

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
SEPTEMBER 14, 2010

On September 14, 2010, the Kerrville City Council meeting was called to order by Mayor Wampler at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Reverend Patty Edwards, Unity Church of the Hill Country, followed by the Pledge of Allegiance led by Sam Swindell, Military Officers Association of America.

MEMBERS PRESENT:

David Wampler	Mayor
R. Bruce Motheral	Mayor Pro Tem
T. Scott Gross	Councilmember
Stacie Keeble	Councilmember

MEMBER ABSENT:

Gene Allen	Councilmember
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STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Travis Cochrane	Director of Information Technology
Mindy Wendele	Director of Business Programs
Mike Erwin	Director of Finance
Kevin Coleman	Director of Development Services

VISITORS PRESENT: List on file in city secretary's office.

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

2. **PRESENTATION:**

2A. Presentation from the XI Omicron Chapter of the Beta Sigma Phi Sorority for the purchase of new Christmas decorations for the City of Kerrville.

Angela Hons presented a check in the amount of \$2,000 to Mayor Wampler to purchase new Christmas decorations for the downtown area.

3. **CONSENT AGENDA:**

Mr. Gross moved for approval of items 3A through 3F; Mr. Motheral seconded the motion and it passed 4-0:

3A. Approval of the minutes of the city council meetings held on August 17, August 24, and September 2, 2010.

3B. Authorize a contract with Relmco, Inc. for the Oak Hollow drainage project in the amount of \$459,687.40.

3C. Authorize a professional service agreement with LNV, Inc. for engineering design services for Phase 2 and 3 of the wastewater inflow and infiltration rehabilitation/ replacement project in the amount of \$118,488.00.

3D. Authorize the extension of the Maxey Energy contract for fuel and card service for FY11.

3E. Authorize acceptance of a grant in the amount of \$98,600 for the purchase of a firefighting apparatus (brush truck) to be purchased through Buyboard Purchasing Cooperative.

3F. Authorize the transfer of five (5) surplus Panasonic CF25 laptop computers to the Ingram City Marshal.

END OF CONSENT AGENDA

5B. An ordinance approving a negotiated resolution between the Atmos Cities Steering Committee (“ACSC or “Steering Committee”) and Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or Company”) regarding the company’s third rate review mechanism (“RRM”) filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities’ reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos Mid-Tex’s proof of revenues; extending the RRM process for two cycles and adopting a new RRM tariff; ratifying the settlement agreement, including cost recovery for a steel service line replacement program; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the company and the steering committee’s legal counsel. Mayor Wampler read the ordinance by title only.

Mr. Hayes noted the city was a member of the ACSC, a coalition of cities established to review Atmos rate increases. On March 15, Atmos filed an application pursuant to the Rate Review Mechanism (RRM) to seek a \$70.2 million rate increase. ACSC analyzed Atmos’ rate filing and recommended that ACSC cities pass an ordinance adopting the negotiated rate settlement and authorizing an increase in the base rate of approximately \$27 million, and a supplemental revenue increase of \$3.4 million to cover direct costs associated with a steel service line replacement program. If adopted, the average residential customer’s bill will increase \$1.40 (3.15%) per month effective October 1. Mr. Hayes noted the negotiated settlement would apply to all cities in the ACSC coalition, and thus far, all ACSC cities had approved the agreement. He recommended approval of the ordinance adopting the rate tariffs and proof of revenues that would implement the negotiated rate settlement. .

Mr. Gross moved for approval of the ordinance on first reading; Ms. Keeble seconded the motion and it passed 4-0.

4. FISCAL YEAR 2011 BUDGET PUBLIC HEARINGS AND ORDINANCES, FIRST READING:

4A. Public hearing for ad valorem tax rate for tax year 2010/fiscal year 2011. (Staff) Mr. Erwin noted the proposed tax rate for FY11 was \$0.5625, the same as FY10, and was 2.2% below the effective tax rate of \$0.5753. The maintenance and operation portion was \$0.489, and the debt service was \$0.0735.

Mr. Erwin noted the proposed tax rate was \$0.5625, the same as FY10: \$0.489 was for maintenance and operations; \$0.0735 was for debt service. The proposed rate was 2.2% below the effective tax rate of \$0.5753, resulting in an estimated decrease of \$21.82 on the average house.

Mayor Wampler opened the public hearing at 6:11 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:12 p.m.

4B. An ordinance levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2011; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid. Mayor Wampler read the ordinance by title only.

Mr. Motheral moved for approval of the ordinance on first reading; Mr. Gross seconded the motion and it passed 4-0.

4C. Public hearing for fiscal year 2011 budget.

Mr. Erwin noted the FY11 proposed budget was \$37,972,742; general fund was \$19,977,572; water and sewer fund was \$8,822,735. In addition, he presented a list of recommended items totaling \$6,854,643 for inclusion in the budget as previously discussed in council workshops; if approved by council, the FY11 budget would total \$44,827,385. The FY11 budget: was based on a tax rate of \$0.5625; revenues exceeded expenditures; focused on providing core services; did not use any reserve fund balance; and included a \$1/1,000 gallon increase in the sewer rate.

Mayor Wampler opened the public hearing at 6:22 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:22 p.m.

4D. An ordinance adopting the annual budget for the fiscal year 2011; providing appropriations for each department and fund; containing a cumulative clause; and containing a savings and severability clause. Mayor Wampler read the ordinance by title only.

Upon question by Mayor Wampler, Mr. Erwin stated he had attended the county's budget workshop that day and confirmed the commissioners had identified a list of potential cuts that included \$100,000 underpayment for city services in order to lessen the amount of the county's proposed tax increase; however, the county did not specify which city service should be cut. The county did not take any action on their budget.

Mayor Wampler noted the county proposed to under fund interlocal agreements previously executed by the city and county which required the city to provide city services to the county at a set amount, and to leave it up to the city council to decide how to fund the county's cuts in the city's budget or for the city to decide which services to cut to the county. He noted the city had built a fire/EMS service sufficient to serve the entire county, and the county was paying less than 20% of the value of the services it was receiving. Mayor Wampler stated that if the county takes action to

cut \$100,000 from the interlocal agreement, his recommendation to city council would be to cut the fire and EMS services in the county effective October 1, 2010.

Council also discussed the following points:

- The city cannot afford to absorb the additional \$100,000 burden from the county's budget shortfall.
- County should take care of their obligations.
- County commissioners were gentlemen and will honor their agreements; to do otherwise would be unethical.
- City citizens were also county residents and taxpayers.
- City's revenue was down 9.2% and the city had made staff reductions and other significant budget cuts to balance.

Ms. Keeble moved to approve the proposed budget on first reading subject to making any unforeseen changes or any changes that may be necessary pursuant to future action by the Kerr County Commissioners' Court with respect to its funding of joint operations. Mr. Motheral seconded the motion and it passed 4- 0.

5. ORDINANCES, FIRST READING:

5A. An ordinance amending the budget for fiscal year 2010 to accept and allocate remaining funds from the fiscal year 2009 budget. Mayor Wampler read the ordinance by title only.

Mr. Erwin proposed to amend the FY10 budget to allocate previously awarded EIC funds to the business programs department for advertising and marketing in the amount of \$4,000, and to reallocate unused funds in capital improvement projects. Mr. Erwin noted a resolution passed earlier that allowed any unused fund balance to be placed into debt service or capital projects.

Ms. Ondrias noted that cost savings from some CIP projects may allow the city to extend utility services further out Harper Road.

Mr. Motheral stated that he may be hired to perform work for a landowner who may tie on to the city's utility lines in the Harper Road area in the future; therefore, he filed a conflict of interest affidavit and recused himself.

Mr. Gross moved for approval of the ordinance on first reading; Ms. Keeble seconded the motion and it passed 3-0-1 with Councilmembers Gross, Keeble, and Wampler voting in favor of the motion; no one voted against the motion, and Mr. Motheral abstained.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Zoning Ordinance Input Committee's review of the city's zoning ordinance.

Mr. Coleman updated the council on the progress of ZOIC in its review of the existing zoning ordinance and presented recommended changes:

- The proposed revised zoning districts combined the existing 42 non-residential districts into 4 commercial districts, 2 industrial districts, and 2 special purpose districts

- Proposed new land use descriptions
- Provided a new schedule of permitted uses for commercial and industrial districts
- Created a new central business zoning district and downtown pedestrian area with exceptions to parking standards and setbacks
- Proposed revised city-wide parking standards; major changes were being proposed for multi-family units, restaurants, retail outlets, schools, medical facilities, and public use facilities; would require all new parking areas to be paved; and require drive lanes and stacking lanes where needed.
- Proposed revised city-wide special development regulations for certain commercial uses. Redrafted standards for fuel sales, mini-warehouses, and child care centers; proposed standards for car washes, auto repair, and oil change shops; and retained standards for group homes.

Mr. Coleman noted future steps in ZOIC's review process, including:

- Expand land use chart to commercial and industrial districts
- Define geographic area of proposed commercial and industrial zones
- Survey the central business district to identify non-conforming uses under the proposed land use chart
- Review staff recommendation of changes to the ordinance, i.e. conditional use permit process, non-conformity, and home occupations.
- Assess a special use exception approval process. A special use permit would expire with the current owner/operator of that property, and the special use would not transfer with the property to the new owner.
- Adoption of a central business district will provide opportunity to discuss signage; an update of the sign ordinance would be scheduled on the September 28 agenda.

The following persons spoke:

1. Jimmie Spradling noted as a safety measure, some cities regulated the time that petroleum trucks could unload in certain areas, e.g. prohibit unloading of gasoline at stations located near schools during school hours.
2. David Lipscomb expressed concern about the city's inadequacy in handling storm drainage and noted more parking lots created additional impervious coverage which resulted in increased drainage. He suggested the city give consideration to more detention ponds. Mr. Motheral noted the city had initiated a committee to work on a drainage plan for the city, said plan would also include some areas outside the city, with the goal of addressing drainage issues before they became costly problems.
3. Ruth Spradling stated she was in favor of monument signage; if pole signs were allowed, it would create a jungle of pole signs.
4. Carolyn Lipscomb questioned under paving standards if crushed granite or gravel could be used for parking lots or if only concrete or asphalt could be used.

John Mosty, ZOIC chairman, suggested a joint workshop between ZOIC and city council to discuss the council's concerns and ZOIC's recommendations, for example, fencing requirements, to provide separation between commercial and residential areas. ZOIC encouraged the use of pavers for parking lots; otherwise they recommended concrete or asphalt only, and no caliches, crushed granite or gravel would be allowed.

Council reviewed the schedule of permitted uses and proposed changes and noted areas of concern. The consensus of the council was:

- ZOIC revisit Schedule E, parking standards, and Schedule F, development regulations, taking into consideration council's concerns and bring back to council any revisions; then, if there are any outstanding issues, schedule a joint workshop to discuss those issues.
- Proceed with legal review of language changes in the existing ordinance and proceed with the vetting process.
- Move forward with signage in the central business district and bring a specific review back to city council.

7. INFORMATION AND DISCUSSION:

7A. Update regarding Lower Colorado River Authority TSC's application for the McCamey D to Kendall to Gillespie CREZ project (PUC Docket No. 38354).

Mr. Parton presented a tentative schedule of meetings and noted several representatives from Kerrville had attended the September 1 meeting in Austin before the administrative law judges. A motion to dismiss was certified and forwarded to the PUC for consideration on the necessity of the line and to determine whether to continue or dismiss the application. A regional meeting of hill country communities would be held on September 16 to identify common interests and try to form an alliance of communities with similar interests to coordinate activities and prepare documents for submission to PUC. The deadline for written documentation, testimony, and letters of opposition to be submitted was September 28.

7B. Kerrville budget/economic update.

Mr. Erwin noted revenues were relatively flat. He had discussions with the city's financial advisor regarding potential savings of about \$200,000 that could be achieved through refinancing the 2000 debt issue. The consensus of council was to schedule the financial advisor to attend a future council meeting.

8. BOARD APPOINTMENTS:

8A. Appointments to the building board of adjustment and appeals.

Ms. Craig noted appointments were the final step in establishing this new board.

Ms. Keeble moved to make the following appointments to the specific positions on the board: Garrett Harmon, architect; James Maxwell, professional engineer, Calvin Luck, master electrician; Charles Tremper, master plumber; Lee Underwood, mechanical contractor; Kenneth Bledsoe, contractor; Dwayne Downey, construction industry; Daniel Lowery, alternate member (plumber); and John Priour, alternate member (electrical). Mr. Motheral seconded the motion and it passed 4-0.

8. ITEMS FOR FUTURE AGENDAS

8A. Presentation by Pete Moore regarding rivertrail. Mr. Gross noted a survey link on the webpage to name the rivertrail.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

10. EXECUTIVE SESSION:

Mr. Gross moved for the city council to go into executive closed session under Section 551.071 (consultation with attorney), and 551.072 (deliberation regarding real property) of the Texas Government Code; the motion was seconded by Mr. Motheral and passed 4-0 to discuss the following matters:

Section 551.071:

- Contemplated litigation involving a claim against C & C Groundwater Services.
- Settlement agreement between the United States of America, the City of Kerrville, Texas, and Playhouse 2000 with respect to the Cailloux Theater and City Center for the Performing Arts under the Americans with Disabilities Act.

Section 551.071, 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 (715 Water Street).
- Discuss the purchase, exchange, lease, sale, or value of real property for use as a city facility, the public discussion of which would not be in the best interests of the city's bargaining position with third parties.

At 8:03 p.m. the regular meeting recessed and council went into executive closed session at 8:03 p.m. At 9:11 p.m. the executive closed session recessed and council returned to open session at 9:12 p.m. The mayor announced that no action had been taken in executive session.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

Settlement agreement between the United States of America, the City of Kerrville, Texas, and Playhouse 2000 with respect to the Cailloux Theater and City Center for the Performing Arts under the Americans with Disabilities Act.

Mr. Motheral moved to execute the settlement agreement with the US Department of Justice under the American with Disabilities Act regarding the Kerrville Municipal Auditorium (Cailloux Theater); Mr. Gross seconded the motion and it passed 4-0.

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

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary