

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
JULY 26, 2011

On July 26, 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, St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Dan Simpson, Chaplain, AMVETS Jacob Leicht Memorial Post 1000.

MEMBERS PRESENT:

David Wampler	Mayor
Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember
Stacie Keeble	Councilmember

MEMBER ABSENT:

T. Scott Gross	Councilmember
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EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary
Kristine Ondrias	Assistant City Manager
Travis Cochrane	Director of Information Technology
Mike Erwin	Director of Finance
Kevin Coleman	Director of Development Services
Charlie Hastings	Director of Public Works
Kim Meismer	Director of General Operations
John Young	Police Chief
Daniel Schwartz	Library Director
Malcolm Matthews	Director of Parks and Recreation

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

1. **VISITORS/CITIZENS FORUM:** No one spoke.

2. **CONSENT AGENDA:**

Mr. Conklin moved for approval of item 2A; Ms. Keeble seconded the motion and it passed 4-0:

2A. Approval of the minutes of the regular city council meetings held June 28, and July 12, 2011, and the special meetings held July 7, and July 14, 2011.

END OF CONSENT AGENDA

3. **PUBLIC HEARING AND ORDINANCE, FIRST READING:**

3A. An ordinance creating a specific use district (SUD) for the temporary housing and fostering of domestic cats on an approximate 0.83 acre tract of land out of the Walter Fosgate Survey No. 120, Abstract 138, within the City of Kerrville, Kerr County, Texas, and otherwise known as 712 Harper Road (RR

783), and located within an R1 (residential) zoning district; adopting conditions related to the development and use within said district; containing a cumulative clause; containing a savings and severability clause; establishing a penalty or fine not to exceed \$2,000 for each day of violation of any provision hereof; ordering publication; and providing other matters relating to the subject.
Mayor Wampler read the ordinance by title only.

Mr. Coleman noted the applicant proposed to establish an indoor/outdoor rescue facility on .75 acre to provide temporary housing for up to 37 cats. The SUD would not change the zoning of the property; however, the SUD would be specifically for that use. The facility would remain in existence as long as the use existed; the SUD would only terminate when the use terminated. The city received one letter of support and one letter requesting denial of the SUD. He reviewed the SUD process and noted the planning and zoning commission (PZC) approved the request 5-0 subject to the conditions stated in the ordinance:

- The number of cats not exceed 37.
- Intentional breeding of cats be prohibited.
- No other uses that involve commercial, for-profit enterprise.
- Cats be confined to specific indoor and outdoor facilities; cats not be allowed to roam free outside their confined space.
- Use was subject to other applicable city ordinances and regulations, including zoning regulations applicable to residential zoning district.
- Operator must reside on the property at all times.
- Records must be kept on all cats on the property; records be made available to city inspectors on demand.
- 20-foot setback from rear property line be maintained for outdoor enclosure area.
- All waste materials from the operation be disposed of off-site.

Bliss Marsh, applicant, recognized a need in the community to foster cats on a temporary basis, and she proposed to assist the Freeman-Fritts Animal Shelter and the Big Fix Homeless Cat program. She described her proposed facility: 400 sq. ft. housing, 3,000 sq. ft. outdoor enclosure, cat-proof fencing, and a cat garden area. Cats would be completely confined, would be neutered, provided shots, and health records would be kept on all cats. She would not be operating as a business or advertising, and the property would remain residential. She acknowledged that some cats had escaped her property in the past prior to installation of the cat-proof fencing.

Mayor Wampler opened the public hearing at 6:18 p.m. and the following persons spoke:

1. Jimmie Spradling stated opposition to allowing 37 cats in a single family residential zone, noting potential for health code violations. The average person in a residential neighborhood did not want to live next door to 37 cats.
2. Ruth Spradling asked if the person who attended the PZC meeting and spoke in opposition was in attendance. Mr. Coleman noted he was not; he owned the

adjacent undeveloped property and was concerned that the SUD would be a permanent arrangement and might hinder future property sales. Ms. Spradling noted if the SUD was granted, it would be in effect until the use stopped; an SUD remained with the property and a new owner could continue to operate the facility. She suggested a provision be added to the ordinance that should the use cease to operate for a six-month period, the SUD would be voided.

3. Bruce Stracke stated Ms. Marsh was attempting to provide a solution to cat overpopulation and euthanasia of unwanted cats, and she was not asking for any financial assistance from the city. She should be commended and given serious consideration for trying to solve a problem created by society.

No one else spoke and Mayor Wampler closed the public hearing at 6:28 p.m.

Council questioned how long the facility been operating before a permit was requested. Ms. Marsh stated two years. She did not know there was a limit on the number of cats she could have until her neighbors called animal control. She then moved the cats to a barn in Center Point until she could acquire an SUD. The barn was not an appropriate facility as it did not have adequate protection from the weather or running water. The neighbor who attended the PZC meeting earlier was concerned that if the SUD was granted that the facility could house dogs or hogs in the future. She opined that he no longer objected.

The council discussed the following:

- Acknowledged a feral cat problem, and hated the idea that cats had to go to an animal control facility and be euthanized; commended Ms. Marsh for her dedication and compassion for trying to solve a community problem.
- At the PZC meeting all concerns were addressed and concessions made.
- The city would have access to the property for inspection and review of health records at any time.
- Concern for creating additional workload for city staff with more inspections and responsibilities to monitor the facility.
- Neighbors also had property rights and should be able to expect a reasonable standard in an urban neighborhood, and operating an animal care facility with 37 cats was not appropriate in a single family residential neighborhood
- The type of facility proposed would be better served in the county where cats had more room to roam and there was a greater buffer zone between neighbors.
- Concern that the facility had been operating for two years without a permit.
- Consider supporting an SUD by with fewer cats.
- Allowing the SUD could set a precedence that could affect the integrity of residential neighborhoods inside the city; the animal care facility should be relocated to a more suitable area.

Ms. Keeble moved for approval of the ordinance on first reading with amendment to limit the number of cats to 18. The motion died for lack of a second.

4. ORDINANCES, FIRST READING:

4A. An ordinance authorizing and allowing, under the Texas State Law governing the Texas Municipal Retirement System, "updated service credits" in said system on an annual basis for service performed by qualifying members of such system who at the effective date of the allowance are members of the City of Kerrville; and establishing an effective date for the ordinance.

Mayor Wampler read the ordinance by title only.

Ms. Meismer noted that due to budget constraints, in the FY11 budget council eliminated the Updated Service Credits (USC) and the Cost of Living Adjustments (COLA) in order to reduce the city's contribution rate from 16.03% to 9.4%, saving the city approximately \$490,000. TMRS was budgeted at 10.7% for FY11. In June 2011 TMRS advised the city that the city's contribution rate for FY12 would be reduced to 5.41% for an estimated savings of \$511,000 under the current plan. Ms. Meismer presented five proposals showing various rates and savings. Staff recommended reinstating the USC back into the plan at 100% annual repeating, as it was prior to FY11; the rate would be 8.65%, still saving the city an estimated \$198,200 for FY12 from the FY11 rate of 10.7%. She described the plan as a two to one match whereby the employee deposited 7% and the city deposited another percent; however, she explained that the city does not deposit 14% because the rate fluctuated for various reasons.

Eric Davis, deputy executive director for TMRS, noted under the current plan, the city's rate would have dropped from 15.82% to 5.24%, and he explained factors that led to the reduction:

- The city had a large reduction in contribution rate; restructuring of trust funds into a single fund created more leverage and earned 7% interest.
- TMRS had been accumulating interest into a fund reserve; those funds were redistributed back to the cities as a 10% credit each year for ten years.
- Excluded supplemental death benefit for retirees only, and provided supplemental death for current employees at .17%.

Mr. Davis explained an ad hoc adoption assumed the benefit for only one year; repeating adoption forecasted out the benefit on the assumption that it would be done for every year until the employee retired. He noted that TMRS projected a 7% rate of return for 2011; however, if that rate was not realized, it could increase future employer contribution rates. Mr. Davis noted that 587 of their 845 member cities had USC in their plan. The proposed plan for the city for FY12 reinstated only the USC and did not reinstate the COLA benefit.

Ms. Meismer noted that most cities had the same plan as the city's FY10 plan, i.e. 2 to 1 match, five year retirement, 100% USC, and COLA at 70%. Reductions to the retirement plan affects recruiting and retention, particularly in key positions.

Mr. Parton noted when the city's plan was reduced in FY11 he felt that other cities would also cut back on their plans, but most cities did not. Reinstating the

USC portion of Kerrville's plan would set a base line benefit program for city employees that was sustainable, and would assist the city's ability to retain and recruit employees. He noted advantages to retaining employees and the cost of recruiting new employees, particularly in specialized fields. The proposed FY12 budget included the TMRS rate at 8.65% to reinstate the USC and included transfers to 100% annually repeating effective January 1, 2012.

Mr. Conklin moved for approval of the ordinance reinstating the TMRS updated service credits on first reading; Mr. Allen seconded the motion and it passed 4-0.

4B. An ordinance amending Chapter 66, "Library," of the Code of Ordinances of the City of Kerrville, Texas, by amending Article II "Library Advisory Board" (LAB), concerning the creation, powers, and authority of the library advisory board; containing a cumulative clause; containing a savings and severability clause; and providing other matters relating to this subject. Mayor Wampler read the ordinance by title only.

Mr. Schwartz reviewed the current appointment process whereby the city and county each appointed two representatives to the LAB. One county position expired in November 2010; the Kerr County Commissioners' Court (KCCC) had been contacted several times, but would not make an appointment. The LAB was operating at a disadvantage because without a full board, officers could not be appointed. At the June 2011 LAB meeting, the LAB voted to recommend to city council that four members of the LAB be appointed by the city council. The Friends of the Library would continue to appoint one member. The ordinance required that all board members be a resident of Kerr County.

The following person spoke:

1. David Lipscomb stated as a former member of the library board, he experienced many frustrations in dealing with the KCCC. He noted that when the county appointee's term expired in November 2010 that member personally contacted KCCC and tried to get something going but had been unsuccessful. Mr. Lipscomb stated that the library was of great value to the citizens of the entire community; the county had an absurd attitude and relied on the Cailloux Foundation to pay their share of the library funding. There were many people in the county who were interested in serving on the library board.

Ms. Meisner noted that under the proposed ordinance, all members would be residents of the county, including those living in the city, and all would be appointed by the city council.

Mr. Hayes noted that the interlocal agreements currently being negotiated between the city and county did not address LAB membership appointments.

Council noted that restructuring of the LAB would allow appointments to be made so that the LAB could move forward.

Ms. Keeble moved for approval of the ordinance on first reading; Mr. Conklin seconded the motion and it passed 4-0.

CITY COUNCIL RECESS:

The Kerrville City Council recessed the regular city council meeting to convene a meeting of the City of Kerrville Employee Benefits Trust at 7:13 p.m. Following the City of Kerrville Employee Benefits Trust meeting, the Kerrville City Council reconvened into regular session at 7:28 p.m.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Resolution No. 025-2011 authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefits Trust to pay for employee related benefits.

Mr. Allen moved for approval of Resolution No. 025-2011; Mr. Conklin seconded the motion and it passed 4-0.

6B. Resolution No. 026-2011 adopting a naming policy for city owned properties and facilities.

Mr. Matthews presented the proposed naming policy and discussed the requirements and procedures for each request. The goal of the policy was to establish consistency in handling requests and create a public notification and public input process. He proposed two amendments to the policy as presented.

Ms. Keeble moved for approval of Resolution No. 026-2011 with the two amendments stated; Mr. Conklin seconded the motion and it passed 4-0.

6C. Direction regarding the use of grey water reuse systems.

Mr. Hastings noted council had directed staff to model the effects of amending the plumbing code to allow grey water reuse systems. He discussed pros and cons and offered suggestions to be considered in preparation of an ordinance. The key concern was maintaining adequate wastewater flow for the system to operate efficiently. The system could handle 10% reduction in the flow rate; however, if too many participated city-wide it would result in more than a 10% reduction and could result in unacceptable wastewater concentrations and low flows. If too many participated in any one area the wastewater flow would not be sufficient to push wastewater through the main in that area. Therefore, he cautioned that regulations would be needed to control the amount of participation and to ensure even distribution throughout the system. He noted these calculations were based on the assumption of a 40% efficiency rate; however, new information indicated that systems may not achieve 40%. He requested additional time to study the effects on the city's wastewater system and to review and evaluate new information regarding the operating efficiency of systems. He noted current uses of treated effluent included: 70% to the city golf course and existing contracts, 10% for operations, and 20% was returned to the river.

The council also discussed the following points:

- Concern about how to create a policy that would limit participation and achieve even distribution without being discriminatory. Mr. Hastings suggested limiting the number of fixtures that could be connected per household. The regulations would be enforced and monitored through permits and inspections.
- State law allowed the use of grey water systems.
- Valuable staff time was being spent on something that had negligible impact on most citizens; if adopted, would enforcement of regulations and standards be a productive use of staff time.
- Council should also consider a landscape ordinance to educate the public on appropriate plants and materials.

The following persons spoke:

1. Jimmie Spradling noted when the renovation of the golf course was completed several years past, staff said that grey water could not be used on the golf course. Mr. Hastings noted that effluent was being used on the golf course--not grey water; grey water was untreated wastewater directly from household use.
2. Bruce Stracke noted the average participation was only 7%, of which only 20% of the systems installed achieved an efficiency flow rate of 40%.

Council consensus was that staff should continue to study the issue and report findings in one month; further, to continue discussion of a landscape ordinance in a few months.

6D. Interlocal agreements between the City of Kerrville and Kerr County regarding fire, emergency medical services, library, airport, and animal control operations.

Mr. Parton noted the negotiating team of County Judge Pat Tinley, County Commissioner Jonathan Letz, Mayor David Wampler, and Councilmember Carson Conklin met July 22, and after a few changes, agreed to accept the agreements and present them to the commissioners' court and city council for approval, with exception of the airport agreement. The team recommended a joint city/county meeting to address financial and budgetary issues regarding the airport. On July 25 the county attorney notified the city that the agreements as negotiated and agreed to on July 22 were accepted by the commissioners' court without change; these were the same agreements being considered by the city council now.

Mayor Wampler stated that on July 22 the team agreed to take the agreements to both governing bodies without any changes; further, that the city would not entertain any more substantive changes, and if KCCC failed to approve the agreements as agreed to on July 22 or made changes, council would instruct staff to proceed to prepare the FY12 budget without county participation. The city's position had remained consistent and was the same as stated January 1, that is, that the city would not provide emergency services into the county, and other agreements would be voided and each party would go their own way to

provide services. He noted that the negotiation process with the county started in September 2010 and had been a waste of city resources and time; it was almost August and still there were no final agreements in place. He also noted that indication from Commissioner Letz was that there were additional changes by the county on July 25, but the city had been unable to confirm if that was true. If the city council approved the agreements as presented and as agreed to on July 22 by the negotiating team, he was prepared to sign the agreements and send them to the county to decide whether to sign the agreements or not.

Mr. Allen moved to approve the interlocal agreements as agreed to on July 22 and as approved by KCCC on July 25; Mr. Conklin seconded the motion and it passed 4-0.

Mayor Wampler noted the process with the county was a tremendous waste of time and city resources and had been stressful on employees whose jobs were dependent on the agreements.

6E. 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 98th District Court of Travis County. Item was deferred to executive session.

6F. Presentation of the FY12 proposed budget. Mr. Erwin reviewed the principles used in preparation of the FY12 budget including: focus on sustainability, maintain current \$0.5625 tax rate, expenditures not exceed revenues, no change in water and sewer rates, and no use of reserve funds. He noted the effective tax rate for FY12 was \$0.5888; the effective tax rate would generate the same tax revenue as FY11.

Mr. Erwin noted that the proposed FY12 general fund budget would include a \$250,000 reduction in employee benefits, \$150,000 increase in maintenance capital for deferred items, and \$165,000 increase in street and drainage maintenance. He proposed a decrease of 3.5 full time employees (FTE) in the general fund, and .5 in the water and sewer fund for a total reduction of 4 FTE; he noted in FY10 the FTE was 323, and FY12 was proposed to be 307. The proposed budget included \$55,000 from the hotel occupancy tax reserve fund for the arts co-op and special events funding. The water and sewer fund would be able to fund additional debt in FY12 without a rate increase.

Mr. Erwin compared Kerrville's debt service to cities of similar population and noted the city's debt service rate in the general fund was \$0.0735. In the W/S fund 78% revenue went toward operations, and 22% went to pay off existing debt.

Mr. Parton noted the capital improvement plan consisted of 110 projects totaling \$75 million. He reviewed the CIP and funding sources and noted many projects were necessary in order to increase capacity to handle economic growth.

The following person spoke:

1. Ruth Spradling appreciated the city's stand on the budget principles and the city's efforts to create a balanced budget.

7. INFORMATION AND DISCUSSION:

7A. Budget and economic update.

Mr. Erwin reported local unemployment increased to 7.1%. Local sales tax increased compared to July 2010; EIC tax increased to \$190,696; and hotel occupancy tax was at \$107,840. As of June 30, general fund revenue was at \$17 million; expenditures at \$14.3 million. Water/sewer fund revenue was at \$7 million; expenditures at \$6.6 million.

8. ITEMS FOR FUTURE AGENDA

- Landscape ordinance to be discussed in the fall.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Kerr Fest event August 6-7 at the Youth Exhibition Center.
- Special city council meeting Friday, July 29 at 2:30 regarding LCRA/CREZ.

10. EXECUTIVE SESSION:

Ms. Keeble moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), of the Texas Government Code; the motion was seconded by Mr. Allen and passed 4-0 to discuss the following:
Section 551.071:

- LCRA Transmission Services Corporation proposed McCamey D to Kendall to Gillespie 345-kV CREZ Transmission Line in Schleicher, Sutton, Menard, Kimble, Mason, Gillespie, Kerr, and Kendall Counties, Texas. Public Utility Commission of Texas (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 98th District Court of Travis County.

At 8:45 p.m. the regular meeting recessed and council went into executive closed session at 8:48 p.m. At 9:22 p.m. the executive closed session recessed and council returned to open session at 9:22 p.m. Mayor Wampler announced that no action had been taken in executive session.

11. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION: None.

12. ADJOURNMENT. The meeting adjourned at 9:22 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary