

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
JANUARY 13, 2015

On January 13, 2015, 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 Reverend Stockton Williams, Rector at St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by David Knight, Interim Chief of Police.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember
Stacie Keeble	Councilmember
Gary F. Stork	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Interim Chief of Police
Danny Batts	Chief Building Official
Dannie Smith	Fire Chief
Chris Stewart	Senior Planner

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

1. VISITORS/CITIZENS FORUM:

1A. Carolyn Lipscomb asked why the city was not renewing the lease at the city landfill with the Hill Country Youth Soccer Association. She asked what the dirt was going to be used for that was more important than the soccer fields. The existing fields were not adequate in number and the soccer association spent \$1.2 million on that facility. She opined that the quality of the topsoil might not have been as good without the HCYSA's improvements to the fields.

Mr. Parton noted the soil was needed to construct the new wastewater detention facility for the effluent project. There was a full layer of topsoil at the site and HCYSA's management of the fields had nothing to do with the amount of soil. The city's other option would be to purchase property elsewhere and transport the soil to the city farm. He noted the land was purchased by the city in 1929 and designated for municipal purposes and utility operations. The plan was to replace the amount of existing irrigated space at the new facility to accommodate

sports programming. The timing of the effluent detention project had been scheduled around the soccer season and the construction of soccer fields at the new athletics complex.

1B. Gary Noler, representing the AMVETS Post 1000, noted the paperwork had been completed and work was progressing on the housing project at the VA complex. He appreciated the work of city council and staff. Mayor Pratt noted the first veteran should move in by December 31, 2015, or the project could lose its tax credits; the city would work diligently to help meet the deadline.

2. CONSENT AGENDA:

Mr. Conklin moved to approve consent agenda items 2A through 2G; Mr. Allen seconded the motion, and it passed 5-0:

2A. Minutes of the special city council meetings held December 8, and December 16, 2014, and the regular meeting held December 9, 2014.

2B. Resolution No. 01-2015 finding that rules adopted by the Texas Railroad Commission are against the public interest and would harm the city's ability to protect local gas utility customers; and authorizing the mayor and city manager to take action to challenge the rules.

2C. Request from Kerrville Area Chamber of Commerce for the city to provide in-kind police and EMS services for the Kerrfest event to be held on May 14-17, 2015, in the amount of \$4,623.00.

2D. Authorize execution of a contract with Kerr County for conducting the May 9, 2015 City of Kerrville General Election.

2E. First amendment to the construction contract between the City of Kerrville, Texas and L.C. United Painting Company, Inc., for maintenance work to the Summit and Stadium elevated water tanks by increasing the compensation by \$94,125 and authorizing an increase in the amount of change orders by \$62,750.

2F. Professional services agreement with Fugro Roadware, Inc. to develop a pavement management system for the City of Kerrville, Texas in an amount not to exceed \$85,000.00.

2G. Purchase street maintenance and construction equipment funded by a grant, in the total amount of \$385,194.82, to include: Caterpillar 930 wheel loader, Mack tandem dump truck 14 yard capacity; and Bobcat skid loader and 40" planer attachment.

END OF CONSENT AGENDA

3. PUBLIC HEARING:

3A. Proposed voluntary annexation of approximately 23.38 acre tract of land located at 5235 Highway 27 East, James Avery Craftsman (JAC).

Mr. Stewart noted that JAC petitioned the city for voluntary annexation of property at 5235 SH 27 East. The JAC project totaled 29 acres; however, 6.3 acres with frontage on SH27 was already in the city.

Mayor Pratt opened the public hearing at 6:12 p.m.; no one spoke and the public hearing was closed at 6:12 p.m.

6D. Authorization to submit a request to the City of Kerrville, Texas Economic Improvement Corporation (EIC) to amend the funding agreement between the EIC, City of Kerrville, Texas, and Playhouse 2000, Inc. to increase the funding to an amount not to exceed \$850,000 for the construction of the support facility to the Cailloux Theater.

Ms. Boyle noted EIC directed staff to request authorization from council to prepare an amendment to increase the funding agreement an additional \$350,000 to a total not to exceed \$850,000.

Jeffrey Brown, executive director of Playhouse 2000, noted that upon completion of the project the facility and property would be deeded to the city. The 6,000 sq. ft. facility would be used for equipment storage, rehearsals, dressing rooms, waiting area, classrooms, and costume creation and storage.

Mr. Parton noted that Playhouse 2000 raised \$280,000 to fund the project.

Mr. Stork moved to authorize staff to submit a request to EIC as proposed; Mr. Conklin seconded the motion and it passed 5-0.

4. PUBLIC HEARING AND ORDINANCE, FIRST READING:

4A. Ordinance No. 2015-01, amending the City's "Zoning Code" by adding a definition of "Community Gardens" to Article 11-I-3 "definitions and interpretation of words and phrases"; revising Article 11-I-4 to add community garden as a use that is permitted within any zoning district; revising Article 11-I-19 to adopt regulations applicable to the use of property as a community garden; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); and ordering publication. Mayor Pratt read the ordinance by title only.

Mr. Stewart noted there were gardens throughout the city, but there was not a definition in the zoning code or standards for how gardens were developed. Mr. Parton noted that a vacant lot had been donated for a community garden where people could raise and keep their own produce. The subdivision code does not allow an accessory structure, such as a tool storage shed, without a primary structure. This ordinance would create a definition for a community garden, allow such garden in any zoning district, add site development regulations, and allow for an accessory structure without a primary structure if it complied with building setbacks. Staff noted that the planning and zoning commission recommended against adoption of the ordinance, citing concerns about oversight of the gardens, maintenance and upkeep of the gardens, possible liability for the city, standards not tight enough, illegal activities could take place, and allowing accessory buildings to be constructed without a primary structure throughout town.

Council discussed the following:

- The Doyle Community Center neighborhood took the initiative to create a community garden where garden plots could be adopted, but a tool storage shed was needed.

- All concerns raised by PZC were already addressed in other codes, i.e. overgrown vegetation, destruction of property, and illegal activities.
- The garden would be a privately owned facility managed by the property owner or a program manager.
- A conditional use permit was discussed; however, a CUP went with the applicant, not with the land, so if the property changed ownership the CUP for the garden would no longer exist.

Mayor Pratt opened the public hearing at 6:30 p.m.; no one spoke and the public hearing was closed at 6:30 p.m.

Mr. Stork moved for approval of Ordinance No. 2015-01 on first reading; Mr. Conklin seconded the motion and it passed 5-0.

(NOTE: Due to an error in publication of public notice, this item was later withdrawn by city staff and rescheduled on future council meetings in order to meet legal requirements.)

5. ORDINANCE, FIRST READING:

5A. Ordinance No. 2015-02, annexing an approximate 3.05 acre tract out of the W.H. Crawford Survey No. 653, Abstract No. 123, within Kerr County, Texas; said property being located adjacent to the corporate limits of the City of Kerrville, Texas, and consisting of the property addressed as 421 Roy Street; further describing the territory to be annexed; adopting a service plan for the territory annexed; and establishing the zoning for the area annexed.

Mayor Pratt read the ordinance by title only.

Mr. Stewart noted the city received a petition for voluntary annexation of the 3.05 acre tract. The owner requested "RM" residential mix zoning, which was consistent with the surrounding area; the planning and zoning commission recommended RM zoning.

Mr. Stork moved for approval of Ordinance No. 2015-02 on first reading; Mr. Allen seconded the motion and it passed 5-0.

(NOTE: Due to an error in publication of public notice, this item was later withdrawn by city staff and rescheduled on future council meetings in order to meet legal requirements.)

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Request to amend city Ordinance 2014-21 establishing minimum health and sanitation standards for lodging establishments.

Shirley Garrett, owner of Hillcrest Inn, stated that the recently adopted ordinance had a detrimental effect on her business. She had a total of 37 units, of which 17 had full kitchens and were rented on a monthly basis. Under the city's ordinance, monthly rentals were limited to 25%; half of her units were monthly rentals. She could not accept any winter guests because she was already maxed out at the

25% limit, and guests did not want to pay the additional hotel occupancy tax (HOT) so they went to another city. Winter guests shop around before they decide where to stay, and some hotels lowered their rate during winter because it was the slow time of year. HOT equated to \$130 a month additional cost to the guest. She noted that state law allowed an exemption of HOT if the stay was over 30 days; however, the city's ordinance required that monthly rentals exceeding 25% had to be charged HOT. Ms. Garrett asked that an exception to the ordinance be granted for extended stay rentals, suggesting the exception be based on units that have full kitchens with ovens, noting that she placed units without a full kitchen on a daily rate. She inspected her units every day and provided full service cleaning weekly.

Council also discussed the following:

- The ordinance required that local lodging establishments could not designate more than 25% of their total units for extended stay without collecting HOT; this was to protect HOT revenues.
- The ordinance also established minimum health, sanitation and construction standards.
- Most lodging establishments in the city were not set up for long term stay; Ms. Garrett's facility was designed for long term stay and advertised as such.
- The ordinance may have resulted in unintended consequences; particularly, the city did not want to encourage winter guests to go to another city.
- HOT was approximately \$4 a day for each of Ms. Garrett's 37 units; the owner could cost average those units (\$1.31 per day per unit) and no one guest would be responsible for the HOT cost.
- Extended stay was for guests staying over 30 days. Some hotels check the guest out on the 30th day and check them back in to start the cycle over on day 1 so the guest would not have to pay HOT.
- If one facility was given an exception, every facility would request an exception.
- Kitchens and stoves were not part of state law for extended stay establishments so kitchens and stoves should not be considered.

Mr. Parton suggested such establishments could register with the city as a non-conforming use and be allowed to exist and continue to operate; however, the non-conformity would not be allowed to expand.

The consensus of council was to instruct staff to prepare an amendment to the ordinance that would maintain the 25% requirement, but would allow a narrow exception for extend stay establishments based on established standards and amenities. However, if drugs or illegal activity became part of a law enforcement investigation, the facility would lose the exemption.

6B. Economic development incentive agreement between the City of Kerrville and James Avery Craftsman, Inc. (JAC) in an amount not to exceed \$379,302.00.

Ms. Boyle noted the agreement would provide reimbursement of property tax revenues at a maximum of \$75,000 per year for five years. JAC was investing

over \$14 million in the project. The project would allow JAC to expand their facility and create 359 new jobs with minimum wage at \$11.20 per hour over six years. (See Item 6C.)

Mr. Conklin moved to approve the agreement with inclusion of the two changes presented by the city attorney in item 6C. Ms. Keeble seconded the motion and it passed 5-0.

6C. Economic development grant agreement between James Avery Craftsman, Inc. and the City of Kerrville, Texas Economic Improvement Corporation in an amount not to exceed \$1,219,000.

Ms. Boyle noted the economic development grant agreement would provide funding for the JAC project as discussed in item 6B. Payments will be paid in two installments: 1) after submission of evidence of commencement of construction of the improvements, and 2) after completion of construction.

Mr. Hayes noted he had not yet received full approval from JAC for the agreements stated in 6B or 6C; however, he did not anticipate any substantive changes. He had requested two amendments to the grant agreement: 1) Add statement designating the point of sale as Kerrville so the city would receive the sales tax; and 2) Agree to comply with city's development regulations; this should not be an issue as the property was being annexed and building permits would be required.

Mr. Conklin moved to approve the grant agreement as presented and including the amendments recommended by Mr. Hayes. Mr. Allen seconded the motion and it passed 5-0.

6D. Authorization to submit a request to the City of Kerrville, Texas Economic Improvement Corporation (EIC) to amend the funding agreement between the EIC, City of Kerrville, Texas, and Playhouse 2000, Inc. to increase the funding to an amount not to exceed \$850,000 for the construction of the support facility to the Cailloux Theater. Item discussed following Item 3A.

6E. Resolution No. 2-2015 providing for the city's approval or disapproval of an amendment to the Kerr Central Appraisal District's 2015 fiscal year budget.

Mr. Parton noted that KCAD requested their FY2015 budget be amended to reallocate \$52,000 of unexpended funds to KCAD's building replacement and expansion fund as had been done for the past several years. If the request was approved by 51% of the participating members, it would be approved; if 51% denied the request, the funds would be pro-rated back to each taxing entity; the city's share would be \$8,100. If council did not take action it would be deemed as approval. The KCAD board was trying to develop a plan to replace the existing building, and funds had been set aside to cover fees and develop a plan. If a building replacement plan was developed in the future, the KCAD board would have to have authorization from all taxing jurisdictions to proceed as it would likely require bond issuance for financing.

Mayor Pratt stated that the KCAD building was subpar. The city had not received any plans for the past six years to improve or relocate the KCAD building and there were no discussions about the use of city funds being held by KCAD. There were discussions before the state legislature about the state taking over the duties of appraisal districts. He suggested that unexpended funds be returned to the taxing entities and placed in a designated fund pending receipt of KCAD's plans. If the state assumed appraisal duties state-wide, local tax funds would then remain with local entities.

It was noted that no one from KCAD was present to answer questions.

Mr. Stork moved to approve Resolution No. 2-2015 disapproving KCAD's request, and that funds returned to the taxing entities be placed in separate designated reserve funds for future use by KCAD if necessary. Mr. Allen seconded the motion and the motion passed 4-1 with Councilmembers Stork, Allen, Pratt, and Keeble voting in favor of the motion and Councilmember Conklin voting against the motion.

7. APPOINTMENTS TO BOARDS AND COMMISSIONS:

7A. Appointments to the Building Board of Adjustment and Appeals.

Mr. Conklin moved to reappoint the following persons as regular members in the designated positions: Calvin Luck, master electrician; Charles Tremper, II, master plumber; and Lee Underwood, mechanical contractor. Further, to appoint Dallas Coon, master plumber to the alternate position; all with terms to expire August 31, 2016. Mr. Allen seconded the motion and it passed 5-0.

7B. Appointments to the Planning and Zoning Commission.

Mr. Stork moved to reappoint Garrett Harmon, William Morgan, and Robert Waller as regular members; and to reappoint Rustin Zuber as alternate member; all with terms to expire January 1, 2017. Mr. Conklin seconded the motion and it passed 5-0.

8. ITEMS FOR FUTURE AGENDAS: None.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Daddy Daughter Dinner and Dance, February 14.
- Mardi Gras on Main event, February 17, including gumbo cook off.
- City hall and municipal offices will be closed January 19, MLK Day.
- A 49 unit housing complex for disabled combat-wounded veterans at the VA Medical Center, was approved December 2014, and the first veteran should be housed by December 31, 2015, or the developer would lose tax credits.
- Cowboy breakfast Friday, January 16, 6:00 a.m. at the courthouse.

10. EXECUTIVE SESSION: None.

11. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION: None.

ADJOURNMENT. The meeting adjourned at 7:18 p.m.

APPROVED: 1-27-15

/s/
Jack Pratt, Jr., Mayor

ATTEST:

/s/
Brenda G. Craig, City Secretary