilmember Fore believed that the City would be obligated to let people do what they want on the property and said and this would release the City from that obligation. He said Ace has always maintained this property in the best interest of the City and did not see any harm "in letting her continue to do what she is already doing."

Barbara Hopson said the City could only allow one group at a time on that small piece of land. Councilmember Fore said the City could not do that. City Administrator Ferguson said if the City maintains it as an open piece of public property, it is subject to people who may demonstrate on it or put certain items on it, which the City can try to prohibit, but at the risk of running into freedom of speech issues. He noted it is public property, but managing use of the property by multiple groups might be cumbersome. City Administrator Ferguson advised that the lease was proposed out of concern that someone might raise an issue with the Christmas tree that Ace has been voluntarily spending considerable time and money to put up on the subject property every year. He stressed that Ace is only interested in continuing the Christmas tree,

having flagpoles, and possibly partnering with the City on funding a community monument sign (such as “Welcome to Wimberley”). Councilmember Dussler noted that if issues did arise with the property’s use, the lease contains a termination clause. Discussion favored including a 90-day termination clause. Councilmember Trapp said Ace has been a good steward of the property, has maintained it, and never asked the City for anything. She was fully in favor of the lease with the 90-day termination clause.

Councilmember Barchfeld agreed with Councilmember Trapp’s comments and pointed out there is no place to park to access the property, except for parking on private property. He noted safety issues in accessing the property. He was supportive of Ace’s plans for flagpoles, the Christmas tree (put up at Ace’s expense), and continued maintenance of the property, and favored the lease agreement. City Administrator Ferguson noted that this is a lease, as sale of the property is prohibited by deed restrictions.

Councilmember White moved to approve the lease with 90-day written notice of termination furnished to the non-terminating party. Councilmember Fore seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action awarding a construction contract for the River Road Riverbank Restoration Project. (*City Administrator*)

City Administrator Ferguson recommended the City contract with Myers Concrete, which submitted the lowest bid of \$188,503.50, for project construction. He noted plans are to start work on Monday, November 7th and wanted the public to be aware River Road will be closed from Wayside Drive to Leveritt’s Loop during the anticipated two-month long construction period. He advised insurance proceeds will pay for the project. He confirmed that property owners know there may be some intrusion onto their properties during construction, which will be minimized by River Road’s closure. Discussion addressed specific sections and design features of the project.

Councilmember Dussler moved to award the contract for the River Road Riverbank Restoration Project to Myers Concrete, as presented. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action regarding the proposed creation of a City of Wimberley Technology Advisory Committee. (*City Administrator*)

Councilmember Trapp requested that this item be continued until Council’s meeting on November 17, 2016.

Councilmember White moved to continue this item, as requested. Councilmember Barchfeld seconded. Motion carried on a vote of 5-0.

- F. Discuss and consider possible action regarding the proposed addition of language to future City Council agendas relating to the conduct of public speakers. (*Place Four Councilmember Gary Barchfeld*)

Councilmember Barchfeld complimented Mayor McCullough on his handling of tonight's meeting and referred to meeting(s) as a "Forum of Decorum." He read the following statement: "I've noticed since my election the number of citizen comments have been more than enthusiastic. I, as a Wimberley City Council member, welcome Wimberley citizen comments and I also accept those comments from residents of the Wimberley Valley. I welcome your opinions and especially facts supporting the items on the agenda or specific issues, but this is not a forum to threaten, slander, verbally abuse, tear down, or spout scare tactics on issues, people, or organizations that speakers do not either like or agree with. I think we need to have a "Forum of Decorum." There are certain things that can be done to maintain the integrity of our meetings. Each speaker should state their name and address before making comments. There are two sides to most issues and I would request each speaker state why you are here to support your issue before you tell us why you are against particular issues. Comments should not be directed to any specific Council member or staff. Comments should not be accusatory, derogatory, or threatening in nature. We have a three-minute time limit and that should be adhered to by all speakers. If we choose to let one speaker go longer than three minutes, then other speakers should have the same speaking time. However, if we change the time limit, it is a change to procedure, and that should be a vote by the entire Council, before the speakers continue. I think this will help us maintain some control over our meetings and I think that this is a good way for us to have a "Forum of Decorum" and I only bring this here to get discussion from the Council and thoughts on this."

Councilmember Trapp felt this is a noble gesture, but did not think we can limit free speech. She said there were a couple of meetings that she did feel threatened and felt uncomfortable, because we can't say anything back. She liked the idea, but was unsure how it would affect free speech.

City Administrator Ferguson said Council has the right to establish rules of decorum and also has the ability to remove those who do not follow the rules.

Councilmember Barchfeld favored having staff prepare a proposal with the stated language to amend the governance policy and have such language put on every Council agenda and the speaker sign-in sheet. He did not want to limit free speech, but said speakers can get opinions across while being civil.

Councilmember Fore said speakers can get their points across in a respectful manner.

Councilmembers Barchfeld and Trapp discussed specific types of comments that should be prohibited (such as accusatory, derogatory, or threatening remarks). Mayor McCullough recognized concerns, but said he never felt threatened, as this is part of what Council signed up for. He did not always like what is said, but said he abhorred the "misinformation of facts" that gets presented to Council. Mayor McCullough asked how to deal with emotional, upset people who single out Council members and Councilmember Barchfeld said this proposal is to help control meetings and make sure this is a civil chamber. He stated the importance of not changing the rules and the need to explain rules to the people. City Administrator Ferguson said the sign-in sheet and agenda could have language added regarding civility and stated it is better for Council as a whole to decide on rules.

Several audience members raised their hands and Mayor McCullough advised that public comments are not allowed for this item.

Councilmember Barchfeld moved to direct staff to amend the governance policy, agendas, and sign-in sheet to add language as follows: comments should not be directed to any specific Council member or staff; comments should not be accusatory, derogatory, or threatening in nature. Councilmember White said most people know when they have crossed the line, without making this a regulation. Councilmember Trapp asked if there is common ground on a time limit for speakers and discussion favored allowing flexibility depending on the subject and being uniform in application of the agreed-upon time limit.

Councilmember Barchfeld restated his motion to direct staff to prepare a proposal with the stated language to amend the governance policy and to add a time on the sign-in sheet and such language should be placed on every future agenda and the sign-in sheet. Councilmember Fore seconded. Mayor McCullough said Council has the option to agree on changing the speaker time limit, as it deems appropriate. Audience member M.F. Johnson asked to speak, and Mayor McCullough advised that Council will vote on the motion. Motion carried on a vote of 5-0.

7. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Trapp requested an item to discuss implementation of a technology oversight committee. As all the options have been presented by Robert Laughman of Aqua Texas, Councilmember Trapp asked for an item on the next agenda to decide on a wastewater system option.

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

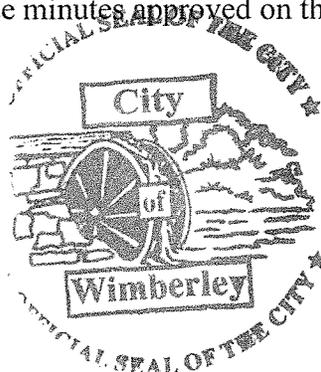
Adjournment: Council meeting adjourned at 8:12 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 17th of November, 2016.



APPROVED:



Mac McCullough, Mayor