

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
APRIL 11, 2017

On April 11, 2017, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor White in the city hall council chambers at 701 Main Street. The invocation was offered by Councilmember Place Four Warren Ferguson, followed by the Pledge of Allegiance led by Eric Maloney.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
Stephen P. Fine	Mayor Pro Tem
Glenn Andrew	Councilmember
Mary Ellen Summerlin	Councilmember
C. Warren Ferguson	Councilmember

COUNCILMEMBER ABSENT: None.

CITY CORE STAFF PRESENT:

Don Davis	Interim City Manager
Mike Hayes	City Attorney
E.A. Hoppe	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Kim Meismer	Director of General Operations
David Knight	Police Chief
Dannie Smith	Fire Chief
Kaitlin Berry	Special Projects Manager
Stuart Barron	Public Works Director
David Barrera	Assistant Public Works Director
Eric Maloney	EMS Coordinator

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

1. RECOGNITIONS:

1A. Certificate of Recognition to Mayor Pro Tem Stephen Fine for receiving the Certified Municipal Official Certificate from the Texas Municipal League and the Texas Association of Mayors, Councilmembers and Commissioners.

2. ANNOUNCEMENTS OF COMMUNITY INTEREST: were given.

3. CONSENT AGENDA:

Mr. Andrew moved to approve consent agenda items 3A and 3D; Mr. Fine seconded the motion, and the motion passed 5-0:

3A. Professional services agreement with Jess Asper for tennis professional services.

3B. Purchase of 2017 Etnyre Maintenance Oil Distributor through BuyBoard Purchasing Cooperative, in the amount of \$73,314.95.

3C. Professional services agreement with Freese and Nichols Engineering, Inc. for the rehabilitation of the oxidation ditch at the water reclamation plant in the amount of \$138,400.00.

3D. Professional services agreement with Freese and Nichols Engineering, Inc. to design the rehabilitation of the clarifier at the water treatment plant in the amount of \$132,600.00.

END OF CONSENT AGENDA

4. ORDINANCES, FIRST READING:

4A. Ordinance No. 2017-09, amending Chapter 26 “Buildings and Building Regulations”, Article VIII “Building Board of Adjustment and Appeals” (BBAA) of the Code of Ordinances of the City of Kerrville, Texas, by amending the membership qualifications for said board and ending the term limits; containing a cumulative clause; containing a savings and severability clause; establishing an effective date; and providing other matters related to the subject. Mayor White read the ordinance by title only.

Ms. Craig noted that on February 21 council directed staff to eliminate the term limits on the BBAA. Staff also recommended deleting the requirement that members must operate or be employed by a business located in the city.

Mr. Andrew moved for approval of Ordinance No. 2017-09 on first reading; Mr. Fine seconded the motion and it passed 5-0.

4B. Ordinance No. 2017-10, amending Chapter 66 “Library,” of the Code of Ordinances of the City of Kerrville, Texas, by amending Article II “Library Advisory Board” (LAB) to remove the requirement of ex officio members and to require quarterly meetings; containing a cumulative clause; containing a savings and severability clause; and providing other matters relating to this subject. Mayor White read the ordinance by title only.

Ms. Craig noted that on February 21 council directed staff to prepare an ordinance to remove the ex-officio positions on the LAB and change meetings from monthly to quarterly. Staff also removed references to the county.

Mr. Ferguson moved for approval of Ordinance No. 2017-10 on first reading; Mr. Fine seconded the motion and it passed 5-0.

4C. Ordinance No. 2017-11, amending the budget for Fiscal Year 2017 to authorize the transfer of a portion of the unassigned fund balance within the general fund to the general asset replacement fund. Mayor White read the ordinance by title only.

Ms. Yarbrough noted the city’s financial management policy established a goal of maintaining an unassigned fund balance equal to 15-25% of annual operating

expenditures and the city was at 34% as of September 30, 2016. The ordinance would transfer \$750,000.00 from the general fund to the general asset replacement fund. Staff was not proposing to purchase equipment at this time, only transferring the funds for future capital purchase(s). Any purchase over \$50,000 would be brought to council.

Mr. Andrew moved for approval of Ordinance No. 2017-11 on first reading; Mr. Ferguson seconded the motion and it passed 5-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Rate methodology for the sale of reuse water.

With the discussion of contracts in Items 5B, 5C, and 5D, Mayor White proposed amending the fee schedule concerning the rate for the sale of reuse water. Currently the rate was 38¢/1,000 gallons unless otherwise agreed to by contract.

Mr. Davis noted reclaimed water was the most cost effective and reliable raw water supply alternative explored by staff. The reuse water project was about future available potable water. The city owned the water. The use of reclaimed water for irrigation made additional potable water available to citizens. Based on the current rate that Guadalupe Blanco River Authority charged for raw water, the amount the city was putting into the river, after it is treated, was valued at \$386,000.

In November 2016 the council created the Reuse Water ad hoc Advisory Committee (RWAC) to review the reuse water project. RWAC made its final report to city council in February 2016, recommending the long term goal was to use reclaimed water for potable water. Phase I was reclamation and Phase II would be direct potable reuse (DPR). In May 2016 council approved letters of intent with Riverhill Country Club and Schreiner University and staff prepared an estimated rate for those contracts. Since that time, contracts were let for the storage and distribution project and the city had firm numbers to better determine the rate.

Mr. Davis presented staff's reuse rate calculation and proposed 65¢/1,000 gallons. This rate was based on: estimated total cost of entire system was \$21,600,000; a 40 year depreciable life of plant (\$540,000/yr.); the total water reclamation budget for 2017 at \$1,769,350; estimated 2.5% of maintenance and operation budget for the reuse system (\$44,234); for a total annual cost of \$584,234. The estimated annual effluent supply was 900 mg, of which 429 mg was proposed for reuse; 48% of the system was attributable to reuse irrigation, and 52% for future irrigation customers and for DPR. Therefore, the annual reuse system cost attributable to irrigation was \$278,485 for 429 mg, equated to 6491¢/1,000 gallons; staff proposed the reuse rate be set at 65¢/1,000 gallons, and the agreements in Items 5B, 5C, and 5D be set at this rate, noting some contracts would escalate to this rate over the next seven years.

Mr. Davis noted the current customers were: City Golf Course, Tivy High School, Kerr County Animal Shelter, and Comanche Trace. Potential future customers were: City Tennis Center, Peterson Middle School, Schreiner University, Riverhill Country Club, and City Athletics Complex.

Mayor White noted the calculation assumed 900 mg would be produced and 429 mg would be sold annually, and there was no guarantee that amount would be sold. One of the largest customers was the athletic complex, which would be subsidized by the city. It also assumed the operations budget would remain at \$1.7 million, it did not take into account the cost of infrastructure to Schreiner University (SU), Riverhill (RH), and Comanche Trace (CT), and it did not include debt service. The project would not be complete and reclaimed water available for 24 months, and the city would be paying debt service for two years without any revenue. She cited the reuse rate for several other cities. She encouraged council to look at a fee that would at least cover the cost of maintenance and operations and noted that infrastructure for the new customers was being paid for by city rate payers.

Mr. Davis noted that debt service was in the depreciation figure, which included the pond and distribution system and the calculation included debt service, and the system maintenance and operations was included in the 2.5% figure. He recommended staff continue to monitor project costs and the rate be established during budget preparation in September with the most current data available. Currently, the only customer that will be affected by the new rate is the city golf course. Mayor White suggested the city contract with the city golf course.

Council also discussed the following:

- Water supply is crucial to Kerrville's growth and economic development; the river can dry up and the aquifer is already declining at the current population.
- Getting large irrigation customers off of potable water was in everyone's interest; even if it does not pay for itself, there was a non-monetary benefit to everyone.
- Irrigation customers were paying for part of the infrastructure including the pond through their rate.
- Paying for infrastructure to large irrigation customers was an appropriate use of EIC funds.

Mr. Andrew moved to establish the reclaimed water rate at 65¢/1,000 gallons, excluding the golf course; said rate to remain the same until 2018. The motion was seconded by Mayor White.

The following person spoke:

1. George Baroody opined that DPR was not part of the effluent project and should not be charged for now. The rate to be charged to the effluent customers should be calculated on the total being delivered, which was 429 mg, not 900 mg. The rate should include all costs attributable to the whole reclaimed water project: pond, pipe, pumps, distribution lines.

The motion passed 4 to 1 with Councilmembers Andrew, White, Ferguson, and Summerlin voting in favor of the motion and Councilmember Fine voting against the motion.

Mr. Hayes noted he would prepare a resolution to amend the fee schedule and place it on a future agenda.

5B. Agreement for the sale of reclaimed water between the City of Kerrville and Comanche Trace (CT).

Mr. Hoppe noted in May 2016 the council authorized staff to construct a reclaimed water storage facility and expansion and retrofitting of the city's reclaimed water irrigation system. The system has been designed and is currently under construction as voted on by CC in October 2016 and January 2017. The city currently has a development agreement with CT which also pertained to the current sale of reuse water (Article VI). He reviewed the terms of the proposed contract:

- Replacement of the terms of Article VI.
- Clarification of the rate structure, providing a stair-stepped rate plan over 7 years to bring CT to the proposed adopted rate for reclaimed water.
- Reduction of potential annual usage from 365 mg to 246 mg.
- Clarification of terms regarding drought provisions, potable water, etc.

Council also noted the following:

- The contracts in 5B, 5C, and 5D complete the council's legal activities to provide effluent water to SU, CT, and RH. Each entity will receive reclaimed water under their own contract.
- The long term goal is to create a potable water source and associated infrastructure that will allow the city to use at least an additional 500,000 g/d of effluent water that was currently going down river, and for which the city was not receiving any revenue.
- The proposed agreement with CT called for an escalating rate and a voluntary reduction in the quantity of water they requested.
- CT was planning to expand, adding an additional \$250 million to the city's ad valorem tax base.
- The city was establishing ownership by impounding and using the effluent as a potable water source.
- Golf courses were underwriting some of the storage and distribution system, and the proposed contracts would provide revenue for the city's future potable water system.
- All this with no increase in taxes and water/sewer rates.

The following persons spoke:

1. Greg Shrader, President of RH Property Owners Association, said Riverhill supported all three contracts. He commended city council for acting on the reuse water program. The project would: provide an additional water source using effluent that was currently being sent down river, take pressure off of the river

and aquifer, establish historical use pattern for the future, and create additional revenue for the city.

2. John Harrison, member of WRAC, encouraged council to approve the three contracts, noting: 1) effluent not used by the city goes back into the river for others downstream; 2) would improve and protect the city's tax base; 3) could start the long term goal of DPR; 3) would provide reclaimed water for current and future customers.

3. David Jackson, representing CT, noted CT had an existing agreement with a formula that determined the rate. The proposed contract would replace that formula. Under the current contract, which was in effect for the next two years, the formula provided a rate of 38¢/1,000. The proposed contract provided for a gradual tiered increase, which CT agreed to. The new contract would allow for additional development at CT, providing an economic benefit for the entire community, not just CT. CT's current use did not require use of the pond because CT lowered the requirement for capacity to accommodate city. CT had not been using potable water for its golf course for the past 15 years.

Mayor White asked if the formula took into consideration the \$1.5 million upgrade for the CT line? Mr. Jackson noted the formula did not talk about any upgrades.

Mayor White opined that the rate should be fair to all customers, and some ratepayers were subsidizing. She also noted that EIC approved funding for distribution lines for three customers. Mr. Jackson noted CT did not receive any funding from EIC, and CT paid for all of their infrastructure.

Mayor White noted the original contract with CT required CT to deed two water wells to the city. Mr. Jackson stated that CT would honor that requirement, and noted that part of the development agreement would remain intact. He confirmed that the wells were offered to the city in the past and the city did not take ownership; however, CT would do so when the city wanted them.

4. George Baroody opined that the current agreement with CT was a better position for the city as it included a termination clause whereby the city can get out if the rate was not covering the cost of distribution. He opined that the city should use the current CT contract as a model for future customers. The pond should only be paid for by the customers who use it; if CT did not need it, they should not have to pay for it. If effluent customers did not want the pond, then the city should not build the pond. It was true that the city was receiving revenue from effluent water, but the city was losing \$.75 million – \$1.5 million a year because the rate was not covering all of the costs. He stated that the city had been raising taxes each year; the tax rate remained the same, but it was still a tax increase.

Mayor White opined that the city would be increasing the water rate 9% over the next six years. Mr. Andrew noted that proposed increase was due to escalating operational costs and was not driven by this project.

Mr. Andrew moved to approve the agreement with Comanche Trace. Ms. Summerlin seconded the motion and it passed 5-0.

5C. Agreement for the sale of reclaimed water between the City of Kerrville and Schreiner University (SU).

Ms. Summerlin and Mr. Ferguson filed conflict of interest affidavits and left the meeting at 7:16 p.m.

Mr. Hoppe noted this was a reclaimed water use agreement with SU for irrigation at the Schreiner campus. In May 2016 city council authorized staff to negotiate a letter of intent (LOI), council approved the LOI in June 2016, it was adopted in final form in July 2016, and staff developed the proposed agreement with SU based on that LOI. SU was proceeding to start a multi-million dollar construction project to add new irrigation system and landscaping predicated on this reuse agreement.

Council discussed the following:

- SU agreed to comply with 65¢/1,000 gallons, would construct 1.5 mg on-site storage; agreed that the city had no guarantee to supply reclaimed water, and would cooperate during drought conditions and defer to the city's dpr project if necessary.
- SU was a critical element of Kerrville's economy. The economic impact of 1,300-1,400 students and their families and staff, teachers, and visitors was enormous.

Mayor White stated that CT had 8 days of storage and SU had 6 days. With the on-site storage ponds, the city may be able to downsize the size of the city's pond and save money; also, the city can treat directly from the tail pipe.

Mayor White moved for approval of the agreement with Schreiner University; Mr. Andrew seconded the motion and it passed 3-0.

Mr. Ferguson and Ms. Summerlin returned to the meeting at 7:23 p.m.

5D. Agreement for the sale of reclaimed water between the City of Kerrville and Riverhill Country Club, LP (RH).

Mr. Hoppe noted this was a reclaimed water use agreement with RH. RH originally requested 600,000 g/d; the agreement negotiated up to 300,000 g/d and had a take-or-pay provision.

Council also discussed the following:

- \$600,000 in infrastructure distribution lines were paid for by EIC.
- RH was responsible for their interior infrastructure and their 2 mg storage pond.
- RH agreed to the 65¢/1,000 gallon rate.

-RH had a significant economic impact on Kerrville and the proposed contract would allow RH to grow and increase the tax base. RH also brought in visitors to their world-class golf course and helped build Kerrville's economy, which was exactly the purpose of 4B (EIC) funds.

-Riverhill had a working permitted well, and it was to everyone's advantage that RH pump less from the aquifer for irrigation.

The following person spoke:

1. Niel Powers stated he moved to Kerrville from Colorado and they had suffered through droughts and water shortages and that city council did nothing about the lack of water for 20 years.

Mr. Andrew moved to approve the agreement with Riverhill Country Club; Mr. Fine seconded the motion and it passed 5-0.

Mr. Andrew noted the water reclamation project had been on-going for 36 months, and was finally being completed despite multiple attempts to defeat it. He encouraged citizens to remain active and involved in any future attempts to defeat or change the project. Kerrville's future depended on water.

5E. Direction to staff regarding Scenic Cities Certification Program.

Mr. Davis noted the Scenic Cities program was very worthwhile, but the timing was not right for Kerrville at this time. He recommended Kerrville consider participating next year.

The consensus of the council was to accept Mr. Davis' recommendation.

5F. Amendments to the Ethics Policy for Elected and Appointed Officials – City of Kerrville, Texas.

Mr. Davis noted at the February 21 workshop council discussed several topics and staff was seeking direction on whether to include these in the city's ethics policy:

1. Council to submit questions to staff prior to meetings to allow time to research to make meetings more efficient.
2. When staff provides information, conversations, emails, etc. to council, such should be considered privileged information until city council takes action on the subject. It is inappropriate to provide such information to citizens or the media. If a councilmember quotes a document or receives information, they should provide a copy of the documents/information to all councilmembers prior to the meeting.
3. Council attendance at board meetings should be avoided.

Mayor White suggested the matter be deferred until after the new city manager started and look at the entire policy at that time. The consensus of council was to discuss the three items now and look at any additional items in the future.

Mayor White opined that some of the items were subjective and did not belong in the ethics policy and questioned how such could be enforced as an ethics violation. Councilmembers should be allowed to attend board meetings and have an opinion without it being an ethics violation. Attending board meetings was simply a way to stay informed of boards' decisions.

Ms. Summerlin opined that all three items did belong in the ethics policy:

1. Polite behavior; no "gotchas" to staff; give staff time to research and make meeting more efficient.
2. Inappropriate for the mayor or councilmembers to share information with the news media that had not been discussed by the council publicly.
3. If a councilmember, who was not a voting member, expressed their opinion at a board meeting, that might influence the board members' decision. Also, if a councilmember stated a policy item different than council as a whole, that was an ethics problem.

Mr. Andrew stated the city council should not have to enforce the ethics policy; it should be voluntary behavior about how a councilmember was expected to act. City staff should keep council informed of board discussions on a regular basis.

Mayor White suggested Item 6, "Compliance and Enforcement" be removed.

Ms. Summerlin moved to direct staff to prepare language to fit all three objectives into the ethics policy and bring to the next meeting. Mr. Fine seconded the motion and it passed 4 to 1 with Councilmembers Summerlin, Fine, Andrew and Ferguson voting in favor of the motion and Mayor White voting against the motion.

6. APPOINTMENTS TO BOARDS AND COMMISSIONS:

6A. Appointment to the Kerr Emergency 9-1-1 Network Board.

Mr. Andrew moved to reappoint Paul Huchton to the Kerr Emergency 9-1-1 Network Board, term to expire March 31 2019; motion was seconded by Mr. Fine and passed 5-0.

6B. Appointments to the Food Service Advisory Board.

Mr. Fine moved to appoint Monica Egelston, Angela Fiedler, Monty Rusch, and Seth White to the food service advisory board, all with terms to expire December 1, 2018. Ms. Summerlin seconded the motion and it passed 5-0.

6C. Appointment to the Zoning Board of Adjustment.

Mr. Andrew moved to appoint Danny Almond as a regular member of the zoning board of adjustment, with term to expire September 30, 2019; Mr. Ferguson seconded the motion and it passed 5-0.

7. VISITORS/CITIZENS FORUM:

1. Bruce Stracke discussed positive things happening in Kerrville, in particular expanding agricultural business and the announcement by Mooney about the certification of their new airplane and planned expansion.

2. Russell Nemky agreed with Mr. Stracke's comments and applauded city council for working together on the reclaimed water agreements and establishing the reclaimed water rate.

8. ITEMS FOR FUTURE AGENDAS

-Update on TCEQ's report on the city's ASR wells.

9. EXECUTIVE SESSION: None.

10. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION, IF ANY: None.

ADJOURNMENT. The meeting adjourned at 7:44 p.m.

APPROVED: 05-09-2017

ATTEST:

Bonnie White, Mayor

Brenda Craig City Secretary