

MINUTES OF THE KERRVILLE CITY COUNCIL AND THE AUGUST 14, 2014
CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT COPROPRATION
PROPERTY OWNERS MEETING

On August 14, 2014, a meeting of the property owners in the Guadalupe Street area to discuss the proposed river trail west of Town Creek was held August 14, 2014, 7:00 p.m. at the Dietert Center, 451 Guadalupe Street, Kerrville, Texas

COUNCIL MEMBERS PRESENT:

Jack Pratt	Mayor
Stacie Keeble	Councilmember
Gary F. Stork	Councilmember

COUNCIL MEMBERS ABSENT:

Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember

EIC MEMBERS PRESENT:

Polly Rickert	Secretary
Larry Howard	Board Member
Stacie Keeble	Board Member
Sheri Pattillo	Board Member

EIC MEMBERS ABSENT:

David Wampler	President
Kenneth Early	Vice-President
Gary Cochrane	Board Member

STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Ashlea Boyle	Main Street/Special Projects Manager
Sandra Yarbrough	Director of Finance
Malcolm Matthews	Director of Parks and Recreation

DISCUSSION OF THE PROPOSED RIVER TRAIL WEST OF TOWN CREEK:

Mr. Matthews gave a brief history and the current status of the river trail project. In 2011 the Economic Improvement Corporation (EIC) and Kerrville City Council approved \$6 million for the river trail project and an additional \$2 million for park improvements at Louise Hays Park (LHP) and Lehmann and Monroe Park (LMP) to be funded from 4B sales tax. The section from Tranquility Island to Riverside Nature Center (RNC) was completed and opened to the public in December 2011. The trail was currently under construction from Kerrville Schreiner Park to G Street and from G Street to LHP, and park improvements were also underway in LHP and LMP. The next section of the trail would include a low water pedestrian crossing over Town Creek behind RNC and improvements to Lowry Park. Mr. Matthews displayed a map showing three options for the river trail route in the Guadalupe Street area from Lowry Park to Guadalupe Park: the north side along

Guadalupe Street, north side along the riverbank, and the south side along the riverbank. Every option had issues but the north side along the riverbank was the preferred route. The city needed to acquire access to property in order to determine all of the issues with the north side routes; therefore, the city contracted with Contract Land Staff (CLS), a right of way land acquisition services consultant.

Matthew Eckmann, acquisition agent with CLS, provided each owner a folder of information including Senate Bill 18 and the Land Owner Bill of Rights. He noted in order to determine the issues associated with the two routes on the north side, the city needed to perform survey work and gather information that engineers would use to determine the trail route and address issues of importance with landowners. Mr. Eckmann stressed that the right of entry agreement was strictly to allow the city access to the property for this purpose; this agreement would not allow the city to begin construction. During this part of the process, landowners will have input into the document, such as identifying any structures to be saved. The information and property appraisal would be used to determine the city's offer for the easement or acquisition; as an easement, the owner would retain ownership of the land but the city would have the right to put the trail on the property and maintain it; as an acquisition, the city had ownership of the land; neither would hinder landowners access to the river or interfere with the use of their property. The next step would be research by a title company to determine the actual property owners and to prepare property descriptions and legal documents. Mr. Eckmann stated he was hired by the city to take care of the owners and make sure they got a fair deal; he would work with landowners through the easement and land acquisition process. The city did not want a contentious relationship and would listen to their concerns and take their issues under advisement.

The following comments and questions were made by the public:

- As shown on the drawing, the trail would cut through existing 220 volt electric utility line and pipes to a water system and well, and a stairwell.
- City says it will take care of his property, but wanted assurance it would be done the way he wanted it done. Mr. Matthews noted one of the reasons for the right of entry agreement was to work with owners to identify structures and things owners wanted to save; owners could negotiate specific language into their easement document to protect structures or make assurances.
- City did not know where the river trail would be located on their property. Mr. Eckmann noted the line on the map was just a tentative graphic line, the route could not be determined until a survey could be done and structures, utility lines, etc. could be identified; that was the reason for the right of entry document.
- River trail would not hinder the property owners' use of their property, but it would take away their privacy.
- Who was responsible if a trail visitor left the trail and was injured on the owner's property? Mr. Matthews noted the city would assume all liability and responsibility for people using the trail; the city would patrol the trail and install signage notifying the public that if they leave the trail they are trespassing on private property.
- The trail that Brent Bates installed on his property seems to be the plan that the city is using; is Mr. Bates' sidewalk going to be part of the city's river trail? The city should use the river trail funds to fill the hole on Mr. Bates' property. Mr. Matthews noted the trail construction would be consistent with the four miles already built; the city's trail could connect to Mr. Bates' sidewalk since it was

already there, but the city did not plan to put up a fence or have any type of visibility obstruction to the river; in fact, the trail would be constructed in the floodway and structures, including fences could not be built in the floodway.

- Did not want a river trail, wanted a nature trail; did not want to have to cross a line to get to the bottom part of his property; did not want a dam built between his house and the river.
- If the trail is along the river, it will interfere with wildlife habitat.
- Rio Robles had problems with the city. Mr. Matthews noted Rio Robles' situation was different because it was a commercial property with multiple owners; the Guadalupe Street area was almost all residential property.
- Has the city looked at the bulkhead west of the Guadalupe Park? Mr. Matthews stated anything could be built; it was just a question of money.
- He visited with Mr. Matthews personally and reviewed the plans; Mr. Matthews had been in business for many years before coming to Kerrville and had the citizen's best interest at heart.
- The challenge may be to determine who owned some of the property along Guadalupe Street. Mr. Eckmann noted the title company would conduct a full title search and determine property ownership and issue a title policy based on official information recorded at the courthouse.
- The actual property owner is shown on the deed; however, if a person was purchasing the property from the owner and had a contract for deed on a property, how would that be handled? Mr. Eckmann stated that the contract for deed should be recorded in the courthouse; if it was not in the courthouse, it was not legal. If it is filed at the courthouse, the title company would reference the buyers as co-owners of the property. If the contract for deed is recorded at the courthouse, the title agent will access it and determine ownership. The city had to abide by the title commitment.
- Who will remove trash and graffiti on the trail? Mr. Matthews noted the city would be responsible for removing offensive graffiti and trash and would patrol the trail daily, but would not do maintenance on private property. The city would also put up signage and trash receptacles to try to discourage littering.
- Tubers along the river in New Braunfels engage in drunkenness and bad behavior and leave trash on private property; the city should not put in a river trail here. Mr. Matthews noted the river in New Braunfels was owned and managed by the state and the Kerrville river trail would be on private property.
- The river will flood and debris will come down and destroy the trail and require maintenance. Mr. Matthews noted the trail would be designed and built to prepare for flooding; yes, there would be damage, but it could be minimized through design and construction. The city would repair and maintain the river trail.
- Would the city build a stairway for every owner? To access Brent Bates' property, the city would have to have stairs above his wall. Mr. Matthews noted if steps were needed to access the trail, steps could be put into the design; however, the trail was proposed to be at grade so steps should not be necessary.
- The structure on Brent Bates' property changed the course of the river and funneled water onto neighbors' property and resulted in a real drainage mess.
- People were dumping trash in the alcoves along the river now, the river trail would allow better access and result in increased trash. Mr. Eckmann noted people were already dumping; the river trail would be a benefit because it would take away the seclusion and would be better monitored and controlled.
- In favor of the river trail if done properly.

- How does the trail affect owners' right to hunt on their property? Mr. Matthews noted the trail did not impact private property rights.
- How was Mr. Eckmann's fee structure set; how much would he receive from the city for property owners to sign over rights to their property or talk them out of their property, and would he receive a bonus based on the number of owners who sign? Mr. Parton noted the consultant worked on an hourly rate; the cost to the city thus far was about \$7,000 and included preliminary title research. Mr. Eckmann noted he was paid strictly on an hourly basis for the number of hours worked; he would not receive any type of bonus based on the number of property owners who signed documents.
- What happened about the option of going on the south side of the river which is largely state-owned property? Mr. Matthews noted a higher bluff on that side and the cost of another pedestrian bridge to get back to the north side.
- Owners on Guadalupe Street already have a pedestrian sidewalk in front of their property and the city wanted another one behind their property; why not use the sidewalk on the street for the river trail for this one-half mile section? Mr. Matthews noted there were originally four route options and all were reviewed and were still under consideration; however, the best option was on the north side along the river. The route along Guadalupe Street created safety concerns with multiple driveways and narrow front yards.
- What if the owners do not sign the right of entry document? Mr. Eckmann noted that the line on the drawing was just speculation, a conceptual line from a computer generated program. The right of entry document would allow the city access to the property in order to conduct surveys and gather information, i.e. location of utilities, topography, existing structures, etc. so engineers could design a trail route. He will report to the city the number of right of entry documents he receives; if he receives enough, the engineers may be able to determine the route.
- Rio Robles and the City of Kerrville had pending litigation; how was that? Mr. Matthews noted that Rio Robles gave the city permission for right of entry for survey work; a majority of the owners would not grant an easement so the city filed eminent domain to construct the project on the Rio Robles site.
- If the court found in favor of Rio Robles, would the city have to remove the trail? Mr. Hayes noted that Rio Robles' argument was that the trail was solely an economic development project, which the city stated it was not; a hearing was scheduled for August 29.
- The city received only one bid for river trail construction, and a councilmember worked for that company. Why did the city not go out for bid to other companies instead of getting a bid from just one company? Mr. Matthews noted the city had the bid out for three weeks and only one bid was received; the city cannot force companies to bid on city projects.

The meeting adjourned at 8:18 p.m.

APPROVED: 9-23-14

/s/

Jack Pratt, Mayor

APPROVED: _____

David A. Wampler, EIC President

ATTEST:

/s/

Brenda G. Craig, City Secretary