

**KERRVILLE CITY COUNCIL AGENDA**  
**REGULAR MEETING, TUESDAY, SEPTEMBER 22, 2015, 6:00 P.M.**  
**CITY HALL COUNCIL CHAMBERS**  
**701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER**

**INVOCATION:** by Reverend Allen Noah, Pastor of Barnett Chapel, United Methodist Church.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Those in attendance may stand if they wish.

**1. VISITORS/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers will be limited to the first ten speakers and each speaker is limited to four minutes.

**2. PRESENTATIONS:**

2A. Resolutions of Commendation presented to James Howard and Jeffrey Mitchel for serving on the Golf Course Advisory Board.

2B. Resolution of Commendation presented to Robert Irvin for serving on the Zoning Board of Adjustment.

**3. CONSENT AGENDA:**

These items are considered routine and can be approved in one motion unless a councilmember asks for separate consideration of an item. It is recommended that City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

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The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time: September 18, 2015 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

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Todd Parton  
City Manager, City of Kerrville, Texas

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3A. Resolution No. 27-2015 A resolution supporting the adoption of Proposition 7 at the November General Election as upon passage, Proposition 7 will provide a new, stable source of funding for the construction and maintenance of Texas roads as a way of improving transportation in this state. (Pratt)

3B. Resolution No. 28-2015 A resolution supporting the adoption of Proposition 6 at the November General Election which will affirm the right of Texans to hunt, fish, and harvest wildlife by the use of traditional methods. (Pratt)

3C. Resolution No. 29-2015 A resolution opposing newly proposed regulations by the Environmental Protection Agency regarding ground-level ozone which lowers current standards despite the 50% reduction in ozone emissions since 1980 and recognizing that the regulations are projected to be the most costly in this agency's history. (Pratt)

3D. Resolution No. 30-2015 A resolution opposing the new clean water rules adopted by the Environmental Protection Agency as such rules exceed the agency's authority under the Constitution and the Clean Water Act. (Pratt)

#### **END OF CONSENT AGENDA**

#### **4. ORDINANCE, SECOND AND FINAL READING:**

4A. Ordinance No. 2015-20, adopting the annual budget for the City of Kerrville, Texas, fiscal year 2016; providing appropriations for each city department and fund; containing a cumulative clause; and containing a savings and severability clause. (staff)

4B. Ordinance No. 2015-21, levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2016; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid. (staff)

Approximately 6:15 p.m.

#### **5. CITY COUNCIL RECESS**

THE CITY COUNCIL WILL RECESS THE REGULAR MEETING TO CONVENE A MEETING OF THE HEALTH FACILITIES DEVELOPMENT CORPORATION (see separate posted agenda)

THE KERRVILLE CITY COUNCIL WILL RECONVENE INTO REGULAR SESSION FOLLOWING THE MEETING OF THE HEALTH FACILITIES DEVELOPMENT CORPORATION.

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Todd Parton  
City Manager, City of Kerrville, Texas

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**6. CONSIDERATION AND POSSIBLE ACTION:**

6A. Resolution No. 26-2015, providing for the city's approval or disapproval of the Kerr Central Appraisal District's purchase of land on Oak Hollow Drive for the future construction of an office building. (KCAD)

6B. Approval of public art project, "Guadalupe Bass", in an amount not to exceed \$10,000 to be paid through fundraising efforts of the Main Street Advisory Board, Mardi Gras on Main project. (staff)

6C. Resolution No. 23-2015 authorizing amendments to the Procedural Rules for Kerrville City Boards. (staff)

6D. Direction to city staff to initiate the process to create an industrial development corporation to provide tax-exempt or taxable financing for eligible industrial or manufacturing projects. (staff)

**7. INFORMATION AND DISCUSSION:**

7A. Budget/economic update. (staff)

**8. APPOINTMENTS TO CITY BOARDS AND COMMISSIONS:**

8A. Golf Course Advisory Board. (staff)

8B. Zoning Board of Adjustment. (staff)

**9. ITEMS FOR FUTURE AGENDA**

**10. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.

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Todd Parton  
City Manager, City of Kerrville, Texas

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**11. EXECUTIVE SESSION:**

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code, including the following matters:

**11A. Sections 551.071 and 551.072:**

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following:

- River trail

**Sections 551.071 and 551.087:**

Discuss the economic development negotiations for a business prospect(s), the public discussion of which would not be in the best interests of the City Council's bargaining position with third parties.

**12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

**13. ADJOURNMENT.**

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Todd Parton  
City Manager, City of Kerrville, Texas

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## **Agenda Item:**

2A. Resolutions of Commendation presented to James Howard and Jeffrey Mitchel for serving on the Golf Course Advisory Board.



## City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

### RESOLUTION OF COMMENDATION

**WHEREAS, JAMES HOWARD** has served as a member of the Golf Course Advisory Board with the date of service beginning August 24, 2010; and

**WHEREAS, JAMES HOWARD** has served faithfully and dutifully on said board;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

That **JAMES HOWARD** be recognized for outstanding service as a member of the Golf Course Advisory Board, and that on behalf of the citizens of Kerrville, as well as for ourselves individually, we wish to express our sincere appreciation for contributions to the city and the community.

PASSED AND APPROVED, this the 22<sup>nd</sup> day of September, 2015.

ATTEST:

Brenda G. Craig  
Brenda G. Craig, City Secretary



Jack Pratt, Jr.

Jack Pratt, Jr., Mayor

Gary Stork

Gary Stork, Mayor Pro Tem

Stephen P. Fine

Stephen P. Fine, Councilmember

Bonnie White

Bonnie White, Councilmember

Gene Allen

Gene Allen, Councilmember



## City of Kerrville

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### RESOLUTION OF COMMENDATION

**WHEREAS, JEFFREY MITCHEL** has served as a member of the Golf Course Advisory Board with the date of service beginning July 9, 2013; and

**WHEREAS, JEFFREY MITCHEL** has served faithfully and dutifully on said board;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

That **JEFFREY MITCHEL** be recognized for outstanding service as a member of the Golf Course Advisory Board, and that on behalf of the citizens of Kerrville, as well as for ourselves individually, we wish to express our sincere appreciation for contributions to the city and the community.

PASSED AND APPROVED, this the 22<sup>nd</sup> day of September, 2015.

ATTEST:

Brenda G. Craig  
Brenda G. Craig, City Secretary



Jack Pratt, Jr.  
Jack Pratt, Jr., Mayor

Gary Stork  
Gary Stork, Mayor Pro Tem

Stephen P. Fine  
Stephen P. Fine, Councilmember

Bonnie White  
Bonnie White, Councilmember

Gene Allen  
Gene Allen, Councilmember

## **Agenda Item:**

2B. Resolution of Commendation presented to Robert Irvin for serving on the Zoning Board of Adjustment.





## City of Kerrville

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### RESOLUTION OF COMMENDATION

**WHEREAS,** **ROBERT IRVIN** had served as a member of the Zoning Board of Adjustment with the date of service beginning November 24, 2009 as an alternate member, and October 10, 2010 as a regular member; and

**WHEREAS,** **ROBERT IRVIN** had served faithfully and dutifully on said board;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

That **ROBERT IRVIN** be recognized for outstanding service as a member of the Zoning Board of Adjustment, and that on behalf of the citizens of Kerrville, as well as for ourselves individually, we wish to express our sincere appreciation for contributions to the city and the community.

PASSED AND APPROVED, this the 22<sup>nd</sup> day of September, 2015.

ATTEST:

Brenda G. Craig  
Brenda G. Craig, City Secretary



Jack Pratt, Jr.  
Jack Pratt, Jr., Mayor

Gary Stork  
Gary Stork, Mayor Pro Tem

Stephen P. Fine  
Stephen P. Fine, Councilmember

Bonnie White  
Bonnie White, Councilmember

Gene Allen  
Gene Allen, Councilmember

## **Agenda Item:**

3A. Resolution No. 27-2015 A resolution supporting the adoption of Proposition 7 at the November General Election as upon passage, Proposition 7 will provide a new, stable source of funding for the construction and maintenance of Texas roads as a way of improving transportation in this state. (Pratt)

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Resolution No. 27-2015 to support Proposition 7, the Texas Sales and Use Tax Revenue for Transportation Amendment, which is to be placed on the State of Texas ballot for November 3, 2015

**FOR AGENDA OF:** Sep. 22, 2015      **DATE SUBMITTED:** Sep. 16, 2015

**SUBMITTED BY:** Jack Pratt, Jr.      **CLEARANCES:** Todd Parton  
Mayor      City Manager

**EXHIBITS:** Resolution No. 27-2015

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

**SUMMARY STATEMENT**

The next state-wide election will be held on Tuesday, November 3, 2015. The ballot will include Proposition 7, which is a Texas constitutional amendment to dedicate annual revenue from Texas' sales and use tax for the State Highway Fund. If approved by the voters, these allocations would be made annually from September 1, 2017, through September 1, 2032. The amendment would dedicate an estimated \$2.5 billion to the fund. From 2017 through 2029 35% of the sales and use tax revenues on motor vehicles exceeding \$5 billion would be dedicated to the fund on an annual basis. Allocated funds would be restricted to the construction and maintenance of non-tolled roadways, the purchase of rights-of-way, and the payment of the state's bond debt.

Additionally, Proposition 7 would provide for the Texas Legislature to reduce the amount of sales and use tax allocations to the fund by a two-thirds vote of the legislators. The legislature would also be allowed to extend the revenue allocations beyond 2029 for 10-year periods by a simple majority vote of the legislators.

**RECOMMENDED ACTION**

I recommend that the City Council approve Resolution No. 27-2015 as presented.



**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 27-2015**

**A RESOLUTION SUPPORTING THE ADOPTION OF  
PROPOSITION 7 AT THE NOVEMBER GENERAL ELECTION  
AS UPON PASSAGE, PROPOSITION 7 WILL PROVIDE A NEW,  
STABLE SOURCE OF FUNDING FOR THE CONSTRUCTION  
AND MAINTENANCE OF TEXAS ROADS AS A WAY OF  
IMPROVING TRANSPORTATION IN THIS STATE**

**WHEREAS**, City Council recognizes that the purpose of Proposition 7 is to provide a new, stable source of funding for transportation in Texas, such funding to be dedicated to the construction and maintenance of Texas roads; and

**WHEREAS**, City Council recognizes that upon passage, Proposition 7 will dedicate a portion of the general sales and use tax and the motor vehicle sales tax to the state's general highway fund; and

**WHEREAS**, City Council also recognizes voting "yes" to Proposition 7 will not raise taxes for Texas residents; and

**WHEREAS**, City Council understands that upon passage, the state will deposit \$2.5 billion into the state highway fund from state sales tax revenues above the first \$28 billion dollars each year, plus 35% of the net revenue derived from the motor vehicle sales and rental tax above the first \$5 billion dollars; and

**WHEREAS**, City Council supports that this funding may not be used to pay for toll roads; and

**WHEREAS**, in fact, the money deposited into the state highway fund may only be used for the construction, maintenance, and acquiring right-of-ways for public roads or to repay the principal and interest on general obligation bonds issued by the Texas Department of Transportation;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

Pursuant to Proposition 7's proposed set up and use, City Council urges Texas voters to approve its passage at the November 2015 general election.

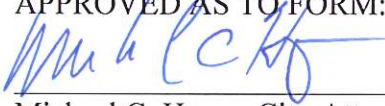
**PASSED AND APPROVED ON this the \_\_\_\_ day of \_\_\_\_\_ A.D., 2015.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney



## **Agenda Item:**

3B. Resolution No. 28-2015 A resolution supporting the adoption of Proposition 6 at the November General Election which will affirm the right of Texans to hunt, fish, and harvest wildlife by the use of traditional methods. (Pratt)

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 28-2015 to support Proposition 6, the Texas Right to Hunt, Fish and Harvest Amendment, which is to be placed on the State of Texas ballot for November 3, 2015

**FOR AGENDA OF:** Sep. 22, 2015      **DATE SUBMITTED:** Sep. 16, 2015

**SUBMITTED BY:** Jack Pratt, Jr.      **CLEARANCES:** Todd Parton  
Mayor      City Manager

**EXHIBITS:** Resolution No. 28-2015

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
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<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

The Texas ballot on Tuesday, November 3, 2015, will include Proposition 6, where voters will consider a constitutional amendment on the right to hunt, fish, and harvest wildlife. Passage of Proposition 6 would establish that hunting, fishing and harvesting wildlife by traditional means as a constitutional right in the State of Texas. Proposition 6 would also specify that hunting and fishing are the preferred methods of managing and controlling wildlife.

This amendment would help to protect the hunting and fishing industry from well-funded efforts to curtail hunting and fishing activities by animal rights and anti-hunting organizations. Hunting is one of Kerrville and Kerr County's primary industries and the passage of Proposition 6 would help to ensure the stability of the local and regional economy.

**RECOMMENDED ACTION**

I recommend that the City Council approve Resolution No. 28-2015 as presented.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 28-2015**

**A RESOLUTION SUPPORTING THE ADOPTION OF  
PROPOSITION 6 AT THE NOVEMBER GENERAL ELECTION  
WHICH WILL AFFIRM THE RIGHT OF TEXANS TO HUNT,  
FISH, AND HARVEST WILDLIFE BY THE USE OF  
TRADITIONAL METHODS**

**WHEREAS**, Proposition 6, which will be voted on at the November general election, is a constitutional amendment recognizing the right of the people to hunt, fish, and harvest wildlife subject to laws that promote wildlife conservation; and

**WHEREAS**, the measure also designates hunting and fishing as the “preferred methods of managing and controlling wildlife”; and

**WHEREAS**, City Council recognizes that the right to hunt, fish, and harvest does not affect current laws related to hunting and fishing, trespass, eminent domain, or property rights, nor does the right affect the ability of the Texas Parks & Wildlife Department to regulate hunting and fishing in Texas or to regulate firearm discharge in populated areas; and

**WHEREAS**, City Council also recognizes that by voting “yes” on Proposition 6, Texas will become the 19<sup>th</sup> state to enact a constitutional right to hunt and fish, and the eighth state to do so within the past six years; and

**WHEREAS**, City Council believes that the adoption of this constitutional amendment will safeguard the hunters and anglers of Texas from extreme animal rights groups dedicated to abolishing America’s outdoor tradition and that this important constitutional safeguard will protect wildlife and promote conservation;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

City Council urges Texas voters to approve Proposition 6 at the November 2015 general election.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D.,  
2015.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

3C. Resolution No. 29-2015 A resolution opposing newly proposed regulations by the Environmental Protection Agency regarding ground-level ozone which lowers current standards despite the 50% reduction in ozone emissions since 1980 and recognizing that the regulations are projected to be the most costly in this agency's history. (Pratt)



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 29-2015 to oppose any and all United States Environmental Protection Agency legislation, rulemaking or other changes to the current standards for ground-level ozone

**FOR AGENDA OF:** Sep. 22, 2015      **DATE SUBMITTED:** Sep. 16, 2015

**SUBMITTED BY:** Jack Pratt, Jr.      **CLEARANCES:** Todd Parton  
Mayor      City Manager

**EXHIBITS:** Resolution No. 29-2015

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

The United States Environmental Protection Agency (EPA) has proposed changes to their rules on the National Ambient Air Quality Standards for Ozone. EPA has proposed to lower its standard for non-attainment from 75 parts per billion (ppb) to 65-70 ppb. The current standard of 75 ppb was set in 2008.

Adoption of this rule amendment would mean that many areas currently designated as attainment areas would be reclassified as non-attainment. EPA would designate areas as attainment or non-attainment by October 2017, using air quality data collected from 2014 through 2016. For areas classified as non-attainment, the state would be required to submit to the EPA a state implementation plan for how it would reduce ozone levels to reach attainment between 2020 and 2037. State or local authorities would be responsible for implementing the plan and demonstrating that progress is being made in the non-attainment area.

EPA estimates that, nationwide, it would cost \$3.9 billion in 2025 to meet the standards at 70 ppb and \$15 billion in 2025 at 65 ppb.

These rules changes are being contemplated even though research has shown that ozone emissions have been cut in half since 1980. The National League of Cities has provided testimony to EPA against the proposed rules changes and has urged that their approval be delayed until such time that the rules implemented in 2008 be fully implemented.

Additionally, the National League of Cities urged the House Transportation and Infrastructure Committee to find a sustainable funding source for a new federal transportation program that would give more control to local and regional authorities.

**RECOMMENDED ACTION**

I recommend that the City Council approve Resolution No. 29-2015 as presented.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 29-2015**

**A RESOLUTION OPPOSING NEWLY PROPOSED REGULATIONS  
BY THE ENVIRONMENTAL PROTECTION AGENCY  
REGARDING GROUND-LEVEL OZONE WHICH LOWERS  
CURRENT STANDARDS DESPITE THE 50% REDUCTION IN  
OZONE EMISSIONS SINCE 1980 AND RECOGNIZING THAT THE  
REGULATIONS ARE PROJECTED TO BE THE MOST COSTLY IN  
THIS AGENCY'S HISTORY**

**WHEREAS**, the Environmental Protection Agency ("EPA") is attempting to finalize new regulations on ground-level ozone that will lower current standards despite the fact that ozone emissions have been cut in half since 1980; and

**WHEREAS**, the new regulations are projected to result in the most costly impact in EPA's history as they are estimated to reduce the value of the national gross domestic product by \$140 billion annually and eliminate 1.4 million jobs; and

**WHEREAS**, City Council believes that should the EPA adopt the new regulations, severe repercussions will occur almost immediately from non-attainment designations, resulting in increased costs to industry, permitting delays, restrictions on expansion, as well as impacts to transportation planning; and

**WHEREAS**, City Council believes there will be a number of significant adverse consequences to being designated a non-attainment area, which will make it substantially harder for a community to attract new business or expanded existing facilities;

**NOT THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** For the reasons cited above, City Council opposes the EPA's proposed regulations regarding ground-level ozone.

**SECTION TWO.** The City Council authorizes the Mayor to forward this Resolution to its elected federal and state representatives and urges them to take whatever action is necessary to block the adoption and/or implementation of the EPA's proposed ground-level ozone regulations.

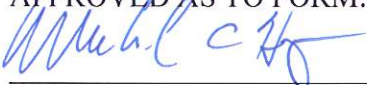
**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2015.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

3D. Resolution No. 30-2015 A resolution opposing the new clean water rules adopted by the Environmental Protection Agency as such rules exceed the agency's authority under the Constitution and the Clean Water Act. (Pratt)



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Resolution No. 30-2015 to oppose the new definition of Waters of the United States established by the United States Environmental Protection Agency because it goes beyond the authority granted by the United States Constitution and violates the 10<sup>th</sup> Amendment

**FOR AGENDA OF:** Sep. 22, 2015      **DATE SUBMITTED:** Sep. 16, 2015

**SUBMITTED BY:** Jack Pratt, Jr.  
Mayor

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Resolution No. 30-2015  
National League of Cities Analysis of Rule Change

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
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<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

The United States Environmental Protection Agency (EPA) has published a new definition for Waters of the United States (WOTUS). Under the new definition, WOTUS means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. The territorial seas;
4. All impoundments of water otherwise identified as waters of the United States;
5. All "tributaries" of waters identified in 1-3 above;
6. All waters "adjacent" to a water identified in 1-5 above, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;
7. Water included Prairie potholes, Caroline bays and Delmarva bays, Pocosins, Western vernal pools, and Texas coastal prairie wetlands where it is determined, on a case-by-case basis, to have a "significant nexus" to a water identified in 103 above;
8. All waters located within the 100-year floodplain of a water identified in 1-3 above and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in 105 above where they are determined on a case-specific basis to have a significant nexus to a water in 1-3 above.

The final rule includes definitions of "tributary," "adjacent," and "significant nexus," among others. This new definition of WOTUS has the potential to significantly expand the number of waterbodies that are federally regulated under the Clean Waters Act (CWA).

The rule does provide for certain exceptions or exemptions for stormwater management infrastructure. It also provides exemptions for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling. This would appear to exempt projects like Kerrville's proposed effluent reuse and direct potable reuse projects.

The National League of Cities has reviewed and analyzed this proposed rule change. Attached is a chart showing their analysis and conclusions.

#### **RECOMMENDED ACTION**

I recommend that the City Council approve Resolution No. 30-2015 as presented.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 30-2015**

**A RESOLUTION OPPOSING THE NEW CLEAN WATER RULES  
ADOPTED BY THE ENVIRONMENTAL PROTECTION AGENCY AS  
SUCH RULES EXCEED THE AGENCY'S AUTHORITY UNDER THE  
CONSTITUTION AND THE CLEAN WATER ACT**

**WHEREAS**, the Environmental Protection Agency ("EPA") recently finalized the adoption of the "Clean Water Rule", which, in part, adopted a new definition for "waters of the United States" that City Council, among others, believes exceed the authority of the EPA under both the Constitution and the Clean Water Act; and

**WHEREAS**, City Council believes this federal agency has overreached with respect to its authority and has in turn, violated the 10<sup>th</sup> Amendment with respect to rights reserved for the states; and

**WHEREAS**, City Council finds that the EPA ignored the Regulator Flexibility Act which requires federal agencies to analyze the effects of proposed regulations on small businesses, organizations, and governments; and

**WHEREAS**, City Council also finds that the new rules fail to provide fair notice of what conduct is prohibited by the civil and criminal provisions of the Clean Water Act and grants overly broad enforcement discretion to federal regulators;

**NOT THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** For the reasons cited above, City Council opposes the EPA's newly adopted Clean Water Rules and supports pending litigation against these rules, including the lawsuit brought by the State of Texas.

**SECTION TWO.** The City Council authorizes the Mayor to forward this Resolution to its elected federal and state representatives and urges them to take whatever action is necessary to block the implementation of the EPA's Clear Water Rules.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2015.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary



Preliminary Analysis of EPA's Final "Waters of the U.S." Rule  
*Were NLC's Concerns Addressed?*

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
	<p><b>Process Concerns</b></p> <p>The Regulatory Flexibility Act (RFA) process was not undertaken.</p> <p>The RFA requires agencies to consider the impact of proposed rules on small entities under 50,000, including cities.</p> <p>Based on analysis by cities, we believe the proposed rule will have a significant impact on all local governments, but on small communities particularly.</p>	<p>The agencies continue to assert that "the final rule will not have a significant economic impact on a substantial number of small entities... Because fewer waters will be subject to the CWA under the rule than are subject to regulation under the existing regulations, this action will not affect small entities to a greater degree than the existing regulations."</p>	Does not address our concern.
	<p><b>Intent of Executive Order 13132: Federalism was not met.</b></p> <p>Executive Order 13132 requires agencies to work with state and local governments early and often on regulations that will have substantial direct compliance costs.</p> <p>The agencies determined that the definitional change of "waters of the U.S." imposes only indirect costs and therefore does not</p>	<p>The agencies continue to assert that the rule imposes no direct costs.</p> <p>"This rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."</p>	Does not address our concern.

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
	<p>trigger the Federalism consultation process.</p> <p>At NLC request, the agencies initiated a Federalism consultation process in 2011, but in the 17 months between the initial Federalism consultation and the issuance of the proposed rule, during which time the agencies changed courses several times (guidance vs. rulemaking), the agencies failed to continue meaningful consultation.</p>	<p>“This action does not contain any unfunded mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA)”</p>	
	<p><b>Economic analysis is flawed because it does not include a full analysis of the proposed rule’s impact on all CWA programs beyond the 404 programs.</b></p> <p>The economic analysis does not provide comprehensive review of the actual costs and consequences of the proposed rule on programs such as the National Pollution Discharge Elimination System, total maximum daily load, and water quality standards programs.</p> <p>The data used in the economic analysis is insufficient because it relied on 2009-2010 data of Section 404 permit applications as</p>	<p>“The economic analysis was done for informational purposes only, and the final decisions on the scope of “waters of the United States” in this rulemaking are not based on consideration of the information in the economic analysis.”</p> <p>The analysis for the final rule has been updated using data from fiscal years 2013-2014.</p>	<p>TBD</p>

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
	<p>a basis for examining impacts on other CWA programs.</p> <p>Additionally, 2009-2010 was the height of the recession when development and other types of projects were at an all-time low.</p>		
	<p>The public was not given the opportunity to comment on the final “connectivity” report, incorporating the concerns and questions raised by the EPA Science Advisory Board, in relation to the proposed rule.</p> <p>The EPA Science Advisory Board raised important questions about the scope of connectivity in their review of the “connectivity” report, which need to be addressed before the report can be finalized.</p> <p>The draft “connectivity” report, which was released at the same time as the proposed rule, will serve as the scientific basis of the “waters of the U.S.” rule.</p>	<p>The final “connectivity” report was released in Jan. 2015, after the WOTUS comment period closed.</p>	<p>Does not address our concerns.</p>



Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
<u>Uplands</u> : Undefined	<b>Specific Concerns</b> Key definitions are either broadly defined or not defined, leading to further confusion over what waters fall under federal jurisdiction.  Example: Definitions such as “uplands,” “tributary,” “floodplain,” “significant nexus,” and “neighboring.”  <u>Request</u> : Clarify definitions.	<u>Uplands</u> : Eliminates the term “uplands.”	<u>Uplands</u> : Addresses our concerns.
<p><u>Tributary</u>: All tributaries of a traditional navigable water, interstate water, the territorial seas or impoundments are “waters of the U.S.”</p> <p>First-time definition of “tributary”:</p> <ul style="list-style-type: none"> <li>• A tributary has a bed, bank and ordinary high water mark;</li> <li>• A tributary contributes flow, directly or indirectly, to a WOTUS.</li> </ul> <p>A tributary, including wetlands, can be natural, man-altered, or man-made water and includes waters such as rivers, streams, lakes, ponds, impoundments, canals, and ditches not excluded.</p> <p>A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more</p>		<p><u>Tributary</u>: Unchanged definition except: wetlands and open waters without a bed, banks and an ordinary high water mark will be evaluated for adjacency.</p> <p>A tributary can be natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded.</p> <p>A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break.</p>	<p><u>Tributary</u>: Does not address our concerns.</p> <p>A tributary can be perennial, intermittent or ephemeral.</p> <p>Potential problem for arid and semi-arid areas resulting in more confusion for cities:</p> <ul style="list-style-type: none"> <li>• Banks of tributaries may disappear at times.</li> </ul> <p>Many ditches have a bed, banks and ordinary high water mark and flow, directly or indirectly, to a WOTUS. Such ditches would be classified as a “tributary.”</p>

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
<p>natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break.</p>			
<p><u>Floodplain:</u> Used to identify waters that are adjacent to a WOTUS and therefore subject to federal jurisdiction.</p> <p>“Floodplain” means an area bordering inland or coastal waters that was formed by sediment deposition from such water under present climatic conditions and is inundated during periods of moderate to high water flows.</p> <p>Does not rely on the FEMA floodplain definition, which defines 100 and 500 year floodplains.</p>		<p><u>Floodplain:</u> All waters located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas are “waters of the U.S.”</p> <p>Waters in the 100-year floodplain within 1,500 feet of the ordinary high water mark are jurisdictional.</p> <p>All waters located within 4,000 feet of the high tide line or ordinary high water mark of a traditional navigable water, interstate water, territorial seas, impoundment or tributary are “waters of the U.S.” where they are determined on case-specific basis to have a significant nexus to a traditional navigable water, interstate water, or the territorial seas.</p> <p>For waters determined to have a significant nexus, the entire water is a WOTUS if a portion is</p>	<p><u>Floodplain:</u> Defines “floodplain” using the 100-year FEMA standard. This broad definition has the potential to expand the jurisdictional waters under the CWA and create confusion as to which waters are jurisdictional.</p> <p>Potential problems resulting in more confusion for cities:</p> <ul style="list-style-type: none"> <li>• Not all parts of the country have 100-year floodplain maps;</li> <li>• Some 100-year floodplain maps have not been updated or are not available;</li> <li>• There are discrepancies or inaccuracies in some of the new floodplain maps;</li> <li>• 100-year floodplain maps are constantly changing.</li> </ul>



Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
		located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or within 4,000 feet of the high tide line or ordinary high water mark.	
<p><u>Significant nexus:</u> A water, including wetlands, either alone or in combination with other similarly situated waters in the region (i.e. the watershed that drains to the nearest WOTUS) and significantly affects the chemical, physical, or biological integrity of a WOTUS. For an effect to be significant, it must be more than speculative or insubstantial.</p>		<p><u>Significant nexus:</u> Unchanged definition through “insubstantial.”</p> <p>Adds definition of “in the region”: the watershed that drains to the nearest traditional navigable water, interstate water, or territorial seas.</p> <p>New language relating to function: A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest WOTUS.</p> <p>Functions relevant to the significant nexus evaluation:</p> <ul style="list-style-type: none"> <li>• sediment trapping;</li> <li>• nutrient recycling;</li> <li>• pollutant trapping; transformation, filtering and</li> </ul>	<p><u>Significant nexus:</u> Modified definition of “significant nexus.” Changes include a definition of “in the region,” a cumulative impact of waters, and a list of functions that will be evaluated to determine if there is a significant nexus between waterbodies.</p> <p>No case-specific significant nexus analysis is needed if a water is identified as an “adjacent water.”</p> <p>A water has a significant nexus to a WOTUS if it has an impact on the chemical, physical, or biological integrity of downstream waters.</p> <p>This broad definition has the potential to expand the jurisdictional waters under the CWA and create confusion as to which waters are jurisdictional.</p>

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
		<p>transport;</p> <ul style="list-style-type: none"> <li>• retention and attenuation of flood waters;</li> <li>• runoff storage;</li> <li>• contribution of flow;</li> <li>• export of organic matter;</li> <li>• export of food resources;</li> <li>• provision of life cycle dependent aquatic habitat for species located in a WOTUS.</li> </ul>	
<p><u>Neighboring</u>: First-time definition of “neighboring”:</p> <p>For purposes of the term “adjacent,” includes waters located within the riparian area or floodplain of a WOTUS, or waters with a shallow subsurface hydrologic connection or confined surface hydrologic connection to a WOTUS.</p> <p>Water must be geographically proximate to the adjacent water.</p>		<p><u>Neighboring</u>: All waters located within 100 feet of the ordinary high water mark of a WOTUS. The entire water is neighboring if a portion meets this requirement.</p> <p>All waters located within the 100-year floodplain of a WOTUS and not more than 1500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion meets this requirement.</p> <p>All waters located within 1500 feet of the high tide line of a traditional navigable water or territorial seas, and all waters within 1500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion meets this</p>	<p><u>Neighboring</u>: Addressed part of our concern by eliminating the proposed rule’s language on shallow subsurface hydrological connection.</p> <p>The definition is broad and may have a significant impact on infrastructure in a 100-year floodplain.</p>



Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
<p>Excluded ditches include:</p> <ul style="list-style-type: none"> <li>Ditches that are excavated wholly in uplands, drain only in uplands, and have less than perennial flow.</li> <li>Ditches that do not contribute flow, either directly or indirectly, to a WOTUS.</li> </ul>	<p><b>Uncertainty and inconsistency with current exemption for public safety ditches, and does not address the time, energy, and money needed to obtain a Section 404 permit.</b></p> <p>The exemption for ditches in the proposed rule is so narrowly drawn that any city or county would be hard-pressed to claim the exemption.</p> <p>It is hard, if not impossible, to prove that a ditch is excavated in uplands, drains only uplands and has less than perennial flow.</p> <p><u>Request:</u> Provide specific exemption for public safety ditches.</p>	<p>Excluded ditches include:</p> <ul style="list-style-type: none"> <li>Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.</li> <li>Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary or drain wetlands (i.e. physically intersects the wetland).</li> <li>Ditches that do not flow, either directly or through another water, into a WOTUS.</li> </ul>	<p>By definition, a ditch that is not excluded is a “tributary” if it has a bed, bank and ordinary high water mark and connects, directly or indirectly, to a WOTUS.</p> <p>The following ditches are jurisdictional:</p> <ul style="list-style-type: none"> <li>Ditches with perennial flow;</li> <li>Ditches with intermittent flow that are a relocated tributary, or are excavated in a tributary, or drain wetlands;</li> <li>Ditches, regardless of flow, that are excavated in or relocate a tributary.</li> </ul> <p>Local governments will be responsible for proving that a ditch is excluded.</p>
<p><b>Water conveyances, including but not limited to MS4s, could meet the definition of a “tributary” under the proposed rule and thus be jurisdictional as a “waters of the U.S.”</b></p> <p>Under the NPDES program, all facilities that discharge pollutants</p>	<p>New exclusion for stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.</p> <p>The stormwater control features exclusion does not apply to waters that are traditional navigable waters subject to the ebb and flow</p>	<p>The final rule appears to address our concern, however, there may still be some stormwater control features that are regulated as a WOTUS:</p> <ul style="list-style-type: none"> <li>The exclusion does not apply to such features that were built on wet land.</li> <li>The exclusion does not apply</li> </ul>	<p>The final rule appears to address our concern, however, there may still be some stormwater control features that are regulated as a WOTUS:</p> <ul style="list-style-type: none"> <li>The exclusion does not apply to such features that were built on wet land.</li> <li>The exclusion does not apply</li> </ul>

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
	<p>from any point source into a “waters of the U.S.” are required to obtain a permit under the CWA 402 stormwater program. These waters, however, are not treated as jurisdictional waters since the nature of stormwater makes it impossible to regulate these features. A water conveyance cannot both treat water and prevent untreated water from entering the system.</p> <p>Waterbodies that are considered “waters of the U.S.” are subject to state water quality standards and TMDLs. Applying WQS and TMDLs to stormwater systems would mean that not only would the discharge leaving the system be regulated, but all flows entering the MS4 would be regulated as well.</p> <p>The conflict between the stormwater program and the definition of “waters of the U.S.” opens the door to citizen suits.</p> <p><b>Request:</b> Provide a specific exemption for water conveyances including but not limited to MS4s that are purposed for servicing public use.</p>	<p>of the tide, interstate waters, or the territorial seas.</p> <p>“In order to avoid unintentionally limiting the exclusion, the agencies have not included a list of excluded features. The rule is intended to exclude the diverse range of control features that are currently in place and may be developed in the future.”</p> <p>“Stormwater control features are designed to address runoff that occurs during and shortly after precipitation events; as a result, stormwater features that convey runoff are expected to only carry ephemeral or intermittent flow.”</p>	<p>to traditional navigable waters subject to the ebb and flow of the tide, interstate waters, or the territorial seas. For example, the exclusion may not apply to infrastructure in coastal or low-lying areas.</p> <ul style="list-style-type: none"> <li>The preamble to the final rule leaves open the possibility that a stormwater facility that has year round flow is jurisdictional.</li> <li>Additionally, some features, such as channelized or piped streams, are jurisdictional, even when part of a stormwater management system. This is not a change from current practice</li> </ul> <p>Stormwater control features that are excluded as a “waters of the U.S.” may still be regulated as a point source under the CWA Section 402 permit program.</p> <p>Note about “dry land” – This phrase appears in the 1986 and 1988 preambles, and the agencies believe the term is well understood. <b>QUESTION: Is it?</b></p> <p>The agencies state that “dry land” refers to areas of the geographic</p>



Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
			<p>landscape that are not water features such as streams, rivers, wetlands, lakes, ponds and the like.</p> <p>A WOTUS is not considered “dry land” just because it lacks water at a given time. An area remains “dry land” even if it is wet after a rainfall.</p> <p>The agencies state that further clarity on this issue can be provided during implementation.</p>
	<p>Constructed wetland and treatment facilities may inadvertently be characterized as “waters of the U.S.” under the proposed rule, including but not limited to water delivery and water reuse facilities, recycling, treatment lagoons, setting basins, ponds, artificially constructed wetlands (ie green infrastructure) and artificially constructed groundwater recharge basins.</p> <p>Section 404 permits could be required for construction and maintenance of green infrastructure features, including existing stormwater treatment</p>	<p>Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA are excluded. (No change to current practice.)</p> <p><u>Green infrastructure</u>: The rule is “designed to avoid disincentives to [the] environmentally beneficial trend in stormwater management practices”—using green infrastructure to manage stormwater at its source and keep it out of the conveyance system.</p> <p>“The exclusion for stormwater control features is intended to address engineered stormwater</p>	<p>Does not change the current waste treatment exclusion to include systems that are designed to meet <i>any</i> water quality requirements, not just the CWA (i.e. before the enactment of the CWA), or to include stormwater and wastewater management systems.</p> <p>Does not provide a specific exemption for green infrastructure, but rather includes green infrastructure under the stormwater control features exclusion.</p> <p>Satisfies our concern regarding water delivery and reuse facilities by providing an exclusion.</p>

Proposed Rule	NLC Concerns	Final Rule	Preliminary Analysis
	<p>systems and low impact development stormwater treatment systems. WQS and TMDLs could also apply.</p> <p>Water delivery canals could be considered “tributaries” under the proposed rule and therefore subject to federal jurisdiction as a “waters of the U.S.”</p> <p><b>Requests:</b> Clarify current waste treatment exemption to state that green infrastructure and water delivery and reuse facilities meet the requirements. OR, provide a specific exemption for green infrastructure and water delivery and reuse facilities.</p> <p>Expand current waste treatment exemption to include systems that are designed to meet <i>any</i> water quality requirements, not just the requirements of the CWA.</p>	<p>control structures in municipal and urban environments—those that address runoff that occurs during and shortly after precipitation events; as a result stormwater features that convey runoff are expected to only carry ephemeral or intermittent flow.”</p> <p>The rule excludes erosional features, including gullies, and rills and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.</p> <p><u>Water delivery and reuse facilities are excluded:</u> Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.</p>	<p>Wastewater systems that are excluded as a “waters of the U.S.” may still be regulated as a point source under the CWA Section 402 permit program.</p>

## **Agenda Item:**

4A. Ordinance No. 2015-20, adopting the annual budget for the City of Kerrville, Texas, fiscal year 2016; providing appropriations for each city department and fund; containing a cumulative clause; and containing a savings and severability clause. (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Second and Final Reading of Ordinance to Adopt Budget for FY16

**FOR AGENDA OF:** September 22, 2015      **DATE SUBMITTED:** September 10, 2015

**SUBMITTED BY:** Sandra Yarbrough  
Director of Finance

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
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**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The FY2016 proposed budget was presented to the City Council in a series of budget workshops and presentations beginning on June 9, 2015 and ending August 4, 2015.

The FY2016 proposed budget totals \$49,426,600 in revenues and \$48,231,567 in expenditures.

The complete proposed FY2016 budget is on file in the city secretary's office, public library, as well as via the City's Website.

**RECOMMENDED ACTION**

Staff recommends approval of the ordinance on second and final reading to adopt the proposed budget for FY2016.



**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2015-20**

**AN ORDINANCE ADOPTING THE ANNUAL BUDGET  
FOR THE CITY OF KERRVILLE, TEXAS, FISCAL YEAR  
2016; PROVIDING APPROPRIATIONS FOR EACH CITY  
DEPARTMENT AND FUND; CONTAINING A  
CUMULATIVE CLAUSE; AND CONTAINING A SAVINGS  
AND SEVERABILITY CLAUSE**

**WHEREAS**, in accordance with Section 8.01 of the City Charter and Section 102.005 of the Texas Local Government Code, the City Manager of the City of Kerrville prepared and filed with the City Secretary on July 31, 2015, a proposed budget for the City of Kerrville, Texas, for the fiscal year beginning October 1, 2015, and ending September 30, 2016; and

**WHEREAS**, in accordance with Section 8.04 of the City Charter and Sections 102.006 and 102.065 of the Texas Local Government Code, and after providing the required public notice in the City's official newspaper not less than two weeks prior to the date of the public hearing, a public hearing was duly held on August 25, 2015, at the time and place set forth in the public notice, said date being more than thirty days subsequent to the filing of the proposed budget by the City Manager, at which all interested persons were given an opportunity to be heard for or against any item within the proposed budget; and

**WHEREAS**, after due deliberation, study, and consideration of the proposed budget, and after making such amendments to the budget proposed by the City Manager that the City Council has determined are (1) warranted by law or (2) in the best interest of the taxpayers of the City, the City Council is of the opinion that the Official Budget for the Fiscal Year 2016, with the amendments described and discussed, should be approved and adopted, in accordance with Section 8.06 of the City Charter and Section 102.007 of the Texas Local Government Code;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** The Official Budget of the City of Kerrville, Texas, a copy of which is on file in the office of the City Secretary, referenced by the date and number of this Ordinance, and incorporated herein by reference as if fully set out herein, is adopted, in accordance with Section 8.06 of the City Charter and Chapter 102 of the Texas Local Government Code.

**SECTION TWO.** The budgets for each department of the City are hereby deemed to provide a complete financial plan of City funds and activities for the Fiscal Year 2016, in accordance with Section 8.05 of the City Charter and Chapter 102 of the Texas Local Government Code.

**SECTION THREE.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**THE MEMBERS OF CITY COUNCIL VOTED AS FOLLOWS IN ACCORDANCE WITH THE CITY CHARTER AND STATE LAW:**

**FIRST READING:**

- **A RATIFICATION VOTE TO ADOPT THE BUDGET THAT WILL REQUIRE RAISING MORE REVENUE FROM PROPERTY TAXES THAN THE PREVIOUS FISCAL YEAR.**
- **TO APPROVE THE BUDGET ON 1<sup>ST</sup> READING OF THE ORDINANCE AS FOLLOWS:**

	YES	NO
Jack Pratt, Mayor	<u>X</u>	_____
Stephen P. Fine, Place 1	<u>X</u>	_____
Bonnie White, Place 2	_____	<u>X</u>
Gary Stork, Place 3	<u>X</u>	_____
Gene Allen, Place 4	<u>X</u>	_____
(record vote)		

PASSED AND APPROVED ON FIRST READING, this the 8<sup>th</sup> day of September, A.D., 2015.

**SECOND READING:**

- A RATIFICATION VOTE TO ADOPT THE BUDGET THAT WILL REQUIRE RAISING MORE REVENUE FROM PROPERTY TAXES THAN THE PREVIOUS FISCAL YEAR.
- TO APPROVE THE BUDGET ON 2<sup>ND</sup> READING OF THE ORDINANCE AS FOLLOWS:

	YES	NO
Jack Pratt, Mayor	_____	_____
Stephen P. Fine, Place 1	_____	_____
Bonnie White, Place 2	_____	_____
Gary Stork, Place 3	_____	_____
Gene Allen, Place 4	_____	_____
(record vote)		

PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2015.

ATTEST:

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

4B. Ordinance No. 2015-21, levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2016; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid. (staff)



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Second and Final Reading of Ordinance - Ad Valorem Tax Rate for 2015

**FOR AGENDA OF:** September 22, 2015 **DATE SUBMITTED:** September 10, 2015

**SUBMITTED BY:** Sandra Yarbrough  **CLEARANCES:** Todd Parton  
Director of Finance City Manager

**EXHIBITS:** Ordinance  
**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

At the August 11, 2015 Council meeting, council voted to hold a public hearing to establish the proposed ad valorem tax rate for 2015 at \$0.5625/\$100 value, which is the same rate as tax year 2014. This rate exceeds the effective rate as calculated by the Tax Assessor-Collector of \$0.550369 by 2.20%. The City was required to hold two public hearings since the proposed tax rate exceeds the effective tax rate.

The attached ordinance will adopt the 2015 tax rate on the second and final reading. The tax rate has two components. The M&O rate for the general operations of the City is proposed at \$0.4890 and the I&S rate for the General Fund's debt service is proposed at \$0.0735.

**RECOMMENDED ACTION**

Staff recommends approval of the ordinance on second and final reading to adopt the tax rate of \$.05625 for the 2015 tax year.

Should council approve the proposed tax rate the following motion is required "I move that the property tax rate be increased by the adoption of a tax rate of .5625/100, which is effectively a 2.20% increase in the tax rate" with the approval of the ordinance by record vote on the second and final reading as required.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2015-21**

**AN ORDINANCE LEVYING AN AD VALOREM TAX FOR THE USE AND THE SUPPORT OF THE MUNICIPAL GOVERNMENT FOR THE CITY OF KERRVILLE, TEXAS, FOR THE FISCAL YEAR 2016; PROVIDING FOR APPORTIONING EACH LEVY FOR SPECIFIC PURPOSES; AND PROVIDING WHEN TAXES SHALL BECOME DUE AND WHEN SAME SHALL BECOME DELINQUENT IF NOT PAID**

**WHEREAS**, the City Council finds that an ad valorem tax must be levied to provide for current expenses and improvements for the City of Kerrville, Texas, during the fiscal year 2016; and

**WHEREAS**, the City Council further finds that an ad valorem tax must be levied to provide for the payment of principal and interest on outstanding debt maturing in the fiscal year 2016; and

**WHEREAS**, after due deliberation, study, and consideration of the proposed tax rate for the fiscal year 2016, the City Council has determined that adoption of the rate is in the best interest of the taxpayers of the City and it should be adopted in accordance with law;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** There is hereby levied and there shall be collected for the use and support of the municipal government of the City of Kerrville, Texas, and to provide interest and sinking funds for the fiscal year 2016, a tax of **\$0.5625** on each one hundred dollars (\$100.00) valuation of all property, real, personal, and mixed, within the corporate limits of the City subject to taxation, for the specific purposes herein set forth:

- (A) For the current expenditures of the City of Kerrville and for the general improvement, use and support of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year 2016 on all property situated within the corporate limits of the City, and not exempt from taxation by a valid law, an ad valorem tax rate of \$0.489 on each one hundred dollars (\$100.00) valuation of such property. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 2.20% PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$0.00.**
- (B) For the purpose of paying principal and interest and providing payments into various debt service funds for each issue of tax supported debt, there is hereby levied and ordered to be assessed and collected for the fiscal year 2016 on all property situated

within the corporate limits of the City and not exempt from taxation by a valid law, an ad valorem tax for each issue of debt described in this Section, the sum of such levies being \$0.0735 on each one hundred dollars (\$100.00) valuation of such property.

**SECTION TWO.** The ad valorem taxes levied are due on October 1, 2015, and may be paid up to and including January 31, 2016, without penalty, but if not paid, such taxes are delinquent on February 1, 2016, provided, however, in accordance with Section 31.03(a) of the Texas Tax Code, the ad valorem taxes due hereunder may, at the option of the taxpayer, be paid in two payments without penalty or interest so long as the first payment of one-half of the taxes levied is paid before December 1, 2015, and the remaining one-half is paid before July 1, 2016.

**SECTION THREE.** No discounts are authorized on property tax payments made prior to January 31, 2016.

**SECTION FOUR.** All taxes become a lien upon the property against which assessed, and the designated City tax collector for the City of Kerrville is authorized and empowered to enforce the collection of such taxes according to the Constitution and Laws of the State of Texas and ordinances of the City of Kerrville, and shall by virtue of the tax rolls, fix and establish a lien by levying upon such property, whether real or personal, for the payment of said taxes, penalty, and interest. All delinquent taxes shall bear interest and other charges from date of delinquency as prescribed by state law.

**THE MEMBERS OF CITY COUNCIL, PURSUANT TO THE SPECIFIC MOTION REQUIRED BY STATE LAW, VOTED TO APPROVE THIS ORDINANCE ON 1<sup>ST</sup> READING TO CONSIDER THE TAX INCREASE AS FOLLOWS:**

	YES	NO
Jack Pratt, Mayor	<u>X</u>	_____
Stephen P. Fine, Place 1	<u>X</u>	_____
Bonnie White, Place 2	<u>X</u>	_____
Gary Stork, Place 3	_____	<u>X</u>
Gene Allen, Place 4	<u>X</u>	_____
(record vote)		

PASSED AND APPROVED ON FIRST READING, this the 8<sup>th</sup> day of September A.D., 2015.

THE MEMBERS OF CITY COUNCIL, PURSUANT TO THE SPECIFIC MOTION  
REQUIRED BY STATE LAW, VOTED TO APPROVE THIS ORDINANCE ON 2<sup>ND</sup>  
READING TO CONSIDER THE TAX INCREASE AS FOLLOWS:

	YES	NO
Jack Pratt, Mayor	_____	_____
Stephen P. Fine, Place 1	_____	_____
Bonnie White, Place 2	_____	_____
Gary Stork, Place 3	_____	_____
Gene Allen, Place 4	_____	_____
(record vote)		

PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_  
day of \_\_\_\_\_, A.D., 2015.

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney



## **Agenda Item:**

6A. Resolution No. 26-2015, providing for the city's approval or disapproval of the Kerr Central Appraisal District's purchase of land on Oak Hollow Drive for the future construction of an office building. (KCAD)

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Resolution No. 26-2015, request by Kerr Central Appraisal District to approve the purchase of land on Oak Hollow Drive for future construction of an office building

**FOR AGENDA OF:** 09/22/2015

**DATE SUBMITTED:** 09/09/2015

**SUBMITTED BY:** Chief Appraiser  
P.H. "Fourth" Coates

**CLEARANCES:**

**EXHIBITS:** KCAD Resolution as approved on September 10, 2015  
City Resolution No. 26-2015  
Information Packet

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

**SUMMARY STATEMENT**

The Kerr Central Appraisal District requests City Council approve the purchase of 1.41 +/- acres on Oak Hollow Drive for future construction of an office building.

KCAD plans to purchase the property using cash on hand; therefore, no additional money is requested from the city at this time; however, KCAD estimates the following:

- Purchase and construction of the new building: \$1,380,000;
- Cash on hand for purchase: \$250,000
- Net proceeds of current building sale: \$325,000
- Total amount to borrow: \$805,000
- City of Kerrville's portion: \$110,768.00.

**RECOMMENDED ACTION**

Approve Resolution No. 26-2015, approving KCAD's purchase 1.41 +/- acres on Oak Hollow Drive.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 26-2015**

**A RESOLUTION PROVIDING FOR THE CITY'S APPROVAL OR  
DISAPPROVAL OF THE KERR CENTRAL APPRAISAL DISTRICT'S  
PURCHASE OF LAND ON OAK HOLLOW DRIVE FOR THE FUTURE  
CONSTRUCTION OF AN OFFICE BUILDING**

**WHEREAS**, Section 6.051 of the Texas Tax Code ("Section 6.051") allows an appraisal district to acquire real property by purchase and to construct a building or other improvement for the purpose of establishing and operating the appraisal office or a branch appraisal office; and

**WHEREAS**, Section 6.051 requires that the board of directors of an appraisal district must propose the property transaction by resolution which must then be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of board members; and

**WHEREAS**, the Board of Directors for the Kerr Central Appraisal District ("KCAD") submitted a resolution and background information to City Council describing KCAD's proposed purchase of property and the financing of the purchase and construction of a new building and has asked Council to support the proposal; and

**WHEREAS**, City Council finds it to be in the public interest to either approve or disapprove of KCAD's proposal as indicated below;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** KCAD's proposed purchase of property for the future construction of a building, said property as described within the Resolution adopted by KCAD on or about September 10, 2015, which is attached as **Exhibit A** hereto, is \_\_\_\_\_ (**APPROVED OR DISAPPROVED**).

**SECTION TWO.** City Council directs the City Secretary to file this Resolution with the Chief Appraiser of the Kerr Central Appraisal District on or before the 30<sup>th</sup> day after the City's receipt of notification of the aforementioned Resolution from KCAD.


**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2015.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

**KERR CENTRAL APPRAISAL DISTRICT'S  
CAD RESOLUTION**

WHEREAS, the Texas Property Tax Code, Section 6.051, allows the acquisition of real property by purchase or lease, the conveyance of real property, and the construction or renovation of a building or other improvement by an appraisal district for the purpose of establishing and operating the appraisal office or a branch appraisal office; and

WHEREAS, Section 6.051 requires that the board of directors of an appraisal district must propose the property transaction by resolution which must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of board members; and

WHEREAS, Section 6.051 requires the chief appraiser to notify the presiding officer of each governing body of the resolution adopted by the board of directors of the appraisal district by delivering a copy of the resolution, together with the information showing costs of other available alternatives to the proposal;

NOW THEREFORE BE IT HEREBY RESOLVED that on September 10, 2015, the Board of Directors of the Kerr Central Appraisal District, in a public meeting, approved by a unanimous vote the proposed purchase for \$115,000 cash the tract of land described as follows:

Real property situated in Kerr County, Texas at Oak Hollow Drive, Kerrville and that is legally described as follows:

1.41 +/- acres subject to survey seller's expense out of ABS A0288 SOUTHMAYD, SUR 148, ACRES 3.33. Subject to 30' wide non-exclusive road easement along and across northwest boundary.

BE IT FURTHER RESOLVED that the Chief Appraiser shall notify all applicable governing bodies and taxing units by providing a copy of this resolution and a cost analysis as required by Section 6.051 as soon as practicable after the adoption of this resolution.

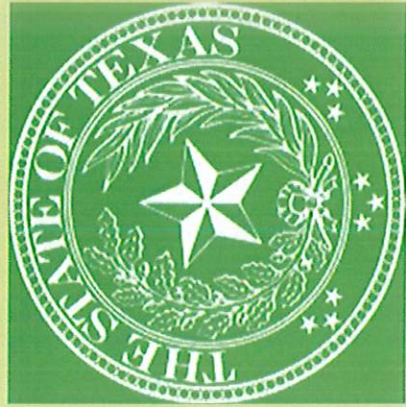
SIGNED this 10 day of SEPTEMBER, 2015.



Presiding Officer, Charles Lewis, President  
Board of Directors Kerr Central Appraisal District

EXHIBIT "A"





# Kerr Central Appraisal District

PRESENTATION TO TAXING ENTITIES  
REGARDING THE SALE OF EXISTING  
BUILDING, PURCHASE OF LAND, AND  
CONSTRUCTION OF NEW BUILDING

BY THE KCAD BOARD OF DIRECTORS

## CURRENT BUILDING

KCAD building was built in 1975 and was originally designed to be a radio station.

Key issues include:

- ADA and senior access
- Health and Safety
- Privacy and ineffective floorplan

# Trico Inspection Deficiencies

- Grading & Drainage
- Roof Covering – stains, mildewed, deteriorated walls
- Roof Structure & Attics – stains and damage
- Drains, Wastes, and Vents
- Walls Anterior and Exterior – cracks and leakage
- Ceilings and Floors – stains and leakage
- Doors Interior and Exterior
- Windows
- Electrical Service Entrance and Panels
- Branch Circuits, Connection Devices and Fixtures
- Plumbing

## ADA and Senior Access Issues

- Entrance ramp
- Bathrooms
- Narrow Doorways
- Narrow hallways
- Lighting
- Breakroom
- Office Access
- Parking/side entrance



## Privacy and Useful Space

- The walls do not allow any privacy of conversation or meetings. This includes ARB meetings, tax payers meetings with appraisers, and board meetings.
- There is no lobby for tax payers to comfortably wait.
- There is no room for growth.
- Offices are not laid out conducive to quality tax appraisal business
- Excessive glass exposure – extremely inefficient heat/air

## Health and Safety

- Ingress/Egress from highway including visibility
- Flood prone entrance
- Water leakage
- Mold
- Inaccessible areas
- Unknown building materials from 70's
- Electrical issues
- Staff safety
- Exits for staff and patrons i.e. fire & emergency
- Previous termite damage
- Failing electrical and plumbing systems

## Due Diligence

- KCAD Board has entertained land trades
- Utilized numerous Realtors
- Looked at numerous properties both improved and unimproved
- Looked at properties both in and outside the city
- Consulted with inspector of current property
- Consulted with a commercial appraiser
- Be sure the move is a “need” not a “want”

## Due Diligence

- Consulted with attorneys specializing in Appraisal districts and in real estate contract law
- Consulted with other Appraisal Districts that have gone through this process and evaluated the pros and cons of their choices
- Reviewed recent building floor plans of other appraisal districts of our size for minimal square footage, with strategic plans for future needs/growth
- Communicate with taxing entities for support and approval



## Property Selection Criteria

- Fiduciary responsibility to the tax payers and the tax entities: spend wisely
- Plan for the future - long term solution
- Minimal land preparation expenses; minimize costs and surprises
- Focus was to build a structure instead of remodeling
- Sufficient land size for current needs and future growth
- Ease of access (level land, convenient parking) for elderly and the disabled
- Centrally located, easy to find, with safe ingress and egress

1.39 acre land tract currently under contract  
subject to feasibility study and taxing entity  
approval.



## Feasibility Study

- Land preparation
- Drainage
- Driveway
- Restrictions and Zoning
- Utilities
- Cost of permits
- Site and structural engineering
- Architecture and building plans
- Builder/Contractor selection
- Approval by Taxing entities

## SALE AND PURCHASE SPREADSHEET

Narrowed to three location options	Best	Poor	Worst
	Hwy 173	trade land	Purchase Land
Budget for acquisition	\$1,380,000	\$1,380,000	\$1,380,000
Purchase land	\$115,000	\$0	\$325,000
Permits, feasibility, engineers, attorneys, architect, utilities, closing costs, Realtors	\$120,000	\$175,000	\$170,000
Un-designated funds	\$105,000	\$105,000	\$105,000
Building, site prep, parking, landscaping	\$1,040,000	\$1,100,000	\$1,140,000
total cost to purchase and build	\$1,380,000	\$1,380,000	\$1,740,000
Cash on hand for purchase	\$250,000	\$250,000	\$250,000
Net proceeds of current building sale	\$325,000	\$0	\$325,000
Total down payment	\$575,000	\$250,000	\$575,000
<b>Amount to borrow</b>	<b>\$805,000</b>	<b>\$1,130,000</b>	<b>\$1,165,000</b>
Monthly obligation at 5% & 30 years	\$3,892	\$5,527	\$5,823



## COST ANALYSIS

	Tax Percentage	Hwy 173	trade land	Purchase Land
City of Ingram	0.53%	<b>\$20.63</b>	\$29.29	\$30.86
City of Kerrville	13.76%	<b>\$535.54</b>	\$760.52	\$801.24
Kerr Emerg Dist 1	0.16%	<b>\$6.23</b>	\$8.84	\$9.32
Kerr Emerg Dist 2	0.05%	<b>\$1.95</b>	\$2.76	\$2.91
Kerr County	22.44%	<b>\$873.36</b>	\$1,240.26	\$1,306.68
Lateral Roads	1.77%	<b>\$68.89</b>	\$97.83	\$103.07
Lake Ingram Estates Rd	0.03%	<b>\$1.17</b>	\$1.66	\$1.75
Center Point ISD	3.66%	<b>\$142.45</b>	\$202.29	\$213.12
Comfort ISD	2.53%	<b>\$98.47</b>	\$139.83	\$147.32
Divide ISD	0.62%	<b>\$24.13</b>	\$34.27	\$36.10
Harper ISD	0.59%	<b>\$22.96</b>	\$32.61	\$34.36
Hunt ISD	5.40%	<b>\$210.17</b>	\$298.46	\$314.44
Ingram ISD	7.93%	<b>\$308.64</b>	\$438.29	\$461.76
Kerrville ISD	38.54%	<b>\$1,499.98</b>	\$2,130.11	\$2,244.18
Medina ISD	0.14%	<b>\$5.45</b>	\$7.74	\$8.15
Upper Guadalupe River A	1.41%	<b>\$54.88</b>	\$77.93	\$82.10
Headwaters Groundwaters	0.43%	<b>\$16.74</b>	\$23.77	\$25.04
Total Monthly Loan Payment	100%	<b>\$3,892</b>	\$5,526	\$5,822

8/21/2015

## CONCLUSION

The KCAD Board of Directors is asking for approval by written resolution to purchase 1.41 +/- acres of land located at Hwy 173 and Oak Hollow Dr.

## **Agenda Item:**

6B. Approval of public art project, "Guadalupe Bass", in an amount not to exceed \$10,000 to be paid through fundraising efforts of the Main Street Advisory Board, Mardi Gras on Main project. (staff)

**SUBJECT:** Approval of public art project, "Guadalupe Bass", in an amount not to exceed \$10,000 to be paid through fundraising efforts of the Main Street Advisory Board, Mardi Gras on Main project

**SUBMITTED BY:** Terry Cook *TAC* **CLEARANCES:** Ashlea Boyle *AB*  
Main Street Manager Special Projects Manager

1. Public Art Submission
2. Examples of Artist's Completed Work

<b>Expenditure Required: \$10,000</b>	<b>Current Balance in Account: \$40,478</b>	<b>Amount Budgeted: \$10,000</b>	<b>Account Number: 94-800-502</b>
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REVIEWED BY THE DIRECTOR OF FINANCE:

In the spring of 2015, the Main Street Advisory Board (MSAB) began the exploration of a public art piece to be located at the corner of Water and Washington streets across from the Schreiner One Building. Parameters for the sculpture identified in the call to artist's packet included the following:

- The MSAB at their August 27, 2015 board meeting, voted to recommend to City Council the creation of a Guadalupe Bass by artist GiGi Miller of Austin, Texas. The Guadalupe Bass was designated the official state fish of Texas in 1989. It is found only in Texas, native to streams in the central Hill Country including the Guadalupe River, headwaters of San Antonio, and the Colorado River.

The sculpture will be made of concrete, welded steel armature, and handmade ceramic tiles (examples of her work are attached as an exhibit). A plaque will also be placed to tell the historical significance of the Guadalupe Bass to the Kerrville area. Total cost budgeted for the project is \$10,000 and is being funded by means of the fundraising efforts of the

Main Street Advisory Board through Mardi Gras on Main.

The sculpture will be prepared and developed to be very low maintenance and affixed for safety. Ms. Miller's previous art pieces have been created to be safe for children playing and structurally will allow climbing, but it will not be encouraged. If selected, staff will work with the artist to explore lighting options for night time viewing.

The next step in this process is consideration and approval or disapproval of the piece by City Council.

### **RECOMMENDED ACTION**

The Main Street Advisory Board is requesting consideration of "Guadalupe Bass" by GiGi Miller as the selected piece for the public art project. If the City Council approves the piece, staff is requesting authorization for the City Manager to negotiate a contract with GiGi Miller in an amount not to exceed \$10,000 for production and installation.

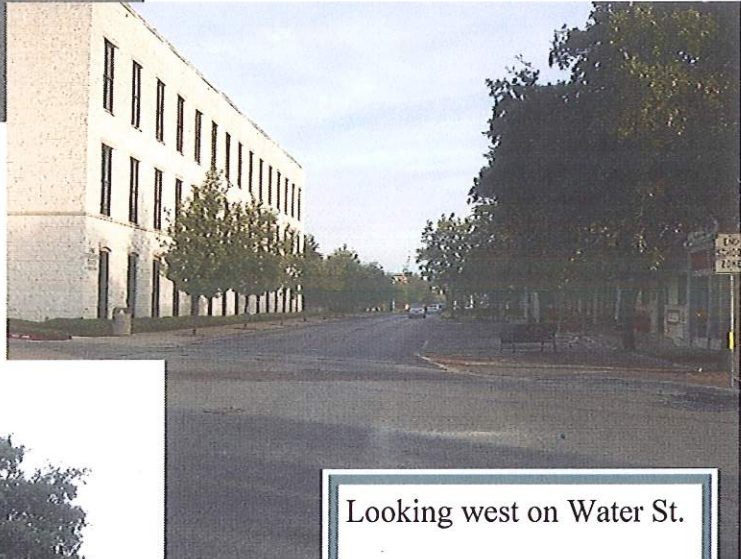
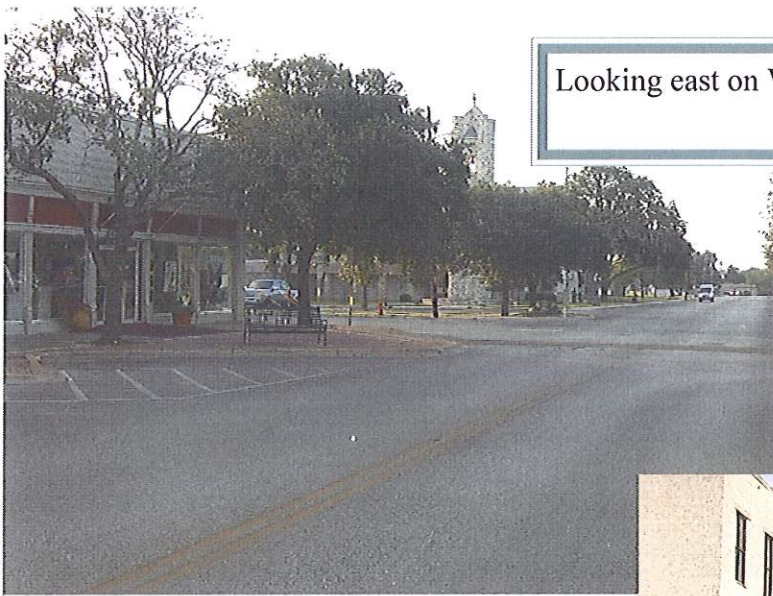




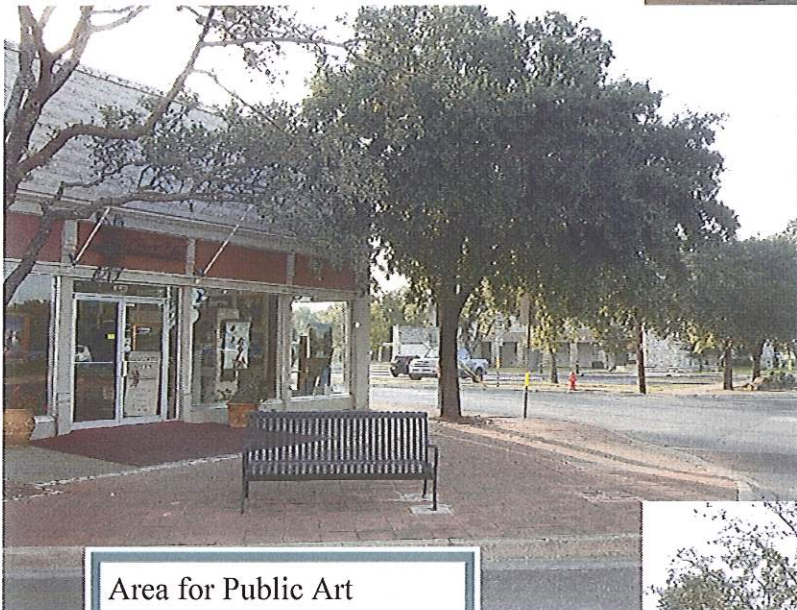
Gigi Miller  
2015



Looking east on Water St.



Looking west on Water St.



Area for Public Art

"Guadalupe Bass"  
sculpture dimensions  
8' X 4'

Area for Public Art



## **GiGi Miller**

email: [gigi@gigimiller.com](mailto:gigi@gigimiller.com)

website: [www.gigimiller.com](http://www.gigimiller.com)

### **Education**

- University of Texas at Austin, Bachelor of Fine Arts 2003
- Mentored by Graydon Parrish in the Charles Bargue drawing method and Munsell color theory from 2010 to 2011

### **Permanent Collections**

- Bee Cave Sculpture Park, Bee Cave, Texas
- Benches of Bee Cave, Bee Cave, Texas
- Nelson Center, San Marcos, Texas

### **Exhibitions**

- Oct 2014 - Oct 2015; Cedar Park Sculpture Garden - Phase 2; Cedar Park, TX

### **Professional Workshops**

- Mixing it Up and Making it Great – Expanding Your Creativity With New Products and Technology; by Susan Gamble, Steve Shupper and Carrie Strobe; May 2014
- Sculptural Low Relief Mosaics; by Gwyn Kaitis; May 2014
- Tools and Cutting Techniques; by Sonia King; May 2014
- Public Mosaic Installation Workshop; by Isaiah Zagar; April 2011

### **Professional Affiliations**

- Bee Cave Arts Foundation, 2013 - Present
- Austin Mosaic Guild, 2014 - Present
- Cuernavaca Arts Cooperative, 2014 - Present
- Society of American Mosaic Artists, 2014 - Present
- National Council on Education for the Ceramic Arts, 2013 - Present

## **Agenda Item:**

6C. Resolution No. 23-2015 authorizing amendments to the Procedural Rules for Kerrville City Boards. (staff)



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Resolution No. 23-2015 authorizing amendments to the procedural rules for Kerrville city boards

**FOR AGENDA OF:** Sep. 22, 2015      **DATE SUBMITTED:** Sep. 16, 2015

**SUBMITTED BY:** Todd Parton      **CLEARANCES:** Todd Parton  
City Manager      City Manager

**EXHIBITS:** Resolution No. 23-2015

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

**SUMMARY STATEMENT**

At its meeting of September 8, 2015, the City Council discussed Resolution No. 23-2015, directed city staff to make amendments, and bring it back for consideration. Resolution No. 23-2015 has been amended as directed by the City Council. Listed below are the specific amendments:

- Section 1.4 – “policies” has been changed to “written policies adopted by the City Council”
- Section 2.4 – amended to prohibit the ability to serve on more than one board at a time
- Section 3.5 – “City policy” has been changed to “written policy adopted by the City Council”
- Section 4.6 – language modified regarding the fact that electronic communications are subject to public disclosure

**RECOMMENDED ACTION**

Modifications have been made as directed and this policy is ready for adoption as is deemed appropriate by the City Council.



**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 23-2015**

**A RESOLUTION AUTHORIZING AMENDMENTS TO THE  
PROCEDURAL RULES FOR KERRVILLE CITY BOARDS**

**WHEREAS**, pursuant to Resolution No. 37-2008, adopted on May 27, 2008, the City Council approved the *Procedural Rules (for) Kerrville City Boards*; and

**WHEREAS**, the City Council finds it to be in the public interest to amend the rules as indicated below;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

The City Council amends the *Procedural Rules (for) Kerrville City Boards* by adding the language that is underlined (added) and deleting the language that is bracketed and stricken (~~{deleted}~~) as indicated in **Exhibit A**, to be effective immediately.

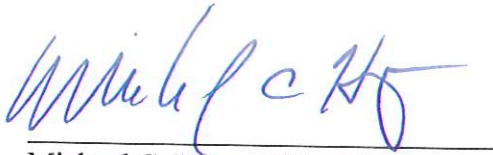
**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D.,  
2015.**

ATTEST:

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

**DRAFT 09/10/15**

## **PROCEDURAL RULES KERRVILLE CITY BOARDS**

### **SECTION 1. GENERAL PROVISIONS**

**1.1 Scope of Rules.** These rules govern the conduct of all City boards and are intended and should be interpreted to ensure fair and open deliberations and decision making. These rules shall apply unless in conflict with state law. The term "board" means board, commission, or committee.

**1.2. Technical Parliamentary Forms Abolished.** Except as specifically required by these rules, boards shall not use any formal points of parliamentary order, personal privilege, parliamentary inquiry, or other technical forms.

**1.3. Rulings; Matters Not Covered.** Rulings on procedure are governed by the presiding officer or by a majority of the board members which would prevail. Any matter or order or procedure not covered by these rules must be deferred to the presiding officer or legal counsel as appropriate.

**1.4. Interpretation.** These rules are intended to supplement and must be interpreted to conform to state law and the charter, ordinances, and written policies adopted by the City Council. In general, these rules are to be interpreted to allow the majority to prevail but preserve the right of the minority to be heard. In addition, should a conflict arise between any rule and another city ordinance or code provision, the ordinance or code provision will control.

**1.5 Standing Boards Defined.** Standing boards are defined as somewhat permanent boards as established by City ordinances or resolutions.

**1.6 Ad Hoc Boards Defined.** Ad hoc boards are defined as temporarily appointed boards that terminate upon completion of their specific task or the special purpose for which it was created, or when abolished by a majority vote of the City Council. No ad hoc board may have powers other than advisory to the City Council.

**1.7 Working with City Staff.** Board members are encouraged to communicate openly with the appropriate City employee or members of the City Manager's office. Board members should understand that they are not responsible for supervision of any City operation; therefore, they should not direct or instruct any City employee, nor become involved in supervising personnel or operational matters. If a board member has any concerns regarding such matters, they should contact the City Manager.

**1.8 Budget.** The City Manager may ask boards to provide input regarding elements of the City's annual budget.

**1.9 Rules to be Provided to Members.** The City Secretary will provide a copy of these rules to all board members and maintain a file acknowledging each member's receipt of these rules.

Deleted: and

Deleted: of

Deleted: June 24, 2008

## DRAFT 09/10/15

**1.10. Authority to Change and Adopt Rules of Procedure.** The City Council has the authority to establish and/or modify rules governing City boards.

### SECTION 2. APPOINTMENT/REMOVAL PROCESS

**2.1 Application Process.** Citizens interested in serving on a board may obtain an application through the City Secretary's office and submit the completed application to the City Secretary's office. City Council members may be appointed to membership on a City board, where Council membership is appropriate, without submitting an application.

**2.2 Appointment Process.** The City Council shall consider applications and make appointments to City boards.

**2.3 Eligibility Requirements/Qualifications.** Each board may have specific qualifications and term limits for membership. All appointments to boards must be made in compliance with those qualifications, and members must continue to comply with all membership qualifications throughout their term of office to avoid forfeiting membership. Councilmembers are not eligible for membership on a board except as specifically required by the ordinance or resolution establishing the board or as allowed by state law.

**2.4 Multiple Memberships.** A person may not serve on more than one board at a time; however, a board member may be allowed to resign from one board to accept membership on another board if appointed by the City Council. The City Council may allow a person to serve on an ad hoc board in addition to their standing board, provided that state law does not prohibit such duplicate membership(s).

**2.5 Notice of Appointment.** After the City Council appoints a person to serve as a member of a board, the City Secretary will notify the appointee in writing of the appointment.

**2.6 Serve Until Replaced.** From time to time, board members may resign prior to completion of their term; also, when a board member's term is due to expire, a replacement may not be immediately available. In such instances, board members may continue to serve until replaced in order to maintain a full board.

**2.7 Council Liaison Member.** The City Council may, by a majority vote, appoint one of its members as a liaison, non-voting member to any board. A Councilmember serving as liaison member of a City board will act to relay Council actions concerning board items and to report back to Council as appropriate. Council liaisons and staff members will also abide by these procedural rules. Councilmembers may serve as a regular voting member of a board as allowed by the ordinance or resolution establishing the board or as allowed by state law.

**2.8 Removal of Member.** Board members have no vested right or property interest in board membership and the City Council may at any time remove any member of any board by a majority vote.

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## SECTION 3. RESPONSIBILITIES OF BOARD MEMBERS

**3.1 Oaths and Training.** Upon notification of appointment or reappointment, it shall be the responsibility of every board member to report to the City Secretary's office to be administered the Statement of Elected/Appointed Officer, the Oath of Office, and to receive instruction on how to complete the required open government training within 30 days of appointment. Any member who fails to take the statement and oath, or fails to complete the required training, may have his/her appointment withdrawn or be removed from membership pursuant to Council action.

**3.2 Attendance.** Prior to an appointment to a board, an applicant should familiarize himself/herself with the board's meeting schedule. In order to be fully aware of issues before the board, it is imperative that members are faithful in their attendance at meetings. Any member who is absent from twenty-five percent (25%) of the board's regular meetings during the calendar year, or who is absent from any three (3) consecutive regular meetings, may be considered for removal by the City Council. The staff member must report a member's non-attendance to the City Council in writing, and the City Secretary shall notify the board member in writing that their non-attendance has been reported. However, a member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

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**3.3 Responsibility to Vote.** No member may be excused from voting on any matter except when such member has a conflict of interest as defined by state law.

**3.4 Member Not Voting.** Any board member refusing to vote, and not excused from voting due to a conflict of interest, shall be considered in violation of these rules and will be recorded in the minutes as voting in the affirmative of the motion. If a member continues to choose not to vote on matters brought before the board, the City Council may consider further action, to include removal. The staff member has the responsibility of reporting a member's non-voting to the City Council in writing, and the City Secretary shall notify the board member in writing that their conduct has been reported to the City Council.

**3.5 Conflict of Interest.** Any board member prohibited from voting by a conflict of interest as defined by state law or a written policy adopted by City Council, shall announce the same at the commencement of consideration of the matter and shall not enter into discussion or debate on said matter. In such case, the member shall file with the recording secretary the Affidavit Conflict of Interest form indicating the reason for abstaining. The member shall then announce their conflict to the board and leave the meeting room until discussion of and vote on the issue has been completed. Further, that member shall not discuss the matter with other members of the board at any time.

## SECTION 4. OPEN GOVERNMENT

**4.1 Open Meetings.** In accordance with Section 3.01 of the City Charter, all meetings of all boards must remain open to the public, and boards are subject to the Texas Open Meetings Act (Texas Government Code Chapter 551) and the Public Information Act (Texas Government

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Code Chapter 552). A meeting is defined as a gathering at which a quorum of the members of a board are present and discuss, receive information, or provide information regarding board business to a third party, including a City employee.

**4.2 Texas Open Meetings Act.** The Texas Open Meetings Act (OMA) requires that every meeting of a governmental body be open to the public; in an effort to increase the public's awareness of and participation in local government, the City Council finds that the OMA should govern all meetings of all boards appointed by the City Council. Board members shall not communicate or deliberate outside of a posted meeting in an attempt to evade the OMA.

**4.3 "Walking Quorums" Prohibited.** Members shall not attempt to avoid complying with the Open Meetings Act by deliberating business without a quorum physically present in one place and claiming that it is not a meeting, such as: 1) serial meetings of less than a quorum; and 2) telephone discussions or discussions conducted electronically, to include email, texts, and social media such as Facebook and Twitter.

**4.4 Posted Notice/Meeting Agendas.** A posted notice sufficient to detail the subject(s) to be discussed is required prior to a meeting of any board. No closed meetings (executive sessions) are allowed by any board except in strict accordance with the Open Meetings Act. It is the responsibility of the staff member to prepare, post, and distribute agendas which comply with state law.

**4.5 Public Information Act.** The Texas Public Information Act (PIA) provides that all information held by a governmental body, including boards, must be released to the public upon request, unless the information falls within one of the PIA's specific exceptions to disclosure. Requests for public information shall be filed with the City Secretary.

**4.6 Email Policy.** Board members are reminded that email, texts, and the use of social media, is information that may be subject to public disclosure. Thus, if communications occur via email with other board members, City Council, City staff, or the public regarding City business through their personal home and business computers or electronic devices, such information is considered to be public information and subject to the Public Information Act (PIA). Further, under the PIA, such communications must be maintained, either electronically or by hard copy, for the required time retention period. For further information or clarification, please contact the City Secretary.

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## **SECTION 5. OFFICERS OF THE BOARD**

**5.1 Chair.** Unless City Council appoints the chair, chairs for all boards shall be determined by a majority vote of its members. The function of the chair is to provide leadership to the group, including ensuring that meetings are conducted in accordance with these established rules and procedures.

**5.2 Vice-Chair.** The vice-chair shall perform the duties of the chair in their absence.

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**5.3 Absence of Chair/Vice-Chair.** In the absence of the chair and vice-chair, the remaining members may appoint a member as the presiding officer, provided a quorum of the board is in attendance. The presiding officer shall vacate those duties upon the presence of the chair or vice-chair.

**5.4 Rights of Chair or those Acting as such.** The chair, vice-chair, or presiding officer retain all rights and privileges of a member of the board, including the making of and seconding of a motion, and participating in the discussion and voting on any matter before the board.

**5.5 Other Officers.** Boards may also elect other officers from among their membership in accordance with the bylaws or resolution of each board. Each member may serve in only one position on a board at a time.

### SECTION 6. AGENDAS, CONDUCT OF MEETINGS, AND MINUTES

**6.1 Agendas and Deadlines.** The order of business of each meeting of a board shall be contained in a written agenda, which shall be a listing of the specific topics to be discussed. Any topic not specifically listed on the agenda may not be discussed by the board as such discussion would be a violation of the Texas Open Meetings Act. Instead, anyone, including a member of the public, may request the placement of the issue on a future meeting agenda. City employee will prepare the agenda in conjunction with the board chair. Any person wishing to have a matter heard by the board shall make a written request ([agenda bill](#)) containing a summary statement of the proposed presentation to the staff member or board chair before 5:00 p.m. on the sixth day preceding said meeting. The staff member is responsible for submitting the agenda to the City Secretary to be posted at least seventy-two (72) hours before the meeting. The agendas for all boards will be posted on the official bulletin board specifically designated for that purpose at City Hall. The City Secretary shall also post notice of all board meetings on the City's website. The staff member shall provide the agenda to all board members and to the news media at the time of agenda posting. Board members will be provided with agenda materials as much in advance of the meeting as possible.

**6.2 Control of Discussion.** The chair shall control discussion on each agenda item to assure full participation of all members to make certain that discussions are confined and focused on subjects listed on the agenda. The chair will preserve order and decorum, preventing the impugning of any member's motives or other personal comments not relevant to the orderly conduct of business. The chair shall request that all speakers keep their comments brief and relevant to the agenda subject and should not allow abusive, rude, or inappropriate conduct by any member or speaker.

Anyone speaking, including a board member, shall speak only after being recognized by the chair, shall limit remarks to the subject at hand, and shall not be interrupted except by the chair to enforce these rules.

**6.3 Voting on a Motion.** Voting by voice or a show of hands shall be used unless a member requests a roll call vote. In case of a tie, the motion fails. At the conclusion (or closure) of

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debate or discussion, the chair shall call for a vote; however, if the chair fails to call for a vote, a majority of the board present may require a vote.

**6.4 Citizen Participation.** Comments and suggestions by the public are highly valued. Those members of the public speaking on items both on the agenda and not on the agenda are limited to three minutes. A person may speak only once on any agenda item. However applicants, or those persons having placed an item on the agenda, will be allowed ten minutes. Time limitations of this rule may be extended by the consent of a majority of the board. The Texas Open Meetings Act requires 72 hour posted notice of every topic or subject to be considered; this law may prevent the board from considering a subject raised by a member of the public. In this case, the chair or a board member may request the matter be placed on a future agenda for discussion or action.

**6.5 Manner of Addressing the Board.** A person desiring to address the board shall state his or her name and address for the record before proceeding with comments.

**6.6 Remarks to be Germane/Non-redundant.** Public comments regarding agenda items must be kept relevant to the agenda subject; the chair shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, overly redundant, or slanderous remarks may be barred by the chair from making further comments before the board during the meeting.

**6.7 Official Minutes.** The actions taken by the board and a brief summary of the discussion of each topic shall be compiled into written minutes, which shall be reviewed and approved by the board at a subsequent meeting. All items requiring a vote shall be moved by a board member. Each motion will require a second by another board member in order to be considered. The recording secretary shall record the name of the board member making each motion and corresponding second to the motion. A motion must be voted on or withdrawn before another motion for that same agenda item can be considered. After approval, the chair shall sign the minutes and the staff member will forward the original signed minutes to the City Secretary who will maintain a file of the official minutes for all boards. All boards have staff members designated by the City Manager to be recording secretaries who are responsible for recording meetings and preparing minutes of all meetings. In addition to the official minutes, the staff member will prepare a brief synopsis of every meeting and provide it to the City Council so they may be kept informed. The recording secretary shall record all meetings of the board and maintain the recording for the required retention period. If a request is made to attach information to the official board minutes, such information shall be briefly summarized in the minutes and the information retained on file for the required time period for such information.

### SECTION 7. STANDARDS OF CONDUCT FOR BOARD MEMBERS

**7.1 Lobbying Prohibited.** The Texas Open Meetings Act was adopted to make governmental discussions and decision-making accessible to the public. Based on the premise that the public's business should be conducted in public, the City Council adopts the following statement: "A board member shall not meet or confer (by phone, in person, email, etc.) with any applicant or representative of an applicant, including but not limited to engineers, architects, attorneys, or

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others outside of a legally posted meeting.” In other words, board members are prohibited from being lobbied with respect to a pending application.

**7.2 Definition of Applicant.** An applicant is defined as a person who requests a matter be considered by a board.

**7.3 Conduct of Board Members:** A board member shall not:

(A) Accept or solicit any benefit or economic gain or advantage, nor use one’s position to secure special privileges or exemptions.

(B) Grant any special consideration, treatment, or advantage to a person or organization beyond that which is available to every other person or organization.

(C) Personally represent, or appear on behalf of, the private interests of others with respect to matters before his/her board.

(D) Knowingly attempt, or assist another to attempt, to thwart the execution of any City ordinance, rule, or regulation.

(E) Engage in any dishonest or criminal act or any other conduct prejudicial to the governing of the City.

(F) Make personal, impertinent, or slanderous remarks, either to another member, the Mayor or City Councilmember, a City staff member, or any citizen. Any member who does so should be requested to leave the meeting and may be barred from attendance at the remainder of a meeting. Personal, impertinent, or slanderous remarks made verbally or in print may result in dismissal/removal from the board following a decision by the City Council.

## **Agenda Item:**

6D. Direction to city staff to initiate the process to create an industrial development corporation to provide tax-exempt or taxable financing for eligible industrial or manufacturing projects. (staff). (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Direction to city staff to initiate the process to create an industrial development corporation to provide tax-exempt or taxable financing for eligible industrial or manufacturing projects

**FOR AGENDA OF:** Sep. 22, 2015      **DATE SUBMITTED:** Sep. 16, 2015

**SUBMITTED BY:** Todd Parton      **CLEARANCES:** Todd Parton  
City Manager      City Manager

**EXHIBITS:** Report – Industrial Development Corporation (IDC) Formation

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**PAYMENT TO BE MADE TO:**  
**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

Pursuant to previous direction by City Council, city staff has been working with KEDC staff to look into the economic development opportunities that might be available to the community through the creation of an industrial development corporation (IDC). Attached is a report prepared by KEDC summarizing the uses of and process for creation of an IDC.

An IDC may be created by the City of Kerrville with the purpose of creating and promoting primary jobs. An IDC may sell bonds on behalf of a private, for profit entity for projects that are limited to \$20 million and of which a maximum of \$10 million could be tax exempt. Bonds issued through an IDC, especially tax exempt issuances, offer lower costs to a qualified project than those issued through the private sector.

Debt service is typically paid by the qualifying prospect under the terms of a lease, sale or loan agreement. Bonds issued through an IDC would not constitute a debt or obligation of the city and would not be credited against the city's bonding capacity.

**RECOMMENDED ACTION**

Creating and IDC will provide another significant economic development tool and is consistent with the community's economic development policies. Accordingly, city staff recommends that the City Council vote to initiate the process to create an IDC for the City of Kerrville. Staff further recommends that the IDC be created to provide the maximum flexibility.



## Industrial Development Corporation (IDC) Formation

### Summary:

- The City of Kerrville may create the IDC to promote primary jobs
- The Kerrville City Council may be the IDC Board
- IDC can sell bonds on behalf of a private for profit entity. Projects are limited to \$20 million, \$10 million of which debt can be sold tax exempt

The State of Texas Industrial Revenue Bond Program (IRB) is designed to provide tax-exempt or taxable financing for eligible industrial or manufacturing projects as defined in the Development Corporation Act of 1979 (Act). The Act allows cities, counties, conservation and reclamation districts to form non-profit industrial development corporations (IDCs) or authorities on their behalf. The purpose is to provide bonds for projects within their jurisdictions.

The IDC acts as a conduit through which monies are channeled. Generally, bond debt service is paid by the business under the terms of a lease, sale or loan agreement. As such, it does not constitute a debt or obligation of the governmental unit, the IDC or the State of Texas. A project cannot exceed \$20 million; \$10 million of which may be tax exempt bonds

### Process

The IDC issuing the bonds must pass a declaration of official intent resolution (tax-exempt only); a bond resolution approving the project; set the bond amount; and make findings required by state law. In addition, the governmental unit of the IDC must pass a resolution that approves the corporate resolution and the project. All terms of the bond sale are negotiated among the appropriate parties and documents are prepared by legal counsel.

The IDC submits an application to the Economic Development and Tourism Division of the Governor's Office (OOGEDT) and the Office of the Attorney General simultaneously. However, the Attorney General will not give final approval until they receive an approval letter from the OOGEDT. Once all approvals have been granted, the IDC can issue the bonds and finance the project from the proceeds.

The IDC will issue the bonds. The state Bond Review Board will approve the bond sale. The process requires approximately six months.

Independent bond counsel for IDC will make tax exempt opinion.

- IDC has to be associated with public entity, i.e. City Council
- City could create 501(c)(3)

#### Exempt Purposes - Internal Revenue Code Section 501(c)(3)

The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of

education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

### **501(c)(3) Establishment Protocol**

1. Choose your Board of Directors (must have at least 3).
2. Choose a name for your nonprofit corporation. You must check to make sure the name you want is available through the Secretary of State.
3. Prepare By-laws for your corporation. These By-laws must comply with Texas law.
4. Hold a meeting of your Board of Directors where the Directors will: Approve the By-laws; Appoint Officers; Set an accounting period and tax year; approve initial transactions, such as the opening of a bank account.

After the meeting is completed, creates Minutes that accurately record the actions taken by the Board.

5. Prepare and file your nonprofit articles of organization (Certificate of Formation) with the Secretary of State and the IRS. You must include your By-laws.
6. Set up a corporate records binder. This will hold all of the Corporation's documents.
7. File your Form 1023 Federal Tax Exemption Application with the IRS. It must include everything on the checklist link, and a filing fee.
8. Obtain your Texas state Tax Exemptions. This will be done through the Texas Comptroller of Public Accounts (Form AP-204). You must include a copy of your IRS Exemption Letter with your application.

Step-by-step instructions: <http://www.nolo.com/legal-encyclopedia/forming-nonprofit-corporation-texas-36089.html>

Answers to common questions: <http://www.sos.state.tx.us/corp/nonprofitfaq.shtml>

SOS Certificate of Formation Form: [http://www.sos.state.tx.us/corp/forms\\_boc.shtml](http://www.sos.state.tx.us/corp/forms_boc.shtml)

IRS 1023 Form: <http://www.irs.gov/pub/irs-pdf/f1023.pdf>

IRS 1023 Form Checklist: <http://tano.org/wp-content/uploads/2013/11/IRS-Form-1023-Checklist.pdf>

Tx Comptroller Form AP-204: <http://comptroller.texas.gov/taxinfo/taxforms/ap-204.pdf>

## **Agenda Item:**

7A. Budget/economic update. (staff)

**SUBJECT:** Budget/Economic Update

**SUBMITTED BY:** Sandra Yarbrough  
Director of Finance

**CLEARANCES:** Todd Parton  
City Manager

**AGENDA MAILED TO:**

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

REVIEWED BY THE DIRECTOR OR FINANCE:

The City of Kerrville staff will present and update Council on a monthly basis as to the status of the City's budget and current economic trends affecting the City.

No action required information purposes only.

**City of Kerrville**  
**Month ending August 31, 2015**  
 (Month 11 of FY15 Budget)

	Current Month	Year To-Date	Budget @ 91.67%	Prior Year To-Date
<b>General Fund</b>				
<b>Total Revenues</b>	<b>\$2,061,832</b>	<b>\$23,191,581</b>	<b>95.16%</b>	<b>\$20,998,819</b>
Property tax	\$47,897	\$8,550,932	98.41%	\$8,287,476
Sales tax	\$594,605	\$5,698,623	94.76%	\$5,335,101
<b>Total Expenditures</b>	<b>\$2,365,598</b>	<b>\$21,166,815</b>	<b>87.20%</b>	<b>\$19,681,225</b>

<b>Water and Sewer Fund</b>				
<b>Total Revenues</b>	<b>\$928,780</b>	<b>\$8,327,710</b>	<b>84.40%</b>	<b>\$9,209,792</b>
Water Sales	\$535,434	\$4,023,101	77.50%	\$4,298,559
Sewer Service	\$323,834	\$3,390,278	86.93%	\$3,485,413
<b>Expenditures</b>	<b>\$679,062</b>	<b>\$10,199,977</b>	<b>84.28%</b>	<b>\$8,869,668</b>

<b>Hotel/Motel:</b>				
<b>Revenues</b>	<b>\$128,483</b>	<b>\$990,260</b>	<b>98.12%</b>	<b>\$938,516</b>
<b>Expenditures</b>	<b>\$23,210</b>	<b>\$937,184</b>	<b>95.71%</b>	<b>\$887,281</b>

<b>Unemployment: (July)</b>		<b>Consumer confidence: (July)</b>	
National	5.3%	National	90.8% up .6% over 2014
Texas	4.2%	Texas	114.9% up 1.9% over 2014
Local	3.8%	(Sources: State Comptroller/Workforce Alamo)	

<b>New Building Permits Issued:</b>			<b>Housing:</b>	
	Res	Com	<i>Local:</i>	
Oct	4	0	658 active residential listings; 68 residential sales August 2015	
Nov	7	0	\$14,966,559 total residential sales dollars for August 2015	
Dec	7	1	\$118,801,371 total residential sales dollars Y-T-D for 2015	
Jan	4	1	(Source: Kerrville Board of Realtors)	
Feb	4	1		
Mar	8	5	<b>Water</b>	
Apr	2	1	Residential - 8,044 meters serving 10,889 units	
May	2	3	Commercial - 1,249 meters serving 1,549 units	
June	10	9	Irrigation - 537 meters; 5 re-use meters	
July	6	1	<b>Sewer</b>	
Aug	4	2	Residential - 7,904 services serving 10,433 units	
Sept			Commercial - 1,099 services serving 1,283 units	
YTD	58	24		



## **Agenda Item:**

8A. Golf Course Advisory Board. (staff)

**BUSINESS OF THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Appointment to the Golf Course Advisory Board

**FOR AGENDA OF:** September 22, 2015      **DATE SUBMITTED:** September 10, 2015

**SUBMITTED BY:** Brenda Craig  
City Secretary *BC*

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Board List

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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**SUMMARY STATEMENT**

Consider appointment to the following board:

**Golf Course Advisory Board:** One vacant position due to expire July 1, 2017.

**RECOMMENDED ACTION**

Consider appointment.

## **GOLF COURSE ADVISORY BOARD**

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
McCARTER, CHARLES Chairman 937 Myrta	210-286-4646 (C) 895-1112 (H)	09-11-12	09-23-14	07-01-16
GIESECKE, MARION C. 9 Antelope Trail	896-4646 (H) 377-8100 (C)	09-23-14		07-01-16
HERD, HELEN 2829 Rock Barn Dr.	895-4373 (H) 979-777-2274 (C)	09-08-15		07-01-17
PINSON, EDDIE 102 Ridgerock Cove	285-5555 (H)	09-08-15		07-01-17
SIGERMAN, MICHAEL 2744 Indian Wells Dr.	895-7765 (H) 305-498-1602 (O)	09-08-15		07-01-17
STERN, ALLEN 2565 Bandera Hwy.	895-2892 (H) 739-5353 (O)	09-11-12	09-23-14	07-01-16
VACANT				07-01-17
COUNCIL LIAISON: STEPHEN P.FINE 1210 Virginia Dr.	285-4234 (C) 896-2934 (H)	06-26-15		
CITY STAFF: Kristine Day Assistant City Manager	258-1106 (O)			
Scott McDonough General Manager of Golf & Tennis	258-1400 (O)			

Qualifications:	Of the seven (7) regular voting members appointed by the City Council, six (6) shall be residents of the City of Kerrville, Texas, and one (1) member may reside outside the City but within Kerr County.
Purpose and Duties:	The purpose of the Board is to advise the City Council and city staff on matters relating to the operation of the Scott Schreiner Municipal Golf Course.
Term of Office:	Two Years. No member shall serve more than two consecutive full terms without having at least one full year off of the Board between terms.
Vacancies:	Upon the vacancy, removal, or expiration of the term of office of any member, the

city council shall appoint a successor who shall hold that position for the unexpired term or for the period of two years when the appointment is made as the result of the expiration of a board member's term.

Quorum: Four members of the board, excluding liaison members.

Number of Members: Seven

Meeting Time & Place: Fourth Wednesday, in the months of January, March, May, July, September, and November, at 4:30 p.m.; Upstairs Conference Room

Absences: The name of any member having three consecutive absences from regularly called meetings of the board, or who in any consecutive twelve-month period is absent from more than 25 percent of the regularly called meetings, shall be forwarded to the city council for consideration for removal and replacement on the board.

Established by: Resolution No. 037-2009, (repealed Resolution Nos. 99-230, 99-307, 080-2000, and 136-2004); Resolution 30-2012

Revised: September 9, 2015



## **Agenda Item:**

8B. Zoning Board of Adjustment. (staff)

**BUSINESS OF THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Appointments to the Zoning Board of Adjustment

**FOR AGENDA OF:** September 22, 2015    **DATE SUBMITTED:** September 9, 2015

**SUBMITTED BY:** Brenda Craig  **CLEARANCES:** Todd Parton  
City Secretary City Manager

**EXHIBITS:** Board List

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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**SUMMARY STATEMENT**

Consider appointments to the following board:

**Zoning Board of Adjustment:** Three regular member positions due to expire on September 30, 2015.

**RECOMMENDED ACTION**

Consider appointments.

## ZONING BOARD OF ADJUSTMENT

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
IRVIN, ROBERT Chair 2128 Bluff Ridge	896-0586 (H) 315-2000 (O)	10-10-10** 11-24-09*	01-08-13	09-30-15
STILWELL, LINDA Vice-Chair 415 Timber Ridge Dr.	329-6456 (C)	01-10-12** 10-11-11*	09-24-13	09-30-15
EYCHNER, JUDY 604 Cardinal	370-1587(C) 257-5010 (O)	10-22-13** 01-08-13*	12-09-14	09-30-16
LEWIS, PETER 334 West Water St.	896-1707 (H) 896-4220 (W)	12-09-14		09-16-16
LIGON, SAM 431 Valley Drive	895-4431 (H) 895-5111 (W)	10-22-13		09-30-15
<u>ALTERNATES:</u>				
MacDONALD, T. JUSTIN 2951 Fall Creek Road	896-4821 (H) 257-5323 (W)	12-09-14		09-30-16
PARKS, ROBERT 2515 Rogers Circle	896-5861 (H) 928-1616 (C)	12-09-14		09-30-16
CITY STAFF:				
Trent Robertson City Planner	258-1184 (O)			

Qualifications: The board shall be composed of five members all of whom shall be residents and qualified voters of the city of Kerrville.

Alternate Members: Two alternate members will be appointed who shall be qualified voters of the city to serve concurrent terms as the regular members. The alternate members will serve on the board in place of an absent member when requested to do so by the chairperson of the board so that all cases to be heard by the board shall always be heard by a minimum of four members.

Powers and Duties: 1. The board shall hear and decide an appeal that alleges an error in any order, decision, or determination made by an administrative official of the city in the interpretation or enforcement of Chapter 211 of the Texas Local Government Code, as amended, or the zoning code.

2. The board shall grant, upon written request, variances from the height, yard, area, coverage, floor-to-area, and buffering regulations and required number of parking and loading spaces prescribed by the zoning code, which variances are not contrary to the public interest, and which, because of special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

Term of Office: Two years. The members shall be appointed by a majority vote of the members of the city council. No member or alternate member shall serve more than three consecutive full terms on the board without having at least one full year off of the board between terms.

Quorum: Four members

Number of Members: Five with two alternates

Meeting Time & Place: At the call of the chairperson and at such other times as the members of the board shall determine.

Absences: Cause for removal of a member of the board by the city council shall be deemed to exist if during any period of twelve consecutive months for any reason other than a medical reason which prevents the member's attendance, the member is absent from the greater of three called meetings of the board or 25 percent of the called meetings of the board.

Established by: Ordinance No. 1997-07

Revised: May 28, 2015

\* Appointed as alternate

\*\* Appointed as full member