

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
JUNE 14, 2016

On June 14, 2016, the Kerrville City Council meeting was called to order at 6:30 p.m. by Mayor White in the city hall council chambers at 701 Main Street. The invocation was offered by Lainie Johnson, Pregnancy Resource Center, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
Gary F. Stork	Mayor Pro Tem
Stephen P. Fine	Councilmember
Glenn Andrew	Councilmember

COUNCILMEMBER ABSENT:

Gene Allen	Councilmember
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CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Malcolm Matthews	Interim Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Assistant Director of Parks
David Knight	Chief of Police
Dannie Smith	Fire Chief
Trent Robertson	City Planner
Kaitlin Berry	Special Projects Manager
Kim Meisner	Director of General Operations

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

**1. VISITORS/CITIZENS FORUM:**

1A. William Spencer Hart was concerned that the city had only one sewer plant and it was built 60 years ago. He asked that the city consider building a sewer plant on the south side of the river and one toward Ingram. He also requested the city consider annexing the Castlecomb subdivision and fix their sewer problem since sewer lines were in close proximity.

1B. John Combiscure stated he was the master of the universe and demanded respect. The euro was the number one form of currency globally. He was the lord and there was no mystery. Come December after the final vote he wished to be the president of Kerrville.

1C. Renee Lofaso Massey opined that Mayor White's voting history went against the majority of councilmembers on many issues. Councilmembers should use their office for public good and not for personal gain or personal beliefs. The city's ethics policy was for elected officials not the public; therefore, she did not have to abide by it as councilmembers did. She questioned if Ms. White was capable of being mayor for all of the community or just those who fit her way of thinking.

1D. Jim Hart was concerned about storm drainage and failing sewer system. During heavy rains the manhole lid on Erin Street comes off and raw sewage flows into Lois Street Park. He noted the city had committed \$29 million for repairs at the wastewater plant.

**2. PRESENTATIONS:**

2A. Proclamation declaring the week ending on Father's Day 2016 as Men's Health Week.

**3. CONSENT AGENDA:**

3A. Construction contract with Jordan Restoration, Inc. for the Kerr Regional History Center renovation phase II project in the amount of \$292,472.00 and authorization for the city manager to execute additional change orders which may not exceed a total contract value of \$365,590.00.

Mr. Parton noted in 2000 the city accepted the gift of the history center through the HEB Foundation and the Remschel Deering Trust (RDT). The RDT provided \$150,000 plus a monthly allocation of \$1,500 for operations and improvements, with the requirement that the city go to the RDT for permission to use those funds. A few years ago the city provided a list of projects, and the RDT gave an additional \$50,000 and increased the monthly allocation to \$2,000; last year the RDT provided \$250,000 for the history center renovation project and increased the monthly to \$2,500. The proposed renovation included finishing out the interior of the second floor, and installing air conditioning/heating and an elevator. The project has been approved by the Remschel Deering Trust and would be funded through cash donations; no city tax dollars would go into this renovation project.

Mr. Andrew moved to approve Item 3A; Mr. Fine seconded the motion, and the motion passed 4-0:

**END OF CONSENT AGENDA**

**4. PUBLIC HEARING AND ORDINANCES FIRST READING:**

4A. Ordinance No. 2016-07, amending the city's "Zoning Code" to revise Section 11-1-12(f) "Temporary Construction Trailers and Buildings" to allow for the expanded use of such structures; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. Mayor White read the ordinance by title only.

Mr. Robertson noted Habitat for Humanity requested they be allowed to temporarily, up to 12 months, locate construction trailers off the construction site but within the same platted subdivision. Some sites were too small for construction and equipment. Currently, construction trailers were allowed a temporary building permit for 180 days. The proposed ordinance contained a provision that required the permit be reviewed annually by development services and would apply only to lots platted in the same subdivision. The planning and zoning commission (PZC) voted 5-0 to approve the text amendments as stated in the ordinance. PZC will also review and make recommendation on the design of temporary construction trailers in the future.

Mayor White declared the public hearing open at 6:26 p.m.; no one spoke and Mayor White closed the public hearing at 6:27 p.m.

Mr. Fine moved for approval of Ordinance No. 2016-07 on first reading. Mr. Andrew seconded the motion and it passed 4-0.

**5. ORDINANCE SECOND AND FINAL READING:**

5A. Ordinance No. 2016-08 amending the comprehensive plan for the City of Kerrville, Texas, pursuant to Chapter 213 of the Texas Local Government Code, by revising the future land use plan for an approximate 5.61 acre tract of land located adjacent to State Highway 16 South (Medina Highway) and between its intersection with Southway Drive South and Fairway Drive East; and changing the future land use of this area from low-density residential to mixed use. Mayor White read the ordinance by title only.

Mr. Robertson noted no changes since first reading.

Mr. Fine moved for approval of Ordinance No. 2016-08 on second and final reading. Mr. Andrew seconded the motion and it passed 4-0.

5B. Ordinance No. 2016-09 amending the city's "Zoning Code" by changing the zoning district for an approximate 5.61 acre tract of land located adjacent to State Highway 16 South (Medina Highway) and between its intersection with Southway Drive South and Fairway Drive East, and otherwise known as 1335 State Highway 16 South; by removing the approximate 5.61 acre tract from the "R-3" multifamily residential zoning district and placing it within the 34-S zoning district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); ordering publication; and providing other matters relating to the subject. Mayor White read the ordinance by title only.

Mr. Robertson noted no changes since first reading.

Mr. Stork moved for approval of Ordinance No. 2016-09 on second and final reading. Mr. Fine seconded the motion and it passed 4-0.

5C. Ordinance No. 2016-10, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2016 rate review mechanism filings; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. Mayor White read the ordinance by title only.

Mr. Hayes noted no changes since first reading. If approved, the ordinance would allow a rate increase of 2.43% for residential and 4.43% for commercial.

Mr. Fine moved for approval of Ordinance No. 2016-10 on second and final reading. Mr. Andrew seconded the motion and it passed 4-0.

5D. Ordinance No. 2016-11 amending the budget for Fiscal Year 2016 to account for the completion of various capital improvement projects within the city's water and sewer fund and reallocating said project balances to other capital improvement projects within the same fund. Mayor White read the ordinance by title only.

Mr. Parton noted staff moved \$100,000 from the original project allocation to the new projects that were in the budget approved by council. He recommended approval of the ordinance on second reading.

Mr. Andrew moved for approval of Ordinance No. 2016-11 on second and final reading. Mr. Stork seconded the motion and it passed 4-0.

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

6A. Funding request from Kerr Economic Development Corporation for its fiscal year 2017 budget in an amount not to exceed \$24,500.00.

Jonas Titas, KEDC Executive Director, discussed the annual request of \$24,500 for FY2017. He noted the \$180,000 reserve in the operational budget from the past had been depleted. He reviewed KEDC's accomplishments in 2015-16 and noted KEDC was funded by the city, county, EIC, and KPUB.

Mr. Parton noted the three year funding agreement was budgeted in the economic improvement corporation's budget.

Mr. Fine moved to approved the funding request; Mr. Stork seconded the motion and it passed 4-0.

6B. Discuss extension or renewal of the Interlocal Agreement for the continued Existence of a Joint Airport Board to provide Management of Kerrville/Kerr County Airport.

Mr. Parton noted the city and county had been operating the airport through the joint airport board and the current contract would expire September 30. He recommended that two councilmembers be designated to meet with county representatives to discuss and negotiate terms of a new agreement or extension of the existing agreement. Negotiations should be completed by the end of July and recommendations on the council agenda for first meeting in August.

Council noted that Mayor White, Councilmember Andrew, and Finance Director Yarbrough were the city's representatives on the airport planning committee.

County Commissioner Tom Moser stated there were no major issues with the agreement and the airport operation was running smoothly. The county would be

posting similar discussions on their agenda.

Mr. Fine recommended that airport planning committee members White, Andrew, and Yarbrough meet with county representatives to negotiate the terms of an agreement and bring recommendations to council for consideration. Mr. Stork seconded the motion and it passed 4-0.

6C. Request from Kerr County to waive any and all City building permit, plan check, and inspection fees associated with Kerr County's expansion of the Kerr County Jail.

Mr. Parton noted the county requested to waive some of the plan review and building inspection and permit fees, estimated at \$82,500, for the county's new \$11 million jail facility. The fee was to recover the cost of plan review by an outside consultant, and expenses associated with the construction inspection process, which included state-established criteria for the design and construction of a detention facility and city building codes. The Texas Commission on Jail Standards have inspectors that review plans and ensure the project is constructed according to plans, and one of their requirements was the issuance of a certificate of occupancy (CO) by the city upon completion. In order for the city to issue a CO so the facility can open in accordance to state requirements, the building official must verify that the building was designed and built to code; therefore, the city must conduct plan review and periodic inspections during construction.

Mayor White read a letter from the executive director of the Texas Commission on Jail Standards: "We conduct plan reviews of the schematic design development and construction document phase. At the end of construction prior to moving inmates into the facility we conduct an occupancy inspection to ensure that the facility was built in accordance with the plans submitted and approved and the plans and all systems are functional. The county is required to have a c of o from the local jurisdiction and a fire marshal's inspection available as well as a certified test and balance for HVAC, smoke, and fume removal system. We do not conduct periodic on-site inspections during construction that are traditionally the domain of local code inspectors for electrical, structural, plumbing, etc."

Rusty Hierholzer, County Sheriff, noted this was an extensive \$15 million bond issue project expected to be completed in 15-18 months. It will be a maximum security facility with 328 beds. The project included adding a new dormitory to the back of the current facility and remodeling the existing jail. The county already paid the \$27,512 for the plan review fee, which was in progress with Huser Construction. The county was willing and obligated to pay the actual cost to the city for inspection services; they were not asking that any inspections be waived; however, he requested the city to review the fee and charge only the true cost.

Council also noted the following:

- City residents also pay county taxes; the city should not waive any true costs incurred by the city; however, if any cost savings were available, it would save dollars for all county taxpayers.

- The city pays the county fees for services they provide, such as animal control. Sheriff Hierholzer noted the county paid the city \$800 for each EMS call to the jail.
- Suggested the county waive some of the cost the city paid to house prisoners in the jail. This would be burdensome to both staffs; should keep services separate and not swap services.
- Could set precedence for waiving fees to other taxing entities.
- Fees should cover the cost of providing the service.

Council consensus was that staff should review the building inspection fees and come up with a true cost estimate and bring back to council at the next meeting.

Sheriff Hierholzer requested the cost be provided as quickly as possible to not slow down the issuance of the permit.

6D. Termination of City's application for reuse permit (Application No. 12880) dated May 8, 2012, and submitted by the City of Kerrville to the Texas Commission on Environmental Quality.

Mr. Parton noted that in May 2012 the city submitted an application to TCEQ requesting a permit to allow the city to divert from Flat Rock Lake the amount of water equal to the amount the city was putting into Third Creek from the wastewater treatment plant. The city planned to treat the effluent and inject it into the aquifer storage recovery system; however, since that time, the city hired Freese & Nichols to do a feasibility study contemplating a reuse water project. At the end of 2015 the city was in the process of reviewing the reuse water project and asked TCEQ to defer the 2012 application until F & N completed the study.

Mr. Parton noted TCEQ deemed the 2012 application to be administratively complete and the executive director was prepared to review it now; however, Mr. Parton recommended the city terminate the application process for the following reasons:

- Between 2012 and 2015, TCEQ rules changed. A significant change was that the amount of water that the city would be allowed to divert would be capped at an amount equivalent to 15-20% of the city's potable groundwater supply. The concept was that water taken out of surface water and treated was supposed to go into the river and go down stream. Under this scenario, the city would only receive 20% of the volume of effluent discharged; under the reuse water project, the city could use all of the volume of treated effluent.
- The permit would be considered junior to all other senior permits in the Guadalupe River Basin; thus the permit would be one of the first rights curtailed by the state watermaster, in fact, the city could be curtailed almost entirely from the right.
- The cost of the permit process. TCEQ was required to send notices to all water right holders in the Guadalupe River Basin and the permit very likely would be a contested hearing before TCEQ. The permit would be subject to public notice and protest, and the city would have to prepare documentation and present evidence to TCEQ, estimated at \$1/2 million in legal fees and technical documents. Even if the city was issued the permit, it could be significantly curtailed.

Mr. Parton presented three options to council for consideration:

1. Continue as presented.
2. Stop the application process.
3. Amend the request to only permit that portion which was related back to the groundwater generated.

Ms. White noted that from the beginning of the process in 2012 the state was only going to allow the city to capture 20% of the effluent; the process was too costly to continue for just 20%.

Mr. Stork moved to terminate the city's application for reuse permit (Application No. 12880) dated May 8, 2012; Mr. Andrew seconded the motion and it passed 4-0.

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

### **7A. Review and discuss Rule 4.4. Control of Discussion of the Kerrville City Council's Procedural Rules for Meetings.**

Councilmember Andrew noted that Rule 4.4 of the council's procedural rules prohibited personal attacks on individuals; when such attacks occur he will ask the presiding officer to gavel them quiet; further, public comments were only to be made from the podium when recognized by the council.

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

### **8A. Appointments to Mayor's Youth Advisory Council.**

Ms. Berry received three new applications and all applicants met the minimum requirements.

Mr. Andrew moved to appoint Lexi Cooper, Shelby Freeman, and Emma Soth. The motion was seconded by Mr. Fine and passed 4-0.

## **9. ITEMS FOR FUTURE AGENDAS**

- Establish information request protocol whereby all requests for information go through the city manager or city attorney.

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

- June 18 beautification day focus on storm clean up; yard waste pick up week begins June 20.
- Movies in Louise Hays Park Friday, June 17 at 9 p.m.
- Kerrville skate competition June 18 at Singing Winds park ages 8 and above.
- Library summer reading events through the end of July.
- Playhouse 2000 has a full schedule through summer.
- Mayor White questioned if the conflict of interest affidavits filed last year by three councilmembers regarding the river trail were still active. Councilmembers Fine and Stork responded yes; Councilmember Allen was absent. Mayor White stated she had concerns about the length of time that the affidavits were active

and in the state of confidentiality she would discuss her issues with the city attorney; this could affect the vote to go into executive session.

**11. 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. Andrew and passed 4-0 to discuss the following:

11A. 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.

11B. Sections 551.071 and 551.072:

Discuss City of Kerrville, Texas vs. Stadter, 198<sup>th</sup> District Court of Kerr County, No. 13698B (condemnation).

At 7:41 p.m. the regular meeting recessed. Council went into executive closed session at 7:46 p.m. At 8:01 p.m. the executive closed session recessed and council returned to open session at 8:02 p.m. Mayor White announced no action was taken in executive session.

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

**ADJOURNMENT.** The meeting adjourned at 8:01 p.m.

APPROVED: 08/23/2016

ATTEST:

Bonnie White, Mayor

Brenda G. Craig, City Secretary