

of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
November 17, 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

Mayor McCullough explained that speakers will be given three minutes and that one speaker may not cede time to another speaker. He said Council members will rotate as timers, with Councilmember Barchfeld to time tonight's speakers. He noted that a signal will be given when speakers have one minute left to finish speaking. He said that if a speaker is asked to stop and does not do so, he will recess the meeting, law enforcement will be called to remove the non-complying speaker, and upon removal the meeting will be resumed.

Deborah Koeck read the following statement: "Good evening, City Council, Mr. Mayor. Thomas Paine tells us that what we obtain too cheap, we esteem too lightly. It is dearness only that gives everything its value. In a time of civil unrest, it's correct to celebrate public service and the thoughtful people that we have chosen to serve us on the Wimberley City Council. The citizen public servant symbolizes what is good and decent about Wimberley and reminds us what to value in our world today. That dearness that Thomas Paine speaks of is the time and effort and thoughtful deliberation that you have made in service to Wimberley today and for the months to come. I thank you for your service and encourage you to continue in spite of the difficulties because service to others that think differently from you is perhaps the greatest service of all. Thank you all very much."

Christine Middleton, who writes a column for the *Wimberley View*, spoke of her love for the Blanco River and firmly believed in working with nature, rather than against it. She said that is the lens through which she views the question: "Who should operate the City's proposed sewer system?" She spoke of a recent workshop that included study results indicating that soil is a good filter of effluent, but only if it is adequate in terms of depth and quality, which can change over time. She questioned the differences between Type I and Type II effluent, which she said are much more nuanced. Ms. Middleton asked: "What if we find out something has gone wrong?" If pollution is detected in our waterways, she said Aqua Texas is subject to TCEQ rules, but TCEQ's track record for enforcement is anything but stellar. She distributed a handout to Council on a recent KXAN-TV news story reporting on lax enforcement and reduced fines for

companies, including Aqua Texas, which often results in companies finding the least expensive way to get TCEQ off of the companies' backs, rather than what is best for the community. She reminded everyone that slightly over a year ago, representatives of landowners along the Blanco River signed a settlement agreement with the City which put strict limits on what the City can and can't do. She said some still think it doesn't go far enough, but reminded the agreement was reached based on citizen advocacy and it took a lot of work on the part of dedicated people who felt strongly about the issues. Ms. Middleton said to think how much more difficult it would have been to accomplish, if rather than the City, you had gone up against a large for-profit corporation, more beholden to its shareholders than the citizens of Wimberley. She felt there are likely to be future concerns, regardless of who provides the sewer system, and asked Council to think about dealing with people who you can talk to face-to-face, then think about dealing with a faceless executive with deep pockets who isn't even sure where Wimberley is on the map. Ms. Middleton closed by saying "I know which one I would choose."

Ed Foster said he counted eleven Hays County Sheriff's cars on the way to Kyle today that were headed toward Wimberley. He asked if there was anything going on that he needs to be aware of. Mayor McCullough and City Administrator Ferguson advised they did not know of anything.

Mill Race Lane resident Haidar Khazen read the following statement: "I am mostly up here to say thank you. Thank you for asking questions, any questions. Thank you for asking all kinds of questions. Hard questions, easy questions, scary questions, silly questions. Thank for asking the questions that everyone else thinks, but is afraid to ask. Thank you for asking questions that no one else has thought of. Thank you for knowing that questions are not statements of fact or positions, nor are they accusations. Questions are not attempts to skew, persuade, intimidate, or bully. Questions are merely the way we as humans attempt to enter into meaningful dialogue with one another. Questions form the very basis of our everyday lives. Hi, how are you? Where have you been? Where are you going? I myself felt more than a bit daunted reading over tonight's agenda. I cannot begin to imagine how you all must feel. There are so many questions before you in black and white, so many more that aren't written down. But they all need to be asked and I thank you for continuing to ask them every day in meeting after meeting. Thank you for keeping the dialogue going for our community. Thank you for saying 'Hi Wimberley.' Thank you for asking 'How are you, Wimberley? Where have you been and where are you going?' Thank you."

Blanco River Cypress Creek Water Association (BRCCWA) President Gail Pigg of 2212 Flite Acres thanked the previous speaker's acknowledgement of the aforementioned legally binding settlement agreement. She referenced No. 3 of the agreement which states: "Wastewater capacity in the Blue Hole Regional Park: The City agrees not to expand the wastewater treatment capacity within Blue Hole Regional Park beyond 75,000 gallons per day." She said this applies forever, as long as there is a plant in Blue Hole Park. She stated the BRCCWA and the three other entities in this legal agreement take their responsibilities very seriously as far as enforcement is concerned and will enforce it in perpetuity – "whatever it takes." She noted other terms of the agreement such as inclusion of the 75,000 gallon per day limit in the property's deed restrictions. She asked for updates on the status of this inclusion and the parkland conversion process, which is necessary in order to have a new plant that is not on parkland. Mrs. Pigg referenced a required Chapter 26 hearing that has not been held, according to Texas Parks and

Wildlife Department. She hoped this hearing will be scheduled soon and the abovementioned capacity limits will be included in the property's deed restrictions. She said if the capacity is not limited "I can guarantee you there will be a lot of people - concerned citizens - there." She thanked Council for its service and the City for this agreement.

1. Consent Agenda

- A. Approval of minutes of the Regular City Council meeting of November 3, 2016.
- B. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting of October 25, 2016.
- C. Approval of minutes of the Special City Council meeting of November 1, 2016.
- D. Approval of the appointment of Albert Valera to the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Wimberley Valley Tourism and Lodging Association's nominee*)
- E. Approval of the September 2016 Financial Statements for the City of Wimberley
- F. Approval of the October 2016 Financial Statements for the City of Wimberley

Mayor McCullough pulled Consent Agenda Item 1D to be considered at a later date. Discussion addressed reasoning for pulling this item.

Councilmember Trapp moved to approve all Consent Agenda items, *except for Item 1D*, as presented. Councilmember White seconded. Motion carried on a vote 5-0.

Discussion on Consent Agenda Item 1D addressed acceptance of WVTLA's nominees by Council in accordance with existing appointment procedures; tonight's Committee-related Agenda Item 4D; qualifications of the nominee; and Council's authority to approve nominees.

Councilmember Trapp moved to approve the appointment of Albert Valera to the City of Wimberley Hotel Occupancy Tax Advisory Committee. Councilmember White seconded. Motion carried on a vote of 5-0.

2. City Administrator Report

- Status report on the Central Wimberley Wastewater Project

City Administrator Ferguson reported contract negotiations are underway with TRC Engineers and anticipated presentation of the agreement to Council in early December. He reported right-of-way permitting for the project is also underway. He anticipated receipt of TWDB final sign-off on the collection system and treatment plant design in several days. He noted plans to install moisture monitors on the drain field. He advised that a public meeting on wastewater rates is scheduled for the week of November 28, 2016. He said the City anticipates a response in the near future from Texas Parks and Wildlife Department on the parkland conversion process and addition of deed restrictions to the grant agreement. City Administrator Ferguson thanked Gail Pigg and the BRCCWA for their efforts in working together to develop the negotiated settlement regarding the TCEQ permit. Discussion between City Administrator Ferguson and Councilmember Fore addressed the status/timeframe of easement acquisition.

- Status report Hidden Valley Low Water Crossing Reconstruction Project

City Administrator Ferguson reported that Texas Parks and Wildlife is expected to finalize sand and gravel permitting by the end of the month, with construction anticipated to start by late November/early December. He said the project will be paid through incremental releases of insurance proceeds. He anticipated project completion in about 120 days from the beginning of December 2016 and noted that property owners receive regular project status updates. Discussion addressed reasons why the Texas Parks and Wildlife is requiring the City to obtain a sand and gravel permit.

- Status report on River Road Riverbank Restoration Project

City Administrator Ferguson reported the first concrete pour is anticipated for this Monday and provided details on specific retaining wall/curb sections. He recognized that closure of River Road is an inconvenience, but such closure allows work to progress on both sections simultaneously, which should expedite project completion. He noted installation of informational signage on River Road's closure.

Councilmember Trapp requested discussion of possible hiring of additional law enforcement to help with the flow of vehicle traffic. City Administrator Ferguson advised the City could consider hiring an off-duty constable to supplement the city marshal's efforts, particularly for afternoon school-related traffic.

In addition, City Administrator Ferguson reported that the City's November sales tax collections check totaled \$94,269, which is a slight decrease from the same period last year. He noted that this is the second largest November check in the City's history. He stated fiscal year-to-date collections are running ahead of budget.

City Administrator Ferguson reported on the Wimberley Shred Day event held at City Hall last Saturday. He said the City partnered with Keep Wimberley Beautiful for the event, which was very successful, with over 5,000 pounds of documents shredded. Additionally, as part of the event, donations to Crisis Breadbasket yielded two full car loads of food. He thanked the local Boy/Girl Scout troops and Keep Wimberley Beautiful for their volunteer efforts and for the community's involvement.

- Status report on Blue Hole Regional Park operations

City Administrator Ferguson reported almost 3,000 visitors to the Park during the day on Saturday, November 12th for the state cross-country meet for Texas charter schools. He said no problems were reported, extra restroom facilities/overflow parking spaces were made available, and trash was effectively managed. He advised this is one of the largest turnouts ever for this event. He reported on a successful Friends of Blue Hole event on Sunday, November 13th which included a crowd of approximately 145 people who enjoyed hearing a special guest speaker. He advised that Blue Hole Christmas is scheduled for Saturday, December 3rd from 5 to 8 p.m., and highlighted event activities. He noted an important milestone marking the sixth anniversary of the Park's groundbreaking.

3. Ordinance

Consider approval of the second and final 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*)

This item was heard after Agenda Item 4K.

City Administrator Ferguson recommended approval second and final reading 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. He stressed that the ordinance's purpose is to improve public safety with the goal of achieving compliance. He noted that low water crossings are roadway structures meant to move traffic safely and are not for river access.

Cindy McShirley spoke of her family's long ownership history and memories of many family gatherings. She supported the proposed ordinance and was surprised at Council's comments at the ordinance's first reading on November 3, 2016, as she did not feel a lot of thought was given to property owners' feelings. Ms. McShirley could not understand why anyone would have a problem with the ordinance due to the history of problems at low water crossings. She felt that with the new bridge (Hidden Valley), the public will want to park there for river access. She asked how Council would feel about living with carloads of people coming with grills and dogs and trash left everywhere. She expressed concerns regarding trespassers parking on the road leading down to the bridge and hanging out on the structure, which she said is a public safety issue, and very displeasing to residents who have to deal with trespassing. She said without protection in place and a plan for enforcement the property owners' rights will be infringed upon. Ms. McShirley stated the passing of the ordinance is important for the safety of the public, liability to the City, and will help protect the rights of the property owners.

Discussion addressed discretion of law enforcement regarding the passage of people crossing the bridges on foot, reasoning for an ordinance versus use of signage as a deterrent, possible additional language that would specify that the ordinance is not intended to prohibit river users from going up/downstream or bank to bank. City Administrator Ferguson recommended that "portage" language be added to the ordinance.

Councilmember Trapp moved to continue this item until the additional recommended language has been drafted to allow for Council's reconsideration of the final reading of the proposed ordinance. Councilmember Dussler seconded. Motion carried on a vote of 5-0.

4. Discussion and Possible Action

- A. Discuss and consider possible action regarding a proposed interlocal agreement between the Guadalupe Blanco River Authority (GBRA) and the City of Wimberley relating to the completion of a flood feasibility study of the Guadalupe River below Canyon Dam,

including the Blanco and San Marcos Rivers. (*Charles Hickman, Guadalupe Blanco River Authority*)

City Administrator Ferguson explained the need for GBRA to complete the flood feasibility study in order to secure federal funding for the mitigation projects. He noted that several possible flood mitigation projects have been identified that could possibly benefit communities in the study area, including Wimberley. As Wimberley would be a beneficiary of a mitigation project, City Administrator Ferguson stated that GBRA has approached the City and other entities in the study area for help in meeting the local funding match needed to complete the study. He advised the proposed interlocal agreement would require the City to contribute \$20,000 for three consecutive years, which would come from the City's General Fund Balance, with the \$20,000 annual allocation included in the budgets for Fiscal Years 2018 and 2019.

GBRA representative Charles Hickman provided details on the scope of the study, timeframe for completion, criteria that must be met to qualify for federal funding, and examples of the types of mitigation projects that might be feasible.

Discussion addressed calculation of cost shares contributed by various participating entities; types/possible locations of mitigation projects; benefits to the City of Wimberley; the City's local share contribution contingent on approval of federal funding; and designating a local representative to work with GBRA.

Mayor McCullough asked if any audience members would like to speak on this item.

Ed Foster spoke in favored the proposed interlocal agreement, as he felt it would be helpful to the City of Wimberley.

Suzanne Davis of 3000 Flite Acres expressed concerns about the environmental impact and Mr. Hickman advised that the U.S. Army Corps of Engineers staff of biologists would look at environmental impact and include measures to mitigate any possible negative impact.

Councilmember White moved to approve the interlocal agreement, as presented. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action accepting the dedication of right-of-way and easements relating to the Hidden Valley Low Water Crossing Reconstruction Project.
(*City Administrator*)

City Administrator Ferguson explained the need to accept the proposed dedication of several right-of-way parcels and permanent easements required for the Hidden Valley Low Water Crossing Reconstruction Project.

Councilmember Barchfeld moved to approve accepting the dedication of right-of-way and easements relating to the Hidden Valley Low Water Crossing Reconstruction Project, contingent on execution of the associated documents. Councilmember Fore seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action approving a proposed change order to the City of Wimberley's professional services agreement with Stantec to increase the number of site inspections during the reconstruction of the Hidden Valley Low Water Crossing. (*City Administrator*)

City Administrator Ferguson explained that with the expedited timeline for the project, additional site inspections would be in the best interest of the City to ensure the project is being built according to design. He noted that the estimated cost of the additional inspections is \$19,575, which would be rolled into the overall project cost to be funded with insurance proceeds.

Discussion addressed construction management for the project; 120-day timeframe for completion; experience level of contractor; fast-paced project with incentives for early completion; weekly (rather than monthly) inspections to ensure bridge safety; additional inspections would not cause project delays; benefit to contractor of more frequent inspections to avoid possibility of having to tear out and re-do work; possible fewer number of additional inspections (for example, addition of "not to exceed" language); potential for project delays should construction not meet design checks; regular engineering updates; issues with Stantec's performance; support for contractor; and lack of support for approval of change order.

Councilmember Trapp moved to deny the proposed change order to the City of Wimberley's professional services agreement with Stantec to increase the number of site inspections during the reconstruction of the Hidden Valley Low Water Crossing. Councilmember Fore seconded. Motion carried on a vote of 4-1. Councilmember White voted against.

- D. Discuss and consider possible action awarding a proposal to modify the membership requirements and appointment process for the City of Wimberley Hotel Occupancy Tax Advisory Committee. (*Place Four Councilmember Gary Barchfeld*)

Mayor McCullough pulled this item from consideration. No action was taken.

- E. Discuss and consider possible action authorizing a meeting of the City Council Subcommittee on Aqua Texas for the purpose of obtaining a term sheet from Aqua Texas relating to the Aqua Texas retail wastewater service proposal for central Wimberley. (*Place Four Councilmember Gary Barchfeld*)

Councilmember Barchfeld stated this proposal is strictly to develop a term sheet which would allow Council to find out exactly what Aqua Texas is going to give to or want from the City. He said the same committee who has met previously with Aqua Texas could come back with data for Council. City Administrator Ferguson asked if Councilmember Barchfeld would prefer submission of a written proposal, as opposed to a term sheet, in order to get more comprehensive information and expedite Council's review and consideration. Councilmember Barchfeld stated he does not have enough knowledge in this area and his goal is to set the term sheet, and once terms are set, he said we could start the negotiation process. Councilmember Fore said this is the perfect start and favored the term sheet.

Councilmember Dussler referenced his comments at Council's October 20th meeting, when he expressed strong support for Wimberley developing its own wastewater treatment plant and strong opposition to turning over the entire project to Aqua Texas. He made the following statement: "Without going back over those comments, I did want to mention that the conclusion was that this is all about the CCN. As you follow the trail, it leads to the CCN. This week the city administrator sent around a memo following discussions he had with Robert Laughman regarding the Aqua Texas retail wastewater service proposal for Wimberley. There's some new and troubling information in this memo and I would encourage all of you to read it. As you review the 13 points in the memo, more than half relate to the CCN, which confirms our conclusion in October. Perhaps the most egregious point is the one in which Aqua Texas insists that Wimberley must limit any restrictions on future growth within the City's jurisdiction, because must depend on additional growth within the CCN area, from downtown along Ranch Road 12 to the Junction. This is certainly in keeping with Aqua's business model, which is to expand its business as rapidly as possible, driving revenue to increase its share price to please its shareholders. However, it could result in changing the character of Wimberley, such that we become another Dripping Springs or Kyle. Why would Wimberley agree to this? Another requirement is that any cost overruns on the collection system above ten percent are to be paid by the City or Aqua will not agree to hold its rates firm for a period of time. Why would Wimberley agree to this? Keep in mind that the City is required to give the CCN to Aqua. We believe the value of the CCN is \$5,000,000 or more. So this is a substantial gift to Aqua Texas. Why would Wimberley agree to this? The memo concludes that we need a detailed comprehensive written retail service proposal, as well as a detailed written short-term financing proposal from Aqua Texas. I agree with this. If we want to do the term sheet first, then go into the agreement, that's fine. But my observation is there are a lot of people looking out for Aqua Texas, but who's looking out for Wimberley. Thank you."

Councilmember White said that before he could even consider an Aqua Texas option, it would have to be in writing. He expressed concerns about financing construction costs and questioned where Wimberley would get the money because the City would be giving up its loan and the grant. He stated: "It's the whole litany that Councilmember Dussler just went through." Councilmember White reiterated the need to have the proposal in writing.

Councilmember Fore said he did not want a memo from the city administrator and that he wanted a contract from Aqua Texas, but said you have got to do it one step at a time.

Councilmember Trapp agreed with many of Councilmember Dussler's earlier comments and said this is the first step, with the term sheet as the beginning of negotiations. She said Council is looking out for Wimberley, noted the subcommittee team was developed to talk to Aqua Texas, and felt from this point "communications happen within the subcommittee, because we don't know what conversation Mr. Ferguson had with Mr. Laughman."

Councilmember Dussler thought that Aqua Texas could provide a very detailed proposal in short order, as they know what they are going to charge. He said if Council wants a term sheet that is fine, but he felt it would not take Aqua Texas long to provide a detailed agreement.

Councilmember Fore said “in the long range, short-term, or whatever it’s going to be, there’s going to be some things that they’re going to want and there’s going to be some things that the City would want. That’s what the negotiating would take care of. I just think start with the term sheet and go from there.”

Councilmember White asked if Aqua Texas’s corporate office has even approved (or even been told about) financing of the sewer system.

Councilmember Barchfeld stated that all he wants is “to get the ball rolling” so we have numbers on both sides and can make an educated decision. He said he never thought we would get this far, but said it would behoove us to look at both sides of the equation monetarily, ecologically, “study the whole thing,” and have full data.

Mayor McCullough advocated sending Attorney Emily Rogers to Aqua Texas meetings to provide counsel on any potential legal obstacles. Councilmember Barchfeld and City Administrator Ferguson felt this was a good suggestion.

Councilmember Trapp moved to authorize a meeting of the City Council Subcommittee on Aqua Texas for the purpose of obtaining a term sheet from Aqua Texas relating to the Aqua Texas retail wastewater service proposal, and added that the subcommittee be present for all communications, as well as Attorney Emily Rogers. Councilmember Fore seconded. Motion carried on a vote of 5-0.

City Administrator Ferguson requested input from Council on possible meeting dates, as coordination among all meeting participants is needed for effective scheduling.

- F. Discuss and consider possible action regarding a proposal to have the city attorney attend Council meetings. (*Place Three Councilmember Sally Trapp*)

City Administrator Ferguson stated interest has been expressed by some to have attorneys present at Council meetings, which he said was the case many years ago. He noted that the City’s attorneys charge a range of hourly fees. He stated that attendance by attorney(s) could be on an as-needed basis to help control costs.

Councilmember White did not favor requiring attendance at meetings and said if Council needs a legal question answered, we can always call and get an opinion. He noted that at one time the City was spending \$90,000 per year to have attorneys sit in on meetings, when they were not needed. He said if there is a legal question (for instance, on ordinance wording), it can always be postponed until Council’s next meeting to allow for further legal review and response.

Councilmember Barchfeld agreed with Councilmember White’s comments.

Councilmember Dussler agreed with Councilmember White’s comments and said he has never seen an issue when we had the immediate need to have an attorney sitting in the front row. He felt the costs would escalate and those costs have not been funded, therefore, did not favor attendance at meetings.

Councilmember Trapp agreed with all these comments, but said “I recently asked for legal and didn’t get it, and then when we did get it, it was a phone call. So if we’re all clear that if somebody asks for it, that they actually do show up in person, then I’m fine, because I don’t want to spend the money that they come every time.”

Councilmember Fore agreed with Councilmember Trapp and said “if we can foresee it, fine – have them here. If not, but I don’t want it by phone call.” He stated “if it comes up, a contentious item, we delay the item until we can get them here in person.”

Mayor McCullough referred to the time period around 2004 when then City Attorney Patty Akers attended all meetings of Council and Planning and Zoning. He noted during that period, the City was paying new ground at almost all of these meetings, which was far beyond the capabilities of the city administrator at that time, and significantly ran up the City’s legal expenses. He felt that now the City has adequate resources to either act or postpone action, pending inquiries to legal counsel for advice and answers, without requiring attendance.

Councilmember Fore did not favor having legal counsel present in person at every meeting, but felt “we need to have something that says if we need counsel we can get them there.”

City Administrator Ferguson stated his understanding that when legal counsel is needed, if there is advanced desire for that, Council will let him know as soon as possible, and if legal counsel is needed in the middle of a meeting, action can be delayed until an attorney can be present in person.

Mayor McCullough stated that Council members can raise any concerns or questions upon receipt of the draft agenda to allow for answers to be provided by legal counsel on an individual basis outside of the meeting, or request to have the attorney present at the meeting. As she may be reviewing the agenda on the same afternoon as the meeting, Councilmember Trapp said she would like to reserve the right to be able to ask for legal assistance at the meeting. Councilmember Barchfeld pointed out that an item in question could be postponed.

No vote was taken.

G. Discuss and consider possible action regarding the proposed creation of a City of Wimberley Technology Advisory Committee. (*Place Three Councilmember Sally Trapp*)

Councilmember Trapp proposed appointing a technology oversight committee to meet more frequently in the beginning and later on a quarterly basis. She proposed that the committee identify needs, including technological needs of citizen/staff, and prioritization of those needs.

Councilmember Dussler spoke in favor and said Councilmember Trapp would have to head up the effort, as she has more knowledge than anyone in the room.

Councilmember Trapp said she did not have that knowledge, but knew where to go to get it. Discussion addressed the need to keep up with evolving technology, including social media; call

for volunteers and interested parties; and the proposed committee's role, composition, and scope of duties.

Councilmember White moved to approve the creation of a City of Wimberley Technology Advisory Committee composed of five members, with names of nominees to be presented at Council's next meeting. Councilmember Fore seconded. Motion carried on a vote of 5-0.

- H. Discuss and consider possible action regarding a proposal to amend the *City Council Governance Policy and Rules of Procedure* relating to decorum and time allotment guidelines for citizen comments at City Council meetings. (*Place Four Councilmember Gary Barchfeld*)

Councilmember Barchfeld stated he has gotten good comments on his "Forum of Decorum," and felt tonight's meeting has been a good meeting.

City Administrator Ferguson presented the proposed additional underlined language to Sec. 5.10 (Speakers) of the City's *Governance Policy and Rules of Procedure* as follows:

5.10 Speakers

- c) Speakers must keep their remarks specific to the item being considered by the City Council. If the speaker is addressing the City Council under Citizens Communications, the speaker may address any item not slated for discussion on the agenda. Comments from speakers should not be directed towards any specific member of City Council or City staff. Comments should not be accusatory, derogatory or threatening in nature. These guidelines for speaker decorum shall be posted on each City Council agenda and on Speaker Sign-In Sheets for all City Council meetings.
- e) All speakers will have a maximum of three (3) minutes to address the Council. A majority vote of the Council will be required to extend the time limit. The chair may impose more restrictive time limits if a large number of persons register to speak. Guidelines relating to time allotment for speakers shall be posted on each City Council agenda and on Speaker Sign-In Sheets for all City Council meetings.

Discussion addressed possibly increasing the current time limit of 3 minutes to 4 minutes; need to establish speaker procedures at the beginning of each meeting; and need for consistency and flexibility in implementing rules.

Deborah Koeck of 1 Spalding Circle urged Council to look at the proposed language and ask if it follows the principles of the Texas Open Meetings Act and "the verbiage of what is allowed for speech." She felt the verbiage in the proposed amendment may be more restrictive than in the Texas Open Meetings Act and asked Council to check that.

Councilmember White asked what verbiage Ms. Koeck was referring to.

Ms. Koeck stated: “The verbiage talks about different types of speech that’s allowed and not allowed. I don’t have that information in front of me right now at this moment from Texas Open Meetings, but I think you’ve been more restrictive in some of the statements that you put in there about directions, so rather than address anything specifically, I would simply ask you to do a general review.”

City Administrator Ferguson advised that legal counsel can review the language.

Councilmember Barchfeld felt Council should table this item until for further review.

Mayor McCullough spoke of the “sticking point” as being the “personal” aspect of having comments directed to Council or staff. He noted that historically those types of comments have not been allowed. He felt that public officials may give up some rights to privacy and are exposed to being called just about anything someone wants to call you, but “not in this forum right here.”

City Administrator Ferguson said this is a decorum policy direction chosen by Council, not a mandate, and noted we are not re-writing State law. He said the proposed amendment can be reviewed by legal counsel.

Audience member Casey Craig requested clarification and understood “body” versus “individual” and “attacking” as decorum issues, but asked if the community is allowed to reference or quote Council members’ statements. She said she wanted to play by the rules and needed to know what the rules are.

Mayor McCullough said that references do not have to be made to individual persons in order for speakers to make true and accurate statements.

Councilmember White said statements can be referenced or quoted without adding anything derogatory about the person being referred to.

Councilmember Barchfeld also pointed out that speakers have turned around while speaking and picked on audience members, which he said is not the right way to handle things.

Councilmember White cautioned about being careful when bringing up individual names.

Audience member Gary Callon asked if it would be a problem for speakers to say “We’ll sue you.” He said if someone told him he would be sued for not acting as told to do, “I think I’d tell them they’re out of order.”

Audience member Gail Pigg stated that two individuals were criticized at tonight’s meeting, Albert Valera and a Stantec engineer, and felt it should work both ways. She said there should not be criticism of professionals or other community members by Council on the dais and maybe that could be added.

Councilmember Barchfeld stated it is hard to cite your opinion on a particular firm if you do not state who they are and favored taking this amendment back to legal counsel to review the proposed wording.

Since this is a code of conduct, Councilmember Trapp asked “Why don’t we agree and pledge to do the same things in our code of governance?”

Audience member Roberta Shoemaker-Beal stated her understanding that Council is under Robert’s Rules of Order, so at any time they can choose to go into executive session and discuss personalities, or personal or professional performance and decide to not discuss that before the public.

City Administrator Ferguson corrected Ms. Beals’ understanding of executive sessions and cited specific topics and circumstances that are allowed to be discussed, and said it is important not to create the impression that Council can go into executive session anytime it wants to.

Discussion favored further review by legal counsel and Mayor McCullough asked City Administrator Ferguson if he had sufficient instruction from Council on how to proceed with this item. City Administrator Ferguson answered affirmatively. No vote was taken.

- I. Discuss and consider possible action regarding the proposed creation of a City Council Subcommittee to meet with the Precinct Three Constable and County Commissioner regarding the possibility of expanding the scope of law enforcement services provided for the City of Wimberley. *(Place Three Councilmember Sally Trapp)*

Councilmember Trapp said this is a result of many discussions (at H-E-B, at Shamrock, on Facebook, all around) that indicates that our city marshal position does not cover enough of our needs of our community, and not meant to attack Mr. DeHart in any way. She proposed that two Council members talk to Hays County Precinct Three officials (Commissioner Will Conley and Constable-elect Ray Helm) and possibly to the Hays County Sheriff’s office to see what could be worked out for more coverage. Mayor McCullough expressed interest in attending the proposed discussions and Councilmember Trapp said she would be happy to go or to send someone else. City Administrator Ferguson stated that discussions with the Constable’s office could include a possible amendment to the existing interlocal agreement to include some City Code enforcement. Councilmember Trapp offered that Councilmember Fore could attend in her place.

Councilmember Trapp moved to send Mayor McCullough and Councilmember Fore to meet with the Hays County Precinct Three Constable’s office, Commissioner Will Conley, possibly the Hays County Sheriff’s office, and City staff regarding the possibility of expanding the scope of law enforcement services provided for the City of Wimberley. Councilmember White seconded. Motion carried on a vote of 5-0.

- J. Discuss and consider possible action regarding a proposal to hire legal counsel or a consultant to serve as a parliamentarian for City Council meetings. *(Place Three Councilmember Sally Trapp)*

Councilmember Trapp said she did not know audience member Roberta Shoemaker-Beal, but said she brought up some good points. She felt that Council often has questions on procedures and has attempted to read Robert's Rules of Order, but said she often gets lost and would appreciate someone who could volunteer as a parliamentarian. Councilmember Trapp stated her goal is not to pay someone, but to find a volunteer.

City Administrator Ferguson spoke of options, including the option to pay someone to act as parliamentarian; assign a Council member to attend parliamentary procedure training; or pick from local people to serve.

Councilmember Fore agreed with sending someone to training, but felt it should not be "one of us," because it might cause consternation among Council members or "make us look stupid, for lack of a better term."

City Administrator Ferguson and Councilmember White spoke of TML training on Robert's Rules of Order, which Councilmember White has attended. Councilmember White felt he could not be a parliamentarian due to amount of information covered and short length of the course. City Administrator Ferguson stated the importance of familiarity with Robert's Rules of Order to better understand concepts and what the parliamentarian is talking about. He said he could provide some names to Council and also do some research on training.

Councilmember Barchfeld spoke of his attendance at TML's newly elected officials training and said TML provides parliamentary procedure training and can send someone here to give us a basic lesson. Mayor McCullough asked about the availability of Dell Hood.

City Administrator Ferguson offered to provide some prospective names of people who might want to volunteer.

Councilmember White moved to authorize City staff to investigate and find someone who could either instruct Council or act as parliamentarian at Council meetings in an unpaid position. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

- K. Discuss and consider possible action regarding the proposed plans for *Winters Eve – A Christmas Festival on the Wimberley Square* scheduled for Saturday, December 10, 2016. (City Administrator)

This item was heard after Agenda Item 2.

Wimberley Merchants Association representative Traci Ferguson provided details on this ninth annual *Winter's Eve* event, including activities, entertainment, advertising, lighting, trash collection/clean-up, security, and liquor licensing. She asked if the City could provide an additional ADA-accessible restroom trailer due to the anticipated large number of attendees. She also asked if the City could make sure all street lights are working and the possible addition of a light cart placed at the back of the Square.

Discussion addressed use of a street light versus a light cart; focused lighting; and restroom servicing with possible help from Park employees.

Councilmember Barchfeld moved to approve plans for the *Winters Eve – A Christmas Festival on the Wimberley Square*, as presented, including the additional lighting and additional restroom/restroom servicing. Councilmember Trapp seconded. Motion carried on a vote of 5-0.

5. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Councilmember Trapp requested discussion of the possibility of the City's hosting of the Farmers Market at a more spacious location, such as the Community Center or Blue Hole Park, given the recent tragic accident in the Market's current parking lot. City Administrator Ferguson stated the City has never been approached to host Farmer's Market, as there was interest in having a site visible from the street, but said it could be certainly be considered.

As a future agenda item, Councilmember Barchfeld requested a briefing on FEMA money available for land acquisition purposes.

City Administrator Ferguson requested input from Council on possible dates for scheduling the wastewater rate workshop meeting during the week of November 28, 2016. In response to an audience member's question, City Administrator Ferguson provided clarification on the meeting's agenda/location and its status as a meeting that is open to the public.

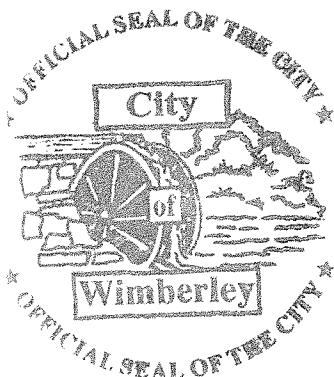
Hearing no further announcements or future agenda items, Mayor McCullough called the meeting adjourned.

Adjournment: Council meeting adjourned at 8:36 p.m.

Recorded by:


Cara McPartland

These minutes approved on the 1st of December, 2016.



APPROVED:



Mac McCullough, Mayor