

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
FEBRUARY 13, 2018

On February 13, 2018, 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 Councilmember Mary Ellen Summerlin, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBERS ABSENT: None.

CITY CORE STAFF PRESENT:

Mark McDaniel	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
E.A. Hoppe	Deputy City Manager
Cheryl Brown	Deputy City Secretary
Sandra Yarbrough	Director of Finance
Amy Dozier	Asst. Director of Finance
Kim Meisner	Director of General Operations
David Knight	Police Chief
Stuart Cunyus	Public Information Officer
Drew Paxton	Executive Director of Development Services
Dannie Smith	Fire Chief
Guillermo Garcia	Executive Director of Strategic Initiatives
Charvy Tork	Director of Information Technology

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

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

2. **VISITORS/CITIZENS FORUM:**

2A. Carolyn Lipscomb questioned the construction of electric poles on Holdsworth Drive. Mr. Hoppe noted KPUB was installing poles similar to those on I-10.

3. **PRESENTATION:**

3A. Presentation of Officer of the Year Award to Officer Austin Beal, Police Commendation Award. Presented by Police Chief David Knight.

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

Ms. Summerlin moved for approval of the consent agenda Item 4A. Mr. Voelkel seconded the motion and it passed 5-0:

4A. Approval of minutes for the city council workshops held January 4 and January 9, 2018, and the regular city council meeting held January 9, 2018.

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

#### **5. PUBLIC HEARINGS AND ORDINANCES, FIRST READING:**

5A. Ordinance No. 2018-04, amending the "Zoning Code" for the City of Kerrville, Texas, by revising the definition of "home occupation" and adopting regulations for that use; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00) ordering publication; and providing other matters relating to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted the intent was to allow certain occupations as accessory uses in residential zones, and to establish provisions that would limit traffic, noise, health and nuisance issues that affect the residential character of neighborhoods. This ordinance would apply to all residential zoning districts, and allow staff to enforce restrictions already adopted.

Council discussed the following:

- Restricting uses where customers come to the home, i.e. sales in the residence, including retail sale of beauty products; breeding, boarding, or kenneling of animals; and operation of barber and beauty shops.
- Prohibiting the storage or use of hazardous materials in excess of normal residential volumes.
- Allowing one employee who does not live in the home to office there. Staff would clarify the definition of office in the ordinance.
- Section 4: The city manager, or designee, shall make determinations about compliance. Questioned why the city manager and not the city attorney or building official. Mr. Hayes noted this gives the city manager flexibility in making the decision or assigning it to staff.
- Section 4: Conditional use permit process. Mr. Hayes noted the ordinance would allow for an appeals process through the zoning code.
- Existing non-conforming home occupations would be grandfathered, with some exceptions.

Mayor White opened the public hearing at 6:35 p.m. and the following person spoke:

1. Michael Sigerman, member of PZC, noted PZC's goal was to create an ordinance that would protect residential neighborhoods. If persons purchased a home in a residential zone, they should not expect to have a business next door. The ordinance would allow the opportunity to have a home occupation under specific guidelines but not encroach on the character of residential neighborhoods.

Mayor White closed the public hearing at 6:30 p.m.

Mayor White polled the council on the following points and received majority consensus:

3A. Sales: language change; not to prohibit not allow continual sales.

2A. Change to one employee or full time employee.

2J. Agreed as is.

3C. Agreed as is.

3H. Agreed as stated.

Ms. Summerlin moved for approval of Ordinance No. 2018-04 on first reading subject to revisiting the items listed. Mr. Ferguson seconded the motion and it passed 4 to 1 with Councilmembers Summerlin, Ferguson, White, and Voelkel voting in favor of the motion; and Councilmember Baroody voting against the motion.

5B. Ordinance No. 2018-06 amending the city's "Zoning Code" by changing the zoning district for several properties making up an approximate 2.96 acres and more commonly known as 829, 837, and 851 Clay Street North and 619 Myrta Street North; by removing the area from the Residential Transition zoning district (RT) and placing it within the 21-N zoning district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); ordering publication; and providing other matters relating to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted the ordinance would rezone the subject property from Residential Transition (RT) to 21-N Commercial thereby allowing the two property owners to install parking on the subject property to serve adjacent commercial property. He reviewed uses allowed in the 21-N zone, which were consistent with adjacent property on Sidney Baker. The Future Land Use Plan showed the subject property as commercial. Staff mailed 24 letters to property owners within 200 ft., and 5 protests were received from persons within the notification area; in addition, 21 letters were received from persons outside the notification area in protest to the rezoning. The Planning and Zoning Commission (PZC) recommended denial of the rezoning from RT to 21-N. Further, PZC directed staff to bring forward a possible text amendment that would allow a conditional use permit for parking in any zoning district.

Mayor White declared the public hearing open at 6:51 p.m. and the following persons spoke:

1. Larry Eskridge was concerned that commercial parking would cause traffic problems and opined that Remschel Street was a traffic hazard.

2. Diane Fitch read a letter by Wayne Franklin in opposition to the rezoning as it would bring Sidney Baker commercial traffic to the Clay Street residential area. He opined that the parking on Sidney Baker was underutilized and more parking was not needed; also, this was not part of the vision of the 2050 Comprehensive Plan.

3. David Lipscomb opined that parking lots were not good neighbors in residential areas and cited litter, noise, trucks, traffic volume, lighting, and trash dumpsters become

an attraction to critters. Such a use would set a precedent that would adversely affect other areas in town. This subject should be vetted through the Comprehensive Plan.

4. Mary Stewart stated she lived on Clay Street and the proposal to expand parking on to Clay Street amounted to spot zoning and would adversely impact the neighborhood. Kerrville 2050 identified the need to incentivize older housing stock for affordable housing as a high priority.

5. Michael Sigerman read a letter from Julie Reeves in opposition to rezoning. The Kerrville 2050 comp plan indicated the desire to save residential neighborhoods close to downtown. Parking lots would allow commercial enterprise to extend from Sidney Baker to the residential area on Clay Street; parking belonged elsewhere.

No one else spoke and Mayor White closed the public hearing at 7:03 p.m.

Council also discussed the following:

- PZC denied the request 4 to 1.
- Approval of the request would set a precedent for allowing parking lots in residential areas.
- A parking lot does not retain residential appearance, which was the purpose of the RT zone.
- There may be a resolution for this type of situation in the future as PZC was considering a conditional use process for parking lots.

The following person also spoke:

1. Bruce Motheral, requestor, noted this property was shown as commercial use in the city's land use plan. The current RT zone did not allow for parking; therefore, he and Mr. Reeh applied for a zone change. Mr. Reeh's property was already in use as a parking area. He stated this was not strictly a residential area and noted other uses along Clay Street. He proposed a fenced parking area to be used by his tenants for parking and as an exit from his adjacent commercial property; this would not be used for thorough traffic.

Ms. Summerlin moved to approve the ordinance on first reading; Ms. Summerlin withdrew her motion.

Ms. Summerlin moved to deny the zone change and Ordinance No. 2018-06; Mr. Baroody seconded the motion and it passed 5-0.

## **6. ORDINANCE, SECOND AND FINAL READING:**

6A. Ordinance No. 2018-05, Amending Chapter 6 "Advertising", Article II "Signs" of the City of Kerrville Code of Ordinances, to add pole banner signs as an authorized sign and providing regulations therefor; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted the definition of a pole banner as stated in Section 6-36 of the ordinance: 1) made of material designed to withstand the weather for at least 30 days; 2) mounted or secured to a pole that is anchored within concrete and within a durably constructed bracket of metal or similar material that secures the banner along both the top and bottom; 3) not greater than 12 sq. ft. in area; 4) mounted with a minimum height of seven ft. from the bottom of the banner and a maximum height of 30 ft.; and 5) remain in a condition that is not ripped, torn, or faded.

The following comments were discussed by council:

-Suggested amending the pole banner definition: a banner sign that is mounted to a private light pole or other commercially acceptable decorative metal pole that is at least 12 ft. in height, with a 4-5 inch base, at least 4 inches outer diameter, and at least .125 inch wall thickness.

-The ordinance was too restrictive; many businesses are on lots that are less than two acres and would be restricted to only one pole banner, but they have multiple light poles.

-Discussed the variance process in the sign code. Mr. Hayes noted the variance process in the sign code was for undue hardship.

-Flags and banners should be distinguished from pole banners and not fall under two different rulings.

Mr. Baroody moved to approve Ordinance No. 2018-05 on second reading with two amendments: 1) definition of banner: change the last sentence to flags and pole banners are distinguish from banners; and 2) definition of pole banner: A banner sign that is mounted to a private light pole or other commercially acceptable decorative metal pole that is at least 12 ft. in height, with a 4-5 inch base, 4 inch outer diameter, and at least .125 inch wall thickness. Mr. Voelkel seconded the motion and it passed 5-0.

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

### **7A. First Amendment to the Kerrville Public Utility Board (KPUB) loan agreement to extend the maturity date**

Mr. McDaniel noted that KPUB had taken action to restructure the city's loan agreement that would extend the maturity date three years and push the first principal payment back three years to begin in 2023. This amendment would allow the city to develop a funding plan for the Legion lift station and the trihalomethane (TTHM) projects and still remain within the city's self-imposed 35% debt cap.

Ms. Summerlin moved for approval of the amendment. Mr. Ferguson seconded the motion and it passed 5-0.

### **7B. Authorize the purchase of Packaged Pump Station System from Pump Mechanical Technical Services, LLC through Buyboard, a Local Government Purchasing Cooperative at a price of \$107,962.00 for the Sports Complex Reuse Pond and Pump Station Project.**

Mr. Hoppe noted staff had revised the project scope and made the project less complex by breaking the project into separate components. The item on this agenda was specifically for the purchase and installation of the pump station. He recommended

authorization to purchase the pump at this time in order to shorten the lead time (reduce by 60 days), and to eliminate the general contractor's markup, and he reviewed other components of the project. He reviewed the budget and expense of the overall reuse system project and noted change orders and quantity overruns and estimated an approximate \$1.2 million savings from the total project appropriation of \$23 million. Mr. Hoppe anticipated the pond construction and site work would be awarded at the February 27 meeting.

Council noted the electricity to site would be overhead, not underground by KPUB.

Mr. Ferguson moved for approval of the purchase; Mr. Baroody seconded the motion and it passed 5-0.

## **8. INFORMATION & DISCUSSION:**

### **8A. Regulating the use of portable electronic devices while driving.**

Chief Knight noted the state legislature passed HB 62 adding Section 545.4251, "Use of Portable Wireless Communication Device for Electronic Messaging" to the Texas Transportation Code, effective September 1, 2017. He reviewed the provisions of the law, noting it was an offense to engage in texting using a cell phone while operating a motor vehicle while moving. It is currently not illegal to use a cell phone to engage in conversation. He noted challenges to enforcement as the law required that the offense be in the presence or view of a peace officer, and prohibited an officer from inspecting a driver's cell phone to verify that it was in use. The law also established affirmative defenses to the texting statute. He reviewed the punishment under the law and noted that violations of the law were not considered a moving offense.

Chief Knight also noted that the National Transportation Safety Board recommended that all states enact complete bans of all portable electronic devices for all drivers, including banning the use of hands free devices. He reviewed possible provisions of an ordinance that would go beyond state law in regulating the use of portable electronic devices while driving.

Council noted only 43 Texas cities restricted hands free devices completely, and 102 cities were more restrictive than state law.

The following person spoke:

1. John Harrison asked if there was a policy in place for city and KPUB employees? Mr. Hayes noted the city had a policy with some exceptions for emergency situations.

The consensus of council was to direct staff to draft a hands free ordinance and to provide information as to what other cities were doing.

### **8B. Regulating the escort of oversized loads, including a fee structure for providing police escorts for commercial vehicles through the city.**

Chief Knight noted that vehicles and loads that exceeded legal size or weight limits required a permit and route from TXDOT. He reviewed the oversized movement restrictions, and notification and permitting requirements established by the state and

the San Antonio District prior to certifying a route to travel through the city limits. The mover must: 1) contact the Kerrville Police Department (KPD) for law enforcement escorts 24 hours in advance of entering the city limits; 2) provide front and rear escort vehicles; and 3) for loads higher than 16'6", furnish a minimum of two TXDOT-approved bucket trucks to lift utility lines and traffic signal lines. TXDOT also established curfew hours during high traffic times for routes permitted through cities.

Chief Knight reported the KPD provided escorts for oversized loads permitted by TXDOT on approved routes. In the past 28 months, KPD escorted 1,161 oversized loads through the city limits, requiring 1,113.5 staffing hours at a cost of \$29,238. He reviewed the fees charged by local utility companies. Chief Knight recommended an ordinance that would: 1) Provide for a police escort fee for oversized loads in the amount of \$100 per each police unit; and 2) Establish curfew hours consistent with TXDOT's curfew hours.

Council also discussed the following:

-City should not continue to subsidize these costs.

-Majority of oversized load traffic is pass through traffic; very little traffic terminated inside the city limits.

The consensus of the council was to direct staff to prepare an ordinance.

#### 8C. Code enforcement update.

Mr. Paxton presented data regarding proactive (staff initiated) and reactive (complaints received) code enforcement for the past six-month period. He discussed the types of cases and complaints and reported 280 total cases, of which 53% were reactive and 47% were proactive. Staff focused on complaints received first before working on proactive cases. Staff did not focus on any one area for proactive cases, but cycled through the city.

### **9. CITY MANAGER'S REPORT:**

Mr. McDaniel discussed the monthly capital improvement project report. He noted that the comprehensive plan committee and subcommittee meetings were continuing, and the open house events were well attended by the community. He discussed three issues that were already underway: 1) Study for possible creation of a tax increment reinvestment zone in downtown; 2) Hotel and conference center study; and 3) Scope for long range water planning.

### **10. BOARD APPOINTMENTS:**

#### 10A. Appointments to the Recovery Community Coalition.

Ms. Summerlin moved to appoint Dawn Elder, Position 8; and Kendall Young, Position 4 both with terms to expire December 31, 2019. Mr. Voelkel seconded the motion and it passed 5-0.

#### 10B. Appointments to the Zoning Board of Adjustment and Appeals.

Mr. Ferguson moved to reappoint Sam Ligon and Robert Parks as regular members, both with terms to expire September 30, 2019; and to appoint William Morgan as an

alternate member with term to expire September 30, 2019. Ms. White seconded the motion and it passed 4-1 with Councilmembers Ferguson, White, Summerlin, and Voelkel voting in favor of the motion; and Councilmember Baroody voting against the motion.

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

12. **EXECUTIVE SESSION**: None.

13. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY**: None.

**ADJOURNMENT**: The meeting adjourned at 7:46 p.m.

APPROVED: 03/13/2018

ATTEST:

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Bonnie White, Mayor

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Brenda G. Craig, City Secretary