

RESOLUTION NO. 07-2018

**A RESOLUTION OF THE CITY OF WIMBERLEY, TEXAS,
AUTHORIZING REIMBURSEMENT OF LEGAL
EXPENSES INCURRED BY MAYOR HERSHEL "MAC"
MCCULLOUGH IN HIS DEFENSE AGAINST ETHICS
COMPLAINT DATED MARCH 16, 2017.**

WHEREAS, under Title III, Chapter 30, Section 47 of the Code of Ordinances of the City of Wimberley, an Ethics Review Commission was created to enforce the City of Wimberley's Code of Governmental Ethics; and

WHEREAS, any eligible voter of the City may file an ethics complaint, under oath but regardless of merit, against the Mayor or member of the City Council or a City Official; and

WHEREAS, the Ethics Review Commission has jurisdiction over ethics complaints filed with the City and must consider all complaints that meet the standard of required content detailed in the Code of Ethics, Ordinance No. 2006-010; and

WHEREAS, whereas Mayor Hershel "Mac" McCullough was the subject of an ethics complaint filed by Ms. Deborah Clayton Koeck in March 2017; and

WHEREAS, the alleged acts and omissions that formed the basis of the complaint were alleged to have occurred while Mayor McCullough was acting within the scope of his official duties as mayor of the City of Wimberley; and

WHEREAS, the Mayor retained a private attorney to advise him and appear on his behalf before the Ethics Commission, at considerable expense to himself; and

WHEREAS, the ethics complaint was dismissed by the Ethics Commission; and

WHEREAS, the City Council finds that Mayor McCullough was acting in good faith at all times relevant to the ethics complaint; and

WHEREAS, the City Council finds that a significant public interest is served by this Resolution because without it, the outcome may have a deterrent effect upon individuals interested in public service who may be reluctant to run for office if they fear it will expose them to the risk of defending against meritless ethics claims at great personal expense; and

WHEREAS, the Attorney General of Texas has ruled that the legal expenses of city officials and councilmembers may be reimbursed under the common law when there is no violation found against the official or councilmember; and

WHEREAS, the City Council finds that Mayor McCullough incurred legal fees defending against the ethics complaint in the amount of \$8,993.00 and that these fees are reasonable; and

WHEREAS the City Council finds that the legal expenses are necessary expenses incurred in the performance of the duties of his office; and

WHEREAS, the City Council finds that a significant public interest is served by using public funds of the City to reimburse the Mayor's legal expenses in the amount of \$8,993.00:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, THAT:

All of the above findings are resolved to be true and correct factual findings by the City Council of the City of Wimberley.

The City Administrator is hereby authorized to cause a reimbursement check to be issued, payable to Hershel "Mac" McCullough, in the amount of \$8,993.00 for his necessary legal expenses in defending against the Ethics Complaint describe by this Resolution.

The provisions of this Resolution are intended to be and are severable, which means if any part or provision is found to be illegal or improper, all other parts and provisions will remain in full force and effect.

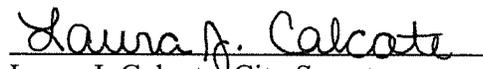
EFFECTIVE DATE. This RESOLUTION shall be in full force and effect from and after its date of approval.

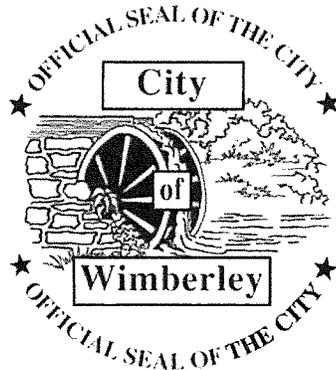
APPROVED: February 1, 2018.

APPROVED:


Steve Thurber, Mayor Pro Tem

ATTEST:


Laura J. Calcote, City Secretary



STATEMENT
MENN AND ASSOCIATES
REAL ESTATE APPRAISERS AND CONSULTANTS
500 STATE HWY. 46 SOUTH
P.O. BOX 467
Seguin, Texas 78156-0467
Phone (830) 379-8651
Fax (830) 379-0985
e-mail: albert@mennappraisals.com

Mark Cusack

File# 17-8-12
Re: Mac McCullough

DESCRIPTION	AMOUNT
11/7/17	
Review File	¼ hour
Travel & Hearing	4 ¾ hours
Total	5 hours @ 125hour= \$625
Mileage 80 miles @ .35/miles	\$28
TOTAL	\$653

Pin No. 463-74-5280

To insure proper credit to your account, please include our file number on your check**

THANKS!

Mark Cusack, PC
Attorney at Law
242 N. Guadalupe Street
San Marcos, TX 78666-5608
512/392-7700 (Office)
512/392-1519 (Fax)

November 30, 2017

Re: McCullough
City of Wimberley Ethics

April 2017 - November 2017

48 hours @ \$185.00 = \$8,880.00 X .5 =\$4,440.00

Total Due \$4,440.00

BOJORQUEZ
LAW FIRM, PC

TexasMunicipalLawyers.com

12325 Hymeadow Dr., Suite 2-100
Austin, TX 78750

Phone: (512) 250-0411
Fax: (512) 250-0729

Visit us at our website at texasmunicipallawyers.com

November 30, 2017

Mark E. Cusack, PC
24 N. Guadalupe St.
San Marcos, TX 78666-5608

Re: Herschel McCullough

Client number Cusack
Inv. #: 6528

TOTAL FEES & DISBURSEMENTS	\$0.00
Previous Balance	1,980.00
Previous Payments	1,000.00

BALANCE DUE NOW BY DECEMBER 31, 2017 **\$980.00**

Make checks payable to Bojorquez Law Firm, PC
Tax ID#27-0818127

ALL PAST DUE AMOUNTS ARE SUBJECT TO INTEREST CHARGES

PAYMENT DETAILS

Nov-09-17	Payment for invoice #6490	1,000.00
	Total Payments	<u>\$1,000.00</u>

SUMMARY

Name	Hours	Amount
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Ray & Wood

2700 BEE CAVES ROAD
Suite 200
AUSTIN, TEXAS 78746
(512) 328-8877

June 12, 2017

Mac McCullough
1415 East Spoke Hill Drive
Wimberly, TX 78676

Invoice# 20366 RBW
Our file# 06677 00002
Billing through 06/30/2017

Accounts receivable balance carried forward \$0.00

PROFESSIONAL SERVICES

05/19/2017	RBW	Various phone calls.	1.00 hrs.	300.00
05/21/2017	RBW	Preparation for Ethics Hearing.	2.50 hrs.	750.00
05/22/2017	RBW	Ethics Hearing in Wimberly	2.00 hrs.	600.00
05/26/2017	DWR	Research re: possible defenses to ethics claim.	0.90 hrs.	270.00
				<u>\$1,920.00</u>

Billing Summary

Total professional services	<u>\$1,920.00</u>
Total of new charges for this invoice	<u>\$1,920.00</u>
Total balance now due	<u><u>\$1,920.00</u></u>