

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
OCTOBER 28, 2014

On October 28, 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 Father Tom Murray, of St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Interim Fire Chief Dannie Smith.

**COUNCILMEMBERS PRESENT:**

Jack Pratt	Mayor
Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember
Stacie Keeble	Councilmember
Gary F. Stork	Councilmember

**COUNCILMEMBER ABSENT:** None

**CITY CORE STAFF PRESENT:**

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Day	Deputy City Manager
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Assistant Police Chief
Jason Lutz	Senior Planner
Danny Batts	Chief Building Official
Dannie Smith	Interim Fire Chief
Stuart Barron	Director of Public Works
Kim Meismer	Director of General Operations

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

1. **VISITORS/CITIZENS FORUM:** None.

2. **PROCLAMATION:**

2A. Proclamation proclaiming November 8 to be Francisco Lemos Day in honor of World War I hero Francisco Lemos was read by Mayor Pratt.

3. **CONSENT AGENDA:**

Mayor Pratt requested amendment to Item 3D as stated below. Mr. Stork moved to approve consent agenda items 3A through 3D, as amended; Mr. Allen seconded the motion, and it passed 5-0:

3A. Minutes of the city council regular meeting held October 14, 2014.

3B. Request to waive fees for the Veterans' Day Parade to be held on

November 11, 2014, in the amount of \$850.00. (Byron Warren, Military Order of the Purple Heart)

3C. Administrative services contract between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas in the amount of \$100,000.00.

3D. Professional services agreement with Stewart Consulting, LLC for professional planning services to assist the city with the refinement and adoption of a new zoning ordinance, to include an update to the comprehensive plan, in the amount of \$47,800.00, to adopt the process as presented; however, the time schedule be amended to state as determined by the city manager.

#### **END OF CONSENT AGENDA**

#### **4. ORDINANCE, FIRST READING:**

4A. Ordinance No. 2014-21 amending Chapter 30 "Businesses" of the city's Code of Ordinances by adopting a new Article V "Tourist Courts, Hotels, Inns, and Rooming Houses"; enacting minimum health and sanitation standards for tourist courts, hotels, inns, and rooming houses; requiring a hotel permit for all hotels operated within the city; establishing standards for the issuance of said permit; establishing rules and regulations under which such permit will remain in force; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor Pratt read the ordinance by title only.

Council noted any boarding establishment could make application and receive a permit. Standards would be enforced on a complaint basis; city staff would not actively inspect all rooms in all establishments to determine compliance; there should be no additional burden on city staff. Local hotel owners and managers spoke in support of the adoption of standards at the October 14 meeting.

Mr. Stork moved for approval of Ordinance No. 2014-21 on first reading, as presented; Mr. Conklin seconded the motion and it passed 5-0.

#### **5. CONSIDERATION AND POSSIBLE ACTION:**

5A. Presentation by the Cailloux Foundation regarding the proposed athletics complex and authorization for city staff to make application to the economic improvement corporation for funding.

Ben Modisett, representing the Cailloux Foundation, presented the concept for a baseball, softball and soccer complex on 65 acres on Holdsworth Drive, with 12 soccer fields on the north side, and 12 baseball fields on the south side. He also proposed a 20,000 sq. ft. privately-run indoor training facility. One company had already expressed interest in bringing their franchise to Kerrville, and that company may manage scheduling of the facility, with preference given to local youth activities first and tournaments during off times to generate revenue. He proposed that the contractor may provide year round maintenance and mowing. Mr. Modisett advised that the Cailloux Foundation Board authorized \$3 million toward the project, \$1 million in land and \$2 million in cash, which was estimated

to cost \$10 million. Mr. Modisett advised that at the time the land is donated to the city, it would contain a reversionary clause stating if the city ceased to use the land for an athletics facility, the land would revert back to the Cailloux Foundation. The Foundation owned additional land outside of this proposed project; however, there were no plans for development at this time.

Mr. Parton noted that the baseball fields would require about 11 million gallons of water a year for irrigation; an adequate water supply was necessary for safe condition of the fields. The cost to extend the effluent line from the golf course to the complex was estimated at \$1.2 million; however, no effluent was available without adequate storage ponds, as discussed in item 5B. The concept proposed was a partnership with the contractor to provide maintenance and management; however, if the city provided these services for the facility, the city would have to hire two full time maintenance employees, one facility manager, and supplement with other staff when needed, and this would add \$250,000-300,000 to the city's annual budget. Mr. Modisett and Mr. Parton proposed an agreement between the Kerrville City Council and the Cailloux Foundation for construction of the project, with the city to provide funding via an application to the Kerrville Economic Improvement Corporation.

Council noted that the existing little league facility had only 7 baseball fields, and the soccer fields would have to be relocated with plans to construct the effluent re-use project.

Mr. Allen moved to direct staff to pursue an application with the Kerrville Economic Improvement Corporation as presented; Mr. Conklin seconded the motion and it passed 5-0.

5B. Professional services agreement with Freese and Nichols, Inc. to perform design and construction phase services for a treated effluent reuse facility in an amount not to exceed \$1,965,000.00.

Ms. Day noted the design phase of the project was part of the capital improvement plan in the 2015 budget.

Richard Weatherly, Professional Engineer, Freese and Nichols, Inc., noted that all of the effluent produced at the city's wastewater treatment plant in the summer was currently committed to six irrigation customers, and he identified several additional customers that had requested effluent for irrigation: Riverhill Golf Course, Tivy High School, Peterson Middle School, Schreiner University, and the proposed ballpark and athletic facility discussed in Item 5A; in addition, some of the existing customers were requesting more effluent: Scott Schreiner Golf Course, Comanche Trace subdivision, KISD athletic facility. The city was limited by the lack of storage capacity, and the ability to store effluent water year round would allow the city to serve additional irrigation customers, thus reducing the demand on the city's potable water system.

The city hired Freese and Nichols, Inc. (FNI) to do a reuse feasibility study of the

wastewater treatment plant and to look at the construction of reuse storage ponds. The study was to identify potential obstacles in the concept, maximize pond storage volume at minimal cost, coordinate with the landfill master plan, and provide a path forward for a reuse program. He reviewed the reuse feasibility study components: topographic survey, environmental site visit, geotechnical analysis, floodplain, infrastructure requirements to construct the ponds and connect to the city's treatment plant, and regulatory requirements.

The goal was to create a pond that would capture all winter effluent; the city was restricted by depth, creek, existing gas line, and hills. The proposed south pond would provide storage capacity of 105 million gallons on 23 acres. Infrastructure requirements also included a 24" gravity pipeline from the wastewater treatment plant, a pump station to get water from the pond to the reuse system, and a 12" transmission pipe to the existing reuse system. He also evaluated the extension of the reuse distribution system and identified potential routes to serve future customers. He noted the city would lose 2% volume due to evaporation; minimizing the surface area would minimize evaporation. He estimated the lifespan of the pond at 50 years with proper maintenance, membrane liner, and soil cover.

He reviewed the project schedule: Phase 1, design of the reuse pond and pump station, December 2014-December 2015; Phase 2, construction of the reuse pond and design of reuse distribution pipelines, March 2016-March 2017; and Phase 3, construction of the pump station and reuse distribution pipelines, March 2017-October 2017. Project should be complete by fall 2017.

Ms. Day noted that the city was losing 2 mgd of treated effluent that was being put into the river. Under the current permit, the city had a legal right to capture and redistribute effluent into the city's system without additional permitting; however, once the water went into the river, it became the state's water. She also discussed a potential north pond in the future depending on future landfill development. She also recommended the city evaluate the possibility of treating effluent to potable water standards in the future.

Mr. Parton noted additional effluent customers could not be added to the system without adequate year round storage; thus potential customers would have to remain on potable water and be subject to conservation stages. Without adequate irrigation, the proposed athletic complex (Item 5A) would have to be scaled back due to lack of water during drought stages. The ability to conserve potable water resources outweighed the cost of the pond, and the city should get non-potable uses off of potable water. He noted the current effluent rate (75¢) was significantly lower than the water rate (\$2.50-2.70) per 1,000 gallons.

Mr. Stork moved to authorize the city manager to enter into a professional services agreement with Freese and Nichols, Inc. to perform design and construction phase services for a treated effluent reuse facility in an amount not to exceed \$1,965,000.00, when the city manager deems it appropriate; Mr. Allen seconded the motion and it passed 5-0.

5C. Direction to staff to establish local regulations for electronic-cigarettes.

Mr. Parton noted council previously directed staff to review the city's existing smoking ordinance and bring potential regulations for e-cigarettes to council for consideration. Mr. Parton reported that e-cigarette vapor had carcinogens and nicotine, and had detrimental health effects on smokers and non-smokers; also, studies indicated that materials in vapor have a negative impact on the environment. More data was needed to determine the direct and indirect effects of e-cigarettes. Evidence indicated that product marketers were deploying tactics to appeal to younger people. Mr. Parton recommended that the existing smoking ordinance be amended to apply the same regulations for e-cigarettes as applied to regular cigarettes, and to establish the age limit at 18 for purchase or possession of e-cigarette products.

Ms. Keeble moved to approve the draft ordinance amending the existing smoking ordinance to apply the same regulations to e-cigarettes as apply to regular cigarettes under the city's current ordinance, as presented by staff, and to establish the age limit at 18 for purchase or possession of e-cigarettes.

Council questioned why the regulation of e-cigarettes was not a state issue considering the health effects? Mr. Parton noted there was legislation pending in the next legislative session; however, there was a coalition supporting vaping as a useful way to get people off of tobacco cigarettes. The Restaurant Association lobbied for statewide smoking regulations, but to date nothing has been adopted.

Mr. Hayes noted that some cities had adopted regulations restricting persons under 18 from purchasing or possessing e-vapor products. If the proposed ordinance is adopted, any person under 18 may be issued a citation.

Council also discussed the following:

- E-cigarettes were a common method for getting people off of tobacco.
- The proposed amendment would not prohibit the use of e-cigarettes to aid in getting people off of tobacco; e-cigarettes would have the same restrictions as tobacco cigarettes do under the current ordinance, and it would regulate the sale and possession to persons over the age of 18.
- E-cigarettes were also a method for using illegal drugs.
- City should wait until studies on the dangers of vaping were complete and let the state regulate its use.
- Smoking was a personal freedom; can't regulate good behavior.
- The proposed regulations did not infringe on personal freedoms any more than regular cigarettes; the proposed ordinance would only extend existing regulations to apply to e-cigarettes also.

The motion died for lack of a second.

Mr. Conklin moved to revise the existing smoking ordinance to extend the prohibition of e-cigarettes to persons under the age of 18 only. Ms. Keeble seconded the motion and it passed 5-0.

5D. Resolution No. 35-2014 adopting a video surveillance and audio monitoring policy.

Mr. Hayes noted that video cameras had been installed in various city facilities for the purposes of enhanced safety and security for employees and the public, and to monitor property for criminal mischief; the purpose of the equipment was not to spy on individuals. He recommended the council adopt a policy that would: 1. Set the purpose of cameras; 2. Define how video could be used by staff; and 3. Address the use of recording devices, e.g. staff tool for training and quality control, and customer satisfaction tracking. The equipment would be monitored by the city's information and technology department. The police department would have the ability to monitor when necessary for investigation, but it would not be continuously monitored. The public would not have access to recordings; however, a person could file a request for public information and under certain circumstances a recording may be released as a city record.

Mr. Conklin moved for approval of Resolution No. 35-2014; Mr. Allen seconded the motion and it passed 5-0.

**6. INFORMATION AND DISCUSSION:**

6A. Budget update.

Ms. Yarbrough gave the financial report for the period ending September 30, 2014: to date the general fund revenues totaled \$22,294,696 and expenditures \$22,079,000; water and sewer fund revenues totaled \$10,195,447 and expenditures \$9,656,190; hotel/motel fund revenues totaled \$1,045,911 and expenditures \$947,581; 68 permits were issued for new residential construction.

**7. ITEMS FOR FUTURE AGENDAS**

**8. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- Halloween Family Fright Night, Friday, October 31, 6:00 p.m. at Kerrville Schreiner Park.
- Holiday Lighted Parade scheduled for November 22, applications currently being accepted; entry deadline November 7.
- Household hazardous waste collection on November 8 at the recycling center, 500 Hays Street, 10:00 a.m. to 1:00 p.m.
- Dedication of a grave marker for Francisco Lemos at Mt. View Cemetery, 11:00 a.m., November 8.
- Deadline for submission of art work for the 2015 Mardi Gras on Main event is November 24, selected art will be used on advertisements and on signature wine bottles.

**9. EXECUTIVE SESSION:**

Mr. Conklin moved for the city council to go into executive closed session under Sections 551.071, 551.072, and 551.074 of the Texas Government Code; motion was seconded by Mr. Allen and passed 5-0 to discuss the following:

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:

- River trail
- 800 Junction Highway, former City Hall property.

Section 551.074:

- Annual review of city attorney.
- Annual review of city manager.

At 7:25 p.m. the regular meeting recessed and council went into executive closed session at 7:29 p.m. At 9:10 p.m. the executive closed session recessed and council returned to open session at 9:11 p.m. The mayor announced that no action had been taken in executive session.

**10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

Sale of real property at 800 Junction Highway, former city hall property.

Mr. Stork moved to accept the offer by Ed Pollard for the purchase of 2.15 acres of city property at 800 Junction Highway, on the counterproposal dated October 28 with adjustment on fees and costs, with fees to be split. Mr. Allen seconded the motion and it passed 5-0.

**ADJOURNMENT.** The meeting adjourned at 9:13 p.m.

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

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Jack Pratt, Jr., Mayor

ATTEST:

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Brenda G. Craig, City Secretary