

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
SEPTEMBER 13, 2011

On September 13, 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 Patty Edwards, Unity Church of the Hill Country, followed by the Pledge of Allegiance led by Stan Bujak, of the Military Officers Association of America.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

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
Robert Ojeda	Fire Chief

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

1. VISITORS/CITIZENS FORUM: The following person spoke.

1A. Barbara Whipple noted September was childhood cancer awareness month and encouraged council and the community to support families who were experiencing this illness. Mayor Wampler instructed staff to prepare a proclamation for the next council meeting.

2. RECOGNITIONS AND COMMENDATIONS:

2A. Police Officer Paul Gonzales—Ray Ramon Peace Officer of the Year Award.

3. CONSENT AGENDA:

Mr. Hayes clarified that the correct amount of Item 3C was \$125,000, noting that some agendas were printed with the wrong amount.

Mr. Conklin moved for approval of items 3A – 3I; Mr. Gross seconded the motion and it passed 5-0:

- 3A. Approval of the minutes of the special city council budget workshop held August 22 and the regular city council meeting held August 23, 2011.
- 3B. Resolution No. 032-2011 authorizing the closure of a portion of State Highway 27 during certain hours for the Kerrville Triathlon Festival 2011.
- 3C. Professional services agreement with Espey Consultants, Inc. in the amount of \$125,000.00 to perform engineering design and construction management services for the ASR #3B project.
- 3D. Resolution No. 033-2011 adopting a list of qualified brokers that are authorized to engage in investment transactions with the city.
- 3E. Extension of the existing contract with Maxey Energy for bulk fuel and card services through September 30, 2012.
- 3F. Approval of the City of Kerrville, Texas Economic Improvement Corporation (EIC) purchase and sale agreement with the Kerr Economic Development Foundation (KEDF) for the purchase of approximately 86.71 acres located at 300 Peterson Farm Road.
- 3G. Contract with Kerr County Tax Assessor/Collector for conducting the City of Kerrville General Election to be held on May 12, 2012, estimated at \$6,152.42.
- 3H. Land Lease for Off Airport property between the City of Kerrville and the Federal Aviation Administration (FAA) providing land rights to the FAA for an outer marker and compass locator site.
- 3I. Authorization to make application to the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant (AFG) for fire and EMS equipment in an amount not to exceed \$326,640 for thirty-five (35) high pressure self-contained breathing apparatus, and an amount not to exceed \$74,623 for six (6) powered ambulance cots (stretchers).

END OF CONSENT AGENDA

4. FISCAL YEAR 2012 BUDGET PUBLIC HEARINGS AND ORDINANCES, FIRST READING:

4A. Public hearing for ad valorem tax rate for tax year 2011/fiscal year 2012.
Mr. Erwin proposed the ad valorem tax rate at \$.5625, the same as FY11, which was 4.4% below the effective tax rate of \$.5888; \$.489 was for maintenance and operations, and \$.0735 for debt service. The proposed tax rate of \$.5625 would generate \$314,000 less than FY11.

Mayor Wampler declared the public hearing open at 6:15 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:15 p.m.

4B. An ordinance levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2012; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid.
Mayor Wampler read the ordinance by title only.

Ms. Keeble moved for approval of the ordinance on first reading; Mr. Gross seconded the motion and it passed 5-0.

4C. Public hearing for fiscal year 2012 budget.

Mr. Erwin noted the following with regard to the FY12 budget:

- The general fund would generate \$20,452,406 in revenue, with expenditures of \$20,052,133.
- Water and sewer fund would generate \$8,886,244 in revenue, and \$8,809,406 in expenditures.
- Proposed a water and sewer infrastructure debt issuance of \$6,297,400.
- Water and sewer fund proposed no rate increase in FY12; anticipated a rate increase in FY13 to fund debt issuance.
- Proposed a \$7 million debt issuance funded by the economic improvement corporation.
- Proposed 305 full time employees, which was down from 323 in FY10.

Mayor Wampler declared the public hearing open at 6:20 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:20 p.m.

Mr. Parton compared the net impact of the interlocal agreements between the city and county from FY11 to FY12. He noted the net impact to the county would be an additional increase of \$42,739 for fire/EMS, library, animal control and airport; however, the proposed increase of \$50,000 to the city for prisoner housing would result in a net cost savings to the county of \$7,261. In addition, city staff had proposed additional cuts in the airport budget that would increase the county's net cost savings. The city's net change from FY11 to FY12 would be an additional cost increase of \$182,261.

Mayor Wampler noted that as proposed, the FY12 budget would result in a net cost savings in the county's allocation for the interlocal agreements; however, the commissioners were proposing a tax increase based on the cost of the city providing fire and EMS services for county citizens. He noted that negotiating the interlocal agreements with the county had been an eleven month process that began in October 2010. The council remained firm in its commitment to use the city's finite resources to protect and provide services that would benefit city taxpayers.

Councilmembers also noted that the council had begun the process of renegotiating the interlocal agreements in order to ensure that both entities received and paid their fair share for the services provided. The cost for fire/EMS did increase substantially to the county; however, the cost for airport, animal control, and jail fees increased substantially to the city.

4D. An ordinance adopting the annual budget for the fiscal year 2012; providing appropriations for each department and fund; containing a cumulative clause; and containing a savings and severability clause. Mayor Wampler read the ordinance by title only.

Mr. Conklin moved for approval of the ordinance on first reading; Ms. Keeble seconded the motion and it passed 5-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Revision to sign ordinance concerning clarification of regulation of changeable electronic messages.

Mr. Coleman discussed several concerns regarding the current sign ordinance:

- Perceived gap that allowed some changing message signs but restricted others.
- Prohibited high resolution screen signs that changed display or message, and allowed lighted traveling message boards.
- Argument that prohibited screen signs were no more of an appearance issue, nuisance, or traffic hazard than traveling message boards, which were allowed.
- Prohibited the use of flashing lights as signs.
- Perceived inconsistencies in the ordinance resulted in enforcement difficulty.

Mr. Coleman requested direction on the following:

- Continue to allow traveling messages but restrict changeable screened messages.
- Change to prohibit, or allow, both traveling message signs and changeable screened message signs.
- Should other type of signs also be addressed, e.g. feather flags, inflatables, beacons, banners, stationary vehicles.

Mr. Coleman discussed aspects that council might consider with regard to electronic signs, e.g. focus on technology, operation, definition, location, brightness, and whether to limit placement to monument signs only. Further, he suggested that other types of signs be allowed for temporary use only, e.g. grand openings, etc., and restricted by time and location. He noted that any new restrictions with regard to size and location would not apply to existing signs; however, operational restrictions would apply to all signs.

The following persons spoke:

1. Polly Rickert questioned what a monument sign was and if signs could be regulated based on zoning. Mr. Coleman showed several monument signs and noted signs were regulated based on the zoning district in which it was located.
2. Cory Traub, sign company owner, noted a study by the US Sign Association stated that not one traffic accident was the result of a sign. The current sign ordinance was unclear and conflicting; travelling lighted message signs were allowed. He opined that screened message signs were safer and less distracting than scrolling message signs. Also, scrolling signs were obsolete and parts were difficult to find; significant technological changes had occurred, and only screened signs were available now. He suggested the city regulate other aspects of signs such as intensity, brightness, size, location, and message content. He offered assistance in writing sign ordinance revisions.
3. David Lipscomb questioned if there was a limit on the number of feather flags that could be placed at any one location. Mr. Coleman noted the current ordinance allowed up to six flags per property.

4. Traci Carlson, executive director of the chamber of commerce, recommended that any regulations be concise and easily understood.

The consensus of the council was that staff should present changes for council's consideration at a future meeting prior to drafting an ordinance.

5B. Interlocal agreement between the City of Kerrville and Kerr County regarding airport operation and supporting budget.

Mr. Parton noted the current interlocal agreement for airport operations would terminate October 1, and discussions between city and county representatives had not resulted in a new agreement. He provided a list of contractual and operational requirements that must be met by the city and county as owners of the airport and offered two options to address those requirements and continue operations on an interim basis until a new agreement could be negotiated with the county. Under both options the city and county would share in the functions and costs; both options represented significant cost savings for the city and county. He noted the airport budget had a reserve fund of \$250,000, of which \$200,000 was unrestricted funds. He opined that the county was the logical lead (Option A) to continue management. Both options were provided to the county on Friday but a response had not been received to date. The objective was to continue operations and commitments on an interim basis until a new agreement was signed by both owners.

Mayor Wampler noted the city gave notice of cancellation with intent to renegotiate a new airport interlocal agreement in early January 2011; however, last year the county requested that negotiations regarding the airport be deferred until the end of this fiscal year after other interlocals had been resolved. The council was very appreciative to the airport board members for their service; however, he stressed that the proposal being discussed was for temporary operation of the airport until a new interlocal agreement was in place.

The following persons spoke:

1. Fred Vogt, former airport board vice-chair, noted the credentials of airport board members and felt an agreement between the city and county could be worked out before October 1 and a budget could be developed thereafter.

2. Tom Moser, airport board vice-chair, stated he was involved in preparation of the proposed FY12 budget and the airport board and manager operated a cost effective operation. He noted the reputation of the airport was at stake and reviewed the expertise of the airport board members and manager. He discussed the projects completed and underway, including a master plan and economic development marketing plan, and noted airport maintenance was a big responsibility. The airport board's objective was to create a revenue neutral airport operation, and he reviewed several options to meet that objective, including construction of additional hangars, and enticing corporate jets to Kerrville. Mr. Moser requested council table action and keep the current agreement in place

until a new one was negotiated. He suggested two members be appointed from the city, county, and airport board to meet and resolve each issue of concern. Airport board members would provide assistance and answer questions and then walk away and let the city and county representatives negotiate the agreement. He was optimistic that the issues could be resolved and a new agreement could be negotiated in one day, and then a budget could be established.

3. Ed Livermore, airport board member, felt that council did not have all the facts about the airport operation and budget and this could be resolved by meeting with the airport board. The city was an equal owner/stockholder in the airport, and had an obligation to understand what was going on at the airport, but councilmembers did not attend airport board meetings. He gave several examples of things that had been accomplished by the airport manager and board. He suggested council: 1. Table the proposal for two weeks; 2. Agree to a meeting with the airport board and get all questions answered; and 3. Appoint one representative from the city, and he would ask the county to appoint one representative, and they could negotiate the points for a new interlocal agreement.

4. Ilse Bailey, attorney for the airport board, stated she had seen how the airport operated under several scenarios during the past 20 years, having also served in the city and county attorneys' offices. She asked council to extend the current interlocal agreement for one year, keeping the current board in operation, and during that year workout the issues in the agreement with the county. She recognized the management and business experience of the board members and the manager and noted it would be difficult to lose people with such expertise at a time when so many projects and things were happening at the airport.

5. Polly Rickert encouraged council to gather all the facts and try to accomplish an agreement; she understood the time constraints, but it was not complicated and the city and county should be able to resolve the issues within two weeks; however, if not, she preferred the city take the lead on the airport and if the county could not work part way then shame on them.

Council also discussed the following:

- The airport budget was much more expensive than it should be, and the budget presentation made to the city council in a past meeting lacked adequate response to questions.
- The airport board was not an owner of the airport; the interlocal agreement for the management of the airport operation was the responsibility of the city and county as the owners of the airport.
- It was highly unlikely that an agreement could be in place before the current interlocal expires on September 30 considering negotiations had gone on for nine months. A backup plan was necessary to keep the airport operating day to day.
- Having corporate jets in Kerrville could also increase the ad valorem tax base.

- The city cared about the airport operation and did not wish to undermine any future planning; that was the reason for trying to establish a temporary plan to keep the airport operating until a new agreement could be finalized.
- The council shared the airport board's objective to create a revenue neutral airport operation that was sustainable and created economic development for the community. The county voted to reduce its funding commitment to the Kerr Economic Development Corporation.
- Councilmembers did not attend airport board meetings; during the restructuring of the airport board several years ago, the board was set up to operate autonomously, and the council respected that. The council did send executive staff to all meetings.

Mr. Gross moved to continue negotiations with the county, with airport board representatives in attendance in an advisory capacity, and if an agreement could not be finalized before expiration of the existing interlocal agreement, then proceed with Option A for the county to take the lead and functions be shared. The motion died for lack of a second.

Ms. Keeble moved to direct Mayor Wampler and Councilmember Conklin to continue to meet with county representatives, without airport board members present, to try to negotiate a one year interlocal agreement and budget for the continued operation of the airport.

Mr. Parton noted that the county had been emphatic that they would not have communication regarding the airport interlocal agreement or budget without representatives of the airport board present.

The motion was seconded by Mr. Gross and passed 5-0.

5C. Interlocal agreement between the City of Kerrville and Kerr County regarding inmate housing.

Mr. Parton noted County Judge Tinley provided notice of the county's intent to terminate the inmate housing agreement. Police Chief Young had been working with Sheriff Hierholzer since April 2011 on a new agreement whereby the sheriff would accept city prisoners at \$45 per day, an increase from \$37, thus increasing the city's cost for this service from \$25,000 in FY11 to approximately \$75,000 for FY12. The city and county attorneys had drafted an agreement to this effect.

Mr. Parton noted in 2009 the county justices of the peace requested assistance with magistration duties to alleviate their workload by means of including city part-time municipal court judges in rotation. This request was denied by city council; however, the city did create a juvenile docket in municipal court to take all juvenile cases to help alleviate the JPs workload. The county JPs then contacted KISD and stated they desired to keep junior high and elementary cases in their courts. In addition, the city municipal court judges assumed warrant responsibilities working with district judges. He noted that the city's two

part-time municipal court judges were willing to participate in rotation.

Mr. Parton recommended approving the draft inmate housing agreement at \$45 per day as negotiated by the police chief and sheriff, and to allow the municipal court judges to enter into the rotation cycle, one out of every five weeks, to relieve the workload of the county JPs, at additional cost to the city. He noted the inmate housing agreement had been considered by the commissioners' court on September 12; however, it was rejected.

Mayor Wampler stated that in February Judge Tinley assured him that the county judicial system and jail service would be available for all citizens of the county, and it appears that now the commissioners were withholding court and jail services from city citizens unless the city taxpayers paid more.

Council discussed the following points:

- City citizens paid for court service and jail service through their county tax, the same as county citizens did; the commissioners were proposing to withhold those services from the city citizens who paid for it.
- The increase from \$37 to \$45 was a 200% increase from FY11 to FY12.
- If the city magistrated prisoners before taking them to the jail, then the county had the responsibility to house prisoners and the city was not under any obligation to pay anything for housing prisoners.
- In the spirit of compromise, would be willing to allow municipal court judges to participate in rotation, if they desired to do so, and pay them for their additional time.
- County justices of the peace were elected by the voters to perform magistration services throughout the county; were they proposing to withhold that service from city taxpayers who elected them? Magistration duties should not be the responsibility of part-time municipal court judges, and city taxpayers should not have the responsibility of paying additional cost for these services.

The following person spoke:

1. Ruth Spradling asked why county commissioners did not approve the agreement, whether they had withheld action on the inmate housing agreement until the city agreed to participate in magistration duties. Mr. Parton believed that was the case.

Mr. Allen moved to accept the inmate housing agreement negotiated by the police chief and sheriff at \$45; Mr. Conklin seconded the motion and it passed 5-0.

Mr. Allen moved to allow the two part-time city municipal court judges to participate in rotation of magistration duties if the county would allow them to do so. Mr. Gross seconded the motion and it passed 4 to 1 with Messrs. Allen, Gross, Conklin, and Wampler voting in favor of the motion; and Ms. Keeble voting against the motion.

6. INFORMATION AND DISCUSSION:

6A. Budget and economic update.

Mr. Erwin reported a continued slow down in unemployment, noting only 35,000 jobs were created each month nationally for the last three months. The September 2011 sales tax payment was a 3.9% decrease from September 2010; this was the first decrease in several months. He reported that staff recently mailed out the first set of water bills for the time period since implementation of Stage 4 water restrictions and there had been a 19% decrease from the previous month.

7. BOARD APPOINTMENTS:

7A. City of Kerrville, Texas, Economic Improvement Corporation.

Item was deferred to executive session.

8. ITEMS FOR FUTURE AGENDA

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

9A. Water supply report. Mr. Hastings reported the city had cut back from 2 million gallons a day (mgd) to 1 mgd from the lake, and the lake level had dropped about four feet since June. About 150 million gallons (mg) of water had been used from the ASR wells, leaving about 665 mg. The city was pumping about 1-1.5 mgd of groundwater. The city's water system was at 77-78% of safe operating capacity. The aquifer level in the city's groundwater wells had dropped and the city's pumping capability had dropped to about 50%. Some of the city's larger pumps were drawing down the level, and when the aquifer level drops the larger pumps begin to suck air; the city may have to install restrictive devices to slow down water flow in order to continue to use existing pumps, or install smaller pumps. Staff would continue to monitor the situation.

10. EXECUTIVE SESSION:

Mr. Conklin moved for the city council to go into executive closed session under 551.074 (personnel matters) of the Texas Government Code; the motion was seconded by Mr. Allen and passed 5-0 to discuss the following item:

Section 551.074:

- Appointment to the City of Kerrville, Texas, Economic Improvement Corporation.

At 9:34 p.m. the regular meeting recessed and council went into executive closed session at 9:34 p.m. At 9:51 p.m. the executive closed session recessed and council returned to open session at 9:52 p.m. Mayor Wampler announced that no action had been taken in executive session.

11. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

7A. City of Kerrville, Texas, Economic Improvement Corporation.

Ms. Keeble moved to appoint Polly Rickert with term to expire June 1, 2012. Mr. Gross seconded the motion and it passed 5-0.

12. **ADJOURNMENT**. The meeting adjourned at 9:53 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary