

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
JUNE 13, 2017

On June 13, 2017, 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 Councilmember Place Three, Mary Ellen Summerlin, followed by the Pledge of Allegiance led by Asst. Police Chief Curtis Thomason.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
George Baroody	Mayor Pro Tem
Vincent C. Voelkel	Councilmember
Mary Ellen Summerlin	Councilmember
C. Warren Ferguson	Councilmember

COUNCILMEMBER ABSENT: None.

CITY CORE STAFF PRESENT:

Mark McDaniel	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
Curtis Thomason	Assistant Police Chief
Dannie Smith	Fire Chief
Kaitlin Berry	Public Information Officer
Stuart Barron	Director of Public Works
Ashlea Boyle	Director of Parks and Recreation

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

1. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** were given.

2. **RECOGNITIONS:**

2A. Resolutions of Commendation to Gary Cochrane and Delayne Sigerman for serving on the City of Kerrville, Texas Economic Improvement Corporation.

3. **CONSENT AGENDA:**

Mayor White removed Item 3C from the consent agenda.

Mr. Ferguson moved to approve consent agenda items 3A, 3B, and 3D; Ms. Summerlin seconded the motion, and the motion passed 5-0:

3A. Minutes of the regular meetings of May 9 and May 23, 2017, and the special meeting of May 16, 2017.

3B. 72 Month lease purchase agreement with Austin Turf and Tractor via Deere Credit, Inc. through the Texas BuyBoard for mowing equipment at the Kerrville Sports Complex in the amount of \$109,692.72.

3D. Resolution No. 20-2017 authorizing the City's continued participation with the Atmos Cities Steering Committee; and authorizing the City's payment of two cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation.

**END OF CONSENT AGENDA**

3C. Purchase equipment from Austin Turf and Tractor through the Texas BuyBoard for the Kerrville Sports Complex in the amount of \$45,170.76.

The following person spoke:

1. James Craft asked why the equipment had not been opened up to local dealers. He understood the bid went through Texas BuyBoard, but he researched with Secor Equipment Company and they participate in BuyBoard and can provide some of the equipment, but not all. Secor's price through BuyBoard would be the same.

Ms. Boyle noted the equipment was bid through BuyBoard, a public bidding cooperative. Austin Turf can provide all the equipment required, whereas Secor could not provide two of the three types of equipment needed.

Mr. Baroody moved to approve purchase of two large equipment and pull the Z930M Commercial ZTrak to come back later as a separate purchase. Mr. Voelkel seconded the motion and it passed 5-0.

**4. ORDINANCE, SECOND AND FINAL READING:**

4A. Ordinance No. 2017-13, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2017 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 reconciliation and rate adjustments if federal income tax rates change; terminating the RRM process for 2018 pending renegotiation of RRM terms and conditions; 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 title.

Mr. Hayes noted the ordinance was the same as presented at the previous meeting, and he recommended adoption.

Mayor White noted a letter from a citizen who stated that he knew of eight commercial customers who had removed gas service from their business because of rate increases.

Mark McEwin, Operations Supervisor for Atmos, noted rate increases were necessary to recover expenses of operating the system and to provide safe and reliable service. Atmos' rates were very competitive; however commercial rates were higher than residential rates because bigger equipment was needed to serve commercial customers.

Ms. Summerlin moved for approval of Ordinance No. 2017-13 on second and final reading; Mr. Ferguson seconded the motion and it passed 5-0.

**5. CONSIDERATION AND POSSIBLE ACTION:**

5A. Rearrange the order of the city council meeting agenda by moving the "Visitors/Citizens Forum" section of the agenda to be before the "Consent Agenda."

The following person spoke:

1. Carolyn Lipscomb supported not moving the visitors section, noting that after speakers spoke they would leave and not stay to hear any discussion about the issue. Also, when consultants attended the city had to pay them to sit through sometimes lengthy discussions before their issue came up on the agenda.

Mayor White noted council had the option of moving agenda items if consultants were present. Also, in the past visitors comments were limited to three minutes and was changed to four minutes; she suggested in the future council consider changing it back to three minutes.

Council also discussed the following:

- Since the visitors section was moved to the end of the meeting fewer people were involved and participated in the meeting.
- The primary purpose of council meetings was to conduct public business, i.e. items on the agenda.
- Public participation and citizen input was a valuable way to learn about items for council to place on future agendas.

Mr. Voelkel moved to move the visitors/citizens forum before consent. Mr. Baroody seconded the motion and it passed 4 – 1 with Councilmembers Voelkel, Baroody, Ferguson, and White voting in favor of the motion and Councilmember Summerlin voting against the motion.

5B. Letter of intent with the Cailloux Foundation Properties, LLC for the donation of an approximate 7 acre tract of land to be used for the city's construction of an onsite storage of reuse water at the Kerrville Sports Complex.

Mr. Hoppe noted the Cailloux Foundation offered to donate 7 acres to the city for the purpose of constructing a reuse irrigation pond for the sports complex. The land would be formally deeded to the city when construction moved forward.

Mayor White questioned: 1) If the land was in a flood zone; and 2) Did the Cailloux Foundation request screening of the property. Mr. Hoppe noted the

property was not in a flood zone, and the existing natural vegetative barrier would serve as screening and nothing additional was requested.

Ms. Summerlin moved to approve the letter of intent. Mr. Ferguson seconded the motion and it passed 5-0.

5C. Professional Services Agreement with Hewitt Engineering, Inc. for design services for the Kerrville Sports Complex reuse pond and pump station project.

Mr. Hoppe noted this was the same 7 acres as Item 5B. Under the agreement John Hewitt would be hired to design the reuse irrigation pond and pump station.

Council noted the 1.5 million gallon pond was based on a one week supply of irrigation water. Mr. Hewitt noted it was based on an average of 1.75" of water per acre per week. Mr. Barron noted additional water supply would be available as needed.

Mayor White noted the following:

- The pond was not in the original plan or budget for the athletic complex, and would be funded in the reuse project.
- The reuse line was estimated at \$1.5 million and the pond at \$500,000.
- Discussed using the well at Holdsworth Drive and Harper Road when it was not in use for the distribution system.
- The amount of water saved by using reuse water would be very minimal.
- Other options were not available as the city had already begun work for the reuse distribution system.
- The scope of work in the Hewitt contract included survey work.

Mr. McDaniel noted the scope of work in the contract also included platting.

Mr. Hewitt estimated plans would be complete September-October, bids could be let in December and construction start in early 2018.

Mr. Baroody questioned why the expenses of the pond would be paid from the water/sewer fund instead of the athletics complex fund. Mr. McDaniel noted it was patterned after the golf course irrigation pond, in which the pond was built as an asset of the water and sewer fund.

Mr. Baroody moved to approve the agreement; Ms. Summerlin seconded the motion and it passed 5-0.

5D. Establish process for interviewing and considering applicants for appointment to boards and commissions.

Council consensus was as follows:

- Completed applications required for persons to be considered for appointment.
- Deadline for submitting an application to be 5:00 p.m. the Wednesday preceding the scheduled appointment.
- Created interview teams for the following city boards:

- Board of Adjustments and Appeals (Building Board): Councilmembers Place 1 and Place 2
  - Economic Improvement Corporation: Mayor and Councilmember Place 3
  - Food Service Advisory Board: Councilmembers Place 4 and Place 1
  - Kerrville-Kerr County Joint Airport Board: Councilmember Place 2 and Mayor
  - Library Advisory Board: Councilmembers Place 3 and Place 4
  - Main Street Advisory Board: Councilmember Place 1 and Mayor
  - Parks and Recreation Advisory Board: Councilmembers Place 2 and Place 3
  - Planning and Zoning Commission: Councilmembers Place 4 and Place 2
  - Recovery Community Coalition: Councilmembers Place 3 and Place 1
  - Zoning Board of Adjustment: Councilmember Place 4 and Mayor.
- Any councilmember can call and interview any applicant; interviews not limited to only the interview team.
  - Staff should send applications to the councilmembers when they are received, and again prior to the meeting at which the appointment was to be considered.
  - Staff should not forward applications from persons who did not meet qualifications; staff should notify the applicant as to why they did not meet qualifications.
  - The interview team shall make recommendation for appointments; however, any councilmember may also make recommendations.
  - Mayor's Youth Advisory Council, each councilmember shall interview three applicants.

Mr. Ferguson and Ms. Summerlin offered to review and recommend changes to the board application.

## **6. APPOINTMENTS TO BOARDS AND COMMISSIONS:**

### **6A. Appointments to the Mayor's Youth Advisory Council.**

Mayor White moved to reappoint the following persons: Ramon Garcia, Sydney Garcia, Mason Olmsted, and Ileana Scoccia; and to appoint: Chloe Keen, Zhengjun Li, Kaleb McCutcheon, Molly Murphy, Thomas Mason Roberts, Maria Hall, Jessica Tran, and Jonathan (Jett) Traylor; and to appoint Aidan Smith as an alternate. Ms. Summerlin seconded the motion and it passed 5-0.

## **7. DISCUSS AND CONSIDER ACTIONS ON THE REUSE OR RECLAIMED WATER PROJECT**

Mayor White noted contracts had been let and the city was well into construction of both phases of the project. Council was not proposing to stop anything, but wanted to make the public aware of recent findings and noted the following:

- 1) Variations and amendments in several areas of the pond project that council was not aware of until recently.
- 2) Kerr County Commissioners' Court wrote a letter to FEMA with their concerns about the CLOMR and possible future flooding on county property from this project and asking that FEMA not include their property on any flood map revisions that would show it to be in a floodplain.
- 3) Some councilmembers still had concerns about the method and information used to calculate reuse contracts due to new information regarding past revenue

and volume sold to existing customers and future projections. The council established a new sales price since the contracts were signed.

4) When excavation began groundwater was discovered at shallower depth than expected and the pond had to be redesigned at a level 5 ft. shallower than the original design, causing a one month delay, diminishing the capacity of the pond by 10 mg, and decreasing the availability of dirt for the berm wall.

5) The amount of potable water that would be saved by the project was negligible.

6) Ratepayers would be subsidizing this project \$250,000-400,000 per year until 2027. The numbers used to calculate the rate were estimates; consumption numbers were inflated and the expenses were not inflated.

7) If there is a crisis and the city has to use reuse water for drinking, it will probably be done a different way because of the chemical change that will take place in the pond.

8) Currently, Comanche Trace and Riverhill use river water; Schreiner University uses potable water.

Mayor White stated the city could possibly save \$1 million plus \$2 million in contingency; however, she was concerned about legal issues that might arise by reducing the size of the contract as awarded since the contractor had almost completed the perimeter of the pond.

Mr. Baroody stated his concern that the cost structure would not cover the cost of the system, it was being paid for by the city water customers. He noted that previous effluent contracts stated if the effluent rate would not cover the cost of delivery, the city would stop delivery; that clause was not in the new contracts, and the city would be delivering water at a loss. The effluent customer would be paying 30% of the delivery system and the water/sewer ratepayer would be paying 70% of the cost. Based on the current rates, the project will be in the red \$800,000-\$1 million a year for 20 years.

Ms. Summerlin opined that all ratepayers would realize a tremendous and invaluable advantage by placing large irrigation users on reuse water. She noted the river was not a dependable water source and the aquifer had been declining since 1970. The project may not pay for itself in cost, but it would pay for itself by saving the water supply for citizens and future growth.

The following persons spoke:

1. Jack Pratt asked if the mayor and her husband owned property in proximity of the landfill, which included the pond, and questioned whether the value of their land would be affected by the project. He opined that she should recuse herself from this item based on a perceived conflict of interest. The pond was on the back side of the landfill, and any expansion of the landfill would bring the landfill area closer to her property.

Mayor White stated that due to the distance of her property and the pond, this would have no effect on the sale of her property. She would be responsible if

anyone challenged her not recusing herself. The pond was not part of the landfill area and there was property between her property and the municipal property. She stated she would remain in the discussions.

2. Ed Livermore stated the project had been planned and debated through three city councils, a citizens committee, and numerous professionals. It was a good program.

3. Carolyn Lipscomb stated that every summer and during droughts the state cuts the city off from river water. Golf courses must have water because of economic base and income to the city. The University provides good tax base and contributes to the city's economy. Without water, property values go down. Treating effluent for irrigation and getting big users off of potable water preserves water for citizens.

4. Greg Shrader, representing Riverhill Property Owners Association, said he could not over emphasize the need for planning for a future adequate water source. The city needed to establish an historical use pattern for future water planning. Effluent was the only water source that the city controlled. He supported the current water reuse plan.

5. Glenn Andrew noted that contracts were well underway. The council should move forward and complete the project and look at direct potable reuse. The council should re engage the ad hoc committee to study and make recommendations on water projects.

6. Mike Sigerman stated the project had been analyzed for five years and approved by three city council, went through three city managers, an interim city manager, city staff, and a citizens committee. He requested to know where the current city manager and assistant city manager and each councilmember stood on the project.

7) Jack Pratt noted the city had forward thinking leaders in the past who had the idea of aquifer storage recovery wells and now Kerrville depends on those wells for water. Kerrville was the first city in Texas to do an ASR project and second or third in the nation. Every city ratepayer was now paying for the ASR wells.

8) Tom Moser, Kerr County Commissioner, Precinct 2, stated the project was important to the community as a way to conserve potable water and for the economy. The city should consider the total economic value of providing reuse water to golf courses and not just revenue generated from the system. He estimated the economic impact of Riverhill subdivision at \$8 million per year. The planned reuse water facilities were important to the city and county. The water in the river was controlled by the state.

## **8. CITY MANAGER'S REPORT**

Mr. McDaniel gave the capital projects update.

**9. VISITORS/CITIZENS FORUM:**

1. Glenn Andrew questioned the transparency of councilmembers during the meeting on May 23 with regard to the appointment of persons to the economic improvement corporation without discussion and questioned what skills those persons appointed had that exceeded the skills of the former members. He stated that only Councilmember Summerlin had interviewed Delayne Sigerman.
2. Bruce Stracke noted several recent events and things happening downtown, and there were several interesting projects coming in the future that would continue to enhance the downtown area.

**10. ITEMS FOR FUTURE AGENDAS: None.**

**11. EXECUTIVE SESSION:**

Ms. White 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. Voelkel and passed 5-0 to discuss the following:

Section 551.071:

**DISCUSS AND CONSIDER ACTIONS ON THE REUSE OR RECLAIMED WATER PROJECT**

At 7:49 p.m. the regular meeting recessed. Council went into executive closed session at 7:54 p.m. At 8:25 p.m. the executive closed session recessed and council returned to open session at 8:26 p.m. No action was taken in executive session.

**12. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

Mr. Baroody moved to direct staff, or outside legal counsel if needed, to look at the user contracts for the water system and review them for legality and whether council violated Article 3 Section 52 of the Constitution as well as putting the water/sewer fund in the red.

It was suggested that Mr. Baroody meet with the city attorney to discuss his concerns.

Mr. Baroody withdrew his motion.

**ADJOURNMENT.** The meeting adjourned at 8:28 p.m.

APPROVED: 07/11/2017

ATTEST:

/s/

Bonnie White, Mayor

/s/

Brenda Craig City Secretary