

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
APRIL 9, 2013

On April 9, 2013, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Stockton Williams, Rector for St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Bill Nolan of the Military Officers Association of America.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Stacie Keeble	Mayor Pro Tem (left the meeting at 7:50 p.m.)
Gene Allen	Councilmember
Carson Conklin	Councilmember
Justin MacDonald	Councilmember

COUNCILMEMBER ABSENT: None.

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Charvy Tork	Director of Information Technology Systems
Mike Erwin	Director of Finance
Robert Ojeda	Fire Chief
Jason Lutz	City Planner
Charlie Hastings	Director of Public Works
Ashlea Boyle	Special Projects Coordinator
Misty Kothe	Main Street Manager

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

1. **VISITORS/CITIZENS FORUM** None.

2. **CONSENT AGENDA:**

Mr. Allen moved for approval of items 2A; Mr. Conklin seconded the motion and it passed 5-0:

2A. Agreement between City of Kerrville, Texas, and Kerr Capital Partners, LLC authorizing the installation and maintenance of landscaping and lighting within the city right of way.

END OF CONSENT AGENDA

3. **ORDINANCES, FIRST READING:**

3A. An ordinance amending Chapter 30 "Businesses" of the city's code of ordinances by adopting a new Article I "Group Homes and Boarding Home Facilities"; establishing the registration of group homes and the permitting and

inspection of boarding home facilities; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor Pratt read the ordinance by title.

Mr. Hayes stated the purpose of the ordinance was to document the location of group homes licensed by the state, and to establish regulations for boarding home facilities. The city was not trying to prohibit boarding home facilities; however, boarding homes were accepting money and operating as a business in residential areas, and the city was attempting to balance the livability of residential areas by regulating traffic, density, and parking. He reviewed highlights of the ordinance and changes made since the February 26 meeting.

- Division 2; group homes was defined as multiple living arrangements licensed and inspected by the state, i.e. nursing homes, etc.; such homes would be required to register in order that the city would know the location of such facilities and the residents that may require emergency services.
- Exemptions for state licensed facilities, hotels, retirement communities, dormitories on campus, etc.; however group homes will be required to have a permit in order to determine 1/2 mile spacing within another boarding home facility; the 1/2 mile spacing requirement mirrored state law.
- Add section 30-11 boarding home facilities will require a permit; however, while they are going through the permit process, they will not be cited.
- He proposed to add a reference to persons under separate rental agreements, such as foster child relationships.
- Notification of any changes in owner's address or contact information.
- Permit fees will be established by resolution at the next council meeting.
- Suspension/revocation section and appeal process provided; appeals would be made directly to the city council.
- Expiration of renewal permit set at one year.
- Permit was not transferable to another location.
- Section 30-22 stated posting requirements.
- Section 30-24 reasonable accommodations provision. City cannot prohibit boarding homes, and the city was not trying to put operations out of business. Federal law allows the city to adopt reasonable zoning regulations and to ensure compliance with the fire code. Section 30-24 provided a process for submitting a request for reasonable accommodations.
- Section 30-25 required three types of inspections: permitting, annual permitting, and annual inspection for compliance with the fire code.
- Section 30-26 established special guidelines for maximum level of occupancy based on square footage of bathrooms and the number of sleeping rooms. Different formulas were used to determine occupancy level based on the zoning district, e.g. single family residential district was more restrictive and occupancy level increased in higher density zoning districts such as residential transitional, multi-family, or residential/commercial.
- Section 30-27 required that off-street improved parking spaces be provided based on the number of residents times 75%.

- Section 30-28 established operational standards: 1) Sleeping rooms contain at least 150 sq. ft. floor space per occupant, a built in closet, and access must not be solely through another sleeping room; 2) Kitchen be accessible to each resident without the need to travel through a sleeping room or another resident; 3) Smoke alarms must be installed in compliance with the fire code; 4) Maintain residence and premises in a clean and sanitary condition; and 5) Pathways and stairways remain unobstructed.
- Section 30-29 required that all fire escapes and exits be kept in good repair and accessible at all times.
- Section 30-30 violations and penalties established.

Council also discussed the following:

- In the requirement to provide off-street parking, did motor vehicles include motorcycles and trailers; the consensus was that the requirement applied to all vehicles licensed by the Texas Department of Motor Vehicles. Residential streets were not designed to be parking lots for trailers or business vehicles.
- The amounts in Sections 30-26 and 30-28 should be consistent; consensus was to set it at be 150 sq. ft.

Mr. Hayes noted that the city council was not required to hold a public hearing.

The following persons spoke:

1. Carolyn Lipscomb asked if the on-site parking spaces were required to be a paved surface or if people could just park in the front yard? Could parking spaces in alleyways be considered in order to meet the off-street requirements? What was the percentage of people who were in recovery situations who worked and had cars? Ms. Lipscomb stated she was opposed to the ordinance because it allowed residents and their guests to park on the street.

Council responded that when the owner applied for a permit to operate, they would have to show off street parking spaces sufficient to the maximum number of occupants times 75%. The ordinance did not state that people could not park on the street, just that the owner had to provide adequate number of off-street spaces; on-street parking was allowed throughout the city. The percentage of persons who were in recovery situations was unknown and ever changing. Mr. Hayes noted that alleyways were considered right of ways and could not be blocked.

2. Nikki Saurage stated that the language in the ordinance was confusing to her. She asked if the city knew that recovery from addiction was considered a disability under the Fair Housing Act, and if so, what type of documentation the city required to determine disability?

Mr. Hayes stated that the ordinance recognized addiction as a disability, and if persons were availing themselves of the special protected class provision, the city required evidence to prove they were part of a protected class. The ordinance stated types of documentation, such as, evidence of determination by the Social Security Administration or the Department of Veteran Affairs.

Ms. Saurage noted there were other types of disability than just addiction. She was fully disabled, so, would she be covered under the exemptions, and did that mean her house would be viewed or licensed differently? Can owners apply for a variance for the number of people?

Mr. Hayes stated these were addressed in the reasonable accommodations section 30-24. If the ordinance is adopted, enforcement would take effect ten days after publication in newspaper, or the council may set a specific date. The city would not begin enforcement on the owner until completion of the variance process, and occupants would not have to leave during the variance process.

3. Bobby Templeton stated it was a good ordinance and balanced competing issues.

4. Joe Heffington questioned where the requirement for an installed closet in each bedroom came from? Did the fire code require that people cannot sleep in a bedroom unless there was an installed closet? Does the requirement for vehicles to be parked on the property apply to other residents of the city based on the number of people who live in the home? He asked if the city was prohibiting people from accessing their property through alleyways?

Mr. Parton noted the requirement was not in the fire code; rather, it paralleled the definition of sleeping quarters for bedrooms pursuant to the building code. Mr. Hayes noted the ordinance did not require parking off street, it only required that parking spaces be set aside and constructed. Council noted this requirement was consistent with multi-family land uses. Mr. Hayes stated he did not say that people could not continue to use alleyways to access their property; however, alleys were narrow and parking should not block or impede access by others.

The consensus of the council was to set a specific date of June 3; staff should have forms available June 1. Mr. Hayes noted that if the owner did not make application within 15 days, it would not be a defense to continue to operate.

Mr. Allen moved to pass the ordinance, as amended and presented by the city attorney, on first reading; Mr. Conklin seconded the motion and it passed 5-0.

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Resolution No. 12-2013 granting a petition requesting the annexation of an approximate 0.91 acre tract out of the John A. Southmayde Survey No. 148, Abstract No. 288, within Kerr County, Texas, and consisting of the property addressed as 2262 Highway 173 (Bandera Highway); and ordering the preparation of an annexation ordinance.

Mr. Lutz noted the owner, Louis Howard, petitioned the city for annexation of a 0.91 acre tract in vicinity of Loop 534 and Bandera Highway adjacent to Kerrville Schreiner Park in order to access city utilities. The property was currently under construction for commercial business spaces.

Council questioned why the property owner had begun his construction project prior to requesting city utilities and annexation.

Ms. Ondrias noted Mr. Howard had been working with city staff on platting details, engineering issues, and inspections. The request for annexation was a timing issue of getting a survey and information needed to complete the annexation application.

Mr. Conklin moved to approve Resolution No. 12-2013; Mr. Allen seconded the motion and it passed 5-0.

4B. Request to allow a property to connect to city water and sanitary sewer services prior to the completion of the annexation process at 2262 Highway 173 (Bandera Highway).

Mr. Lutz noted this was the same property and owner as in item 4A; Mr. Howard requested permission to tie on to city utilities prior to annexation. Construction was nearing completion and Mr. Howard anticipated a business tenant occupying the building by mid-May; however, the annexation process would not be complete until the end of July. The commercial project did not anticipate extending any utilities or public infrastructure. Staff recommended allowing utility connections prior to completion of the annexation process.

Council discussed setting a precedence of allowing properties to connect to city utilities prior to completion of annexation; further, the city's process was public information, and the owner should not have moved ahead without annexation.

Mr. Hayes stated that the city had a policy in place, and if the council's motion was to deny the request, he recommended the motion state "in compliance with city policy."

Mr. MacDonald moved to deny the request to connect to city water and sanitary sewer services prior to completion of the annexation process. Mr. Conklin seconded the motion and it passed 4-1 with Councilmembers MacDonald, Conklin, Keeble, and Pratt voting in favor of the motion; and Councilmember Allen voting against the motion.

4C. Request by Walter Investments, L.P. for an abatement of property taxes for the property located at 741 Water Street (former Bank of America building).

This matter was withdrawn.

4D. Pending legislation from the 83rd Texas Legislature, regular session.

Mr. Parton reported that April 10 was Kerr Community Day in Austin to meet with State Representative Harvey Hilderbran and State Senator Troy Fraser. He drafted a letter stating the city's position on pending legislation and proposed to present that letter to Mr. Hilderbran and Mr. Fraser. He reviewed the letter and the city's stance on specific bills:

- Do not generally support legislation that would further restrict a city's ability to set taxes; opposed legislation that would further cap property taxes or lower rollback thresholds.
- Supported legislation to streamline advertising and public hearing procedures for adopting budgets and setting tax rates provided they would not undermine transparency and notification processes in place.
- Supported legislation that would allow elected officials to utilize technology to participate in duly posted public meetings and communicate with each other on issues of public interest, provided there was clear transparency.
- Generally opposed legislation that further restricted the city's ability to issue debt; opposed to legislation that modifies the existing notification, referendum, and review processes required to sell debt.
- Supported legislation to ensure the integrity of regional water planning, protect existing water supplies of communities, protect ratepayers from severe rate changes, and ensure fire flow and protection standards are maintained by investor owned utilities. The city and county can establish standards for firefighting and public safety, but that utility is not required to continue to maintain the established standards and keep their system available for firefighting.
- Supported legislation that maximizes a community's options for use of 4B sales tax revenues; allows cities and counties to regulate halfway houses and group homes; provides greater flexibility to cities and counties that need to sell land, such as allowing more traditional type of land sell; and provides greater incentives for enhancement for rural economic development.
- Opposed legislation that restricts the use of eminent domain authority for parks and recreation uses.

The following person spoke:

- Ruth Spradling requested the bill number for 4B sales tax issues. Mr. Parton said there were several bills and he would provide that information.

Ms. Keeble moved to authorize the mayor to sign the letter as presented; Mr. MacDonald seconded the motion and it passed 5-0.

5. INFORMATION AND DISCUSSION

5A. Quarterly report of the main street advisory board.

Ms. Kothe reported that on February 21 the MSAB voted to establish this year's work plan to be submitted to the Texas Main Street program. The main points of the plan were: create a new updated website; bring the Mardi Gras on Main event back downtown; reassign funds received from fund raising events back into MSAB projects, i.e. public art; look at grants, programs and incentives; create a data base of downtown buildings and businesses to help in recruiting businesses and owners, and maintain current information on building owners.

Scott Rain, chairman of MSAB, reported on the following:

- About 350 people attended the Mardi Gras event in February, and it raised over \$18,000; goal was to get this event back downtown; this year the funds

were committed to the public art project; next year's goal was to broaden the use of those funds.

- Issued call to artists to place sculpture in and around seven locations in downtown; the art would be on loan from the artists.
- Moon light drive golf tournament event would be cancelled, and MSAB was looking at other event opportunities; net proceeds from last year were \$8,000.
- Purchase new data base to track local businesses, property inventory, and contact information for business and property owners.
- Ms. Kothe would attend national main street training.
- Purchase more banners for light poles in downtown; established local photographers for light poles.
- Work on website and data base.

Mr. Rain noted that May was national preservation month.

5B. Economic update.

Mr. Erwin reported that February's national employment was at 7.7%; however, he noted 2.8-3 million fewer people were in the labor force now than in 2008. March 2013 sales tax was 10% higher than March 2012; February 2013 HOT tax was 8.6% higher than February 2012. Property tax revenue was coming in higher month-to-month than last year. Revenue exceeded expenditures in the general fund and the water and sewer fund.

5C. Water resources.

Mr. Hastings reported that Kerr County was still considered to be in extreme drought condition. The city received a total of 2.5 inches of rain February-April. The river flow averaged in April averaged 70-72 but would continue falling as trees take on more water. The ASR wells were at 767-770 million gallons. The city was still in stage 1 but may voluntarily go into stage 2 in May.

6. BOARD APPOINTMENTS

6A. Parks and recreation advisory board.

Ms. Keeble moved to reappoint Nancy Alford, David Lipscomb, and Ed Wallace; and to appoint Carol Lenard and Bill Muse; all with terms to expire March 31, 2015. Mr. Allen seconded the motion and it passed 5-0.

7. ITEMS FOR FUTURE AGENDAS

- Requested item 4C be rescheduled.
- Ethics policy for city council.

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Meetings continued with city and county representatives regarding the library.
- LCRA should honor its commitment with regard to the CREZ line and the type of poles used in the right of way.
- Eight of the light posts on Peterson Plaza were removed by the owner and will be given to the city for placement into the street scape plan.

9. EXECUTIVE SESSION:

Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071 and 551.072 of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 5-0 to discuss the following matters:

Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the city’s bargaining position with third parties.

Sections 551.071 and 551.072:

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

- Jefferson Street lift station
- G Street sewer project
- River Trail.

At 7:36 p.m. the regular meeting recessed and council went into executive closed session at 7:41 p.m. At 8:00 p.m. the executive closed session recessed and council returned to open session at 8:02 p.m. The mayor announced that no action had been taken in executive session.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION:

No action was taken.

ADJOURNMENT. The meeting adjourned at 8:03 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary