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CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
OCTOBER 10, 2017

On October 10, 2017, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Bonnie White in the city hall council chambers at 701 Main Street. The invocation was offered by Joshua Widener, followed by the Pledge of Allegiance led by Roman Garcia.

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
Guillermo Garcia	Executive Director of Strategic Initiatives
Sandra Yarbrough	Director of Finance
Kim Meismer	Director of General Operations
David Knight	Police Chief
Dannie Smith	Fire Chief
Stuart Cunyus	Public Information Officer
Sabine Kuenzel	Executive Director of Development Services

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

**1. ANNOUNCEMENTS OF COMMUNITY INTEREST:** were given.

1A. Mr. McDaniel presented Texas Municipal League's 2017 Public Safety Excellence Award to the Kerrville Fire Department.

**2. VISITORS/CITIZENS FORUM:**

2A. Bruce Stracke noted new businesses, business expansions, and things going on in Kerrville. Many people were making long term investments in downtown.

2B. Barbara Burton spoke about numerous junk vehicles parked on a lot on Hugo Street and associated health and sanitation issues.

2C. Clay Lambert stated the city needed to install more lighting on Holdsworth Drive; he opined this should have been done when the city installed the reuse water line.

### **3. CONSENT AGENDA:**

Ms. Summerlin moved to approve consent agenda items 3A through 3C; Mr. Baroody seconded the motion, and the motion passed 5-0:

3A. Purchase and remount of Type I ambulance from Buyboard Quote #292B-BuyBoard, awarded to Frazer Ambulance Company through their licensed dealer, Mac Haik Dodge Chrysler Jeep; in an amount not to exceed \$138,975.

3B. Request for a letter of invitation to the US Special Operations Command to conduct Realistic Military Training within the City of Kerrville for joint military exercise, scheduled between March 1, 2018 – May 1, 2018.

3C. Resolution No. 41-2017 cancelling the regular council meetings scheduled for November 28 and December 26, 2017.

### **END OF CONSENT AGENDA**

### **4. ORDINANCE, FIRST READING:**

4A. Ordinance No. 2017-20, amending the budget for Fiscal Year 2017 to account for the transfer of funds between different funds as previously authorized by City Council, to account for the proceeds from the sale of the former City Hall property, and to make other amendments as provided herein.

Ms. Yarbrough noted ten budget amendments, which included FY2017 year end amendments made at the September 26 meeting.

Mayor White stated the motion to approve Ordinance No. 2017-20; Ms. Summerlin moved the motion as stated; Mr. Ferguson seconded the motion and it passed 5-0.

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

5A. Annexation into the incorporated limits, and applying a Zoning Classification of District 26-E, for an approximate 7.95 acre tract out of land adjacent to the incorporated limits which is out of the F. Rodriguez Survey No. 72, Abstract No. 280, Kerr County, Texas, located at 5263 Highway 27.

Mr. Voelkel filed a conflict of interest affidavit and recused himself from the meeting at 6:21 p.m.

Ms. Kuenzel reviewed the annexation schedule and noted this was the first public hearing before council. Planning and zoning held a public hearing on September 7 and recommended approval of the annexation. The subject property was located between two properties that were already in the city limits. P&Z proposed E-26 zoning, the current classification on the property.

Mayor White declared the public hearing open at 6:23 p.m., no one spoke, and Mayor White closed the public hearing at 6:23 p.m.

Mr. Voelkel returned to the meeting at 6:24 p.m.

5B. Public Hearing and first reading of Ordinance No. 2017-19, a zoning change to amend Ordinance No. 2004-15, which created a "Planned Development District" for an approximate five hundred thirty-six acre tract of land out of the Walter Fosgate Survey Number 120, within the City of Kerrville, Kerr County, Texas; and generally located southeast of the intersection of Farm to Market Road 783 (Harper Highway) and Interstate 10; said amendment to adjust the authorized uses between two defined areas within said district, said areas located adjacent to and north of Holdsworth Drive.

Ms. Kuenzel noted the applicant requested to amend the existing PDD to add fuel sales to tract 4C and hotel use to tract 1C, but keep the original underlying PDD classification. The roadway dividing tracts 1C and 4C would be dedicated to the city when the property is platted. The city did not require a traffic impact study. She noted that the entire property was under the same ownership. Part of the property was deferred to the sports complex. The planning and zoning commission recommended approval.

Council discussed the following:

- The PDD was not discussed when the athletic fields were developed, and that area was designated residential.
- Restriction in the original PDD stated no fuel sales in 4C, and fuel sales in 1C should not be closer than 300 ft. from the northwest corner; restriction might have been placed in an attempt to avoid having fuel sales close to the creek.
- PDD did not allow a hotel in 1C; the restriction might have been placed on 1C because it was adjacent to residential property.
- Storm drainage and retaining walls would be addressed in the development review process.

Mayor White declared the public hearing open at 6:39 p.m., and the following persons spoke:

1. Carolyn Lipscomb questioned the type and size of signage that would be allowed along Holdsworth Drive, and requested bluebonnets and wildflowers be seeded along Holdsworth.
2. Barbara Burton questioned who would make sure that containment walls would be installed.

No one else spoke and Mayor White closed the public hearing at 6:42 p.m.

Ms. Summerlin moved to approve Ordinance No. 2017-19 on first reading. Mr. Ferguson seconded the motion and it passed 4-1 with Councilmembers Summerlin, Ferguson, Voelkel, and White voting in favor of the motion and Councilmember Baroody voting against the motion

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

6A. Amendment to agreement 2016-95 with the Kerrville Convention and Visitors Bureau (CVB) for use of HOT funds for promoting the arts advertising committee to add an additional arts group member.

Mr. McDaniel noted the amendment would add The Coming King Foundation (CKF) Sculpture Prayer Garden, to the CVB Arts Group, and increase CVB's funding by \$10,000 for advertising and promoting all entities in the arts group. Three entities were added since the original agreement; however, funding was not increased. Funding for advertising was paid by hotel occupancy tax funds.

Charlie McIlvain, CVB President/CEO, noted the arts group currently had 9 members; CKF would make ten. Each entity had a representative and the group decided where funds were spent, which events were advertised, and what publications were used. CVB spends all of the funds every year and more funds could be used to promote the arts. CVB had a separate contract with the city for CVB operations and advertising.

The following persons spoke:

1. Weldon Baker, treasurer of CKF, noted CKF was classified as a 501(c) 3 and CKF was strictly an art sculpture garden. CKF planned to have displays in the future to honor veterans. CKF was the top tourist attraction in Kerrville, with 105,000 visitors from 65 countries last year.

Ms. Summerlin questioned the principle of separation of church and state as the purpose of the garden was religious. She noted that the designation of 501(c)3 was an IRS code for non-profit; it did not mean secular.

2. Debbie Meszaros, administrative director of the CKF, noted they refer many visitors to local restaurants, hotels, and to the CVB. She requested signs be placed on Hwy. 16 and I-10 directing people to the CKF Prayer Garden.

Mayor White noted that TXDOT told her that it would be up to the city whether signs would be installed, and that wayfinding signs could be paid from HOT funds. TXDOT also allowed CKF to distribute brochures at ports of entry.

3. Max Griener, President of CKF, stated he donated the sculptures to the community. The CKF was a 501(c)3 and chartered by the state as an art museum; they were not chartered as a church or religious group or ministry; that was the reason that TXDOT distributed their brochures. The CKF was a landmark and the largest and most expensive art collection in the area, and the number of visitors would continue to increase. He discussed methods they used to count the number of visitors.

Ms. Summerlin suggested separating the two subjects and moved to increase the budget for the arts coop advertising group by \$10,000; Mr. Baroody seconded the motion and it passed 5-0.

Mr. Baroody moved to add the Coming King Foundation Sculpture Garden to the CVB Arts Group. Mr. Voelkel seconded the motion and it passed 4 – 1 with Councilmembers Baroody, Voelkel, Ferguson, and White voting in favor of the motion and Councilmember Summerlin voting against the motion.

6B. Non-exclusive license agreement with the Dietert Center (DC) for parking and trailhead for the river trail.

Mayor White stated the motion to approve the non-exclusive license agreement with the Dietert Center. Mr. Ferguson moved the motion; Ms. Summerlin seconded the motion and it passed 5-0.

**7. CITY MANAGER'S REPORT:**

Mr. McDaniel presented the monthly capital project report.

- Assessment of the parking garage was underway.
- The concept for the use of the Schellhase House building was proceeding.
- Reuse distribution mains, pond, and pump were on schedule for January 2018.
- River trail west extension project bids were due this month and award was scheduled for November.
- The field house at the sports complex would open in October.

**8. ITEMS FOR FUTURE AGENDAS**

-Mr. Voelkel requested council discuss amending the ordinance regarding throwing candy from a parade unit.

**9. EXECUTIVE SESSION:**

Section 551.074 (personnel/officers):

9A. Performance Review of City Attorney.

Prior to executive session, the following persons spoke in support of Mike Hayes as the city's attorney, noting his attributes: Kit Standridge, Glenn Andrew, Kelly Pelton, and Jon Sibert.

Ms. Summerlin spoke of Mr. Hayes' qualities and noted that Mayor White had recused herself last year, but her conflict of interest was not documented then.

Ms. Summerlin moved to award Mike Hayes a 3% increase, the same as other staff who rated the top evaluation. Mr. Ferguson seconded the motion. The motion failed 2-3 with Councilmembers Summerlin and Ferguson voting in favor of the motion and Councilmembers Baroody, Voelkel, and White voting against the motion.

Mayor White moved for the city council to go into executive closed session under Section 551.074 (personnel/officers) of Chapter 551 of the Texas Government Code; Mr. Voelkel seconded the motion.

Mr. Baroody requested discussion on the motion; however, Mayor White called for a vote on the motion to go into executive session. The motion passed 5-0.

At 7:27 p.m. the regular meeting recessed. Council went into executive closed session at 7:28 p.m. At 8:48 p.m. the executive closed session recessed and council returned to open session at 8:49 p.m. No action was taken in executive session.

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

Mr. Ferguson moved to allow the current contract to expire on its termination date and Mr. Hayes continue as city attorney while the council negotiated a new contract, and that the evaluation be deferred for up to 60 days; Mr. Voelkel seconded the motion. Mr. Ferguson noted this was not a decision to terminate.

Ms. Summerlin asked Mr. Hayes if the motion was in compliance with law; that is, could council terminate the contract without terminating employment?

Mr. Hayes stated the contract protected him because it had a severance package and if the contract was cancelled, he believed the severance would begin. As written, the contract automatically extended each year and there was no provision for letting it expire; therefor, if council let the contract expire, he believed it would be a termination.

Mayor White stated the reason for the 60 days was because there were issues with the form and some of the terms of the contract, but not with Mike Hayes as city attorney, and the motion included that Mr. Hayes would continue as city attorney.

Mr. Hayes agreed that a better evaluation form was needed; however, council could let the contract continue and within the next 60 days create a new form.

Mayor White asked if the motion was a legal motion. Mr. Hayes responded it was a legal motion.

The motion carried 4-1 with Councilmembers Ferguson Voelkel, Baroody, and White voting in favor of the motion; and Councilmember Summerlin voting against the motion.

**ADJOURNMENT**. The meeting adjourned at 8:57 p.m.

APPROVED: November 14, 2017

ATTEST:

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Bonnie White, Mayor

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Brenda Craig City Secretary