

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
NOVEMBER 23, 2010

On November 23, 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 Heather Mitchell, Minister of Music, First Baptist Church, followed by the Pledge of Allegiance led by Tivy Air Force Junior ROTC Cadet Major Steven Jenkins.

MEMBERS PRESENT:

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

MEMBER ABSENT: No one

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
Robert Ojeda	Fire Chief
Kevin Coleman	Director of Development Services
Kim Meismer	Director of General Operations
Charlie Hastings	Director of Public Works
John Young	Police Chief

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

1. VISITORS/CITIZENS FORUM: No one spoke.

2. PRESENTATIONS:

2A. Keri & Patrick Wilt, owners of Grape Juice, the Texas Downtown Association President's Award for Best Commercial Interior 2010. Mayor Wampler and Ms. Wendele presented the award.

2B. Recognition of street division employees for saving the city nearly \$700,000 by reconstructing streets with in-house labor and equipment. Presented by Mr. Hastings to employees present: Bruce Kim Greenman, Joel Meyners, Brandon Kelly, Curtis Weise, Tim Grasshoff, Eric Espinoza, Rick Simon, and Dave Burlew.

3. CONSENT AGENDA:

Mr. Gross requested Item 3G be removed from the consent agenda.

Mr. Gross moved for approval of items 3A through 3F; Mr. Motheral seconded the motion and it passed 5-0:

3A. Approval of the minutes of the regular city council meeting held November 9, 2010.

3B. Resolution No. 038-2010 canceling the regular meeting of the city council scheduled for December 28, 2010.

3C. Authorize execution of a contract for the renewal of the enterprise agreement with Microsoft, in the amount of \$32,897.17.

3D. Authorize execution of the second amendment to the professional engineering services agreements with LNV Engineering, Inc. regarding the safe routes to schools program (TxDOT grant projects No. 0915-15-091, 0915-15-092, 0915-15-093, 0915-15-094) in the amount not to exceed \$32,000.

3E. Resolution No. 039-2010 authorizing the assignment of the city's lease agreement with Omni Multimedia Network International, L.L.C. to CT Cube, L.P., doing business as West Central Net and approving an amendment to said agreement with respect to the term.

3F. Right-of-way license agreement to allow a sidewalk café at 804 Water Street for the Water Street Café.

END OF CONSENT AGENDA

3G. Approval of an economic development grant agreement between A & D Properties #2 and the City of Kerrville, Texas Economic Improvement Corporation (EIC) in the amount of \$10,000.

The council questioned staff regarding whether the application and project met the requirements under state law for the expenditure of 4B funds.

Mr. Hayes noted EIC had previously created a commercial improvement program and established certain criteria to be met, including the requirement to create or retain primary jobs as defined under the Act, i.e. provide services/goods that will bring money into the community and incur additional sales tax. EIC was required to make the specific finding that primary jobs would be created or retained when it approved the agreement. The board found that demolition of the existing structure had the potential of redeveloping the subject property and other properties in the area, however, it was unknown who the tenant would be and what jobs would be created in the future, and the EIC motion did not specify a time line for the creation of jobs directly associated with the project.

Council noted the EIC board voted to approve the agreement by a vote of 4 to 3.

Harvey Brinkman, partner in the application, stated his disappointment in the handling of the application and the process. He noted he was told by a previous EIC member that the demolition of the building would meet the criteria of the commercial improvement program; however, he understood council's concerns.

Mayor Wampler noted council had the responsibility of overseeing how EIC funds were spent and whether projects were eligible for funding under state law; in

particular, council was concerned that the project did not meet the primary criteria of job creation.

Mr. Gross moved that council not approve the agreement. The motion was seconded by Ms. Keeble and passed 5-0.

4. ORDINANCES, SECOND AND FINAL READING:

4A. Ordinance No. 2010-26 amending Chapter 26 “Buildings and Building Regulations”, Article VIII “Building Board of Adjustment and Appeals” of the Code of Ordinances of the City of Kerrville, Texas, by amending the membership qualifications for said board; containing a cumulative clause; containing a savings and severability clause; establishing an effective date; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only. Mr. Coleman noted staff recommended approval.

Ms. Keeble moved for approval of Ordinance No. 2010-26 on second and final reading; Mr. Allen seconded the motion and it passed 5-0.

4B. Ordinance No. 2010-24 amending Chapter 58 “Health and Sanitation” of the Code of Ordinances of the City of Kerrville, Texas, by adding a new Article IV “Illegal Smoking Products and Illegal Smoking Paraphernalia”; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Chief Young noted no changes to the ordinance since first reading.

Mr. Motheral moved for approval of Ordinance No. 2010-24 on second and final reading; Mr. Allen seconded the motion and it passed 5-0.

4C. Ordinance No. 2010-25 amending Chapter 118 “Waterways”, Article II, “City Water Impoundment Regulations,” of the Code of Ordinances of the City of Kerrville, Texas, by clarifying that the construction of habitable structures is prohibited within certain areas adjacent to the city’s impounded waters of the Guadalupe River and adding a definition for “habitable structure”; containing a cumulative clause; containing a savings and severability clause; establishing an effective date; ordering publication; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Mr. Parton noted approving the amendment to the ordinance was the first step toward a rivertrail.

Mr. Gross moved for approval of Ordinance No. 2010-25 on second and final reading; Ms. Keeble seconded the motion and it passed 5-0.

5. INFORMATION AND DISCUSSION:

5A. Overview of the Southern Edwards Plateau Habitat Conservation Plan.

The council previously requested Mr. Hayes provide information regarding the plan. Mr. Hayes reported the plan was proposed to be part of a federal permitting process under the endangered species act. Bexar County was leading the way in developing the plan; Kerr County Commissioner Letz was on the committee, and he offered to discuss the plan and the process to adopt the plan with the city council. As land is developed, native habitat is ruined. Under the plan, land would be set aside in rural counties to create a habitat that a developer in a more densely populated county could buy into. If Kerr and other counties in the area did not participate, then the plan would not go into effect; also, the federal and state government would have to approve any plan. Mr. Hayes noted that, as proposed, the plan was not a "taking" of land, and property owner participation would be voluntary. He proposed that the city continue to monitor the plan.

5B. Naming of the proposed river trail.

Mr. Gross noted the results of the recent on line poll: 90 responses were received and the names most often submitted were "Kerrville River Trail" or "Guadalupe River Trail." Mayor Wampler noted the river trail was only conceptual and was not funded at this time.

Mr. Allen moved to name the proposed river trail "Kerrville River Trail;" Mr. Gross seconded the motion and it passed 5-0.

5C. Update regarding Lower Colorado River Authority Transmission Services Corporation's (LCRA-TSC) application for the proposed McCamey D to Kendall to Gillespie CREZ project (PUC Docket No. 38354).

Mr. Hayes noted that five routes had received the most attention at the hearing, and the primary route that city supported was still included. The administrative law judges were expected to issue their opinion by the end of the year; the matter would then go to the PUC; PUC had two meetings scheduled January 13 and 20, 2011. The 10 route was still under consideration, and the city was continuing to partner with other entities and soliciting support from property owners along I-10. Staff will contact property owners along I-10 and solicit public support in opposition to the I-10 route in Kerr County.

5D. Kerrville budget/economic update.

Mr. Erwin noted local unemployment was up; also, sales tax was up slightly and the city's revenues and expenses were on target with the budget.

6. BOARD APPOINTMENT:

6A. Appointment to the Library Advisory Board.

Mr. Gross moved to appoint Judy Carr with term to expire November 22, 2012; Mr. Allen seconded the motion and it passed 5-0.

7. ITEMS FOR FUTURE AGENDAS

- Presentation by Pete Moore, Hunter Equity Group regarding the construction of a multi-purpose meeting facility for the city of Kerrville (December 14).
- Consideration and possible action regarding the construction of a multi-purpose meeting facility for the city of Kerrville (January 11, 2011).

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Mr. Parton introduced Dan Schwartz as the new library director.

9. EXECUTIVE SESSION:

Mr. Gross moved for the city council to go into executive closed session under Section 551.071 (consultation with attorney) 551.072 (deliberation regarding real property), and 551.087 (deliberation regarding economic development negotiations) of the Texas Government Code; the motion was seconded by Mr. Motheral and passed 5-0 to discuss the following matters:

Sections 551.071, 551.072 and 551.087:

- Negotiations with Hunter Equity regarding the construction of a multi-purpose meeting facility for the city of Kerrville.

Section 551.071:

- Consult with attorney about pending litigation or settlement regarding the application from the City of Kerrville before the Texas Commission on Environmental Quality to amend its Certificate of Convenience and Necessity (CCN) for its water utility, No. 12928 in Kerr County, Texas.

At 7:05 p.m. the regular meeting recessed and council went into executive closed session at 7:11 p.m. At 8:39 p.m. the executive closed session recessed and council returned to open session at 8:40 p.m. The mayor announced that no action had been taken in executive session.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

ADJOURNMENT. The meeting adjourned at 8:40 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary