

**KERRVILLE CITY COUNCIL AGENDA**  
**WORKSHOP, MARCH 19, 2019, 10:00 AM**  
**CITY HALL COUNCIL CHAMBERS**  
**701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER**


1. **DISCUSSION AND ACTION: REVIEW AND DISCUSS QUESTIONS AND RESPONSES REGARDING APPLICATION OF CURRENT CODES AND ORDINANCES (BAROODY AND VOELKEL)**

**ADJOURNMENT**

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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 hereby certify that this agenda was posted as notice of the meeting on the bulletin board at the City Hall of the City of Kerrville, Texas, and on the City's website on the following date and time: March 15, 2019 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

**Shelley McElhannon**   
Shelley McElhannon, City Secretary  
City of Kerrville, Texas

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March 15, 2019

*Dear Mayor and Councilmembers:*

*Please find below responses to questions raised by Councilmember Voelkel and Councilmember Baroody in meetings and separate discussions. Most of these questions have been answered previously at some point over the last several months, but not all. (For reference, the latest listing of statements, arguments and questions from Councilmember Voelkel and Councilmember Baroody following the February 26, 2019 City Council meeting are attached in their entirety as Exhibit A and Exhibit B, respectively.)*

*A common theme you will encounter in these responses is that we work hard with people to try to resolve issues rather than go straight to enforcement. This is not unlike situations where we have nuisance code violations and we work with citizens for several months for voluntary abatement, which eventually results in close to 100% compliance on hundreds of cases.*

*The new team of staff now in place has been diligently and systematically striving to enhance efficiency and improve processes for a relatively short time, but significant progress has been made through deployment of many tools. This includes use of Lean Six Sigma evaluation methods, business planning around the Baldrige framework, a stakeholder task force to advise on development services process improvements, a citizen committee to rewrite development codes, City University training, new software and organizational changes.*

*Please note that the responses below are provided by several experts and/or professionals on staff as a collective effort. Any questions may be clarified and discussed in more detail at the March 19, 2019 workshop.*

*We appreciate this opportunity to openly share our findings and facts surrounding the questions raised. It has been our endeavor to be as thorough as possible in order to resolve any remaining concerns and avoid again revisiting the same issues so that we can put them behind us and move this City forward.*

*Sincerely,*

  
Mark McDaniel  
City Manager



## Questions from Councilmember Voelkel:

1. **Chamber sign** – I would like to know the immediate steps we are taking to treat everyone fairly. I talked with Mark when this issue came up and told him whatever the outcome is at P&Z, everyone should be treated the same. It sounds like the City has no authority to tell the Chamber how to operate their sign. The City permitted a digital sign larger than what is allowed. I would like the City to be consistent and allow the same sized digital sign to anyone who applies. I would also like to see answers to Cory Traub's questions that he has emailed City Council. Let me know if you have not received his email. How can we make it fair to allow similar signs now and not delay other signs while waiting for the code review committee?

### Response:

Development Services has already revised sign permit application, review and inspection processes in order to better define proper steps and staff roles throughout the process. In addition, new software is being installed that will reduce the likelihood of error.

As stated multiple times, the Chamber permit was issued in error. Issuing erroneous permits does not benefit anyone, nor does it make it fair to the other contractors or the public. The review and possible update of the sign code is the fair way to approach the situation.

The Chamber's current electronic sign is limited to display of 32 sq. ft. at least until such time a different requirement is put into place via a code rewrite beginning in early May, 2019. Please see response to Councilmember Baroody's related question #4.

Incidentally, there are in fact electronic signs in operation now that exceed 32 sq. ft. For example, the Tivy stadium sign is exempt from this regulation under state law, and the Centennial Bank sign is "grandfathered" as a non-conforming use under Sec. 6-43(4) of the code.

Please see separate report prepared by Guillermo Garcia which addresses the concerns expressed in Mr. Traub's email.

2. **Fire Lanes** – I have addressed this multiple times. It seems that the fire lanes at River Trail Cottages and Peterson Plaza were approved. I would like the City to allow new developments to be able to create fire lanes at the same standards we allowed those developments, such as no more requirement to have the fire lanes painted on the ground or have signage.

a. River Trail Cottages fire lane signs are not at least 6 feet from the bottom of sign to the ground and are only located on one side of the fire lane. They are also not properly spaced at 25 feet and the fire lane is not marked on the adjoining property's parking lot where it crosses. How was this addressed and are we going to allow this in the future?



**Response:**

The former fire marshal performed the plan review (including fire lanes) of the River Trail Cottages development site plan. Upon final inspection, these fire lane issues were addressed with the property developer and he was informed that the signs had to be raised to at least 6 feet.

After the current fire marshal was promoted in 2018, the property developer was contacted regarding the incomplete fire lanes. At that time, he stated that he would have the fire lanes painted after the adjoining property owner re-surfaced their parking lot within a couple of months. The current fire marshal has not had an opportunity to follow-up on this due to the transition to his new role, but he is scheduled to meet with the property developer the week of March 17<sup>th</sup>.

- b. Peterson Plaza does not have a painted red stripe on either side of the fire lane. It is also not marked in the parking lot. How was this addressed and are we going to allow this in the future?

**Responses**

No current staff (fire chief, fire marshal, Development Services personnel, city engineer, city administration, etc.) were involved with this project when it was approved and completed several years ago. Peterson Plaza currently has a fire hydrant located in the middle of the block, directly adjacent to the designated fire lane that bisects the block. This fire lane is not publicly accessible and is protected from thru traffic via bollards that can be removed by Fire personnel when and if needed to gain access. In addition, an acceptable form of "fire lane" painting along the rollover curb on Peterson Plaza is provided for this fire lane, per the approval of Fire and other development review staff at the time.

As for the parking lot where City Hall's fire department connection (FDC) is located, the fire marshal is currently working with the Street Department to have it painted. This was attempted a few months ago, but it was not striped entirely correctly. It is currently on the Street Department's schedule to be re-striped in the near future.

Another delay in getting this accomplished has been the ongoing surveying, platting, and easement issues discussed in question #5 below. Staff had been waiting for this issue to be resolved in order to proceed with the painting of the fire lane.

**3. Utility Easements** – I have addressed this multiple times. If there are easements at the Sports Complex for water and sewer, I would like to see them. I cannot find them and most easements that I have been involved in are created by plat. Where are the utility lines and easements? If there are no easements, are we going to allow other developments to not provide easements? How will we address this moving forward?



**Response:**

This issue has been discussed with Councilmember Voelkel previously. The City does not dedicate easements to itself – in fact, it is a legal impossibility. Being that the Sports Complex is on City property, easements were not dedicated. Some utilities in this area are provided for within the right of way dedication for Cailloux Blvd. and Home Run Drive. Easements will continue to be required for private developments.

**4. Annexation** – I am not familiar with any agreement the City has made to ensure we will annex the donut hole we created at Comanche Trace. Council Member Sigerman has made it seem like there is an agreement. Can I get a copy of the agreement? I believe to be consistent, we must continue to allow donut holes as we did with Comanche Trace. Why wasn't it annexed to begin with, even when it was brought to the City's attention? How do we give fair treatment moving forward?

**Response:**

As indicated during the 2018 Comanche Trace petition for annexation that came before the Council, the developer made a verbal commitment to address the issue moving forward with future annexations and/or the update or renewal of its development agreement with the City. In addition, Comanche Trace has provided a letter confirming its intent. (Please see Exhibit C.)

While the City has a right to annex the area, Council voted on October 23, 2018 to approve the annexation and asked the staff to work with the developer through future annexation requests and/or the update or renewal of the development agreement to correct the "donut hole".

In addition, at Councilmember Voelkel's request, the staff provided a list of similar donut hole scenarios on October 23, 2018. At that time, it was noted that due to the City's fairly irregular city limits and a number of small annexations by petition, it is not ideal but also not uncommon that over several years donut holes have been created. Below are the donut holes that were reported on October 23, 2018.

- The large Schreiner University property along Loop 534 was created in 1980 with the annexation of the loop (Ord 80-33)
- Approximately 24 acres north of Kerrville Schreiner Park was created through a combination of several separate annexations. Finally surrounded in 2005.
- Mack Holliman Dr. was annexed in 1985 (Ord 85-54 and Ord 85-58)
- Hwy 173 and Loop 534 Bridge was annexed in 1986 (Ord 86-40)
- KSP was annexed in 2005 (Ord 2005-08)
- Papa Johns and Brew Dawgs was annexed in 2013 (Ord 2013-08)
- Horseshoe Oaks subdivision donut was created in 2011 with the annexation of Harper Rd, Town Creek, and IH-10 (Ord 2011-07)
- 16.5 acres along Coronado Drive and 7.3 acres near Village Drive were both created with the annexation of The Heights subdivision in 2014 (Ord 2014-11)
- Comanche Trace annexation of Phase 13 in 2017 (Ord 2017-16)



- Glen Rose Cemetery
- Comanche Trace Phase 15 (the referenced Comanche Trace scenario)

Developments vary greatly in their level of complexity. Due to the magnitude, impact, and phased nature of the Comanche Trace development, in 1999 Council entered into a development agreement with the developer. That development agreement outlines a number of development issues that are different from both the current development standards and the standards at the time due to the uniqueness of the project. This "window pane" or donut hole annexation issue was specifically contemplated and addressed in the adopted development agreement, and therefore does not provide a precedent for how other annexations must occur for other projects in the future.

Finally, the creation and existence of donut holes is fostered by the City's historical practice or policy to only annex property by petition or application of the property owner or developer. In other words, even with a petition, to staff's knowledge the City has not gone beyond the area petitioned for annexation and pursued an involuntary annexation.

**5. Platting** – River Trail Cottages plat has multiple errors including flood plain, flood way, certifications, etc. Sports complex shows no easements for utilities. Were any easements created? City Hall does not have access to Hwy. 27. Is this legal? Does the City allow other developments to do the same? Would the City allow other developments to have an error exist as long as this has? How much has platting the Sports Complex cost the City? How much has platting City Hall cost the City? Why wasn't the Sports Complex property platted when the conveyance was made from Cailloux to the City?

**Response:**

The River Trail Cottages plat is properly platted. While issues were raised by Councilmember Voelkel when this project was going through the platting process, to our knowledge all of them were addressed.

The City's subdivision regulations require access to adjacent roadways, Article 10-IV-1 Section (B) 2.e. "Access" for purposes of this Subsection (e), shall be to an existing public right-of-way abutting each part of the subdivided property, on which right-of-way is constructed a publicly maintained paved street or road, unless access by some other means has been previously approved by the City Council.

When the City Hall property was going through the replatting process prior to construction of City Hall, access to both Hwy 16 and Hwy 27 was available on the lot. This occurred prior to the construction of the building or the overall siting of the property, which is a common occurrence. Subsequently, the City Hall building and site were designed and TxDOT desired that access be moved further back from the signaled intersection at Hwy 16 and Hwy 27. As a result, the small parking lot next to City Hall was designed with access further back from the intersection through the adjacent property.



The overall Peterson Plaza block has been platted for numerous decades. At some point the property was resurveyed by Voelkel Land Surveying and the resulting replat was filed with the County. However, the replat was wrong because it combined property with the City's property that the City did not own. As previously stated, the City Hall property has access to Hwy 27, per the platting requirements.

The City has not finalized the potential replat of the City Hall property, or dedication of additional mutual access easements, as current driveway access negotiations are in progress with the adjacent property owner. The City staff had negotiated a land acquisition/swap with the adjacent property owner in 2018 to address this issue. However, Councilman Voelkel's desire to attempt to negotiate additional deal points has delayed resolution of the matter.

The City expended \$9,200 to plat the Sports Complex portion of the property, plus filing fees, and has spent approximately \$3,000 to date on City Hall replating.

As has been explained on prior occasions, the conveyance of the Sports Complex property occurred under a previous administration. We are not aware of all of the particulars of that transaction, but the property has been platted. We received the application on September 28, 2018. It went to the Planning & Zoning Commission on October 4, 2018, and it was recorded January 28, 2019.

#### **6. Violations – Art. 10-IV-6 Violations/Enforcement/Penalties/Separability**

How do we have utilities extending beyond Homerun Drive on Cailloux Blvd.? They are connected. Why was this not addressed during the platting process for the Sports Complex? Did the Commission approve this? How are we addressing this? It was stated in a public meeting that these issues have been "addressed". What does that mean and please explain specifically what has been done to correct these deficiencies? I would like to know answers to these questions. If we do not have any answers, I would like to know how this is not selective enforcement or favoritism and how we are planning to fix this.

#### **Response:**

As explained to Councilmember Voelkel earlier, some utilities in the area of Homerun Drive and Cailloux Blvd. are provided for within the right of way pursuant to the City's Sports Complex project. Additional infrastructure (streets, water and wastewater) has been constructed in the area, but final acceptance of the infrastructure has not yet occurred, pending punch list items and right of way/easement dedications. Adjacent property owners that constructed this infrastructure have utilized a temporary water meter connected to a nearby hydrant for construction related purposes, and any water used is billed. This is a common practice for construction projects.

In sum, Development Services staff and other associated departments are reviewing each of our processes and related development codes. The Council has also approved a

contract for new software now being installed, and has appointed a committee to oversee the much needed overhaul of development codes.

The current team of staff inherited a lot of broken processes, software and codes that have existed for many years. We are making good progress to implement these improvement projects to help increase the consistency of our work, but it will not be an overnight fix.

**End of Responses to Councilmember Voelkel.**

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## Questions from Councilmember Baroody:

### 1. City Alcohol license permits

The City was and is aware of the multiple TABC licenses held by ALL permitted establishments, so then why choose to single out one establishment for favored treatment?

Under what authority does the City Manager or anybody else in staff have to decide to vary fee requirements from policy set by ordinance?

This was pointed out to the City Manager over a year ago and yet has remained unaddressed until now, why is this ongoing and unresolved?

#### Response:

The Finance Department recently worked with a representative from TABC to update our process. We are now able to download information about which permits were issued for each entity directly from the TABC website. Rather than sending the bill for City licenses based on the TABC paper application, we now send the bill based on a TABC report showing which licenses were actually issued.

In the case of Pint & Plow – Pint & Plow originally applied for Brewer's Permit license only. The City received and signed the TABC application for the Brewer's Permit License. In January 2018, Pint & Plow submitted a new application to TABC for 3 licenses (Wine and Beer Retailer's Permit, Brewpub License, Private Carrier's Permit). We incorrectly billed the City license fee based on the first application received instead of the second application. Accordingly, we sent a second bill for \$205 to cover the additional license fees that Pint & Plow was not originally billed.

There was no fee waiver. Pint & Plow has been billed for all 3 licenses.

### 2. Boarding home permits

Why is the City choosing to require permits from a select subset of the boarding homes operating within the City limits?

Under what authority or provision does the City Manager or any staff have the right to ignore established policy from the boarding home ordinance?

Why is this known issue ongoing and unresolved?

#### Response:

The City requires permits for all boarding homes as required by the Code of Ordinances. To say that the "establishments were known by the City to be operating under the boarding home definition" is not accurate.

Apartments are listed as a separate use in the zoning code and the zoning land use table. Apartment and/or multi-family dwellings have separate definitions and zoning classification requirements, both by zoning district and the land use table, than a boarding home facility. Simply put, an apartment complex is not counted as a boarding home facility.

Staff has no further comment given pending litigation.

### **3. Requests for variances**

Why did staff allow P&Z to grant variances for PoPo's Restaurant, Peterson Hospital and Pint & Plow all without making the obligatory findings of evaluation criteria?

Moving forward, how does staff intend to assure P&Z makes its decisions within the boundaries of the laws?

Staff made an affirmative recommendation for approval for the Pint & Plow sign variance in December. At January P&Z meeting where Calvary Temple sign variance was on agenda, staff made the following statement, "Traditionally, staff has not made recommendations for or against a case regarding a sign variance." Why would staff misrepresent its policy from one month to the next?

#### **Response:**

It is the responsibility of City Council to appoint and oversee the Commission as stated in Article 11-I-22 of the Zoning Code.

Staff provided the Commission a report addressing the evaluation criteria. The Commission is responsible for making the decision to approve or deny each variance, as stated in Section 6.44 (g) of the Code of Ordinances.

(g) *Action by the planning and zoning commission.* The planning and zoning commission may grant the variance as presented or in a modified form or subject to conditions, or it may deny the application on the grounds of being incompatible with a neighboring use(s), traffic safety, the purpose statements as listed in this article, or that it will give a business an unfair competitive advantage over other businesses. The planning and zoning commission may impose such conditions or requirements in a variance as are necessary in its judgment to protect the overall character of the community and to achieve the fundamental purposes of this article and the city's development plan and other regulations. A responsible party who fails to comply with any such conditions or requirements is in violation of this article.

Staff provides guidance on the codes, ordinances, and laws as they apply to a case and/or decision. As found in Article 11-I-22, the Planning and Zoning Commission duties and powers are established. Specific to the sign variances, additional duties and powers are established in Section 6.44.



The intent is for staff to present the nine evaluation criteria as they relate to the specific request and let the Planning and Zoning Commission make their decision accordingly. With the example of the Pint and Plow sign variance case, newer staff's previous experience lead them to provide a recommendation. Historically, for the City of Kerrville, the general practice has been that staff does not provide a recommendation, for or against, sign variances.

Councilmember Baroody is actually referencing the City's code, not the charter. He is making arguments as to the variance process for signs. This chapter of code sets out an "evaluation criteria" for the Planning and Zoning Commission to use when deciding whether to grant a variance. The code requires that the Commission use the criteria and make the findings. It should be noted that:

- Variances – whether zoning or signs – should be difficult to obtain, hence the evaluation criteria.
- At the time the variance comes before the Commission, staff provides the "evaluation criteria" within the agenda bill. Staff also reminds the Commission about the criteria during the meeting.
- The Code does not say that each finding, which deal with very specific issues, must be voted upon separately. Nor does it say that any reference to the findings must be part of its motion and action.

In summary, the Commission knows about the criteria and any action that they take can be reasonably assumed to take those criteria into account and for actually making a finding. This is common practice for Commissions of other cities, and has never been challenged or even raised as an issue before here.

#### **4. Electronic signs**

The City Manager claimed that 'we got opinions that the sign is operating to the code'. What opinions and from whom did we receive them?

If the Chamber sign is not operating under a staff level variance, then where is the variance granting use of an electronic display greater than 32 square feet?

Under what authority does staff have to apply the conditional use to the sign?

If the Chamber did not need a variance to operate the installed sign, then why did the City twice accept the application for the variance and post in newspaper for P&Z public hearing?

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If it can be said that the Chamber sign is not operating under a variance and is truly compliant with the ordinance, then why was Calvary Temple Church not informed of the same exact interpretation of the ordinance that would have granted them a sign permit, no variance needed?

It has been claimed that the process has been overhauled already but then why are the problems still occurring as recently as last month?

**Response:**

As communicated and discussed with the Councilmember on multiple occasions, the Chamber was erroneously issued a permit. Staff is making the best of an imperfect situation with the goal of resolving the issue as responsibly and soon as possible. Staff has not issued a variance. Instead, staff has again tried to make the best of a difficult situation. The City, at some point in the future, could decide to take enforcement action against the sign. However, there are multiple legal issues in doing this which involve consultation with the city attorney.

The city attorney has had an extensive discussion about this issue with Councilmembers Voelkel and Baroody. While their arguments are understood, their position is neither reasonable in his opinion, nor do they take into account all of the issues. In sum, the current problem doesn't have a perfect, immediate solution. There are a number of legal issues involved, but for now the city attorney considers the Chamber's continued use of their sign to be a delay by the City in any enforcement action. During this delay, we can work through the legal issues, a public process, and apply good governance to reach a solution that Council will ultimately consider.

The recommendation to bring the operation of the sign into compliance, by only operating a portion of the sign (32 square feet) was a temporary fix until the variance could be reviewed. At this time, the code enforcement case opened on the Chamber sign has not been closed; only put on hold until the overall case can be resolved.

In general, it is not uncommon to put a case "on hold" until the final issue can be addressed. City staff tries diligently to work with citizens and customers to get through this type and other types of issues. Ultimately, staff's goal is to bring cases into compliance rather than issue citations.

Under the current code, a variance is required. The current limited operation of the sign is a temporary fix until the variance could be reviewed. The applicant applied for a variance and staff posted and advertised accordingly.

The process continues to be updated. As Development Services launches the new permitting software, the process will be reviewed again. Please see separate report prepared by Guillermo Garcia which addresses the concerns expressed in Mr. Traub's email.



# EXHIBIT A

**Mark McDaniel**

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**From:** Vincent Voelkel  
**Sent:** Tuesday, March 05, 2019 2:39 PM  
**To:** EA Hoppe  
**Cc:** Mark McDaniel

Here are some things I have put together. It is mostly things I discussed at the last Council meeting.

## SELECTIVE ENFORCEMENT ISSUES

1. Chamber sign – I would like to know the immediate steps we are taking to treat everyone fairly. I talked with Mark when this issue came up and told him whatever the outcome is at P&Z, everyone should be treated the same. It sounds like the City has no authority to tell the Chamber how to operate their sign. The City permitted a digital sign larger than what is allowed. I would like the City to be consistent and allow the same sized digital sign to anyone who applies. I would also like to see answers to Cory Traub's questions that he has emailed City Council. Let me know if you have not received his email. How can we make it fair to allow similar signs now and not delay other signs while waiting for the code review committee?
2. Fire Lanes – I have addressed this multiple times. It seems that the fire lanes at River Trail Cottages and Peterson Plaza were approved. I would like the City to allow new developments to be able to create fire lanes at the same standards we allowed those developments, such as no more requirement to have the fire lanes painted on the ground or have signage.
  - a. River Trail Cottages fire lane signs are not at least 6 feet from the bottom of sign to the ground and are only located on one side of the fire lane. They are also not properly spaced at 25 feet and the fire lane is not marked on the adjoining property's parking lot where it crosses. How was this addressed and are we going to allow this in the future?
  - b. Peterson Plaza does not have a painted red strip on either side of the fire lane. It is also not marked in the parking lot. How was this addressed and are we going to allow this in the future?
3. Utility Easements – I have addressed this multiple times. If there are easements at the Sports Complex for water and sewer, I would like to see them. I can not find them and most easements that I have been involved in are created by plat. Where are the utility lines and easements? If there are no easements, are we going to allow other developments to not provide easements? How will we address this moving forward?
4. Annexation – I am not familiar with any agreement the City has made to ensure we will annex the donut hole we created at Comanche Trace. Council Member Sigerman has made it seem like there is an agreement. Can I get a copy of the agreement? I believe to be consistent, we must continue to allow donut holes as we did with Comanche Trace. Why wasn't it annexed to begin with, even when it was brought to the City's attention? How do we give fair treatment moving forward?

5. Platting – River Trail Cottages plat has multiple errors including flood plain, flood way, certifications, etc. Sports complex shows no easements for utilities. Were any easements created? City Hall does not have access to Hwy. 27. Is this legal? Does the City allow other developments to do the same? Would the City allow other developments to have an error exist as long as this has? How much has platting the Sports Complex cost the City? How much has platting City Hall cost the City? Why wasn't the Sports Complex property platted when the conveyance was made from Cailloux to the City?

#### **Art. 10-IV-6 Violations/Enforcement/Penalties/Separability**

Violations – Until a final plat has been approved by the City Planning Commission and filed for record in the office of the County Clerk, no person, firm, corporation or other entity, whether owner, developer, agent or otherwise, shall transfer title of any parcel of such land, nor shall there be initiated any construction of residences, or other buildings, or private sewage disposal systems, nor shall any such property be served with public utilities.

This prohibition against the construction of private improvements and the sale of land shall apply both within the city limits and within the extraterritorial jurisdiction of the city.

This prohibition does not apply to the Commission approved street and utilities provided that said utilities do not become operable and serve the development until such time as the plat is approved and recorded.

How do we have utilities extending beyond Homerun Drive on Cailloux Blvd.? They are connected. Why was this not addressed during the platting process for the Sports Complex? Did the Commission approve this? How are we addressing this?

It was stated in a public meeting that these issues have been “addressed”. What does that mean and please explain specifically what has been done to correct these deficiencies?

I would like to know answers to these questions. If we do not have any answers, I would like to know how this is not selective enforcement or favoritism and how we are planning to fix this.

Thank you.



# EXHIBIT B

**Mark McDaniel**

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**From:** George Baroody  
**Sent:** Tuesday, March 05, 2019 2:58 PM  
**To:** Mark McDaniel  
**Cc:** Vincent Voelkel; carlina.villalpando@dailytimes.com  
**Subject:** Selective Enforcement Issues

Good Afternoon,

I realize the Mayor said we should send this to E.A. but under the circumstances it seems appropriate to send to Mark because he has been the one responding previously as well as the fact that Council has been instructed repeatedly to funnel our questions through him.

These questions have been discussed previously but contrary to what was stated at the last council meeting, they have not yet been answered. All that I am outlining here are ongoing issues that remain unresolved. They have nothing whatsoever to do with the ordinances themselves but have everything to do with the ability of the City to properly and consistently apply the ordinances and laws we currently have on the books.

Considering the email that Council received from Cory Traub containing some disturbing information as well as the unresolved issues outlined below, I am proposing we have a special meeting/workshop to let Council face these issues head on. I believe we need more than a few minutes to work through it so I am proposing we hold a special council meeting on Monday March 11 to tackle these issues. As per Procedural Rule 2.2(a) I have asked Vincent to co-sponsor this request.

Thanks,

George

**Issues to address:**

**Myth: "We don't do selective enforcement"**

**Fact #1:** City Alcohol license permit is to be collected for each TABC license held by an establishment. If the establishment holds three separate TABC licenses then the City will collect a permit fee corresponding to each of the three TABC licenses.

When the alcohol section of the Codes of Ordinances (Chapter 10) was amended in January of 2018, the City Manager decided that Pint & Plow would only be required to pay one permit fee, even though the establishment held three separate TABC licenses. Chili's Bar and Grill, Dollar General, Inn of the Hills and others are examples of establishments that hold multiple TABC licenses and are also paying for multiple City alcohol permits.

The County collects a similar fee from all establishments for each of the TABC licenses held by the establishment. This includes collecting for each of the multiple TABC licenses held by Pint & Plow.

**Questions:**

The City was and is aware of the multiple TABC licenses held by ALL permitted establishments, so then why choose to single out one establishment for favored treatment?

Under what authority does the City Manager or anybody else in staff have to decide to vary fee requirements from policy set by ordinance?

This was pointed out to the City Manager over a year ago and yet has remained unaddressed until now, why is this ongoing and unresolved?

To avoid selective enforcement, it would seem the City has several options. Two such options would be waiving the alcohol permit fee altogether or applying its standard to all establishments equally. Ignoring the problem and doing nothing only exposes the City to legitimate claims of favored treatment.

**Fact #2:** The City has a boarding home ordinance that requires all boarding homes within the City limits to obtain a permit in order to operate. The ordinance defines a boarding home as follows:

**Sec. 30-2. - Definitions**

*Boarding home facility* means an establishment, including a residence or dwelling, that furnishes, in one or more buildings, to persons under separate rental agreements, whether oral or written, lodging to three or more persons unrelated to the owner of the establishment by blood or marriage, and is not listed in section 30-12.

**Sec. 30-12. - Exemptions.**

This division does not apply to:

- (1) Home and community support services licensed under V.T.C.A., Health and Safety Code ch. 142;
- (2) Convalescent and nursing homes and related institutions licensed under V.T.C.A., Health and Safety Code ch. 242;
- (3) Continuing care facilities licensed under V.T.C.A., Health and Safety Code ch. 246;
- (4) Assisted living facilities licensed under V.T.C.A., Health and Safety Code ch. 247;
- (5) Intermediate care facilities for the mentally retarded licensed under V.T.C.A., Health and Safety Code ch. 252;
- (6) A person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation or its successor ("TDMHMR") and monitored by TDMHMR or its designated local authority in accordance with standards set by TDMHMR;
- (7) An establishment conducted by or for adherents of a well-recognized church or religious denomination for the purpose of providing facilities to care and treat the sick who depend exclusively on prayer and spiritual means for healing, without the use of any drug or material remedy, if the establishment complies with safety, sanitary, and quarantine laws and rules including section 30-28;
- (8) A hotel as defined by V.T.C.A., Tax Code § 156.001;
- (9) A retirement community as defined by V.T.C.A., Tax Code § 11.18;
- (10) A monastery or convent;
- (11) A child-care facility as defined by V.T.C.A., Human Resources Code § 42.002;
- (12) A family violence shelter as defined by V.T.C.A., Human Resources Code § 51.002; and
- (13) A sorority, fraternity house, or dormitory located on the property of an institution of higher education.

(Ord. No. 2013-06, § 1, 4-23-2013)



In January of 2019 a list of current boarding homes in Kerrville was provided containing the names and addresses of 18 homes that were currently permitted. Seven other specific addresses were confirmed as not having a valid permit, even though the establishments were known by the City to be operating under the boarding home definition.

The seven addresses were identified by city staff as 'apartment complexes', however a standard apartment complex clearly falls under the City ordinance definition of a 'Boarding home facility' and therefore by ordinance, would be required to obtain a permit in order to operate.

Furthermore, any new apartment complex to be built would be required to either satisfy the spacing requirement of the boarding home or be granted a variance in order to operate.

#### **Questions:**

Why is the City choosing to require permits from a select subset of the boarding homes operating within the City limits?

This selective enforcement issue was pointed out to the City Manager and the City Attorney nearly 10 months ago. Under what authority or provision does the City Manager or any staff have the right to ignore established policy from the boarding home ordinance?

Why is this known issue ongoing and unresolved?

To avoid continuing to selectively enforce the laws, the City has a few options. The City can choose to apply its current standard to all boarding homes equally or it could waive the boarding home permit altogether or it could modify the boarding home definition to more clearly define what type of establishment is to be permitted. Continuing to ignore the problem and doing nothing only exposes the City to legal claims of selective enforcement.

**Fact #3:** When an applicant comes before Planning and Zoning to request a variance (signs for example) the City Charter states the following:

Chapter 6-Advertising; Article II-Signs;Sec. 6-44. - Variances.

#### **(h) Evaluation criteria.**

(1) The planning and zoning commission must use the following criteria when considering variances to this article and **no variance may be granted until it makes the following findings:**

- a. That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition(s) or location that do not apply generally to other property in the same area and/or the same zoning district;
- b. That exceptional circumstances or conditions are such that literal enforcement of the provisions of this article would result in an unnecessary hardship inconsistent with the general purpose and intent of this article;
- c. That the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;
- d. That the granting of such variance will not be contrary to the objectives and principles contained in the city's comprehensive plan;
- e. That the variance to be granted is the minimum variance that will relieve the proven hardship;
- f. That the variance is not being granted to relieve the applicant of conditions or circumstances:

1. Which are not inherent in the property itself, but are the result of the use or development of the property, or
  2. Which are caused by a division of land on or after June 16, 1997, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or
  3. Which were otherwise self-imposed by the present or a previous owner;
- g. That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;
  - h. That the variance would not modify or effectively repeal any development or use regulations set forth in a conditional use permit or an ordinance or resolution adopting a development site plan or establishing a special use district or planned development district which are in addition to the generally applicable use and development regulations set forth in the city's zoning code; and
  - i. That the variance would only affect a specific sign and is not of such a general nature as to effectively constitute a change in zoning.
- (2) No variance may be granted for signs that are listed as a prohibited sign.

(Ord. No. 2012-05, § 1(Exh. A), 7-3-2012)

The P&Z Commission is free to make its own findings, but as the charter clearly states, the commission **MUST** make the prescribed findings prior to granting a sign variance. An affirmative finding for these nine questions does not guarantee the granting of a variance. However, denial is guaranteed if the affirmative findings are not made. This has been confirmed on numerous occasions by the City Attorney.

The commissioners have some discretion in making its decisions however the decisions must be within the bounds of the laws. It is the responsibility of the City Council to set policy and establish the boundaries. Contrary to what the City Manager stated at the council meeting of February 26, staff is tasked with supervising P&Z Commission. It is the responsibility of staff leadership to direct the commission on staying within the bounds of the law and this is not being done effectively at all.

### Questions:

Why did staff allow P&Z to grant variances for PoPo's Restaurant, Peterson Hospital and Pint & Plow all without making the obligatory findings of evaluation criteria?

Moving forward, how does staff intend to assure P&Z makes its decisions within the boundaries of the laws?

Staff made an affirmative recommendation for approval for the Pint & Plow sign variance in December. At January P&Z meeting where Calvary Temple sign variance was on agenda, staff made the following statement, "Traditionally, staff has not made recommendations for or against a case regarding a sign variance." Why would staff misrepresent its policy from one month to the next?

**Myth:** "We got opinions that the sign is operating to the code... It's not a staff variance"

**Fact #1:** In section 6-39 of the sign ordinance it states that an electronic sign may not exceed 32 square feet. The sign ordinance defines the area of a sign as, "the square foot area enclosed by the perimeter of the sign



face.” Notice it says nothing about how much of the face is actually utilized for a message, it only references the physical size of the face.

The Chamber of Commerce electronic display measures approximately 79 square feet within the perimeter of the face. Obviously this would be greater than the compliant maximum of 32 square feet and therefore is not in compliance with sign ordinance thus requiring a variance in order to be made compliant.

By ordinance, all sign variances are to be granted by P&Z commission using the evaluation criteria outlined earlier. In the case of the Chamber sign, staff has advised that compliance would be achieved if the Chamber committed to only turning on 32 square feet of the electronic display at any one given time.

The condition is not outlined in the ordinance as acceptable use. This condition on use was never reviewed or granted by P&Z. Staff has granted a variance by creating and allowing this conditional use of a non-compliant sign.

### **Questions:**

The City Manager claimed that ‘we got opinions that the sign is operating to the code’. What opinions and from whom did we receive them?

If the Chamber sign is not operating under a staff level variance, then where is the variance granting use of an electronic display greater than 32 square feet?

Under what authority does staff have to apply the conditional use to the sign?

If the Chamber did not need a variance to operate the installed sign, then why did the City twice accept the application for the variance and post in newspaper for P&Z public hearing?

If it can be said that the Chamber sign is not operating under a variance and is truly compliant with the ordinance, then why was Calvary Temple Church not informed of the same exact interpretation of the ordinance that would have granted them a sign permit, no variance needed?

It has been claimed that the process has been overhauled already but then why are the problems still occurring as recently as last month?

# EXHIBIT C



March 8, 2019

Mr. Mark McDaniel, Mr. E.A. Hoppe  
City of Kerrville  
701 Main Street  
Kerrville, TX 78028

RE: Annexation of the "Doughnut Hole" Area at Comanche Trace

Dear Mark & E.A.,

This letter serves as a follow up in reference to the annexation of the "doughnut hole" area at Comanche Trace.

We are currently reviewing four areas with our ownership to see which Phase we would like to develop next. In addition, we are also reviewing one larger area as requested by the City. Once a decision is made, we intend to annex the "doughnut hole" area when we annex the next Phase this year. We realize this was an oversight whether it was from the City Staff, the Engineer or a combination of the two. I appreciate all parties understanding that this is a, "we'll catch it on the next one" type of situation.

As I am sure you are aware, Comanche Trace has experienced steady growth year after year. We currently have 28 homes under construction with close to 50 planned to start within the next 12 months. Comanche Trace has been in existence for 20 years, and we are proud to be such an incredible asset not only to the City of Kerrville but surrounding areas as well.

On a side note, we are in the process of updating our current Development Agreement. We would like to schedule a meeting to review all bullet points we have previously discussed so we can accomplish this process in a timely manner.

Again, I appreciate all efforts involved with this matter and look forward to continuing our good working relationships with the City as we move forward with future annexations and requests from the City.

If you have any questions, please do not hesitate to contact me by phone at 830-895-8505 or via email at [thyde@comanchetrace.com](mailto:thyde@comanchetrace.com).

Sincerely,

Trevor Hyde  
President

- o. (830) 895-8505
- f. (830) 895-8506
- t. (877) 467-6282

[www.comanchetrace.com](http://www.comanchetrace.com)  
[info@comanchetrace.com](mailto:info@comanchetrace.com)  
2801 Comanche Trace Drive, Kerrville, TX 78028





# REVIEW OF PERMITTING ERROR

Kerrville Chamber of Commerce Sign

Guillermo Garcia, Executive Director for Innovation  
[guillermo.garcia@kerrvilletx.gov](mailto:guillermo.garcia@kerrvilletx.gov)

## Contents

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## Background

Development Services permitting and plan review has been an opportunity for improvement for a number of years. In 2017, a staff member from Development Services was selected to participate in the inaugural Lean Six Sigma continuous improvement program. The project focused on the plan review process for permits. In summary, the project had identified various root causes and a number of improvements. One major improvement that was presented to City Council in 2018 as a capital improvement project was the purchase and implementation of a new development software called My Government Online. This software is expected to be launched within the City of Kerrville in late April 2019. This software will be an upgrade to an outdated software that is currently still in use.

On January 22, 2019, The City Manager and Deputy City Manager requested that I begin an investigation into the Chamber sign issue. At that time, I began an in-depth review of the sign permit and inspection process at Development Services. This has been an on-going investigation since that date. The letter from Mr. Traub has required a public response about this on-going investigation.

On February 18, 2019, The City Manager assigned Development Services as one of the departments reporting to myself, the Executive Director for Innovation. It was over the course of two weeks that a plan was created that would impact all 40 plus processes within Development Services. To address this process a Lean Six Sigma tool called Kaizen would be used to quickly implement a set of tools known to standardize and improve overall processes. The overall goal is to complete these opportunities for improvement by the end of September 2019.

## Summary

The City of Kerrville has received several complaints in regard to the sign that was permitted for the Kerrville Chamber of Commerce. Most recently, the City Council received an email (attachment A) from Mr. Cory Traub, owner of Pro-Tech Media & Marketing, who makes several allegations regarding how this permit was handled. The report provides a detailed response and finding of fact. The monument and electrical sign were installed on the Kerrville Chamber of Commerce property during the month of December 2018. The permit that authorized the construction of the sign was approved in error. The root cause of the error can be attributed to a number of factors:

### 1. Root Causes

- a. Application: The process has been ineffective for years from the moment the sign permit process begins. The application does not provide enough information and detail to allow the staff to clearly understand what type of sign will be built.
- b. Software: During the creation of the permit in InCode 8 different workarounds have been implemented. Because there are many different workarounds this resulted in different sub-processes that are manual in nature. These workarounds have resulted in a system that does not work in its intended manner. InCode 8 to a degree is an outdated system provided by Tyler Technologies.
- c. Accountability: Staff error that resulted in the neglect of responsibilities to properly evaluate a sign permit. This has occurred because all staff was required to ensure the permit was correct and no specific identification of responsibility, which may have led to all staff expecting that the other would catch any issues. Which results in a lack of accountability.
- d. Inspection: The inspection of the completed signage was non-existent. The inspection that occurred was due to the electrical installation and not for the overall signage. Historically, permits for signs were issued but the signage has not been historically inspected unless a specific trade was permitted.

### 2. Corrective Actions

- a. Application: A new application has been created to accommodate additional detail.
- b. Software: New software was budgeted and purchased due to a Lean Six Sigma project the previous fiscal year and will be installed in late April that will address the overall building permitting processes and replace the current software InCode 8.
- c. Accountability: As part of process improvement efforts using Lean Six Sigma initiated several months ago for all Development Services processes new procedures are being created to specify the requirements of the processes and to clearly assign responsibility. One example will be the Inspection Procedure which will outline the inspection of signs within the procedure. Currently, the staff has been directed to inspect all signage after completion of work.
- d. Inspection: A new permit procedure was created that outlines the direct responsibility of all staff. The Chief Building Official is now responsible for ensuring construction and signage requirements



## Questions from Mr. Traub

|            |  |
|------------|--|
| Question 1 | Do you believe this Chamber sign permit was an oversight or do you now see why I question everything about it?   |
| Response   | <p>The root causes of why this sign permit was issued in error are:</p> <ol style="list-style-type: none"> <li>1. Application: The process has been ineffective for years from the moment the sign permit process begins. The application does not provide enough information and detail to allow the staff to clearly understand what type of sign will be built.</li> <li>2. Software: During the creation of the permit in InCode 8 different workarounds have been implemented. Because there are many different workarounds this resulted in different sub-processes that are manual in nature. These workarounds have resulted in a system that does not work in its intended manner. InCode 8 to a degree is an outdated system provided by Tyler Technologies.</li> <li>3. Accountability: Staff error that resulted in the neglect of responsibilities to properly evaluate a sign permit. This has occurred because all staff was required to ensure the permit was correct and no specific identification of responsibility, which may have led to all staff expecting that the other would catch any issues. Which results in a lack of accountability.</li> <li>4. Inspection: The inspection of the completed signage was non-existent. The inspection that occurred was due to the electrical installation and not for the overall signage. Historically, permits for signs were issued but the signage has not been historically inspected unless a specific trade was permitted.</li> </ol> |
| Question 2 | How is my business supposed to compete when customers can only get a 32 sq. ft. EMC from me but can get them 80 sq. ft. thru my competitors? This is unfair  |
| Response   | The City of Kerrville is committed to ensuring that all ordinances are enforced equally.   |
| Question 3 | Why are contractors in Kerrville paying permit and inspection fees when the inspectors fail to catch signs being put up larger than they are permitted?  |
| Response   | To ensure that contractors are installing signs that are in accordance with the ordinance, Development Services is changing and has changed its processes. In the past signs were only permitted and not inspected. All signs will now be inspected based on what they have been permitted to, this includes construction and the sign itself. The Chief Building Official is responsible for the inspection of all signs and all its elements.  |
| Question 4 | The State of Texas regulates licensing for all sorts of contractors; electrical, plumbing, HVAC, Signs, etc. Why does the City of Kerrville not uphold, enforce or require the same things?  |
| Response   | The City of Kerrville requires that all contractors regardless of their trades must register with the City. The contractor must submit a copy of their license from the State. The City does not require additional specific licensing because the City recognizes the licensing established through the State.  |

|            |  |
|------------|--|
| Question 5 | Carrying an Electrical Sign Contractor License is something that is required by the State of Texas through TDLR. This comes with several expenses including insurance requirements, surety bonds, license renewal fees, etc. How is it fair that I have to pay all of these fees when my competitors don't?  |
| Response   | According to a representative from TDLR, a contractor can install a sign that may have electrical components, but cannot install the electrical for the sign. It will require a licensed electrician or Electrical Sign Contractor to install all electrical elements of the sign. As an Electrical Sign Contractor, Pro-Tech is allowed the operator to be a one-stop shop that does not need to contract out the work as they are licensed to install electrical signs.  |
| Question 6 | Every other city I work in Texas requires my company to provide a copy of our ESCL or an ECL in order to pull any electrical sign permit. Why does Kerrville not require this from all contractors who want to sell or install signs since the State of Texas requires it?   |
| Response   | The City of Kerrville requires all contractors to submit a copy of their license. InCode will flag a contractor if their license is expired, at which point paperwork on file is updated. According to TDLR, a contractor does not have to be licensed to install the sign. A contractor cannot install the electrical portion of the sign unless the proper licensing is attained. Pro-Tech is registered with the City and have provided copies of their license in the past. Mr. Carpenter and DW Electrical have appropriate license and related paperwork on file.  |
| Question 7 | We were told the back dated electrical permit for the Chamber sign was in fact back dated because the permit system "kicks out" an electrical permit whenever a sign permit is applied for. Please explain to me how the sign permit is dated 10/26/18 and the electrical permit is dated on 10/11/18? If the system automatically "kicks out" an electrical permit they would be dated the same day. Also, I have never had an electrical permit kicked out for any of the sign permits I have ever pulled in Kerrville.  |
| Response   | <ol style="list-style-type: none"> <li>1. When a permit is created in InCode 8 it does create separate sign and electrical permits at the same time. Staff manually removes the electrical portion of the permit. This is done to prevent a charge during the permit review process and to allow the electrician to pull the permit at a later date.</li> <li>2. Pro-Tech has not been pulling an electric permit for the install of their various sign installations. The permits were approved to be built but at no time did Pro-Tech come back to request a permit of the electrical install. Development Services failed to communicate this requirement to Pro-Tech. Because there has been no permit for Pro-Tech electrical, the sites were not inspected for construction, electrical, and the size of the electronic signs.</li> </ol> |

## Concerns

|           |  |
|-----------|--|
| Concern 1 | Sign permit was given to TEU and Earthwork installation.   |
| Response  | <ol style="list-style-type: none"> <li>1. The sign permit was issued to James Carpenter. TEU Services was the designer of the sign.</li> <li>2. Earthworks was the sub-contractor used by Mr. Carpenter to demo and construct the new frame and masonry of the new sign. DW Electric was sub-contracted to complete the electrical work needed to finish the install of the sign.</li> <li>3. Based on my conversation with TDLR, a general contractor can install and build an electric sign, however, the contractor cannot install the electrical portion of the sign. A licensed electrician must complete that portion of work.</li> </ol>  |
| Concern 2 | What makes the ordinance confusing and previous installs by Pro-Tech?  |
| Response  | <ol style="list-style-type: none"> <li>1. The sign itself can qualify for three specific types (monument sign, off-premise sign, and electronic sign). Each of these signs has different requirements that each must meet. If not clearly stated on the application, what type or combination of signs will be used can cause some confusion.</li> <li>2. The application did not allow for the detail needed to clearly identify the type of sign.</li> <li>3. Staff error occurred when evaluating the sign as a monument and electrical sign. Review level staff strictly evaluated the sign based on an assumption that it was a monument sign. This error resulted in a sign being permitted in violation of the code.</li> <li>4. The permits identified by Mr. Traub did not have an electrical component because it was removed and therefore, Pro-Tech, was not charged nor inspected for the electrical installation of his signs. This may be due to the signs themselves being evaluated for their construction and not for the electrical sign itself. Mr. Traub should have pulled an electrical permit and requested an inspection after each of the signs were installed. This is a failure of the process to not properly document that an electrical sign was being installed and a failure of staff to properly communicate and evaluate the sign permits correctly.</li> </ol> |



|           |   |
|-----------|---|
| Concern 3 | Dates on permits not coinciding on the electrical permit.   |
| Response  | <ol style="list-style-type: none"> <li>1. When adding the new component in InCode, the date the component was created is the default date. In this case, the date should have been 12/6/18. The dates were changed manually by permit staff.</li> <li>2. Dates pertaining to this permit: <ol style="list-style-type: none"> <li>a) 10/11/18 – Application for sign permit received and electric permit removed by staff.</li> <li>b) 10/18/18 – Permit review is completed.</li> <li>c) 10/26/18 – Staff contacted contractor to pick up permit</li> <li>d) 10/29/18 – Permit issued to contractor. Staff did not update date to reflect the actual date permit issued.</li> <li>e) 12/6/18 – Application for electrical permit received. Staff added electrical permit. Staff changed the date in InCode 8 to 10/26/18. Staff created Word document and changed date to 10/11/18. No explanation as to why from the permit staff, perhaps to match original sign permit date or application date. Dates should have matched 12/6/18.</li> </ol> </li> </ol> |
| Concern 4 | Electrical permit created at the time of request.   |
| Response  | InCode does create the electrical permit when the sign permit is created automatically. Staff or “kick outs” removes the electrical component from the permit. This is done to not charge the electrical permit charge during the initial permit review and because the contractor may not be the same contractor to conduct the electrical work. The electrical contractor needs to request an electrical permit.  |
| Concern 5 | Garret Insurance sign   |
| Response  | <ol style="list-style-type: none"> <li>1. The electrical sign was permitted by the staff. The requirements for the electric sign was to code. During the inspection, the digital sign itself was not inspected, as per the Chief Building Official, the only thing that was inspected at the time was the overall construction of the sign. The digital portion of the sign was not inspected.</li> <li>2. On 2/18/19, a complaint was made to Code Enforcement that the sign was not in compliance with the ordinance. This was found to be accurate and Code Enforcement issued a notice. The sign was brought into compliance by reducing the overall size of the sign. What was constructed and what was permitted did not match. The physical product was greater than what was permitted and in violation of the code.</li> </ol>   |

|           |   |
|-----------|---|
| Concern 6 | 1. Modify the ordinance to allow 80% of the square footage to be used for a sign.   |
|           | <ol style="list-style-type: none"> <li>On 1/3/19, the Planning and Zoning Commission directed staff to research how other communities regulate electronic signs and bring back options for consideration. The sign variance request for Calvary Temple, represented by Pro-Tech, was deferred until 2/7/19 so that staff's research findings could be used as part of the decision making for both pending sign variance requests.</li> <li>On 2/7/19, the Chamber withdrew their variance request. The commission reviewed and discussed staff research and denied Calvary Temple's variance request. The option that received the most discussion was going to a percentage basis of what would be required for the overall sign.</li> <li>This will be further discussed by the Code Review Committee and it will make a recommendation to the Planning and Zoning Commission and the City Council for any amendments. Tentatively, this is scheduled for late spring/early summer.</li> </ol> |

## Timeline

|           |   |
|-----------|---|
| 9/10/2018 | Walt Koenig emails Drew about a digital sign, "Chamber was contemplating the implementation of a digital sign."   |
|           | <p><b>From:</b> Walt Koenig<br/> <b>Sent:</b> Monday, September 10, 2018 11:24 AM<br/> <b>To:</b> 'drew.paxton@kerrvilletx.gov' &lt;drew.paxton@kerrvilletx.gov&gt;<br/> <b>Subject:</b> FW: Draft Agreement--Question</p> <p>Hey Drew,</p> <p>Hope all is well with you!</p> <p>I need some advice.</p> <p>I think I briefly mentioned some time ago that the Chamber was contemplating the implementation of a digital sign. We have moved the ball forward with this and now have a general design and a mockup. These are attached.</p> |
| 9/28/2018 | Walt Koenig resends details on the Chambers digital sign.   |
|           | <p><b>From:</b> Walt Koenig &lt;walt@kerrvilletx.com&gt;<br/> <b>Sent:</b> Friday, September 28, 2018 10:39 AM<br/> <b>To:</b> Drew Paxton &lt;Drew.Paxton@kerrvilletx.gov&gt;<br/> <b>Subject:</b> FW: Draft Agreement--Question</p> <p>Hey Drew,</p> <p>Resending the details on the Chambers digital sign.</p>   |
| 9/28/2018 | Drew responds with feedback about the overall design of the monument sign.  |

|            |  |
|------------|--|
|            | <p><b>From:</b> Drew Paxton &lt;<a href="mailto:Drew.Paxton@kerrvilletx.gov">Drew.Paxton@kerrvilletx.gov</a>&gt;</p> <p><b>Date:</b> September 28, 2018 at 2:29:59 PM CDT</p> <p><b>To:</b> 'Walt Koenig' &lt;<a href="mailto:walt@kerrvilletx.com">walt@kerrvilletx.com</a>&gt;</p> <p><b>Subject:</b> RE: Draft Agreement--Question</p> <p>Walt,<br/> It is very close to meeting the code.<br/> The maximum height is limited to 15 feet.<br/> The total area of signage is limited to 100 square feet (on one side). This includes the Logo, Kerrville Chamber of Commerce, digital, and static sign panels. I didn't have exact dimensions, but it looks to be just a few square feet over 100...<br/> I wasn't sure where you were placing the sign, but it will need to be a minimum of 60 feet away from any other monument sign on the street.<br/> Let me know if you have any questions.<br/> Thanks,<br/> drew</p> |
| 10/1/2018  | Walt receives an email from the vendor stating, "planning for 6ft wide X 12ft tall digital = 72 sq. ft. plus the static sign ..."  |
|            | <p><b>From:</b> Thomas S. Carpenter &lt;<a href="mailto:thomas@teuservices.com">thomas@teuservices.com</a>&gt;</p> <p><b>Sent:</b> Friday, September 28, 2018 3:50 PM</p> <p><b>To:</b> Walt Koenig &lt;<a href="mailto:walt@kerrvilletx.com">walt@kerrvilletx.com</a>&gt;; Timothy Carpenter &lt;<a href="mailto:TimothyC@teuservices.com">TimothyC@teuservices.com</a>&gt;</p> <p><b>Subject:</b> RE: Draft Agreement--Question</p> <p>Walt,<br/> We were planning for 6ft wide X 12ft tall digital = 72 sq. ft. plus the static sign for your tenants at 6ft tall X 4ft = 24 sq. ft. so 72 sq. ft. + 24 sq. ft. = 96 sq. ft.</p>  |
| 10/1/2018  | Walt forwards email to Drew and subject line of email states, "Chamber Digital Sign"   |
|            | <p><b>From:</b> Walt Koenig &lt;<a href="mailto:walt@kerrvilletx.com">walt@kerrvilletx.com</a>&gt;</p> <p><b>Sent:</b> Monday, October 01, 2018 2:35 PM</p> <p><b>To:</b> Drew Paxton &lt;<a href="mailto:Drew.Paxton@kerrvilletx.gov">Drew.Paxton@kerrvilletx.gov</a>&gt;</p> <p><b>Subject:</b> Chamber Digital Sign</p>   |
| 10/11/2018 | Application for a permit submitted to Development Services. On the Type of Sign, Free Standing was selected. Mary Ann added a written note "replacing existing sign"   |
|            | <p> <input checked="" type="checkbox"/> Free Standing    New Sq. Ft. <u>91.98</u>    Total Sq. Ft. <u>91.98</u><br/> Estimated Cost of Project (required): <u>\$20,000.00</u> - <i>Replacing existing sign</i> </p>  |





**SIGN PERMIT APPLICATION  
CITY OF KERRVILLE, TEXAS**

RECEIVED  
10-11-18

Date application  
received

BUILDING DEPARTMENT # 18-947  
Project Address: 1700 Sidney Baker Street Kerrville Texas 78028  
Project Business Name Kerrville Area Chamber of Commerce  
Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_ Subdivision ABS ACIDOL CAGE, Subdiv 116, Acres 1.58  
Property Owner Kerrville Area Chamber of Commerce Phone (Day Time) 830-896-1155  
Mail Address 1700 Sidney Baker Street Kerrville TX 78028  
Contractor James Carpenter Phone (Day Time) 830-285-0028  
Mail Address PO Box 291711 Kerrville TX, jcarpenter@carpenterbrand.com  
Type of Sign(s):  
☐ Wall/Banner(s) New Sq. Ft. \_\_\_\_\_ Total Sq. Ft. \_\_\_\_\_  
☒ Free Standing New Sq. Ft. 91.98 Total Sq. Ft. 91.98  
Estimated Cost of Project (required): \$20,000.00 - Replacing existing sign

NO FEE FOR THE FOLLOWING: Minimum 5 days, Maximum 20 day per year

☐ Balloon Permit Date: \_\_\_\_\_ thru \_\_\_\_\_  
☐ Feather Flag Permit Date: \_\_\_\_\_ thru \_\_\_\_\_

By signing this application:

1. I swear the information contained is true and correct to the best of my knowledge and ability.
2. I profess to have sufficient knowledge of the City of Kerrville Sign Ordinance or any other laws related to the construction, alteration, and/or display of signs within the City of Kerrville and its Extraterritorial Jurisdiction (ETJ).
3. I understand that a separate electrical permit may be required.
4. I understand that the issuance of this permit does not waive any of these regulations and other permits may be required in conjunction with this sign permit. I understand that the construction, alteration, and/or display of any sign by the owner, tenant, or anyone else, in which a sign permit or other permit is required prior to the issuance of said permit(s) by the City of Kerrville is a violation of City Codes and Ordinances for which I may be held liable regardless of my relationship to the buildings occupant (owner, landlord, landlord's representatives.)

SIGNATURE OF OWNER OR CONTRACTOR \_\_\_\_\_

DATE 10/11/18

Office Use Only:

TRANS# 835

01-6242 Sign Plan Check Fee 60.00 01-6244 Sign Permit Fee 120.00

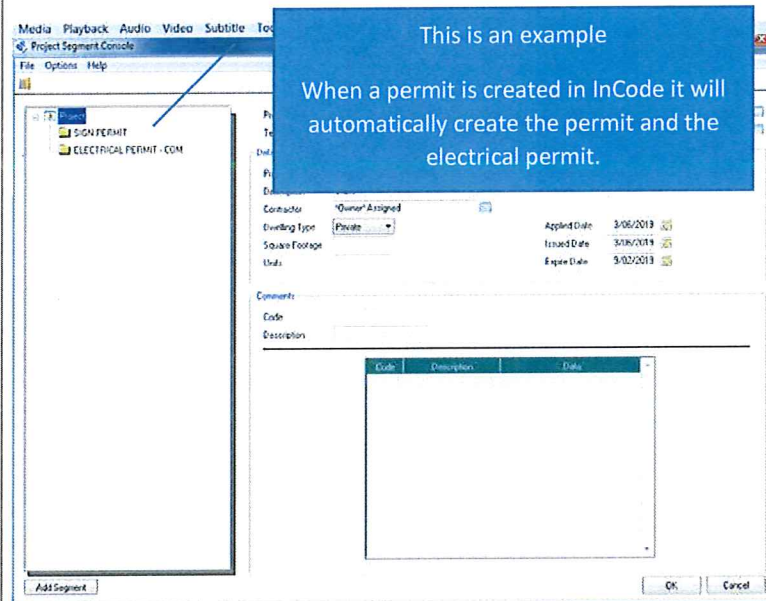
TOTAL \$ \_\_\_\_\_

|                  | Issue                    | Hold                     | Initial |             | Issue                    | Hold                     | Initial |
|------------------|--------------------------|--------------------------|---------|-------------|--------------------------|--------------------------|---------|
| Code Enforcement | <input type="checkbox"/> | <input type="checkbox"/> | _____   | Inspections | <input type="checkbox"/> | <input type="checkbox"/> | _____   |
| Engineering      | <input type="checkbox"/> | <input type="checkbox"/> | _____   | Planning    | <input type="checkbox"/> | <input type="checkbox"/> | _____   |
| APPROVAL _____   |                          |                          |         | DATE _____  |                          |                          |         |

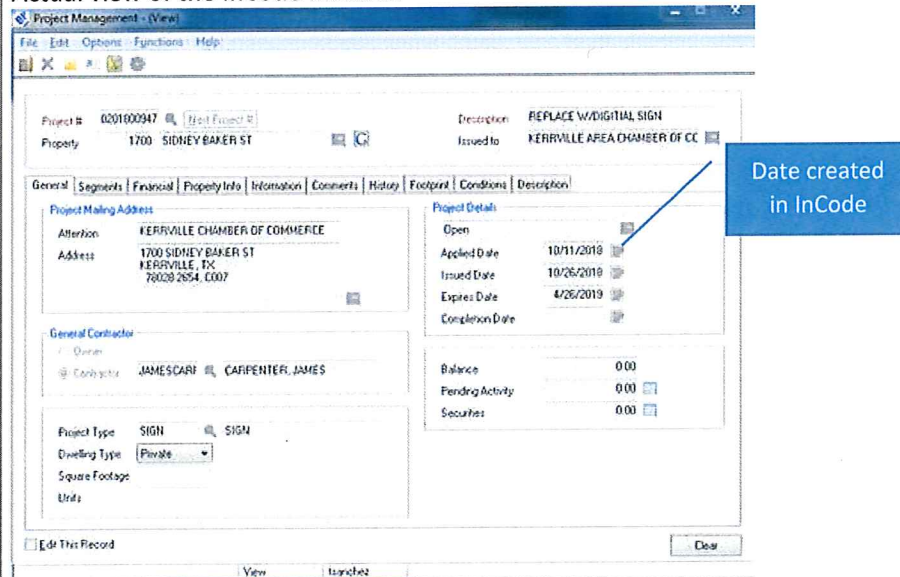
On the application  
there is no mention or  
indication of the  
correct type of sign.  
This permit should be  
for a monument and  
electrical sign.

Application is  
inadequate tool to  
capture the  
information required  
to conduct review.  
The first error of many

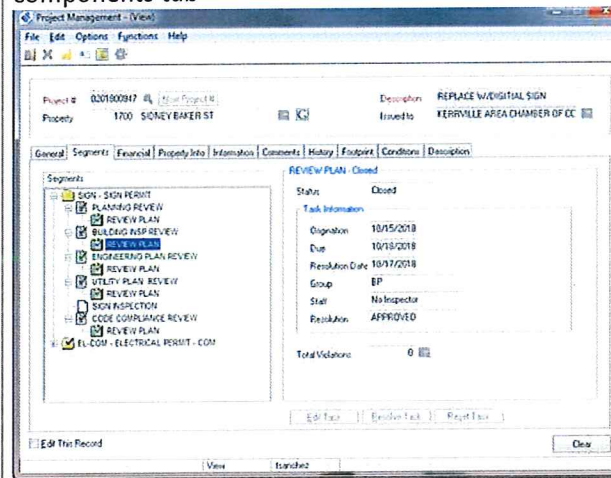
The application was entered into InCode on 10/11/18. InCode automatically generates the sign and electrical permit. However, staff will remove the electrical component because the sign permit is in the review and to avoid charging up front the electrical fees that pertain to the sign.



Actual view of the InCode module:

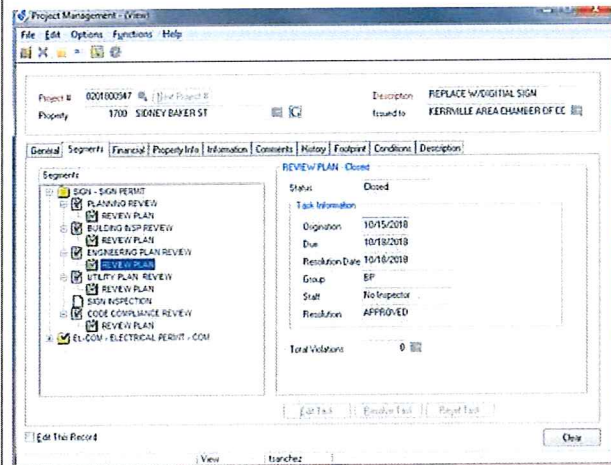


At this time, staff will create the review requirements for each department under the components tab



10/18/18

All reviews have been completed by departments by 10/18.

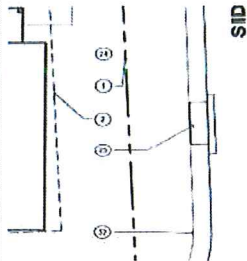




Upon review of the application and documents, there are multiple references to a Digital Sign

**Design by TEU Services, Inc.**

DIGITAL SIGN-Kerrville Area Chamber of Commerce  
1700 Sidney Baker St.  
Kerrville, TX 78028



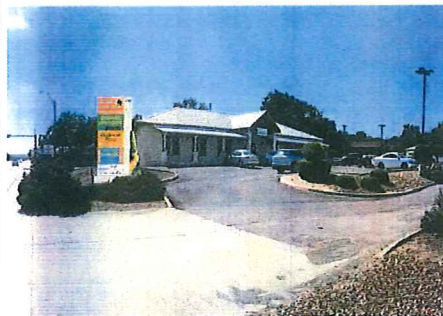
- 27. UTILITY POLE RE: MEPT.1
- 28. RETAINING WALL RE: CIVIL
- 29. FLAG POLE
- 30. DIRECTIONAL ARROWS RE: CIVIL
- 31. MONUMENT SIGN RE: S/A/1A
- 32. EXISTING TX DOT CONSTRUCTION TO REMAIN
- 33. LANE OF PROPOSED CONSTRUCTION PHASING

The new Digital Messaging Board will be built in the exact same location as the existing sign

Reference Item 31

**Design by TEU Services, Inc.**

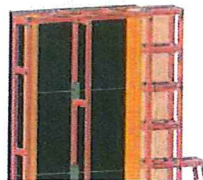
DIGITAL SIGN-Kerrville Area Chamber of Commerce  
1700 Sidney Baker St.  
Kerrville, TX 78028



Review error occurred in that staff did not review as a electrical monument sign. They reviewed the application as a monument sign only.

All staff members where communicated to previously that they were all responsible for sign approval. This may have caused staff to assume someone else would catch the error.

Digital Message Center  
6.3' X 12.6'  
Bottom Static Sign  
6.3' X 2'  
Side Structure  
2' X 14.6'  
Base of Structure  
12' X 1'6"  
Angle Support to be painted by local artists  
16 SQ feet



Design by TEU Services, Inc.

DIGITAL SIGN-Kerrville Area Chamber of Commerce

1700 Sidney Baker St.  
Kerrville, TX 78028

Digital Message Center  
6.3' X 12.6'  
Bottom Static Sign  
6.3' X 2'  
Side Structure  
2' X 14.6'  
Base of Structure  
12' X 1'6"  
Angle Support to be  
painted by local artists  
16 SQ feet



10/17/18

Chamber announces new sign project as per Newsletter

**Our New Digital Sign will Give our Member Businesses the Opportunity to Be Seen at One of the Busiest Intersections In Kerrville!!!**

**COMING SOON!**

Community Digital Message Center  
at the Kerrville Area Chamber of Commerce

10/26/18  
(Friday)

Staff communicated to the contractor that the permit was ready for pick up. In InCode staff updated the issue date based upon communication to the contractor.

The screenshot shows the 'Project Management - (View)' window. The 'Project' tab is active, displaying the following information:

- Project #:** 0001000947
- Property:** 1700 SIDNEY BAKER ST
- Description:** REPLACE W/ADDITIONAL SIGN
- Issued to:** KERRVILLE AREA CHAMBER OF CC

The 'Project Details' section on the right shows the following dates:

- Open:** 10/11/2018
- Applied Date:** 10/26/2018
- Issued Date:** 10/26/2018
- Expires Date:** 4/26/2019
- Completion Date:** (blank)

The 'General Contractor' section shows:

- Owner:** JAMESCARP #1
- Contractor:** CARPENTER, JAMES

The 'Project Type' is 'SIGN' and the 'Dwelling Type' is 'Private'.

Date permit  
was slated to  
be issued

The handwritten permit application form includes the following information:

- City of Kerrville, Texas** (Seal)
- Sign Permit Application**
- City of Kerrville, Texas**
- Building Department #:** 18-947
- Project Address:** 1700 Sidney Baker Street Kerrville Texas 78028
- Project Business Name:** Kerrville Area Chamber of Commerce
- Lot No.:** (blank) **Block No.:** (blank) **Subdivision:** 005 McCall Place Suite 100


Handwritten notes include "Due: 10-18-18" and a circled note "10/26/18 Called Jimmy for PPR". A red stamp reads "RECEIVED 10-26-18".

Date the  
contractor was  
contacted to  
pick up permit.



10/29/19  
(Monday)

The customer arrives to pick up and pay for the permit. Trina issued the permit to the contractor. The next error occurred in that the issue date was not updated in InCode. Because the date was not changed, the permit, when printed reflected the original date of 10/26 as shown.

 **CITY OF KERRVILLE**  
200 Sidney Baker St. N  
Kerrville, TX 78028-2213  
INSPECTION REQUEST LINE 830-258-1180  
FAX 830-896-0517  
EMERGENCY INSPECTION REQUEST 830-258-1514

**SIGN PERMIT**

|                   |                                    |                  |                    |
|-------------------|------------------------------------|------------------|--------------------|
| PERMIT #          | 0201800947                         | DATE ISSUED      | 10/26/2018         |
| JOB ADDRESS       | 1700 SIDNEY BAKER ST               | LOT #            |                    |
| SIDEWALK REQ?     |                                    | BLK #            |                    |
| ADDITION:         |                                    | ZONING           |                    |
| ISSUED TO:        | KERRVILLE AREA CHAMBER OF COMMERCE | BUSINESS NAME    | JAMES CARPENTER    |
| ADDRESS           | 1700 SIDNEY BAKER ST               | CONTRACTOR:      | JAMES CARPENTER    |
| CITY, STATE ZIP:  | KERRVILLE TX 75028-2654            | ADDRESS:         | PO BOX 281711      |
| PHONE:            |                                    | CITY, STATE ZIP: | KERRVILLE TX 78029 |
| PROPOSE VALUATION | \$ 20,000.00                       | PHONE:           | 830-265-0028       |
| SQ FT             | 0.00                               | SETBACKS:        | FRONT              |
| OCCP TYPE:        |                                    |                  | LEFT SIDE          |
|                   |                                    |                  | RIGHT SIDE         |
|                   |                                    |                  | REAR               |


| FEE CODE     | DESCRIPTION                    | AMOUNT           |
|--------------|--------------------------------|------------------|
| BP           | BUILDING PERMIT FEE            | \$ 120.00        |
| BP-PCF       | BUILDING PERMIT PLAN CHECK FEE | \$ 60.00         |
| <b>TOTAL</b> |                                | <b>\$ 180.00</b> |

NOTES: REPLACE EXISTING SIGN WITH NEW DIGITAL SIGN

**NOTICE**

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

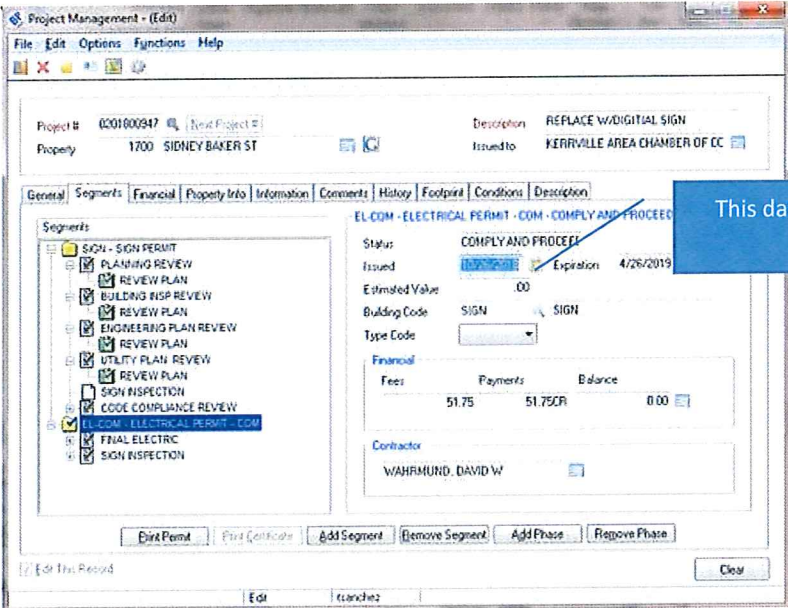
I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISION OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

|  |                  |
|--|------------------|
| <br>(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT) | 10/29/18<br>DATE |
| Trina Sanchez<br>(APPROVED BY)   | 10/29/18<br>DATE |

11/15/18

Agreement with Chamber and TEU finalized according to their Newsletter

**COMING SOON!**  
Community Digital Message Center  
at the Kerrville Area Chamber of Commerce

|          |   |
|----------|---|
| 11/29/18 | Chamber announces that sign is under construction according to their Newsletter   |
|          | <div> <div>COMING SOON!</div> <div>Community Digital Message Center<br/>at the Kerrville Area Chamber of Commerce</div> </div>  |
| 12/6/18  | <p>DW Electric faxed permit application to conduct electrical work. Staff created the electrical component in InCode. However, a series of errors occurs. When creating the electrical component the system defaults to the date the component was created (should have been 12/6/18), staff changed the date to the date the permit was issued 10/26/18. Staff then changed the date on the permit to the sign permit application date of 10/11/18. When the permit is printed it uses the issue date to generate the word document that is permitted. Staff indicated that normally the date issued and the date signed for should be the same.</p>  |



**CITY OF KERRVILLE**  
200 Sidney Baker St. N  
Kerrville, TX 78028-2215  
INSPECTION REQUEST LINE 830-258-1180  
FAX 830-896-0517  
EMERGENCY INSPECTION REQUEST 830-258-1514

**ELECTRICAL PERMIT - COM**

|                     |                                    |                  |                    |
|---------------------|------------------------------------|------------------|--------------------|
| PERMIT #:           | 0201800947                         | DATE ISSUED:     | 10/11/2018         |
| JOB ADDRESS:        | 1700 SIDNEY BAKER ST               | LOT #:           |                    |
| SIDEWALK REQ?       |                                    | BLK #:           |                    |
| ADDITION:           |                                    | ZONING:          |                    |
| ISSUED TO:          | KERRVILLE AREA CHAMBER OF COMMERCE | BUSINESS NAME:   | DAVID ELECTRIC CO  |
| ADDRESS:            | 1700 SIDNEY BAKER ST               | CONTRACTOR:      | DAVID WAHRMUND     |
| CITY, STATE ZIP:    | KERRVILLE TX 78028-2654            | ADDRESS:         | 330 PETERSON DR    |
| PHONE:              |                                    | CITY, STATE ZIP: | KERRVILLE TX 78028 |
| PROP USE VALUATION: | \$ 0.00                            | PHONE:           | 830-297-3740       |
| SO FT:              | 0.00                               | SETBACKS:        |                    |
| CCCP TYPE:          |                                    | FRONT:           |                    |
|                     |                                    | LEFT SIDE:       |                    |
|                     |                                    | RIGHT SIDE:      |                    |
|                     |                                    | REAR:            |                    |
| FEE CODE            | DESCRIPTION                        | AMOUNT           |                    |
| EL                  | ELECTRICAL PERMIT                  | \$ 40.00         |                    |
| EL-CIR              | ELECTRICAL - CIRCUITS              | \$ 6.00          |                    |
| EL-SIGN             | ELECTRICAL - SIGN                  | \$ 5.75          |                    |
|                     | TOTAL                              | \$ 51.75         |                    |

NOTES: ELECTRICAL FOR NEW DIGITAL SIGN

**NOTICE**

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISION OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

DATE

*Dorothy A. Miller*

12/06/18

(APPROVED BY)

DATE

12/7/18

Cory Traub communicates with Trina about the Chamber sign issue. Mr. Traub (on his email dated 3/5) indicates that construction of the sign was seen on 12/4 and install of electrical was seen on 12/6. In the conversation with Trina, he inquired if the sign had received a variance. Trina responded that she believed that a variance may have been issued for the height of the sign, and recommended that he speak to Drew about the potential variance.

Trina then verified the permit and noticed that the permit was issued in error as it was an electrical and monument sign. Because of the comment that the sign was bigger than the ordinance allowed, she specifically reviewed the details of the permit and noted that the dimensions were beyond the allowed requirement. She then brought the permit to the attention of Drew.

On 12/7/18 or before 12/10/18, Drew and Mr. Traub had a conversation about the sign.



**From:** Cory Traub <cory@pro-techsigns.com>  
**Sent:** Friday, December 7, 2018 5:07 PM  
**To:** attorney <attorney@kerrvilletx.gov>  
**Cc:** EA Hoppe <EA.Hoppe@kerrvilletx.gov>  
**Subject:** Sign Permit Issue

Dear Mike and EA,

I'm not sure if you are aware of the situation ye installed at the Kerrville Chamber of Commerce buildin You and I both worked closely with the sign committee be any larger than 32sqft regardless of the amount of s

12/10/18 Drew discussed the sign issue with the City Manager. Drew advised Walt that the Chamber would need a variance for the digital sign. A request for variance was scheduled for Planning and Zoning consideration on 1/3/19 P&Z.

12/12/18 Inspection of the sign was completed on 12/12/18 by Steve Riggs. Another error occurred in that the inspector initially identified the inspection as a failure and he indicated on the form to comply and proceed. He was questioned by the Chief Building Official about his report because it also indicated that it should have been a pass as he made comment on the form that states "Comply and Proceed" and not a failure. The Chief Building Official corrected.



## City of Kerrville, TX

### INSPECTION RECORD

Permit Number 020808547 Date 12-12-18

Address 1701 Sidney Baker

Contact Andy BSA-992-1919

P-Pass F-Fail RE-Re-Inspection required RE-Re-Insp. Fee Req.

Building Plumbing Mechanical Electrical

☐ Footing/Rebar ☐ Sewer Yard Line ☐ Gas Line ☐ Mech. Rough ☐ Temp Pole

☐ Driveway/Sidewalk ☐ Water Yard Line ☐ LPG Gas Line ☐ Other ☒ Elect. Rough ☐ Sign

☐ Framing ☐ Plbg. Rough ☐ Irrigation ☐ FINAL Mech. ☐ Const. Meter

☐ Other ☐ Plbg. Top Out ☐ Water Htr. ☐ Other

☐ FINAL ☐ Other ☐ FINAL Plbg. ☐ FINAL Elect.

COMMENTS: Comply or Proceed

BRACKETS NOT LABELED

General LED missing AT PANEL

REQUIRED AT PANELS L4 MORE THAN (2) WIRING

BRACKETS

INSPECTOR Steve Riggs DATE 12/12/18 TIME 2:00

DATA ENTERED [Signature] DATE [Signature]

BUILDING INSPECTION REQUEST HOTLINE 830-258-1180

|         |   |
|---------|---|
| 1/3/19  | About 12:00 pm Drew received communication from the Chamber requesting that their variance request be rescheduled for 2/7/19. Commission deferred on Calvary Temple request for a sign variance to 2/7/19 and requested staff to research other communities regarding the regulation of electric signs.   |
| 1/10/19 | Chamber announces sign is up and running, according to Newsletter   |
|         | <p><b>The Chamber's new state-of-the-art digital sign is up and running!</b></p> <p>This sign will provide important public service announcements, Chamber event notifications, and will provide our members with the opportunity to advertise their businesses at a very highly trafficked location. We are grateful for the partnership with TEU Services on this project. If you are interested in learning more about this exciting opportunity, check out the advertisement below!</p> |
| 2/7/19  | Chamber withdrew variance request until the Sign Code rewrite. Commission discusses staff's research and voted to deny variance for Calvary Temple.   |
| 3/5/19  | City Council receives e-mail from Cory Traub, who makes several allegations regarding how the Chamber sign permit was handled.  |
| 3/15/19 | This report will be discussed with Cory Traub on 3/15/19 and will be sent to City Council prior to 3/19/19 workshop, at which time it may be discussed.   |

## Attachment

### Attachment A

**From:** "Cory Traub" <[cory@pro-techsigns.com](mailto:cory@pro-techsigns.com)>

**To:** "Bill Blackburn" <[Bill.Blackburn@kerrvilletx.gov](mailto:Bill.Blackburn@kerrvilletx.gov)>

**Subject:** Selective Enforcement

Dear Mr. Mayor and members of City Council,

I am writing you in hopes of giving you a much better and more in depth explanation on what was discussed at the last city council meeting regarding selective enforcement.

I'm afraid you may be misunderstanding the exact issue at hand or at least I hope it is just a misunderstanding. I believe that the reason you feel that this situation has been dealt with and is being re-hashed for no reason is because you may not completely understand what the people who are bringing this up over and over again are trying to say. I know exactly what I want to say, but I have chosen not to say it in a public forum since the real situation could potentially look really unfortunate for the City of Kerrville and I fear the retaliation and recourse my business could endure from the city for exposing what I see as pure corruption or "selective enforcement". However, this does not mean I will let the situation be pushed under a rug any longer. I am going to explain the full sequence of events as I watched them unfold then ask a series of questions. I hope you will provide answers to my questions regarding the recent sign permits, sign variances, contractor licensing, lack of licensing and what I see as complete cover ups blatantly done by your city staff. After reading this story please feel free to fact check anything I say in the following statements.

I'm pretty sure most of you know who I am, but to be clear my name is Cory Traub, I am the owner of Pro-Tech Signs here in town and also the contractor for the sign that was presented for Calvary Temple Church. I want to make it clear that none of what I am about to say has anything to do with the variance request for Calvary being denied. My feelings and statements below would be said the same even if Calvary had never decided to build a sign because it affects my business either way. I followed the variance procedures exactly as they are written in the sign ordinance and met every criteria that is required to be considered for a variance. P&Z voted to deny the request. I do have a few issues with the way I feel about the variances that have been approved, but that is another topic I will address at a later date. These issues are not as pressing to me as the current issue I'm going to explain below.

On December 4<sup>th</sup>, 2018 I was driving down Sidney Baker passing the Chamber of Commerce building and noticed the new sign being built. At this time nothing really struck me as unusual as I see several signs built in Kerrville by companies other than mine, however I did notice the contractor doing the install was not a sign company, and did not have an ESCL number visible on any of their trucks as required by The Texas Department of Licensing and Regulations (TDLR) nor was this the company that was actually permitted to do the install. The sign permit was given to TEU Services, but Earth Works was the name of the company that actually did the install. A few days later on December 6, 2018 I was again passing the same location and noticed the sign being installed at the Chamber of Commerce was an Electronic Message Center (EMC). I didn't get out of the truck and physically measure the sign but I could obviously tell just by passing this sign was well over the 32sqft limit allowed in the City of Kerrville's sign ordinance. Please keep in mind that I was on the sign committee back in 2012 that wrote the sign ordinance that we have today and spent countless hours working with city staff to write an ordinance that was fair and easy to understand. Once I noticed this sign was WAY larger than I know the ordinance



allows I decided to call the development services dept. and ask if this was permitted. When I called I spoke with Trina Sanchez and she told me the sign was permitted. I asked her how it was permitted being that it is way over 32sqft? Her response was "they must have been granted a variance by Planning and Zoning".

At this point I figured, OK, well if it was granted a variance then it's all legal. During this same time I was currently in the process of applying for a variance for the sign at Calvary Temple Church and wanted to read the variance hearing minutes from the Chamber sign to educate myself on what it takes to get a variance approved for a sign larger than the ordinance allows.

After looking through the minutes and agendas all the way back to 2015 I never found when or where the Chamber sign was ever granted a variance or even on the agenda for a variance hearing. At this point I wanted more answers and an explanation of how and why this was done. I called several times to speak with Drew Paxton and was avoided every time. Next I decided to go to the Development Services office and wait until I could speak with Drew. Finally, I was able to briefly meet with Drew in the hallway. I asked Drew if the Chamber sign was granted a variance, his answer was no. I proceeded to ask him how was it permitted without a variance since it is way oversize? His response to me was that it was an oversight. Next, I asked Drew what are we going to do about it? His response was "what do you want me to do about it?". In a fit of rage I responded "you can go get the permit I submitted for Calvary Temple Church and approve it and call it an oversight too". Drew then responded "let me take a look at it and see if I can word it somehow to get it approved".

I don't believe for one second that this was an oversight. If this sign was for any other business in town I may believe the story, but I guess we're just supposed to believe it's a coincidence the oversight happened on a sign for Kerrville Chamber of Commerce? I don't believe it for one second and if you believe this story than I feel like you are just as much of the problem as the staff you direct.

I'm still hopeful that you are unaware of the real situation and will do what is right. I believe staff is telling you that the error was made due to confusion in the ordinance rather than telling you they approved this permit because of who it was for. I believe they are pulling the wool over your eyes to cover up the corruption of someone in the staff directing someone else to approve the permit. I have been in this business for over 12yrs and have installed signs all over the State of Texas. Each city I work in requires permits and I can tell you that Kerrville has one of the cleanest and easiest ordinances there is. It is extremely easy to read, understand and enforce. Staff is saying that this was an oversight because the Chamber's sign is a "Hybrid" sign and because it is a monument sign and electronic sign. Do you not find it interesting that it was not confusing to them when they permitted the monument sign with an EMC for me recently at Texas Hill Country Bank, or at Community First Bank, or at United Methodist Church? All of these are monument signs as well and are within the confines of the sign ordinance. What I'm formally asking you to do is to look into things a little further than just what staff tells you. I believe there is corruption or selective enforcement happening in the Development Services Dept. and unfortunately your positions are the ones who could suffer during the next election if the general public knew this entire situation.

While I was speaking with Drew in the hallway I also brought up the issue of licensing and permitting. The state of Texas requires anyone who sells or installs electric signs (regular lighted signs or EMC sign) to carry either an Electrical Sign Contractor License (ESCL) or and Electrical Contractor License (ECL) through the Texas Dept. of Licensing and Regulations (TDLR). When I asked Drew what it takes to pull a sign permit in Kerrville he told me all you need is a General Contractor's license. This is fine for installing

plywood or aluminum signs that are not electrical in any way. I asked Drew, what about electrical signs? He said "oh...then they have to have an electrical permit as well".

Now, after getting this bit of information I requested the documents for the Chamber sign from City Hall. I received the sign permit; sign permit application, electrical permit and the electrical permit application. As I was reading over all of this paperwork I noticed the dates on the electrical permit didn't coincide with the actual dates. The sign permit was issued on October 26, 2018 and the electrical permit was issued on October 11, 2018. The issue here is that the electrical permit was not applied for until December 6th, 2018. How does an electrical permit get issued two months before it was even applied for? This also happens to be the exact same day that I spoke with Drew and raised the questions about the permits and licenses for the Chamber sign. I guess I'm supposed to believe this is also a coincidence? The fact of the matter is someone on staff noticed that I was right, so they decided that the install needed an electrical permit, but they could not tell the electrician who came in and pulled the permit to back date his application. The application is signed and dated 12/6/18. Although they could not back date the application they did back date the permit all just to cover up the corruption when they noticed I was requesting the documents. If I knew exactly who it was I would tell you but I do not know. This is what I'm expecting you to find out as the leaders of the City of Kerrville and its staff. If I were asked to give one word that could fix all of the issues in the crazy world we live in today that one word would be ACCOUNTABILITY. Hold someone accountable for their actions and remove the problem. Anything less than this and the corruption and selective enforcement within city hall will never stop.

All of these documents are attached within the emails that I received from City Hall from my public document requests.

The City Manager has said that the issue with the back dated permit is because when you apply for a sign permit the system automatically kicks out an electrical permit. Again, this is staff pulling the wool over your eyes. I have probably pulled more electrical sign permits in Kerrville than anyone else, and in 10+ years I have NEVER received an electrical permit. I recently requested the permits and applications for the EMC sign recently installed at Garrett Insurance on Sidney Baker. I was sent all of the permits for the sign and told there was no electrical permit. So to believe the system "kicks out" an electrical permit is a complete lie to you and the citizens of Kerrville by the City Manager.

The sign at Garrett Insurance was issued a permit to TEU Services, Mr. Carpenter (the same unlicensed contractor as the Chamber sign). This company does not have the proper licensing to sell or install electric signs, but yet they were given a permit for Garrett Insurance as well as the Chamber. The sign at Garrett Insurance was not just replaced and connected to the existing electrical, they were permitted to run a new electrical circuit from the building, dig a trench, lay conduit and pull a new circuit out to the sign. THIS IS NOT LEGAL!!! To make matters worse, the sign passed inspection and was also over the 32sqft maximum.

Now that you are fully aware of some of the corruption I have seen I hope you will take further actions into addressing the issues within the Development Services Dept. or possibly higher.

This is the real truth of the matter. Someone on staff decided to take it upon themselves to either approve the permit or directed someone under them to approve the permit for the Chamber sign, but now they've been caught and we have an even bigger issue.

I am no law professional, but in my opinion the city has no right to force the Chamber to only use 32sqft of their sign since they were, in fact, issued a permit, nor does the city have any right to make the Chamber remove the sign since a permit was issued. So, now staff wants to change the ordinance to "fix" these issues. THE ORDINANCE IS NOT THE PROBLEM. Staff only wants you to believe the ordinance is the problem to cover up their actions of granting an illegal permit.

The Chamber has been on the P&Z agenda twice and pulled it off the agenda both times. I believe it was removed for one of two reasons; #1. Because they know their sign and location does not meet the requirements to be granted a variance and #2. I don't believe P&Z will grant it in fear of being blamed for only approving the variance to bail staff out of their mistake.

My question is what is going to happen next? Is the code review committee going to suggest the new ordinance allow 80% of your allowed square footage to be electronic signs?

As council members would you vote to approve 80sqft EMC signs in Kerrville? I could be wrong, but I don't think that will happen. Please correct me if I am wrong. So, what is going to happen when the new ordinance only allows 50sqft or maybe 60sqft? The chamber sign will still be ILLEGAL. Will P&Z grant them a variance for the remaining 20-30sqft? I don't see how P&Z can grant that variance since the Chamber does not meet the criteria written in the ordinance.

Or, is staff currently devising a plan to change the variance process as well, or maybe tie the sign code into different zones and magically allow 80sqft EMC signs in the zone the Chamber falls in?

This entire situation is not going to end anytime soon and all you are doing right now is delaying the inevitable. If Council approves a new ordinance that allows 80sqft EMC signs all over Kerrville the citizens are going to lose their minds, but if you don't make this change the City must make the Chamber remove their sign or illegally grant them a variance the way they granted them a permit from the beginning, except this time it's in the public eye and not going to pass through without someone noticing.

At this point I see no other way out of the situation other than the City of Kerrville having to force the Chamber to remove their sign and the city having to reimburse them the cost of the sign since they wrongfully permitted it. I don't know of any job that I could make a mistake that cost my employer \$40,000 - \$60,000 and not be fired.

If you see another way for this to end please let me know. I am just trying to figure out what will be done to rectify the situation.

There is corruption within the city and it is your job to figure it out and fix the situation.

Let me be very clear on one more thing. I DO NOT have any issue with the Chamber's sign. I think it is a great asset to the Chamber's members and a great way to advertise events in our town. What I have an issue with is the fact that it was illegally permitted to a contractor that does not have the proper licensing to do the work or pull the permit, then to top it off someone in the city staff tried to back date an electrical permit to cover it up after I asked about it.

Here are the questions I would like you to answer:



1. Do you believe this Chamber sign permit was an oversight or do you now see why I question everything about it?
2. How is my business supposed to compete when customers can only get a 32sqft EMC from me but can get them 80sqft thru my competitors? This is unfair
3. Why are contractors in Kerrville paying permit and inspection fees when the inspectors fail to catch signs being put up larger than they were permitted for?
4. The State of Texas regulates licensing for all sorts of contractors; electrical, plumbing, HVAC, Signs, etc. Why does the City of Kerrville not uphold, enforce or require the same things?
5. Carrying an Electrical Sign Contractor License is something that is required by the State of Texas through TDLR. This comes with several expenses including insurance requirements, surety bonds, license renewal fees, etc. How is it fair that I have to pay all of these fees when my competitors don't?
6. Every other city I work in in Texas requires my company to provide a copy of our ESCL or an ECL in order to pull any electrical sign permit. Why does Kerrville not require this from all contractors who want to sell or install signs since the State of Texas Requires it?
7. We were told the back dated electrical permit for the Chamber sign was in fact back dated because the permit system "kicks out" an electrical permit whenever a sign permit is applied for. Please explain to me how the sign permit is dated 10/26/18 and the electrical permit is dated 10/11/18? If the system automatically "kicks out" an electrical permit they would be dated the same day. Also, I have never had an electrical permit kicked out for any of the sign permits I have ever pulled in Kerrville.

Thanks,

Cory Traub

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