

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
MARCH 23, 2010

On March 23, 2010, the Kerrville City Council meeting was called to order by Mayor Bock at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Reverend William Perkins of the First Assembly of God Church, followed by the Pledge of Allegiance led by Mayor Bock.

MEMBERS PRESENT:

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|-------------------|---------------|
| Todd A. Bock | Mayor |
| R. Bruce Motheral | Mayor Pro Tem |
| Chuck Coleman | Councilmember |
| T. Scott Gross | Councilmember |
| Stacie Keeble | Councilmember |

MEMBER ABSENT:

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 |
| Kevin Coleman | Director of Development Services |
| Charlie Hastings | Director of Public Works |
| Mindy Wendele | Director of Business Programs |
| Robert Ojeda | Fire Chief |
| Antonio Martinez | Director of Library Services |
| Mike Erwin | Director of Finance |
| Mike Wellborn | City Engineer |
| Stuart Barron | Water and Wastewater Manager |

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

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

2. **RECOGNITION AND COMMENDATIONS:**

2A. Proclamation recognizing Nan Hazeltine for receiving the Congressional Gold Medal honoring Women Airforce Service Pilots in WWII. (Mayor Bock)

2B. Proclamation supporting Kerrville letter carriers participation in NALC food drive. (Mayor Bock)

2C. Proclamation supporting the American Cancer Society's "Bark For Life" event on March 27. (Mayor Bock)

3. **CONSENT AGENDA:**

Mr. Coleman moved for approval of items 3A through 3F; Mr. Motheral seconded the

motion and it passed 5-0:

3A. Resolution No. 008-2010 abandoning a waterline and wastewater line easement located within the Maud Jennings Subdivision; and ordering recording.

3B. Approve purchase of wastewater treatment chemicals through Texas SmartBuy program in an amount not to exceed \$30,000.

3C. Resolution No. 004-2010 appointing election judges; adopting an electronic counting system; establishing a central counting station; appointing a central counting station manager; appointing a tabulation supervisor; appointing the central counting station presiding judge; and authorizing early processing of ballots for the general election called for May 8, 2010.

3C. Resolucion 004-2010 para poner jueces electos; adoptando un sistema electronico de cuentas; estableciendo una cuenta central; poner un gerente publico para la estacion de central; poner un gerente publico para la estacion de cuenta centrales; poner un supervisor de tabulacion; estableciendo la estacion de cuentas centrales precidiendo el juez y autorizando el proceciamento temprano de las bolletas para la eleccion general que se llevara acabo el 8 de Mayo del 2010.

3D. Resolution 005-2010 authorizing the submission of a grant application to the Office of the Governor, Criminal Justice Division, by the city of Kerrville for funding from the state; and designating the police chief as the city's authorized official.

3E. Approve an amendment to the professional services agreement with Hewitt Engineering, Inc., which was for engineering design for the Methodist Encampment water production well, by changing the scope of services to include design work for an aquifer storage and recovery well and increasing the authorized fee from \$75,080.00 to \$80,380.00.

3F. Resolution No. 006-2010 authorizing the city manager and the city's water/wastewater manager to act as the city's duly authorized officials with respect to the city's water permits and water rights applications before the Texas Commission on Environmental Quality.

END OF CONSENT AGENDA.

4. ORDINANCE, SECOND AND FINAL READING:

4A. Ordinance No. 2010-06 amending the budget for fiscal year 2010 to allow for adjustments to various funds. Mayor Bock read the ordinance by title only.

Mr. Erwin reviewed decreases in revenues and expenditures and delays in capital improvement projects as proposed by staff to amend the FY 10 budget due to economic conditions. The budget amendment recognized a decrease in general fund revenues of \$991,975 and a decrease in expenditures of \$994,160, as well as adjustments to other funds and capital improvement projects. He noted a change since first reading, the amendment included a possible grant for the police department (Item 3D above).

Mr. Coleman moved for approval of Ordinance No. 2010-06 on second and final reading; Mr. Gross seconded the motion and it passed 5-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Authorize submission of transportation thoroughfare projects to the Texas Department of Transportation and the Alamo Regional Rural Planning Organization (ARRPO) for possible future funding and grants.

Mr. Hastings noted TxDOT had a small amount of discretionary funds targeted at passing lanes on narrow rural roads and left turn lanes for safety; staff prepared a list of possible projects. The council also discussed including turn lanes on Highway 173; however, Mr. Hastings stated he had new information from TxDOT regarding SH173 and he would provide an update to the council in the future.

Mr. Gross moved to authorize the submission of a left turn lane on Holdsworth Drive at the Kroc Center for funding by TxDOT, and submission of a list "City of Kerrville Alamo Regional Rural Planning Organization Thoroughfare Plan Needs" for future potential funding and grants. Mr. Motheral seconded the motion and it passed 5-0.

5B. Routing options for the Lower Colorado River Authority project known as the McCamey D to Kendall to Gillespie Competitive Renewable Energy Zone (CREZ) 345-kv transmission line.

Mr. Hastings noted CREZ wind generation facilities were being installed throughout West Texas and transmission facilities were being built to connect to other areas of the state. LCRA was in the process of setting routes to construct new transmission lines to connect the facilities and proposed to construct two new 345 kilovolt transmission lines: 1. McCamey D. Station in northern Schleicher County to Western Kendall County; and 2. and Kendall Station in western Kendall County to Gillespie Station in central Gillespie County. In general, LCRA was attempting to follow existing utility easements and highway right of ways; one of the proposed routes was along I-10. The filing deadline for routes to the Public Utility Commission was July 6, 2010. The city could request a contested hearing.

Kerr County Commissioner Jonathan Letz confirmed the county had tabled the matter and rescheduled it for their next meeting in order to prepare a resolution requesting LCRA keep the line out of Kerr County as much as possible; try to minimize impact on real estate values; and use mono poles instead of lattice poles.

The council noted one proposed route went through central Kerrville.

Mr. Gross moved to instruct staff to prepare a resolution for the city council to adopt at the next meeting stating the city's opposition to Route Y16 to Y20 along the IH-10 and Hwy. 16 corridors. The resolution should also support the county's resolution and cite those objections that pertained to the city. Mr. Coleman seconded the motion.

The following person spoke:

1. Allen Polzin suggested council request the route be moved further north from the city; there was no advantage to having the line so close to the city.

The motion passed 5-0.

5C. Interlocal agreement between the City of Kerrville and Kerr County regarding the regulation of subdivisions within the City of Kerrville extraterritorial jurisdiction pursuant to Texas Local Government Code Chapter 242.

Mr. Motheral presented a draft set of blended standards using the city and county requirements and applying the strictest requirement where there was a difference. He noted the process he envisioned required developments to be submitted to the city and processed through the planning and zoning commission. The county would be notified and involved at the beginning and throughout the process. The final plat would have a place for the county to sign for on-site septic, floodplain, and roads, if the road was to be a public road maintained by the county. The draft provided that lots greater than five acres would be allowed to have a privately-owned well if it was permitted by Headwaters. If the developer wanted more density, they would have to build to city standards for water and sewer.

Kerr County Commissioner Jonathan Letz stated he did not agree with comments made at past council meetings and some information previously discussed by the city had been incorrect. He reviewed the timeline and noted in 2002 the state law went into effect, and in 2005 the city and county had an interlocal agreement that complied with the 2002 law; that agreement stated that city rules would apply in the ETJ. In November 2007 Kerr County became a Subchapter C county and that made Kerr County in violation of state law because of that agreement. In February 2008 the county notified the city and requested to modify that agreement. August 2008 the county gave notice to the city that it would terminate the agreement. January 2009 the county submitted a temporary fix with a 30 day renewal. February 2009 the county formally terminated the agreement because the county was in violation of state law. The Texas Water Development Board notified the county they had strict compliance of Subchapter C and the agreement with the city put the county in violation. In July 2009 the city and county had been working toward a plan to draw boundary lines to divide the ETJ area; then the city and county decided not to divide the ETJ but to develop blended standards. He had been working with Mr. Motheral and felt the standards were very close but some things still needed to be corrected. He had discussed several issues that the county had, and he and Mr. Motheral had met with the city and county attorneys to resolve those issues.

Mr. Letz stated the message from Kerr County Commissioners' Court was that they did not want to go to arbitration. He should find out what the city's issues were. He proposed the city and county attorneys review the legal issues of the document. The county would not sign any agreement that would place the county out of compliance with TWDB rules for subdivisions. The KCCC appointed him and County Attorney Rob Henneke to represent the county on the issue.

Mr. Hayes noted the city did have authority to enforce platting standards in the ETJ and noted the standards were very close. He felt that the county's issues could be addressed by placing a note on the final plat. When the subdivision was ready to develop the plat note would state what county regulations had to be met. He felt it would be appropriate to assign the matter to the city and county attorneys to resolve.

and then bring a document to the city council and county commissioners to adopt. Following adoption of that document, the city council would have to adopt the standards via ordinance.

Mr. Motheral moved to pass the ETJ blended standards as presented and forward an interlocal agreement to the county stating that both agree to enforce the blended standards in the ETJ, subject to adoption of the segment of the 16.343 minimum state standards and model political subdivision rules with a specific statement that this adoption was for subdivisions having only single family detached housing and excluding developments that contained multi family and commercial development. Additionally the county would have 30 days to adopt the standards and sign the interlocal agreement. Mr. Gross amended the motion that the agreement be subject to review in six months. Mr. Motheral agreed to the amended motion. Mr. Gross seconded the amended motion. The motion passed 5-0.

5D. Report on the economic development reorganization proposal and appointment of a representative of the City of Kerrville to the economic development governing body and consider funding allocation to the Kerr Economic Development Foundation in the amount of \$25,000.

Mr. Parton noted the task force had met with other economic partners and the following appointments had been made to the Kerr Economic Development Governing Body:

City Economic Improvement Corporation—Jack Pratt
Convention and Visitors Bureau—Sudie Burditt
Chamber of Commerce—Trevor Hyde
Kerrville Public Utility Board—Tracy McCuan

The Kerr Economic Development Foundation was in the process of reorganization and would appoint their representative after the reorganization was complete.

The next step was to seat those appointees and discuss functions, operating rules, roll of each entity, budget, and organizational structure.

Mrs. Keeble moved to appoint Todd Parton as the city's representative on the new Kerr Economic Development Governing Body. Mr. Motheral seconded the motion and it passed 5-0.

Mr. Parton noted KEDF requested \$25,000 funding for the interim period in order to allow KEDF to continue to function until the new organization was finalized as KEDF's donations were not coming in as budgeted.

The consensus of the council was to table action on KEDF's funding request, and instruct staff to provide the following information: what was KEDF's current funding level, current balance, what was included in their budget for the next 60 days; what would the \$25,000 funds be used for, and which entities had not made their contribution.

5E. Final selection of a city logo. (Councilmember Gross)

Ms. Wendele displayed several possible logo designs.

Mr. Gross noted the original intent of reviewing the logo was in advance of purchasing and placing way finding signs. He also noted that no funds were budgeted for the signs and he proposed discontinuing the project at this time.

5F. Adopt a public art policy and guidelines.

Ms. Wendele noted the Main Street Advisory Board (MSAB) developed a public art policy with two objectives: 1. Engage the art community to create a signature piece of art that would be commissioned by Kerrville Main Street; 2. Promote other organizations to participate so additional art could be purchased and placed in the district. The entire project would be self funded and placed on city owned property. Specific locations discussed were Five Points intersection, Louise Hays Park, and the library campus; however, each piece would have to come before city council for approval before placement on city property. The MSAB currently had \$62,000 designated for the project. Maintenance would be the responsibility of MSAB as part of their budget and as commissioned with the artist. Ms. Wendele assured the council that the project would not be a burden on the city's budget.

Mr. Gross moved to adopt the public art policy and guidelines as presented. Mrs. Keeble seconded the motion and it passed 5-0.

5G. Authorize the city manager to execute a construction contract with D W Electric for construction of the motor control center at the water treatment plant and contingency change orders in a total amount not to exceed \$582,856.80.

Mr. Wellborn noted the motor control center at the water treatment plant operated the plant's entire electric system. The project was bid in January with two options: 1) Complete replacement of all cables currently connected to the motor control center; and 2) Splicing of existing cables and adding new cables for new connections. He recommended the contract be executed for Option 1 with funding issued through water and sewer debt.

Mr. Motheral moved to authorize the city manager to execute the contract with DW Electric in the amount of \$582,856.80 as presented. Mr. Coleman seconded the motion and it passed 5-0.

5H. Resolution No. 007-2010 establishing an account within the city's water and sewer fund for the purpose of collecting excess funds on a yearly basis for payment of debt service or capital projects.

Mr. Erwin recommend approval of the resolution which designated savings in operations or unused revenues above expenditures in the water and sewer fund be placed in a separate account to build a reserve to handle emergencies, and access to these funds required council authorization. The purpose of the reserve fund was to fund water and sewer capital improvement projects and pay debt service. He proposed establishing a reserve sufficient to meet three months of operating expenses.

The council discussed including rate stabilization to offset future rate increases.

Mr. Gross moved for approval of Resolution No. 007-2010 with inclusion of the statement “to stabilize future rate increases”; Mr. Coleman seconded the motion and it passed 5-0.

6. INFORMATION AND DISCUSSION:

6A. Update on the status of the Former Texas Rangers Museum. (Councilmember Gross)

Mr. Gross requested an evaluation of the Former Texas Rangers Museum (FTRM) project and their board’s decision to relocate to Fredericksburg and if there were similar projects in process that were considering relocating.

Mr. Parton reviewed the timeline of the project and noted the following:

- In May 2009 FTRM submitted an application to the Economic Improvement Corporation (EIC) in the amount of \$1.5 million to be disbursed over a three year period. The EIC review team consisted of one representative each from: Kerr Economic Development Foundation, City of Kerrville, Kerr County, and the Chamber of Commerce. Mr. Parton reviewed the evaluation criteria and point system under the EIC economic development incentive policy and noted upon evaluation by the team, the project scored 0 out of a possible 30 point maximum.
- A review of the financials submitted in the FTRM’s EIC application indicated a budget of \$2.2 million, of which some funds were restricted to the construction of the facility; over \$1 million was spent on the purchase of the 15 acres; and the balance was available for construction of the project. Based on the estimated \$225-300,000 annual donation anticipated in FTRM’s financials, it would take 35-50 years to receive adequate funds to complete construction without any large donations; however, the application indicated construction timeline completion to be 2012.
- The \$1.5 million funding request to EIC represented only about one-tenth of the \$13.5 million required to complete construction of the museum.
- Staff and a KEDF representative met with the FTRM in June 2009 and reviewed the scoring process and suggested other possibilities for EIC funding, such as quality of life project, available to the FTRM and offered assistance with that application process. At that meeting, it was mentioned that FTRM may contemplate other locations, but staff was never notified that there were on-going negotiations with other parties.
- In September staff heard that the FTRM was discussing possible relocation and requested a meeting with the FTRM board. After several attempts to schedule a meeting, in February the FTRM board agreed to meet with staff and a meeting was scheduled for March 2, the day after the press release announcing they were relocating to Fredericksburg.

The city council also discussed the following points:

- Part of the issue with the FTRM was the hard economic down turn.

- The FTRM board had looked at sources of contributions and felt they had not received significant donations in Kerr County and that was considered in the FTRM's decision to relocate.
- Need to establish a process of notification to the council regarding projects that were in the process of being denied.
- Staff did the best they could given the information they received.
- The city did not need another failed, partially-completed project similar to the downtown pavilion.
- The city should not fund underfunded projects. Projects should meet EIC guidelines before funds are approved.
- City staff had met due diligence in assisting the FTRM. The city had acted responsibly with tax dollars.
- In the past, the City and EIC had supported other non profits organizations, e.g. Salvation Army Kroc Center, Dietert Center, Schreiner University, Peterson Hospital.
- City supported the FTRM; sad to see them leave Kerrville, but encouraged the project and their efforts.

6B. Library renovation update.

Mr. Martinez reported the official name of the new library foundation had been selected: "The Mary Elizabeth Holdsworth Butt Library Foundation. Jena Lehmann Cross had been hired as the executive director of the Foundation, located at 820 Main Street, Suite 215.

6C. Economic update.

Mr. Erwin presented revenues and expenditures in the general fund and water and sewer fund and noted sales tax was down 12% compared to this time last year. In his next report he will prepare a month/year comparison report of the funds.

6D. Public works update.

Mr. Hastings reported on information requested by city council on February 12:

- Wastewater Collection System: He provided an assessment of the wastewater system and noted the plant was permitted at 4.5 mgd, not to exceed 4,861 gpm over a two-hour period. There were 8,600 connections; excess capacity based on dry weather conditions was 3,950 connections; excess capacity based on wet weather conditions was 0. Staff was replacing the old clay pipe as repairs were needed throughout town; this will help solve inflow and infiltration problems.
- Street Maintenance: Meeker Street from Legion Drive to Locust Run had been added to the list of streets to receive in-house construction for FY10. He noted that street maintenance was prioritized in the street pavement management system.
- LED Lighting: The city had about 2,500 street lights. According to TEU Services, it would take 74 months to achieve return on investment for the 1,800 100 watt lights; and 58 months for the 700 250 watt lights; this did not take into account installation, which would have to be negotiated with KPUB. He noted the illumination was about the same; however, LED had lower voltage. LED was expensive to replace (\$700 for 100 watt; \$900 for 250 watt), and he recommended not replacing lights at this time and staff investigate possible grant funds.

7. ITEMS FOR FUTURE AGENDAS: None

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Bark for Life event on March 27 at the River Star Arts and Event Park.

10. EXECUTIVE SESSION:

Mr. Coleman moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices) and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code of the State of Texas; the motion was seconded by Mr. Motheral and passed 5-0 to discuss the following matters:

Section 551.071 and 551.072:

- Discuss the purchase, exchange, lease, sale or value of real property known as Adjudicated Water Right #18-2026A, the discussion of which would not be in the best interests of the city's bargaining position with third parties.

Section 551.072:

- Discuss the purchase, exchange, lease, sale or value of real property located at 741 Water Street, Kerrville, Texas, for use as a city hall, the discussion of which would not be in the best interests of the city's bargaining position with third parties.

Section 551.074:

- Appointments to the Kerrville-Kerr County Joint Airport Board.

At 8:52 p.m., the regular meeting recessed and council went into executive closed session at 8:54 p.m. At 9:40 p.m., the executive closed session recessed and council returned to open session at 9:41 p.m. The mayor announced that no action had been taken in executive session.

10. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

- Discuss the purchase, exchange, lease, sale or value of real property known as Adjudicated Water Right #18-2026A:

Mr. Coleman moved to authorize the city manager to pursue purchase of the stated water right; Mr. Motheral seconded the motion and it passed 5-0.

- Discuss the purchase, exchange, lease, sale or value of real property located at 741 Water Street, Kerrville, Texas, for use as a city hall:

Mr. Coleman moved to authorize the city manager to withdraw the contingency contract on 741 Water Street; Mr. Gross seconded the motion and it passed 5-0.

Mr. Motheral moved to instruct staff to prepare a plan of projects for council's consideration to be funded with the bond funds that were designated to purchase property for a city hall; Mr. Gross seconded the motion and it passed 5-0.

- Appointments to the Kerrville-Kerr County Joint Airport Board:
Mrs. Keeble moved to reappoint Mark Cowden, Tom Moser, and Roger “Corey” Walters with terms to expire June 1, 2012.

ADJOURNMENT. The meeting adjourned at 9:44 p.m.

APPROVED: _____

Todd A. Bock, Mayor

ATTEST:

Brenda G. Craig, City Secretary