

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, OCTOBER 25, 2016, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, OCTOBER 25, 2016, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION OFFERED BY MAYOR BONNIE WHITE

PLEDGE OF ALLEGIANCE TO THE FLAG

1. OATH OF OFFICE FOR COUNCILMEMBER PLACE THREE GIVEN BY KERRVILLE MUNICIPAL COURT JUDGE MARK PRISLOVSKY

2. VISITORS/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers will be limited to the first ten speakers and each speaker is limited to four minutes.

3. PRESENTATIONS AND RECOGNITIONS:

3A. Recognition of Eugene C. Smith, Former Mayor of Kerrville. (staff)

3B. Post event report on the Kerrville Chalk Festival. (Katharine Boyette, Cailloux Foundation)

3C. Proclamation for Kerrville All Stars Day. (Mayor White)

4. CONSENT AGENDA:

These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

4A. Acceptance of minutes of the regular meeting held September 13, 2016. (staff)

END OF CONSENT AGENDA

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time: October 21, 2016 at 11:30 a.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig
City Secretary, City of Kerrville, Texas

5. ORDINANCES, SECOND READING:

5A. Ordinance No. 2016-14, amending Chapter 18 "Animals", of the City's Code of Ordinances by amending Section 18-31 "Dog and Cat Registration" and Section 18-32 "Rabies Vaccination"; containing a savings and severability clause; providing an effective date; and providing other matters relating to the subject. (staff)

5B. Ordinance No. 2016-18, granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to furnish, transport and supply gas to the general public in the City of Kerrville, Kerr County, Texas, for the transporting, delivery, sale, and distribution of gas in, out of, and through said municipality for all purposes; providing for the payment of a fee or charge for the use of the streets, alleys, and public ways; repealing all predecessor ordinances; providing that it shall be in lieu of other fees and charges, excepting ad valorem taxes; prescribing the terms, conditions, obligations and limitations under which such franchise shall be exercised; providing a savings clause, a most favored nations clause, and a severability clause; and providing an effective date. (staff)

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Request by RREAF-Blatt, LLC to abandon, vacate and convey a portion of an unimproved extension of Meeker Road right of way located southwest of Singing Wind Drive North with its intersection with Locust Street. (staff)

6B. Resolution No. 26-2016 creating the Recovery Community Coalition; providing for its purpose, membership, and roles and responsibilities; and appointing the initial members of the committee. (Councilmember Andrew)

6C. Proposal for workforce housing project submitted by MacDonald Companies, Inc. on approximately 16 acres on Loop 534, at the planned extension of Olympic Drive. (staff)

6D. Re-engagement of the Reuse Water Ad Hoc Advisory Committee. (Councilmember Andrew)

6E. Request for proposals (RFP) for an executive search consultant for city manager. (Mayor White)

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Brenda Craig
City Secretary, City of Kerrville, Texas

6F. Consider offer(s) for the purchase of 800 Junction Highway, former city hall property. (staff)

7. APPOINTMENTS TO BOARDS AND COMMISSIONS:

7A. Building Board of Adjustment and Appeals. (staff)

7B. Zoning Board of Adjustment. (staff)

7C. Appointment to the City of Kerrville, Texas Economic Improvement Corporation. (staff)

7D. Appointment of council liaisons to various city boards (staff)

8. ITEMS FOR FUTURE AGENDAS

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.

10. EXECUTIVE SESSION:

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code, including the following:

Section 551.071 and 551.072:

6F. Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following:

- Consider offer(s) for the purchase of 800 Junction Highway, former city hall property.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

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Brenda Craig
City Secretary, City of Kerrville, Texas

Section 551.074:

7A. Building Board of Adjustment and Appeals. (staff)

7B. Zoning Board of Adjustment. (staff)

7C. Appointment to the City of Kerrville, Texas Economic Improvement Corporation.

7D. Appointment of council liaisons to various city boards.

Sections 551.071 and 551.074:

10A. Deliberate the appointment, employment, evaluation, and duties of an Interim City Manager.

Sections 551.071 and 551.072:

10B. Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following:

- River trail.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

13. ADJOURNMENT.

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Brenda Craig
City Secretary, City of Kerrville, Texas

Agenda Item:

3A. Recognition of Eugene C. Smith, Former Mayor of Kerrville. (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Recognition of Former Mayor Eugene C. Smith

FOR AGENDA OF: October 25, 2016

DATE SUBMITTED: October 17, 2016

SUBMITTED BY: Brenda G. Craig
City Secretary

CLEARANCES: Todd Parton,
City Manager

EXHIBITS: None.

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:



Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Eugene C. Smith served as City Councilmember Place Four from May 2002 to May 2005; Mayor Pro Tem from May 2005 to August 2005; and Mayor from August 2005 to May 2007.

Mayor Smith passed away at his home in Kerrville on September 3, 2016.

RECOMMENDED ACTION

Presentations.

Agenda Item:

3B. Post event report on the Kerrville Chalk Festival. (Katharine Boyette, Cailloux Foundation)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Kerrville Chalk Festival Post Event Report

FOR AGENDA OF: October 25, 2016 **DATE SUBMITTED:** October 17, 2016

SUBMITTED BY: Ashlea Boyle **CLEARANCES:** E.A. Hoppe
Assistant Director of Parks and Recreation Deputy City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Pursuant to the FY16 adopted budget, the City of Kerrville funded four special events through the hotel / motel occupancy tax funds for a total of \$100,000. Each event is eligible for a maximum reimbursement of \$25,000. The four events are *Kerrville's Festival of the Arts*, *Kerrville's Fourth on the River*, *Kerrville Chalk Festival*, and the *Kerrville Triathlon Festival*. These events were approved for funding based on the economic impact to the community associated with heads in beds. These events are community wide special events that not only attract local residents, but non-local visitors as the majority.

Each event organization has been asked to provide a post event report to the City Council after the conclusion of event.

The *Kerrville Chalk Festival* was held October 15-16, 2016. A representative from the organization will be providing this report.

RECOMMENDED ACTION

This report is for information only. No action is required.

Agenda Item:

3C. Proclamation for Kerrville All Stars Day. (Mayor White)

PROCLAMATION

WHEREAS, The City of Kerrville has a rich and diverse history of cultural achievements of historical significance; and

WHEREAS, One of those achievements is the formation in the 1920s of organized black baseball, which resulted in the formation of regionally competitive teams such as the Kerrville Black Athletics, Kerrville Black Cats, Kerrville Black Diamonds, Kerrville Black Boosters; and

WHEREAS, One of those teams, known as the Kerrville Black All Stars, later known as the Kerrville All Stars, originally managed by Hezekiah Lott, and later by Jim Pollard, and Bill Haynes which team continued to play into the 1950s and 1960s; and

WHEREAS, The City of Kerrville, in collaboration with the U.T.S.A. Institute of Texas Cultures and the former players of the Kerrville All Stars wish to recognize and honor all those who contributed to the formation and participation in baseball for men of color in the Kerrville area,

NOW, THEREFORE, I, Bonnie White, Mayor of the City of Kerrville, Texas, do hereby proclaim October 29, 2016 as

Kerrville All Stars Day

in the City of Kerrville and urge all citizens to join with me on this day in honoring these athletes and their contributions which enriched the cultural heritage of our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Kerrville to be affixed hereto, the 25th day of October 2016.

Bonnie White., Mayor



Agenda Item:

4A. Acceptance of minutes of the regular meeting held September 13, 2016.
(staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
SEPTEMBER 13, 2016

On September 13, 2016, 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 Glenn Andrew, followed by the Pledge of Allegiance led by Mark Del Toro.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
Stephen P. Fine	Mayor Pro Tem
Glenn Andrew	Councilmember
Gary F. Stork	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
E.A. Hoppe	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Kim Meisner	Director of General Operations
David Knight	Chief of Police
Dannie Smith	Fire Chief
Kaitlin Berry	Special Projects Manager
Kim Meisner	Director of General Operations
Danny Batts	Chief Building Official
Kyle Burow	Director of Engineering
Trent Roberson	City Planner

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

1. VISITORS/CITIZENS FORUM:

1A. George Baroody noted a meeting was held by a citizens group regarding the reuse pond project to discuss his opinion that the pond was not a necessary part of the project. His expectation was that the meeting would be respectful, but he opined that a councilmember had attempted to take over the meeting and he was embarrassed for the city. He stated he had previously run for city council and that he would not be proud to be on the council at this time.

2. PRESENTATIONS:

2A. Certificate of Recognition to Dr. Dan Troxell, former Superintendent, Kerrville Independent School District accepted by David Troxell.

2B. Proclamation proclaiming the month of September 2016 as Kerrville Recovery Month.

2C. Acknowledgement of City's contribution to the 13th annual river cleanup
Tara Bushnoe, Upper Guadalupe River Authority, noted 443 volunteers participated in the July 23 river cleanup; 9,200 pounds of trash, scrap metal and tires were collected. The city provided employees and equipment and covered the landfill fees. The City also partnered with UGRA during quarterly clean up events.

3. CONSENT AGENDA:

Mayor White requested Items 3A and 3B be removed from the consent agenda.

Mr. Fine moved to approve consent agenda items 3C through 3E; Mr. Allen seconded the motion, and the motion passed 5-0:

3C. Resolution No. 21-2016, approving the budget for fiscal year 2017 for the Kerr Emergency 9-1-1 Network.

3D. Administrative services contract between City of Kerrville, Texas and City of Kerrville, Texas Economic Improvement Corporation.

3E. Construction contract with Intermountain Slurry Seal, Inc. for the 2016 slurry seal project in the amount of \$181,940.00 and authorize the city manager to execute additional change orders which will not exceed a total contract value of \$225,000.00.

END OF CONSENT AGENDA

3A. Minutes of regular meetings held July 12 and July 26, 2016; and the special meetings held July 19 (Convention and Visitors Bureau), July 19 (Young People in Recovery), and July 26 (Employee Benefits Trust).

Ms. White noted she was not in attendance of the July 19 YPR meeting and asked to review the recording.

Mr. Andrew moved to approve the council meeting minutes except July 19 YPR; Mr. Fine seconded the motion and it passed 5-0.

3B. Resolution No. 20-2016 amending the City of Kerrville Fee Schedule by revising fees charged for various services and uses provided or offered by the city.

Mr. Parton provided the fee schedule with highlighted changes and noted:

- Reduction of permit fee in code compliance related to group homes.
- Water and sewer system capacity analysis flat fee of \$500 for each analysis; however, developers would be charged the direct cost to conduct the engineering analysis. The city used Freese and Nichols to run system model and provide detailed cost estimates to the developer. The cost would be determined by the scope of work requested by the developer; the city charged only the direct cost. This fee was NOT an impact fee. A developer did not have to use the city's system; they could use other ways to analyze their system and submit their engineering data to the city for review.
- Public safety fee if \$105 per hour was to recover the cost of standby.

Council discussed increasing the market rate of reuse water from 38¢/1,000 gallons to 65¢/1,000 gallons for new customers to recover the cost of production and transmission. This rate would only be for new contracts, and would not affect existing established contracts with negotiated rates. Mr. Parton noted the 65¢/1,000 rate was based upon completion of the proposed reuse project, and included operations, maintenance and debt service. He recommended the standard rate be established at 65¢/1,000 once the reuse project was complete.

The following persons spoke:

1. Denise Smith asked if the fee schedule included costs associated with the proposed wastewater treatment plant on Spur 100. Mr. Parton stated it did not.
2. Jerry Wolf questioned if the city proposed to charge the 65¢/1,000 rate for this year or after the reuse pond was built and operational. He opined that 65¢/1,000 did not cover the full burden, and opined the true cost of effluent could be as much as \$4.74/1,000 if irrigation customers paid the entire cost of the project, including principal, interest, transmission, engineering design, and pipeline.

Mr. Parton proposed the 65¢/1,000 rate be established after the pond was brought on line. He noted the estimated construction cost for the project to be \$18.3-18.5 million, with depreciation of the pond over 50 years. The debt service schedule included principal and interest.

3. George Baroody opined that the cost of treating the reuse water to standards before distributing it should not be passed on to reuse water customers; however the lines that were being built to go to customers were not necessary, were not publicly accessible, and were not being paid for by those customers. He proposed that the reuse rate be increased from 38¢/1,000 to 58¢/1,000 and that the new rate not affect reuse water purchased by the truckload for uses such as road maintenance.

Mr. Parton noted the fee in existing contracts varied; the city did not have a contract with itself for the golf course, but was paying 32¢/1,000.

Mayor White moved to adopt the fee schedule with the amount of 65¢/1,000 for reuse water. Mr. Stork seconded the motion and it failed 1 to 4 with Ms. White voting in favor of the motion and Messrs. Stork, Fine, Andrew, and Allen voting against the motion.

Council requested staff provide more detailed analysis of the impact of the reuse rate on future customers.

Mr. Andrew moved to approve the fee schedule as presented, leaving the reuse rate the same; when additional information is provided as requested, council may reconsider the rate. Mr. Fine seconded the motion and it passed 5-0.

8A. Saving Our Night Skies initiative.

Jim Wills and Cliff Kaplan, of the Hill Country Alliance, recommended ways to limit light pollution and preserve dark skies. Mr. Caplan discussed: the health effects and impact on wildlife from improper lighting; how to achieve maximum safety; and the economic benefit from tourism, noting a Dark Sky Park in Mountain Home. He requested when the city replaces street lighting that it be shielded, amber lighting and not LED lighting. He stated the city was doing everything right at the new sports complex. He presented a sample lighting ordinance he would like the council to consider.

The following person spoke:

1. Kate Wills requested the city consider amber or blue street lighting when replacements were needed.

4. PUBLIC HEARINGS:

4A. Resolution No.19-2016 granting two conditional use permits (CUP) for an approximate 2.51 acre tract of land located south of and adjacent to State Highway 27 (Junction Highway) and its intersection with Knapp Road; being Lot 1, Block 1 of the Evans Addition, a subdivision within the City of Kerrville, Kerr County, Texas, and otherwise known as 1201 and 1205 Junction Highway; said tract located within the 6-W zoning district; by permitting said property to be developed and used for both Personal Services II (Urgent Care Facilities with Emergency Room Services) and Retail Trade I Purposes; and making said permits subject to certain conditions and restrictions.

Mr. Allen filed a conflict of interest affidavit and recused himself from the meeting at 7:05 p.m.

Mr. Robertson noted surrounding property was mixed use retail, restaurant, and personal services; the land use designation was general commercial. The CUP would have little impact on adjoining properties and services would be similar. The owner proposed an emergency care center at the front and clothing/retail at the back of the property. A portion of the property was located in the flood plain and floodway. No opposition had been received.

TxDOT was concerned that the current alignment of Knapp Road at the intersection of Highway 27 was not conducive for ingress and egress to the property. TxDOT recommended the roadway be realigned at the existing signal light.

Mr. Robertson proposed that the CUP require abandonment of Knapp Road; however, Knapp Road was not part of the CUP and the owner would have to request abandonment. In the future, any amendment to the site plan or increase in the square footage of the building would require a public hearing. The planning and zoning commission approved the CUP 5-0, and staff recommended approval.

Mayor White opened the public hearing at 7:10 p.m. and the following person spoke:

1. George Baroody asked if the project would have any impact on the public boat ramp? Mr. Robertson stated it would not be affected.

No one else spoke and Mayor White closed the public hearing at 7:12 p.m.

Mr. Andrew moved to approve Resolution No. 19-2016; Mr. Fine seconded the motion and it passed 4-0-1, with Councilmembers Andrew, Fine, White, and Stork voting in favor of the motion; no one voted against the motion; and Mr. Allen abstained due to a conflict of interest.

Mr. Allen returned to the meeting at 7:13 p.m.

4B. Second public hearing to set the 2016 ad valorem tax rate.

Mayor White opened the public hearing at 7:14 p.m.; no one spoke and Mayor White closed the public hearing at 7:14 p.m.

5. ORDINANCES, FIRST READING:

5A. Ordinance No. 2016-15, adopting the annual budget for the City of Kerrville, Texas, Fiscal Year 2017; providing appropriations for each city department and fund; containing a cumulative clause; and containing a savings and severability clause. Mayor White read the ordinance by title only.

Mr. Parton noted no changes since first reading.

The following person spoke:

1. Robert Naman noted the water/sewer fund reserve was at 65-68%, well above the 25% targeted reserve, and the budget proposed to transfer out \$3.75 million between 2018-2022. He questioned why the city was carrying a large reserve balance and if there were any specific uses planned for funds being transferred out? He asked if any funds were budgeted for the proposed reuse or DPR projects? If council did not do the reuse/DPR project, would utility rates go down? In 2014 the city stated that the water needs were met for 20 years; what changed in the last year that created the need for DPR? He noted a large amount of EMS fees were not collected.

Mr. Parton noted the community investment projects list and the 10 year capital plan contained a list of projects, and the budget scheduled out projects over multiple years to accomplish projects. The budget planned \$5 million around a multi-year program for the DPR project. Rates were established to meet the city's needs, as capital needs and council's direction changes, the funds would be repurposed toward additional capital needs. Mr. Parton noted the city had accomplished many capital projects the last several years; however, the city's primary systems were at capacity and the city needed to plan for future growth. The uncollected EMS fees were due to Medicare write-offs and collections the city would not receive despite aggressive collection efforts.

Mayor White noted that salary increases in the water/sewer division over the last several years had been 1+%, and recommended increasing salaries in the water/sewer division to equal increases in the general fund.

Mr. Parton stated that salary adjustments were consistent across the departments; water/sewer employees were not receiving less than any other employees; there was not a discrepancy.

Mr. Andrew moved for approval of Ordinance No. 2016-15 on first reading. Mr. Fine seconded the motion and it passed 5-0 on roll call vote as follows:

Bonnie White, Mayor	<u>YES</u>
Stephen P. Fine, Place One	<u>YES</u>
Glenn Andrew, Place Two	<u>YES</u>
Gary Stork, Place Three	<u>YES</u>
Gene Allen, Place Four	<u>YES</u>

Mr. Fine moved to ratify the property tax increase reflected in the adopted budget. Mr. Allen seconded the motion and it passed 5-0.

5B. Ordinance No. 2016-16, levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the Fiscal Year 2017; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid. Mayor White read the ordinance by title only.

Mr. Parton proposed the tax rate remain the same as it had been for 8 years, \$0.5625. The effective tax rate calculation was \$0.5437.

Council noted the \$05625 rate would result in 3.5% increase in revenue; however, council was NOT increasing the tax rate.

Mr. Fine moved for approval of Ordinance No. 2016-16 that the property tax rate be increased by the adoption of a tax rate of .5625, which is effectively a 3.46% increase in the tax rate. Mr. Andrew seconded the motion and it passed 5-0 on roll call vote as follows:

Bonnie White, Mayor	<u>YES</u>
Stephen P. Fine, Place One	<u>YES</u>
Glenn Andrew, Place Two	<u>YES</u>
Gary Stork, Place Three	<u>YES</u>
Gene Allen, Place Four	<u>YES</u>

5C. Ordinance No. 2016-17, amending Chapter 26 "Buildings and Building Regulations", Article VI "Energy Conservation Code", of the Code of Ordinances of the City of Kerrville, Texas, by adopting the 2015 edition of the International Energy Conservation Code (IECC); adopting local amendments to said code; providing for a penalty for violation of any provision hereof; containing a cumulative clause; containing a savings and severability clause; ordering publication; providing for an effective date; and providing other matters related to the subject. Mayor White read the ordinance by title only.

Mr. Batts noted in June 2015 the State Legislature mandated that the State of

Texas adopt the IECC 2015 Edition, and that local jurisdictions also adopt it, as well as any local amendments, by September 1. On August 26 a consulting group met with about 35 local contractors and answered questions.

Mayor White questioned if the City of Kerrville was actually in a jurisdiction that was required to adopt the code?

Mr. Batts stated it was mandated by the State of Texas that the City of Kerrville adopt the IECC 2015 Code. The city had the right to amend the code to be less restrictive, and the city had done so, particularly on testing required for air changes. The city was not equipped to do air duct and blower testing; several local contractors offered this service. He confirmed that without this amendment, most wood burning fireplaces would have been eliminated by the code. Mr. Batts also confirmed that the IECC 2015 Code and local amendments would only affect new commercial and residential construction; also structures undergoing 50% remodeling would trigger code requirements, and the code would not apply to historical buildings.

Mr. Stork moved for approval of Ordinance No. 2016-17 on first reading adopting IECC with local amendments. Mr. Fine seconded the motion and it passed 5-0.

6. ORDINANCE, SECOND AND FINAL READING:

6A. Ordinance No. 2016-13 altering the prima facie speed limit on State Highway 534 (Veterans Highway) from approximately thirty-one hundred feet north of its intersection with Vista Ridge Drive and continuing in a mostly southerly direction to approximately seven hundred feet south of its intersection with Beech Street, such distance equal to 2.879 miles; reducing said speed limit to 55 miles per hour; establishing a school zone for a portion of the distance; authorizing installation of appropriate signs and markings; containing a savings and severability clause; providing for a maximum penalty or fine of Two Hundred Dollars (\$200.00); and ordering publication. (TXDOT) Mayor White read the ordinance by title only.

Mr. Burow noted TxDOT had installed the appropriate signage and signals.

Councilmember Stork questioned if Mayor White owned property within the area under consideration for a speed reduction. Mayor White replied that she did and offered to recuse herself. Mr. Hayes opined it was not a legal conflict.

Mr. Andrew moved for approval of Ordinance No. 2016-13 on second and final reading. Mr. Allen seconded the motion and it passed 5-0.

7. CONSIDERATION AND POSSIBLE ACTION:

7A. Report regarding a meeting between three members of the City Council and Young People in Recovery; and authorize the creation of a task force to review the city's regulations concerning Group Homes and Boarding Home Facilities (Ch. 30, Art. I, City's Code of Ordinances; Ordinance No. 2013-06) and make recommendations for amendments.

Mr. Andrew noted that on July 19 three councilmembers met with YPR at their request to discuss the ordinance regarding boarding homes. YPR's main concern was the cost of the annual renewal; Mr. Andrew noted that cost was reduced from \$1,000 to \$350 in the fee schedule adopted in Item 3B. He proposed a committee be established to review other requirements of the ordinance.

The following persons spoke:

1. Tony Farmer, YPR representative, noted that Jason Howell, previous board president of National Alliance for Recovery Residences, also attended the meeting on July 19, and Mr. Howell's opinion was that the current ordinance was in violation of the Fair Housing Act because people in recovery were considered disabled and as such were a protected class. He proposed that the proposed committee also discuss other related issues and recovery support needs.

2. Shannon Kelley, a sober living home owner, opined that the committee would be a benefit. The city's standards were beneficial for her as an owner and for the women in her home; the standards also helped other homes.

3. Cody Leicht stated he was the owner of recovery group homes that housed up to 50 men ages 18-65. It took a lot to bring his homes into compliance with city code, and with the reasonable accommodations section he supported the city's standards and would like to serve on the committee; further, he recommended one male and one female group homeowner also serve on the committee.

4. Whitney Welch, owner of a women's sober living home, noted homeowners and other interested persons were not notified or informed of the YPR meeting on July 19; there was a great difference between being a resident and being an owner. YPR did not represent her or her business. She did not see the need for a coalition; sober homes were privately owned so the homeowners should be the ones involved in making decisions. She appreciated the council lowering the fee.

5. Max Dunks supported council's response and noted YPR was part of international Celebrate Recovery, a Christian based organization.

Council also discussed the following:

-At the July 19 meeting Mr. Howell stated the ordinance was discriminatory and therefore was illegal. The ordinance had been through various organizations and it was legal.

-The ordinance affected only those homes located in the city.

Mr. Hayes noted the ordinance went through many reviews, including a complaint from Housing and Urban Development; staff provided information to HUD and they made a finding that it was legal and not discriminatory.

Mr. Stork moved that Councilmembers Andrew and Fine put together a plan and bring it back to a meeting in October. Mr. Fine seconded the motion and it passed 5-0.

7B. Re-engage the Reuse Water Ad-Hoc Advisory Committee (RWAC) to review and provide recommendations to the City Council on the engineering design of the water reclamation improvements and the recommendations for implementing a direct potable reuse (DPR) system. (Councilmember Andrew) Mr. Andrew noted that for the sake of transparency for this controversial topic he recommended that the RWAC committee be re-engaged to review the engineering design of the reclamation improvements project and to provide recommendations for implementing a DPR system. The committee previously voted unanimously to support the project and move forward with DPR.

The following persons spoke:

1. Jim Holloway attended a meeting at which George Baroody stated a 105 mg pond was not necessary to supply water for irrigation to Schreiner University (SU) and Riverhill Golf Course (RGC); however, it was needed for DPR. The city went out for bid for the \$20 million pond; he did not understand how the city could commit to a pond without first having a system design. It was preliminary to commit to construct a pond until DPR was engineered; the city may not need a 105 mg pond. DPR was 5-6 years away; wait 5 years and then build the pond. He would like to see it all in one project, and he asked that the pond be postponed. This project did not have the support of the citizens.

Mr. Parton noted the project was designed in three phases: 1) detention pond 2) pumping station, and 3) distribution. The design (1) for the pond and interconnects to the plant was complete and bids were scheduled to be awarded on September 27. The pumping station (2) design was 10% complete.

2. Denise Smith asked if the same eleven members would be appointed that had previously approved the project. Mr. Andrew stated that was his proposal, if the members were willing to serve. Ms. Smith asked how that was fair to the public who did not want the pond. She noted that no environmental studies were done and there was a turkey roost in this area.

3. Robert Naman asked if any councilmembers lived in an area that would have direct benefit of the reuse pond, specifically Mr. Andrew. Mr. Naman opined that allowing the same members to serve again had no value since a majority of the members lived in communities that would benefit, e.g. RGC and Comanche Trace (CT). A new committee should be formed with persons from various neighborhoods who do not have a conflict. The city should do a cost benefit analysis of the project by an independent third party, not from Kerrville, and who did not have any monetary interest in the project. George Baroody recently presented information at a citizens' meeting that indicated that the city did not need the pond. If a new committee is formed, George Baroody should be on the committee as he had extensive knowledge of the issue; Mr. Naman stated he would volunteer also.

Mr. Andrew responded he did not live in an area that would have a direct benefit; he lived in Comanche Trace and CT has had a contract with the city for effluent water for 15 years. Councilmembers noted that all persons who used area golf courses would benefit by using effluent for irrigation. People who do not live in CT but play golf at CT, would also benefit; the same for RGC and SU. All citizens would benefit by not using potable water for irrigation of golf courses.

4. George Baroody stated he would not ask to be on the committee. Creating a new committee would be disingenuous as the project had already been put out for bid. It was the job of the city council to analyze and deliberate projects; council was elected to make decisions, not a citizen's group, and it would be more productive to discuss facts and move forward than it would be to send it to a committee. The city was paying FNI and asking a citizens group to recheck their design; however, the engineering design was not in question. He questioned the expense of building the pond; he opined that the pond was only necessary for effluent customers.

5. Jerry Wolff stated that perhaps the committee could look at the overall system after the design had been submitted by the consulting company in 5-6 years; however, before the design can be done he opined that the city must provide to TCEQ a history of water samples. It was premature to form the committee now, and he asked what the committee was supposed to study noting the engineering design could not be completed at this time.

Council also discussed the following:

- The city had the design for the project and it was out for bid; the question on this agenda was whether or not to re-engage the committee.
- City had been investigating DPR since 2013, Council was confident in Freese and Nichols, Inc. (FNI).
- FNI had the final design for the effluent water project and the plan for potable (DPR) water; the pond was necessary for DPR.
- Appointing the same members would facilitate the learning curve as this was a complex project that took many months to study.
- Committee meetings would be open to the public.
- Mayor White read a letter from James Wessling.

Mayor White opined that half of the members would have to be recused from the decision due to a conflict of interest and a conflict with Section 3.5 of the procedural rules; for example, the CT contract would be up for renegotiation in a few years. Mr. Andrew noted that the WRAC had no decision making authority and could only provide recommendations to the council, so a conflict of interest did not apply. Mr. Hayes stated there was no conflict of interest under state law.

Mayor White noted a clause in the contract that if the city required the effluent for potable water, the effluent would be turned off.

Mayor White noted that the original committee was adopted by motion only. If council wished to re-engage the committee, it should be adopted by resolution and state the application process, interview committee, membership, and parameters.

Mr. Andrew moved to re-engage the reuse water ad-hoc advisory committee to review and provide recommendations to city council on the engineering design of the water reclamation improvements and recommendations for direct potable reuse, further, that the city ask previous members if they were interested in serving. If the committee did not have anything to discuss or questions to ask, then they would not have to meet.

Mr. Fine suggested the city award the contract first, then consider re-engaging the committee.

Mr. Andrew withdrew his motion and asked that the item be placed on a future agenda.

7C. Commercial real estate listing agreement between the City of Kerrville and Commercial Realty Services, Inc. for the exclusive right to sell city owned property located at 800 Junction Highway (former City Hall site).

Mr. Parton noted the city intended to sell the property at 800 Junction Highway and reimburse the city for those expenditures associated with the construction of the new city hall. Any proceeds from the sale would have to be applied to like uses; therefore, funds would have to be earmarked for additional facility needs in the future. He reviewed several options for the sale of municipal property under state law and recommended using a licensed brokerage firm to list the property through MLS for a minimum of 30 days, after which the city could consider offers. The city used this process a few years ago and received offers, but nothing materialized. Recently, Commercial Realty Services, Inc. (CRS) submitted a proposal. Mr. Parton proposed amendments from the previous brokerage agreement and recommended the city list the property with CRS. The amendments included: 1) Remove references to the existing structure and appurtenances because the structure had been removed and it was a vacant tract; and 2) Brokerage fee be 6% if the broker brings in a client. Mr. Parton noted an appraisal was completed two years ago. Mr. Hayes noted there was no legal requirement for an appraisal; if the city was going through a brokerage agreement, the city was getting market value.

The following persons spoke:

1. Ed Hamilton, local real estate broker, noted the commission on the sale would be about \$40,000. He stated that he previously had the property under contract for \$760,000; however, during the option period the buyer found that the zoning for the back area of the property was mischaracterized as multi-family residential, not commercial. He stated the city's zoning ordinance stated that the rear of the property was residential and would remain residential and it would not be zoned commercial. Previously, he submitted a letter during the option period stating

four options for the city to select and he never received a reply from the city. Ed Pollard, who owned property next door, was still interested in the property and would like to be considered; as such, Mr. Hamilton advised that Mr. Pollard was his client. Mr. Hamilton requested that since he and Mr. Pollard were previously in negotiations with the city, that Ed Pollard's name be reserved for a period of 30 days. Mr. Hamilton contended that Mr. Pollard was never notified by the city.

Mr. Parton noted the council took official action to reject Mr. Pollard's offer, and the escrow and earnest money had been returned to Mr. Pollard.

Mr. Hayes stated that the city never had a deal with anyone. Previously, Mr. Hamilton presented an offer on behalf of Mr. Pollard. The council considered the offer by Mr. Pollard and another party; the council rejected both offers. If Mr. Pollard was still interested in the property, he would have to go through Ms. Tiemann.

2. Brent Bates, a local broker; stated the city did not advertise a request for proposal for a realtor. It was standard when a deal was pending, with someone to reserve that client. He asked how long Ms. Tiemann's would have the listing. Ms. White stated the listing was for one year.

3. Mayor White read comments in a letter from James Wessling.

4. Ms. Tiemann noted that in order to receive earnest money that had been filed with a title company, a termination contract and release would have been submitted. Mr. Hamilton could represent Mr. Pollard, and she would represent the city, if the contract was signed.

Mr. Fine moved for approval of the brokerage agreement with Commercial Realty Services and to direct the city attorney to make any final amendments as discussed, and authorize execution of the agreement to get the property listed. Mr. Stork seconded the motion and it passed 5-0.

7D. Professional services agreement with Peter Lewis Architect and Associates for preliminary design work for 529 Water Street in an amount not to exceed \$15,000.

Mr. Hoppe presented an agreement with Peter Lewis to provide a rendering and preliminary architectural design plans for a portion of the property to help pursue grants and donations for future improvements to the facility and grounds, and connection to the overall library campus. The design would focus primarily on the outdoor area at this time, and additional architectural work may be phased in later.

Mr. Fine moved to approve the professional services agreement; Mr. Stork seconded the motion and it passed 4 to 1 with Councilmembers Fine, Stork, Andrew, and Allen voting in favor of the motion and Mayor White voting against the motion.

8. INFORMATION AND DISCUSSION:

8A. Saving Our Night Skies initiative. (Jim Wills) This item was presented earlier in the meeting following Item 3B.

8B. Receive an update and provide direction to staff regarding the planned indoor athletic facility at the Kerrville Sports Complex.

Mr. Parton noted the city engaged Peter Lewis and Associates for the design and construction of the indoor athletic facility pursuant to the city's lease agreement with BTP Baseball to provide a 30,000 sq. ft. structure to include up to 14,000 sq. ft. of heated and air conditioned space. Cost estimates for the building were approximately \$2.7 million; only \$2 million was budgeted. He noted a provision in the agreement that BTP could agree to changes in the design and construction. Staff met with BTP representatives and Mr. Lewis to reduce the project and still meet the requirements of the lease agreement with BTP. Mr. Parton proposed to revise the building scope to: construct a single story 17,000-18,000 sq. ft. structure, and to convert the remaining space to outdoor multi-use flex space; total project estimated at \$2 million. Mr. Lewis proposed to reduce the cost of design services and fees from \$161,000 to \$141,000 according to the revised scope of the building. Mr. Parton stated that BTP had been involved in the revised design and scope of the facility and BTP had confirmed in writing their acceptance of the layout presented tonight.

The following persons spoke:

1. Fred Speck requested the city save the current soccer complex and buy dirt for the athletics complex; the city had plenty of money to do all and not destroy the current soccer fields.

2. Jerry Wolf questioned if the city had committed to enclose the new outdoor T-ball facility in the future, and if so, when?

Mr. Parton stated that the city had met its obligation with BTP and BTP agreed, in writing, to the revised building design and BTP verified it met their needs. There was no specific time line for the city to enclose the outdoor multi-use flex space.

Mayor White recommended an amendment be prepared to make it clear that BTP agreed to 17,700 sq. ft.

Mr. Parton stated the city did not have to modify the agreement; it had a provision that changes could be made upon agreement by BTP, which they have agreed to in writing.

9. ITEMS FOR FUTURE AGENDAS

- Review fee structure regarding the sale of effluent.
- Consider re-engaging reuse water ad-hoc committee after the bid had been awarded for the effluent pond.

10. ANNOUNCEMENTS OF COMMUNITY INTEREST were presented.

11. EXECUTIVE SESSION: None.

12. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION: None.

ADJOURNMENT. The meeting adjourned at 9:40 p.m.

APPROVED: _____

ATTEST:

Bonnie White, Mayor

Brenda Craig City Secretary

Agenda Item:

5A. Ordinance No. 2016-14, amending Chapter 18 "Animals", of the City's Code of Ordinances by amending Section 18-31 "Dog and Cat Registration" and Section 18-32 "Rabies Vaccination"; containing a savings and severability clause; providing an effective date; and providing other matters relating to the subject.
(staff)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

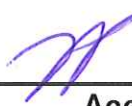
SUBJECT: Second reading of Ordinance No. 2016-14 amending Section 18-31. Dog and cat registration. and Section 18-32. Rabies vaccination. of the City of Kerrville Code of Ordinances

FOR AGENDA OF: Oct. 25, 2016 **DATE SUBMITTED:** Oct. 18, 2016

SUBMITTED BY: Todd Parton **CLEARANCES:**
City Manager

EXHIBITS: Amendments to Code of Ordinances

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	\$0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Attached are revisions to the City of Kerrville ordinances pertaining the animal control and rabies vaccinations. City Council directed city staff to revise the city's codes to allow for rabies vaccinations of up to 3 years. The existing code requires that cats and dogs of at least 4 months of age be vaccinated annually. There are now rabies boosters available that have a maximum labeled durability of up to 3 years. State law now allows that rabies be administered on the basis of the manufacture's specified durability not to exceed 3 years.

Additional sections of the city's rabies vaccination ordinance have been revised to coincide with state statute and current city practice.

Section 18-31 of the City of Kerrville Code of Ordinances was adopted in 1968 and required that dogs and cats be registered with the city. Kerrville does not have an animal control department and has not had an animal registration program for many years. This section has been amended to correspond with the requirement to vaccinate dogs and cats over the age of 4 months against rabies.

RECOMMENDED ACTION

City staff recommends that these amendments to Sections 18-31 and 18-32 of the City of Kerrville Code of Ordinances be amended as presented.

**CITY OF KERRVILLE
ORDINANCE NO. 2016-14**

**AN ORDINANCE AMENDING CHAPTER 18 “ANIMALS”, OF THE
CITY’S CODE OF ORDINANCES BY AMENDING SECTION 18-31
“DOG AND CAT REGISTRATION” AND SECTION 18-32 “RABIES
VACCINATION”; CONTAINING A SAVINGS AND SEVERABILITY
CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING
OTHER MATTERS RELATING TO THE SUBJECT**

WHEREAS, Chapter 18 of the City’s Code of Ordinances (“Code”) provides regulations regarding the ownership, care, and keeping of animals within the City; and

WHEREAS, Section 18-31 of the Code currently requires, in general, the registration of any dog and cat within the City; and

WHEREAS, Section 18-32 of the Code currently requires, in general, the owner of each dog or cat within the City to vaccinate their pet against rabies; and

WHEREAS, following a presentation at a recent meeting, City Council directed staff to review applicable state law, meet with Kerr County and discuss the County’s provision of animal control services, and then return to Council with recommended amendments to the City’s animal control regulations with respect to Sections 18-31 and 18-32 as referenced above; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Sections 18-31 and 18-32 as provided herein;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. Chapter 18 “Animals”, Article II “Animal Control; Rabies” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 18-31 to add the language that is underlined (added) and to delete the language that is bracketed and stricken (~~deleted~~) as follows:

“Sec. 18-31. Dog and cat ~~registration~~ vaccination.

~~[(a) Required:]~~ It shall be unlawful for any person to own, keep, harbor, or have custody or control of any dog or cat over four months of age within the City without ~~first registering~~ having each dog or cat vaccinated as provided in this ~~[section]~~ article.

~~[(b) Registration fee. A registration fee of \$4.00 shall be paid to local veterinarians at the time of rabies vaccination and upon procuring a rabies vaccination certificate or to the city health department after showing proof of rabies vaccination. The term “proof” shall mean either (i) presentation of a metal vaccination tag issued by a licensed veterinarian showing that such vaccination is current and can be verified as belonging to the specific animal wearing the tag, or (ii) presentation of a current rabies vaccination certificate issued by a licensed veterinarian. This fee shall be apportioned as follows:~~

~~(1) —Three dollars to be paid to city treasurer.~~

~~(2) — One dollar to be paid to issuing veterinarian.~~

~~(Noted exception: During annual rabies vaccination drives, all pets may be registered for a reduced fee of \$1.00. Any registration fees collected during this period will be paid to the city.) The fees and charges set forth and/or established in this section may be changed and amended, from time to time, by resolution of the city council.~~

~~(c) When to register. Registration of the animal must be made within 30 days after moving to the city or after obtaining a dog or cat over four months of age, except that this requirement will not apply to a nonresident individual keeping a dog or cat within the city for no longer than 0 days.~~

~~(d) Records. The animal control supervisor shall cause to be maintained a current record disclosing rabies tag numbers of dogs and cats registered, and the names and addresses of persons to whom the registrations are issued.~~

~~(e) Term. The registration shall be valid on a concurrent term with the rabies vaccination.~~

~~(f) Fee exemption. No registration fee shall be charged for any assistance animal actually used by a person with a disability, as defined in V.T.C.A., Human Resources Code § 121.002(1) and (4), (Coded 1968, art. 10-I-3(b)(1).]”~~

SECTION TWO. Chapter 18 “Animals”, Article II “Animal Control; Rabies” of the Code of Ordinances of the City of Kerrville, Texas, is amended by replacing Section 18-32 in its entirety as follows:

“Sec. 18-32. Rabies vaccination.

(a) Each person who owns, keeps, or harbors a dog or cat within the City limits shall have the animal vaccinated against rabies no later than four (4) months of age and thereafter, shall vaccinate the animal on a one (1) or three (3) year basis, depending on the type of vaccine used.

(b) For an animal to be considered currently vaccinated against rabies, the animal must have been at least three (3) months of age at the time of vaccination, at least thirty (30) days must have elapsed since the initial vaccination, and not more than thirty-six (36) months, depending on the vaccine used, can have elapsed since the last vaccination.

(c) A veterinarian who vaccinates a dog or cat as required in this section shall furnish the owner of the animal with an official rabies vaccination certificate containing the following information:

(1) The name, address, and telephone number of the owner or custodian of the animal;

- (2) Animal identification-species, sex (including neutered if applicable), approximate age, weight (pounds), predominant breed, and colors;
- (3) Vaccine information to include the product name, manufacturer, serial number, and maximum duration of immunity;
- (4) Date vaccinated;
- (5) Revaccination due date;
- (6) Rabies tag number matching the metal rabies tag issued in accordance with this section; and
- (7) The signature, signature stamp, or computerized signature of the veterinarian, and business address and license number.

(d) A veterinarian who vaccinates a dog or cat as required in this section shall furnish the owner or custodian thereof with a metal tag bearing a number matching the number placed on the certificate as specified in subsection (c) of this section.

(e) Each person who owns, keeps, or harbors a dog or cat within the City limits shall attach, and thereafter maintain at all times, the metal rabies tag issued pursuant to this section to the collar of the dog or cat for which it is issued.

(f) A veterinarian who issues a rabies vaccination certificate or the veterinary practice where the certificate was issued, shall retain a readily retrievable copy of the certificate for a period of not less than five (5) years.

(g) Where a veterinarian practice ceases the practice of veterinary medicine, the duplicate rabies vaccination certificates retained by that practice shall be turned over to the local rabies control authority. This requirement does not apply to the sale or lease of a practice when the records of the practice are transferred to a new owner or operator.

(h) Each person who owns, keeps, or harbors a dog or cat within the City limits shall (i) retain each rabies vaccination certificate until the animal receives a subsequent booster; and (ii) produce the certificate upon request by any local rabies control authority, public health official, animal control officer, police officer, or peace officer when the request is part of the requestor's official duty."

SECTION THREE. The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend the Code to reflect the amendments of Chapter 18 as adopted herein, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

SECTION FOUR. The provisions of this Ordinance are cumulative of all other Ordinances or parts of Ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior Ordinances or parts of Ordinances inconsistent

with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding will not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this Ordinance is in accordance with the general penalty provision contained in Section 1-7, or its successor section, of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

SECTION SEVEN. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION EIGHT. This Ordinance is effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this 11th day of October, 2016.

PASSED AND APPROVED ON SECOND AND FINAL READING, this _____ day of _____, 2016.

Bonnie White, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

5B. Ordinance No. 2016-18, granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to furnish, transport and supply gas to the general public in the City of Kerrville, Kerr County, Texas, for the transporting, delivery, sale, and distribution of gas in, out of, and through said municipality for all purposes; providing for the payment of a fee or charge for the use of the streets, alleys, and public ways; repealing all predecessor ordinances; providing that it shall be in lieu of other fees and charges, excepting ad valorem taxes; prescribing the terms, conditions, obligations and limitations under which such franchise shall be exercised; providing a savings clause, a most favored nations clause, and a severability clause; and providing an effective date. (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Ordinance No. 2016-18, granting to Atmos Energy Corporation a franchise to furnish, transport, and supply gas to the general public within the City of Kerrville, for the transporting, delivery, sale, and distribution of gas in, out of, and through the City for all purposes; providing for the payment of a fee or charge for the use of the streets, alleys, and public ways, and providing other matters related thereto
[**SECOND OF THREE ORDINANCE READINGS** (see §13.02, City Charter)]

FOR AGENDA OF: Oct. 25, 2016 **DATE SUBMITTED:** Oct. 18, 2016

SUBMITTED BY: Mike Hayes
City Attorney

CLEARANCES: Todd Parton, City Manager
Sandra Yarbrough, Finance
Dir.

EXHIBITS: Ordinance No. 2016-18

AGENDA BILL MAILED TO: Atmos Energy Corp. c/o Erikka L. Hise, attorney; Randy Hartford, Manager Public Affairs

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$ 0	\$ 0	\$ 0	NA

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The attached ordinance ("Franchise Ordinance") will grant Atmos Energy Corp. ("Atmos") a franchise for it to transport and furnish gas to residential, commercial, and industrial customers within the City. The Franchise Ordinance is necessary to authorize Atmos to continue utilizing City property (rights-of-way) for the transport and delivery of natural gas to customers within the City. Some significant aspects of the Franchise Ordinance include:

- The term of the franchise will extend through Dec. 31, 2026
- For use of the City's rights-of-way, Atmos will pay City a franchise fee in the amount of 5% of Atmos' Gross Revenues
- Atmos will extend its distribution main up to one hundred feet (100.0') under certain conditions and has agreed not to arbitrarily refuse to provide service to anyone that its economically feasible for Atmos to serve
- Provisions that call for Atmos to relocate its gas lines at its expense under certain circumstances (e.g., street construction)

- Provisions for Atmos maintain a toll-free number and, in a good faith effort, maintain at least one local office for bill payments

Pursuant to Section 13.02 of the Charter, this Ordinance must be read at 3 regular Council meetings.

There have been no changes to the Ordinance from the 1st reading.

RECOMMENDED ACTION

Approval of Ordinance on 2nd reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2016-18**

AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO FURNISH, TRANSPORT AND SUPPLY GAS TO THE GENERAL PUBLIC IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, FOR THE TRANSPORTING, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID MUNICIPALITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE STREETS, ALLEYS, AND PUBLIC WAYS; REPEALING ALL PREDECESSOR ORDINANCES; PROVIDING THAT IT SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED; PROVIDING A SAVINGS CLAUSE, A MOST FAVORED NATIONS CLAUSE, AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. GRANT OF AUTHORITY

(A) The City of Kerrville, Texas, hereinafter called "City," hereby grants to Atmos Energy Corporation, Mid-Tex Division, hereinafter called "Atmos Energy," its successors and assigns, privilege and license to use and occupy the present and future Public Rights-of-Way of City for the purpose of laying, maintaining, constructing, protecting, operating, and replacing the System needed and necessary to deliver, transport and distribute gas in, out of, and through City and to sell gas to persons, firms, and corporations, including all the general public, within the City's corporate limits.

(B) Said privilege and license being granted by this Ordinance is for a term ending ten (10) years after the Effective Date. Unless written notice of its intent to renegotiate and/or terminate is provided by either the City or Atmos Energy at least 180 days prior to the expiration of any term, the franchise shall be extended for two (2) additional term of five (5) years on the same terms and conditions as set forth herein.

(C) The provisions set forth in this Ordinance represent the terms and conditions under which Atmos Energy shall construct, operate, and maintain the System within City, hereinafter sometimes referred to as the "Franchise." In granting this Franchise, City does not in any manner surrender or waive its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, nor any of its rights and powers under or by virtue of present or future ordinances of City, including but not limited to generally applicable ordinances regulating the use of Public Rights-of-Way. Company, by its acceptance of this Franchise, agrees that all such lawful regulatory powers and

rights as the same may be from time to time vested in City shall be in full force and effect and subject to the exercise thereof by City at any time.

SECTION TWO. DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(A) “*Affiliate*” shall mean in relation to Company, a Person that controls, is controlled by, or is under common control with Company. As used in this definition, the term “control” means, with respect to a Person that is a corporation, the ownership, directly or indirectly, of more than 50% of the voting securities of such Person or, with respect to a Person that is not a corporation, the power to direct the management or policies of such Person, whether by operation of law, by contract, or otherwise.

(B) “*City*” shall mean the City of Kerrville, Texas.

(C) “*Company*” shall mean Atmos Energy Corporation, Mid-Tex Division, its successors and assigns, but does not include an Affiliate, which shall have no right or privilege granted hereunder except through succession or assignment in accordance with Section Six.

(D) “*City Manager*” shall mean the City’s chief executive officer, or his or her designee.

(E) “*Gross Revenues*” shall mean all revenues received by Company from the sale of gas to all classes of customers (excluding gas sold to another gas utility in City for resale to its customers within City) within the corporate limits of City.

(1) “*Gross Revenues*” shall include:

- (a) revenues derived from the following miscellaneous charges:
 - i. charges to connect, disconnect, or reconnect gas within City;
 - ii. charges to handle returned checks from consumers within City;
 - iii. miscellaneous charges may include certain other service charges that have, from time to time, been authorized in the rates and charges on file with City. Any such service charge not already described in this Section Two (D)(1)(a) will be included in the definition of Gross Revenues upon the mutual written agreement of City and Company; and
 - iv. contributions in aid of construction (“CIAC”).
- (b) revenues billed but not ultimately collected or received by Company;
- (c) State gross receipts fees;

- (d) all revenues derived by Company from the transportation of gas through the System of Company within City to customers located within City (excluding any gas transported to another gas utility in City for resale to its customers within City);
 - (e) the value of gas transported by Company for Transport Customers through the System of Company located in City's Public Rights-of-Way ("Third Party Sales")(excluding the value of any gas transported to another gas utility in the City for resale to its customers within City), with the value of such gas to be established by utilizing Company's monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division, as reasonably near the time as the transportation service is performed; and
 - (f) fees paid pursuant to this Ordinance.
- (2) "*Gross Revenues*" shall not include:
- (a) the revenue of any Affiliate or subsidiary of Company; and
 - (b) sales taxes; and
 - (c) any interest or investment income earned by Company; and
 - (d) all monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within City's Public Right-of-Way.

(F) "*Person*" shall mean any natural person, or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not, unless the context clearly intends otherwise, include City or any employee, agent, servant, representative or official of City.

(G) "*Public Right-of-Way*" shall mean public streets, alleys, highways, bridges, public easements, public places, public thoroughfares, grounds, and sidewalks of City, as they now exist or may be hereafter constructed, opened, laid out or extended within the present limits of City, or in such territory as may hereafter be added to, consolidated or annexed to City.

(H) "*System*" or "*System Facilities*" shall mean all of Company's pipes, pipelines, gas mains, laterals, feeders, regulators, meters, fixtures, connections, and all other appurtenant equipment used in or incident to providing delivery, transportation, distribution, supply and sales of natural gas for heating, lighting, and power, located in the Public Right-of-Way within the corporate limits of the City.

(I) "*Transport Customer*" shall mean any Person for which Company transports gas through the System of Company within the City's Public Right-of-Way for delivery within the City (excluding other gas utilities in City who resell gas to their customers within City).

**SECTION THREE. EFFECT OF OTHER MUNICIPAL FRANCHISE
ORDINANCE FEES ACCEPTED AND PAID BY
COMPANY**

(A) If Company should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in Atmos Energy's Mid-Tex Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its Public Right-of-Way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due City under this Ordinance, then the franchise fee to be paid by Company to City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other franchise ordinance applied to City.

(B) The City acknowledges that the exercise of this right is conditioned upon City's acceptance of all terms and conditions of the other municipal franchise *in toto*. The City may request waiver of certain terms and Company may grant, in its sole reasonable discretion, such waiver.

SECTION FOUR. ACCEPTANCE OF TERMS OF FRANCHISE

(A) Prior to the adoption of this Ordinance by the City for the first of three readings as required by the City's charter, the Company shall provide to the City its agreement with the form of the Ordinance as presented to the City Council. After the final passage and approval of this Ordinance by the City, the Company shall file its written acceptance thereof with the City Secretary. If Company does not file such written acceptance of this Ordinance within thirty (30) calendar days of receipt of the fully executed Ordinance, the Ordinance shall be rendered null and void.

(B) At 11:59 p.m. on December 31, 2026, ALL rights, franchises and privileges herein granted, unless they have already at that time ceased or been forfeited, extended pursuant to Section One or by mutual agreement while a new franchise is being negotiated, shall at once cease and terminate.

SECTION FIVE. NO THIRD PARTY BENEFICIARIES

This Franchise is made for the exclusive benefit of City and Company, and nothing herein is intended to, or shall confer any right, claim, or benefit in favor of any third party.

SECTION SIX. SUCCESSORS AND ASSIGNS

No assignment or transfer of this Franchise shall be made, in whole or in part, except in the case of assignment or transfer to an Affiliate, without approval of the City Council of City. Notice of said transfer or assignment to an Affiliate shall be provided to the City. City will otherwise have the right to approve the transfer or assignment of the franchise to a non-Affiliate. City shall grant approval unless the assignee is materially weaker than the Company. For the purpose of this section, "materially weaker" means that the long term unsecured debt rating of the assignee is less than investment grade as rated by both S&P and Moody's. The City may request additional documents and information reasonably related to the transaction and to the legal, financial, and technical qualifications of the assignee. City agrees that approval of a

transfer or assignment to a non-Affiliate that is materially weaker shall not be unreasonably withheld or delayed. Upon approval, the rights, privileges, and franchise herein granted to Company shall extend to and include its successors and assigns. The terms, conditions, provisions, requirements and agreements contained in this Franchise shall be binding upon the successors and assigns of Company.

SECTION SEVEN. COMPLIANCE WITH LAWS, CHARTER, AND ORDINANCES

This Franchise is granted subject to the laws of the United States of America and its regulatory agencies and commissions and the laws of the State of Texas, the Kerrville City Charter, as amended, and all other applicable ordinances of City, not inconsistent herewith, including, but not limited to, ordinances generally applicable to regulating the use of Public Rights-of-Way.

SECTION EIGHT. PREVIOUS FRANCHISE ORDINANCES

All previous gas franchise ordinances and parts of franchise ordinances applicable to Company or its predecessors in interest granted by City are hereby repealed.

SECTION NINE. NOTICES

(A) Any notices required or desired to be given from one party to the other party to this Ordinance shall be in writing and shall be given and shall be deemed to have been served and received if: (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY

City Manager
City of Kerrville
City Hall
701 Main Street
Kerrville, Texas 78028

COMPANY

Manager of Public Affairs
Atmos Energy, Mid-Tex Division
3110 North I-35
Round Rock, Texas 78681

(B) The Company shall provide to the City the toll-free telephone number for its Gas Dispatch Center that is manned twenty-four (24) hours a day, seven (7) days a week. The Gas Dispatch Center is intended to provide a response to the emergency situation and will be available to the City to keep the City informed of the response and possible estimated time of arrival. The City understands that the Gas Dispatch Center is not equipped to handle calls from the public, and the City will not provide this number to customers, but will direct them to the Company's Call Center. If the Company cannot timely respond to an emergency with Company employees, the Company will attempt to respond to the emergency with qualified local

contractors. The Company's contact information shall be kept current at all times. The Company and the City shall periodically, and upon request by either party, meet to discuss and address emergency response issues, in order to rectify any problems identified by either party.

SECTION TEN. PARAGRAPH HEADINGS, CONSTRUCTION

The paragraph headings contained in this Ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this Ordinance and this Ordinance shall not be construed either more or less strongly against or for either party.

SECTION ELEVEN. CONDITIONS OF OCCUPANCY

(A) All construction and the work done by Company, and the operation of its business, under and by virtue of this Ordinance, shall be in conformance with the generally applicable ordinances, rules and regulations now in force, including but not limited to any applicable ordinances that may hereafter be adopted by City, relating to the use of City's Public Rights-of-Way. This Franchise shall in no way affect or impair the rights, obligations or remedies of the parties under the Texas Utilities Code, or other state or federal law. Nothing herein shall be deemed a waiver, release, or relinquishment of either party's right to contest or appeal any action or decision of the other party, including ordinances adopted by the City, that it believes is contrary to any federal, state, or local law or regulation.

(B) As a general rule, Company shall install System Facilities in the Public Right-of-Way at a depth below any water or wastewater lines and at a distance apart from such lines as required by law. Where such situation with City lines is not present, and unless otherwise agreed to by City, all new mains installed by Company in the Public Right-of-Way shall be installed at a minimum depth of twenty-four inches (24.0") and in accordance with City's subdivision regulations. In addition, new mains installed by Company shall be installed across the street or Public Right-of-Way from water and wastewater lines when practicable. Where conflict occurs or could occur, the parties shall work together to agree on alternative locations. Notwithstanding the foregoing, Company shall not be required to install or relocate facilities to a depth of greater than four (4) feet unless prior agreement is obtained from Company.

(C) Company shall remove or allow removal of System Facilities that have been abandoned by Company where such System Facilities are in conflict with new facilities that are installed in the Public Right-of-Way or as required in Section Twelve below.

(D) When using directional boring, Company shall submit bore logs to City as they are kept by Company in the normal course of business.

SECTION TWELVE. RELOCATION OF SYSTEM FACILITIES

(A) Whenever by reason of widening or straightening or construction or reconstruction of streets, alleys, drainage, water, wastewater, or electrical line projects, to include sidewalks or other improvements to Public Rights-of-Way as required by the Americans with Disabilities Act, or any other public works projects in which beautification or accommodation of

a private developer is not a primary purpose of the project, and City requests that Company remove, alter, change, adapt, or conform the underground or aboveground System Facilities of Company to another part of the Public Right-of-Way, such alterations shall be made by Company at Company's expense for facilities that are in conflict, unless provided otherwise by federal or state law. System facilities are deemed to be in conflict to the extent that the proposed City facilities are inconsistent with gas distribution industry standard safe operating statutes, regulations, and practices for existing facilities as determined by the Company and the City. When required by City to remove or relocate its mains, laterals, and/or other facilities lying within Public Rights-of-Way, the Company shall do so as soon as practically possible with respect to the scope of the project. In no event shall the Company be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to Company by City. The Company will work with the Public Works Director or designee to set an acceptable deadline. The Company shall be responsible for any direct costs associated with project delays associated with its failure to conform System Facilities within the required time frame. Unless mutually agreed to by City and Company, in no event shall Company delay the start of its relocation work more than ninety (90) days from receipt of notice from City, which notice shall include substantially complete plans. If Company fails to move the System Facilities on or before the approved scheduled completion date, Company shall be subject to the termination provisions of Section Twenty Five.

(B) When Company is required by City to remove or relocate its System Facilities to accommodate widening or straightening or construction or reconstruction of streets, alleys, drainage, water, wastewater, or electrical line projects, to include sidewalks or other improvements to Public Rights-of-Way as required by the Americans with Disabilities Act, or any other public works projects in which beautification or accommodation of a private developer is not a primary purpose of the project (e.g., installing or improving storm drains, water lines, wastewater lines, etc.), and Company is eligible under federal, state, county, local, or other programs for reimbursement of costs and expenses incurred by Company as a result of such removal or relocation, and such reimbursement is required to be handled through City, Company costs and expenses shall be included in any application by City for reimbursement, if Company submits its cost and expense documentation to City prior to the filing of the application. City shall provide reasonable notice to Company of the deadline for Company to submit documentation of the costs and expenses of such relocation to City. Upon receipt of an amount of reimbursement intended for utility relocation including, but not limited to, gas utilities, City shall remit to Company, within thirty (30) days of receipt, the portion of reimbursement related to the relocation or removal of Company's facilities. Notwithstanding anything contained in this Ordinance, if System Facilities are required to be removed or relocated for any reason other than the reasons noted in this Section, Company shall be entitled to reimbursement from City or others of the cost and expense of such removal or relocation.

(C) If City abandons, pursuant to Council action, any Public Right-of-Way in which Company has facilities, for public safety reasons or in furtherance of a public project, City shall determine whether it is appropriate to retain a public utility easement in such Public Right-of-Way for use by Company. If City determines, in its sole discretion, that the continued use of the Public Right-of-Way by Company is compatible with the abandonment of the Public Right-of-Way, then in consideration of the compensation set forth in Section Twenty, and to the maximum extent of its right to do so, City shall grant Company an easement for such use, and

the abandonment of the Public Right-of-Way shall be subject to the right and continued use of Company. If City determines, in its sole reasonable discretion, that it is not appropriate to retain a public utility easement in such Public Right-of-Way, Company shall be responsible, subject to the provisions of Section Eleven, for relocating its System from such Public Right-of-Way, as directed by City. If Public Right-of-Way is sold, conveyed, abandoned, or surrendered by City to a third party, such action shall be conditioned upon Company's right to maintain use of the former Public Right-of-Way. If the third party requests Company to relocate its System from the former Public Right-of-Way, and if such relocation is agreed to by Company, such relocation shall be at the expense of the party requesting same. In addition, in the event of a third party requesting the relocation, if the relocation cannot practically be made to another Public Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

(D) When Company is required to remove or relocate its mains, laterals or other System Facilities to accommodate construction by City without reimbursement from City, Company shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Company to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law, nor shall anything herein be construed to waive City's rights or obligations under state and/or federal law to review and approve or deny such surcharge request. Notwithstanding the foregoing, in cases where the Company is seeking to implement a surcharge to recover unreimbursed costs of relocations required by City, City shall not contest the necessity of the relocation, nor shall it demand documentation of Company's reasonable efforts to receive reimbursement for relocations required by City. City shall not oppose recovery of reasonable relocation costs when Company is required by City to perform relocation. Notwithstanding the foregoing, the City shall have the right to request other project documentation to the full extent provided by state law.

(E) When required for a public health or safety purpose, Company shall identify for the City the location of its System Facilities within the Public Rights-of-Way. Any maps provided by Company to the City shall be deemed confidential and shall be clearly identified as such by Atmos Energy when provided to the City, and will be provided solely for the City's use. The City agrees to maintain the confidentiality of any non-public information obtained from Atmos Energy to the extent allowed by law. If the City receives a request under the Texas Public Information Act that includes Company's previously designated proprietary or confidential information, City will request an opinion from the Texas Attorney General as to the confidential or the proprietary nature of the document(s). The City also will provide Company with notice of the request, and thereafter Company is responsible for establishing that an exception under the Texas Public Information Act allows the City to withhold the information. Company shall provide all location and "as built" plans on a going forward basis as required pursuant to the City's permitting process.

SECTION THIRTEEN. LAYING OF LINES IN ADVANCE OF PAVING

(A) City shall provide Company with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. City shall

notify Company as soon as reasonably possible of any projects that will affect Company's facilities located in the Public Rights-of-Way.

(B) Whenever City shall conclude to pave any Public Right-of-Way in which System Facilities already exist or in which Company may propose to install its System, Company will be provided the opportunity, at no expense to City, in advance of such paving to lay or renew such System Facilities.

(C) At least ninety (90) days prior to the planned paving or repaving of Public Rights-of-Way, City shall give Company written notice of the intention of City to pave any such Public Right-of-Way. Upon receipt of such notice, Company shall initiate its review process to determine the need to lay or renew its System Facilities, and the need to lay or renew service lines underneath the portions of the Public Rights-of-Way to be paved. If Company determines such a need, Company shall promptly initiate such work and shall thereafter proceed in a good faith and workmanlike manner to completion of the necessary work within ninety (90) days after receipt of the notice from the City. Company's failure to complete the necessary work within the ninety (90) day period may be excused at the City's discretion, if Company has promptly notified the City of the circumstances that have caused the delay, and has requested an extension of the construction period. City shall grant the extension unless withheld for good cause.

(D) If Company should fail to take advantage of the pre-paving opportunity to undertake new construction or repairs to existing System Facilities in the Rights-of-Way to be paved, and such street or alley is thereafter paved, except in an emergency or in response to a request for initiation of new service, Company shall for two (2) years thereafter not be allowed to cut such pavement or excavate in such paved street or alley for any purpose, except by written permission of the City Manager under such terms and conditions as the City Manager may prescribe.

SECTION FOURTEEN. CONFLICTING FACILITIES

If Company, in installing its System, shall come into conflict with the facilities of any other Person authorized by City to use the Public Right-of-Way, the Public Works Director shall decide all questions concerning the conflict of the respective parties, and shall determine the location of the structures of the said parties and the actions necessary to reconcile their differences. Company shall have the right to request City Council review of any such actions.

SECTION FIFTEEN. INSTALLATION OF METER

If a meter is to be installed in or near the Public Right-of-Way, Company agrees to discuss with the Public Works Director or his or her delegate, the aesthetics of the meter placement and to accommodate the request of City to the maximum extent possible. If City requests a meter upgrade, Company will comply so long as City reimburses Company for the reasonable costs incurred by Company in changing meters. In no event, however, shall underground meters be required.

SECTION SIXTEEN. EXTENSIONS FOR CUSTOMERS

Company shall, at its expense, extend distribution mains in any street up to one hundred (100) feet for any one residential or commercial customer so long as the customer at a minimum uses gas for unsupplemented space heating and water heating. Company shall not be required to

extend transmission mains in any Public Rights-of-Way within City or to make a tap on any transmission main within City unless Company agrees to such extension by a written agreement between Company and a customer.

SECTION SEVENTEEN. DUTY TO SERVE

Company hereby agrees that it will not arbitrarily refuse to provide service to anyone that it is economically feasible for Company to serve. In the event that a Person is refused service, said Person may request a hearing before the City Council of City or its designee, said hearing to be held within forty-five (45) days from the date of the request for hearing. The Council may order Company to provide service or take any other action necessary to bring Company into compliance with the intent of the Council in granting this Franchise, including termination or forfeiture of the Franchise in accordance with Section Twenty-Five. The Council may render its opinion at this meeting but in no event shall it be required to act in less than fourteen (14) days.

SECTION EIGHTEEN. CUSTOMER SERVICE STANDARDS; LOCAL OFFICE

(A) Company shall maintain a local, toll-free or collect call telephone access line which will be available to its customers 24 hours a day, seven days a week.

(B) Company shall make a good faith effort to maintain within City one or more conveniently located bill payment offices where customers can pay their bills. In no circumstance shall the absence of such a bill payment office be considered violation of a material provision of this Franchise as outlined in Section Twenty-Five.

SECTION NINETEEN. RATES

Company shall furnish high quality service to the public at reasonable rates and charges therefor; and Company shall maintain its System in good order and condition. Such rates shall be established in accordance with all applicable statutes and ordinances. Company shall maintain on file with City copies of its current tariffs, schedules or rates and charges, customer service provisions, and line extension policies. The rates and charges collected from its customers in the City shall be subject to revision and change by either City or Company in the manner provided by law.

SECTION TWENTY. PAYMENTS TO THE CITY

(A) In consideration of the privilege and license granted by City to Company to use and occupy the Public Rights-of-Way in the City for the conduct of its business, Company, its successors and assigns, agrees to pay and City agrees to accept such franchise fees in the amount and manner described herein. Except as provided for in Section Twenty(B), such payments shall be made on a quarterly basis, on or before the forty-fifth (45th) day following the end of each calendar quarter. The franchise fee shall be a sum of money that shall be equivalent to five percent (5%) of the quarterly Gross Revenues, as defined in Section Two(D), for the preceding calendar quarter. The initial payment provided under this Franchise shall be due on or before May 15, 2017, based on the preceding calendar quarter (January 1, 2017 to March 31, 2017) and shall be for the right and privilege during the preceding calendar quarter (January 1, 2017 to

March 31, 2017). Subsequent payments shall be made as follows during the term of the Franchise:

Payment Due	For Calendar Quarter
May 15	Jan. 1 – March 31
Aug. 15	April 1 – June 30
Nov. 15	July 1 – Sept. 30
Feb. 15	Oct. 1 – Dec. 31

The final payment under the initial term of this Franchise will be due on or before February 15, 2027, and will be for the preceding calendar quarter (October 1, 2026 to December 31, 2026).

(B) The franchise fee amounts based on “Contributions in Aid of Construction” (“CIAC”) shall be calculated on an annual calendar year basis, *i.e.*, from January 1 through December 31 of each calendar year. The franchise fee amounts that are due based on CIAC shall be paid at least once annually on or before April 30 each year based on the total CIAC recorded during the preceding calendar year. The initial CIAC franchise fee payment will be due on or before April 30, 2017 and will be based on CIAC received from January 1, 2016, through December 31, 2016. Unless this Franchise is extended, the final payment of franchise fee amounts based on CIAC will be April 30, 2027, for the calendar year ending December 31, 2026.

(C) It is also expressly agreed that the franchise fees shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as a special or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that City may now impose or hereafter levy and collect from Company or Company’s agents, excepting only the usual general or special ad valorem taxes that City is authorized to levy and impose upon real and personal property. Except however, Company’s separate obligations to reimburse the City for City’s reasonable rate case expenses and for street repairs in accordance with City’s ordinances, are not affected by Company’s payment of franchise fees hereunder. Should City not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of occupation taxes, licenses, fees, street or alley rentals or charges, easements or franchise taxes, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy Company’s obligations, if any, to pay such occupation taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges aforesaid.

(D) If Company fails to pay when due any payment provided for in this section, Company shall pay such amount plus interest consistent with the rate for customer deposits under Texas Utilities Code Section 183.003 from such due date until payment is received by City.

(E) City agrees that: (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of Atmos’ rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of Atmos’ franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by Atmos; and (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City

will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Atmos.

(F) Company shall have the right to lease, license or otherwise grant to a party other than Company the use of its Facilities within the City's Public Right-of-Way provided: (i) Company first notifies City of the name of the lessee, licensee or user, the type of service(s) intended to be provided through the facilities, and the name and telephone number of a contact person associated with such lessee, licensee or user; and (ii) Company makes the franchise fee payment due on the revenues from such lease pursuant to Section Twenty of this Ordinance. This authority to lease Facilities within City's Public Right-of-Way shall not affect any such lessee, licensee or user's obligation, if any, to pay franchise fees, access line fees, or similar Public Right-of-Way user fees.

(G) City shall, within thirty (30) days of final approval, give Company notice of annexations and disannexations of territory by City, which notice shall include a map and addresses, if known. Upon receipt of said notice, Company shall promptly initiate a process to reclassify affected customers into the City limits no later than sixty (60) days after receipt of notice from City. The annexed areas added to the City limits will be included in future franchise payments in accordance with the effective date of the annexation if notice was timely received from City. Upon request from City, Company will provide documentation to verify that affected customers were appropriately reclassified and included for purposes of calculating franchise payments. In no event shall the Company be required to add premises for the purposes of calculating franchise payment prior to the earliest date that the same premises are added for purposes of collecting sales tax.

SECTION TWENTY-ONE. BOOKS AND RECORDS

(A) Company agrees that at the time of each quarterly payment, Company shall also submit to the City a statement showing its Gross Revenues for the preceding calendar quarter as defined in Section Two(E).

(B) City may, if it sees fit, upon reasonable notice to the Company, have the books and records of Company examined by a representative of said City to ascertain the correctness of the reports agreed to be filed herein. Company shall make available, during normal working hours and upon reasonable notice, such personnel and records as City may in its reasonable discretion request in order to complete such audit, and shall make no charge to the City therefor. Company shall assist City in its review by providing all requested information no later than fifteen business (15) days after receipt of a request. The cost of the audit shall be borne by City unless the audit discloses that the Company has underpaid the franchise fee by 10% or more, in which case the reasonable costs of the audit shall be immediately reimbursed to the City by the Company. If such an examination reveals that Company has underpaid City, then upon receipt of written notification from City regarding the existence of such underpayment, Company shall undertake a review of City's claim and if said underpayment is confirmed, remit the amount of underpayment to City, including any interest calculated in accordance with Section Twenty (D). Should Company determine through examination of its books and records that City has been overpaid, upon receipt of written notification from Company regarding the existence of such overpayment, City shall review Company's claim and if said overpayment is confirmed, remit the amount of overpayment to Company including any interest calculated in accordance with

Section Twenty (D). The period of review for purposes of determining overpayments or underpayments shall be limited to payments made in the two (2) year period before commencement of the audit.

SECTION TWENTY-TWO. RESERVATION OF RIGHTS: GENERAL

(A) City reserves to itself the right and power at all times to exercise, in the interest of the public and in accordance with state law, regulation and control of Company's use of the Public Rights-of-Way to ensure the rendering of efficient public service, and the maintenance of Company's System in good repair throughout the term of this Franchise.

(B) The rights, privileges, and franchises granted by this Ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of furnishing gas for light, heat, and power and for City and the inhabitants thereof.

(C) City expressly reserves the right to own and/or operate its own system for the purpose of transporting, delivering, distributing, or selling gas to and for the City.

(D) Nothing herein shall impair the right of the City to fix, within constitutional and statutory limits, a reasonable price to be charged for natural gas, or to provide and fix a scale of prices for natural gas, and other charges, to be charged by Company to residential consumers, commercial consumers, industrial consumers, or to any combination of such consumers, within the territorial limits of the City as same now exists or as such limits may be extended from time to time hereafter.

SECTION TWENTY -THREE. RIGHT TO INDEMNIFICATION AND TO BE HELD HARMLESS

(A) In consideration of the granting of this Franchise, Company agrees to indemnify, defend and hold harmless City, its officers, agents, and employees (City and such other persons and entities being collectively referred to herein as "Indemnitees"), from and against all suits, actions or claims of injury to any person or persons, or damages to any property brought or made for or on account of any death, injuries to, or damages received or sustained by any person or persons or for damage to or loss of property arising out of, or occasioned by Company's intentional and/or negligent acts or omissions in connection with Company's operations; except that the indemnity provided for in this paragraph shall not apply to any liability determined by a court of competent jurisdiction to have resulted from the sole negligence or intentional acts of omissions of City, its officers, agents, and employees. In the event of joint and concurrent negligence or fault of both Company and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas without, however, waiving any of the defenses of the parties under Texas law. Further, in the event of joint and concurrent negligence or fault of both

Company and City, responsibility for all costs of defense shall be apportioned between City and Company based upon the comparative fault of each.

(B) In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which shall not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Franchise. If Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all defense costs incurred by City, except as set out in Section Twenty-Three (A).

SECTION TWENTY-FOUR. INSURANCE

Company will maintain an appropriate level of insurance in consideration of the Company's obligations and risks undertaken pursuant to this Franchise, in the minimum amount of six million dollars (\$6,000,000), consisting of one million dollars (\$1,000,000) primary plus five million dollars (\$5,000,000) umbrella coverage. Such insurance may be in the form of self-insurance to the extent permitted by applicable law, under an approved formal plan of self-insurance maintained by Company in accordance with sound accounting and risk-management practices. A certificate of insurance shall be provided to City.

SECTION TWENTY-FIVE. TERMINATION

(A) Right to Terminate. In addition to any rights set out elsewhere in this Ordinance, City reserves the right to terminate the Franchise and all rights and privileges pertaining thereto, in the event that Company violates any material provision of the Franchise.

(B) Procedures for Termination.

(1) City may, at any time, terminate this Franchise for a continuing material violation by Company of any of the substantial terms hereof. In such event, City shall give to Company written notice, specifying all grounds on which termination or forfeiture is claimed, by registered mail, addressed and delivered to Company at the address set forth in Section Nine hereof. Company shall have sixty (60) days after the receipt of such notice within which to cease such violation and comply with the terms and provisions hereof. In the event Company fails to cease such violation or otherwise comply with the terms hereof, then Company's Franchise is subject to termination under the following provisions. Provided, however, that if Company commences work or other efforts to cure such violations within thirty (30) days after receipt of written notice and shall thereafter prosecute such curative work with reasonable diligence until such curative work is completed, then such violations shall cease to exist, and the Franchise will not be terminated.

(2) Termination shall be declared only by written decision of the City Council after an appropriate public proceeding whereby Company is afforded the full opportunity to be heard and to respond to any such notice of violation or failure to comply. Company shall be provided at least fifteen business (15) days prior written notice of any public hearing concerning the termination of the Franchise. In addition, ten (10) days' notice by

publication shall be given of the date, time and place of any public hearing to interested members of the public.

(3) City, after full public hearing, and upon finding material violation or failure to comply, may terminate the Franchise or excuse the violation or failure to comply, upon a showing by Company of mitigating circumstances or upon a showing of good cause of said violation or failure to comply as may be determined by the City Council.

(4) Nothing herein stated shall preclude Company from appealing the final decision of the City Council to a court or regulatory authority having jurisdiction.

(5) Nothing herein stated shall prevent City from seeking to compel compliance by suit in any court of competent jurisdiction if Company fails to comply with the terms of this Franchise after due notice and the providing of adequate time for Company to comply with said terms.

SECTION TWENTY-SIX. RENEGOTIATION

If either City or Company requests renegotiation of any term of this Ordinance, Company and City agree to renegotiate in good faith revisions to any and all terms of this Ordinance. If the parties cannot come to agreement upon any provisions being renegotiated, then the existing provisions of this Ordinance will continue in effect for the remaining term of the Franchise.

SECTION TWENTY-SEVEN. SEVERABILITY

This Ordinance and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision, or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance. If any term or provision of this Ordinance is held to be illegal, invalid or unenforceable, the legality, validity or unenforceability of the remaining terms or provisions of this Ordinance shall not be affected thereby.

SECTION TWENTY-EIGHT. NO WAIVER

Either City or Company shall have the right to waive any requirement contained in this Ordinance, which is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Ordinance shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or a different type of breach or violation.

SECTION TWENTY-NINE. EFFECTIVE DATE

This Franchise shall be effective on January 1, 2017, if City has received Company's acceptance as provided by Section Four herein.

PASSED AND APPROVED ON FIRST READING, this the 11th day of October, 2016.

PASSED AND APPROVED ON SECOND READING, this the ____ day of _____, 2016.

PASSED AND APPROVED ON THIRD AND FINAL READING, this the ____ day of _____, 2016.

CITY OF KERRVILLE

Bonnie White, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

6A. Request by RREAF-Blatt, LLC to abandon, vacate and convey a portion of an unimproved extension of Meeker Road right of way located southwest of Singing Wind Drive North with its intersection with Locust Street. (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Direction to city staff regarding a request by RREAF-Blatt, LLC to abandon, vacate and convey a portion of Meeker Road right-of-way located to the southwest of Singing Wind Drive North from the City of Kerrville.

FOR AGENDA OF: October 25, 2016 **DATE SUBMITTED:** October 18, 2016

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: EA Hoppe
Deputy City Manager



EXHIBITS:

AGENDA MAILED TO: Letter and exhibits from the representatives of RREAF-Blatt, LLC (Voelkel Land Surveying) dated October 7, 2016;
Location Map

APPROVED FOR SUBMITTAL BY CITY MANAGER:



Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

Attached is a letter from the representatives of RREAF-Blatt, LLC (Voelkel Land Surveying) proposing that the City of Kerrville abandon, vacate and convey a portion of Meeker Road right-of-way that is located to the southwest of Singing Wind Drive North. This is a non-paved section of right-of-way (ROW) that various public utilities are located. The property is approximately 50-feet wide measured along the Singing Wind Drive frontage and approximately 212 feet deep. In order to convey this property, it must find that it would be in the City's best interests. It is important that if City Council abandons, vacates and conveys the property that easements are dedicated in order to assure future access for the maintenance of public utilities. Staff is researching the methods to convey the property in accordance to state and local laws.

RECOMMENDED ACTION

City staff requests direction from City Council on whether it would like to consider abandoning, vacating and conveying a portion of Meeker Road right-of-way. If City Council determines that it is in their best interest to convey the property, city staff recommends the following:

1. Easements are dedicated to the City of Kerrville for the purpose of public utilities.

October 7, 2016

Mayor / City Council
City of Kerrville
701 Main Street
Kerrville, Texas 78028

Mayor / Council members,

I am writing this letter on behalf of my client, RREAF-Blatt, LLC, owner of Lots 1, 2 and 3 in Block 1 of Sendero Ridge Subdivision Unit 1A (plat of record in Volume 7 at Page 99 of the Plat Records of Kerr County, Texas).

The owner wants to develop and build an apartment complex on Lots 2 and 3 and a section of Meeker Road right-of-way (50 ft. wide public right-of-way dedicated by plat of Sendero Ridge Subdivision Unit 1A) between the two lots.

Please accept this letter as a formal request from my client for the City of Kerrville to abandon, vacate and convey the portion of Meeker Road right-of-way between Lots 2 and 3. If the right-of-way is abandoned, the owner will replat Lots 2, 3 and newly acquired right-of-way into one (1) lot, amend the City of Kerrville Future Land Use Plan and rezone the new lot. The owner is willing to provide utility easements in favor of the City of Kerrville for any existing public utilities within the abandoned right-of-way.

With this letter I am submitting the following to help you with your deliberations:

1. Owners deed.
2. Sendero Ridge Subdivision Unit 1A recorded plat (Meeker Road right-of-way abandonment request highlighted in orange)
3. Development Site Plan

Please call me with any questions, concerns or requests for more information. Thank you for your consideration of this matter.


Lee C. Voelkel
Agent for RREAF-Blatt, LLC

16-03373

Notice of confidentiality rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your Social Security number or your driver's license number.

GENERAL WARRANTY DEED
(with Vendor's Lien)

Date: May 24, 2016

Grantor: BDA Kerrville Properties, LP

Grantor's Mailing Address: 920 E. Dean Keeton
Austin, Texas 78705

Grantee: RREAF-BLATT LLC, a Texas limited liability company

Grantees' Mailing Address: 4245 N Central Expressway, Suite 420
Dallas, Texas 75205
Attn: Jeffery Blatt

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid to Grantor by Grantee and a Note in the principal amount of One Million Four Hundred Twenty Two Thousand Seven Hundred Forty and No/100 Dollars (\$1,422,740.00) executed by Grantee and payable to the order of Bank of the Ozarks ("Lender"). The Note is secured by a vendor's lien retained in favor of Lender in this deed and by a deed of trust from Grantee herein to Dennis James, Trustee.

Property (including any improvements):

The land described in Exhibit A, attached hereto and incorporated herein by reference for all purposes.

Reservations From and Exceptions To Conveyance and Warranty: All easements, rights-of-way, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and other instruments, other than liens and conveyances, that affect the Property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned county and state, and to all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any, but only to the extent that they are still in effect, relating to the Property.

Grantor, for the consideration and subject to the Reservations From and Exceptions To Conveyance and Warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully

claiming or to claim the same or any part thereof, except as to the Reservations From and Exceptions To Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until the Note is fully paid according to its terms, at which time this deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

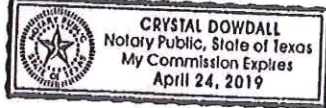
BDA Kerrville Properties, LP

By: BDA Kerrville Management, LLC, General Partner

By: Jeffrey T. Blatt, Manager

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27th day of May, 2016, by Jeffrey T. Blatt, as Manager of BDA Kerrville Management, LLC, as general partner of BDA Kerrville Properties, LP.



Crystal Dowdall
Notary Public, State of Texas

My Commission Expires:
April 24, 2019

DOCUMENT PREPARED BY:

C. DANIEL ROBERTS & ASSOCIATES, P.C.
1602 East Cesar Chavez
Austin, Texas 78702
(512) 494-8448

✓ AFTER RECORDING RETURN TO:

Gracy Title
Robin M.
1921 Lohmans Crossing Rd, #200
Austin, TX 78734

TRACT ONE: Lots 1, 2 and 3, Block 1, of the Sendero Ridge Subdivision Unit 1A, a subdivision of Kerr County, Texas, according to the plat of said subdivision recorded in Volume 7, Page 99 of the Plat Records of Kerr County, Texas.

TRACT TWO: All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, comprising of 38.924 acres, more or less, being 37.695 acres out of S. Wallace Survey No. 113, Abstract No. 347 and 1.229 acres out of S. Wallace Survey No. 112, Abstract No. 360 and being more particularly described as follows:

Being a 38.924 acre tract being approximately 37.695 acres out of the S. Wallace Survey No. 113, Abstract No. 347 and 1.229 acres out of the S. Wallace Survey No. 112, Abstract No. 360, Kerr County, Texas and being that certain 51.851 acre tract conveyed to BDA KERRVILLE PROPERTIES, LP, A TEXAS LIMITED PARTNERSHIP by deed recorded in Volume 1401, Pages 563-570, Official Public Records, Kerr County, Texas, save and except that certain 12.928 acre tract known as SENDERO RIDGE SUBDIVISION UNIT 1 recorded in Volume 7, Pages 296-297, Plat Records, Kerr County, Texas, said 38.924 acre tract being more particularly described by metes and bounds as follows:

Beginning at a ½" steel rod found in the northwest right-of-way line of State Highway Loop No. 534 for the northeast corner of the herein described tract, the northeast corner of the above referenced 51.851 acre tract, the southeast corner of a 4.319 acre tract recorded in Volume 719, Pages 473-476, Official Records, Kerr County, Texas;

Thence, with the northwest right-of-way line of State Highway Loop No. 534, the following six courses and distances,

South 46 degrees 33 minutes 10 seconds West, a distance of 152.43 feet to a concrete monument found for angle,

South 43 degrees 30 minutes 48 seconds West, a distance of 274.75 feet to a concrete monument found for angle,

South 30 degrees 06 minutes 56 seconds West, a distance of 323.82 feet to a concrete monument found for angle,

South 11 degrees 40 minutes 49 seconds West, a distance of 429.65 feet to a concrete monument found for angle,

South 00 degrees 04 minutes 19 seconds West, a distance of 204.84 feet to a concrete monument found for angle,

and, South 04 degrees 20 minutes 02 seconds West, a distance of 492.63 feet to a ½" steel rod found for the southeast corner of the herein described tract, the northeast corner of SENDERO RIDGE SUBDIVISION UNIT 1 recorded in Volume 7, Pages 296-297, Plat Records, Kerr County, Texas, said point bears, North 04 degrees 20 minutes 02 seconds East, a distance of 10.91 feet from a concrete monument found;

Thence, departing the northwest right-of-way line of State Highway Loop No. 534, with the northeasterly line of SENDERO RIDGE SUBDIVISION UNIT 1, the following seven courses and distances,

North 85 degrees 43 minutes 08 seconds West, a distance of 95.00 feet to a ½" steel rod set with an orange "RPLS 5207" plastic cap for corner,

North 04 degrees 16 minutes 52 seconds East, a distance of 33.28 feet to a 1/2" steel rod found for corner,

North 85 degrees 43 minutes 08 seconds West, a distance of 120.48 feet to a nail set in concrete for angle,

North 52 degrees 30 minutes 34 seconds West, a distance of 103.94 feet to a 1/2" steel rod found for angle,

North 45 degrees 07 minutes 46 seconds West, a distance of 1106.54 feet to a 1/2" steel rod found for corner,

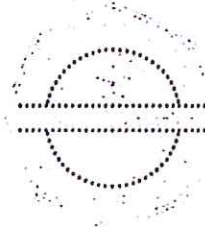
South 44 degrees 52 minutes 14 seconds West, a distance of 60.01 feet to a 1/2" steel rod found for corner,

and, North 45 degrees 07 minutes 46 seconds West, a distance of 95.00 feet to a 1/2" steel rod found for the southwest corner of the herein described tract, the northwest corner of SENDERO RIDGE SUBDIVISION UNIT 1 and being in the northwest line of the aforementioned 51.851 acre tract;

Thence, with the northwest line of said 51.851 acre tract, North 44 degrees 53 minutes 31 seconds East, a distance of 1792.27 feet to a 1/2" steel rod found for the northwest corner of the herein described tract, the northwest corner of said 51.851 acre tract, the southwest corner of the aforementioned 4.319 acre tract;

Thence, with the northeast line of said 51.851 acre tract, the southwest line of said 4.319 acre tract, South 46 degrees 23 minutes 20 seconds East, a distance of 705.19 feet to the Place of Beginning and containing 38.924 acres of land.

Note: A survey plat of the above described tract was prepared. Basis of bearing was established from the State Plane Coordinate System North American datum of 1983, Texas South Central Zone.



Donald Dean Boerner
Registered Professional Land Surveyor No. 5207

FILED BY & RETURNED TO:

GRACY TITLE

ATTN: ROBYN M

1921 LOHMANS CROSSING RD #200

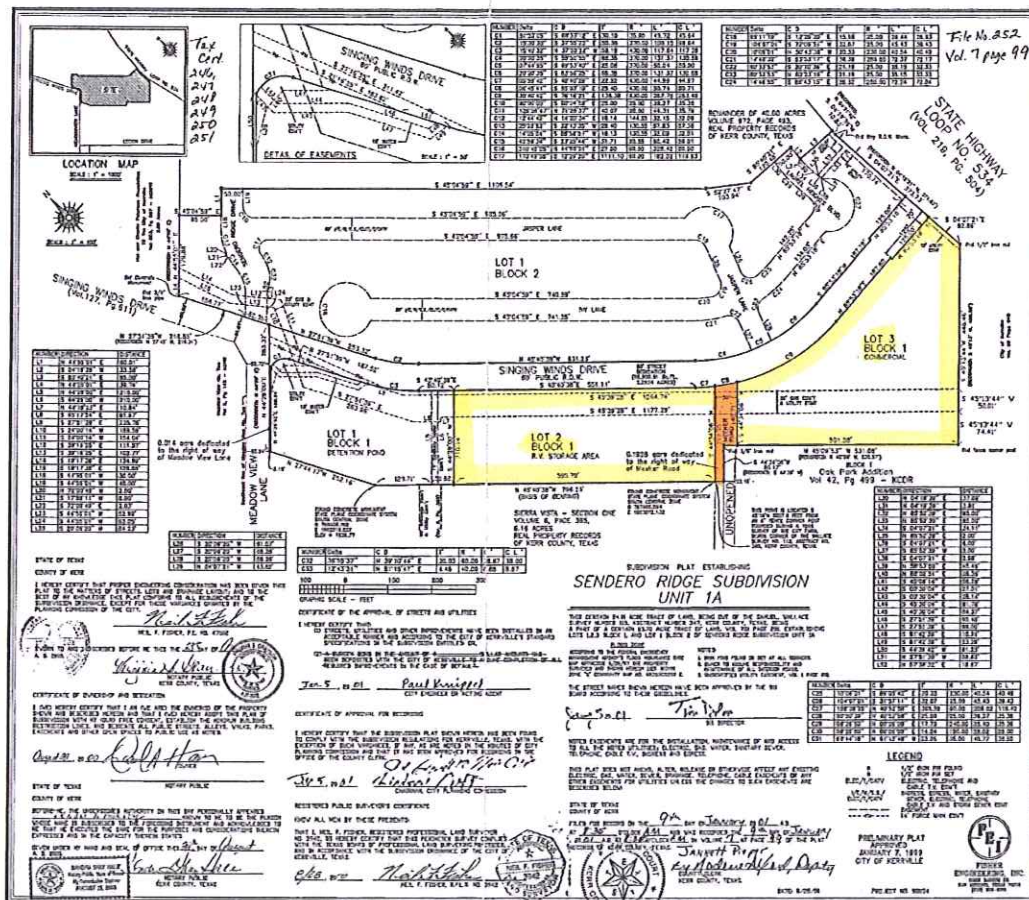
AUSTIN, TX 78734



FILED AND RECORDED
At 1:42 o'clock PM
STATE OF TEXAS
COUNTY OF KERR
June 2, 2016

I hereby certify that this instrument was filed in the
numbered sequence on the date and time
stamped above by me and was duly recorded in
the Official Public Records of Kerr County Texas.
Deputy

McClair Rodgers Deputy



CITY AFFIDAVIT
THIS DECLARATION MAY ALSO HAVE BEEN APPROVED BY:

BY: _____ DATE: _____
THE AFFIDAVIT WILL BECOME VOID AFTER THREE DAYS FROM THE
FURNISHED AFFIDAVIT, UNLESS IT IS FILED IN JAIL, THE CITY OF
ATLANTA, 200 N. DECATUR, ATLANTA, GA 30303. WHILE CITY
STAFF AND THE JAIL WILL MAKE A COMPLETE AND THOROUGH
SEARCH OF THE CURRENTLY FILED, AND ANY OTHER RECORDS
IN THE CITY AND THE JAIL, THE CITY AND THE JAIL WILL
CONTINUE TO SEARCH FOR ANY OTHER RECORDS IN THE CITY
AND THE JAIL, AND WILL CONTINUE TO SEARCH FOR ANY OTHER
RECORDS IN THE CITY AND THE JAIL, AND WILL CONTINUE TO
SEARCH FOR ANY OTHER RECORDS IN THE CITY AND THE JAIL.



ROW Abandonment Request

Legend

Location:
 Sendero Ridge Plat,
 Meeker Road ROW

Subject Properties



0 50 100 200

Scale In Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

Agenda Item:

6B. Resolution No. 26-2016 creating the Recovery Community Coalition; providing for its purpose, membership, and roles and responsibilities; and appointing the initial members of the committee. (Councilmember Andrew)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Adopt Resolution No. 26-2016 to create the City of Kerrville Recovery Community Coalition

FOR AGENDA OF: Oct. 25, 2016 **DATE SUBMITTED:** Oct. 18, 2016

SUBMITTED BY: Glenn Andrew **CLEARANCES:** Todd Parton
Councilmember Place 2 City Manager

EXHIBITS: Resolution No. 26-2016
Ordinance No. 2013-06

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	 Account Number:
\$0	\$0	\$0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Create a Recovery Community Coalition (RCC) as follows:

RCC Purpose

The purpose of the RCC is to enhance the opportunities for the Recovery Community to become fully integrated into the fabric of Kerrville. Identifying techniques to reduce barriers for the recovery community to be fully integrated into Kerrville as well identifying and advocating ideas for enhancing positive relationships among the various elements of the community at large is within the purvey of this coalition. This coalition is designed to be both an opportunity to work together for the entire betterment of Kerrville and especially the recovery community.

RCC Structure

The RCC will be composed of members who represent the stakeholders in this vital issue. It is suggested that individuals representing at least the following areas be included:

- Owners of both male and female Kerrville Sobriety homes
- Members of the Recovering Community
- At least one City Council member
- Representative of YPR
- Citizens at large with interest in this issue
- Representative of mental health support organizations such as MHMR.

The RCC should select a Chair and Vice Chair as well as a recording secretary. Also the RCC should set their meeting schedule but no less often than once every 3 months

RCC Roles and Responsibilities

On an annual basis, or more frequently is deemed proper by the RCC or City Council, the RCC should attend and report to the Kerrville City Council conclusions, achievements, ideas, desires and plans.

It is recommended that the initial issue with which the coalition is charged is to review Ordinance No. 2013-06, which addresses the operation of group homes operating within the Kerrville city limits.

The organization will establish its own operating rules and procedures. Additionally, all applicable rules and policies for city boards and commissions would be followed.

RECOMMENDED ACTION

Adopt Resolution No. 26-2016 to establish the City of Kerrville Recovery Community Coalition as presented.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 26-2016**

**A RESOLUTION CREATING THE RECOVERY COMMUNITY
COALITION; PROVIDING FOR ITS PURPOSE, MEMBERSHIP, AND
ROLES AND RESPONSIBILITIES; AND APPOINTING THE INITIAL
MEMBERS OF THE COMMITTEE**

WHEREAS, the City Council of the City of Kerrville, Texas desires to create a Recovery Community Coalition in an effort to enhance opportunities of the local recovery community to integrate into and become a productive part of the local community;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. There is hereby created the Recovery Community Coalition ("Coalition") of the City of Kerrville, Texas, which shall consist of nine (9) members at-large. A member of the City Council shall serve as one of the members. Each member shall be a voting member. Each member shall be subject to two-year terms; provided, however, that at the Coalition's organizational meeting, the at-large members shall draw lots to establish the duration of the initial terms, with four at-large members serving an initial term of one year and the remaining members serving a two-year term. The expiration date of all terms shall be of the year corresponding with the results of the drawing of lots. The initial one-year terms will therefore expire , 201 .

SECTION TWO. The Coalition shall elect a chair and vice-chair from among its members and may appoint a secretary. The Coalition shall establish regular meeting schedule, with meetings to be held at least once each calendar quarter. The Coalition shall follow the Charter and Code of Ordinances of the City of Kerrville as well as the Procedural Rules of Kerrville City Boards.

SECTION THREE.

A. City Council shall select at-large members of the Coalition community stakeholder groups, including the following:

- One owner of a male boarding home facility with a valid permit issued by the City;
- One owner of a female boarding home facility with a valid permit issued by the City;
- Member(s) of the Recovering Community;
- Representative of Young Person in Recovery or similar organization;
- Citizen(s) of Kerrville with interest in these issue;
- Representative of mental health support organizations such as the Kerrville State Hospital; and
- Councilmember.

B. The initial slate of at-large members of the Coalition is hereby appointed, to-wit:

SECTION FOUR. The purpose of the Coalition is to enhance the opportunities for the recovery community to become fully integrated into the fabric of Kerrville. The Coalition shall work toward considering and identifying strategies and techniques for reducing barriers for the recovery community to be fully integrated into the local community as well as to identify and advocate goals and ideas for enhancing positive relationships by and amongst the recovery community.

SECTION FIVE. On an annual basis, or more frequently as deemed proper by the Coalition or City Council, the Coalition should attend and report its conclusions, achievements, ideas, desires, and plans to City Council. It is recommended that the initial issue with which the Coalition is charged to review is Ordinance No. 2013-06 (Chapter 30, Article I, Code of Ordinances), which addresses the operation of group homes and boarding home facilities operating within the City.

PASSED AND APPROVED ON this the _____ day of _____ A.D., 2016.

Bonnie White, Mayor

APPROVED AS TO FORM:

ATTEST:

Michael C. Hayes, City Attorney

Brenda G. Craig, City Secretary

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2013-06

AN ORDINANCE AMENDING CHAPTER 30 "BUSINESSES" OF THE CITY'S CODE OF ORDINANCES BY ADOPTING A NEW ARTICLE I "GROUP HOMES AND BOARDING HOME FACILITIES"; ESTABLISHING THE REGISTRATION OF GROUP HOMES AND THE PERMITTING AND INSPECTION OF BOARDING HOME FACILITIES; 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

WHEREAS, in response to a study concerning unregulated boarding home facilities in Texas, the State Legislature enacted H.B. 216 in 2009, which is now codified in Chapter 260 of the Texas Health and Safety Code; and

WHEREAS, Chapter 260 authorizes, but does not require, municipalities to require boarding home facilities to obtain a permit and comply with model standards; and

WHEREAS, neither Chapter 260 nor any other state law requires boarding home facilities to comply with any uniform state standards; and

WHEREAS, Section 215.075 of the Texas Local Government Code grants home-rule municipalities the authority to license any lawful business or occupation that is subject to the police power of the municipality; and

WHEREAS, the Texas Health and Human Services Commission published model standards for the municipal regulation of boarding home facilities in the August 27, 2010 edition of the Texas Register; and

WHEREAS, City Council has considered the issue of the regulation of group homes and boarding home facilities in several public meetings, including a workshop meeting which was dedicated to this issue and where citizens and operators of such homes were given an opportunity to directly address Council; and

WHEREAS, City Council believes that the provisions in this Ordinance will provide adequate and appropriate standards to protect the health and safety of the residents of group home and boarding home facilities, including ensuring that adequate life-safety measures are present; and

WHEREAS, City Council has determined that the regulation of boarding home facilities through this Ordinance, which includes the adoption of standards, the issuing of permits, the inspection of boarding home facilities, and the ability to enforce the provisions of the Ordinance

is in the best interest of the public and will promote the public health, safety, and welfare of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Chapter 30 “Businesses” of the Code of Ordinance of the City of Kerrville, Texas, is amended by adding a new Article I “Group Homes and Boarding Homes Facilities” to add the language that is underlined (added) and deleting the language that is bracketed and stricken (~~deleted~~) as follows:

“Chapter 30 - BUSINESSES

ARTICLE I. GROUP HOMES AND BOARDING HOME FACILITIES

DIVISION I. GENERAL

Sec. 30-1. Purpose of Article.

- (a) The purpose of this article is for the City to maintain a record of group homes, which generally provide personal care services and are licensed by the State of Texas, and boarding home facilities. These records will enable the City to try to ensure adequate fire, police, or emergency response vehicles or patrols are available, to identify and facilitate appropriate emergency responses for residents who may require special assistance during an emergency, and to enable enforcement of the spacing requirement between boarding home facilities. These standards are implemented pursuant to the City’s home-rule authority under Article XI, Section 5 of the Texas Constitution and the authority to license or permit lawful businesses subject to the City’s police power granted by Sections 54.005 and 215.075 of the Texas Local Government Code.
- (b) The City seeks and intends that this article is legally compliant with the Federal Fair Housing Amendments Act of 1988 (“FHAA”), the Americans with Disabilities Act of 1990 (“ADA”), and the Americans with Disabilities Amendments Act of 2008, and all other applicable state and federal legislation. It is the express intent of the City that this article is applied and enforced in a manner consistent with the FHAA, the ADA, and other applicable federal and state legislation.

Sec. 30-2. Definitions. The following definitions apply:

- (a) *Boarding home facility* means an establishment, including a residence or dwelling, that furnishes, in one or more buildings, to persons under separate rental agreements, whether oral or written, lodging to three or more persons unrelated to the owner of the establishment by blood or marriage, and is not listed in Sec. 30-12.
- (b) *Department* means the department designated by the City Manager to enforce and administer this article.

- (c) Disability means a disability as defined in 42 U.S.C. §12102.
- (d) Director means the director of the department designated by the City Manager to enforce and administer this article and includes representatives, agents, or department employees designated by the director.
- (e) Habitable space means space in a residence or dwelling used for living, sleeping, eating, or cooking and includes bathrooms, closets, and hallways but does not include garages, attics, or porches.
- (f) Operator means the person in control of a boarding home facility.
- (g) Owner means an individual who has an ownership interest in a corporation or other legal entity operating a boarding home facility or the owner of the real property where a boarding home facility is located.
- (h) Resident means a person who is residing in a boarding home facility.
- (i) Sleeping room means a room intended and used for sleeping purposes but does not include a kitchen, dining room, living room, bathroom, hallway, or garage.

DIVISION 2. GROUP HOMES LICENSED BY THE STATE

Sec. 30-6. Registration. A person commits an offense if he owns or operates the following types of group homes without registering with the Department and providing proof of a valid state license, where applicable:

- (a) Home and community support services licensed under Chapter 142 of the Texas Health and Safety Code;
- (b) Convalescent and nursing homes and related institutions licensed under Chapter 242 of the Texas Health and Safety Code;
- (c) Continuing care facilities licensed under Chapter 246 of the Texas Health and Safety Code;
- (d) Assisted living facilities licensed under Chapter 247 of the Texas Health and Safety Code;
- (e) Intermediate care facilities for the mentally retarded licensed under Chapter 252 of the Texas Health and Safety Code;
- (f) A person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation or its successor ("TDMHMR") and monitored by

TDMHMR or its designated local authority in accordance with standards set by TDMHMR;

- (g) A child-care facility as defined by Section 42.002 of the Texas Human Resources Code;
and
- (h) A family violence shelter as defined by Section 51.002 of the Texas Human Resources Code.

DIVISION 3. BOARDING HOME FACILITIES.

Sec. 30-11. Permit Required.

- (a) A person commits an offense if he owns or operates a boarding home facility within the City without a valid permit under this division.
- (b) It is a defense to prosecution under this division if a person operates a boarding home facility while an application under Sec. 30-13 is pending.
- (c) It is a defense to prosecution under this division if a person operates a facility listed in Sec. 30-12.

Sec. 30-12. Exemptions. This division does not apply to:

- (a) Home and community support services licensed under Chapter 142 of the Texas Health and Safety Code;
- (b) Convalescent and nursing homes and related institutions licensed under Chapter 242 of the Texas Health and Safety Code;
- (c) Continuing care facilities licensed under Chapter 246 of the Texas Health and Safety Code;
- (d) Assisted living facilities licensed under Chapter 247 of the Texas Health and Safety Code;
- (e) Intermediate care facilities for the mentally retarded licensed under Chapter 252 of the Texas Health and Safety Code;
- (f) A person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation or its successor ("TDMHMR") and monitored by TDMHMR or its designated local authority in accordance with standards set by TDMHMR;

- (g) An establishment conducted by or for adherents of a well-recognized church or religious denomination for the purpose of providing facilities to care and treat the sick who depend exclusively on prayer and spiritual means for healing, without the use of any drug or material remedy, if the establishment complies with safety, sanitary, and quarantine laws and rules including Sec. 30-28;
- (h) A hotel as defined by Section 156.001 of the Texas Tax Code;
- (i) A retirement community as defined by Section 11.18 of the Texas Tax Code;
- (j) A monastery or convent;
- (k) A child-care facility as defined by Section 42.002 of the Texas Human Resources Code
- (l) A family violence shelter as defined by Section 51.002 of the Texas Resources Code; and
- (m) A sorority, fraternity house, or dormitory located on the property of an institution of higher education.

Sec. 30-13 Permit Application. To obtain an annual permit to operate a boarding home facility, a person must submit an application to the director on a form provided for that purpose and pay the permit fee. The applicant must be the owner or operator of the boarding home facility. If the owner or operator is not an individual, an authorized officer or agent of the owner or operator must submit the form. The application must contain the following information before it is considered complete and subject to review:

- (a) The name, mailing address, email address, telephone number, a legible copy of the driver's license or other official state or federal identification card, and the date of birth of the applicant. The mailing address may not be the address of the boarding home facility unless the applicant actually resides full-time at the boarding home facility.
- (b) The name, form of business, mailing address, email address, telephone number, a legible copy of the driver's license or other official state or federal identification card, and position of the authorized officer or agent filing the form on behalf of the applicant, if the applicant is not an individual. The mailing address may not be the address of the boarding home facility unless the authorized officer or agent actually resides full-time at the boarding home facility.
- (c) The names, mailing addresses, email addresses, telephone numbers, legible copies of the drivers' licenses or other official state or federal identification cards, and dates of birth of any owners, operators, or employees of the boarding home facility other than the applicant. The mailing address may not be the address of the boarding home facility, unless the owner, operator, or employee actually resides full-time at the boarding home facility.

- (d) If the operator of the boarding home facility is renting or leasing the home or facility, then the operator must present a letter from the owner of the real property authorizing the use of the rental property to operate a boarding home facility and acknowledging the requirements for the property to be used as a boarding home facility set out within this article.
- (e) The street address and telephone number of the boarding home facility.
- (f) The name, mailing address, email address, and telephone number of a person(s) to contact in an emergency.
- (g) Documentary evidence of the payment of ad valorem taxes, fees, fines, and penalties owed to the City in connection with real property used to operate the boarding home facility.
- (h) The maximum number of residents that will reside at the boarding home facility pursuant to Sec. 30-26.
- (i) The services to be offered or provided to the residents of the boarding home facility.
- (j) A zoning verification letter from the City stating that the proposed use of the property complies with the City's zoning regulations.
- (k) If the boarding home facility has one or more residents with a disability, a list of the general disabilities of the resident(s).
- (l) A statement that, by filing this application, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section.
- (m) Such additional information as the applicant desires to include or that the director deems necessary to aid in the determination of whether the requested permit should be granted.

Sec. 30-14 Notification of Change of Information. The permit holder shall notify the director within 10 days after any material change in the information contained in the application for a permit to operate a boarding home facility, including any change in ownership.

Sec. 30-15 Permit Fees.

- (a) The annual fee for a permit to operate a boarding home facility is as determined from time to time by City Council.
- (b) The City will not refund a permit fee.

Sec. 30-16 Issuance or Denial of Permit.

- (a) Upon payment of the fee and the submission of a complete application, the director shall issue an annual permit to operate a boarding home facility to the applicant, to include the number of authorized residents, if the director determines that:
- 1) The applicant has complied with all requirements within this article for issuance of the permit;
 - 2) The applicant, owner(s), operator(s), or employee(s) of the boarding home facility do not own or operate another permitted boarding home facility in the City for which the permit is currently suspended or has been revoked;
 - 3) The applicant has not made a false statement as to a material matter in the application for a permit; and
 - 4) The proposed boarding home facility is not within one-half (1/2) mile of an existing boarding home facility. For purposes of this section, the measurement consists of a straight line without regard to intervening structures or objects, from the nearest property line of the lot or tract on which the proposed boarding home facility is located to the nearest property line of the existing registered or permitted boarding home facility, which requires separation. An exception exists where two or more boarding home facilities exist within one-half (1/2) mile of each other as of the adoption date of this Ordinance, such boarding home facilities are exempt from this distance requirement and may remain in operation, but only where they are issued a permit by the City and comply with the remaining requirements of this article. Following the issuance of a permit, should the permit be revoked or a boarding home facility cease operations for a period of time greater than 90 days, then the distance requirement will apply.
- (b) If the director determines that the requirements of (a) have not been met and, if applicable, a variance under the article has been denied, the director shall deny the permit and notify the applicant in writing that the application is denied, the reason for denial, and a statement informing the applicant of the right to appeal.

Sec. 3-17.Variance from Distance Requirement.

- (a) City Council may grant a variance to a proposed boarding home facility authorizing its location within one-half (1/2) mile of another boarding home facility.
- (b) The variance procedure is as follows:
- 1) Application. When requesting a variance from the distance requirement found within Sec. 30-18, the applicant must submit the following information to the director:
 - A. Completed variance request form with the following information:

- i. The name and address of the applicant for the boarding home facility;
 - ii. The name and address of the boarding home facility subject to the request, if applicable;
 - iii. The name of the property owner for the property where the boarding home facility is proposed to be located;
 - iv. The name and address of the boarding home facility currently in existence which triggered the request for variance;
 - v. Notarized authorization of the property owner consenting to the variance request; and
 - vi. The payment of the applicable fee for the variance, which is nonrefundable.
- B. Statement of justification as to how the variance meets the criteria in this section;
- C. A site and floor plan showing the following information:
- i. North arrow and scale;
 - ii. Boundaries of the property;
 - iii. Location and dimensions of all buildings and structures; and
 - iv. All fences, parking area, and landscape area.
- (2) Hearing. The director shall set a date for a public hearing on the first available City Council agenda after the passage of 30 days from the date a complete variance application is received;
- (3) Notices. No later than 10 days prior to the date of the hearing, the director shall send written notice of the variance request, to include the date and time of the scheduled public hearing, to:
- A. The property owner of the boarding home facility currently in existence which triggered the request for variance;
 - B. The applicant requesting the variance; and
 - C. Each owner, as indicated by the most recently approved municipal tax roll, of real property, within 200 feet of the property.

(4) Council Decision; Criteria.

- A. In determining whether to grant a variance, City Council must find that the enforcement of the distance requirement is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a permit, does not serve its intended purpose, and/or is not effective or necessary.
- B. If at the conclusion of the public hearing the City Council grants the applicant's request for a variance, the City Council may impose additional conditions on the granting of the variance where such conditions are intended to mitigate the impacts caused by the boarding home facility and are in the public interest.

(5) Renewal and Transfer. A variance granted pursuant to this subsection is valid for subsequent renewals of the permit for which a variance was sought.

(6) Variance Violation. The director may request the City Attorney to seek any and all remedies available at law and or equity to assure the conditions imposed on the granting of the variance are enforced.

(7) Denial. If a variance is denied, no new application for the same location will be accepted within 12 months from date of the denial.

Sec. 30-18. Suspension of Permit; Prohibition of New Residents.

- (a) The director may suspend a permit for a boarding home facility for a period not to exceed 90 days if the director finds that the permit holder or an employee of the boarding home facility has:
 - (1) Failed to comply with any provision of this article, any other ordinance, or any state or federal law applicable to the operation of a boarding home facility; or
 - (2) Intentionally or knowingly impeded or refused to allow an inspection by the director authorized under this article.
- (b) A boarding home facility for which the permit has been suspended may not admit any new residents during the time the permit is suspended.
- (c) In lieu of suspending a permit for a boarding home facility, the director, at his sole discretion, may enter into a compliance agreement with a permit holder if the director determines that the compliance agreement would eliminate the noncompliance that would otherwise justify a suspension, result in prompt future inspections, and elevate one or more conditions at the boarding home facility to the standards of this article.

- (d) The director shall send a written statement of the reasons for the suspension, the date the suspension is to begin, the duration of the suspension, and the permit holder's right to appeal by certified mail, return receipt requested.
- (e) A permit holder whose permit is suspended may not be granted a permit to operate any additional boarding home facility during the suspension period.
- (f) A permit holder commits an offense if he operates or owns a boarding home facility that admits new residents during the time that the suspension of the permit is in effect.

Sec. 30-19. Revocation of Permit.

- (a) Except as provided in Subsection (b), the director shall revoke any permit issued to operate a boarding home facility if the director determines that:
 - (1) The permit holder intentionally made a false statement as to a material matter in the application or in a hearing concerning the permit;
 - (2) The permit holder failed to pay a fee required by this article at the time it was due; or
 - (3) A cause for suspension has occurred and the permit has already been suspended at least once within the preceding 12 months.
- (b) In lieu of revoking a permit for a boarding home facility, the director, at his sole discretion, may enter into a compliance agreement with a permit holder if the director determines that the compliance agreement would eliminate the noncompliance that would otherwise justify a revocation, result in prompt future inspections, and elevate one or more conditions at the boarding home facility to the standards of this article.
- (c) Before revoking a permit under Subsection (a), the director shall notify the permit holder in writing by certified mail, return receipt requested, that the permit is being considered for revocation. The notice must include the reason for the proposed revocation, action the permit holder must take to prevent the revocation, and a statement that the permit holder has 10 days to comply with the notice.
- (d) If after 10 days from the date of the notice required in Subsection (c) was sent or delivered, whichever is later, the permit holder has not complied with required actions listed in the notice, the director shall revoke the permit and notify the permit holder in writing of the revocation. The notice must include the reason for the revocation and a statement informing the permit holder of the right of appeal.
- (e) If a permit has been revoked, the permit holder has 10 days from the date the notice was sent or delivered, whichever is later, to relocate the residents of the facility and cease operations. An appeal of the revocation does not suspend or toll this deadline.

Sec. 30-20. Appeals. If the director denies the issuance or renewal of a permit or suspends or revokes a permit issued under this article, the action is final unless the permit holder files a written appeal within 10 days of the director's action with City Council.

Sec. 30-21. Expiration and Renewal of Permit.

- (a) The annual permit to operate a boarding home facility expires one year after the date of issuance.
- (b) A permit holder must apply for renewal at least 30 days before the expiration of the annual permit on a form provided by the director. The permit holder must update the information contained in the original permit application required under this article if any of the information has changed. The permit holder shall sign a statement affirming that there is either no change in the information contained on the original permit application and any subsequent renewal applications or that any information that has been updated is accurate and complete and pay the annual fee.
- (c) The director shall follow the procedures set forth in this article when determining whether to renew a permit.

Sec. 30-22. Non-transferability. A permit to operate a boarding home facility is not transferable to another location.

Sec. 30-23. Posting Requirements. The permit holder shall prominently and conspicuously post for display in a public area inside the boarding home facility that is readily available to residents, the operator, employees, and visitors the following:

- (a) The permit issued under this article to operate the boarding home facility. The permit must be presented upon request to the director for examination; and
- (b) A sign provided by the director specifying how complaints may be registered with the City and a copy of the most recent inspection report conducted by the director.

Sec. 30-24. Reasonable Accommodations.

- (a) The City intends to ensure that all persons with a disability have equal opportunity to use and enjoy a dwelling by providing such persons with reasonable accommodations in rules, policies, practices, and procedures promulgated under this article consistent with the FHIAA and the ADA, as amended.
- (b) The method of submitting a request for reasonable accommodation is as follows:
 - (1) A request for a reasonable accommodation may be submitted at any time that the accommodation may be necessary to ensure equal access to housing.

- (2) A request for a reasonable accommodation may be submitted by an individual with a disability, the person's representative, or a permit holder providing housing for one or more individuals with disabilities.
- (3) A request for a reasonable accommodation must be submitted in writing to the director on the form provided by the department or in the form of a letter.
- (4) There is no fee for an application requesting a reasonable accommodation.
- (5) If an individual needs assistance in making a request for a reasonable accommodation, the City will provide assistance to ensure that the application process is accessible to the individual.
- (c) An applicant shall submit the following information before an application for a reasonable accommodation is considered to be complete:
 - (1) The applicant's name, mailing address, street address, telephone number, and email address;
 - (2) The applicant's relation to the individual(s) with a disability, if applicable;
 - (3) The address of the property to which the requested reasonable accommodation would apply;
 - (4) A disability determination by the Social Security Administration or the Department of Veteran's Affairs, or other substantially equivalent medical determination, that substantiates that the individual who would obtain the benefit of the reasonable accommodation is:
 - A. An individual with a physical or mental impairment that substantially limits one or more major life activities;
 - B. An individual who is regarded as having such an impairment; or
 - C. An individual with a record of such impairment.
 - (5) The section(s) of this article from which a reasonable accommodation is being requested; and
 - (6) A brief explanation of why the requested accommodation is necessary for the individual or individuals with disabilities to have equal access to housing.
- (d) Upon receipt of a complete application for a reasonable accommodation, the director shall review the application and issue a written ruling that grants, grants with conditions, or denies the application.

- (e) Before making a decision, the director may request an inspection of the boarding home facility and the property on which it is located. If the director makes such a request, the applicant must make the property, the facility, and its records available for the inspection within 20 days after the date of the request or the application is automatically denied.
- (f) If the director deems it necessary to request additional information from the applicant consistent with federal and state law, the director shall contact the applicant in writing and specify the additional information that is required. If the director makes such a request, the applicant must provide the additional information to the director within 20 days after the date of the request or the application is automatically denied.
- (g) All proposed decisions of the director must be submitted to the City Attorney for legal review to determine compliance with local, state, and federal laws and regulations.
- (h) The director may impose reasonable conditions on any accommodation granted consistent with the purpose of this article.
- (i) The written decision must be consistent with the FHAA and based on a consideration of the following factors:
 - (1) Whether the housing that is the subject of the request will be used by one or more individuals with a disability;
 - (2) Whether the requested accommodation is necessary to make specific housing available to one or more individuals with a disability;
 - (3) Whether the requested accommodation would impose an undue financial or administrative burden on the City;
 - (4) Whether the requested accommodation would require a fundamental alteration in the nature of City regulations;
 - (5) The potential impacts of the requested accommodation on the applicant, the other residents of the boarding home facility, and the surrounding neighborhood;
 - (6) Whether a failure to grant an accommodation would result in the property having no economically viable use; and
 - (7) Whether there are alternative accommodations that are reasonable and have an equal, or less of an impact on the City, applicant, other residents of the boarding home facility, and the surrounding neighborhood.
- (j) The director shall issue a written decision within 20 days of:
 - (1) Receipt of a completed application, provided that the director is able to issue a decision based on the information provided in the original request; or

- (2) The completed inspection of the property, facility, and its records, as requested by the director; or
- (3) The director's receipt of all additional requested information.
- (k) The director's written decision must explain in detail the basis of the decision and notify the applicant of the right to appeal the director's decision to the City Council.

Sec. 30-25. Inspection; Fees.

(a) Required inspections.

(1) A boarding home facility must pass all required inspections.

(2) The permit holder shall keep a current file of reports and other documentation on site that is needed to demonstrate compliance with applicable City ordinances and federal and state laws. Inspection records must be signed and dated by the appropriate authority and there may not be any pending corrective actions.

• (3) The following inspections are required:

(A) Permitting inspection.

(B) Annual permitting inspection.

(C) Annual inspection for compliance with the City's building codes, to include the fire code.

(b) Other inspections. The director may inspect any boarding home facility for the purpose of ascertaining whether violations of this article or any other City ordinances exist. The director is authorized at a reasonable time to inspect:

(1) The exterior of a structure and the surrounding premises; and

(2) The interior of a structure if the permission of the owner, occupant, or person in control is given or a search warrant is obtained.

• (c) Consequences of refusal to inspect. If the owner, occupant, or person in control denies permission to search any part of the interior or exterior of the structure or the surrounding premises, the director may suspend or revoke the permit to operate a boarding home facility.

(d) Re-inspections. Whenever a boarding home facility is inspected by the director and a violation of this code is found, the building or premises will, after the expiration of any

time limit for compliance given in the notice or order issued because of the violation, be re-inspected by the director to determine that the violation has been eliminated.

- (e) Re-inspection fee. The permit holder shall pay the director a fee for each re-inspection after the first inspection that the violation is determined to be eliminated, including any other applicable fees from other departments.

Sec. 30-26 Residents. A boarding home facility operating within one of the following zoning districts, is subject to residency limitations as follows:

- (a) *“R1” Single Family Zoning District, “R1-A” Residential Zoning District, “RC” Residential Cluster District.* The number of residents, including owners, operators, managers, and caregivers for a boarding home facility located within an “R1” Single Family Zoning District, “R1-A” Residential Zoning District, and “RC” Residential Cluster District may not exceed the lowest number of residents derived from the following, with any resulting fraction for the number of residents being rounded down:
- (1) 50% of the total gross square footage of the habitable space divided by 150 square feet;
 - (2) Number of sleeping rooms, meeting the requirements found within Sec. 30-28, multiplied by 2 residents;
 - (3) Number of bathrooms multiplied by 6 residents; or
 - (4) Maximum of 8 residents.
- (b) *“RT” Residential Transition Zoning District.* The number of residents, including owners, operators, managers, and caregivers for a boarding home facility located within an “RT” Residential Transition Zoning District may not exceed the lowest number of residents derived from the following, with any resulting fraction for the number of residents being rounded down:
- (1) 50% of the total gross square footage of the habitable space divided by 150 square feet;
 - (2) Number of sleeping rooms, meeting the requirements found within Sec. 30-28, multiplied by 2 residents;
 - (3) Number of bathrooms multiplied by 6 residents; or
 - (4) Maximum of 10 residents.
- (c) *“R-3”, “RM” Residential Mix, Commercial, and Industrial Zoning Districts.* The number of residents, including owners, operators, managers, and caregivers for a boarding home facility located within an R3, RM, Commercial, or Industrial Zoning District may not

exceed the lowest number of residents derived from the following, with any resulting fraction for the number of residents being rounded down:

- (1) 50% of the total gross square footage of the habitable space divided by 150 square feet;
- (2) Number of sleeping rooms, meeting the requirements found within Sec. 30-28, multiplied by 2 residents; or
- (3) Number of bathrooms in the single family residence multiplied by 6 residents.

Sec. 30-27 Parking. Off-street parking spaces must be provided for all vehicles required to be registered with the state as part of the use and operation of a boarding home facility. Required spaces must be located on the lot or tract for which the boarding home facility is located and must be provided as either improved surface parking areas or within garages, in accordance with the City's Zoning Code. In addition, the number of spaces are based upon the zoning district in which the boarding home facility is located as follows, with any resulting fraction for the number of spaces being rounded up:

- (a) *"R1" Single Family Zoning District, "R1-A" Residential Zoning District, "RC" Residential Cluster District.* The number of required off-street parking spaces for a boarding home facility located within an "R1" Single Family Zoning District, "R1-A" Residential Zoning District, or "RC" Residential Cluster District is derived by multiplying the number of residents authorized by Sec. 30-26 by 75%.
- (b) *"RT" Residential Transition Zoning District.* The number of required off-street parking spaces for a boarding home facility located within a "RT" Residential Transition Zoning District is the greater number from either the regulations applied to this use within an such a district or the amount derived by multiplying the maximum number of residents authorized by Sec. 30-26 by 75%.
- (c) *"R-3", "RM" Residential Mix, Commercial, and Industrial Zoning Districts.* The number of required off-street parking spaces for a boarding home facility located within an "R-3", "RM" Residential Mix, Commercial, or Industrial Zoning Districts is the greater amount from either the regulations applied to this use within the applicable zoning district or the amount derived by multiplying the maximum number of residents authorized by Sec. 30-26 by 75%.

Sec. 30-28. Operational Standards. Each permit holder shall ensure the residents' health, safety, comfort, and protection from hazards and shall comply with the following:

- (a) City zoning and building codes; federal, state, and City adopted fire codes and applicable standards; federal, state, and City health and safety codes; and federal and state accessibility regulations;
- (b) Mobile homes may not be used as a boarding home facility;

- (c) Each sleeping room must contain at least 70 square feet of floor space for each occupant; at least one wall of not less than 10 feet in length; a built-in closet; and access must not be solely through another sleeping room;
- (d) A kitchen must be accessible to each resident without the need to travel through a sleeping room of another resident, contain a sink with at least two compartments for manual dishwashing, and contain an operational cooking stove with at least two working burners;
- (e) Smoke alarms must be installed in compliance with the City's fire code to include installation within each sleeping room, immediately outside of each sleeping area, and on each story of the building, including any basement or attic;
- (f) Maintain the residence or dwelling and its premises in a clean and sanitary condition;
- (g) Pathways and stairways must remain unobstructed; and
- (h) Operation of a boarding home facility may not result in illegal or nuisance activities, including disturbance of the peace, illegal drug activity, harassment of passers-by, public urination, theft, assault, vandalism, littering, illegal parking, loud noise, disorderly conduct, lewd conduct, or police detention and/or arrests.

Sec. 30-29 Emergency Precautions. The permit holder shall provide fire escapes and exits that are kept in good repair and accessible at all times in accordance with applicable fire codes, as amended.

Sec. 30-30 Violations; Penalty.

- (a) A permit holder, employee, or other person who violates any provision of this article, or who fails to perform a duty required by this article, commits an offense.
- (b) An offense under this article is punishable by a fine not to exceed \$2,000.00.
- (c) A separate offense occurs each day or part of a day that the violation is committed, continued, or permitted.
- (d) If the director finds a boarding home facility operating in violation of the standards prescribed by this article and the violations create an immediate threat to the health and safety of a resident in the facility, the director may order immediate closing of all or part of the facility. An order of immediate closure is effective immediately on providing written notice of the order to the owner or operator by facsimile, email, or hand-delivery. The order of closure of all or part of a boarding home facility is valid for 10 days after its effective date.

- (e) The City Attorney may petition the appropriate court for civil penalties and for injunctive relief to restrain a continuing violation of the standards or permit requirements for a boarding home facility under this article if the violations create an immediate threat to the health or safety of the residents. In addition, the City Attorney may petition a court for civil penalties and for injunctive relief to restrain the continuing operation of a facility that is providing services inconsistent with those prescribed by this article and state law until such time as said facility becomes appropriately licensed by the State of Texas or meets the requirements to obtain a permit under this article.
- (f) The remedies and procedures in this section and in other laws are cumulative law, and the use of any particular remedy or procedure does not prevent the enforcement of any other law."

SECTION TWO. The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the new Article I of Chapter 30 as adopted herein, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, or its successor section, of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

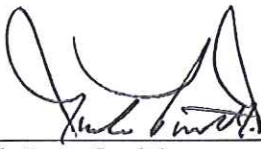
SECTION SIX. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by law as an alternative method of publication.

SECTION SEVEN. Following passage and approval upon second reading, this Ordinance shall become effective on June 3, 2013.

PASSED AND APPROVED ON FIRST READING, this the 9th day of April,
A.D., 2013.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 23rd
of April, A.D., 2013.

ATTEST:



Jack Pratt, Jr., Mayor



Brenda G. Craig, City Secretary

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

Agenda Item:

6C. Proposal for workforce housing project submitted by MacDonald Companies, Inc. on approximately 16 acres on Loop 534, at the planned extension of Olympic Drive. (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Proposal for workforce housing project submitted by MacDonald Companies

FOR AGENDA OF: Oct. 25, 2016 **DATE SUBMITTED:** Oct. 18, 2016

SUBMITTED BY: E.A. Hoppe **CLEARANCES:** Todd Parton
Deputy City Manager City Manager

EXHIBITS: 

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$0	\$0	\$0	

PAYMENT TO BE MADE TO:
REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Earlier this year the City Council developed an RFQ to select a development team to help bring enhanced workforce housing opportunities to the Kerrville community as an economic development strategy. The general concept was to select a development team to work with the City to determine the feasibility of building a workforce housing project on the Peterson Farm Road tract purchased with 4B sales tax revenues. Unfortunately, due to infrastructure challenges that were identified, that site location was deemed infeasible at this time.

Subsequently, MacDonald Companies, who was previously selected as the City's development partner for the potential Peterson Farm location, identified an alternative site for a workforce housing development and has submitted an economic development proposal that could achieve many of the previously stated Council's goals for this effort. Essentially, they propose to develop approximately 16 acres on Loop 534, on the planned extension of Olympic Drive. The project would provide 200 multi-family units in 21 multi-story garden-style buildings. The housing units would consist of a blend of one bedroom, two bedroom, and three bedroom apartments.

To develop this project, MacDonald Companies is requesting the following from the City of Kerrville:

1. Waiver of all City building and development fees,
2. Abatement of City property taxes for 5 years, and
3. Grant funds in the amount of \$750,000 (4B funds) to assist with off-site public infrastructure enhancements.

At the October 11th City Council meeting the City Council reviewed the preliminary proposal from MacDonald Companies and directed staff to further explore the proposal and bring various details back to the Council for further review.

Specifically, the following preliminary questions were asked to be addressed:

1. *What is the estimated value of the building and development fees?*

Answer: The typical plan review and building permit fees for a \$14 million construction value are anticipated to total as much as \$105,000. This project will likely be reviewed and inspected entirely by the City's third-party inspection service, and so the amount could be less depending upon the City's actual costs.

2. *What is the projected property value of the project and what would the projected value of the property tax abatement be?*

Answer: The total construction value of the project is anticipated to exceed \$14 million. The economic development proposal requests an abatement of \$175,000 in total City-collected property taxes during the first five years of the project, although the annual amount may vary from year to year. If accepted, the City would not be responsible for more than \$175,000 of abated property taxes in total, or any abatement after the first five years has passed.

3. *Which building and development fees should actually be waived?*

Answer: Additional processing and review fees, beyond the plan review and building permit fees, may also be associated with the project including those typically required for platting, zoning, development site plan review, and annexation. In total, the value of those fees is estimated to be less than \$5,000. The utility connection/tap fees for water and sewer are not known at this time. Any construction re-inspection fees are anticipated to be charged to the developer.

4. *What would the unit mix be for the project?*

Answer: The project anticipates that 200 units will be built for a total of nearly 200,000 square feet of rentable space; 52 one-bedroom units (715 sq. ft.); 96 two-bedroom units (1010 sq. ft.); and 52 three-bedroom units (1256 sq. ft.). 22 one-bedroom units, 37 two-bedroom units, and 21 three-bedroom units will be available for less than market rates (in total 40% of all units).

5. *What would the rental rates and average rent be for the project?*

Answer: The average rental for the entire 200-unit development is anticipated to be \$861. Market rate for one-bedroom units will be \$875, with affordable units ranging from \$471 to \$550. Market rate for two-bedroom units will be \$999, with affordable units ranging from \$555 to \$650. Market rate for three-bedroom units will be \$1,149, with affordable units ranging from \$633 to \$743. The overall average monthly rental rate for all below-market units would be approximately \$642.

6. *How would the project be financed and what, if any, involvement would the city have in that process?*

Answer: The City will not be involved in any financing of the project. The project is anticipated to utilize the state/federal 4% tax-credit program and private financing.

7. *What, if any, off-site constraints exist to provide adequate water and sewer capacity? Other infrastructure enhancements?*

Answer: The City currently has both water and wastewater utility capacity to accommodate this project. The wastewater will flow into the Loop 534 lift station, circumventing the capacity issues associated with the Legion lift station and the Peterson Farm Rd project concept. The MacDonald company anticipates that \$1.5 million or greater in off-site infrastructure improvements will be necessary, including extending Olympic Drive to the property line, extending water and wastewater services, providing a traffic light enhancement at the Olympic Drive intersection, and creating a deceleration lane at Loop 534. Consequently, they will be requesting a \$750,000 (4B) EIC reimbursement, but intend to construct the off-site improvements themselves and then convey them to the City.

8. *How does the alternative project compare to the project contemplated in RFQ 2016-01?*

Answer: This workforce housing proposal appears to offer significant advantages to the original concept for Peterson Farm Road. Off-site infrastructure expenses appear to be much lower, project timing is anticipated to be significantly shorter, and the project would not require the City's involvement in the ownership and/or management of the project.

9. *Is the project consistent with the city's land use plan and compatible with surrounding land uses?*

Answer: Yes, the project is generally consistent with the current land use plan, which has a place-holder of low-density residential applied for this ETJ location and along much of the Loop 534 corridor. The project is not immediately adjacent to any other current development. It is near an annexed vacant portion of the City that carries the E-25 zoning designation, which among other things does allow for multi-family housing. It is anticipated that other developments, more commercial in nature, will occur closer to the 534 Loop. The project would need to be voluntarily annexed into the City. If the City Council chooses to move forward with the partnership, further discussion will need to be had with the current property owner, Schreiner University, regarding the timing and scope of the annexation.

RECOMMENDED ACTION

This workforce housing proposal appears to offer significant advantages to the original concept for Peterson Farm Road. Off-site infrastructure expenses appear to be much lower, project timing may be significantly shorter, and the project would not require the City's partnership/ownership.

It is recommended that the City Council direct City staff to work with MacDonald Companies to prepare a final proposal for consideration by the City Council and EIC Board.

Agenda Item:

6D. Re-engagement of the Reuse Water Ad Hoc Advisory Committee.
(Councilmember Andrew)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

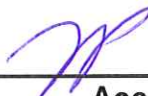
SUBJECT: Re-engagement of the Reuse Water Ad Hoc Advisory Committee

FOR AGENDA OF: Oct. 25, 2016 **DATE SUBMITTED:** Oct. 18, 2016

SUBMITTED BY: Glenn Andrew **CLEARANCES:** Todd Parton
Councilmember Place 2 City Manager

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$0	\$0	\$0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Action: Re-engage the previous Reuse Water Ad Hoc Advisory Committee.

Purpose: Provide any wanted or needed technical expertise during the execution of the effluent pond construction.

Committee Composition: Offer to the committee members who were active at the last official meeting of the committee.

Justification: The committee was comprised of world class experts in every aspect of the reuse water project, including construction. The resignation of both Kristine Day and Todd Parton significantly depletes the in house institutional knowledge and history. The ad hoc committee thus is the best source of any history and offers expertise and expert advice in the successful execution of the pond construction contract.

Proposed actions post re-engagement: Ask those members to select out if they do not wish to continue. Then ask the previous Chair to convene the committee, if desired select another chair and discern if there are technical areas where additional expertise is desirable, ask the Council to seek members with desired skills. Council will seek volunteers to join the Committee for identified areas of needed expertise. The committee is tasked by action of the City Council or the City Manager

Length of Committee Term: Committee should be available during the entirety of the construction phase.

RECOMMENDED ACTION

Re-engage the Ad Hoc Water Reuse Advisory Committee as presented.

Agenda Item:

6E. Request for proposals (RFP) for an executive search consultant for city manager. (Mayor White)

TO BE CONSIDERED BY THE CITY COUNCIL

CITY OF KERRVILLE, TEXAS

SUBJECT: Review and consideration of approval of the Request for Proposals (RFP) for Executive Search Consultant for City Manager.

FOR AGENDA OF: October 25, 2016

DATE SUBMITTED: October 18, 2016

SUBMITTED BY: Kimberly Meisner 
Director of General Operations

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Draft – RFP for Executive Search Consultant for City Manager
List of Executive Search Consultants

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

**Expenditure
Required:**

**Current Balance
in Account:**

**Amount
Budgeted:**

**Account
Number:**

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Due to the resignation of City Manager, Todd Parton that became effective October 23, 2016, there is a vacancy that needs to be filled. City Council decided at the City Council meeting on October 11, 2016 to develop an RFP for an Executive Search Consultant to assist in recruiting candidates to fill the vacant City Manager position.

Attached is a draft RFP for the city manager recruitment. It contains detailed attributes of a city manager, an overview of the city's demographics, and city statistics. The RFP also contains language relating to the duties that are desired of the Executive Search Consultant, and instructions and a deadline for submitting a proposal.

The Texas City Management Association's website contains a list of Executive Search Consultants who are known to do business with public sector organizations in Texas. The city has also been contacted via e-mail by an executive search consultant who is interested in submitting a proposal but is not on that list.

RECOMMENDATION

Approval of the draft of the Request for Proposals for Executive Search Consultant for City Manager and authorization for the Director of General Operations to distribute same.



KERRVILLE, TEXAS

Request for Proposals For Executive Search Consultant for City Manager

Issued By:
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Ph. 830-257-8000
Fax: 830-792-8346

Date of Issuance: October 26, 2016
Proposal Deadline: November 9, 2016 – 3:00 pm

I. GENERAL INFORMATION

A. Introduction

The City of Kerrville, Texas is seeking services from a qualified executive search consultant for the recruitment of a new City Manager. The current City manager resigned effective October 23, 2016 after almost eight (8) years of service to the Kerrville Community.

B. Purpose and Intent

The City of Kerrville is seeking proposals from qualified executive search firms for the successful recruitment, screening, and identification of qualified candidates for its City Council to interview and appoint as City Manager.

Each proposal received by the deadline shall be considered a bona fide offer of consulting services and shall remain in effect for up to 90 days from the date of submission. The City Council reserves the right to reject any and all proposals, to waive any irregularities or to accept any portion of a proposal where the best interests of the City of Kerrville will be served.

C. Background

The City of Kerrville is located 65 miles northwest of San Antonio on Interstate Highway 10 in the heart of the Texas Hill Country. The current estimated population of the City is 23,000. Rolling hills and sparkling spring-fed creeks that meander through the Guadalupe River Valley characterize the area. Residents proudly proclaim that Kerrville has a small town atmosphere with many amenities of a big city.

The Guadalupe River is the focal point for the City and provides a major recreational asset that is literally next to downtown. Because of the water resource, Kerrville has been a center for business and ranching since the mid-eighteen hundreds.

Well-known as a center for tourism, Kerrville has developed into a center for arts and culture. The City is home to the nationally recognized Kerr Arts and Cultural Center and is speckled with art galleries and artists workshops throughout.

Because of the moderate climate, Kerrville attracts visitors year-round to some thirty youth camps, impacting the area economy by also providing locations for corporate retreats, family reunions, and other group events hosted during the off-season. A wide variety of outdoor recreation activities abound, including sports, historical discoveries, and youth activities. A state of the art athletic complex is currently under construction with an estimated completion date of mid to late 2017. The Kerrville area is a prime location for hunting dove, quail, Whitetail deer and exotic game, which plays a major role in the economy.

Kerrville is an appealing retirement community as retirees are attracted to superb health care facilities such as Peterson Regional Medical Center, a private, not-for-profit community hospital in the heart of the Texas Hill Country. Peterson has 125 private patient rooms and anchors a 35-acre campus that includes an ambulatory care center complete with outpatient surgery, imaging, laboratory and rehabilitation services as well as a regional wound healing center. In addition, Kerrville has two state of the art cancer treatment centers, the Kerrville State Hospital, a facility of the Texas Department of MHMR, the South Texas Veteran's Health Care System (Kerrville VA Hospital), and a variety of medical clinics serving the area.

Schreiner University, located in the City, is a coeducational liberal arts university that has been ranked as one of the top universities in the western United States. Kerrville Independent School District is recognized by the Texas Education Agency. Private and parochial education opportunities include grades pre-kindergarten through high school.

Kerrville is home to several well-known manufacturing companies, shipping goods nationwide such as airplanes and aviation-related products, jewelry, wildlife feeders and medical equipment. This area is also attractive to 'lone eagle' businesspersons due to the proximity to Interstate 10 and the San Antonio metro area.

For more information on the City and the area, please visit the website at www.kerrvilletx.gov.

D. The City Government:

The City of Kerrville operates under a home rule charter originally adopted in 1942. The City had adopted the Council/Manager form of government in 1928. The City is governed by a five-member City Council elected to staggered, two-year terms by place and voted on by the entire city. The current council members are:

- Bonnie White, Mayor;
- Stephen P. Fine, Place 1 and Mayor Pro-Tem;
- Glenn Andrew, Place 2;
- VACANT, Place 3; and
- Gene Allen, Place 4.

The Kerrville City Council appoints the City Manager to be the chief executive and head of the administrative branch of the City government. The City Manager is authorized to appoint and remove all officers and employees of the City except the City Attorney and Municipal Court Judge, which are appointed by the City Council.

E. General Requirements

Proposals will be received by the City Secretary's Office, City of Kerrville, 701 Main Street, Kerrville, Texas 78028 until 3:00 pm on Wednesday, November 9, 2016. The mere fact that a proposal was dispatched will not be considered. The respondent must ensure that the response is actually delivered. Late proposals will not be considered.

Questions pertaining to this RFP should be directed to:

Kimberly Meisner
Director of General Operations
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Ph. 830-258-1140
Email: kim.meisner@kerrvilletx.gov

The successful proposal should include the methodology that will be employed to recruit applicants. Proposals should provide straightforward and concise presentation adequate to satisfy the requirement of the RFP. Emphasis should be on completeness and clarity of content. Responsiveness to the RFP will be a principal basis for evaluation. The City of Kerrville reserves the right, without reservation to:

- Select any proposal based on written or oral communication with any or all of the firms or individuals when such action is considered to be in the best interest of the City of Kerrville.
- Reject all proposals.
- Exercise discretion and apply its judgment with respect to any proposals submitted and to pick and choose or even add to various parts of a proposed methodology.
- In accordance with current law, all proposals will be deemed confidential and will be retained by the City of Kerrville but may be subject to disclosure at such time the City enters into an agreement with a successful proposer.

Official submittal of proposal shall consist of one original (unbound and single-sided) and eight (8) copies each of their proposal in a sealed envelope/box labeled: "Proposal for Executive Search Services for City Manager – 2016".

If an award is made to perform executive search consulting services described in the Request for Proposal (RFP); the firm selected to provide such services would be retained by the City through an agreement.

II. SCOPE OF WORK

The successful consulting firm will be expected to accomplish the following:

- A. Develop a suitable candidate profile from information received from the City Council and the city's executive staff.
- B. Develop and administer a nation-wide search for suitable applicants using the following criteria:
 - 1. A bachelors' degree in public administration, business, finance or a related field from an accredited university is required. A masters' degree in public administration, business, finance or a related field from an accredited university is preferred.
 - 2. A minimum of three (3) years of experience as a City Manager in a full service city with a Council/Manager form of government with similar demographics, environmental features, and resource issues to Kerrville, with a keen awareness of issues unique to municipal governance and operations.
 - 3. Must be accessible and visible in the community and actively participate in the community, both as a representative of the City and as a citizen.
 - 4. Must be a strong, visionary leader who can anticipate the future impact of decisions and assist the City Council in making decisions that will guide the future development of the City.
 - 5. Has successful experience in exhibiting strong coordination, communication and relationship-building skills in working with city staff, council, community leaders, citizens, and other entities.
 - 6. Record of accomplishments and success with promoting new development and re-development projects, including familiarity with economic development incentives for business development, workforce development and affordable housing development
 - 7. Knowledge of principles and practices of municipal finance and budget preparation and administration. Have significant working knowledge of financial statements, their respective ratios to protect the prudent use of tax payer dollars.
 - 8. Must have demonstrated the highest principles of honesty, integrity and trust in both professional and personal relationships.
 - 9. Must have demonstrated an ability to effectively communicate with department directors, staff, other governmental agencies, citizens, City Council and other entities to explain decision-making, direction, goals, objectives, policies, and ordinances.
 - 10. Must be a self-confident leader who is decisive and able to make decisions in difficult matters of public policy and who can deal with persons of differing opinions in a diplomatic and flexible manner.
- C. Take receipt of all resumes and other applicable documents from candidates.
- D. Conduct in-depth reviews of candidates' credentials using criteria established in the candidate profile.

- E. Select the most qualified, skilled and articulate candidates, which shall be reviewed by the City Council; provide a written report summarizing results and the identification of up to ten candidates for consideration.
- F. Advise the City Council on interview strategies, techniques and questions as needed.
- G. Arrange for and/or conduct finalist(s) professional background investigations.
- H. Conduct personality and management assessments along with professional background investigations of top candidates.
- I. Provide results of personality and management assessments and professional background investigations of top candidates to City Council.
- J. Arrange for candidate interviews with City Council.

III. PROPOSAL REQUIREMENTS

In order to be fully responsive, each proposal should include the following:

- A. Background
 - Detail of the search firm's experience with public sector recruitment, including number of City Manager searches and placements.
 - Background and qualifications for personnel that will be assigned to Kerrville's recruitment effort.
 - Sample work product such as recruitment brochures, candidate questionnaires, candidate references and background reports.
- B. Schedule

Include a tentative schedule for each phase of the process including recruitment profile development, executive search, candidate background investigations and assessments, identification of candidates, and Council review. In addition, the consultant should provide detail of its current engagements and confirm its ability to focus on our recruitment without delay and complete the process in the most efficient manner.
- C. References

Provide a list of four client references for executive search work performed within the previous three years. Also include two (2) references from unsuccessful proposals.
- D. Unsuccessful Recruitment

Provide written detail of how the consulting firm approaches either an unsuccessful recruitment or the premature dismissal for cause or resignation of identified candidate.
- E. Professional Fees and Charges

Provide a total cost estimate for the performance of Kerrville's executive search including fees and anticipated costs for reimbursable items separated out by each

line item in the "Scope of Work".. Any costs incurred by consulting firms in preparing or submitting their proposal are the sole responsibility of the firm. Payment terms shall also be included in the proposal.

IV. PROPOSAL EVALUATION CRITERIA

The method of selection will be based on the following criteria set forth below:

- Responsiveness to the provisions of this RFP.
- Thoroughness of proposal and clarity of services to be provided.
- Prior successful recruitments, especially for the position of City Manager.
- Qualification and experience of the individuals assigned to perform the executive search.
- Schedule and availability.
- Cost of services.
- Reference contact information.

V. PROPOSAL SUBMISSION INFORMATION

Proposal submittals are to include one original (unbound and single-sided) and eight (8) copies. The original submittal must have original signatures and must be signed by a person who is authorized to bind the submitting firm or organization. All additional sets may contain photocopies of the original package. The proposal containing the original signature(s) should be clearly marked "Original". Each copy provided must be marked clearly as "Copy".

Submittals will be received until **Wednesday, November 9, 2016 at 3:00 pm CST** as determined by www.time.gov. Late submittals will not be accepted and will be returned to the submitter unopened. Telephone, telegraphic, electronic, faxed, and late submittals will not be accepted. It is the respondent's responsibility to see that their submittal has sufficient time to be received by the City Secretary's office before the submittal deadline. Submittals are to be submitted in a sealed envelope or box to: **City Secretary's Office, City of Kerrville, 701 Main Street, Kerrville, Texas 78028.** Respondent assumes the burden of delivery. Sealed submittals are to be clearly marked:

Proposal for Executive Search Services for City Manager – 2016

VI. CONTRACT AWARD

Following proposal evaluations, interviews (if desired), and reference calls, the award of a contract to the successful executive search firm will be at the sole discretion of Kerrville's City Council.

The City Council of Kerrville on behalf of the City of Kerrville reserves the right to negotiate the final terms of the contract.

Executive Search Consultants

Texas City Management Association (www.tcma.org)

Alliance Resource Consulting George S. Castorena, Partner One World Trade Center, Suite 420 Long Beach, CA 90831 Phone: 562-901-0769 Fax: 562-901-3082 Cell: 720-837-5542 E-mail: gcastorena@allianceresourceconsulting.com Web site: www.alliancerc.com/	Keller Consulting Group Government Consulting Services Michael A. Keller P.O. Box 393 Aransas Pass, Texas 78335 361-779-5501 mobile 361-758-9165 home E-mail: mkeller@kellerconsultants.com
Affion Public 20 North Second Street, Suite 200 Harrisburg, PA 17101 Toll free: 888-321-4922 Phone: 717-214-4922 Fax: 717-703-3201 E-mail: info@affionpublic.com Web site: www.affionpublic.com/	The Mercer Group, Inc. Mr. James L. Mercer, President 551 W. Cordova Rd., Suite 726 Santa Fe, NM Phone: 505-466-9500 Fax: 505-466-1274 Web site: www.mercergroupinc.com
Caldwell Business Group D. Scott Caldwell PO Box 19448 Amarillo, TX 79114-9448 Phone: 806.367.4176 Fax: 806.553.1552 E-Mail: scaldwell@caldwellbg.com Website: www.caldwellbusinessgroup.com	The Par Group – Paul A. Reaume, Ltd. Robert A. Beezat President 100 N. Waukegan Rd Ste 211 Lake Bluff, IL 60044 Phone: 847-234-0005 Fax: 847-234-8309 E-mail: info@pargroupltd.com
Chris Hartung Consulting G. Chris Hartung, Owner/President P.O. Box 434 Bedford, Texas 76095 817-715-9693 E-mail: gchart3808@att.net	Ralph Andersen & Associates 5800 Stanford Ranch Road, Suite 410 Rocklin, CA 95765 Phone: 916-630-4911 Fax: 916-630-4911 E-mail: info@ralphandersen.com Web site: www.ralphandersen.com
City Manager Solutions, Search Firm Alternative Jim Rooney, CPBA P.O. Box 891 Brady, Texas 76825 325.792.1148 E-mail: rj@citymanagersolutions.com Web site: www.citymanagersolutions.com/	Ray Associates, Inc. Jim Ray, Principal 1305 San Antonio St. Austin, Texas 78701 Phone: 512-478-4699 Fax: 512-478-1049 E-mail: jray@rayassociates.com Web site: www.rayassociates.com
Gerald Plock Associates, Inc. 7501 Stallion Circle Flower Mound, TX 75022-6089 Phone: 817-464-4610 Fax: 817-491-7344 E-mail: geraldplock@geraldplockassoc.com Web site: www.geraldplockassoc.com	Strategic Government Resources Ron Holifield Chief Executive Officer P.O. Box 1642 Keller, TX 76244 Phone: 817-337-8581 Fax: 817-796-1228 E-mail: ron@governmentresource.com Web site: www.governmentresource.com

Executive Search Consultants
Texas City Management Association (www.tcma.org)

H C Smith, Ltd. Herbert C. Smith, PhD. President and CEO 20600 Chagrin Blvd., Suite 200 Shaker Heights, Ohio 44122-5334 Phone: 216-752-9966 Fax: 216-752-9970 E-mail: info@hcsmith.com Web site: www.hcsmith.com	Waters and Company, A Springsted Company Chuck Anderson, Senior VP Chuck Rohre, Senior VP 14285 Midway Road, Ste 340 Addison, TX 75001 Phone: 972-481-1950 Fax: 972-481-1951 E-mail: information@waters-company.com Web site: www.waters-company.com
JDGray Group 12617 Alfa Romeo Way Frisco, TX 75033 Phone: 972-885-6472 Cell: 469-396-9640 E-mail: info@jdgraygroup.com Web site: http://www.jdgraygroup.com	Slavin Management Consultants Paul Wenbert, ICMA-CM Western Regional Manager 7828 E. Red Hawk Circle Mesa, AZ 85207 Phone: 480-664-2676 Fax: 480-444-9512 E-mail: pwconsulting@cox.net Web site: www.slavinmanagementconsultants.com
Johnson & Associates Attn: Chloe Johnson 8308 Tecumseh Drive Austin, Texas 78753-5745 Phone: 512-339-9000 Fax: 512-339-2876 E-mail: chloe@jatoday.com Web site: www.jatoday.com	

Agenda Item:

6F. Consider offer(s) for the purchase of 800 Junction Highway, former city hall property. (staff)

**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Consider offers to purchase the city-owned property located at 800 Junction Highway, the former Kerrville City Hall site

FOR AGENDA OF: Oct. 25, 2016

DATE SUBMITTED: Oct. 19, 2016

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	 Account Number:
\$0	\$0	\$0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The city's real estate broker, Ms. Sue Tiemann of Commercial Realty Services, listed the city-owned property located at 800 Junction Highway (former Kerrville City Hall site) on multiple listing service on September 13, 2016. Since the property has been on listed for more than 30 days the City Council may consider purchase offers.

To date, no purchase offers have been submitted since the property was listed.

RECOMMENDED ACTION

This item has been placed on the agenda for discussion purposes and in the event that an offer is submitted prior to the City Council meeting.

Agenda Item:

7A. Building Board of Adjustment and Appeals. (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointments to the Building Board of Adjustments and Appeals

FOR AGENDA OF: October 25, 2016 **DATE SUBMITTED:** October 19, 2016

SUBMITTED BY: Brenda Craig *BC*
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

SUMMARY STATEMENT

Consider appointments to the following board:

Building Board of Adjustment and Appeals:

Four regular positions, and one alternate position that expired 08/31/2015; Three regular positions and one alternate position that expired 08/31/2016.

RECOMMENDED ACTION

Consider appointments.

BUILDING BOARD OF ADJUSTMENT AND APPEALS

		<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
i	MICHAEL WALKER Architect	895-2724	02-25-14		08-31-15
ii	HEWITT, JOHN 100 Horseshoe Ridge Professional Engineer	315-8800 (O) 285-7925 (H)	08-23-11	12-10-13	08-31-15
iii	LUCK, CALVIN 1200 Spur 100 Master Electrician	830-928-1459 (O) 896-9333 (H)	09-14-10	01-13-15	08-31-16
iv	TREMPER II, CHARLES 702 Fay Dr. Master Plumber	739-4194 (O) 730-4194 (H)	09-14-10	01-13-15	08-31-16
v	UNDERWOOD, LEE 807 Rim Rock S. Mechanical Contractor	896-4083 (O) 896-4083 (H)	09-14-10	01-13-15	08-31-16
vi	BLEDSON, KENNETH 1308 Paragon Place Contractor	377-8300 (O) 896-8845 (H)	09-14-10	12-10-13	08-31-15
vii	DOWNEY, DWAYNE 737 Rim Rock Road Active Construction Industry	257-1770 (O) 377-2087 (H)	09-14-10	12-10-13	08-31-15
<u>ALTERNATES:</u>					
(*)	COON, DALLAS 921 Prescott Street	285-5177 (O)	01-13-15		08-31-16
(*)	PRIOR, JOHN 132 Cedar Drive E.	792-5900 (O) 739-5900 (H)	09-14-10	12-10-13	08-31-15

CITY STAFF:

Danny Batts 258-1178 (O)
Director of Building Services

Qualifications:

Members shall be composed of the following:

- i an architect licensed to practice in the state;
- ii a professional engineer licensed to practice in the state;
- iii a master electrician licensed to practice in the state;
- iv an unrestricted master plumber licensed to practice in the state;
- v a mechanical contractor with a Class A state license;
- vi a person licensed by the city as a contractor;
- vii a person that is active in the construction industry; provided, however, if the city council determines that there is no architect or professional engineer available to serve on the board, then council shall select a second person meeting this description to serve.

Alternate board members shall attend all meetings and are subject to the attendance requirement applicable to the board; however, alternate members shall serve only in the absence of one or more regular members and shall then act as a regular member for that entire meeting. Members shall be residents of the county and operate or be employed by a business located within the city; however, no two (2) members, regular or alternate, may be employed by or have an ownership interest in the same business or firm.

Powers and Duties:

- (1) To hear appeals of decisions and interpretations of the chief building official and fire code official and to consider variances to the standardized building codes as more specifically described in Sec. 26-251 of Ordinance No. 2010-15. No appeal may arise out of the city's issuance of citation for violation of any of the standardized building codes as the procedure for the consideration and decision regarding citations is solely under the purview and authority of the municipal court. In addition, the board shall have no authority to waive, and is prohibited from waiving, any requirement of the standardized building codes; and
- (2) Recommend amendments to this chapter; any standardized building code adopted by the city council; or any other code, application, or process applicable to the city's review, application, interpretation, and enforcement of the standardized building codes with the goal toward addressing any deficiencies, voids, inconsistencies, inefficiencies, or technical errors; and
- (3) To hear appeals, issue orders, and fulfill other duties pursuant to the authority established in Article VII of this Chapter for unsafe building abatement.

Term of Office:

Two years. No regular member shall serve more than two consecutive full terms on the board without having at least one full year off of the board between terms; provided, however, if the city council finds that it has not received applications from other qualified candidates, the city council may reappoint an incumbent member of the board notwithstanding the restrictions of this subsection.

Quorum:

Four members

Number of Members:

Seven members, and two alternates

Officers:

The board shall elect a chair and vice-chair who shall be appointed from among its voting members. The board shall appoint such officers at the first meeting of the board held after September 1 of each year. Officers shall serve a term of one year and all such terms shall end on August 31 after the date of election or until a successor is elected, but in every case each subsequent term shall end on August 31. An officer of the board may not serve in the office elected for more than two consecutive terms.

Meeting Time & Place: At least quarterly at the call of the chair, City Hall

Absences:

As established in the Procedural Rules for Kerrville City Boards.

Established by:

Ordinance No. 2010-15

Revised:

July 11, 2016

- (*) alternate members shall be qualified as one of the following: master electrician, master plumber or mechanical contractor.

Agenda Item:

7B. Zoning Board of Adjustment. (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointments to the Zoning Board of Adjustment

FOR AGENDA OF: October 19, 2016 **DATE SUBMITTED:** October 19, 2016

SUBMITTED BY: Brenda Craig 
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

SUMMARY STATEMENT

Consider appointments to the following board:

Zoning Board of Adjustment: Two regular member positions, and two alternate positions that expired on September 30, 2016.

RECOMMENDED ACTION

Consider appointments.

ZONING BOARD OF ADJUSTMENT

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
STILWELL, LINDA Chair 415 Timber Ridge Dr.	329-6456 (C)	01-10-12** 10-11-11*	10-13-15	09-30-17
LEWIS, PETER Vice-Chair 334 West Water St.	896-1707 (H) 896-4220 (W)	12-09-14		09-30-16
MacDONALD, T. JUSTIN Secretary 2951 Fall Creek Road	896-4821 (H) 257-5323 (W)	12-09-14* 10-13-15**		09-30-17
EYCHNER, JUDY 604 Cardinal	370-1587 (C) 257-5010 (O)	10-22-13** 01-08-13*	12-09-14	09-30-16
LIGON, SAM 431 Valley Drive	895-4431 (H) 895-5111 (W)	10-22-13	10-13-15	09-30-17
<u>ALTERNATES:</u>				
BOSMA, MARK 356 Englewood Dr.	713-306-3806 (H)	10-13-15		09-30-16
PARKS, ROBERT 2515 Rogers Circle	896-5861 (H) 928-1616 (C)	12-09-14		09-30-16
<u>CITY STAFF:</u>				
Trent Robertson City Planner	258-1184 (O)			

Qualifications: The board shall be composed of five members all of whom shall be residents and qualified voters of the city of Kerrville.

Alternate Members: Two alternate members will be appointed who shall be qualified voters of the city to serve concurrent terms as the regular members. The alternate members will serve on the board in place of an absent member when requested to do so by the chairperson of the board so that all cases to be heard by the board shall always be heard by a minimum of four members.

Powers and Duties: 1. The board shall hear and decide an appeal that alleges an error in any order, decision, or determination made by an administrative official of the city in the interpretation or enforcement of Chapter 211 of the Texas Local Government Code, as amended, or the zoning code.

2. The board shall grant, upon written request, variances from the height, yard, area, coverage, floor-to-area, and buffering regulations and required number of parking and loading spaces prescribed by the zoning code, which variances are not contrary to the public interest, and which, because of special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

Term of Office: Two years. The members shall be appointed by a majority vote of the members of the city council. No member or alternate member shall serve more than three consecutive full terms on the board without having at least one full year off of the board between terms.

Quorum: Four members

Number of Members: Five with two alternates

Meeting Time & Place: At the call of the chairperson and at such other times as the members of the board shall determine.

Absences: Cause for removal of a member of the board by the city council shall be deemed to exist if during any period of twelve consecutive months for any reason other than a medical reason which prevents the member's attendance, the member is absent from the greater of three called meetings of the board or 25 percent of the called meetings of the board.

Established by: Ordinance No. 1997-07

Revised: December 31, 2015

* Appointed as alternate

** Appointed as full member

Agenda Item:

7C. Appointment to the City of Kerrville, Texas Economic Improvement Corporation. (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointment to the City of Kerrville, Texas Economic Improvement Corporation

FOR AGENDA OF: October 25, 2016

DATE SUBMITTED: October 17, 2016

SUBMITTED BY: Brenda Craig *BC*
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

SUMMARY STATEMENT

Consider appointment to the following board:

Economic Improvement Corporation: One vacancy that will expire on June 1, 2017, Gary Stork.

RECOMMENDED ACTION

Consider appointment.

ECONOMIC IMPROVEMENT CORPORATION

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
COCHRANE, GARY President 2305 Birkdale Lane	895-7771 (O) 459-8808 (H)	12-13-11	05-26-15	06-01-17
PATTILLO, SHERI Vice President 1695 Mountain Laurel	285-9210 (O)	06-10-14	05-24-16	06-01-18
EARLY, KENNETH 2756 Indian Wells Dr. E	928-3264 (H) 257-4771 (W) 938-3264 (C)	05-24-16		06-01-18
SIGERMAN, DELAYNE 4000 Comanche Trace Dr.	895-7765 (H) 305-302-6258 (O)	05-26-15		06-01-17
STAFFORD, PAUL 38 Antelope Trail	895-3079 (H)	05-26-15		06-01-17
STORK, GARY 804 Tanglewood Lane	257-0365 (O) 200-1483 (H)	05-26-15		06-01-17
WILSON, JAMES 410 Spring Mill	792-0470 (H) 210-593-1507 (O)	01-27-15	05-24-16	06-01-18
CITY STAFF:				
Todd Parton City Manager	258-1105 (O)			
Cheryl Brown Secretary	258-1118 (O)			
Sandra Yarbrough Treasurer	258-1120 (O)			

Qualifications: Resident of the city and at least three directors must be persons who are not employees, officers or members of the governing body of the city.

Purpose: Benefiting and accomplishing public purposes of the city permitted by Section 4B of the Act including, but not limited to, the promotion and development of industrial and manufacturing enterprises to promote and encourage employment and the public welfare, and financing the acquisition, construction and/or equipping, and/or the maintenance and operating costs of any "Project" (as defined in Section 4B of the Act).

Term of Office: Two years; maximum of two consecutive terms

Quorum: Majority

Number of Members: Seven

Meeting Time & Place: Third Monday, 4:00 p.m., City Hall Council Chambers

Established by: Resolution No. 1995-112, amended by Resolution Nos. 1999-184; 032-2009
Revised: June 13, 2016

Agenda Item:

7D. Appointment of council liaisons to various city boards (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council Appointments to Various Boards and Commissions

FOR AGENDA OF: October 25, 2016

DATE SUBMITTED: October 17, 2016

SUBMITTED BY: Brenda Craig *BC*
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board Lists

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

SUMMARY STATEMENT

Council may consider councilmember appointments to various boards:

CITY BOARD	EXISTING COUNCIL REPRESENTATIVE	PROPOSED COUNCIL REPRESENTATIVE
Airport Planning Committee	Bonnie White Glenn Andrew	
Audit Committee	Gene Allen Glenn Andrew	
Beautification Advisory Committee	Bonnie White	
Economic Improvement Corporation	Gary Stork	
Food Service Advisory Board	Stephen Fine	
Golf Course Advisory Board	Glenn Andrew	
Kerrville Economic Development Corporation	Stephen Fine	
Kerrville Public Utility Board	Bonnie White	
Library Advisory Board	Gary Stork	
Main Street Advisory Board	Gary Stork	
Municipal Court Review Committee	Gene Allen Bonnie White	
Parks and Recreation Advisory Board	Gene Allen	
Planning and Zoning Commission	Glenn Andrew	
Playhouse 2000	Stephen Fine	

RECOMMENDED ACTION

Council may consider appointments; no recommendation from staff.

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
KING, STEVE (PL 2) President 242 Creekwood Rd. E-mail swking242@windstream.net	257-3063 (O) 285-3063 (C)	04-25-06	05-24-15	06-01-17
WALTERS, ROGER "COREY" Vice President (PL 1) 222 Sidney Baker South, Ste. 305 E-mail cw717@ktx.com	257-6300 (O) 257-1314 (H)	10-27-09	05-24-16	06-01-18
GRIFFIN, KIRK (PL 5) 109 Canyon Dr. W. P.O. Box 741 Hunt, TX 78024 E-mail agbq81@yahoo.com	830-459-3431 (C)	11-13-12	05-24-16	06-01-18
LIVERMORE, ED (PL 4) 3004 Pinnacle Club Ct. #2 E-mail elivermo@ktc.com	895-2820 (H)	08-23-11	05-26-15	06-01-17
WOOD, WILLIAM "BILL"(PL 3) 3004 Pinnacle Club Dr. #4 E-mail bill@satx.rr.com	896-7742 (H) 329-2891 (C)	08-28-12	05-24-16	06-01-18

Airport Board Staff:

Bruce McKenzie 896-9399 (O)
Airport Manager 329-3764 (C)
E-mail bruce.mckenzie@kerrvilleairport.com

Qualifications: It is deemed desirable that all board members possess and will contribute a balance of expertise in business, financial, aviation, or management training and experience.

Powers and Duties: The board may exercise on behalf of the city and county any power possessed by either and those specifically provided by the code, including the power to lease property and facilities, and to buy and sell goods as an incident to the operation of the airport. However, the board is not authorized to impose a property tax, sell bonds, or otherwise enter into other debt instruments, dispose of airport property, or exercise the power of eminent domain without the prior written consent of the city and county. The board, following the prior written consent of the city and county, has the authority to apply for and to execute grant funding agreements. The board may improve, equip, maintain, operate, manage, regulate, protect, and police the airport. The board may realign, alter, acquire, abandon, or close a portion of a roadway or alleyway without a showing of paramount importance if the portions to be realigned, altered, acquired, abandoned, or closed are in the geographical

boundaries of the airport at the time of or after the realignment, alteration, acquisition, abandonment, or closing. The board shall have the responsibility and be in charge of the property, improvements, and other assets of the airport and shall revenues of the airport. be in charge of the disbursement of airport funds for airport purposes. The board shall also cause records to be kept of any and all revenues and disbursements. The board shall establish a fund to be maintained for the purpose of depositing all This fund shall be kept and managed by the board and shall be established at a bank with a branch in Kerr County. Federal, state, or other contributions or loans and the revenue obtained from the operation of the airport shall be deposited to the credit of the joint fund. The board shall have an audit of the financial affairs of the board and its operation of the airport conducted each year by an independent accountant and shall furnish the audit to the city and county no later than December 1 of each year. The board shall ensure that all records regarding the operation of the airport are maintained, retained, and made available for public review in accordance with the Texas Public Information Act. All records shall be maintained at the airport. The board shall hire and employ an airport manager ("manager") and such other employees as are necessary for the operation of the airport. The board, through its manager and any other employees, shall be responsible for the day-to-day management of the airport. Toward that end, the board is authorized to enter into service contracts with other public or private entities. The board may adopt resolutions, rules, and orders for the operation of the airport. The board may lease airport property and may adopt fees and rental rates with respect to the use of airport services or use of airport property. Such fees and rates should be, to the extent possible, included within the board budget. The city and county acknowledge that the airport property is within the city's limits and is subject to the city's regulations. However, the board shall monitor and consider appropriate zoning for the airport and the immediately surrounding areas whose use may impact airport operations. The board shall adopt policies and procedures for the purchase of goods and services and for the accounting of the airport's finances, each in accordance with state law.

The board may insure itself, its contractors and subcontractors against liability arising from the operation of the airport for damages to the person or property of others, workers' compensation, and officers' and employees' liability. The board shall comply with the code and other state laws and local laws in all respects.

Number of Members: Five members: 1) The Board shall recommend persons to the County and City for consideration of appointment. The Board shall submit the names of such persons to each Party at least 60 days prior to the end of the particular place's term. In the event that a candidate recommended by the Board is not appointed by either Party, the Board shall recommend an alternative candidate. In the event that this second candidate is not appointed by either Party, the Board shall select another candidate who will be automatically appointed to the Board without the approval of the parties. 2) It is deemed desirable that all Board members possess and will contribute a balance of expertise in business, financial, aviation, or management training and experience. Appointments shall be made on or before June 1 of each year. 3) Replacement of members shall be made on or before June 1 of each year. 3) Replacement of members shall be in the same manner and under the same qualification as described above with such replacement being appointed to fulfill only that portion of the remaining term. 4) Any Board member may be removed by a

majority vote of each Party, for any reason. In addition, the Board may recommend to the County and City that a Board member be removed. 5) Board members shall be eligible for reappointment, but Board members are prohibited from serving more than 3 consecutive, 2-year terms. Only reappointments made after October 1, 2011 shall count toward this limitation.

- Term of Office: Each board member shall be appointed for a two year term and shall continue to Serve in this capacity until their successor is appointed and is duly qualified. Upon the death of any member or should any member resign or for any reason become unable to serve, a replacement shall be appointed in the same manner as provided to fill the vacancy for the unexpired term. The terms of those board members who are serving in Place 1, 3 or 5 shall expire on June 1, 2010. The terms for those board members appointed to Places 2 and 4 shall expire on June 1, 2011. Board members shall be eligible for reappointment.
- Meeting Time & Place: Third Monday of each month, 8:30 a.m. at Airport Terminal Building, Louis Schreiner Field Airport, 1877 Airport Loop Road, Kerrville, Texas. All such meetings of the board shall be held in accordance with the Texas Open Meetings Act.
- Established by: Interlocal Agreement between the City of Kerrville, Texas and Kerr County, Texas. Ordinance No. 2004-21 (replaced in its entirety); amended by Resolution No. 069-2008 (joint management)
Code of Ordinances: Chapter 22 - Article II - Section 22-31 through 22-33
- Revised: June 13, 2016

BEAUTIFICATION ADVISORY COMMITTEE

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
DOUGLASS, BRANDON Chair 909 Tanglewood Lane	739-9882 (O)	12-11-12	07-12-16	12-11-17
WILLIAMSON, JAMES Vice-Chair Secretary 432 Fitch Street	257-2860 (H) 257-9673 (W)	08-13-13	5-10-16	12-11-18
RISHER, JOHN 1800 Junction Hwy., Apt. 10E	459-3336 (H)	05-28-13	5-10-16	12-11-18
TRITENBACH, DAVID 216 Riverhill Blvd.	895-1953 (H)	12-11-12	07-12-16	12-11-17
EGLOFF, SHERRY 2042 Summit Crest	896-0736 (H)	07-12-16		12-11-17

COUNCIL EX-OFFICIO: Bonnie White

Staff Contact Person:

David Barrera 258-1223

Qualifications: Resident of the city.

Purpose:

- Evaluate the community on issues and matters pertaining to beautification of the community and to provide a report to the City Council;
- Educate the public and increase awareness regarding beautification of the community;
- Prepare and implement a beautification recognition program as approved by the City Council;
- Coordinate community beautification efforts;
- Prepare and present to the City Council for its consideration and approval a set of goals and objectives for a community beautification program; and
- Provide a report to the City Council at least twice a year on Kerrville Beautification Advisory Committee matters.

Term of Office: Two years; maximum of two consecutive terms

Quorum: Majority

Number of Members: Minimum of three, no more than five.

Meeting Time & Place: First Thursday of each month; 1:00 p.m.; City Hall Upstairs Conference Room.

Established by: Resolution 40-2012, November 13, 2012

Revised: February 26, 2016

ECONOMIC IMPROVEMENT CORPORATION

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
COCHRANE, GARY President 2305 Birkdale Lane	895-7771 (O) 459-8808 (H)	12-13-11	05-26-15	06-01-17
PATTILLO, SHERI Vice President 1695 Mountain Laurel	285-9210 (O)	06-10-14	05-24-16	06-01-18
EARLY, KENNETH 2756 Indian Wells Dr. E	928-3264 (H) 257-4771 (W) 938-3264 (C)	05-24-16		06-01-18
SIGERMAN, DELAYNE 4000 Comanche Trace Dr.	895-7765 (H) 305-302-6258 (O)	05-26-15		06-01-17
STAFFORD, PAUL 38 Antelope Trail	895-3079 (H)	05-26-15		06-01-17
STORK, GARY 804 Tanglewood Lane	257-0365 (O) 200-1483 (H)	05-26-15		06-01-17
WILSON, JAMES 410 Spring Mill	792-0470 (H) 210-593-1507 (O)	01-27-15	05-24-16	06-01-18
CITY STAFF:				
Todd Parton City Manager	258-1105 (O)			
Cheryl Brown Secretary	258-1118 (O)			
Sandra Yarbrough Treasurer	258-1120 (O)			

Qualifications: Resident of the city and at least three directors must be persons who are not employees, officers or members of the governing body of the city.

Purpose: Benefiting and accomplishing public purposes of the city permitted by Section 4B of the Act including, but not limited to, the promotion and development of industrial and manufacturing enterprises to promote and encourage employment and the public welfare, and financing the acquisition, construction and/or equipping, and/or the maintenance and operating costs of any "Project" (as defined in Section 4B of the Act).

Term of Office: Two years; maximum of two consecutive terms

Quorum: Majority

Number of Members: Seven

Meeting Time & Place: Third Monday, 4:00 p.m., City Hall Council Chambers

Established by: Resolution No. 1995-112, amended by Resolution Nos. 1999-184; 032-2009
Revised: June 13, 2016

FOOD SERVICE ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
YOUNG, DARRELL Chairperson 1326 Ranchero Rd.	257-0800 (O) 896-1852 (H)	12-11-12	12-09-14	12-01-16
DITTMAR, REBECCA Vice-Chairperson 155 Aqua Vista	353-1305 (O) 896-9037 (H)	12-11-12	12-09-14	12-01-16
AAMODT, "GARY", JR. 160 Kerrville South Dr.	257-3533 (O) 896-7979 (H) 370-4416 (C)	08-11-15		12-01-17
GONZALES, DAVID C. 704 Englemann Oak Dr. Fredericksburg, TX 78624	830-315-2750 (O) 940-452-5486 (H)	08-27-13	12-09-14	12-01-16
MOLINA, RUBEN 325 George Ct.	896-3313 (O) 377-2768 (H)	01-12-16		12-01-17
TOLLE, BECKY 540 Fairway Dr.	377-4255 (O) 837-0076 (H)	01-12-16		12-01-17
VAZQUEZ, ABEL 158 Valley View	257-0606 (O) 896-9899 (H)	01-11-11	12-09-14	12-01-16
COUNCIL LIAISON: STEPHEN FINE 1210 Virginia Dr.	285-4234 (C) 896-2934 (H)			
CITY STAFF: Daryle Poe Health Specialist	258-1173			
Danny Batts Director of Bldg. Services	258-1178 (O) 896-0517 (F)			

Qualifications: Shall be composed of local certified food managers from the food service or food processing industry, any member of the local restaurant association who owns or conducts business in the city of Kerrville or any citizen of Kerr County qualified by training and/or experience to advise on the application of the food code.

Powers and Duties: To hear appeals and make recommendations to the health official for variances from provisions of the code; to provide assistance to the health official concerning interpretations of the code; to advise the city manager, at his request, regarding the suspension or revocation of food permits; and to consider and make recommendations to city council regarding any matters relating to the food service program.

Term of Office: Two Years; no member shall serve more than two consecutive terms.

Quorum: Four

Number of Members: Seven

Meeting Time & Place: Tri-annually (April, August & Dec), Third Tuesday, 3:00 p.m., Development Services

Absences: Any member who misses three consecutive regular meetings shall thus cause his/her seat on the board to become vacant. The council shall then appoint a new member to fill the vacancy.

Established by: Ordinance 1989-30; amended by Ordinance 1994-11
Code of Ordinances: Chapter 58 - Article II - Section 58-34

Revised: April 15, 2016

GOLF COURSE ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
BAILEY, MICKEY 1001 Bluebonnet Dr.	285-5908 (H) 792-2290 (W)	10-27-15		07-01-17
GIESECKE, MARION C. 9 Antelope Trail	896-4646 (H) 377-8100 (C)	09-23-14	07-26-16	07-01-18
HAYES, MATTHEW 1412 Jackson Road	972-762-2635 (H)	07-26-16		07-01-18
HERD, HELEN 2829 Rock Barn Dr.	895-4373 (H) 979-777-2274 (C)	09-08-15		07-01-17
PINSON, EDDIE 102 Ridgerock Cove	285-5555 (H)	09-08-15		07-01-17
VILLANUEVA, NICHOLAS 519 Mt. Drive	792-7114 (H) 377-0289 (C)	07-26-16		07-01-18
VACANT				07-01-17

COUNCIL LIAISON:

GLENN ANDREW 370-0362 (C)
3553 La Cumbre Dr. 895-0676 (H)

CITY STAFF:

Scott McDonough 258-1400 (O)
General Manager of Golf & Tennis

Qualifications: Of the seven (7) regular voting members appointed by the City Council, six (6) shall be residents of the City of Kerrville, Texas, and one (1) member may reside outside the City but within Kerr County.

Purpose and Duties: The purpose of the Board is to advise the City Council and city staff on matters relating to the operation of the Scott Schreiner Municipal Golf Course.

Term of Office: Two Years. No member shall serve more than two consecutive full terms without having at least one full year off of the Board between terms.

Vacancies: Upon the vacancy, removal, or expiration of the term of office of any member, the

city council shall appoint a successor who shall hold that position for the unexpired term or for the period of two years when the appointment is made as the result of the expiration of a board member's term.

Quorum: Four members of the board, excluding liaison members.

Number of Members: Seven

Meeting Time & Place: Fourth Wednesday, in the months of January, March, May, July, September, and November, at 4:30 p.m.; Upstairs Conference Room

Absences: The name of any member having three consecutive absences from regularly called meetings of the board, or who in any consecutive twelve-month period is absent from more than 25 percent of the regularly called meetings, shall be forwarded to the city council for consideration for removal and replacement on the board.

Established by: Resolution No. 037-2009, (repealed Resolution Nos. 99-230, 99-307, 080-2000, and 136-2004); Resolution 30-2012

Revised: August 8, 2016

Kerrville Economic Development Corporation
Board of Directors

Thomas Houdeshell

President

830-792-1156

Brian O'Connor

Executive Director

830-896-1157

Charlie McIlvain

Vice President

830-792-3535

Leah Dixon

Executive Assistant

830-896-1157

leahdixon@kerr-edc.com

Dan Troxell

Treasurer

830-257-2200

Stephen Fine

City Council Representative

KEDC Mailing Address:

1700 Sidney Baker #100

Kerrville, TX 78028

Don Barnett

Board Member

830-257-2191

Ward Jones

Board Member

830-896-6714

Mike Wittler

Board Member

830-792-8230

KERRVILLE PUBLIC UTILITY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
STACY, PHILIP Chairman P.O. Box 222 Hunt, TX 78024	792-4844 (O) 830-367-7007 (H)	02-28-12		04-21-17
SAMPLE, JOHN Vice-Chairman P.O. Box 291341 355 W. Main	257-6625 (H)	04-22-09	03-11-14	04-21-19
GAMBLE, FRED Secretary 1228 Jefferson	257-5135 (H)	04-22-10	4-21-15	04-21-20
THOMAS, BILL 435 Coronado	895-3695 (H) 377-5407 (C)	03-08-16		04-21-21
WHITE, BONNIE Mayor P.O. Box 291949	792-6679 (H) 896-6679 (O)	05-17-16		05-00-18
Staff WITTLER, MIKE General Manager P.O. Box 294999	257-3050 (O)			

Qualifications: Citizen of the United States of America who reside or conduct business on a full-time basis in Kerr County, Texas and who use the system for personal, residential, business and/or company use. No person who is related within the second degree of consanguinity or affinity to any member of the board of trustees shall be eligible for election as a member of the board.

Vacancies: All vacancies shall be filled by the city council from nominations of at least three persons for each position to be filled by the majority vote of the remaining members of the board of trustees. If the city council does not act upon such nominations within 30 days after submission in writing to the city council, the board of trustees by majority vote of the remaining members shall nominate three additional persons for each position to be filled. If the city council does not act upon such additional nominations within 30 days after submission of such additional nominations, the board shall be empowered to fill such vacancies by the majority vote of the remaining members of the board of trustees.

Powers: To take, have and exercise exclusive possession and control of the system, and all additions thereto, and to collect, and enforce the collection of all funds and revenues that may be or become owing or that may arise out of the operation of the system, and to disburse the same. To fix all rates for all services to be

furnished by the system, with the power to alter the same at any time or times, subject to approval of the city council of the city of Kerrville. To employ and pay the compensation of a general manager of the system, and attorneys, engineers and other professional or technical aids as may be necessary. To do any and all things necessary in reference to the installing and maintaining of a complete system of records and accounts pertaining to the system and to make monies available for the payment of revenue bonds.

Term of Office: Five years; a person who has served as a member of the Board for an initial term shall be eligible to be re-appointed for one additional consecutive term of five years, and one only, but may serve for any number of non-consecutive terms so long as such member has not served as a member of the board for at least two years next preceding the term for which such member is appointed. A member who is appointed to the board to serve out an unexpired portion of a retired member's term shall not be considered to have served a "term" unless the unexpired portion of the term so served is two years or more. Permanent removal of residence from, or the failure to conduct business on a full-time basis in Kerr County by any member of the board shall vacate his office as a member of the board.

Quorum: Three

Number of Members: Five

Meeting Time & Place: Third Wednesday, 8:30 a.m., 2250 Memorial Blvd.

Absences: Any member of the board, other than the Mayor, who shall be continuously absent from all meetings held by the board for a period of four consecutive months shall, unless he shall have been granted leave of absence by the unanimous vote of the remaining members of the board, be considered to have vacated his office as a member of the board.

Established by: Ordinance No. 1987-45 (purchase); Resolution 1987-106 (Board);

Revised: June 13, 2016

LIBRARY ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
BOX, ASTRID 504 Rees Street	896-7662	01-26-16		11-22-17
LENARD, MARTY 605 Overhill Dr.	370-1757 (C)	12-09-14		11-22-16
LIPSCOMB, DAVID 909 Lake Drive	895-4232 (H)	01-26-16		11-22-17
MILLER, MATTHEW 201 Stephanie Dr.	330-462-0951 (H)	01-26-16		11-22-17
* SMITH, JANE 2009 Crown View Dr.	792-9144 (H)	04-22-13		11-22-16

EX OFFICIO MEMBER:

Gary Stork 257-0365 (O)
804 Tanglewood Ln. 200-1483 (H)

CITY STAFF:

Laura Bechtel 258-1260 (O)
Library Director
505 Water Street

Kim Meismer 258-1140 (O)
Director of Gen. Operations 370-0748 (C)
701 Main Street

Qualifications: Members must maintain a library card in good standing.

Powers and Duties: The Board is an advisory board to the city council; shall have the authority to hold meetings within the city and to consider and make recommendations to the Council from time to time on any and all matters pertaining to the Library. Upon a majority vote of the total membership.

Term of Office: All Board appointments shall serve two (2) year terms. No Board member shall serve more than two (2) consecutive two (2) year term on the Board without having at least one (1) full year off of the Board between terms. A majority of the members' terms shall expire in even-number years with the remaining members' terms expiring in odd-numbered years.

Quorum: Three members

Number of Members: Five members

Meeting Time & Place: Third Tuesday of Every Month; 3:00 pm; Butt-Holdsworth Memorial Library

Absences: Any member who is absent from twenty-five percent (25%) of the board's regular meetings during any twelve (12) month period, or who is absent from any three (3) consecutive regular meetings, shall be considered for removal by the City Council. The staff member has the responsibility of reporting a member's non-attendance to the City Council in writing, and the City Secretary shall notify the board member in writing that their non-attendance has been reported to the City Council. However, a member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

Established by: Ordinance No. 1967-17; amended by Ordinance Nos. 80-5, 84-14, 84-58, 85-01, 87-24, 87-60, 87-61, and 2005-19 (in its entirety); Resolution Nos. 045-2006, 107-2006, 076-2007, and 122-2007 did not change this board. Code of Ordinances: Chapter 66 - Article II – Sections 66-31 through 66-34; Amended by Ordinance No. 2010-05; Amended by Ordinance No. 2011-16.

Revised: February 10, 2016

* Appointed by Friends of the Butt-Holdsworth Memorial Library

MAIN STREET ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
BRADSHAW, ROSE 229 Schreiner Street Chairperson	257-4101 (O) 895-3248 (H) 377-8948 (C)	03-24-15		05-31-17
SOUTHERN, MELISSA 1606 Quinlan Creek Drive Vice-Chairperson	257-3877 (W) 377-2015 (C) 257-1923 (H)	07-08-14	07-07-15	05-31-17
COUCH, BOB 370 St. Mark Path	377-4740	01-12-16		05-31-16
EDWARDS, TAMI 134 Kodiak Trail	367-2012 (H) 210-827-9938 (C)	01-28-14		05-31-16
JONES, DAVID 207 Lakewood Dr.	210-289-5483 (W) 257-5635 (H)	01-12-16		05-31-17
LOGAN, DAINELLE 1128 Hancock Drive	936-239-8224 (H) 955-5088 (W)	05-12-15		05-31-16
MARTIN, DAVID 1717 Foothills Dr.	895-1313 (O) 895-1857 (H) 830-459-9747 (C)	05-08-12	01-28-14	05-31-16
COUNCIL LIAISON: Gary Stork 804 Tanglewood Lane	257-0365 (O)			
CITY STAFF: Ashlea Boyle Special Projects Manager	258-1153			

Powers and Duties: To encourage participation in the Main Street Revitalization Program; to establish goals and priorities for the Main Street Program; to review design appropriateness for the purpose of participation in the main street low-interest loan program and incentive grant projects; and to advise and support the main street program manager.

Term of Office: Two years with a maximum of two full successive terms (Bylaws)

Quorum: Four members

Number of Members: Seven

Absences: Any member who misses 25% of the regular meetings or three consecutive regular meetings may be replaced by City Council.

Meeting Time & Place: Fourth Thursday at 3:30 p.m., City Hall, 701 Main Street

*Established by: Resolution No. 12-2014

Resolution No. 1994-133(Repealed 5-27-14)

Revised: January 29, 2016

*Expiration of member terms were drawn at the June, 2014 meeting.

PARKS AND RECREATION ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
GARDNER, JAMES 123 Forest Circle	285-2129 (H)	09-23-14	05-12-15	03-31-17
KAYNE, JACKLYN 3564 Fredericksburg Rd	895-7524 (W) 895-7962 (H)	03-11-14	03-22-16	03-31-18
McMAHON, DIANE 2311 Birkdale Lane	896-3195 (H) 370-6590 (C)	05-12-15		03-31-17
MITCHELL, BEDFORD 313 Lakewood Drive	896-4321 (H) 377-1114 (C)	05-12-15		03-31-17
MUNSON, JAY 808 Lloyd Drive	257-2212 (W) 792-4394 (H) 370-8344 (C)	03-11-14	03-22-16	03-31-18
MUSE, BILL 2956 Oak Park Dr.	928-7028 (C) 792-7355 (W)	4-09-13	05-12-15	03-31-17
GREG SHRADER 321 Englewood Dr. E.	739-9219 (C)	03-22-16		03-31-18
WALLACE, ED 131 Royal Oaks	257-5272 (H) 377-0455 (C)	11-30-11	05-12-15	03-31-17
COUNCIL LIAISON:				
Gene Allen 2106 Vista Ridge Dr. 1221 Junction Highway	895-5111 (O)			
CITY STAFF:				
Ashlea Boyle Assistant Director of Parks & Recreation	258-1153 (O)			

Qualifications:	A majority shall be residents of the city of Kerrville, and all shall be residents of Kerr County.
Powers and Duties:	Shall constitute an advisory board to the city council and shall periodically assist city staff in procedural matters. The board shall have authority to hold hearings in the city and to consider and make recommendations to the city council in writing on any and all matters pertaining to the city's parks and recreation system.
Term of Office:	Two years with a maximum of two terms. No member shall serve more than two terms without having at least one full year off between terms.

Quorum: Five

Members: Eight

Meeting Time & Place: Third Thursday, 8:15 a.m., City Council Chambers

Absences: Any member having three consecutive unexcused absences shall have his membership reviewed by the board. By majority vote, the board may recommend to the council that such member be removed from office. The council may then act upon such recommendation and either remove or retain such member.

Established by: Ordinance No. 1984-37, amended by Ordinance No. 1987-24

Code of Ordinances: Chapter 74 - Article II – Sections 74-31 through 74-38

Revised: July 1, 2016

PLANNING AND ZONING COMMISSION

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
WALLER, ROBERT 33 Antelope Trail Chair	792-6088 (H) 896-2950 (O)	07-09-13	01-13-15	01-01-17
HARMON, GARRETT 701 Lee Street Vice-Chair	895-4510 (O) 285-2151 (C)	06-25-13	01-13-15	01-01-17
BARNETT, DON 3 Antelope Trail	739-6822 (C)	01-12-16		01-01-18
MALONE, DOYLE 208 Spring Mill Dr.	257-8755 (H)	01-12-16** 07-23-13*		01-01-18
MORGAN, WILLIAM 1744 Glen Road	739-9655 (O) 257-6263 (H)	01-22-13	01-13-15	01-01-17

ALTERNATES:

SIGERMAN, MICHAEL 4000 Comanche Trace Drive	895-7765 (H)	02-23-16		01-01-18
ZUBER, RUSTIN 112 Harmon Way	895-2829 (O) 895-4913 (H)	12-10-13	01-13-15	01-01-17

COUNCIL LIAISON:

Glenn Andrew
3553 La Cumbre Dr. 371-0362 (C)
895-0676 (H)

CITY STAFF:

Trent Robertson 258-1184 (O)
City Planner

Qualifications:

At least four of the regular members shall be residents and eligible voters of the city; one regular member may reside in the city's extraterritorial jurisdiction (ETJ) and must be an eligible voter of Kerr County. At least one alternate member shall be a resident and eligible voter of the city; one alternate member may reside in the city's extraterritorial jurisdiction (ETJ) and must be an eligible voter of Kerr County.

Powers and Duties:

1. Shall formulate and recommend to the city council for adoption a Comprehensive Plan for the orderly growth and development of the city and its environs. On a yearly basis the commission shall review and if necessary recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety and general welfare of the citizens of the city.

2. Shall formulate a zoning plan (ordinance) as may be deemed best to carry out the goals of the Comprehensive Plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in state law.
3. Shall exercise all powers of a commission as to approval or disapproval of plans, plats, or replats as set out by state law and the city's subdivision regulations.
4. Shall initiate for consideration at public hearings, proposals for the original zoning of annexed areas or for the change of zoning district boundaries on an area wide basis.
5. Shall consider and take appropriate action, upon written request, variances as prescribed to the city's subdivision and sign regulations.
6. Shall from time to time recommend such changes to the subdivision regulations, sign regulations, and any other ordinance the city council assigns to their review that will facilitate the general health, safety and welfare of the citizens of the city.

Term of Office: Two years. No regular member shall serve more than three consecutive full terms on the Commission without having at least one full year off the Commission between terms.

Quorum: Three (may include an alternate member but only where substitution for and acting as a regular member)

Number of Members: Five regular members and two alternates.

Meeting Time & Place: First and third Thursdays, 4:30 p.m., City Hall; Council Chambers.

Absences: Any member who is absent from twenty-five percent (25%) of the board's regular meetings during any twelve (12) month period, or who is absent from any three (3) consecutive regular meetings, shall be considered for removal by the city council. The staff member has the responsibility of reporting a member's non-attendance to the city council in writing, and the city secretary shall notify the board member in writing that their non-attendance has been reported to the city council. However, a member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

Established by: Minutes of 12-18-44 Council meeting; amended by Ordinance Nos. 1979-37, 1987-24, and 2008-24 (which deleted from Code of Ordinances book Chapter 82 – Article II – Sections 82-31 through 82-36 and rolled into Zoning Code which is not codified)

* Appointed as alternate

** Appointed as full member

Revised: July 1, 2016

Playhouse 2000 Board of Directors

Officers

Kit Werlein , President 110 Loma Vuelta Kerrville, TX 78028	Attorney, JD, CTFA 700 Jefferson St Kerrville TX 78028	(830) 792-3048
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Tom Terrell , Vice-President (Nominating Committee Chair) 111 Loma Vuelta Kerrville, TX 78028	Attorney at Law 413 Sidney Baker Kerrville TX 78028	(830) 896-5677
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Christopher Distel , Secretary/Treasurer 632 Galbraith Kerrville, TX 78028	Assist. Professor of Biology Schreiner University	(830) 792-7470
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Stephen Fine , City of Kerrville Representative 1210 Virginia Dr. Kerrville, TX 78028		(830) 896-2934
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Directors

Susan Neely Balentine 330 Valley Drive Kerrville, TX 78028	Co-Founder, Playhouse 2000	(830) 285-5419
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Arthur Bell (Nominating Committee) P.O. Box 706 Ingram TX 78025		(281) 799-4517
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Roxie Orms 858 Harper Road Kerrville, TX 78028		(830) 824-5125
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Gene Smith One Antelope Trail Kerrville, TX 78028		(830) 257-2428
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Paul Stafford 38 Antelope Trail Kerrville, TX 78029		(830) 895-3079
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Nancy Watts 522 Fairway Dr Kerrville, TX 78028	Nancy Watts Interiors, Inc.	(830) 370-1699 (830) 257- 0100
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James Wilson
(Nominating Committee)
410 Spring Mill Drive
Kerrville, TX 78028

James E. Wilson & Co., Inc.
P.O. Box 294749
Kerrville, TX 78029

(713) 249-2634

Staff

Jeffrey Brown, Executive Director
285 Katie Court
Boerne, TX 78006
(Spouse: Jane)

Playhouse 2000, Inc.
305 Washington St.
Kerrville, TX 78028

(830) 896-9393 x303
(830) 708-9410 (c)