

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
APRIL 28, 2015

On April 28, 2015, 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 James Wilson, Pastor, Kerrville Christian Center followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Councilmember
Stacie Keeble	Councilmember
Gary F. Stork	Councilmember

COUNCILMEMBER ABSENT:

Gene Allen	Mayor Pro Tem
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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	Interim Chief of Police
Trent Robertson	City Planner
Dannie Smith	Fire Chief

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

**1. VISITORS/CITIZENS FORUM:**

1A. Deborah Gaudier, representing Kerrville Genealogy Society, spoke regarding the return of 700 items she said were owned by KGS. She invited the public to visit KGS at their new location on Lemos Street.

1B. Fred Speck said he was in favor of building the new sports complex; however, he was strongly opposed to destroying existing soccer fields. Over 20 years ago the city approached HCYSA with 30 acres to be used for soccer, and 15 years ago the city approved the construction of a permanent building with city water and sewer. City officials now say the complex was never meant to be permanent, but 20 years ago the city said it would be a permanent park facility. He asked why the city now wanted to destroy a complex worth over \$1 million and had cost taxpayers nothing. The community needed additional fields for expansion; have both HCYSA at the existing fields and build the new complex for other groups. The new 14 acre complex could not accommodate all of the soccer leagues and tournaments, but 28 acres could. He noted the following:

- 1) The city did a \$1 million study with Freese & Nichols, Inc. (FNI) on effluent ponds and the study stated that the pond should be south of the soccer fields; a north pond where the soccer fields were located was not recommended because it would flood homes across the creek. It did not recommend that the current soccer complex be used for the ponds.
- 2) The FNI study stated that soil from the soccer fields was not the first choice and the city had better options. He asked why the city would not follow recommendations in the million dollar study.
- 3) The city budgeted \$2 million in the effluent pond construction project, a \$20 million project, to use soil to construct a dam; the city proposed to pay themselves \$2 million for the soil they owned and use that money to build the batting complex. The city proposed \$12 million for the sports complex; \$2 million for a batting complex; and effluent water to the complex would cost \$2-3 million more; so the sports complex would probably be a \$16-17 million project.
- 4) The land was not needed for landfill expansion. The contract with LNV did not recommend going west where the soccer fields were; it recommended going south. He received his information from the current FNI study and LNV report.

## **2. PRESENTATION:**

- 2A. Resolution of Commendation to Stan Cobbs for serving on the Kerrville Main Street Advisory Board.
- 2B. Proclamation proclaiming May 2015 as Community Action Month.
- 2C. Proclamation proclaiming May 5, 2015, as The Big Give S.A. Day.
- 2D. Proclamation proclaiming May as Mental Health Month.

## **3. CONSENT AGENDA:**

Mr. Conklin moved to approve consent agenda items 3A through 3F; Mr. Stork seconded the motion, and it passed 4-0:

- 3A. Minutes of the regular city council meetings held March 17, March 24, and April 14, 2015.
- 3B. License agreement between Kerrville Kayak & Canoe and the City of Kerrville for operation of non-motorized watercraft & bicycle rental concession.
- 3C. Non-exclusive license agreement between City of Kerrville and Hill Country CRUSH Soccer Academy.
- 3D. Non-exclusive license agreement between City of Kerrville and Hill Country Youth Soccer Association.
- 3E. Non-exclusive license agreement between City of Kerrville, Texas and Kerrville Radio Control Aircraft Flyers Club.
- 3F. Non-exclusive license agreement between Kerrville Sand Volleyball Association and City of Kerrville.

## **END OF CONSENT AGENDA**

## **4. ORDINANCES, SECOND AND FINAL READING:**

- 4A. Ordinance No. 2015-07, annexing an approximate 3.05 acre tract out of the W.H. Crawford Survey No. 653, Abstract No. 123, within Kerr County, Texas, said property being located adjacent to the corporate limits of the City of Kerrville, Texas, and consisting of the property addressed as 421 Roy Street; further

describing the territory to be annexed; adopting a service plan for the territory annexed; and establishing the zoning for the area annexed. Mayor Pratt read the ordinance by title only.

Mr. Robertson noted this would complete the annexation and RM zoning classification for the property. Staff and the planning and zoning commission recommended approval.

Ms. Keeble moved for approval of Ordinance No. 2015-07 on final reading; Mr. Conklin seconded the motion and it passed 4-0.

4B. Ordinance No. 2015-08, amending the budget for fiscal year 2015 to account for various changes to the city's operational budget, including expenditures related to emergency repairs to the city's water treatment plant and expenditures necessary for police special programs. Mayor Pratt read the ordinance by title only.

Mr. Parton noted no changes since first reading and recommended approval.

Mr. Conklin moved for approval of Ordinance No. 2015-08 on final reading; Mr. Stork seconded the motion and it passed 4-0.

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

5A. Contract of sale between the Cailloux Foundation and the City of Kerrville for the construction of an athletic complex on approximately 75 acres of land generally located at the intersection of Holdsworth Drive and Town Creek Road.

Mr. Parton reviewed the particulars of the contract that would convey from the Cailloux Foundation (CF) to the city 75 acres of improved parkland, i.e. the athletic complex. The CF would: convey the 75 acres, provide a \$2 million grant for construction, and be the contracting agency that would construct the facility through their processes. The city would contribute a maximum \$9 million and escrow those funds; payment would be made based on invoicing and work completed. The CF funds would be expended before any city funds would be spent. The city would be responsible for approving any design and construction contracts and have periodic inspection, review and approval of work. The CF would contract and construct the facility based on their processes and not through a public bid process, and this project qualified for this type of process.

Mr. Parton described the complex, noting the baseball/softball facility and the soccer facility would each have 35-37 acres. The soccer facility would have 19.3 irrigated acres; the current soccer fields had 14 developed acres.

With regard to public comments regarding the city closing the soccer fields at the landfill, Mr. Parton discussed several municipal projects that were in the planning stage.

Mr. Parton noted the effluent project was intended to alleviate demand on treated water and conserve potable water. Schreiner University and Riverhill Golf Course had expressed interest in acquiring effluent for irrigation. The need for irrigation water had become so important that some entities had discussed drilling their own well(s) to have water during drought conditions. The Freese Nichols, Inc. (FNI) study cost \$135,000 and showed the city could capture 360 mg of effluent a year to supplement irrigation water usage if storage was available. The study looked at a single large pond or separate individual ponds; FNI's recommendation was to look at two ponds in phases. Excavation of the area east of the soccer fields could store 105 mg of effluent. The city was in the design phase for Phase 1 and soon would be ready to go out for bids; anticipated construction in 2016, and line extension and delivery of effluent in 2017. The LNV study showed the construction of a second pond further west and would involve the land where the existing soccer fields are located.

The city purchased the landfill area many years ago for municipal operations and the city had been looking at landfill permitting modifications since 2007. A few years ago staff began looking at the landfill master plan and the feasibility of expanding and permitting toward the south end of the landfill. The first recommendation was the east side of the big hill area and that plan was in Phase 1 of permit modifications; this would add 78 years to the life of the landfill. Phase 2, the southern extension of the landfill would bring the landfill capacity to 100 years, but it would encroach into the soccer field area. He also noted that the effluent project overlapped and conflicted with the landfill master plan.

The soccer field area was needed for construction of the effluent project and for landfill expansion and operation. Soil samples from the soccer field area indicated the dirt was viable for construction of the effluent pond and for landfill cover material; this would be more cost effective as the city owned the dirt. If the city did not use the dirt from the soccer field, the city would have to purchase and transport dirt and would still have to close the soccer field area to store the dirt prior to and during construction. The city was not paying itself \$2 million for the dirt at the soccer field and using it for the athletic complex; the proposal was to reimburse the general fund from the utility fund for up to \$2 million for the acquisition of material to build the berm for the effluent project.

Mr. Parton reported that an item would be on a future agenda to authorize the issuance of \$9 million in bonds to fund the city's portion of the athletic complex. The city had an agreement with the economic improvement corporation to pledge 4B sales tax funds to pay the debt.

Mr. Conklin stated he supported the athletic complex project; however, he did not support the agreement with the foundation as proposed because construction of the facility would not be through a publicly bid and managed process. The CF was giving \$2 million and land valued at \$1 million; the city was giving \$9 million. He proposed that the foundation convey the land to the city and the construction process be managed by the city, i.e. public bid process, similar to other city

projects, including those that have had foundation contribution such as city hall. He opined that a \$9 million facility to be owned by the city should go through a public bid process whereby the city would manage the project, control expenditures and require contractors to provide a performance bond. He was concerned that the agreement had not been provided to councilmembers prior to the meeting to allow them time to review it, only a summary of terms had been provided. He did not distrust the foundation; he preferred a different process for project management. He stated that a private process would not be cheaper than a municipal bid process; however, it would be more flexible. The vast majority of city projects were through a public bid process, which secured city funds by requiring contractors to provide performance bonds.

Mr. Parton noted that the city could not construct a project on land it did not own. The proposal offered by CF was that the city would purchase property valued at \$12 million for \$9 million upon completion of construction of the athletic complex. This proposal was unlike the city hall project in which the city received and owned the land and then constructed the building. He stated that the foundation agreed to allow the city to have a lot of input into the project design, and expenditure of funds would be transparent as the city would approve invoices, work completion reports, and have city inspection oversight throughout the project construction. Mr. Parton compared the process to similar projects at the airport where the city escrowed funds to the airport board to oversee construction of projects.

The following persons spoke:

1. Bonnie White questioned if a traffic impact study had been conducted as tournaments would have major impact on traffic, particularly at the Holdsworth and Harper intersection. She was told that a TxDOT representative said they were surprised that they had not been contacted for a study, and it could be very expensive if TxDOT had to redo any interchanges or turn lanes. She asked who would pay for a study and opined that it should be done before any contracts or agreements were initiated. A traffic study was a requirement for other projects that received 4B sales tax funds.

Mr. Parton noted that the use of 4B funds did not trigger a requirement for a traffic impact study; however, if the project itself required a traffic impact analysis, then the issue would be addressed through project engineering, design, and construction, along with drainage and utility extension. The project would include stacking and turn lanes and traffic control on site. He noted that Holdsworth Drive was not a controlled access road governed by TxDOT and would not be subject to a state driveway access permit.

2. Carolyn Lipscomb noted the city would be spending \$9 million of tax money to purchase a project that the CF had built and the CF should put the project out for bid so taxpayers could be assured that they were getting the best price. Local contractors should be given the chance to bid on the project.

Council also discussed the following:

- It could be less expensive for the CF to bid and construct the project than the city as the CF probably had relationships with contractors and vendors and would receive good pricing and discounts.
- Upon completion of the project, the city would pay \$9 million for a \$12 million facility.
- The same streets were used for traffic from the school's football stadium and that traffic would be much greater than tournaments at the athletic complex.
- The cost of the FNI study was \$135,000, not \$1 million as stated in visitors forum.

Mr. Conklin moved to direct staff to change the arrangement of the agreement to be a city driven project; the motion died for lack of a second.

Mr. Stork moved to approve the agreement as presented by staff; Ms. Keeble seconded the motion and it passed 3 to 1 with Councilmembers Stork, Keeble, and Pratt voting in favor of the motion and Councilmember Conklin voting against the motion.

5B. Letter Of Intent (LOI) between the City of Kerrville and D-Bat for the construction and operation of an indoor athletic facility and for the operation of outdoor baseball and softball facilities.

Mr. Parton noted the LOI was not a binding agreement between the parties at this time, rather an acceptance of points to be used toward a final agreement; he reviewed the details of the LOI:

- City would partner with CF to construct the exterior of a 12,000-14,000 sq. ft. facility.
- D-BAT would finish out construction of the interior of the facility for indoor baseball/softball.
- D-BAT would operate and maintain the indoor and outdoor baseball/softball facilities; city would provide outdoor maintenance and operations for the remainder of the facility.
- D-BAT would market the facility and bring special events and tournaments to Kerrville.
- D-BAT would pay a ground lease, building lease, and revenue sharing for concessions. The lease would be incentive based whereby payments would decrease as events increased.

Cade Griffis, CEO of D-BAT (Developing Beliefs Attitudes and Traditions), noted D-BAT opened in 1998 and in 2009 they started the franchise concept. D-BAT currently had 23 locations in 7 states, and 6 more under construction to open by the end of 2015 and anticipated 50 locations to be operational by 2017. All current 23 facilities were profitable, and D-BAT had never closed a facility. Mr. Griffis said he had managed 100 tournaments a year for other parties. He gave a history of D-BAT and stated he had 15 years' experience managing tournaments. D-BAT manufactured equipment, provided lessons, held academies, camping clinics and youth programs, managed scheduling for baseball/softball

tournaments and league play, and provided a virtual reality playing system. D-BAT's mission for the Kerrville facility was to provide 350 players a first-class training facility and to host local and national tournaments and promote economic development. As partners in the Kerrville facility, D-BAT would be putting over half a million dollars into the project and bringing in major tournaments and economic development.

The following person spoke:

1. George Baroody asked how many tournament facilities D-BAT ran. Mr. Griffis said he owned one in Oklahoma City and D-BAT managed 23 facilities in several states. Mr. Baroody opined that the contract would be good for D-BAT as they would receive free use of the facility for two years and the city would receive only 10% from tournament concessions; however, it was not a good deal for the city. He questioned: 1) The revenue paid to the city was incentive based to encourage D-BAT to bring in more tournaments, but the incentive would then reduce the fee paid to the city. D-BAT would receive the first two years free, and then the maximum rent for the land and facility would be \$168,000 plus 10% from concessions at tournaments. 2) Economic value was based on an average of \$110 per day per person and a 3 day stay. Most tournaments would be local or within one hour so participants would not stay in a hotel; \$110 pdpp was a very high estimate, and there would not be any three day events. 3) City was using CF as the general contractor for the project in order to avoid the bid process. He opined that the net loss would increase over time.

Mr. Conklin moved to approve the letter of intent between the City and D-BAT as presented; the motion was seconded by Ms. Keeble and passed 4-0.

5C. Renewal of franchise with Atmos Energy Corporation to furnish, transport, and supply gas to the general public within the city.

Mr. Hayes reported that the franchise that the City granted Atmos in 2006 to use and occupy right of ways for the purpose of maintaining and operating a gas system to transport and deliver gas to commercial and residential customers would expire the end of 2015. A proposed franchise would: set conditions for occupying and using public property, establish a basis for relocation of lines for public projects, provide customer extension standards and duty to serve; customer service standards, and provide an 800 phone number and a local office. The current franchise fee is 4%. He requested authority to enter into negotiations to create a new franchise, including hiring a firm to help work through the process. He anticipated completion by October 1. The council requested two points to be included in negotiations: 1) Extension requirement if within 100 ft. of their line, and 2) Include a statement as the city currently exists or may exist in the future.

Mr. Stork moved to authorize hiring a law firm to negotiate, draft, and approve a franchise agreement with Atmos; Ms. Keeble seconded the motion and it passed 4-0.

**6. INFORMATION AND DISCUSSION:**

6A. Budget and economic update.

Ms. Yarbrough gave the financial report for the period ending March 31, 2015: to date the general fund revenues totaled \$15,577,090 and expenditures \$11,021,268; water and sewer fund revenues totaled \$4,306,634 and expenditures \$5,954,399; hotel/motel fund revenues totaled \$442,216 and expenditures \$454,474; eight permits were issued for new residential construction and 5 for new commercial construction.

**7. APPOINTMENTS TO BOARDS AND COMMISSIONS:**

7A. Appointments to the Parks and Recreation Advisory Board. Mayor Pratt tabled appointments without objection from the council.

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

**9. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- KerrFest May 14-17 at the Hill Country Youth Event Center.
- Tampering with election signs was a violation of state law; report violations to the police department.
- Kerrville Police Department was accepting applications for the Junior Police Academy to be held June 8-19 for 7<sup>th</sup> & 8<sup>th</sup> grade students, limit of 24 cadets.
- Jefferson Street closed April 30 and May 1 for utility relocation project.
- Election Day, Saturday, May 9, 7:00 a.m.-7:00 p.m. at the Cailloux Theater. Early voting by personal appearance at the Cailloux Theater, 8:00 a.m.-5:00 p.m. April 29 and 30, and May 1, 4, and 5.
- Persons interested in participating in a Veterans Day parade should contact Mayor Pratt.

**10. EXECUTIVE SESSION: None.**

**11. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION: None.**

**ADJOURNMENT.** The meeting adjourned at 7:50 p.m.

APPROVED: May 26, 2105

ATTEST:

/s/

Jack Pratt, Jr., Mayor

/s/

Brenda G. Craig, City Secretary