

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
JUNE 25, 2013

On June 25, 2013, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by City Secretary Brenda Craig, followed by the Pledge of Allegiance led by Gary Noller, President of the Hill Country Vets Council.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Mayor Pro Tem
Gene Allen	Councilmember
Stacie Keeble	Councilmember
Justin MacDonald	Councilmember

COUNCILMEMBER ABSENT:

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Charvy Tork	Director of Information Technology Systems
Sandra Yarbrough	Director of Finance
Robert Ojeda	Fire Chief
Jason Lutz	City Planner
Charlie Hastings	Public Works Director
John Young	Police Chief
Kim Meisner	Director of Administrative Services
Stuart Barron	Water/Wastewater Division Manager

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

**1. VISITORS/CITIZENS FORUM** The following person spoke:

1A. Barbara Burton asked council to reconsider the timing and the length of the closure of Louise Hays Park, 18 months. She stated she was all in favor of the river trail and handicapped accessibility. The park was a revenue generator for the community and closure for 18 months would result in lost revenue. She understood that the park had to be closed for safety reasons while crews installed underground utilities, but questioned starting the project in the middle of summer instead of starting in the fall, and closing the park a section at a time.

**2. CONSENT AGENDA:**

Staff requested Item 2C be deferred until after Item 4D.

Mr. Conklin moved for approval of items 2A, 2B, 2D, and 2E; Ms. Keeble seconded the motion and it passed 5-0:

- 2A. Minutes of the regular Kerrville City Council meeting held June 11, 2013.
- 2B. Construction contract with HMC, Inc. for the renovation and expansion of the central fire station in the amount of \$505,857.80 and authorize execution of change orders which may exceed \$50,000.00 but will not exceed a total contract value of \$607,029.36.
- 2D. Contract for bulk fuel and card services for city's vehicle fleet Fiscal Year 2014.
- 2E. Agreement between the City of Kerrville, Texas, and Summit Property Owners Association to allow association to install and maintain landscaping within City right-of-way.

**END OF CONSENT AGENDA**

**3. ORDINANCE, SECOND AND FINAL READING:**

- 3A. Ordinance No. 2013-13 amending the budget for fiscal year 2013 to account for various changes to the City's operational budgets, supplemental appropriations, and closing out and supplementing capital improvement projects. Mayor Pratt read the ordinance by title.

Mr. Parton noted no changes since first reading. The ordinance amended the budget to address projects approved by council and closed out several projects.

Mr. MacDonald moved for approval of Ordinance No. 2013-13 on second and final reading; Mr. Allen seconded the motion and it passed 5-0.

**4. CONSIDERATION AND POSSIBLE ACTION:**

- 4A. Funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Hill Country Quilt Guild.

Mr. Parton noted that on June 17 EIC approved reimbursement of \$1,000 to the Hill Country Quilt Guild for an event held in May. Concern was expressed about EIC awarding reimbursement after an event had been held. Mr. Parton noted this application had been submitted prior to the event and was prequalified. EIC was working on policies and guidelines to evaluate projects and timing of applications for future funding requests.

Council questioned why the city had to wait 60 days before providing payment. Mr. Parton noted a 60 day statutory requirement under 4B statute during which time citizens had an opportunity to petition against any funding request.

Mr. MacDonald moved for approval of the funding agreement; Ms. Keeble seconded the motion and it passed 5-0.

- 4B. Report of the findings with a recommendation for implementation of the results from the formal classification and compensation study including health and fringe benefits by Public Sector Personnel Consultants (PSPC).

Matt Weatherly, President of PSPC, presented the results of the study, which included compensation survey, salary and benefits survey, and updating the compensation plan for all job titles and development of updated pay structure.

He reviewed the sources/benchmark cities used in the collection of data for 76 job titles and provided information on the current salary range and recommended salary midpoint. Based on midpoint comparison he found that 68% of the city's employees were more than 5% below midpoint; 25% were within 5% of midpoint, and 7% were 5% or more above midpoint. He found that the city offered a comparable level and type of benefits based on a comparison of compensation, salary, benefits, insurance, paid time off, pension, etc. He recommended the following:

- Pay grade modifications to ensure consistent market alignment of all jobs.
- As a result of placing all general job titles on a pay grade within 5% of market average, 60 employees fell below the new minimum of the grade proposed for their job; the cost to move these 60 employees to the new minimum was \$118,591.
- Positions falling more than 5% below market averages include entry and opt-out rates for nearly all police and fire ranks.
- Corrections to the grade and step scales for police and fire equal to 100% of market would cost an estimated \$500,000 plus the cost of "unfreezing" step corrections.
- Alternatively for year one, the cost of a one-step increase (4%) in the existing scale for each police and fire employee would cost an estimated \$230,000 plus benefits and roll-up cost.
- The proposed adjustments to the pay plans for general and safety positions should be phased in over multiple budget years.
- Budget discussions should include the projected cost to allow for regular adjustments (COLA, steps, etc.) in order to recruit and retain employees.

Mr. Weatherly noted the compensation plan update and the updated pay structure were already included in his contract. He noted that cities generally update their compensation plans every 5-7 years; Kerrville's last study was seven years ago.

Council also discussed the following:

- Determine where city employees' salaries were in relation to the market place
- City should maintain a competitive compensation package so it does not lose skilled employees to competition; this benefits the city.

Mr. Parton noted that criteria used for selecting benchmark cities was to be within one hour of a metroplex area, to provide comparable services, and to be a stand-alone type of city. He noted that city employees were assuming more responsibilities and acquiring major skill sets to benefit the city. He recommended council accept the conclusions of the study and direct staff to move forward to develop and implement a multi-year (2-3) program, within budget constraints, with priority to address public safety since the step plan had been frozen for 2-5 years due to economic recovery.

Mr. MacDonald moved to proceed with Mr. Parton's recommendation; Mr. Conklin seconded the motion and it passed 5-0.

4C. Establish budget calendar for Fiscal Year 2014 budget.

Mr. Parton planned to present an overview of the proposed “strawman” budget to council on July 9. He proposed two budget workshops, July 17, 9:00 a.m. – 1:00 p.m.; and July 19, 8:00 a.m. – 11:00 a.m. The final draft budget would be presented to council on July 23. The City Charter required that the budget be filed with the city secretary by July 30.

The consensus of the council was to proceed with the dates for the budget workshops as presented.

4D. Resolution No. 22-2013 declaring the necessity to acquire a .433 acre water/wastewater easement, a .345 acre temporary construction easement, and a .507 acre recreation easement (river trail) each existing out of one or both of the Thomas L. Waddell Survey No. 145, Abstract No. 354, and the William C. Francis Survey No. 146, Abstract No. 137, Kerr County, Texas, with a street address of 32 Chaparral, Kerrville, Texas; consisting of property owned by Rio Robles, Inc.; said easements are required for a public water/wastewater utility extension project and the extension of a public river trail adjacent to and along the Guadalupe River; confirming and ratifying the initial offer made by the city to the owner(s) of the property where the easements are to be located; authorizing the city manager or designee to take all steps necessary to acquire the property interests in compliance with all applicable laws and city policies; and authorizing the city attorney to acquire the property interests through eminent domain if negotiations between the city and the property owner are not successful.

Ms. Keeble filed a conflict of interest affidavit and left the meeting at 6:48 p.m.

Mayor Pratt asked council to consider separating the resolution into two parts: one utility, and one recreation. The consensus of the remaining councilmembers was to not separate the resolution into two parts, and to consider the resolution as one document, noting that the resolution addressed the same type of action on the same property under the same ownership, and they were not comfortable passing a resolution in a form other than the way it was on the posted agenda.

Mr. Parton noted the resolution addressed a utility extension easement and a recreation easement both on the same property and owned by the same owner. Staff began meetings with representatives of Rio Robles in June 2012 to discuss improvements that could be made upon dedication of the easements. On October 12 staff met with Rio Robles representatives to discuss options the city could offer to Rio Robles. In November 2012 Rio Robles rejected the city’s offer. In June 2013 staff began the appraisal process for both easements. June 14, 2013, staff forwarded an initial offer to Rio Robles which took into account the appraisals; the proposed resolution was the next step in the process toward condemnation should negotiations to obtain access to the property fail. Rio Robles had 30 days to respond to the letter. The city had all other easements from Louise Hays Park to Kerrville Schreiner Park for both the utility project and

the river trail project. Rio Robles was the only remaining easement to acquire. He noted that the easement for the utility project was nearer to the Rio Robles residential area, and all utility construction would be underground. The easement needed for the river trail was located in the riverbed area well inside the floodway where no permanent above ground construction was allowed, and there was 400-450 feet of separation between the utility easement and the river trail easement.

The following persons spoke:

1. Paul Flett, Chairman of the Rio Robles Board, noted that Rio Robles already maintained two city utility easements, and they did not ask for reimbursement for that maintenance. He requested that the acquisition of the utility easement and the river trail easement be considered separately by council. He believed that a majority of the Rio Robles stockholders would grant the city a utility easement; then, the city could work with Rio Robles to address their concerns about the river trail. Some residents were against the river trail, and some, although not opposed, were concerned about problems it would create for Rio Robles' residents; in particular, a river trail on their property would give the impression to the public that it was public land. For example, Rio Robles granted permission for the marathon to go through their property last year and visitors used their clubhouse restrooms and swimming pool. The river trail would also allow easier access for transients to enter Rio Robles property. The city's offer of a fence and lighting did not adequately address their serious issues of liability, security, safety, and public access to the remainder of their property. Putting up an 8 ft. fence and gate would restrict Rio Robles residents' access to their property. Any private land next to public land, people viewed as public and would access it; for example, people were driving onto their lower land by the river and dumping garbage and trees. The city should be more considerate of Rio Robles' genuine liability and safety concerns. The city had given Rio Robles only seven days to make their decision, and it was all or nothing because the city would not separate the easements into two projects. If the utility project could be built separate from the river trail, then the city should separate the two easements. Rio Robles residents contributed to the community and would like to keep a good relationship with the city.

Council noted that substantial consideration was being provided to Rio Robles for the river trail, i.e. an 8 ft. fence with a gate (pedestrians only, no vehicular access) accessible only to their residents, police patrol, lighting, and signage indicating private property (if desired).

2. Suzanne Harston stated that people's rights were being infringed upon and an 8 ft. fence on their property would take away their right to access their property. The city should separate the two issues and give the people of Rio Robles the opportunity to provide a utility easement. She asked how councilmembers would feel if the city put a fence in their back yard so others could walk in their back yard.

3. Harley David Belew asked why the two projects were tied together and what a water and wastewater project had to do with a river trail, and if both projects had to be done as one project at the same time.

Mr. Parton noted there were two major projects going through Louise Hays Park, the utility project and the river trail, but the projects would have separate contractors. There were areas in both projects that were close together and some areas where the projects overlapped,

Council noted that the two projects inhabited the same space through most of the route, although at this particular site there was +400 ft. separation. Council and staff felt it would be efficient and save time and money to do both projects at the same time instead of putting in one project (utility) and then a year later coming back through and closing the same properties to do another project (river trail).

4. Barbara Burton stated if citizens were willing to grant the easement for the utility line, council should apply eminent domain to the river trail only and not continue to tie the two projects together. Rio Robles was residential; other easements received along Thompson Drive were from commercial properties.

Council noted the city had already received, or was in the process of receiving, all of the properties; Rio Robles was the only property remaining to complete the projects. The city had successfully worked with all other property owners and addressed their concerns of security, access, safety and liability. The projects were underway to run continuous through all properties.

Council noted, and Mr. Hayes confirmed, that Rio Robles could voluntarily sign the utility easement, in effect separating the easements, and then the city would continue action only for the river trail.

5. Morris Smith stated that the city had made plans but did not have the property to do the project. Rio Robles residents were concerned about security; they already had problems with people coming through their property on four-wheelers and tearing up their property and using their clubhouse and swimming pool. They had pride in their property, and the city would not maintain it to their standards. The river trail would present more problems for Rio Robles' residents. He stated it was apparent that minds were made up and the city would take the property.

6. Rita Morrison said she moved into Rio Robles 12 years ago and was told that they had turned down the city then. The city should not have gone forward with plans without having the land; it was not their fault the city committed money.

7. Nita Porter stated that Rio Robles residents had only two days to make their decision. She chose to live in Rio Robles because of security, but if the city put in a public sidewalk, an 8 ft. fence would not stop people from coming through their property, using their swimming in pool, stealing lawn mowers, sleeping in garages, and taking golf carts. If the city takes the property, will the city use prisoners for maintenance? She suggested the city put up two fences, an 8 ft. fence as close to the sidewalk as possible, and another 8 ft. fence to separate property owners. She suggested the city use the money dedicated for the river

trail and improve Louise Hays Park instead and not have to close the park for 18 months. She asked council to consider the good of the community and not go through private property.

Council noted that the city did not use jail trustees for maintenance, the county did. The river trail project already included significant improvements for Louise Hays Park which is one reason the park would be closed for so long.

8. Maxine Burleson said the city may get their land, but it was not morally right to take their property.

9. Londa Peterson said she lived next to the Louise Hays Park fence and she enjoyed the wildlife. In the past the city mowed the property between the park and the apartments; when the city stopped mowing that area, city staff told her that there was not money in the budget to mow land that the city already had, so she asked if there would be money in the budget to mow this area.

Council asked staff if there was any remaining process or procedure by which the city could obtain the easements needed for the two projects apart from the legal process being considered; had the city exhausted all possible options? Mr. Hayes confirmed that was correct. He clarified that the city manager had written a letter to Mr. Flett, as Rio Robles representative, describing the appraisal and value of the property. The city combined the two easements because both projects, although not on the exact same land, were on property owned by the same owner and the projects would be constructed simultaneously; legally, the resolution could be separated into two resolutions. The city had given Rio Robles an offer and that started the 30 day process. Under state law, at the end of the 30 day process, the city would be obligated to give Rio Robles a final offer, then after a 7 day period the city can file. The item on this agenda was for city council to give staff authority to proceed with condemnation if negotiations with Rio Robles failed. The city hoped to negotiate with Rio Robles outside of court; however, he explained that during a condemnation process, three commissioners would determine nothing but the value of an easement and that was the amount the city would pay.

Council asked what the ramifications were to the city of not having the easements; was it possible for the projects to proceed? Mr. Parton noted the utility project could not proceed because it would create a void with no connection between the utility lines east and west. Bids on the project had come in about \$.5 million under budget; therefore, any delay in the project could have significant financial ramifications. Without the recreation easement, the trail would dead end on both ends of the Rio Robles property. It was not feasible to go across the river because the city already had six miles of easements on the south side of the river; also the north side had interconnectivity and severe topographical and accessibility issues; also, it would be extremely costly to build two pedestrian bridges across the river.

10. Jim Duke asked council to allow Rio Robles to grant the utility easement and construct the utility lines, and then worry about the river trail project later; these

should be two separate projects.

Mr. Parton stated if the city had the utility easement, it would be possible to proceed with the utility project.

Council noted the two projects ran parallel throughout the six mile route, and the projects were planned to be constructed simultaneously to save money and time on the project; any further delays would also extend the time period that the park would have to be closed.

11. Carol Nichols stated that at one of the city's meetings about the river trail one route showed the trail crossing in front of Rio Robles property on the sidewalks already built along State Highway 16; why not use that route since people were using that sidewalk now.

Council noted that the Texas Department of Transportation had concerns about designating a recreation trail and the volume of pedestrian traffic that would be created along a major highway without any separation from traffic; a lot of public safety issues would have to be resolved before TxDOT would even consider allowing the city to designate a recreation trail along SH 16.

12. Malcolm Simmons opined these were two different projects with different engineering, people and equipment and asked council to separate the resolution.

Council noted that if the resolution was passed, Rio Robles could still grant the utility easement so the utility project could move forward. Mr. Hayes confirmed that Rio Robles could grant the easement now, just as they could have months ago. Mr. Hayes also confirmed that even if the resolution is passed by council, Rio Robles could still negotiate on issues related to both easements if they wanted to.

Mayor Pratt stated that council denied his request to separate the resolution into two issues; he would have voted for condemnation for utilities, but he would not vote for condemnation for the river trail.

Mr. Conklin moved for approval of Resolution No. 22-2013 as presented; Mr. MacDonald seconded the motion and it passed 3-1-1, with Councilmembers Conklin, Allen, and MacDonald voting in favor of the motion; Mayor Pratt voting against the motion; and Councilmember Keeble abstaining.

2C. Professional services agreement with Terra Design Group, Inc. for the design of the River Trail – G Street to Kerrville Schreiner Park project in an amount not to exceed \$228,305.00.

Mr. MacDonald moved to award the agreement as presented; Mr. Allen seconded the motion and it passed 4-0-1 with Messrs. MacDonald, Allen, Conklin, and Pratt voting in favor of the motion; no one voted against the motion; and Ms. Keeble abstained.

4E. Authorization to submit a funding application to the City of Kerrville, Texas Economic Improvement Corporation for a reuse pond feasibility study.

Ms. Ondrias noted that EIC requested the city submit a funding application for \$135,000 for a feasibility study to construct wastewater reuse ponds on city property next to the wastewater treatment plant at the landfill site. The city currently discharges 350 million gallons annually from the plant into the river; two reuse ponds would provide 200 million gallons of storage; a third pond would provide a total storage capacity of 350 million gallons. Staff proposed that the study be conducted by Freese & Nichols and include: geotechnical services that would evaluate the depth of the ponds and how big the berms would have to be, environmental survey, permitting, flood plain issues, overall constructability, effect on landfill operations, cost estimates, site survey, and evaluation of treating wastewater to drinking standards to augment the city's potable water supply.

The following persons spoke:

1. Mack McElvain said he heard that the cost of such an operation would be \$27 million, and he opined that the return on investment would be small and it would take a thousand years to repay that investment; he questioned spending \$150,000-155,000 on a study to determine that a project was too expensive. He also question if there was a potential customer.

Ms. Ondrias noted that staff would do a financial, return on investment study in-house, but this was not part of the scope of the Freese & Nichols study.

Council also discussed the following:

- The city already had an investment in the water because the city treated the water to state standards at the plant before it could be released into the river, and the city did not receive credit from the state for that; the city was not getting a return on the investment already made.
- The city had potential customers now that had been denied because there was insufficient supply of effluent water.
- The wastewater could be treated to potable water standards for alternative water supply. Ms. Ondrias noted that part of the scope of the F&N study was to evaluate this option and estimate the cost.
- If the city did not release treated wastewater into the river, would that affect the city's permit with the state? Mr. Barron noted the permit did not require the city to put water back into the river; however, there was an understanding that the stream must be kept flowing. He did not know if or how much water the state would require to be returned to the river, but the ponds would not be large enough to hold all of the water being discharged now, so the city would still have to release water into the river. He noted that wastewater was the only water source that the city had clear title to, and treating wastewater to drinking water standards and injecting it into the city's water supply was a good plan.

2. Tom Moser, Kerr County Commissioner, noted that 18 months ago he did a study looking at the needs and benefits of effluent water. The Riverhills Golf Course and the surrounding 700 homes lack water for the golf course; Riverhills

provided \$8.5 million in annual revenue to the city and county in ad valorem tax, sales tax, and jobs; if the golf course closed, the city and county would lose \$6.5 million in ad valorem tax revenue annually, assuming only a 20% drop in property valuation. Of great concern was the fact that the water table east of Kerrville was dropping continuously and the Trinity aquifer did not recharge in that area. He opined that the reuse of wastewater was a tremendous opportunity that would benefit the community and secure the future of Kerrville; economically, wastewater was more valuable than could be imagined.

3. Carolyn Lipscomb noted that treating effluent to drinking water standards was a good plan, but was expensive. She believed that the city passed an ordinance a few years ago that would allow grey water systems in the city. Currently, the city was paying to treat wastewater; she suggested allowing homeowners to install grey water systems in their homes and reuse it for landscaping, this would save the city the cost of treating some wastewater to effluent standards, and conserve treated potable water from being used for landscaping. This would also benefit homeowners during times of drought.

Council noted that grey water was designated by purple pipe; infrastructure for grey water and running two lines would be expensive. Effluent water was treated at the plant and was safe to go into river; grey water was untreated water. The council had not adopted an ordinance that would allow residents to use grey water on their lawns.

Mr. Conklin moved to authorize staff to submit a funding application to EIC; Ms. Keeble seconded the motion and it passed 5-0.

## **5. INFORMATION AND DISCUSSION**

5A. Pending legislation from the 83<sup>rd</sup> Texas Legislature, regular session.

Mr. Parton noted staff would continue to monitor, but there was nothing new to report.

## **6. BOARD APPOINTMENT:**

6A. Appointment to the Planning and Zoning Commission.

Mr. MacDonald moved to appoint Garrett Harmon, currently serving as alternate member, to the regular member position with term to expire January 1, 2015. Mr. Conklin seconded the motion and it passed 5-0.

## **7. ITEMS FOR FUTURE AGENDAS**

## **8. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- The past weekend's celebrity golf tournament held at Comanche Trace was well attended; celebrities included several Hall of Famers, and NFL football players and basketball players. A 13 year old young man from Oklahoma made a hole in one and won a Mercedes.
- Kerrville's 4<sup>th</sup> on the River event will be held in Louise Hays Park on July 4; event opens at 11:00, free concert starts at 4:00, fireworks at 9:15.

- Wounded Warrior project Second Chance would bring several families of disabled veterans to Kerrville on July 10. The police will escort buses from the hotel downtown around the 700 block of Water Street; citizens should assemble at 6:00 to honor the veterans and their families.
- Freedoms Path veteran housing project was currently ranked in the top position in the state's funding process.
- The public was invited to a meet and greet with Donna Bowyer, new Main Street Coordinator, on Friday, June 28, 5:30 p.m. at the Gather.

9. **EXECUTIVE SESSION**: None.

**ADJOURNMENT**. The meeting adjourned at 8:25 p.m.

APPROVED: \_\_\_\_\_

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Jack Pratt, Jr., Mayor

ATTEST:

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Brenda G. Craig, City Secretary