

KENNEDALE CITY COUNCIL
AGENDA
REGULAR MEETING
July 11, 2013
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION - 5:30 PM
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. WORK SESSION

***NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.**

A. Discuss potential agreement with the City of Mansfield for dispatch and jail services.

B. Governance/Strategic Report

1. Update on board attendance records.

2. Balanced Scorecard report

3. Governance Policy report

III. REGULAR SESSION

IV. ROLL CALL

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.

IX. REPORTS/ANNOUNCEMENTS

In addition to any specific matters listed below, the city council may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

- A. Updates and information from the Mayor.
- B. Updates and information from the City Manager.
- C. Updates from Councilmembers.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

- A. Consider approval of minutes from June 13, 2012 regular meeting.

XI. REGULAR ITEMS

- A. Consider approval of Resolution 404, establishing a board and commission appointment process.
- B. Discuss and consider approval of an Ordinance establishing the Parks and Recreation Board and repealing all previous establishing ordinances for that board.
- C. Discuss and consider approval of an Ordinance establishing the Library Board and repealing all previous establishing ordinances for that board.
- D. Discuss and consider approval of an Ordinance establishing the Keep Kennedale Beautiful Commission and repealing all previous establishing ordinances for that commission.
- E. Discuss and take action regarding an ordinance amending the Code of Ordinances of the City of Kennedale by adopting Chapter 11, "Taxation," Article XII, "Hotel/Motel Occupancy Tax" levying a tax on the occupancy of hotel rooms.

XII. EXECUTIVE SESSION

- A. The City Council will meet in closed session pursuant to Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

- 1. City Manager's annual performance evaluation.

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

XIV. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact Amethyst Cirno, City Secretary, at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the July 11, 2013, agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.

A handwritten signature in cursive script that reads "Amethyst G. Cirno".

Amethyst G. Cirno, City Secretary

Date: July 11, 2013

Agenda Item No: WORK SESSION - A.

I. Subject:

Discuss potential agreement with the City of Mansfield for dispatch and jail services.

II. Originated by:

III. Summary:

July 3, 2013

To: Bob Hart, City Manager
From: Chief Tommy Williams
Re: Joint Dispatch and Jail Operation

Introduction

As you are aware, we have been holding meetings with Mansfield Police Department officials in regards to joining their system as a user for both public safety dispatch and jail. We have considered several options over the years including a combined facility with Forest Hill and contracting with the City of Arlington's dispatch facility.

The Forest Hill option had several obstacles including start-up costs and (on their part) a lack of political support. The Arlington bid was simply too expensive at \$375,000+ without a jail service contract. At the time we asked for and received a bid from Mansfield for a jail services contract. This was priced at approximately \$65,000 which, when added to the Arlington bid, would have placed our cost at a minimum of \$100,000 over our current expenditures for dispatch and jail.

The bid that we have received from Mansfield is for dispatch and jail as well as maintaining our Public Safety Answering Point (PSAP) service. It appears to be within our current operating cost after the first year's start-up costs are paid. The first year's cost projection includes some onetime costs which I will explain in more detail within the body of this memo.

Discussion

First year cost for the Mansfield service is set at \$299,922.00. There will be other costs associated with this operation that aren't part of the contract. The cost for jail service is set at \$66,150 and is included in the total cost estimate. There has been discussion in the news recently that Fort Worth may be looking at cancelling the Mansfield contract in favor of going back to the county. There shouldn't be any change to our contract even if Fort Worth cancels as we have the estimate in writing already. We have discussed this possibility in previous meetings with them. My understanding is that Mansfield would allow attrition to reduce their cost so that our price stays constant. Chief Fowler stated that Fort Worth's contract would have no bearing on our price.

The start-up costs include buying into a new records management software management system that will allow officers to be dispatched by, and complete reports through, the mobile computers. This is an

upgrade from our current open source CRIMES system as we are limited in the scope of what remote operations the system allows. The price also includes a fiber connection through Charter so that we have high-speed accessibility to the Mansfield system. The fiber connection will be \$11,424.00 per year on a five year contract.

The second year cost will be lower by \$58,364.90. This is due to the first year's elimination of buy-in costs to software and the physical move. After the first year we are responsible for only the yearly maintenance fee of \$8,304.00.

We would still need to pay our Fort Worth access fee each year as Mansfield is using the Fort Worth system to give us full radio coverage. This is a \$12,000.00 per year separate cost. We will be able to save some cost by dropping the maintenance contract with DFW Communications because Mansfield has technicians in place that can do maintenance on our radios for just the cost of parts. We would need to maintain the maintenance fees on our consolette radios as they are the units that will be used to record our radio traffic and MPD can't service those. This is a separate cost of approximately \$800 dollars per year.

Our 911 phones as well as the alternate emergency phones will be moved to MPD dispatch. Much of this cost may be absorbed by the 911 district as they will save money in maintaining one PSAP instead of two. They have grant monies available (up to \$50,000) for assistance in moving the infrastructure. We are meeting with all parties involved and continue to look at what we are actually consolidating versus what the monies are available for. We will have more on that at a later date.

I know that there has been concern expressed about the state of the Mansfield jail. I have spoken to them about this early on in our talks and have received assurances that they continue to pass the required inspections to house federal prisoners. I have visited their facility on a number of occasions and found it to be very clean compared to other jails I have been in. I have been asked by Chief Fowler and his jail manager, Chief Aarons, to relay that council is welcome to inspect the facility at any time. They state that no notice is required to facilitate a walk-through inspection.

There will be some ancillary costs involved for us. We will need to install a direct line phone to the MPD dispatch office for our lobby. The police building, especially property and evidence, will need an alarm system installed for after hours. The exterior doors will need to be hardened to discourage after-hours entry attempts. The camera system and DVR will need updating as well as the lighting around the outside of our building. I am in the process of getting bids for these projects but have no pricing as yet.

The downside that I see to this is that Mansfield has built in a cost adjustment each year for cost-of-living increases for their employees. They have provided these adjustments in their bid. I am not sure how comfortable council will be in signing this type of agreement when we haven't provided increases to our employees in several years. This will definitely escalate the cost over a five to ten year period. The concern here should be that once we have moved all of our equipment and services off-site it will be very expensive to move them back and re-start the operation.

Summary

Just to recap, the first year cost will be \$312,722.00. This includes \$299,922.00 (Mansfield Contract), \$12,000.00 (Fort Worth Access Fee), and \$800.00 (consolette maintenance). This may be a small first year increase in what we currently expend, but for the small increase we will get multiple dedicated police and fire dispatchers and call takers rather than the one person we have on the console now. We also get 24 hour jailers and medical staff to service our prisoners so the fire department will no longer be making multiple runs for prisoners who are bored and want out of jail by feigning illness.

After the first year we will realize a savings of almost \$60,000.00 per year.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

1.	Dispatch and jail service	mansfield joint dispatch memo 06-24-2013.pdf
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July 3, 2013

To: Bob Hart, City Manager
From: Chief Tommy Williams
Re: Joint Dispatch and Jail Operation

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The bid that we have received from Mansfield is for dispatch and jail as well as maintaining our Public Safety Answering Point (PSAP) service. It appears to be within our current operating cost after the first year's start-up costs are paid. The first year's cost projection includes some onetime costs which I will explain in more detail within the body of this memo.

Discussion

First year cost for the Mansfield service is set at \$299,922.00. There will be other costs associated with this operation that aren't part of the contract. The cost for jail service is set at \$66,150 and is included in the total cost estimate. There has been discussion in the news recently that Fort Worth may be looking at cancelling the Mansfield contract in favor of going back to the county. There shouldn't be any change to our contract even if Fort Worth cancels as we have the estimate in writing already. We have discussed this possibility in previous meetings with them. My understanding is that Mansfield would allow attrition to reduce their cost so that our price stays constant. Chief Fowler stated that Fort Worth's contract would have no bearing on our price.

The start-up costs include buying into a new records management software management system that will allow officers to be dispatched by, and complete reports through, the mobile computers. This is an upgrade from our current open source CRIMES system as we are limited in the scope of what remote operations the system allows. The price also includes a fiber connection through Charter so that we have high-speed accessibility to the Mansfield system. The fiber connection will be \$11,424.00 per year on a five year contract.

The second year cost will be lower by \$58,364.90. This is due to the first year's elimination of buy-in costs to software and the physical move. After the first year we are responsible for only the yearly maintenance fee of \$8,304.00.

We would still need to pay our Fort Worth access fee each year as Mansfield is using the Fort Worth system to give us full radio coverage. This is a \$12,000.00 per year separate cost. We will be able to save some cost by dropping the maintenance contract with DFW Communications because Mansfield has technicians in place that can do maintenance on our radios for just the cost of parts. We would need to maintain the maintenance fees on our consolette radios as they are the units that will be used to record our radio traffic and MPD can't service those. This is a separate cost of approximately \$800 dollars per year.

Our 911 phones as well as the alternate emergency phones will be moved to MPD dispatch. Much of this cost may be absorbed by the 911 district as they will save money in maintaining one PSAP instead of two. They have grant monies available (up to \$50,000) for assistance in moving the infrastructure. We are meeting with all parties involved and continue to look at what we are actually consolidating versus what the monies are available for. We will have more on that at a later date.

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There will be some ancillary costs involved for us. We will need to install a direct line phone to the MPD dispatch office for our lobby. The police building, especially property and evidence, will need an alarm system installed for after hours. The exterior doors will need to be hardened to discourage after-hours entry attempts. The camera system and DVR will need updating as well as the lighting around the outside of our building. I am in the process of getting bids for these projects but have no pricing as yet.

The downside that I see to this is that Mansfield has built in a cost adjustment each year for cost-of-living increases for their employees. They have provided these adjustments in their bid. I am not sure how comfortable council will be in signing this type of agreement when we haven't provided increases to our employees in several years. This will definitely escalate the cost over a five to ten year period. The concern here should be that once we have moved all of our equipment and services off-site it will be very expensive to move them back and re-start the operation.

Summary

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After the first year we will realize a savings of almost \$60,000.00 per year.

Date: July 11, 2013

Agenda Item No: WORK SESSION - B.

I. Subject:

Governance/Strategic Report

II. Originated by:

Bob Hart, City Manager

III. Summary:

The attachments for this item 1-3 will be emailed to you on next Wednesday July 10th.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: Governance/Strategic Report - 1.

I. Subject:

Update on board attendance records.

II. Originated by:

III. Summary:

Attachment will be emailed to you on Wednesday July 10th.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: Governance/Strategic Report - 2.

I. Subject:

Balanced Scorecard report

II. Originated by:

III. Summary:

Attachment will be emailed to you on Wednesday July 10th.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: Governance/Strategic Report - 3.

I. Subject:

Governance Policy report

II. Originated by:

III. Summary:

Attachment will be emailed to you on Wednesday July 10th.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Updates and information from the Mayor.

II. Originated by:

City Council, City Council

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: REPORTS/ANNOUNCEMENTS - B.

I. Subject:

Updates and information from the City Manager.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Update from the City Manager, if any.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: REPORTS/ANNOUNCEMENTS - C.

I. Subject:

Updates from Councilmembers.

II. Originated by:

City Council, City Council

III. Summary:

Updates from Councilmembers, if any.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: CONSENT ITEMS - A.

I. Subject:

Consider approval of minutes from June 13, 2012 regular meeting.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

Attached is a copy of Council minutes dated June 13, 2013 for your approval.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	minutes	06.13.2013 - CC Minutes.doc
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**KENNEDALE CITY COUNCIL
MINUTES
REGULAR MEETING
June 13, 2013
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

I. CALL TO ORDER

II. WORK SESSION

Item II-B was discussed first.

Ashley Luu, Nadyeh Patel, and Elias Noorzad introduced themselves to the Council and explained their interest in serving on the Youth Advisory Council.

A. Review and discuss the current process for Advisory Board appointments

The Council discussed board reorganization and the establishment of an appointment process. Discussion items included the elimination of the Arts and Culture Board, moving all appointments to October, converting alternate positions to regular on the Parks and Recreation Board and the Keep Kennedale Beautiful Commission, and adding a community events component to the duties of the Parks and Recreation Board. Also discussed were potential applicant orientation meetings and individual applicant interMore information on these items will be brought to the Council in July.

B. Review applications for the 2013-2014 Youth Advisory Council.

Item II-B was discussed first (see above).

C. Discuss schedule for FY 2013/14 budget preparations

Bob Hart proposed the following meeting schedule:

08/08/13 Regular Session: Submit Certified Appraisal Roll & Tax Calculations

08/09/13 Special Session: All Day Budget Workshop

09/12/13 Regular Session: Conduct Public Hearing On Budget

09/19/13 Special Session: Adopt Budget, Adopt Tax Rate

09/26/13 Special Session: Adopt Budget, Adopt Tax Rate

City Council agreed with this schedule.

Council recessed into executive session at 6:35pm to cover the items listed in section XII-A.

III. REGULAR SESSION

Council reconvened into open session at 7:13pm.

IV. ROLL CALL

Present: Mayor John Clark, Kelly Turner, Charles Overstreet, Liz Carrington, Frank Fernandez, Brian Johnson.

Absent: none

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

VIII. VISITOR/CITIZENS FORUM

1. Jeremiah Whunneberger, Executive Director of the Chamber of Commerce announced upcoming networking luncheons, State of the City, State of the State, and State of the Union speeches. He provided an update on Chamber membership and upcoming initiatives.
2. Krystin Sanders, recent winner of an award from Keep Texas Beautiful, talked about the recycling bowl. She asked council & city employees to participate in this fun, competitive recycling event.
3. Ernest Harvey, Chair of the Planning and Zoning Commission approached the Council to comment on an item on the work session. He asked that the Council consider continuing the Arts and Culture Board.

IX. REPORTS/ANNOUNCEMENTS

No reports or announcements were made.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

- A. Consider approval of minutes from May 9, 2013 regular meeting.
- B. Consider authorizing City Manager to execute a contract with Tarrant County Tax Office for the assessment and collection of ad valorem taxes levied by the City of Kennedale for the 2013 tax year.
- C. Consider authorizing city manager to execute an interlocal agreement with Tarrant County for the construction of Link Street and a portion of High Ridge Street.
- D. Consider authorizing the Mayor to execute an Agreement to Participate in Tax Increment Reinvestment Zone Number One, City of Kennedale, Texas (New Hope Road) between the City of Kennedale and Tarrant County College District.
- E. Consider authorizing expenditure of Police Seizure Funds

Motion To approve the consent agenda as presented. **Action** Approve, **Moved By** Liz Carrington,
Seconded By Charles Overstreet
Motion Passed Unanimously

XI. REGULAR ITEMS

A. **CASE # PZ 13-02** to receive comments and consider action on a request by the Kennedale Economic Development Corporation to amend regulations governing signs in the Kennedale TownCenter Planned Development District adopted under Ordinance No. 434, for property located at 201 W Kennedale Pkwy, more particularly described as Block A, Kennedale Town Center Planned Development District.

Rachel Roberts gave the Council a brief background on the basic sign ordinance as it stands, and noted that due to the destruction of the past TownCenter sign in a weather event, a new sign was needed. Due to traffic speed on Kennedale Parkway and that fact that this area houses businesses without frontage on the Parkway, a change to the sign regulation may be needed to encourage the exposure of these businesses.

Councilmembers Johnson and Overstreet asked questions related to the reasoning behind those who voted no on the Planning and Zoning Commission.

Mayor Clark opened the public hearing.

Two individuals signed up to speak:

1. Ray Cowan, of 101 Village Street approached the Council and encouraged the Council to pass the Ordinance, citing the need of the businesses.
2. John Cunningham, owner of the Allstate Insurance business in TownCenter approached the Council, noting that many of his customers have spoken about the lack of signage. He also noted that due to our landscaping initiatives, shorter pedestal signs would not be readable.
3. David Johnson, owner of Cypress Properties and manager of Kennedale TownCenter, approached the Council and went over the TownCenter master plan. He explained that the lack of signage has been a deterrent to new clients.

No other individuals signed up to speak and the public hearing was closed.

Motion To approve Case #PZ 13-02 and Ordinance 521. **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Brian Johnson
Ayes: Liz Carrington, Brian Johnson, Charles Overstreet, Kelly Turner
Nays: Frank Fernandez
The motion passed 4-1.

B. Consider a recommendation from the Parks and Recreation Advisory Board regarding an increase in pavilion rental rates.

Larry Hoover approached the Council, noting that the Parks and Recreation Board revisited the reservation rate topic based on City Council's request at the last meeting. Council did not have any further questions.

Motion To approve the consent agenda as presented. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Charles Overstreet
Motion Passed Unanimously

C. Consider appointing Elias Noorzad, Nadyeh Patel, Ashley Luu, Hailey Green, Morgan Biscoe, and Emily Beck as members of the 2013-2014 Youth Advisory Council.

Motion To approve the appointment of Elias Noorzad, Nadyeh Patel, Ashley Luu, Hailey Green, Morgan Biscoe, and Emily Beck as members of the 2013-2014 Youth Advisory Council.. **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet.
Motion Passed Unanimously

D. Consider approval of special council meeting dates for FY2013/2014 budget and tax hearings.

Mayor Clark noted that this item was discussed during the work session and repeated the dates from item II-C.

Motion To approve special council meeting dates for FY2013/2014 budget and tax hearings. **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Liz Carrington.
Motion Passed Unanimously

Council recessed into executive session earlier in the meeting, no additional executive session time was necessary.

XII. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion of any item posted on the agenda and legal issues regarding proposed development agreement and nondisclosure agreement.

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

XIV. ADJOURNMENT

Motion To adjourn. **Action** Adjourn, **Moved By** Brian Johnson, **Seconded By** Liz Carrington.
Motion Passed Unanimously

The meeting was adjourned at 8:12PM.

APPROVED:

Mayor John Clark

ATTEST:

City Secretary Amethyst G. Cirno

Date: July 11, 2013

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

Consider approval of Resolution 404, establishing a board and commission appointment process.

II. Originated by:

Bob Hart, City Manager

III. Summary:

In response to the conversation held during the work session at the June regular meeting, staff has developed a formalized appointment process for council-appointed boards and commissions. This includes publication of vacancies, application submission for those interested in reappointment, individual interviews with the City Council as a whole, and annual appointments for all boards in October.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	R404	R404 - Board Appointment Process.docx
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RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
KENNEDEALE, TEXAS ESTABLISHING AN APPOINTMENT
PROCESS FOR BOARDS AND COMMISSIONS APPOINTED
BY CITY COUNCIL.**

WHEREAS, it is the desire of the Mayor and City Council to encourage participation by citizens, elected officials and appointed officials in the selection process for all appointments to the City's Boards, Commissions, and Committees; and

WHEREAS, the City Council wishes to recruit and appoint highly qualified individuals to serve on behalf of the residents of Kennedale in various capacities; and

WHEREAS, the City Council believes that the establishment of an official annual appointment process will increase awareness and public interest in serving on city boards.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
KENNEDEALE, TEXAS:**

SECTION 1.

The following appointment process shall be used for appointments to existing Boards, Commissions and Committees established and appointed by the City Council and to those Boards, Commissions and Committees subsequently established and appointed by the City Council.

Any existing or subsequently established boards, commissions, or committees whose members are not appointed by City Council shall be filled through a separate application process.

SECTION 2.

Current board and commission members whose terms expire that year must provide notification to the City Secretary's office by July 31st indicating either their interest in reapplying for their current seat or their intent to vacate that seat.

SECTION 3.

For annual appointments, the City Secretary shall advertise vacancies and term expirations for at least sixty (60) days in any of the following ways: on the City's website, in the City newsletter, and with announcements at city council and board meetings.

SECTION 4.

Applications will be made available both online and in paper format for a minimum of thirty (30) days prior to the regular City Council meeting in October. Applications must be fully completed and submitted to the City Secretary's Office on or before the advertised due date. Incomplete

applications will not be considered. Applicants must agree to abide by the city's Code of Ethics and to the guidelines established by the City of Kennedale Board and Commission Handbook. Applicants will be able to indicate specific boards of interest; however, final placement is left to the discretion of City Council.

Reappointments are not automatic and are subject to the discretion of City Council. Present members who wish to continue to serve in their current seat must abide by the process described herein, including the application and interview process.

SECTION 5.

Upon closure of the application period, all applications and any supporting documents shall be sent to City Council. Interviews of all applicants will be conducted by City Council as a whole prior to the official appointment date in October. Applicants will be expected to attend an interview and be familiar with city initiatives and plans. All applicants will be notified of the status of their application prior to the official appointment date.

SECTION 6.

Official appointments will be made at the regular City Council meeting in October.

SECTION 7.

All applications and supporting documentation shall be kept on file in the City Secretary's office for one (1) year. Should a vacancy occur, the applications on file and any new applications received shall be sent to the City Council for review and consideration for appointment by the City Council.

SECTION 8.

This resolution shall be effective upon its approval by the City Council.

APPROVED this 11th day of July, 2013.

APPROVED:

Mayor John Clark

ATTEST:

Amethyst G. Cirno, City Secretary

Date: July 11, 2013

Agenda Item No: REGULAR ITEMS - B.

I. Subject:

Discuss and consider approval of an Ordinance establishing the Parks and Recreation Board and repealing all previous establishing ordinances for that board.

II. Originated by:

Bob Hart, City Manager

III. Summary:

This ordinance converts two alternate seats to regular seats for 9 total regular seats, expands the mission and functions of the board, and establishes annual appointments to be made in October.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	PRB Ordinance	Parks and Recreation Board.pdf
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ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE II, "PARKS AND RECREATION BOARD", OF THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE, TEXAS, AS AMENDED, BY ESTABLISHING NEW SECTIONS PROVIDING FOR CREATION AND PURPOSE, MEMBERSHIP, ORGANIZATION, RULES AND REQUIREMENTS, AND POWERS AND DUTIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article X1, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council previously adopted an ordinance providing for the creation and appointment of the Parks and Recreation Board; and

WHEREAS, the City Council now desires to amend said ordinance to revise the provisions regarding membership on the board.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

SECTION 1.

Chapter 16, Article II of the Kennedale City Code is hereby amended in its entirety to read as follows:

"ARTICLE II. PARKS AND RECREATION BOARD

Sec. 16-10. Creation and Purpose.

There is hereby created and established a parks, and recreation board. Such board shall be officially designated as the Parks and Recreation Board of the City of Kennedale, Texas. The board shall provide recommendations and advice to the city council on policies, projects, and other matters pertaining to parks, recreation, public space, and community events in the City of Kennedale

Sec. 16-11. Membership.

(a) Appointed by majority vote of the City Council, this board shall consist of nine (9) regular members designated by Places 1 through 9. Appointments shall take place in October of each year, with Places 1, 3, 5, 7, and 9 appointed in odd numbered years and Places 2, 4, 6, and 8 appointed in even numbered years. The term for each place shall be two (2) years. Members must meet the following qualifications:

- (1) Be a registered voter of the city;
 - (2) Shall have resided in the corporate limits of the city for at least one (1) year; and
 - (3) Continue residency in the city during the term of office.
- (b) The City Council shall appoint a replacement to fill any vacancy for the unexpired term of the members whose place has become vacant.
- (c) The City Council shall have the authority to remove any member at any time, with or without cause.

Sec. 16-12. Organization, Rules, and Requirements.

- (a) By November of each year, the membership shall determine, by simple majority vote, a chair and a vice chair. The terms of the chair and vice chair shall be one (1) year. It will be the duty of the Chair to preside over meetings and to assist in setting meeting agendas. If the chair is absent the vice chair shall assume the duties of that office.
- (b) Members of the board shall meet at least ten (10) times per year, on a regular day and time selected by its members. The chair may call special meetings as necessary.
- (c) The board shall conduct meetings and govern its proceedings according to the City Council's adopted rules of order, abide by the Texas Open Meetings Law, and shall keep a record of its proceedings, including votes and attendance, and shall submit these records to the City Secretary's Office.
- (d) Members of the board shall not take any action unless a quorum is present. A quorum shall consist of five (5) members. Each member, including the Chair, is entitled to one (1) vote, and action of the board shall require a majority of those members present.
- (e) The City Manager shall designate a city employee to serve as staff liaison to the board.
- (f) Members of the board shall receive five dollars (\$5.00) for each regular meeting attended as compensation for the performance of their duties, but no compensation shall be paid for special meetings. In addition, members may receive reimbursement of authorized expenses attendant to the performance of their duties.

Sec. 16-13. Powers and Duties.

- (a) This board is advisory only and shall not have any decision-making authority.
- (b) The board shall have the following duties:
- (1) To make studies and project plans for the improvement and acquisition of public parks and open spaces with a view of park development and extension, and to recommend all matters for the development and advancement of the city parks and open space facilities, layout and appearance, and to perform the duties of

advance planning for future acquisition and development of potential park and open space lands;

- (2) To aid and assist the city in the procuring of financial and other aids and assistance for the city from the state and federal governments and their agencies for each and all of the purposes herein enumerated;
- (3) To act with and assist all other municipal boards, governmental agencies, regional associations and especially the city council in formulating proper plans for municipal park and open space development;
- (4) To plan and recommend the location, plan, and extent of city parks, playgrounds, and other public grounds and public improvements, for the location and planning of public buildings, schools and other properties, and of recreational facilities, including those public and privately owned improvements for water, lights, sanitation, sewer disposal, and drainage;
- (5) To recommend general rules and regulations governing use of parks, open spaces, community, recreational facilities and buildings;
- (6) To recommend plans for improving, developing, expanding and beautifying the parks and public buildings in or adjacent to the city and to cooperate with the city council and other agencies of the city in advising, establishing, locating, improving, selecting, expanding and maintaining the public parks, playgrounds and lakes for public recreation;
- (7) To recommend programs and community events to the city council, to originate, plan and coordinate recreation programs and community events for all segments of the population, throughout all seasons of the year. Efforts by the board should be made to assure that all recommendations will utilize existing facilities and organizations to provide recreational, leisure, and community event activities to the citizens. The board should concern itself with the possibilities of gaining cooperative use of noncity-owned facilities and implementing proven programs to attract participants for recreational activities.
- (8) To accomplish these duties, the board may establish subcommittees as necessary. Any subcommittee shall be chaired by a Parks and Recreation Board member, and an unspecified number of community volunteers may be chosen by the commission as working subcommittee members.”

Secs. 16-14 - 16-19. Reserved.”

SECTION 2.

The two alternates serving on the board at the time of this Ordinance’s approval shall serve as regular members until October 2013 or until his or her successor is appointed by the City Council.

SECTION. 3

This Ordinance shall be cumulative of all other ordinances of the City of Kennedale, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

This ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED AND APPROVED on this 11th day of July, 2013.

Mayor, John Clark

Attest:

Amethyst G. Cirimo, City Secretary

Effective Date: _____

Approved As To Form And Legality:

Wayne Olson, City Attorney

Date: July 11, 2013

Agenda Item No: REGULAR ITEMS - C.

I. Subject:

Discuss and consider approval of an Ordinance establishing the Library Board and repealing all previous establishing ordinances for that board.

II. Originated by:

Bob Hart, City Manager

III. Summary:

This ordinance eliminates 2 alternate seats for a total of 5 regular members, and established that the board is advisory to staff. The functions of the board will remain the same. Appointments will be made annually by staff in October.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Library Board	Library Advisory Board.pdf
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ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE V, "LIBRARY ADVISORY BOARD", OF THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE, TEXAS, AS AMENDED, BY ESTABLISHING NEW SECTIONS PROVIDING FOR A NEW BOARD NAME, CREATION AND PURPOSE, MEMBERSHIP, ORGANIZATION, RULES AND REQUIREMENTS, AND POWERS AND DUTIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council previously adopted an ordinance providing for the creation and appointment of the Library Advisory Board; and

WHEREAS, the City Council now desires to amend said ordinance to revise the regarding membership on the board.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

SECTION 1.

Chapter 16, Article V of the Kennedale City Code is hereby amended in its entirety to read as follows:

"ARTICLE V. LIBRARY BOARD

Sec. 16-60. Creation and Purpose.

There is hereby created and established a Library Board. Such board shall be officially designated as the Library Board of the City of Kennedale, Texas. The board shall provide guidance and support to all facets of library operation, provide short and long-term planning, and serve as a liaison between the library and the public.

Sec. 16-61. Membership.

(a) Appointed by the City Council, this board shall consist of five (5) regular members designated by Places 1 through 5. Appointments shall take place in October of each year, with Places 1, 3, and 5 appointed in odd numbered years and Places 2 and 4 appointed in even numbered years. The term for each place shall be two (2) years. Members must meet the following qualifications:

- (1) Be a registered voter of the city;

- (2) Shall have resided in the corporate limits of the city for at least one (1) year; and
 - (3) Continue residency in the city during the term of office.
- (b) The City Council shall appoint a replacement to fill any vacancy for the unexpired term of the members whose place has become vacant.
- (c) The City Council shall have the authority to remove any member at any time, with or without cause.

Sec. 16-62. Organization, Rules, and Requirements.

- (a) By November of each year, the membership shall determine, by simple majority vote, a chair and a vice chair. The terms of the chair and vice chair shall be one (1) year. It will be the duty of the Chair to preside over meetings and to assist in setting meeting agendas. If the chair is absent the vice chair shall assume the duties of that office.
- (b) Members of the board shall meet at least four (4) times per year, on a regular day and time selected by its members. The chair may call special meetings as necessary.
- (c) The board shall adopt its own rules and procedures and shall keep a record of its attendance.
- (d) Members of the board shall not take any action unless a quorum is present. A quorum shall consist of three (3) members. Each member, including the Chair, is entitled to one (1) vote, and action of the board shall require a majority of those members present.
- (e) The Library Director shall serve as staff liaison to the board.
- (f) Members of the board shall receive five dollars (\$5.00) for each regular meeting attended as compensation for the performance of their duties, but no compensation shall be paid for special meetings. In addition, members may receive reimbursement of authorized expenses attendant to the performance of their duties.

Sec. 16-63. Powers and Duties.

- (a) This board is advisory only and shall not have any decision-making authority.
- (b) The board shall have the following duties:
- (1) Encourage the development of public libraries within the City of Kennedale;
 - (2) Organize and coordinate fund-raising drives, reading or literacy programs, and other events for the benefit of the library and the community;
 - (3) Recommend to the city council policies and programs for the advancement of public libraries within the City of Kennedale;

- (4) Cooperate with all other public and private groups in advancing the best interest of the public libraries in the City of Kennedale.

Secs. 16-64 - 16-69. Reserved.”

SECTION 2.

This Ordinance shall be cumulative of all other ordinances of the City of Kennedale, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

This ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED AND APPROVED on this 11th day of July, 2013.

Mayor, John Clark

Attest:

Amethyst G. Cirimo, City Secretary

Effective Date: _____

Approved As To Form And Legality:

Wayne Olson, City Attorney

Date: July 11, 2013

Agenda Item No: REGULAR ITEMS - D.

I. Subject:

Discuss and consider approval of an Ordinance establishing the Keep Kennedale Beautiful Commission and repealing all previous establishing ordinances for that commission.

II. Originated by:

Bob Hart, City Manager

III. Summary:

This ordinance converts 2 alternate seats to regular seats for a total of 9 regular members, to be appointed annually in October.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	KKB Ordinance	Keep Kennedale Beautiful Commission.pdf
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ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE VII, “KEEP KENNEDALE BEAUTIFUL COMMISSION”, OF THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE, TEXAS, AS AMENDED, BY ESTABLISHING NEW SECTIONS PROVIDING FOR CREATION AND PURPOSE, MEMBERSHIP, ORGANIZATION, RULES AND REQUIREMENTS, AND POWERS AND DUTIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council previously adopted an ordinance providing for the creation and appointment of the Keep Kennedale Beautiful Commission; and

WHEREAS, the City Council now desires to amend said ordinance to revise the provisions regarding membership on the commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

SECTION 1.

Chapter 16, Article VII of the Kennedale City Code is hereby amended in its entirety to read as follows:

“ARTICLE VII. KEEP KENNEDALE BEAUTIFUL COMMISSION

Sec. 16-95. Creation and Purpose.

There is hereby created a Keep Kennedale Beautiful Commission. Such commission shall be officially designated as the Keep Kennedale Beautiful Commission of the City of Kennedale, Texas. The commission shall promote public interest in the general improvement of the physical environment of the city and to support programs for refuse management, recycling, and beautification in conjunction and in cooperation with the citizens, government, businesses, and industries within the city limits of Kennedale.

Sec. 16-96. Membership.

(a) Appointed by majority vote of the City Council, this commission shall consist of nine (9) regular members designated by Places 1 through 9. Appointments shall take place in October of each year, with Places 1, 3, 5, 7, and 9 appointed in odd numbered years and Places 2, 4, 6, and 8

appointed in even numbered years. The term for each place shall be two (2) years. Members must meet the following qualifications:

- (1) Be a registered voter of the city;
 - (2) Shall have resided in the corporate limits of the city for at least one (1) year; and
 - (3) Continue residency in the city during the term of office.
- (b) The City Council shall appoint a replacement to fill any vacancy for the unexpired term of the members whose place has become vacant.
- (c) The City Council shall have the authority to remove any member at any time, with or without cause.

Sec. 16-97. Organization, Rules, and Requirements.

- (a) By November of each year, the membership shall determine, by simple majority vote, a chair and a vice chair. The terms of the chair and vice chair shall be one (1) year. It will be the duty of the Chair to preside over meetings and to assist in setting meeting agendas. If the chair is absent the vice chair shall assume the duties of that office.
- (b) Members of the commission shall meet at least ten (10) times per year, on a regular day and time selected by its members. The chair may call special meetings as necessary.
- (c) The commission shall conduct meetings and govern its proceedings according to the City Council's adopted rules of order, abide by the Texas Open Meetings Law, and shall keep a record of its proceedings, including votes and attendance, and shall submit these records to the City Secretary's Office.
- (d) Members of the commission shall not take any action unless a quorum is present. A quorum shall consist of five (5) members. Each member, including the Chair, is entitled to one (1) vote, and action of the commission shall require a majority of those members present.
- (e) The City Manager shall designate a city employee to serve as staff liaison to the commission.
- (f) Members of the commission shall receive five dollars (\$5.00) for each regular meeting attended as compensation for the performance of their duties, but no compensation shall be paid for special meetings. In addition, members may receive reimbursement of authorized expenses attendant to the performance of their duties.

Sec. 16-98. Powers and Duties.

- (a) This commission is advisory only and shall not have any decision-making authority.

(b) The commission shall have the following duties:

- (1) Encourage the reduction of litter in the city, and problems associated therewith;
- (2) Recommend to the city council city-wide refuse policy, environmental policy, and beautification programs for the community as may be needed;
- (3) Recommend to the city council the priorities of programs adopted in accordance with this section;
- (4) Evaluate effectiveness of such policies which may be adopted by the city council in accordance with this section;
- (5) Recommend enforcement and additional program alternatives;
- (6) Monitor program accomplishments from data collected and examined under the Keep America Beautiful, Inc., Keep America Beautiful System guidelines; and
- (7) Carry out such other tasks as the city council and city manager may designate.

(c) To accomplish these duties, the board may establish subcommittees as necessary. Any subcommittee shall be chaired by a Keep Kennedale Beautiful Commission member, and an unspecified number of community volunteers may be chosen by the commission as working subcommittee members.

Sec. 16-99. Reserved.”

SECTION 2.

The two alternates serving on the board at the time of this Ordinance’s approval shall serve as regular members until October 2013 or until his or her successor is appointed by the City Council.

SECTION 3.

This Ordinance shall be cumulative of all other ordinances of the City of Kennedale, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this

ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

This ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED AND APPROVED on this 11th day of July, 2013.

Mayor, John Clark

Attest:

Amethyst G. Cirimo, City Secretary

Effective Date: _____

Approved As To Form And Legality:

Wayne Olson, City Attorney

Date: July 11, 2013

Agenda Item No: REGULAR ITEMS - E.

I. Subject:

Discuss and take action regarding an ordinance amending the Code of Ordinances of the City of Kennedale by adopting Chapter 11, "Taxation," Article XII, "Hotel/Motel Occupancy Tax" levying a tax on the occupancy of hotel rooms.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

Section 351.002 of the Texas Tax Code authorizes a municipality to adopt an ordinance to impose a tax on a person who, under contract or agreement, pays for the use or possession or for the right to use or possession of a room in a hotel.

There is hereby levied a tax upon the cost of occupancy of any room ordinarily used as a sleeping room furnished by any hotel within the Town of ???? where such cost of occupancy is at the rate of \$2.00 or more each day, such tax to be equal to the maximum tax as is now or as hereafter permitted by State law, which is currently 9%.

Revenue from municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

- (i) Convention/Visitor Facilities. The acquisition of sites for the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- (ii) Furnishings. The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (iii) Advertising and Promotions. Advertising and conducting solicitations and promotion programs to attract tourists and convention delegates or registrants to the town or its vicinity;
- (iv) Arts. The encouragement, promotion, improvement and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (v) Historic Purposes. Historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - a. At or in the immediate vicinity of convention center facilities or visitor information centers; or
 - b. Located elsewhere in the Town or its vicinity that would be frequented by tourists and convention delegates;
- (vi) Other. Other qualifying uses as set forth in Section 351.101 of the Tax Code, as amended, or other applicable law.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Hotel/Motel Occupancy Tax Ordinance	Hotel Motel Tax 2013 CL 07-04 13.pdf
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ORDINANCE NO.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE BY ADDING ARTICLE XII, "HOTEL/MOTEL OCCUPANCY TAX", TO CHAPTER 11, "LICENSES, TAXATION, AND MISCELLANEOUS BUSINESS REGULATIONS"; ADOPTING AND LEVYING A TAX ON THE OCCUPANCY OF HOTEL ROOMS; PROVIDING FOR EXEMPTIONS IN CERTAIN CIRCUMSTANCES; PROVIDING FOR REPORTS AND RECORDS; PROVIDING FOR TAX COLLECTION; PROVIDING FOR USE OF TAX REVENUE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale, Texas, (hereinafter referred to as "City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution, and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City is empowered by the Texas Constitution and state law to levy taxes for lawful purposes; and

WHEREAS, Section 351.002 of the Texas Tax Code authorizes a municipality to adopt an ordinance to impose a tax on a person who, under contract or agreement, pays for the use or possession or for the right to use or possess a room in a hotel; and

WHEREAS, the City Council has determined it is necessary and appropriate to levy a tax on the occupancy of a hotel room and to use the revenues from such tax for lawful purposes pursuant to Chapter 351 of the Texas Tax Code, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS THAT:

SECTION 1.

Chapter 11, "Licenses, Taxation, and Miscellaneous Business Regulations" of the Code of Ordinances of the City of Kennedale is hereby amended by adding Article XII., "Hotel/Motel Occupancy Tax", to read as follows:

"ARTICLE XII. HOTEL/MOTEL OCCUPANCY TAX

Sec. 11-275. Definitions.

As used in this Article, the following words, terms, and phrases are defined as follows:

Chief Financial Officer means the Finance Director for the City of Kennedale or his or her designee.

Consideration means the cost of a room in a hotel, and does not include:

- (1) the cost of any food served or personal services rendered to the occupant not related to cleaning and readying the room or space for occupancy; or
- (2) any tax assessed by any other governmental agency for occupancy of the room.

Hotel means any building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, hostel, lodging house, inn, rooming house, or bed and breakfast. The term does not include:

- (1) a hospital, sanitarium, or nursing home; or
- (2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

Interruption of payment means a breach of the obligation to make continuous timely payment for one or more days or parts of a day within a period of thirty (30) consecutive days of occupancy.

Occupancy means the use or possession, or the right to the use or possession, of any room in a hotel.

Occupant means any person who, for a consideration, uses, possesses, or has a right to use or possess any room in a hotel under any lease, concession, permit, right of access, license, contract, or agreement.

Permanent Resident means an occupant(s) whose use, possession or whose right to use or possession of a hotel sleeping room extends for at least thirty (30) consecutive days and where there is no interruption of payment for the period and where prior to using or possessing the hotel sleeping room, the occupant(s) have executed a written agreement for use or possession of a hotel sleeping room for a period of thirty (30) consecutive days as required by the Texas State Comptroller's Office.

Person means any individual, company, firm, corporation, association or legal entity owning, operating, managing or controlling any hotel as defined herein.

Revenue includes any interest derived from the revenue or tax.

Tax means the hotel occupancy tax levied in this Article pursuant to Chapter 351 of the Texas Tax Code, as amended.

Tourist means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

Sec. 11-276. Levy of Tax.

(a) There is hereby levied a tax upon the cost of occupancy of any room ordinarily used as a sleeping room furnished by any hotel within the City of Kennedale where such cost of occupancy is at the rate of \$2.00 or more each day, such tax to be equal to the maximum tax as is now or as hereafter permitted by State law.

(b) The tax does not apply to a person who is a permanent resident as defined herein.

(c) Pursuant to state law, the tax authorized by this Article shall be imposed on all hotels located within the extraterritorial jurisdiction of the City of Kennedale; provided that the combined rate of state, county, and municipal hotel occupancy taxes in the extraterritorial jurisdiction does not exceed fifteen (15) percent of the price paid for a room in the hotel.

Sec. 11-277. Responsibility for Collection, Reporting, and Payment of Tax.

Every person owning, operating, managing, or controlling any hotel shall collect the tax for the city and report and pay the tax to the city in accordance with all requirements and procedures set forth in this Article.

Sec. 11-278. Collection and Remittance.

(a) The revenue obtained by the person required by this Article to collect the tax shall be paid to the City monthly.

(b) A report shall be filed with the City in the form required by the Chief Financial Officer to accurately reflect the amount of taxes owed and revenue obtained.

(c) The tax and report shall be submitted to the City on or before 5:00 p.m. on the twentieth (20th) day following the last day of each reporting period.

(d) The Chief Financial Officer shall have the authority to make such rules and regulations as are necessary to effectively report and collect, the tax, penalty and/or interest levied by this Article and state law.

(e) If the report is filed or tax is paid after the due date required by this Article, in addition to the amount of tax due hereunder, a penalty shall be imposed as follows:

- (1) If the report and/or tax are received by the City within ten (10) days following the due date, a penalty of ten percent (10%) of the amount due shall be paid to the City; and
- (2) If the report and/or tax are received by the City on or after the eleventh (11th) day after the due date, a penalty of fifteen percent (15%) of the amount due shall be paid to the City.

Sec. 11-279. Collection Procedures on Purchase on Purchase of Hotel.

If a person who is liable for the payment of a tax under this Article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by the City's Chief Financial Officer showing that the amount has been paid or a certificate showing that no tax is due. The City's Chief Financial Officer shall issue the certificate or statement not later than the 60th day after the date that he/she receives the request. Failure of the Chief Financial Officer to timely provide the certificate or statement required by this section shall release the purchaser from the obligation to withhold the purchase price or pay the amount due. The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this Article and state law is liable to the City for the amount required to be withheld to the extent of the value of the purchase price.

Sec. 11-280. Exemptions and Refunds.

- (a) All persons, organizations and entities specified in Section 351.006 of the Texas Tax Code, as amended, are exempt from the payment of the tax imposed under this Article.
- (b) Any person, organization, or entity entitled to receive a refund of tax paid under this Article, may file a refund claim as provided in Section 156.154 of the Texas Tax Code, as amended.
- (c) A person described in Section 156.103(c) of the Texas Tax Code, as amended, shall pay the tax imposed by this Article, but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.
- (d) To receive a refund of tax paid under this Article, the governmental entity entitled to the refund must file a refund claim with the City on a form prescribed by the state comptroller and provided by the City. A governmental entity may file a refund claim with the City only for each calendar quarter for all reimbursements accrued during that quarter.

Sec. 11-281. Reports/Records.

- (a) Every hotel within the City shall keep and maintain accurate records of the consideration and hotel occupancy tax paid by the occupant of each sleeping room in the hotel. Such records shall include, but not be limited to, guest folios, tax exemption certificates, and any original documents such as posting ledgers and rate and stay adjustment reports, and any other

documents necessary to provide the information on the City Hotel/Motel Occupancy Tax reporting form required by the Chief Financial Officer and the State of Texas form for reporting hotel occupancy tax to the Comptroller's Office. These reports may be retained in any retrievable format, including but not limited to micro form and shall be maintained for a period of not less than four (4) years; and shall be available for inspection upon request by any employee, agent, officer or representative of the City at all reasonable times. Any adjustments or allowances made or granted shall be reported to the City on a form provided by the Chief Financial Officer.

(b) It shall be unlawful for any person to fail to perform an act required by this Article, including but not limited to compliance with the requirements to collect, pay and accurately report, taxes as required by this Article and state law.

(c) The Chief Financial Officer shall, upon giving reasonable notice, have access to all books and records necessary to enable the Chief Financial Officer to determine the correctness of any report filed as required by this Article and the amount of taxes due under this Article.

Sec. 11-282. Tax Collection.

(a) The City Attorney or other attorney acting on behalf of the City is authorized to bring suit against a person who is required to collect the tax imposed by this Article and pay the collections over to the City and who has failed to file a tax report or pay the tax when due in order to collect the tax not paid or may enjoin the person from operating a hotel in the City until the tax is paid or the report filed in accordance with a Court order. In addition to the amount of any tax owed under this Article, the person is liable to the City for:

- (1) The City's reasonable attorney's fees;
- (2) The costs of an inspection or an audit conducted under Section 1.05 or this section as determined by the City using a reasonable rate, but only if the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and
- (3) A penalty equal to fifteen (15) percent of the total amount of the tax owed.

(b) If the person required to file a tax report under this Article does not file the report as required by the City, the City Attorney or other attorney acting for the City may determine the amount of tax due under this Article by:

- (1) Conducting an audit of each hotel in relation to which the person did not file the report as required by the City; or
- (2) Using the tax report filed for the appropriate reporting period under Section 156.151 of the Texas Tax Code, as amended.

The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance.

(c) A limitations period relating to the time allowed to assess taxes and bring a suit to collect taxes does not apply to a tax imposed under this Article or to a suit brought under this section.

(d) If a person fails to file a tax report as required under state law or this Article for the required reporting period, the City Attorney or other attorney acting for the City may estimate the amount of tax due by using the tax reports in relation to the hotel that were filed during the previous calendar year under this Ordinance or state law. An estimate made under this section is prima facie evidence of the amount of tax due for that period in relation to that hotel.

Sec. 11-283. Use of Tax Revenue.

(a) Revenue from municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

- (1) *Convention/Visitor Facilities.* The acquisition of sites for the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- (2) *Furnishings.* The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (3) *Advertising and Promotions.* Advertising and conducting solicitations and promotion programs to attract tourists and convention delegates or registrants to the City or its vicinity;
- (4) *Arts.* The encouragement, promotion, improvement and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (5) *Historic Purposes.* Historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - a. At or in the immediate vicinity of convention center facilities or visitor information centers; or
 - b. Located elsewhere in the City or its vicinity that would be frequented by tourists and convention delegates;

- (6) *Other.* Other qualifying uses as set forth in Section 351.101 of the Tax Code, as amended, or other applicable law.
- (b) Hotel occupancy tax revenue spent for a purpose authorized by this Section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 1.06(A) above.
- (c) Revenue from any hotel occupancy tax imposed and levied by this Article may not be used for the general revenue purposes for general governmental operations of the city.
- (d) Allocation of tax revenues for the purposes specified in Section 1.07 (A) (iii) above shall be in an amount not less than the amount of revenue received by the City from the tax at a rate of one (1) percent of the cost of a room.

Sec. 11-284. Criminal Penalty.

Any Person who violates this Article shall be guilty of a misdemeanor and each day the violation is allowed to exist or continues to exist shall be a separate offense. Each such offense shall be punishable by a fine not to exceed \$500.00. The penalties provided in this ordinance are cumulative of any other remedies and/or actions for collection available to the City by law.

Secs. 11-285. – 11-295. Reserved.”

SECTION 2.

That this Ordinance shall be cumulative of all other Ordinances of the City affecting taxation and shall not repeal any of the provisions of such Ordinances except in those instances where provisions of those Ordinances are in direct conflict with the provisions of this Ordinance; whether such Ordinances are codified or uncoded, and all other provisions of the Ordinances of the City of Kennedale, codified or uncoded, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 3.

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4.

It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction,

in an amount not more than Five Hundred Dollars (\$500.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

SECTION 5.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing taxation that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Kennedale is hereby directed to the Caption, Penalty Clause, and Effective Date Clause of this Ordinance as required by Section 52.011 of the Texas Local Government Code, Charter, and other applicable law.

SECTION 7.

This Ordinance shall take effect from and after its date of passage and publication in accordance with law, and it is so ordained.

PASSED AND APPROVED this the 11th day of July 2013.

Mayor, John Clark

ATTEST:

Amethyst Cirimo, City Secretary

APPROVED AS TO FORM:

City Attorney

CITY OF KENNEDALE HOTEL/MOTEL OCCUPANCY TAX REPORT INSTRUCTIONS

Who Must File: You must file this report if you are a sole owner, partnership, corporation or other organization that owns, operates, manages or controls any hotel or motel in the City of Kennedale. Complete and detailed records must be kept of all receipts reported and exemptions or reimbursements claimed so that a city accountant can verify the reports. Failure to file this report and pay applicable tax may result in fines and penalties.

When To File: The reporting period is for each calendar month of the year. Timely reports must be submitted so they are **received by 5PM on or before the 20th** of the month following the reporting period. The report must be filed for every period even if you have no amount subject to tax or no tax due. Enter "0" if no receipts were collected for this reporting period. If the due date falls on a Saturday, Sunday or city holiday, the next business day will be the due date.

For Assistance: The City of Kennedale Hotel/Motel Occupancy Tax Report and instructions may be obtained through the City's website, www.cityofkennedale.com. You may call (817) 985-2110 for assistance.

General Instructions: Please type the information on the report and print it before mailing to the City, along with the remittance. You may print the information on the report, but it must be in ink only. Complete all applicable items of the report. You must sign and date the report before mailing. **A copy of the concurrent "Texas Hotel Occupancy Tax Report" filed with the State Comptroller of Public Accounts must be attached to the City's report.** Make check payable to City of Kennedale, and mail forms and check to: City of Kennedale, Attn: Finance Department, 405 Municipal Drive, Kennedale, TX 76060.

SPECIFIC INSTRUCTIONS

- Line (A) Enter the total amount of room receipts for the month for location shown. Enter "0" if no taxable receipts were collected.
- Line (B) For explanations of tax exemptions, please refer to the Texas Comptroller's Hotel Occupancy Tax Exemptions Publication and City Ordinance.
- Line (C) Subtract line B from Line A.
- Line (D) The City of Kennedale Hotel/Motel Occupancy Tax rate is 9%.
- Line (E) Multiply Line C by 7%.
- Line (F) If the report is filed or tax paid after the due date, enter penalty (1-10 days late equals 10% of Line E; on or after 11th day equals 15% of Line E).
- Line (G) Add lines E and F.
- Line (H) Enter the number of room days rented for the month.
- Line (I) Enter the number of rooms available for the month.
- Line (J) Enter the number of days in the month.
- Line (K) Divide line H by the product of line I and J. Report the percentage using two decimal places (i.e., 75.85%).

Date: July 11, 2013

Agenda Item No: EXECUTIVE SESSION - A.

I. Subject:

The City Council will meet in closed session pursuant to Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

Date: July 11, 2013

Agenda Item No: The City Council will meet in closed session pursu - 1.

I. Subject:

City Manager's annual performance evaluation.

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Bob Hart Employment Agreement	Employment Hart 2011-rd001 (2).pdf
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