

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
JUNE 22, 2010

On June 22, 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 Stockton Williams of St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Mayor Wampler.

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
Heather Stebbins	Assistant City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Travis Cochrane	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
Kim Meismer	Director of General Operations
Antonio Martinez	Director of Library Services

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

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

1A. William Cantrell encouraged council to support the Kerrville VA homeless project.

1B. James Meyers asked city council again to revisit its decision regarding the Kerrville VA homeless project. He understood the city council was not going to support the project pending news from the VA and stated that no additional information would be forthcoming from the VA for quite awhile. He felt the need for information versus the decision to support or not to support were not connected. Council should hold a public discussion and move forward to support veterans.

Mayor Wampler noted that he, the city manager, other local representatives, and the developer had spoken to federal and VA representatives, and for the most part the questions had been answered about what was planned, the process, how it would be built and managed, the kind of services to be provided, and the potential impact to the community. The city council was not against the project and not trying to block it, but just wanted information.

Mr. Parton stated he would provide a full update at the July 13 meeting and city staff would be working with the VA to schedule local town hall meetings to provide information to the public.

Mr. Motheral clarified that the VA was NOT funding the project; if it happened, it would be funded through HUD, and the VA was only making five acres of land available. He further noted that within the VA catchment area there were only six certified homeless veterans; the other 74 units would be occupied by others.

1C. Donna Snow Robinson invited the council to a League of Women Voters forum for candidates in state races to be held on July 5 at the Cailloux Theater.

1D William Cantrell noted at a town hall meeting on May 19 Congressman Lamar Smith stated he did not oppose the Kerrville VA homeless project, but the Kerrville City Council and the Hill Country Veterans Council did oppose it. The city council voted 5-0 on April 27 to oppose the project, but stated they did not oppose veterans. There were answers in the past but council had not been privy to those answers or perhaps had not been invited to meetings. He was a member of the HCVC and they did NOT oppose it and did not vote on it. He wondered if local veterans' organizations knew about it and where they stood on the issue. He questioned Mr. Motheral's comments and if he meant we only want to take care of Kerr County veterans, not those from other areas.

2. RECOGNITION AND COMMENDATIONS:

2A. Presentation of Officer of the Year Award: Officer Jonathan Cline – Police Commendation Award.

2B. Presentation of Awards: Certificate of Merit – Sergeant Mary Krebs and Officer Paul Gonzales.

2C. Presentation of Firefighter of the Year Award for 2010 to Firefighter/Paramedic Brandon J. Miller.

2D. Recognition of Lieutenants Mark Dunning and Brian Hammer by the National Fire Academy for the completion of courses at the National Emergency Training Center in Emmitsburg, Maryland.

3. CONSENT AGENDA:

Mr. Parton requested items 3D and 3E be removed from consent agenda for discussion. Mr. Gross moved for approval of items 3A, 3B, 3C, and 3F through 3N; Ms. Keeble seconded the motion and it passed 5-0:

3A. Approval of minutes of the regular city council meeting of May 25, 2010.

3B. Resolution No. 017-2010 supporting the National Park Service initiative to conduct a feasibility study for the designation of the Great Western Trail and the Chisholm Trail as National Historic Trails.

3C. Authorize an increase in the amount of the contract with Yantis Company for the construction of site improvements to the Salvation Army Kroc Recreational Center and a regional storm water detention facility at Paschal Street and Holdsworth Drive from \$1,119,735.75 to \$1,173,959.55 and authorize release of the remainder funds in the amount of \$44,317.46 to cover other potential change orders.

3F. Authorize execution of a contract with Southern Ionics Incorporated for the purchase of Alum at a unit price of \$0.871 per gallon.

3G. Authorize execution of a contract with Casey Ingredients for the purchase of sodium thiosulfate at a unit price of \$0.40 per pound.

3H. Authorize execution of a contract with Fort Bend Services for the purchase of cationic polymer FBS-7802 at a unit price of \$634.55 per 55 gallon drum.

3I. Authorize execution of a contract with Fort Bend Services for the purchase of cationic polymer FBS-C483 at a unit price of \$589.50 per 55 gallon drum.

3J. Authorize execution of a contract with Acetylene Oxygen Company for the purchase of chlorine gas at a unit price of \$560.00 per ton.

3K. Authorize execution of a funding agreement for disbursement of EIC funds to KEDF for operational expenses in the amount of \$25,000.

3L. Authorize execution of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Hill Country Home Opportunity Council for the Pinto Trail housing development.

3M. Resolution No. 016-2010 opposing passage of federal legislation concerning mandatory collective bargaining applicable to local governments.

3N. Authorize execution of a settlement agreement between the City of Kerrville and the Texas Department of Agriculture for Mooney Airplane Co.-Texas Capital Fund.

END OF CONSENT AGENDA.

3E. Authorize execution of a construction contract with Nelson Lewis, Inc. for the construction of the Harper Road utility extension project in an amount not to exceed \$2,520,564.40.

Ms. Ondrias noted one easement was still outstanding but expected by the end of the week. The bids expired on July 12; therefore she recommended the council: 1) Award a contract for construction subject to voluntary easement acquisition or through condemnation; 2) Call a special meeting to award the bid after the easement was completed; or 3) Reject all bids and rebid the project. She noted, if condemnation became necessary, that process would take 30-90 days but the contractor could work around that property in the meantime.

The council noted this project would allow James Avery to receive city utilities in order to continue operation and expand at the current location and keep jobs in Kerrville.

Mr. Motheral moved to instruct staff to move forward with the contract for construction and get the easement whether voluntary or by condemnation. The motion was seconded by Mr. Allen and passed 5-0.

3D. Authorize execution of a professional engineering services agreement with Raba-Kistner Consultants, Inc. to serve as the geotechnical engineer and provide materials testing services for the Harper Road utility extension project in an amount not to exceed \$67,840.00.

Ms. Ondrias noted this contract was for engineer services related to the Harper Road utility project as discussed in Item 3E; staff recommended approval.

Mr. Motheral moved to approve the agreement as presented; Ms. Keeble seconded the motion and it passed 5-0.

4. PUBLIC HEARING:

4A. Public hearing for an annexation into the city limits and a recommendation for the zoning of a 3.12 acre tract located at 327 Peterson Farm Road.

Mr. Coleman noted the property owner, Barbara Buxton, requested annexation in order to receive city water. PZC held a public hearing and recommended annexation and zoning designation of single family residential, which was consistent with the land use plan and the current use of the property. In addition, staff recommended the annexation ordinance include the adjacent 260 ft. section of Peterson Farm Road right of way as properties on both sides would be in the city limits. The annexation should be complete July 27.

Mayor Wampler opened the public hearing at 6:41 p.m.; no one spoke and Mayor Wampler closed the public hearing at 6:41 p.m.

5. PUBLIC HEARING AND ORDINANCE, FIRST READING:

5A. An ordinance amending Ordinance No. 2005-17 which created a “planned development district” for personal services II (day care center only) for an approximate 2.06 acre tract of land out of the Samuel Wallace Survey Number 113, within the City of Kerrville, Kerr County, Texas, and more commonly known as 551 Meadowview Lane; said amendment to increase the authorized floor area of the buildings on the property and the maximum number of children to be accommodated. Mayor Wampler read the ordinance by title only.

Mr. Coleman noted the original 2005 PDD and site plan restricted the building square footage and limited the maximum number of children at 120. The applicant requested to amend the original PDD to allow for construction of a new gym for the day care center and to increase the number of children to 170. He noted the restrictions were placed on the original PDD based on increased traffic congestion; however, the applicant proposed a decelerated turn lane to assist in traffic and adequate parking to accommodate the facility. Public notification was given as required and no comments had been received.

Mayor Wampler opened the public hearing at 6:46 p.m.; no one spoke and Mayor Wampler closed the public hearing at 6:46 p.m.

Ms. Keeble moved to approve the ordinance on first reading to amend the PDD as stated; Mr. Motheral seconded the motion and it passed 5-0.

6. ORDINANCES, SECOND READING:

6A. Ordinance No. 2010-09 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 reviewed the amendments to the ordinance on first reading as instructed by the council on June 8.

The council also discussed the following points:

- Eliminating the height restrictions now would result in inconsistencies.
- Past issues with building height; concern for obstruction view of the river and hills.
- Should send the ordinance back to ZOIC to solicit further citizen input.
- Numerous public hearings had been held and no one came; it was time to move forward.

The following person spoke:

1. John Mosty, ZOIC chairman, noted building height restrictions were a detriment to large scale commercial development; it was more efficient use of property to build up. He noted the city had to create a special hospital district to allow Peterson Hospital to build at its current site. The city was discussing the possibility of a convention center and hotel and the current height restriction of 40 ft. would be a detriment to such potential development. Parking and setback restrictions were in place that would restrict height to some extent based on the amount of land available for construction. He urged council to pass the ordinance now and noted that ZOIC had already held 4-5 public hearings and there were no objections about height restrictions.

Mr. Motheral moved for approval of Ordinance No. 2010-09 on second and final reading as presented; Mr. Gross seconded the motion and it passed 3-2 with Messrs. Motheral, Gross, and Allen voting in favor of the motion; and Ms. Keeble, and Mayor Wampler voting against the motion.

6B. 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. Motheral requested items 6B and 6C be tabled and staff review the effect of repealing Chapter 34 of the IBC, for example, elimination of the requirement for structure analysis.

Council consensus was to table 6B and 6C to the July 13 meeting.

6C. 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.

Council consensus was to table 6B and 6C to the July 13 meeting.

6D. Ordinance No. 2010-10 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 the language was consistent with the building code and there was no change since first reading; staff recommended approval on second reading.

Mr. Motheral moved for approval of Ordinance 2010-10 on second and final reading; Ms. Keeble seconded the motion and it passed 5-0.

7. ORDINANCES, FIRST READING:

7A. An ordinance amending the budget for the fiscal year 2010 economic improvement corporation (EIC) to appropriate funding for approved projects concerning a commercial improvement program and the development of affordable housing. Mayor Wampler read the ordinance by title only.

Mr. Erwin noted EIC requested the EIC budget be amended to:

1. Move \$100,000 from contingency account to fund a new business development improvement program designed to reimburse expenses associated with improved commercial building façades, improved signage, or to raze structures; the program would be limited to commercial corridors under certain established guidelines.
2. Move \$150,000 from the public infrastructure category to fund engineering fees and infrastructure for a residential development on Pinto Trail for the Hill Country Home Opportunity Council.

Mr. Gross moved for approval of the ordinance on first reading as presented; Mr. Motheral seconded the motion and it passed 5-0.

8. INFORMATION AND DISCUSSION:

8A. Update from Jeana Lehmann Krause, Executive Director of the Mary Elizabeth Holdsworth Library Foundation, on the library renovation project.

Ms. Krause updated council on progress associated with the library renovation project:

- Developed a mission statement and vision statement.
- Board members were appointed and seeking additional members.
- Moved foundation offices to 433 Water Street, Unit D.
- Held open house event on June 17 at the foundation office; 67 people attended.
- Bacon/Lee fundraising consulting group will begin work with the foundation on July 1.
- Filed IRS Form 1023 and started capital campaign development.
- Web site development underway.
- Capital campaign organization will begin in July; will initiate campaign in September.
- Received additional operating funds from Charles Butt.

8B. Status of negotiations with Hunter Equity for the construction of a multi-purpose meeting facility (MMF).

Ms. Wendele reviewed the panel's recommendations and updated council on future scheduled meetings with Hunter Equity.

Mr. Parton noted staff would discuss negotiation points and financial information in executive session.

The following persons spoke:

1. Robert Naman questioned what resources the city had available for the project, where funding would come from, and requested full disclosure of information to the citizens. The Blue Ribbon Committee that studied the issue recommended any future MMF should be tax neutral; potential funding was anticipated to come from city sales tax and EIC funds. He noted only a few landowners downtown would benefit, and many local business owners would be forced to move due to higher rent and escalated ad valorem taxes. Mr. Naman again suggested the city contact Haywood Sanders, who stated that consultants consistently over promise and under deliver, and government did not perform well.

2. Brett Rhode, representing Journeyman Harren, noted they had submitted a proposal but were not selected; however, they had a continued interest in the project should negotiations with Hunter Equity fall through. Their original proposal had focused on only a downtown location, but they were flexible and could study multiple locations. They were ready to work with the city if the opportunity arose.

8C. Amendments to the purchasing policy for the city of Kerrville.

Mr. Erwin reviewed proposed amendments to the purchasing policy to be presented to the council for adoption at the July 13 meeting. He reviewed bid approval process and requirements at various expenditure levels. The most significant changes were:

1. The city manager's approval limit on items already approved by the council in the budget would be increased from \$25,000 to \$50,000.

2. The per diem rate for meals when traveling would be based on the IRS rate of \$54 per day.
3. Requires disclosure statements if any person or business has a relationship with the city.
4. Includes state law requirement that the city contact historically underutilized businesses when making expenditures between \$3,000-\$50,000.

He noted the proposed purchasing policy would reflect current state law.

8D. Kerrville budget/economic update.

Mr. Erwin reported May 2010 economic figures compared to May 2009 and noted this was the first time the sales tax revenue figures had not been negative when compared to the same month of the previous year.

9. BOARD APPOINTMENTS:

9A. Appointment to the zoning board of adjustment. Ms. Keeble moved to appoint Joe Rogers as an alternate member with term to expire September 30, 2012; Mr. Motheral seconded the motion and it passed 5-0.

10. ITEMS FOR FUTURE AGENDAS

10A. Mr. Parton noted the new economic development program would be presented to economic development partners in the next month, followed by presentation of specific funding requests to the participating entities.

11. EXECUTIVE SESSION:

Ms. Keeble moved for the city council to go into executive closed session under Sections 551.072 (deliberation regarding real property), 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. Gross and passed 5-0 to discuss the following matters:

Sections 551.072 and 551.087:

- Negotiations with Hunter Equity for the construction of a multi-purpose meeting facility.

Sections 551.072:

- Discuss the purchase, exchange, lease, sale, or value of real property for use as recreational facilities, the public discussion of which would not be in the best interests of the city's bargaining position with third parties.

At 7:35 p.m., the regular meeting recessed and council went into executive closed session at 7:50 p.m. At 8:40 p.m., the executive closed session recessed and council returned to open session at 8:41 p.m. The mayor announced that no action had been taken in executive session.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

ADJOURNMENT. The meeting adjourned at 8:15 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary