

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
APRIL 12, 2011

On April 12, 2011, 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 Reverend Tom Murray of St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Mayor Wampler.

**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 Cochrane	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
Malcolm Matthews	Director of Parks and Recreation
Mike Wellborn	Director of Engineering
Kim Meismer	Director of General Operations
Mindy Wendele	Director of Business Programs
Johnna Wade	Main Street Manager
Daniel Schwartz	Library Director
Amy Ives	Compliance Center Manager
Susan Michelson	Municipal Court Administrator

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

1. **VISITORS/CITIZENS FORUM:** No one spoke.
2. **PRESENTATIONS:**
  - 2A. Acceptance of gift in memory of Robert Rector, presented by Clarabelle Snodgrass and the Rector Family.
3. **CONSENT AGENDA:**

Mr. Allen requested item 3C be removed from the consent agenda.

Ms. Keeble moved for approval of items 3A, 3B, and 3D; Mr. Motheral seconded the motion and it passed 5-0:

3A. Approval of the minutes of the regular city council meetings held March 8 and March 22, 2011.

3B. Authorize the city manager to execute a construction contract for the Butt-Holdsworth Memorial Library roof replacement project with Apex Enterprises, Inc. in an amount not to exceed \$112,562.

3D. Resolution No. 013-2011 granting a peddler license for use of the city's right-of-ways.

#### **END OF CONSENT AGENDA**

3C. Approval of investment policy for the City of Kerrville, Texas, Economic Improvement Corporation.

Mr. Allen requested the matter be tabled indefinitely; the council agreed by consensus.

#### **4. ORDINANCES, SECOND AND FINAL READING:**

4A. Ordinance No. 2011-05 amending Chapter 74 "Parks and Recreation", Article I "Rules and Regulations for City Park and Recreation Areas" of the Code of Ordinances of the City of Kerrville, Texas, by amending various sections to revise operating hours, establish use restrictions for the boardwalk pavilion, address age requirements for the use of the swimming pool, clarify the prohibition of the use of motor vehicles within the city parks, and make the alcohol regulations within Kerrville Schreiner Park consistent with other city parks; containing a cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject. Mayor Wampler read the ordinance by title only.

Mr. Matthews noted no changes since first reading; he recommended approval of the ordinance, and upon approval appropriate signage would be placed in the parks.

The following person spoke:

- Jimmie Spradling questioned why the city would change the rules to allow unlimited quantities of alcoholic beverages to be brought into and consumed in city parks; at the least, council should prohibit alcohol in Kerrville Schreiner Park where families were staying overnight.

Council noted that the parks board considered pros and cons of alcohol in KSP, but recommended that regulations be consistent in all city parks.

Ms. Keeble moved for approval of Ordinance No. 2011-05 as presented on second and final reading; Mr. Gross seconded the motion and it passed 5-0.

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

### **5A. Request from Ed Pollard for access easement to Lois Street across the city's property at 800 Junction Highway.**

Mr. Coleman noted that Mr. Pollard, property owner adjacent to city hall, requested the city grant an easement to allow vehicular access to Lois Street. He also noted that the city may place the city hall property on the market and encumbering the property with an easement could affect the sale of the property.

Ed Pollard noted his property fronted Junction Highway, and he requested the city grant him an easement in order to access Lois Street. Having access from both Junction Highway and Lois Street would not only benefit him, but would alleviate traffic on Junction Highway. He proposed that only vehicular traffic, no trucks, would use the Lois Street access. He desired to have a permanent easement, not just temporary access, for which he would share in the cost of construction of a driveway. The drainage problem at the rear of the property could be corrected through the easement. Mr. Pollard stated his property was currently vacant and he did not know what the future potential use of the property would be. When questioned by council whether he would be interested in purchasing the city's entire parcel, Mr. Pollard opined that the city could purchase his property and have 3.4 acres and the current city property would make a good site for city hall instead of moving city hall downtown. The city hall would not benefit downtown and that site could be used for a better purpose.

Mayor Wampler noted the current city hall property would go on the market in the near future, and council should not encumber the property with an easement that might affect the sale of the property in the future; also, Mr. Pollard did not know what the future use of his property would be at this time. The council agreed by consensus, and no motion was made in regard to Mr. Pollard's request.

### **5B. Food service advisory board recommendation to amend Chapter 58-Article II Food Establishments, to expand the definition of and modify the regulations that apply to mobile food vendors and commissaries.**

Mr. Coleman noted under the current ordinance, mobile food vendors were treated the same and it did not differentiate based on health risk, type of operation or product, or the location from which products were sold. He reviewed recommended amendments proposed by the Food Service Advisory Board (FSAB): 1) Create definition of mobile food unit based on type of food preparation and type of operation; 2) Define and require use of a commissary (permitted kitchen used where food was prepared; 3) Outline operational restrictions of each type of mobile food vendor; 4) Define separation restrictions from the right of ways, existing buildings, and fixed retail food establishments. He noted that the main street advisory board was concerned about the effect that mobile food vendors would have on downtown food establishments; however, the separation restrictions and the requirement that vendors receive city council approval for use of city right of ways, would result in very little impact on the downtown area. He also noted that

the proposed changes would not affect fixed retail food establishments or restrict special events vendors, e.g. Market Days and 4<sup>th</sup> of July vendors.

Ms. Ives noted that the city adopted the Texas Food Establishment Rules. She reviewed proposed changes based on the FSAB recommendations, in particular: definition of mobile food vendor restricted, mobile food vendor unrestricted, and separation requirements: 50' from residential or multi-family; 300' from a retail food establishment, 30' from any other structure, 300' from schools while in session, and 50' from intersections. She noted that mobile food vendors would follow the same food handling rules as fixed establishments.

Ms. Wade reviewed MSAB's concerns and noted that although, the MSAB had not taken official action on the proposed regulations, she felt that the FSAB recommended changes adequately addressed the MSAB's concerns.

The council also discussed the following:

- Mobile food vendors would have the same food safety restrictions as any other site preparation vendor.
- Concern that spacing requirements were very limited; may be too restrictive to allow a mobile food vendor to operate.
- City needs to be careful in creating regulations; city not be so restrictive as to prohibit business from operating.

The following person spoke:

- Jimmie Spradling questioned whether ice cream vendors would be allowed and noted concern for children's safety. Mr. Coleman noted the ice cream peddlers were required to have council approval before a peddlers license could be issued to sell ice cream on city right of ways, such as item 3D approved earlier in this meeting.

The consensus of the council was that staff should proceed to draft an ordinance for consideration at a future meeting.

#### 5C. Review and prioritization of the Alamo Regional Rural Planning Organization (ARRPO) list of roadway projects in Kerr County.

Mr. Hastings noted that council previously authorized staff to submit a list of roadway projects to ARRPO for consideration in transportation planning; ARRPO was now requesting the list submitted by the city and county be prioritized. He reviewed the roadway projects and the criteria that staff used to prioritize projects. Council accepted the scoring criteria and prioritized the top five projects.

Ms. Keeble noted that one of the top five roadway projects being discussed would go through property she owned. Ms. Keeble signed a conflict of interest affidavit and left the room.

Council also discussed the following:

- The county was also asked to prioritize the same list, and their priorities were not the same as the city's; ARRPO would only accept one blended list of projects.
- Although the project would be costly, the list should include the I-10 interchange; the Holdsworth Drive extension was on TxDOT's list for over 20 years before it was built. The county did not include it on their prioritized list, not because they did not support it, but because they did not feel it was likely to happen.

Mr. Motheral moved to submit the following prioritized list:

1. IH-10 from FM783 to SH16.
2. Spur 100 from SH16 to SH173.
3. Loop 534, from SH173 to SH27.
4. FM1341, Loop 534 to IH-10.
5. Wren Road South extension.

The motion was seconded by Mr. Gross and passed 4-0-1 with Messrs. Motheral, Gross, Allen, and Wampler voting in favor of the motion; no one voted against the motion; and Ms. Keeble abstained.

5D. Interlocal agreements between Kerr County and the City of Kerrville for joint operations.

Mr. Parton noted staff was in the process of finalizing the draft agreements for all services as authorized by the council at the March 22 meeting. The interlocal agreement summary for all services at the same level as FY11 projected that the city would pay a total of \$6,003,430 and the county would pay \$1,880,690 for FY12, a net increase of \$486,371 to the county over FY11. He noted the county had not responded to the outline presented on February 16; however, on April 5 he received from the county a draft agreement for fire services and a map depicting 1 mile ETJ, 2 mile, 3 mile, and 4 mile radius rings and requested the city prepare cost estimates for providing fire service in each ring except the area served by Ingram FD. He noted that the rings would require the city to provide first response into a larger area than the city had previously provided, with the VFDs providing first response only during certain hours. Staff was concerned about how 9-1-1 calls would be dispatched, particularly with regard to location within the tier of rings and the time of day. Staff would have discussion and get clarification of the county's request. He noted that 75% of the county's population was within the 4 mile radius; as the area became more rural service level decreased, but the time and cost to respond to a call increased. Mr. Parton noted that nothing had been received from the county regarding EMS.

Mr. Parton proposed an Option A, that would bring the city's and county's cost down to \$5,930,930 and \$1,808,190, respectively by reducing the airport budget \$70,000 and library budget \$75,000, for a reduction of \$72,500 each. The library was originally proposed at \$825,000 based on a ten year average of expenditures, but savings could be realized by cutting youth programming by \$75,000 for a total budget of \$750,000. The airport budget was originally proposed at \$400,000, but the fiscal year end audit showed that the airport budget could be reduced about

\$70,000-\$74,000 from the current funding level; he proposed the airport budget be reduced to \$330,000. The city council previously proposed that the airport budget be split equally and that the city maintain its status as a full partner in the airport operation. Mr. Parton proposed that the county continue to maintain the animal control operation and expenses at the same level as the remainder of the county; the city would continue to provide dead animal pick up in the city. He reviewed the schedule of meetings that had been held with the county since January when the city asked the county to provide information on the level of service desired for each service in order that the city could provide cost estimates; information on service levels had not been provided.

The council also discussed the following:

- Clarified that the county's proposed ring map would require the city to provide a greater service level than was currently being provided. Mr. Parton noted that the city was currently providing first response in the Kerrville South area; the county's proposal would require the city to also provide first response in the Center Point and Turtle Creek areas, and mutual aid in the remainder of the county, thereby increasing the workload and commitment of the city. He noted that currently the city responded to 120-130 calls annually in the KS area only.
- Division by rings and time of day would make it unclear which agency was to respond and when and could create life threatening situations; need a straight forward and clear delineation for when and where services were to be provided.
- There was a cost associated with having the service available; county participation should consider availability of service, not just a per call basis.
- The cost to provide service increased significantly for rural county runs.
- The city owned the fire/EMS service and provided services to the county for many years, and the city's proposed funding allocation still did not reflect the true cost of the system. The city was exporting these services into the county at a cost to city taxpayers.
- The city needed to begin preparations for the FY12 budget; if the necessary commitments and agreements were not substantially in place then the city should move forward to budget without county participation.
- Based on the lack of action by the county, council must believe that the city's services were no longer desired.

### **EXECUTIVE SESSION:**

Mr. Gross moved for the city council to go into executive closed session under Section 551.071 (consultation with attorney of the Texas Government Code; the motion was seconded by Mr. Allen and passed 5-0 to discuss:

Interlocal agreements between Kerr County and the City of Kerrville for joint operations.

At 7:43 p.m. the regular meeting recessed and council went into executive closed session at 7:49 p.m. At 7:51 p.m. the executive closed session recessed and council returned to open session at 7:52 p.m. Mayor Wampler announced that

no action had been taken in executive session.

5D. Interlocal agreements between Kerr County and the City of Kerrville for joint operations. (Continued)

Additional comments by council:

- Option A would require an increase in the county's participation of \$413,871 instead of the original \$486,371.
- The library allocation would not stay the same as proposed for FY12; library should not be perpetually short changed.
- The county wanted more input in the budgetary process of the library. All of the council budget workshops and meetings are open to the public, and commissioners were welcome to attend. The county had one commissioner and two appointees on the library board, and could participate in library planning through the library board.
- The county had an opportunity of accepting a \$200,000 grant that had been offered to county for their budget.

Mr. Motheral moved to instruct staff to offer the county a complete package of all five services based on Option A as presented by Mr. Parton, with funding from the county as follows: Fire/EMS \$900,000; Library \$375,000; Airport \$165,000; Animal Control \$368,190; Total \$1,808,190, that is, a net increase to the county over FY11 of \$413,871; and with the caveats: 1) Current operation contract for the airport be renegotiated to reflect the city as a full partner; 2) The package of contracts for all five services be completed in time for the city council's May 4 budget workshop. Mr. Gross seconded the motion and it passed 5-0.

5E. Presentation and acceptance of the FY10 Comprehensive Annual Financial Report (CAFR). Mr. Erwin requested the matter be rescheduled to April 26.

5F. Receive council direction on the FY 2012 budget.

Mr. Erwin outlined principles to be used in preparation of the FY12 budget: expenditures not exceed revenues, maintain current tax levy, prioritize programs, fund priorities, no use of reserves, no change in water and sewer rates, and no new debt issuance proposed. The council's budget retreat was scheduled for May 4, 8:30 a.m. and the budget kick-off for May 11, 2011.

5G. Strategic plan to address economic development needs.

Mr. Parton provided the strategic plan as prepared based on several prior planning documents and discussion at the joint City Council/EIC meeting in February; he reviewed how 4B tax funds could be used to tie into the overall objective of implementing the strategic plan. He reviewed the short-term (3-5 year) projects and how 4B funds could contribute toward implementation of the overall plan. The plan had been presented to EIC at their March meeting

Mayor Wampler noted that downtown redevelopment and the river trail had been goals of the comprehensive plan for many years. He supported the use of 4B

resources to help accomplish the strategic plan and its goals.

5H. Update regarding Lower Colorado River Authority Transmission Services Corporation (LCRA-TSC) application for the proposed McCamey D to Kendall to Gillespie CREZ project PUC Docket No. 38354; City of Kerrville, Kerrville Public Utility Board, and City of Junction v. PUC, Cause No. D-1-GV-000324, in the 98<sup>th</sup> District Court of Travis County.

Mr. Hayes reported:

-The petition had been filed in Travis County District Court; he anticipated the hearing date would be in July. Kerr County Commissioners' Court allocated \$5,000 and authorized the county attorney to join the coalition to appeal the decision in district court. The city would be paying the bulk of the cost associated with the appeal.

-He was negotiating the details of an agreement with LCRA regarding concrete structures in the area. Once the agreement was signed it would be filed with the judge.

-USDA had stated they would not allow the line to cross their property; this may cause a reconfiguration of the line.

## **6. INFORMATION AND DISCUSSION:**

### **6A. Kerrville's Fourth on the River committee report.**

Carson Conklin, committee member, reported on the progress of the committee. The theme for the event would be a "Concert on the Banks of the Guadalupe in Historic Downtown Kerrville." The goals of the committee were to create an annual event, raise funds for the river trail project and future community projects, and promote Kerrville as an event destination. A 501(c)3 had been set up to receive funding and distribution of funds. The FY 2011 event would focus on multi-activities throughout the day and a fireworks display at dusk. The Market Days group would assist with events throughout the day, and three tents would be set up on the former hospital property for arts and crafts and other activities. He reviewed the event planning map and discussed activities and entertainment schedule and noted the admission charge would be \$20 adult (\$25 at the gate) and \$5 children for the ticketed event in Louise Hays Park; 60% of the proceeds were designated for the river trail project.

### **6B. Library update.**

Mr. Schwartz reported circulation checkouts totaled 21,573 as of March 29; patron count was 2,634 with 54.59% city residents, and 42.63% county residents. The library advisory board will be discussing staffing and operating hours during renovation and staff will report those discussions at the next city council and county commissioners' court meetings. An informational diabetes program was scheduled for April 28, 2011, from 5:30-6:30 p.m.

### **6C. Voice Over Internet Protocol (VOIP) completion update.**

Mr. Cochrane reported the installation of the new city-wide telephone system began November 30, 2010 and the hardware installation for the new system was

completed March 29. The new system would provide an annual savings of approximately \$40,000.

6D. Economic update.

Mr. Erwin reported local unemployment dropped to 6.4%, HOT increased 12%, and sales tax increased slightly. He reported \$300,000 from the fund balance had been used for capital projects.

7. **BOARD APPOINTMENTS:**

7A. Appointments to the parks and recreation advisory board.

Ms. Keeble moved to reappoint Dana Cardwell, Stephen Roberts, Diane McMahon, and Jim Gardner, and to appoint David Lipscomb to the parks and recreation advisory board all with terms to expire March 31, 2013. Mr. Gross seconded the motion and it passed 5-0.

8. **ITEMS FOR FUTURE AGENDA**

- Renaming of the city's lake (formerly the UGRA Lake) on Guadalupe Street.

9. **ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- Informal social event on Friday, April 15, 2011, 11:15 a.m.
- Special council meeting on Wednesday, April 20, 2011, 9:00 a.m.
- Informal event on Monday, April 25, 2011, 5:30 p.m.

10. **EXECUTIVE SESSION:** Held earlier in the meeting.

**ADJOURNMENT.** The meeting adjourned at 8:48 p.m.

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

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary