

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
DECEMBER 13, 2011

On December 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 Mike Williams, Zion Lutheran Church, followed by the Pledge of Allegiance led by Ed Nail 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
Charlie Hastings	Director of Public Works
Kim Meisner	Director of General Operations
Mindy Wendele	Director of Business Programs
Robert Ojeda	Fire Chief
John Young	Police Chief
Gordon Browning	Senior Planner

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

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

2. **CONSENT AGENDA:**

Mr. Parton requested Item 2D be removed from the consent agenda and discussed following the report on the petition (Item 4A).

Mr. Conklin moved for approval of items 2A – 2C; Mr. Gross seconded the motion and it passed 5-0:

2A. Approval of the minutes of the regular city council meeting held November 22, 2011; and the special city council meetings held November 15 and 18, 2011.

2B. Authorize submission of a grant application to the Cailloux Foundation for the purchase of street paving equipment.

2C. Resolution No. 044-2011 endorsing the existence of the Kerrville Citizen Police Academy Alumni Association and authorizing and requesting that the Texas Municipal League-Intergovernmental Risk Pool provide liability insurance coverage to the members of the association and errors and omission liability coverage to its board of directors.

END OF CONSENT AGENDA

3. ORDINANCE, SECOND AND FINAL READING:

3A. Ordinance No. 2011-23 amending the budget for fiscal year 2012 to account for changes in the status of various capital improvement projects; and to amend other city funds to account for balances for approved purposes. Mayor Wampler read the ordinance by title.

Mr. Erwin noted no change since first reading and recommended approval.

Ms. Keeble moved for passage of Ordinance No. 2011-23 on second and final reading; Mr. Allen seconded the motion and it passed 5-0.

4. REPORT FROM CITY SECRETARY ON POSSIBLE PETITION.

4A. Report regarding the possible submission, and subsequent verification of a petition submitted in accordance with Section 271.049 of the Texas Local Government Code, protesting the issuance of debt instruments to finance the river trail project and requiring a bond election be held prior to issuance.

Ms. Craig reported the petition was insufficient in the number of signatures and noted the following: number of registered voters, 13,884; number of signatures required under Section 271.049, 695 (5% of 13,884); number of signatures certified, 536; number of total signatures submitted, 642.

Spencer Hart, petition sponsor, stated he had no disagreement with the report and he appreciated the attention council gave to the process and trusted council would be good stewards of the city's business and assets.

2D. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas (parks and trail system improvement project).

Mr. Gross moved for approval of the agreement as presented; Ms. Keeble seconded the motion and it passed 5-0.

5. ORDINANCE, FIRST AND ONLY READING:

5A. Ordinance No. 2011-22 authorizing the issuance, sale and delivery of \$3,500,000 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2011A"; securing the payment thereof by authorizing the levy of an annual ad valorem tax and a pledge of certain surplus revenues of the city's waterworks and sewer system; and approving and authorizing the execution of a paying agent/registrar

agreement, an official statement and all other instruments and procedures related thereto. Mayor Wampler read the ordinance by title.

Mr. Erwin noted the proposed \$3,500,000 certificates of obligation (CO) would fund parks and river trail improvements; a second debt issuance was scheduled for early 2012. The bonds would be paid by the economic improvement corporation in accordance with the funding agreement approved in Item 2D. Competitive bids would be received at 9:30 a.m. on December 14, and at 10:00 a.m. the city council would consider adoption of a resolution awarding the bid for the purchase of the CO. He recommended approval of the ordinance.

Ann Burger Entrekin, the city's financial advisor with First Southwest, advised that the total \$7 million issue had been divided into two years in order for the city to remain bank qualified resulting in tax benefits to the banks and thus a lower interest rate for the city, possibly 3-3.25%.

Ms. Keeble moved for approval of Ordinance No. 2011-22 on first and only reading; Mr. Gross seconded the motion and it passed 5-0.

6. PUBLIC HEARING AND RESOLUTION:

6A. Resolution No. 045-2011 granting a conditional use permit (CUP) for an approximate 0.50 acre parcel of land, making up part of Lots 6, 7, 8, 9, and 10, Block 25, and out of the Westland Place Addition, a subdivision within the City of Kerrville, Kerr County, Texas, otherwise known as 506 Junction Highway (State Highway 27) and located within the 10-W zoning district; by permitting said property to be used for a vehicle maintenance and repair facility; and making said permit subject to certain conditions and restrictions.

Mr. Browning noted the applicant requested reopening a carwash/oil change and vehicle inspection business that had previously operated at 506 Junction Highway. The carwash was permitted by right at this location; however the oil change and vehicle inspection operation required a CUP. He noted there would be no change to the structure or site from the former business which had been in operation since 1997.

Mayor Wampler opened the public hearing at 6:35 p.m. and the following person spoke:

- Ruth Spradling questioned if the overhang of the roof was allowed. Mr. Browning noted no problem with the roof and no changes were expected.

No one else spoke and Mayor Wampler closed the public hearing at 6:37 p.m.

Mr. Allen moved for approval of Resolution No. 045-2011; Mr. Conklin seconded the motion and it passed 5-0.

7. CONSIDERATION AND POSSIBLE ACTION:

7A. Resolution No. 046-2011 supporting the proposal by the Upper Guadalupe River Authority (UGRA) to amend its water permit to remove the permit's restriction that the water may not be used for municipal use within the city.

Mr. Hastings noted UGRA was seeking to remove the restriction in their existing permit that prohibited the municipal use of water in the city limits. The amendment, if granted, would not guarantee the city's use of the water; UGRA would review options for use of the water. Mr. Hastings noted that the city was not required to treat UGRA's water.

UGRA General Manager Ray Buck noted that UGRA was establishing programs aimed at increasing the amount of water in the lake, e.g. eradication of cedar. UGRA had no preconceived ideas about how to use the water and would be exploring options.

Mr. Conklin moved for approval of Resolution No. 046-2011 on first reading; Mr. Allen seconded the motion and it passed 5-0.

7B. Presentation and request for approval of the FY12 airport budget by the Kerrville-Kerr County Joint Airport Board. (Bruce McKenzie, Airport Manager) Stephen King, airport board president, presented the revised FY12 budget based on revenue of \$110,000 each from the city and county.

Mr. Allen moved for approval of the FY12 airport budget as presented; Mr. Conklin seconded the motion and it passed 5-0.

7C. Resolution No. 047-2011 granting a tempering to the requirement to provide water and wastewater service to the property being developed at 510 Benson Drive (The Coming King Foundation Prayer Garden site).

Mr. Browning noted the foundation planned to develop a sculpture prayer garden on 22 acres north of IH-10; the applicant requested the requirement to provide city utilities be waived until habitable structures, overnight vehicle parking, or any other use that required utilities was allowed on the site. He noted that the requirement for utilities was not being waived, only delayed.

The following person spoke:

- Max Griener discussed plans to build a prayer garden with sculptures from various artists. The garden should be complete by Easter 2012 and will be free to the public.

Mr. Gross moved for approval of Resolution No. 047-2011 on first reading; Mr. Allen seconded the motion and it passed 5-0.

7D. Authorize the city manager to execute additional change orders to the JM Lowe contract which may exceed \$50,000 on the library renovation/expansion project but not an amount to exceed a total change order limit of \$348,000.

Mr. Conklin filed a conflict of interest affidavit and left the meeting at 6:52 p.m.

Ms. Ondrias noted additional funds were available: \$100,000 was given to the city from the Library Foundation; \$19,657 from the library roof project; and \$27,500 from the library endowment fund. She requested the city manager be authorized to execute additional change orders, in an amount not to exceed \$148,000 and a total amount not to exceed \$348,000 for the library renovation/expansion project. She noted that all change orders to the project were for additional enhancements to the project and all funds were donated. The additional funds were proposed to be used for renovation of the basement.

Ms. Keeble moved to authorize the city manager to execute additional change orders to the JM Lowe contract as stated; Mr. Gross seconded the motion and it passed 4-0-1 with Members Gross, Allen, Keeble, and Wampler voting in favor of the motion; no one voted against the motion; and Mr. Conklin abstained.

7E. Authorize execution of a Certificate of Convenience and Necessity (CCN) agreement designating retail water service territory between the City of Kerrville and Aqua Texas within the Kerrville South area.

Mr. Hastings noted in July 2009 the city filed with the Texas Commission on Environmental Quality (TCEQ) to expand its CCN to include a two mile buffer surrounding some areas of the city. TCEQ identified an overlapping area between the city and Aqua Texas in the Kerrville South area. Mr. Hastings requested the city manager be authorized to execute the agreement once it had been signed by Aqua Texas in order that TCEQ can proceed with issuance of the city's CCN application.

Mayor Wampler noted if changes were made to the agreement by Aqua Texas, staff had the option of not proceeding.

Mr. Conklin moved to authorize the city manager to execute the agreement as presented. Mr. Allen seconded the motion and it passed 5-0.

7F. Accept deed for city hall property at 701 Main Street, approve lease agreements for parking garage facility at 201 Clay Street and its adjacent buildings at 219 Clay Street, and 200 Sidney Baker Street, grant temporary construction easement for the city owned property, and accept temporary construction easement from the Cailloux Foundation.

Mr. Parton noted in March the council authorized execution of an agreement with the Cailloux Foundation to accept the gift of property for a city hall. He requested, upon resolution of a few outstanding issues, authorization to execute documents: acceptance of special warranty deed for .66 acre located at Sidney Baker and Main Street; execution of leases for the parking garage facility and the buildings at 219 Clay Street and 200 Sidney Baker; and execution of temporary construction easements with the Cailloux Foundation to allow them access to the property in order to complete construction of the clock tower. He noted that the Clay Street

and Sidney Baker properties were available to the city immediately; including construction of the new city hall and renovation of existing facilities, the total city hall complex would be 22,000 sq. ft. In addition, one building on Sidney Baker was occupied and when that tenant leaves, the city had first right of purchase or lease, for an additional 10,000 sq. ft. The lease for the parking garage stipulated that parking must remain assessable to the public without charge.

Mr. Hayes noted the outstanding issues concerned reversionary restrictions and the architectural review process. He felt these issues were very minor and that both parties agreed conceptually to the changes to the documents. He recommended the leased facilities be addressed in three separate agreements.

Mr. Parton noted the environmental assessment, asbestos evaluation, and title search had been completed with no issues presented. The structural evaluation of the parking garage found the structure in good condition but noted the need for additional lighting and long term routine maintenance.

Ms. Keeble moved to accept the deed and authorize execution of the agreements and easements. Mr. Gross seconded the motion and it passed 5-0.

7G. Authorize execution of a construction contract with Huser Construction Company, Inc. for the construction of a city hall facility and the renovation of existing buildings in the amount of \$2,409,000.00 and authorize the city manager to execute additional change orders in an amount not to exceed \$300,000.00.

Ms. Ondrias noted that eight bids were received for the project on November 8 and were reviewed by city staff and architect Peter Lewis. The lowest responsible bidder was Huser Construction Company in the amount of \$2,409,000; she requested the city manager be authorized to execute a construction contract with Huser Construction Company for the construction of a city hall facility in the amount of \$2,409,000 and execute additional change orders but not to exceed the total amount of \$300,000. The contractor would begin in early 2012 with completion in 6-7 months.

Ms. Keeble moved to authorize execution of the contracts as stated; Mr. Conklin seconded the motion and clarified that the motion was to authorize the city manager to execute a contract with Huser Construction in the amount of \$2,409,000 and to authorize the city manager to execute additional change orders which may exceed \$50,000 but may not exceed the maximum total amount of \$300,000. The motion passed 5-0.

8. INFORMATION AND DISCUSSION:

8A. Water resources report.

Mr. Hastings presented a graph depicting the safe operating capacity vs. water consumed vs. cumulative rainfall since 1-1-2011. He reported the average river flow was 125 cfs; it was currently at 75 cfs. The state water master called just before the meeting and granted the city's request to take additional water from

the river due to recent rains. During 2011 the city used 300 of the 800 million gallons of water stored in the aquifer storage recovery wells; the city will begin banking water back into the ASR wells. The city may go back to Stage 3 in early 2012; however, the river flow was still at only 50% of normal flow.

8B. Budget and economic update.

Mr. Erwin noted a 22% increase in the December sales tax; however, this was due to several one-time items and staff did not expect this trend to continue. In the general fund he noted that tax revenue was at \$2.9 million; expenditures at \$3.1. The water and sewer fund revenue was at \$1.47 million and expenditures at \$1.27 million.

9. **BOARD APPOINTMENTS:**

9A. Appointments to the food service advisory board. Mr. Gross moved to reappoint Susan McCracken and to appoint Tyler Archer and Brenda Hughes all with terms to expire December 1, 2013. Mr. Conklin seconded the motion and it passed 5-0.

9B. Appointments to the library advisory board. Mr. Gross moved to reappoint Diana Martin and to appoint Ellen Connelly, and to appoint Lorrin Peterson to fill an unexpired term due to the resignation of Kenneth Ellenwood; all with terms to expire November 22, 2013. Mr. Allen seconded the motion and it passed 5-0.

9C. Appointment to the economic improvement corporation. Item was deferred to executive session.

10. **ITEMS FOR FUTURE AGENDAS:** None.

11. **ANNOUNCEMENTS OF COMMUNITY INTEREST:**

11A. Ms. Keeble volunteered to be a participant in the Polar Bear Challenge on January 1, 2012. She noted a polar ice party would be held on December 15, 5-9 p.m. at Grape Juice; proceeds from both events would go to Partners in Ministry.

11B. Men's Night Out event downtown on Thursday, December 15.

12. **EXECUTIVE SESSION:**

Mr. Gross moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), 551.074 (personnel matters), and 551.087 (deliberation regarding economic development negotiations) of the Texas Government Code; the motion was seconded by Mr. Allen and passed 5-0 to discuss the following items:

Section 551.071 and 551.087:

Discuss or deliberate regarding commercial or financial information that the City Council has received from a business prospect that the Council seeks to have locate, stay, or expand in the City and with which the governmental body is

conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to such business prospect.

Section 551.074:

- Appointment to the economic improvement corporation.
- Appointment of municipal court judges.
- Annual evaluation of the city attorney.
- Annual evaluation of the city manager.

At 7:31 p.m. the regular meeting recessed and council went into executive closed session at 7:31p.m. At 9:10 p.m. the executive closed session recessed and council returned to open session at 9:12 p.m. Mayor Wampler announced that no action had been taken in executive session.

13. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION:

13A. Appointment of Municipal Court Judges:

Mr. Allen moved to reappoint Patrick Maguire and Mark Prislovsky as municipal court judges with term to expire December 31, 2013. Ms. Keeble seconded the motion and it passed 5-0.

9C. Appointment to the economic improvement corporation. Mr. Gross moved to appoint Gary Cochrane to fill an unexpired term due to the resignation of Tony Roberts with term to expire June 1, 2013. Mr. Conklin seconded the motion and it passed 5-0.

14. ADJOURNMENT. The meeting adjourned at 9:14 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary