

REGULAR MEETING

August 7, 2012

7:00 p.m.

There being a quorum present, Mayor Saunders called the meeting to order at 7:00 p.m.

Council members present: Greg Allen, Ann Fessenden and Tyrone Martin

Absent: Rick Neumayer & Carole Cottrell

Martin made a motion to approve the Consent Agenda to include the Minutes to the last meeting and budget review and payment of bills. Fessenden seconded the motion. Votes:

For – Allen, Fessenden and Martin

Against – None

Passed – 3-0

Public Comment:

- Marie Graham would like to see the city take action against citizens putting trash out before trash day.

Martin made a motion to set the time and date for a Public Hearing considering the budgets for FYE 9/30/13 for August 21, 2012 at 10:30 a.m. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

The following Ordinance was read for consideration:

PROPOSED ORDINANCE

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF KERENS, TEXAS, AMENDING CHAPTER 5 SECTION 4 OF THE CODE OF ORDINANCES OF THE CITY OF KERENS

BE IT ORDAINED by the City Council of the City of Kerens, Texas that Chapter 5 Section 4 of the City Code of Ordinances is hereby amended to read as follows:

Junked Vehicles

Definitions

Police Department: the police department of the City of Kerens, Texas

City means the City of Kerens, Texas.

Junked vehicle means ~~a motor vehicle as defined by Texas law~~ any vehicle as defined in V.T.C.A., Transportation Code § 683.071, that is self-propelled and:
Is wrecked, dismantled or partially dismantled, stored, or discarded;

Is and has remained inoperable for more than thirty (30) consecutive days if the vehicle is on private property, or seventy-two (72) consecutive hours if the vehicle is on public property.

Does not have lawfully attached to it:

- a. An unexpired license plate; and

b. a valid motor vehicle inspection certificate

Junked vehicle also includes self-propelled vehicles not subject to state motor vehicle inspection, including but not limited to off-road vehicles designed and intended to be operated in places other than on public streets, racecars, dirt track vehicles, all-terrain vehicles, lawn mowers and golf carts. For these self-propelled vehicles not subject to state motor vehicle inspection, "inoperable: means not usable for the vehicle's designed and intended purpose.

Demolisher: a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Antique auto: a passenger car or truck that is at least 25 years old.

Special interest vehicle means -a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest is being preserved by hobbyists.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or part of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

Inoperable means:

- a. due to mechanical failure, breakdown, or disrepair, cannot be started, driven, operated, steered, or stopped under its own power without causing damage to the vehicle; or
- b. not capable of passing a state motor vehicle inspection due to missing mechanical components required for the normal and legal operation of the vehicle.

Junked Vehicles as Public Nuisance

- A. A junked vehicle that is located on private property, public property, or public right-of-way, in the City of Kerens, Texas, where it is visible from a public place or public right-of-way is a public nuisance.
- B. The owner or occupant of any real property with the City of Kerens, Texas commits an offense if such person keeps, or permits the presence of, a junked vehicle or vehicle part on such property.
- C. It shall be unlawful for any person to knowingly or intentionally interfere with or attempt to prevent the physical impoundment of any junked vehicle by the Chief of Police, his delegate, or any other person authorized to impound a junked vehicle or vehicle part.
- D. The relocation of a junked vehicle that is a public nuisance to another location within the city limits after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
- E. A person who commits an offense under this section is, on conviction, subject to a fine not to exceed \$200.00. On conviction, the court shall order removal and abatement of the nuisance.

Abatement or Removal Order; Contents; Service

- A. Whenever a public nuisance exists on private property, the Chief of the City Police Department, or other employee of the City designated by the Chief, shall

give written notice of not less than ten (10) days stating the nature of the public nuisance on private property, that it must be removed or abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten-day period. The notice must be mailed, by certified mail with return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

- B. Whenever a public nuisance exists on public property, the Chief of Police, or other employee of the City designated by the Chief, shall give written notice of not less than ten (10) days, stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten-day period. The notice must be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the public -premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.
- C. It shall be unlawful to reconstruct a junked vehicle or make it operable after it has been removed as a public nuisance.
- D. Prior to the removal of a vehicle or vehicle parts as a public nuisance, a public hearing shall be held before the Municipal Court, if a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within ten (10) days after service of notice to abate the nuisance. Upon finding that the vehicle or vehicle parts constitutes a public nuisance, the Municipal Judge may issue an order requiring the removal of such vehicle or vehicle parts and shall include herein a description of the vehicle and its correct identification number and license number if the information is available at the site of the nuisance.
- E. If a request for hearing is not timely made by any party entitled to notice under Section 3, and the nuisance is not abated within the ten-day notice, the Municipal Judge, upon receiving an affidavit from one charged with enforcement of this ordinance that such nuisance exists after voluntary compliance period, may issue an order authorizing the Police Department or any other enforcement officer to take possession of such and remove it from the premise.
- F. Notice shall be given to the State Department of Highways and Public Transportation not later than the fifth day after the date of removal. The notice must identify the vehicle or vehicle part.
- G. The procedures of this ordinance shall not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the

business of a licensed vehicle dealer or junkyard, or an unlicensed, operable, or inoperable antique or special interest vehicle stored by a collector on the collector's property, if in each instance the vehicle or vehicle part and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means. **Covering or obscuring a motor vehicle or parts thereof with a tarp or other similar covering shall not constitute a legal defense or excuse to any enforcement or prosecution pursuant to this section.**

- H. The procedures of this ordinance must be administered by regularly salaried, full-time employees of the City, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.

Removal With Permission of Owner or Occupant

If, within (10) days after receipt of notice from the Chief of Police or his designee to abate the nuisance , as herein provided, the owner or occupant of the premises should give his written permission for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provision of Part 3.

Disposal of Junked Vehicles

A junked vehicle or vehicle part may be disposed of by removal to a scrap yard, demolisher, or any suitable site operated by the City, for processing as scrap or salvage.

Authority to Enforce

The Chief of Police or his designee may enter private property for the purposes specified in this ordinance to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The Municipal Court of the City may issue orders necessary to enforce the procedures of this ordinance.

Effect

This ordinance does not affect a law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

Savings Clause

If any section or part of any section or paragraph of this ordinance is declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or sections or part of a section or paragraph of this ordinance.

Effective Date

This ordinance shall become effective as of the date of final passage.

Martin made a motion to set the second and final reading at the September Regular Meeting. Allen seconded the motion. Votes:

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For – Allen, Fessenden, and Martin
Against – None
Passed – 3-0

Martin made a motion to set the time and date for the required Public Hearings considering the 2012 ad valorem tax rate for August 21, 2012 at 10:40 a.m. and September 28, 2012 at 10:30 a.m. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin
Against – None
Passed – 3-0

Martin made a motion to allow Kerens ISD to install a gate on S Humphreys that will allow student pedestrians to exit campus free of vehicular traffic. Allen seconded the motion. Votes:

For – Allen, Fessenden, and Martin
Against – None
Passed – 3-0

Vernon Baker addressed the council with his concerns over traffic in his neighborhood. He requested 20MPH Speed Limit Signs and an All-Way Stop at the intersection of N Wright Street and NW Fourth Street. He would also like to see some Children at Play signs installed.

Mayor Saunders told Mr. Baker that he would look into the traffic situation as far as the speed limits and stop sign. He told Mr. Baker that he agreed that Children at Play signs were needed, and that they would be installed in that area.

Operations

- **Property Inspections** – Chief Miers stated that Officer Covey's report shows 3 citations written, 2 dead trees removed, 6 yards cleaned, 9 yards mowed, and 7 occupancy inspections completed..
- **Water Dept.** – the new line at the school has been completed.
- **Sewer Dept.** – No problems to report.
- **Street Dept.** – Mayor Saunders stated that the roller is still running!
- **Police Dept.** – Chief Miers stated that the police department has been very busy this month. The home burglary cases have been solved with an arrest made. Two drug arrests were made this month and they were working with CPS on a child endangerment case.
- **Animal Control** – Chief Miers stated that we have a possible rabies in a squirrel. Test results have not been received.
- **Court** – No problems. Next court set for August 14.
- **Tax Dept.** – 92.89% of current property taxes collected as of July 31, 2012.
- **Office** – No major problems. Scott stated that a new computer was ordered for her office this week.
- **Grants** – Pam Carroll has applied for a \$25,000 beautification grant from Union Pacific Railroad.
- **Economic Development** – Fresh Donuts' new building should be completed and occupied by the end of the week.

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- **Long Range Planning** – The committee has agreed on a light and pole design and has met with a lighting engineer for height and spacing opinions.

Martin made a motion to recess the Regular Session and convene in Executive Session. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

Allen made a motion to adjourn the Executive Session and reconvene the Regular Session. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

Allen made a motion to increase Marcus Combs and Armando Gomez by \$1.00 per hour for their promotion to supervisors. Fessenden seconded the motion. Votes:

Martin made a motion to recess the Regular Session and convene in Executive Session. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

Allen made a motion to adjourn the Executive Session and reconvene the Regular Session. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

Martin made a motion to adjourn the meeting. Fessenden seconded the motion. Votes:

Martin made a motion to recess the Regular Session and convene in Executive Session. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

Allen made a motion to adjourn the Executive Session and reconvene the Regular Session. Fessenden seconded the motion. Votes:

For – Allen, Fessenden, and Martin

Against – None

Passed – 3-0

With no further business to transact, Mayor Saunders adjourned the meeting at 7:55 p.m.

Jeffrey Saunders, Mayor

Attest:

Cindy Scott, City Secretary