

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas
Minutes of Special Meeting of City Council
March 21, 2017 at 6:00 p.m.

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

Councilmembers Present: Mayor Mac McCullough; Councilmembers Craig Fore, Sally Gibson Trapp, Gary Barchfeld, and John White. Councilmember Bob Dussler was absent.

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

Public Hearing

Hold a public hearing, as required by Section 26.002 of the Texas Parks and Wildlife Code, to receive input concerning the removal of approximately 1.3 acres of parkland from within the boundaries of the Blue Hole Regional Park for use as a wastewater treatment plant site for the Central Wimberley Wastewater System. The subject property is located on the west side of Ranch Road 3237, approximately 1,500 feet south of Winters Mill Parkway and approximately 1,700 feet north of Flite Acres Road, in conjunction with the removal of the 1.3 acre site from the Park, the City will decommission an existing wastewater plant and drain field located on approximately 3.16 acres adjacent to the northern boundary of the Park and add this acreage to the Park. (*City Administrator*)

City Administrator Ferguson presented information on the parkland conversion/decommissioning process, including required public hearing, appraisals, and subsequent action needed by Council, in order to formally approve the conversion. He displayed an aerial map of the subject area.

Mayor McCullough opened the public hearing. He advised that each speaker would be allowed three (3) minutes.

Wimberley Hills resident Casey Craig read a statement opposing the parkland conversion. (*The full text of Ms. Craig's statement is attached to these minutes.*)

Pam Mitchell spoke of her conversation with "Tim" at Texas Parks and Wildlife Grants and Aid, in which she questioned him about "prudent and feasible other options." She said he replied that his understanding was there were not any other options. She said "Tim" was curious about other options. She also spoke of her call to "Joel" and hoped he would return her call. She said her concern is that "not only have we kind of misled TWDB on how many hook-ups there are, we also misled Texas Parks and Wildlife (TPW) on any alternate options – so I don't want this City Council to go down as being not completely open and honest."

Wimberley resident and Paradise Valley Property Owners Association (PVPOA) President Steven Jagers expressed concerns about the lack of effective restrictions against the expansion of the proposed treatment plant at Blue Hole to a capacity above 75,000 gallons per day. He said PVPOA is a party to the settlement agreement with the City on the discharge permit. He stated the 75,000 gallon capacity limit was expected to be enforced through a grant agreement with the TPW department at the new plant site. He continued: "We reviewed the proposed new restrictive covenant language on the matter and although it does specify the limitation, it also provides the City's ability to amend, revise, or terminate the restrictive covenant. So it is clear that this language does not come close to protecting against a future increase in the capacity of the plant. The City has a responsibility under the settlement agreement, as well as a burden of protecting those along the creeks and the Blanco River from an expansion of the treatment plant to a capacity that would exceed 75,000 gallons. How that is accomplished is something that the City Council must accept seriously and right now I am very disheartened at the City's lack of progress to achieve the stated intent of the settlement agreement."

The next speaker, Erik Wollam, asked: "Does the City have a decision on when they are going to provide their finding to this hearing – when are we going to hear from you all?" City Administrator Ferguson answered that the anticipated timeframe would be after the bids are received and Council is in the final decision making process. Mr. Wollam asked in what form the finding would be. City Administrator Ferguson replied it would be in the form of a resolution.

Erik Wollam stated he is the pro bono attorney for Rocky River Ranch, whose property sits at the confluence of the dry Deer Creek and the Blanco River – where the discharge permits allows the effluent to enter the Blanco River. He said he also represented (for free) the PVPOA, which is across the river from Rocky River Ranch. He said he looked at the law and that this is more than just an opportunity for us to come and talk to you about how we feel about the taking of parkland. He stated: "I'm here to tell what I interpret the law to be under Chapter 26 as an attorney. I'm charging you with what I think the law charges you the obligation to do. Whenever we look at a statute, I like to cut out all the extra words that are not needed and focus on the ones that are and apply to this. And what this law says and it's very important - it's not trivial, this is not a rubber stamp time. Notice of taking – a municipality *may* not – that's not a "shall" or "should" – that is a command – you may not approve any project that requires the use or taking of public land used as a park unless two things happen. You have determined – you folks on the Council – have determined that there is no feasible, prudent alternative to the use or taking of that parkland. There are five out there that I'm aware of that you need to consider. They are reasonable and they are prudent and they do not require the taking of Blue Hole land. They also prevent the expansion of a wastewater treatment plant in the crown jewel of this community. It also allows downtown Wimberley to solve its wastewater treatment problem by allowing Aqua Texas to manage that problem with land application of the effluent. Science tells us – we all know this – the best thing for our Cypress Creek, the best thing for our Blanco River, is land application of effluent, not super treatment and direct discharge. The permit that the City has sought is direct discharge of treated effluent into the Blanco River. That is not as good environmentally for our waterways as applying it to the land, which Aqua Texas does." Mayor McCullough cautioned that Mr. Wollam had spoken for 3 minutes and 27 seconds. Mr. Wollam asked for more time. Mayor McCullough asked how much time Mr. Wollam would like. Mr.

Wollam replied “double this because I had to ask when we were going to hear what your findings would be.”

Mayor McCullough said Mr. Wollam could speak for another minute. Councilmember Barchfeld said “based on Mr. Wollam being counsel for a couple of concerned parties” he thought we should pay him the respect to let him finish his statement. Mayor McCullough told Mr. Wollam to proceed.

Mr. Wollam continued: “The second prong of this law that goes beyond you determining there is no other prudent alternative is - if you’re going to take that land, that 1-point whatever acres, you have to make sure that you are doing everything to minimize the harm to that land and as Mr. Jagers pointed out, the negotiated settlement agreement requires the City to bind itself forever in every which way it can legally, to never expand that plant beyond 75,000 gallons. In the first draft of what we’ve seen, it has an “out” clause that doesn’t comply with our settlement agreement and it doesn’t comply with Chapter 26, which requires all reasonable planning to minimize harm. The effort to create an expanded wastewater treatment plant in Blue Hole should end here. Chapter 26 does not allow you to take parkland when you have reasonably prudent alternatives. You do and you should follow them. I’m going to step back and finish with one thought. I feel strongly about this. From 10,000 feet the application the City has sought to create an expanded plant that allows direct discharge into our waterways is not environmentally sound, no matter how much you treat that effluent, no matter how much you say it’s never, ever going to happen. And if it happens it’ll happen only once in a while, I promise. The problem here that I’ve always seen is when the City of Wimberley, which should be at the forefront of protecting waterways in central Texas, when it creates a precedent that allows others to look to Wimberley and say they got a discharge permit – I want one, too. We lose all credibility as a community for protecting what is most dear to us. The City has no obligation to continue on a path of pursuing the building of that plant, just because they got a permit. You can abandon it. And you should abandon it, because when you do, you can go back to the clean hands position of not having direct discharge and looking to others that will come behind seeking the same thing and saying that is a bad idea – please don’t do this. Please reconsider. Please protect the Park and while you’re at it you’re going to be protecting our waterways. Thank you for the extra time.”

Mayor McCullough closed the public hearing.

Adjourn

Mayor McCullough called the meeting adjourned at 6:20 p.m.

Recorded by:



Cara McPartland

These minutes approved on the 6th of April, 2017.



APPROVED:

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a horizontal line and a short vertical stroke.

Mac McCullough, Mayor

Cara McPartland

From: Casey Craig [REDACTED]
Sent: Tuesday, March 21, 2017 8:52 PM
To: place1@cityofwimberley.com; place2@cityofwimberley.com; place3@cityofwimberley.com; place4@cityofwimberley.com; place5@cityofwimberley.com
Cc: cmcpartland@cityofwimberley.com
Subject: Parkland comments

Our community just went through a rather awe-inspiring process of citizen input and interaction regarding the prospect of Tractor Supply coming to town on a tract of land along one of Wimberley's scenic corridors. Our comprehensive plan was referenced many times by citizens, the mayor, planning & zoning commissioners and council members. I think our p&z and council based their rejections mostly on the fact that granting Tractor Supply's application would have violated the City's Comprehensive Plan. The location of an unsightly 500,000 gallon storage tank of sewage along the city's scenic corridor on 3237 ALSO violates our Comprehensive Plan. If we are to uphold this plan, as so many suggest that we do, and encourage responsible development that is consistent with our desire to keep Wimberley's scenic corridors beautiful, then clearly a sewage tank at this location is unacceptable.

Also, I think this whole hearing is incredibly premature. The bids for the wastewater treatment plant (WWTP) have gone out and the deadline is April 10th. This council has unanimously agreed to wait until the bids have come in before choosing a sewer option, which is a wise and sensible course of action. To now move forward on swapping parkland to build a new sewer plant without any idea of what the bids are makes no sense. This issue should be addressed only after ALL of the required information is received. Limiting our options prematurely and without all of the facts, undermines the work you all have done to bring an appropriate sewer solution to Wimberley. I ask that you postpone any decisions regarding this until the bids have been opened.

Finally, according to the Parks Wildlife Code under Chapter 26 parkland is protected. A municipality of this state may not approve any project that requires the use or taking of any public land designated and used prior to the arrangement of the project as a park, unless they determine that there is no feasible and prudent alternative to the use or taking of such land. This council and community are well aware that there are MANY feasible alternatives to having a sewer plant at Blue Hole. In fact, the proposed plant at Blue Hole is the most expensive, unfair and environmentally damaging option, and the discharge permit is now very questionable regarding limitations. Under this code, the taking of public parkland for a sewer plant is legally prohibited. Therefore, this council is obligated - by state law- to select from the many alternatives, an option that does NOT involve taking land from Blue Hole Park.

Thank you all for your continued service to our community
Casey Craig
P.O. Box 1841
Wimberley, Texas 78676