

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
AUGUST 27, 2013

On August 27, 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 John Standridge, Pastor of Christ Church Presbyterian, followed by the Pledge of Allegiance led by Bill Wingate with the American Legion Post 208.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Robert Ojeda	Fire Chief
John Young	Police Chief
Charlie Hastings	Director of Public Works

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

1. **VISITORS/CITIZENS FORUM:** No one spoke.

2. **RECOGNITION:**

2A. **Recognition of the city's contribution to the 10th annual river clean up by the Upper Guadalupe River Authority.** Ray Buck, UGRA General Manager, and Tara Bushnoe, UGRA, reported 28 businesses sponsored the event and 337 volunteers participated in collecting almost 3.5 tons of trash, including 18 tires and 960 pounds of recyclable materials.

2B. Proclamation to proclaim September 2013 as "Childhood Cancer Awareness Month" was presented by Mayor Pratt.

3. **CONSENT AGENDA:**

Mr. Conklin moved for approval of agenda items 3A through 3C; Mr. Allen seconded the motion and it passed 5-0:

3A. Minutes of the Kerrville City Council regular meeting held August 13, 2013.

3B. Resolution 27-2013, approving the budget for fiscal year 2014 for the Kerr Emergency 9-1-1 Network.

3C. Resolution No. 28-2013 authorizing the use of internal combustion engines on Nimitz Lake upstream of the city's impoundment dam for a triathlon.

END CONSENT AGENDA

4. PUBLIC HEARING:

4A. First public hearing to set the 2013 tax rate.

Ms. Yarbrough noted the proposed tax rate was \$0.5625 which was .14% above the effective tax rate for maintenance and operation. The total property tax levy increased \$70,901 from the addition of new property, and increased \$2,120 from existing property value. The average home value increased from \$172,644 to \$173,883, thereby increasing taxes from \$971.12 in 2012 to \$978.09 in 2013, a difference of less than \$7. She proposed that the second public hearing and first reading of the ordinance to set the 2013 property tax rate be scheduled for September 10, 2013.

Mayor Pratt declared the public hearing open at 6:15 p.m., no one spoke and Mayor Pratt closed the public hearing at 6:15 p.m.

Mr. Conklin moved to set the date of the second public hearing for September 10, 2013; Mr. MacDonald seconded the motion and it passed 5-0.

5. ORDINANCE, FIRST READING:

5A. Ordinance No. 2013-15 amending the budget for fiscal year 2013 to account for a change to the city's operational budget within the water and sewer fund to appropriate funding for a feasibility study of reclaimed water.

Mayor Pratt read the ordinance by title only.

Mr. Parton noted the budget amendment would transfer \$135,000 from the utility fund to pay for a study to evaluate the feasibility of impounding effluent at the wastewater treatment plant site, and the feasibility of treating effluent to a level suitable for potable water. The project originally was proposed to be funded by 4B sales tax; even though 4B funds could be used to fund water impoundment projects for recreational use, the funds could not be used to develop additional potable water supplies. The feasibility study should be completed in six months. He estimated the cost to complete the entire project was roughly \$20-27 million; however, potential phasing of the project and timing of funding could generate revenue sufficient to fund the project.

The following person spoke:

- Jimmie Spradling asked if this project could result in customers consuming treated effluent. Mr. Parton noted the study would provide information on whether effluent could be treated and used as a potable water supply.

Mr. MacDonald moved for approval of Ordinance No. 2013-15 on first reading, as presented; Mr. Conklin seconded the motion and it passed 5-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Update on water/wastewater, river trail and park improvements through Louise Hays Park and Lehmann & Monroe Park and the use of eminent domain for the acquisition of a water/wastewater easement, temporary construction easement, and recreation easement (river trail) through property owned by Rio Robles, Inc. (32 Chaparral).

Ms. Keeble explained that she and her husband owned the river front property where the utility line and river trail would cross; therefore, she would recuse herself from any voting and executive session regarding this subject, just as she had in the past. She stated that neither she nor her husband had ever received any money for the donation of their land for either the utility easement or the river trail project. They donated their property, which was the largest tract involved, and she felt it was ideally suited for a river trail. She stated that the rumors that they had accepted money for the easements were insulting to her, her husband, and city staff.

Mr. Parton updated the council on several projects along the river:

- Jefferson phase I utility project began August 15 to construct a 21" diameter water transmission main and an 18" gravity wastewater main that will be extended to Town Creek and beyond. This project will increase circulation and water pressure throughout the city, create better fire flow and enable future growth; anticipated completion was February 2014.
- G Street utility project would install a wastewater line to Birkdale lift station and provide capacity to accommodate growth; anticipated completion March 2014.
- The trees marked in Louise Hays Park (LHP) were identified for inclusion in the park improvement plan, not marked for destruction as rumored. The utility project would cause the removal of 17 desirable trees, and the utilities project budget contained \$1,000 for each desirable tree removed and in the case of the utility project a total of \$17,000 was budgeted to replace at least 17 trees of similar species. Six large oak trees near the Lemos Street side of LHP were dead and would be removed.
- Louise Hays Park (LHP) and Lehmann & Monroe Park (LMP) improvements and the river trail to Kerrville Schreiner Park (KSP) would begin immediately after completion of the utility project. The park renovations would include repair, replacement, and removal of existing facilities and infrastructure and additional park facilities and enhancements. The project would also address regulations, codes, and floodplain issues, and meet handicapped accessibility requirements.
- The river trail project had been part of the city's comprehensive plan since the early 1970s and was based on the parks master plan adopted in 2009. The parks master plan was the result of a citizens' survey and input at numerous public hearings, and supported park amenities and a river trail from LHP to KSP. The route would cross under the G Street bridge, have an at grade crossing at Legion Crossing under Loop 534, and provide pedestrian bridges, restrooms, trailheads and drainage structures at numerous locations. The trailhead at KSP would provide gated access for persons staying at KSP. The project would begin in February/March 2014; anticipated completion January 2015.

- The river trail and parks improvement project were being financed by 4B sales tax funds and would not affect the city's ad valorem tax rate.
- The LHP and LMP would remain closed during construction for the safety of the public; construction and storage of materiel would cover a large part of the park and would not be conducive for visitors.
- Tranquility Island would be accessible throughout the project with access from Butt-Holdsworth Memorial Library and the Riverside Nature Center. Also, the navigable waterway through LHP would remain open.
- Reviewed the availability and amenities at 19 other city parks and noted LHP/LMP were not the heaviest used city parks.

Ms. Keeble recused herself and left the meeting at 6:58 p.m. prior to the motion being made and voted on.

Mr. Parton noted that staff had not been successful in completing negotiations for the utility easement or the recreation easement. He asked council to reaffirm its previous action to proceed with the eminent domain process and anticipated the condemnation on the subject property would be complete by the end of October.

Mr. Conklin moved that the City of Kerrville authorize the use of the power of eminent domain to acquire a water/wastewater, a temporary construction, and recreation easements for a public utility project and a river trail across land generally adjacent to the Guadalupe River and between the city's Lehmann & Monroe Park and G Street. Mr. MacDonald seconded the motion and it passed 3-1-1 on record vote as follows: Councilmembers Allen, Conklin and MacDonald voted in favor of the motion; Mayor Pratt voted against the motion; and Councilmember Keeble abstained.

Ms. Keeble returned to the meeting at 7:03 p.m.

6B. Resolution No. 29-2013 approving the City of Kerrville, Texas Economic Improvement Corporation (EIC) budget for fiscal year 2013-2014.

Mr. Parton presented the proposed FY2014 budget as approved by EIC. He noted the budget included: revolving loan fund program (interim financing for business expansion); funds for a potential significant economic development project, such as a convention center; quality of life projects; and utility project for new or expanded business. Staff recommended approval as proposed.

Ms. Keeble moved for approval of Resolution No. 29-2013; Mr. Allen seconded the motion and it passed 5-0.

6C. Guadalupe-Blanco River Authority's (GBRA) application for a water use permit from the Texas Commission on Environmental Quality to divert and use not to exceed 75,000 acre-feet of water per year from the Guadalupe River in Gonzales County.

Mr. Hastings noted that GBRA filed an application for a water permit (No. 12378) December 23, 2009, for 75,000 acre-feet (24 billion gallons) of water annually.

Bill West, GBRA general manager, commended the city for evaluating the water re-use project (Item 5A) and discussed the issues and particulars of GBRA's permit:

- GBRA recently spent over \$6 million defending their downstream water rights associated with the Endangered Species Act that attempted to reallocate GBRA's water for the whooping cranes.
- GBRA borrowed \$4.4 million from the Texas Water Development Board to develop water rights for the fast growing area between I-35 and SH130, and to compete for possible future state funding in 2015.
- The Canyon Reservoir currently was the only water source for the I-35 corridor area, and all of the Canyon water was committed.
- There was no ground water available east of I-35.
- The permit was for diversion of surface water; additionally, GBRA was negotiating for acquisition of ground water rights. The plan was to co-mingle the water sources, treat the water, and transport it to the I-35/SH130 corridor.
- TCEQ evaluates and determines the availability of unappropriated water by using computer modeling program (Water Availability Model, WAM). WAM indicated that 24,000 acre feet of water was available annually at the confluence of the Guadalupe and San Marcos rivers after meeting all existing senior water permits. The permit seeks to acquire a total of 75,000 acre feet of surface water annually to be stored in an off channel reservoir with a capacity of 125,000 acre feet.
- Section 6.1L of the permit stated that the permittee may store in and divert from an off channel reservoir other water from the Guadalupe River authorized by surface water rights as long as the underlying surface right authorized storage in off channel reservoirs.
- GBRA was negotiating to purchase water rights, and if successful, that water would be co-mingled and stored in the off channel reservoir.
- If GBRA wanted to store water authorized under other water rights in their off channel reservoir, including water authorized under Canyon Reservoir, their water rights would have to be amended.
- The water use permit was issued subject to all senior and superior water rights in the Guadalupe River Basin.
- The Canyon Reservoir was totally committed and water could not be released for diversion. Canyon Reservoir was currently only 78% full.
- Several parties had filed intervention in GBRA's permit, e.g. the San Antonio Water Supply and the group representing the whooping cranes, and he anticipated national environmental groups would become involved.

Council also discussed the following:

- Did Canyon Reservoir have the ability to deliver the amount of water that it had committed? Mr. West replied yes.
- How long could Canyon meet its commitments? Mr. West stated that Canyon could meet its commitments through the end of 2015 under current drought conditions. He explained that the amount of flow available was determined by the historical flow coming into the reservoir in the 1950s, which was the drought of record, and honoring the senior water rights issued prior to 1962, which

equated to 90,000 acre feet every year. Mr. West will provide that information to city staff.

- If the permit is granted, GBRA would be allowed to draw 500 cfs at the diversion point; what is the current and normal flow at that point? Mr. West noted the current flow was 200-250 cfs, and normal flow was 702 cfs. GBRA would only be allowed to pump when the river was full, and GBRA would have to honor all senior rights and provide downstream environmental flow.
- The total cost of the project was \$380 million; where was the project funding? Mr. West stated that GBRA hoped to qualify for state funding in 2015. The project would have to compete with other projects throughout the state, and if selected, the state would own part of the project for the first 15 years, and as such, the state would be co-owners of the project and carry the debt for 15 years. If the state did not participate, GBRA would not be able to do the project as it would be cost prohibitive. The state participation would be a loan, not a grant.

The following person spoke:

- Jimmie Spradling questioned if GBRA's permit would be affected in anyway by the reservoir the city was considering to capture effluent. Mr. West said it would not and he commended the city for recognizing the scarcity of water and investigating this as a potable water source.

Mr. Hastings noted that the city's engineering consultants, RPS Espey, reviewed the application, and it was noted that although the application would have a priority date junior to Kerrville's water rights, it had the potential to allow the use of other water rights that may be more senior, such as Canyon or any water rights that GBRA was negotiating to purchase as the city did not know the priority dates of those rights. Staff recommended council authorize the city manager to protest the application.

Mr. Allen moved to authorize the city manager to contest the permit application with the TCEQ because it appears that it could have a negative impact on our permits and our water supply; however, the city could withdraw its opposition at some point if the city determines there would be no negative impact. Mr. MacDonald seconded the motion.

Council encouraged staff to coordinate efforts with Kerr County and UGRA as long as they were aligned with the city's interests, and if it was determined that the permit would not impact Kerrville's water rights, the city may consider withdrawing.

The following person spoke:

- Ruth Spradling questioned the figures for future growth. Mr. West noted the I-35/ SH130 was a high development area. If the state issued GBRA's permit, they likely would not issue any further permits downstream.

The motion passed 5-0.

6D. Ethics policy.

Mr. Hayes reviewed previous changes made by council and noted that he had forwarded a draft policy provided by Mayor Pratt.

The consensus of the council was that each member review both drafts and send their recommended changes to Mr. Hayes for compilation in a new draft.

7. INFORMATION AND DISCUSSION:

7A. Update on activities of the beautification advisory committee.

Mayor Pratt noted the committee was: 1) Evaluating issues pertaining to beautification of the community and preparing a report for council; 2) Preparing goals and objectives for a community beautification education program; 3) Will recommend a community beautification recognition program; 4) Proclamation for quarterly beautification days will be presented at the next council meeting; and 5) Participated in Republic Services Good Steward clean up event at which more than 40 volunteers participated in picking up 30 bags of trash along Holdsworth Drive. The next BAC meeting was scheduled for Thursday, September 5.

The following persons spoke:

- Carolyn Lipscomb asked that the city consider placing trash receptacles along Holdsworth Drive.
- Jimmie Spradling had heard in the past that the city was required to return water from the wastewater treatment plant back into the river; is that true, and how would such a requirement affect the city's effluent impoundment project? Mayor Pratt noted the issue had been discussed earlier in the meeting and considering that the city may become involved in possible litigation, it should not be discussed.

7B. Budget and economic update.

Ms. Yarbrough reported year to date: general fund revenue, \$19,190,433 and expenditures, \$16,920,993; water and sewer fund revenue, \$7,444,854, and expenditures, \$6,916,006; hotel occupancy tax revenue, \$761,012, and expenditures, \$620,250; building permits issued for new residences for FY13 to date was 31.

8. BOARD APPOINTMENTS:

8A. Appointment to the food service advisory board. Ms. Keeble moved to appoint David Gonzales with term to expire December 1, 2014, due to a resignation; Mr. Conklin seconded the motion and it passed 5-0.

9. ITEMS FOR FUTURE AGENDAS

- Schedule for upcoming holidays and future council meetings.

10. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Wayfinding signs have been installed at various locations.

The following person spoke:

- Ruth Spradling questioned whether there was a leash free area at Flat Rock Park for dogs. Council noted it was a county park, not a city park.

11. EXECUTIVE SESSION:

Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071 and 551.072 of the Texas Government Code; the motion was seconded by Mr. Allen and passed 5-0 to discuss the following matters:

Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following projects:

- Jefferson lift station
- River Trail.

At 7:50 p.m. the regular meeting recessed and council went into executive closed session at 7:54 p.m. At 8:10 p.m. the executive closed session recessed and council returned to open session at 8:10 p.m. The mayor announced that no action had been taken in executive session.

Ms. Keeble left the meeting at 7:50 p.m.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

Mr. MacDonald moved to authorize staff to acquire two tracts from Mr. Tidwell along the proposed river trail route at the negotiated price. Mr. Conklin seconded the motion and it passed 4-0.

ADJOURNMENT. The meeting adjourned at 8:11 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary