

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
MAY 22, 2012

On May 22, 2012, the Kerrville City Council meeting was called to order by Mayor Pratt at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Matt Melton, Pastor of High Peak Fellowship, followed by the Pledge of Allegiance led by Allie Finch and Makenzie Skrumeda, and members of the Girl Scouts of America.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember
Stacie Keeble	Councilmember
Justin MacDonald	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
Keith Magnell	Information Technology Department
Mike Erwin	Director of Finance
Kim Meisner	Director of General Operations
Jason Lutz	City Planner
Mark Beavers	Assistant Fire Chief
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. PRESENTATIONS:

- 2A. Proclamation designating 2012 as "Girl Scouts of the United States of America 100 Year Centennial Celebration, and the Year of the Girl."
- 2B. Proclamation designating May 25, 2012 as "Byron Nelson Day." (Mayor Pratt). The city was invited to attend an event at the Riverhill Golf Course on Friday, May 25 where the proclamation would be presented to Mrs. Nelson.
- 2C. Proclamation designating the week of May 20 through 26, 2012, as "National Public Works Week. (Mayor Pratt)

2D. Presentation by Peterson Regional Medical Center on Peterson's Community Care Program.

Steve Pautler and Lisa Winters, PRMC representatives, announced plans for the

opening of Peterson Community Care, a hospital based facility to be located at 841 Junction Highway. The facility would offer quality primary care and specialty care, regardless of payment status, for persons needing non-emergency care or in place of a primary physician. PRMC anticipated opening the facility in fall 2012.

### **3. CONSENT AGENDA:**

Staff requested item 3B be removed from the consent agenda.

Mr. Conklin moved for approval of items 3A, 3C, 3D, 3E, and 3F; Mr. Allen seconded the motion and it passed 5-0:

3A. Minutes of the regular city council meeting held May 8, 2012.

3C. Contract with City-County Benefits Services (C-CBS) for the period of June 1, 2012 – May 31, 2013, in the amount of \$30,000.00, for employee benefit consulting services.

3D. Interlocal Service Agreement for Physical Addressing Services between the City of Kerrville, Texas and Kerr Emergency 9-1-1 Network.

3E. Resolution No. 14-2012 adopting amendments to the City of Kerrville Investment Policy regarding the investment of City funds in accordance with the Public Funds Investment Act.

3F. Resolution No. 16-2012 waiving park fees for Juneteenth Celebration within Carver Park pavilion scheduled for June 15 – 17, 2012.

### **END OF CONSENT AGENDA**

3B. Contract with Qro Mex Construction, Inc. for the construction of the Harper Highway Utility Extension-Phase Two project in the amount of \$578,722.00, with change orders authorized but not to exceed the total amount of \$646,595.00.

Mr. Parton noted in 2009 the city extended wastewater services to the James Avery Craftsman campus; this project would extend utility services to properties that front on Harper Road. Mr. Parton requested authority to award the contract to the lowest qualified bidder, Qro Mex Construction, Inc. in the amount of \$578,722.00, and to issue change orders that may exceed \$50,000, but not to exceed the total amount of \$646,595.00.

Ms. Keeble moved for approval of the contract to Qro Mex Construction; Mr. Conklin amended the motion to include authorization for the city manager to issue change orders that may exceed \$50,000 but not to exceed the total amount of \$646,595.00. Mr. Conklin seconded the amended motion and it passed 5-0.

### **4. PUBLIC HEARING**

4A. Consider petition protesting the February 2012 increase in water rates imposed by Aqua Texas for its customers within the City limits.

Mr. Hastings (director of public works) estimated the rate increase affected 80-150 city residents that were on the Aqua Texas system. State law provided that if the city received complaints from 10% of the Aqua Texas customers inside the city limits, the city must set a public hearing; the city received 37 letters.

Mayor Pratt declared the public hearing open at 6:31 p.m. and the following persons spoke:

1. William Cathey stated he lived outside the city limits, within the Horizon, but represented customers inside the city, and noted the following:
  - Aqua Texas instituted a rate increase effective February 21, 2012, designed to recoup \$31.7 million invested in the Southwest Region since 2004; each ratepayer's share was estimated at \$2,300.
  - AT customers were paying three times more than city water rates; most did not use 1,000 gallons a month.
  - AT proposed setting the same rate for their entire southwest region, which included the Kerrville South area, resulting in 38% higher base rate.
  - AT customers in the city of Ingram were not subject to regionalization and were granted an exception to AT's regionalization by the Texas Commission on Environmental Quality.
  - The city had original ratemaking jurisdiction and could approve or contest AT's rates; the city could negotiate rates with AT; if AT was not satisfied with the rates, AT could appeal to TCEQ.
  - AT takes no responsibility for providing water for fire protection; all hydrants were painted black.
  - AT's rate increase required all of their southwest region ratepayers (13,731) to pay the same rate, which equated to a 60% rate increase in this area.

Mr. Cathey recommended the city set a just and reasonable water rate for Aqua Texas customers inside the Kerrville city limits and noted the regional pass through charge proposed by AT had nothing to do with the Kerrville area.

2. Michael Piper stated he was an AT commercial customer and had a 62% rate increase in February, and he paid higher insurance premiums because AT would not provide a fire hydrant in his area. If his costs continued to rise, he would have to raise the cost of his products; he urged council to deny AT's rate increase.

No one else spoke, and Mayor Pratt closed the public hearing at 6:47 p.m.

Mr. Hayes (city attorney) noted that Aqua Texas had the burden of proving that their proposed rate was fair and just, and they had been notified of this meeting. Under state law, if the city believed the rate was unfair, then the city had to determine what rate was fair. The city was acting as the point of original jurisdiction and could hire rate consultants, etc. and those costs could be passed on to AT, similar to the Atmos rate process; however, AT could then pass those costs on to their ratepayers. He noted that by holding this public hearing, the protestors were locking themselves into the evidence that could be presented and considered at future rate hearings. Mr. Hayes also noted that if the city issued a finding that the rate was unfair and unjust, TCEQ required an order from the city; also, both sides could appeal the council's decision to TCEQ. He noted that the appeal process for AT customers outside the city limits was to TCEQ.

Mr. MacDonald moved to issue an order finding that the Aqua Texas rate increase was unfair and unreasonable. Mr. Conklin seconded the motion and it passed 5-0.

The council noted that no one was present to represent Aqua Texas, and the burden was on AT to justify the rate they were asking for.

Mr. MacDonald moved that due to a lack of evidence to support the Aqua Texas rate increase, that the council deem that the prior rate was fair and reasonable, and require that Aqua Texas revert back to the previous rate structure. Mr. Allen seconded the motion and it passed 5-0.

## **5. ORDINANCE SECOND AND FINAL READING**

5A. Ordinance No. 2012-04 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 Pratt read the ordinance by title only.

Mr. Erwin noted no changes since first reading.

Mr. Conklin moved for approval of Ordinance No. 2012-04 on second reading; Mr. Allen seconded the motion and it passed 5-0.

## **6. CONSIDERATION AND POSSIBLE ACTION:**

6A. Sidewalk café permit for 804 Water Street (Yeo-Bo's Café).

Mr. Parton noted that the previous restaurant owner had a sidewalk café at this location and the new restaurant owners requested the permit be reinstated to allow outdoor seating. The new owners had satisfied all city standards.

Mr. Allen moved to authorize Mr. Parton to issue the sidewalk café permit as stated. Ms. Keeble seconded the motion and it passed 5-0.

6B. Resolution No. 15-2012 denying Atmos Energy Corp., Mid-Tex Division's requested rate change; requiring the Company to reimburse the City's reasonable ratemaking 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 that in January Atmos filed a rate increase of \$49 million, and in February, members of the Atmos Cities Steering Committee (ACSC) voted to suspend the effective date of the proposed increase to allow attorneys and consultants to negotiate a settlement. ACSC and Atmos had not reached a settlement; therefore, ACSC recommended denial of the rate increase to prevent the rate increase from taking effect on June 11, and allow more time for a negotiated settlement. Atmos was aware of the city's actions and supported delaying the time to allow continued negotiations.

Mr. Conklin moved for approval of Resolution No. 15-2012; Ms. Keeble seconded the motion and it passed 5-0.

6C. Consideration of reducing the makeup of the Zoning Ordinance Input Committee from seven (7) regular members to five (5) regular members and to appoint two City Council members as liaisons to the committee.

Mr. Parton noted ZOIC was originally a seven member board appointed by council in 2010 to begin a comprehensive rewrite of the zoning ordinance. Since that time, the board had experienced turnover in membership, most recently the resignation of Justin MacDonald due to his election to council. ZOIC was nearing completion of the project and requested the membership be reduced to five members and two city council liaisons, i.e. Mr. Conklin and Mr. MacDonald.

Mr. MacDonald moved to reduce ZOIC membership from seven members to five regular members; Mr. Allen seconded the motion. Ms. Keeble amended the motion to include the appointment of Mr. MacDonald and Mr. Conklin as council liaisons to ZOIC, and the amended motion passed 5-0.

6D. Appointment of Mayor Pro Tem. Deferred to executive session.

## **7. INFORMATION AND DISCUSSION:**

7A. Budget and economic update. Mr. Erwin reported sales tax for April 2012 was 17% higher than April 2011; and HOT continued to increase. General fund revenue was at \$15.2 million and expenditures at \$11 million; water and sewer fund revenue was at \$4.8 million and expenditures at \$4.6 million.

## **8. BOARD APPOINTMENTS:**

8A. Appointment of Councilmembers to city boards and commissions.  
Deferred to executive session.

8B. Appointments to the Economic Improvement Corporation.  
Deferred to executive session.

8C. Appointments to the Planning and Zoning Commission.  
Deferred to executive session.

9. **ITEMS FOR FUTURE AGENDAS:** None discussed.

## **10. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

- Mr. Beavers announced that the Kerrville Fire Department would be collecting funds for the Muscular Dystrophy Association on Memorial Day weekend and on June 9 at Main and Sidney Baker. In 2011 KFD collected over \$17,000 and their goal for 2012 was to collect \$20,000.
- June 9 was "Bark for Life" at River Star Park; events would start at 9:00 a.m.
- Arts and Crafts Fair at River Star Park May 25-28.

- Kerrville’s 4<sup>th</sup> on the River event would be held Saturday, June 30, beginning at 3:00 p.m. in Louise Hays Park; eight artists including Monte Montgomery and Stoney LaRue.
- City council special meeting was scheduled May 31 at 9:00 a.m. to discuss wastewater treatment system master plan and river trail project.

**11. EXECUTIVE SESSION:**

Mr. Conklin moved for the city council to go into executive closed session under Sections 551.074 (personnel matters) of the Texas Government Code; the motion was seconded by Mrs. Keeble and passed 5-0 to discuss the following matters:  
Section 551.074:

- Appointment of Councilmembers to City boards and commissions.
- Appointments to the Economic Improvement Corporation.
- Appointments to the Planning and Zoning Commission.
- Appointment of Mayor Pro Tem.

At 7:19 p.m. the regular meeting recessed and council went into executive closed session at 7:32 p.m. At 9:10 the executive closed session recessed and council returned to open session at 9:11 p.m. The mayor announced that no action had been taken in executive session.

**12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION:**

6D. Appointment of Mayor Pro Tem.

Mr. Allen moved to appoint Stacie Keeble as mayor pro tem; the motion was seconded by Mr. Conklin and passed 5-0.

8A. Appointment of Councilmembers to City boards and commissions.

Mr. Conklin moved to appoint the following councilmembers to city boards; Ms. Keeble seconded the motion and it passed 5-0:

CITY BOARD	EXISTING COUNCIL REPRESENTATIVE	PROPOSED COUNCIL REPRESENTATIVE
Airport Planning Committee	Carson Conklin David Wampler	Jack Pratt Carson Conklin
Audit Committee	Gene Allen Stacie Keeble	Gene Allen Justin MacDonald
Economic Improvement Corporation	Stacie Keeble	Stacie Keeble
Food Service Advisory Board	Scott Gross	Stacie Keeble
Golf Course Advisory Board	Carson Conklin	Carson Conklin
Kerrville Economic Development Corporation	David Wampler	Carson Conklin
Kerrville Public Utility Board	David Wampler	Jack Pratt

Library Advisory Board	Scott Gross	Justin MacDonald
Main Street Advisory Board	Scott Gross	Gene Allen
Municipal Court Review Committee	David Wampler Stacie Keeble	Jack Pratt Stacie Keeble
Parks and Recreation Advisory Board	Stacie Keeble	Gene Allen
Planning and Zoning Commission	Carson Conklin	Justin MacDonald
Playhouse 2000	Gene Allen	Stacie Keeble
Zoning Ordinance Input Committee (ZOIC)	Carson Conklin	Carson Conklin Justin MacDonald

**8B. Appointments to the Economic Improvement Corporation.**

Ms. Keeble moved to reappoint Polly Rickert and Rex Boyland, and to appoint David Wampler, all with terms to expire June 1, 2014; Mr. Conklin seconded the motion and it passed 4 to 1 with Members Keeble, Conklin, Allen, and MacDonald voting in favor of the motion, and Mayor Pratt voting against the motion.

**8C. Appointments to the Planning and Zoning Commission.**

Mr. Conklin moved to appoint T. Beck Gipson to fill an unexpired term due to expire January 1, 2013; Mr. MacDonald seconded the motion and it passed 5-0.

**13. ADJOURNMENT.** Mr. MacDonald moved to adjourn the meeting; the motion was seconded by Mr. Allen and passed 5-0. The meeting adjourned at 9:17 p.m.

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

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Jack Pratt, Jr., Mayor

ATTEST:

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Brenda G. Craig, City Secretary