

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
August 25, 2015

On August 25, 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 Brett Coe, Pastor of First Christian Church, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember
Gene Allen	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
Kim Meismer	Director of General Operations
David Knight	Police Chief
Dannie Smith	Fire Chief
Trent Robertson	City Planner
Stuart Barron	Public Works Director

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

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

2. **PRESENTATION:**

2A. Resolution of Commendation to Dainelle Logan for serving on the Food Service Advisory Board.

2B. Update from the San Antonio Food Bank relative to the Kerrville area. Mario Oblado, SAFB Chief of Government and Public Affairs, noted the SAFB was part of a national organization "Feeding America"; the SAFB territory covered 16 counties in southwest Texas including Kerr; they partner with 535 agencies in 16 counties, 11 agencies in Kerrville, to serve 58,000 individuals with emergency food assistance. SAFB also assists with employment.

3. CONSENT AGENDA:

Items 3A and 3B were removed from the consent agenda.

Mr. Fine moved for approval of consent agenda item 3C; motion was seconded by Mr. Allen and passed 5-0:

3C. Council authorization for the City Manager to execute a construction contract with Intermountain Slurry Seal, Inc. for the 2015 Street Overlay Project in the amount of \$191,115.00, and authorize the City Manager to execute additional change orders which may exceed \$50,000.00, but will not exceed a total contract value of \$235,000.00.

END OF CONSENT AGENDA

3A. Economic Development Grant Agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Kerr Economic Development Corporation for up to three years and in an amount not to exceed \$514,403.84.

Ms. Boyle noted EIC held a public hearing and approved the agreement in an amount not to exceed \$520,000 for three years.

Council also discussed the following

- A multi-year agreement would provide security and enable better planning.
- Would show the city's commitment to economic development and confidence in KEDC staff.
- KEDC was not subject to public information requests or public participation; thus, KEDC should provide a thorough progress report to the council monthly. It was also noted that KEDC was a private corporation and its meetings were not open to the public, and in many cases the KEDC director signed confidentiality non-disclosure statements and could not discuss these issues.

Ms. White moved for approval of the agreement; the motion was seconded by Mr. Allen and passed 5-0.

3B. Authorization for the City Manager to execute a construction contract with Zimmerman Construction, Inc. for the Lowry Park Trail Improvement Project that is part of the River Trail project in the amount of \$536,268.00 and authorize the City Manager to execute additional change orders which may exceed \$50,000.00 but will not exceed a total contract value of \$590,000.00.

Mr. Parton noted the project would construct the portion of the river trail from Riverside Nature Center, across Town Creek to Lowry Park.

Mr. Hayes noted that three councilmembers had filed conflict of interest affidavits and under state law since a majority had filed, all councilmembers were eligible to participate in discussion and vote.

Mr. Fine moved to authorize the city manager to execute the contract; Mr. Allen seconded the motion and it passed 5-0.

4. PUBLIC HEARINGS:

4A. First public hearing for the annual budget for the City of Kerrville, Texas, Fiscal Year 2016; providing appropriations for each City Department and Fund.

Mr. Parton noted changes were made based on council direction at the budget workshop and council meetings; the budget was based on a tax rate of \$.5625, the same since 2010. The budget estimated \$24.6 million revenue in the general fund, the majority of which was ad valorem tax and sales tax. Ad valorem tax increased \$150,000 over 2015 based on KCAD tax appraisals and new residential and commercial development. The water and sewer fund anticipated no change in rates; revenue and expenditures were estimated at \$11.7 million. In addition to their proposed budget, the economic improvement corporation also approved: \$165,000 allocation for the parking garage, \$500,000 for the I-10 study, and \$100,000 for site evaluation for a criminal justice center. Mr. Parton noted that property tax collections were coming in slower than usual; council asked what percent of non-payments was absentee property owners.

Council and staff discussed the following:

- Street department budget had been increase an additional \$172,000
- Body cameras for the police department were included in the 5 year fiscal forecast; staff planned to study systems available and determine what would best suit KPD and purchase in 2017; three personnel would be hired: two police evidence technicians and one information technology analyst. Council suggested speeding up the process if possible.

Mayor Pratt opened the public hearing at 6:33 p.m.; no one spoke; the public hearing was closed at 6:33 p.m.

4B. First public hearing to set the 2014 ad valorem tax rate.

Council discussed the following:

- The proposed tax rate of \$.5625 was the same since 2010; city council was not raising the tax rate; keeping the current tax rate would result in a 2.2% increase in tax collections because of increased tax values.
- If KCAD appraisals increase significantly, as happened with commercial appraisals in 2014, the city could reduce the tax rate to equalize that increase.
- If sales tax continued to increase, the city could reduce the property tax rate.
- The city could also pave more streets if property tax and/or sales tax increased.

Mr. Parton noted that every year KCAD provided preliminary notice to taxing entities to use in calculating the effective tax rate, which is the tax rate that would be needed to generate the same tax levy as the prior year; for example, if KCAD provided a large increase in valuation, then the effective tax rate would drop. A roll back tax rate is a cap of 8% above the effective tax rate calculation.

Mayor Pratt opened the public hearing at 6:38 p.m.; no one spoke; the public hearing was closed at 6:38 p.m.

5. ORDINANCES, SECOND AND FINAL READINGS:

5A. Ordinance No. 2015-16, amending the city's "Zoning Code" by amending Article 11-I-10 "Residential Zoning Districts", Subsection (F) "RT" – residential transition district with respect to the uses of "Schools" and "Churches", as those terms are defined, within this district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. Mayor Pratt read the ordinance by title only.

Mr. Robertson noted no changes since first reading.

Mr. Fine moved for approval of Ordinance No. 2015-16 on second and final reading; Ms. White seconded the motion and it passed 5-0.

5B. Ordinance No. 2015-17, amending the city's "Zoning Code" by amending Article 11-I-6 "Zoning Districts-Central City" to amend the land use table for the central business district (CBD) to change the uses of "Death Care Services and "Printing" from requiring conditional use permits to uses permitted by right within this district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00) and ordering publication. Mayor Pratt read the ordinance by title only.

Mr. Robertson noted no changes since first reading.

Ms. White moved for approval of Ordinance No. 2015-17 on second and final reading; Mr. Allen seconded the motion and it passed 5-0.

6. ORDINANCE, FIRST READING:

6A. Ordinance No. 2015-19, amending the budget for Fiscal Year 2015 to account for various changes to the City's operational budget, including revenue and expenditures related to the City's acquisition of an aerial fire truck and a vehicle replacement for the Police Department. Mayor Pratt read the ordinance by title only.

Mr. Parton noted the ordinance would amend the budget to account for increased revenue received and to allocate those funds toward capital equipment, i.e. aerial platform truck, a leaf vacuum truck, and several vehicles.

Mr. Parton noted with a leaf vacuum truck system, citizens who wanted to participate could rake their leaves to the curb on scheduled days and the truck would drive by and vacuum the leaves from the street. This would keep streets clean and drainage ways clear of debris. Councilmembers expressed concern of blowing leaves and costs associated with equipment purchase and staffing. Council would like to know the full cost of purchase and operation before equipment is purchased. Currently, residents bag their leaves and the bags are picked up at the curb.

Mr. Stork moved for approval of Ordinance No. 2015-19 on first reading; Mr. Allen seconded the motion and it passed 3 to 2 with Councilmembers Stork, Allen, and Pratt voting in favor of the motion and Councilmembers Fine and White voting against the motion.

7. DISCUSSION:

7A. Rule 7.4 Council Liaisons, Procedural Rules for Meetings-Kerrville City Council to clarify role of Councilmembers.

Mayor Pratt read Procedural Rule 7.4 and clarified two points: 1) Not all boards had liaison councilmembers, for example, the zoning board of adjustment did not have a liaison as it was an independent board that operated without influence of the city council because any appeal of ZBA's decision would be to the city council; councilmembers should not attend ZBA meetings. 2) If councilmembers attend any city board meetings, they are liaisons only and they should not attempt to influence any decisions of that board.

8. CONSIDERATION AND POSSIBLE ACTION:

8A. City of Kerrville's allocated portion of a Kerrville Public Utility Board extraordinary income.

It was noted that an agenda had been posted in order that a majority of the KPUB members (Jack Pratt, Stephen Fine, and John Sample) could attend this meeting and participate in discussion.

John Sample stated he was a member of KPUB, but he was speaking as an individual and not representing KPUB. He reviewed the history noting the city bought the system 25 years ago and KPUB had paid off the original bond indebtedness. In accordance with the founding documents, KPUB was to pay the city a 3% franchise fee on all revenue received.

Mr. Sample noted that three years ago KPUB entered into a lawsuit because KPUB felt that LCRA had breached the contract. KPUB terminated the contract; LCRA sued KPUB; KPUB countersued LCRA. When the city originally purchased the system and KPUB was created, KPUB entered into a power contract for 25 years; at the end of that term, LCRA wanted KPUB to enter into another 25 year contract; KPUB notified LCRA it would not extend another 25 year contract with LCRA. LCRA began practices that were unfavorable to KPUB, i.e. LCRA accelerated KPUB's debt; LCRA would not share revenues with KPUB as it did with other coops; and LCRA allowed other coops that did sign a 25 year contract to negotiate with other suppliers, but KPUB could not. KPUB then terminated the contract and negotiated a contract with CPS to provide the majority of KPUB's power; this allowed KPUB to maintain its current rate.

Mr. Sample reported that in the negotiated settlement one-third of the proceeds paid lawyers' fees, and the city would receive one-third of the total (EDITOR'S NOTE: Pursuant to city ordinance, the city received 3% of the total revenue, not one-third as was stated). He asked city council to consider using a portion of the proceeds to further the extension of the river trail; also, he opined that if the city

requested funding from KPUB for the river trail, the response would likely be favorable. He noted that KPUB voted 3 to 2 to recommend placing such a stipulation on the proceeds to the city. KPUB's core purpose was to provide the best service at the lowest rate possible.

Council noted the proceeds could also be used to reduce the city's property tax rate, street and drainage issues, general fund, or to pay KPUB for street lighting.

Mr. Stork moved to accept the funds and leave it to staff to determine the best use of the funds to save tax dollars for the citizens of Kerrville. Ms. White asked to amend the motion to specify that the funds be designated to the street budget. Mr. Stork did not allow the amendment to the motion. Ms. White seconded the original motion and the motion passed 4 to 1 with Councilmembers Stork, White, Allen, and Pratt voting in favor of the motion and Councilmember Fine voting against the motion.

8B. Republic Services discussion regarding transition issues and automated solid waste and recycling collection services.

Bill Rich, General Manager of Republic Services, Central Texas, noted that the transition to automated cart service that began in June had not gone well and many Kerrville residents experienced issues. He offered several reasons: cart manufacturing issues, poor cart execution, vendor did not provide adequate staff to handle delivery, address list from the city did not transfer correctly to Republic's system causing random deletion of some addresses, and lack of communication. Republic staff could not keep up with all the problems. He apologized to the city council, staff and the citizens; he posted a letter in the newspaper, and emailed and mailed letters to all citizens who expressed problems.

Mr. Rich said he appreciated the assistance and support of city staff in correcting the issues and his goal was to rebuild the city's trust in Republic by exceeding customer service expectations, i.e.: reassign more drivers to Kerrville while they were learning new routes, update customer addresses and contact information; maintain consistent information on websites, make drivers aware of Republic's expectation that drivers be aware of and retrieve items blown from trucks. At this time, all carts had been delivered, residents were adjusting to new service dates, and drivers were completing routes on time. Republic would continue to work with city staff to educate residents on cart placement and recycling contamination. He anticipated a 50% increase in the volume of recyclables next year; currently the city averaged 4.5 pounds per week per home, and that should increase to 8 pounds.

Council noted the main purpose for recycling was to keep the rates paid by citizens at a minimum. Recyclables could not be used or sold if contaminated. Mr. Rich noted that contamination continued to be a problem in that some people were putting trash in recycling carts, which resulted in the entire truck load being contaminated. Ms. Day noted Republic trucks had cameras and drivers could see what was going into the truck. Soon, Republic would begin to provide the city a list of offenders and city staff would begin code enforcement.

Mayor Pratt noted at the August 11 meeting he asked that the rate increase not be implemented until solutions had been implemented by Republic to bring automated recycling and collection services up to satisfactory level, and until someone from the Republic office was available to give a report to council. Mr. Rich had responded well and city council appreciated Republic working diligently through all of the challenges. Council suggested that future mail outs by Republic be in the form of colored postcards with pictures as that would get more attention than a written letter.

The following person spoke:

-Ruth Spradling asked who did yard waste pick up, noting it was not being done very well. Council noted Republic Services did yard waste pick up.

8C. Landowner petition for City to accept ownership of the drainage ditch in the Village Glen Subdivision

Mr. Parton noted a letter was received from Village Glen homeowners requesting the city repair and maintain the earthen drainage channel along their rear property lines. The drainage facility was built many years ago to accommodate a significant amount of regional drainage, not just the neighborhood, with the stipulation that landowners maintain the drainage channel. Over the years, a significant amount of silt, rock and debris built up and reduced drainage capacity. Mr. Parton noted the city did not have easements from the landowners to access the property for maintenance; he estimated after easements were secured, city staff could repair the drainage channel within two weeks at a cost of \$5,000-6,000.

Mr. Parton noted staff would also be surveying and evaluating other locations in the city that had similar problems and he would bring that information to council at a later date. He proposed the following criteria for distinguishing between landowners' responsibility and city's responsibility: 1.) Accepted infrastructure designed and approved by the city; 2.) Serving more than a single property or development; and 3.) Dedicated to the city in terms of maintenance responsibility.

Council noted that channel flow and maintenance was hampered by rocks and overgrown vegetation, and standing water created a health hazard and provided an environment for mosquitos and animals.

Mr. Allen moved to direct staff to evaluate the drainage conditions along this channel, define options for its repair, and work with landowners to determine if they would be willing to donate the necessary drainage easements to the city. Mr. Fine seconded the motion and it passed 5-0.

8D. Interlocal Agreement Pursuant to the Interlocal Cooperation Act Texas Government Code, Chapter 791 Texas Community Development Block Grant Contract 7214025.

Mr. Barron noted Phase VI of the Kerrville South sewer project would extend sewer service to an apartment complex on Rancho Road, adding about 54 new

connections. This was the final phase of the Kerrville South sewer project and would require some lift station wet well improvements; but the force main, pumps, and electrical could handle additional flow.

Mr. Fine moved to authorize the mayor to execute the interlocal agreement with Kerr County concerning the Texas Community Development Block grant. Mr. Allen seconded the motion and it passed 5-0.

8E. Donation of city's recycling trailer to Kerr County.

Councilmember Fine noted since the city recycling center closed recycling was no longer being picked up in Hunt, Center Point, and Turtle Creek. The city no longer had a need for the recycling trailer that was purchased solely by an AACOG grant; therefore, he proposed giving the trailer to the county for recycling, with stipulation that if the county discontinued using it for recycling, as stated in original grant, it would be returned to the city.

Mr. Stork moved to direct staff to write an agreement to donate the recycling trailer to Kerr County and that the agreement include a provision for the return of the trailer to the city should it no longer be used for recycling services. Mr. Fine seconded the motion and it passed 5-0.

9. INFORMATION AND DISCUSSION:

9A. Budget update. Ms. Yarbrough

Ms. Yarbrough gave the financial report year to date for the period ending August 25, 2015: general fund revenues totaled \$21,011,079 and expenditures \$18,658,908; water and sewer fund revenues totaled \$7,398,170 and expenditures \$9,439,438; hotel/motel fund revenues totaled \$861,706 and expenditures \$913,974; 54 permits for new residential construction and 22 for new commercial construction.

10. ITEMS FOR FUTURE AGENDA: None

11. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- The Kerrville Fire Department would be holding a blood drive on August 29 at the Wal-Mart parking lot, 9:00-2:00.
- Vouchers were available in the city water office for free bulk waste drop off disposal at the landfill; vouchers expire September 30.
- The Kerrville Fire Department and Kerr County Volunteer Fire Departments did a great job controlling the large fire in west Kerr County.

12. EXECUTIVE SESSION:

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

12A. Section 551.071:

- Pursuant to Section 551.071, *Rachel Lynn Wood v. Roy Alonzo, Individually, and in his official capacity as a City of Kerrville Police Officer*, in the United

States District Court, Western District of Texas, San Antonio Division; Case No. 5-15-CV-228-OLG.

12B. 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

At 7:54 p.m. the regular meeting recessed and council went into executive closed session at 8:00 p.m. At 8:31 p.m. the executive closed session recessed and council returned to open session at 8:31p.m.

13. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

12B. Mr. Stork moved to authorize staff to seek easements and/or property interests for the westward segments of the river trail. Mr. Fine seconded the motion and it passed 4 to 1 with Councilmembers Stork, Fine, Allen, and Pratt voting in favor of the motion and Councilmember White voting against the motion.

ADJOURNMENT. The meeting adjourned at 8:33 p.m.

APPROVED: 10/13/2015

/s/

ATTEST:

Jack Pratt, Jr., Mayor

/s/

Brenda G. Craig, City Secretary