

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
MARCH 8, 2011

On March 8, 2011, the Kerrville City Council meeting was called to order by Mayor Wampler at 4:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Reverend Eldon Sheffer, Director of Church Relations, Schreiner University, followed by the Pledge of Allegiance led by Sam Barker, of the Military Officers Association of America.

MEMBERS PRESENT:

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

MEMBER ABSENT: None

STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Travis Cochran	Director of Information Technology
Mike Erwin	Director of Finance
Kevin Coleman	Director of Development Services
Charlie Hastings	Director of Public Works
Robert Ojeda	Fire Chief

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

**1. VISITORS/CITIZENS FORUM:**

1A. David Lipscomb invited the public to attend the water education forums regarding state wide water resources and water planning being sponsored by the League of Women Voters on March 19 at the UGRA offices, 125 Lehmann Drive 9:00 a.m.–1:00 p.m.; speakers will represent the Texas Commission on Environmental Quality, Texas Parks and Wildlife, and the City of Kerrville.

(NOTE: Persons spoke regarding Items 3A and 3B; those comments are written under 3A.)

**2. CONSENT AGENDA:**

Mr. Gross moved for approval of items 2A through 2E; Mr. Allen seconded the motion and it passed 5-0:

2A. Approval of the minutes of the special city council meeting held February 2, and the regular meeting held February 8, 2011.

2B. Resolution No. 011-2011 authorizing publication of notice of intention to issue certificates of obligation in the amount not to exceed \$6,400,000 for the purpose of water and wastewater capital improvements.

2C. Authorize execution of a right-of-way license agreement at 228 Washington Street for the continuing use of a handicap ramp.

2D. Authorize an amendment to the existing professional service agreement with Freese & Nichols, Inc. for the Birkdale lift station and force mains capital improvement project and increasing the contract by \$30,000 to include the design of the force main co-mingle box at the wastewater treatment plant.

2E. Ratification of emergency purchase and installation of back-up generator at the wastewater treatment plant.

### **END OF CONSENT AGENDA**

4C. Consider acceptance of a gift of land in the 700 block of Water Street from the Cailloux Foundation for use as a city hall.

Mr. Hayes noted the Cailloux Foundation offered to give the city land at the former Peterson Hospital site for construction of a new city hall, as well as to lease other properties in the area to the city at \$100 per year for at least 99 years. He reviewed the conditions of that gift, and the agreement between the Peterson Hospital and the Cailloux Foundation for the transfer of the aerial walkway. The time line would allow the city to go through a due diligence period and prepare a construction cost analysis in order to determine whether the city had the necessary funding. He reviewed other conditions of the agreement: 1) Closing should occur within one year; the city would then have three years from closing to construct the building and move in; 2) The city hall building could not exceed two stories, however, the foundation agreed to gift additional adjoining land for future build out; 3) The foundation had architectural control of the building; 4) The foundation had control of the remaining area of the former hospital site to be used for open space and other uses as they desired; 5) Contained a restriction clause that if the property ceased to be used for a city hall, it would revert back to the Cailloux Foundation; 6) If the city determined that it was unable to construct the facility and move in within its budget limitations, then the city could decline acceptance of the property; and 7) The foundation would proceed with construction of the clock tower.

Mr. Hayes noted additional leases included the parking garage, the cardiac rehab office, the cancer center, and properties on Clay Street; several of those premises were vacant and the city could move into those properties about one year after closing. The cancer center was currently leased to another party, and that lease may be extended for up to eight years. The city would assume responsibility for maintenance of the parking garage upon closing, with the restriction that it be open to the public and available for businesses downtown.

Mr. Hayes noted the aerial pedestrian crosswalk from the parking garage to the site extended over a state highway and was allowed through a previous contract between the state and the city acting as a conduit for the hospital. The second agreement assigned the hospital's rights for that aerial walkway to the Cailloux.

Council also discussed the following issues:

- Concern about the reversion clause, i.e. building a facility using tax funds and giving it to the foundation free and clear if the city ceased to use it as a city hall. Mr. Hayes noted that section was legal as the city would be accepting the property subject to the conditions stated in the contract.
- Concern about the three year time line.
- Should the foundation move into a limited liability company (LLC), the same conditions would apply as stated in the contract between the city and the foundation. Mr. Hayes stated that was the intent of the agreement.

Mayor Wampler expressed sincere appreciation to the Cailloux Foundation for their generosity. The city hall was the home of the community and had a place in the central business district; city hall would provide an anchor and enhance commercial development in the downtown area. The foundation paid premium price for the land and gave \$5 million to the hospital to be used for physician retention and recruitment.

The following person spoke:

- James Craft, reviewed the results of a survey he prepared from responses submitted to the Eye on Government website. According to his survey, people were not in favor of the city accepting the gift of land from the Cailloux Foundation for the purpose of building a city hall; rather, citizens wanted the property to be used for something else, and it would block the view of downtown. He asked that the city council consider: 1) accepting the gift but not building a city hall on the property; and 2) putting the issue on the May ballot. He requested permission to speak on item 2B as he had several questions. Mayor Wampler noted that 2B had already been voted on, but offered to accept his written questions.

Mr. Motheral moved to give the mayor authority to approve the agreement with the Cailloux Foundation accepting the gift of property for a city hall, and the authority to approve the pedestrian crosswalk assumption agreement to consent to the transfer of the crosswalk from Sid Peterson Memorial Hospital to the Cailloux Foundation property. Mr. Gross seconded the motion and it passed 5-0.

### **3. PUBLIC HEARING**

**3A. Public hearing on proposed annexation and recommended zoning of James Avery Craftsman Campus, consisting of approximately 43.72 acres, and generally located at the intersection of Harper Road (RR783) and Avery Road and adjacent to the northern property line of American Bank of Texas property.**

Mr. Coleman noted on January 25 city council voted to accept voluntary petitions from property owners who requested annexation (Item 3A), and to initiate involuntary annexation procedures of the Higgins property and adjacent properties (Item 3B). He identified the areas of voluntary and involuntary annexation on the map and noted all notices had been posted and individual property owners whose property was being considered had been notified of the public hearing. He noted

that several annexation routes had been contemplated, but other routes involved multiple property owners. State law required 1,000 foot minimum for involuntary annexation, thus Mrs. Higgins entire tract was being considered as only a small strip would remain. The planning and zoning commission (P&Z) held a public hearing on March 3 and recommended planned development district (PDD) zoning for the James Avery Campus to allow the existing manufacturing use, and R-1 single family residential for the remaining properties, consistent with their current use. Final action on the Higgins annexation was scheduled to be completed on May 10, more than 60 days.

Mayor Wampler declared the public hearing open at 4:34 p.m.; the following persons spoke:

1. Catherine Black questioned notification procedures for this meeting and noted that state law prescribed notification requirements for annexations and questioned why she had not been notified. She questioned if council was aware of a state law that required cities to provide certain services to a property when it was annexed.

Mayor Wampler noted the meeting was posted in accordance with state law; she had not been notified of the annexation because her property was not being considered for annexation; those owners whose property was being considered for annexation had been notified. The city was aware of the state law.

2. Roy Graham stated he lived outside the city and that Town Creek Road was overdue for paving. The city's water and sewer project was supposed to have been completed in February and it was not. He had cars that he could not put in car shows because of the condition of the road. He had put in subdivisions and the city's project should have taken only a few months but had been going on for five months. He questioned if the city was annexing down Town Creek Road or Old Harper Road and if the annexation had anything to do with an access road with TxDOT and why the city had to annex 1,000 feet through Mrs. Higgins property.

Mayor Wampler stated the annexation did not have anything to do with a road through the Higgins property or any access road with TxDOT.

3. A person asked staff to identify the area on the map and provide landmarks so it was clear what property was being discussed.

4. Virginia Higgins noted she was in the process of a divorce and asked if the annexation of her property could be delayed 60 days to allow her time to resolve personal issues. She noted the city was passing up other property and tax base in order to get to her property. She signed the 20 year delayed annexation agreement, but her husband would not sign it. The city condemned her property and took it, and the city now had the easements; why did the city need to annex all of her property instead of annexing just the 1,000 feet it needed?

Mr. Hayes noted that Mrs. Higgins had signed the agreement, but her husband would not sign it, and both signatures were required. Under state law, the city cannot annex less than 1,000 ft. in an involuntary annexation.

Mr. Parton stated the process of annexation was necessitated by a request from James Avery Craftsman (JAC) to extend city utilities to the JAC facility. JAC had a well permit that was expiring and needed water to maintain the facility and expand the operation. He clarified the properties in Item 3A were voluntary annexations with development agreements from land owners who donated easements to extend utilities in exchange for access to the utility line. On jointly owned property, both property owners were required to sign the easement and annexation petition for each property in order to be valid. In the Higgins case, Mrs. Higgins signed the easement; Mr. Higgins would not sign it. In Mrs. Higgins' case, the easements were not donated and the city had to go through a condemn process and purchase the easement, and valuation of payment for that easement contemplated annexation of the property.

Mr. Coleman explained that the first annexation agreement offered to the Higgins called for a 30 foot annexation strip, and Mr. Higgins would not sign the first agreement. The second agreement offered delayed annexation whereby the city would not annex the property as long as the agricultural exemption was in place; Mr. Higgins would not sign the second agreement.

5. A lady asked council to commit to a time period that other land in the area would not be annexed.

Mayor Wampler noted that generally the city did not pursue involuntary annexations; however, as an area developed and a property became wholly encompassed by the city limits whereby a doughnut hole existed, the property may be annexed.

6. James Craft questioned the comment that state law prohibited strip annexation, noting Comanche Trace subdivision had been annexed by strip annexation along the highway. Mr. Hayes noted state law had changed since Comanche Trace had been annexed; strip zoning was not allowed under current state law.

The council also discussed the following points:

- The city was not taking Mrs. Higgins' land, only annexing it into the city limits.
- James Avery Craftsman had great economic value to the community, including 285 jobs and could not maintain their current facility or expand without utilities.
- The current council cannot commit future councils to a time schedule as to when property might or might not be annexed.

Mayor Wampler closed the public hearing at 4:52 p.m.

3B. Public hearing on proposed annexation and recommended zoning of various properties, consisting of approximately 278.4 acres, and generally located beginning northeast of the intersection of Morris Road and Town Creek Road, continuing in a northerly direction along Town Creek Road, across and including Interstate 10, then north through undeveloped property, and terminating at the southern property line of the James Avery Craftsman Campus, as located on the southeastern corner of the intersection of Harper Road (RR 783) and Avery Road. (Discussed in conjunction with Item 3A.)

Mayor Wampler declared the public hearing open at 4:53 p.m.; no one spoke; Mayor Wampler closed the public hearing at 4:53 p.m.

#### **4. CONSIDERATION AND POSSIBLE ACTION**

4A. Receive an update and provide direction to city staff regarding the Kerrville river trail project.

Mayor Wampler noted that Pete Moore was unable to attend the meeting; the consensus of the council was to postpone discussion to a future meeting.

4B. Direction to staff regarding interlocal agreements between the City of Kerrville and Kerr County for joint operations.

Mr. Parton provided an outline of services for joint operations and noted the contracts for fire/EMS, animal control, and airport services would expire midnight September 30, 2011; also, a funding agreement would not exist for library services beyond September 30. The outline projected the library operating budget at \$825,000 (\$412,500 each) based on a ten average of operating expenses, and reported library service levels were 54% city residents, 44% county residents, and 12% other. Mr. Parton also reported that indications from the county were that they were contemplating soliciting proposals to contract with a private company to provide EMS services beyond the city limits. He requested direction from the council on how to proceed to prepare the FY 12 budget, noting \$800,000 in lost revenue from fire/EMS in addition to an estimated \$1 million shortfall in the general fund. Staff had begun preparing a service level analysis and resource allocations report.

Mayor Wampler stated the council placed a high value on the fire/EMS service; however, the cost to provide that service to 1,100 square miles continued to rise each year, and a priority concern to the council was the imbalance of how that cost was allocated since the city taxpayers were paying a disproportionate share of the cost of that service.

Council also discussed the following points:

- The outline for library services proposed the county fund half of the operational expenditures only and did not include any maintenance or capital expenditures.
- The county stated they would fund animal control services county-wide, and the airport budget would be divided equally between the city and county.
- The city needed to amend its animal control ordinances to be in compliance

with the service being provided by the county.

- The county had not stated a willingness to fund the cost of fire/EMS.
- A previous study by the county concluded that the county was getting a great deal; when the county bids out the EMS service, the bids will show that the county cannot provide the level of service their constituents are receiving now for less money through a contracted service.
- The city should proceed with the interlocal agreements that both agree on, with each service as a separate agreement; however not finalize until all are agreed to.
- Last year the city did not receive budget information from the county until late September and the purpose of the March 31 deadline was to plan a budget and schedule that avoids last minute changes.
- The Kerrville Professional Firefighters Association planned to hold an information meeting on March 25, 6:30 p.m. at St. Peter's Episcopal Church.

Mr. Parton summarized the direction from the council to be used in preparation of the FY12 budget: no fire/EMS funding contribution from the county; place priority on fire/EMS and public safety functions when considering cuts; animal control services to be provided by the county; airport budget to be split equally between the city and county; and library fund be split equally between the city and county at \$825,000 (\$412,500 each) based on ten year average of operating expenses.

4C. Consider acceptance of a gift of land in the 700 block of Water Street from the Cailloux Foundation for use as a city hall.

(Item was discussed following the consent agenda.)

4D. 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 reported the city's motion for a rehearing before PUC was pending; however, PUC did not place the matter on the agenda for their last meeting. By operational law the motion would be denied effective March 13, and the city would then have 30 days to appeal. The city's attorney was preparing for the appeal in district court in Travis County. He advised that the US Department of Agriculture informed others that they would not allow the line to go through their property at Highway 16 at I-10, and neither the state nor LCRA could condemn land on federal property; this may cause the line to be moved further south.

Mayor Wampler noted that LCRA was in the right of way easement acquisition process and asked the city to assist in the mediation of the line alignment in the city. LCRA hired a mediator to assist in property acquisition.

Mr. Parton noted the city requested LCRA minimize aesthetic and physical impact, and maintain usability and functionality of property as much as possible.

**5. INFORMATION AND DISCUSSION:**

5A. Economic update.

Mr. Erwin reported sales tax up slightly; hotel occupancy tax continued to drop; general fund revenue was on budget; and water sales were up due to dry weather. He will continue to monitor the impact that the increase in gas was having on the country and its effect on local economy. He proposed to schedule request for proposals for bank depository services on the March 22 agenda.

**6. BOARD APPOINTMENTS:**

6A. Appointment to the Kerrville Public Utility Board (KPUB).

Mr. Allen moved to reappoint Stephen P. Fine with term to expire April 21, 2016;

Mr. Motheral seconded the motion and it passed 5-0.

**7. ITEMS FOR FUTURE AGENDAS:** No items were proposed.

**8. ANNOUNCEMENTS OF COMMUNITY INTEREST:** None discussed.

- Mardi Gras on Main, March 8, 6:00 p.m.
- Salvation Army Kroc Center, spring break splash, March 12, 11:00 a.m.
- League of Women Voters forum on water issues on March 19, 9:00-1:00 at UGRA offices at 125 Lehmann Drive.
- March 19, "Bark for Life" event at River Star Park.

**9. EXECUTIVE SESSION:** No items were discussed.

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

**ADJOURNMENT.** The meeting adjourned at 5:21 p.m.

APPROVED: \_\_\_\_\_

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David Wampler, Mayor

ATTEST:

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Brenda G. Craig, City Secretary