

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
JUNE 8, 2010

On June 8, 2010, 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 of Zion Lutheran Church, followed by the Pledge of Allegiance led by Jack Cremin, Military Officers Association of America.

MEMBERS PRESENT:

David Wampler	Mayor
R. Bruce Motheral	Mayor Pro Tem
Gene Allen	Councilmember
T. Scott Gross	Councilmember
Stacie Keeble	Councilmember

MEMBER ABSENT: None

STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Travis Cochran	Director of Information Technology
Kevin Coleman	Director of Development Services
Mindy Wendele	Director of Business Programs
Charlie Hastings	Director of Public Works
Mike Erwin	Director of Finance
Tara LaMontia	Assistant to the City Manager
John Young	Police Chief
Robert Ojeda	Fire Chief

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

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

1A. Bryan Demaree noted the Jefferson Street Café building was for sale and he proposed that someone purchase the property and establish a daytime homeless shelter and provide meals to the homeless 8:00 to 5:00 and a restaurant in the evening.

1B. Kate Roos, 2401 Rock Creek Drive, representing the Hill Country Quakers Religious Society of Friends, spoke in support of the VA project for homeless veterans. She had reviewed the request for proposals from the VA and researched the project. City approval was not necessary according to the VA, but she requested council rescind its prior opposition and provide a statement of support in principle, or at least table the matter until more information was available. The city should not focus on this as a potential financial burden.

1C. Bill Cantrell, 428 Saddle Club Drive, stated he was a veteran with PTSD and that many homeless veterans were diagnosed with PTSD. He heard from Congressman Lamar Smith that the city was opposed to the VA homeless project.

1D. John Moorman, 216 Lakeway Drive, noted Congressman Smith had a list of questions and the city council passed a motion that the city was opposed to the veterans homeless project until information was received regarding the project. He understood the city council was not against the project, but council just wanted information; however, word around town was that the city council was opposed to the project. He believed that Congressman Smith had received answers to those questions; he asked if the city had received those answers, and if so, would that information be made available to the public. He requested council rescind its opposition and take the position to study and seek more information, for example, request VA representatives hold a town hall meeting in Kerrville and discuss the project publicly.

1E. James Myers, 360 Saddle Club Drive, read portions of Eric Vogel's ballad "And the Band Played Waltzing Matilda" written about the Australian and New Zealand Army and the casualties resulting from the war in 1915-1916. Our Country will have to care for countless veterans for many years. The city should have more public discussions and reconsider its involvement.

1F. Scott Gross noted all councilmembers supported our Nation's troops and veterans; however, the council was doing its fiduciary responsibility to the citizens of Kerrville, and acting on behalf of its veterans, by requesting information about the VA homeless veterans program. The city council simply had been unable to get information. There was absolutely no intent whatsoever to say anything negative about veterans.

2. CONSENT AGENDA:

Mr. Gross moved for approval of items 2A through 2E; Mr. Motheral seconded the motion and it passed 5-0:

2A. Approval of minutes of the special city council meetings at 10:00 a.m. and 11:15 a.m. on May 18, 2010.

2B. Resolution No. 015-2010 authorizing the submission of a grant application to the United States Department of Justice Office of Community Oriented Policing Services – COPS Hiring Recovery Program.

2C. Approval of a lease agreement with the Kerrville Independent School District for property that the city uses for parking purposes behind the fire station located at 407 Harper Road.

2D. Approval to enter into negotiations with Element Markets for brokerage services to market carbon credits for the harvesting and use of gas produced at the city of Kerrville landfill.

2E. Approval of a contract with Romco Equipment Company pursuant to a bid for the lease of a 14-ton asphalt paver at a unit price of \$11,900 per month.

END OF CONSENT AGENDA.

3. PUBLIC HEARINGS FOR VARIOUS AMENDMENTS TO ZONING CODE:

3A. Consider a request to amend Article 11-I-3, definitions and interpretation of words and phrases, of the zoning code of the city of Kerrville.

Mr. Coleman noted Article 11-I-3 added new definitions.

Mayor Wampler opened the public hearing at 6:21 p.m.; and the following person spoke:

- John Mosty, chairman of ZOIC, urged city council to approve the zoning ordinance amendments as presented by staff and noted those amendments were consistent with the recommendation of the committee.

No one else spoke and Mayor Wampler closed the public hearing at 6:23 p.m.

3B. Consider a request to amend Article 11-I-4(b), zoning districts-generally, of the city's zoning code, by adding language relating to the determination of vested rights and the continuance of development activity.

Mr. Coleman noted Article 11-I-4(b), added language to address vested rights and continuance of development activity in newly annexed areas and brought the zoning code into conformance with state law.

Mayor Wampler opened the public hearing at 6:23 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:24 p.m.

3C. Consider a request to amend Article 11-I-15, planned development districts, of the city's zoning code, by deleting the existing Article 11-I-15, planned development districts, and adding a new Article 11-I-15, planned development districts and development site plans to the zoning code.

Mr. Coleman noted Article 11-I-15, revised planned development district standards and approval process, and codified the development site plan requirements and approval process into the zoning ordinance instead of by resolution.

Mayor Wampler opened the public hearing at 6:24 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:25 p.m.

3D. Consider a request to amend Article 11-I-17, regulations regarding building heights, lot width and area and setbacks, of the city's zoning code, amending Article 11-I-17(b) by deleting the maximum height for buildings from land use categories 3-9 inclusive, by deleting Article 11-I-17(c) building height-central city and amending Article 11-I-17(d) special setback regulations as they apply to encroachments into setback requirements.

Mr. Coleman noted Article 11-I-17(b)(c)(d), would delete maximum height of buildings for non-residential uses and clarify existing setback exemptions.

Mayor Wampler opened the public hearing at 6:25 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:26 p.m.

3E. Consider a request to amend Article 11-I-17, regulations regarding building height, lot width and area and setbacks, of the city's zoning code, by deleting Article 11-I-17(d)(1), central fire district and adding a new Article 11-I-17(d)(1), central business district to the zoning code.

Mr. Coleman noted Article 11-I-17(d)(1), would eliminate the existing fire district and replace it with the central business district boundary.

Mayor Wampler opened the public hearing at 6:26 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:26 p.m.

3F. Consider a request to amend Article 11-I-22, planning and zoning commission and board of adjustment, of the city's zoning code, by deleting Article 11-I-22(a)(3) procedural rules and adding a new Article 11-I-22(a)(3) procedural rules and deleting Article 11-I-22(b)(10) meetings, procedures and adding a new Article 11-I-22(b)(10) meetings, procedures.

Mr. Coleman noted Article 11-I-22, required the PZC and the zoning board of adjustment to be in compliance with the Texas Open Meetings Act, and prohibited ex-parte communications (discussions with applicants or representatives) outside of formal meetings.

Mayor Wampler opened the public hearing at 6:27 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:28 p.m.

3G. Consider a request to amend Article 11-I-24, permits and certificate of occupancy, of the city's zoning code, by adding language to clarify and define the building permit and certificate of occupancy process.

Mr. Coleman noted Article 11-I-24, clarified the role of the planning division and city planner in issuing building permits and certificates of occupancy; and insured building conformance with the zoning code.

Mayor Wampler opened the public hearing at 6:28 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:29 p.m.

4. ORDINANCES, FIRST READING:

4A. An ordinance amending the city's "zoning code" by revising and adding definitions, adding a determination of vested rights, revising the review and approval process for the creation of planned development districts and development site plans, revising regulations regarding height, lot width, area, and setbacks for various uses and within various zoning districts, revising the procedural rules for the planning and zoning commission and the zoning board of adjustment, and clarifying the process for the issuance of certificates of occupancy and building permits; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for a violation of any provision hereof; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Mr. Coleman noted the ordinance would codify changes presented in the public hearings.

Council discussed the following points:

- The ordinances made reference to and use of the development review committee, which was not a city committee; the planning and zoning commission was officially appointed and sanctioned by the city council and should be the final authority in all matters, not the DRC. The DRC and other city boards could assist in review of matters but PZC should be the final authority on appeals.
- Requested deletion of the requirement for fencing around accessory buildings. Mr. Coleman noted the requirement was removed for structures less than 150 sq. ft. but was a requirement where buildings were over 150 sq. ft. and encroached into the setback area. Mr. Mosty noted this was a requirement under the existing ordinance, and ZOIC had discussed subdivision restrictions and the requirement for fencing. The consensus of ZOIC was to require fencing where accessory buildings exceeded 150 sq. ft. and encroached into the setback area.
- Questioned the need to highlight areas that exceeded 5% grade or vertical height clearance of less than 13.5 feet. Mr. Coleman noted this requirement was to address fire truck issues and was targeted at fire lanes.

Mr. Motheral moved for approval of the ordinance on first reading, and revised to include the above revisions. Mr. Gross seconded the motion and it passed 5-0.

4B. An ordinance amending Chapter 26 “building and building regulations”, Article II “building codes”, of the Code of Ordinances of the City of Kerrville, Texas, by amending Section 26-31 to delete Chapter 34 “existing structures” from the 2006 Edition of the International Building Code; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Mr. Coleman noted with the adoption of Item 4C, Chapter 34 was no longer needed.

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

4C. An ordinance amending Chapter 26 “building and building regulations,” Article II “building codes” of the Code of Ordinances of the City of Kerrville, Texas, by adding a new Section 26-41 to adopt the 2006 Edition of the International Existing Building Code; adopting local amendments to said code; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Mr. Gross moved for approval of the ordinance on first reading, as amended to remove references to the word “seismic”; Mr. Motheral seconded the motion and it passed 5-0.

4D. An ordinance amending Chapter 50 “fire prevention and protection” of the Code of Ordinances of the City of Kerrville, Texas, by deleting Section 50-1 “construction standards within fire limits”; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Mr. Coleman noted with the adoption of the IEBC (4C), Section 50-1 was not needed.

Mr. Allen 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. Guadalupe River Trail Section 1. Pete Moore, representing Hunter Equity, proposed to divide the river trail phase I into sections A and B, with Phase 1A being the area from Guadalupe Park west to Knapp Road, and Phase 1B continuing west. He presented conceptual plans for a mixed use development at Guadalupe Street and SH 27 to include a variety of commercial uses. The development would also include a rivertrail, park, amphitheater with seating for about 300, and provide public parking for trail visitors. He requested council’s support for Hunter Equity to set up a non profit organization to accept donations to fund the river trail system, security, maintenance, and restoration when flooded; and to work with city staff to develop plans and cost estimates for the river trail and develop a time line between the private and public parts of the development to present to the city council.

The council also discussed the following points:

- A river trail would be a great economic generator for the community.
- The river was the most underutilized asset Kerrville had, and believed the river trail would receive overwhelming community support.
- Harvey Brinkman had previously volunteered to work with the city to assist in acquiring easements and in fundraising. Mr. Brinkman was in attendance agreed to continue to work on the river trail plan.

Mr. Parton noted staff was supportive of working with Hunter Equity to develop a plan for public and private partnership to fund Phase 1A of the project, but also to continue to work on a holistic approach to the river trail project.

The consensus of council was to support staff working with Hunter Equity.

5B. Direction to city staff regarding presentations made to the city council and other boards and commissions of the city and the corresponding staff reports included in agenda packets for those items. (Councilmember Gross)

Mr. Gross requested staff vent presentations before presenting them to city council to better streamline council meetings.

5C. Creation of an ad hoc committee to create guidelines for routine communications with the general public. (Councilmember Gross)

Mr. Gross noted continued lack of information, incorrect information, and incomplete information being received by the public and suggested creating a committee of citizens to assist in exploring ways to increase accurate and complete communication between the city and citizens.

The council discussed that communications with the public was a responsibility of the council and city staff; improved communication could be addressed at the next council retreat. It was suggested to involve the League of Women Voters in disseminating information.

5D. Direction to city staff in their application and enforcement of the codes and ordinances of the city of Kerrville. (Councilmember Gross)

Mr. Gross requested that council let staff know that while they should follow the rules, it would also be permissible to take opportunities to use common sense when dealing with enforcement issues and be facilitators and offer solutions. The council discussed staff not stand in the way; but at the same time one person's version of common sense should not prevail over council adopted ordinances.

5E. Recommendation from the review panel regarding the proposals for the construction of a Multi-purpose Meeting Facility (MMF) for the city of Kerrville.

Mr. Parton noted the process began a year ago when the Convention and Visitors Bureau (CVB) presented an analysis of lost business based on the lack of adequate facilities to host events, and the potential economic benefit of a MMF. Council appointed the Blue Ribbon Committee (BRC) to evaluate whether a MMF would benefit the community, and, if so, how such a facility would be structured. The BRC recommendation was that Kerrville would have a good market and a MMF should focus on supporting downtown, providing sustained economic benefit, and be structured on a public/private partnership with a revenue stream sufficient to balance operations and maintenance so the facility would be tax neutral. The firm TXP Consultants was hired to prepare a market evaluation and determine potential economic impact. A request for proposals (rfp) was issued; four proposals were received; and a panel was established to review and evaluate proposals and make a recommendation. The evaluation panel included city staff, Warren Ferguson (member of EIC), and Sudie Burditt (executive director of the CVB).

Ms. Wendele discussed the process used to evaluate the four proposals received from: Kerrville Gateway, Hunter Equity, Brass Real Estate, and Journeyman Harren. She noted this process was used, as approved by council, in order to insulate the council from the process and allow the panel to evaluate each proposal. The evaluation was based on the scoring criteria established to identify the partner that best matched the city's needs focusing on two critical criteria: 1) location flexibility; and 2) financial flexibility with minimal city financial exposure and participation with optimum opportunity for business development. She provided a comparison of the four proposals and noted the panel developed seven project specific non-negotiable points:

1. Prefer location in historic downtown or walking distance of downtown with river access or view, but other locations should not be excluded.
2. City's maximum capital investment: annual EIC debt service payment of up to \$500,000; annual hotel occupancy tax (HOT) of up to \$150,000; consideration of other indirect commitments with possible reimbursement of sales tax, property tax; and possible building permit fee waivers. These specific dollar amounts were not part of the RFP or information provided to the proposers; however, were considered by the panel as possible funding levels that the city could afford.
3. Facility should have 26,000 sq. ft. single room with associated breakout rooms.
4. Commitment from proposer for anchor tenants, including flag hotel.
5. Architect experienced in MMF designs.
6. No second round rfp, no charette. Deadline for negotiations of 30 days resulting in a letter of understanding and subsequent funding agreement.
7. Should be an opportunity for local contractors.

The panel recommended council authorize staff to proceed to negotiate with the top proposer, Hunter Equity, to develop a memorandum of understanding that would identify the responsibilities and expectations of each party based on the seven non-negotiable points. Hunter Equity was selected based on evaluation criteria, site location, and flexibility in financial investment.

The following points were also discussed by the council:

- The TXP report placed the cost estimate at \$10-13.5 million for a 45,000 sq. ft. facility and none of the proposals came close to that amount.
- The TXP study cited problems with a lack of meeting space under one roof, and lack of shuttle service.
- If EIC funds were used then available funds would be limited for future projects.
- Hunter Equity was the only proposal with a totally private project; the city could provide tax incentives.
- Fredericksburg had a multifunctional facility.
- MMF was a tremendous opportunity; staff should determine the full package of available city resources before pursuing any proposal. If the project was not economically feasible, it should be dropped.
- Negotiations and discussions would provide information, but not obligate the city.

The following persons also spoke:

1. Gene Smith stated the future of Kerrville was a regional shopping center, medical center and retirement area; the city should focus on those areas. The Gateway proposal included a MMF along I-10 that combined shopping and restaurants, and hotels were already in that area. He believed that a MMF downtown would not help downtown businesses and would not make money; a MMF on I-10 would attract people to other areas including downtown.

2. Kyle Bond, chair of the BRC and chamber of commerce representative, read a statement of support from the COC endorsing the MMF concept as an economic

generator for the community and encouraging the city council to make it a reality regardless of location.

3. Dave Vinyard, noted the town of Solana, Texas offered the North Texas Toll Road Authority \$100 million in future ad valorem taxes to influence them to put a toll road through their community. Fredericksburg's MMF was privately owned, severely under capitalized, and poorly marketed. He asked council to consider the economic future of Kerrville, noting the current severe imbalance of 88% in residential property tax base and 22% commercial; without economic development, there would have to be a major increase in ad valorem taxes. Council should stop the retail leakage; listen to experts who had studied the potential economic impact of a facility and support and invest in a MMF. He represented the Gateway proposal and was very disappointed in the panel's recommendation; he stated such a facility would not work in downtown.

4. Robert Naman supported free market capitalism and opposed a MMF that required city funding. The Gateway proposal required significant city funding through 4B tax revenue. He noted that several prime commercial properties had not had any increase in appraisals in the past 10-15 years, some appraisals were even lowered. KCAD should review commercial appraisals to ensure that all were paying their fair share of taxes. If the proposed MMF did not generate sufficient income and sales tax revenue, would city taxes be increased to pay off any expenses or debt? He questioned CVB's estimates and projected revenue. Mr. Naman suggested staff contact Dr. Haywood Sanders, Professor at UTSA, who stated that consultants consistently underestimate the cost and overstate demand for MMFs. A MMF would burden existing city services and water supplies. He asked council to request a nonbiased independent review of several convention centers built 15 years ago, including the amount of tax dollars spent, and estimate how much the city taxpayers would have to pay to maintain the facility if projected sales tax fell short. The city should strive to recruit clean businesses with higher payrolls than service jobs.

5. Bill Rector stated he strongly supported the BRC's and chamber's recommendation for a MMF as it would make money and generate tax revenue, and he encouraged that it be placed downtown with a focus on the river.

6. Ed Hamilton noted he had eight acres in downtown with 900 ft. river access for sale at a price of more than \$250,000 below the appraised value. He was a member of the EIC, and EIC had \$1.7 million available; he felt such a project would receive favorable consideration by EIC. There was no better utilization for the eight acres or better use of EIC funding than a MMF. The downtown area lost 700 people, and associated traffic, per day when the hospital moved. He noted that five studies commissioned by the city over the past 20 years encouraged commercial development and public assembly in downtown; no other locations were cited in these studies.

7. Pete Moore, Hunter Equity, agreed that Kerrville needed to increase the commercial base in order to lower the residential tax base. Hunter Equity would consider several locations for a MMF.

8. Warren Ferguson, member of the evaluation panel and EIC, felt now was the time to proceed with the MMF; it was extremely important to complete negotiations within 30 days and to push for an opening date of October 2012. There was nothing else on the city's horizon that could provide the economic benefits that a MMF offered. It was important that the hotel be a flag hotel to guarantee quality of the facility. The panel evaluated the proposals, and he stressed that the seven points were non-negotiable. A MMF would not be totally tax neutral; it would require some city financial investment and modest annual tax support for operations. EIC discussed the project and understood the city had very limited funds; however, EIC felt the MMF project would be workable without using all of EIC's funds. Before anything can be determined, the panel needed authorization to investigate and discuss a specific project.

9. Mike Lowe, representing Gulf Coast Commercial Group, suggested the city contact TxDOT to determine the impact a convention center downtown would have on traffic and the intersection at SH 16 and SH 27 and downtown parking. He projected a MMF would bring in \$42 million in retail sales and 683 jobs. The BRC had recommended the MMF be located downtown, but also stated another location would be acceptable. He stressed that the city needed a convention center that would bring in 2500 attendees and accommodate 1800 persons per seated event; he challenged how a facility of that size could be placed downtown.

10. Jimmie Spradling asked council to consider the national and local economy before proceeding; if the project was overspent or did not cover expenditures, the citizens would have to bail it out; find out first if the city can afford it.

Mr. Parton asked council to accept the recommendation of the review panel to enter discussions with Hunter Equity regarding using the seven non-negotiable points to structure a letter of understanding; specifically, the city's direct and indirect involvement; city funding amounts, resources, tax abatements, and incentives; prepare an initial budget that included the overall direct and indirect economic impact to the community and a market impact showing the additional revenue that would be generated for the city. This could be a major undertaking and investment for the city; however, the city had to be prudent in its obligations. The panel needed to discuss the non negotiables and set benchmarks before a recommendation could be made whether to move forward with negotiations, and if so, who to negotiate with. He proposed to update the council at the next meeting and bring forth a more solid recommendation in 30 days.

Mr. Allen moved to accept staff's recommendation to move forward to seek further information; the motion was seconded by Mr. Motheral and passed 5-0.

6. INFORMATION AND DISCUSSION:

6A. Kerrville budget/economic update. (Staff)

Mr. Erwin reported April 2010 economic figures compared to April 2009 and noted local sales tax was down 11%; hotel occupancy tax was 8% higher; and local unemployment was unchanged at 6.1%.

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

8. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** None

9. **EXECUTIVE SESSION:** None

ADJOURNMENT. The meeting adjourned at 8:43 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary