

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
DECEMBER 13, 2016

On December 13, 2016, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor White in the city hall council chambers at 701 Main Street. The invocation was offered by Reverend Donna Magee, First United Methodist Church, followed by the Pledge of Allegiance led by Police Chief David Knight.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
Stephen P. Fine	Mayor Pro Tem
Glenn Andrew	Councilmember
Mary Ellen Summerlin	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Don Davis	Interim City Manager
Mike Hayes	City Attorney
E.A. Hoppe	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Kim Meismer	Director of General Operations
David Knight	Chief of Police
Dannie Smith	Fire Chief
Kaitlin Berry	Special Projects Manager
Trent Robertson	City Planner

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

1. VISITORS/CITIZENS FORUM:

1A. Renee Lofaso spoke regarding continued attacks on former Councilmember Gary Stork and wife Peggy. It was difficult for her, Mr. Stork's children and parents who grieve their deaths when matters continue to be brought up by Mayor White in council meetings which then end up in the Daily Times. Ms. Lofaso noted she continued to live in fear and harm from remarks made by Mayor White about Ms. Lofaso during an on-going investigation.

1B. Charlie McIlvain, President and CEO of the Convention and Visitors Bureau, invited council to the Hill Country District Junior Livestock Show in January and to participate in the cowboy breakfast and cow chip toss contest on January 13, 2017, 6:00 a.m.

1C. George Baroody spoke against using economic improvement corporation (EIC) funds for the distribution lines related to the water reclamation project. He sent an email to council on December 1. He stated the Development Corporation Act allowed for funding of distribution lines; however, he opined that Section 505.304 of the Act required that a Type B Corporation could not use sales tax to fund such a project unless it was authorized by the voters at an election. He opined that his rights were being trampled by improper application of this code.

Mayor White asked Mr. Baroody if he had sent the email to Mr. Hayes. Mr. Baroody stated he did but Mr. Hayes did not respond to his comments.

Ms. Summerlin noted that Mr. Hayes sent a lengthy response to the city council describing exactly why the section that Mr. Baroody referred to did not describe the transmission lines.

Mayor White asked Mr. Hayes if he had responded to Mr. Baroody. Mr. Hayes stated he did not respond to Mr. Baroody because he responded to council giving legal advice.

Mayor White noted the EIC funding agreement would be considered by council in January and she asked Mr. Hayes to see if there was an attorney general opinion that would answer Mr. Baroody's questions. Mr. Hayes stated there was not a case or attorney general's opinion on Section 505.304.

2. PRESENTATIONS:

2A. Beautification Awards: Commercial-Schreiner University Campus, Residential-John and Doris Doyle residence at 330 Everett, Brandon Douglass, Chair, Kerrville Beautification Advisory Committee.

3. CONSENT AGENDA:

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

3A. Acceptance of minutes of the regular meetings held October 11, and October 25, 2016, and the special meeting held October 20, 2016.

3B. Joint election agreement between City of Kerrville and Kerr County for the May 6, 2017 General Election.

3C. Contract for the collection of delinquent accounts receivable with MVBA, LLC dba McCreary, Veselka, Bragg and Allen, LLC.

3D. Bill of sale from Kerr County for public sewer line which is part of the Kerrville South Phase VI wastewater system improvements.

3E. Agreement between the City of Kerrville, Texas and the Kerrville Convention & Visitors Bureau, Inc. for use of hotel occupancy tax funds for promoting the arts advertising committee.

3F. Regional Rescue Team memorandum of understanding between Southwest Texas Regional Advisory Council (STRAC) and the City of Kerrville for participation on a regional rescue team.

3G. Infection Control Officer memorandum of understanding between Southwest Texas Regional Advisory Council (STRAC) and the City of Kerrville.

3H. Air Medical Providers Advisory Group memorandum of understanding between Southwest Texas Regional Advisory Council (STRAC) and the City of Kerrville.

3I. Texas Emergency Medical Task Force memorandum of understanding between Southwest Texas Regional Advisory Council (STRAC) and the City of Kerrville.

3J. Resolution No. 30-2016 authorizing specific city employees to sign official bank transactions on behalf of the City of Kerrville.

3K. Agreement for assessment and collection services between County of Kerr and the City of Kerrville.

4. PUBLIC HEARING AND POSSIBLE ACTION:

4A. Resolution No. 28-2016 granting a Conditional Use Permit for an approximate 28.25 acre tract of land located south of and adjacent to State Highway 27 (Junction Highway); being Lot 1, Block 1 of the Guadalupe River RV Resort, a subdivision within the City of Kerrville, Kerr County, Texas, and otherwise known as 2605 Junction Highway; said property located within the Guadalupe River Zoning District (GR); by permitting said property to be used for Retail Trade I as that term is defined within the City's Zoning Code; and making said permit subject to certain conditions and restrictions.

Mr. Robertson reported 20 notices were sent to property owners within 200 ft; no responses were received. He reported the CUP would be located within two existing structures that would act as a general store for the recreational vehicle park. The Yogi Bear Guadalupe Park currently had a bar on site and sold alcohol for on-site consumption; the applicant proposed to apply to sell alcohol beverages for off premise consumption in the future. Staff recommended approval of the CUP as the use would be contained within the confines of the property and would not have any effect on neighboring properties.

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

Mr. Fine moved for approval of Resolution No. 28-2016 approving the conditional use permit; Ms. Summerlin seconded the motion and it passed 5-0.

5. PUBLIC HEARING AND ORDINANCES, FIRST READING:

5A. Ordinance No. 2017-01 amending the City's "Zoning Code" by changing the zoning district for an approximate 0.4832 acre tract of land located adjacent to Clay Street, between its intersections with Schreiner Street and Barnett Street, and otherwise known as 601 Clay Street; by removing the property from the 11-C Central City Zoning District and placing it within the Central Business Zoning District (CBD); 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. Fine filed a conflict of interest affidavit and recused himself from the meeting at 6:24 p.m.

Mr. Robertson reported 23 notices were mailed to property owners within 200 ft.; 4 responded in favor of the zone change; 0 in opposition. In 1997 the city adopted the zoning map. When the central business district zone was created, the subject property was split into two zoning districts. He noted mixed uses throughout the area, including a microbrewery less than two blocks south. The future land use plan designated the subject property as CBD, so the request followed the comprehensive plan. The CBD would allow more flexibility and there was sufficient on-site parking to accommodate current and potential uses. Staff and the planning and zoning commission (PZC) recommend approval.

Mayor White declared the public hearing open at 6:29 p.m., and the following person spoke:

1. Christopher Alvarez, applicant, noted his property was in two zoning districts split down the middle of his building. His wife planned to expand her medical practice in the future and he was concerned that this split zoning might create a problem. He also noted that the 521 Clay Street property contained a warehouse built in 1947 and had 1,000 ft. of deep freeze basement. There were no immediate plans for this property; however, in the future, he may put in a home brewery. He requested the same zoning for the entire property.

No one else spoke and Mayor White closed the public hearing at 6:35 p.m.

Ms. Summerlin moved for approval of Ordinance No. 2017-01 on first reading; Mr. Andrew seconded the motion and it passed 4-0-1 with Councilmembers Summerlin, Andrew, Allen, and White voting in favor of the motion; no one voted against the motion; and Mr. Fine abstained due to conflict.

Mr. Fine returned to the meeting at 6:37 p.m.

5B. Ordinance No. 2017-02 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 3.07 acre tract of land located adjacent to Singing Wind Drive North and between its intersections with Meadowview Lane and Loop 534 (Veterans Highway); and changing the future land use of this area from low-density residential to high-density residential.

Mayor White read the ordinance by title only.

Mr. Robertson noted the applicant proposed a three-story multi-family residential development. 16 notices were mailed to neighboring property owners; one response was received questioning Atmos and TxDOT plans for area; he responded that the applicant would have to work with Atmos and TxDOT during the development process and meet their standards. He found no evidence that such development would have any adverse impact on the area; the proposed use would be consistent with the neighborhood, and he recommended approval.

Mayor White declared the public hearing open at 6:39 p.m.; no one spoke and Mayor White closed the public hearing at 6:40 p.m.

Mr. Andrew moved for approval of Ordinance No. 2017-02 on first reading; Mr. Fine seconded the motion and it passed 5-0.

5C. Ordinance 2017-03, amending the city's "Zoning Code" by changing the zoning district for tracts of land consisting of an approximate 3.07 acres and located adjacent to Singing Wind Drive North and between its intersections with Meadowview Lane and Loop 534 (Veterans Highway), and otherwise known as the 2500 block of Singing Wind Drive North; by removing the property from the residential cluster zoning district (RC) and placing it within the 28-E 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 this was the same property as Item 5B. Half of the property was already zoned for multi-family development; the RC zone would not allow for a multi-family residential development.

Mayor White declared the public hearing open at 6:41 p.m.; no one spoke and Mayor White closed the public hearing at 6:41 p.m.

Mr. Fine moved for approval of Ordinance No. 2017-03 on first reading; Ms. Summerlin seconded the motion and it passed 5-0.

5D. Ordinance No. 2017-04, abandoning and vacating all right, title, and interest in a public right-of-way, consisting of an unimproved portion of Meeker Street, as located between and intersecting with both Locust Street and Singing Wind Drive; being an approximate 0.19 of one acre tract of land out of the Samuel Wallace Survey No. 113, Abstract No. 347, and the Sendero Ridge Subdivision Unit 1A, a subdivision within the City of Kerrville, Kerr County, Texas, according to the plat thereof recorded in Volume 7, Page 99 of the plat records of Kerr County; finding that said portion is not required for future use as a public street; reserving a public utility easement; making the effective date subject to certain conditions; and ordering recording. Mayor White read the ordinance by title only.

Mr. Robertson noted that abandonment of this section of Meeker Road would eliminate potential ingress and egress issues between single family residential property to the south and to the proposed multi-family development. Public utilities were located in the Meeker Road right of way; however, the city would receive an easement in exchange for abandonment. He noted there was no dollar value in the abandonment, and the property would be maintained by the property owner.

Mayor White declared the public hearing open at 6:43 p.m.; no one spoke and Mayor White closed the public hearing at 6:43 p.m.

Mr. Andrew moved for approval of Ordinance No. 2017-04 on first reading; Mr. Fine seconded the motion and it passed 5-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Review and approval of the profile to be used by Chris Hartung Consulting for marketing and advertising the vacant city manager position.

Ms. Summerlin moved for approval of the profile; Mr. Fine seconded the motion and it passed 5-0.

6B. Plans and specifications for the reuse water distribution system.

John New, Freese & Nichols Engineering, noted the plans and specs were complete and bids would be advertised December 14. He gave an overview of the project to route reuse water to four areas: Riverhill Golf Course (RH), Schreiner University, a 12" line along Loop 534 to serve RH and Comanche Trace (CT), and a 10" line to the city's sports complex. He estimated the cost for the approximately six miles of pipeline at \$5.9 million.

Mayor White noted the original 2014 project was 8" lines; in 2016 10" and 12" lines were added for CT and the sports complex. Mr. New explained in 2014 there was no distribution line included in the scope; the project was only to take reuse water from a new pump station back to the wastewater treatment plant to the existing reuse pump station.

Mayor White noted that plans changed in January 2016 to add 10" and 12" lines to customers, but cost did not change; however, between January and two weeks ago the cost went from \$21.5 million to \$23.5 million; \$2 million was added to the cost of the project. Mr. New stated he was not involved in previous cost estimates; however, the cost increased with the addition of the 12" lines. It was determined that the existing 8" line to CT could not serve both CT and RH because one was in a higher pressure plain, which would require two pumps, thus a second 12" line was added to go down Loop 534 and across the river to CT, this would allow the pressure to go down and the pumps to be smaller, providing less operational and maintenance cost; this line was on the previous map but was not included in previous cost estimates. The cost estimate also increased because: 1) Moved the scope of work from one phase to the other, i.e. pipeline was moved from the reuse pond and pump station project to the distribution line project; 2) Contingency was increased; 3) Design work for the sports complex was not previously in the scope of work for this project. The changes in the project were to get the best design possible for the city.

Mayor White noted a letter was received from the county regarding issues they have with the floodplain. According to the 2009 map the county was not in the 100 year flood zone; however the 2014 FNI map showed a portion of the county's property to be in a flood zone; therefore, the city should wait for the county to complete their study. If FEMA has a problem with the city putting in the pond, there would be no reason to have distribution lines since the lines would be fed

from the pond. Therefore, she requested the city defer the project until after a response was received from the county. Mr. New stated the pond project was not part of the project under consideration at this time.

Council also noted the following:

- Mr. Andrew stated in 2009 the county was a participant in that flood plain analysis. Mayor White stated the county was not a participant; it was funded by Kerr 9-1-1, KCAD, KPUB, and the City. Mr. Davis stated it was funded by KCAD, the city, and the county. Mayor White stated that according to the March 10, 2009 agenda the participants were: Kerr 9-1-1, KCAD, KPUB, and the City.
- There was no requirement for the city to submit a CLOMR at this point.
- The county was just requesting the city not submit the CLOMR at this time—they did not say do not go on with the project; this is not a valid reason to delay.
- The project was not over budget; the city did not know what the costs were because bids had not been received.
- The bids did not bind the city to anything; it just provided a cost.
- FNI was an engineering firm; not a construction company; cost estimates were just an estimate.
- The members of the water reuse committee were experts in this type of project and they gave an extensive review of the project; that was part of their expertise.
- Delays would add to the cost of construction as escalation increased.
- The council, as a group, had not argued about the details; the discussion had been from citizen input.

The following persons spoke:

1. Robert Naman spoke of continual changes and rising cost for the reuse water project and opined that the city's planning process was flawed. There was no cost benefit analysis and no current water price.
2. Jerry Wolff asked what items were included in the cost projections, and questioned installing two lines to CT and taking out part of an existing 8" line to CT.

Mr. New noted the cost estimate included the distribution system lines. He had not proposed abandoning any existing lines and reviewed his earlier presentation.

3. George Baroody noted the project had increased from \$21.5 million to \$23.5 million and asked where the money would come from. He noted that part of the explanation of the overage was that lines from the pond pump station project had been moved into the distribution line project; however, that would not increase the overall project cost and there was still a \$2 million increase.

Mr. New stated he was not involved in previous staff estimates; he developed the cost estimate based on the distribution lines.

4. James Bruce Craft questioned the bid process and advertising, noting the bid had already been sent to the newspaper and was being published and it had not been approved by city council.

Council noted that publication in the newspaper did not commit the city to do anything, and the bidding process was standard operating procedure. If council voted to not do the project, bids would be rejected. The bidding process would provide hard costs for the project.

5. Michael Sigerman asked if anyone on council was an engineer or had constructed or supervised this type of project; was council making this decision without getting advice from experts in the field. Did staff, who had an engineering background and understood the project, recommend the project or recommended against it? Council hired an engineering company to design this project and make recommendations.

Mayor White noted she had asked for a break down and it had been received. She was not an engineer but had studied the project extensively.

Mayor White moved to defer until a response is received from Kerr County. The motion died for lack of a second.

Mr. Fine moved to approve the plans and specifications and proceed with the bidding process with the data and numbers presented. Ms. Summerlin seconded the motion and it passed 4-1 with Councilmembers Fine, Summerlin, Allen, and Andrew voting in favor of the motion and Mayor White voting against the motion.

7. INFORMATION AND DISCUSSION

7A. Acknowledgement of letter from BKD Auditors.

Mr. Davis read a letter received from the city's auditors, BKD, LLP, CPAs & Advisors, regarding previous comments made by Peggy McKay. The letter stated that BKD did not uncover any written or verbal comments similar to what Ms. McKay attributed to the city auditors. "Inclusion of her comments in the minutes without some sort of clarification or retort by management would inaccurately present what was presented to the City Council."

The following person spoke:

1. Peggy McKay noted that quote covered the time period beginning October 2015 and was a quote from auditor #402 by Government Finance Officers Association as part of the city's distinguished budget presentation award. Auditor #402 suggested areas that could be strengthened. Ms. McKay stated that the city's debt was one of the highest if not the highest for a Texas city our size; most debt was incurred through certificates of obligation a process that bypassed voters.

Ms. Summerlin asked Ms. McKay what her source was regarding the debt. Ms. McKay stated she did not note that, but she would get her that information.

7B. Budget and economic update.

Ms. Yarbrough gave the financial report year to date for the period ending October 31, 2016: general fund revenues totaled \$1,511,121 and expenditures \$1,828,307;

water and sewer fund revenues totaled \$1,047,243 and expenditures \$843,400; hotel/motel fund revenues totaled \$101,597 and expenditures \$0; 6 permits for new residential construction and commercial new/remodel construction totaled \$1,523,000. She provided budget information for six major capital projects.

8. APPOINTMENTS TO BOARDS AND COMMISSIONS:

8A. Planning and Zoning Commission. Deferred to executive session.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST: were given.

10. EXECUTIVE SESSION:

Mr. Andrew moved for the city council to go into executive closed session under Sections 551.074 of the Texas Government Code; motion was seconded by Ms. Summerlin and passed 5-0 to discuss the following:

Sections 551.074:

10A. Appointments to the Planning and Zoning Commission.

At 7:45 p.m. the regular meeting recessed. Council went into executive closed session at 7:54 p.m. At 8:15 p.m. the executive closed session recessed and council returned to open session at 8:16 p.m. No action was taken in executive session.

11. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION:

8A. Planning and Zoning Commission. Mr. Andrew moved to appoint the following persons as regular board members: Robert Waller, Garrett Harmon and Rustin Zuber all with terms to expire January 1, 2019; and Michael Sigerman with term to expire January 1, 2018. Further, to appoint the following persons as alternate board members: Thomas David Jones with term to expire January 1, 2018 and Marty Lenard with term to expire January 1, 2019. Ms. Summerlin seconded the motion and it passed 5-0.

ADJOURNMENT. The meeting adjourned at 8:18 p.m.

APPROVED: 01-10-17

ATTEST:

Bonnie White, Mayor

Brenda Craig City Secretary