

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
July 24, 2018

On July 24, 2018, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Bill Blackburn in the city hall council chambers at 701 Main Street. The invocation was offered by Councilmember Delayne Sigerman, followed by the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
George Baroody	Mayor Pro Tem
Vincent Voelkel	Councilmember
Judy Eychner	Councilmember
Delayne Sigerman	Councilmember

COUNCILMEMBERS ABSENT: None.

CITY CORE STAFF PRESENT:

Mark McDaniel	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
E.A. Hoppe	Deputy City Manager
Cheryl Brown	Deputy City Secretary
Amy Dozier	Director of Finance
Kim Meismar	Director of General Operations
David Knight	Police Chief
Stuart Cunyus	Public Information Officer
Dannie Smith	Fire Chief
Guillermo Garcia	Executive Director of Strategic Initiatives
Drew Paxton	Director of Development Services
Ashlea Boyle	Director of Parks and Recreation
Stuart Barron	Director of Public Works

VISITORS PRESENT: List on file in city secretary's office for the required retention period.

1. ANNOUNCEMENTS OF COMMUNITY INTEREST: were given.

2. VISITORS/CITIZENS FORUM:

2A. Bruce Stracke said Kerrville was a great place and residential and commercial development was occurring. The city was working to get things accomplished.

3. PRESENTATIONS:

3A. Presentation of the Distinguished Budget Presentation Award from the Government Finance Officers Association for the City's annual budget for the fiscal year beginning October 1, 2017.

3B. Resolution of Commendation for Don Barnett for his time served on the Planning and Zoning Commission.

3C. Resolution of Commendation for Ross Robinson for his time served on the Recovery Community Coalition.

**4. CONSENT AGENDA:**

Mr. Baroody removed Items 4A, 4B, and 4C from the consent agenda.

Mr. Baroody moved for approval of consent agenda Items 4D-4E; Mr. Voelkel seconded the motion and it passed 5-0:

4D. Authorize execution of a professional services agreement with Freese and Nichols, Inc. for assistance with the Legion lift station loan application to the Texas Water Development Board Clean Water State Revolving Fund in the amount of \$59,050.00.

4E. Lease with PNC Equipment Finance for equipment and maintenance lease for the Scott Schreiner Golf Course.

**END OF CONSENT AGENDA**

**4A. Financial update for the month ended June 30, 2018.**

Ms. Dozier gave the financial update for the period ended June 30, 2018. A few months ago, she alerted council that sales tax had been coming in under budget and if that trend continued, sales tax revenue would end the year \$200K less than budgeted. Since that time, sales tax had begun rebounding. In May and June sales tax was up 9.23% compared to June 2017; July's sales tax was up 8.3%, and there were slight increases in other categories, and expenditures were also coming in under budget. Ms. Dozier was optimistic that revenue would exceed expenditures by the end of the year. Staff would continue monitoring revenue and expenditures.

Ms. Eychner moved to accept the financial update as presented. Mr. Baroody seconded the motion and it passed 5-0.

**4B. Professional agreement for tennis professional by and between the City of Kerrville, Texas, and Daniel A. Rubio.**

Ms. Boyle noted no changes in hours of operation from the prior contract. She noted that persons had to be a member of the US Tennis Assn. in order to receive status.

Ms. Sigerman moved to authorize the city manager to finalize and execute an agreement between the city and Daniel Rubio. Ms. Eychner seconded the motion and it passed 5-0.

**4C. Non-exclusive license agreement between the City of Kerrville and Camp Gladiator for group exercise with Louise Hays Park.**

Ms. Boyle noted the contract incorrectly stated the city would collect 5% of the fees; however, the city would actually collect 10%, consistent with similar agreements.

Mr. Baroody moved to approve the agreement; Ms. Eychner seconded the motion and it passed 5-0.

**5. PUBLIC HEARING:**

5A. Legion Wastewater Lift Station Environmental Information Document (EID) as part of the Texas Water Development Board (TWDB) funding application.

Mr. Hoppe noted that the TWDB funding application required a public hearing for the environmental information document for the Legion Lift Station (LLS) project. The city contracted with Freese and Nichols to assist in the application process and the environmental impact packet.

Ben Hagood, Freese and Nichols, stated he conducted the survey and put together the EID. The city owned the areas under environmental review, and the site was previously disturbed. He found no significant environmental impacts. The site was outside the 100 ft. and within the 500 ft. floodplain; critical facilities would be above the flood elevation. There were no waters of the US, no cultural resources including historic and archeological; and no threatened or endangered species would be impacted. The existing lift station would be decommissioned and removed.

Mr. Barron noted the line would be located in the city's existing easement and discussed the route to the wastewater treatment plant headworks.

Mayor Blackburn declared the public hearing open at 6:31 p.m. and the following person spoke:

1. Mario Garcia questioned who would be served by the Legion lift station.

Mr. Barron noted the LLS served about half of the city on the north side of the river, from the 300 block of Main Street to the airport.

No one else spoke and Mayor Blackburn closed the public hearing at 6:33 p.m.

Mr. Baroody noted the EID mentioned a rate increase associated with this project, and he opined that if the city did not have debt for the reuse pond, the Legion project would not have caused a rate increase.

Mr. McDaniel noted the rate increase was for increased operational cost and a number of projects in the 10 year program, of which the Legion lift station project and the TTHM (trihalomethane) project were components. The city had not had a water or sewer rate increase since 2012, despite continual increases in operational costs.

**6. ORDINANCE, FIRST READING:**

6A. Ordinance No. 2018-14 deleting Chapter 98, "Telecommunications," of the Code of Ordinances of the City of Kerrville, Texas; containing a cumulative clause; containing a savings and severability clause; and providing other matters relating to the subject.

Mr. Hayes read the ordinance by title and recommended that Chapter 98 be deleted from the Code of Ordinances as the Texas Legislature in 2005 took away cities authority to grant franchise agreements to cable and telecommunications companies.

Ms. Sigerman moved to approve Ordinance No. 2018-14 on first reading; Mr. Voelkel seconded the motion and it passed 5-0.

**7. CITY COUNCIL RECESS:** The City Council recessed at 6:39 p.m. for a meeting of the Employee Benefits Trust (see separate minutes). The City Council returned to regular session at 6:50 p.m.

**8. CONSIDERATION AND POSSIBLE ACTION:**

8A. Resolution No. 27-2018 authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefits Trust to pay for employee related group benefits for Fiscal Year 2019.

Ms. Meismer recommended adopting the resolution which would approve the transfer of funds in an amount not to exceed \$6,500 per employee to finance employee benefits and to authorize use of funds from the Employee Benefit Trust Reserve Account if needed.

Ms. Eychner moved to approve Resolution No. 27-2018; Ms. Sigerman seconded the motion and it passed 5-0.

8B. Resolution No. 30-2018 approving/disapproving an amendment to the Kerr Central Appraisal District (KCAD) FY2017 budget to retain budget surplus funds for KCAD's building reserve fund.

Sharon Constantinides, KCAD Chief Appraiser, noted the FY2017 audit determined a surplus of \$3,620.00, of which the city of Kerrville's portion was \$489.66. The KCAD board requested the FY2017 budget be amended to allow KCAD to retain the surplus funds for parking improvements at their new location. The surplus was due to employee changes during the year. Kerr County approved KCAD's request, and the City of Ingram did not take action, which was the same as approval.

Mr. Baroody questioned the "veto rule" whereby if action was not taken it was the same as approval. Ms. Constantinides noted the process was established by state law.

Mr. Baroody stated that the percentage for school districts was higher than the City of Kerrville's, and he would vote on the side of school districts rather than KCAD. Also, if KCAD had a need for something, they should budget for that need and not use the budget amendment process at the end of the year as has been done in the past.

Ms. Sigerman moved to approve Resolution No. 30-2018 regarding KCAD's surplus; Ms. Eychner seconded the motion and it passed 5-0.

8C. Resolution No. 28-2018 providing for the city's approval or disapproval of the Kerr Central Appraisal District's Fiscal Year 2019 Budget.

Sharon Constantinides, KCAD Chief Appraiser, presented the FY2019 budget and noted it was the same as FY2018, \$1,070,914; the City of Kerrville's allocation was

\$141,614. The FY19 payments for the building increased \$7,104 but staff proposed cuts that would keep KCAD's budget the same as FY2018.

Mr. Voelkel questioned if Councilmember Eychner was a member of the KCAD Board of Directors and if that was a conflict. Ms. Eychner responded that she was on the KCAD Board. Mr. Hayes noted there was no conflict because she was not paid by KCAD.

Ms. Eychner moved to approve Resolution No. 28-2018; Mr. Voelkel seconded the motion and it passed 5-0.

8D. Authorize execution of a contract for the water treatment plant clarifier equipment with WesTech Engineering, Inc. in the amount of \$513,852.00.

Mr. Hoppe noted that some of the clarifier equipment could not be maintained due to its age. The 2012 water master plan identified this project in the community improvement program for 2015. The project was divided into two phases in order to get the manufacturer working on the equipment (6-8 months), and then hire a general contractor to install the equipment. The city did not participate in a low bid process, it was a best value competitive sealed proposal process, and three proposals were received. The proposal from Envirodyne Systems, Inc. included a manufacturer that was not on the list of acceptable manufacturers as stated in the specifications; therefore, Envirodyne was disqualified by the consultant, leaving two proposals that met project specifications. The consultant ranked WesTech as the best value proposal. Staff recommended awarding the contract to WesTech Engineering, Inc.

Ms. Eychner moved to authorize execution of a contract to WesTech Engineering, Inc. for the purchase of the water treatment plant clarifier equipment in the amount of \$513,852.00; Ms. Sigerman seconded the motion and it passed 5-0.

8E. Professional services agreement for the public safety complex feasibility study with Brinkley Sargent Wiginton Architects, Inc. in the amount of \$113,956.00.

Mr. Burow noted on April 23 the city solicited a request for qualifications to develop a public safety complex feasibility study for the police department, municipal court, and fire department administration offices. Five qualification statements were received and scored based on criteria stated in the RFQ. The highest rated proposer was Brinkley Sargent Wiginton Architects. On June 12 council authorized staff to negotiate a professional services agreement.

Ms. Sigerman moved to authorize execution of a professional services agreement for the public safety complex feasibility study; Ms. Eychner seconded the motion and it passed 5-0.

8F. Waiver of perimeter sidewalk construction, per City Code 26-26(f), for property located on Hill Country Drive, Peterson Regional Medical Center.

Mr. Paxton noted that Peterson Regional Medical Center was building a new parking lot across Hill Country Drive from the hospital and requested a partial waiver for sidewalk construction. The hospital traffic study recommendation included the installation of a

new three way stop sign along Hill Country Drive and a crosswalk from the parking lot to the hospital and stop signs. Staff recommended approval.

Ms. Sigerman moved to approve the sidewalk waiver; Ms. Eychner seconded the motion and it passed 5-0.

Council discussed placing a moratorium on sidewalk waivers until the code review could be completed. Mr. McDaniel noted it was important to look at all development codes in a comprehensive rewrite. The committee would be appointed in August and the code review should start in October.

8G. Amendments to the Ethics Policy for Elected and Appointed Officials, City of Kerrville, Texas.

Ms. Sigerman proposed the following amendment to the Ethics Policy: "If a matter or subject is currently pending action by the city council by having been publicly posted on an agenda or been previously acted upon or heard by the city council within the last 30 days, then no member of the city council may convene a public gathering on this same matter or subject without the public gathering being properly posted by the city secretary at least 72 hours in advance so that the public in general and other city councilmembers are given notice and an opportunity to attend. This requirement does not apply to informal gatherings called by individual city councilmembers to update citizens or constituents about general items of interest about a variety of current events and activities of the city and to receive questions and requests."

Ms. Sigerman noted that on June 11 a town hall meeting was held in the Doyle neighborhood about an item on the June 12 council agenda, and a notice was not posted so a quorum of councilmembers could attend. She recommended a statement be added to the ethics policy so all councilmembers could have the benefit of attending such town hall meetings in the future.

Mr. Hayes noted the ethics policy was a self-policing policy. There was no provision for city staff to do anything; staff would not be involved in the policy. Councilmembers can adopt rules to govern their conduct.

The following persons spoke:

1. Peggy McKay was concerned that the amendment might ban councilmembers from discussing matters informally with the public. When such meetings occur, councilmembers could bring input back to city council. Council keeps changing rules, but this amendment was fuzzy and would cause more problems.
2. Nikki Saurage stated the amendment would make informal meetings more political.
3. Sandi Garcia was concerned about freedom of speech. She opined that council members had the right to speak to constituents, and if other councilmembers wanted to hear comments, they should come out to talk to them. This amendment was reactionary, and would change in a few months. Councilmembers should not be

prohibited from speaking to anyone and that was how citizens learn. It should not be up to one councilmember to invite all councilmembers to a meeting.

4. Renee Lofaso stated she agreed with the amendment and opined that all councilmembers should be invited to any community/town hall meeting as all have input and vote. She question why citizens would be afraid of council establishing standards and guidelines to better police themselves. Council should be policed more not less, and everyone's opinions should be heard.

5. Mario Garcia was concerned about freedom of speech, and the Constitution was the policing. He was against the hand-held cell phone ordinance previously passed by city council. He opined this was an attempt to filter or hamper, and not allow councilmembers to have meetings so they could speak. This was finger pointing and councilmembers needed more freedom.

5. Kimber Falkinberg stated that all councilmembers should have freedom of speech. She was used by a councilmember in the past to further their political agenda; citizens should be more informed about matters because political agendas might be at play.

Mr. Voelkel opined that if a councilmember wanted to have a discussion with citizens, he did not need a majority of council to "shadow" his discussions.

Ms. Eychner stated that all councilmembers should be invited to public meetings so they can attend and hear people's comments. Other councilmembers may have wanted to participate in the Doyle town hall meeting.

Mr. Baroody opined that such a rule, if adopted, should be in the procedural rules, not the ethics policy. A rule such as proposed would mean that councilmembers would not be able to hold unposted meetings to provide information to citizens, and this takes away people's freedom of speech. Inviting other councilmembers to the town hall meeting at Doyle would have made it a requirement to attend; there was nothing detrimental to what he did. No one was excluded. There may be times when a councilmember may not want an agenda posted as having the public at a meeting might hinder negotiations. He opined that the rule was reactionary because he had a meeting that all of the council was not invited to. The proposed rule would require the person announcing a meeting to be responsible to have the meeting posted. In the past, he tried to get a meeting posted for a different meeting so he could attend, and he was refused. The perception of this rule was to silence him, and he would like to be able to air what he wanted to say.

Ms. Sigerman opined that many people who attended the meeting in the Doyle area were visibly and emotionally upset, and she would have liked to have met them and discussed their concerns. The Doyle meeting on June 11 was prepared and organized by Councilmember Baroody in order for him to share his concerns with the people. She would like to have had the opportunity to have been included. The people who attended that meeting should have been able to hear all councilmembers' points of view about the comp plan, and councilmembers to have heard their concerns. Getting input from a

councilmember after the fact is a disadvantage to hearing and discussing their concerns personally. She opined that if an item was to come to council on a future agenda and council was divided on the subject, the public should hear all council's points of view.

Mr. Blackburn noted that he did not post an agenda for an informal gathering that he had been asked to speak at, so he cancelled the meeting.

Mayor Blackburn moved to table the matter and bring it back at a future meeting. Ms. Eychner seconded the motion and it passed 4-1 with Councilmembers Blackburn, Eychner, Sigerman, and Voelkel voting in favor of the motion and Councilmember Baroody voting against the motion.

8H. Amendments to the Procedural Rules for Meetings of the Kerrville City Council. Ms. Sigerman proposed adding the following statement to Procedural Rule 7.5 Council Liaisons; attendance at board meetings: "unless invited to do so by the chairperson of the board and/or commission holding the meeting." Ms. Sigerman noted that at a recent planning and zoning commission meeting several councilmembers who were in attendance were asked by the chairman to speak on an issue."

Mr. Voelkel noted that at a previous planning and zoning meeting several councilmembers spoke. Under the current procedural rules, councilmembers may attend meetings but are not to speak unless the item of discussion was the councilmember's personal business or property, as doing so could potentially influence board members since they are appointed by the city council. He opined there was no reason to change the rules to allow councilmembers to speak, even if they are invited to do so by the chair.

Mr. Baroody noted that three councilmembers spoke at the meeting in question, which violated the current procedural rules. If councilmembers speak at board meetings, this could hinder due process. He was also concerned that council deliberated city business in that meeting and the posted agenda stated there would be no deliberation by councilmembers. Mr. Baroody also quoted procedural rule 4.4: "The presiding officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comment not relevant to the orderly conduct of business." Council should not attempt to interpret another councilmember's motives.

Ms. Eychner moved to table and relook at bring back at a future meeting. The motion died for lack of a second.

Mr. Baroody suggested voting on this rule and reviewing the procedural rules document at a later date if needed.

The following person spoke:

1. Mario Garcia stated the council was clear now on the procedural rules.

Mr. Baroody moved to not approve the amendment. Ms. Eychner seconded the motion and it passed 5-0.

8I. Resolution No. 29-2018 confirming and reconstituting the Mayor's Youth Advisory Council (MYAC) as the Kerrville Youth Advisory Committee (KYAC) to include providing its purpose, membership, roles, and responsibilities.

Mr. Cunyus noted MYAC was established in 2016 by a motion of the council. The proposed resolution and bylaws would officially establish the committee, and staff recommended approval.

The following persons spoke:

- Roman Garcia, stated he was chairman of MYAC and on behalf of MYAC he proposed the following amendment to the bylaws:
  1. Name: Kerrville Youth Action Council (not Advisory Committee).
  2. Regular Meetings: 18 meetings on 2 and 4 Thursdays (not 9 meetings).
  3. Special Meetings: Replace: "... as called by the staff liaison based upon input from KYAC members." WITH: "... as called by the chair or staff liaison upon written request of six (6) council members to the staff liaison and the air. The purpose of the meeting shall be stated in the call, and the agenda shall be sent to all members at least 72 hours before the meeting."
  4. Agenda: Article IV, Section E: "written request ... to the staff liaison or chair ..."; change "or" to "and".
  5. Number of Members: add " and three (3) alternates."

Mr. Garcia stated he wanted 12 regular members which would lower the quorum, and three alternates.

Council also discussed the following:

- There were no term limits on this committee.
- Attendance of members with one meeting per month vs. two meeting per month.
- Ability of the chair to call special meetings.
- The word "Council" implies a level of authority; should be advisory committee.

Mr. Baroody moved to approve Resolution No. 29-2018 including amendments 2, 3, 4, and 5 as presented by Roman Garcia; the name to be "Kerrville Youth Advisory Committee." Mr. Voelkel seconded the motion and it passed 4 - 1 with Councilmembers Baroody, Voelkel, Eychner, and Sigerman voting in favor of the motion; and Mayor Blackburn voting against the motion.

## **9. INFORMATION & DISCUSSION:**

### **9A. Recovery Community Coalition (RCC) annual update.**

Dale Trees, Chairperson of RCC, reviewed the membership and purpose of the RCC. Two education and awareness events were completed with the police department, and three workgroups were assigned to study specific areas: transportation; resource information; and public relations/media. He noted the following:

-A total of 28 group/sober living homes had registered with the city since the ordinance was enacted; however there were currently only 19 homes active and registered to

operate in the city (17 for profit and 2 church affiliated homes). There was no way to track home activity outside the city limits.

- Reviewed calls for service to the police department and fire/EMS at group homes.
- Identified strategies for reducing barriers to recovery in Kerrville.
- RCC reviewed City Ordinance No. 2013-06; consensus was to end the discussion and refocus on other tasks.
- Discussed opportunities for integration, i.e. workforce opportunities.
- Pilot community project: Facing Addiction.

The following person also spoke:

1. Steve Pautler, RCC member and Chief Operating Officer of Peterson Health, stated appreciation to council for their support and staff support in helping to deal with recovery issues constructively.

#### **9B. Annual report by Playhouse 2000, Inc. (P2K)**

Jeffrey Brown, Executive Director of Playhouse 2000, Inc. reported on the following:

- Highlights of production activity for 2017-2018:
- 2017 totals: 92 events, 198 used nights, face value of tickets sold was almost \$500,000; total visits were more than 45,000.
- 2018 first half totals: 53 events, 114 used nights, face value of tickets sold was \$298,300; total visits were 30,358.
- Highlighted current and future events.
- Presented the financial activity for 2017 and 2018.
- Reported on the P2K business plan for 2019-2023.

Mr. Brown reported a significant shortfall in revenue, particularly in foundation grants. He noted that most donors preferred to support programing rather than building/facility costs. The City/P2K operational agreement would expire in January 2020; it was an auto renewal agreement; however, he proposed to work with city staff to develop an operating agreement to address city assistance with building costs. This would allow P2K to focus fundraising efforts toward programing

#### **10. BOARD APPOINTMENTS**

##### **10A. Appointment to the Recovery Community Coalition.**

Ms. Craig noted that the member holding Position 7, representative of the Hill Country Mental Health and Development Disabilities, had resigned. Only one application was on file from a person meeting the qualifications for Position 7. There were also other vacancies, which would be considered at a future meeting.

The following person spoke:

1. Kimber Falkinberg thought the resolution that set up the committee stated two or more persons from each category. She questioned why the city limited the number of members on this committee.

Council noted that the resolution creating RCC stated at least one member should be from each of the seven categories; only one applicant met the qualification for Position 7.

Ms. Eychner moved to appoint Kim Williamson to Position 7 on the Recovery Community Coalition; Mr. Voelkel seconded the motion and it passed 5-0.

10B. Appointment to the Planning and Zoning Commission.  
Item was deferred to executive session.

**11. CITY MANAGER'S REPORT**

Mr. McDaniel provided the capital project status report.

Mr. McDaniel recognized E. A. Hoppe for receiving the Credentialed Manager designation from the International City Management Association, and for being elected to the Texas City Managers Association Board of Directors.

**12. ITEMS FOR FUTURE AGENDAS** None.

**13. EXECUTIVE SESSION:**

Mayor Blackburn moved for the city council to go into executive closed session under Section 551.074 (personnel/officers) of Chapter 551 of the Texas Government Code to discuss item 10B as listed below. The motion was seconded by Ms. Eychner and passed 4-1 with Councilmembers Blackburn, Eychner, Sigerman, and Voelkel voting in favor of the motion and Councilmember Baroody voting against the motion.

Section 551.074:

10B. Appointment to the Planning and Zoning Commission.

At 9:23 p.m. the regular meeting recessed. Council went into executive closed session at 9:28 p.m. At 9:40 p.m. the executive closed session recessed and council returned to open session at 9:41 p.m. No action was taken in executive session.

**14. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

10B. Appointment to the Planning & Zoning Commission.

Mr. Baroody moved to appoint Barbara Dewell to the regular member position due to expire January 1, 2020. Mr. Voelkel seconded the motion and it failed 2-3 with Councilmembers Baroody and Voelkel voting in favor of the motion, and Councilmembers Blackburn, Eychner, and Sigerman voting against the motion.

Ms. Eychner moved to appoint Tricia Byrom to the regular member position due to expire January 1, 2020. Ms. Sigerman seconded the motion and it passed 5-0.

**ADJOURNMENT:** The meeting adjourned at 10:45 p.m.

APPROVED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Bill Blackburn, Mayor

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Brenda G. Craig, City Secretary