

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
AUGUST 23, 2011

On August 23, 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 Bill Blackburn of Partners in Ministry, followed by the Pledge of Allegiance led by Brooke Meismer, daughter of Kim Meismer.

MEMBERS PRESENT:

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| David Wampler | Mayor |
| Gene Allen | Mayor Pro Tem |
| Carson Conklin | Councilmember |
| T. Scott Gross | Councilmember |
| Stacie Keeble | Councilmember |

MEMBER ABSENT: None

EXECUTIVE STAFF PRESENT:

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|------------------|------------------------------------|
| Todd Parton | City Manager |
| Mike Hayes | City Attorney |
| Brenda G. Craig | City Secretary |
| Kristine Ondrias | Assistant City Manager |
| Travis Cochran | 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 |
| Mindy Wendele | Director of Business Programs |

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

1. VISITORS/CITIZENS FORUM:

1A. Robert Naman stated he had not seen many kids using the new sidewalk on Glen Road, but a large Doberman uses the sidewalk in front of his house regularly.

2. CONSENT AGENDA:

Mayor Wampler removed item 2G from the consent agenda.

Mr. Conklin moved for approval of items 2A - 2F, and 2H; Ms. Keeble seconded the motion and it passed 5-0:

2A. Approval of the minutes of the special and regular Kerrville City Council meetings held August 9.

2B. Authorize execution of a contract with M & C Fonseca Construction Company for the construction of the Burleson Boulevard drainage project in an amount not to exceed \$370,000.00.

2C. Authorize execution of a contract with BKD, LLP to provide auditing services for fiscal years ending September 30, 2011, 2012, and 2013 with option for 2014 and 2015 in the amount of \$54,590 annually.

2D. Resolution No. 030-2011 amending the City of Kerrville fee schedule by revising fees charged for various services and uses provided or offered by the city.

2E. Resolution No. 031-2011 adopting amendments to the City of Kerrville investment policy regarding the investment of city funds in accordance with the public funds investment act.

2F. Approval of the investment policy of the City of Kerrville, Texas Economic Improvement Corporation.

2H. Authorize execution of the administrative services contract between the City of Kerrville and the City of Kerrville, Texas Economic Improvement Corporation for fiscal year 2012.

END OF CONSENT AGENDA

2G. Authorize termination of the tax collection contract between the City of Kerrville and Kerr County.

Diane Bolin, county tax assessor-collector, noted the county had contracted tax collection services for the city for 26 years and the contract remained largely unchanged. Her office had an excellent relationship with city taxpayers and did all calculations, publication notices, and kept in line with the state comptroller's office and issued checks for overpayments when necessary. She requested the opportunity to review and renegotiate the delinquent tax contract with the city manager to adjust the collection rate to be more equitable.

Mr. Parton noted that under the current contract the city paid the county 1% of the amount collected, about \$90,000, for the service; the KISD tax office would provide the same service at .43%, a savings of about \$50,000 annually.

Council noted that if the contract was not cancelled by September 1, it would automatically renew for another year; cancelling the contract would give the city manager authority to renegotiate the contract.

Ms. Keeble moved to authorize the city manager to terminate the existing taxing collection contract with the county as presented; Mr. Gross seconded the motion and it passed 5-0.

3. PUBLIC HEARING:

3A. Proposed ad valorem (property) tax rate for tax year 2011/fiscal year 2012.

Mr. Erwin noted the proposed FY12 ad valorem tax rate was \$.5625, the same as FY11, and 4.4% below the effective rate of \$.5888; .489 was for maintenance and operations, and .0735 was for debt service. The proposed tax rate of \$.5625 would generate \$314,000 less than FY11.

Mayor Wampler declared the public hearing open at 6:12 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:12 p.m.

4. ORDINANCE, SECOND AND FINAL READING:

4A. Ordinance No. 2011-17 approving a negotiated resolution between the Atmos Cities Steering Committee (ACSC) and Atmos Energy Corp., Mid-Tex Division regarding the company's fourth annual rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; repealing conflicting resolutions or ordinances; 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 committee's legal counsel. Mayor Wampler read the ordinance by title only.

Mr. Hayes stated that Atmos had applied for a \$15.7 million rate increase; ACSC negotiated the settlement to \$6.6 million; this ordinance would approve this negotiated settlement. He noted the cost to the city to be a member of ACSC last year was \$450; he did not have the cost yet for this year. If the city was not a member of ACSC, Kerrville would be on its own to negotiate the rate with Atmos. There had been no changes to the ordinance since first reading, and he recommended approval.

Mr. Allen moved for adoption of Ordinance No. 2011-17 on second and final reading; Mr. Conklin seconded the motion and it passed 5-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Disbursement of the hotel occupancy tax funds for fiscal year 2012.

Mr. Erwin presented the HOT distribution as previously instructed by council, as follows: \$741,250 for Convention and Visitors Bureau (CVB) annual operations; \$105,000 for the special events program; and \$53,750 for arts coalition advertising.

Council noted only \$53,750 for distribution to the nine arts groups that applied for HOT funds; rather than give each entity a small amount for advertising, council felt advertising could best be accomplished through a cooperative marketing plan managed by the arts coalition.

The following person spoke:

1. Andy Simon, representing the Museum of Western Art, questioned who was in the arts coalition and noted that each organization knew what was best for their organization; he would like to see the museum board have more control over tax dollars spent for the museum.

Mayor Wampler noted that the arts coalition was made up of representatives from the participating arts organizations, which included the Museum of Western Art.

2. Sudie Burditt, executive director of CVB, stated the arts coop had been working well the past few years; they would all work together and come up with a marketing plan and make it work as best they could.

3. Robert Naman, stated he had not seen audits of the city or CVB, but he questioned the extra \$105,000 and proposed establishing a blue ribbon committee to look at what other cities were doing, and to bring events to Kerrville.

Mayor Wampler noted that the purpose of the special events program would be to hire a person to solicit and manage events, e.g. music festivals, etc. HOT funds had to be used to promote Kerrville and council had chosen to budget \$105,000 out of HOT revenue to fund a special events program using funds that could have been allocated to arts programs. Regarding CVB's budget, the city received a budget report monthly and it was available to the public. The special events program would be funded for 2-3 years; if it was successful and increased HOT funds, it likely would be continued.

Council discussed having more clarity in the CVB monthly statements.

Mr. Gross moved to approve the disbursement as presented; Mr. Conklin seconded the motion and it passed 5-0.

5B. Update and possible direction concerning the use of gray water reuse systems.

Mr. Hastings provided information on the effect gray water reuse would have on the city wastewater system as requested by council. He reviewed pros and cons of gray water reuse and recommended, if council chose to proceed, that council direct staff to prepare an ordinance amending the plumbing code to allow the use of gray water reuse systems to capture approximately 10% of the gray water resource. An ordinance could be drafted to adopt TCEQ regulations already in place. He opined that the current staffing level would be sufficient to handle the number of requests anticipated.

Council did not anticipate that allowing gray water reuse systems would have a significant impact on individual properties; however, it would be one tool in water conservation. Council requested the issue be reviewed in one year.

The following person spoke:

1. Bruce Stracke noted TCEQ guidelines required that any gray water reuse be limited to subsurface use only.

Mr. Gross moved to instruct staff to proceed as recommended; Mr. Conklin seconded the motion and it passed 5-0.

5C. Submission of funding requests to the City of Kerrville, Texas Economic Improvement Corporation (EIC) for various capital projects.

Mr. Parton noted on August 10 the Council and EIC reviewed the five year capital improvement plan, and four priorities were proposed for 4B funding totaling \$8 million:

- Utility extension on the west side of Harper Highway
- River trail phases I, II, and III, six miles along the Guadalupe River
- Louise Hays Park improvements
- Downtown streetscape improvements.

Mr. Parton noted on August 15 EIC voted to direct staff to draft funding agreements and schedule public hearings for the September 19 meeting.

Council also discussed the following:

- Economic efforts are hampered by lack of utilities. Funding projects that would extend utilities into commercial areas would open areas for development and provide economic development and create jobs, for example, the Harper Highway utility extension project would allow development of 50-55 acres.
- The city's CIP anticipated a debt issuance of \$6.4-6.5 million in FY12 to fund major utility projects; with anticipated increase of \$.30/1,000 water and \$.50/1,000 gallons wastewater.
- For many years the city spent only \$130,000 annually on infrastructure; the city was now having to play catch up.
- After debt payments, 1/3 of the annual 4B revenue would still be available for other projects that may be presented.
- Quality of life projects such as the river trail will enhance the community and encourage growth and tourism. The river was underutilized; efforts should be made to make the river more attractive and allow more public access.

The following persons spoke:

1. Bill Blackburn noted 25 years ago he served on a committee looking at river front issues, and he served on the comprehensive plan committee in 2002; a river trail system had been discussed for many years, and it was time to move forward. He opined that it would provide economic impact and would benefit the community.
2. Barbara Burton spoke regarding concern for property rights issues. She owned one property on the north side of the river on Guadalupe Street; she was a proponent for the river trail being on the south side of the river on property she believed was owned by the state.
3. Joe Abrigo, expressed concern that about the river trail. Considering the current drought he asked if council had considered moving the dam. He was also concerned about private property issues.
4. Mike Springer said he was not against a river trail, but he was concerned about private property. He opined that one housing development on Guadalupe Street had changed the flow of the river and destroyed wildlife and native vegetation.

Ms. Keeble moved to direct staff to proceed with additional funding request to EIC; Mr. Gross seconded the motion and it passed 5-0.

5D. Consideration of interlocal agreements between the City of Kerrville and Kerr County regarding public safety, library, airport, and animal control operations.

Mr. Parton noted he received executed agreements for library, public safety, and animal control.

Mayor Wampler noted the city gave notice of termination of the airport agreement to the county in January, and effective October 1 there would be no operating agreement for the airport. He spoke with Commissioner Letz but there were procedural disagreements about who would attend meetings to negotiate the agreement and who would sign the contract; he opined that these were functions of the owners of the airport who make policy decisions, i.e. the city and county.

6. INFORMATION AND DISCUSSION:

6A. Budget and economic update.

Mr. Erwin noted local unemployment at 7%; monthly sales tax increased 7.5% and HOT increased 2.8% from August 2010 to August 2011.

Mayor Wampler noted the FY12 budget focused on sustainability and rebuilding the fund balance.

As of July 31, general fund revenue was at \$18 million; expenditures at \$15 million; water/sewer fund revenue at \$8 million; expenditures at \$7.1 million. Regarding fund balance, Standard & Poor's recommended a minimum of 15%; 25% was considered very strong. In April 2011 S&P noted the city's fund balance had declined and if that continued, they could lower the city's rate, thus affecting the city's ability to issue debt and the rate of any debt issuance. The Government Finance Officers Association recommended no less than two months of regular general fund operating revenues or regular general fund operating expenditures; i.e. 16.67%. The city's FY10 audit showed the city's general fund balance at 14%. The FY12 budget proposed a general fund balance of \$3 million, equal to 15%. The fund balance would give the city ability to fund emergencies; the fund balance was funded through reduction in expenditures, not through an increase in property taxes.

7. BOARD APPOINTMENTS:

7A. Building board of adjustment and appeals.

Mr. Conklin moved to appoint John Hewitt as the professional engineer; and to reappoint the following: Garrett Harmon, architect; Kenneth Bledsoe, contractor; Dwayne Downey, construction industry; and John Priour, alternate member; all with terms to expire August 31, 2013. Mr. Allen seconded the motion and it passed 5-0.

7B. Kerrville-Kerr County joint airport board. Deferred to executive session.

7C. Library advisory board.

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

8. **ITEMS FOR FUTURE AGENDA:** None.

9. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** None.

10. **EXECUTIVE SESSION:**

Mr. Gross moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), and 551.074 (personnel matters) of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 5-0 to discuss the following items:

Section 551.071:

- Contemplated litigation involving a claim against C&C Groundwater Services regarding aquifer storage recovery well 3 (ASR3).

Section 551.071:

- Consult with attorney about pending or contemplated litigation or settlement of same relating to Janet Holmes vs. City of Kerrville, Texas, No. SA10CA0970 OG (U.S.D.C. Western District, San Antonio Division).

Section 551.074:

- Appointment/reappointment to the Kerrville-Kerr County Joint Airport Board.

At 7:51 p.m. the regular meeting recessed and council went into executive closed session at 8:02 p.m. At 8:58 p.m. the executive closed session recessed and council returned to open session at 8:59 p.m. Mayor Wampler announced that no action had been taken in executive session.

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

10. Contemplated litigation involving a claim against C&C Groundwater Services regarding aquifer storage recovery well 3 (ASR3)

Mr. Allen moved to reject the letter from C&C Groundwater Services; Mr. Gross seconded the motion and it passed 5-0.

7B. Kerrville-Kerr County joint airport board.

Mr. Conklin moved to reappoint Stephen King and to appoint Ed Livermore with terms to expire on June 1, 2013; Ms. Keeble seconded the motion and it passed 5-0.

12. **ADJOURNMENT.** The meeting adjourned at 9:00 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary