

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
FEBRUARY 14, 2012

On February 14, 2012, 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 Eldon Sheffer, Director of Church Relations at Schreiner University, followed by the Pledge of Allegiance led by Jerry Lane, 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
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Cheryl Brown	Administrative Assistant to City Secretary
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
Jeff Finley	Director of Building Services

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

**1. VISITORS/CITIZENS FORUM:**

- Bill Cantrell spoke regarding the homeless veterans project presented at the January 24 meeting, at which time the council voted unanimously to deny support because the developer could not provide an all veterans facility; he stated the developer now had approval to make the project veterans only. He stated that Kerr County had 17,000 veterans, and the AM Vets Post 1000 had 41 members that were in strong support of the project. He felt this facility would not be in competition with other nursing homes. He requested council reconsider their vote on the project.
- Julie Leonard supported council's action to replace overhead transmission lines with underground utilities in the downtown area. She invited councilmembers to attend the monthly meeting of the Kerr County Historical Commission on February 20 in the Logan Library at Schreiner University, the topic of discussion would be research on downtown buildings.

## **2. CONSENT AGENDA:**

Mr. Conklin requested items 2B and 2C be removed from the consent agenda. Citizen John Mosty requested item 2G be removed from the consent agenda and discussed later in the meeting.

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

2A. Minutes of the regular city council meeting of January 10, 2012.

2D. Estoppel and consent agreement regarding airport lease between Joseph L. Kennedy Enterprises, LTD, and the Kerrville-Kerr County Airport Board.

2E. Purchase of a backhoe from ASCO Equipment in the amount of \$92,566.18.

2F. Amend the professional services agreement with Peter Lewis Architect + Associates, PLLC for design of the city hall facility and renovation of adjacent administrative space in an additional amount not to exceed \$25,000.00 for a total contract amount not to exceed \$227,250.00.

2H. Request from Hill Country Telephone Cooperative for license agreement for the installation of wireless access points on city-owned water towers.

2I. Request recycled asphalt product from the Texas Department of Transportation (TxDOT).

## **END OF CONSENT AGENDA**

## **4. ORDINANCE, FIRST AND ONLY READING:**

4A. Ordinance No. 2012-02 authorizing the issuance, sale and delivery of \$10,000,000 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2012"; 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 ordinance would approve the issuance of debt in the amount of \$3.5 million for a total debt issuance of \$7 million for the river trail and parks improvement project. The first issuance in December 2011 was in the amount of \$3.5 million. The economic improvement corporation had committed 4B funds to pay the debt service on the \$7 million. The remaining debt issuance would fund utility projects and be paid from the water/wastewater fund, in part from the 2011 water and sewer rate increase. The capital improvement plan proposed \$6.3 million in capital projects in the FY12 budget. Mr. Erwin noted that compared to other communities, Kerrville's debt service level was low; he proposed that the water/sewer debt service never be more than 33-35% of the income.

Ann Burger Entrekin, financial advisor with First Southwest, noted that current interest rates were the lowest since 1967. Standard and Poor's had reaffirmed the city's rating at "AA-" based on the city's strong financial position. The city

received twelve bids, and she recommended the city award the bond sale to the lowest bidder, Southwest Securities, at the rate of 2.183896%.

The council also discussed the following:

- The city's utility rate structure was well within the state-wide average utility bill.
- In the past, the city failed to adequately invest in infrastructure and the city had fallen behind.
- System improvements would accommodate additional commercial and residential growth.
- Adequate infrastructure and amenities were necessary to attract and retain people to Kerrville.

Ms. Keeble moved for approval of Ordinance No. 2012-02 on first and only reading; Mr. Gross seconded the motion and it passed 5-0.

2B. Economic development grant agreement between Fox Tank, Inc. and the City of Kerrville, Texas Economic Improvement Corporation for construction of a new facility in the amount of \$600,000.00.

Council requested a review of the benefits of the project.

Ray Watson, Executive Director of the Kerr Economic Development Corporation, reported on the benefits of the project, and noted that Fox Tank produced steel tanks for the oil industry. The original scope of the project was to provide 60 employees at a minimum hourly wage of \$15 for a total \$1.8 million employee payroll, a local sales tax impact of \$300,000, and an ad valorem tax of \$2 million annually; however, business had increased since the project started, and Mr. Fox now anticipated hiring 105 employees. The economic development plan called for Fox Tank to receive \$600,000 from EIC, and a maximum reimbursement of \$150,000 each from the city and county for sales tax generated by Fox Tank to defer the cost of property acquisition and facility construction. Also, Alamo Community College received a grant from the state to create a welding training facility in Kerrville.

Mr. Conklin moved for approval of the agreement as presented; the motion was seconded by Mr. Allen and passed 5-0.

2C. Economic development Incentive Agreement between Fox Tank, Inc. and the City of Kerrville, pursuant to Chapter 380, Texas Local Government Code.

Mr. Conklin moved for approval of the agreement as presented; the motion was seconded by Mr. Allen and passed 5-0.

2G. Project funding agreement between the Kerrville Public Utility Board and the City of Kerrville, Texas Economic Improvement Corporation (downtown Kerrville utility line removal and undergrounding).

The following persons spoke:

1. John Mosty stated his opposition to funding the project and opined that it was

an inappropriate use of 4B funds. 4B funds could be used to fund infrastructure for a necessary power supply to develop new or expanded business; however, sufficient power was already available to meet the requirements of existing businesses, and there was no plan for businesses to expand. Also, existing businesses were landlocked and could not expand, and there was limited use of the property behind the buildings on Water Street because of the fire easement. He opined that the project was a beautification project and not a business expansion project. He said he wanted to see the project happen, but the city should find another way to fund it.

Mr. Hayes noted that EIC had found that the project met the requirements of law as it would allow businesses to expand at the back of their property along the river side. The project would also increase access and expansion of a walkway along the river and increase interest in downtown.

2. Peter Lewis stated his support for the project to remove overhead utility lines and poles and bury the utilities, thereby reducing air space clutter; further, he supported the overall concept of restoration of the downtown historic area. He encouraged council's support of the agreement and EIC funding for the project.

3. Patrick Wilt noted he was a property owner on the west side of Sidney Baker, and he had spoken with Cailloux directly and understood that Cailloux had not agreed to pay any cost on the west side. He noted that an adjacent property owner received an estimate from DW Electric of \$5,400-5,600 to run the service line from the transformer to his building; he assumed his cost would be comparable. Mr. Wilt questioned if the EIC agreement was not sufficient to cover the full cost on the west side, would he be required to pay any of the remaining cost. He was in full support of the project, but did not have the funds available to spend, and he did not want to see the project start if it could not be completed.

Mr. Parton noted that the Cailloux Foundation had set aside over \$15,000 to connect specific properties on the east side only. EIC approved the project award at \$250,000 for construction plus \$50,000 contingency; any unused contingency would be used to fund the west side for property owners who wished to participate. KPUB received a cost estimate of \$19,943 to connect the three business properties on the west side.

Ms. Keeble, EIC board member, noted concerns about the change in project scope and funding between two prior EIC meetings and the issue of equality with some property owners not willing to participate in funding.

Tracy McCuan, KPUB General Manager, noted that the KPUB Board did not vote to support or oppose the project or funding thereof; however, the board voted unanimously to authorize staff to proceed with issuing bidding documents, getting a contractor, and beginning construction, knowing that KPUB was taking the risk that the EIC funding agreement might not be approved by the city council.

TxDOT granted KPUB a permit to do the work within their right of way, but the project had to be completed no later than March 14 when TxDOT would begin pavement reconstruction. The city requested KPUB manage the project and KPUB agreed to do so with the provision that there was a \$50,000 contingency so KPUB would not have to absorb any possible cost overruns for unforeseen issues. EIC voted to authorize any unused contingency funds to be used for the west side. KPUB would not start the west side until sufficient funds were available to connect all three businesses; however, KPUB would still run the line under TxDOT right of way to the west side. Further, if KPUB received an easement for the transformer pad on the west side, KPUB would install the transformer and properties could tie on in the future at their expense. If an easement was not granted for a transformer pad, or if all owners did not tie on, KPUB would leave the poles in place. Mr. McCuan noted it was a unique opportunity to place the lines underground in the TxDOT right of way, and it was his opinion that it was unlikely that TxDOT would grant a permit again until there was a major reconstruction probably in more than 25 years, if even then.

Mike Wittler, KPUB Chief Engineer, detailed the project scope, noted where underground lines would be installed, and which poles would be removed. The cost summary for the project was \$259,818, plus \$50,000 contingency, and the west side project to connect the three services was estimated at \$19,943.

4. Jimmie Spradling questioned if all utility poles on the east side would be removed under this project; if so, that would be a good thing for downtown.

Mr. McCuan noted the project included removal of the poles behind the buildings on the east side and customer service connections. He also noted that some property owners on the east side had already converted to underground and others had committed to pay their portion. The Arcadia Theater property owners already paid KPUB to underground their utilities, and they planned to have a large deck in the back opening to the river side. The project did not include the removal of the poles on the west side fronting on Water Street as those poles served the street lights and traffic signal.

5. Steve King questioned the approximate cost of utilities on the west side and property owners' contributions and why agreements for funding were not in place prior to construction. He did not want to see the funds spent and then the poles remain.

Mayor Wampler noted that some property owners already had agreements with KPUB, but it was not a requirement that property owners tie on. If no one tied on, the poles in the back of Water Street would remain and only those poles on Sidney Baker would be removed; however, funding was in place for the east side and contingency funds may be available to tie on the three properties on the west side. This was a unique opportunity to place utilities underground in TxDOT's right of way and would allow for business expansion and increase traffic and

tourism in the downtown. If funds were insufficient for the west side, it would still be a first step and it would be available for owners to tie on in the future.

Council also discussed the following:

- If contingency is not sufficient for the west side, property owners could opt to stay with overhead utilities and would not be forced to pay to connect to the underground utilities.
- Owners did not have to participate, but anyone who did should pay their share; property owners on the east side had contributed.
- Half of the underground line in the Peterson Plaza area was under the sidewalk in TxDOT right of way and half was inside the property line.
- KPUB had already spent \$180,000 and was at risk of losing those funds if the EIC funding agreement was not approved.
- The project would enhance the river trail, was an investment in downtown, and included property owner participation.

Mr. Conklin moved for approval of the agreement as present; Mr. Gross seconded the motion and it passed 5-0.

**3. ORDINANCE, SECOND AND FINAL READING:**

3A. Ordinance No. 2012-01 enacting a moratorium on the acceptance of applications and the issuance of permits for the installation of electronic and traveling lighted message signs within the City and its extraterritorial jurisdiction for a period of ninety (90) days; providing an effective date; containing a savings and severability clause; and providing other matters relating to the subject.

Mr. Finley noted no changes since first reading.

Mr. Gross moved for approval of Ordinance No. 2012-01 on second and final reading; Mr. Allen seconded the motion and it passed 5-0.

**4. ORDINANCE, FIRST AND ONLY READING:**

4A. Ordinance No. 2012-02 authorizing the issuance, sale and delivery of \$10,000,000 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2012"; 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 only.

This matter was held earlier in the meeting following the consent agenda.

**5. CONSIDERATION AND POSSIBLE ACTION:**

5A. Hear request for action from Elizabeth Bigelow regarding helicopter incident at Comanche Trace. (Elizabeth Bigelow)

Ms. Bigelow requested the item be rescheduled to a later date.

5B. Resolution No. 03-2012 suspending the March 6, 2012, effective date of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex”) requested rate change to permit the city time to study the request and to establish reasonable rates; approving cooperation with Atmos Cities Steering Committee (“ACSC”) and other cities in the Atmos Mid-Tex service area to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; requiring reimbursement of cities’ rate case expenses; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and ACSC’s legal counsel.

Mr. Hayes noted Atmos filed a notice of intent to increase the gas rate system wide by \$49 million, or 11.94%; however, Atmos was requesting a 13.6% increase, excluding gas cost on residential customers. The resolution would extend the effective date of the rate increase 90 days and allow the Atmos Cities Steering Committee to evaluate the rate increase. Mr. Hayes recommended approval of the resolution and anticipated a settlement agreement would be on a future agenda.

Ms. Keeble moved for approval of Resolution No. 03- 2012; Mr. Conklin seconded the motion and it passed 5-0.

5C. Approval of pavement management system projects for FY12.

Mr. Hastings reviewed the streets targeted for rehabilitation for FY12. He requested council approve the list, but noted that some of the streets may have to be moved to FY13 once funding was depleted. Upon approval of the list he will move forward with franchise utility companies to ask them to begin to relocate their utilities. He noted that the \$100,000 received from the sale of Rodriguez Street would go toward this project.

Mr. Allen moved to accept the FY12 street pavement plan as presented; Mr. Conklin seconded the motion and it passed 5-0.

## **6. INFORMATION AND DISCUSSION:**

6A. Water resources report.

Mr. Hastings reviewed the monthly US drought monitor from September 2011 to present and noted the city needed 9-12” of rain over a three month period to get out of the exceptional drought designation, and recent rains were having a positive effect. The river flow was at 47 cfs (average was 129); ASR storage was at 678 mg (last year was at 800 mg); and the aquifer level was at 1362’ ms.

6B. Budget and economic update.

Mr. Erwin reported sales tax was 9.4% above February 2011 and overall at 10% above last year, and HOT at 6.7% above February 2011. The property tax collection from the county was currently at \$7.5 million, for 95% collection. The transition from Kerr County collection to Kerrville Independent School District collection of city taxes went smoothly thanks to all parties involved. Revenues were above expenditures in both the general fund and water and sewer fund.

**7. ITEMS FOR FUTURE AGENDAS**

- Wayfinding signs.

**8. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- Mayor Wampler recognized Traci Carlson, former Chamber of Commerce President, for her hard work and dedication to the community.
- Mayor Wampler stated appreciation to Denny Foster for acting as the interim director at the Chamber of Commerce for his willingness to get involved and appreciated the chamber’s support.
- The Mardi Gras event would be held on February 21; 6-9, proceeds of the event would be used for the public art project; over 40 sponsors and underwriters for the event.
- Kerrville Fire Department awards and recognition ceremony on Thursday, February 23 at 5:30 p.m. at St. Peter’s Episcopal Church.
- Partners in Ministry was putting together teams for the Community Service Infusion event to be held Saturday, March 24.

**9. EXECUTIVE SESSION:**

Mr. Gross moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), 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 matters:

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.

At 7:53 p.m. the regular meeting recessed and council went into executive closed session at 7:59 p.m. At 8:35 p.m. the executive closed session recessed and council returned to open session at 8:35 p.m. Mayor Wampler announced that no action had been taken in executive session.

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

**11. ADJOURNMENT. The meeting adjourned at 8:35 p.m.**

APPROVED: \_\_\_\_\_

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David Wampler, Mayor

ATTEST:

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Brenda G. Craig, City Secretary