

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
MARCH 27, 2018

On March 27, 2018, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Bonnie White in the city hall council chambers at 701 Main Street. The invocation was offered by Roman Garcia, followed by the Pledge of Allegiance led by Mario Garcia.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBERS ABSENT: None.

CITY CORE STAFF PRESENT:

Mark McDaniel	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
E.A. Hoppe	Deputy City Manager
Cheryl Brown	Deputy City Secretary
Amy Dozier	Director of Finance
Kim Meismer	Director of General Operations
Stuart Cunyus	Public Information Officer
Drew Paxton	Executive Director of Development Services
Dannie Smith	Fire Chief
Guillermo Garcia	Executive Director of Strategic Initiatives
Ashlea Boyle	Director of Parks and Recreation
Kyle Burow	Director of Engineering
Stuart Barron	Director of Public Works

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

1. ANNOUNCEMENTS OF COMMUNITY INTEREST: were given.

2. VISITORS/CITIZENS FORUM:

2A. Richard Ferris requested the city change the signal lights to flash after 10:00 p.m.; and consider storm drainage in the 400 block of Main Street.

3. PRESENTATIONS

3A. Certificate of Recognition and Resolution of Commendation presented to Sandra Yarbrough for 34 years of service to the citizens of the City of Kerrville.

3B. Proclamation to declare March 27, 2018 as Our Lady of the Hills State Champion Girls Soccer Team Day.

3C. Proclamation declaring March 28, 2018 as Our Lady of the Hills State Champion Girls 50 Meter Freestyle Swim Ella Junker Day.

3D. Certificate of Recognition to the Our Lady of the Hills Hawks 2017-18 Boys Basketball Team for their 28-7 overall record. (Postponed)

**4. CONSENT AGENDA:**

Mr. Ferguson moved for approval of consent agenda Items 4A and 4B. Mr. Baroody seconded the motion and it passed 5-0:

4A. Minutes of the city council workshop held February 20, 2018, and the regular meeting held February 27, 2018.

4B. Project funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas for an aquatics feasibility study.

**END OF CONSENT AGENDA**

**5. ORDINANCES, SECOND AND FINAL READING:**

5A. Ordinance No. 2018-07 amending Chapter 74 "Parks and Recreation". Article I "Rules and Regulations for City Park and Recreation Areas" of the Code of Ordinances of the City of Kerrville, Texas, by amending various sections to address the operation and use of the Kerrville Sports Complex; containing a cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject. Mayor White read the ordinance by title only.

Ms. Boyle noted no changes since first reading.

Mr. Baroody moved for approval of Ordinance No. 2018-07 on second and final reading; Mr. Voelkel seconded the motion and it passed 5-0.

**6. PUBLIC HEARING AND RESOLUTION:**

6A. Resolution No. 09-2018 granting a Conditional Use Permit for lot 3, Block 1, Sutton Addition, a subdivision within the City of Kerrville, Kerr County, Texas, and otherwise known as 3410 Memorial Boulevard (State Highway 27); said tract is located within the 29-E Zoning District; by permitting said property to be used for a manufactured home or manufactured housing; and making said permit subject to certain conditions and restrictions contained herein.

Mr. Paxton noted the applicant requested to place a manufactured home on the subject property. Staff had recommended approval of the CUP to the planning and zoning commission (PZC) because it met all requirements for a CUP. There was no public opposition at the PZC meeting, and PZC denied the request on a 3 to 2 vote. If the CUP is granted, the CUP would continue with the property even if it was sold; however, if the manufactured home was removed from the property, then the CUP would cease. If the owner wanted to amend the CUP in the future, it would have to go back through the CUP process.

Mayor White opened the public hearing at 6:30 p.m. and the following persons spoke:

1. Juan Carlos Ramirez stated his family owned property within 200 ft. of the subject property for over 53 years. He cited many positive changes and numerous events held in the area that were attended by visitors. He recommended that manufactured housing not be allowed in this area as it was a gateway corridor.
2. Charles Wickware stated he purchased the commercial property and intended to sell it as commercial real estate in the future so he did not want to invest a lot of money to build a mortar and brick structure, and when he was ready to sell the property, he would move the home. This was the gateway to the city and existing trees obstructed the view of the property from Memorial Boulevard. He would not be accumulating a lot of manufactured homes on the property, just one for his family, and he would paint the home. He stated he was aware of the sidewalk issue (Item 8F).

3. Bruce Stracke questioned if the property had been platted. He was concerned about the platting/replatting and subdividing of property without providing public infrastructure, streets, and access to properties by using private easements. He noted that the city set a precedent recently on Meeker Street where lots were created without public access. He opined that creating lots without establishing true right of way for streets and utilities was a mistake, especially on commercial property such as the subject property. He suggested the applicant ask TxDOT for a larger curb cut; in order to meet the city's right of way standards and provide access to both properties.

Mr. Paxton noted the replat, although not required, was in process and pending action by PZC following action on the sidewalk waiver request (Item 8F). Regarding access to the property, TxDOT previously allowed only one curb cut; therefore, both properties were sharing one driveway.

Council also discussed the following:

- Mr. Stracke's concerns should be addressed by PZC.
- What conditions would council place on a CUP that would make it compatible?

Mr. Paxton noted that staff did not propose any specific conditions.

- The integrity of this corridor should be protected.

Mayor White closed the public hearing at 6:48 p.m.

Ms. Summerlin moved to deny the request and deny Resolution No. 09-2018; the motion died for lack of a second.

Mr. Voelkel moved to approve Resolution No. 09-2018 with the conditions described by the landowner and that the landscape screening be 8 ft. at maturity; Mr. Baroody seconded the motion and it passed 3 – 2 with Councilmembers Voelkel, Baroody, and White voting in favor of the motion and Councilmembers Ferguson and Summerlin voting against the motion.

## **7. ORDINANCES, FIRST READING:**

7A. Ordinance No. 2018-11 adopting the "Design Manual for the Installation of Network Nodes and Node Support Poles pursuant to Texas Local Government Code, Chapter 284"; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted that the state legislature developed Chapter 284 to allow small cell towers to be placed in public right of ways. The proposed ordinance would adopt the design manual for the installation of network nodes or cell towers. The design manual was drafted from the TML guidelines and was consistent with Chapter 284. He stated that no existing towers were in violation; however, two applications were pending.

Mr. Ferguson moved for approval of Ordinance No. 2018-11 on first reading; Ms. Summerlin seconded the motion and it passed 5-0.

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

8A. Resolution No. 07-2018 requesting financial assistance from the Texas Water Development Board (TWDB) to finance certain improvements to the City's sewer system; authorizing the filing of an application for financial assistance, and making certain findings in connection therewith.

Mr. Hoppe noted that Legion lift station served one of the largest wastewater basins in the city, and it was at or near capacity; the project would greatly expand wastewater capacity. Staff proposed two methods of funding: TWDB loan (Item 8A) and EIC funding request (Item 8B) for \$2 million. The TWDB loan rate would be at 1.3% below market, and over the 30 year term, the city would save about \$1.4 million in interest, and staff proposed to apply for reimbursement of design cost. The debt capacity analysis included water and sewer rate increases. Staff had a pre-application meeting with TWDB and submitted initial information. If the resolution is approved, staff will move forward with the loan application in April, and request funding from EIC on April 16. He reviewed the project schedule and anticipated construction to begin in January 2019. The city's bond counsel and financial advisor recommended the project application be in the amount of \$10 million; however, the amount may be reduced as more details are known, i.e. funding from EIC, more accurate cost, bid estimate, etc.

Ms. Summerlin moved for approval of Resolution No. 07-2018; Mr. Voelkel seconded the motion and it passed 5-0.

8B. Authorization to proceed with a Funding Application to the Kerrville Economic Improvement Corporation for the enhancement of Legion Lift Station to encourage economic development.

Mr. Hoppe noted the Legion lift station project would provide 50% expansion of the existing wastewater basin thereby allowing potential for future development within that corridor, which otherwise might not occur without this infrastructure; therefore, the project was eligible for EIC funding. The project was on the east side of Loop 534 on property that had belonged to the city for many years.

Mr. Ferguson moved to authorize staff to submit the funding application to EIC for the Legion lift station project. Ms. Summerlin seconded the motion and it passed 5-0.

**8C. Authorize the City Manager to finalize a scope of work for professional services and proceed with developing a Long-Range Water Supply Plan for the City.**

Mr. Hoppe noted the city had previously engaged Lloyd Gosselink et al to assist the city in developing a long-range water supply plan that included an analysis of existing water rights, an evaluation of future water sources, and addressed related legal and proprietary issues. He recommended HDR Engineering for the engineering aspects of the long-range water plan.

Sarah Thorton, attorney with Lloyd Gosselink (LG), stated she had worked with the city on water supply and water rights issues for about 8 years. A scope of work had been prepared to identify the city's water supply needs and alternatives to address those needs, and LG had worked with HDR in the past. She noted possible potential legal issues that could occur in water supply planning, potential litigation in the permitting process, and the need to protect the city's information during the process.

Cory Shockly, engineer with HDR Engineering, discussed the scope of work. HDR would make a recommendation on how to develop a future water supply implementation plan for the city. He worked on several regional water plans in the state, but he did not see a conflict, as those plans were not in Kerrville's water plan area.

Mr. Baroody moved to authorize the city manager to proceed with the arrangement as presented. Mr. Ferguson seconded the motion and it passed 5-0.

**8D. Resolution No. 05-2018 adopting the Water Conservation Initiative - Low Flow Rebate Program as part of the City of Kerrville Water Conservation Plan.**

Mr. Barron reviewed a program whereby water customers could qualify for a \$75 rebate for replacement of older, pre 1994, high flow toilets as part of the city's water conservation program. He estimated 200-220 toilets would be replaced during a 12-month period at an estimated cost of \$16,785. He discussed other water conservation efforts including public education, drought conservation, and irrigation meters. He discussed a proposed 30,000 gallon tank and rainwater harvesting system at the pavilion in Louise Hays Park, estimated to cost \$35,000-40,000.

Mr. Ferguson moved to approve Resolution No. 05-2018, low flow rebate program; Ms. Summerlin seconded the motion and it passed 5-0.

**8E. Waiver of perimeter sidewalk construction, per City Code Section 26-36(f), for property located at 410 Junction Highway adjacent to the north frontage of State Highway 27 and being located between Florence Street and Center Avenue.**

Mr. Paxton discussed a request to waive the sidewalk requirement at the intersection of Center and Florence streets. Other properties in the area were developed prior to the subdivision ordinance; therefore, sidewalks had not been required. Based on the lack of

topographical restrictions, adequate width, and sidewalks in the area, staff recommended denial. Mr. Paxton reviewed the conditions by which council could grant a waiver. Mr. Burow stated that a sidewalk at this intersection would require relocation of the fire hydrant and power pole at city and KPUB expense.

Mr. Burow noted the sidewalk master plan designated Center and Florence streets as residential streets and the sidewalk ordinance would apply. The sidewalk master plan as written for these two sections were not proposed as sidewalks since the plan was only applied for major thoroughfares.

The following persons spoke:

1. Richard Ferris noted there were no sidewalks on Junction Highway from the bank to the subject property, and the property had a full concrete apron the entire length of the highway and 50 ft. of sidewalk on Florence Street. Jason Avery wanted to lease the property from him and he had invested \$6,000 in the property. He opined that a sidewalk was not necessary.
2. Jason Avery estimated the project cost at about \$5,000.

-The master sidewalk plan did not contemplate a sidewalk on this street and this would be an undo hardship.

-The city was going to pave over this corner.

Mr. Baroody moved to grant the sidewalk waiver based on undue hardship and lack of necessity for a sidewalk surrounding the subject property. Mr. Voelkel seconded the motion and it passed 4 – 1 with Councilmembers Baroody, Voelkel, Ferguson, and White voting in favor of the motion and Councilmember Summerlin voting against the motion.

8F. Waiver of perimeter sidewalk construction, per City Code Section 26-36(f), for property located at 3410 Memorial Blvd. adjacent to the northeast frontage of State Highway 27 and being located south of State Loop 534 in front of the VA Hospital.

Mr. Paxton noted this was the same property as discussed in Item 6A. Staff had denied the waiver as there was adequate right of way to accommodate a sidewalk; however, there were some topographical restrictions, i.e. a slope running into a drainage feature. Adjacent undeveloped properties had not been exempted and some were developed prior to the sidewalk ordinance. Recent developments had put in sidewalks, i.e. the Mini-Mart had sidewalks on both Hwy. 27 and Loop 534. In the future, if TxDOT allowed a curb cut to the property, as suggested in Item 6A, that section of sidewalk would have to be removed. Also, a sidewalk might affect the small shrubbery that was already in place on the property. Mr. Paxton and Mr. Burow noted there were no sidewalks at the VA Hospital to connect to the subject property, and they confirmed that commercial property east of Loop 534 was exempt. Staff recommended denial.

Council noted if the city was ever going to have any sidewalks, council would have to be more strict and consistent about enforcing the sidewalk master plan, for example, enforcing the requirement on Mini-Mart and not their neighbor was inconsistent.

Ms. Summerlin moved to deny the request for waiver; Mr. Ferguson seconded the motion and the motion failed 2 – 3 with Councilmembers Summerlin and Ferguson voting in favor of the motion; and Councilmembers Baroody, Voelkel, and White voting against the motion.

Mr. Baroody moved to grant the waiver; Mr. Voelkel seconded the motion and it passed 3 – 2 with Councilmembers Baroody, Voelkel, and White voting in favor of the motion; and Councilmembers Ferguson and Summerlin voting against the motion.

8G. Authorize the City Manager to initiate a process to develop a public-private partnership for the development of approximately 34 acres of City-owned property on Loop 534 for the primary purpose of providing new housing options.

Mr. Voelkel moved that the item be moved to executive closed session under Sections 551.087 and 551.072 with the city manager; Mr. Baroody seconded the motion and it passed 5-0.

## **9. INFORMATION AND DISCUSSION:**

9A. Budget and economic update for the month ended February 28, 2018.

Ms. Dozier gave the budget and economic update for the month ended February 28, 2018. Council questioned hotel/motel tax revenue being less than expenditures. Ms. Dozier noted this was a seasonal account and revenue should cover expenditures by the end of the year.

## **10. BOARD APPOINTMENTS:**

10A. Appointments to the Parks and Recreation Advisory Board.

Mr. Baroody moved to appoint Celeste Hammand, Matthew Thurlow, and Lynda Ables with terms to expire March 31, 2020. Ms. Summerlin seconded the motion and it passed 5-0.

## **11. ITEMS FOR FUTURE AGENDAS:**

- Food truck regulations.

Mr. McDaniel introduced Brian Hunt as the city's new building official.

## **12. EXECUTIVE SESSION:**

At 8:00 p.m. Mayor White recessed the regular meeting based on a previous motion. Council went into executive closed session at 8:03 p.m. At 8:29 p.m. the executive closed session recessed and council returned to open session at 8:31 p.m. No action was taken in executive session.

## **13. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

8G. Authorize the City Manager to initiate a process to develop a public-private partnership for the development of approximately 34 acres of City-owned property on Loop 534 for the primary purpose of providing new housing options.

Mr. Baroody moved to authorize the city manager to initiate a process to develop a public-private partnership for the development of approximately 34 acres of city-owned property on Loop 534 for the primary purpose of providing new housing options. Mr. Voelkel seconded the motion and it passed 5-0.

**ADJOURNMENT:** The meeting adjourned at 8:32 p.m.

APPROVED: 05/08/2018

ATTEST:

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Bonnie White, Mayor

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Brenda G. Craig, City Secretary