



NOTICE OF MEETING
GOVERNING BODY OF MARBLE FALLS, TEXAS
Tuesday, June 21, 2016 – 6:00 pm

A quorum of the Marble Falls Economic Development Corporation
and the Planning & Zoning Commission may be present

Notice is hereby given that on the 21st day of June, 2016 the Marble Falls City Council will meet in regular session at 6:00 pm in the City Hall Council Chambers located at 800 3rd Street, Marble Falls, Texas, at which time the following subjects will be discussed:

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** *“Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.”*
4. **UPDATES, PRESENTATIONS AND RECOGNITIONS**
5. **CITIZEN COMMENTS.** *This is an opportunity for citizens to address the City Council concerning an issue of community interest that is not on the agenda. Comments on a specific agenda item must be made when the agenda item comes before the Council. The Mayor may place a time limit on all comments. Any deliberation of an issue raised during Citizen Comments is limited to a proposal to place it on the agenda for a later meeting.*
6. **CONSENT AGENDA.** *The items listed are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which case the item will be removed from the Consent Agenda prior to a motion and vote. The item will be considered in its normal sequence on the Regular Agenda.*
 - (a) Approval of the [minutes](#) of the June 2, 2016 budget retreat and the June 7, 2016 regular meeting. ***Christina McDonald, City Secretary***
7. **REGULAR AGENDA.** *Council will individually consider and possibly take action on any or all of the following items:*

- (a) Public Hearing, Discussion and Action on the Second Reading of [Ordinance 2016-O-06B](#), regarding a zoning text amendment to Sections 1030-1099 of the Landscape Ordinance, General Regulations, Appendix B Land Use Regulations, City of Marble Falls Code of Ordinances, to amend the Protected Trees regulations and to amend any conflicting regulations therein. **Caleb Kraenzel, Assistant City Manager**
- (b) Discussion regarding possible increases on [water and wastewater rates](#). **Margie Cardenas, Finance Director**
- (c) Discussion regarding the City's [Board and Commission Ordinances](#). **Christina McDonald, City Secretary**
- (d) Discussion regarding [Rules of Procedure and Order of Business Policy](#) for the City Council. **Mike Hodge, City Manager**

8. CITY MANAGER'S REPORT

- Wayfinding Signs – Phase II
- Supervisor Training and Effective Practices

9. EXECUTIVE SESSION

Close Open Session and Convene Executive Session Pursuant to §551.074 (*Deliberation Regarding the Appointment, Employment, Employment Evaluation, Reassignment, Duties, discipline or Dismissal of a Public Officer or Employee (or to Hear a Complaint or Charge Against an Officer or Employee)*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- City Manager Annual Evaluation

10. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION.

11. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS.

12. ADJOURNMENT.

"The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues) and as authorized by the Texas Tax Code, including, but not limited to, Section 321.3022 (Sales Tax Information)."

In compliance with the Americans with Disabilities Act, the City of Marble Falls will provide for reasonable accommodations for persons attending City Council Meetings. To better serve you, requests should be received 24 hours prior to the meeting. Please contact Ms. Christina McDonald, City Secretary at (830) 693-3615.

Certificate of Posting

I, Christina McDonald, City Secretary for the City of Marble Falls, Texas, do certify that this Notice of Meeting was posting at City Hall, in a place readily accessible to the general public at all times, on the 15th day of June, 2016 at 1:00 pm and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

/s/ Christina McDonald _____

Christina McDonald, TRMC
City Secretary

The agenda is also posted on the City's web site www.marblefallstx.gov

June 21, 2016

6. CONSENT AGENDA

- (a) Approval of the minutes of the June 2, 2016 budget retreat and the June 7, 2016 regular meeting. ***Christina McDonald, City Secretary***
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Background information is attached as follows:

[June 2, 2016 budget retreat minutes](#)

[June 7, 2016 regular meeting minutes](#)

STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS

On this the 7th day of June, 2016 the Council of the City of Marble Falls convened in regular session at 6:00 pm at the City Hall Council Chambers located at 800 Third Street, Marble Falls, Texas, with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

PRESENT:

John Packer	Mayor
Jane Marie Hurst	Mayor Pro-Tem
Craig Magerkurth	Councilmember
Ryan Nash	Councilmember
Reed Norman	Councilmember

ABSENT:

Rachel Austin-Cook	Councilmember
Richard Westerman	Councilmember

STAFF:

Mike Hodge	City Manager
Caleb Kraenzel	Assistant City Manager
Patty Akers	City Attorney
Christina McDonald	City Secretary
Russell Sander	Fire Chief
Elizabeth Yeh	City Planner
Christian Fletcher	EDC Executive Director
Mike Ingalsbe	Building Official
Eric Belaj	City Engineer
Mark Whitacre	Chief of Police

VISITORS: Richard Lewis (former Councilmember), Glynis Smith (The Highlander), Mark McKliney and Tom Saint John (SAMCO), Brian Shirley, Kay Zagst, Fred Zagst (P&Z Commissioner and Comp Plan Committee), Steve Reitz EDC Board and P&Z Commissioner), Mark Hodges and Mark Mayfield (EDC Board), Terri Thompson (Air Evac), Johnny Campbell (MFAEMS), MaxAnne Jones (802 Ave. J), Matt Fields, Steve Nash, Richard and Olivia Lewis (203 Villa Vista Way), Glenna Copeland (802 Ave. F), Todd Holland (Holland Surveying), Matt Bucchin and Gail Ferry (Hallf and Associates)

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** Mayor Packer called the meeting to order at 6:02 pm and announced the presence of a quorum.
2. **INVOCATION.** Councilmember Norman gave the invocation.

3. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG. Mayor Pro-Tem Hurst led the pledges.

4. UPDATES, PRESENTATIONS AND RECOGNITIONS

- **Recognition of former Councilmember Richard Lewis.** Mayor John Packer recognized former Councilmember Richard Lewis for his service to the community.
- **Update from Air Evac.** Terri Thompson gave an update on Air Evac services.
- **Update from the Marble Falls Area EMS.** Director Johnny Campbell gave an update on EMS services in the community.

5. CITIZEN COMMENTS. There were no citizen comments.

6. CONSENT AGENDA.

(a) Approval of the minutes of the May 17, 2016 regular meeting.

Mayor Pro-Tem Hurst made a motion to remove item 6(b) from the consent agenda and place on the regular agenda for action and approve the minutes as presented. The motion was seconded by Councilmember Norman and carried by a vote of 5-0.

7. REGULAR AGENDA.

6(b) Approval of the distribution of funds from the Community Event Fund for the Marble Falls Community Fireworks July 4th Celebration. Councilmember Magerkurth asked event coordinator Judy Miller the why the organization was requesting \$17,000, a \$2,000 increase over last year's request. Ms. Miller stated that due to lack of time this year she was unable to secure additional donations, therefore the request for the actual cost of the fireworks display (\$17,000). Ms. Miller also stated that the approximate time of the display will be between 17 and 20 minutes. Councilmember Magerkurth made a motion to approve the distribution of funds from the Community Event Fund for the annual Marble Falls Community Fireworks July 4th Celebration in the amount of \$17,000. Councilmember Norman seconded the motion. The motion carried by a unanimous vote (5-0).

(a) Public Hearing, Discussion, and Action on the first reading of Ordinance 2016-O-06A and waiving the second reading regarding adoption of the 2015-2016 City of Marble Falls Comprehensive Plan update. Mayor Packer opened the public hearing. Assistant City Manager Caleb Kraenzel introduced Matt Bucchini with Halff and Associates who gave a presentation to Council regarding the adoption of the Comprehensive Plan update. There being no further discussion, Mayor Packer closed the public hearing and read the ordinance caption. Mayor Pro-Tem Hurst made a motion to approve Ordinance 2016-O-06A and waive the second reading. Councilmember Norman seconded the motion. The motion carried by a unanimous vote (5-0).

- (b) Public Hearing, Discussion, and Action regarding a replat of Lot Nos. 5 through 10, Block No. 56, Marble Falls Original Township, City of Marble Falls, Burnet County, Texas, municipally addressed as 802 Avenue F.** Mayor Packer opened the public hearing. City Planner Elizabeth Yeh addressed Council. There being no discussion, Mayor Packer closed the public hearing and read the ordinance caption. Mayor Pro-Tem Hurst made a motion to approve the replat as presented. Councilmember Magerkurth seconded the motion. The motion carried by a unanimous vote (5-0).
- (c) Public Hearing and Discussion on the First Reading of Ordinance 2016-O-06B, regarding a zoning text amendment to Sections 1030-1099 of the Landscape Ordinance, General Regulations, Appendix B Land Use Regulations, City of Marble Falls Code of Ordinances, to amend the Protected Trees regulations and to amend any conflicting regulations therein.** Mayor Packer opened the public hearing. Assistant City Manager Caleb Kraenzel addressed Council. P&Z Commissioner Fred Zagst addressed Council stating the purpose of the ordinance was to preserve existing trees. Local builder Matt Fields addressed Council with questions regarding tree surveys and protection. Steve Nash, also a local builder, addressed Council regarding retention ponds and tree protection in addition to the proposed Tree Ordinance. Mr. Nash stated tree surveys and tree mitigation would be required for developments and will stifle development. Mayor Pro-Tem Hurst asked for staff to review and amend section 1035.B. Definitions relating to measuring the caliper of trees to allow some flexibility. Mayor Packer closed the public hearing and read the ordinance caption. No action was taken.
- (d) Discussion and Action on authorizing staff on the possibility of issuing new Certificates of Obligation.** Margie Cardenas, Finance Director introduced Mark McKliney (SAMCO). Mr. McKliney addressed Council. Councilmember Magerkurth made a motion to authorize staff, SAMCO Capital Markets and Bond Counsel to proceed with a new money Certificates of Obligation and Bond Refunding for savings. Mayor Pro Tem Hurst seconded the motion. The motion carried by a unanimous vote (5-0).
- (e) Discussion and Action on appointments to the Economic Development Corporation.** City Secretary Christina McDonald addressed Council. Mrs. McDonald stated that current board members Mark Mayfield Mark Hodges and John Packer had reapplied to be considered for appointment to the board. It was noted that staff did not have any other applications on file for consideration. Mayor Pro-Tem Hurst made a motion to reappoint Mark Hodges, Mark Mayfield and John Packer to a term of two years or until May 2018. Councilmember Norman seconded the motion. The motion carried by a vote of 5-0.
- 8. CITY MANAGER'S REPORT.** City Manager Mike Hodge gave an update on the Avenue H TxDOT right-of-way abandonment.

9. EXECUTIVE SESSION

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (Private Consultation between the Council and its Attorney), Pursuant to §551.087 (Deliberation Regarding Economic Development Negotiations), and Pursuant to §551.072 (Deliberation Regarding the Purchase, Exchange, Lease or Value of Real Property) of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to discuss the following:

- Discussion regarding economic development projects associated with development of EDC owned and City owned property, including public right-of-way and easements.

8:38 pm Convened to Executive Session

9:37 pm Returned to Open Session

10. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION. No action was taken.

11. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS. Items for the June 21 regular Council meeting were reviewed.

12. ADJOURNMENT. There being no further business to discuss, Councilmember Norman made a motion to adjourn. Mayor Pro-Tem Hurst seconded the motion. The motion carried by a vote of and the meeting was adjourned at 9:39 pm.

John Packer, Mayor

ATTEST:

**Christina McDonald, TRMC
City Secretary**

STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS

On this the 2nd day of June, 2016 the Council of the City of Marble Falls convened in a budget and planning retreat at 10:00 am at the La Quinta located at 501 Hwy. 2147 West, Marble Falls, Texas, with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

PRESENT:

John Packer	Mayor
Jane Marie Hurst	Mayor Pro-Tem
Craig Magerkurth	Councilmember
Richard Westerman	Councilmember

ABSENT:

Rachel Austin-Cook	Councilmember
Ryan Nash	Councilmember
Reed Norman	Councilmember

STAFF:

Mike Hodge	City Manager
Caleb Kraenzel	Assistant City Manager
Margie Cardenas	Finance Director
Christina McDonald	City Secretary
Mark Whitacre	Police Chief
Russell Sander	Fire Chief
Glenn Hanson	Police Lieutenant
Christian Fletcher	EDC Executive Director
Robert Moss	Parks and Recreation Director
Eric Belaj	City Engineer
Perry Malkemus	Public Works Director
Cheryl Pounds	Municipal Judge
Angel Alvarado	Human Resources Coordinator

VISITORS: Tom Martin (CIP Committee Member)

1. **Call to Order.** Mayor Packer called the retreat to order at 10:13 am followed by an introduction by City Manager Mike Hodge.
2. **Council proceeded with a review of the current status of the:**
 - 2016 Comprehensive Plan Update
 - 2015-2020 Council Vision
 - FY 2015/2016 Capital Improvement Projects
 - General Fund

- Water/Wastewater Fund

Council and Staff took an hour lunch break and then continued with discussion on the following:

- Proposed FY 2016/2017 Capital Improvement Projects
 - FY 2016/2017 Budget Priority
 - Utility Rates
 - Budget Forecasts
3. **FY2016/2017 Budget Goals.** Goals for next fiscal year were presented and briefly discussed, including water/wastewater rates and employee benefits.
 4. **Budget Calendar.** Prior to adjournment staff reminded Council of the budget calendar, including upcoming meetings, workshops and public hearings.
 5. **Adjournment.** The workshop was adjourned at 4:17 pm.

John Packer, Mayor

ATTEST:

**Christina McDonald, TRMC
City Secretary**

June 21, 2016

7. REGULAR AGENDA

- (a) Public Hearing, Discussion and Action on the Second Reading of Ordinance 2016-O-06B, regarding a zoning text amendment to Sections 1030-1099 of the Landscape Ordinance, General Regulations, Appendix B Land Use Regulations, City of Marble Falls Code of Ordinances, to amend the Protected Trees regulations and to amend any conflicting regulations therein. ***Caleb Kraenzel, Assistant City Manager***

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



Council Agenda Item Cover Memo
June 21, 2016

Agenda Item No.: 7(a)
Presenter: Caleb Kraenzel, Assistant City Manager
Department: Development Services
Legal Review:

AGENDA CAPTION

Public Hearing, Discussion, and Action on the Second Reading of Ordinance 2016-O-06B, regarding a zoning text amendment to Sections 1030-1099 of the Landscape Ordinance, General Regulations, Appendix B Land Use Regulations, City of Marble Falls Code of Ordinances, to amend the Protected Trees regulations and to amend any conflicting regulations therein.

BACKGROUND INFORMATION

This item is the second public hearing regarding a proposed text amendment to the Protected Tree regulations for the City of Marble Falls. Currently Section 1035. Protected Trees of the adopted Landscape Ordinance reads as follows:

1035. Protected trees.

A. Any living tree within the City of Marble Falls with a caliper larger than sixteen (16) inches shall not be removed without permit from the city planner.

B. Application for such permit should be made in writing to the City of Marble Falls Code Enforcement Department and describe the unique or extenuating circumstances which necessitate the removal of the tree.

C. Protected trees removed shall be replaced by trees from the list contained herein with a minimum caliper size of three (3) inches at the time of planting.

D. Protected trees retained on the site shall be protected by providing a pervious surface treatment under such tree of at least one hundred (100) square feet.

(Ord. No. 98-O-6B, § II, 6-23-98)

A Tree Ordinance Committee was established in March 2011 to discuss and create an amendment to the existing Protected Tree Regulations. During the April 1, 2014 meeting of the City Council, a discussion was held regarding the Tree Ordinance at the request of Marble Falls' citizen Mary Ellen Goff. Following the discussion Council recommended forwarding the item to staff in order to schedule a

future workshop with the Tree Ordinance Committee and the Planning and Zoning Commission.

The Joint Workshop between the Planning and Zoning Commission and the Tree Ordinance Committee occurred on February 5, 2015, and led to City Staff being directed to draft an amended Tree Preservation and Protection Ordinance. After substantial research and consideration of Tree Protection ordinances from twenty-three (23) surrounding municipalities within Central Texas, City Staff compiled an analysis of the wide diversity of regulations that are currently adopted. Following this analysis, City Staff inventoried and met with the various stakeholder interests supporting or opposing the development of an updated Tree Preservation and Protection ordinance. A draft was developed based on the input received, and on the average protected tree sizes and standard requirements found in similar jurisdictions.

City Staff continued the research by selecting a variety of undeveloped lots and surveying the existing trees in order to create trial site plans. The selected properties and trial site plans were reviewed against the draft ordinance, in order to assess the effect of the regulations, to determine if the ordinance achieved the desired tree protection, and to determine the impact on future development. These evaluations led to further modifications of the draft ordinance language.

A draft ordinance was presented to the Planning and Zoning Commission on March 3, 2016. Based on comments from both the Commission and citizens during the public hearing, City Staff revised the Tree Protection Requirements section of the ordinance, which would apply to projects during construction activity. The revised draft was presented to the Commission during a second public hearing on April 7, 2016. After further Commission, stakeholder, and legal review/feedback, City Staff finalized the draft of the Tree Preservation and Protection Ordinance on May 5, 2016.

The current draft was recommended for approval by the Planning and Zoning Commission on May 5, 2016 by a vote of 7-0.

The following is a summary of the proposed Tree Preservation and Protection Ordinance:

- **Protected Tree Size-** 12" or greater, measured at 4.5' above the ground
- **Heritage Tree Size-** 25" or greater, measured at 4.5' above the ground
- **Applicability-** All new commercial and residential development and all redevelopment if building footprint is enlarged.
- **Protected Tree Removal Requirements-** Obtain permit and:
 - Replace on-site at a ratio of one inch per inch removed (Tree Credits may reduce total replacement inches required), AND/OR
 - Donate replacement trees (if certain conditions apply), AND/OR
 - Pay a fee-in-lieu of \$200 per inch (if certain conditions apply)
- **Protected Tree Mitigation Exemptions-**
 - Primary residential building footprint and residential driveway
 - The area 10' within the primary residential building footprint
 - The area over a septic system
 - The areas designated for public facilities, such as streets or utilities
 - Trees fatally diseased or dying, or Trees endangering public health, safety, or welfare, as determined by the City
 - Trees designated as Invasive, or Trees of the following species: Celtis Occidentalis (hackberry); Juniperus Virginiana, Juniperis Ashei (common cedar); Chinaberry; Mesquite; Ligustrum.
- **Heritage Tree Removal Requirements-**
 - Receive approval of variance by the Planning and Zoning Commission and mitigate at a ratio of one inch per inch removed, OR
 - Receive permit approval to mitigate at a ratio of three inches per inch remove
- **Heritage Tree Mitigation Exemptions-**
 - Trees fatally diseased or dying, or Trees endangering public health, safety, or welfare, as determined by the City
 - Trees designated as Invasive, or Trees of the following species: Celtis Occidentalis (hackberry); Juniperus Virginiana, Juniperis Ashei (common cedar); Chinaberry; Mesquite; Ligustrum.
- **Tree Protection Requirements during construction-** Protected Trees retained within limits of construction must be guarded by one of the following:
 - Protective Barrier around drip line, OR
 - Trunk and Root protection, OR
 - Similar protection method approved by the City

RECOMMENDATION

Staff recommends approval of the zoning text amendment to the Protected Tree regulations.

Memo Contents:

- Tree Preservation and Protection Text Amendment: **Pages 5 - 13**
- Ordinance 2016-O-06B: **Pages 14 - 25**

City of Marble Falls Code of Ordinances, Appendix B Land Use Regulations, General Regulations, Landscape Ordinance, Protected Trees Text Amendment:

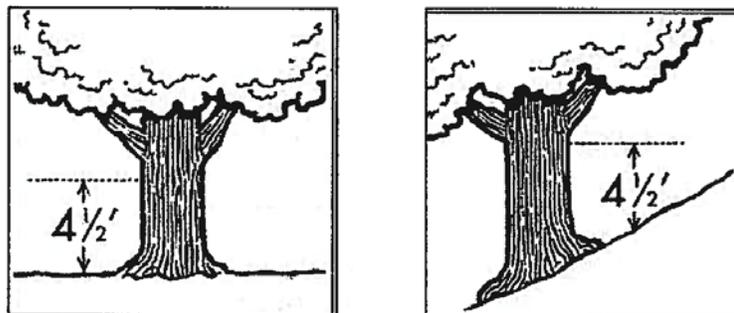
1035. Tree Preservation and Protection Requirements

A. Purpose. The purpose of this section is to:

1. Encourage protection of the natural environmental and beauty of the City.
2. Preserve the City's urban canopy by minimizing tree loss.
3. Promote replacement of trees which have been removed and destroyed due to the ill effects of rapid and intense urbanization within the City limit.
4. Regulate diversely based on different development types and sizes.
5. Encourage a resourceful and prudent approach to urban development of wooded areas.
6. Provide mitigation and cost effective alternatives for creative subdivision and site design which preserves trees while allowing development in wooded areas.
7. Create a positive economic effect on the City by preserving and enhancing property values, mitigating drainage and flooding issues, improving air quality, helping save energy, and improving health and quality of life, thereby making the City a more attractive place in which to live, visit and do business.

B. Definitions. For the purposes of this section, the following definitions will be used:

1. *Caliper*. The diameter of the trunk of a tree measured four and one-half feet (4-1/2') above the ground, also known as the diameter at breast height (DBH). The DBH can be obtained by measuring the circumference of the tree trunk and converting it to diameter by dividing by pi (3.14).



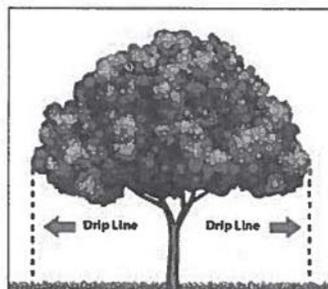
** If the tree is on a slope, measure from the high side of the slope.*

With trees that exhibit rounded, knotty growths, or burls, limb extensions or any other abnormalities at 4.5 feet above ground level, measure the smallest circumference between 4.5 feet and the ground.



For multiple trunk trees, the caliper is deemed to equal the caliper of the largest trunk plus half the caliper of each additional trunk. For example, a tree that has three trunks with circumferences of 22", 18", and 12" you would have a circumference of 37" ($22" + (\frac{1}{2} \times 18") + (\frac{1}{2} \times 12")$). The circumference would then be divided by pi (3.14), giving you a caliper of 11".

2. *Clearing.* The act of cutting down, removing all or a substantial part of, or damaging a tree or other vegetation that will cause the tree to decline and/or die (which includes but is not limited to chemical, physical, compaction or grading damage).
3. *Critical root zone (CRZ).* The region measured outward from the trunk of a tree representing the essential area of the roots that must be protected for the tree's livelihood.
4. *Development.* All land modification activity, including the construction of building, roads, paved storage areas, and parking lots. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and grading, mining, and dredging, and the deposit of refuse, waste or fill. Care and maintenance of lawns, gardens, and trees; minimal clearing (ten feet wide) for surveying and testing; and agricultural activities are excluded from this definition.
5. *Drip line.* A vertical line extending from the outermost portion of the tree canopy to the ground.



6. *Protected tree.* Trees with a caliper of twelve inches (12") or greater.
7. *Public tree.* All trees partially or completely resting on public property.

8. *Removal of tree.* An act that causes or may be reasonably expected to cause a tree to die, including, but not limited to: uprooting, severing the main trunk, severely pruning or trimming a tree, damaging the root system by machinery, storage of materials or soil compaction; substantially changing the natural grade above the root system or around the trunk; paving with concrete, asphalt, or other impervious materials in a manner which may reasonably be expected to kill the tree.
9. *Heritage tree.* Protected trees with a caliper of twenty-five inches (25") or greater.
10. *Tree Inventory.* A diagram or drawing which accurately depicts the location, species, and size of all Protected trees on a lot within the limits of construction, including a legend that identifies and differentiates Protected Trees to be removed and those to be retained. Photography of the property depicting the character of the tree canopy may be required by the City.
11. *Tree Removal Permit.* Permit issued by the City to authorize protected tree removal and plan or method of mitigation.
12. *Tree Replacement Plan.* A diagram or drawing which accurately depicts the location, species, and size of all replacement trees required on a lot, including the location, species, and size of any existing trees to be retained and used as credit against the replacement requirements.

C. *Applicability.* Except as otherwise provided, the provisions of this section are applicable to the following:

1. All residential and nonresidential property or development within the City.
2. New or redevelopment construction on any residential or nonresidential property within the City limit that results in an increase in building footprint or destruction and reconstruction of any residential or nonresidential property within the City limit.

D. *Exemptions.* The provisions of this section shall not apply to the following:

1. The proposed primary building footprint and driveway area of all new residential development or redevelopment if tree caliper is under twenty-five inches (25").
2. The area within ten feet of a primary residential building footprint if tree caliper is under twenty-five inches (25").
3. The area over a septic system, if septic systems are allowed/present, and if tree caliper is under twenty-five inches (25").
4. The areas designated for the construction or installation of public facilities, such as streets or utilities, if tree caliper is under twenty-five inches (25").
5. If a tree endangers the public health, welfare or safety, and immediate removal is required as determined in writing by the designated official of the City.

E. *Permit Application Requirements.* Except for trees that are exempt pursuant to subsection D of this section, it shall be unlawful for any person or entity to remove a protected tree without first obtaining a permit and approval from the City. If an

applicant contemplates development that requires approval of a Site Development permit pursuant to Section 1104.-1105., the Applicant can choose to obtain a separate Tree Removal Permit or can choose to obtain approval for the tree removal in conjunction with issuance of the Site Development permit. If choosing approval through the Site Development process the Applicant must demonstrate compliance with the requirements of this section and the review and processing of the tree removal request or any requested variances will be provided in conjunction with the processing and issuance of the Site Development Permit. The issuance of a separate Tree Removal Permit will not be required. An applicant who chooses to obtain approval for tree removal in conjunction with Site Development approval must be issued the Site Development permit prior to removal of the tree(s). Applicants who are not required to obtain a Site Development permit or choose not to obtain approval for tree removal in conjunction with the issuance of a Site Development permit shall be required to submit an application for a Tree Removal Permit as set out herein. The removal of an existing protected tree(s) from a development or redevelopment site must be in accordance with this and all other applicable ordinances of the City. Prior to the removal of any Protected or Heritage tree, as defined within this section, the property owner must first submit an application with the following information:

1. Which tree(s) will be removed within the limits of construction (as shown on a site plan or tree inventory).
2. Which tree(s) will remain and be counted as tree credits, if any (as shown on a site plan or tree replacement plan).
3. How the removal will be performed (and machinery and equipment needed), and the date and time when the anticipated removal will occur.
4. If a Heritage or Protected tree proposed for removal is within or not within the following:
 - a. A primary residential building footprint or residential driveway area, or within ten feet of a primary residential building footprint.
 - b. Within the area over the septic system.
 - c. Within an area designated for the construction or installation of public facilities such as streets or utilities.
5. A Tree Inventory and Tree Replacement Plan, if necessary.
6. If a Protected or Heritage tree is fatally diseased or dying, a Tree Removal Permit is required for removal, however no other provisions of this section shall apply. Supporting documentation may be required by the City.

F. Preservation Requirements.

1. Clearing or stripping of natural vegetation on a lot is expressly prohibited unless authorized by the City in writing and/or by issuance of a Site Development Permit, a Tree Removal Permit, or if no protected trees are to be removed, by issuance of a NPS permit, as applicable. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on-site septic facilities (OSSF) and approved storage areas or accessory structures shall be preserved.

2. All living trees measuring twelve inches (12") in caliper or greater are designated as Protected trees. The removal of any Protected tree must be specifically requested by the applicant and approved via permit prior to any action being taken to remove the tree or to damage or disturb the tree in any way. Removal of any such trees without a permit is expressly prohibited.
3. The removal of Heritage trees, which for the purposes of these requirements are trees with twenty-five inch (25") caliper or greater regardless of location, must be specifically approved by the Planning and Zoning Commission through request of a variance, or must receive permit approval to mitigate at a ratio of three inches per inch removed, prior to any action being taken to remove the tree or to damage or disturb the tree in any way.
 - a. The City Manager or designee will forward to the Planning and Zoning Commission any tree removal permit application that requests a variance to the regulations established herein. Such applications shall list all hardships associated with the request, and will be considered by the Commission at its next regularly scheduled meeting; the applicant shall be notified of the time and place of said meeting and shall be invited and encouraged to attend.
 - b. In order to lessen practical difficulties and prevent unnecessary physical hardships, a variance to remove a Heritage tree or to deviate from these regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a lot, or from topographic or physical limitations in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with this section is not a reason for granting a variance.
 - c. The Commission will approve, reject, or approve with conditions the tree removal permit application and the associated variance.
 - d. A decision by the Commission may be appealed to the City Council if the appeal is filed within 10 days of the date of the Commission's decision. The City Council, after receiving a report from the Commission, may confirm, reverse, or modify the action of the Commission. All appeals must be in writing and clearly set out the portions of the regulations that are applicable to the appeal and the justification for the appeal.
 - e. The City Manager or designee may forward at his discretion any tree removal application to the Planning and Zoning Commission for its consideration in lieu of review and consideration by the City Manager or designee.
4. The general construction and design requirements pertaining to all Protected and Heritage trees proposed to be preserved/retained within the property/site are required to ensure a responsible design in order to not adversely damage the health of the Protected trees.

G. Mitigation Requirements.

1. Trees over twelve inches (12") in caliper but less than twenty five inches (25") in caliper that are not located in one of the following areas shall be replaced on-site at a ratio of one inch per inch removed:
 - a. Within a residential building footprint or residential driveway area.
 - b. Within ten feet of a residential building footprint.
 - c. Within the area over the septic system.
 - d. Within areas designated for the construction or installation of public facilities such as streets or utilities.
2. Any Heritage tree that is approved to be removed through a variance shall be replaced on-site at a ratio of one inch per inch removed regardless of the location of the Heritage tree. Any Heritage tree that is approved to be removed without variance approval shall be replaced on-site at a ratio of three inches per inch removed regardless of the location of the Heritage tree.
3. If, based on a site inspection, a tree designated for preservation pursuant to this section is already dead, dying, or fatally diseased prior to development or redevelopment of the site, the provisions of replacement requirements shall not apply.
4. The invasive plants listed in subsection H.7. and the following tree species are exempt from mitigation requirements of this section:
 - Celtis Occidentalis (hackberry);
 - Juniperus Virginiana, Juniperis Ashei (common cedar);
 - Chinaberry;
 - Mesquite;
 - Ligustrum.
5. Replacement trees must be a minimum of three inches (3") in caliper and from the City's approved shade tree list.
6. Replacement trees do not count towards standard landscaping requirements. However, existing trees may be counted both towards tree credits to reduce replacement requirements and towards the standard landscaping requirements, if over three inches (3") in caliper
7. Species, size, quantity, and delivery date of replacement trees shall be approved by the City.
8. Replacement trees must be planted prior to the issuance of a Certificate of Occupancy unless fiscal security or escrow in a form acceptable to the City for the cost of the trees is posted. If fiscal security is posted the property owner shall have up to 12 months to plant the required replacement trees.
9. Any replacement tree that dies prior to the expiration of two years after a Certificate of Occupancy is issued shall be replaced by the developer or owner. This shall not apply to any replacement trees planted on individual single-family lots.

10. Replacement trees may be donated or a fee-in-lieu of planting the required trees may be paid to the City if the following conditions exist:

- a. There is not adequate space on the site for all of the required replacement trees to be planted on the site in which the protected tree(s) were removed, as determined and approved by the City Manager or designee.
- b. Weather conditions are such that do not make it favorable for the required planted trees to survive and thrive, as determined and approved by the City Manager or designee.

If it is not possible or feasible to provide for the replacement of the total number of inches of protected trees removed, a fee-in-lieu of tree replacement in an amount equal to the total number of inches of protected trees removed but not replaced times two hundred dollars (\$200) per inch may be paid to the City, money which will go towards the planting, replacement, and/or preservation of trees on public property.

H. Tree Credits. As an incentive to preserve the City's urban canopy, existing trees retained shall receive credit against the replacement requirements according to the following schedule:

1. Existing trees with three inches (3") in caliper or greater located on site may be credited toward the replacement trees required under this Section at a one to one inch ratio.
2. When calculating tree credits, any remaining fraction of an inch greater than or equal to 0.5 shall constitute a one (1) inch credit; any remaining fraction less than 0.5 shall not.
3. Up to fifty percent (50%) of the inches to be replaced may be done through tree credits, unless you are preserving or retaining existing trees at a ratio of 300% or more of the protected inches removed. If you are preserving or retaining 300% or more inches than those removed, up to eighty percent (80%) of the inches to be replaced may be done through tree credits.

Ex: If 20" of protected trees are removed and 30" of existing trees are preserved, a maximum of 10" are available as tree credits. 10" will need to be replaced.

If 20" of protected trees are removed and 60" of existing trees are preserved, a maximum of 16" are available as tree credits. 4" will need to be replaced.

4. The trees selected for credit consideration toward the amount of replacement requirements shall be indicated on the Tree Replacement Plan.
5. The trees shown on the Tree Replacement Plan as the trees proposed for tree credits shall be protected in the same manner as a Protected Tree during construction.

6. The City Manager or designee will review the trees proposed for tree credits provided in the Tree Replacement Plan and will approve or deny the use of the recommended trees as credits toward the replacement trees required. The City Manager or designee's review will be based on the assessed health, structure, habitat, disease, or decline of the tree.
7. Invasive plants that will not count towards tree credits: Chinaberry, Chinese Parasol Tree, Chinese Pistache, Chinese Tallow, Chinese Wisteria, Giant Cane, Japanese Honeysuckle, Johnson Grass, Kudzu, Lilac Chaste Tree, Mimosa (Silk Tree), Paper Mulberry, Photinia, Poison Ivy, Pyracantha, Running Bamboo, Russian Olive, Tamarisk (Salt Cedar), Tree of Heaven, Vitex, Waxleaf Ligustrum, White Mulberry, Wisteria.

I. Tree Protection Requirements.

1. All Protected trees to be preserved within the defined limits of construction for an excavation or construction site of any project shall be guarded by one or a combination of the following methods:
 - a. Barrier Protection – Erection of a protective barrier surrounding the drip line of the tree to protect from unwarranted construction activity which will damage the Protected tree.
 - b. Trunk and Root Protection - Six (6) inches of mulch shall be spread beneath the canopy, and wood slats (strapped-on-wood planking, in accordance with TCSS) to protect the trunk may be used in lieu of a protective barrier.
 - c. Any similar protection method (s) not specified herein, accepted by the City, which would provide protection of the tree(s) from damage during construction.
2. The protective barriers required per this section shall be approved by the City Manager or designee and shall be in place before substantial site clearance or other major site-disturbing act commences.
3. Protective methods/barriers herein shall be removed only to prepare the development site for final landscaping activities, or as approved by the City Manager or designee.
4. Activities hazardous to the health of any Protected or Heritage tree being preserved, as determined by the City, are prohibited, including but not limited to the following:
 - a. Physical damage.
 - b. Equipment cleaning and liquid disposal. Cleaning equipment, depositing or allowing harmful liquids to flow overland within the limits of the critical root zone. This includes paint, oil, solvents, asphalt, concrete, mortar, tar or similar materials.
 - c. Grade changes. Major grade changes (cut or fill) of six inches (6") or greater within the limits of the critical root zone. With major grade changes of six inches (6") or greater, a retaining wall or tree well of

rock, brick, landscape timbers, or other approved materials shall be constructed around the tree.

- d. Material storage. Storing materials intended for use in construction or allowing waste materials due to excavation or demolition to accumulate within the limits of the drip line.
 - e. Tree attachments. Attaching to a tree any signs, wires, or other items, other than those of a protective nature.
 - f. Vehicular traffic. Excessive vehicular and/or construction equipment traffic, parking, or storage within the limits of the drip line, other than on pre-existing or approved surface. This restriction does not apply to single incident access within the drip line for purposes of clearing underbrush, vehicular access necessary for emergency services, routine utility maintenance, emergency restoration of utility service, or routine mowing operations.
 - g. Utility encroachment. Installation of utilities and appurtenances within close proximity to the Protected tree trunk.
 - h. Excavation and trenching. Excavation and trenching within close proximity to the Protected tree trunk.
- J. Penalty. Any person or entity who shall violate any provision of this section, or shall fail to comply therewith, or with any of the requirements thereof shall be liable for a fine not to exceed the sum of \$2,000.00 per day. Each tree unlawfully removed is a separate violation, failure to obtain a permit is a separate violation, failure to comply with a mitigation plan or tree replacement plan is a separate violation and each day the mitigation plan or the tree replacement plan violation exists, or compliance fails to occur or continues to occur, shall constitute a separate offense.

ORDINANCE NO. 2016-O-06B

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MARBLE FALLS, APPENDIX B, LAND USE REGULATIONS, GENERAL REGULATIONS, SECTION 1030-1099, OF THE LANDSCAPE ORDINANCE; TO AMEND THE PROTECTED TREES REGULATIONS; PROVIDING FOR SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS the City of Marble Falls is legally empowered to regulate development in the community through the legitimate use of its police powers; and

WHEREAS, the City Council of the City of Marble Falls is legally empowered to amend the land use regulations to provide for changes and additions to permitted uses, conditional uses, and site development regulation; and

WHEREAS, the City Council desires to amend Appendix B Land Use Regulations, General Regulations, Section 1030-1099 by amending the protected trees regulations; and

WHEREAS, the City of Marble Falls Planning & Zoning Commission at a public hearing on May 5, 2016 recommended approval of the text amendments to the above referenced regulations; and

WHEREAS, the City Council finds that the amendments provided under this Ordinance are in the best interest of the City of Marble Falls;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARBLE FALLS, TEXAS, THAT:

SECTION I. PREAMBLE. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Marble Falls and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENTS.

A. Appendix B Land Use Regulations, General Regulations, Landscape Ordinance, Section 1031, Definitions, is hereby amended by deleting Subsection A in its entirety.

B. Appendix B Land Use Regulations, General Regulations, Landscape Ordinance, Section 1032, Application, Subsection B is hereby amended and shall read as follows:

- B. The landscape requirements of this section shall not apply to the following:
 - 1. Building permit for single-family residential where only one (1) structure is constructed per lot.
 - 2. Building permits for the substantial restoration of a building

constructed prior to June 23, 1998, issued within a period of twelve (12) months after the building has been damaged by fire, explosion, tornado, riot, act of the public enemy, or accident of any kind.

3. Building permits for land in the Main Street District (MSD) classification, according to the official zoning map of the city.
4. Building permits issued prior to June 23, 1998.

C. Appendix B Land Use Regulations, General Regulations, Landscape Ordinance, Section 1035, Protected Trees, is hereby amended and shall read as follows:

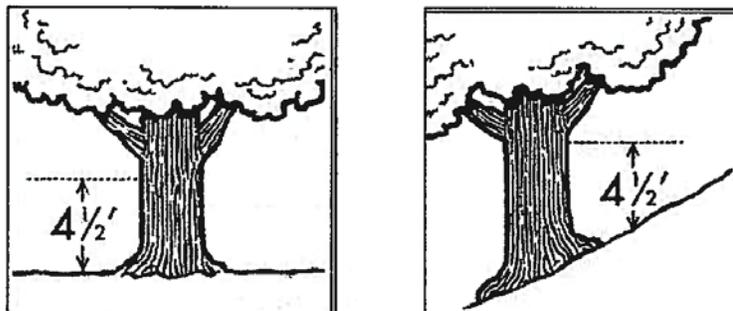
1035. Tree Preservation and Protection Requirements.

A. Purpose. The purpose of this section is to:

1. Encourage protection of the natural environmental and beauty of the City.
2. Preserve the City's urban canopy by minimizing tree loss.
3. Promote replacement of trees which have been removed and destroyed due to the ill effects of rapid and intense urbanization within the City limit.
4. Regulate diversely based on different development types and sizes.
5. Encourage a resourceful and prudent approach to urban development of wooded areas.
6. Provide mitigation and cost effective alternatives for creative subdivision and site design which preserves trees while allowing development in wooded areas.
7. Create a positive economic effect on the City by preserving and enhancing property values, mitigating drainage and flooding issues, improving air quality, helping save energy, and improving health and quality of life, thereby making the City a more attractive place in which to live, visit and do business.

B. Definitions. For the purposes of this section, the following definitions will be used:

1. *Caliper*. The diameter of the trunk of a tree measured four and one-half feet (4-1/2') above the ground, also known as the diameter at breast height (DBH). The DBH can be obtained by measuring the circumference of the tree trunk and converting it to diameter by dividing by pi (3.14).



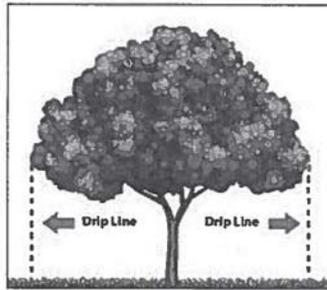
** If the tree is on a slope, measure from the high side of the slope.*

With trees that exhibit rounded, knotty growths, or burls, limb extensions or any other abnormalities at 4.5 feet above ground level, measure the smallest circumference between 4.5 feet and the ground.



For multiple trunk trees, the caliper is deemed to equal the caliper of the largest trunk plus half the caliper of each additional trunk. For example, a tree that has three trunks with circumferences of 22", 18", and 12" you would have a circumference of 37" ($22" + (\frac{1}{2} \times 18") + (\frac{1}{2} \times 12")$). The circumference would then be divided by pi (3.14), giving you a caliper of 11".

2. *Clearing.* The act of cutting down, removing all or a substantial part of, or damaging a tree or other vegetation that will cause the tree to decline and/or die (which includes but is not limited to chemical, physical, compaction or grading damage).
3. *Critical root zone (CRZ).* The region measured outward from the trunk of a tree representing the essential area of the roots that must be protected for the tree's livelihood.
4. *Development.* All land modification activity, including the construction of building, roads, paved storage areas, and parking lots. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and grading, mining, and dredging, and the deposit of refuse, waste or fill. Care and maintenance of lawns, gardens, and trees; minimal clearing (ten feet wide) for surveying and testing; and agricultural activities are excluded from this definition.
5. *Drip line.* A vertical line extending from the outermost portion of the tree canopy to the ground.



6. *Protected tree.* Trees with a caliper of twelve inches (12”) or greater.
 7. *Public tree.* All trees partially or completely resting on public property.
 8. *Removal of tree.* An act that causes or may be reasonably expected to cause a tree to die, including, but not limited to: uprooting, severing the main trunk, severely pruning or trimming a tree, damaging the root system by machinery, storage of materials or soil compaction; substantially changing the natural grade above the root system or around the trunk; paving with concrete, asphalt, or other impervious materials in a manner which may reasonably be expected to kill the tree.
 9. *Heritage tree.* Protected trees with a caliper of twenty-five inches (25”) or greater.
 10. *Tree Inventory.* A diagram or drawing which accurately depicts the location, species, and size of all Protected trees on a lot within the limits of construction, including a legend that identifies and differentiates Protected Trees to be removed and those to be retained. Photography of the property depicting the character of the tree canopy may be required by the City.
 11. *Tree Removal Permit.* Permit issued by the City to authorize tree removal and plan or method of mitigation.
 12. *Tree Replacement Plan.* A diagram or drawing which accurately depicts the location, species, and size of all replacement trees required on a lot, including the location, species, and size of any existing trees to be retained and used as credit against the replacement requirements.
- C. *Applicability.* Except as otherwise provided, the provisions of this section are applicable to the following:
1. All residential and nonresidential property or development within the City.
 2. New or redevelopment construction on any residential or nonresidential property within the City limit that results in an increase in building footprint or destruction and reconstruction of any residential or nonresidential property within the City limit.
- D. *Exemptions.* The provisions of this section shall not apply to the following:

1. The proposed primary building footprint and driveway area of all new residential development or redevelopment if tree caliper is under twenty-five inches (25").
2. The area within ten feet of a primary residential building footprint if tree caliper is under twenty-five inches (25").
3. The area over a septic system, if septic systems are allowed/present, and if tree caliper is under twenty-five inches (25").
4. The areas designated for the construction or installation of public facilities, such as streets or utilities, if tree caliper is under twenty-five inches (25").
5. If a tree endangers the public health, welfare or safety, and immediate removal is required as determined in writing by the designated official of the City.

E. Permit Application Requirements. Except for trees that are exempt pursuant to subsection D of this section, it shall be unlawful for any person or entity to remove a protected tree without first obtaining a permit and approval from the City. If an applicant contemplates development that requires approval of a Site Development permit pursuant to Section 1104.-1105., the Applicant can choose to obtain a separate Tree Removal Permit or can choose to obtain approval for the tree removal in conjunction with issuance of the Site Development permit. If choosing approval through the Site Development process the Applicant must demonstrate compliance with the requirements of this section and the review and processing of the tree removal request or any requested variances will be provided in conjunction with the processing and issuance of the Site Development Permit. The issuance of a separate Tree Removal Permit will not be required. An applicant who chooses to obtain approval for tree removal in conjunction with Site Development approval must be issued the Site Development permit prior to removal of the tree(s). Applicants who are not required to obtain a Site Development permit or choose not to obtain approval for tree removal in conjunction with the issuance of a Site Development permit shall be required to submit an application for a Tree Removal Permit as set out herein. The removal of an existing protected tree(s) from a development or redevelopment site must be in accordance with this and all other applicable ordinances of the City. Prior to the removal of any Protected or Heritage tree, as defined within this section, the property owner must first submit an application with the following information:

1. Which tree(s) will be removed within the limits of construction (as shown on a site plan or tree inventory).
2. Which tree(s) will remain and be counted as tree credits, if any (as shown on a site plan or tree replacement plan).
3. How the removal will be performed (and machinery and equipment needed), and the date and time when the anticipated removal will occur.
4. If a Heritage or Protected tree proposed for removal is within or not within the following:

- a. A primary residential building footprint or residential driveway area, or within ten feet of a primary residential building footprint.
 - b. Within the area over the septic system.
 - c. Within an area designated for the construction or installation of public facilities such as streets or utilities.
5. A Tree Inventory and Tree Replacement Plan, if necessary.
6. If a Protected or Heritage tree is fatally diseased or dying, a Tree Removal Permit is required for removal, however no other provisions of this section shall apply. Supporting documentation may be required by the City.

F. Preservation Requirements.

1. Clearing or stripping of natural vegetation on a lot is expressly prohibited unless authorized by the City in writing and/or by issuance of a Site Development Permit, a Tree Removal Permit, or if no protected trees are to be removed, by issuance of a NPS permit, as applicable. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on-site septic facilities (OSSF) and approved storage areas or accessory structures shall be preserved.
2. All living trees measuring twelve inches (12") in caliper or greater are designated as Protected trees. The removal of any Protected tree must be specifically requested by the applicant and approved via permit prior to any action being taken to remove the tree or to damage or disturb the tree in any way. Removal of any such trees without a permit is expressly prohibited.
3. The removal of Heritage trees, which for the purposes of these requirements are trees with twenty-five inch (25") caliper or greater regardless of location, must be specifically approved by the Planning and Zoning Commission through request of a variance, or must receive permit approval to mitigate at a ratio of three inches per inch removed, prior to any action being taken to remove the tree or to damage or disturb the tree in any way.
 - a. The City Manager or designee will forward to the Planning and Zoning Commission any tree removal permit application that requests a variance to the regulations established herein. Such applications shall list all hardships associated with the request, and will be considered by the Commission at its next regularly scheduled meeting; the applicant shall be notified of the time and place of said meeting and shall be invited and encouraged to attend.
 - b. In order to lessen practical difficulties and prevent unnecessary physical hardships, a variance to remove a Heritage tree or to deviate from these regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape,

or dimensions of a lot, or from topographic or physical limitations in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with this section is not a reason for granting a variance.

- c. The Commission will approve, reject, or approve with conditions the tree removal permit application and the associated variance.
 - d. A decision by the Commission may be appealed to the City Council if the appeal is filed within 10 days of the date of the Commission's decision. The City Council, after receiving a report from the Commission, may confirm, reverse, or modify the action of the Commission. All appeals must be in writing and clearly set out the portions of the regulations that are applicable to the appeal and the justification for the appeal.
 - e. The City Manager or designee may forward at his discretion any tree removal application to the Planning and Zoning Commission for its consideration in lieu of review and consideration by the City Manager or designee.
4. The general construction and design requirements pertaining to all Protected and Heritage trees proposed to be preserved/retained within the property/site are required to ensure a responsible design in order to not adversely damage the health of the Protected trees.

G. Mitigation Requirements.

1. Trees over twelve inches (12") in caliper but less than twenty five inches (25") in caliper that are not located in one of the following areas shall be replaced on-site at a ratio of one inch per inch removed:
 - a. Within a residential building footprint or residential driveway area.
 - b. Within ten feet of a residential building footprint.
 - c. Within the area over the septic system.
 - d. Within areas designated for the construction or installation of public facilities such as streets or utilities.
2. Any Heritage tree that is approved to be removed through a variance shall be replaced on-site at a ratio of one inch per inch removed regardless of the location of the Heritage tree. Any Heritage tree that is approved to be removed without variance approval shall be replaced on-site at a ratio of three inches per inch removed regardless of the location of the Heritage tree.
3. If, based on a site inspection, a tree designated for preservation pursuant to this section is already dead, dying, or fatally diseased prior to development or redevelopment of the site, the provisions of replacement requirements shall not apply.
4. The invasive plants listed in subsection H.7. and the following tree species are exempt from mitigation requirements of this section:

Celtis Occidentalis (hackberry);

Juniperus Virginiana, Juniperis Ashei (common cedar);
Chinaberry;
Mesquite;
Ligustrum.

5. Replacement trees must be a minimum of three inches (3") in caliper and from the City's approved shade tree list.
6. Replacement trees do not count towards standard landscaping requirements. However, existing trees may be counted both towards tree credits to reduce replacement requirements and towards the standard landscaping requirements, if over three inches (3") in caliper
7. Species, size, quantity, and delivery date of replacement trees shall be approved by the City.
8. Replacement trees must be planted prior to the issuance of a Certificate of Occupancy unless fiscal security or escrow in a form acceptable to the City for the cost of the trees is posted. If fiscal security is posted the property owner shall have up to 12 months to plant the required replacement trees.
9. Any replacement tree that dies prior to the expiration of two years after a Certificate of Occupancy is issued shall be replaced by the developer or owner. This shall not apply to any replacement trees planted on individual single-family lots.
10. Replacement trees may be donated or a fee-in-lieu of planting the required trees may be paid to the City if the following conditions exist:
 - a. There is not adequate space on the site for all of the required replacement trees to be planted on the site in which the protected tree(s) were removed, as determined and approved by the City Manager or designee.
 - b. Weather conditions are such that do not make it favorable for the required planted trees to survive and thrive, as determined and approved by the City Manager or designee.

If it is not possible or feasible to provide for the replacement of the total number of inches of protected trees removed, a fee in lieu of tree replacement in an amount equal to the total number of inches of protected trees removed but not replaced times two hundred dollars (\$200) per inch may be paid to the City, money which will go towards the planting, replacement, and/or preservation of trees on public property.

H. Tree Credits. As an incentive to preserve the City's urban canopy, existing trees retained shall receive credit against the replacement requirements according to the following schedule:

1. Existing trees with three inches (3") in caliper or greater located on site may be credited toward the replacement trees required under this Section at a one to one inch ratio.

2. When calculating tree credits, any remaining fraction of an inch greater than or equal to 0.5 shall constitute a one (1) inch credit; any remaining fraction less than 0.5 shall not.
3. Up to fifty percent (50%) of the inches to be replaced may be done through tree credits, unless you are preserving or retaining existing trees at a ratio of 300% or more of the protected inches removed. If you are preserving or retaining 300% or more inches than those removed, up to eighty percent (80%) of the inches to be replaced may be done through tree credits.

Ex: If 20" of protected trees are removed and 30" of existing trees are preserved, a maximum of 10" are available as tree credits. 10" will need to be replaced.

If 20" of protected trees are removed and 60" of existing trees are preserved, a maximum of 16" are available as tree credits. 4" will need to be replaced.

4. The trees selected for credit consideration toward the amount of replacement requirements shall be indicated on the Tree Replacement Plan.
5. The trees shown on the Tree Replacement Plan as the trees proposed for tree credits shall be protected in the same manner as a Protected Tree during construction.
6. The City Manager or designee will review the trees proposed for tree credits provided in the Tree Replacement Plan and will approve or deny the use of the recommended trees as credits toward the replacement trees required. The City Manager or designee's review will be based on the assessed health, structure, habitat, disease, or decline of the tree.
7. Invasive plants that will not count towards tree credits: Chinaberry, Chinese Parasol Tree, Chinese Pistache, Chinese Tallow, Chinese Wisteria, Giant Cane, Japanese Honeysuckle, Johnson Grass, Kudzu, Lilac Chaste Tree, Mimosa (Silk Tree), Paper Mulberry, Photinia, Poison Ivy, Pyracantha, Running Bamboo, Russian Olive, Tamarisk (Salt Cedar), Tree of Heaven, Vitex, Waxleaf Ligustrum, White Mulberry, Wisteria.

I. Tree Protection Requirements.

1. All Protected trees to be preserved within the defined limits of construction for an excavation or construction site of any project shall be guarded by one or a combination of the following methods:
 - a. Barrier Protection – Erection of a protective barrier surrounding the drip line of the tree to protect from unwarranted construction activity which will damage the Protected tree.
 - b. Trunk and Root Protection - Six (6) inches of mulch shall be spread beneath the canopy, and wood slats (strapped-on-wood

planking, in accordance with TCSS) to protect the trunk may be used in lieu of a protective barrier.

- c. Any similar protection method (s) not specified herein, accepted by the City, which would provide protection of the tree(s) from damage during construction.
 2. The protective barriers required per this section shall be approved by the City Manager or designee and shall be in place before substantial site clearance or other major site-disturbing act commences.
 3. Protective methods/barriers herein shall be removed only to prepare the development site for final landscaping activities, or as approved by the City Manager or designee.
 4. Activities hazardous to the health of any Protected or Heritage tree being preserved, as determined by the City, are prohibited, including but not limited to the following:
 - a. Physical damage.
 - b. Equipment cleaning and liquid disposal. Cleaning equipment, depositing or allowing harmful liquids to flow overland within the limits of the critical root zone. This includes paint, oil, solvents, asphalt, concrete, mortar, tar or similar materials.
 - c. Grade changes. Major grade changes (cut or fill) of six inches (6") or greater within the limits of the critical root zone. With major grade changes of six inches (6") or greater, a retaining wall or tree well of rock, brick, landscape timbers, or other approved materials shall be constructed around the tree.
 - d. Material storage. Storing materials intended for use in construction or allowing waste materials due to excavation or demolition to accumulate within the limits of the drip line.
 - e. Tree attachments. Attaching to a tree any signs, wires, or other items, other than those of a protective nature.
 - f. Vehicular traffic. Excessive vehicular and/or construction equipment traffic, parking, or storage within the limits of the drip line, other than on pre-existing or approved surface. This restriction does not apply to single incident access within the drip line for purposes of clearing underbrush, vehicular access necessary for emergency services, routine utility maintenance, emergency restoration of utility service, or routine mowing operations.
 - g. Utility encroachment. Installation of utilities and appurtenances within close proximity to the Protected tree trunk.
 - h. Excavation and trenching. Excavation and trenching within close proximity to the Protected tree trunk.
- J. Penalty. Any person or entity who shall violate any provision of this section, or shall fail to comply therewith, or with any of the requirements thereof shall be liable for a

fine not to exceed the sum of \$2,000.00 per day. Each tree unlawfully removed is a separate violation, failure to obtain a permit is a separate violation, failure to comply with a mitigation plan or tree replacement plan is a separate violation and each day the mitigation plan or the tree replacement plan violation exists, or compliance fails to occur or continues to occur, shall constitute a separate offense.

SECTION III. REPEALER. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

SECTION IV. PROVIDING FOR SEVERABILITY. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Marble Falls in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

SECTION V. EFFECTIVE DATE. This ordinance shall be in full force and effect from its date of approval.

SECTION VI. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PUBLIC HEARING AND 1ST READING OF THIS ORDINANCE: June 7, 2016.

PUBLIC HEARING AND ACTION ON SECOND READING: June 21, 2016.

APPROVED:

John Packer
Mayor, City of Marble Falls

ATTEST:

Christina McDonald, City Secretary
City of Marble Falls

(Seal)

APPROVED AS TO FORM:

Patty L. Akers, City Attorney
City of Marble Falls

June 21, 2016

7. REGULAR AGENDA

- (b) Discussion regarding possible increases on water and wastewater rates. ***Margie Cardenas, Finance Director***
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



Council Agenda Item Cover Memo
June 21, 2016

Agenda Item No.: 7(b)
Presenter: Margie Cardenas, Director of Finance
Department: Finance Department
Legal Review: Not Applicable

AGENDA CAPTION

Discussion regarding possible increases on water and wastewater rates.

BACKGROUND INFORMATION

Staff has reviewed possible increases for both water and wastewater rates in order to finance the bond issuance for the utility funded projects. Those projects are; water plant, wastewater plant, water lines on FM 1431 and Broadway, and replacement of the water tank at Via Viejo.

Staff will present options on; issuing the entire amount of bonds this year and issuing bonds in a two year phase. The effects on the rates for the options will be presented to council. Staff is asking council for direction on proceeding with an increase on utility rates.

Attached are the [worksheets](#) that will be discussed at the Council meeting.

Actual & Projected Revenue Requirements
Financial Summary - Combined Water & Wastewater

Description	Actual	Budget	Planned	Planned	Planned	Planned	Planned
	2015	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Beginning Balance	\$ 210,722	\$ 227,324	\$ 227,615	\$ 281,112	\$ 530,446	\$ 626,644	\$ 639,102
REVENUES							
Water Sales	\$ 2,453,440	\$ 2,603,923	\$ 2,955,453	\$ 3,177,112	\$ 3,383,624	\$ 3,434,378	\$ 3,588,925
Sewer Treatment	1,361,214	1,463,975	1,661,612	1,786,232	1,813,026	1,840,221	1,867,825
Liquid Waste Disposal	101,479	95,200	95,200	95,200	95,200	95,200	95,200
Non-Rate Operating Revenues	92,491	92,000	92,000	92,000	92,000	92,000	92,000
Non-Operating Revenues	217,958	163,600	163,600	163,600	128,600	128,600	128,600
Transfer from Impact Fees	92,744	50,000	75,000	80,000	80,000	85,000	85,000
Transfer from Debt Service	200,000	50,000	-	-	-	-	-
Total Revenues	\$ 4,519,326	\$ 4,518,698	\$ 5,042,864	\$ 5,394,144	\$ 5,592,450	\$ 5,675,400	\$ 5,857,550
EXPENDITURES							
Water Services	\$ 723,765	\$ 704,446	\$ 754,102	\$ 805,495	\$ 858,687	\$ 913,742	\$ 970,723
Water Plant	\$ 805,802	\$ 806,890	\$ 835,131	\$ 864,361	\$ 894,613	\$ 925,925	\$ 958,332
Wastewater Services	296,791	411,615	451,022	491,807	534,021	577,711	622,931
Wastewater Plant	654,986	672,636	696,178	720,544	745,764	771,865	798,881
Wastewater Irrigation	133,611	145,919	151,026	156,312	161,783	167,445	173,306
Revenue Debt - Existing	\$ 1,502,769	\$ 1,499,701	\$ 1,421,709	\$ 1,426,090	\$ 1,427,484	\$ 1,432,353	\$ 1,431,153
Revenue Debt - Planned	-	-	340,000	340,000	569,900	569,900	569,900
Total Operating Expenditures	\$ 4,117,724	\$ 4,241,207	\$ 4,649,168	\$ 4,804,610	\$ 5,192,252	\$ 5,358,941	\$ 5,525,225
Transfer to General Fund - G&A	\$ 375,000	\$ 221,000	\$ 284,000	\$ 284,000	\$ 284,000	\$ 284,000	\$ 284,000
Transfer to Equipment Replacement Fund	10,000	10,000	10,000	10,000	20,000	20,000	30,000
Capital Funded from Operations	-	46,200	46,200	46,200	-	-	-
Non-Operating Expenditures	\$ 385,000	\$ 277,200	\$ 340,200	\$ 340,200	\$ 304,000	\$ 304,000	\$ 314,000
Total Expenditures	\$ 4,502,724	\$ 4,518,407	\$ 4,989,368	\$ 5,144,810	\$ 5,496,252	\$ 5,662,941	\$ 5,839,225
Revenues over Expenditures	\$ 16,602	\$ 291	\$ 53,497	\$ 249,334	\$ 96,198	\$ 12,458	\$ 18,324
Ending Working Capital Reserve	\$ 227,324	\$ 227,615	\$ 281,112	\$ 530,446	\$ 626,644	\$ 639,102	\$ 657,426
% of Operating Expenditures	5.0%	5.0%	5.6%	10.3%	18.0%	14.7%	17.9%
Days of Working Capital	18	18	21	38	66	53	65
Revenue Increases Suggested:							
Water	N/A	N/A	12.00%	6.00%	5.00%	0.00%	3.00%
Wastewater	N/A	N/A	12.00%	6.00%	0.00%	0.00%	0.00%

Non rate operating= penalties,taps
Non operating rev=Los Esc. Contrib, Flatrock
annual pymt,misc, interest

DEBT based on \$8M

Beginning with FY 16-17 Includes \$25K for line maintenance in Water Services and Wastewater services-

City of Marble Falls
 Water Rate Structure
 For FY 2016/2017

RESIDENTIAL & COMMERCIAL ACCOUNTS

Meter size	Water Base Charge <u>current rates</u>	<u>Proposed Rates</u>	<u>Difference</u>
3/4"	\$20.46	\$22.92	\$2.46
1"	\$29.57	\$33.12	\$3.55
1 1/2"	\$52.98	\$59.34	\$6.36
2"	\$94.62	\$105.97	\$11.35
3"	\$202.59	\$226.90	\$24.31
4"	\$358.69	\$401.73	\$43.04

<u>Consumption</u>	<u>Current Rates</u>		<u>Proposed Rates</u>	<u>Difference</u>	<u>%</u>
0-5,000	\$3.65	3.65	\$4.12	\$0.47	13.00%
6,000-10,000	\$3.65	3.65	\$4.12	\$0.47	13.00%
11,000-20,000	\$4.56	4.56	\$5.29	\$0.73	16.00%
21,000-30,000	\$4.56	4.56	\$5.29	\$0.73	16.00%
31,000-40,000	\$5.70	5.47	\$6.51	\$0.81	14.20%
41,000-50,000	\$5.70	5.47	\$6.51	\$0.81	14.20%
51,000-+	\$5.70	5.47	\$6.62	\$0.92	16.12%

Water Volume Charge per 1,000 gallons

14.64%

EXAMPLES OF MONTHLY WATER USAGE FOR A 3/4 INCH METER:

<u>Consumption</u>	<u>current</u>	<u>proposed</u>	<u>increase</u>	<u>% of inc.</u>	<u># of Accounts</u>
5,000	\$38.71	\$43.54	\$4.83	12.47%	2221
10,000	\$56.96	\$64.16	\$7.20	12.64%	586
20,000	\$111.66	\$128.71	\$17.05	15.27%	188
30,000	\$157.26	\$181.60	\$24.34	15.48%	73
40,000	\$248.46	\$283.29	\$34.83	14.02%	44
50,000	\$305.46	\$348.38	\$42.92	14.05%	27
60,000	\$362.46	\$420.04	\$57.58	15.89%	73

Average increase

14.26%

City of Marble Falls
 Sewer Rate Structure
 For FY 2016/2017

		<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Sewer rates	minimum charge	\$16.50	\$18.15	\$1.65
Rate per thousand gallons		\$3.48	\$3.90	\$0.42

Sewer is based on the average of water used during the winter months of January, February, and March. This is referred as the "winter average".

EXAMPLES OF WINTER AVERAGE USAGE:

<u>Gallons</u> <u>of water</u>	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>	<u>% of inc.</u>
2,000	\$23.46	\$25.95	\$2.49	10.59%
5,000	\$33.90	\$37.64	\$3.74	11.03%
10,000	\$51.30	\$57.13	\$5.83	11.36%
15,000	\$68.70	\$76.61	\$7.91	11.52%
20,000	\$86.10	\$96.10	\$10.00	11.62%

Actual & Projected Revenue Requirements
Financial Summary - Combined Water & Wastewater

2 YEAR PHASE

Description	Actual	Budget	Planned	Planned	Planned	Planned	Planned
	2015	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Beginning Balance	\$ 210,722	\$ 227,324	\$ 227,615	\$ 248,396	\$ 299,897	\$ 354,799	\$ 459,086
REVENUES							
Water Sales	\$ 2,453,440	\$ 2,603,923	\$ 2,851,296	\$ 3,122,169	\$ 3,356,331	\$ 3,540,930	\$ 3,594,044
Sewer Treatment	1,361,214	1,463,975	1,603,053	1,755,343	1,781,673	1,808,398	1,835,524
Liquid Waste Disposal	101,479	95,200	95,200	95,200	95,200	95,200	95,200
Non-Rate Operating Revenues	92,491	92,000	92,000	92,000	92,000	92,000	92,000
Non-Operating Revenues	217,958	163,600	163,600	163,600	128,600	128,600	128,600
Transfer from Impact Fees	92,744	50,000	75,000	80,000	80,000	85,000	85,000
Transfer from Debt Service	200,000	50,000	-	-	-	-	-
Total Revenues	\$ 4,519,326	\$ 4,518,698	\$ 4,880,148	\$ 5,308,311	\$ 5,533,804	\$ 5,750,128	\$ 5,830,367
EXPENDITURES							
Water Services	\$ 723,765	\$ 704,446	\$ 754,102	\$ 805,495	\$ 858,687	\$ 913,742	\$ 970,723
Water Plant	\$ 805,802	\$ 806,890	\$ 835,131	\$ 864,361	\$ 894,613	\$ 925,925	\$ 958,332
Wastewater Services	296,791	411,615	451,022	491,807	534,021	577,711	622,931
Wastewater Plant	654,986	672,636	696,178	720,544	745,764	771,865	798,881
Wastewater Irrigation	133,611	145,919	151,026	156,312	161,783	167,445	173,306
Revenue Debt - Existing	\$ 1,502,769	\$ 1,499,701	\$ 1,421,709	\$ 1,426,090	\$ 1,427,484	\$ 1,432,353	\$ 1,431,153
Revenue Debt - Planned	-	-	210,000	452,000	552,550	552,800	552,750
Total Operating Expenditures	\$ 4,117,724	\$ 4,241,207	\$ 4,519,168	\$ 4,916,610	\$ 5,174,902	\$ 5,341,841	\$ 5,508,075
Transfer to General Fund - G&A	\$ 375,000	\$ 221,000	\$ 284,000	\$ 284,000	\$ 284,000	\$ 284,000	\$ 284,000
Transfer to Equipment Replacement Fund	10,000	10,000	10,000	10,000	20,000	20,000	30,000
Capital Funded from Operations	-	46,200	46,200	46,200	-	-	-
Non-Operating Expenditures	\$ 385,000	\$ 277,200	\$ 340,200	\$ 340,200	\$ 304,000	\$ 304,000	\$ 314,000
Total Expenditures	\$ 4,502,724	\$ 4,518,407	\$ 4,859,368	\$ 5,256,810	\$ 5,478,902	\$ 5,645,841	\$ 5,822,075
REVENUES OVER EXPENDITURES	\$ 16,602	\$ 291	\$ 20,781	\$ 51,502	\$ 54,902	\$ 104,286	\$ 8,292
Ending Working Capital Reserve	\$ 227,324	\$ 227,615	\$ 248,396	\$ 299,897	\$ 354,799	\$ 459,086	\$ 467,378
% of Operating Expenditures	5.0%	5.0%	5.1%	5.7%	18.0%	14.7%	17.9%
Days of Working Capital	18	18	19	21	66	53	65
Revenue Increases Suggested:							
Water	N/A	N/A	8.00%	8.00%	6.00%	4.00%	0.00%
Wastewater	N/A	N/A	8.00%	8.00%	0.00%	0.00%	0.00%

Non rate operating= penalties,taps
Non operating rev=Los Esc. Contrib, Flatrock
annual pymt,misc, interest

DEBT based on \$3M in FY 16-17 and \$5M FY 17-18

Beginning with FY 16-17 includes \$25K for line maintenance in Water Services and Wastewater services-

City of Marble Falls
 Water Rate Structure
 For FY 2016/2017

RESIDENTIAL & COMMERCIAL ACCOUNTS

Meter size	Water Base Charge		<u>Difference</u>
	<u>current rates</u>	<u>Proposed Rates</u>	
3/4"	\$20.46	\$22.30	\$1.84
1"	\$29.57	\$32.23	\$2.66
1 1/2"	\$52.98	\$57.75	\$4.77
2"	\$94.62	\$103.14	\$8.52
3"	\$202.59	\$220.82	\$18.23
4"	\$358.69	\$390.97	\$32.28

<u>Consumption</u>	<u>ent Rates</u>		<u>Proposed Rates</u>	<u>Difference</u>	<u>%</u>
0-5,000	\$3.65	3.65	\$3.96	\$0.31	8.50%
6,000-10,000	\$3.65	3.65	\$3.96	\$0.31	8.50%
11,000-20,000	\$4.56	4.56	\$4.99	\$0.43	9.50%
21,000-30,000	\$4.56	4.56	\$4.99	\$0.43	9.50%
31,000-40,000	\$5.70	5.47	\$6.26	\$0.56	9.88%
41,000-50,000	\$5.70	5.47	\$6.26	\$0.56	9.88%
51,000-+	\$5.70	5.47	\$6.37	\$0.67	11.80%

Water Volume Charge per 1,000 gallons

9.65%

EXAMPLES OF MONTHLY WATER USAGE FOR A 3/4 INCH METER:

<u>Consumption</u>	<u>current</u>	<u>proposed</u>	<u>increase</u>	<u>% of inc.</u>	<u># of Accounts</u>
5,000	\$38.71	\$42.10	\$3.39	8.76%	2221
10,000	\$56.96	\$61.90	\$4.94	8.68%	586
20,000	\$111.66	\$122.17	\$10.51	9.41%	188
30,000	\$157.26	\$172.10	\$14.84	9.43%	73
40,000	\$248.46	\$272.83	\$24.37	9.81%	44
50,000	\$305.46	\$335.46	\$30.00	9.82%	27
60,000	\$362.46	\$404.65	\$42.19	11.64%	73

Average increase 9.65%

City of Marble Falls
 Sewer Rate Structure
 For FY 2016/2017

		<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Sewer rates	minimum charge	\$16.50	\$18.15	\$1.65
Rate per thousand gallons		\$3.48	\$3.79	\$0.31

Sewer is based on the average of water used during the winter months of January, February, and March. This is referred as the "winter average".

EXAMPLES OF WINTER AVERAGE USAGE:

<u>Gallons</u> <u>of water</u>	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>	<u>% of inc.</u>
2,000	\$23.46	\$25.74	\$2.28	9.70%
5,000	\$33.90	\$37.12	\$3.22	9.49%
10,000	\$51.30	\$56.08	\$4.78	9.32%
15,000	\$68.70	\$75.05	\$6.35	9.24%
20,000	\$86.10	\$94.01	\$7.91	9.19%

2016 Texas Municipal League
Utility Rate Survey Information

<u>City Name</u>	<u>City Pop.</u>	<i>Gallons</i>	Residential Water		Commercial Water	
			5,000	10,000	50,000	200,000
Fredericksburg	11,305		18.86	40.26	159.16	609.16
Round Rock	112,744		27.14	39.59	263.69	1,010.69
Meadowlakes	1,818		30.65	39.65	176.65	841.65
Llano	3,305		32.50	42.50	263.50	1,013.50
Pflugerville	54,644		37.00	58.50	355.50	1,375.50
Marble Falls- current	6,185		38.71	56.96	379.62	1,234.62
Marble Falls- Option 1			43.54	64.16	348.38	1,346.92
Marble Falls- Option 2			42.10	61.90	335.46	1,296.30
Lampasas	7,223		45.70	67.70	258.20	940.70
Granite Shoals	5,087		45.71	65.42	355.89	1,311.89
Burnet	7,100		48.40	71.80	317.00	1,193.00
Boerne	13,239		64.05	79.15	198.75	872.25

Average for all Texas cities participating in TML's survey for 5,000 gallons \$39.79

<u>City Name</u>	<u>City Pop.</u>	<i>Gallons</i>	Residential Wastewater		Commercial Wastewater	
			5,000	10,000	50,000	200,000
Pflugerville	54,644		25.75	32.00	82.00	269.50
Fredericksburg	11,305		26.60	43.20	213.00	822.00
Round Rock	112,744		30.22	47.17	182.77	691.27
Marble Falls-current	6,185		33.90	51.30	190.50	712.50
Marble Falls-Option 1			37.64	57.13	213.15	798.15
Marble Falls-Option 2			37.12	56.08	207.65	776.15
Lampasas	7,223		40.20	57.70	201.70	726.70
Llano	3,305		42.87	49.32	128.92	462.88
Meadowlakes	1,818		47.00	47.00	N/A	N/A
Boerne	13,239		48.56	75.71	487.82	1,795.82
Burnet	7,100		55.00	80.00	280.00	1,030.00
Granite Shoals	5,087		N/A	N/A	N/A	N/A

Average for all Texas cities participating in TML's survey for 5,000 gallons \$33.68

Option 1 is issuing all bonds in one year.
Option 2 is issuing bonds in 2 years phase.

June 21, 2016

7. REGULAR AGENDA

- (c) Discussion regarding the City's Board and Commission Ordinances. ***Christina McDonald,
City Secretary***
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



Council Agenda Item Cover Memo
June 21, 2016

Agenda Item No.: 7(c)

Presenter: Christina McDonald, City Secretary

Department: Administration

Legal Review: **Not Applicable**

AGENDA CAPTION

Discussion regarding the City's Board and Commission Ordinances.

BACKGROUND INFORMATION

Staff has reviewed all ordinances relating to City Boards and Commissions and as a result of the review, staff is recommending the following:

Hotel Motel Tax Advisory Committee Ordinance – No amendments to the ordinance are recommended, however staff needs to begin enforcing Section 2-162(b) "Members named to the committee that live outside of the city limits of the city will be nonvoting members."

Please note that currently this provision applies to members Patti Zinsmeyer (Chamber representative) and Linda Sullivan (Hotel Motel Association representative).

Capital Improvement Plan Committee – Staff recommends three amendments to the current ordinance:

- 1) Amend Section 2-153 Creation – Membership – Appointment – Terms to change the committee to be composed of the members of the Planning and Zoning Commission as allowed by Local Government Code Chapter 395.
- 2) Amend Section 2-156. Delete sentence "An officer may be reelected for not more than one (1) additional one-year term." None of the city's other board and commission ordinance have this provision.
- 3) Amend Section 2-160 – Meetings to read "The committee shall meet no less than twice a year, or as needed or requested by the City Manager or City Council." The current ordinance requires the committee to meet no less than once a quarter.

No action is required by Council at this time. If Council desires ordinance amendments will be brought back to Council for action at a future meeting.

A copy of the current [HOT Committee](#) and [CIP Committee](#) Ordinances and member rosters have been provided for your reference.

[HOT Ordinance](#)

[CIP Ordinance](#)



CAPITAL IMPROVEMENT PLAN COMMITTEE
(Meets Quarterly)

**Christian Fletcher 203 E. Oak Ridge cfletcher@marblefallseconomy.com	EDC Secretary	830/798-7075 (O) 830/613-1462 (M)
**Celia Merrill 806 Amy Circle celiamerrill@msn.com	Chamber	830/385-2601 (R)
*Reed Norman (Council term expires May 2018) 1007 Ridge Point Drive rnorman@ci.marble-falls.tx.us	Councilmember	830/693-2678 (R) 830/385-5665 (M)
* Thomas Martin 900 Canyon Oak Circle temartin45@gmail.com	Citizen	830/220-1880 (M) 830/613-4407 (R)
*Tony Plumlee 400 Sherman Drive tplumlee@willis-engineering.com	Citizen	830/693-3566 (O) 512/715-2510 (M)
Steve Reitz or designee (P&Z term expires Jan. 2017) 1103 Arbor Lane steve@stevereit.com	P&Z Chair *Chair	830/693-7553 (O) 512/755-0212 (M) 830/693-74253 (R)
*Brian Shirley 102 Cedar Ridge Drive bkshirley@zeecon.com	Citizen ***Vice-Chair	512/525-0324 (M)
*Mary Ellen Goff 505 Boulder Drive memgoff@zeecon.com	Ex-Officio	830/798-8781 (R)

CITY STAFF SUPPORT:

Mike Hodge, City Manager
 Caleb Kraenzel, Assistant City Manager
 Eric Belaj, City Engineer
 Margie Cardenas, Director of Finance
 Perry Malkemus, Public Works Director

*Term Expires January 2018
 **Term Expires January 2017
 ***Term (officers) Expires January 2017



HOTEL MOTEL TAX ADVISORY COMMITTEE

(Meets Quarterly)

CITY MANAGER - CHAIR

MIKE HODGE

mhodge@marblefallstx.gov

830-798-7051

PRESIDENT HOTEL/MOTEL ASSOC. - VICE-CHAIR

*LINDA SULLIVAN

groupmgr@liveoaklodging.com

Live Oak Lodging

830-220-3180

708 First Street

COUNCILMEMBER (term expires May 2017) - SECRETARY

**RYAN NASH

rnash@marblefallstx.gov

304 East Sixth Street

512-755-4000

CHAMBER DIRECTOR

**PATTI ZINSMEYER

patti@marblefalls.org

916 Second Street

830-693-2815

EDC DIRECTOR

**CHRISTIAN FLETCHER

cfletcher@marblefallseconomy.com

830-798-7075

CITIZEN

*DARLENE OOSTERMEYER

dfo@nctv.com

3000 Cedar Trail Drive

830-693-7025

CITIZEN

*DAVID RHODES

drhodes@nctv.com

609 Via Viejo

830-693-8905 / 512-541-6953

STAFF SUPPORT:

MARGIE CARDENAS

mcardenas@marblefallstx.gov

Finance Director

830-798-7056

*Term expires January 2018

**Term expires January 2017

- CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - BOARDS AND COMMISSIONS

DIVISION 4. CAPITAL IMPROVEMENT PLAN COMMITTEE

DIVISION 4. CAPITAL IMPROVEMENT PLAN COMMITTEE ¹⁶¹

[Sec. 2-153. Creation—Membership—Appointment—Terms.](#)

[Sec. 2-154. Attendance.](#)

[Sec. 2-155. Members not to hold other public offices—Compensation.](#)

[Sec. 2-156. Chair and vice-chair.](#)

[Sec. 2-157. Secretary—Duties.](#)

[Sec. 2-158. Ex officio members.](#)

[Sec. 2-159. Duty as advisory committee.](#)

[Sec. 2-160. Meetings.](#)

[Sec. 2-161. Rules and bylaws.](#)

Sec. 2-153. Creation—Membership—Appointment—Terms.

- (a) There shall be created a committee known as the capital improvement plan committee (also referred to as the "committee" or the "CIP committee"), and shall have such powers and authority as described herein, prescribed by the Charter, law and the by-laws of the committee.
- (b) The committee shall be composed of a total of seven (7) members. All members shall be residents within the city limits and known to be interested in the city's capital improvement plan ("CIP") and the city's comprehensive plan. When a member named to the Committee represents an organization, the organization may name another of its members to serve on the Committee in lieu of the person or office named by the city. All members shall be appointed and may be removed by simple majority vote of the city council. The members of the committee shall be appointed by the city council for a term of two (2) years or until their successors are appointed and qualified.
- (c) The membership of the committee shall be composed of the following:
 - President of the Marble Falls Economic Development Corporation (or designee)
 - Chairman of the planning and zoning commission (or designee)
 - President of the chamber of commerce (or designee)
 - Mayor or councilmember
 - Three (3) citizens
- (d) If the mayor or a councilmember appointed to the committee ceases to be a member of the city council, they shall continue to serve on the committee until their successor is appointed to serve by the city council. If any other member of the committee is unable to serve or ceases to be qualified to serve, or if the member is no longer a member of the organization appointed as a member, then the organization named as a member to the committee shall appoint a successor member to serve on the committee. If the member organization does not appoint a successor member to serve within sixty (60) days from the date of the vacancy, the city council may fill the vacancy with the

- CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE V. - BOARDS AND COMMISSIONS

DIVISION 4. CAPITAL IMPROVEMENT PLAN COMMITTEE

appointment of another organization, or by appointment of a citizen member. If a citizen member is unable to serve or ceases to be eligible to serve, the council may appoint a successor citizen member.

(Ord. No. 2009-O-05A, § II(2-180), 5-11-2009; Ord. No. 2013-O-07C, § II, 7-16-2013)

Sec. 2-154. Attendance.

Members shall attend meetings in accordance with [section 2-127](#) of the Marble Falls Code of Ordinances.

(Ord. No. 2009-O-05A, § II(2-181), 5-11-2009)

Sec. 2-155. Members not to hold other public offices—Compensation.

- (a) No member of the committee shall hold a public office of another governmental entity during their term of office.
- (b) The members shall serve without pay.

(Ord. No. 2009-O-05A, § II(2-182), 5-11-2009; Ord. No. 2013-O-07C, § II, 7-16-2013)

Sec. 2-156. Chair and vice-chair.

The committee shall select from among its members a chair and a vice-chair. The term of office for the chair and vice-chair shall be one (1) year. An officer may continue to serve until a successor is elected. An officer may be reelected for not more than one (1) additional one-year term. A member may not hold more than one (1) office at a time.

(Ord. No. 2009-O-05A, § II(2-183), 5-11-2009)

Sec. 2-157. Secretary—Duties.

The committee shall select from among its members a secretary. The secretary shall keep a record of the transactions of the committee and the minutes of each meeting and shall make available to the committee any professional reports prepared in the development or implementation of the capital improvement plan.

(Ord. No. 2009-O-05A, § II(2-184), 5-11-2009; Ord. No. 2013-O-07C, § II, 7-16-2013)

Sec. 2-158. Ex officio members.

The committee may invite ex officio members without the power to vote to participate in committee activities.

(Ord. No. 2009-O-05A, § II(2-185), 5-11-2009)

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DIVISION 4. CAPITAL IMPROVEMENT PLAN COMMITTEE

Sec. 2-159. Duty as advisory committee.

The committee shall act only as an advisory body and provide recommendations to the city manager and city council, and shall perform the following functions:

- (1) Review the current CIP and file written comments regarding recommended amendments and prioritization of the city's needs for capital improvement projects;
- (2) Advise the city of the need to update the CIP;
- (3) File a semiannual report evaluating the progress of the CIP;
- (4) Develop a planning calendar and evaluation criteria to be used when recommending and prioritizing capital improvement projects; and
- (5) Any other function or duty directed by the city council in regards to the CIP.

(Ord. No. 2009-O-05A, § II(2-186), 5-11-2009)

Sec. 2-160. Meetings.

The committee shall meet no less than once every quarter, or as needed or requested by the city manager or city council.

(Ord. No. 2009-O-05A, § II(2-187), 5-11-2009)

Sec. 2-161. Rules and bylaws.

The committee may adopt rules and regulations for the government of their own proceedings, and to carry out the purposes for which the committee is created, not inconsistent with state law, the Charter, this chapter and ordinances of the city.

(Ord. No. 2009-O-05A, § II(2-188), 5-11-2009)

FOOTNOTE(S):

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Editor's note— Section II of Ord. No. 2009-O-05A, adopted May 11, 2009, enacted provisions designated as §§ 2-180—2-188. Inasmuch as some of those sections already exist, to avoid duplication, said provisions have been redesignated as §§ 2-153—2-161. The original ordinance designations have been retained in the history note to each section. ([Back](#))

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[DIVISION 5. - HOTEL MOTEL TAX ADVISORY COMMITTEE](#) ¹⁷¹

[Sec. 2-162. - Creation—Membership—Appointment—Terms.](#)

[Sec. 2-163. - Attendance.](#)

[Sec. 2-164. - Members not to hold other public offices—Compensation.](#)

[Sec. 2-165. - Chair and vice-chair.](#)

[Sec. 2-166. - Secretary—Duties.](#)

[Sec. 2-167. - Nonvoting members.](#)

[Sec. 2-168. - Duty as advisory committee.](#)

[Sec. 2-169. - Meetings.](#)

[Sec. 2-170. - Rules and bylaws.](#)

[Secs. 2-171—2-175. - Reserved.](#)

Sec. 2-162. - Creation—Membership—Appointment—Terms.

- (a) There shall be created a committee known as the "Hotel Motel Tax Advisory Committee" (also referred to as the "committee" or the "hotel committee"), and shall have such powers and authority as described herein, prescribed by the Charter, law and the bylaws of the committee.
- (b) The committee shall be composed of a total of seven (7) members. At least four (4) members of the committee must be voting members. Members named to the committee that live outside of the city limits of the city will be nonvoting members. When a member named to the committee represents an organization, the organization may name another of its members to serve on the committee in lieu of the person or office named by the city. All members shall be appointed by simple majority vote of the city council. All members appointed to the committee shall not be in arrears in the payment of any taxes or other liabilities due the city. The members of the committee shall be appointed by the city council for a term of two (2) years or until their successors are appointed and qualified.
- (c) The membership of the committee shall be composed of the following:
 - Director of the Marble Falls Chamber of Commerce.
 - Director of the Marble Falls Economic Development Corporation.
 - President of the Marble Falls Hotel Motel Association.
 - City manager.
 - Mayor or city councilmember.
 - Two (2) citizens of the City of Marble Falls.
- (d) If the mayor or a councilmember appointed to the committee ceases to be a member of the city council, they shall continue to serve on the committee until their successor is appointed to serve by the city council. If any other member of the committee is unable to serve or ceases to be qualified to

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serve, or if the member is no longer a member of the organization appointed as a member, then the organization named as a member to the committee shall appoint a successor member to serve on the committee. If the member organization does not appoint a successor member to serve on the committee within sixty (60) days from the date of the vacancy, the city council may fill the vacancy with the appointment of another organization, or by appointment of a citizen member. If a citizen member is unable to serve or ceases to be eligible to serve, the council may appoint a successor citizen member. If a member of the committee is a voting member and subsequently moves outside of the city limits, such member may continue to serve on the committee unless the number of voting members is thereby reduced to less than three (3) members. In such case, that member's seat on the committee shall be deemed to be vacant and a replacement member shall be appointed in accordance with this section.

(Ord. No. 2009-O-09C, § II(2-200), 9-14-2009; Ord. No. 2012-O-10B, § II, 10-16-2012)

Sec. 2-163. - Attendance.

Members shall attend meetings in accordance with [section 2-127](#) of the Marble Falls Code of Ordinances.

(Ord. No. 2009-O-09C, § II(2-201), 9-14-2009)

Sec. 2-164. - Members not to hold other public offices—Compensation.

- (a) No member of the committee shall hold any other public office of honor, trust or profit in the government of the city except the mayor, city council, or city manager members.
- (b) The members shall serve without pay.

(Ord. No. 2009-O-09C, § II(2-202), 9-14-2009)

Sec. 2-165. - Chair and vice-chair.

The chair of the committee shall be the city manager. The vice-chair of the committee shall be the president of the Hotel Motel Association. The mayor or city council member shall serve as secretary. An officer may continue to serve until a successor is appointed.

(Ord. No. 2009-O-09C, § II(2-203), 9-14-2009)

Sec. 2-166. - Secretary—Duties.

The secretary shall keep a record of the transactions of the committee and shall make available to the committee any reports, applications or other information necessary to further the activities of the committee.

(Ord. No. 2009-O-09C, § II(2-204), 9-14-2009)

Sec. 2-167. - Nonvoting members.

Nonvoting members shall participate in committee activities without the power to vote.

(Ord. No. 2009-O-09C, § II(2-205), 9-14-2009)

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DIVISION 5. - HOTEL MOTEL TAX ADVISORY COMMITTEE

Sec. 2-168. - Duty as advisory committee.

The committee shall act only as an advisory body and provide recommendations to the city council, and shall perform the following functions:

- (1) Receive and review applications from businesses and individuals requesting funds for projects that are eligible for hotel motel tax funds;
- (2) Prioritize the requests for such funds and projects and advise the city council regarding the committee's recommendations;
- (3) Assist city with oversight of projects and agencies that receive funds and verify that such funds are being used in accordance with state law requirements;
- (4) Report to city council on a quarterly basis regarding the activities of the committee and the agencies and the projects that have received funds;
- (5) Develop a planning calendar, procedure for evaluation and evaluation criteria to be used when recommending and prioritizing agencies and projects for hotel motel tax funds;
- (6) Recommend advertising and marketing strategies for the city council to consider and assist the city with oversight of any contracts for advertising and marketing approved by the city council;
- (7) Any other function or duty directed by the city council in regards to the hotel motel advisory committee.

(Ord. No. 2009-O-09C, § II(2-206), 9-14-2009)

Sec. 2-169. - Meetings.

The committee shall meet no less than once every quarter, or as needed or as requested by the city manager or city council.

(Ord. No. 2009-O-09C, § II(2-207), 9-14-2009)

Sec. 2-170. - Rules and bylaws.

The committee may adopt rules and regulations for the government of their own proceedings, and to carry out the purposes for which the committee is created, not inconsistent with state law, the Charter, this chapter and ordinances of the city.

(Ord. No. 2009-O-09C, § II(2-208), 9-14-2009)

Secs. 2-171—2-175. - Reserved.

FOOTNOTE(S):

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Editor's note— Section II of Ord. No. 2009-O-09C, adopted Sept. 14, 2009, enacted provisions designated as §§ 2-200—2-208. Inasmuch as those sections already exist, to avoid duplication, said provisions have been redesignated as §§ 2-162—2-170. The original ordinance designations have been retained in the history note to each section. ([Back](#))

June 21, 2016

7. REGULAR AGENDA

(d) Discussion regarding Rules of Procedure and Order of Business Policy for the City Council. ***Mike Hodge, City Manager***

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



Council Agenda Item Cover Memo
June 21, 2016

Agenda Item No.: 7(d)
Presenter: Mike Hodge, City Manager
Department: Administration
Legal Review:

AGENDA CAPTION

Discussion regarding Rules of Procedure and Order of Business Policy for the City Council.

BACKGROUND INFORMATION

Currently we do not have a policy for Council Rules of Procedure and Order of Business.

Staff has drafted the attached Rules of Procedure and Order of Business policy which represents an effort to clarify unwritten policies and to streamline the agenda process.

This policy is intended to supplement the existing Code of Ordinances and City Charter by addressing areas either unclear or not addressed at all. The policy provides guidelines for the Council and those in attendance at the meetings of the City Council.

This item is for review and discussion only. The policy will be placed on a future agenda for approval. After approval by Council please note that the procedures can be modified from time to time by the City Council.

CITY OF MARBLE FALLS
CITY COUNCIL
RULES OF PROCEDURE and ORDER OF BUSINESS

PROLOGUE

These rules and procedures represent an effort to clarify unwritten policies, to expedite matters needing Council attention and to streamline agendas. They are intended to supplement state law, the existing Code of Ordinances and the City Charter by addressing areas either left unclear or not addressed at all. Unlike State Law, these rules and procedures can be modified to fit the needs of the City Council. It is the purpose of this document to present guidelines for the maintenance of decorum and presentation of a favorable impression to the public and press in attendance at the meetings of the City Council.

1. AUTHORITY

- 1.1 Charter.** The City Charter of Marble Falls, Texas provides in Article 3, Section 3.11 that “The Council shall determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.” Thus, the following set of rules shall be in effect upon their adoption by the Council, and until such time as they are amended or new rules adopted in the manner provided by these rules.

2. GENERAL RULES

- 2.1 Meetings to be Public.** All meetings of the Council shall be open to the public except as may be authorized by law and shall be held at the Marble Falls City Hall or other places which will permit the attendance of the general public.
- 2.2 Quorum.** A quorum of the City Council, as defined by State Law, is necessary before the commencement of any meeting of the City Council.
- 2.3 Minutes.** An account of all proceedings of the Council shall be kept by the City Secretary and shall be entered in a book constituting the official record of the Council.
- 2.4 Right of Floor.** Any member desiring to speak shall be recognized by the Mayor and shall confine his or her remarks to one subject under consideration or to be considered.
- 2.5 City Manager.** The City Manager shall attend all meetings of the Council unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in all discussions of the Council, but shall have no vote.
- 2.6 City Attorney.** The City Attorney or his/her official designee shall attend all meetings of the Council unless excused and shall, upon request, give an opinion, either written or oral, on questions of the law. The City Attorney shall act as the Council’s parliamentarian.
- 2.7 City Secretary.** The City Secretary or his/her designee shall attend all meetings of the Council unless excused and shall keep the official minutes and perform such other duties as may be requested by Council.

- 2.8 **Officers and Employees.** Department Heads of the City, when there is pertinent business from their departments on the Council agenda, shall attend such Council meetings. Department Heads are encouraged to attend all meetings of the City Council as information or their expertise may be required.
- 2.9 **Rules of Order.** “*Roberts Rules of Order Newly Revised*” shall govern the proceedings of the Council in all cases, unless they are in conflict with these rules.

3. **TYPES OF MEETINGS**

- 3.1 **Regular Meetings.** The City Council shall meet in regular session on each first and third Tuesday in each calendar month beginning at 6:00 pm. The City Council, by motion, according to Section 3.09 of the Charter, may forego one (1) regular meeting in a month if it determines that matters requiring Council consideration or action can be sufficiently addressed in one (1) regular meeting in that month. If a meeting falls on a holiday, it is automatically rescheduled for the following day, unless rescheduled by the City Council.
- 3.2 **Special Meetings.** Calling special meetings is governed by Section 3.09 of the Charter which currently provides: “Special meetings may be called by the City Secretary at the request of the Mayor or two (2) members of the Council. The City Manager shall be notified of all special meetings.”

The request for a special meeting shall be filed with the City Secretary or by announcement at any regular meeting at which a majority of the members are present. The request for a special meeting shall specify the day, the hour, and the location of the special meeting and shall list the subject or subjects to be considered. No special meeting shall be held until at least seventy-two (72) hours after the request. No item will be placed on the agenda unless submitted to the City Manager at least twenty-four (24) hours prior to the posting of the meeting agenda.

- 3.3 **Recessed Meetings.** Any meeting of the Council may be recessed by the Mayor for brief periods up to 30 minutes or as otherwise allowed by State Law.
- 3.4 **Emergency Meetings.** The City Council may hold meetings dealing with emergency conditions as provided by State Law.
- 3.5 **Work Sessions.** The Council may meet informally in Work Session (open to the public), at the call of the Mayor or of a majority of the Council, to review forthcoming programs of the City, receive progress reports on current programs or projects, or receive other similar information from the City Manager provided that all discussions and conclusions thereon shall be informal. On-site inspections of project sites and facilities by individual Councilmembers are strongly encouraged. In most cases, public comment will not be considered nor will Council take action on matters discussed at a workshop.
- 3.6 **Executive Sessions.** Executive Sessions or closed meetings may be held in accordance with the provisions of State Law. The presiding officer is authorized to recess an item

being considered on the agenda for executive session discussion in accordance with State Law.

- 3.7 Attendance of Media at Council Meetings.** All meetings of the City Council shall be open to the media, subject to recording by radio, televisions and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings. Exceptions to this rule will apply to executive sessions which are held in accordance with State Law.

4. CONDUCT OF MEETINGS

- 4.1 Presiding Officer.** The Mayor, if present, shall preside at all meetings of the City Council and enforce these rules and procedures during a meeting. In the absence of the Mayor, the Mayor Pro-Tem shall preside. In the absence of both the Mayor and the Mayor Pro-Tem, the Council shall elect a presiding officer. The presiding officer shall make decisions on questions of procedure subject to review respectively by the City Council as a whole. Following a decision of the presiding officer on a question of procedure, any two (2) Councilmembers may be entitled to appeal the decision to the City Council as a whole by the making and the seconding of a motion of appeal. Once made, the appeal must be approved by an affirmative vote of a majority of the Councilmembers.
- 4.2 Call to Order.** The meetings of the Council shall be called to order by the presiding officer. In the absence of both the Mayor and Mayor Pro-Tem, the meeting shall be called to order by the City Secretary for the election of a temporary presiding officer.
- 4.3 Preservation of Order.** The presiding officer shall preserve order and decorum, prevent attacks on personalities or the impugning of Councilmembers' to occur and confine Councilmembers in debate to the question under discussion. The presiding officer shall request all speakers to keep comments brief and relevant to the question before Council.
- 4.4 Points of Order.** The presiding officer shall determine all points of order, subject to the right of any Councilmember to appeal to the City Council as set out in 4.1 above.
- 4.5 Motions to be Stated.** The presiding officer shall re-state a motion being considered prior to the vote, and announce the results.
- 4.6 Voting Required.** Each member of the Council present shall vote on every action taken by Council unless the action involves the member's own conduct or presents a possible conflict of interest.
- 4.7 Conflict of Interest.** A City Councilmember prevented from voting by a conflict of interest, shall step down from the dais, shall not vote on the matter, shall not participate in discussions regarding the matter or attempt to influence Council's deliberation of the matter in any way, shall not attend executive sessions regarding the matter, and shall otherwise comply with the state law and City ordinances concerning conflicts of interest including Chapter 171 and Chapter 176 of the Local Government Code and the City's Ethics Ordinance.

- 4.8 Amendments to the Minutes.** Amendments to the minutes are made by a motion during the item to consider approval of the minutes. The minutes provide the action taken by City Council. If a Councilmember desires that certain information be included in the minutes, the Councilmember shall indicate by stating, “For the record”, prior to presenting the information. If it is a lengthy statement, a written copy shall be provided to the Secretary.
- 4.9 Presiding Officer’s Right to Speak Last.** The presiding officer has the right to speak last on any item.
- 4.10 Closing Debate or Discussion.** Debate or discussion shall be closed on any item by the presiding officer with the concurrence of a majority of the Council present or by a Motion and second to “Call the Question”. Debate on a Motion to Call the Question will not be allowed and if approved by a majority vote of the Council will end the debate and discussion on the item being discussed. However, a call for the vote from the presiding officer shall not close discussion if any member of the Council still wishes to be heard or the presiding officer determines the continued participation of others will be helpful to the Council.

5. COUNCIL ACTION

- 5.1 Motion Required.** All action requiring a vote shall be moved and seconded by a member of the Council but not the Mayor.
- 5.2 Separate Consideration.** Except as otherwise required by these rules each agenda item shall be voted upon separately and each separate vote shall be recorded by the City Secretary.
- 5.3 Action on Consent Agenda.** Except as herein provided, the “Consent Agenda” shall be considered as a group (without separate discussion on each item). When the Consent Agenda is introduced, each Councilmember has the right to remove any item, in which case the item is handled under 7.2. After items are removed, the presiding officer shall ask the members to indicate their votes on the remaining Consent Agenda items.
- 5.4 Consideration Out of Order.** The presiding officer may call for an item on the agenda to be considered out of order,
- 5.5 Recording Names of Moving Members.** The City Secretary shall record the name of the Councilmember making each motion and seconding each motion.
- 5.6 Reconsideration of an Item.** The presiding officer or a councilmember may call for an item that has already been voted on to be reconsidered in the event that an error occurred in the consideration of the item or in the event reconsideration is necessary to allow public participation that was not previously considered. A motion to reconsider shall be made and seconded and if approved by a majority of the Council, the agenda item may be reopened for discussion and a subsequent vote. If the subsequent vote differs from the previous vote on the item, the subsequent vote shall represent final disposition of the item. Reconsideration is only available at the same meeting in which the matter was considered.

6. CITIZEN PARTICIPATION

- 6.1 Public Participation.** Comments and suggestions by the public are highly valued and encouraged during those parts of a meeting designated for public participation or public hearings. Persons addressing the Council shall complete a Registration Card prior to the Call to Order and present it to the City Secretary. Speakers should direct all remarks and questions to the Council. The presiding officer may refer a matter for investigation, response or other action. Public comments by a speaker relating to a non-agenda item shall be heard in conjunction with Citizen Comments. For comments relating to an agenda item, the speaker shall provide comments at the time that the subject agenda item is considered. The Mayor may request a staff report or comments on an agenda item before calling for public comments. The “Texas Open Meetings Act” requires the City to post a notice, in advance, listing every topic or subject to be considered by the Council. This law may prevent the Council from considering a subject raised by a member of the public during Citizen Comment or related to matters not posted as part of the agenda. In this case, the presiding officer may refer the matter, and the Council may direct that the matter be placed on the agenda for an upcoming meeting.
- 6.2 Manner of Addressing Council – Time Limit.** Each person addressing the Council shall step up to the microphone, shall give his/her name and address for the record. Individual citizen presentations shall be limited to three (3) minutes. The presiding officer, at his/her discretion, may reasonably extend these limits. All remarks shall be addressed to the Council as a body, and not to any member thereof or to another member of the public. No person, other than members of the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked of the Councilmembers, except through the presiding officer.
- 6.3 Remarks to be Germane.** Public comments must be kept relevant to the subject before the Council. The presiding officer shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Council during the meeting.

7. ORDER OF BUSINESS AND AGENDA

- 7.1 Order of Business.** The general rule as to the order of business in regular meetings shall be as follows:

AGENDA OF THE CITY COUNCIL

1. Call to Order and Announce Quorum is Present
2. Invocation

3. Pledges
4. Updates, Presentations and Recognitions
5. Citizen Comments
6. Consent Agenda
7. Regular Agenda
8. City Manager's Report
9. Executive Session
10. Reconvene into Open Session for Possible Action
11. Announcements and Future Agenda Items
12. Adjournment

- 7.2 Preparation of Agenda; Requests.** As a general rule the City Manager creates each City Council agenda in consultation with the Mayor. The City Secretary prepares, posts and distributes notices of meetings and assembles the agenda packet. The City Manager is responsible for approving each agenda packet before posting. The City Manager must place a subject on the agenda if the subject is requested by the Mayor or by two or more Councilmembers.
- 7.3 Consent Agenda.** In preparing an agenda the City Manager shall give consideration to the number and degree of complexity of items to be considered by the City Council for the purpose of conserving the City Council's time in meetings. Items which are anticipated to be routine and require no discussion by the City Council shall be listed under the agenda category "Consent Agenda". Prior to taking up the Consent Agenda, the presiding officer shall determine if there are any items thereon which should be removed from the Consent Agenda for discussion. Any Councilmember may, upon request, remove any item from the Consent Agenda for discussion and separate action. Thereafter, all remaining Consent Agenda items may be acted upon by a single motion approving the Consent Agenda. Items removed from the Consent Agenda shall be considered on Regular Agenda.
- 7.4 Agenda Deadlines.** All requests to place a subject on the agenda must be in writing, which shall include e-mail and provided to the City Secretary or City Manager by noon on the Thursday prior to next Council meeting. The agenda and agenda packet shall be available to members of the Council not later than Thursday prior to a regular City Council meeting.
- 7.5 Agenda Posting.** The City Secretary shall post notices of all City Council meetings in compliance with the Texas Open Meetings Act.
- 7.6 Requests to Include or Exclude Items.** Each request to include or exclude an agenda item shall be forwarded to all members of the Council at the time the request is submitted to the City Secretary. When a Councilmember will be absent from a meeting, the Councilmember may request that an item not be included.

- 7.7 Staff Withdrawal of Items.** The City Manager may withdraw an item on the agenda prior to the agenda posting deadline if the matter was placed on the agenda by the City Manager.
- 7.8 Council Action to Defer, Continue or Not Act.** A Councilmember wishing to withdraw, defer or continue an item may make a motion to that effect. Such a motion shall be considered before any other action on that item.

8. CONFIDENTIALITY

Executive Session or Confidential Matters. All matters discussed in Executive Session, as authorized by the Texas Open Meetings Act, or which may otherwise be confidential shall not be discussed or disclosed to third parties not authorized to receive such information. It shall be the policy of the City Council that the Mayor, individual Councilmembers, City Manager, City Attorney, City Secretary and others who are authorized to attend Executive Sessions shall not make selective disclosure of confidential matters where the information has not been released to the general public. The presiding officer may be authorized, or may authorize the City Manager or the City Attorney, to issue a statement regarding confidential matters upon approval of same by the City Council.

9. SUSPENSION AND AMENDMENT OF THESE RULES

- 9.1 Suspension of these Rules.** Any provision of these rules not governed by the City Charter or City Code may be temporarily suspended for a specific purpose, or any single meeting, by a vote of a majority of the Councilmembers present.
- 9.2 Amendment of these Rules.** These rules may be amended, or new rules adopted, by a majority vote of the Councilmembers present, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting.
- 9.3 Conflicts with Ordinances/Laws.** To the extent there exists a conflict between these procedures and State Law or the City's Charter or Code of Ordinances, State Law, the Charter or Code of Ordinances, as applicable, shall govern.



**City of Marble Falls, Texas
Council Agenda Item Cover Memo
June 21, 2016**

**Agenda Item: Executive Session
Prepared By: Christina McDonald, City Secretary
Department: Administration
Submitted By: Christina McDonald, City Secretary**

AGENDA CAPTION

EXECUTIVE SESSION

Pursuant to §551.074 (*Deliberation Regarding the Appointment, Employment, Employment Evaluation, Reassignment, Duties, discipline or Dismissal of a Public Officer or Employee or to Hear a Complaint or Charge Against an Officer or Employee*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- **City Manager Annual Evaluation**

CERTIFICATION:

I hereby certify that I have reviewed the proposed topic for the Executive Session described herein and in my opinion, the Texas Open Meetings Act authorizes the Marble Falls City Council to meet in Executive Session and to deliberate regarding the subject matter contained in this cover memo.

Signed this _____ day of _____, 2016.

City Attorney