

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
JUNE 26, 2012

On June 26, 2012, the Kerrville City Council meeting was called to order by Mayor Pratt at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by City Attorney Mike Hayes, followed by the Pledge of Allegiance led by Art Modgling of the Vietnam Veterans Post #863 of Kerrville.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Stacie Keeble	Mayor Pro Tem
Gene Allen	Councilmember
Carson Conklin	Councilmember
Justin MacDonald	Councilmember

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary
Kristine Ondrias	Assistant City Manager
Charvy Tork	Information Technology Systems Administrator
Mike Erwin	Director of Finance
Robert Ojeda	Fire Chief
John Young	Police Chief
Kim Meismer	Director of General Operations
Mindy Wendele	Director of Business Programs
Jason Lutz	Senior Planner
Malcolm Matthews	Director of Parks and Recreation
Pat Dunlap	Fire Marshal

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

**1. VISITORS/CITIZENS FORUM**

1A. Barbara Burton asked what county precinct her property was in and was concerned that the county burn ban had been lifted in unincorporated areas of the county. She noted the water level in the lake was dropping and the city had not gone to Stage 2. She questioned several aspects of the river trail project, i.e. trail route, lighting costs, reserve fund set aside for flood damage, how far a concrete slab at grade would move in a flood, and felt that some information from the city was contradictory. At the last meeting, council stated that Guadalupe Street residents would be contacted, but she had not been contacted by staff; also, the map on the city's website was not correct. Staff asked Ms. Burton to contact the county for information regarding their burn ban and to determine what county precinct she was in. The city's water stages were based on safe operating capacity and not on river flow; however, the city may consider Stage 2 in the future if it did not rain. Council discussed her specific concerns regarding the river trail and noted that staff was in the process of contacting property owners.

## **2. CONSENT AGENDA:**

Mr. Allen moved for approval of items 2A through 2D; Mr. Conklin seconded the motion and it passed 5-0:

2A. Minutes of the City Council meeting on May 31, 2012.

2B. Authorization for City Manager to enter into a lease agreement with PNC Equipment Finance LLC for the Schreiner Golf Course cart fleet.

2C. Agreements between the City and Riverside Nature Center Association, Incorporated, pursuant to the River Trail to include an Amendment to Lease, Recreation Easement, Special Warranty Deed, and Subordination and Consent.

2D. Agreement renewal with the Texas Parks and Wildlife Department for the 2012 Kerrville-Schreiner Park Managed Bow Hunt.

## **END OF CONSENT AGENDA**

## **3. PUBLIC HEARINGS AND RESOLUTIONS:**

3A. Resolution No. 19-2012 granting a Conditional Use Permit for an approximately 1.34 acre tract of land consisting of lots 1, 2 and 3, and portions of lots 12, 13, 14, and 15, Block 1 of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas, otherwise known as 505 Sidney Baker Street (State Highway 16) and located within the City's central business zoning district (CBD); by permitting said property to be used for a gasoline station (sales) with convenience store and making said permit subject to certain conditions and restriction.

Mr. Lutz presented the proposed CUP and noted that gasoline sales were allowed in the CBD under certain conditions. The planning and zoning commission (PZC) approved the CUP June 7 subject to conditions stated in the resolution, and Valero had already completed all but two of the conditions: emergency shut-off switch, and lighting to prevent glare or light from being emitted onto adjacent properties; those conditions would be addressed during the building and permitting process. The project conformed to the comprehensive plan and utilities were available to the site. He noted that one letter of protest had been received from a neighboring property owner.

Council discussed the following:

- Landscaping. Mr. Lutz noted the applicant provided a site plan depicting landscaping along all four property lines and that would become part of the CUP.
- Screening. Mr. Lutz noted a 6 ft. solid wooden fence would be required along the property line adjacent to the residential district.
- Underground electric utility service. Harvey Brinkman, real estate broker, stated they would investigate the possibility with KPUB.

Mayor Pratt declared the public hearing open at 6:18 p.m., no one spoke, and Mayor Pratt closed the public hearing at 6:18 p.m.

Mr. Conklin moved for approval of Resolution No. 19-2012; Mr. MacDonald seconded the motion and it passed 5-0.

3B. Resolution 20-2012 granting a Conditional Use Permit for an approximately 1.15 acre tract of land consisting of part of Lot 2, Block 1 of the Bryant Addition, a subdivision of the City of Kerrville, Kerr County, Texas, and located in the 1800 block of Junction Highway (State Highway 27) and located within the City's 3-W zoning district; by permitting said property to be used for agricultural services (kennels/animal shelters); and making said permit subject to certain conditions and restrictions.

Mr. Lutz noted Dr. David Cardwell proposed to build a veterinary clinic (4,200 sq. ft. clinic and 1,200 sq. ft. kennels) in the 1800 block of Junction Highway; 12 kennels were currently allowed; however, Dr. Cardwell requested a CUP for agricultural services in order to increase the number of kennels to 50. The subject property adjoined a residential neighborhood to the south and would require Type B screening along the property line and a 50 ft. setback. The PZC approved the CUP at their June 7 meeting subject to the conditions stated in the resolution and not to exceed 50 kennels. He noted one letter of protest from an adjacent property owner.

Mayor Pratt declared the public hearing open at 6:27 p.m., and the following persons spoke:

1. Dr. David Cardwell noted the animals would be allowed outside only two hours a day (8:00-9:00 a.m. and 4:30-5:30 p.m.) for exercise and to allow the kennels to be cleaned. He clarified that he treated large animals, but no large animals would be housed at this facility. He planned to employ 4-5 additional staff and use local engineers and contractors to build his facility, and the project would add to the city's tax base.
2. Carolyn Lipscomb stated that Dr. Cardwell had been her vet for over ten years and she spoke of the cleanliness of his facility and friendliness of his staff.

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

Council discussed imposing greater restrictions but noted the business closed at 5:30 p.m. and all animals housed overnight were inside.

Mr. Allen moved for approval of Resolution No. 20-2012; Mr. Conklin seconded the motion and it passed 5-0.

#### **4. PUBLIC HEARING:**

4A. Annexation and zoning of approximately 9.83 acre tract of land, out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas and consisting of the property addressed as 5623 State Highway 27.

Mr. Lutz noted the applicant requested annexation to meet the requirements of the EIC funding agreement with Fox Tank Company for the manufacturing of oilfield storage tanks and equipment. Utilities were available from Hwy. 27. No objections had been received from the public. PZC recommended approval of

the annexation; proposed zoning would be 26-E heavy industrial, which was in compliance with the comprehensive plan.

Mayor Pratt declared the public hearing open at 6:35 p.m.; no one spoke and Mayor Pratt closed the public hearing at 6:35 p.m.

**5. ORDINANCE SECOND AND FINAL READING:**

5A. An ordinance repealing and replacing the City's sign regulations found in Article II of Chapter 6 of the City's Code of Ordinances and repealing Section 27 of Ordinance No. 85-59 and all ordinances which amended Section 27 and pertain to the regulation of signs; adopting new regulations concerning the installation and maintenance of signs within the City of Kerrville, Texas and within the extraterritorial jurisdiction of the City; containing a cumulative clause; 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 Pratt read the ordinance by title only.

Mr. Conklin noted the transcript of his motion on June 19 specified the limitation at 32 sq. ft. for electronic signs; and 32% overall for signs between 100-200 sq. ft.; however, he wanted to clarify that his intent was that electronic portion of electronic message boards not exceed 32 sq. ft. for a sign up to 100 sq. ft.; signs between 100-200 sq. ft. overall, the electronic portion could be 32% of the total sign area allowable, but it first had to be eligible for a sign that large. Regarding signs less than 32 sq. ft. that used scrolling text, 4 seconds transition time would be acceptable, but scrolling was not allowed.

Council and staff also discussed the following:

- No restriction on the display of the US or Texas flag. Mr. Hayes noted government flags were already exempted in the proposed sign ordinance amendment.
- Difficulty in balancing advertising with sign pollution and aesthetics.
- The moratorium on electronic message signs expired once and was extended, and the extension would expire June 30.

The following persons spoke:

1. James Kessler, chairman of the planning and zoning commission and member of the sign ordinance committee, noted the committee spent 150 hours researching and reviewing sign ordinances of over 15 other cities, and he requested that council reconsider items that council previously changed:
  - Limit the size of electronic message boards to 32 sq. ft.; the committee felt this was sufficient based on a demonstration at one of their meetings.
  - The hold over time for electronic message signs should be 8 seconds; TxDOT recommended 8 seconds primarily for public safety.
  - Regarding US flag, under the existing ordinance businesses can display balloons on vehicles, etc., but cannot display the US flag except on a flag pole.

2. Mike Walker opined that graphics on message boards were distracting and dangerous, and he recommended 8 second minimum transition time. He noted that studies found motion and lit signs to be dangerous. Based on the proposed sign ordinance amendment and using the county courthouse as an example, that block could have eight signs and poles could be higher than the courthouse. Also, he would like to see the city clean up utility pole clutter.

3. Vickie Love stated she appreciated council for being patient and listening to the public; council worked with a spirit of compromise and decisions would better promote the community.

4. Richard Ferris, questioned whether signs painted on walls would be allowed, and if they could be repaired/repainted, or if he would have to remove his from his building. Mr. Hayes stated the sign on Mr. Ferris' building would be classified as non-conforming, and if it was not damaged more than 50%, he could repaint it. The intent of classifying signs as non-conforming was to have them replaced when repairs exceeded more than 50% of value. As long as existing signs were painted and maintained and the use continued to exist, they would be grandfathered as non-conforming signs, but the sign could not be expanded. Mr. Ferris stated that under the sign ordinance off premise signs could not exceed 100 sq. ft., and noted that billboards in the extraterritorial jurisdiction exceeded 100 sq. ft. Mr. Conklin noted there were no changes proposed for billboards, and billboards had been phased out in past years.

5. Scott Peschel, a member of the sign ordinance committee, stated that the committee did not intend for electronic signs to be larger than 32 sq. ft., and recommended timing at 8 seconds as stated by TxDOT. Some smaller electronic signs did not hold much content. Mr. Conklin noted timing was a programming issue and not a cost of sign issue and could be changed later.

Mr. Hayes noted if the amendments contemplated today were more restrictive than what was presented to the public in the current draft, a third reading of the ordinance would be required. If someone applied for a sign permit after the moratorium expired and before the new ordinance was adopted, they would be applying under the old ordinance.

Ms. Keeble moved to adopt the sign ordinance on second reading with the following exceptions: electronic signs be limited to 32 sq. ft., and the Texas and American flags would be allowed without any restrictions. Mr. Conklin seconded the motion and it passed 5-0.

Third reading of the ordinance was scheduled for July 3, 2012.

**6. CONSIDERATION AND POSSIBLE ACTION:**

6A. Resolution No. 18-2012 approving the Alamo Area Council of Governments (AACOG) Regional Multi-Hazard Mitigation Plan.

Mr. Parton noted a federal act required municipalities to have a hazard mitigation plan that identified and addressed potential hazards. He recommended adopting the AACOG regional plan, which was adopted by Kerr County in May; otherwise, the city would have to devise its own plan. If the city did not have a plan, it would be in default of the federal act and would not be eligible to receive federal funds.

Mr. Dunlap noted the city had participated in the AACOG regional plan since 2005; the plan included other AACOG cities and counties. The plan presented for adoption had been reviewed by member cities and counties for over a year, and had been forwarded to Federal Emergency Management Administration and Texas Department of Emergency Management. AACOG was notified that the plan must be adopted by individual cities and counties, and must be submitted by June 30. He noted that several members of the Kerrville Fire Department had participated in creating the AACOG plan.

Mr. Conklin moved for approval of Resolution No. 18-2012; Mr. MacDonald seconded the motion and it passed 5-0.

6B. Direct staff to investigate the condition of that portion of the Town Creek drainage channel located south of Main Street and provide a report to City Council on the parties who have maintenance responsibility and the City's options for ongoing maintenance and repair.

Mayor Pratt noted that Town Creek, and possibly other areas, had become overgrown with vegetation that could impede drainage.

Council and staff discussed the following:

- City's role at this point should be limited to investigating property ownership and responsible parties, determine problem areas and prioritize, and recommend options; it was clear that staff was not being instructed to do any work on privately owned property.
- Need to establish a policy setting out the city's role in management and maintenance of drainage ways city-wide; policy should take into consideration potential for embankment erosion.

The following person spoke:

1. Barbara Burton noted Quinlan Creek had been a greater problem in 2000 before a community cleanup project. The 2002 flood that damaged many homes was largely caused by log jams that accumulated. Property owners responsible for maintenance may not have the resources or ability to maintain their property.

Council consensus was to instruct staff to report on the Town Creek area from Main Street to the Guadalupe River at the July 10 meeting, i.e. evaluate issues, identify roles and responsibilities of parties, present options for discussion, and report on the level of work and resources that would be required for the city to handle this type of work.

6C. Creation of a task force to review the City's long-term financial situation and

develop recommendations.

Mayor Pratt noted that many cities were facing significant budgetary challenges and financial difficulties. He proposed creating a financial management task force to gather information on the financial position of the city, including unfunded liabilities, unfunded mandates, infrastructure needs, pension plans and benefits, indebtedness, and any long term financial obligations. The task force would review the city's financial situation, formulate alternatives for the city to consider when making decisions, and recommend a long-term plan of action. Data gathered would be used to create a sound business plan to help council make informed decisions. He presented a plan for the appointment of citizen experts to the task force. The task force would present its report to the mayor, followed by a meeting of the council by December 1, 2012. The report would include a recommendation on the continuance of the task force. The task force would be advisory only and their report and any information used to compose the report would be maintained as privileged and confidential, in particular matters that were deemed confidential by law such as matters that would occur in executive session. The task force would be similar to other city advisory boards, and more citizen involvement would result in a more transparent city government.

Mr. Pratt stated he had not been able to get a clear analysis of the issues proposed for discussion by the task force from city staff, especially regarding unfunded liabilities and mandates, and he wanted a whole picture of what the city's total exposure was for the next 20 years. The number one charge of the city council was to protect the citizens; council should find ways to reduce expenses without affecting services to citizens. A finance plan could identify areas where money could be saved, and council could give raises to employees.

Council also discussed the following:

- The city council was elected by the citizens and charged with the responsibility of the city's financial stability and long range planning, and councilmembers took this responsibility seriously.
- If the goal was to achieve open government and transparency, interested citizens should be encouraged to attend council meetings and workshops; all meetings were open to the public.
- Questioned if a committee's reports and findings would remain confidential; concerned about privacy issues related to information on employees.
- Would create another layer of government.
- Would cause extreme hardship on staff time that would be required to prepare information and respond to requests of the committee.
- Under the plan proposed, the mayor would appoint a representative to the task force, and the council would not appoint a representative, although one councilmember would serve on the task force.
- The city already had planning documents established that accomplished all of the topics proposed for discussion, i.e. comprehensive plan, economic development plan, economic incentive plan, utility master plan and capital improvement plan that addressed infrastructure projects and funding for the next

20 years.

- The topics proposed for discussion were council level decisions and council should not abdicate their responsibility to a committee.
- No problems had been identified that were not already being addressed, and the city did not have any significant unfunded liabilities thanks to sound financial policies and planning.
- The city council past and present were meeting the obligation of keeping the city financially secure.
- The city continuously receives awards from financial organizations for sound financial management. The city records are audited annually, and the city is financially sound.
- Never requested data from staff that had not been provided in a timely manner.
- Some parts of the task force plan as presented violated the open meetings act.
- Questioned where was the problem? The city maintained a steady tax rate for several years. When revenues fell the last two years, instead of raising taxes, the city council reduced the city's budget 15% by cutting personnel and services, and even increased the reserve fund; also, the city had not given employees raises for several years. The city maintained an excellent finance rate, brought in two new businesses that would benefit the community economically, funded the river trail without increasing EIC debt service payments, and achieved excellent service with less money through interlocal agreements. Also, thanks to the past council's relationship with the Cailloux Foundation \$300,000 had been added to the street budget for the next three years, and the newly renovated library opened and was packed with people, thanks to the generosity of the HE Butt Foundation. Many years ago the council tried to fund the city on a pay as you go plan, and the city fell behind on infrastructure needs; now the city was doing infrastructure projects and still keeping taxes and rates down.

The following person spoke:

1. Rex Boyland, commended the 2010-2011 city council and staff that prepared the 2011 budget. He noted that in the three budgets prior to the 2011 budget the city had balanced the budgets by using the reserve fund, which had been built up over 15 years. In 2011 the city council not only balanced its budget, but began to put funds back into the reserve fund. The Municipal Advisory Council of Texas showed Kerrville had a debt to assessed value of .81% that was subject to ad valorem. The pension plan was funded 100%, actually slightly overfunded. The City Charter states the mayor is one member of city council, who presides at council meetings and represents the city for ceremonial purposes. The City Charter states that no councilmember is allowed special appointments or allowed to exclusively receive special reports. Privileged and confidential information runs counter to public policy of transparency and open government. He reviewed a list of matters that could be brought up in executive session, and none of those would be applicable to a committee as proposed. If such a finance committee was established, the finance director should be on that committee. Responsibility for the city's revenue and expenses should be vested only in elected officials.



Mayor Pratt asked that the record show that city council turned down the proposal.

Mr. Allen moved to not allow a finance task force to be assembled. Ms. Keeble seconded the motion and it passed 4-1 with Councilmembers Allen, Keeble, Conklin, and MacDonald voting in favor of the motion and Mayor Pratt voting against the motion.

6D. The city's oversight of private halfway houses in Kerrville.

Mayor Pratt noted a significant number of halfway houses in Kerrville, and while the city understood the need for housing and assistance to help people reenter society, there was limited oversight by the city. He suggested permitting of halfway houses, inspection of facilities, fines for noncompliance, and reporting of violations to the city manager and city council.

Mr. MacDonald noted that the zoning ordinance input committee (ZOIC) had discussed how to address halfway houses in the new zoning code, i.e. zoning classification, investigation process, and possible regulations; research was underway.

Council and staff also discussed the following:

- Difficulty in not knowing where halfway houses were located.
- Permitting process would establish a means by which the city could monitor and inspect houses.
- Occupancy level of homes located in single family residential areas.
- Legality of several aspects associated with regulating halfway houses; must be careful not to discriminate or violate any federal laws; also, some houses may be supported by religious agencies.

Chief Young noted the police department's calls related to halfway houses dealt more with residents, i.e. calls for service, medical, assistance, disturbance, etc. He stated that KPD files revealed 22 known halfway houses.

The consensus of the council was to monitor progress and recommendation from ZOIC and staff.

**7. INFORMATION AND DISCUSSION:**

7A. Implementation of zero based budgeting (ZBB) practices to the City of Kerrville Annual Budget to contain costs and better serve the city's residents.

Mayor Pratt proposed the city implement ZBB and felt it would result in a better review of expenses in line items and avoid baseline assumptions, resulting in improved budgeting and savings to the city.

Mr. Erwin noted that the city manager and budget staff already followed the process of reviewing each proposed expenditure in all line items before something was put into the budget document; the detailed information used to compile the budget was not included in the actual budget document.

Mr. Parton noted staff had to provide justification for each line item, and he and Mr. Erwin personally reviewed every item before it was included in the budget; the key component used in the preparation of the budget was the council's goal statement and prioritized programs established by the council. He reviewed the five year forecast model and noted in 2011 the city council adopted the FY12 budget based on sustainability, expenditures did not exceed revenue, increase in the fund balance, and the same tax rate. The 2013 draft budget was nearing completion and would be presented to council in July. He discussed several items where staff identified and implemented cost savings and noted the budget followed guidelines set out in the city's long range planning documents.

Mr. Conklin noted he reviewed the Government Finance Officers Association report and noted of 413 cities only 2 were using ZBB. He noted there were several variations of ZBB and questioned which variation Mayor Pratt was proposing. Mr. Conklin believed the city was already using the same method and felt there was not a problem to be solved.

7B. Budget and economic update

Mr. Erwin noted local employment was at 5.3%; June sales tax was down from May, but still above June 2011; HOT was down from last year; revenue exceeded expenditures in the general fund and water/sewer fund.

7C. River trail update

Mr. Matthews noted the contractor would begin work on the Package A pedestrian bridge near Lemos Street, connecting to Tranquility Island next week; Package A should be complete by September. Upcoming phases include Package C from Tranquility Island to G Street, including \$2 million for Louise Hays Park renovation, based on projects identified in the 2008 parks master plan. He noted the utility project scheduled for December in Rio Robles Mobile Home Park would be completed before the trail and park improvements would be started. Regarding routing options for Packages B, C, and F, he met with about half of the affected property owners and was continuing to set up meetings with others.

7D. Report on Kerrville Economic Development Corporation activities

Mr. Conklin reported KEDC supported a new housing development in the county; the project was an agreement between the county and the developer. An offer had been made and accepted to a new executive director and KEDC would be making an announcement soon. Economic packages were being accepted and reviewed. State Comptroller Susan Combs spoke earlier this day at the chamber of commerce office and KEDC supported her visit to Kerrville.

**8. ITEMS FOR FUTURE AGENDAS**

- Report from Kerr Economic Development Corporation, July 24.
- Discuss fees for use of Kerrville Schreiner Park, no date specified.

**9. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

9A. Kerrville's 4<sup>th</sup> on the River event on June 29; discussed activities scheduled from 2 p.m. to midnight including 8 bands, fireworks, and kids play area.

**10. EXECUTIVE SESSION:** None

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

**12. ADJOURNMENT.** Mr. MacDonald moved to adjourn the meeting; the motion was seconded by Mr. Conklin and passed 5-0. The meeting adjourned at 9:48 p.m.

APPROVED: \_\_\_\_\_

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Jack Pratt, Jr., Mayor

ATTEST:

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Brenda G. Craig, City Secretary