

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, APRIL 9, 2013, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, APRIL 9, 2013, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Stockton Williams, Rector for St. Peter's Episcopal Church.

PLEDGE OF ALLEGIANCE TO THE FLAG led by Bill Nolan, of the Military Officers Association of America.

Those in attendance may stand if they wish.

1. 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.

2. CONSENT AGENDA:

These items are considered routine and can be approved in one motion unless a city 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:

2A. Agreement between City of Kerrville, Texas, and Kerr Capital Partners, LLC authorizing the installation and maintenance of landscaping and lighting within the city right of way. (staff)

END OF CONSENT AGENDA

3. ORDINANCES, FIRST READING:

3A. 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. (staff)

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 830-258-1117 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, April 5, 2013 at 1:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

4. CONSIDERATION AND POSSIBLE ACTION:

4A. A resolution granting a petition requesting the annexation of an approximate 0.91 acre tract out of the John A. Southmayde Survey No. 148, Abstract No. 288, within Kerr County, Texas, and consisting of the property addressed as 2262 Highway 173 (Bandera Highway); and ordering the preparation of an annexation ordinance. (staff)

4B. Request to allow a property to connect to city water and sanitary sewer services prior to the completion of the annexation process at 2262 Highway 173 (Bandera Highway). (staff)

4C. Request by Walter Investments, L.P. for an abatement of property taxes for the property located at 741 Water Street (former Bank of America building). (staff)

4D. Pending legislation from the 83rd Texas Legislature, regular session. (staff)

5. INFORMATION AND DISCUSSION

5A. Quarterly report of the main street advisory board. (staff)

5B. Economic update. (staff)

5C. Water resources. (staff)

6. BOARD APPOINTMENTS

6A. Parks and recreation advisory board. (staff)

7. ITEMS FOR FUTURE AGENDAS

8. 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.

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 830-258-1117 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, April 5, 2013 at 1:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

9. 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 matters:

Sections 551.071 and 551.072:

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.

Sections 551.071 and 551.072:

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 public works projects:

- Jefferson Street lift station
- G Street sewer project
- River Trail.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

11. ADJOURNMENT.

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 830-258-1117 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, April 5, 2013 at 1:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Agreement between City of Kerrville, Texas, and Kerr Capital Partners, LLC authorizing the installation and maintenance of landscaping and lighting within the city right of way. (staff)

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

SUBJECT: The Ridge at Keystone Place right of way license agreement

FOR AGENDA OF: 4/9/13

DATE SUBMITTED: 4/2/13

SUBMITTED BY: Charlie Hastings *CH*
Public Works Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Right of Way License Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *[Signature]*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Kerr Capital Partners, LLC, has recently acquired the Keystone Estates development located on Yorktown Boulevard, and are referring to it as The Ridge at Keystone Estates. They wish to beautify a portion of the Yorktown Boulevard right of way with landscaping per the attached agreement as shown on Exhibit A. Per the agreement, the developer and/or his assigns (eventually the home owners association), will be required to pay for and maintain the landscaping and associated irrigation.

RECOMMENDED ACTION

The Director of Public Works recommends that Council authorize the City Manager to execute a right of way license agreement with Kerr Capital Partners, LLC, for the installation and maintenance of landscaping on Yorktown Boulevard for The Ridge at Keystone Estates subdivision.

YORKTOWN BLVD.

1-10" 90° BEND, M.J. (BY SEPARATE CONTRACT)

1-6" 4" JEE, M.J.
3-8" GATE VALVE, M.J.
W/ BOX COMPLETE
1-10" X 8" REDUCER, M.J.
(BY SEPARATE CONTRACT)

E.O.P. (WATER PLANT)
E.O.P. (WATER PLANT)

Exhibit "A"

12" DOUBLE SWING CHAIN-LINK GATES

7,500 GAL HYDRO-PNEUMATIC PRESSURE TANK (SEE NOTES)

END SEPARATE CONTRACT

TRENCHING TO BE PROVIDED BY SEPARATE CONTRACT

35 LF - 1" SCH. 80 PVC CHLORINE INJECTION LINE W/ 4" SCH. 40 PVC SLEEVE UNDER DRIVE

ALL WEATHER BASE ACCESS (8" MIN.) (BY SEPARATE CONTRACT)

(C) (SEE NOTES)

(D) (SEE NOTES)

(E) (SEE NOTES)

91,000 GAL GROUND STORAGE TANK (SEE NOTES)

1-10" GATE VALVE FLANGED IRON WATER PIPE (THIS CONTRACT)

TO ENSURE 5' CLEAR ADJACENT TO ALL WATER

SCADA TOWER

FUTURE EMERGENCY POWER SUPPLY AND CONTROL (SEE WATER PLANT CONTRACT)

ELECTRICAL SERVICE & MOTOR CONTROLS W/ SCADA & SECURITY LIGHT (SEE WATER PLANT DETAILS)

BASE PADMOUNT-TURNOUT TRANSFORMER CONTRACTOR SHALL COORDINATE PLACEMENT AND SIZING OF TRANSFORMER WITH KERRVILLE PUBLIC UTILITY BOARD

FUTURE R.O.W.

PRIMARY ELECTRIC (BY OTHERS)

1-8" FLANGED GATE VALVE W/ HAND WHEEL
1-10" M.J. X 8" FLANGED REDUCER
1-10" 90° BEND, M.J.

YULDA 3

SWITCH GEAR AND SECTIONALIZING CABINET (BY OTHERS)

PRIMARY ELECTRIC

20' OPEN GRASS

HEALTHY

EXISTING WALK

LO. MANTA

5' DEEPENMENT

19' SAGE

FUTURE CEDAR FENCE

YULDA 3

FUTURE CEDAR FENCE

4 LIVE OAK

2 MTN. LAUREL

BOLINDER LAUREL

9 ROSEMARY

25' PEARLITA

WATER PLANT

SEPARATE CONTRACT NOTE
WATER PLANT CONTRACTOR SHALL NOTE THAT SITE PREPARATION
GRADING, TRENCHING AND ACCESS DRIVE SHALL BE BY SEPARATE CONTRACT WITH KERSTONE SECTION 3 CONTRACTOR

ION NOTES.

**AGREEMENT BETWEEN CITY OF KERRVILLE, TEXAS, AND
KERR CAPITAL PARTNERS, LLC AUTHORIZING THE INSTALLATION
AND MAINTAINANCE OF LANDSCAPING AND LIGHTING
WITHIN CITY RIGHT-OF-WAY**

This agreement (“Agreement”) is entered into between the **City of Kerrville, Texas** (“City”), and **Kerr Capital Partners, LLC**, a Texas Limited Liability Company. (“Developer”).

BACKGROUND

Developer has requested and City has agreed to allow Developer to install and maintain landscaping and lighting within City-owned right-of-way at the entrance to the Keystone Subdivision located along the west side of Yorktown Boulevard.

AGREEMENT

In consideration of the promises of each, the parties agree as follows:

1. ***Defined Terms.*** In this Agreement:

Developer means Kerr Capital Partners, LLC, a Texas Limited Liability Company, its successors, or assigns.

City means the City of Kerrville, Texas.

City Property means the right-of-way west of and along Yorktown Boulevard as shown in attached **Exhibit A**, incorporated in this Agreement by reference.

2. ***Effective Date and Term.*** This Agreement is effective on the latest date of the dates signed by the parties. This Agreement has an initial term of five (5) years and automatically renews thereafter for successive one-year terms, unless terminated as provided for in this Agreement.
3. ***Installation and Maintenance.*** Developer may install, maintain, and replace landscaping and lighting on City Property in compliance with this Agreement and City’s ordinances, including the City’s water management plan, the City’s electrical codes, and other applicable laws or regulations. Developer will maintain the landscaping and lighting in good condition and will replace any plants that are dead or dying.
4. ***Removal or Alteration of Improvements.*** Developer acknowledges and agrees that a) City may determine that the removal or alteration of the landscaping and/or lighting is necessary for the City to maintain, repair, replace, relocate, or alter the City Property, which includes Yorktown Boulevard; and b) City has no obligation to repair or replace any landscaping or lighting after the City’s alteration or removal.

5. **Indemnification.** Developer shall indemnify and hold harmless City, its officers, agents, and employees, from and against all claims, losses, damages, suits, or liability, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with Developer's installation or maintenance of landscaping or lighting within the City Property.

6. **Termination.**

(a) City, through its City Manager and without the need for City Council approval, may terminate this Agreement for any reason after the expiration of the initial five (5) year term, by giving Developer written notice of termination at least 180 days prior to the date of termination.

(b) City may terminate this Agreement at any time where Developer fails to comply with any provision of this Agreement. City must give Developer notice of the default in writing citing the term(s) of the Agreement that has been breached and what action Developer must take to cure the default. If Developer fails to cure the default as specified in the notice within 30 days after receiving the notice, or such longer period as may be necessary provided that Developer promptly begins curing the default and diligently continues such efforts to completion, the City Manager may terminate this Agreement by written notice to Developer specifying the date of termination.

7. **Notices.** All notices required under this Agreement must be in writing and may be sent by: (a) delivering the notice in person; (b) depositing the notice in the U.S. Mail, certified or registered, return receipt requested, postage prepaid; (c) by depositing the notice with Federal Express or another courier service for next day delivery; or (d) sending the notice by telefax with confirming copy sent by mail. Notice is deemed effective when received by the party to be notified. All notices must be sent or delivered to the following addresses or as City or Developer may hereafter designate by written notice:

City: City of Kerrville, Texas
City Hall
701 Main Street
Kerrville, TX 78028
Attn: City Manager

Developer: Kerr Capital Partners, LLC
2000 Wyoming Avenue
El Paso, Texas 79903

8. **Successors and Assigns.** This Agreement is binding on either parties, successors, assigns and grantees.

9. *Law Governing and Venue.* This Agreement is governed by the law of the State of Texas; venue shall occur in Kerr County, Texas.

10. *Entire Contract.* This Agreement represents the entire agreement between City and Developer. The Agreement supersedes all prior negotiations, representations, or contracts, either written or oral. This Agreement may be amended only by written instrument signed by both parties.

11. *Severability.* If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the parties.

CITY OF KERRVILLE, TEXAS

KERR CAPITAL PARTNERS, LLC,
A TEXAS LIMITED LIABILITY
COMPANY

Todd Parton, City Manager

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

ATTEST:

Brenda Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

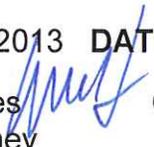
Agenda Item:

3A. 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. (staff)

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

SUBJECT: 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".

FOR AGENDA OF: April 9, 2013 **DATE SUBMITTED:** April 1, 2013

SUBMITTED BY: Mike Hayes 
City Attorney **CLEARANCES:**

EXHIBITS: Ordinance

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

| <u>Expenditure</u> | <u>Current Balance</u> | <u>Amount</u> | <u>Account</u> |
|--------------------|------------------------|------------------|----------------|
| <u>Required:</u> | <u>in Account:</u> | <u>Budgeted:</u> | <u>Number:</u> |
| \$ 0 | \$ 0 | \$ 0 | NA |

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City Council has, over the course of several meetings, considered the adoption of regulations applicable to "group homes". Based upon comments made from Council at those meetings, the attached ordinance will adopt regulations applicable to such businesses.

RECOMMENDED ACTION

Consideration of Ordinance.

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**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2013-__**

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 board 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

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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 1. 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 all other applicable federal and state legislation.

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

- (a) Boarding home facility means an establishment, including a residence or dwelling, other than a hotel, that furnishes, in one or more buildings, 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 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, 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;

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- (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.

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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 persons who have a sincere religious belief in providing facilities to care and treat the sick by depending 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

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- (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.

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- (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:

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- 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:

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- 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:

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- 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 two hundred (200) feet of the property.

(4) Council Decision.

- 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 twelve (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

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- (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

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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.

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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 FHAA 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:

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- (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

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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

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- (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 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

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surrounding premises, the director may suspend or revoke the permit to operate a boarding home facility.

- (c) 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.
- (d) 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) “RI” Single Family Zoning District, “RI-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 “RI” Single Family Zoning District, “RI-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 125 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 125 square feet;

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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 125 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 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 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) "RI" Single Family Zoning District, "RI-A" Residential Zoning District, "RC" Residential Cluster District. The number of required off-street parking spaces for a boarding home facility located within an "RI" Single Family Zoning District, "RI-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%.

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(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 150 square feet of floor space for each occupant, a built-in closet, and the 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, on each story of the building, and in any basement area;

(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.

Deleted: (d) No boarding home facility may have more than eight (8) occupants, including tenants, boarders, renters, employees, managers, or operators of the boarding home facility reside on the premises. †

Deleted: Residents of a boarding home facility may not keep for the use of residents, operators of the home, manager of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

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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.

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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. This Ordinance shall become effective immediately upon the expiration of 10 days following publication, as provided for by Section 3.07b. of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the ___ day of _____, A.D., 2013.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ___ day of _____, A.D., 2013.

ATTEST: Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:
Michael C. Hayes, City Attorney

Agenda Item:

4A. A resolution granting a petition requesting the annexation of an approximate 0.91 acre tract out of the John A. Southmayde Survey No. 148, Abstract No. 288, within Kerr County, Texas, and consisting of the property addressed as 2262 Highway 173 (Bandera Highway); and ordering the preparation of an annexation ordinance. (staff)

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

SUBJECT: Petition for annexation of a 0.91 tract of land, more or less, out of the original Survey No. 148, John A. Southmayde, Abstract No. 288, part of the Clergy E. Hollimon tract, within Kerr County, Texas, and consisting of the property addressed as 2262 Bandera Highway.
Applicant: Louis Howard. (File No.2013-017)

FOR AGENDA OF: April 9, 2013 **DATE SUBMITTED:** March 28, 2013

SUBMITTED BY: Jason Lutz *JL* **CLEARANCES:** Kristine Ondrias *KO*

EXHIBITS: Location Map, Annexation Petition, Resolution

AGENDA MAILED TO: Louis Howard, 1150 Sidney Baker S., Kerrville, Texas
78028

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JL*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Louis Howard (Owner) has filed a formal petition for the annexation of a 0.91 tract of land, more or less, out of the original Survey No. 148, John A. Southmayde, Abstract No. 288, part of the Clergy E. Hollimon tract, within Kerr County, Texas, and consisting of the property addressed as 2262 Bandera Highway and adjacent to the corporate limits of the City of Kerrville.

This petition for annexation is being submitted in order for the applicant to connect to the City of Kerrville's water and sanitary sewer mains to provide utilities to a building which is currently under construction.

The building under construction is a commercial building with 3 proposed tenant spaces. Currently only one space will be occupied and finished out. The occupant scheduled to occupy the first space is a Papa John's Pizza franchise. The other two spaces will not be finished out until a tenant has been found to occupy the space.

Staff has reviewed the application for annexation and found it to be complete. The Local Government Code requires Council to review and accept the petition prior to initiating annexation proceedings. Approving the attached petition and resolution will satisfy that requirement.

If the petition is accepted, the following timeline will be followed to complete the annexation process:

May 2, 2013

Public hearing and recommendation, from the Planning and Zoning Commission, for zoning.

May 28, 2013

First public hearing on the request by the City Council.

June 11, 2013

Second public hearing on the request by the City Council.

July 9, 2013

First ordinance reading by the City Council.

July 23, 2012

Second and final ordinance reading by the City Council.

RECOMMENDED ACTION

1. Accept the petition, approve the resolution, and direct staff to initiate the annexation process as outlined above.

2013-017 Petition for Annexation Location Map



Legend

-  City Limits
-  Annexation Area

0 50 100 200 Feet



1 inch = 100 feet



PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS, OF .91 ACRES OUT OF THE 148 John Southmayde Survey, Abstract Number 288, KERR COUNTY TEXAS

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS:

Louis Howard is the sole owner of an approximately .91 acre tract of land located adjacent to the incorporated limits of the City of Kerrville which is out of the Survey No. 148, Abstract No. 288 Kerr County, Texas, and is more particularly described as follows:

SEE EXHIBIT "A" (Field Notes) and EXHIBIT "B" (Survey) attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, Louis Howard hereby requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS 19th day of march 2013.

By: Louis Howard
Legally authorized signature

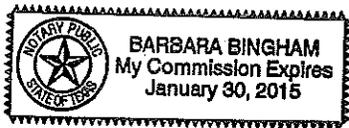
ACKNOWLEDGEMENTS

THE STATE OF TEXAS

§
§
§

COUNTY OF KERR

This instrument was acknowledged before me on the 19th day of march, 2013, for and on behalf of Louis Howard



Barbara Bingham
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Barbara Bingham

My Commission Expires: 1/30/2015

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2013

A RESOLUTION GRANTING A PETITION REQUESTING THE ANNEXATION OF AN APPROXIMATE 0.91 ACRE TRACT OUT OF THE JOHN A. SOUTHMAYDE SURVEY NO. 148, ABSTRACT NO. 288, WITHIN KERR COUNTY, TEXAS, AND CONSISTING OF THE PROPERTY ADDRESSED AS 2262 HIGHWAY 173 (BANDERA HIGHWAY); AND ORDERING THE PREPARATION OF AN ANNEXATION ORDINANCE

WHEREAS, on March 19, 2013, the owner of an approximate 0.91 acre tract out of the John A. Southmayde Survey No. 148, Abstract No. 288, within Kerr County, Texas, and more commonly known as 2262 Highway 173 (Bandera Highway), filed a petition with the City pursuant to Texas Local Government Code Section 43.028 and requested the annexation of the property; and

WHEREAS, having considered the petition and hearing the recommendation from City staff, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to grant said petition and to initiate the annexation process, which includes the preparation of an ordinance annexing the subject property;

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

SECTION ONE. The petition requesting annexation of an approximate 0.91 acre tract out of the John A. Southmayde Survey No. 148, Abstract No. 288, within Kerr County, Texas, consisting of the property addressed as 2262 Highway 173 (Bandera Highway), and more fully described in said petition, a copy of which is attached as Exhibit A, is granted.

SECTION TWO. City staff is directed to initiate the annexation process and to prepare an ordinance annexing the subject property described in the above-referenced petition.

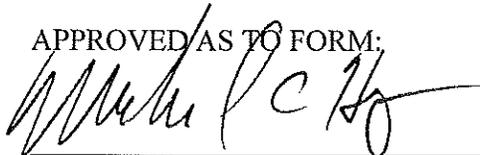
PASSED AND APPROVED ON this the ____ day of _____, A.D., 2013.

Jack J. Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

All that certain tract or parcel of land, lying and being situated in the County of Kerr; State of Texas; comprising 0.91 acre, more or less; out of original Survey No. 148, John A. Southmayde, Abstract No. 288; being all that SECOND described conveyance which was conveyed from Bessie L. Hollimon, et. al., to Bessie L. Hollimon, by Partition Deed of record in Volume 165, page 153, of the Deed Records of Kerr County, Texas; which tract is part of that 25.13 acre Third Tract which was conveyed from Susan I. Hollimon to Clergy E. Hollimon, by deed dated June 28, 1949, of record in Volume 86, page 304, of the Deed Records of Kerr County, Texas; subject tract being designated as Tract No. 7 of the Clergy E. Hollimon Subdivision according to plat prepared by Louis Domingues, dated March 5, 1973, which tract is out of Tract No. 6 of the James Hollimon and wife Addition, as described in Volumes 44, page 302 to 305, of the Deed Records of Kerr County, Texas; and subject tract being more particularly described by metes and bounds, as follows, to wit:

BEGINNING at an iron stake (steel reinforcing bar) with cap marked Voelkel Surveying in fence line, found marking the south corner of said Bessie L. Hollimon tract, being in the southeast line of said 25.13 acre Clergy E. Hollimon tract, being the east corner of that EIGHTH described conveyance which was conveyed from Bessie L. Hollimon, et. al., to Ima Sue Hollimon Bauer, by said Partition Deed of record in Volume 165, page 153, of the Deed Records of Kerr County, Texas, and being in a northwest line of the Kerrville State Park property, which deed to Bessie L. Hollimon tract, describes the beginning corner as located a distance of 3480.8 feet, a direction of N.45°08'E., from a fence corner marking the south corner of said 25.13 acre Clergy E. Hollimon tract, for a reentrant corner of said Kerrville State Park property;

THENCE with the southeast line of said Bessie L. Hollimon tract, the southeast line of said 25.13 acre Clergy E. Hollimon tract, a northwest line of the Kerrville State Park property, along a fence, a direction of N.45°03'E., for a distance of 249.75 feet [deed- N.45°08'E. 250.0'] to an iron stake (steel reinforcing bar) with cap marked Voelkel Surveying found marking the east corner of said Bessie L. Hollimon tract, being in the southwest right of way line of Texas State Highway No. 173;

THENCE with the northeast line of said Bessie L. Hollimon tract, along the southwest right of way line of said Texas State Highway No. 173, a direction of N.55°57'W., for a distance of 173.60 feet [deed- N.56°02'W. 173.6'] to an iron stake (steel reinforcing bar) with cap marked Voelkel Surveying found marking the north corner of said Bessie L. Hollimon tract, for the east corner of that 0.59 acre Hollimon Cemetery tract, which is part of said James Hollimon and wife Addition, as described in Volume 44, page 302 of the Deed Records of Kerr County, Texas;

THENCE with the northwest line of said Bessie L. Hollimon tract, the southeast line of said 0.59 acre Hollimon Cemetery tract, a direction of S.45°02'W., for a distance of 216.21 feet [deed- S.45°08'W. 216.4'] to an iron stake (steel reinforcing bar) with cap marked Voelkel Surveying found marking the west corner of said Bessie L. Hollimon tract, for the south corner of said 0.59 acre Hollimon Cemetery tract, being in the northeast line of said tract conveyed to Ima Sue Hollimon Bauer;

THENCE with the southwest line of said Bessie L. Hollimon tract, the northeast line of said tract conveyed to Ima Sue Hollimon Bauer, a direction of S.44°49'E., for a distance of 170.36 feet [deed- S.44°52'E. 170.3']

This conveyance is made and accepted SUBJECT TO the following, but only to the extent they are valid and apply to the subject property:

1. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records.

EXHIBIT "A"

Page 1 of 2

2. Easements described in Partition Deed dated May 16, 1973, recorded in Volume 165, Page 153, Deed Records of Kerr County, Texas.
3. Easement to Lower Colorado River Authority dated May 18, 1950, recorded in Volume 1, Page 244, Easement Records of Kerr County, Texas.
4. Rights of Ruth E. Hollimon, if any, in and to the land described herein.
5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the land.
6. Visible and apparent easements on or across property herein described.

LEGEND:

- P.C. - property corner
- S. I.S. - set iron stake
- F. I.P. - found iron pipe cap - Domingues 1713
- P.L. - property line
- [] - deed information
- / - Volume/page
- D.R. - Deed Records
- R.P.R. - Real Property
- O.P.R. - Official Public
- P.R. - Plat Records
- P.C. @ S. 1/2" cap
- I.S. located 1.6'
- N.47°20'E. from a found 1/2" iron stake

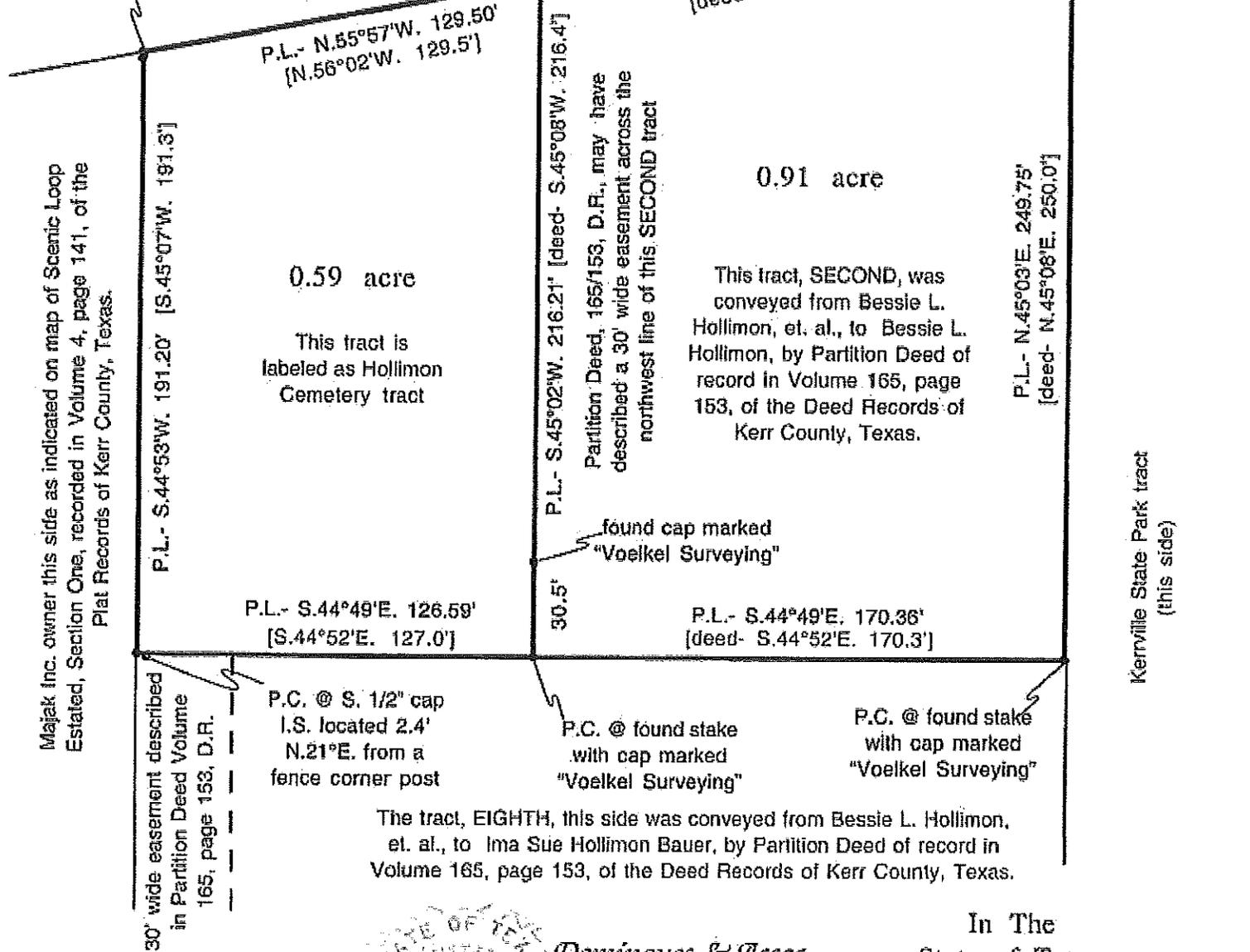
The located property lines are one and the same line as those indicated on the deed. The indicated bearings are as surveyed property line bearings and are different than the recorded deeds because the bearing on the recorded deeds were based on compass direction and the indicated plat bearings are based on Global Positioning System grid north observation.

Basis of bearings was derived from True North observations using G.P.S. (Trimble) R.T.K. system on December 21, 2010.
All distances are in feet unless stated otherwise.



P.C. @ found stake with cap marked "Voelkel Surveying"

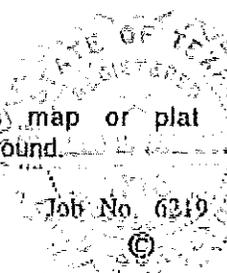
Texas State Highway No. 173



I do hereby certify that this map or plat represents a survey made on the ground.

Charles B. Domingues
Charles B. Domingues 03/17/13

Registered Professional Land Surveyor No. 1713
Only those prints containing the raised seal should be considered official and relied upon by the user.



Domingues & Assoc.

P. O. Box 649
Hunt, TX. 78024-0649
Tel. 830/896 6900
cdomingues@krc.com
Firm No. 100934-00

In The
State of Texas
County of Kerr
Scale 1" = 50 Feet
December 23, 2010
revised January 18, 2011

part of former
Clergy E. Hollimon property

Agenda Item:

4B. Request to allow a property to connect to city water and sanitary sewer services prior to the completion of the annexation process at 2262 Highway 173 (Bandera Highway). (staff)

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

SUBJECT: A resolution allowing a property to connect to city water and sanitary sewer services, prior to the completion of the annexation process.

FOR AGENDA OF: April 9, 2013 **DATE SUBMITTED:** April 2, 2013

SUBMITTED BY: Jason Lutz *JL* **CLEARANCES:** Kristine Ondrias

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *[Signature]*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The land owner (Louis Howard) is requesting approval to connect to city sewer and water prior to the completion of the annexation process. Mr. Howard has petitioned the city for annexation and based on the current timeline the annexation process should be completed on July 23, 2013. Mr. Howard is requesting annexation in order to provide utilities to a building that is currently under construction at the intersection of Bandera Highway and Loop 534. This structure is a commercial building designed for three tenants. Currently Mr. Howard has a contract for one of the tenant spaces. The contract is for a Papa John's Pizza franchise looking to open for business during the month of May. In order for Mr. Howard to meet the timetable for opening, utility connections must be made prior to the completion of the annexation process. Several improvements and additional utility infrastructure will be required for utility connections and Mr. Howard is working with city staff to implement these improvements at his expense.

City of Kerrville's resolution number 91-144 states:

2. That it is the policy of the City to encourage the growth of the City and its tax base by the extension of necessary capital improvements, including water and sewer service within the corporate limits of the City; and,
3. That the City Council shall review and approve each request for City water and sewer service outside the corporate limits of the City; and,

4. That annexation shall be required of any land to which water or sewer service is requested, and that such annexation shall be in accordance with the laws of the State of Texas;

The proposed timeline for the completion of the annexation process for this property is July 23, 2013. Based on the fact that a business located on the property is scheduled for a grand opening in May, the property is located adjacent to the incorporated city limits of Kerrville, the expansion of the local tax base, and the increase of jobs to the community, staff recommends approval of utility connections prior to the completion of the annexation process, with the following conditions:

1. That the land owner pay a rate of 1.5 times the rate for city residents until the annexation is complete.

RECOMMENDED ACTION

1. Approve the request for utility connections prior to annexation.

Agenda Item:

4C. Request by Walter Investments, L.P. for an abatement of property taxes for the property located at 741 Water Street (former Bank of America building).
(staff)

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

SUBJECT: Request by Walter Investments, L.P. for an abatement of property taxes for the property located at 741 Water Street (former Bank of America building)

FOR AGENDA OF: April 9, 2013 **DATE SUBMITTED:** April 3, 2013

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

EXHIBITS: Letter from Walters Investments, L.P. (dated March 20, 2013)
Downtown Parking Study Map
Incentive Policy

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The City Council has received a request from Walters Investments, L.P. requesting that the City Council abate the property taxes for the property located at 741 Water Street (former Bank of America property). The requested abatement would be compensation for the public's use of the parking lot. Walters Investments, L.P. has made a portion of its parking lot available for public use for several.

This is a privately owned parking facility constructed to serve the primary building, which was built for banking and professional office uses. Walters Investments, L.P. has generously allowed free public access to its property for many years. The parking facility has been popular with visitors to the historic downtown core due to its convenient location and accessibility. It also provides convenient access to the downtown pavilion.

In its analysis of current and long-term parking needs for the city's downtown core, the Main Street Advisory Board recognized that this parking lot currently serves as a key parking amenity. However, the board recognized that this parking lot was privately owned and should not be incorporated into a long-term public parking strategy. The board concluded that existing public parking facilities are adequate to serve downtown businesses and that reduced availability of privately owned parking facilities would be offset by greater utilization of the parking garage which is striped for approximately 500 parking stalls. Attached is a copy of the parking study map prepared by the board.

This request does not meet the guidelines for property tax abatements specified in the city's Economic Development Incentive Policy. Consequently, this request is one that would have to be considered outside of the policy.

City staff has identified three primary issues to consider in evaluating this proposal:

1. the parking lot subject to this request is required to meet the off-street parking requirements for future occupants of the primary building. This building is currently vacant and could be leased or sold at any time;
2. there are other private parking lots within the community that are used for public purposes as well and granting this request could be deemed as a precedent for similar situations; and
3. a property tax abatement would be for an entire calendar year and there is no guarantee that the public will have the same access to the parking lot during that period of time.

RECOMMENDED ACTION

City staff recognizes that Walters Investments, L.P. has been extremely generous to the community in making its parking lot available to the general public. However, city staff recommends that the City Council not grant this request pursuant to the following reasons:

1. adequate parking facilities exist to meet downtown parking needs; and
2. parking stalls within the subject lot will be required to accommodate tenants for the primary structure.

Walters Investments, LP

222 SIDNEY BAKER SOUTH
SUITE 305
KERRVILLE, TEXAS 78028
830/257-6300
FAX 830/792-4525

March 20, 2013

Mr. Jack Pratt, Mayor
City of Kerrville
701 Main Street
Kerrville, Texas 78028

RE: Kerrville downtown parking

Dear Mayor:

Approximately two weeks ago you and I discussed the amount of public parking which is occurring continuously at our parking lot associated with the former Bank of America building in downtown Kerrville located at 741 Water Street. Since Bank of American closed its operations in June of 2012 we, as owners, have allowed the parking lot to remain open for free public parking and free access. Instead of closing the parking lot we decided we would monitor the parking situation and patterns of the downtown merchants businesses and patrons. It has been quite interesting to find that our parking lot has experienced more activity and parking without Bank of America as a tenant than during their occupancy. Our parking is by far the most popular, accessible and convenient parking area in downtown Kerrville. In addition to the 5 tenants of our office suites, our private parking lot is attracting patrons from virtually every place of business, restaurant and shop in downtown Kerrville. Tourists, customers and employees of Kerrville's downtown businesses including SCHREINER GOODS, SUNRISE ANTIQUE MALL, PAMPELLS, FORES REAL ESTATE, FRANCISCOS, BAUBLIT JEWELERS and most others use or park in our private parking lot each and every day. Simply put, the parking lot is generating traffic from 7:00 a.m. in the morning to 10:00 p.m. at night, continuously and daily. According to your own comment, probably includes some of the employees in City Hall.

Naturally, as an owner of 741 Water Street, we have expenses associated with the property. We pay property city/county taxes, maintenance and insurance on the property. Our parking lot has 96 parking spaces and makes accessible and available to the downtown businesses, merchants and patrons over fifty percent (50%) of all the parking available servicing downtown east of Sidney Baker Street between Water Street and Main Street.

Given the amount of convenient, accessible and free parking our property provides to downtown Kerrville we, as property owner, made a request to you as Mayor of the City of Kerrville to consider an abatement of our city real estate taxes for this benefit. Our city taxes in 2012 were \$11,271.04. This is not a permanent offer or proposal condition. If the tax abatement should be agreed, we would propose the city to review this proposal and request annually. We are hopeful that at some point in the future we will be successful in obtaining another large tenant or multiple tenants in which to occupy the space formerly by Bank of America. Yet, until this time, downtown Kerrville is benefiting from the free and accessible parking area which we are paying for all the expenses. It appears to be a small and reasonable request given the benefits to downtown Kerrville and its businesses.

Pursuant to this request and based upon the conversation we had on March 14th, you have said you discussed the matter and proposal with Todd Parton, city manager, and have declined to provide any such tax abatement for the continued open parking which we are providing in downtown Kerrville. In your explanation, you stated "the city has a 600 car parking garage to service the parking needs and requirements of downtown Kerrville and we don't need to look for or rent any additional parking spaces." I stated in reply "No one seems to want to park in the parking garage due to its less than convenient location to downtown Kerrville merchants and business. As evidence, everyone seems to park in our parking lot." The answer is simple as to why this is occurring: convenience, accessibility and location.

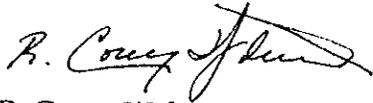
You made a statement that perhaps if we, as owners, were to close off our parking lot to downtown it may "force" people to use the parking garage. We have to ask the questions to you Mayor, "Is this really what you want? Do you really want to take away half of the most convenient and accessible parking in downtown Kerrville over a tax abatement amount which is a little over \$900 a month?"

We would respectfully ask the City of Kerrville re-consider our proposal to temporarily keep open for public access and convenience our parking lot to the benefit of downtown Kerrville in consideration for an abatement of our property taxes at this location.

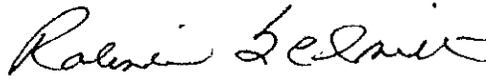
Page 3

Thank you.

Sincerely,



R. Corey Walters



Rolinda Schmidt

Cc: Mr. Todd Parton, City Manager
Kerrville City Council Members



City of Kerrville, City of Ingram and Kerr County

Economic Development

Incentive Policy

Adopted by City of Ingram – September 2, 2008
Adopted by Kerr County – September 8, 2008
Adopted by City of Kerrville – September 9, 2008

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The City of Kerrville, City of Ingram, and Kerr County have joined together with their economic partners to provide a cohesive, consistent, and coordinated regional approach to economic development while ensuring the public a justifiable investment in private projects. Kerrville/Kerr County is blessed with an unusually high number of unique assets. Our community has an excellent reputation in Texas, and growing recognition through out the US and internationally. The Kerrville area and surrounding communities have economic base more stable than most. The community is primed to support economic development. The existing quality of life makes Kerrville a great place to live and work.

Economic development is defined as the public resources for private projects implemented for the benefit of the public good. The purpose of these policies is intended to provide a frame work for economic development in the Kerrville, Kerr County area. Stakeholders will be identified, and roles will be acknowledged based on each entity's ability to use certain tools outlined by state law. The key purpose is to encourage growth and development in targeted industries.

In February 2008 the Kerrville City Council and the Kerr County Commissioners adopted an economic development strategic plan produced by TXP, Inc. One of the recommendations from the plan was to organize a committee to develop an incentive policy. The committee will consist of nine members including the following positions:

Kerr County Judge, City of Kerrville City Manager, City of Ingram Mayor, President - Chamber of Commerce, President – Kerr Economic Development Foundation, President - Economic Improvement Corporation, and three community representatives. The committee will meet to discuss, evaluate, and recommend public participation in private sector business recruitment and existing business expansions. This policy will be reviewed on an annual basis.

Objectives for creating the policy for incentives are:

- To sustain the local economy
- Strengthen the tax base
- Match specific incentives to the benefit
- Publicly justify the incentive, and
- Develop a non-competitive economic strategy with governmental entities

The priorities and strategies set forth in the plan include business attraction and business retention and expansion concentrating on target market development to provide a sustainable tax base. Equally as important is a strong workforce development effort ensuring adequate infrastructure to retain quality of life while currently attracting a growing retirement sector and tourism industry.

Also, attention to revitalization and redevelopment of downtown Kerrville is a great priority through the promotion of historic preservation while heightening tourism initiatives in concert with following positive land use management practices. And finally, the plan maintains that a priority be given to unified tactics for marketing, education, and information.

Procedure

The City of Kerrville and/or Kerr Economic Development Foundation will accept applications for projects at any time. Applications will not be considered until complete. Applicants must be available to present projects to the full membership of the Incentives Committee or a designated sub-committee of the Incentive Committee or both. Applicants may be businesses currently located in the City of Kerrville or Kerr County. Each project must be in compliance with legal requirements. If the project is within the city limits of Kerrville, said project should be consistent with the Comprehensive Plan, Capital Improvement Plan, Airport Master Plan, and Parks Master Plan. All projects will be required to provide an economic impact analysis including a return on investment calculation, job creation impact analysis, and tax base adjustments. If an applicant cannot make an economic development argument aligning with one or more of the above mentioned priorities or strategies, the applicant need not apply as the project will not be processed. It's not the intent of this policy to consider a project that is already underway, as originally planned, when application is received.

Scoring of projects

Each project will be scored on a case by case basis considering added value and/or jobs created. Scoring weights for capital investment will be a maximum of 50% of the total score. Wage and workforce will have a combined score maximum of 50% of the total score. Large projects presented beyond the maximums published may be reviewed for additional consideration. Eligible projects may be granted an incentive (s):

- A project is considered to be a target industry type if it fits within the Economic Development Strategic Plan as approved by Kerrville City Council and Kerr County Commissioners in February 2008, and shall be eligible for an incentive only upon a finding by the Incentive Committee that the project will make a unique contribution to the economy, development, redevelopment, tourism or employment opportunities.

Targeted Sectors for Recruitment/Retention+

| | |
|-------------------|--|
| Professional | Corporate/management, aircraft |
| Legacy Production | Aircraft-related, jewelry-related, plastics, specialty food processing |

| | |
|-----------------------------|---|
| Tourism-related | High-end lodging, destination retail, entertainment, recreational sports facilities |
| Advanced Building Practices | Water/wastewater, materials/energy systems |
| Life Science | Physicians/nursing, laboratory-based testing, local population based research |

+TXP, Inc. report 2008

- For new facilities and for expansion or modernization of existing facilities. (The economic life of a facility, and/or eligible property must exceed the duration of the incentive return on investment.)
- In order to be considered for an incentive, the following criteria apply:
 1. Tax Abatement applicants: An application for eligible facilities located in an area designated for property tax abatement and resulting in a minimum added value of \$500,000 in real and business personal property (excluding inventory and supplies).
 2. Enterprise Zone, a zone not more than a 10 square mile area in distress of high unemployment, deteriorating buildings, substantial loss of businesses or jobs: Eligible facilities located in the Kerrville Enterprise Zone resulting in a minimum added value of \$100,000 in real and business property (excluding inventory and supplies).
 3. Main Street District: Eligible facilities located in downtown Kerrville resulting in a minimum added value of \$50,000 in real and business personal property (excluding inventory and supplies).
 4. Airport Development Area: Eligible facilities located within the aviation and non-aviation areas of the Kerrville – Kerr County Municipal Airport resulting in a minimum added value of \$300,000 in real and business personal property including inventory.

Suggested Scoring Formula – Maximum score of 30 points

One point is scored for each \$200,000 increase in value in real and personal business or commercial property included in project (rounded to nearest \$100,000). Total scoring of 30 points with a maximum 15 points for capital.

One point is scored for each ten permanent full-time qualified employees compensated 50% or more of the difference between local and State of Texas most recent published covered wage hired within twelve months of project completion. Qualified employees are those receiving access to benefits via the employer, i.e. medical, vacation, etc. and work not less than 2000 hours per year. For business expansions where additional jobs are created at an existing business, points may be awarded for new employees from one point up to a maximum of 10 points.

One point is scored for each \$25,000 invested by the company in work force training within the first twelve months of the project. Up to a maximum of 5 points can be earned.

The total point value will be tallied for each application. In order for a project to be considered, a minimum of 10 points must be scored. Applications scoring 10 points or above will be evaluated and processed for a recommendation. Applications scoring less than 10 points will be returned to the applicant with an explanation of deficiencies. Tax abatement schedules are as follows:

- Business expansions: 11-15 points scored qualifies for 5 year abated schedule; 16-30 points scored qualifies for 7 year abated schedule
- New businesses: 11-18 points scored qualifies for 5 year abated schedule; 19-24 points scored qualifies for 7 year abated schedule; 25-30 points maximum schedule (see examples)

Incentive Tools

Local

Tax abatements

Property tax abated for a set period of years depending on reinvestment zone location of project and associated thresholds

4B Sales Tax for Economic Development

1. Business development for expansions or relocations for building assistance, workforce development, job training, relocation expenses.
2. Infrastructure partnerships agreement to share infrastructure costs as utilities, street development.

Lease abatements

Publicly owned building or ground lease relief on the front end of an expansion.

Land exchange

Publicly owned property used in partnership with developer in exchange for economic impact to tax, property values.

Low Interest Loan Pools

Partnering with local financial institutions for lower interest rates for improvements or start-ups (KMS district established in 1995).

Hotel/Motel Tax

Use for lawful economic development activities within the HOT categories of tourism.

Residential Development[^]

Property set asides for workforce housing programs in return for infrastructure improvements.

Workforce Housing Projects

Per unit grant or credit for new construction or rehabilitation of existing structures.

Waiver of fees

Relief from building, tap, recovery, etc. fees to lessen upfront expenses.

State

Tax Increment Financing*

Finance infrastructure improvements repaid by future tax revenues, freezes tax value, utilizes incremental future value to fund improvements.

Section 380 grants

Sales tax rebate to relocating or expanding business based on increase sales tax base with a net growth impact.

| | |
|--|--|
| Freeport Exemption | Allows property tax exemptions for goods for 175 days or less (Adopted March 1990). |
| Public Improvement District* | Partnership with developer for infrastructure improvements with an assessment return. |
| Texas Capital Fund Grant* | <ol style="list-style-type: none"> 1. Infrastructure Funds up to \$750k for a specific infrastructure project 2. Real Estate Up to \$750k for acquisition, construction or rehabilitation of property for business development 3. Main Street Funds up to \$150k for Main Street district infrastructure improvements |
| Go Texan* | Dollar for dollar matching fund for small business with Texas agriculture products |
| Texas Enterprise Fund* | Funds from the Governor's Office for Economic Development for out of state business development |
| *Texas Leverage Fund* | Loans to businesses using 4B sales tax funds |
| Linked Deposit Program* | Loans to historically utilized businesses in an enterprise zone |
| Texas IRB program* | Industrial revenue bond program providing taxable and non-taxable bond financing for land for industrial or manufacturing projects |
| Texas Enterprise Zone* | A designated area representing a 20% or higher poverty rate eligible for economic development activities; area must be approved by the State |
| <u>Federal</u> Foreign Trade Zone** | Designated area to assist international trade related activities whereby duty payment is deferred. |

- * Program requires appropriate local legislation within State of Texas guidelines
- **Requires approval at the federal level
- ^ Developments not in the workforce housing category

•

Clawbacks and Performance criteria

Each project applicant should anticipate certain clawback provisions in a funding agreement between the applicant, the City of Kerrville and/or Kerr County depending on the level of participation of the public funding. Determined on a case by case basis, projects will be evaluated on property value increases and jobs created above the current average wage. A timeline of performance criteria will be agreed upon whereby a claw back will be charged to the applicant if performance measures are not met. An industry standard return on investment to the City of Kerrville and Kerr County is expected in five to seven years. Again, each project must be in compliance with legal requirements.

PROPERTY TAX ABATEMENT SCHEDULE
FOR City of Kerrville, City of Ingram, Kerr County

Tax abatement shall be authorized for industrial facilities and commercial facilities. All other types of facilities shall be ineligible. Abatement shall extend to the value of buildings structures, fixed machinery and equipment, site improvements plus office space and related fixed improvements necessary to the operation and administration of the facility. However, land, inventories, supplies, tools, furnishings and other forms of movable personal property shall be ineligible. Abatement incentives in most cases will not exceed seven years.

Eligibility requirements for tax abatements have a minimum capital investment of \$500,000.00 for expansion/retention of existing businesses and a minimum of \$750,000.00 for new business development. The Economic Development Strategic Incentive Committee has the authority to review all incentive applications and modify incentives at their discretion. All eligible applications will be reviewed by the committee with either a recommendation for business incentives to economic partners or comments on why the application did not apply. Scoring weights for capital investment will be a maximum of 50% of the total score. Wage and workforce will have a combined score maximum of 50% of the total score.

Expansion of Existing Businesses

- Minimum capital investment to apply \$ 500,000.00 (Existing businesses may receive up to 10 points in scoring system for minimum capital investment for expansion of business)

Maximum incentive from tax abatement requires a capital investment of \$ 3,000,000.00. Maximum capital investment score of 15 points.

| <u>Maximum Capital Investment</u> | <u>% of Abatement</u> | <u>Year of Abatement</u> |
|-----------------------------------|-----------------------|--------------------------|
| \$ 3,000,000.00 | 50% | 1-2 |
| | 40% | 3-4 |
| | 30% | 5 |
| | 20% | 6 |
| | 10% | 7 |

New Business Development

- Minimum capital investment to apply \$ 750,000.00

Maximum incentive from tax abatement requires a capital investment of \$ 3,250,000.00

Maximum capital investment score of 15 points..

| <u>Maximum Capital Investment</u> <u>Abatement</u> | <u>% of Abatement</u> | <u>Year of</u> |
|---|-----------------------|----------------|
| \$ 3,250,000.00 | 50% | 1-2 |
| | 40% | 3-4 |
| | 30% | 5 |
| | 20% | 6 |
| | 10% | 7 |

2007 Tax rate per \$ 100.00 valuation

- .5500 City of Kerrville
- .3896 Kerr County
- .3285 City of Ingram
- K.I.S.D. (not applicable)

Tax Abatement example for an expansion/retention of existing business

Business data on current status of existing business in Kerrville includes the following:

1. Business owners own 4 acres of land and current facility is 7,500 square ft.
2. Company employs 15 with an average employee wage of \$ 12.00 per hour or a annual salary of \$ 25,000.00.
3. Company offers medical coverage to employees

The XYZ Company has requested for tax abatements to expand their company in the Kerrville/Kerr County community. XYZ has completed the application for economic incentives and provided the following expansion plans for scoring their request.

1. Company wants to expand current site with an additional 12,500 sq. ft. building.
2. Company will add an additional 20 employees to business with an increase of wages to all employees of \$ 14.00 per hour or an annual salary of \$ 29,120.00.
3. Company offers medical coverage to all employees.
4. If company can expand operation in Kerrville one potential supplier company may relocate to the Kerrville/Kerr County community.
5. XYZ Company will invest \$ 25,000.00 for workforce training for employees.

Review of Expansion of XYZ Company and potential tax abatement incentives offered to company

12,500 sq. ft (built on assumption \$ 125.00 per sq. ft.) \$ 1,562,500.00

Additional Payroll to local economy \$ 582,400

Employee Health Insurance provided by company

Economic Incentive Committee would then evaluate and use the suggested scoring formula to grade and make recommendations for this project. This project would be scored as the following:

| <u>XYZ Company Expansion Project</u> | <u>Incentive Score</u> |
|--|------------------------|
| Capital Investment and new improvements (12,500 sq. ft.) \$ 1,562,500.00 | 12 pts |
| New jobs created (20) average annual salary of \$ 29,120.00; benefits include Medical coverage for all employees. Company invests \$ 25,000.00 dollars for workforce development. | 3 pt |
| Other project considerations (potential attraction of Supplier Company); Incentive committee could recommend to ABC that abatement may be reviewed depending on economic impact of potential supplier company for community. | |
| Total Points Scored for abatement incentive | 15 pts |

Incentive committee could make the following recommendation for the XYZ Expansion Project.

| <u>Capital Investment Pts. Scored</u> | <u>% of Abatement</u> | <u>Year of Abatement</u> |
|---------------------------------------|-----------------------|--------------------------|
| 15 | 40% | 1-2 |
| | 30% | 3 |
| | 20% | 4 |
| | 10% | 5 |

Total Tax Created by Business Expansion Annually

City of Kerrville \$ 8,594.00

Kerr County \$ 6,088.00

City of Kerrville Tax Abatement incentive for XYZ Company Expansion

| Year | 1 | 2 | 3 | 4 | 5 |
|------|-------|-------|-------|-------|-----|
| | 3,427 | 3,427 | 2,578 | 1,719 | 860 |

Total new tax revenue created \$ 42,970.00

Abatement Incentive (5 years) \$ 12,011.00

City of Kerrville new tax revenue \$ 30,959.00

Kerr County Tax Abatement incentive for XYZ Company Expansion

| Year | 1 | 2 | 3 | 4 | 5 |
|------|-------|-------|-------|-------|-----|
| | 2,435 | 2,435 | 1,826 | 1,218 | 609 |

Total new tax revenue created \$ 30,438.00

Abatement Incentive \$ 8,523.00

Kerr County new tax revenue \$ 21,915.00

Tax abatement example for a new business development

The Icabad Crane Company has requested tax abatements to develop their new retail location in the Kerrville/Kerr County community. Crane has completed the application for economic incentives and has provided the following business data for scoring their incentive request.

1. Company has acquired 35 acres at intersection two major highways with high volume traffic count per day. Company purchased Agriculture exempt property for \$ 2 million dollars for new development.
2. Crane Company store will be 95,000 sq. ft. which the company has secured construction cost for \$ 40.00 per sq. ft.
3. Company will employ a total of 120 employees; five percent or 6 employees will be management and have annual salary of \$ 50,000.00; 40 percent of 46 employees will be full time with an average wage of \$ 10.00 per hour or \$ 21,000.00 annually however, company does provide medical coverage to full time employees; 68 part time employees with average wage of \$ 10.00 per hour.
4. Crane Company wants to be involved in community activities with economic partners.

New Business Development for Crane Company and potential tax abatement incentives offered to company.

95,000 sq. ft. (built at \$ 40.00 per sq. ft.) \$ 3,800,000.00

Additional Full time payroll to local economy \$ 1,266,000.00;
FT employees received health insurance coverage

Economic Incentive Committee would then evaluate and used the suggested scoring formula to grade and make recommendations for this project. This project would be scored as the following:

| <u>Crane Company Business Development</u> | <u>Incentive Score</u> |
|---|------------------------|
| Capital Investment \$ 3,800,000.00 | 15 |
| New jobs created 120; only 5 % of jobs have higher wage and Company benefits, 40% of jobs are full time with health insurance Coverage with a total salary package that meets the current min. wages In Kerrville/Kerr County; addition of 68 part time jobs with no benefits | |
| Total Points scored for abatement incentive | 15 pts. |

Incentive committee could make the following recommendation for the Crane Company Business Development.

| <u>Capital Investment Pts. Scored</u> | <u>% of Abatement</u> | <u>Year of Abatement</u> |
|---------------------------------------|-----------------------|--------------------------|
| 15 | 40% | 1-2 |
| | 30% | 3 |
| | 20% | 4 |
| | 10% | 5 |

Total Tax Created by new business development annually

City of Kerrville \$ 20,900

Kerr County \$ 14,805

City of Kerrville tax abatement incentive for Crane Company Business Development

| Year | 1 | 2 | 3 | 4 | 5 |
|------|-------|-------|-------|-------|-------|
| | 8,360 | 8,360 | 6,270 | 4,180 | 2,090 |

Total new tax revenue created \$ 104,500.00

Abatement Incentive (5 years) \$ 29,260.00

City of Kerrville new tax revenue \$ 75,240.00

Kerr County Tax Abatement incentive for Crane Company Business Development

| Year | 1 | 2 | 3 | 4 | 5 |
|------|-------|-------|-------|-------|-------|
| | 5,922 | 5,922 | 4,442 | 2,961 | 1,481 |

Total new tax revenue created \$ 74,025.00

Abatement Incentive \$ 20,728.00

Kerr County new tax revenue \$ 53,297.00

Incentive Committee makes recommendation to appropriate governmental body.

Initial Response Team Evaluation

Members of the Incentive Committee will serve on Initial Response Teams within the committee to evaluate projects and make recommendations to the Committee. Ultimately, a final recommendation will be made to the Kerrville City Council, Ingram City Council and/or the Kerr County Commissioners. The Teams will be positioned according to the geographic location of the project. Some team members may serve on more than one team. Suggested positions are as follows:

- Citywide reinvestment zone: City Manager, KEDF President, KACOC President, Community Representative 1, EIC President
- Kerrville enterprise zone: City Manager, KEDF President, Community Representative 2, EIC President
- Main Street District: City Manager, KEDF President, KACOC President, Community Representative 3
- Airport area: County Judge, Community Representative 1
- Kerr County: County Judge, Community Representative 2
- City of Ingram: Mayor of Ingram, Community Representative 3

A realistic time line for evaluation and processing will be shared with each applicant. To that end, the process would be:

1. Application is received by KEDF or BP of COK and forwarded to
2. Initial Response Team assigned, who will then
3. Make a recommendation to the Incentive Committee, who will
4. Make a recommendation to the appropriate approving entities

The applicant will be contacted:

- for additional information if an application is deemed eligible, but more information is needed, or
- if application is complete and eligible for consideration or
- if the application is ineligible

Applicable incentive tools will be determined for each project, whether new or existing, during the evaluation process containing the required documentation from the applicant. (ROI, cost/benefit analysis, opportunity cost analysis).

Roles

Community Representatives serving on the Incentive Committee have a role of providing guidance for decision making concerning projects presented for consideration.

Kerrville Area Chamber of Commerce - Is to have input for policy decisions affecting the business community and the protection and cultivation of business base by growing their membership.

Kerr Economic Development Foundation - Is to market the Kerrville area as a business friendly community encouraging existing business growth and facilitating new business opportunities.

Kerrville Convention and Visitors Bureau - Is to promote tourism activities to enhance the hotel occupancy tax revenues while creating a repeat destination experience for the traveling population.

City of Kerrville - Facilitate policy making activities; carry out development packaging initiatives for the City of Kerrville in cooperation with industry partners, local economic developments partners, and business community. Additionally, manage the tax base through realistic methodology of determining a positive return on investment of resource.

Kerr County - Kerr County Commissioners' role is to consider and act upon recommendations from the Incentive Committee.

City of Kerrville - City Council's role is to consider and act upon recommendations from the Incentive Committee.

City of Ingram - Ingram City Council's role is to consider and act upon recommendations from the Incentive Committee.

Economic Improvement Corporation - role is to hear presentations and act upon recommendations from the IRT and Incentive Committee.

Deliverables

Members of the Incentives Committee agree to have open communication with each other concerning every project or potential project under consideration in confidence. IRTs will follow in the same commitment ensuring consistencies in all discussions. Collectively, the Committee evaluates the process on an annual basis during a scheduled meeting of the entire group. The IRTs will meet only when a project is presented specifically for the assigned team and make a recommendation to the Incentive Committee within 15 working days of receipt of the application. The Incentive Committee will meet quarterly and when called together by an IRT.

Application

Section I – Contact Information

Date _____

Company Name _____

Contact _____

Address _____

Telephone (0) _____ Cell _____

Fax _____ E-mail _____

Website _____

Section II – Business Profile

Nature of business _____

New business or expansion of existing business _____

Years in Business _____ Current number of employees _____ FT _____ PT

Annual payroll _____

Current square footage occupied _____

Desired square footage occupied _____

Taxing entities (check applicable)

____ Kerr County ____ City of Kerrville ____ City of Ingram

____ Kerrville ISD ____ Ingram ISD ____ Center Point ISD

Financial Information: Five Years Annual Financials Attached _____

Include: Statement of profit and loss; Balance sheet; Cash
Flow Statement; IRS reporting forms, proforma

Has the Company applied for any State or Federal assistance on this project?

No ____ Yes ____ . If yes, please describe.

Section III – Project Description

Expansion of existing business _____ or new construction _____

Project details including building size, materials, infrastructure needs, utilities, etc. Detail parking needs, technology infrastructure, anticipated construction costs and time line. Attach additional sheet if necessary

Current inventory value _____

Projected value w/i year 1 _____ year 3 _____ year 5 _____

Section IV -- Employees

Anticipated number of new employees _____

Median annual salary for new employees' _____

Average wage for employees: _____ Management _____ Non-supervisory

Description of benefits offered _____

Number of Full time _____ Part time _____ employees

Anticipated number of new employees moving to Kerr County _____

New employees within 12 months of project completion _____ within 24 months of project completion _____

\$ _____
FTE X Avg. Wage X 40 hrs X 52 wks

\$ _____
PTE X Avg. Wage X 20 hrs X 52 wks

For additional information visit www.kerredf.org or www.kerrville.org or call 830.792.8343 or 830.896.1157

+++++
Internal Routing

Date received _____ by _____

Initial Response Team assignment _____

Application distribution date _____

IRT Review meeting date _____

Recommendation _____

Consideration schedule _____ COK _____ KC _____ COI

Contact Information

City of Kerrville
800 Junction Highway
Kerrville, Texas 78028
830. 257.8000

www.kerrvilletx.gov

•Kerr Economic Development Foundation
1700 Sidney Baker
Kerrville, Texas 78028

830.896.1157

www.kerredf.org

Agenda Item:

4D. Pending legislation from the 83rd Texas Legislature, regular session. (staff)

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

SUBJECT: Discussion and direction to city staff regarding pending legislation under consideration by the State of Texas 83rd Legislative Session

FOR AGENDA OF: April 9, 2013 **DATE SUBMITTED:** April 2, 2013

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

EXHIBITS: Texas Municipal League (TML) Legislative Updates may be viewed at the TML website at www.tml.org.

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

The State of Texas has convened the 83rd Legislative Session. There are many bills that have been filed by members of the House of Representatives and the Senate. Many of these bills could impact the City of Kerrville. This item will be placed on each regular City Council meeting to provide an opportunity to discuss any pending bills, establish an official position on any pending bill, and officially authorize an individual to represent the City of Kerrville before an appropriate body.

Legislative Updates authored by the Texas Municipal League are available for viewing at www.tml.org. These updates provide a comprehensive list and brief synopsis of each bill filed on a weekly basis.

The TML Legislative Update Issues to be considered at this time are:

- March 15, 2013, Number 10
- March 22, 2013, Number 11
- March 29, 2013, Number 12

Dates of Interest:

- **January 8, 2013** – 83rd Legislature convened
- **March 8, 2013** – Deadline for filing bills and joint resolutions other than local bills, emergency appropriations, and bills that have been declared an emergency by the governor.
- **May 27, 2013** – Last day of 83rd Regular Session

- **June 16, 2013** – Last day governor can sign or veto bills passed during the regular legislative session
- **August 26, 2013** – Date that bills without specific effective dates (that could not be effective immediately) become law

RECOMMENDED ACTION

Staff requests that the City Council review the list of bills and provide direction regarding any bill that is deemed of interest to the City of Kerrville.

| DEPARTMENT TRACKING | CITY COUNCIL POSITION | BILL NUMBER | STATUS* | SUMMARY | BILL TEXT |
|----------------------|-----------------------------------|--|---|---|---|
| Finance | Oppose | HB 14 - Pitts | Stage 1 - Passed, Stage 2 - in committee | relating to the fiscal transparency and accountability of certain entities responsible for public monies. | http://legiscan.com/TX/text/HB14/id/776612/Texas-2013-HB14-introduced.html |
| | Oppose | SB 14 - Williams (companion bill to HB14) | Stage 1 - Passed, Stage 2 - in committee | relating to the fiscal transparency and accountability of certain entities responsible for public monies. | http://legiscan.com/TX/text/SB14/id/726778/Texas-2013-SB14-introduced.html |
| | Oppose | HB 1724 - Bohac | Stage 1 - Passed, Stage 2 - in committee | relating to the statute of limitations on municipal and county hotel occupancy taxes and interest on delinquent payments of municipal hotel occupancy taxes. | http://legiscan.com/TX/text/HB1724/id/756947/Texas-2013-HB1724-introduced.html |
| | Oppose | SB 657 - Paxton | Stage 1 - Passed, Stage 2 - in committee | relating to procedural requirements for adopting and filing a school district budget and voting requirements for setting a property tax rate by the governing body of a taxing unit, including a school district. | http://legiscan.com/TX/text/SB657/id/749824/Texas-2013-SB657-introduced.html |
| | Oppose | SB 656 - Paxton | Stage 1 - Passed, Stage 2 - in committee | relating to providing transparency in the taxing and budgeting process of certain local governments. | http://legiscan.com/TX/text/SB656/id/749819/Texas-2013-SB656-introduced.html |
| | Oppose | HB 1173 - Anchia | Stage 1 - Passed, Stage 2 - in committee | relating to a credit against the ad valorem taxes imposed on property on which certain water conservation systems have been installed. | http://legiscan.com/TX/text/HB1173/id/731823/Texas-2013-HB1173-introduced.html |
| | Oppose | HB 3112 - Hilderbran | Stage 1 - Passed, Stage 2 - in committee | relating to the public notice required to be provided by certain taxing units before adopting an ad valorem tax rate. | http://legiscan.com/TX/text/HB3112/id/777769/Texas-2013-HB3112-introduced.html |
| | Oppose | HJR 143 - Hilderbran | Stage 1 - Passed, Stage 2 - in committee | proposing a constitutional amendment abolishing ad valorem taxes and limiting the rate and applicability of state and local sales and use taxes | http://legiscan.com/TX/text/HJR143/id/783248/Texas-2013-HJR143-introduced.html |
| | Oppose | HJR 144 - Hilderbran | Stage 1 - Passed, Stage 2 - in committee | proposing a constitutional amendment authorizing the legislature to limit the frequency of reappraisal of real property for ad valorem tax purposes | http://legiscan.com/TX/text/HJR144/id/783247/Texas-2013-HJR144-introduced.html |
| | Oppose | HB 2176 - Kolkhorst | Stage 1 - Passed, Stage 2 - in committee | relating to procedures and requirements for the issuance of certificates of obligation. | http://legiscan.com/TX/text/HB2176/id/769017/Texas-2013-HB2176-introduced.html |
| Fire | Oppose | SB 1374 - Hinojosa (companion bill to HB 1768) | Stage 1 - Passed, Stage 2 - in committee | relating to identification requirements for certain fire hydrants and flush valves. | http://legiscan.com/TX/text/SB1374/id/777950/Texas-2013-SB1374-introduced.html |
| | Oppose | SB 96 - Nichols HB 754 - Ashby (companion bill to SB 96) | Stage 1 - Passed, Stage 2 - in committee | relating to prohibiting the use of eminent domain to take private property for recreational purposes. | http://legiscan.com/TX/text/SB96/id/668137/Texas-2013-SB96-introduced.html |
| Parks & Recreation | Oppose | HB 1189 - Larson (companion bill to SB 1168) | Stage 1 - Passed, Stage 2 - in committee | relating to interstate cooperation to address regional water issues. | http://legiscan.com/TX/text/HB1189/id/732753/Texas-2013-HB1189-introduced.html |
| | Oppose | HB 1307 - Geren (companion bill to HB 2577) | Stage 1 - Passed, Stage 2 - in committee | relating to water well recordkeeping and reporting requirements, including the production, use, and withdrawal of groundwater. | http://legiscan.com/TX/text/HB1307/id/738668/Texas-2013-HB1307-introduced.html |
| Public Works | Oppose | SB 272 - Seliger (companion bill to HB 2577) | Stage 1 - Passed, Stage 2 - in committee | relating to the authority of a water and sewer utility to collect voluntary contributions on behalf of a local library. | http://legiscan.com/TX/text/SB272/id/709634/Texas-2013-SB272-introduced.html |
| | Neutral / Watch | HB 693 - Phillips | Stage 1 - Passed, Stage 2 - in committee | relating to the authority of a water and sewer utility to collect voluntary contributions on behalf of a local library. | http://legiscan.com/TX/text/HB693/id/705399/Texas-2013-HB693-introduced.html |
| STAGES* House Bills | Stage 1 - bill filed | | | | |
| | Stage 2 - out of house committee | | | | |
| STAGES* Senate Bills | Stage 1 - bill filed | | | | |
| | Stage 2 - out of senate committee | | | | |

83rd Texas Legislature, Regular Session
 Pending Legislation

| Stage 3 - voted on by house | Stage 3 - voted on by senate |
|-----------------------------------|----------------------------------|
| Stage 4 - out of senate committee | Stage 4 - out of house committee |
| Stage 5 - voted on by senate | Stage 5 - voted on by house |
| Stage 6 - governor action | Stage 6 - governor action |
| Stage 7 - bill becomes law | Stage 7 - bill becomes law |

Agenda Item:

5A. Quarterly report of the main street advisory board. (staff)



KERRVILLE MAIN STREET 2013 PROGRAM OF WORK

MISSION STATEMENT:

The mission of Kerrville Main Street is to encourage civic, social and economic welfare, to foster civic pride and cooperation, and to enhance the aesthetic, historical and cultural aspects of Kerrville through the four point approach (organization, promotions, design and economic restructuring) to Main Street.

VISION STATEMENT:

Kerrville Main Street envisions a partnership between business owners, residents, and the city, focusing on economic growth and stability through promotions and historic preservation of its downtown district and the surrounding area.

ORGANIZATION COMMITTEE 2013 PROJECTS

| Program Goal | Action Item | Responsible Party | Timeline | Status |
|---|--|---|----------------------|----------|
| Recognize plans for National Preservation Month in May | <ul style="list-style-type: none"> - Have the mayor put together and sign a proclamation - Create a historic preservation window display - Work to hang historic walking signs in May | Committee Staff | May | In works |
| Revitalize partnerships with different organizations affiliated with downtown | <ul style="list-style-type: none"> - Identify which organizations we would like to partner with - Schedule meetings with these groups and have them come talk to us | Staff Stan Cobbs | April Ongoing | In works |
| Improve Relations with City/County Officials | <ul style="list-style-type: none"> - Attend their meetings - Provide a quarterly report to City Council | Aaron Yates Staff | Ongoing | |
| Improve volunteer recruitment process | <ul style="list-style-type: none"> - Host volunteer appreciation event - Create a volunteer recruitment process and develop a database of volunteers | Board Tammi Clanton | Ongoing | |
| Get a new, updated website | <ul style="list-style-type: none"> - More user friendly; ability for board members to post - Add video, map of attractions | Aaron Yates Caroline Wilson Staff | July | In works |
| Keep the community involved in KMS | <ul style="list-style-type: none"> - Bi-monthly KDT article - Radio spots, Facebook, Constant Contact | Aaron Yates Caroline Wilson Staff | Ongoing | In works |

COMMITTEE MEMBERS: Rich Schneider, Aaron Yates, Caroline Wilson, Stan Cobbs

PROMOTION COMMITTEE 2013 PROJECTS

| Program Goal | Action Item | Responsible Party | Timeline | Status |
|---|---|--|------------|-----------|
| Bring Mardi Gras on Main back Downtown | <ul style="list-style-type: none"> - Find a suitable location to hold MGOM in DT - Adjust event accordingly to work as DT event | <p>Staff</p> <p>Tammi Clanton</p> | March 2014 | |
| Continue to grow Holiday Parade | <ul style="list-style-type: none"> - Explore any new routes - Add to parade with event? | <p>Staff</p> <p>Tish Perez</p> <p>Shelby Braswell</p> | November | |
| Grow the Downtown Block Party | <ul style="list-style-type: none"> - Continue working with HDBA on growing the event - Determine if other pieces could be added | Staff | October | |
| Reassign funds from fundraising events | <ul style="list-style-type: none"> - "Projects of Kerrville Main Street" | Staff | August | Completed |
| Promote Main Street & Special events through the use of Marketing and Advertising | <ul style="list-style-type: none"> - Converse with other Main Street Cities - Write bi-monthly articles about the Main Street Program - Maintain Facebook pages for events | <p>Staff</p> <p>Board</p> | Ongoing | |
| Create another fundraising opportunity to replace golf tournament | <ul style="list-style-type: none"> - Possible VIP/private party events in conjunction with 4th of July and/or Holiday Parade - Other lower manpower events | <p>Shelby Braswell</p> <p>Aaron Yates</p> <p>Staff</p> | July | In works |
| Promote small fundraisers | <ul style="list-style-type: none"> - Bricks, benches, lamp posts, and tree wells - KDT article & website - Brick certificate in many silent auctions | Staff | August | In works |

COMMITTEE MEMBERS: Tammi Clanton, Shelby Braswell, Tish Perez, Caroline Wilson

DESIGN COMMITTEE 2013 PROJECTS

| Program Goal | Action Item | Responsible Party | Timeline | Status |
|---|--|-------------------------------------|------------------|----------|
| Manage Public Art Project | <ul style="list-style-type: none"> - Have regular design meetings - Install Art in Public Places, manage yearly rotation - Budget for future projects | Staff Design Committee | August & Ongoing | In works |
| Explore ramifications of Historic Preservation Ordinance | <ul style="list-style-type: none"> - Talk with Council and get their thoughts - Get buy in from Kerr County Historical Commission - Visit with Planning and Zoning Commission | David Martin Scott Rain | Ongoing | |
| Be advocates for projects that will be advantageous to Downtown | <ul style="list-style-type: none"> - Advocate for River Trail and any connection with Downtown - Support DT Streetscape Enhancement Project - Have an active voice in the Wayfinding Sign project | Staff Board | Ongoing | In works |
| Investigate using banner production as promotion and fundraiser | <ul style="list-style-type: none"> - Determine number of opportunities after Streetscape Enhancement - Contest for banner design? - Create a banner calendar | David Martin Scott Rain Staff | July | In works |

COMMITTEE MEMBERS: David Martin, Scott Rain, Debbie Minns, Peter Lewis, Lee Fry, Derek Meier, Kyle Bond, Matt Sletten

ECONOMIC RESTRUCTURING COMMITTEE 2013 PROJECTS

| Program Goal | Action Item | Responsible Party | Timeline | Status |
|---|---|-----------------------------------|------------------------|-----------|
| Create and Manage Database of DT buildings and businesses | <ul style="list-style-type: none"> - Create a form for collecting data - Data collection- use volunteers, HDBA, and SU students - Create database- Access or FileMaker? - Yearly manage updates - Aid in marketing of available real estate | Staff | October/ Ongoing | |
| Explore Viability of Façade Grant Program | <ul style="list-style-type: none"> - Determine the Scope of our Program - Review Program Used in the Past - Research what other cities are doing - Meet with local officials and groups who would have invested interest in the program | Caroline Wilson Tish Perez | November | |
| Educate Ourselves about the Demographics & Economics of Kerrville Fully invest in economic development in DT | <ul style="list-style-type: none"> - Have quarterly presentations from: <ul style="list-style-type: none"> - Convention & Visitors Bureau Director - City Finance Director - Develop plan for DT and business interests - Actively recruit businesses to DT - Main relations with current businesses -Active member of DT Vision Team | Staff Staff Board | Ongoing Ongoing | In works |
| Add KEDC ex-officio to KMSAB | <ul style="list-style-type: none"> - Select mutually agreeable member - Plan to present to KEDC board | Staff | June | Completed |

COMMITTEE MEMBERS: Scott Rain, Rich Schneider, Tish Perez, Tammi Clanton, Keri Wilt (ex-officio)

Agenda Item:

5B. Economic update. (staff)

**CITY OF KERRVILLE
ECONOMIC UPDATE AS OF APRIL 3, 2013**

APRI

| | Current Month | Previous Month | 1 Year Ago | Trend | Current Month |
|---------------------|---------------|----------------|------------|-------|---------------|
| National | | | | | |
| Unemployment | 7.70% | 7.90% | 8.30% | ↓ | February |
| Consumer Confidence | 59.7 | 69.6 | 69.5 | ↓ | March |
| 1 year T-Bills | 0.14% | 0.15% | 0.17% | ↓ | 4/2/13 |

| | | | | | |
|----------------------|------------|------------|------------|---|----------|
| State | | | | | |
| Monthly Unemployment | 6.50% | 6.90% | 7.20% | ↓ | February |
| Monthly Sales Tax | \$2,082.8m | \$2,122.8m | \$2,007.8m | ↑ | February |

| | | | | | |
|---------------------------------|-----------|-----------|-----------|---|----------|
| Local | | | | | |
| Monthly Unemployment (Kerr Co.) | 5.40% | 5.90% | 5.80% | ↓ | February |
| Median Listing Price | \$168,000 | \$165,000 | \$218,000 | ↔ | 3/13/13 |
| Monthly Sales Tax | \$411,548 | \$568,401 | \$373,675 | ↑ | March |
| Monthly EIC Tax | \$205,749 | \$284,177 | \$186,812 | ↑ | March |
| Monthly HOT | \$53,023 | \$44,657 | \$48,803 | ↑ | February |

| | FY13 Budget | FY13 as of 3/31/2013 | FY13 % Received | FY12 as of 3/31/2012 | FY12 % Received |
|--|---------------------|-------------------------|--------------------|-------------------------|--------------------|
| General Fund | | | | | |
| Tax Revenue | \$14,939,900 | \$11,357,619 | 76.02% | \$11,189,456 | 77.16% |
| Property Tax | \$8,050,000 | \$7,891,249 | 98.03% | \$7,835,314 | 99.18% |
| Sales Tax | \$4,885,000 | \$2,698,316 | 55.24% | \$2,574,560 | 56.58% |
| Permits & Fees | \$324,975 | \$151,599 | 46.65% | \$148,516 | 45.84% |
| Intergovernmental | \$1,191,000 | \$656,680 | 55.14% | \$801,830 | 68.36% |
| Service Revenues | \$2,411,860 | \$1,306,506 | 54.17% | \$1,216,841 | 47.32% |
| Grant Revenue | \$29,500 | \$16,144 | 54.73% | \$17,359 | 65.51% |
| Fines & Forfeitures | \$513,618 | \$224,331 | 43.68% | \$250,610 | 51.32% |
| Interest & Misc. | \$240,850 | \$119,326 | 49.54% | \$92,702 | 24.36% |
| Transfers In | \$1,250,000 | \$625,000 | 50.00% | \$625,000 | 49.31% |
| Total General Fund | \$20,901,703 | \$14,457,203 | 69.17% | \$14,342,314 | 69.18% |
| Total General Fund Expenditures | \$21,209,503 | \$9,890,387 | 46.63% | \$9,617,982 | 47.27% |
| Water/Sewer Fund | | | | | |
| Water Sales | \$4,500,000 | \$2,301,117 | 51.14% | \$1,912,876 | 43.43% |
| Sewer Sales | \$3,800,000 | \$1,709,861 | 45.00% | \$1,841,160 | 49.15% |
| Other Revenue | \$725,500 | \$340,963 | 47.00% | \$366,603 | 49.86% |
| Total Water & Sewer Fund | \$9,025,500 | \$4,351,941 | 48.22% | \$4,120,639 | 46.37% |
| Total W&S Fund Expenditures | \$8,931,239 | \$4,012,536 | 44.93% | \$5,763,630 | 54.57% |

Agenda Item:

5C. Water resources. (staff)

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

SUBJECT: Water Resources Report

FOR AGENDA OF: 4/9/13

DATE SUBMITTED: 4/2/13

SUBMITTED BY: Charlie Hastings *CH*
Public Works Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Staff will present an update on the water supply and availability as it relates to the drought.

RECOMMENDED ACTION

Information and discussion.

Agenda Item:

6A. Parks and recreation advisory board. (staff)

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

SUBJECT: Appointments to the Parks and Recreation Advisory Board

FOR AGENDA OF: April 9, 2013 **DATE SUBMITTED:** March 28, 2013

SUBMITTED BY: Brenda Craig **CLEARANCES:** Todd Parton
City Secretary *BC* City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

SUMMARY STATEMENT

Consider appointments to the following board:

Parks and Recreation Advisory Board: Five terms that expired on March 31, 2013:
Nancy Alford, Jim Gardner, David Lipscomb, Diane McMahon and Ed Wallace.

RECOMMENDED ACTION

Consider appointments.

PARKS AND RECREATION ADVISORY BOARD

| | <u>Telephone</u> | <u>Orig. Appt.</u> | <u>Re-Appt. Date</u> | <u>Exp. Date</u> |
|--|----------------------------------|--------------------|----------------------|------------------|
| McMAHON, DIANE Chairperson 1904 Danielle Drive | 896-3195 (H) | 04-14-09 | 04-12-11 | 03-31-13 |
| NYE-SALLADIN, LISA Vice-Chairperson 1015 Morningside Dr. | 377-7198 (C) 896-3834 (H) | 04-13-10 | 03-27-12 | 03-31-14 |
| ALFORD, NANCY E. 2213 Singing Wind | 214-663-9903 (C) | 03-27-12 | | 03-31-13 |
| GARDNER, JIM 200 Fairway Dr. | 285-2129 (C) | 04-14-09 | 04-12-11 | 03-31-13 |
| LIPSCOMB, DAVID 909 Lake Drive | 895-4232 (H) | 04-12-11 | | 03-31-13 |
| SANDER, SUSAN 500 Josephine | 370-3306 (C) | 04-13-10 | 03-27-12 | 03-31-14 |
| SCOTT-JOHNSON, MEG 438 Timber Ridge Dr. | 713-724-4168 (C) 257-0022 (H) | 03-27-12 | | 03-31-14 |
| WALLACE, ED 131 Royal Oaks | 257-5272 (H) 377-0455 (C) | 11-30-11 | | 03-31-13 |
| COUNCIL LIAISON: | | | | |
| Gene Allen 2106 Vista Ridge Dr. 1221 Junction Highway | 895-5111 (O) | | | |
| CITY STAFF: | | | | |
| Kristine Ondrias Assistant City Manager | 258-1106 (O) | | | |
| Malcolm Matthews Director of Parks & Recreation | 258-1150 (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, 8:30 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: May 24, 2012