

This meeting is recorded and can be viewed on the city's website at [www.kerrvilletx.gov](http://www.kerrvilletx.gov).

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
JUNE 27, 2017

On June 27, 2017, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor White in the city hall council chambers at 701 Main Street. The invocation was offered by Councilmember Place Four, Warren Ferguson, followed by the Pledge of Allegiance led by Kim Meismer.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
George Baroody	Mayor Pro Tem
Vincent C. Voelkel	Councilmember
Mary Ellen Summerlin	Councilmember
C. Warren Ferguson	Councilmember

COUNCILMEMBER ABSENT: None.

CITY STAFF PRESENT:

Mark McDaniel	City Manager
Mike Hayes	City Attorney
E.A. Hoppe	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Kim Meismer	Director of General Operations
David Knight	Police Chief
Dannie Smith	Fire Chief
Kaitlin Berry	Public Information Officer
Ashlea Boyle	Director of Parks and Recreation
Gordon Browning	Interim City Planner

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

1. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** were given.
2. **RECOGNITIONS:**
  - 2A. Proclamation proclaiming July as National Park and Recreation Month.
3. **VISITORS/CITIZENS FORUM:**
  1. Bruce Stracke appreciated the city and private foundations working together to create great public spaces; in particular, the Cailloux Foundation for creating the Peterson Plaza.

#### **4. CONSENT AGENDA:**

Ms. Summerlin moved to approve consent agenda items 4A through 4D; Mr. Ferguson seconded the motion, and the motion passed 5-0:

4A. Authorization to donate a surplus solid waste services vehicle previously purchased via an AACOG grant.

4B. Purchase John Deere Z930M Commercial ZTrak equipment from Secor Equipment Company through the Texas BuyBoard for the Kerrville Sports Complex in the amount of \$16,714.82.

4C. Resolution 21-2017, abandoning and terminating a twenty foot (20.0') drain right-of-way between Lots 29 and 30, Block 2 of Meadow View Estates, a subdivision with the City of Kerrville, Kerr County, Texas, and more generally located between the properties known as 303 and 305 Meadow View Lane; and ordering recording.

4D. Resolution No. 22-2017 abandoning and terminating a portion of a twenty foot (20.0') wide sewer easement, said portion located on Lot 28, Block 1 of Elm Creek, a subdivision within the City of Kerrville, Kerr County, Texas, the property more generally known as 316 Crestwood Drive; and ordering recording.

#### **END OF CONSENT AGENDA**

#### **5. PUBLIC HEARINGS:**

5A. Resolution No. 23- 2017 granting a Conditional Use Permit (CUP) for an approximate 2.31 acre tract of land within the City of Kerrville, Kerr County, Texas, with a street address of 2021 Arcadia Loop, and located within a Residential Cluster (RC) zoning district; by permitting said property to be used for a bed and breakfast; and making said permit subject to certain conditions and restrictions.

Mr. Browning noted the applicant, Howell Ridout, requested a CUP for a bed and breakfast for two adjoining properties: 2021 Arcadia Loop, and 2031 Arcadia Loop (5A and 5B). He confirmed that the Planning and Zoning Commission (P&Z) unanimously approved the CUP request.

Mayor White declared the public hearing open at 6:11 p.m. and the following person spoke:

1. Charlie McIlvain, CEO of the Convention and Visitors Bureau, stated that the construction, landscaping, and amenities for both properties were exceptional. The CVB Board endorsed both projects and encouraged council to grant the CUP.

No one else spoke; Mayor White closed the public hearing at 6:14 p.m.

Mr. Voelkel moved for approval of Resolution No. 23-2017; Ms. Summerlin seconded the motion and it passed 5-0.

5B. Resolution No. 24- 2017 granting a Conditional Use Permit for an approximate 2.07 acre tract of land within the City of Kerrville, Kerr County, Texas, with a street address of 2031 Arcadia Loop, and located within a Residential Cluster (RC) zoning district; by permitting said property to be used for

a bed and breakfast; and making said permit subject to certain conditions and restrictions.

Mr. Browning noted P&Z recommended approval.

Mayor White declared the public hearing open at 6:16 p.m. and the following person spoke:

1. Brian O'Connor, Executive Director of the Kerr Economic Development Corporation, noted the project construction and amenities integrated well with the neighborhood. Mr. Ridout preserved the site line to the river and respected the natural environment. This property would be a community asset.

No one else spoke; Mayor White closed the public hearing at 6:18 p.m.

Ms. Summerlin moved for approval of Resolution No. 24-2017; Mr. Ferguson seconded the motion and it passed 5-0.

5C. Resolution No. 25- 2017 granting a Conditional Use Permit for an approximate 1.69 acre tract of land located on Lot 1A and part of Lot 2, Block 1 of the Adams Subdivision, a subdivision within the City of Kerrville, Texas, and otherwise known as 1750 Junction Highway; said tract is located within the 4-W zoning district; by permitting said property to be used for "vehicle sales—used"; and making said permit subject to certain conditions and restrictions contained herein.

Mr. Browning noted the CUP would be in conjunction with the current business. The P&Z recommended approval of the CUP for vehicle sales used, with the restriction that sales be only on the area depicted on the map attached to the resolution, approximately 25,838 sq. ft., and that all parking areas be paved.

Mayor White declared the public hearing open at 6:21 p.m.; no one spoke, and Mayor White closed the public hearing at 6:21 p.m.

Mr. Baroody moved for approval of Resolution No. 25-2017; Mr. Voelkel seconded the motion and it passed 5-0.

## **6. CONSIDERATION AND POSSIBLE ACTION:**

### **6A. Abandonment of emergency access easement between Bluff Ridge and Glen View**

Jason and Heather McCormick, owners of the subject property, requested the city abandon the emergency access easement from Bluff Ridge to Glenview. The easement was established and a roadway constructed for emergency vehicle use only and had been in existence for 20 years. About 16 years ago the city council considered a similar request to abandon the easement; however, it never came to conclusion. The McCormicks were concerned about littering, public safety and liability issues as the easement was being used by the public as a cut through from Glenview to Bluff Ridge. This was private property and they requested the city remove the easement so the roadway could be closed to traffic and they could build their home. The McCormicks asked if the city kept the

fire lane easement, that the city maintain it for emergency vehicle access only and close the roadway to public traffic.

Fire Chief Smith noted in 1980 when the subdivision was built and the fire lane/roadway constructed, the area north of the fire lane was not developed. The intent was to provide alternate emergency access on an interim basis until the area north of the fire lane was constructed. The easement was very steep and narrow and was overgrown with vegetation, and the fire department had never used this easement. The fire department would not use the fire lane to access properties on Bluff Ridge as they had better access from the north and south.

The following persons spoke:

1. James Penland stated he was in favor of abandoning the easement. The property belonged to the McCormicks and the city had no use for it. People used it as a short cut to Westcrest, and it was a dangerous road. The city should abandon the easement and revert full use of the property to the owner; if not, the city should at least close it and stop vehicular and pedestrian traffic for public safety.
2. Linda Wagner noted the property at the bottom of the easement/road belonged to another owner and it was for sale; if the road was blocked, then persons would have to go around to access Bluff Ridge. Ms. Wagner opined: 1) the fire easement was a public easement by plat and benefited all tracts in the subdivision and the only way to remove the fire lane easement was by condemnation and replat, and that process would take a majority; 2) the concrete was not in disrepair; 3) the south side of the hill did not freeze as quickly as the north side; 4) in August 2001 the city council did not approve this issue and nothing had changed since that time; and 5) the McCormicks knew the fire lane was on the property when they bought it. She asked why residents were not notified that the city was planning to abandon the fire lane?

Chief Smith stated that typically both sides of a hill would freeze, and when there was ice, the city encouraged people to stay off the streets.

3. Bruce Stracke noted that city ordinance required that dead end streets over 600 ft. have an alternate exit; this is 770 ft.
4. Bill Faught noted in 2001 crash barriers were installed but were later removed. The grade on Bluff Ridge was 24% and should not have been approved. The road was stable and the concrete was not in disrepair. If the easement was abandoned, the concrete road might be destroyed. In 14 years he was unable to get out due to freezing weather only one time. The city should not abandon the easement and should allow them to use it to access their property during severe weather.
5. Mike Sigerman asked if the fire department maintained the access easement, would the public then have a legal right to drive it?  
Mr. Hayes responded no.

6. Sherri Jones said it was private property; she would not want the city to take her property unnecessarily.

7. Carolyn Lipscomb stated if it was supposed to be a fire lane for emergency access by the fire department only, the city should post it as official use only. Mayor White noted it was posted as such.

Mr. Hayes noted the easement was established by plat as a fire lane easement to allow the city access, in particular the fire department. It was never intended or authorized for public use or access, but only for fire apparatuses during an emergency. No one had the right to use the fire lane easement but the city. The property owners have the right to file trespassing charges against people using it. If the city wanted to continue to use the easement as a fire lane, then the city should maintain it for that purpose. Further, abandoning and vacating the fire lane easement would have no impact on the sewer line.

Council also discussed the following:

- The hill was very steep, had a circular drive at the top of the hill, and housing was developed on both sides of the hill.
- The Bluff Ridge properties had access via Westcrest.
- Abandonment of the easement would also affect the property below the McCormicks.
- The easement was not for public access; the purpose was for emergency access only and signage was posted as such.
- The city only had an access easement; mowing and maintenance were the responsibility of the property owner.
- The minutes of the August 2001 meeting state that the fire chief said that the concrete drive was too steep for fire trucks and EMS units. At that time, the council voted unanimously to abandon the fire lane easement on first reading; however, there was not a second reading so the abandonment was not completed.
- A 25 ft. sanitary sewer line existed within the fire lane easement. Also in the 2001 minutes staff recommended the city retain the 25 ft. sewer easement located within the fire lane.

Mr. Hoppe noted the sewer easement only overlapped a small portion of the fire lane easement, and the city would continue to maintain the sewer easement.

Mrs. McCormick stated that the sewer easement did not cross the concrete road on their property. The concrete road was not in the way of their proposed structure, and they may leave the concrete as their private driveway.

- Was the city required to provide notice to property owners?

Mr. Hayes stated the city was not required to notify the property owners.

However, it was noted that the fire chief had met with Bluff Ridge property owners, and staff had contacted them to advise them of this meeting.

- Mayor White stated if the city did not have a public use for the property, and the city did not abandon the easement, it would be almost as though the city

would be taking the property by eminent domain for a potential problem in the future.

- What would be the designated public use if it was no longer a fire lane? Was there another type of easement designation that would apply?

Mrs. McCormick stated they would not be agreeable to designating another type of easement. It was private property, not for public access. They did not want to be liable for public safety. Their purpose for purchasing the property was to build a home; they were not aware that the road was for public use when they purchased the land. If the city would not abandon the easement, then the city should maintain it and patrol it to keep people off of their property.

Ms. Summerlin moved to direct staff to prepare an ordinance to abandon the easement. Mr. Ferguson seconded the motion and it passed 4 to 1 with Councilmembers Summerlin, Ferguson, White and Baroody voting in favor of the motion and Councilmember Voelkel voting against the motion.

6B. Authorization to submit a funding application to the City of Kerrville, Texas Economic Improvement Corporation (EIC) in an amount not to exceed \$100,000 for an aquatics feasibility study for the Olympic Pool.

Ms. Boyle noted the Olympic Pool was built in 1970, and it had not had any significant improvements in the past 47 years. There were maintenance issues that needed to be addressed. Also, KISD and Schreiner University were interested in a year-round competitive aquatics facility and expressed interest in contributing to the project. EIC budgeted money in their FY2017 budget for a feasibility study. She requested authorization to submit a funding application to EIC to fund a feasibility study of the pool. The study could provide improvement options for a year-round competitive pool and recreational improvements. Ms. Boyle noted that EIC would also be asked to fund the renovations.

Mr. McDaniel noted that EIC would look at their budget on July 25 and council could defer action on this item until after budget discussions. Another option to fund renovations could be a bond issue.

Council also discussed the following:

- If the feasibility study was done now and renovations delayed, what would be the shelf life of the study? If the city is not going to fund the pool renovations for several years why do the feasibility study now?
- There were imminent projects and capital needs to be funded in the next few years, may be as much as \$6 million, and the city was approaching its debt limit. Also, there were \$29.7 million in other necessary projects.

The consensus of the council was to defer.

6C. Authorization to negotiate a professional services agreement for design of the H.E.B. Tennis Center improvements project.

Ms. Boyle noted eight firms submitted requests for qualifications (RFQ). Schrickel, Rollins and Associates had the most experience and was rated best by the city staff and the selection team (Hewitt Engineering, MDS Surveying, and Rock Engineering). Under state law, the city cannot ask the cost of professional services in an RFQ process. Ms. Boyle estimated the total cost of the tennis center project at \$1.5 million for design and construction. Staff would bring the construction contract back to council for approval.

Mr. Baroody moved to authorize staff to negotiate a professional services agreement for the design of the H.E.B. Tennis Center project. Ms. Summerlin seconded the motion and it passed 5-0.

**7. INFORMATION AND DISCUSSION:**

7A. Kerrville Festival of the Arts post event report. LuAnn Anderson, executive director of the event, estimated 6,000-6,500 attended the event held May 27-28 in downtown Kerrville. She estimated the economic impact of the event at approximately \$750,000.

7B. Budget and economic update.

Ms. Yarbrough gave the financial report year to date for the period ending May 31, 2017: general fund revenues totaled \$22,964,858 and expenditures \$18,397,324; water and sewer fund revenues totaled \$7,374,864 and expenditures \$7,398,997; hotel/motel fund revenues totaled \$760,398 and expenditures \$731,450. 32 permits for new residential construction and commercial new/remodel construction totaled \$16,535,838 year-to-date.

**8. APPOINTMENTS TO CITY BOARDS AND COMMISSIONS:**

8A. Mayor's Youth Advisory Council. Mayor White moved to appoint the following persons: Catharine Buchanan, Grace Guerriero, and Trey Layton. Ms. Summerlin seconded the motion and it passed 5-0.

**9. CITY MANAGER'S REPORT**

Mr. McDaniel discussed the following: launch of the city's new website; staff preparing for July 4<sup>th</sup> event; Chief Smith's and Ms. Meismer's handling of a Code Red situation with Atmos Gas; and Kaitlin Berry's last day with the city would be June 30, 2017.

Comp plan update: he requested each councilmember nominate six persons to serve on the committee. Persons interested in serving should contact a councilmember. A resolution would be on the August 8 agenda to make the appointments.

**10. ITEMS FOR FUTURE AGENDAS**

-Mr. Baroody requested MYAC members be included in the comp plan process.  
-Ms. Summerlin noted she would be absent from the July 11 meeting as she would be acting as a consultant to the Council of Independent Colleges.

**VISITORS/CITIZENS FORUM:**

1. Ruth Spradling stated that with so much interest in athletics that the budget include other things as well.

2. Bruce Stracke stated his firm had submitted an offer for the purchase of the 800 Junction Highway property on two occasions. They received no response from the city other than the city ordered another appraisal. He requested to know what was the city's process.

Mayor White noted that staff would share information they received with the city council in executive session.

**11. EXECUTIVE SESSION:**

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

11A. Sections 551.071 and 551.072:

- 800 Junction Highway, former city hall.

11B. Section 551.071:

- Reuse or reclaimed water distribution system.

At 7:49 p.m. the regular meeting recessed. Council went into executive closed session at 7:53 p.m. At 9:51 p.m. the executive closed session recessed and council returned to open session at 9:52 p.m. No action was taken in executive session.

**12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY**

No action taken in open session.

**ADJOURNMENT.** The meeting adjourned at 9:53 p.m.

APPROVED: 07/25/2017

ATTEST:

/s/

Bonnie White, Mayor

/s/

Brenda Craig City Secretary