

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
December 8, 2015

On December 8, 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 Kristin Mudry, the Welcome Lady from Kerr County Hospitality Ministry, followed by the Pledge of Allegiance led by Police Chief David Knight.

**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 Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
Kim Meisner	Director of General Operations
David Knight	Police Chief
Dannie Smith	Fire Chief
Trent Robertson	City Planner
Scott Loveland	Assistant Public Works Director

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

**1. VISITORS/CITIZENS FORUM:**

1A. Marjorie Riettini noted great things were happening in the parks and athletic facilities; however, the HEB Tennis Center courts badly needed repair. About 30 persons used the courts daily and tournaments brought in revenue. She understood that \$1.5 million was budgeted in 2017-18, but the tennis courts needed repair sooner.

**2. PRESENTATIONS:**

2A. Employee recognitions for 30 years of service in the Kerrville Fire Department: J. Mitchell Ray (absent) and Mickey Smart.

**3. CONSENT AGENDA:**

Ms. White requested Items 3A and 3B be removed from the consent agenda.

Ms. White moved to approve consent agenda items 3C and 3D; Mr. Fine seconded the motion, and the motion passed 5-0:

3C. Reimbursement of parade permit fees in the amount of \$100 paid by the veterans parade committee for the 2015 Veteran's Day Parade.

3D. Authorize execution of a contract with Kerr County for conducting the May 7, 2016 City of Kerrville General Election.

### **END OF CONSENT AGENDA**

3A. Construction contract with Swat Construction, Inc. for the Bear Creek Road at Guadalupe River culvert grate replacement project in the amount of \$55,900.00 and authorization for the city manager to execute additional change orders which may not exceed a total contract value of \$69,875.00.

Council discussed the following:

- The cost of the grate itself was \$29,000 in the winning bid; the next highest bid was \$50,000; why was there such a large difference?
- All city projects had engineering specifications and went through a bid process.

Ms. Day stated that the contractor would be required to meet all specifications or the city would not accept the project; she discussed reason why bids fluctuated.

Ms. White moved for approval of item 3A; Mr. Fine seconded the motion and it passed 5-0.

3B. Economic development grant agreement between Playhouse 2000, Inc. and the City of Kerrville, Texas Economic Improvement Corporation (EIC), in the amount of \$108,500.00 to be used: 1) replacement of all stage curtains in The Cailloux Theater; 2) replacement of portable seating in the VK Garage Theater; and 3) repairs and maintenance to the theater's Steinway Concert Grand Piano.

Council discussed the following:

- Bids for the chairs were over \$300 each and in total exceeded \$50,000. Staff noted the chairs did not have to go through a city bid process since the buyer, Playhouse 2000, Inc. (P2K), was a private corporation. Jeffrey Brown, P2K administrator, noted the chairs were specific to the theater industry and bids were received directly from the manufacturer; however, he would check with other vendors, whose names were given to him by a councilmember, to see if they would like to place a bid.
- Did the interlocking chairs meet specifications of the fire code? Chief Smith stated if given the information, he would research for fire code compliance.
- The chairs being replaced were over ten years old and would be used in P2K's new facility.
- The bids and agreement had been reviewed by both the P2K Board and the EIC Board and both boards approved the project as presented to council.
- The city council was not telling P2K, a private organization, what to do with their used equipment.

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

#### **4. PUBLIC HEARINGS AND RESOLUTIONS:**

4A. Resolution No. 37-2015, granting a conditional use permit (CUP) for an approximate 2.95 acre tract of land out of the Sam Wallace Survey No. 112, Abstract No. 360 and the Sam Wallace Survey No. 113, Abstract No. 347, within the City of Kerrville, Kerr County, Texas, and otherwise known as 3370 Loop 534 (Veterans Highway); said tract is located within the 27-E zoning district; by permitting said property to be used for a manufactured home or manufactured housing; and making said permit subject to certain conditions and restrictions contained herein.

Mr. Robertson noted the applicant requested the city allow manufactured housing on the subject property. Ten notices were mailed to property owners within 200 ft.; 1 responded in favor and 0 in opposition. The request was consistent with the land use designation of mixed use. The CUP would have little impact on neighboring properties, which already had similar uses established. Approval of the CUP would allow the existing structure to no longer be a non-conforming use and would meet all subdivision regulations for manufactured housing under Art. 11-I-12, and Art. II-I-13, procedures for conditional use permit. The planning and zoning commission (PZC) recommended approval 5-0, and staff recommended approval.

Mayor Pratt declared the public hearing open at 6:23 p.m.; no one spoke and Mayor Pratt declared the public hearing closed at 6:23 p.m.

Ms. White moved for approval of Resolution No.37- 2015 as presented; Mr. Fine seconded the motion and it passed 5-0.

4B. Resolution No. 38-2015, granting a conditional use permit (CUP) for an approximate .35 acre tract out of the P.R. Oliver Survey No. 122, Abstract No. 265, within the City of Kerrville, Kerr County, Texas, and otherwise known as 1612 Goat Creek Road (FM 1338); said tract located within the 6-W zoning district; by permitting said property to be used for building construction, specialist purposes; and making said permit subject to certain conditions and restrictions contained herein.

Mr. Robertson note the applicant requested a CUP for a building construction specialist use. Eleven notices were mailed to property owners within 200 ft.; staff received 1 in favor and 0 in opposition. The land use designation was general commercial, and the requested use was consistent with the adopted land use designation and would have little impact on surrounding properties which also had similar uses. The subject property had two land uses designation types: residential and general commercial which had existed for many years.

Staff recommended approval of the CUP with hours of operation to be 8 a.m.- 6p.m. A large area of the property was designated as flood plain and had natural vegetation. Staff was concerned for abutting residential properties and recommended 8 ft. Type B screening between residential and commercial uses.

PZC recommend approval 5-0 and to eliminate all screening requirements due to existing vegetation and flood plain mitigation. Staff agreed with PZC's recommendation.

Mayor Pratt declared the public hearing open at 6:28 p.m.; no one spoke and Mayor Pratt declared the public hearing closed at 6:28 p.m.

Mr. Stork moved for approval of Resolution No.38- 2015, with amendment to accept PZC's recommendation of no screening requirement; Mr. Allen seconded the motion and it passed 5-0.

**5. ORDINANCE, SECOND READING:**

5A. Ordinance No. 2015-24 amending Ordinance No. 2006-01, which granted Atmos Energy Corporation a franchise to furnish, transport, and supply gas to the general public within the City of Kerrville, Kerr County, Texas, by extending the term of the franchise ordinance for an additional ninety (90) days through the end of March 29, 2016. Mayor Pratt read the ordinance by title only.

Council noted that no representative from Atmos was present.

Mr. Fine moved for approval of Ordinance No. 2015-24 on second reading; Ms. White seconded the motion and it passed 5-0.

**6. CONSIDERATION AND POSSIBLE ACTION:**

6A. Wiedefeld Water Works application to amend Certificate of Convenience and Necessity (CCN) for water service on the southeast corner of Hwy. 27 and Hwy. 480, also known as 5881 Hwy. 27, Center Point, Texas.

Mr. Loveland noted Wiedefeld Water Works (WWW), one of the water purveyors in the Center Point area, applied to TCEQ to expand their existing CCN to provide water to a new business in Center Point. The state required that WWW notify all CCN's within one mile, which included the City of Kerrville. Mr. Loveland noted the location was 400 feet outside the city's CCN and 2.5 miles from the city's nearest water line. Staff recommended no action be taken and the city allow it to pass without opposition.

Mr. Fine moved that council take no action and allow the CCN amendment to pass without opposition; Mr. Stork seconded the motion and it passed 5-0.

6B. Commercial lease between City of Kerrville, Texas, and BTP Baseball Ventures, LLC, a franchise of D-BAT for the development and management of an indoor and outdoor baseball and softball athletic facility (Holdsworth Athletics Facility), 398 Holdsworth Drive.

Mr. Parton reviewed the revised document that reflected the comments and changes discussed at a previous council meeting and additional comments from BTP and Kerrville Youth Baseball and Softball Association (KYBSA). The proposed lease agreement accurately reflected the letter of intent adopted by the city council late last year.

Mr. Stork moved to approve the lease as presented; Mr. Allen seconded the motion.

Ms. White stated her concerns:

1. Project originally presented as a project to help the children of Kerr County; the terms still did not meet the minimum requirements of KYBSA.
2. Financial terms of the contract:
  - No rent for two years and possible zero or reduced rent based on the number of tournaments for the life of the 20-30 year contract.
  - City does not receive any money from product sales or tournament fees.
  - Cost to the city was estimated at \$300,000 to operate the fields; best case, the city would receive about \$43,000 in additional sales tax and 10% concession sales, this would not cover the city's annual operating cost.
3. City sought no other bids for management of fields; city's financial policies require competitive bids. At least one other vendor had expressed interest in bidding; she questioned if the city might face possible litigation because the city did not offer to accept bids from other vendors.
4. The money contemplated in the contract was not there:
  - The city approved the use of \$2 million from the water/sewer bond, which had not been approved. She questioned the legality of moving \$2 million from the utility fund to the athletics complex to build a building for a private enterprise, although the city would own the building.
  - \$9 million was borrowed and dedicated to build fields and no funds in that bond issuance were designated for an indoor facility.
5. The land was not yet owned by the city or zoned, and the project was not yet funded.

Greg Peschel, President of KYBSA, confirmed that the agreement did meet the needs of KYBSA, and they were continuing to work out specifications with staff.

The motion passed 4 to 1 with Councilmembers Stork, Allen, Fine, and Pratt voting in favor of the motion and Councilmember White voting against the motion.

6C. Direction to city staff on returning surplus funds from fiscal year 2015 to the Kerrville taxpayers or options to apply these funds directly to outstanding debt.

Councilmember Stork noted that surplus funds existed from last year's budget and he wanted to discuss options to return those funds to taxpayers, apply them to existing debt, or apply funds to an emergency loan such as to EIC and then EIC pay back the city. He did not want to find ways to spend the surplus funds as had been done in the past.

Mr. Parton noted the city's financial policy established a 25% unallocated reserve for the general fund above recurring annualized expenditures for unexpected or emergency events. The reserve fund also provided financial solvency for the city. In the past, as the reserve fund grew, council applied surplus reserve funds to a one-time purchase of capital needs or equipment. Mr. Parton reviewed the city's

debt and some loans could not be prepaid; however there were some internal loans that could be paid back and the loan from the Cailloux Foundation for the purchase of the aerial fire truck.

Council also discussed the following:

- The Cailloux Foundation loan was a zero interest loan; no savings for early payoff.
- Was there a mechanism to return dollars to taxpayers through future budgets? Mr. Parton noted that funds could be applied to capital needs so the city would not have to borrow funds in the future.
- Where to begin to return revenue since the general fund included ad valorem tax, sales tax, fines, and fees.
- The surplus could be used for tennis court improvements; look at options to stabilize the courts now. Mr. Parton estimated the rehabilitation/reconstruction of the tennis courts at \$250,000. Currently, the tennis center improvements were budgeted for FY17-18 to be funded by the Economic Improvement Corporation (EIC); the surplus could be applied to the tennis center project and reduce the allocation from EIC.
- The majority of the overage was attributed to personnel cost; e.g. funds were not spent due to vacancies, which have since been filled in the 2016 budget.
- Staff did not budget employee positions with the intention of not filling them with the purpose of having a surplus at the end of the budget year.
- In FY 2015, the council budgeted the positions and the council froze those positions, and staff was not allowed to fill them.
- Fuel was under spent due to cost reduction.
- \$1.8 million was transferred into the general fund from the water and sewer fund; could transfer those funds back to the utility fund, which had project list totaling \$10 million in 2016 and \$8.5 million in 2017.
- Not enough money to do all of the capital projects needed.
- The surplus existed because the funds were well managed by city staff.
- City needed to keep a strong reserve fund; Standard & Poor's rated the city AA due to good financial policies and reserve accounts. Borrowing money at the city's low rate has saved taxpayers a lot of money.
- When assets are not maintained and people do not come to Kerrville, the city loses hotel/motel and sales tax.

The following persons spoke:

1. George Baroody opined that the city had over collected, and there were ways to give money back to taxpayers. He suggested setting the funds in an account to be applied to next year's budget and reduce the tax rate. The city should budget for its needs, like tennis courts, and write a budget amendment for any emergencies. The city was spending on valid projects, but spending was out of control. The time to look at projects was during budget preparation rather than finding ways to spend it at the end of the year.

2. Deb. Mills expressed urgency in making repairs to the tennis courts and noted there had been injuries. Patching was a waste of money. She understood that EIC budgeted renovations in 2017 and 2018, but that was too long to wait.

A budget workshop was scheduled for council in January/February; staff planned to have discussion and direction from council regarding the use of additional surplus funds.

6D. Establish a policy for accepting board and committee applications.

Councilmember Fine noted that applications were being provided to council after the agenda packet was sent out and this did not allow councilmembers time to interview applicants. He suggested establishing a deadline of Wednesday prior to the meeting.

Council also discussed:

- City should provide 90 days' notice of expiration of board terms on the website.
- Staff should notify the interview team timely when an application is received.
- Staff should submit only current applications that were specific only to the board being considered.
- A mechanism existed that advised applicants that their application had been received from the website; wanted the same notification for information requests.
- Ms. White noted her husband said he had to call and fill out a form and it was during the appropriate time frame.

Ms. Craig noted applications remained on file for one year. In the past, applicants were allowed to change the name of the board for which they were applying on an existing application and resubmit their application under the new board name and date. If an application was over one month old, staff would call the applicant and verify he/she was still interested in that particular board.

The consensus of the council was that applications not received by 5 p.m. the Wednesday preceding the council meeting would not be considered for the board at that time but could be held for future openings up to one year.

6E. Direction to city staff on the City of Kerrville Fiscal Year 2017 budget.

Mr. Parton noted the city staff budget meeting was next week and he requested general direction from the council or any specific requests for items in the FY17 budget. He reviewed the five year fiscal forecast, fiscal sustainability model, and core assumptions. He proposed to maintain operation levels and expand core services, i.e. streets; athletic complex; and police body cameras. Staff was planning a bond issuance in FY17 to fund the effluent water reuse project.

Council also discussed the following:

- Look at outsourcing some labor and grant revenue possibilities.
- Requested an inventory of vacant city property, other than easements or right of ways.
- Requested a copy of the 2015 LNV report and the cost estimate for street repair.

## **7. INFORMATION AND DISCUSSION:**

7A. Report from city staff regarding the disruptions of AT&T phone service.  
Chief Smith reported three cuts in six months outside of Kerr County causing disruption of service; the city was unable to transmit and receive calls from other emergency providers, cell phone, and 9-1-1; disruptions lasted about 8 hours.

Patrick Tinley, Hill Country Telephone Company, manager of network operations, explained how Kerrville calls were routed. He discussed each of the service disruptions and plans underway with Windstream to provide a more reliable network and prevent future disruptions. The cost to bury one mile of fiber was \$50,000-70,000. AT&T was invited to the council meeting and declined. Kerrville was not in AT&T's service territory; however, AT&T had been very responsive in working with HCTC and Windstream to resolve issues.

Kerr County Commissioner Jonathan Letz, noted the county's point of view was that it was important to work together with AT&T for the safety of the entire community.

7B. Budget and economic update.

Ms. Yarborough gave the financial report year to date for the period ending November 30, 2015: general fund revenues totaled \$2,935,212 and expenditures \$3,584,437; water and sewer fund revenues totaled \$2,110,197 and expenditures \$1,020,319; hotel/motel fund revenues totaled \$189,638 and expenditures \$227,850; 16 permits for new residential construction and 0 for new commercial construction.

## **8. APPOINTMENTS TO CITY BOARDS AND COMMISSIONS:**

8A. Reuse Water ad hoc Advisory Committee.

Mayor Pratt and Councilmember Allen, committee liaisons, requested the appointments be moved to the next council meeting; however a special meeting may be scheduled to appoint members.

## **9. ITEMS FOR FUTURE AGENDA**

### **10. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- November 21 hazardous waste event served 500 vehicles and resulted in 20 tons of hazardous waste being kept out of the landfill including 412 tires and 8 pallets of electronics.
- Use caution, fraudulent phone calls were on the rise; persons suffering loss from fraudulent means, should report issues to the police department.
- The parks and recreation department would be hosting a "Night in Whoville" at Schreiner Park December 12 with activities starting at 5 p.m. including: letter writing to Santa, Dr. Seuss How Grinch Stole Christmas, and donations can be made to the Salvation Army Angel program.
- Library gingerbread house decorating event on December 19 starting at 1 p.m.
- Next regular city council meeting will be January 12, 2016; however, there may



be a special meeting to appoint members to the reuse water advisory board.

- City was accepting applications from persons interested in serving on the food service advisory board, library advisory board, main street advisory board, parks and recreation advisory board, and the planning and zoning commission.
- Candidate petition and application packets were available in the city secretary's office for persons interested in running for a seat on the city council. Petitions and applications may be filed between January 20, 2016, and February 19, 2016. Interested persons should contact Brenda Craig at 258-1117.

#### **11. EXECUTIVE SESSION:**

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

##### 11B. Section 551.071:

- Amber Wood Frye vs Parks and Recreation Department, City of Kerrville, in the Justice Court, Precinct Four, Kerr County, Case No. 152677.

At 7:48 p.m. the regular meeting recessed. Council went into executive closed session at 7:55 p.m. At 8:08 p.m. the executive closed session recessed and council returned to open session at 8:10 p.m. Mayor Pratt announced no action was taken in executive session.

#### **12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

**ADJOURNMENT.** The meeting adjourned at 8:10 p.m.

APPROVED: 02/23/2016

/s/

ATTEST:

Jack Pratt, Jr., Mayor

/s/

Brenda G. Craig, City Secretary