

CITY OF KIRBY, TEXAS

Timothy Wilson, Mayor



Stephanie Faulkner, Mayor Pro-Tem
Mike Grant
Jerry Lehman

John W. Pierce
Roger A. Romens
Debra Wilson

**CITY COUNCIL MINUTES
PUBLIC HEARING/REGULAR MEETING
THURSDAY, MAY 26, 2016 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

1. Call Meeting to Order:

Mayor Pro-Tem Faulkner called the meeting to order at 7:00 P.M.

2. Invocation and Pledge of Allegiance to the Flag:

Mayor Pro-Tem Faulkner led the invocation and followed with the pledge of allegiance to the flag.

3. Mission Statement:

“The City of Kirby is dedicated to delivering excellent municipal services to our entire community in a fiscally responsible manner.”

4. Roll Call:

PRESENT

Mayor Pro-Tem Faulkner
Council Member Grant
Council Member Pierce
Council Member Lehman
Council Member Wilson
Council Member Romens

ABSENT

Mayor Wilson

5. Citizen Participation:

1. Sid Sanders, Jr., 5202 Binz Engleman – He apologized to the City Manager, Council Member Lehman, and Mayor Wilson for his accusation about changes he thought were made to the animal control facility.

2. Lee Anderson, 5002 Wheatland – He spoke about the variance requests and front yard setbacks. He supported the variance request on 2405 Threadway. He asked Council to consider changing the ordinance to allow the carports.

3. James Craig, 4827 Aspenwood - He said he has issues with the police department. He identified problems that have occurred at his home. He voiced his concern with the survey for the water tower and animal control facility with Bexar County, and city officials not living in the City of Kirby.

4. Mary Wright, 1010 N. Frio – She is concerned with LED lights and made Council aware of the dangers of LED lights.

5. Jackie Jackson, 4823 Blue Spruce – She said the tagline contest deadline is May 31, 2016 and applications are available.

6. Reggie Russell, 2221 Theodore – He said he supports item d. The City needs to continue to protect the lives of our residents. The police should issue a citation if solicitors don't have a permit.

6. Consent Agenda:

a. Regular Meeting Minutes – May 12, 2016

b. Acceptance Of Quarterly Investment Report – January 2016 – March 2016

c. Discussion And Possible Action To Consider Ordinance No. O-2016-787 Repealing Ordinance No. 90-465 And Establishing A Program For Response And Recovery Phases Of Comprehensive Emergency Management; Acknowledging The Office Of Emergency Management Director; Authorizing The Appointment Of An Emergency Management Coordinator; And Providing For The Duties And Responsibilities Of Those Offices; Identifying An Operational Organization; Granting Necessary Powers To Cope With All Phases Of Emergency Management Which Threaten Life And Property In The City Of Kirby, Texas; Authorizing Cooperative And Mutual Aid Agreements For Relief Work Between This And Other Cities Or Counties And For Related Purposes; And Providing For Penalties For Any Violation Of This Ordinance. This Is The Second Reading

Council Member Lehman moved to accept the consent agenda; seconded by Council Member Grant.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

7. Presentation:

a. The Retail Coach - Mr. Aaron Farmer

Mr. Aaron Farmer, Senior Vice-President of Retail Coach, informed Council they offer redevelopment and new development opportunities and how to get additional businesses to serve Kirby residents. He provided insight into the company. They are able to do a license plate and cell phone analysis to determine who is eating or shopping in Kirby or leaving Kirby for dining or shopping. They will reach out to businesses and developers for Kirby. He said the City is losing a lot of money because residents are shopping outside of the City.

Council Member Lehman said many people want an existing building to move into. He asked Mr. Farmer if the City contracted with Retail Coach would they bring in developers.

Mr. Farmer said they would take care of the recruitment for the City and bring in developers.

8. Public Hearing:

a. To Hear A Request For A Specific Use Permit To Allow Outdoor Storage In A (C-1) Commercial Office And Retail District Located At: CB: 5865, Lot 18, Otherwise Known As 5631 Seguin Road, City Of Kirby, Bexar County, Texas.

Mayor Pro-Tem Faulkner opened the Public Hearing at 7:36 P.M.

1. Jody Flinn, 5619 Old Seguin Road – She owns Puppy Power Resort and wanted to know if the applicant will be allowed to store hazardous materials and equipment throughout the entire property. Another concern was she built her fence about seven inches inside her property line and a neighbor informed her that due to squatters rights the applicant can claim the property as his own. What does she need to do to prevent this? The applicant wants to build an office and she wanted to know if there are rules and regulations for where they place the building.

Mayor Pro-Tem Faulkner closed the Public Hearing at 7:41 P.M.

- b. To Hear A Request For A Specific Use Permit To Allow Use Of The Property As A Single Family Residence In A (C-2) Commercial District Located At CB 5941, BLK 2, LOT SE 147.2 FT OF W 50 FT OF 11, Also Known As 519 Edalyn St., Kirby, TX, 78219, City Of Kirby, Bexar County, Texas.

Mayor Pro-Tem Faulkner opened the Public Hearing at 7:42 P.M.

Mayor Pro-Tem Faulkner closed the Public Hearing at 7:43 P.M.

- c. To Hear A Request To Consider A Variance To The Zoning Ordinance For A Carport That Was Constructed Four Feet Within The Twenty-Five Foot Front Setback; Located At CB 5094A BLK 11 LOT 2; Otherwise Known As 2405 Threadway, City Of Kirby, Bexar County, Texas.

Mayor Pro-Tem Faulkner opened the public hearing at 7:44 P.M.

1. Vicki Nemec, applicant, said she hired a contractor and he didn't obtain a permit.
2. Lee Anderson, it's a nice carport and enhances the property.

Mayor Pro-Tem Faulkner closed the public Hearing at 7:49 P.M.

9. Discussion And Possible Action:

- a. Discussion And Possible Action To Consider Ordinance No. O-2016-788, An Ordinance Amending The Zoning Ordinance Of The City Of Kirby, Texas, To Grant Specific use Permit #2016-004 For Outdoor Storage In A (C-1) Commercial Office And Retail District Located At: CB: 5865, LOT 18, Otherwise Known As 5631 Seguin Road, City Of Kirby, Bexar County, Texas. This Is The First Reading.

Mayor Pro-Tem Faulkner asked Mr. Schnall if she owned a piece of property was she allowed to divide it up and sell a portion without informing the City.

Marc Schnall, City Attorney, repeated the question, can someone sell a portion of land and not inform City? He replied that the person can do that; however, he didn't believe the City would issue any building permits until that property has been replatted.

Council Member Romens stated the issue he has with this request is it's a C-2 property in the middle of C-1 zone. If we are looking for long term development we are doing a disservice to this business by placing a two year clause in the ordinance.

Council Member Lehman said his concern is there are residential properties around this property and if the applicant is going to store construction materials it won't take long for rodents to come around.

Council Member Grant moved to table this item; seconded by Council Member Lehman.

Reggie Russell, Chairperson, Planning and Zoning Commission Chairperson, informed Council the applicant came before the Commission. He asked the applicant about the one mailbox and was informed the property had been divided. And applicant was going to only store construction equipment in the back and not disturb anyone. The Commission recommended approval with the understanding it would not be there forever and it was going to meet all the restrictions in the C-2 Zone. The Commission is trying to help and encourage building in Kirby. The permitting for construction will have to go through the City.

Council Member Grant withdrew his motion; Council member Lehman withdrew his second to the motion.

Council Member Grant moved to deny the request; seconded by Council Member Lehman.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

- b. Discussion And Possible Action To Consider Ordinance No. O-2016- 789, An Ordinance Amending the Zoning Ordinance Of The City Of Kirby, Texas, To Grant Specific Use Permit #2016-005 For Use Of The Property As A Single Family Residence In A (C-2) Commercial District Located At CB 5941, BLK 2, LOT SE 147.2 FT OF W 50 FT OF 11, Also Known As 519 Edalyn St., Kirby, TX, 78219, City Of Kirby, Bexar County, Texas. This Is The First Reading.

Council Member Grant moved to accept Ordinance No. O-2016- 789, an Ordinance amending the Zoning Ordinance of the City of Kirby, Texas, to grant Specific Use Permit #2016-005 for use of the property as a Single Family Residence In a (C-2) Commercial District located at CB 5941, BLK 2, LOT SE 147.2 FT OF W 50 FT OF 11, also known as 519 Edalyn St., Kirby, TX, 78219, City of Kirby, Bexar County, Texas; seconded by Council Member Pierce.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

- c. Discussion And Possible Action To Consider A Variance To The Zoning Ordinance For A Carport That Was Constructed Four Feet Within The Twenty-Five Foot

Front Setback; Located At CB 5094A BLK 11 LOT 2; Otherwise Known as 2405 Threadway, City Of Kirby, Bexar County, Texas.

Council Member Grant moved to accept this Variance To The Zoning Ordinance For A Carport That Was Constructed Four Feet Within The Twenty-Five Foot Front Setback; Located At CB 5094A BLK 11 LOT 2; Otherwise Known as 2405 Threadway, City Of Kirby, Bexar County, Texas; seconded by Council Member Wilson.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

- d. Discussion And Possible Action To consider Ordinance No. O-2016-786 Repealing Chapter 112 Of The Code Of Ordinances Of The City Of Kirby And Adopting A New Chapter 112 Of The Code Of Ordinances Of The City Of Kirby To Define And Regulate Solicitors Of Services, Funds Or Property For Charitable Or Non-Profit Purposes, Itinerant Merchants, Itinerant Vendors, Peddlers And Persons Selling Or Taking Orders For Goods, Wares, Merchandise, Services, Photographs, Or Subscriptions And Related Matters And To Provide A Penalty For Violations. This Is the First Reading.

City Manager Vernon recognized Marc Schnall, City Attorney. Mr. Schnall identified each section of the new ordinance and provided a brief synopsis of each section. The purpose of this ordinance is to have solicitors obtain a permit before going door to door in the City.

Council Member Grant moved to accept Ordinance No. O-2016-786 repealing Chapter 112 of the Code of Ordinances of the City of Kirby and adopting a new Chapter 112 of the Code of Ordinances of the City of Kirby to define and regulate solicitors of services, funds or property for charitable or non-profit purposes, itinerant merchants, itinerant vendors, peddlers and persons selling or taking orders for goods, wares, merchandise, services, photographs, or subscriptions and related matters and to provide a penalty for violations; seconded by Council Member Wilson.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

- e. Discussion And Possible Action To Consider Ordinance No. O-2016-784 Amending Sections 113.01 And 113.02 Of Chapter 113 Of The Code Of Ordinances Of The City Of Kirby, Texas To Adopt By Reference New State Rules For Food Establishments. This Is The First Reading.

Mayor Pro-Tem Faulkner recognized Marc Schnall. Mr. Schnall said the purpose of this ordinance is because the State Board of Health promulgates rules for food establishments for the entire state. The current code adopted the 25 Texas Administrative Code Section 229.161 – 229.171 and 25 Texas Administrative Code 229 .173 - .175. The State Board repealed those with new rules that are located in Chapter 228. The new rules are substantially longer than the old rules. The City Manager advised him the Council has two specific questions. If the Council wishes to proceed with change to Chapter 113, that can be brought to Council at a future meeting. He answered the two questions Council had: 1.) Does the City have the right to not require food handler training; 2) If the City has to require food handler training, does it have to be completed annually. 1.) Yes. The Health and Safety Code 438.046, Subsection B.1 states that food service workers must be trained in a training course. 2.) As of right now he has not found anything that requires annual training. Chapter 113 currently on the books, not the section we are talking about amending, but a later section does say the City of Kirby requires annual training for food handlers. He said he couldn't see why Kirby wouldn't want annual training. He recommended accepting the ordinance, because the rules the City have been repealed by the State so the City has new rules now. It would be prudent for Kirby to adopt the newly adopted State rules for food establishments. If Council instructs the City Manager, we can bring to Council a subsequent amendment to Chapter 113 that eliminates the annual training requirement for food handlers.

Mayor Pro-Tem Faulkner said she believes the concern was not the annual food handler training, but the requirement of the food handler permit for festivals and food booths. She said other cities with city events have their department conducting the event obtain a food handler permit and it covers all food vendors who come to set up a booth and participate. Currently, Kirby is asking all food vendors to participate in food handler training.

Mr. Schnall said the City could change the ordinance to require training by food handlers only and could also exempt from the training requirement persons who are only doing food handler work in temporary food establishments. Temporary food establishments are defined in State regulations as a food establishment that operates for no more than 14 consecutive days in conjunction with a single event or celebration. The State requirement does not apply to temporary food establishments.

Council Member Grant moved to accept Ordinance No. O-2016-784 amending Sections 113.01 and 113.02 of Chapter 113 of the Code of Ordinances of the City of Kirby, Texas to adopt by reference new State rules for food establishments; seconded by Council Member Lehman.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

- f. Discussion And Possible Action to Consider Ordinance No. O-2016-790, Repealing Ordinance No. 2 And Adopting A New Corporate Seal For The City Of Kirby. This Is The First Reading.

City Manager Vernon informed Council in our research the original seal in the ordinance book is the only copy on record and it's a small photo copy. The only electronic version we have is the new seal.

Council Member Grant moved to accept Ordinance No. O-2016-790, repealing Ordinance No. 2 and adopting a new corporate seal for the City of Kirby; seconded by Council Member Pierce.

The motion carried with a 6-0 vote.

AYES – 6

NO – 0

g. Discussion And Possible Action Regarding 2016 Municipal Pool Plans

City Manager Vernon introduced Steve Gordon, Summer Recreation Programs Coordinator. Mr. Gordon addressed Council providing a brief history on himself and let them know he was looking forward to working with the City. He presented his plans for the pool and other community activities.

Mayor Pro-Tem Faulkner inquired about certifying lifeguards. Mr. Gordon said he is able to certify lifeguards.

Council Member Wilson asked if there is going to be a grand opening. Mr. Gordon said he is getting the pool ready and will attempt to have a bash on Saturday, otherwise he will plan something next week.

h. Discussion And Possible Action Regarding Bexar Appraisal 9-1-1 Network District Fiscal Year 2017 Budget Approval

There was no action take on this item; it will be corrected and placed on the June 9, 2016 agenda.

10. Department Updates:

- a. Administration
- b. Public Works
- c. Finance
- d. Fire
- e. Police
- f. Animal Care Services

a. Administration – City Manager Vernon – Attended two and a half days water training course taught by Roger Aguillon, Public Works Director. We need a second licensed operator so Chief Bois, Assistant Chief Alfaro and four water staff took the course too. Street sweeping will be operating every Tuesday and Wednesday. Meeting with San Antonio City Manager to discuss the boundary adjustment to see if she will move this forward to their city council for consideration. Tomorrow is Career Day at Paschal Elementary and they are looking for a council member to come out from noon – 2:00 P.M. City offices closed Monday in observance of Memorial Day.

b. Public Works – Roger Aguillon – Provided the schedule for the street sweeper, and replaced some of the equipment at the park. Started spraying for mosquitos, but the rain prevents them from getting into alleys right now and patching potholes.

c. Finance – Tina Ynfante – She is working on the proposed budget calendar for 2016-2017, working on Vigilant Solutions and the reports are almost ready. Priority Payment System will provide credit card system for 4th of July.

d. Fire - Chief Riedel – Provided the number of calls for the month and TML-IRP sent out an adjuster to look at the fire truck that was hit and the repairs will be taken care of. He will attend Career Day. He said he was hopeful the full-time vacancy in his department will be filled soon.

e. Police – Chief Bois – Provided the number of calls for the month. He has members attending Career Day and Officer Thompson will be recognized by Kirby VFW as “Officer of Year.”

f. Animal Care Services – January Dugan – The new employee will start on May 27. She provided information on the number of calls for service and other activities and upcoming events.

11. Requests and Announcements:

a. Requests By Mayor And Council Members For Items To Be Placed On Future City Council Agendas And Announcements On City Events/Community Interests

Council Member Grant – He suggested placing on the web page that any standing water breeds mosquitos.

Council Member Lehman – He brought up that anyone can enter the tagline contest.

Council Member Wilson – She said June 7 is the next Beautification and Recycling Committee meeting. Following what Mr. Grant was saying, if you know someone with a pool

with green stagnant water you can call code compliance and he will contact the property owner. The Parks and Recreation Committee is looking for volunteers for the 4th of July event. Closing day for GNELL is June 2.

Mayor Pro-Tem – She added items to the June 9 Council agenda: temporary food establishments, Bexar Metro 9-1-1. For a future agenda: update on Binz Engleman property, and ask a representative from Bureau Veritas attend our meeting. She has received complaints that inspectors are not inspecting the construction. She asked for a copy of the pool policies for Council to review, on Saturday at 10 AM tennis at Friendship Park, and asked that the “no soliciting” information be placed on the City website.

12. Adjournment:

The meeting adjourned at 9:00 P.M.

Timothy Wilson
Mayor

ATTEST:

Patty Cox, TRMC
City Secretary