

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
February 9, 2016

On February 9, 2016, 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 Linda Harper, President of Aglow International, 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
David Knight	Police Chief
Dannie Smith	Fire Chief
Trent Robertson	City Planner
Malcolm Matthews	Former Parks and Recreation Director

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

1. VISITORS/CITIZENS FORUM:

1A. Russell Nemky encouraged council to consider passing an ordinance that would prohibit the use of cell phones or texting while driving unless the person was using a hands free device.

1B. Ricardo Rodriguez invited council and the public to participate in the Valentines for Veterans event at the VA Hospital at noon on February 17.

2. PRESENTATION:

2A. Proclamation proclaiming February 17, 2016, as National Salute to Veteran Patients Day.

3. CONSENT AGENDA:

Mr. Stork moved to approve consent agenda item 3A; Mr. Fine seconded the motion, and the motion passed 5-0:

3A. Minutes of the regular city council meetings held October 27 and November 10, 2015.

END OF CONSENT AGENDA

4. PUBLIC HEARING AND RESOLUTION:

4A. Resolution No. 03-2016 granting a conditional use permit for an approximate 0.83 acre tract of land, being Lots 7, 8, and 9, Block 74 of the Joseph A. Tivy Addition, a subdivision within the City of Kerrville, Texas, otherwise known as 1220 Jefferson Street, and located within an R-1A zoning district; permitting said property to enlarge the area of its non-conforming use by the construction of an additional 2,400 square feet to an existing structure; and making said permit subject to certain conditions and restrictions contained herein.

Mr. Robertson noted the applicant proposed to expand an existing non-conforming use by 2400 sq. ft. to enlarge a day care center that had been in operation since 1976. 30 notices were mailed to property owners within 200 ft.; 0 responded in favor and 0 opposed; 1 email was received stating they would be in favor of the request if a 6 ft. privacy fence was put up between this property and the residential properties, and the applicant has already put up the fence. The surrounding neighborhood was single family residential. Staff recommended approval with the condition that hours of operation be Monday through Friday, 6:00 a.m. to 6:00 p.m. The planning and zoning commission agreed with staff's recommendation.

Mayor Pratt declared the public hearing open at 6:14 p.m.; no one spoke; Mayor Pratt closed the public hearing at 6:15 p.m.

Ms. White moved for approval of Resolution No. 03-2016; Mr. Fine seconded the motion and it passed 5-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Resolution No. 04-2016 of the City Council of the City of Kerrville, Texas supporting the proposed Saralita Senior Village housing community for senior citizens; approving an application for low income housing tax credits to finance such project; providing an in kind contribution for such project and providing an effective date.

Mr. Robertson noted Oryx Development requested the city support their application for tax credits with the Texas Department of Housing and Community Affairs for a senior multi-family residential development to be named Saralita Senior Village by passing the resolution and committing a maximum \$100 in kind contribution of fee waivers. The site of the proposed development was on the east side of Hwy. 16 between Ranchero Road and Southway Drive.

Council asked if there were any plans to salvage or incorporate into Saralita's plans any part of the historic building that was the former Schofield School for Girls, noting thick walls, basement, pool, and large gathering spaces.

The following person spoke:

1. Deborah Gaudier, endangered properties committee and marker committee chairman for Kerr County Historical Commission, noted the Schofield School for Girls was built in 1909. The structure had been heavily vandalized. She asked if the developer would fund a site marker to commemorate the school if the building was demolished. Mr. Rue stated they would consider funding an historical site marker for \$1,800 if KCHC would do the work for the marker. He offered to visit with KCHC members and see how a site marker might be incorporated into Saralita's plans.

Blake Rue, representing Oryx, said the building had been abandoned for 15-16 years, was heavily vandalized and in very poor condition; also, there may be environmental issues and asbestos or other hazardous material. The building was built in 1909 and it would be too costly to refurbish; they planned to demolish the structure.

Mr. Rue noted the application was for senior housing and could not be changed or amended. He previously made a presentation to Riverhill homeowners and there was not any change in the plan since that time; however, there may be slight changes to the plan in the future, but they committed that the area near Riverhill would be one-story. He also noted an existing 50 ft. natural vegetative buffer would remain.

Mr. Rue noted that the Schofield structure and land was not part of this project; the agenda item was on a separate tract of land than the Schofield structure; also, zoning was already in place for this phase of the plan.

Council also discussed the following:

- The proposed 36 unit multi-family dwelling would be the first phase of the project and would be closest to the highway and furthest away from Riverhill. One-story town home units for seniors would be constructed closer to Riverhill.
- KCHC should identify sites to be protected first and not wait until someone wanted to demolish or develop a property.

Mr. Fine moved for approval of Resolution No. 04-2016; Ms. White seconded the motion and it passed 4 to 1 with Councilmembers Fine, White, Allen, and Pratt voting in favor of the motion and Councilmember Stork voting against the motion.

5B. Professional services agreement with Peter Lewis Architect + Associates, PLLC for design and construction administration of the indoor athletic facility in an amount not to exceed \$161,000.00.

Mr. Parton noted the agreement would authorize the firm to develop plans for design services and project administration services for the facility. When the plans are complete, they will be presented to council.

Ms. White stated she had not seen the plans for the athletic facility building, it was not in the capital improvement plan, and council had not voted to approve it; the building was "back doored" into the project through the BTP contract. The

letter of intent with BTP stated the city would build the building shell; the BTP contract altered the letter of intent. The city signed a lease agreement with BTP to furnish a building but never agreed to build the building. Also, funding for the building would not come from the \$9 million certificates of obligation approved for the athletic complex, it would come out of the water/sewer fund. The city approved a contract to furnish the building but did not appropriate funds to do so.

Mr. Parton noted the building was part of the concept plan for the project as presented to council and discussed in open session and reflected in agreements approved by council. The proposed agreement with Peter Lewis would design the plans and when those plans are completed, they would be presented to the council and the bidding process would begin; after bids are received the bids would come to council for award. The project was a general fund project, was in the city's budget, and was approved by council.

Mayor Pratt stated that the project had been discussed and voted on in open session; there was no "back door" project.

The following person spoke:

1. Barbara Burton stated she heard that the site contained significant historical and archeological items; the city should document, survey and salvage any items discovered.

Mr. Parton noted at this time, the property belonged to the Cailloux Foundation, not the city; however, knowing that the property would ultimately be owned by the city, the CF did conduct historical and geological surveys of the property, which they were not required to do as private property owners. The surveys did not indicate any significant site or artifacts, but did recommend additional surveys if construction work unearthed archeological items. The CF was already following the same antiquities requirement that public entities had to follow for construction. Further, he had contacted Mr. Stoutamire, a local antiquities expert, and he volunteered to work with the city on documenting and preserving any artifacts found at this site.

Mr. Stork moved to approve the agreement with Peter Lewis Architect + Associates as presented; 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.

5C. Request by Kevin Sutherlin to abandon land deeded to the City of Kerrville for a "Kerrville River Walk Trail" (KRWT) recorded in Volume 0807, Page 169, Kerr County Records and being generally located within the 600 block of Water Street.

Mr. Matthews noted the city approved the KRWT in the 1990s and secured properties downtown along the north bank of the river for a concrete and crushed granite trail. When the city began construction of the river trail on the south side of the river, the city had to close off access from the north bank in order to secure the

construction area. In 2013 the city ceased operation and maintenance of the granite trail on the north side trail and sealed off the stairwell on the subject property. In 2014 Bill Rector's property was reverted back to him, at his request; both properties had the same deed restriction, that is, the property would revert to the property owner if it ceased to operate for the KRWT. The city no longer operated that portion of the trail but Mr. Matthews recommended the property on which the concrete stairwell was located should always stay under city ownership as it connected to the boardwalk pavilion and the foot bridge across the river and into the park. He recommended the 0.8 acre tract be reverted back to Mr. Sutherlin in conformance with the deed restriction.

Mr. Stork moved to direct staff to execute the quitclaim deed as requested by Mr. Sutherlin; Mr. Allen seconded the motion and it passed 5-0.

6. INFORMATION AND DISCUSSION:

6A. Receive final report from the Water Reuse Ad Hoc Advisory Committee (WRAC)

John Harrison, member of the WRAC, noted in 2013 council challenged staff to find ways to take 300 million gallons of water that was being discharged into the river annually and retain that for city use. In November 2015 council charged the committee with evaluating the proposed 105 mg water reuse pond that would store water normally discharged into the river for the purpose of using and selling effluent for irrigation to entities such as Scott Schreiner Municipal Golf Course, Tivy High School, Schreiner University, Comanche Trace Golf Course, etc. Further, the Direct Potable Reuse (DPR) study was currently underway. The WRAC also looked at the possibility of purchasing additional water rights. WRAC voted unanimously to support the project and noted the \$18.5 million debt did not exceed the city's debt limits and could be well managed in the water/sewer fund. He opined that all WRAC members had strong opinions and none were influenced by any councilmembers. He was very impressed with consultant, Freese & Nichols, and city staff and their knowledge of the system and expertise in the field.

The following persons spoke:

1. Robert Naman said on November 10, 2015, council passed a resolution authorizing publication of the notice of intent to issue debt. On December 12 council appointed members to WRAC; all committee members lived in Riverhill or Comanche Trace. This was a conflict of interest since those two communities would benefit greatly by having grey water for irrigation of golf courses at a much lower cost than potable water; thereby providing a subsidy to their subdivisions at the expense of the residents of the city of Austin. On January 12, council authorized issuance of \$10 million certificates of obligation and securing payment by a levy of ad valorem tax and water/sewer system revenue; the potential of using ad valorem tax was not adequately explained. He opined that the city should pay for the project by selling grey water at market rate thereby lessening the burden to taxpayers. He opined that using \$2 million of the debt to pay for dirt the city owned, and transferring \$2 million from the water/sewer fund to the general fund to pay for building an indoor facility was an accounting gimmick and was unethical. The city should use \$2 million from the general fund and not borrow from the water/sewer fund.

Council noted the long term goal was to use reuse water for potable drinking water for everyone in Kerrville not just for golf courses. Phase I was reclamation; Phase 2 would be DPR. Mr. Harrison stated if the city was only going to do irrigation, the committee might have had a different recommendation. DPR cannot happen without the effluent project.

Mayor Pratt explained that the general fund owned the dirt, the water/sewer fund did not own any dirt. The effluent project was a water/sewer fund project, not a general fund project. The water/sewer fund had to purchase dirt, if it did not purchase it from the general fund, it would have to purchase the dirt elsewhere. One fund cannot subsidize another fund. Also, many of the persons appointed to the WRAC did not live in Comanche Trace or Riverhill.

2. Barbara Burton questioned if the city would be pumping treated reuse water into the city's ASR wells and when? Ms. Day noted the first phase of the project was just to store treated water in ponds. The second phase, direct potable reuse, would treat effluent to drinking standards as required by the state before it can be injected into an ASR well.

3. Russell Nemky noted the board voted unanimously in support of the project; the project had to do with water and not golf courses or where people lived. He opined that the CF wanted the city to build an indoor athletic facility for their friend.

7. ITEMS FOR FUTURE AGENDAS

- Mayor Pratt noted he signed the Mayor's Pledge for the Monarch Butterfly and the city would be working with the Riverside Nature Center to promote increased habitat for the butterfly. Council noted when this was placed on the agenda staff should invite Robert Keeble and members of the beautification committee.

The following person spoke:

1. Barbara Burton said the city should stop using Round Up and use vinegar.

- Mobile food vendors' ordinance needed to be updated.

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- The Mardi Gras event was going on in Louise Hayes Park now; people were encouraged to attend this free event.

9. EXECUTIVE SESSION:

Mr. Fine moved for the city council to go into executive closed session under 551.071 and 551.072 of Chapter 551 of the Texas Government Code; motion was seconded by Mr. Stork and passed 5-0 to discuss the following:

9A. 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 7:09 p.m. the regular meeting recessed. Council went into executive closed session at 7:10 p.m. At 7:23 p.m. the executive closed session recessed and council returned to open session at 7:25 p.m. Mayor Pratt announced no action was taken in executive session.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION: None.

ADJOURNMENT. The meeting adjourned at 7:25 p.m.

APPROVED: _____

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary