

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
FEBRUARY 12, 2013

On February 12, 2013, the Kerrville City Council meeting was called to order at 5:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Father Tom Murray, of St. Peters Episcopal Church, followed by the Pledge of Allegiance led by Jerry Lane, of the Military Officers Association of America.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Stacie Keeble	Mayor Pro Tem
Carson Conklin	Councilmember
Justin MacDonald	Councilmember

COUNCILMEMBER ABSENT: None

Gene Allen	Councilmember
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CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Charvy Tork	Director of Information Technology Systems
Mike Erwin	Director of Finance
Robert Ojeda	Fire Chief
John Young	Police Chief
Kim Meismer	Director of General Operations
Charlie Hastings	Director of Public Works

VISITORS PRESENT: List on file in city secretary's office for the required retention period.

1. **VISITORS/CITIZENS FORUM** No one spoke.
2. **RECOGNITION AND COMMENDATIONS**
 - 2A. Proclamation declaring February 13, 2013 as "National Salute to Veteran Patients Day" was issued by Mayor Pratt.
3. **CONSENT AGENDA:**
Items 3A and 3F were removed from the consent agenda.

Mr. Conklin moved for approval of items 3B, 3C, 3D, 3E, and 3G; Ms. Keeble seconded the motion and it passed 4-0:

3B. Call to artists for art in public places project.

3C. Amendment to a professional services agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration

services for the Jefferson lift station force and gravity main—phase 1, Ridgewood transmission line—phase 1, and a required archeological survey provided by Prewitt and Associates in an amount not to exceed \$103,869.00.

3D. Request for proposals for a formal classification and compensation study, with health and fringe benefits as an add-alternate.

3E. Professional services agreement with Freese and Nichols, Inc. to provide professional engineering design services for design of the Riverhill/Ridgewood storage tank transmission line in an amount not to exceed \$210,733.00.

3G. Resolution No. 06-2013 ordering that a general election be held on May 11, 2013, for the election of two city councilmembers; 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 the early processing of ballots.

3G. UNA RESOLUCIÓN 06-2013 QUE PIDE QUE UNA ELECCIÓN GENERAL SE LLEVE A CABO EL 11 DE MAYO DE 2013, PARA LA ELECCIÓN DE UNO ALCALDE, DOS MIEMBROS DEL AYUNTAMIENTO DE LA CIUDAD: NOMBRAR UN GERENTE PÚBLICO PARA LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE LA TABULACIÓN: ESTABLECER LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE TABULACIÓN: ESTABLECER LA ESTACIÓN CENTRAL DE CUENTAS: NOMBRANDO SU JUEZ: AUTORIZANDO EL PROCESO TEMPRANO DE LAS BALOTAS DE LA ELECCIÓN GENERAL, QUE SE LLEVARÁ A CABO EL 11 DE MAYO DE 2013.

END OF CONSENT AGENDA

3A. Minutes of the regular meetings held on November 27, and December 11, 2012.

Mr. MacDonald clarified the intent of his motion on December 11, 2012, Item 4B, was to “establish library membership fees as presented by staff in the staff report with exceptions to those who volunteer in kind services or donate to the Friends of the Library”—not the library foundation as stated.

Ms. Keeble moved to approve the December 11, 2012 minutes with this correction to the December 11, 2012 minutes; Mr. Conklin seconded the motion and it passed 4-0.

Ms. Keeble moved to approve the November 27, 2012 minutes as written; Mr. MacDonald seconded the motion and it passed 4-0.

3F. Resolution supporting the application of Communities for Veterans to construct low income rental housing pursuant to the low income housing tax credit program administered by the Texas Department of Housing and Community Affairs. The matter was rescheduled to the February 26 agenda.

4. ORDINANCE, FIRST READING:

4A. An ordinance amending the budget for Fiscal Year 2013 to account for

various changes to the city's operational budgets, supplemental appropriations, and closing out and supplementing capital improvement projects.

Mayor Pratt read the ordinance by title only.

Mr. Erwin noted the ordinance had changed since first reading on January 22 to include the addition of funding for central fire station renovation and the employee compensation study as instructed by council at the budget workshop on January 25. He noted there were no changes to the amendments that were presented at the January 22 meeting, and the city budget would still maintain a 25% fund balance; he recommended approval.

Council discussed two items requested by municipal court during the budget workshop; Mr. Erwin said those items would be considered in the FY2014 budget.

Mr. Conklin moved to approve the ordinance on first reading; Mr. MacDonald seconded the motion and it passed 4-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Construction contract with JM Lowe and Company for the construction of the Scott Schreiner Municipal Golf Course pavilion and parking lot improvements project in the amount of \$328,150.00 and additional change orders which may exceed \$50,000.00 but not exceed the total amount of \$393,750.00.

Mr. Conklin filed a conflict of interest affidavit and recused himself from the meeting at 5:14 p.m.

Ms. Ondrias noted the project would improve the parking lot and construct a 40 ft. x 40 ft. pavilion at the Scott Schreiner Municipal Golf Course. Five bids were opened on February 5, and staff recommended the bid be awarded to the low bidder, JM Lowe and Company, including authority to issue change orders not to exceed the total amount of \$393,750. She noted the project would require the contractor to provide a performance bond, and construction would begin in early March with anticipated completion in mid-May.

Mr. MacDonald moved to authorize the city manager to execute a construction contract with JM Lowe and Company for construction of the Scott Schreiner Golf Course pavilion and parking lot improvements project as presented; Ms. Keeble seconded the motion and it passed 3 to 0 with Members MacDonald, Keeble, and Pratt voting in favor of the motion; and Mr. Conklin abstaining.

Mr. Conklin returned to the meeting at 5:17 p.m.

5B. Appeal by a citizen requesting a waiver of the perimeter sidewalk construction for property located along the north side of State Highway 173 and being generally located across the highway from the Riverhill subdivision.

Ms. Keeble filed a conflict of interest affidavit and recused herself from the meeting at 5:17 p.m.

Mr. Parton presented a request by Robert Keeble to waive the requirements of “Section 26-36: Sidewalks required within all street rights-of-way adjacent to all commercial tracts/lots” for two tracts of land along Hwy. 173. He noted that under the ordinance the city engineer could grant an administrative waiver only if he determined that adequate right of way did not exist. Mr. Keeble requested an administrative waiver from the city engineer; however, that request was rejected, and Mr. Keeble was appealing to the city council based on topographic restrictions.

Mr. Parton noted the purpose of the sidewalk plan was to provide safe pedestrian walkways. The sidewalk master plan identified a pedestrian corridor along the subject tract; however, it also specified significant topographic issues that warranted additional consideration. Topographic restrictions were a viable basis for granting a sidewalk waiver under the ordinance, and he noted the grade from the highway to the bottom of the berm was 25 feet, which would require significant fill. One-third of the subject property was in the floodway and the remainder was in the floodplain, and under FEMA guidelines, the owner cannot fill within a floodway. He noted that TxDOT had to provide a significant amount of fill to build the berm to accommodate the construction of Highway 173. In addition, the construction of a five foot sidewalk would have to meet ADA compliance and provide additional protective measures, such as railings along the interior section of the sidewalks, for pedestrian safety.

Mr. Parton noted that commercial properties along Hwy. 173 from Hwy. 16 to Loop 534 that were out of the floodplain were already developed and had sidewalks setback several feet from Hwy. 173. The Riverhills Subdivision, across the highway from the subject property, was developed without sidewalks along Hwy. 173. There was not a sidewalk from Camp Meeting Creek to Loop 534. In addition, there were significant grade separations between properties, and a major draw at Loop 534 that would require a pedestrian bridge. The city planned to construct Birkdale lift station on the property immediately to the east.

Mr. Parton suggested the city’s proposed river trail could serve as an alternative pedestrian corridor in this area. He noted that TxDOT had previously constructed an ADA access ramp and sidewalk at the Loop 534 and Hwy. 173 intersection, and there was potential to connect this area to the proposed river trail through TxDOT’s abandoned FM 689 right of way.

Mr. Parton recommended approval of the waiver based on three of the eligible criteria as established in the ordinance:

1. Topographic restrictions. Significant grade exists adjacent to Hwy. 173 which would require major fill, drainage structures, and railings for public safety; sidewalk maintenance and pedestrian and bike safety would be a challenge; and constructing an interconnection across Camp Meeting Creek would be costly.
2. If adjacent property has been developed without sidewalks. In this case, not all properties adjacent to the subject tract are exempt from the ordinance, and some already have sidewalks; however, if a waiver is granted for the subject

property, council should also consider a waiver for adjacent undeveloped tracts.
3. Require undue hardship on the property owner. Majority of tract is subject to major flooding and could not be developed.

He further recommended the council consider sidewalk variances for the two properties immediately to the west, as those properties faced similar topographic challenges, by finding alternative pedestrian routing, such as connection to the river trail.

1. David McElvain noted that one aspect presented for consideration of the waiver was connection to the river trail, and he noted that the preferred route for the trail in this area had not been finalized, so there may be a difference in the river trail route that could affect pedestrian access to Loop 534. He stated that he had no problem with the sidewalk waiver.

Mr. Parton noted that the sidewalk waiver request still met other sidewalk ordinance criteria for a waiver to be granted due to the topographic constraints of the property. The drawings presented were conceptual only, and once finalized, if the river trail alignment was different than presented in the conceptual drawings, the city may look at other options to provide a connection.

Council also discussed the following:

- A sidewalk immediately adjacent to Highway 173 would present pedestrian safety issues and significant maintenance challenge.
- A large portion of subject property almost entirely in floodplain and FEMA requirement to build up for construction would require massive amount of fill.
- Was the city contemplating putting in a sidewalk in front of Birkdale lift station? Mr. Parton noted the city was not required to provide sidewalks on property used for a lift station; also, there was no connectivity to other property in the area and the west boundary was Camp Meeting Creek.
- Since it was unfeasible for the city to construct a sidewalk at Birkdale due to topography, the city should not require a private owner to construct a sidewalk in this immediate area.

Mr. MacDonald moved to grant the sidewalk waiver request as outlined in the staff recommendation; Mr. Conklin seconded the motion and it passed 3 to 0 with Members MacDonald, Conklin, and Pratt voting in favor of the motion; and Ms. Keeble abstaining.

Ms. Keeble returned to the meeting at 5:42 p.m.

Council clarified that the motion included instruction to staff that the waiver also applied to property immediately adjacent to the subject tract.

6. INFORMATION AND DISCUSSION

6A. Budget/Economic Update.

Mr. Erwin reported local sales tax up 7% and hotel occupancy tax up 6% from

2012. Revenue exceeded expenditures in the general fund and the water and sewer fund.

6B. Water resources report.

Mr. Hastings reported the small rain in January brought the river up to an average of 52 cfs and the city was able to store some water; in comparison, in January 2012 the city was able to store 200-250 MG in ASR.

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

8. **ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- Ms. Craig announced that the city secretary's office was currently accepting petitions and applications for a place on the ballot for the positions of Place One and Place Two on the Kerrville City Council. The deadline to file was Friday, March 1, 5 p.m.

9. **EXECUTIVE SESSION:**

Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071, 551.072, and 551.074 of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 4-0 to discuss the following matters:

Sections 551.071 and 551.072:

- Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the city's bargaining position with third parties, regarding property interests related to the following public works projects:

- Jefferson Street lift station
- G Street sewer project
- River trail.

At 5:46 p.m. the regular meeting recessed and council went into executive closed session at 5:48 p.m. At 6:10 p.m. the executive closed session recessed and council returned to open session at 6:12 p.m. The mayor announced that no action had been taken in executive session.

10. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

No action was taken following executive session.

ADJOURNMENT. The meeting adjourned at 6:12 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary