REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on December 16, 2014 at 7:00 p.m. at Kyle City Hall, with the following persons present:

Mayor Todd Webster
Mayor Pro Tem Diane Hervol
Council Member Selbera
Council Member David Wilson
James Earp, Interim City Manager
Ken Johnson, City Attorney
Manny De La Rosa, Director of Planning
Leon Barba, City Engineer
Robert Olvera, IT
Chief Jeff Barnett, Kyle PD

CALL MEETING TO ORDER

Mayor Webster called the meeting to order at 7:01p.m.

ROLL CALL

Mayor Webster called for roll call. Present were Mayor Webster, Mayor Pro Tem Hervol, Council Member Selbera, Council Member Wilson.

Mayor Webster stated he had been contacted by Council Member LeMense informing him that she had the flu and would not be attending the meeting.

Council Member Selbera moved to excuse Council Member LeMense. Council Member Wilson seconds the motion. All aye. Motion carried.

APPROVAL OF MINUTES

CITY COUNCIL REGULAR MEETING – DECEMBER 2 2014 ~ AMELIA SANCHEZ, CITY SECRETARY

Mayor Pro Tem Hervol moved to approve the minutes of the City Council Regular Meeting of December 2, 2014. Mayor Webster seconds the motion. All aye. Motion carried 4-0.

CITIZEN COMMENT PERIOD WITH CITY COUNCIL

THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS EARLY IN THE AGENDA OF REGULAR MEETINGS. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AT THE KYLE CITY HALL. SPEAKERS MAY BE

PROVIDED WITH AN OPPORTUNITY TO SPEAK DURING THIS TIME PERIOD, AND THEY MUST OBSERVE THE THREE-MINUTE TIME LIMIT.

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Mayor Webster opened the Citizens Comments at 7:03 p.m. Chief Barnett stated he was recognizing a Kyle citizen for his efforts in the Blue Santa program, and asked 6 year old Eli Housman and family to come forward. Chief Barnett stated that Eli had begun working on the project eleven months ago and had donated \$100.00 to Blue Santa. Donnie O'Neal with JKB Construction spoke and stated his was doing underground utilities for a the project called Kyle 47, for D R Horton Homes, which included the paving, water, wastewater and detention ponds for new subdivisions. He stated that in August of this year he had applied for a water meter, paid the deposit, and that the first bill was over \$12,000.00. He stated he had never gotten a water bill that high anywhere he had worked before and in the process of trying to find out what was going on he had incurred a penalty of \$1234.29. He stated the bill was paid but a penalty added on top of that penalty making the bill now \$1539.49 and everything has been paid in full and was told he needed to come before Council for a penalty abatement. Mayor Webster told Mr. O'Neal to contact the City Manager James Earp to try to resolve this problem. With no one else wishing to speak Mayor Webster closed Citizens Comments at 7:10 p.m.

PRESENTATION

Pedernales Electric Cooperative's update. ~ Dr. Patrick Cox, PEC Board President, and CEO John D. Hewa

Dr. Patrick Cox, PEC Board President, and CEO John D. Hewa provided Council with a presentation on rates, reliability and member services and their operations and completed projects in Kyle.

APPOINTMENTS

CONSIDER NOMINATION AND APPOINTMENT OF REPRESENTATIVES FOR THE CITY OF KYLE TO THE CAPITAL AREA COUNCIL OF GOVERNMENTS GENERAL ASSEMBLY.

Mayor Webster moved to appoint Shane Arabie as representative to the Capital Area Council of Governments. All aye. Motion carried 4-0.

Mayor Webster moved to appoint David Wilson as representative to the Capital Area Council of Governments. Council Member Selbera seconds the motion. All aye. Motion carried 4-0.

With no second on the initial motion, Mayor Webster restates appointment of Shane Arabie as representative to the Capital Area Council of Governments. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried.

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CONSENT AGENDA

APPROVE CONTRACT SUPPLEMENT NO. 2 WITH FREESE & NICHOLS, INC., AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$47,846.00 UNDER THE BURLESON ROAD BOND PROJECT, FOR THE PURPOSE OF CONDUCTING A REGIONAL DRAINAGE STUDY FOR AREAS CONTRIBUTING RUNOFF TO N. BURLESON ROAD AND THE CITY'S OPEN CHANNEL IN THE VICINITY OF ST. ANTHONY'S STREET. ~ LEON BARBA, P.E., CITY ENGINEER

APPROVE CONTRACT SUPPLEMENT NO. 2 WITH LJA ENGINEERING, INC., AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$168,910.00 FOR THE PURPOSE OF PROVIDING RIGHT-OF-WAY SERVICES AND DOCUMENTATION FOR ACQUIRING AN ESTIMATED 12 PARCELS ALONG BUNTON CREEK ROAD FROM IH 35 EAST FRONTAGE ROAD TO LEHMAN ROAD. ~ LEON BARBA, P.E., CITY ENGINEER

APPROVE WORK AUTHORIZATION NO. 1 WITH NEPTUNE-WILKINSON & ASSOCIATES, INC., AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$21,129.00 FOR ADDITIONAL ENGINEERING SERVICES TO COMPLETE THE DEVELOPMENT OF PLANS, ESTIMATES, BID SPECIFICATIONS AND BIDDING AND CONSTRUCTION PHASES FOR THE BUNTON CREEK INTERCEPTOR PHASE 3.1 PROJECT. ~ LEON BARBA, P.E., CITY ENGINEER

APPROVE A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR OPERATION AND MAINTENANCE WITHIN THE WINDMILL CENTER SUBDIVISION. ~ LEON BARBA, P.E., CITY ENGINEER

APPROVE A RESOLUTION ACCEPTING POST OAK SUBDIVISION PHASE 5B SUBDIVISION IMPROVEMENTS. ~ LEON BARBA, P.E., CITY ENGINEER

Council Member Wilson moved to approve Consent Agenda items #4 ~ Approve contract supplement No. 2 with FREESE & NICHOLS, INC., Austin, Texas, in an amount not to exceed \$47,846.00 under the Burleson Road Bond Project, for the purpose of conducting a regional drainage study for areas contributing runoff to N. Burleson Road and the city's open channel in the vicinity of St. Anthony's street; #5 ~ Approve contract supplement No. 2 with LJA ENGINEERING, INC., Austin, Texas, in an amount not to exceed \$168,910.00 for the purpose of providing right-of-way services and documentation for acquiring an estimated 12 parcels along Bunton Creek Road from IH 35 East Frontage Road to Lehman Road; #6 ~ Approve work authorization No. 1 with NEPTUNE-WILKINSON & ASSOCIATES, INC., Austin, Texas, in an amount not to exceed \$21,129.00 for additional engineering services to complete the development of plans, estimates, bid specifications and bidding and construction phases for the Bunton Creek Interceptor Phase 3.1 Project; #7 ~ Approve a resolution accepting the public improvements for operation and maintenance within the Windmill Center Subdivision; #8 ~ Approve a resolution

accepting Post Oak Subdivision Phase 5B Subdivision Improvements. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 4-0.

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CONSIDER AND POSSIBLE ACTION

(FIRST READING) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 126.41 ACRES OF LAND FROM 'AG' AGRICULTURE TO 'R-1-2' SINGLE FAMILY RESIDENTIAL-2, ON PROPERTY LOCATED AT 1838 E. RR150, IN HAYS COUNTY, TEXAS. (KALOGRIDIS & KALOGRIDIS DEVELOPMENT LLC - Z-14-015) ~ MANUEL DE LA ROSA, DIRECTOR OF PLANNING

Planning and Zoning Commission voted 7-0 for approval

PUBLIC HEARING

Mayor Webster opened the Public Hearing at 7:29 p.m. to hear comments on (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 126.41 acres of land from 'AG' Agriculture to 'R-1-2' Single Family Residential-2, on property located at 1838 E. RR150, in Hays County, Texas. With no one wishing to speak Mayor Webster closed the Public Hearing at 7:30 p.m.

Mayor Pro Tem Hervol moved to approve (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 126.41 acres of land from 'AG' Agriculture to 'R-1-2' Single Family Residential-2, on property located at 1838 E. RR150, in Hays County, Texas. Council Member Selbera seconds the motion. All aye. Motion carried 4-0.

(FIRST READING) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) ARTICLE II (PUD DISTRICTS: REGULATIONS AND PERFORMANCE STANDARDS), SEC. 9(B) AND 9(C)(3), OF THE CODE OF ORDINANCES OF THE CITY OF KYLE, TEXAS; PROVIDING A SEVERABILITY CLAUSE; REPEALING CONFLICTING ORDINANCES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO. ~ MANUEL DE LA ROSA, DIRECTOR OF PLANNING

Mayor Webster opened the Public Hearing at 7:31 p.m. to hear comments on (*First Reading*) An ordinance amending Chapter 53 (Zoning) Article II (PUD Districts: Regulations and Performance Standards), Sec. 9(B) and 9(C)(3), of the Code of Ordinances of the City of Kyle, Texas. With no one wishing to speak Mayor Webster closed the Public Hearing at 7:31.

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Mayor Pro Tem Hervol moved to approve (*First Reading*) An ordinance amending Chapter 53 (Zoning) Article II (PUD Districts: Regulations and Performance Standards), Sec. 9(B) and 9(C)(3), of the Code of Ordinances of the City of Kyle, Texas. Council Member Wilson seconds the motion. All aye. Motion carried 4-0.

(FIRST READING) AN AMENDMENT TO ORDINANCE NO. 814 (REASSESSMENT ORDINANCE) AMENDING SECTION 2 (DEFINITIONS) BY REDEFINING "PARTIES" TO ELIMINATE "CLAIMANTS"; AMENDING SUBSECTION 9.3 (PRESUMPTION OF ROLL'S ACCURACY) TO ELIMINATE ALL REFERENCES TO "CITY COUNCIL"; REPEALING SUBSECTION 10.11 (OTHER GROUNDS FOR A HEARING); AMENDING SUBSECTION 10.12 (DEADLINE FOR REQUEST) TO ALLOW A PARTY TO REQUEST A HEARING WITHIN SIXTY (60) CALENDAR DAYS FROM THE EFFECTIVE DATE OF THE PASSAGE OF AN ORDINANCE ADOPTING A REASSESSMENT ROLL; CORRECTING ERRORS IN SECTION 5 (REASSESSMENT REQUIRED), SECTION 11 (DISBURSEMENT OF REASSESSMENTS), SUBSECTION 15.1 (REASSESSMENT AMOUNT); PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; FOR RECORDING OF ORDINANCE; FOR SEVERABILITY; FOR COMPLIANCE WITH OPEN MEETINGS LAW; FOR AN EFFECTIVE DATE; AND ADOPTING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO. ~ KEN JOHNSON, CITY ATTORNEY

Council Member Wilson moved to approve (*First Reading*) An amendment to Ordinance No. 814 (Reassessment Ordinance) amending section 2 (Definitions) by redefining "parties" to eliminate "claimants"; amending subsection 9.3 (Presumption of roll's accuracy) to eliminate all references to "city council"; repealing subsection 10.11 (Other grounds for a hearing); amending subsection 10.12 (Deadline for request) to allow a party to request a hearing within sixty (60) calendar days from the effective date of the passage of an ordinance adopting a reassessment roll; correcting errors in section 5 (Reassessment required), section 11 (Disbursement of reassessments), subsection 15.1 (Reassessment amount); providing for repeal of conflicting ordinances; for recording of ordinance; for severability; for compliance with open meetings law; for an effective date; and adopting such other findings and provisions related hereto. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 4-0.

APPROVE A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE SEPARATE AGREEMENTS WITH THE FOLLOWING FIVE FIRMS TO PROVIDE CONSULTING SERVICES FOR GENERAL CIVIL ENGINEERING PROJECTS FOR ALL CITY DEPARTMENTS: K FRIESE AND ASSOCIATES, AUSTIN, TEXAS; LOCKWOOD, ANDREWS AND NEWNAM, INC., SAN MARCOS, TEXAS; NEPTUNE-WILKINSON ASSOCIATES, INC., AUSTIN, TEXAS; LJA ENGINEERING, INC., AUSTIN, TEXAS; AND HDR ENGINEERING, INC., AUSTIN, TEXAS; PROVIDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC IN COMPLIANCE WITH THE OPEN MEETINGS ACT; PROVIDING AN EFFECTIVE DATE; MAKING

FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS HEREIN. ~ *LEON BARBA, P.E., CITY ENGINEER*

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Council Member Wilson moved to Approve a resolution authorizing the mayor to execute separate agreements with the following five firms to provide consulting services for general civil engineering projects for all city departments: K Friese and Associates, Austin, Texas; Lockwood, Andrews and Newnam, Inc., San Marcos, Texas; Neptune-Wilkinson Associates, Inc., Austin, Texas; LJA Engineering, Inc., Austin, Texas; and HDR Engineering, Inc., Austin, Texas. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 4-0.

DISCUSS AND CONSIDER TAKING POSSIBLE ACTION TO APPROVE A RETAIL WATER AND WASTEWATER SERVICES AGREEMENT BETWEEN THE CITY AND LASALLE HOLDINGS, LTD., FOR THE PURPOSE OF THE CITY PROVIDING WATER AND WASTEWATER SERVICES TO CUSTOMERS WITHIN LASALLE MUNICIPAL UTILITY DISTRICTS 1 THROUGH 5. ~ JAMES R. EARP, ACTING CITY MANAGER

Council Member Wilson moved to approve a retail water and wastewater services agreement between the city and LaSalle Holdings, Ltd., for the purpose of the city providing water and wastewater services to customers within LaSalle Municipal Utility Districts 1 through 5. Council Member Selbera seconds the motion. Mayor Pro Tem Hervol asked for an amendment to section 3.01 removing the word leased. Council Member Wilson amends the motion to include taking out the word leased. Council Member Selbera agrees to the amendment. All aye. Motion carried 4-0.

DISCUSS AND TAKE POSSIBLE ACTION TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY AND PLUM CREEK DEVELOPERS, LLC, FOR THE EXTENSION OF MARKETPLACE AVENUE. ~ JAMES R. EARP, ACTING CITY MANAGER

Discussion item only no action taken.

GENERAL DISCUSSION

Discussion only regarding council requests for future agenda items.

Council Member Wilson stated he had a request for a future agenda item regarding sales tax and where that money was being sent and discussing with the comptroller how the money is split. Mayor Webster stated he wanted to bring the appointing a Charter Review Commission back for discussion, and also wanted to add introduction of the new City Manager by the Kilgore Mayor to the next agenda.

CITY MANAGERS REPORT

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UPDATE ON VARIOUS CAPITAL IMPROVEMENT PROJECTS, ROAD PROJECTS, BUILDING PROGRAM, AND/OR GENERAL OPERATIONAL ACTIVITIES ~ JAMES EARP, ACTING CITY MANAGER

- 1. A detailed report is attached listing all payments processed totaling \$15,000 or less during the month of November 2014.
- 2. Staff findings regarding erection of stop sign.

Interim City Manager James Earp stated a detailed report of all payments processed in their packets, and discussed the findings regarding erecting a stop sign on Meyer and Blanco requested by Council Member Wilson. He stated that the city engineer and staff had conducted a traffic analysis and that the analysis did not support the installation of a stop sign, and also reported to Council the work that was done on the drainage ditch in the Jose addition across for St. Anthony's church.

EXECUTIVE SESSION

CONVENE INTO EXECUTIVE SESSION PURSUANT TO SEC. 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS) AND SEC. 551.071(2) (CONSULTATION WITH ATTORNEY ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH CHAPTER 551 OF THE TEXAS GOV'T CODE) TO DELIBERATE TO TAKE POSSIBLE ACTION TO OFFER A FINANCIAL OR OTHER INCENTIVE TO A BUSINESS PROSPECT THAT THE CITY COUNCIL SEEKS TO HAVE LOCATE, STAY, OR EXPAND IN OR NEAR THE TERRITORY OF THE CITY COUNCIL.

CONVENE INTO EXECUTIVE SESSION PURSUANT TO TEX. GOV'T CODE SEC. 551.071 ("CONSULTATION WITH ATTORNEY") TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING POSSIBLE SETTLEMENT WITH SOS ALLIANCE, INC. AND THE BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT AND/OR ITS GENERAL MANAGER TO RESOLVE THE MATTER IN RETHE CITY OF KYLE'S APPLICATIONS FOR PUMPAGE AND TRANSPORT PERMITS PENDING BEFORE THE **BARTON** SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT ON REMAND FROM THE AUSTIN COURT OF APPEALS IN SOS ALLIANCE, INC. V. CITY OF KYLE, BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT AND ITS DIRECTORS IN THEIR RESPECTIVE OFFICIAL CAPACITIES (APPELLATE CAUSE NO. 03-13-00271-CV; TRIAL COURT CAUSE NO. 10-1267).

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Council Member Wilson moved to Convene into executive session at 9:14 p.m. pursuant to Sec. 551.087 (Deliberation Regarding Economic Development Negotiations) and Sec. 551.071(2) (Consultation with attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Gov't Code) to deliberate to take possible action to offer a financial or other incentive to a business prospect that the city council seeks to have locate, stay, or expand in or near the territory of the city council **and** Convene into executive session pursuant to Tex. Gov't Code Sec. 551.071 ("Consultation with Attorney") to discuss and take possible action regarding possible settlement with SOS Alliance, Inc. and the Barton Springs/Edwards Aquifer Conservation District and/or its General Manager to resolve the matter In re the City of Kyle's Applications for Pumpage and Transport Permits pending before the Barton Springs/Edwards Aquifer Conservation District on remand from the Austin Court of Appeals in SOS Alliance, Inc. v. City of Kyle, Barton Springs/Edwards Aquifer Conservation District and Its Directors in their respective official capacities (Appellate Cause No. 03-13-00271-CV; Trial Court Cause No. 10-1267. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 4-0.

RECONVENE INTO REGULAR SESSION TO DISCUSS AND TAKE POSSIBLE ACTION TO OFFER A FINANCIAL OR OTHER INCENTIVE TO A BUSINESS PROSPECT THAT THE CITY COUNCIL SEEKS TO HAVE LOCATE, STAY, OR EXPAND IN OR NEAR THE TERRITORY OF THE CITY COUNCIL

Mayor Pro Tem Hervol moved to Reconvene into regular session at 10:21 p.m. to discuss and take possible action to offer a financial or other incentive to a business prospect that the city council seeks to have locate, stay, or expand in or near the territory of the city council.

Mayor Pro Tem Hervol stated no action was taken during Executive Session on item # 18 but action would be taken now.

Mayor Pro Tem Hervol moved that the city enter into a development agreement with RR HPI LP. Council Member Selbera seconds the motion. All aye. Motion carried 4-0.

RECONVENE INTO REGULAR SESSION TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING POSSIBLE SETTLEMENT WITH SOS ALLIANCE, INC. AND THE BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT AND/OR ITS GENERAL MANAGER TO RESOLVE THE MATTER IN RETHE CITY OF KYLE'S APPLICATIONS FOR PUMPAGE AND TRANSPORT PERMITS PENDING BEFORE THE BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT ON REMAND FROM THE AUSTIN COURT OF APPEALS IN SOS ALLIANCE, INC. V. CITY OF KYLE, BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT AND ITS DIRECTORS IN THEIR RESPECTIVE OFFICIAL CAPACITIES (APPELLATE CAUSE NO. 03-13-00271-CV; TRIAL COURT CAUSE NO. 10-1267).

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Mayor Pro Tem Hervol moved to Reconvene into regular session at 10:21 to discuss and take possible action regarding possible settlement with SOS Alliance, Inc. and the Barton Springs/Edwards Aquifer Conservation District and/or its General Manager to resolve the matter *In re the City of Kyle's Applications for Pumpage and Transport Permits* pending before the Barton Springs/Edwards Aquifer Conservation District on remand from the Austin Court of Appeals in *SOS Alliance, Inc. v. City of Kyle, Barton Springs/Edwards Aquifer Conservation District and Its Directors in their respective official capacities* (Appellate Cause No. 03-13-00271-CV; Trial Court Cause No. 10-1267). Council Member Selbera seconds the motion. All aye. Motion carried 4-0.

Mayor Pro Tem Hervol stated no action was taken during Executive Session but action would be taken now.

Mayor Pro Tem Hervol moved to delegate authority to Mayor Webster to execute the settlement agreement in the SOS Alliance lawsuit. Council Member Selbera seconds the motion. All aye. Motion carried 4-0.

ADJOURN

With no further business to discuss, Mayor Pro Tem Hervol moves to adjourn. Council Member Selbera seconds the motion. All votes aye. Motion carried 4-0.

The City Council meeting adjourned at 10:24 p.m.

	R. Todd Webster, Mayor	
Amelia Sanchez, City Secretary		