

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
OCTOBER 8, 2013

On October 8, 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 Pastor Noah F. Diggs, with the Mt. Olive Baptist Church, followed by the Pledge of Allegiance led by Cameron Richter, Cadet Tech Sergeant Tivy High School Air Force Junior Reserve Officer Training Corps.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Mayor Pro Tem
Stacie Keeble	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT:

Justin MacDonald	Councilmember
------------------	---------------

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Robert Ojeda	Fire Chief
Heather Stebbins	Assistant City Attorney
Ashlea Boyle	Special Projects Coordinator

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

1. VISITORS/CITIZENS FORUM:

2. CONSENT AGENDA:

Mr. Conklin moved for approval of agenda items 2A through 2H; Mr. Allen seconded the motion and it passed 4-0:

2A. Minutes of the city council regular meeting held September 24, 2013.

2B. Resolution No. 40-2013 adopting an ethics policy for elected and appointed officials – City of Kerrville, Texas; providing a purpose, goals, standards of conduct, implementation, compliance and enforcement; and a statement of commitment.

2C. Resolution No. 41-2013 authorizing the closure of a portion of Memorial Highway (Hwy 27) during certain hours and dates from 2013-17 for the Kerrville Main Street annual holiday lighted parade and authorizing the mayor to execute an agreement for the temporary closure of state right-of-way with the Texas Department of Transportation.

2D. Resolution No. 38-2013 authorizing the waiver for Baptist Child and Family Services of permitting fees associated with the construction of their transition center for youth; said waiver to remain in effect through October 8, 2014.

2E. Resolution No. 37-2013 authorizing the waiver for Hill Country Home Opportunity Council, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2014, or the construction of ten homes, whichever occurs first.

2F. Resolution No. 36-2013 authorizing the waiver for Habitat for Humanity Kerr County Affiliate, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2014, or the construction of nine homes, whichever occurs first.

2G. Purchase of a new Type I ambulance from Dallas Dodge Chrysler Jeep at a price not to exceed \$156,800.

2H. Purchase of four new vehicles for the police department at a price not to exceed \$127,636.

END CONSENT AGENDA

3. ORDINANCE, SECOND AND FINAL READING:

3A. Ordinance No. 2013-19 amending various sections of the Code of Ordinances of the City of Kerrville, Texas, to delete and remove fees for various services and amenities provided or offered by the City as said fees are established by the city's fee schedule, which is adopted by resolution of the City Council; containing a savings and severability clause; providing for an effective date; and providing other matters relating to the subject. Mayor Pratt read the ordinance by title only.

Mr. Hayes noted the proposed ordinance would delete fees from the Code of Ordinances as fees were approved by city council annually in the fee schedule. He recommended approval of the ordinance.

Ms. Keeble moved for approval of Ordinance No. 2013-19 on second and final reading; Mr. Conklin seconded the motion and it passed 4-0.

4. ORDINANCES, FIRST READING:

4A. Ordinance No. 2013-20, approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the company's 2013 annual rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; repealing conflicting resolutions or ordinances; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; providing a most favored nations clause; and requiring deliver of this ordinance to the company and the steering committee's legal counsel. Mayor Pratt read the ordinance by title only.

Mr. Hayes noted the council had jurisdiction over local gas rates and the city was a member of Atmos Cities Steering Committee. Atmos filed a rate increase request for \$22.7 million system wide. ACSC's legal counsel reviewed the filing and recommended a \$16.6 million rate increase; the average residential customer's bill would increase \$0.74 per month. Mr. Hayes recommended approval.

Mr. Conklin moved for approval of Ordinance No. 2013-20, as presented, on first reading; Mr. Allen seconded the motion and it passed 4-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Resolution No. 45-2013 approving/disapproving Kerr Central Appraisal District budget amendment for Fiscal Year 2012.

Mr. Parton noted that KCAD's year-end audit reported an almost \$25,000 surplus; KCAD requested an amendment to the FY12 budget to allow KCAD to place the surplus in their building renovation and remodeling account. If half or more of the member entities reject the request, the funds would be returned pro rata share to each entity; Kerrville's portion was about \$3,500. He noted that KCAD's option to fund building renovations was to request a budget allocation from each taxing entity on a per capita basis. He recommended approval.

Mr. Allen moved for passage of Resolution No. 45-2013 approving the KCAD budget amendment; Mr. Conklin seconded the motion and it passed 4-0.

5B. Appeals by the applicant/operator for reasonable accommodations in accordance with the Ordinance No. 2013-06 group home and boarding home facilities at the following addresses:

Ms. Stebbins noted Ms. Arterburn was appealing staff's decision not to grant her requested accommodations at her two properties. Both properties were in single family residential zones, and the proposed ordinance was established to protect residents of boarding home facilities by addressing life threatening concerns and overcrowding issues and to have informed public safety personnel, and to protect the fundamental nature of the city's zoning. She reviewed the particulars of each facility:

1. 615 East Lane:

Appraisal district records stated it had 2,640 sq. ft., plus additional space totaling 2,825 sq. ft., having four sleeping rooms and an attic, which had been used as sleeping rooms in the past; and had 10-15 residents. The ordinance limited the number of residents to eight based on overall square footage and two per sleeping room. Ms. Arterburn requested ten residents and compliance with any accommodations that the city had not granted. After reviewing the request with Ms. Arterburn and her attorney, staff granted accommodation of three in the large room which complied with the 70 sq. ft. per person section, and the request for a single occupancy room for a manager. One sleeping room was attached to the garage, and staff informed her that the garage could not be used as a sleeping room. Ms. Arterburn was given 60 days to comply, which expired September 16.

In summary, Ms. Arterburn was appealing staff's limit of eight residents and requesting ten; and appealing the 60 day requirement to come into compliance until graduation of residents out of home.

2. 1612 First Street:

Appraisal district records reported 2,538 sq. ft., and the application noted additional space totaling 2,925 sq. ft. in five sleeping rooms; the ordinance limited occupancy to eight residents based on overall square footage, and six parking spaces. Ms. Arterburn requested ten residents in the home; off-site parking or rule limiting the number of cars permitted; and compliance over time to reduce the number of residents to meet the city's requirement. Staff granted accommodation of three residents in the larger room which met the 70 sq. ft. per person rule, and the adoption of a house rule limiting the number of cars to four. Staff gave Ms. Arterburn 60 days to comply with all issues noted by staff during the inspection, i.e. fire and safety issues.

Ms. Stebbins noted the ordinance permitted boarding home facilities in all zoning districts in the city. Staff reviewed 25 homes and 23 were permitted or were in the permitting process. No argument had been presented showing that ten residents in each of the subject homes were needed to accommodate a disability related need. The limits of Ms. Arterburn's appeal was that which was stated in her letter.

Thomas Carnes, attorney for Mrs. Arterburn, noted Ms. Arterburn was given 60 days to comply, her appeal had been timely filed, and she was grandfathered and protected while in the appeals process. He discussed three issues:

1. Application rationale that the number of people in a home as recovering addicts versus staff. The goal of group home relationships could not be fulfilled; there was a number under which a group home could not properly function as a group home that holds its residents accountable.
2. As an economic issue, both homes operating required eight paying residents. If either home is denied, it must close, thereby reducing the number of places available to persons with drug and alcohol problems; or not have an in-house resident manager, since they do not pay.
3. The issues cited by Mr. Batts (city's chief building official) regarding the garage at 615 East Lane were corrected. The garage door was sealed to create a sleeping room and was included in their calculation. The city granted part of their request, to have one room at East Lane and 2 rooms on First Street to be free occupant rooms so he opined that they should be allowed to have ten occupants; in fact, there would be unused sleeping rooms in both houses if ten residents were not allowed, and both houses had had more than ten in the past and could accommodate ten now.

Mr. Carnes opined that ten was the minimum number of residents conducive to such an environment. He worked with the city to tailor an ordinance that would be flexible, and there was no flexibility with the maximum number; the square footage number made sense, but keeping the number of residents limited to eight

was arbitrary. This was Ms. Arterburn's last chance to resolve this issue through administrative appeal; the only remaining option was to file for a preliminary injunction.

The following person spoke:

1. Sam Ligon asked council to uphold the ordinance. He lived near the 615 East Lane group home and felt that little regard had been given to property owners' concerns and families living in the area. He did not take the threat of legal challenges lightly, but if pressed he would seek advice of legal counsel, and he encouraged the city council and zoning board to stay committed to the actions to benefit single family residences as protected by established city codes. Several home owners in his single family neighborhood were having to deal with the 615 East Lane property being operated as a profit business, according to code definition. He purchased his home in a single family zone many years ago and that zone had not been altered; however, the city established regulations, conditions, and codes in order to allow this home to operate in a single family residential zone. The ordinance established the number of persons to be accommodated by space, and structural design for fire and safety accommodations for residents, etc. At this home, there were still issues with parking, traffic, and the behavior of residents; increasing the number of residents would compound issues. Homeowners were interested in the basic issue of property values and allowing group homes affects property values. The guidelines under which people purchased their homes have been negated by the actions of a few people running a business under the radar, and now they are asking for special privileges not appropriate in a single family residential zone, such as making a parking lot in their back yard. Single family zoning should not be ignored as homeowners' concerns are reasonable and legitimate.

The following points were also discussed by the city council:

- One option was to increase the rate for residents in order to meet budget. Mr. Carnes stated that the rental rate had already been increased from 4 to 5 and was included in their calculations. There had been some scholarships for residents who did not pay anything in the past, but they could no longer do that. Ms. Arterburn planned to convert the home into a professional adult men's home in the future, but the transition would take months.
- It had been stated adamantly at previous meetings that this was not a business and money was not a concern, and now economics is a concern. Mr. Carnes stated that nobody operating a home was making a profit; they were not in the business to make money, but they needed to break even to stay in business; no charitable source was putting money in. Eight paying residents were necessary to break even; if the request is denied, Ms. Arterburn would not be able to have a manager.

The process of creating the ordinance took several months and many meetings and workshops where council heard concerns of group home owners, residents, and neighbors. The challenge was to protect single family residential properties and to allow group homes to operate in single family residential zones. Many

other group homes had come into compliance and under the maximum of eight. The ordinance reasonably accommodated group homes and mitigated the impact to the neighborhoods in which they were located. Both sides understood the compromise reached. The number is fair.

No special circumstance had been presented and no impact existed that warranted the accommodation of more than eight people per home.

The ordinance addressed the safety and security aspect of the community.

Mr. Conklin moved to deny the appeal at both locations: 615 East Lane, and 1612 First Street. Mr. Allen seconded the motion and it passed 4-0.

5C. Resolution No. 47-2013 adopting an automatic bill pay program for the city's water/wastewater utility service.

Ms. Yarbrough noted the proposed resolution would establish an auto pay incentive program that would allow a one-time \$10.00 incentive credit:

- 1) Existing customers who signed up for automatic bank draft or credit card payment of their city utility bill; existing customers had three months to apply.
- 2) A \$10.00 credit would be deducted for new accounts that signed up. The customer was required to maintain the auto pay for twelve months or the \$10.00 credit would be added back to their bill.

The following person spoke:

1. Ruth Spradling questioned how much this program would cost the city, if there would be a charge to customers who used their credit card, and had the city considered email billing to cut costs?

Ms. Yarbrough stated the cost would depend on how many customers signed up for the program, and at this time that was unknown. Regardless of the one-time cost to implement the program, the program would save the city money in the long term in staff time. There was no additional charge for direct bill pay by credit card; many customers already pay by credit card. Customers would continue to receive a bill in ample time to contact the city if they wanted to dispute their bill before it was charged to their account. The city already had email billing in place.

Mr. Allen moved for approval of Resolution No. 47-2013 as presented; Ms. Keeble seconded the motion and it passed 4-0.

6. **ITEMS FOR FUTURE AGENDAS:** None.

7. **INFORMATION AND DISCUSSION:**

- The Kerrville Triathlon was a successful event and a full report will be provided to council.

8. **EXECUTIVE SESSION:**

Mr. Allen moved for the city council to go into executive closed session under Sections 551.071, 551.072, and 551.074 of the Texas Government Code; the

motion was seconded by Mr. Conklin and passed 4-0 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, regarding property interests related to the following projects:

- Jefferson lift station
- River Trail.

Section 551.074:

- Annual review of city manager.

At 6:38 p.m. the regular meeting recessed and council went into executive closed session at 6:45 p.m. At 7:31 p.m. the executive closed session recessed and council returned to open session at 7:32 p.m. The mayor announced that no action had been taken in executive session.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION:

ADJOURNMENT. The meeting adjourned at 7:32 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary