

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
March 22, 2016

On March 22, 2016, the Kerrville City Council meeting was called to order at 6:30 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Patty Edwards, Minister, Unity Church of the Hill Country, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Police Chief
Dannie Smith	Fire Chief
Trent Robertson	City Planner

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

1. VISITORS/CITIZENS FORUM:

1A. Robert Naman requested that special meetings be posted more clearly on the city's website; he had difficulty locating the 5:30 special meeting. Last year the city passed an agreement with the Cailloux Foundation for \$12 million. Recently council voted to build an indoor batting facility. The facility may raise enough funds to off-set the cost to citizens; however, the public did not get to vote on the project. He opined that improvements to other facilities and infrastructure were needed. The \$2 million annual maintenance cost was more important than maintaining existing facilities and infrastructure.

2. CONSENT AGENDA:

Ms. White moved to approve consent agenda items 2A through 2D; Mr. Fine seconded the motion, and the motion passed 5-0:

2A. Minutes of the regular city council meetings held January 12 and January 26, 2016, the town hall meeting held January 27, 2016, and the special meeting held February 2, 2016.

2B. Resolution No. 06-2016, authorizing the submission of a grant application to the Office of the Governor, Criminal Justice Division, by the Kerrville Police Department, for body worn cameras, video storage, and accessories.

2C. Resolution No. 07-2016, authorizing a waiver of various fees associated with the construction of single family homes for Habitat for Humanity Kerr County, Inc.; said waiver applicable to the remaining nineteen lots in the Maud Jennings Subdivision, Phase 2.

2D. Resolution No. 2016-08 approving the naming of the Cailloux Campus Support Facility located at 913 Jefferson Street as "The Kit Werlein Annex."

END OF CONSENT AGENDA

3. PUBLIC HEARING AND POSSIBLE ACTION:

3A. Proposed annexation of approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,485,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road.

Mr. Robertson noted that council directed staff to begin the annexation process on January 12, and the first public hearing was held on March 8. Surrounding property was single family residential, the airport and a school. He recommended holding the public hearing and no action was necessary at this time.

Mr. Fine requested the annexation process be suspended (Item 6A of this meeting) for 60-90 days as the discussions with Martin Marietta (property owner) had not been held as was specified in the motion January 12. He requested the discussion happen before the annexation process moved forward; however, he noted that if it were suspended, the annexation process would have to start over.

Mr. Robertson noted staff had a meeting scheduled with MM on March 24.

Ms. White reviewed the annexation time line and noted the public hearing notice for the zoning had to be placed in the newspaper the next day, and the Planning and Zoning Commission (PZC) did not approve staff's recommended zoning of single family residential and sent it back to council.

Mr. Hayes noted that council took action in January to set the annexation process in motion and now the city had to follow the time line set out in state law.

Mr. Robertson noted the action by PZC was to deny R-1 single family residential zoning; therefore, it would require a super majority vote of the city council to overturn PZC's recommendation for zoning.

Mayor Pratt declared the public hearing open at 6:46 and the following person spoke:

1. Spencer Hart opined that the annexation was an attempt to prevent MM from operating on property they owned that was not currently in the city. He

discussed two subdivisions between city limits and the MM property that would benefit by annexation because they needed sewer service, in particular, the Guadalupe Heights subdivision was built over 50 years ago and all homes were on septic systems; the city should consider those areas.

No one else spoke and Mayor Pratt closed the public hearing at 6:49.

4. PUBLIC HEARING AND ORDINANCE, FIRST READING:

4A. Ordinance No. 2016-05 amending Ordinance 2001-23 which annexed property into the city and adopted zoning for the same property pursuant to a "Planned Development District" (PDD); said property consisting of an approximate 75.73 acre tract of land located adjacent to State Highway 27 and between Colvin Ranch Road East and Sutherland Lane East with an address of 155 Colvin Ranch Road East; said amendments consisting of various changes to the authorized uses for the property. Mayor Pratt read the ordinance by title only. Mr. Robertson noted the applicant requested an amendment to the existing PDD Section Three A through R on an approximate 75.73 acre tract. Staff mailed out 17 notices to surrounding property owners; 1 responded in opposition to the request; 1 requested the item be postponed; and 1 called with questions. The subject tract was adjacent to Fox Tank Company and across the street from the airport.

PZC voted 4 to 1 to approve staff's recommendation to amend the land use table and development regulations to allow greater flexibility and more uses, noting in the existing zoning ordinance listed 64 uses and the proposed land use table being the current E-26 table as amended, noting many tracts remained vacant and this would encourage growth and alleviate some development regulations. Screening and building design standards would remain in place, and there would be no direct access to roads from SH 27.

Mayor Pratt declared the public hearing open at 6:53 and the following person spoke:

1. Carl Meek stated the annexation of the property was fine, but he was concerned that if the zoning did not allow a gravel pit, the city would be denying them use of their property and risked a major lawsuit and could be held responsible for damages; citizens should weigh in on this possibility.

No one else spoke and Mayor Pratt closed the public hearing at 6:57 p.m.

Council noted a letter had been received from Ms. Matthews concerning possible flooding or changes that could alter the floodplain. Mr. Robertson noted that floodplain issues would be addressed by the city engineer during the permitting process. He noted if council approved the ordinance, the development agreement would also have to be amended.

Mr. Stork moved for approval of Ordinance No. 2016-05 on first reading; Mr. Fine seconded the motion and it passed 5-0.

5. ORDINANCE, SECOND READING:

5A. Ordinance No. 2016-04, amending the Code of Ordinances of the City of Kerrville, Texas, concerning regulations for city park and recreation areas, to include Chapter 58 "Health and Sanitation", Article III "Smoking in Enclosed Public Places and Places of Employment; Use of Electronic Vaping Devices"; and Chapter 74 "Parks and Recreation", Article I "Rules and Regulations for City Park and Recreation Areas"; by amending sections with respect to smoking, operating a vehicle, possessing illegal firearms and other weapons, the possession of animals, and adding regulations regarding the use of drones; containing a cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject. Mayor Pratt read the ordinance by title only.

Ms. Boyle noted first reading was held on March 8. Regarding the regulation of drones, she noted there were currently no local restrictions in city parks, and she recommended that drones not be allowed without a permit; however, she recommended that drones be permitted for certain uses, i.e. surveying, inspection, scientific research, community marketing, and city projects. Ms. Boyle noted that under Federal Aviation Administration (FAA) guidelines effective December 21, 2015, all drones weighing 0.55-55 pounds must be registered by the FAA, and drone operators must be a US citizen and legal permanent resident age 13 or older. She reviewed FAA safety guidelines and noted FAA registration was valid for three years. She proposed that no recreational permits be issued. The purpose of the ordinance was to provide enjoyable experience for park users, and to protect city property and park users from potential negative effects of drones used by private individuals originating from city parks. She noted that some cities had drone regulations in effect city-wide, not just in parks. Texas State Parks only allow drones in two parks in designated areas only through permits. National Parks have banned all drones.

Regarding the issue of prohibiting the use of electronic vaping devices, Ms. Boyle noted the city already prohibited smoking in the city parks.

The following persons spoke:

1. Michael Sigerman questioned if the city allowed drones, would that expose the city for liability if an accident occurred from someone flying a drone. Mr. Hayes noted the city had certain immunities from operation of a public park.
2. Vincent Voelkel disagreed with not permitting drones for recreational uses; the city should enforce state and federal laws that were already in place and designate a drone area in the park.
3. Bill Morgan opined that vaping devices provided a means for potential abuse of illegal drugs; he requested council apply the regulations to the city overall and not just in parks. He questioned if the police had any problems with persons using e-cigarettes? Chief Knight noted police had dealt with some misuse, but

nothing specific to vaping devices.

4. Brian Chmylak noted he allowed his children to fly drones at Lytle Park and this provided recreational time with his children. He opined that the worst injury that could happen would require a Band-Aid. He agreed the potential existed for misuse by persons flying drones with cameras; however, social networking was more harmful. He questioned information about permits and requested the city get community input before proceeding. Ms. Boyle noted the permitting was a federal requirement.

5. Aaron Yates noted the FAA permit process was new and federal regulations applied to all drone operators. Persons flying legally must attach their personal identification number and adhere to state and federal laws. Rules and regulations were already in place and the city should enforce state law, which was very restrictive. He requested recreational usage be allowed in city parks with proper FAA permit.

6. Russell Nemky questioned if the permit would apply to all recreational use. He noted a kite could also be dangerous, and drones were already covered by law. The city should make an area in the park specifically for flying drones, complete with obstacle courses; make it a positive thing. He opposed banning all drones for recreational use.

7. Richard Ferris requested the issue of drones and smoking be separated.

8. A member of the audience spoke about the local radio controlled flyers club and agreed that drones should be banned in public parks.

Council also discussed the following issues:

- Had police encountered problems with drones? Chief Knight noted one issue where a drone lost power and dropped; it was properly permitted and PD returned it to the owner.
- The issue of regulating drones was initiated by the council; it did not originate with the parks board.
- State law already bans surveillance, reckless endangerment, and flying devices over crowds.
- If a drone is permitted by the FAA, the city would know to whom it belonged.
- Some events held in the park require a charge for admission; problem is how to keep drones from getting into the event free.
- The city of Austin created specific rules for public safety during events.

Mr. Stork moved to scrap the entire ordinance and start over; the motion failed for lack of a second.

Mayor Pratt moved for approval of Ordinance No. 2016-04 on second and final reading, without the issue of drones; Ms. White seconded the motion and it passed 4 to 1 with Councilmembers Pratt, White, Fine, and Allen voting in favor

of the motion and Councilmember Stork voting against the motion.

Council further instructed staff to place an item on the next agenda to establish an ad hoc committee to work with city staff to establish regulations for drones.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Termination of the proposed annexation of an approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,458,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road.

Councilmember Fine proposed that council suspend the annexation process until after the meeting was held with Martin Marietta (MM), property owner. He understood the council's motion to proceed with the annexation process in January was a parallel process and that both the process and the meeting with MM would happen simultaneously. He proposed a 90 day suspension, during which time the city could also look at alternatives for zoning rather than R-1 single family residential. He understood that MM could not stop the annexation, but was concerned about the zoning and the risk of MM filing a lawsuit against the city.

Mr. Fine moved to suspend the annexation process temporarily and revisit it in 90 days and to have the meeting(s) with MM.

Mr. Hayes noted if the city suspended the process for 90 days, the schedule would be outside the requirements of state law.

The motion died for lack of a second.

Ms. White reviewed the time line and noted on March 17 the planning and zoning commission (PZC) held a public hearing and discussed zoning; PZC did not approve the staff recommendation of R-1 zoning. She stated that in order to stay on the time schedule, city staff must publish a public hearing notice for the proposed zoning on March 23.

Mr. Hayes noted that by law the city must follow the zoning designated in the comprehensive plan, which was R-1, staff did not have a choice to recommend any other zoning designation; however, MM may choose to be a legal non-conforming use and continue to operate a quarry, no one at the city had stated that MM could not operate a quarry. Mr. Hayes noted the legal non-conforming use applied to all 194.79 acres being annexed; however, if MM desired to expand their operation beyond the 194.79 acres, MM would have to come before the city and request a specific use permit or a zone change, same as any other property owner. The council held the public hearing under Item 3A and the ordinance would require two readings in April to stay on schedule.

The following persons spoke:

1. Russel Nemky said the city should let the lawyers take care of the annexation; after MM was finished in 15-20 years it would be a large area for bass fishing.

2. Spencer Hart opined that MM would sue the city in federal court and that would be serious and costly.

3. Claudia Richner said she recently moved here and she was concerned about the availability and quality of water in the future. In other states she saw the effects that short-sightedness had on water quantity and quality. The city should not oppose the quarry as the state had regulations that will oversee water quality.

4. Trevor Hyde, Comanche Trace, noted that legally the city can annex the property; however, annexation would not stop MM from operating a quarry. Zoning should be put in place. Both parties should work out a solution. If the city suspended the annexation process for 90 days, MM should stop working for 90 days. In order to get to mediation, both parties must be willing to meet; the city was willing to meet and stop for 90 days, if MM really wanted to work with the city, they would stop for 90 days.

5. Aleisha Knochenhauer, regional environmental manager for MM, noted that the first time she came to a council meeting she stated that MM was opposed to annexation, and preferred to work pro-actively with the city to address the city's concerns practically and to work with the city. Since that time MM has tried to contact and reach out to the city council and the city multiple times trying to get together; MM was still open and never closed the door to discussion. MM has had multiple meetings and met with many people, and they genuinely wanted to work with city.

Mayor Pratt asked if MM was still on schedule for the meeting on March 24; Ms. Knochenhauer stated yes, and she would be at that meeting.

6. Kerr County Commissioner Tom Moser stated he and other county officials had talked with MM many times. The county did not have any authority to do what the city can do through annexation and zoning. He believed the intent of MM was to be a good neighbor. MM had done everything the county had asked them to do, i.e. berms and fence, and MM did not have to do that. MM has property rights and he recognized the solution would require a balance between MM being allowed to do what they want to do with their property, and the community get the best deal it can. There had been a lot of discussion with MM during the past 6-9 months.

Mayor Pratt asked Commissioner Moser when the county notified the city of MM's plans. Mr. Moser stated as far as he knew, the county never officially notified the city they were having discussions with MM about what they were going to do with their property. He did not see anything to discuss.

7. Mitch Hogue, resident of Guadalupe Heights, attend the PZC meeting and

noted that the purpose of screening was to define boundaries between inconsistent property uses. MM was his neighbor now and they were being cooperative and doing their best; they had put up screening, fence and berms. He understood that zoning for a property was established based on what was most restrictive or what was applicable for the intended use.

Council noted a meeting was scheduled on March 24 with MM; after that meeting, there would still be time to bring forth a zoning recommendation. Council requested a report of the March 24 meeting with MM be on the next agenda.

6B. Direction to staff regarding an ordinance to require a delay for the demolition of historically significant structures.

Mr. Parton noted at the January 26 meeting council instructed staff to work with Ms. Gaudier and the Kerr County Historical Commission (KCHC) to establish a demolition delay process for qualified properties, not to prohibit demolition, but to establish a delay period in order to allow time to raise awareness of the potential demolition, find another location to relocate, get community support, possible fundraising, etc. He proposed a two-step process be established: 1) review process and 2) permitting process. The National Register of Historic Places had guidelines and recommendations available. He proposed that council authorize staff to work with KCHC to: 1) Identify locations and structures that may be of historic or cultural value or of architectural significance; 2) Establish guidelines, criteria, and the process; and 3) Evaluate and review properties. If a structure was proposed to be demolished and it was determined to meet the criteria, then it would go through the process; if not, it would be demolished or removed.

Mr. Parton noted that a provision would have to be in place whereby some buildings that were unsafe or had imminent health and safety issues, as determined by the city building official, could be demolished immediately.

Council discussed having incentives and not just regulations, for example, hotel occupancy tax revenue. Mr. Parton noted the availability of federal and state tax benefits and local tax abatement.

Mr. Stork moved to authorize staff to coordinate with the Kerr County Historical Commission for 45-50 days to study and identify existing structures and/or districts in which demolition delay standards should be considered and provide a report to the city council in 60 days. Mr. Allen seconded the motion.

The following person spoke:

1. Bill Morgan asked how much longer the city was going to have a green monster on Francisco Lemos Street

The motion passed 5-0.

Council asked if the Saralita project presented to council on February 9 was proceeding. Mr. Parton noted the project depended on receiving housing tax

credits and it would not move forward until then.

6C. Authorization to make application to the City of Kerrville, Texas Economic Improvement Corporation (EIC) for a maximum of \$250,000 for additional lighting improvements to Louise Hays Park, Lehmann-Monroe Park, the Sidney Baker bridge, and the downtown pavilion.

Mayor Pratt proposed decorative lighting of the bridge and pavilion area of Louise Hays Park and showed several examples of other places. He opined that such a project would increase tourism and hotel occupancy tax and sales tax revenue.

Mayor Pratt moved that city council authorize staff to make application to EIC for funding; Mr. Stork seconded the motion.

Council also discussed the following:

- What was the estimate based on and did it include design and installation? Mayor Pratt noted he had spoken with several vendors to get an idea of the cost. Mr. Parton noted the next step in the process would be to create a project design and scope and present the project to EIC.
 - The city had other infrastructure and capital projects that were needed.
 - This project was not on the city's capital improvement plan.
 - What funds did EIC have available for economic incentives for businesses.
- Mr. Parton noted the proposed EIC budget approved by EIC and city council included funding for such a project in concept; funds were also set aside for local business expansion projects as well as major economic incentives.

The following persons spoke:

1. Bruce Stracke asked that the city consider doing the project under the standards of the dark sky initiative.
2. Brian Chmylak said there was a lot of illegal activity going on at Lytle Street Park and in the parking lot; he requested additional lighting in that area.

The motion passed 4 to 1 with Councilmembers Stork, Fine, Allen, and Pratt voting in favor of the motion and Councilmember White voting against the motion.

7. INFORMATION AND DISCUSSION:

7A. Budget and economic update.

Ms. Yarbrough gave the financial report year to date for the period ending February 29, 2016: general fund revenues totaled \$14,442,138 and expenditures \$9,523,708; water and sewer fund revenues totaled \$4,658,316 and expenditures \$4,017,523; hotel/motel fund revenues totaled \$388,583 and expenditures \$453,100; 39 permits for new residential construction and 0 for new commercial construction. She provided budget information for seven major capital projects: Jefferson lift station, Broadway lift station, wastewater treatment plant

clarifier/motor control center improvements, river trail, Louise Hays and Lehmann/Monroe Park, athletic complex, and reuse pond/distribution.

8. BOARD APPOINTMENTS:

8A. Appointments to the Parks and Recreation Advisory Board. Mr. Allen moved to reappoint Jacklyn Kayne and Jay Munson and to appoint Greg Shrader, all with terms to expire March 31, 2018; Ms. White seconded the motion and it passed 5-0.

9. ITEMS FOR FUTURE AGENDAS

- Establish an ad hoc committee to work with city staff on establishing regulations for drones.

10. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Sunday, March 27 Easter services at the I-10 cross from 7-9:00 a.m.
- Playhouse 2000 dedication and naming of new facility as "The Kit Werlein Annex" on April 3, 2-6:00 p.m.
- City Hall will be closed Friday, March 25 in observance of Easter.
- Chamber of Commerce Easter Fest, March 26 at Float Rock Park.

10. EXECUTIVE SESSION: None.

11. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION: None

ADJOURNMENT. The meeting adjourned at 8:37 p.m.

APPROVED: _____

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary