

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, MARCH 22, 2016, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, MARCH 22, 2016, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION: by Patty Edwards, Minister, Unity Church of the Hill Country.

PLEDGE OF ALLEGIANCE TO THE FLAG: 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 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. Minutes of the regular city council meetings held January 12 and January 26, 2016, the town hall meeting held January 27, 2016, and the special meeting held February 2, 2016. (staff)

2B. Resolution No. 06-2016, authorizing the submission of a grant application to the Office of the Governor, Criminal Justice Division, by the Kerrville Police Department, for body worn cameras, video storage, and accessories. (staff)

2C. Resolution No. 07-2016, authorizing a waiver of various fees associated with the construction of single family homes for Habitat for Humanity Kerr County, Inc.; said waiver applicable to the remaining nineteen lots in the Maud Jennings Subdivision, Phase 2. (staff)

2D. Resolution No. 2016-08 approving the naming of the Cailloux Campus Support Facility located at 913 Jefferson Street as "The Kit Werlein Annex." (staff)

END OF CONSENT AGENDA

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

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time: March 18, 2016 at 4:00 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

3. PUBLIC HEARING AND POSSIBLE ACTION:

3A. Proposed annexation of approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,485,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road. (staff)

4. PUBLIC HEARING AND ORDINANCE, FIRST READING:

4A. Ordinance No. 2016-05 amending Ordinance 2001-23 which annexed property into the city and adopted zoning for the same property pursuant to a "Planned Development District"; said property consisting of an approximate 75.73 acre tract of land located adjacent to State Highway 27 and between Colvin Ranch Road East and Sutherland Lane East with an address of 155 Colvin Ranch Road East; said amendments consisting of various changes to the authorized uses for the property. (staff)

5. ORDINANCE, SECOND READING:

5A. Ordinance No. 2016-04, amending the Code of Ordinances of the City of Kerrville, Texas, concerning regulations for city park and recreation areas, to include Chapter 58 "Health and Sanitation", Article III "Smoking in Enclosed Public Places and Places of Employment; Use of Electronic Vaping Devices"; and Chapter 74 "Parks and Recreation", Article I "Rules and Regulations for City Park and Recreation Areas"; by amending sections with respect to smoking, operating a vehicle, possessing illegal firearms and other weapons, the possession of animals, and adding regulations regarding the use of drones; containing a cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject. (staff)

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Termination of the proposed annexation of an approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,458,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road. (Councilmember Fine)

6B. Direction to staff regarding an ordinance to require a delay for the demolition of historically significant structures. (staff)

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Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

6C. Authorization to make application to the City of Kerrville, Texas Economic Improvement Corporation for a maximum of \$250,000 for additional lighting improvements to Louise Hays Park, Lehmann-Monroe Park, the Sidney Baker bridge, and the downtown pavilion. (Mayor Pratt)

7. INFORMATION AND DISCUSSION:

7A. Budget and economic update. (staff)

8. BOARD APPOINTMENTS:

8A. Appointments to the Parks and Recreation Advisory Board. (staff)

9. ITEMS FOR FUTURE AGENDAS

10. 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.

11. 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:

9A. 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:

- River trail.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

13. ADJOURNMENT.

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Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

Agenda Item:

2A Minutes of the regular city council meetings held January 12 and January 26, 2016, the town hall meeting held January 27, 2016, and the special meeting held February 2, 2016. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
January 12, 2016

On January 12, 2016, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Reverend Tom Murray, Associate Rector, St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Day	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Police Chief
Dannie Smith	Fire Chief

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

1. VISITORS/CITIZENS FORUM:

1A. Russell Kemp, President of Kerrville Tennis Association (KTA), noted KTA had over 100 members; their goal was to make HEB Tennis Center a destination venue and bring tournaments and activities to Kerrville. The city had neglected the infrastructure and several courts had become unplayable and hazardous. KTA had two tournaments scheduled in July and anticipate 600-700 participants; they could lose those tournaments and the city could lose revenue if the courts were not repaired. He estimated 50-100 people, not including school students, used the courts daily. KTA offered to be part of the process and help the city with plans. Council noted that 6 of the 14 courts were in good shape.

2. PRESENTATIONS:

2A. Acceptance of a book on Great Western Cattle Trails from Dr. William and Lyndia Rector for the Butt-Holdsworth Memorial Library.

2B. Proclamation for National Law Enforcement Appreciation Day.

3. CONSENT AGENDA:

Ms. White moved to approve consent agenda items 3A through 3C; Mr. Stork seconded the motion, and the motion passed 5-0:

3A. Interlocal agreement between Kerr Emergency 9-1-1 Network and the City of Kerrville, Texas.

3B. Extension of temporary lease agreement requested by Walter and Barbara Schellhase for property located at 529 Water Street.

3C. Resolution No. 01-2016 authorizing the filing of an application with the Alamo Area Council of Governments for a 2016/2017 solid waste pass through grant.

END OF CONSENT AGENDA

4. ORDINANCE, THIRD AND FINAL READING:

4A. Ordinance No. 2015-24 amending Ordinance No. 2006-01, which granted Atmos Energy Corporation a franchise to furnish, transport, and supply gas to the general public within the City of Kerrville, Kerr County, Texas, by extending the term of the franchise ordinance for an additional ninety (90) days through the end of March 29, 2016. Mayor Pratt read the ordinance by title only.

Mr. Hayes noted no changes since first and second readings. He recommended approval of the ordinance, and in the interim staff was working with Atmos to negotiate a new franchise agreement to bring to council.

Mr. Allen moved for approval of Ordinance No. 2015-24 on third and final reading; Mr. Fine seconded the motion and it passed 5-0.

5. ORDINANCE, FIRST AND ONLY READING:

5A. Ordinance No. 2016-01 authorizing the issuance, sale and delivery of up to \$10,000,000 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2016"; securing the payment thereof by authorizing the levy of an annual ad valorem tax and a pledge of certain surplus revenues of the city's waterworks and sewer system; and approving and authorizing the execution of a paying agent/registrars agreement, an official statement and all other instruments and procedures related thereto. Mayor Pratt read the ordinance by title only.

Mr. Parton noted bids were received today; the purpose of the bonds was to fund water and wastewater projects, specifically, the water reuse project.

Ann B. Entrekin, Managing Director of First Southwest Company and the City's Financial Advisor, noted that Standard & Poor's had reaffirmed the city's "AA/Stable Outlook" rating. She discussed the rating process and noted S&P stated their rating reflected the city's very strong management conditions, strong budgetary performance, very strong budget flexibility, very strong liquidity, adequate debt and contingent liability profile, and strong institutional framework.

Six bids were received ranging from 2.470289 – 2.644817 and all bidders met the bid parameters and specifications. The low bidder was Robert Baird & Co., Inc. The total debt service, including principal and interest was \$2,437,091 less than originally projected, and based on an 8 year call option, was 2 years shorter than projected. The project fund deposit was \$9,821,625.

Ms. Entrekin confirmed this would raise the city's debt service from \$43 million to \$56 million. The certificates of obligation were deemed as self-supporting debt, and including this issue, the total debt would not go below two times the debt coverage in any one year. She recommended the city approve the bid from Robert W. Baird & Co., Inc. as it optimized the current interest rate environment and preserved future capacity and flexibility.

The following persons spoke:

1. Fred Speck spoke on behalf of the American Youth Soccer Organization and 20 years ago AYSO was the first to use effluent water on their soccer fields. He opined that the reason for borrowing \$10 million was to use \$2 million to purchase soil to help build the dam, but the city wanted to transfer those funds into another project. Mr. Speck opined it was unethical to take money being borrowed for one project to use for another unrelated project, specifically, \$2 million for a batting complex at the new athletic complex. AYSO never opposed the athletic complex; he questioned the city building a batting complex for a private entity. The new fields would double the size of playing fields, if the city kept the old fields also.
2. Bill Morgan questioned the amount of money being spent without citizen input. Council should not obligate citizens without a bond issue having been voted on by the citizens; he did not believe the citizens would vote to fund the issue. He was concerned about the amount of debt the city had incurred and opined that the city needed more commercial development to increase tax money.
3. Mark Bosma asked that council not take \$2 million from the bond issue to purchase dirt already owned by the city. The certificates specifically stated the obligation was for water, wastewater and effluent; however, the city intend to take \$2 million out of the project by purchasing dirt already owned by the city, thus taking \$2 million value out of the bond. He opined that the dirt received did not have the same value as the dirt that had already been paid for and owned by the taxpayer. The stated value of the city dirt was \$3-5 per yard; the dirt from a contractor would cost \$10-15 a yard; a contractor would have to haul it for about \$1.5 million, and the city had to pay interest making this an \$18 million bond overall. It is a revenue bond and has to generate funds to pay for itself; assumably through water and sewer rates; effluent was a good idea but costly. He questioned where the city intended to get \$2 million later when it was needed. The water ad hoc committee was looking specifically at the effluent project, and the bonds stated specifically what the funds were to be used for. As a committee member, if that was specifically what the committee was supposed to do, then he would resign.

4. Carson Conklin noted the effluent project was a good project; he was concerned about the timing of the debt issuance as related to the appointment of the water ad hoc committee as the city had already advertised and received bids and now approving the sale of bonds. The committee's report was due in March so it made no sense to sell bonds before the report was made. The city was intentionally selling more debt than was needed to fund the project. If the city needed \$2 million for D-Bat, it should be paid for from other funds and not with the sale of water/sewer debt.

5. Russell Nemky noted the council was not following its own bylaws and did not follow correct rules for meetings. \$10 million was a huge bond and should be voted on and should not be funded with only one ordinance reading when two were required by City Charter.

Council asked Mr. Hayes if they had ever violated bylaws or taken acts unethical or illegal. Mr. Hayes responded, no and explained that the city was subject to state law; state law provided for only one ordinance reading and that was what the city must follow. The city can, as a home rule city, establish a charter, but the city was still subject to and must conform to state law. First and only reading of a bond ordinance was in compliance with state law.

Tom Spurgeon, McCall, Parkhurst & Horton, LLP and the City's Bond Counsel for over 30 years, noted that state law trumped city charter. When issuing debt bonds have been sold into public markets, purchasers of the bonds make a commitment to buy these bonds at that particular rate. Rates were very fluid and could change daily so the purchasers needed a commitment that the city accepted those rates; waiting for two weeks would create uncertainty in financial markets. This was the reason why the state adopted procedures many years ago in connection with the issuance of public securities.

6. Robert Naman, noted that interest rates fluctuate and may be lower next year. The bond market did not know when first reading was, or if it was first, second, or third reading; the process of putting the bonds out for bid before having a council-approved project did not make sense. People who were buying the bonds only wanted to know the date on which to bid; it did not have to be done tonight.

Council also discussed the following:

- City Council and staff had not acted in any way that was unethical or illegal.
- Years ago this same project was estimated at \$21 million, and it was felt that water was a high priority for the city. In order to have sustained growth and a stable economy, the city needed dependable and sufficient water source; have to spend money to get water.
- The plan was to borrow \$10 million this year and \$8.5 million next year for phase I of the effluent project.
- Section 3.06 of the city charter required two readings for each ordinance except for an emergency measure. Mr. Hayes noted that state law required only

one ordinance reading, and state law trumped the city charter with respect to one reading of an ordinance with regard to the issuance of certificates of obligation.

- The general fund assets of the city belong to the citizens of Kerrville; the water and wastewater system was funded by utility rates from customers. Paying for the value of an asset from one fund to another was not stealing from taxpayers.
- Exhibit B (ii) of the ordinance stated that funds would be used for the purpose intended. Further, the summary statement stated the city would use the funds for water and wastewater system improvements. Ms. White stated that \$2 million of the bond issue was not going into water and sewer projects; it was being moved to the general fund for the athletic complex project to build a facility for a private entity. If \$2 million went into the athletic complex, was that the use intended?

Mr. Parton confirmed that \$2 million of the \$10 million bond issue included the purchase of soil material from the general fund to the utility fund to construct the effluent reuse project.

Mr. Spurgeon noted if the intended use was to fund water and sewer improvements, including construction costs and purchase of materials; as long as the proceeds were being used to purchase an asset that was going to be used for the project, it would be proper use of the proceeds.

- The purpose of the water ad hoc committee was to evaluate the effluent project. The summary statement stated the debt would be used “specifically for construction of a storage pond, pump station, gravity pipeline from the wastewater treatment plant, pipeline connections to the existing reuse system, and distribution mains for the delivery of reuse water”; it did not leave any room for modifications. The city already specified what the bonds would be used for, and by passing the bond issue before their report was in would make committee members feel their report was irrelevant; council should wait until after the committee’s report was in.
- The bond issue stated the bonds were for water and wastewater projects; if the committee report supports the reuse project, or another project, as long as the funds were spent within the water and wastewater system the bonds could still be used; there were numerous capital projects for which the funds could be used.
- Economic development funds could be used for the project.

Mr. Stork moved for approval of Ordinance No. 2016-01 on first and only reading, accepting the bid of Robert W. Baird & Co., Inc. as presented by Ms. Entrekin; Mr. Allen seconded the motion and it passed 4-1 with Councilmembers Stork, Allen, Fine, and Pratt voting in favor of the motion and Councilmember White voting against the motion.

6. ORDINANCE, FIRST READING:

6A. Ordinance No. 2016-02 amending the budget for Fiscal Year 2016 to account for various changes to the city’s operational budget, including additional revenues and allocations for capital improvement projects. Mayor Pratt read the ordinance by title only.

Mr. Parton reviewed the budget amendments and recommended approval:

- Additional donations to purchase memorial bench on river trail and allocation.
- Reimbursement grant for training from Texas A&M Forrest Service.
- Transfer \$161,000 from reserve fund to general fund for design architectural for the indoor facility at the athletic complex.
- Garage fund upgrade for maintenance and diagnostic equipment.
- Cailloux Theater \$108,500 grant EIC funds for maintenance issues.
- Main Street allocation of \$10,000 for installation of the Guadalupe Bass sculpture previously approved by city council on September 22, 2015.

Council also discussed the following:

- Why did council have to approve the transfer of funds in the budget? Mr. Parton noted the budget was adopted by ordinance approved by the city council; therefore to amend the ordinance, staff is required to bring changes to council via ordinance. Staff can adjust line item allocations within departmental budgets as long as that department's budget does not increase; however, any increase in revenue or expenditure had to be approved by a budget amendment. Any transfer of funds between accounts had to go through city council. Some revenues were limited as to how they can be used.
- Regarding the transfer of \$161,000 from the general fund to the capital improvement fund for architectural and design services for a \$2 million indoor athletic facility, the council had not voted on the building and the city did not have a design for the building; how did the city know what was being designed? Mr. Parton noted the letter of intent with BTP stated that BTP needed to provide input on the types of items they needed for the facility; BTP provided that information and staff met with the architect and put together a scope that included the items specified for a 30,000 sq. ft. building in accordance with the lease agreement.
- The design and plans for the building were not available. Mr. Parton noted the \$161,000 would provide funding for architectural services to design the buildings. A scope and contract would come before the council for those architectural services after the budget amendment was approved and funds were available.

Ms. White moved to adopt all of the budget amendments except the \$161,000 until the requested information was available. The motion failed for lack of a second.

The following person spoke:

1. Steve King questioned why this item had two readings when Item 5A only had one reading. Council noted the difference was that state required only one reading for a bond ordinance.

Mr. Stork moved for approval of Ordinance No. 2016-02 on first reading authorizing city staff to make all necessary entries and adjustments to reflect the changes presented; Mr. Fine seconded the motion and it passed 4 to 1 with Councilmembers Stork, Allen, Fine, and Pratt voting in favor of the motion and Councilmember White voting against the motion.

7. INFORMATION AND DISCUSSION:

7A. Main Street National Program.

Philip McKeon, Kerrville citizen, proposed an ordinance that would make Main Street and Water Street one way boulevards from Center Point to Hunt. Further, that TxDOT turn off signal lights on Main Street, particularly at Five Points. This plan would allow driving for five miles without a signal light.

8. CONSIDERATION AND POSSIBLE ACTION:

8A. Posting agendas for the possible quorum of City Council at Water Reuse Advisory Committee (WRAC) meetings.

Councilmember White stated she did not ask to have this item on the agenda; Mr. Parton placed it on the agenda. If more than two councilmembers attend any meeting, it would be a quorum and a violation of the open meetings act unless a council agenda had been posted. She previously asked Mr. Parton to post the WRAC agendas for all councilmembers to attend and listen, not participate, in WRAC discussions. Mr. Parton told her that council had appointed two members to be liaisons to the WRAC and as such he understood that it was not the intent of council that the WRAC meetings be posted for all councilmembers to attend. She questioned why two councilmembers were appointed since the board rules and procedures stated that one councilmember be appointed as liaison to any committee. She stated that TML's legal office advised her that she was within her right to ask that WRAC meetings be posted and she could attend and participate in WRAC meetings. She contacted an attorney in Austin who informed her if the city council voted on this, it would be a violation of her first amendment right.

Mayor Pratt noted that council appointed two liaisons to the WRAC, similar to other city boards where only one or two councilmembers attended.

Council noted that all WRAC meetings were recorded and if she wanted to listen and gain information, she could listen to the recordings. Ms. White said the issue was not about listening, it was about not being allowed to attend the meetings.

Council also noted the following:

- The WRAC was created to be an independent advisory board, not to be influenced by councilmembers.
- The WRAC's charge was to gather information and make recommendation to city council.
- Councilmembers received the same information as WRAC members.

The following persons spoke:

1. Spencer Hart noted when many liaisons attend committee meetings, the independence of the advisory committee could fall to the side and committee members could feel they were not being heard.
2. John Harrison, WRAC member, noted that members were all independent thinkers and were not going to be influenced by councilmembers. They were charged with reviewing the water reuse proposal and making recommendation as to what was best for the city in the long term; they may come back with answers

council does not like. The bond issue was a separate issue from what WRAC was charged with.

3. Russell Nemky stated that transparency was a huge deal; Ms. White was simply asking that WRAC agendas be posted. He believed that only four council meeting videos were posted on the website; this was not transparency. On December 15, Ms. White asked that all 21 applicants who applied be appointed to WRAC; her motion was not seconded. Some city boards had vacancies and persons had not been appointed to others. Ms. White talked to the public and that was not a bad thing. City should fix the website and be transparent.

4. Justin MacDonald's letter was read; as a committee member he urged council not to direct staff to post council agendas for WRAC meetings as he felt it could have the appearance or reality of a rubber stamp process. Let the committee do the work it was charged to do.

Mr. Fine moved to instruct staff to post agendas for possible quorum of the city council for all WRAC meetings only, not other city boards and committees; Ms. White seconded the motion and it passed 5-0.

8B. Authorization to make application to the City of Kerrville, Texas Economic Improvement Corporation (EIC) in the amount of \$500,000 for Interstate 10 Highway schematic and environmental studies.

Mr. Parton noted city staff was working with TxDOT regarding the I-10 project to:

1. Lower the pavement section of I-10 beneath Harper Highway bridge in order to increase the clearance to 16 ft.;
2. Complete the balance of the improvements as described in the LNV engineering report.

TxDOT identified #1 of the I-10 project as a public safety issue and was trying to raise its priority on TxDOT's 10 year highway improvement program for possible construction in 2017 to be completely funded by TxDOT. Oversized loads were currently being routed through Kerrville; lowering the pavement would alleviate 15-20% of oversized loads coming through town. The larger fix would be a diamond interchange at Harper and I-10, which would include two bridges. The city requested TxDOT incorporate #2 into their 10 year rural plan. Projects for the next three years were already established and were proceeding toward funding, which included #1. Projects for inclusion in the 4-10 year plan need to be evaluated by TxDOT now along with specific funding plan.

Mr. Parton requested authorization to apply to EIC for up to \$500,000 to fund the schematic design and environmental assessment for 1 and 2 of the I-10 project. The schematic design had a long life span. The environmental assessment, a study of the flora and fauna, wetlands and other issues, had a shelf life depending on changes in species and evolution over time; however, it could be updated and extended as long as there was forwarded movement on the project. The service roads to connect the interchange to Loop 534 had a 5-7 year time line and would be jointly funded between the state, city, and landowners.

TXDOT considered #2 of this project to be economic development type of project rather than a life safety or transportation project, and they may incorporate it into their 10 year plan; at that time, TxDOT would require more local participation. In order to elevate the project priority, the project must be ready for the next step of construction; this may require local contribution. TxDOT staff suggested as part of the city's local commitment the city look at funding the schematic design and environmental assessment; TxDOT staff further suggested the city do the entire schematic at one time because it would give flexibility and identify how best to phase in the entire project. The schematic and environment documents could take three years to complete and get final authorization from the state. Some of this project might not occur for 7-10 years; however, TxDOT staff recommended the entire project scope be included in the environment assessment and schematic design instead of having to do each one individually. Without commitment from the city to fund these improvements, the #2 projects probably would not get in to the 10 year plan.

Mr. Parton noted the LNV report also contemplated: 1.) parkway on east end and 2.) 2-way feeder and over ramps at I-10 and Harper. TxDOT told him they would not do a two-way roadway; they would only do one-way access roads on either side. TxDOT was contemplating a third overpass between Hwy. 16 and Harper Road along I-10; however, that was not part of this project.

The following persons spoke:

1. Bill Morgan stated that the city was not the only benefactor of this project; property owners who benefited from the access road should participate in funding. He asked how long the study would take.
2. Robert Naman stated that staff's recommendation lacked evidence of the need for a \$16-20 million project and had no economic justification. A similar project was proposed years ago by ex-councilmember Coleman, who had interest in the property. Mr. Coleman failed to justify expenses and presented growth projections and tax revenues from future development; city council rejected that project. Mr. Naman opined that the road project was not in the best interest of a majority of residents and would incur large debt. Many streets were in need of repair, and he recommended staff's request be denied. He asked what was the cost of the LNV engineering estimate and executive summary? Council noted the LNV study cost \$48,500.

Council also discussed the following:

- Questioned if \$500,000 for the schematic design and environmental study was for the entire project? Mr. Parton noted the \$500,000 included: diamond interchange; one-way service roads, access and exit ramps, and a potential third overpass. The parkway between I-10 and Harper Road was not part of this project.
- State Proposition 7 approved by the voters could make some funds available for highway projects in the future. If the state received additional funds, such as Proposition 7, city participation may not be necessary.
- Mike Coward (TxDOT) said that TxDOT would not consider projects in #2 in less than 4-10 years, and studies would take 2-3 years.

- Since the study would take 2-3 years and had a shelf life, the project should be put off until next fiscal year and EIC funds be used for tennis courts.
- After #1 is completed, there is no guarantee from TxDOT that the projects in #2 would be completed, and the city would have already paid for the studies.
- In a meeting, a TxDOT representative stated if the city did not "put skin in the game" the projects would not be on TxDOT's radar for state funding.
- Holdsworth Drive took 25 years to accomplish. Mr. Parton noted that Holdsworth Drive began as a state project and was funded by a federal pass through loan that the city paid back to the state.
- EIC debated funding the project and decided not to postpone; do it now. If the studies were done as requested by TxDOT, there was hope that TxDOT would complete the projects in# 2; if the studies were not done, then it was guaranteed that nothing would be done. EIC decided to take a chance on future growth and development and supported using sales tax dollars for highway improvements. If the city did not spend the money, it was guaranteed to get nothing.

Mr. Stork moved to authorize staff to submit an application to EIC as presented; the motion failed for lack of a second.

Mr. Fine moved for council to look at the projects again in six months to one year and reconsider, and in the meantime keep in contact with TxDOT. Mr. Allen seconded the motion and it passed 5-0.

8C. Initiation of annexation proceedings on approximately 194.79 acres of land out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and being generally located on the south side of SH-27 and located between Oak Way Street and Splitrock Road.

Mayor Pratt noted the airport and area along Hwy. 27 East was a vital element of current and future economic development. The city did not have any zoning regulation authority outside of the city including in the ETJ (extraterritorial jurisdiction). The city should strive to protect public health and safety and ensure that development along Hwy. 27 did not negatively affect water, environment, and air quality. The city should also mitigate potential hazards and not put the airport at risk with the FAA. Therefore, he recommended the city begin annexation proceedings in order that the city may have standing in the permit proceedings.

The following persons spoke:

1. Aleisha Knochenhauer, regional environmental manager for Martin Marietta (MM), owner of property in question, stated their opposition to annexation. MM had the property for some time and had made significant investment in time and money in the property. MM performed due diligence and evaluation prior to property acquisition and purchased the property in an attempt to relocate their current operation from further east on Hwy. 27; however, they were not looking to close their existing facility in Center Point. MM had started the entitlements and permitting process. MM would provide economic growth for the community. MM had a strong culture of doing the right thing; they would operate in accordance with

environmental permits. MM opposed annexation; in their experience, annexations eventually fail and the better direction was to work together to address concerns. MM had already started preparation of applications for health studies in preparation of the permit application. MM's operations were highly regulated by Texas Commission on Environment Quality (TCEQ) and the Environmental Protection Agency (EPA) and they would have to meet stringent requirements regarding water and air quality, floodplain mitigation, and other requirements.

Council asked if MM would agree to voluntary annexation. Ms. Knochenhauer stated she did not know, but MM would be willing to talk to the city, and she invited councilmembers to tour their current facilities.

2. Spencer Hart supported MM as it would provide road materiel, gravel, asphalt, and sand for local construction at the cheapest cost possible and with the least transportation cost. TCEQ would do a great job enforcing regulations. MM was one of the largest facilities in the world, and they could move their operations to Medina county if they wanted to. There was a lot of property between the city and MM that had not been annexed, including Guadalupe Heights. Annexing the MM property would increase the city's expenses. It was dangerous for the city to start proceedings in the nature of targeting.

Mr. Parton confirmed that the annexation as proposed applied only to the 195 acres owned by MM.

3. Tom Moser, Kerr County Commissioner, noted the county discussed potential annexation with members of the city several years ago, probably before MM purchased the property. He assumed the city proposed to annex the property in order to provide some type of restrictions. He had not spoken to anyone who was in favor of a gravel quarry pit at this location other than MM. The county did not have authority that the city could have if it annexed the property. He invited council and the public to a town hall meeting at the Hill Country Youth Exhibit Center on January 27 at 6:00 p.m.; representatives from MM, TxDOT, and TCEQ will explain the project, processes, requirements, and MM's property rights.

4. Ed Livermore, airport board member, supported annexation and stated the city needed to have a position with valid reasons; the airport board also had concerns.

5. Chris Alvarez stated he had been working with adjoining property owners and they vehemently opposed the quarry. He asked council to oppose the quarry, to fight it, and do anything in the city's power to stop it. The river is the heart of our community; protect it and keep it natural, do not let MM destroy the beauty of the river. He would support anything the city could do. The economic impact of MM went beyond money, it was a quality of life issue.

6. John Lovett stated his personal experience with annexation issues, growth, and quarry development. The county had very little restrictions. The only way to

control this operation was through annexation; city should annex the property as fast as it can; the city cannot control unless it is annexed. The city's rules in the ETJ were very limited and the county did not have rules to do anything. TCEQ did not have any requirements that would satisfy the people who lived next door. Time was of the essence; MM could start a bulldozer now and create a pre-existing condition. The city had authority to annex with special dispensation to owners, i.e. provide utilities, defer taxes, etc. If and when this went before TCEQ, any elected official could make it a contested hearing case. Currently, no permits had been applied for at TCEQ for the subject property.

MM confirmed that no permits had been applied for at TCEQ for the subject property at this time.

Council noted that MM had a lawsuit about their San Antonio quarry with regard to zoning codes. MM won that suit, but it did not apply to Kerrville, it had to do only with SA's zoning codes. MM had filed a registered statement of non-conforming use before it was annexed, so the use was already established. If the city annexed property that already had an existing use what jurisdiction would the city have on the property annexed and the pre-existing use? If the city annexed the property would the city be able to zone out, limit or restrict the use?

Mr. Parton stated it was unknown at this point; the facts would determine if there was a pre-existing use. He did not know all the facts of the SA case, and what may or may not apply to Kerrville. The city of SA confirmed that MM was a pre-existing use with an established operation prior to annexation in 1998; it was considered a pre-existing condition that was non-conforming and that non-conformity could not be increased. In 1997 there was state legislation that changed some vesting rights. The citizens adjacent to the SA MM facility filed suit claiming the facility did not have a vested right to exist because it was not in operation, and that MM was only leasing the property and planning to use it in the future. Through the appeals process, it was determined that the use was a valid non-conforming use.

EXECUTIVE SESSION:

Mr. Stork moved for the city council to go into executive closed session under Sections 551.071 of Chapter 551 of the Texas Government Code; the motion was seconded by Mr. Allen and passed 5-0 to discuss the following:

8C. Initiation of annexation proceedings on approximately 194.79 acres of land out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and being generally located on the south side of SH-27 and located between Oak Way Street and Splitrock Road.

At 9:12 p.m. the regular meeting recessed. Council went into executive closed session at 9:13 p.m. At 9:27 p.m. the executive closed session recessed and council returned to open session at 9:27 p.m. Mayor Pratt announced no action was taken in executive session.

7. Trevor Hyde, Comanche Trace, noted that Avery's had invested a lot of money in their property near the MM site. The city would annex Avery's just as it had annexed Fox Tank, so it should also annex MM. The Our Lady of the Hills School was directly across the highway and 391 feet from the MM site. MM would continue to be problematic even with TCEQ's restraints; look at the operation in Center Point. The MM site is on the approach to the airport runway and was directly on the river. MM stated that initially they would mine in the middle of the property and later move toward the river; MM cannot get the rock crushing permit; initially, MM will just truck gravel to their existing facility in Center Point. The city should begin looking at all areas around the city for potential annexation.

8. Steve King, Chairman of the airport board, noted the airport board would meet on this subject next week. He noted that the approach to the main runway crossed directly over the subject property. FAA's main concern was air space above 300 ft. The Aviation Division of TxDOT had spent a lot of money on the Kerrville Airport, and they will address this issue with TCEQ. Also, Highway 27 cannot be widened on the north side as it was already maxed out on the limit of the approach to the airport runway, any improvement to Hwy. 27 would have to be on the river side. Previously, the state looked at putting in an ILS instrument approach landing system at the airport; however the highway was too close; FAA would allow on GPS approach.

Mr. Fine moved to authorize the mayor and staff to immediately initiate the annexation process as presented and begin discussions with various parties. Mr. Allen seconded the motion and it passed 5-0.

9. APPOINTMENTS TO CITY BOARDS AND COMMISSIONS:

9A. Food Service Advisory Board. Ms. White moved to appoint Ruben Molina and Becky Tolle all with terms to expire December 1, 2017; Mr. Fine seconded the motion and it passed 5-0.

9B. Main Street Advisory Board. Mr. Stork moved to appoint Bob Couch with term to expire May 31, 2016; Ms. White seconded the motion and it passed 5-0.

Mr. Stork moved to appoint T. David Jones with term to expire May 31, 2017; Mr. Fine seconded the motion and it passed 5-0.

9C. Planning and Zoning Commission. Mr. Stork moved to appoint Don Barnett and Doyle Malone with terms to expire January 1, 2018; Ms. White seconded the motion and it passed 5-0.

10. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- February 13, Daddy Daughter Dance, at the Dietert Center.
- Mardi Gras, February 9, beginning at 6:00 p.m. in Louise Hays Park.
- City hall will be closed January 18 in observance of Martin Luther King Day.

10. EXECUTIVE SESSION:

Mr. Stork moved for the city council to go into executive closed session under Sections 551.071 and 551.072 of Chapter 551 of the Texas Government Code; motion was seconded by Mr. Allen and passed 5-0 to discuss the following:

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:

- River trail.

At 9:42 p.m. the regular meeting recessed. Council went into executive closed session at 9:43 p.m. At 9:53 p.m. the executive closed session recessed and council returned to open session at 9:54 p.m. Mayor Pratt announced no action was taken in executive session.

ADJOURNMENT. The meeting adjourned at 9:56 p.m.

APPROVED: _____

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
January 26, 2016

On January 26, 2016, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Kristin Mudry, Notre Dame Welcome Lady, followed by the Pledge of Allegiance led by Police Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Day	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Police Chief
Dannie Smith	Fire Chief

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

1. VISITORS/CITIZENS FORUM:

1A. Deborah Gaudier, marker committee chairman for the Kerr County Historical Commission, invited council and the public to a marker dedication at the Notre Dame Catholic School courtyard on Main Street on February 3 at 7:50 a.m. She also expressed concern for the demolition of historic structures, in particular, the century-old W.G. Garrett, Jr. home on Main Street, which she opined could have been relocated. She proposed a demolition delay ordinance whereby property owners of structures over a certain age, generally 50, would publicly offer the building for sale for a set period of time before it could be demolished. Council asked staff to work with Ms. Guadier to place the item on a future agenda.

2A. Gary Noler representing American Veterans and Jacob Leicht Memorial Post 1000, stated appreciation for the city's participation in the development of the Freedom's Path Apartments. A 90 year old WWII veteran was moved in on New Year's Eve so the deadline was met.

2. PRESENTATIONS:

2A. Police Officer of the Year Award and Police Commendation Award to William Allen.

3. CONSENT AGENDA:

Mayor Pratt requested Item 3A be removed from the agenda:

3A. Minutes of the Health Facilities Development Corporation held on October 27, 2015, the regular City Council meetings held October 27 and November 10, 2015.

Mr. Stork moved to approve consent agenda item 3B; Mr. Fine seconded the motion, and the motion passed 5-0:

3B. Resolution No. 02-2016 ordering that a general election be held on May 7, 2016, for the election of one mayor and two city councilmembers; adopting an electronic counting system; establishing a central counting station; and authorizing the early processing of ballots.

3B. RESOLUCIÓN 02-2016 QUE DECRETA QUE LAS ELECCIONES GENERALES SE LLEVEN A CABO EL 7 DE MAYO DEL 2016 PARA ELEGIR UN ALCALDE, Y DOS CONCEJALES MUNICIPALES; ADOPTAR UN SISTEMA ELECTRÓNICO DE CONTEO DE VOTOS; ESTABLECER UNA ESTACIÓN CENTRAL DE CONTEO; Y AUTORIZAR EL PROCESAMIENTO TEMPRANO DE LOS VOTOS ELECTORALES.

END OF CONSENT AGENDA

4. ORDINANCE, SECOND AND FINAL READING:

4A. Ordinance No. 2016-02 amending the budget for Fiscal Year 2016 to account for various changes to the city's operational budget, including additional revenues and allocations for capital improvement projects. Mayor Pratt read the ordinance by title only.

Mr. Parton noted no changes since first reading and recommended approval.

Ms. White noted \$161,000 was included in the budget amendment for architect and design of an indoor athletic facility contemplated, but not yet approved by city council. She asked when it would come to council for consideration.

Mr. Parton noted the city currently had a schematic for elements of the building design. This budget amendment would approve funds to provide for the architect services to begin the design process and construction documents for the project. If funds are approved, staff will bring a contract for architect services to council at a future meeting.

Mr. Fine moved for approval of Ordinance No. 2016-02 on second and final reading; Mr. Allen seconded the motion and it passed 4 to 1 with Councilmembers Fine, Allen, Pratt, and Stork voting in favor of the motion and Councilmember White voting against the motion.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Installation Agreement Between the City of Kerrville and Premier Courts, LC for the repair of tennis courts at the HEB Tennis Center through Texas BuyBoard in the amount of \$98,920.00, but not to exceed a total contract value of \$108,920.00.

Ms. Boyle noted the tennis center consisted of 14 courts; the original 6 courts were asphalt of which 2 required reconstruction and 4 need resurfacing. The remaining 8 concrete courts did not need reconstruction, but would need to be addressed in the near future. There was not a local qualified contractor with expertise in resurfacing tennis courts.

Premier Courts provided the following options:

1. Seal cracks, resurface playing surface and restripe existing courts, \$47,800, lifespan unspecified, one month to one year, no warranty.
2. Included 1 also install a structural mat and new asphalt on 2 of the worst courts, \$98,920, life expectancy 3-5 years, 2 year warranty.
3. Concrete post tension pad over all existing courts, resurfacing and striping, \$330,000.

Council noted that tournaments may need to be rescheduled during construction. Diane Asper, speaking for the Tennis Pro Jess Asper, stated that everyone had been notified and rescheduling was pending council's decision.

Mr. Matthews noted preliminary construction could begin as early as February 28 and completion in March/April depending on weather. He would contact Premier to see if they could shift their work around the 6 courts so not all would be closed at the same time; however, that may increase construction time and cost.

Council discussed whether the pro shop remodeling could be done before the USTA professionals visited this summer to discuss scheduling more tournaments. Mr. Parton noted the pro shop renovation project would require specifications and bid award to a contractor and could not be purchased through BuyBoard so it could not be contracted as part of this project. He noted that drainage issues also needed to be addressed. He proposed to create a community investment program to track capital maintenance and infrastructure over a ten year period and programs would sync back to department budgets.

Council noted that EIC had \$750,000 budgeted in 2017 and 2018 for tennis center repairs; also, grant funds may be available through USTA.

The following persons spoke:

1. George Baroody noted that the city would save money by doing Option 3 now.
2. Russell Kemp, Kerrville Tennis Association President, stated that KTA would stay involved; the improvements were part of a multi-year plan: resurfacing courts, restroom, pro shop, drainage, pathways, and possibly covered courts. KTA would like all courts to be post tension.

Ms. White moved to authorize the city manager to execute a contract with Premier Courts, LC, for the repair of tennis courts at the H-E-B Tennis Center through the Texas BuyBoard in the amount of \$98,920, but not to exceed a total contract amount of \$108,920, further, that the repairs be done in conjunction with USTA's grant process in order to qualify for grants. Mr. Stork seconded the motion and it passed 5-0.

5B. Appointment of member to the Kerrville Citizen Police Academy Alumni Association Board of Directors.

Chief Knight noted that in order for the KCPAAA to be covered under the city's insurance, the city council must appoint an individual to the board of directors. Justin MacDonald was serving in this capacity but he requested to be replaced. Chief Knight noted that Bill Cafferty, the KCPAAA board president, recommended Rose Marie Bradshaw.

Ms. White moved to appoint Rose Marie Bradshaw to the KCPAAA Board of Directors; Mr. Fine seconded the motion and it passed 5-0.

5C. Gift of land and improvements associated with the Kerrville Cancer Center Building located at 218 Sidney Baker Street North and authorize the City Manager to execute a special warranty deed associated with the gift.

Ms. Day noted the 2011 agreement with the Cailloux Foundation (CF) was to gift this building to the city. Recently, the CF extended the lease of the building to the cancer center. The CF proposed to gift the property to the city by the end of January, including the existing lease with the cancer center. This gift would provide 9,500 sq. ft. additional office space. The city would own the property and staff would work with the cancer center to determine how much more space they needed. The cancer center also sublet space to two other tenants.

Council noted a statement in the special warranty deed, "landlord can terminate if greater than 20% of the building is occupied for public use." Staff noted the city did not have any immediate plan for the building except storage space. Council noted the lease was bringing in revenue and it might be cheaper for the city to rent storage space. Mr. Day noted that according to the special warranty deed, the primary purpose of the building was for office space for the city.

Mr. Allen moved to accept the gift of land from the Cailloux Foundation as presented. Mr. Fine seconded the motion and it passed 5-0.

6. INFORMATION AND DISCUSSION:

6A. Budget and economic update.

Ms. Yarborough gave the financial report year to date for the period ending December 31, 2015: general fund revenues totaled \$5,363,643 and expenditures \$5,476,047; water and sewer fund revenues totaled \$2,968,853 and expenditures \$2,021,057; hotel/motel fund revenues totaled \$269,195 and expenditures \$227,850; 22 permits for new residential construction and 0 for new commercial construction. She reviewed the budgets for five major capital projects: Jefferson

lift station, Ridgewood transmission line, river trail, Louise Hays and Lehmann/Monroe Park, and the athletic complex.

7. APPOINTMENTS TO CITY BOARDS AND COMMISSIONS:

7A. Library Advisory Board. Mr. Stork moved to appoint Astrid Box, David Lipscomb, and Matthew Miller; all with terms to expire November 22, 2017. Mr. Allen seconded the motion and it passed 5-0.

8. ITEMS FOR FUTURE AGENDAS None.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- February 13, Daddy Daughter Dance, at the Dietert Center.
- Mardi Gras, February 9, beginning at 6:00 p.m. in Louise Hays Park.
- Library stuffed animal sleep over.
- The city was hiring lifeguards.

10. EXECUTIVE SESSION:

Mr. Stork moved for the city council to go into executive closed session under 551.071 (consultation with attorney), Chapter 551 of the Texas Government Code; motion was seconded by Mr. Fine and passed 5-0 to discuss the following:

10B. Section 551.071:

- Annexation of an approximate 194.79 acres of land out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and being generally located on the south side of SH-27 and located between Oak Way Street and Splitrock Road.

At 6:59 p.m. the regular meeting recessed. Council went into executive closed session at 7:01 p.m. At 7:30 p.m. the executive closed session recessed and council returned to open session at 7:31 p.m. Mayor Pratt announced no action was taken in executive session.

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

ADJOURNMENT. The meeting adjourned at 7:32 p.m.

APPROVED: _____
ATTEST: _____

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
TOWN HALL MEETING

KERRVILLE, TEXAS
January 27, 2016

On January 27, 2016, at 6:00 p.m., the Kerrville City Council attended the Kerr County Commissioners' Court's town hall meeting at the Hill Country Youth Event Center Exhibit Hall at 3785 State Highway 27 East, Kerrville, Texas.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember

COUNCILMEMBER ABSENT:

Gene Allen	Councilmember
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CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
Trent Robertson	City Planner

Kerr County Commissioners' Court Town Hall Meeting to discuss property on the south side of State Highway 27 East between Oak Way and Splitrock Road

Chance Allen, Regional Vice President of Martin Marietta (MM), reviewed the economic benefits and donations of MM in Kerr County since it began operations in 2003. MM performed due diligence on the site prior to purchase and it revealed an abundance of high quality material. He noted there were several other mining operations located along the river corridor. The quarry would provide a buffer between the airport and the community.

Several MM representatives noted the following:

- Environmental stewardship and sustainability were important; embraced responsible environmental practices.
- Provided a safe and healthy work place for employees and persons who interacted with MM operations.
- MM was an enhancement to the community.
- MM constructed a 10 ft. high visual earthen berm and wrought iron and stone fence with native vegetation along the perimeter
- Paved area to limit trucks from getting dust and material on to Highway. 27.
- Will work with Texas Department of Transportation (TxDOT) to meet requirements for entry on to Highway 27.
- Environmental processes and permits were established by state and federal regulatory agencies, and MM applied for those permits which were necessary to operate their business:

Processes to meet environmental compliance for air: operate under saturated conditions (controls dust emissions by 95%);

- Water spray for dry operations
- Opacity and training to recognize dust emissions so they can operate the plant efficiently.
- Operate sweeper trucks.

Processes to meet environmental compliance for water under stormwater permit:

- Required that water leaving the plant was clean.
 - Settling ponds to recycle water.
 - Land grading activities, included filter berms and silt beds.
 - Water samples taken on a quarterly basis and tested by an independent analytical lab; results sent to Texas Commission on Environmental Quality (TCEQ) to determine if MM was meeting all parameters set in the permit.
- Employees were required to take certification training annually on oil handling and water quality practices.
- Spill handling, provided containment tanks sufficient for secondary containment; performed monthly tank inspections.
- Internal audits of all facilities.
- Post closure when operations cease and MM leaves a facility; having discussions with UGRA about water impoundment, other examples of how abandoned quarries have been used are shopping center and golf course.

County Judge Tom Pollard noted there was no state statute giving counties authority over land use; the county had some authority under floodplain management. John Hewitt, Kerr County flood plain administrator, noted that as a participant in the National Flood Insurance Program, the county was required to regulate construction and development in the floodplain in order to protect human health and life and to minimize flood damage. Any development in the floodplain required a floodplain permit to determine where something could be built and how high; development on one property could not adversely impact a neighbor's property or change the flood plain elevation. Also, before a permit can be issued, it must be approved by the Texas Parks and Wildlife and TCEQ. Part of the subject property was in the floodplain; however, MM currently had no plans to develop in the floodplain so there was not a pending application. MM was required to do a stormwater runoff plan.

Charlie Hastings, County Road and Bridge Department, noted that Split Rock Road was constructed for residential use and not for heavy trucks, and a geo-technical review of the pavement was underway. There was concern of mixing heavy industrial vehicles with residential traffic.

Joel Anderson, TCEQ regional director of the San Antonio office, noted they managed compliance and enforcement over a 15 county area; permits, rules and

regulations were issued in Austin. MM was registered at this location as an Aggregate Production Operation (APO); he reviewed applicable regulations:

- Air: Permit by Rule (PBR) – a permit was currently under review but had not been finalized. MM would be required to register initially and have annual reviews; the permit can be cancelled if MM discontinued operations for 30 days.

- Must meet general requirements of 30 TAC Section 106.4, Section 106.143 (wet), Section 106.149, and Section 106.261 (not wet).

- Must keep records to demonstrate compliance.

- Must control dust by paving roads or watering.

- Must adhere to the provisions of the construction general permit:

- Registration is required, must be at least 100 ft. from nearest off-site receptor.

- Emissions for the limestone are limited to 6.0 pounds per hour and 10.0 tpy.

- Must adhere to provisions of the construction general permit requirements.

- Construction General Permit requirements:

- Develop a Stormwater Prevention Plan (SWP3) prior to construction and comply with applicable local sediment and erosion control plans.

- Develop a multi-sector general permit when construction is complete and begin daily operations; requirements depend on the operations conducted at the facility and stormwater exposure to those operations.

- A Motion to Over Turn (MTO) is a request for the commission to review the TCEQ executive director's approval of the application. A motion must explain why the commission should review the TCEQ executive director's action.

Mike Coward, TxDOT Engineer, noted that TxDOT had plans for improvements for SH27 East including additional turn lanes and shoulders; funding was scheduled in 2019, but may become available sooner if the MM project moves forward. He had discussions with MM about direct access to Highway 27 without having to use Split Rock Road.

Bruce McKenzie, Kerrville-Kerr County Airport Manager, noted the airport board's concern was the operational integrity and safety of the airport. The board had not discovered anything in the MM project that would adversely affect airport operations or safety. The projected does not affect the airport approaches or runway protection zones. He asked that MM file Form 7460 with FAA.

City Mayor Jack Pratt noted the subject property was in the city's extraterritorial jurisdiction and city council previously authorized staff to start the annexation process. MM was served with a non-annexation agreement on January 15 and MM had 30 days; the city would then schedule two public hearings and the annexation would be complete in April. The city had taken such action to protect this economic growth corridor; however, the city cannot guarantee any results. Mayor Pratt noted MM would use a tremendous amount of water, that is, 58-59 acre feet, which equated to 133 households annually; he asked if MM would recycle or reuse water?

Ray Buck, General Manager of Upper Guadalupe River Authority, stated he had been investigating abandoned quarry pits and their use as water storage reservoirs; that possibility exists and UGRA may negotiate with MM if they close the quarry.

Tara Bushnoe, UGRA, regarding water quality, UGRA has a county-wide monitoring program. UGRA has historical data for the subject location on Split Rock Road; currently turbidity was very low; UGRA will continue to monitor the site for clarity and turbidity.

Members of the public asked questions:

- Will MM mine in the field behind the new fence? MM, yes, intend to mine.
- Will MM make improvements to the Center Point plant? MM, was proud of the operation as it is now.
- Will public hearings be held in compliance with Texas Open Meetings Act so the public can speak? MM, there is no statute that requires a public hearing under the permits applied for; also not required to be at this meeting, but agreed to attend and have open discussion.
- How much water does MM have for their operation and how much will they use? MM has water rights sufficient to operate under their current plan; if MM needs more water, it will go through the required permits; MM has not applied for a discharge permit because they do not intend to discharge. MM will recycle and treat 80% of the water they use. MM has 50 acre feet per year that came with the property.
- Did MM get a permit from Headwaters for groundwater? MM yes.
- After application has been made, will the county floodplain administrator issue a permit? MM noted that two permits had been applied for: 1. Floodplain for activity, and 2. Construction stormwater operational permit. MM did not have plans for construction activity in the floodplain; applied for construction storm water operational permit.
- Will water reclamation be required? Mr. Anderson (TCEQ) stated there was not a permit that required water reclamation.
- If MM complies with the permits can they begin operations? Mr. Anderson (TCEQ) stated if MM meets the requirements, they will get construction and operation permits.
- How is air quality monitored? Mr. Anderson (TCEQ) noted this was a technical requirement for production. MM noted that TCEQ will respond to issues; however, MM self-monitors for compliance and will be responsive before an issue goes to TCEQ.
- What are the hours of operation? MM, noted the mining time was 7:00 a.m. to 5:00 p.m. Monday through Saturday, except holidays.
- How many MM employees live in Kerrville and Kerr County? MM, did not know.
- Will trucks be covered before entering Highway 27? MM in accordance with the tarp law, all vehicles must be covered before entering a state highway.
- Will MM take gravel from the river? MM, not under the current plan; however, if MM did mine in the river, it would have to file for the appropriate permits and meet

those requirements.

- How would MM operations be affected during water rationing? MM would use groundwater and recycled water for operations.
- According to a local realtor, property values dropped 50% in the immediate area.
- Will blasting damage foundations? MM noted that no blasting would take place. There will be a 50 ft. buffer between the mining and the river. MM was not mining in the floodplain; if they did, they would have to go through the process associated with those requirements.
- Where was MM going to crush rock? MM, initially will transport rock to the Center Point facility. MM intended to crush rock at the subject site in the future; at that time, MM will follow those regulations.
- When was the last time the Center Point facility was inspected by TCEQ? Mr. Anderson (TCEQ) noted 33 years ago.
- Would MM be willing to gift the property to the community when mining was completed? MM, unknown at this time.

APPROVED: _____
ATTEST: _____

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
SPECIAL MEETING

KERRVILLE, TEXAS
February 2, 2016

On February 2, 2016, the Kerrville City Council meeting was called to order at 10:00 a.m. by Mayor Pratt in the city hall council chambers.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Day	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Dannie Smith	Fire Chief
Trent Robertson	City Planner

DISCUSSION AND POSSIBLE ACTION:

Authorize the Mayor to execute and submit, on behalf of the City of Kerrville, a Motion to Overturn (MTO) to the Texas Commission on Environmental Quality (TCEQ) pertaining to permits filed by Martin Marietta (MM) for the excavation and mining of sand and gravel at 337 Splitrock Road, Kerrville, TX 78028; and take any and all other action pursuant to this item.

Mayor Pratt noted MM had three permits in progress or completed: 1) Stormwater (SWP3), 2) Air, and 3) Aggregate Production Operation (APO). Permits 2 and 3 could not be contested or challenged by the city. The SWP3 was the only permit for which the city could file a MTO. One requirement of the Stormwater Prevention Plan was to have a permit from Headwaters; city staff was in the process of trying to confirm whether MM met that requirement.

Mayor Pratt noted the area along Hwy. 27 East was prime for economic development; also, property values were of concern as property values around quarries typically decreased. Residents in that area also questioned public health, noting that radon and carcinogens were created in quarries and similar operations. Mayor Pratt noted that none of these issues entered into the permit that can be contested by the city, and he encouraged the public to contact Congressman Smith's office with regard to EPA regulations. Following annexation, the city can apply reasonable zoning and land use regulations to lessen nuisance conditions; however, the city cannot "zone out" MM and the city had very little authority over the proposed operations.

The following persons spoke:

1. Trevor Hyde, CEO of Comanche Trace subdivision, urged city council to continue moving forward with annexation of the MM property. He stated that the Chamber had already moved against the site selection, and no one spoke in favor of it at the town hall meeting on January 27. He filed a MTO letter to TCEQ. He stated that MM was not being transparent, they did not say how deep they were going to dig or where the materiel would be going, they were not serving the community, their employees did not live here, would create traffic of about 700,000 dump trucks annually on Highway 27, and would affect the health of neighbors and citizens who used the highway; overall, MM was not good for the community and was not part of the community. The new Avery facility next to the MM site had 500 employees and they were looking at building another plant with up to 500 more new jobs.

Council asked if he could provide his MTO letter as an example and questioned what requirements he used; TCEQ did not provide a sample MTO and were not clear and specific as to the reasons for objections.

2. Donna Jones, resident of Guadalupe Heights, noted a petition objecting to the quarry had been circulated and only 3 out of 100 people did not sign the petition. She opined that residents of the Guadalupe Heights subdivision would be opposed to annexation.

EXECUTIVE SESSION:

Mr. Fine moved for the city council to go into executive closed session under 551.071 of Chapter 551 of the Texas Government Code; motion was seconded by Ms. White and passed 5-0 to discuss the following:

Section 551.071:

Authorize the Mayor to execute and submit, on behalf of the City of Kerrville, a Motion to Overturn (MTO) to the Texas Commission on Environmental Quality (TCEQ) pertaining to permits filed by Martin Marietta for the excavation and mining of sand and gravel at 337 Splitrock Road, Kerrville, TX 78028.

At 10:16 a.m. the special meeting recessed. Council went into executive closed session at 10:18 a.m. At 10:49 a.m. the executive closed session recessed and council returned to open session at 10:50 a.m. Mayor Pratt announced no action was taken in executive session.

ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION: None.

ADJOURNMENT. The meeting adjourned at 10:50 a.m.

APPROVED: _____
ATTEST: _____

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

Agenda Item:

2B. Resolution No. 06-2016, authorizing the submission of a grant application to the Office of the Governor, Criminal Justice Division, by the Kerrville Police Department, for body worn cameras, video storage, and accessories. (staff)

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

SUBJECT: Approval of a grant application to Criminal Justice Division, Office of the Governor.

FOR AGENDA OF: March 22, 2016

DATE SUBMITTED: March 11, 2016

SUBMITTED BY: Chief David Knight

CLEARANCES: Mike Hayes – City Attorney

EXHIBITS: Resolution

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 FINANCE DIRECTOR:

SUMMARY STATEMENT

The City of Kerrville has completed a grant application to the Criminal Justice Division Office of the Governor in the amount of \$95,025 for State Funding to purchase thirty-six (36) Body Worn Cameras, video storage and accessories to support a Body Worn Camera Program. This is a matching grant wherein upon award the CJD-OAG will provide \$76,020 funding for the project (75%) and the grantee will provide matching funds of 25% of the total or \$19,005. The grant application is available for review in the office of the police chief. The resolution designates the Chief of Police as the grantee's authorized official given the authority to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

RECOMMENDED ACTION

The Police Chief recommends that council approve the resolution and grant application for the purchase of thirty six (36) Body Worn Cameras, video storage and accessories through the 75/25 matching grant.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 06-2016**

A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION, BY THE KERRVILLE POLICE DEPARTMENT, FOR BODY WORN CAMERAS, VIDEO STORAGE, AND ACCESSORIES

WHEREAS, the Kerrville Police Department (“KPD”) seeks authorization from the City Council of the City of Kerrville, Texas, to submit an application to the Office of the Governor, Criminal Justice Division (“CJD”), for grant funding from the CJD which if awarded, will allow KPD to purchase thirty-six body worn cameras, video storage, and accessories to support KPD’s Body Worn Camera Program; and

WHEREAS, the grant application is in the total amount of \$95,025.00, of which, KPD is required to provide matching funds; and

WHEREAS, City Council finds it to be in the public interest to authorize KPD to submit a grant application to the CJD, for the purpose and in the amount specified above, and subject to the requirements below;

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

SECTION ONE. The City Council of the City of Kerrville, Texas, authorizes KPD to submit a grant application to the Office of the Governor, Criminal Justice Division, for the purpose of acquiring grant funding, said funding to be used to purchase thirty-six body worn cameras, video storage, and accessories to support KPD’s Body Worn Camera Program in an amount not to exceed \$95,025.00. Of this amount, City Council authorizes the City to contribute match funding in the amount of \$19,005.

SECTION TWO. Pursuant to the grant application, the City agrees to return grant funds to the CJD in the event of loss or misuse of the grant funds.

SECTION THREE. The City designates the KPD’s Chief of Police as the City’s authorized official who is given the authority to apply for, reject, alter, or terminate the grant on behalf of the City in strict accordance with the CJD’s grant program.

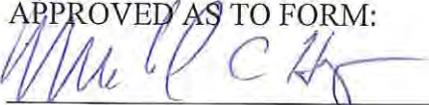
PASSED AND APPROVED ON this the _____ day of _____ A.D., 2016.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

2C. Resolution No. 07-2016, authorizing a waiver of various fees associated with the construction of single family homes for Habitat for Humanity Kerr County, Inc.; said waiver applicable to the remaining nineteen lots in the Maud Jennings Subdivision, Phase 2. (staff)

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

SUBJECT: Resolution, Waiver of Development Fees Request – Consider a resolution to waive property development fees for the Habitat for Humanity Kerr County Affiliate, Inc.

FOR AGENDA OF: March 22, 2016

DATE SUBMITTED: March 14, 2016

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:



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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

Habitat for Humanity Kerr County Affiliate, Inc. has requested that the City of Kerrville waive the payment of various fees related to the development of property through their program.

The resolution presented allows for:

- A general exemption of development fees, including planning/platting fees, building permit fees, and parkland dedication fees, and
- Allows this exception for **19 single-family residential homes**.

The resolution presented **does not** allow for:

- The exemption of water meter and new water account fees

The resolution presented does not:

- Waive any fee related to utility service or connection, nor release Habitat for Humanity Kerr County Affiliate, Inc., its contractor or agents, from the requirement to acquire permits, inspections, or plat approvals, nor
- Create any other waiver or variance of any law, code, or ordinance, other than the forgiveness of fees.

RECOMMENDED ACTION

Approve the resolution as presented.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 07-2016**

**A RESOLUTION AUTHORIZING A WAIVER OF VARIOUS FEES
ASSOCIATED WITH THE CONSTRUCTION OF SINGLE FAMILY
HOMES FOR HABITAT FOR HUMANITY KERR COUNTY, INC.; SAID
WAIVER APPLICABLE TO THE REMAINING NINETEEN LOTS IN THE
MAUD JENNINGS SUBDIVISION, PHASE 2**

WHEREAS, the work of Habitat for Humanity Kerr County, Inc. (“Habitat-Kerr County”) benefits the citizens of Kerrville by providing a means of increasing affordable housing within the City of Kerrville; and

WHEREAS, Habitat-Kerr County intends to construct additional single family homes within the City and the Maud Jennings Subdivision, Phase 2, which addresses are unspecified at this time; and

WHEREAS, Habitat-Kerr County has requested that the City waive the payment of various fees related to the development of the lots and construction of the homes; and

WHEREAS, City Council finds that increasing the inventory of affordable housing in the City, encouraging in-fill development on property which for-profit home builders generally find unprofitable, and encouraging new construction in areas of the City where neighborhood revitalization is needed, all serve a public purpose, and as such, it is in the public interest to waive the fees specified below which would result from Habitat-Kerr County’s construction of the homes specified above;

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

SECTION ONE. Subject to Sections Two and Three, below, the payment of the following fees are waived for Habitat-Kerr County for its construction of single family homes on the remaining nineteen lots of the Maud Jennings Subdivision, Phase 2:

1. Parkland Dedication Fee;
2. Building, Electrical, Plumbing, and Mechanical Fees; and
3. Platting and replatting fee.

SECTION TWO. The waiver of fees described in Section One, above, applies only to applications filed by Habitat-Kerr County.

SECTION THREE. The waiver of the various fees listed in Section One, above, is not to be construed and does not waive any requirements for obtaining the various permits and inspections required by the Code of Ordinances of the City of Kerrville, Texas, or any other applicable federal,

state, or local law or regulation, nor is it to be construed as granting any waivers or variances to the subdivision regulations of the City of Kerrville.

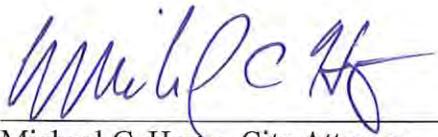
PASSED AND APPROVED ON this the _____ day of _____, A.D., 2016.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

2D. Resolution No. 2016-08 approving the naming of the Cailloux Campus Support Facility located at 913 Jefferson Street as "The Kit Werlein Annex."
(staff)

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

SUBJECT: Resolution No. 2016-08 approving the naming of the Cailloux Campus Support Facility located at 913 Jefferson Street as The Kit Werlein Annex

FOR AGENDA OF: March 22, 2016 **DATE SUBMITTED:** March 17, 2016

SUBMITTED BY: Ashlea Boyle **CLEARANCES:** Kristine Day
Asst. Director of Parks & Recreation Deputy City Manager

EXHIBITS:

1. Resolution No. 2016-08
2. Naming Request Form
3. Letter Submitted by Playhouse 2000, Inc.

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

A naming request form was submitted by Playhouse 2000, Inc. (P2K) in February for the naming of the new Cailloux Campus Support Facility located at 913 Jefferson Street. Pursuant to the EIC project funding agreement and the original development and operation agreement between the City and P2K, this facility will be owned by the City and will be operated by P2K. It is scheduled for a grand opening in April. P2K has requested that the building be named *The Kit Werlein Annex*. Attached is the request form and proposal letter from P2K.

This request was presented to Council and considered on February 23, 2016. As directed, staff proceeded with the procedures pursuant to the *Naming Policy for City Properties and Facilities*. A public hearing was held March 16th at the VK Garage. No visitors were present and no public comments were received by staff. Adopting a resolution is the final step in the approval process for the naming request.

RECOMMENDED ACTION

Staff recommends adopting Resolution No. 2016-08 approving the naming of the Cailloux Campus Support Facility located at 913 Jefferson Street as The Kit Werlein Annex.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 2016-08**

**A RESOLUTION APPROVING THE NAMING OF THE CAILLOUX
CAMPUS SUPPORT FACILITY LOCATED AT 913 JEFFERSON
STREET AS "THE KIT WERLEIN ANNEX"**

WHEREAS, City Council, on July 26, 2011, adopted Resolution No. 26-2011, which adopted a *Naming Policy for City Owned Properties and Facilities* (the "Policy"); and

WHEREAS, pursuant to the Policy, City Council received an application from Playhouse 2000, Inc., requesting that the new Cailloux Campus Support Facility, located at 913 Jefferson, be named for Mr. Kit Werlein, in honor of his leadership and numerous contributions toward the arts and other quality of life projects in and around Kerrville, Texas; and

WHEREAS, the request was presented to City Council at its meeting held on February 23, 2016, at which time Council voted to support the naming request; and

WHEREAS, in accordance with the Policy, City staff held a public hearing on March 16, 2016, at the VK Garage, the smaller playhouse adjacent to the Kathleen C. Cailloux City Center for the Performing Arts, and no one attended or spoke to the matter; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that it is in the public interest to name the newly constructed and City-owned Cailloux Campus Support Facility as "the Kit Werlein Annex";

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

The Cailloux Campus Support Facility, located at 913 Jefferson Street, is hereby named "the Kit Werlein Annex".

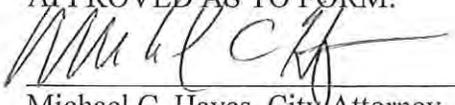
PASSED AND APPROVED ON this the _____ day of _____, A.D., 2016.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

City of Kerrville
Naming Request Form
 Municipally Owned Properties and Facilities

1	Existing Property/Facility Street Address: (Must Be Owned By The City Of Kerrville) <u>913 Jefferson St. 78028</u>
2	Existing Name of Property/Facility: (if known) Working Name: <u>Cailloux Campus Support Facility</u>
3	Proposed New Name: <u>The Kit Werlein Annex</u>
4	Applicant Information: <u>Jeffrey Brown for Playhouse 2000, Inc.</u> Name <u>P.O. Box 290888, 305 Washington Sr</u> Address <u>830.896.9393 x 303</u> Phone Number <u>jbrown@CaillouxTheater.com</u> Email <u>[Signature]</u> Signature
5	Association/Group making request: (if any) <u>Playhouse 2000, Inc.</u> <u>305 Washington Sr. Kerrville</u> 78028 Address
6	Date Submitted in person (to City Secretary's Office): _____

KERRVILLE'S COMMUNITY THEATER

PLAYHOUSE

2 · 0 · 0 · 0

Playhouse 2000, Inc.
P.O. Box 290088
Kerrville, TX 78029
305 Washington Street
www.Playhouse2000.com
(830) 896-9393

Board of Directors

Kit Werlein
President

Tom Terrell
Vice President

Stephen Fine
City of Kerrville
Representative

Susan Neely Balentine

Arthur Bell

Chris Distel

Paul E. Stafford

Roxie Orms

Gene Smith

Gary Stork

Nancy B. Watts

James E. Wilson

Staff

Jeffrey Brown

Executive Director

jbrown@caillouxtheater.com
Extension 303

Nicholas Boland

Technical Director/
Facilities Manager

nick@caillouxtheater.com
Extension 305

Amy Goodyear

Office Manager

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Extension 304

Sarah Distel

Associate Producer for
Children's Programming

distelse@gmail.com

Susan Burns

Front-of-House Manager

susan@caillouxtheater.com
Extension 302

Josie Reyes

Box Office Manager

boxoffice@caillouxtheater.com
Extension 301

Managers of the
Kathleen C. Cailloux
City Center for the
Performing Arts

Kerrville's
Community Theater

18 February, 2016

Ms. Ashlea Boyle
Special Projects Manager
City of Kerrville
Via email: Ashela.Boyle@Kerrville.TX.gov

Dear Ashlea,

The following are all reasons that we, the Board and Staff of Playhouse 2000, Inc. favor naming the new Cailloux Campus Support Facility in honor of Kit Werlein:

Kit is a long-time member of the Kerrville Community, and spent many years in the local banking and trust industry.

Kit has assumed leadership roles in several drives to raise awareness and community support for the public good. Some of these include:

- An application to the HEB Foundation to create the Municipal Tennis Center;
- A committee to raise funds to replace the outdoor performing space at the Hill Country Arts Foundation's Point Theater after it was washed away in a flood;
- Thirty years as President of the Board of Directors for The Salvation Army, including leading the lengthy process that led to the creation of the Salvation Army Kroc Corps Community Center.

Kit is the founding President of Playhouse 2000, and was at the center of the process that led to the renovation of the former Municipal Auditorium into the beautiful Kathleen C. Cailloux City Center for the Performing Arts. He led the campaign that raised more than a million dollars from hundreds of foundations, companies and individuals in order to complete the project, and he was actively involved in negotiating the current operating agreement that has provided for successful operation of the center for more than a dozen years.

Kit has served as President of Playhouse 2000 continuously since its founding, seeing the company through times both smooth and rocky for more than fifteen years.

Kit and his wife, Linda, are the proud parents of Kendra, their adopted daughter.

At their regularly scheduled meeting on January 11, 2016, the Playhouse 2000 Board of Directors voted unanimously to request that the City of Kerrville place on this new facility the honorary name of "The Kit Werlein Annex."

Thanks for your help. See you soon.

Jeffrey Brown
Executive Director
Playhouse 2000, Inc.

Agenda Item:

3A. Proposed annexation of approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,485,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road. (staff)

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

SUBJECT: Public hearing, Consideration & Action for the City of Kerrville to annex into its incorporated limits an approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road. The tract is more particularly described in the Survey of a 194.79 Acre (8,485,189 square feet more or less), Tract of land out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, being all of that 195.26 Acre Tract conveyed to J.W. Colvin, III, in deed recorded in Volume 1395, Page 542, Official Public Records, Kerr County, Texas, and being more particularly described as follows: (Basis of bearing NAD83 State Plane Coordinates Texas South Central Zone.) 337 Split Rock Road.

FOR AGENDA OF: March 22, 2016

DATE SUBMITTED: March 14, 2016

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Location Map

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 OR FINANCE:

SUMMARY STATEMENT

This item is regarding a public hearing, consideration & action for the City of Kerrville to annex into its incorporated limits an approximately 194.79 acre tract of land, located at 337 Split Rock Road. The subject property is adjacent to two single-family residential subdivisions located to the north and south and the Guadalupe River to the east.

City Council passed a motion to direct the Mayor and staff to immediately initiate the annexation process as presented and to begin discussions with various parties on January 12, 2016 at the regularly scheduled City Council meeting. On January 15, 2016, the City of Kerrville sent out a notice of intent to annex the subject property along with the Development Agreement to the property owner and all required entities in accordance with Section 43.035 and Chapter 212, Subchapter G of the Texas Local Government Code.

The 1st public hearing for annexation was conducted by the City Council at its regular meeting on March 8, 2016.

RECOMMENDED ACTION

Staff recommends that the Council hold the required public hearing to receive public comments and take possible action on the item.



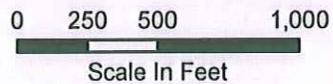
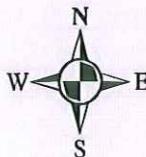
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Annexation Location Map

Location:
Martin-Marietta Property

Legend

- 200' Notification Area - - - - -
- Annexation Area —————
- Existing City Limits



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

Agenda Item:

4A. Ordinance No. 2016-05 amending Ordinance 2001-23 which annexed property into the city and adopted zoning for the same property pursuant to a "Planned Development District"; said property consisting of an approximate 75.73 acre tract of land located adjacent to State Highway 27 and between Colvin Ranch Road East and Sutherland Lane East with an address of 155 Colvin Ranch Road East; said amendments consisting of various changes to the authorized uses for the property. (staff)

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

SUBJECT: Public hearing, consideration, and action concerning requested amendments to an existing Planned Development District (PDD 01-23) Ordinance Number 2001-23 Section Three A thru R for an approximate 75.73 acres tract. Being all of a certain tract or parcel of land containing 75.73 acres, more or less, out of O. V. Robinson Survey No. 44, Abstract No. 282 in Kerr County, Texas; comprising 4.25 acres out of a certain 141.38 acre tract conveyed from Farm Credit Bank of Texas to J. W. Colvin, III by a Special Warranty Deed with Vendor's Lien executed the 2nd day of November, 1995 and recorded in Volume 822 at Page 638 of the Real Property Records of Kerr County, Texas, 66.48 acres out of a certain 186.99 acre tract conveyed from Farm Credit Bank of Texas to City South Management Corp. by a Special Warranty Deed with Vendor's Lien executed the 2nd day of November, 1995 and recorded in Volume 822 at Page 620 of the Real Property Records of Kerr County, Texas, and 5.00 acres out of a certain 10.00 acre tract heretofore conveyed out of said 141.38 and 186.99 acre tracts from Richard B. Colvin, et ux to Chapman Building Systems, Inc. by a Warranty Deed with Vendor's Lien executed the 15th day of December, 2000 and recorded in Volume 1099 at Page 413 of the Real Property Records of Kerr County, Texas, located southeast of Airport Commerce Parkway East, between Highway 27 and Colvin Ranch Road East. 155 Colvin Ranch Road East.

FOR AGENDA OF: March 22, 2016

DATE SUBMITTED: March 15, 2016

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS:

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 OR FINANCE:

SUMMARY STATEMENT

This item is concerning public hearing, first reading of the ordinance & action concerning amendments to an existing Planned Development District (PDD 01-23), Ordinance Number 2001-23 Section Three A thru R for an approximate 75.73 acres tract.

A public hearing was conducted by the Planning and Zoning Commission at its regular meeting on March 17, 2016.

RECOMMENDED ACTION

Staff recommends that the Council hold the required public hearing to receive public comments and take action for approval.



City of Kerrville Planning Department Report

To: Planning & Zoning Commission

Agenda Item: 3A

Planning File #: 2016-006

Hearing Date: March 17, 2016

Representative: City Staff

Location: 155 Colvin Ranch Road East

Legal Description: Being all of a certain tract or parcel of land containing 75.73 acres, more or less, out of O. V. Robinson Survey No. 44, Abstract No. 282 in Kerr County, Texas; comprising 4.25 acres out of a certain 141.38 acre tract conveyed from Farm Credit Bank of Texas to J. W. Colvin, III by a Special Warranty Deed with Vendor's Lien executed the 2nd day of November, 1995 and recorded in Volume 822 at Page 638 of the Real Property Records of Kerr County, Texas, 66.48 acres out of a certain 186.99 acre tract conveyed from Farm Credit Bank of Texas to City South Management Corp. by a Special Warranty Deed with Vendor's Lien executed the 2nd day of November, 1995 and recorded in Volume 822 at Page 620 of the Real Property Records of Kerr County, Texas, and 5.00 acres out of a certain 10.00 acre tract heretofore conveyed out of said 141.38 and 186.99 acre tracts from Richard B. Colvin, et ux to Chapman Building Systems, Inc. by a Warranty Deed with Vendor's Lien executed the 15th day of December, 2000 and recorded in Volume 1099 at Page 413 of the Real Property Records of Kerr County, Texas, located southeast of Airport Commerce Parkway East, between Highway 27 and Colvin Ranch Road East.

Total Acreage: 75.73

Proposal

A request to amend an existing Planned Development District (PDD 01-23) Ordinance Number 2001-23 Section Three A thru R for an approximate 75.73 acres tract.

Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on March 2, 2016. Notices were sent to property owners within two hundred (200) feet of the subject property on March 7, 2016. Additionally, notice of this meeting was posted at city hall and on the city's internet website on March 11, 2016, in accordance with Section 551.043(a) of the Texas Government Code.

Recommended Action

Staff recommends that the Commission hold the required public hearing to receive public comments and make a recommendation to the Council.

Notices Mailed

Owners of Property within 200 feet: 17

Topography

The subject property is relatively flat with a few tree and various types of grasses.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: "AD"

Current Land Uses: Airport and Vacant

Direction: West

Current Base Zoning: "E26" and "OCL"

Current Land Uses: Manufacturing, Industrial, and Vacant

Direction: East and South

Current Base Zoning: "OCL"

Current Land Uses: Vacant

Transportation

Thoroughfare: Highway 27

Existing Character: One lane in each direction with no sidewalks.

Proposed Changes: None known

Staff Analysis and Recommendation: Approval

1. Intent and Purpose of the Proposed Amendment:

On November 27, 2001, City Council approved the existing "PDD 01-23" Planned Development District 2001-23. Over the years the property has been marketed for development with little to no success. The existing Planned Development District has various design, development and land use regulations (in addition to all existing city codes and requirements) that have made it difficult to develop. The proposed amendments to the existing PDD will broaden the permitted land uses and eliminate various development regulations.

2. Current Land Uses

1. Agricultural Services, but only those uses described in Art. 11-1-3(a.)(4)(i) and (iii)
2. Blue printing and photo copying services
3. Building cleaning services
4. Building Construction, General
5. Building Construction, Specialist
6. Cablevision, radio and television stations
7. Commercial art, photography, and graphics (but not including retail portrait studios)
8. Commercial testing laboratories
9. Day care centers, but only if operated in association with and ancillary to another business permitted by this Ordinance to be operating on the Property. Such day care center must: (1) be located on the property of the associated business and (2) have no less than eighty percent (80%) of the children enrolled in the center consist of children of the owners, officers, or employees of the associated business.
10. Disinfecting and exterminating services
11. Employment agencies
12. Equipment Sales/Repair/Storage (Heavy), which business may also include the rental of tools, equipment, and other goods as a related and ancillary use

13. Gunsmith and locksmith shops
14. Health or fitness studios/salons and massage therapy, but only if:
 - a. it is located and operated ancillary to a hotel or motel located on the Property and providing services primarily to the guests of said hotel or motel; or
 - b. it is operated in association with and ancillary to another business permitted by this Ordinance to be operating on the Property; provided, such facility is located on the property of the associated business and have no less than 80% of the members consist of officers, employees, directors, or shareholders of the associated business, or members of their respective families.
15. Hospital Services
16. Hotel/Motel (limited to one hotel or motel located within five hundred (500) feet of the southern pavement line of State Highway 27)
17. Job and Vocational Training Centers
18. Kennels with a maximum boarding capacity of less than twelve (12) animals
19. Laundry services (commercial and industrial services only)
20. Maintenance and Service Facilities
21. Manufacturing, Custom
22. Mini-storage
23. Newspapers
24. Pet services
25. Photo finishing laboratories, but not including stand-alone retail photo processing businesses where retail customers can deliver film for processing and pick-up processed photographs
26. Postal services
27. Protective services, non-governmental
28. Recreation, Commercial (but only those uses defined as Indoor Sports and Recreation or Outdoor Sport and Recreation, but excluding outdoor shooting ranges of any type)
29. Refrigeration/air conditioning service and repair
30. Restaurant, General (limited to one restaurant located within five hundred (500) feet of southern pavement line of State Highway 27)
31. Reupholstery and furniture repair
32. Safety Services
33. Schools primarily engaged in instructional or informational classes related to art, dance, gymnastics, cheerleading, trampoline and tumbling, or martial arts
34. Sign painting and outdoor advertising services
35. Swimming pool and cleaning and maintenance
36. Telecommunications Distribution Location
37. Telecommunication Servicing Center
38. Telephone and electric company offices (excluding storage and maintenance yards, but including telecommunication serving centers)
39. Transportation Terminal, including bus terminals and motor freight transportation businesses
40. Utility Services, Local
41. Vehicle Maintenance and Repair, but not including the uses defined as Vehicle Sales/Services – New and Vehicle Sales/Services-Used, except to the extent allowed by Subsection B.44, below.
42. Warehousing and Distribution, and/or Moving and Storage Businesses
43. Welding shops, not elsewhere classified as a manufacturing or industry
44. Businesses primarily engaged in the rental of automobiles, light trucks, sport utility vehicles, and passenger vans not exceeding a capacity of fifteen (15) passengers; provided that no more than one such business shall be located on the Property
45. Businesses primarily engaged in the manufacture, processing, and packing of dairy products.
46. Businesses primarily engaged in the canning of fruits and vegetables.
47. Businesses primarily engaged in preparing foods from previously milled grain products, including the preparation of breakfast foods, the mixing of flours, and the manufacture of bakery products

48. Businesses primarily engaged in the manufacture of sugar, candy, and other confectionery products
49. Businesses primarily engaged in the manufacture of butter, margarine, cooking oils, etc., from previously processed animal and vegetable oils
50. Businesses primarily engaged in the manufacture, bottling, and canning of beverages
51. Businesses primarily engaged in the manufacture of tobacco products
52. Businesses primarily engaged in the preparation, manufacture, cutting, sewing, and finishing of textile mill products
53. Businesses primarily engaged in the cutting and manufacture of lumber and wood products, including the construction of wood buildings or arches, trusses, etc., in a construction facility for sale and transport to another site for placement on a lot for use
54. Businesses primarily engaged in the manufacture of furniture and fixtures for residential or business use
55. Businesses primarily engaged in the manufacture of paper and paperboard products
56. Businesses primarily engaged in the manufacture or processing of drugs in pharmaceutical preparations for human or veterinary use
57. Businesses primarily engaged in the manufacture of tires, footwear, bottles, hoses, etc., from rubber, from primary plastic products, etc
58. Businesses primarily engaged in the manufacture of leather products such as shoes, luggage, etc.
59. Businesses primarily engaged in the manufacture of glass, stone, clay, and concrete products (but not a concrete batch plant).
60. Businesses primarily engaged in the manufacture of metal products, such as metal cans, hand tools, wire products, general hardware, and weapons but not weapons ammunition
61. Businesses primarily engaged in the manufacture of machinery and equipment, such as farm machinery, construction equipment, power and machine tools, engines, etc
62. Businesses primarily engaged in the manufacture of office, computing, and accounting machines, and businesses primarily engaged in the manufacture of refrigeration and service machinery
63. Businesses primarily engaged in the manufacture of electrical and electronic machinery, equipment, and supplies
64. Businesses primarily engaged in the manufacturing of transportation equipment, including motor vehicles
65. Businesses primarily engaged in the manufacture of laboratory, scientific and measuring equipment, of watches, clocks, jewelry, musical instruments, signs, toys, and other products
66. General contractors (with contractor yards greater than five (5) acres in size) for the following:
 - a. Residential dwellings
 - b. Commercial buildings and structures
 - c. Industrial buildings and structures
 - d. Highway and street construction
 - e. Water, sewer, pipeline construction
 - f. Earth moving, drainage, land reclamation
 - g. Bridges, tunnels

3. Proposed Land Uses

The Property may be developed with uses permitted by right in the “E-26” zoning district, as amended by the following land use table:

LAND USES	E-26
Agricultural - General	P
Agricultural Service	P
Bed and Breakfast	
Building Construction, General	P
Building Construction, Specialist	P
Business Services I	P
Business Services II	P
Cocktail Lounge	P
Detention Facilities	
Dwelling , Single Family, Detached	
Manufactured Home or Manufactured Housing	
Dwelling, Multiple Family	
Dwelling, Single Family with apartment	
Dwelling, RC District Uses (with plat)	
Education, Secondary and College	P
Education, Primary	
Equipment Sales/Repair/Storage (Heavy)	P
Fuel Sales	P
Funeral Services	
Institutional and Public Use Facilities	
Life Care Development	
Manufacturing, Custom	P
Manufacturing and Industrial, Heavy	P
Manufacturing and Industrial, Limited	P
Manufactured Housing Sales	
Personal Services I	P
Personal Services II	P
Personal Services-Limited	P
Professional Offices	P
Restaurant, General	P
Restaurant, Limited	P
Retail Trade – I	P
Retail Trade – II	
Retail Trade – III	
Retail Trade – Limited	
Tourist/Visitor & Recreation Service	P
Transportation Terminal (Bus/Aviation)	P

Vehicle Maintenance and Repair	P
Vehicle Sales/Service-Used	P
Vehicle Sales/Services – New	P
Warehousing & Distribution	P

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2016-05**

AN ORDINANCE AMENDING ORDINANCE 2001-23 WHICH ANNEXED PROPERTY INTO THE CITY AND ADOPTED ZONING FOR THE SAME PROPERTY PURSUANT TO A “PLANNED DEVELOPMENT DISTRICT”; SAID PROPERTY CONSISTING OF AN APPROXIMATE 75.73 ACRE TRACT OF LAND LOCATED ADJACENT TO STATE HIGHWAY 27 AND BETWEEN COLVIN RANCH ROAD EAST AND SUTHERLAND LANE EAST WITH AN ADDRESS OF 155 COLVIN RANCH ROAD EAST; SAID AMENDMENTS CONSISTING OF VARIOUS CHANGES TO THE AUTHORIZED USES FOR THE PROPERTY

WHEREAS, on September 25, 2001, City Council adopted Ordinance No. 2001-23, which annexed property into the territory of City of Kerrville, Texas (“City”), and adopted zoning pursuant to the creation of a “Planned Development District” (“PDD”) on an approximate 75.73 acre tract of land; and

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City, and otherwise, of a hearing which was held before the City Council on March 22, 2016, which considered a report of the City’s Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in amendments to the PDD; and

WHEREAS, such public hearing was held in the Council Chambers beginning at approximately 6:00 p.m. on March 22, 2016, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission and City staff; and after considering among other things, the character of the various areas of the City and the suitability of particular uses in each area; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City, the City Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City, to amend Ordinance 2001-23 and to amend the PDD as created therein;

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

SECTION ONE. Ordinance 2001-23 is amended by revising Section Three of said ordinance in its entirety and replacing it with the following:

“SECTION THREE. That upon the adoption of this Ordinance, the Property

shall be and constitutes a Planned Development District in accordance with Article 11-I-15 of the Code of Ordinances of the City of Kerrville, Texas, which, in addition to the regulations set forth in the Title 11, Chapter I of the Code of Ordinance, shall be subject to the following use and development regulations:

A. Site Plan: The development of the Property shall conform in all respects to the site plan(s) attached hereto as **Exhibit “B”** and incorporated herein by reference, which said site plan may be amended in accordance with City Code.

B. Uses Permitted by Right: The Property may be developed with uses permitted by right in the “E-26” zoning district, as amended by the following land use table:

LAND USES	E-26
Agricultural - General	P
Agricultural Service	P
Bed and Breakfast	
Building Construction, General	P
Building Construction, Specialist	P
Business Services I	P
Business Services II	P
Cocktail Lounge	P
Detention Facilities	
Dwelling , Single Family, Detached	
Manufactured Home or Manufactured Housing	
Dwelling, Multiple Family	
Dwelling, Single Family with apartment	
Dwelling, RC District Uses (with plat)	
Education, Secondary and College	P
Education, Primary	
Equipment Sales/Repair/Storage (Heavy)	P
Fuel Sales	P
Funeral Services	
Institutional and Public Use Facilities	
Life Care Development	
Manufacturing, Custom	P
Manufacturing and Industrial, Heavy	P
Manufacturing and Industrial, Limited	P
Manufactured Housing Sales	
Personal Services I	P
Personal Services II	P
Personal Services-Limited	P
Professional Offices	P
Restaurant, General	P

Restaurant, Limited	P
Retail Trade – I	P
Retail Trade – II	
Retail Trade – III	
Retail Trade – Limited	
Tourist/Visitor & Recreation Service	P
Transportation Terminal (Bus/Aviation)	P
Vehicle Maintenance and Repair	P
Vehicle Sales/Service-Used	P
Vehicle Sales/Services – New	P
Warehousing & Distribution	P

C. Ancillary Sales and Services: A portion of the Property that is used and developed for a purpose permitted under Subsection B, above, that by definition does not otherwise allow the use of said tract for the on-premises sale of goods and/or services can be used for the on-premises sale of goods and/or services subject to the following restrictions:

1. Such sales must be conducted in association with and ancillary to the primary use of the tract otherwise permitted by this Ordinance:
2. The goods sold must be goods that are:
 - a. manufactured or produced by the associated business on the Property; or
 - b. in the case of a warehouse and distribution center, kept on the property of the associated business for purpose of distribution to other locations; or
 - c. directly related to the use, maintenance, or repair of the goods manufactured or produced by the associated business on the Property;
3. If services are provided, such services must be:
 - a. directly related to the operation, repair, or maintenance of goods manufactured, produced, or repaired by the associated business on the Property; or
 - b. be the same type of services generally provided to customers who can obtain the services without being personally on the premises (*e.g.*, a business that conducts bulk photographic film processing for other businesses who ship such film from off-premises sites can also provide similar film processing services for walk-in customers).
4. Such sales must be conducted within the Main Building located on the property of the associated business; provided, however, this subparagraph shall not be

construed as prohibiting customers from being allowed into the areas of the business, including accessory buildings, where the production, manufacturing, or repair of goods is occurring or where the finished or repaired goods that are produced, manufactured, or repaired on the Property by the associated business are being stored;

5. The area of the Main Building where such sales occur shall not exceed the lesser of:

- a. ten percent (10%) of the floor area of the Main Building; or
- b. 2000 square feet;

provided, however, such sales area may at all times be equal to at least 500 square feet. For purposes of this Paragraph 5, office areas located in the Main Building where customers generally are not invited for the purpose of conducting sales shall not be included in the area calculations.

D. Obstructions to Air Traffic: Notwithstanding any provision of this Ordinance to the contrary, at no time shall the highest point of any building, tower, antennae, sign, light stanchion, or other structure constructed or installed on the Property exceed the maximum height allowed by Federal, State, or local law, regulation, or ordinance, including, but not limited to, regulations promulgated pursuant to Title 49, United States Code §44718, as amended, such that a building or structure would constitute an obstruction to air traffic at the Kerrville/Kerr County Municipal Airport. Prior to issuance of a building permit for any building or structure to be constructed on the Property, the City Building Official, in consultation with the Director of Public Works or his designee, may withhold issuance of a building permit until approval is obtained from the Federal Aviation Administration or its successor agency that the proposed building or structure will not constitute an obstruction to air traffic.

E. Parking Requirements: Except to the extent this Ordinance expressly states to the contrary, development of the Property shall at all times comply with the then current parking regulations of the City.

F. Driveways: All driveway entrances on Highway 27 (Junction Highway) shall be prohibited.

G. Screening Regulations: All storage, supplies and equipment shall be screened from view along Highway 27 (Junction Highway) in accordance with City screening regulations. Additionally, except to the extent this Ordinance expressly states to the contrary, development of the remainder of the Property shall at all times comply with the then current screening regulations of the City.

H. Lot Regulations and Development: Except to the extent this Ordinance expressly states to the contrary, development of the Property shall at all times comply with the

then current zoning code and subdivision ordinance of the City.

I. Rooftop Mechanical Equipment: Rooftop mechanical equipment must be screened from view such that it cannot be seen from ground level when standing on the immediately adjacent properties. Roof top equipment should be placed in a linear grid configuration except for building code required vents or flues.”

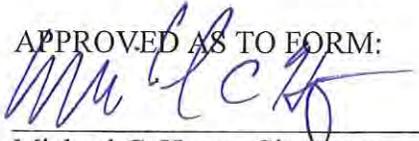
SECTION TWO. Except as amended by this Ordinance, the provisions of Ordinance No. 2001-23 remain in full force and effect.

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

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

Jack Pratt, Jr., Mayor

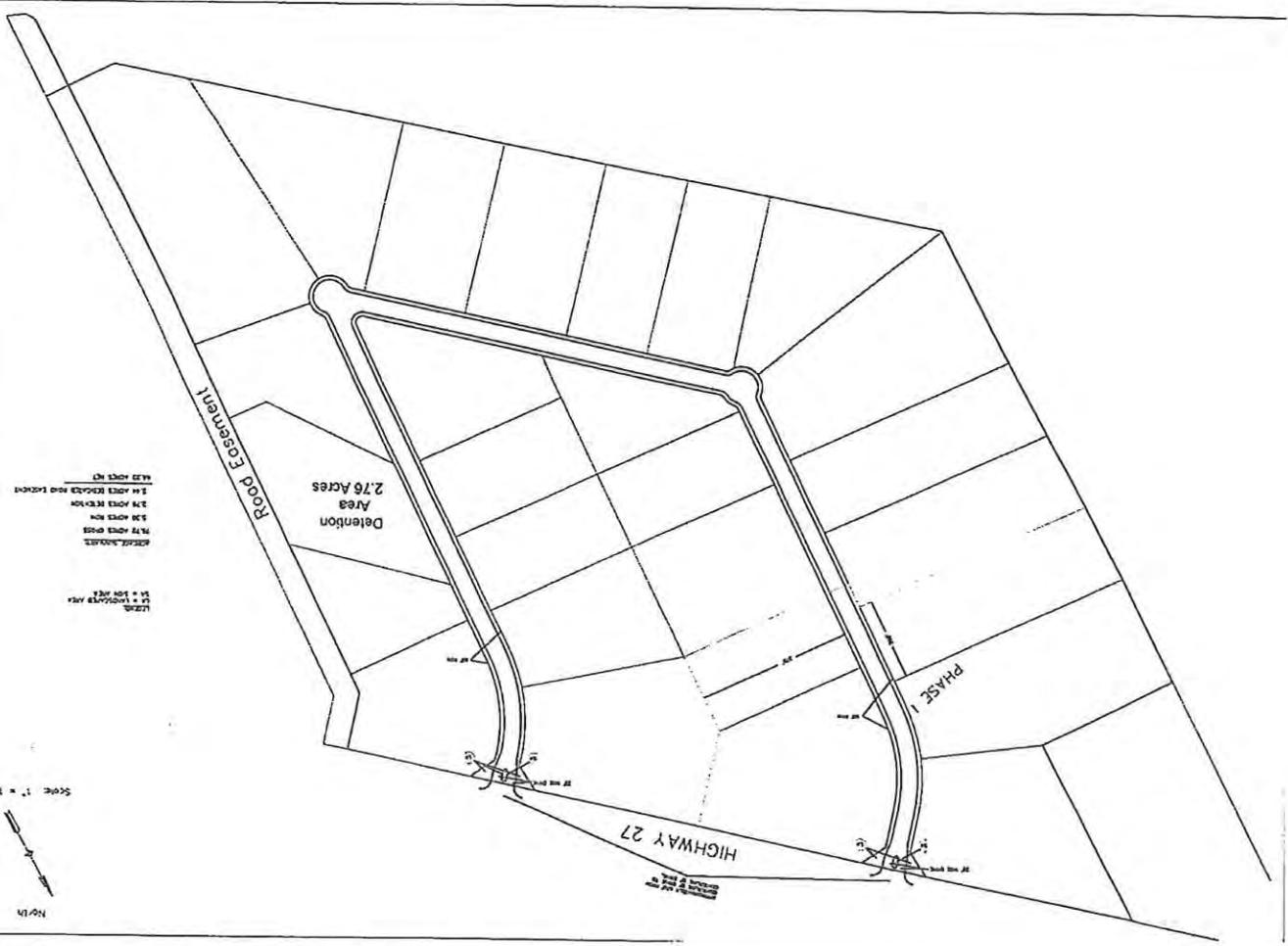
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary



HARVEY CONSULTANTS ENGINEERING, LAND SURVEYING 11111 F.W. WALKER BLVD., SUITE 1000 HOUSTON, TEXAS 77036		AIRPORT COMMERCE PARK SITE PLAN AIRPORT COMMERCE PARK HOUSTON, TEXAS		Drawing No. 1007 Date: 09/10/03 Scale: 1" = 100' North	
108	0110	1	1	1	1

Exhibit B

2011-02

Agenda Item:

5A. Ordinance No. 2016-04, amending the Code of Ordinances of the City of Kerrville, Texas, concerning regulations for city park and recreation areas, to include Chapter 58 "Health and Sanitation", Article III "Smoking in Enclosed Public Places and Places of Employment; Use of Electronic Vaping Devices"; and Chapter 74 "Parks and Recreation", Article I "Rules and Regulations for City Park and Recreation Areas"; by amending sections with respect to smoking, operating a vehicle, possessing illegal firearms and other weapons, the possession of animals, and adding regulations regarding the use of drones; containing a cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject. (staff)

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

SUBJECT: Second and final reading of Ordinance No. 2016-04 amending the City Code of Ordinances regarding City Parks and Recreation Regulations

FOR AGENDA OF: March 22, 2016

DATE SUBMITTED: March 22, 2016

SUBMITTED BY: Ashlea Boyle
Assistant Director of Parks and Recreation

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Ordinance No. 2016-04

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO: N/A

REVIEWED BY THE FINANCE DEPARTMENT: N/A

SUMMARY STATEMENT

This is the second and final reading of Ordinance No. 2016-04 amending the regulations for parks and recreation areas. City Council approved the first reading on March 8, 2016. If this ordinance is approved, a public notice will be issued and the ordinance will go into effect 10 days after the publication, pursuant to the city charter. A summary of the proposed amendments are outlined below.

Amending ordinances that control utilization of city parkland is needed on occasion to address changes in technology, equipment, public trends, how parks are being used, and how that use affects park patrons and adjacent property. Staff has worked with the Parks and Recreation Advisory Board over the past few months to identify park regulation amendments that are needed to the current code of ordinances. The Parks and Recreation Advisory Board approved the proposed amendments on September 17, 2015.

These recommended changes are:

1. **Issue:** Add vaping to the current no smoking regulation in parks - City Code of Ordinances **Sec. 58-64 Prohibition of smoking within city parks.** There are many conflicting reports on what the impact of vaping has on the user and its related second-hand smoke; however, in all reports it is clear that vaping can lead to nicotine addiction. Regardless of the eventual findings, vaping creates confusion to

the general public and law enforcement when identifying vaping vs. smoking in public.

Action: Amend the code, which currently states that *no person shall smoke within any city park*. Adding vaping to the inclusions of what defines smoking in this section of the code will address the issue.

2. Issue: Park, park road, and trail barricades and closures, especially during weather emergencies, are often not adhered to by the public, which creates dangerous situations for the public and emergency first responders. State law and City ordinance make it an offense to not obey warning signs and barricades, or drive around barricades, but these regulations only pertain to public streets. The Police Department enforces regulations within the city concerning the operation of vehicles and adherence to warning signs / barricades. Since most park roads, the River Trail, or areas within parks are not public streets, law enforcement cannot issue citations under current regulations. With more people using Guadalupe River frontage, which is prone to high water and flooding, and with extensive construction sites in parks, the ability to control unauthorized access to dangerous, marked areas within parks is critical.

Action: Amend the City Code, **Sec. 74-11. - Vehicles**, by adding failure to adhere to parks and trail warning signs, barricades, and gates is a traffic and vehicle code violation. The Police Department supports this amendment.

3. Issue: The City Code of Ordinances, **Sec. 74-13. – Firearms**, prohibits firearms in parks. This section needs to be amended to reflect current state law. The current code states that it is *unlawful within any city park and recreation area for a person to: 1) possess a firearm with a cartridge or projectile in any portion of the mechanism, which includes “BB” and pellet guns; 2) displays a firearm; 3) discharges a firearm in or across a park*. Current State law allows both permitted concealed and open-carry handguns in most public places, including park and recreation facilities. We need to follow the exact allowances under the state law, but no more.

Action: Amend the code to match the allowances under State law regarding permitted handguns. Retain the regulations that restrict BB and pellet guns, loaded long guns, and discharging a firearm in or across a park.

4. Issue: Current City Code, **Sec. 74-14. - Animals**, which does not allow pets in swimming areas, needs to be amended to legally allow current event practices.

Action: Amend the code by adding “*unless approved by Director in writing*”. This will allow current special events to conform and is consistent with other sections of the code.

5. Issue: Advancement in equipment technology and related use in public requires review by policy makers from time to time. Recent innovations in drone technology, including video capability and size of craft, have expanded sales of these machines. There are no local restrictions on the use of drones within city parks. Because of the rapid growth and potential misuse and dangers of drones nationally, the Federal Aviation Administration has recently required operators of drones to be licensed; however, licensing does not set parameters for their use in municipal parks or property. The general definition of a “drone” is *any unmanned craft that is guided remotely*. Staff recommends that use of drones in city parks and trails needs to be regulated, but not unilaterally banned. In a similar fashion, the City restricts the use of metal detectors in parks through written approval by the Director and staff recommends the same approach for use of drones, to be approved by permit. This will allow for valuable use of drones for project surveying and inspection, scientific research, community marketing, etc., but will restrict unauthorized uses. Park users, park equipment, and adjacent properties and land owners need to be protected from potential misuse of drones on, or originating from, municipal parkland. Model airplanes and the like are also included in this recommendation. This recommendation only includes municipal parks.

RECOMMENDED ACTION

Staff recommends approval of the second and final reading of Ordinance No. 2016-04 as presented.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2016-04**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, CONCERNING REGULATIONS FOR CITY PARK AND RECREATION AREAS, TO INCLUDE CHAPTER 58 “HEALTH AND SANITATION”, ARTICLE III “SMOKING IN ENCLOSED PUBLIC PLACES AND PLACES OF EMPLOYMENT; USE OF ELECTRONIC VAPING DEVICES”; AND CHAPTER 74 “PARKS AND RECREATION”, ARTICLE I “RULES AND REGULATIONS FOR CITY PARK AND RECREATION AREAS”; BY AMENDING SECTIONS WITH RESPECT TO SMOKING, OPERATING A VEHICLE, POSSESSING ILLEGAL FIREARMS AND OTHER WEAPONS, THE POSSESSION OF ANIMALS, AND ADDING REGULATIONS REGARDING THE USE OF DRONES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, City Council, pursuant to Ordinance 2004-24, previously adopted rules and regulations for the City parks and recreation areas, as defined; and

WHEREAS, the City Council now wishes to amend those rules and regulations by revising various sections and adding a new one with respect to conduct within the City parks and recreation areas; and

WHEREAS, the City’s Parks and Recreation Advisory Board has considered all proposed revisions and voted to approve each one specified within this Ordinance; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Chapter 58 and Chapter 74 of the Code of Ordinances of the City of Kerrville, Texas, to revising and adding to sections regarding conduct within City parks and recreation areas;

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

SECTION ONE. Chapter 58 “Health and Sanitation”, Article III “Smoking in Enclosed Public Places and Places of Employment; Use of Electronic Vaping Devices” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 58-64 to add the language that is underlined (added) as follows:

“Sec. 58-64. - Prohibition of smoking within City parks.

No person shall smoke or use an electronic vaping device within any City park and recreation area, as defined within Chapter 74 of this Code.”

SECTION TWO. Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-1 to add the language that is underlined (added) as follows:

“Sec. 74-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City park and recreation area(s) means all of the territory within the boundaries of such areas, and includes the portions of such areas used for the Kerrville River Trail, athletic fields, accompanying facilities, and the parking of vehicles.

Drone means an unmanned aircraft system (UAS) or an unmanned aerial vehicle (UAV) that can fly under the control of a remote pilot or via global positioning system (GPS) guided autopilot mechanism.

.”

SECTION THREE. Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-11 to add the language that is underlined (added) as follows:

“Sec. 74-11. - Vehicles.

(a) It shall be unlawful for any person to operate or place, or cause to be operated or placed, a motorized vehicle, including an automobile, motorcycle, or all-terrain vehicle within any City park and recreation area, including the Kerrville River Trail, except on designated roadways or parking areas. This subsection does not apply to personal mobility devices, such as wheelchairs, motorized or otherwise, and scooters when used in accordance with accessibility laws; where a person has received prior written approval from the director; or where the owner of property adjacent to the River Trail needs to temporarily cross the River Trail to access his property.

(b) It shall be unlawful for a person to operate any vehicle on any street, drive, roadway, or surface within any City park and recreation area at a speed or in a manner which:

(1) Is greater than is reasonable or prudent, having due regard for the traffic and road conditions then existing;

(2) Endangers the safety of persons or property including by failing to adhere to traffic devices, warning signs, barricades, and gates; or

(3) Exceeds the posted speed limit.

(c) No person shall park a vehicle within any City park and recreation area for the principal purpose of:

- (1) Displaying such vehicles for sale; or
- (2) Washing or repairing such vehicles except repairs necessitated by an emergency.

(d) It shall be unlawful for a person to operate a vehicle within any City park and recreation area:

- (1) Between the hours of 11:00 p.m. and dawn, defined as being one-half-hour before sunrise, except for emergency and necessary purposes; or
- (2) In an indiscriminate or unnecessary manner, including ‘cruising.’”

SECTION FOUR. Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-13 to add the language that is underlined (added) and deleting the language that is bracketed and stricken (~~(deleted)~~) as follows:

“Sec. 74-13. – Prohibited drugs, firearms, and weapons ~~(Firearms)~~.”

It shall be unlawful within any City park and recreation area for a person to:

- (1) Possess an illegal drug, firearm, illegal knife, club, and any other prohibited weapon listed in Texas Penal Code Ch. 46. This section does not prohibit a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, from carrying a handgun in such areas, unless entry on the premises with a handgun is prohibited under Texas Penal Code Sec. 46.03 or 46.035 ~~(Possess a firearm with a cartridge or projectile in any portion of the mechanism, which includes "BB" and pellet guns)~~;

~~(2) Display a firearm~~;

- ~~(3)~~ (2) Discharge, in any manner, including across, in or into any area, any ~~(arm,)~~ firearm, firework, BB gun, air gun, bow and arrow, sling shot, blow gun, rocket, paint ball gun or device capable of injuring or killing any person or animal or damaging or destroying public or private property; or

- ~~(4)~~ (3) This section does not apply to lawfully licensed peace officers during the performance of their official duties or where the director has issued a permit or otherwise given written approval.”

SECTION FIVE. Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-14 to add the language that is underlined (added) as follows:

“Sec. 74-14. - Animals.

It shall be unlawful within any City park and recreation area for a person to do any of the following unless the director has issued a permit or otherwise given written approval:

- (1) Bring into or possess a pet or other domesticated animal, unless the animal is properly secured by a leash not exceeding ten feet in length, or confined to a vehicle or camping structure, or to permit said animal to enter into or remain within a city park and recreation area unless so secured;
- (2) Permit any pet or domesticated animal to remain unattended or to create a disturbance or hazard;
- (3) Permit any pet or domesticated animal, except those trained to assist a person with a disability, to enter into or remain in any building or enclosure designated for public use including a cabin, lodge room, restroom, shelter, dining hall, amphitheater or administration building;
- (4) Permit any pet or domesticated animal to enter the water of a designated swimming area or to permit said animal, except those trained to assist a person with a disability, within the land or beach area adjacent to the water of a designated swimming area;
- (5) Bring into, permit to range or release into a park and recreation area a wild animal, pet, fowl or livestock;
- (6) Possess a noisy, vicious or dangerous animal, or one which is disturbing to other persons;
- (7) Ride, drive, lead or keep a saddle horse, except in designated areas;
- (8) Ride a saddle horse in a manner that is dangerous to a person or another animal;
- (9) Allow a saddle horse to stand unattended or insecurely tied; or
- (10) Hitch a saddle horse to a tree, shrub or structure in any manner that may cause damage.”

SECTION SIX. Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Section 74-19 to add the language that is underlined (added) as follows:

“Sec. 74-19. – Drones; Remote-Controlled Devices.

It shall be unlawful within or over any City park and recreation area for a person to launch, land, or operate a drone or a remote-controlled airplane, helicopter, parasail, balloon, or similar devices unless the director has issued a permit or otherwise given written approval. This section does not apply to a drone owned or operated by a local, state, or federal government agency acting in its official capacity.”

SECTION SEVEN. The City Secretary is authorized and directed to submit this amendment to the publisher of the City’s Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

SECTION EIGHT. The provisions of this Ordinance are to be 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 hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION NINE. 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 City Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION TEN. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, Chapter 1 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 ELEVEN. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City’s Charter, the City Secretary is authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

PASSED AND APPROVED ON FIRST READING, this the 8th day of March,
A.D., 2016.

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

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

6A. Termination of the proposed annexation of an approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,458,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road. (Councilmember Fine)

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

SUBJECT: Termination of the proposed annexation of an approximately 194.79 acre tract of land generally located on the south side of State Highway 27 and between Oak Way Street and Split Rock Road; described as 8,458,189 square feet more or less out of William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas, and more particularly described as 337 Split Rock Road

FOR AGENDA OF: Mar. 22, 2016 **DATE SUBMITTED:** Mar. 16, 2016

SUBMITTED BY: Stephen Fine **CLEARANCES:** Todd Parton
City Council, Place 1 City Manager

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Annexation proceedings are underway on approximately 194.79 acres on State Highway 27. These proceedings will add this tract to the City of Kerrville by the end of April 2016. Martin Marietta owns the subject tract and has started a gravel and sand excavation operation, which will continue even after the city's annexation process has been concluded.

There has not been an official meeting between Martin Marietta and the City of Kerrville in which annexation and the property owner's concerns have been discussed. Such a meeting is important to identify key issues and determine whether there are mutually agreeable options to address them besides annexation.

RECOMMENDED ACTION

I recommend that the City Council terminate the current annexation proceedings, appoint two City Council members to meet with Martin Marietta, and report back to the full City Council within the next 60 days. Furthermore, I recommend that the City Council consider initiating another annexation process on this property within the next 90 days in the event that no mutually agreeable options to both Martin Marietta and City Council have been identified.

Agenda Item:

6B. Direction to staff regarding an ordinance to require a delay for the demolition of historically significant structures. (staff)

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

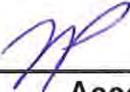
SUBJECT: Direction to city staff regarding an ordinance to require a delay for the demolition of historically significant structures

FOR AGENDA OF: Mar. 22, 2016 **DATE SUBMITTED:** Mar. 17, 2016

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

EXHIBITS: "Protecting Potential Landmarks Through Demolition Review" –
The National Trust for Historic Preservation, 2006
Sample Demolition Delay Ordinance – City of Alamo Heights

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of January 26, 2016, Ms. Deborah Gaudier requested that the City Council consider adopting a demolition delay ordinance for historic structures. City Council directed that this item be placed on an agenda for discussion.

According to the National Trust for Historic Preservation, demolition delay ordinances are intended to prevent the demolition or removal of buildings or structures that have already been designated as historic landmarks or as contributing structures in a historic district for a specific amount of time. During the delay period, local historical commissions/organizations, citizens, and others have the opportunity to explore alternatives to demolition such as finding a purchaser or raising funds for renovation. Demolition delay standards are typically used by communities that do not have the authority to deny demolition permits.

Demolition delay requires a process to review a demolition permit and determine whether the request for demolition should be delayed. Accordingly, a demolition delay ordinance must provide for both a review of a proposed demolition and a delay of a proposed demolition. The National Trust for Historic Preservation has produced a document titled, "Protecting Potential Landmarks Through Demolition Review" that provides a synopsis of the demolition review and demolition delay process. This document is included as an exhibit to this report.

In contemplating a demolition delay ordinance, Kerrville needs to consider three primary factors:

1. What structures should be protected,
2. Are there specific geographic areas or districts that need special consideration, and
3. What local groups or organizations should be involved in the demolition delay process(es)?

Demolition delay ordinances are not prohibitions against demolition or removal. They require that a specific amount of time be established in order to find alternatives to demolition or removal. Exceptions to demolition delays are provided where buildings or structures are deemed to be unsafe by the municipality.

The City of Alamo Heights, Texas, has adopted standards for demolition review and delay. A copy of their code is attached as an exhibit to this report.

RECOMMENDED ACTION

It is recommended that this item be studied further and that city staff coordinate with the Kerr County Historical Commission to identify those existing structures and/or districts in which demolition delay standards should be considered. Should the City Council accept this recommendation, city staff will provide an update to the City Council within the next 60 days.

A National Trust preservation law publication . . .

Protecting Potential Landmarks Through Demolition Review

by Julia H. Miller



NATIONAL TRUST
for HISTORIC PRESERVATION®

1785 Massachusetts Avenue, NW
Washington, D.C. 20036
202.588.6035

The National Trust for Historic Preservation provides leadership, education, and advocacy to save America's diverse historic places and revitalize our communities. Support for the National Trust is provided by membership dues, endowment funds, individuals, corporate and foundation contributions, and grants from federal and state agencies.

The National Trust's Law Department provides educational materials and workshops on legal developments in historic preservation law for the benefit of citizens, organizations, and governmental institutions throughout the United States. Through this work, the Trust helps communities protect their heritage, their homes and businesses, their neighborhoods, and their history.

For further information, contact the Law Department at 202-588-6035 or send an email to law@nthp.org. Also visit our website at www.nthp.org/law.html.

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Cover Photo: Redwood Street Historic District, Baltimore, MD (Historic American Buildings Survey, NPS)

Protecting Potential Landmarks through Demolition Review

By Julia H. Miller*

Last year, the wrecking ball fell twice in downtown Baton Rouge—almost. Two historic buildings, the 1910 S.H. Kress Building, the site of a 1960 civil rights protest at the then all-white, lunch counter of the five and dime, and the adjacent Welsh & Levy Building, built in 1885, were spared only after the owner backed off his plans to demolish the buildings for a surface parking lot in response to public outcry. The fate of a third building, the Old Baton Rouge Ice Plant, proved less fortunate. This 1880s one-story brick building was demolished for a riverfront condominium project. Once used for ice production, the building had been located on the Mississippi River on one of the city's few remaining intact blocks dating from the Nineteenth Century.

Baton Rouge has since taken steps to protect its unprotected resources and other communities can too. Through the adoption of a “demolition review ordinance,” older buildings (generally those over 50 years) cannot be demolished without review by a preservation commission or special committee to determine whether a building is historically significant. If the building qualifies as significant, then a commission may delay the issuance of a demolition permit to explore preservation alternatives, such as designating the building as a historic landmark or finding a purchaser who may be interested in rehabilitating the building.

What is a Demolition Review?

Demolition review is a legal tool that provides communities with the means to ensure that potentially significant buildings and structures are not demolished without notice and some level of review by a preservation commission. This process creates a safety net for historic resources to ensure that buildings and structures worthy of preservation are not inadvertently demolished.

Demolition review does not always prevent the demolition of historically significant buildings or structures. Rather, as the name suggests, it allows for review of applications for demolition permits for a specific period of time to assess a building's historical significance. If the building is deemed significant, then issuance of the permit may be delayed for a specific period of time to pursue landmark designation, or alternatively, to explore preservation solutions such as selling the property to a purchaser interested in rehabilitating the structure or finding alternative sites for the proposed post-demolition project.

What is the Difference between “Demolition Review Laws” and “Demolition Delay” or “Interim Protection” Provisions used in Preservation Ordinances?

Demolition review laws are typically, but not exclusively, separate and distinct from historic preservation ordinances. They preclude the demolition of *any* building or structure over a certain age, or any building or structure identified for protection—regardless of significance—for a specific period of time, to allow for a determination of historical or architectural merit. Historic properties may or may not be designated as a landmark at the culmination of this process, depending upon a law's specific terms, and such laws may or may not include a

*Special Counsel and Legal Education Coordinator, National Trust for Historic Preservation

“demolition delay” or “waiting period” component.

The nomenclature can be confusing. Demolition review laws are sometimes called “demolition delay ordinances” or simply, “demolition ordinances.”

Demolition delay provisions in historic preservation ordinances are used to prevent the demolition of buildings or structures that have already been designated as historic landmarks or as contributing structures in a historic district for a specific amount of time, usually ranging from 6 to 24 months. During that time, the preservation commission, preservation organizations, concerned citizens, and others may explore alternatives to demolition, such as finding a purchaser for the structure or raising money for its rehabilitation.

These provisions are typically used by communities that lack the authority to deny demolition permits. For example, in North Carolina, local jurisdictions generally only have the authority to delay a demolition permit up to 365 days unless the structure at issue has been determined by the State Historic Preservation Officer to have “statewide significance.” *See* N.C. Gen. Stat. § 160A.400.14.

Interim protection provisions are also found in preservation ordinances. They preclude the demolition or alteration of buildings or structures during the period in which the building is under consideration for historic designation. The objective is to preserve the status quo pending designation and to prevent anticipatory demolitions. For further information, see Edith M. Shine, “The Use of Development Moratoria in the Protection of Historic Resources,” 18 PLR 3002 (1999).

Why Do Communities Adopt Demolition Review Procedures?

Demolition review procedures help to prevent the demolition of historically significant buildings. Given the vast numbers of older buildings in cities and towns across the United States, it is virtually impossible for a community to identify all buildings that should be protected under a historic preservation ordinance in advance. By establishing a referral mechanism, communities can be assured that buildings meriting preservation will not fall through the cracks. The delay period provides an opportunity for the municipality or other interested parties to negotiate a preservation solution with the property owner, or to find persons who might be willing to purchase, preserve, rehabilitate, or restore such buildings rather than demolish them.

Demolition review procedures have also been adopted to protect buildings that may not meet the standards for designation but nonetheless embody distinguishing features that help to make a community an attractive place to live or work. For example, demolition review provisions are being used to address the proliferation of “teardowns” in many of our older neighborhoods. By delaying demolition for a period of time, concerned residents may be able to negotiate the preservation of character-defining houses on a case-by-case basis. *See, e.g.* Santa Monica, California, and Highland Park, Illinois.

Which Properties are Subject to Demolition Review Procedures?

Demolition review ordinances typically set forth objective criteria for determining which properties are subject to review. For example, a demolition review ordinance may require some level of review for all buildings built before a specific date or all buildings that have attained a certain age on the date the permit application is filed. Many communities use “50 years” as the critical benchmark. *See, e.g.* Boston, Massachusetts, Boulder, Colorado, and New Castle, Delaware. A few jurisdictions have opted for a shorter time period, largely in recognition of their younger building stock, *see, e.g.* Santa Monica, California (which uses a 40-year benchmark), and Gainesville, Florida (all structures listed in the state’s “master site

file" and/or 45 years of age). Still others utilize a specific date. See, e.g. Alameda, California, and Weston, Massachusetts, which protect all buildings constructed prior to 1945.

Alternatively, the demolition ordinance may only apply to properties identified on a historic survey or listed on a state historic register or the National Register of Historic Places. Chicago, for example, requires review for the roughly 6,200 buildings designated as "red" or "orange" on its 1996 Historic Resources Survey. Montgomery County, Maryland, stays the issuance of a demolition permit for properties included on its Locational Atlas and Index of Historic Sites.

Finally, some communities limit the scope of protection afforded to buildings located within a specific geographic area. Baton Rouge's newly-enacted demolition ordinance, for example, applies only to its downtown buildings. Boston's law governs any buildings located in its downtown area, Harborpark, and neighborhood design overlay districts, in addition to all those that are at least 50-years old.

Keep in mind that the viability of this system may depend upon an applicant's representation or a permit official's ability to verify or accurately determine a building's age. Boston addresses this issue by insisting that all demolition permit applications be referred to the city's landmark commission. Staff to the commission makes the determination as to whether the building is subject to review.

In Wilton, Connecticut, the burden of establishing the age of the building rests on the demolition permit applicant. Applications must include a statement regarding the size and age of the building or structure to be demolished with verification through independent records such as tax assessment records or the city's cultural resource survey. Santa Monica bases its age determination on the date the original permit for the building or structure was issued. Alameda, California's law provides that the age is to be determined by review of city records. Weston, Massachusetts, protects against the potential problem that the date of a building or structure cannot be determined by record by also requiring the review of all properties of "unknown age."

What Actions Generally Trigger Demolition Review?

All demolition review procedures are triggered by the filing of an application for a demolition permit. The scope of demolition work requiring review, however, varies from jurisdiction to jurisdiction. In addition, requests for permits to move or substantially alter buildings may also require review.

In Boulder, demolition review is required for the demolition or removal of any building over fifty years old. Demolition includes the act of either demolishing or removing—

- Fifty percent or more of the roof area as measured in plan view (defined as the view of a building from directly above which reveals the outer perimeter of the building roof areas to be measured across a horizontal plane); or
- Fifty percent or more of the exterior walls of a building as measured contiguously around the "building coverage"; or
- Any exterior wall facing a public street, but not an act or process which removes an exterior wall facing an alley.

[Illustrations omitted.] To meet the exterior wall retention standard,

- The wall shall retain studs or other structural elements, the exterior wall finish, and the fully framed and sheathed roof above that portion of the remaining building to which such wall is attached;

- The wall shall not be covered or otherwise concealed by a wall that is proposed to be placed in front of the retained wall; and
- Each part of the retained exterior walls shall be connected contiguously and without interruption to every other part of the retained exterior walls.

In Davis, California, the city's demolition review procedures apply to "the destruction, removal, or relocation of a structure not classified as an 'incidental structure,' or the permanent or temporary removal of more than twenty-five percent (25%) of the perimeter walls of a structure." Incidental structures are accessory buildings such as sheds, fences, play structures, and so forth.

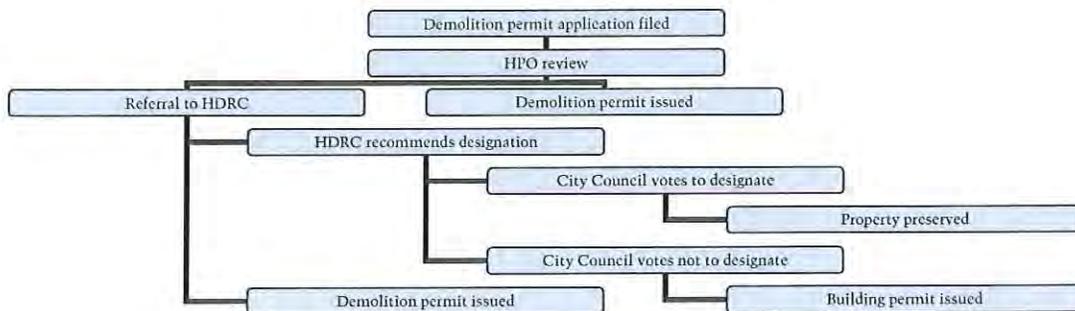
In Newton, Massachusetts, the demolition review requirement applies to any permit, without regard to whether it is called a demolition permit, alteration permit, or building permit, if it involves total and partial demolitions. A "total demolition" is "[t]he pulling down, razing or destruction of the entire portion or a building or structure which is above ground regardless of whether another building or structure is constructed within the footprint of the destroyed building or structure." A "partial demolition" is "[t]he pulling down, destruction or removal of a substantial portion of the building or structure or the removal of architectural elements which define or contribute to the character of the structure."

A few jurisdictions have narrowed the number of applications requiring review by limiting referrals to projects entailing the demolition of at least 500 square feet of gross floor area. *See, e.g.,* Concord, New Hampshire, and Monroe, Connecticut.

How is Demolition Review Accomplished?

Under typical demolition review procedures, the permitting official is directed to refer a demolition permit application to a review body for an initial or preliminary determination of significance. In San Antonio, for example, all demolition permits are referred to the city's Historic Preservation Officer (HPO) to determine within 30 days whether or not a building or structure is historically significant. If the HPO finds the building significant, the HPO is required to forward the application to the Historic and Design Review Commission (HDRC) for review and recommendation as to significance. If the HDRC concurs in the HPO's finding of significance, then the Commission must recommend designation to the City Council. Buildings and structures not deemed significant at any time during these proceedings may be demolished.

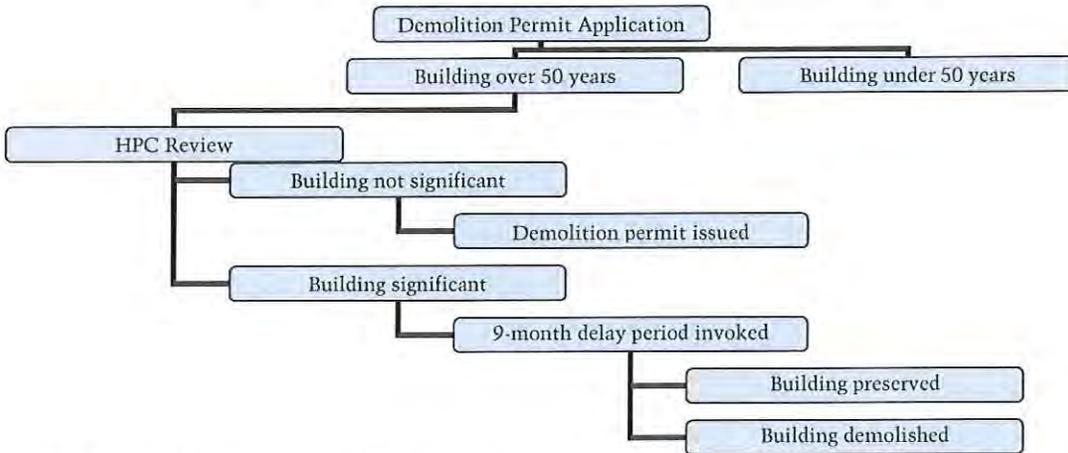
San Antonio Demolition Review Process



Santa Monica and Chicago also delay issuance of a demolition permit to allow for the landmark designation of the building, if warranted. In Santa Monica, the demolition permit may be issued if no application to designate is filed within 60 days. Chicago's demolition ordinance delays issuance of permit up to 90 days "in order to enable the department of planning and development to explore options to preserve the building or structure, including, but not limited to, possible designation of the building or structure as a Chicago Landmark in accordance with Article XVII of Chapter 2-120 of this code."

Some demolition review laws simply provide for a delay in the issuance of a permit to explore preservation-based solutions. New Castle County, Delaware utilizes this approach. The county may delay issuance of a demolition permit for any building "thought to be over 50 years old" for a period up to 10 days, during which time the Historic Review Board must make a determination whether the building is historically significant. If the building is deemed significant, then the board may order further delay up to 9 months from the date the application was initially filed to seek demolition alternatives.

New Castle County Demolition Review Process



In Boston, the Inspectional Services Department must transmit a copy of an application for a permit to demolish a building to the Boston Landmarks Commission within three days. The commission staff, in return, must make a determination within 10 days as to whether the building is (1) subject to review and (2) significant under specific criteria. If the property is determined not to be significant, then no further review is required. If the property is significant, the commission must hold a public hearing to determine whether the building should be subject to demolition delay. A decision on whether to delay the permit must be made within 40 days from the date the demolition permit application was initially filed.

To invoke the delay period, the commission must find that, in considering the public interest, it is preferable that the building be preserved or rehabilitated rather than demolished. Factors for consideration include: (a) the building's historic, architectural, and urban design significance; (b) whether the building is one of the last remaining examples of its kind in the neighborhood, the city, or the region; and (c) the building's condition. If the commission finds that the building is subject to demolition delay, issuance of the demolition permit may be delayed for up to 90 days from the close of the public hearing. A "Determination of No Feasible Alternative" may be issued during the public hearing or prior to the expiration of the 90-day period if the commission finds that there are no feasible alternatives to demolition.

Who Makes the Determination of Significance?

In most cases, the historic preservation commission makes the determination of significance, with initial review by the staff to the commission. *See, e.g.*, Boston, Massachusetts, Davis, California, and San Antonio, Texas. Variations, however, do exist from community to community. In Santa Monica, for example, demolition permit applications are forwarded directly to each of the members of the landmarks commission. In Boulder, initial review is performed by the city manager and two designated members of the landmarks board. If the property is significant, then the matter is referred to the city's landmarks board. In the cities of Keene and Concord, New Hampshire, the demolition review committee, comprised of three members of each city's heritage commission, is responsible for conducting the initial review, making an official determination of significance, and holding a meeting to explore preservation alternatives.

What Evidence Must be Submitted for Review?

Most jurisdictions require the submission of sufficient information to enable the decision maker to make an informed decision on a building's age and significance. In Santa Monica, for example, a completed application form must be submitted to the landmarks commission, along with a site plan, eight copies of a photograph of the building, and photo verification that the property has been posted with a notice of intent to demolish.

Boston requires the submission of photographs of both the subject property and any surrounding properties with a demolition permit application. In addition, the applicant must provide a map identifying the location of the property, a plot plan showing the building footprint and those in the immediate vicinity; plans for site improvements, including elevations if a new structure is planned, and the notarized signatures of all owner's-of-record along with proof of ownership. Additional materials may be required if a public hearing on the issue of whether the property is "preferably preserved" is held. Items such as a structural analysis report, adaptive reuse feasibility studies, the availability of alternative sites for the proposed project, effects of post-demolition plans on the community, and other materials the commission may need to make a feasibility determination may be requested.

Newton, Massachusetts has comparable requirements. In the case of partial demolitions involving alterations or additions, the town also requires the submission of proposed plans and elevation drawings for the affected portion of the building.

What Standards are Used to Determine Historical Significance?

In Gainesville, Florida, the preservation planner is essentially charged with determining whether the structure would qualify as a landmark under the city's historic preservation ordinance. A demolition permit may be issued if the planner finds that the structure "is not designed in an architectural 'high style' or a recognized vernacular building pattern, and it does not have historic events or persons associated with it."

In New Castle County, Delaware, the Historic Review Board makes a determination as to whether the building or structure is historically significant, based on the criteria for listing in the New Castle County Register of Historic and Architectural Heritage.

In Baton Rouge, Louisiana, the city's planning commission is charged with determining whether "[t]he structure is individually listed on the National Register of Historic Places or included in a National Register Historic District, or the structure is classified as National Register Eligible or Major Contributing in the historic building survey of the Central Business District."

In Westfield, Connecticut, individual findings of significance are not made. Rather, to invoke the 90-day, demolition delay period, the structure must be listed in or located within a historic district listed in the National Register of Historic Places, the State Register of Historic Places, the Westfield Historical Commission Register of Historic Places, or a local historic district created under the city's historic preservation ordinance. To be included on the city's historic register, the property must "contain or reflect distinctive and demonstrably important features of architectural, cultural, political, economic or social significance to the City of Westfield."

In Boulder, a preliminary finding on whether there is "probable cause" for designation as an individual landmark is made. If there is "probable cause," then the matter is required to be referred to the landmark commission for a public hearing on the eligibility of the building for designation as a landmark. In addition to determining whether the building meets the objectives and standards for landmark designation under its preservation ordinance, the Boulder commission must also take into account: (1) "[t]he relationship of the building to the character of the neighborhood as an established and definable area;" (2) "the reasonable condition of the building;" and (3) "the reasonable projected cost of restoration or repair." If the building is found to merit designation, then a delay period not to exceed 180 days from the date the demolition permit application was initially filed may be invoked.

Cities and towns enacting demolition review procedures in Massachusetts may not invoke a delay period until the building or structure at issue is found to be both "significant" and "preferably preserved." The term "preferably preserved" essentially means that it is in the public's interest to preserve the building. In some cases, a determination may be made to seek landmark status. Newton's "demolition delay ordinance" is illustrative. Under the city's law, a significant building is "any building or structure which is in whole or in part fifty years or more old" and which:

(1) is in any federal or state historic district, or if in any local historic district, is not open to view from a public street, public park or public body of water; or

(2) is listed on or is within an area listed on the National Register of Historic Places or eligible for such listing, or listed on or is within an area listed on the State Register of Historic Places, or eligible for such listing; or

(3) has been determined by the commission or its designee to be a historically significant building after a finding that it is:

a) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the City of Newton, the Commonwealth of Massachusetts or the United States of America; or

b) historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or

c) located within one hundred fifty (150) feet of the boundary line of any federal or local historic district and contextually similar to the buildings or structures located in the adjacent federal or local historic district.

A building or structure is "preferably preserved" if issuance of the requested demolition permit "would result in the demolition of a historically significant building or structure whose loss would be detrimental to the historical or architectural heritage or resources of the City of Newton."

What Procedures are Used to Evaluate Significance?

The notice and hearing requirements set forth in demolition review ordinances normally address two concerns. One is meeting the constitutional rights of the applicant to due process. The other is ensuring that the community knows about the pending demolition and has a meaningful opportunity to participate in the proceedings. Determinations of significance are generally held upon review by a city's historic preservation commission at a public hearing.

Notice. Individual notice is often required when specific findings are made affecting the applicant's request for a demolition permit. For example, in Boulder, notice must be provided to the applicant upon a finding by an initial review committee that probable cause exists that the building or structure may be eligible for designation as an individual landmark. The applicant is also entitled to notice of the public hearing before the full commission regarding the property's eligibility for landmark status and notice of the commission's final decision to stay the demolition permit for a period of 180-days to explore preservation alternatives.

Public notice requirements under demolition review ordinances can also be extensive. In situations where delay periods may be invoked for the purpose of exploring preservation alternatives, public awareness can be critical. In Monroe, Connecticut, for example, concerted efforts are made to inform the public. The city's ordinance requires publication of notice in newspaper of general circulation and individually-mailed notice to the city's historic district commission, the town historian, the Monroe Historical Society, and all abutting property owners. In addition, the city is required to post for at least 30 days a 36 by 48" sign visible from nearest public street with the words "DEMOLITION" printed on the sign with the letters being at least 3 inches in height. Among other requirements, Gainesville, Florida, requires that the historic preservation planner post a sign on the property "notifying the public of the owner's intent to demolish the structure in order to allow interested parties to come forward and move the structure upon consent of the owner."

Hearings. Public hearings are typically required under demolition delay provisions to determine whether the building or structure posed for demolition is historically significant. See, e.g. Baton Rouge, Louisiana, Boston, Massachusetts, Boulder, Colorado, Westfield, Connecticut, Gainesville, Florida, and Concord, New Hampshire. Some demolition delay laws also use the public hearing format to consider alternatives for demolition delay. The Westfield, Connecticut, ordinance, for example, specifically states that "[t]he purpose of said Hearing shall be to discuss, investigate and evaluate alternatives that will allow for the preservation of such buildings, structures, features/components or portions thereof." It provides, however, that [t]he applicant's intended use/reuse of the property is not a topic of the hearing."

How Long Do Delay Periods Typically Run?

The delay periods invoked under demolition review ordinances run from 30 days to two-years, with most falling within the 90-day to six-month range. In some jurisdictions, the length of the delay period may be prescribed by state law. For example, in Connecticut, § 29-406(b) of the Connecticut General Statutes authorizes any town, city, or borough to impose a waiting period of not more than ninety days. Also note that the effective length of equivalent waiting periods can vary significantly, depending upon the date upon which the delay is measured. Boston, for examples, measures its 90-day delay period from the close of the public hearing. Chicago, in comparison, measures its 90-day delay period from the application filing date.

Communities with longer delay periods sometimes include specific provisions that enable the issuance of a demolition permit prior to the expiration of the waiting period if spe-

cific conditions are met. For example, in Lake Forest, Illinois, the city's 2-year waiting period for all demolition permits may be waived or shortened, upon a finding by the Building Review Board, after holding a public hearing, that—

- a. The structure itself, or in relation to its environs, has no significant historical, architectural, aesthetic or cultural value in its present restored condition; or
- b. Realistic alternatives (including adaptive uses) are not likely because of the nature or cost of work necessary to preserve such structure or realize any appreciable part of such value; or
- c. The structure in its present or restored condition is unsuitable for residential, or a residentially compatible use; or
- d. The demolition is consistent with, or materially furthers, the criteria and purpose of this section and Section 46-27 of the Zoning Code.

In Newton, Massachusetts a demolition permit may be issued before the expiration of the city's 12-month delay period if the Newton Historical Commission is satisfied that the permit applicant:

- has made a "bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or
- has agreed to accept a demolition permit on specified conditions approved by the commission.

See, also, Boston's Demolition Delay Ordinance, which provides for the issuance of a finding of "no feasible alternative to demolition" at the public hearing or any time prior to the expiration of the delay period.

Also note that some jurisdictions insist that the property be secured during the demolition delay period. In Boston, for example, the applicant is required to secure the building during the review period. If the building is lost during this period due to fire or other causes, then the action is treated as an unlawful demolition.

How are Demolition Alternatives Explored?

The historic preservation commission usually sits at the center of the preservation effort. The commission will work with the owner and other interested organizations, public agencies, developers, and individuals who may be instrumental in developing a workable solution. Boston's demolition review ordinance specifically identifies who must be asked to participate in the city's investigation of alternatives. In addition to the owner, the Landmarks Commission must invite the Commissioner of Inspectional Services, the Director of the Boston Redevelopment Authority, and the Chairperson of the Boston Civic Design Commission, and any other individual or entity approved by the applicant. In Boulder, the Landmarks Board may "take any action that it deems necessary and consistent with this chapter to preserve the structure, including, without limitation, consulting with civic groups, public agencies, and interested citizens."

The range of alternatives that may be pursued may be specifically identified in the ordinance or left to the preservation commission's discretion. In addition to considering the possibility of landmark designation, the moving of a building to an alternative location, and the salvaging of building materials, the Boulder Landmarks Board is empowered to "take any action that it deems necessary . . . to preserve the structure." In Wilton, Connecticut, the Wilton Historic District Commission or the Connecticut Historical Commission is charged

with "attempting to find a purchaser who will retain or remove such building or who will present some other reasonable alternative to demolition" during the 90-day delay period.

Alternatives that are often considered include the possibility of rehabilitating the building with the assistance of tax incentives or other financial assistance; adapting the building to a new use; removing the building to another site; finding a new owner who is willing and able to preserve the building; incorporating the building into the owner/applicant's redevelopment plans; and using an alternative site for the owner/applicant's project.

The submission of specific information pertaining to the property is generally required. An applicant, for example, may be required to submit a structural engineer's report and information on the cost of stabilizing, repairing, rehabilitating, or re-using the building, plans for the property upon demolition, and the availability of other sites that would meet the applicant's objectives.

What Exceptions May Apply to the Strict Application of Demolition Review Laws?

Many demolition review laws recognize exceptions upon a showing of economic hardship or where the public safety is at stake. In Gainesville, Florida, for example, the demolition delay period may be waived by the historic preservation board if the applicant can demonstrate "economic hardship." As is generally the case with the consideration of economic hardship claims under historic preservation ordinances, the burden of proof rests on the applicant to show that retention of the property is not economically viable and the applicant must set forth specific relevant information to make his or her case.

Virtually every demolition review law recognizes an exception on public safety grounds. Gainesville also provides that "any structure that has been substantially burned or damaged by an event not within the landowner's control with more than 50 percent of the structure affected" may also be demolished, regardless of the building's significance.

Weston, Massachusetts provides the following exception:

Emergency Demolitions

Notwithstanding the following provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

No provision of this by-law is intended to conflict with or abridge any obligations or rights conferred by G.L.c.143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

Once the Delay Period Expires, What Other Restrictions May Apply?

Some jurisdictions also require the submission of documentation of the property and/or the salvage of significant architectural features prior to the issuance of the demolition permit. Boulder, Colorado, expressly authorizes the city manager to require the submission of documentation about the building prior to the issuance of a demolition permit, such as a de-

scription of significant events, information on its occupants, photographs, plans, and maps. In Keene, New Hampshire, the demolition review committee is required to "photographically document the building" prior to demolition. In addition, the salvage of significant architectural features is encouraged.

How are Demolition Review Ordinances Enforced?

Experience has shown that historic buildings will be demolished, without regard to protections against demolition, if the ramifications for non-compliance are minor or insignificant. Accordingly, communities generally seek to establish penalties that will, in fact, discourage violations from occurring. Commonly used penalties, for example, include the imposition of significant fines for each day of the offense, and the preclusion of a permit to develop or occupy the property for specific period of time.

In New Castle County, Delaware, the county attorney is authorized by ordinance "to take immediate action prosecute those responsible" for the demolition of structures determined to have historic significance prior to the issuance of a demolition permit. In addition, building permits for the parcel affected may be withheld for a period of one to three years. Violators of the demolition ordinance in Monroe, Connecticut, may be subject to a fine amounting to the greater of one thousand dollars or the assessed value of the property for each violation. In Highland Park, Illinois, a person who violates the demolition review ordinance may be assessed a fine equal to "90 percent of the fair market value of the cost of the replacement of such regulated structure."

Newton, Massachusetts, authorizes the imposition of a \$300 fine and two year ban on the issuance of a building permit against anyone who demolishes a historically significant building or structure without first obtaining and fully complying with the provisions of a demolition permit issued in accordance with its demolition review ordinance. However, a waiver on the building permit ban may be obtained in instances where reuse of the property would "substantially benefit the neighborhood and provide compensation for the loss of the historic elements of the property" either through reconstruction of the lost elements or significant enhancement of the remaining elements. As a condition to obtaining the waiver, however, the owner must execute a binding agreement to ensure that the terms agreed to are met.

Do Demolition Delay Ordinances Work?

On December 15, 2003, a Chicago Tribune article written by architectural critics, Blair Kamin and Patrick T. Reardon, made headline news. Kamin and Reardon reported that, in a year's time, only one of 17 buildings slated for demolition had been preserved under the city's much acclaimed "demolition delay ordinance." The critics asserted that the city's much-touted effort to preserve the buildings coded red or orange on Chicago's 1996 Historic Resources Survey through the imposition of a 90-day waiting period on demolition permits, wasn't working. They attributed the loss of the buildings to the city's failure to make preservation a priority and by not providing sufficient legal protections and financial incentives to get the job done.

In the same article, Kamin and Reardon also reported that the Chicago Landmarks Division had made a contrary assessment. Sixteen out of the 17 orange-rated buildings posed for demolition were not recommended for designation because they had failed to meet the criteria for landmark status and the one building that was saved would have been demolished but for the demolition delay ordinance.

It cannot be denied, as Kamin and Reardon noted, that demolition review laws seem to support an "ad hoc" approach to landmark designation. The buildings being designated are

those threatened by demolition rather than those most deserving. Also, the question of what is preserved often depends upon who cares about the matter, rather than the historical or architectural merit of the building at issue.

Keep in mind, however, that the need for such laws really stems from the fact that it is impossible to designate every building worthy of protection in advance, especially in cities like Chicago, where over 17,000 buildings have been listed on the city's historic survey. Historic preservation commissions are often understaffed, and often cities simply lack the resources or political will to protect all of their historic properties in advance.

Indeed, in Massachusetts, where over 100 demolition review laws have been adopted, demolition review laws are considered overwhelmingly successful. According to the Massachusetts Historical Society, demolition delay enabled the preservation of the Coolidge Corner Theater and a Lustron house in Brookline. Negotiations under Eastham's delay provision enabled a historic house to be moved rather than demolished. Demolition review requirements have also helped to stem the tide of teardowns in residential areas in Newton, and resulted in the rehabilitation of the circa-1710 Foster Emerson House in Reading. For more information, see Christopher Skelly, "Preservation through ByLaws and Ordinances" (Massachusetts Historical Commission 2003).

What Else do I Need to Know About Demolition Review Laws?

By now you should be aware that demolition review laws can vary significantly. In developing your own program, it is important to understand not only how such laws work generally, but also to think about how such a law would work in your own community. Basic considerations include the types and number of buildings likely to require review, who should conduct that review, and how the law would relate to your city or town's historic preservation program. Communities should also seek to —

- **Establish an efficient process.** Provide a quick and efficient means for ensuring that permits on non-significant buildings are not held up unnecessarily. The number of demolition permit applications filed in a given year can sometimes be staggering. The San Antonio Historic Preservation Office, for example, reports that it reviews approximately 900 applications per year.
- **Have resources in place which help applicants and/or permitting officials determine the age and significance of their buildings.** In other words, take the guesswork out of the process.
- **Avoid making the safety net too small.** It is important to ensure that potential landmarks are, indeed, subject to the law's protections. In communities with resources from the recent past, for example, it may be necessary to establish a threshold date that is commensurate with those resources. Communities relying on specific dates rather than the age of the building may find the need to amend the ordinance over time. If demolition review is limited to a category of buildings or list of structures, comprehensive survey work must be done prior to the law's enactment to ensure that all buildings meriting protection are included.
- **Keep the community informed.** Effective notice provisions, such as the posting of a large sign, are critical. Members of the public cannot respond to a demolition threat unless they know about it.
- **Don't make the delay period too short.** Without a meaningful delay period, leverage is lacking. It takes time to find a new buyer or a new site, or to even make an assessment as to whether an adaptive reuse project would work.

- **Give the preservation commission the necessary tools to negotiate a solution.** Preservation solutions are more likely to be forthcoming with some level of financial assistance or tax savings. Enable the commission to draw on the expertise of other city officials when necessary and invite critical players to the table. Demolition review provides an invaluable opportunity to improve communication between a preservation commission and its staff, and other governmental officials and the development community.
- **Enable the property to be designated, if designation is warranted.** Negotiated preservation is no substitute for a strong preservation ordinance.
- **Enforce your ordinance.** Ensure that the penalties effectively deter non-compliance and be prepared to enforce your ordinance if violations occur.

Where Can I Find Examples of Demolition Delay Ordinances?

Listed below are examples of demolition delay ordinances that have been adopted around the country.

California

Alameda City Code § 13-21-7.
http://www.ci.alameda.ca.us/code/Chapter_13/21/7.html

Davis Building Ordinance § 8.18.020
http://www.city.davis.ca.us/pb/pdfs/planning/forms/Demolition_Permit_Requirements.pdf

Santa Monica Municipal Code § 9.04.10.16.010 (as amended by Ordinance No. 2131 (July 27, 2004)).
<http://www.codemanage.com/santamonica/>

Colorado

Boulder Revised Code § 10-13-23.
<http://www3.ci.boulder.co.us/cao/brc/10-13.html#Demolition>

Connecticut

Monroe Demolition Delay Ordinance
<http://www.cttrust.org/index.cgi/1049>

Wilton Demolition Ordinance
<http://www.cttrust.org/index.cgi/1049>

Delaware

New Castle County Code § 6.3.020(B).
http://www.municode.com/resources/online_codes.asp

Florida

Gainesville Code of Ordinances § 6-19.
http://www.municode.com/resources/online_codes.asp

Illinois

Chicago, Illinois. Municipal Code of Chicago § 13-320-230(a)-(c) and § 2-76-215.
http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/DemolitionPermits.txt

Highland Park Ordinances, Ch. 17 §§ 170.040.
<http://www.cityhpil.com/govern/ordinances.html>

Lake Forest, Illinois, Building Scale and Environmental Ordinance § 9-87.
<http://www.cityoflakeforest.com/pdf/cd/bsord.pdf>

Louisiana

Baton Rouge and East Baton Rouge Parish Demolition and Relocation Ordinance
http://municode.com/resources/on-line_codes.asp

Massachusetts

Boston Zoning Code, Art. 85, §§ 1-8.
<http://www.cityofboston.gov/bra/pdf/ZoningCode/Article85.pdf>

Cambridge Municipal Code Ch. 2.78, Art. II
<http://bpc.iserver.net/codes/cbridge/index.htm>

Newton Revised Ordinances, Ch. 22, Art. III, § 22-44.
http://www.ci.newton.ma.us/legal/ordinance/chapter_22.htm#art1

Town of Weston Bylaws, Art. XXX.
<http://www.lmstrategies.com/whc/by-law1.htm>

Maryland

Montgomery County Code, Part II § 24A-10
http://www.amlegal.com/montgomery_county_md/

New Hampshire

Concord Code of Ordinances, Art. 26-9 §§16-9-1 through 16-9-5.
http://municode.com/resources/on-line_codes.asp

Keene Code of Ordinances, Art. IV, §§ 18-331 through 18-335.
http://municode.com/resources/on-line_codes.asp

Texas

San Antonio Unified Development Code. Art. 4, § 35-455(b)(2).
http://www.sanantonio.gov/dsd/pdf/udc_article4_04.pdf

Sec. 5-132. - Demolition permit required.

- (a) No demolition of any structure or any portion of a structure shall be permitted except as set forth in this article.
- (b) All demolitions shall require a permit application be submitted to the director's office and permit issued prior to actual demolition.

(Ord. No. 1860, 4-12-10)

Sec. 5-133. - Permit process for demolition.

- (a) Proposed demolitions in which the scope of work does not meet the regulations as defined in section 5-13 definition for demolition, or when the scope of work involves any structure or project specifically exempted in subsection 5-134(c) shall meet the permit regulations as listed in this section, section 5-132 and as well as article IV of this chapter.
- (b) The person or entity submitting an application for a demolition permit for any structure must be the owner of record or the authorized agent of the owner(s) as evidenced by a power of attorney.
- (c) Once the plan review is completed for a proposed demolition permit regulated by this article, the director shall notify the applicant, in writing, of additional requirements for demolition review as described in section 5-134 if applicable.
- (d) A demolition permit shall be valid for a time period of six (6) months from the date of issue by the director, and shall not be transferable. Where no demolition activity has occurred within a six (6) month time period, the demolition permit shall be null and void, unless extended at the discretion of the director upon written request by the property owner or authorized agent.

(Ord. No. 1860, 4-12-10)

Sec. 5-134. - Demolition review procedures.

- (a) The goal of the demolition review process is to allow public review and comment regarding the impact that the proposed demolition, and any replacement structures, may have on the surrounding neighborhood and the city.
- (b) The demolition review process is intended to complete both the determination of significance of existing structures proposed for demolition and the compatibility review of any replacement structures within the same process. However, the significance and compatibility process may be completed in separate processes if requested in writing by the property owner.
- (c) Proposed demolitions in which the scope of work meets the regulations as defined in section 5-13 definition for demolition, or when the scope of work involves any structure or project not specifically exempted below shall meet the permit regulations for demolition review as listed in this article as well as requirements listed in article IV of this chapter.

Exceptions from the demolition review process regarding significance of an existing structure to allow for administrative review:

- (1) Existing structures not supported by a permanent foundation,
- (2) Existing structures which have an exterior grade footprint of two hundred (200) square feet or less,
- (3) Existing one- and two-story detached accessory structures,

- (4) Replacement or alteration of existing exterior finish materials on roofs or walls with new exterior finish materials which match the existing in color and design,
 - (5) Replacement or alteration of roof decking and finish materials only,
 - (6) Exterior alterations that do not substantially alter, modify, cover, or encapsulate existing framing components, and
 - (7) Ordinary repair and maintenance as referenced in section 5-13 definition for demolition.
Exceptions from the demolition review process regarding compatibility of any proposed structures to allow for administrative review:
 - (1) New structures for projects not governed previously under demolition ordinances,
 - (2) Replacement or alteration of existing exterior finish materials on roofs or walls with new exterior finish materials which match the existing in color and design,
 - (3) Replacement or alteration of roof decking and finish materials only,
 - (4) Exterior alterations that do not substantially alter, modify, cover, or encapsulate existing framing components, and
 - (5) Minor repair and routine maintenance as referenced in section 5-13 definition for demolition,
 - (6) One-story replacement accessory structures.
- (d) The following proposed structure(s) or project(s) shall be governed by demolition review regarding compatibility regardless of whether any significance determination was reviewed:
- (1) Two-story detached accessory structures intended to replace previously permitted demolitions of exempt accessory structures.
- (e) Plans for demolition review submitted under this article shall be submitted along with the demolition review application to the director's office for review and must contain all of the information required in the city's application forms to be considered complete.
- (f) If no plans are submitted for a replacement structure at the time of the request for demolition review the director shall forward any future development plans for replacement structures to the architectural review board for review of the replacement structure's compatibility, as defined in this chapter before issuing a building permit.
- (g) When all demolition review application packets have been submitted, along with a non-refundable application fee, the city shall place the proposed project request on the agenda for the next available architectural review board meeting.
- (1) The city shall post on the property, and on the city's website, a public notice announcing the application submittal and all postings shall be for a minimum of fifteen (15) days from the date of the scheduled architectural review board meeting.
 - (2) The director shall send, by United States mail, a notice of the request for a demolition permit to all persons who are the owners of real property lying within two hundred (200) feet of the proposed demolition not less than fifteen (15) days before the date set for the public hearing (s) of the architectural review.
- (h) The architectural review board shall consider the following criteria when determining the significance, as defined in this chapter, of existing structures:
- (1) Was the structure designed by a noted architect?
 - (2) Has the structure been listed as having historic significance by any local, regional, state or

- historic agency or society?
- (3) Does the structure exhibit characteristics of a distinct architectural style?
 - (4) Does the structure belong to a distinctive set of buildings, such as a single structure belonging to a row of similar structures?
 - (5) Is the structure a significant part of the fabric of the community due to its age, unique architecture, historical significance or physical placement?
- (i) The architectural review board shall also consider the following issues:
- (1) The existing condition of the structure, as presented by the applicant and as reviewed by the director; and
 - (2) The potential for reuse or rehabilitation of the structure.
- (j) The architectural review board shall consider the following criteria when determining the compatibility, as defined in this chapter, of replacement structures:
- (1) Architectural design,
 - (2) Scale relative to height, form, and massing,
 - (3) Lot coverage,
 - (4) Setbacks,
 - (5) Materials,
 - (6) Roof pitch, and
 - (7) Landscaping,
- (k) The architectural review board shall take one (1) of the following actions after the close of the public hearing:
- (1) Determine that the structure is not a significant structure and that the replacement structure is compatible with other structures in the adjacent and immediate block area, and recommend approval of demolition, or
 - (2) Determine that the structure is a significant structure, and make a recommendation to the city council for demolition delay to allow collaboration with the property owner to explore alternatives to demolition; or,
 - (3) Determine that the proposed replacement structure is incompatible with other structures in the adjacent and immediate block area, and:
 - a. Continue the public hearing to a subsequent architectural review board meeting if sufficient information has not been presented to allow the architectural review board to make a determination or to allow the applicant to resubmit a revised design to address the compatibility issues identified by the architectural review board, or
 - b. Make a recommendation to the city council for demolition delay to allow the applicant to resubmit a revised design to address the compatibility issues identified by the architectural review board.
- (l) Where the architectural review board recommends approval for either the demolition of an existing structure and/or for the construction of a replacement structure, the director shall place the proposed project on the agenda for the next available city council meeting.
- (m)

If approved by city council the director shall issue a demolition permit upon application by the property owner or authorized agent per section 5-132 and upon payment of the required demolition permit fee. The application and fee must be submitted within six (6) months of the date of the final city council action. If the request is not submitted within this time, approval of the demolition review shall become null and void.

- (n) Any projects that present a potential negative impact to neighboring properties or the community may be forwarded to the architectural review board for compatibility review.
- (o) No demolition of any structure or any portion of a structure shall be permitted where such structure has determined to be a significant structure by the architectural review board and final action given by the city council, except as set forth in this article.

(Ord. No. 1860, 4-12-10)

Sec. 5-135. - Demolition delay.

- (a) Where a demolition delay is determined necessary, the city council may delay the issuance of the demolition permit for a maximum of ninety (90) days from the date of the action designating the existing structure as significant. This delay may be extended by the city council for an additional ninety (90) days at any time prior to expiration of the original delay, but such extension shall occur only once, for a maximum delay not to exceed one hundred eighty (180) days from the date of action designating the structure as significant. If the city and property owner have not reached a mutual agreement on the future of the structure, within said one hundred eighty (180) days, the demolition review shall be approved.
- (b) Where a demolition delay has been determined necessary, the community has the opportunity to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such structure rather than demolish the structure, and to limit the detrimental effect of demolition on the historical architectural resources of the city. Likewise, the owner has the opportunity to resubmit a revised application to the city for review and comment.
- (c) Where a demolition delay has been determined necessary, the city shall post on the property, and on the city's website, a public notice announcing the demolition delay. Such notice shall be posted within three (3) business days of the city council action, and shall remain in place for the entire period of the demolition delay.
- (d) Notwithstanding the designation of a structure as a significant structure, the director may issue a demolition permit at any time after receipt of written advice from the city council to the effect that the city is satisfied that there is no reasonable likelihood that either the owner or some other person is willing to purchase, preserve, rehabilitate or restore such structure, or when additional information warrants a termination of the demolition delay.
- (e) In a case where the property owner or authorized agent desires only to have the architectural review board make a determination of a structure's significance, the property owner or authorized agent shall submit a request for such action along with a non-refundable fee. The city and the property owner or authorized agent shall then follow in similar manner the requirements set out in section 5-134. The city shall establish a date after the end of the public comment period for the architectural review board to hear the request for a determination from the property owner or authorized agent.

(Ord. No. 1860, 4-12-10)

Sec. 5-136. - Demolition review approval.

- (a) Demolition review approval shall be granted for the following conditions:
 - (1) When a demolition delay has been established and the maximum delay period of one hundred eighty (180) days has expired, or
 - (2) The existing structure proposed for demolition is not determined significant, as defined in this chapter, and
 - (3) The replacement structure for any structure previously approved under demolition review is determined to be compatible, as defined in this chapter.
- (b) Once demolition review approval is granted by city council, the director shall have the authority to issue a demolition permit per article IV of this chapter upon request by the property owner or authorized agent.

(Ord. No. 1860, 4-12-10)

Sec. 5-137. - Moving structures.

- (a) Proposals to relocate or move existing structure(s) from any location within the city limits is considered a demolition per this chapter for purposes of permit review and approval.
- (b) Moving of an existing structure to any vacant lot(s) where demolition review was not required for any previously demolished structure(s) shall be required to be submitted for compatibility review per section 5-134.
- (c) If demolition (move) review has been previously approved as provided for in this article, no person shall move any building or structure over, across, or along any street, public way, or public place within the city without first obtaining a permit for the proposed move.
- (d) All scheduled routes, and move times shall be determined during the move permit review.
- (e) No building or structure under any condition shall be allowed to remain in or on the streets, public ways or public places for more than four (4) hours. Any building or structure which occupies or moves along or across any portion of public property after sundown shall have sufficient lights and flares continually burning for the protection of the public.
- (f) No person shall move a building or structure across or along any street, public way or public place within the city unless accompanied or escorted by at least one (1) City of Alamo Heights police officer that has been retained by the person for such service.
- (g) Before a house mover's license is issued, the applicant shall file with the city secretary a surety bond in the amount of ten thousand dollars (\$10,000.00), saving and protecting the city harmless from any and all damages and to pay for any and all damages to public property, that may arise from the use of any of the streets, alleys, boulevards or other public places in the moving of any building or structure. Such bond shall contain a provision for a ten-day written notice to the city of cancellation by the surety.
- (h) Before a moving permit is issued, the applicant shall file with the director a public liability property damage insurance policy certificate naming the applicant as the insured and providing for the payment of any liability imposed by the law upon such applicant to the extent of two hundred fifty thousand dollars (\$250,000.00) for each person for bodily injury, five hundred thousand dollars (\$500,000.00) for bodily injury liability for each accident, and one hundred thousand dollars (\$100,000.00) for property damage liability for each accident.
- (i)

Upon issuance of the permit, the applicant shall request inspection by the city inspector, or cause to be inspected, the equipment and facilities to be used by the moving contractor and shall determine that the size, design and safety factors of any vehicle and other equipment used in the moving of any building or structure, are such that their operation on public property shall not cause damage to the pavement or other public improvements.

- (j) Nothing contained in this article shall require a license or bond for the movement of oversized equipment, or buildings or structures of a temporary nature, when such equipment, building, or structures are within the legal road limit as required by the state statutes; nor shall bond and license be required of one passing through the city enroute between two (2) other incorporated cities, except those cities in the county.
- (k) No person shall move any building or structure over, across, or along any street, public way or public place within the city until a permit for such work has been issued as provided herein.
- (l) A mover shall in each case before moving or preparing to move any building or structure, apply to the director by written application for a permit to do so, in which application the building or structure to be moved shall be described with the extreme dimensions of its width, length and height, present location, the place to which it is proposed to be moved, and the location, on the lot at the destination.
- (m) Before application for permit is made, the mover shall notify the public utilities, railroads, and other persons or municipalities whose facilities are involved in such movement.
- (n) Application for moving permit shall include:
 - (1) Moving permit application sign by both a registered general contractor and the property owner,
 - (2) Written indication from CPS that both electrical and/or gas service connections has been removed from the structure,
 - (3) Written indication from public works - water utilities that the water and sewer connections have been removed from the structure,
 - (4) Specify the day of the week and hour of the day the moving is proposed to take place,
 - (5) The proposed route to be taken,
 - (6) Copy of the demolition approval letter which is issued after city council approval for demolitions/moves per this chapter,
 - (7) All additional information as required by the director.

(Ord. No. 1860, 4-12-10)

Sec. 5-138. - Responsibility of the owner.

- (a) Once a demolition delay has been established, the owner shall be responsible for properly securing the structure, if vacant, to the satisfaction of the director. Should the owner fail to so secure the structure, a subsequent destruction of the structure at any time during the demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this article. Penalties and remedies are identified in section 5-2 and section 5-3.
- (b) If demolition of a structure is authorized by the city council and a permit is issued by the director, the permittee shall, during and after demolition of the structure, ensure all of the following conditions are met and maintained:
 - (1)

The demolition contractor shall have a total of thirty (30) calendar days from the date that work begins to complete the job and request a final inspection, unless an extension has been granted by the director,

- (2) All utilities shall be disconnected and the sewer line shall be effectively plugged with concrete or as may be required by the director, at or near the property line,
 - (3) Public sidewalks shall not be removed; however, all public sidewalks damaged during demolition or in need of replacement and/or abandonment shall be repaired and/or replaced in conformance with all applicable ordinances,
 - (4) All debris, including all concrete structural members below grade, shall be removed from the lot,
 - (5) The lot shall be completely cleaned, filled, and graded to prevent any retention of water and to promote proper drainage,
 - (6) When the lot is cleared, all utilities disconnected and/or capped, all repairs made and approaches removed, the deposit shall be refunded. Costs incurred by the City of Alamo Heights as a result of demolishing the building or performing any work deemed necessary by the director shall be deducted from the clean-up deposit and costs exceeding the amount of the deposit will be billed to the owner.
 - (7) Silt fences shall be provided for all projects approved under demolition review and shall be provided prior to beginning the proposed demolition of the structure. Silt fences shall be maintained in good condition until permanent soil stabilization is established.
 - (8) Permanent and/or temporary soil stabilization methods sufficient to restrain or prevent erosion shall to be provided within twenty-one (21) calendar days after completion of the demolition, grading of the lot, or determined inactivity on the lot.
 - a. If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks, be of a type which can survive without an irrigation systems use. The site may be required to be reseeded or a non-vegetative option employed if soil stabilization has not been established within thirty (30) days from the date of installation.
 - b. Vegetative ground cover. The person conducting the land-disturbing activity shall plant or otherwise provide a permanent vegetative ground cover sufficient to restrain erosion.
 - c. Innovative measures. Erosion and sedimentation measures applied alone or in combination to satisfy the intent of this section are acceptable if they are sufficient to prevent adverse secondary consequences. Innovative techniques and ideas will be considered and may be used following approval by the director if it can be demonstrated that such techniques and ideas are likely to produce successful results.
- (c) The director shall have the authority to waive any of these requirements under special circumstances.

(Ord. No. 1860, 4-12-10)

Sec. 5-139. - Emergency demolitions.

Notwithstanding the previous provisions, the director may issue a demolition permit in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions, but only after consultation with the city manager, building official, and fire chief.

(Ord. No. 1860, 4-12-10)

Agenda Item:

6C. Authorization to make application to the City of Kerrville, Texas Economic Improvement Corporation for a maximum of \$250,000 for additional lighting improvements to Louise Hays Park, Lehmann-Monroe Park, the Sidney Baker bridge, and the downtown pavilion. (Mayor Pratt)

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

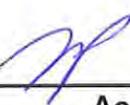
SUBJECT: Application by the City of Kerrville to the Kerrville Economic Improvement Corporation for a maximum of \$250,000 for additional lighting improvements to Louise Hays Park, Lehmann-Monroe Park, the Sidney Baker bridge, and the downtown pavilion

FOR AGENDA OF: Mar. 22, 2016 **DATE SUBMITTED:** Mar. 16, 2016

SUBMITTED BY: Jack Pratt Jr. **CLEARANCES:** Todd Parton
Mayor  City Manager

EXHIBITS: Examples of Bridge Lighting Systems

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

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

SUMMARY STATEMENT

The FY2017 budget adopted by the Kerrville Economic Improvement Corporation and the City of Kerrville includes an allocation of \$250,000 to be used for lighting enhancements for Louise Hays Park. These funds were allocated for additional lighting enhancements to complement the recent downtown park improvements. Additional lighting on the Sydney Baker bridge and the downtown pavilion would enhance the aesthetics along the Guadalupe River. The implementation of these improvements would also be another regional tourism draw for the community.

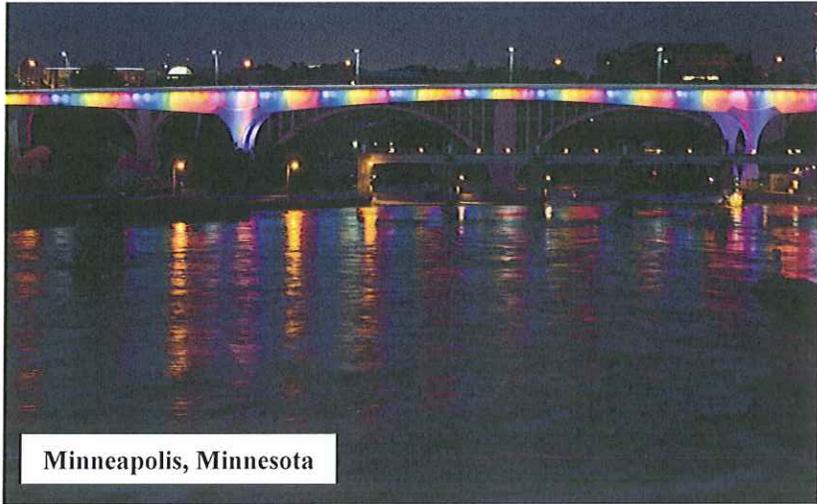
This recommendation includes possible improvements to Louise Hays Park, Lehmann-Monroe Park, the Sydney Baker bridge, and the downtown pavilion since these are all integrated elements of the downtown park system. The primary lighting emphasis should be the Sydney Baker bridge with additional lighting system extensions that emphasize the river.

RECOMMENDED ACTION

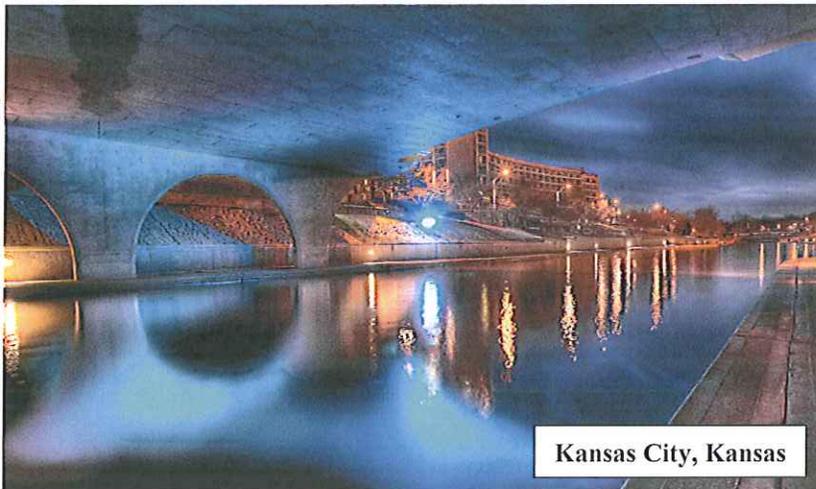
I recommend that the City Council authorize city staff to prepare and submit an application to the Kerrville Economic Improvement Corporation in April 2016, for up to \$250,000 for lighting improvements to Louise Hays Park, Lehmann-Monroe Park, the Sydney Baker bridge, and the downtown pavilion as presented.



Osaka, Japan



Minneapolis, Minnesota



Kansas City, Kansas

Agenda Item:

7A. Budget and economic update. (staff)

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

SUBJECT: Budget/Economic Update

FOR AGENDA OF: March 22, 2016 **DATE SUBMITTED:** March 10, 2016

SUBMITTED BY: Sandra Yarbrough, *SY*
Director of Finance **CLEARANCES:** Todd Parton
City Manager

EXHIBITS: Economic Update

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

The City of Kerrville staff will present and update Council on a monthly basis as to the status of the City's current budget and current economic trends affecting the City.

RECOMMENDED ACTION

No action required information purposes only.

City of Kerrville
Month ending February 29, 2016
 (Month 5 of FY2016)

	Current Month	Year To-Date	Budget @ 41.66%	Prior Year To-Date	change from prior year
General Fund					
Total Revenues	\$ 5,446,124	\$ 14,643,581	59.55%	\$ 14,442,138	1.39%
Property tax	\$ 4,127,567	\$ 8,277,104	93.17%	\$ 8,021,482	3.19%
Sales tax	\$ 695,611	\$ 2,728,735	43.63%	\$ 2,666,514	2.33%
Total Expenditures	\$ 1,698,654	\$ 9,523,708	38.48%	\$ 9,242,028	3.05%

Water and Sewer Fund					
Total Revenues	\$ 857,247	\$ 4,658,316	39.67%	\$ 3,653,953	27.49%
Water Sales	\$ 353,418	\$ 2,149,091	38.45%	\$ 1,963,197	9.47%
Sewer Service	\$ 424,463	\$ 2,156,475	39.84%	\$ 2,140,437	0.75%
Expenditures	\$ 721,645	\$ 4,017,523	34.21%	\$ 4,873,271	-17.56%

Hotel/Motel:					
Revenues	\$ 57,047	\$ 388,583	38.14%	\$ 370,372	4.92%
Expenditures	\$ 225,250	\$ 453,100	44.82%	\$ 454,474	-0.30%

Community Investment Plan	Project Budget	Current Month	P-T-D Expense	Budget Balance
Jefferson Lift Station	\$ 6,389,793	\$ 77,996	\$ 6,038,787	\$ 351,006
Broadway Lift Station	\$ 500,000	\$ 2,870	\$ 365,105	\$ 134,895
WWTP Clarifier/MCC Improvements	\$ 4,229,700	\$ 54,088	\$ 2,366,042	\$ 1,863,658
River Trail	\$ 6,000,000	\$ 67,598	\$ 4,484,147	\$ 1,515,853
Louise Hays & Lehman/Monroe Park	\$ 2,683,915	\$ 3,734	\$ 2,634,315	\$ 49,600
Athletic Complex	\$ 10,500,000	\$ 63	\$ 129	\$ 10,499,871
Reuse Pond/Distribution	\$ 14,100,000	\$ 86,657	\$ 706,811	\$ 13,393,190

New Permits Issued:			Housing (February)		
	Res	Com	<i>Local:</i>		
Oct	11	0	556 active residential listings; 53 residential sales February 2016		
Nov	5	0	\$12,744,235 total residential sales dollars for February 2016		
Dec	6	0	\$23,422,601 total residential sales dollars Y-T-D for 2016		
Jan	8	0	(Source: Kerrville Board of Realtors)		
Feb	9	0			
Mar			Unemployment: (January)		
Apr			National	5.3%	
May			Texas	4.4%	
June			Local	3.7%	
July			Consumer confidence: (February)		
Aug			National	92.2	down 6.7% from 2015
Sept			Texas	106.4	down 12.3% from 2015
YTD	39	0	<i>(Sources: State Comptroller/Workforce Alamo)</i>		

Agenda Item:

8A. Appointments to the 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: March 22, 2016

DATE SUBMITTED: March 18, 2016

SUBMITTED BY: Brenda Craig
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:



SUMMARY STATEMENT

Consider appointments to the following board:

Parks and Recreation Advisory Board: Three terms that expired March 31, 2016.

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>
GARDNER, JAMES 123 Forest Circle	285-2129 (H)	09-23-14	05-12-15	03-31-17
KAYNE, JACKLYN 3564 Fredericksburg Rd	895-7524 (W) 895-7962 (H)	03-11-14		03-31-16
McMAHON, DIANE 1904 Danielle Drive	896-3195 (H) 370-6590 (C)	05-12-15		03-31-17
MITCHELL, BEDFORD 313 Lakewood Drive	896-4321 (H) 377-1114 (C)	05-12-15		03-31-17
MUNSON, JAY 808 Lloyd Drive	257-2212 (W) 792-4394 (H) 370-8344 (C)	03-11-14		03-31-16
MUSE, BILL 2956 Oak Park Dr.	928-7028 (C) 792-7355 (W)	4-09-13	05-12-15	03-31-17
SCOTT-JOHNSON, MEG 438 Timber Ridge Dr.	713-724-4168 (C) 257-0022 (H)	03-27-12	03-11-14	03-31-16
WALLACE, ED 131 Royal Oaks	257-5272 (H) 377-0455 (C)	11-30-11	05-12-15	03-31-17

COUNCIL LIAISON:

Gene Allen
2106 Vista Ridge Dr. 895-5111 (O)
1221 Junction Highway

CITY STAFF:

Kristine Ondrias 258-1106 (O)
Assistant City Manager

Malcolm Matthews 258-1150 (O)
Director of Parks & Recreation

Qualifications: A majority shall be residents of the city of Kerrville, and all shall be residents of Kerr County.

Powers and Duties: Shall constitute an advisory board to the city council and shall periodically assist city staff in procedural matters. The board shall have authority to hold hearings in the city and to consider and make recommendations to the city council in writing on any and all matters pertaining to the city's parks and recreation system.

Term of Office: Two years with a maximum of two terms. No member shall serve more than two terms without having at least one full year off between terms.

Quorum: Five

Members: Eight

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

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

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

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

Revised: May 26, 2015