

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
MARCH 25, 2014

On March 25, 2014, 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 Pastor James Wilson, of the Kerr Christian Center, followed by the Pledge of Allegiance led by Police Chief John Young.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

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| Todd Parton | City Manager |
| Mike Hayes | City Attorney |
| Kristine Ondrias | Deputy City Manager |
| Brenda G. Craig | City Secretary |
| Sandra Yarbrough | Director of Finance |
| Ashlea Boyle | Special Projects Manager |
| Jason Lutz | City Planner |
| Stuart Barron | Director of Public Works |
| John Young | Police Chief |
| Robert Ojeda | Fire Chief |

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

1. VISITORS/CITIZENS FORUM:

1A. Bill Bacon, member of the Military Order of the Purple Heart, Chapter 814, invited the public to attend the welcome home party sponsored by the Hill Country Veterans Alliance on Sunday, March 30 at the YO Hotel. This date marks the 41st anniversary of the veterans return from Viet Nam.

2. CONSENT AGENDA:

Mr. Conklin removed Item 2D from the consent agenda.

Mr. MacDonald moved to approve consent agenda items 2A, 2B, 2C, 2E, and 2F; Mr. Conklin seconded the motion, and it passed 5-0:

2A. Minutes of the city council special meeting held March 6, 2014, and the city council regular meeting held March 11, 2014.

2B. Amendment to the license agreement with the Texas Hill Country Senior Softball League for the use of Singing Wind Park fields.

2C. Resolution No. 06-2014 abandoning and terminating a sign easement generally located at the northwest corner of the intersection of Sidney Baker Street (State Highway 16) and Main Street (State Highway 27), consisting of the corner of the City Hall site (701 Main Street); and ordering recording.

2E. Authorize extension of the bank depository agreement with Wells Fargo for the period July 1, 2014, through December 31, 2014.

2F. Resolution No. 07-2014 amending Resolution No. 01-2014 that ordered the holding of a general election to be held on May 10, 2014, by changing the election judge and the central counting station manager.

2F. UNA RESOLUCIÓN 07-2014 QUE ENMIENDA LA RESOLUCIÓN NO. 01-2014 QUE ORDENÓ LA CELEBRACIÓN DE ELECCIONES GENERALES A LLEVARSE A CABO EL 10 DE MAYO DEL 2014 PARA CAMBIAR AL JUEZ ELECTORAL Y EL ADMINISTRADOR DE LA ESTACIÓN CENTRAL DE CONTEO.

END OF CONSENT AGENDA

2D. Authorize construction contract to GG & G General Construction, Inc. for the construction of the section of river trail project from G Street to Kerrville Schreiner Park in the amount of \$1,753,535.00 and additional change orders which may exceed \$50,000.00 but not to exceed the total project budget of \$1,853,535.00, funding available from the 2011 certificates of obligation.

Ms. Ondrias noted the bid was slightly under the estimated \$2.1 million budget for this segment of the river trail project, which included design and engineering. The added alternatives were trailheads and paving of the G Street parking lot, which would be accomplished with city crews.

Mr. Conklin moved to approve the contract as presented; Mr. Allen seconded the motion and it passed 5-0.

3. PUBLIC HEARING AND RESOLUTION:

3A. Resolution No. 05-2014 repealing Resolution 03-2014 and granting a conditional use permit for an approximate 1.03 acres tract of land consisting of Lots 21, 22, 23, and 24, Block G, of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas, otherwise known as 820 Sidney Baker Street (State Highway 16) and located within the N-21 zoning district; by permitting said property to be used for restaurant, general; and making said permit subject to certain conditions and restrictions.

Mr. Lutz noted the city failed to hold a public hearing on this matter on February 25 prior to approving Resolution No. 03-2014. There were no changes to the proposed use or site between the previous and the proposed resolutions. The applicant met the state's distance requirement of 300 ft. from a church or school to be able to sell alcohol.

Mayor Pratt opened the public hearing at 6:07 p.m.; no one spoke; Mayor Pratt closed the public hearing at 6:08 p.m.

Mr. MacDonald moved to approve Resolution No. 05-2014; Mr. Allen seconded the motion and it passed 5-0.

4. ORDINANCE, FIRST READING:

4A. Ordinance 2014-06 amending the budget for fiscal year 2014 to allocate \$500,000.00 for repairs to structures at the Kerrville/Kerr County Airport.

Mr. Parton noted the budget amendment would allocate \$500,000 from the reserve fund for building and roofing repairs for six buildings that were jointly owned by the city and county at the airport. The buildings were currently occupied by Mooney International (MI), a new entity that acquired the former Mooney Aviation Corp. (MAC) name and was beginning production of airplanes. The airport board and MI were negotiating a new lease for MI to occupy the buildings as the prior lease with MAC expired. The MAC lease stated that the buildings would be maintained by MAC, but that did not happen and the buildings deteriorated over several decades. The new MI applied to the Economic Improvement Corporation (EIC) requesting \$1 million for building and roof repairs; however, EIC policy required that application be made prior to starting a project, and the Mooney project was well underway so it did not meet the requirements for economic development. MI received a cost estimate of \$1 million for 300 sq. ft. of roofing, with a 15 year warranty.

Mr. Parton noted that using \$500,000 from the reserve fund would leave \$6.6 million at the end of the fiscal year, equivalent to a 30% reserve operating fund balance, and would not affect the city's financial standing. He proposed that a design professional be hired to prepare bid specifications. The allocation would be based on actual contract price and be transferred to the airport board who would then manage the bidding and contracting process in accordance with TxDOT standards, and any remaining funds would be returned to the city and county equally. He recommended approval of the budget amendment with the following conditions:

1. The \$500,000 be disbursed concurrent with Kerr County's equal allocation.
2. The repair to the roofs be conducted as an airport board project following the appropriate public bidding processes.
3. The actual amount of funds be based on an equal split of the costs between the city and the county based upon the airport board's final contract price.

Council also discussed the following:

- The facilities were jointly owned and needed repair due to neglect by MAC over several decades, and lack of enforcement by the city, county, and airport board as specified in the MAC lease.
- The \$500,000 was not proposed to go to the new MI, but was to repair buildings owned by the city and county.
- MI spent \$3 million on infrastructure and new equipment that could not be installed until roof repairs were completed; some equipment had to be covered with plastic to protect it from rain. Additional employees would be hired after equipment was installed.
- The lease being negotiated with MI included a commitment by MI to keep the buildings up to standards.
- Members of the Kerr County Commissioners' Court (KCCC) and Airport Board (AB) were invited to participate in the same discussions with MI as the city had been invited to.

- KCCC met in executive session on March 24 and received an update on the subject; two commissioners stated they supported funding the repairs.
- If MI did not lease the property, the city and county would still have to make repairs before the buildings could be leased to another tenant.
- The newspaper reported that the mayor had already stated that the city would provide the money; Ms. Keeble reminded the mayor that the council had previously asked that he not speak on behalf of the city council unless city council voted on an issue. Mayor Pratt stated he had been misquoted.
- Why was the requirement for MAC to maintain the buildings not enforced? Mr. Parton noted that MAC had been at the facility for several decades and lack of maintenance resulted in deterioration over the years. In 2007-08 MAC ceased operations and the city, county, and airport board thought it best not to pressure MAC as it could force MAC out of business. MAC had no cash, was in various litigations, assets were frozen, and bankruptcy filings prevented the city and county from placing a lien on any of MAC's assets.
- Why were taxpayers being asked to fund repairs that were MAC's responsibility under the contract, and why was the lease allowed to lapse when MAC owed money for repairs? The lease terminated based on the terms of the lease; time expired.
- Was MI being required to put up any deposit, bond, insurance, etc. to ensure that the buildings would be maintained? Maintenance requirements would be part of the lease; also a requirement that should operations cease, MI would vacate the buildings. MI agreed to allow quarterly or biannual inspections.
- Concern about setting a precedent and giving preferential treatment to one business. Council had an obligation to the taxpayer, and the taxpayer should not have to pay for past mistakes; council should not use general fund reserve to help only one company.
- For several years the city had been repairing and replacing items that had been neglected in the past, such as a fire truck, streets, utility system, etc.; repairing assets owned by the city at the airport was sound financial planning.
- The city was charging county residents a fee to use the library; fewer people use the airport than use the library.
- The goal was to make the airport self-sufficient, and now the city and county were being asked to fund \$500,000 each.
- What ad valorem and sales tax could the city expect to receive? Mr. Parton noted the city and county owned the land and buildings so that would not be taxable; however, tax would be assessed on inventory and equipment.
- Jonas Titus, Executive Director of the Kerrville Economic Development Corporation, noted that economic modeling was being prepared and should be available by the end of week and a copy would be provided to city council. He noted that the equipment would be assessed for taxes and MI agreed to have Kerrville designated as the point of sale for sales tax.
- MAC never collected any sales tax on any plane sold. The state comptroller's office agreed that Kerrville could be listed as the point of sale, and MI agreed to support Kerrville as being the point of sale so Kerrville would receive the sales tax; however, some states did not have sales tax on airplanes, and the city may not want to force sales tax in those states because a buyer might purchase a

plane built elsewhere. The state comptroller would collect and enforce sales tax.

- MI did not apply to EIC for funding as an economic development project. Mr. Parton noted one requirement of an EIC application was to make application before a project started, and MI's project was well under way. This request for funding was not based on economic development, rather, it was a repair of city and county owned facilities.
- If MI were not operating in these buildings, the city and county would still have to repair the buildings before any commercial enterprise would lease the property.
- Should also consider the economic impact of MI on employment and sales tax. Currently MI had over 70 employees with average salary at \$52,000, and may have 200-300 employees in the future.
- The buildings were neglected in the past, but that was prior city and county administrations; the city and county have a responsibility to repair and maintain assets that they own.
- MI may be a new company, but it had taken over the production of the same product, still had the same name, and hired the same employees; this was the same company, and MI should take responsibility for not maintaining the buildings in the past.
- Generally accepted business practice that when buying a business the buyer assumed the name and assets but not the responsibility of the previous owner; also general assumption that the intellectual and physical assets were transferred and not the corporation.

Mr. MacDonald moved for approval of Ordinance No. 2014-06 on first reading as presented with the following stipulations:

1. The \$500,000 be disbursed concurrent with Kerr County's equal allocation.
2. The repair to the roofs be conducted as an airport board project following the appropriate public bidding processes.
3. The actual amount of the funds to be disbursed be based upon an equal split of the costs between the city and the county based upon the airport board's final contract price.

Further, that staff contact the Airport Board and Kerr County Commissioners' Court and request a joint meeting with the city. Mr. Conklin seconded the motion and it passed 4-1 with Messrs. MacDonald, Conklin, Allen, and Pratt voting in favor of the motion and Ms. Keeble voting against the motion.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Kerrville Beautification Advisory Committee's (BAC) proposed beautification recognition program.

Ms. Boyle noted the resolution that created the BAC also charged BAC with creating a beautification recognition program.

Brandon Douglass, BAC Chairman, presented aspects of a beautification recognition program and reviewed criteria for evaluation of residential and commercial properties. The goal of the program would be to encourage owners to enhance and maintain their property through recognition. The committee would meet quarterly and nominate businesses and residences for recognition

and present recipients with a certificate and a sign to be displayed on their property. The BAC would get price quotes for signage and request funds to purchase the signs.

Council discussed water conservation and use of natural resources as an evaluation component of the program.

Ms. Keeble moved to approve the program as presented; Mr. Conklin seconded the motion and it passed 5-0.

5B. Submitted bids for construction of the Louise Hays Park improvements project.

Mr. Parton noted two bids were received for the project, and both exceeded the project budget. He recommended council reject all bids received and authorize staff to re-scope and separate the project into independent segments; this would give local contractors an opportunity to bid on segments of the project, and some parts could be accomplished in-house. He noted salary savings due to recent downsizing and restructuring and proposed to create a project manager position in the engineering department, noting that the engineering staff had been cut from three persons to one. The project manager would oversee management of the river trail and park improvement projects and other infrastructure projects in the future. He opined that this direction would accomplish the project on schedule and within budget.

Ms. Ondrias noted that GG & G Construction, the contractor on the first segment of the river trail, expressed interest in bidding on the next segment of the trail.

Mr. MacDonald moved to reject all bids received for the Louise Hays Park improvements project and to direct staff to re-scope and rebid the project in segments as proposed by staff. Mr. Allen seconded the motion and it passed 5-0.

5C. Repealing Section 18-2, "Bird Sanctuary" of the City of Kerrville's Code of Ordinances.

Councilmember MacDonald requested council consider repealing Section 18-2. He noted that federal and state laws already addressed this issue and the city's ordinance was duplicative and encroached on citizens' rights by making it illegal to remove nuisance birds that could be hazardous to human health and safety.

Mr. MacDonald moved to direct staff to draft an ordinance repealing Section 18-2 of the Code of Ordinances; Mr. Conklin seconded the motion and it passed 5-0.

6. INFORMATION AND DISCUSSION:

6A. Mardi Gras post event report.

Ms. Boyle reviewed highlights of the Mardi Gras on Main event held March 4 and noted nine restaurants provided food at no cost. The event netted approximately \$12,000; Main Street Advisory Board would evaluate special downtown projects for funding.

6B. Staff update on state's community water watch list.

Mr. Barron noted that the Texas Water Development Board designated the Kerrville area as being in extreme drought condition. TWDB recognized 4,642 active community water systems, of which 1,137 had implemented drought contingencies. He noted several neighboring communities that were on the 180 day watch list and entities that were on the two year watch list, meaning that those communities may likely run out of water without significant rainfall. Kerrville was not on the watch list. Kerrville had four water sources: 1) groundwater; 2) surface water from the river; 3) surface water stored in Nimitz Lake; and 4) water stored in aquifer storage recovery (ASR) wells. Based on a consumption rate of 3 million gallons a day, the city had 91 days of water in Nimitz Lake, 253 days in ASR, and one year in groundwater supply. He noted that the average riverflow this time of year was 130 cubic feet per second; currently it is 25 cfs. The city was currently in Stage 1 and had 759 million gallons in ASR. The current rainfall deficit was 5.5 inches.

Council discussed the possibility of going into more strict water conservation stages if the rainfall deficit continued. Mr. Barron noted the drought contingency plan was triggered on demand and supply of water available; however, the city may consider implementing Stage 2 before the state watermaster required more strict conservation; staff would monitor the situation closely. He also noted that when the trees start to bloom, they consume 3-10 cfs water.

Mayor Pratt noted potential legislation being introduced in Austin that would do away with headwaters groundwater conservation districts in Texas and give more power to the state to control local water; HGCD passed a resolution opposing this legislation.

6C. Budget and economic update.

Ms. Yarbrough reviewed the financial report ending February 2014. She noted water sales were low in February due to winter averaging; sales tax was holding steady at 4.5-5% over the same time last year; and permits for new residences were 20 as compared to 13 for the same period 2013.

7. **ITEMS FOR FUTURE AGENDAS:** None.

8. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** None.

9. **EXECUTIVE SESSION:** None.

10. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION:** None.

ADJOURNMENT. The meeting adjourned at 7:24 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary