

The City Council of the City of Kyle, Texas met in Regular Session on April 7, 2015, at 7:00 p.m. at Kyle City Hall, with the following persons present:

Mayor Todd Webster	Phil Doll
Mayor Pro Tem Diane Hervol	Sylvia Gallo
Council Member Becky Selbera	Tricia Schneider
Council Member Tammy Swaton	
Council Member Shane Arabie	
Council Member David Wilson	
City Manager Scott Sellers	
James Earp, Assistant City Manager	
Frank Garza, City Attorney	
Perwez Moheet, Finance Director	
Jerry Hendrix, Chief of Staff	
Kerry Urbanowicz, Parks Director	
Diana Torres, Director of Economic Development	
Robert Olvera, IT	
Connie Brooks, Library Director	
Leon Barba, City Engineer	
Captain Hernandez, Police Department	

#### CALL MEETING TO ORDER

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

#### ROLL CALL

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

Mayor Webster stated that Council Member Selbera was stuck in traffic and would arrive soon.

Council Member Bellows was absent.

#### APPROVAL OF MINUTES

*CITY COUNCIL REGULAR MEETING - MARCH 17, 2015 ~ AMELIA SANCHEZ, CITY SECRETARY*

Mayor Pro Tem Hervol moved to approve the minutes of the City Council Regular Meeting of March 17, 2015. Council Member Swaton seconds the motion. All aye. Motion carried 5-0.

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### 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.

Mayor Webster opened the Citizens Comments at 7:02 p.m. Tricia Schneider, Court Appointed Special Advocate (CASA) spoke and thanked Council for their recognition and invited the public to report child abuse and get involved. Sylvia Gallo spoke about the Hays fiesta and invited everyone to attend to celebrate the heritage, history and culture at the May 2<sup>nd</sup> fiesta. Phil Doll spoke and stated he lived in the Woodlands and that they were having issues with the HOA. He stated they were going to hire an attorney and asked for the Councils support. Damon Fogley spoke and stated he also live in the Woodlands and agreed with Mr. Dolls comments. He stated there was no representative or organization, and there were issues including property values lowered, pool condemned and water sprinklers were left on all day. He asked Council for their attention to the matter. With no one else wishing to speak Mayor Webster closed staff and that Citizens Comments at 7:03 p.m.

### CONSENT AGENDA

*(SECOND READING)* AN ORDINANCE GRANTING FREDERICK SMITH DBA S&S TRANSPORT A FRANCHISE TO PROVIDE NON-EMERGENCY SHUTTLE SERVICES WITHIN THE BOUNDARIES OF THE CITY OF KYLE, TEXAS; PROVIDING AN AGREEMENT PRESCRIBING CONDITIONS, TERMS, AND REGULATIONS GOVERNING THE OPERATION OF THE NON-EMERGENCY SHUTTLE SERVICES; PROVIDING PENALTIES FOR NONCOMPLIANCE WITH FRANCHISE. ~ *JERRY HENDRIX, CHIEF OF STAFF*

*(SECOND READING)* AN ORDINANCE SUSPENDING THE IMPLEMENTATION OF THE INTERIM RATE ADJUSTMENT BY TEXAS GAS SERVICE COMPANY UNDER SECTION 1.04.301 OF THE TEXAS UTILITIES CODE WITHIN THE CITY OF KYLE, TEXAS, PENDING HEARING AND DISCUSSION BY THE CITY COUNCIL. ~ *JERRY HENDRIX, CHIEF OF STAFF*

*(FIRST READING)* APPROVE AN ORDINANCE AMENDING THE CITY'S APPROVED BUDGET FOR FISCAL YEAR 2014-15 BY INCREASING TOTAL APPROPRIATIONS FOR EXPENDITURES BY \$16,629.13; GENERAL FUND BY \$9,529.13 AND THE HOTEL OCCUPANCY FUND BY \$7,100.00 AND DECREASING FUND BALANCE BY THE SAME AMOUNTS IN THE RESPECTIVE FUNDS. ~ *PERWEZ A. MOHEET, CPA, DIRECTOR OF FINANCE*

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APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH SPARKS ENGINEERING, INC., ROUND ROCK, TEXAS, IN AN AMOUNT NOT TO EXCEED \$4,600.00 TO COMPLETE AN INITIAL STRUCTURAL ASSESSMENT OF THE KYLE HISTORIC WATER TOWER & STORAGE TANK. ~ *JERRY HENDRIX, CHIEF OF STAFF*

DECLARE ALL IT COMPUTER EQUIPMENT AS IDENTIFIED AND LISTED HERewith TO BE SURPLUS CITY OWNED PROPERTY AND AUTHORIZE THE SALE OF SAID SURPLUS CITY PROPERTY AS LISTED TO THE HIGHEST BIDDER BY AUCTION ON GOVDEALS, AN INTERNET-BASED AUCTION MARKETPLACE. ~ *ROBERT OLVERA, IT ADMINISTRATOR*

APPROVE A RESOLUTION ACCEPTING BUNTON CREEK SUBDIVISION PHASE 1B IMPROVEMENTS. - *LEON BARBA, P.E., CITY ENGINEER*

APPROVE CONTRACT TASK ORDER NO. 2 TO NEPTUNE-WILKINSON ASSOCIATES, INC., AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$20,000.00 FOR THE PURPOSE OF PROVIDING ENGINEERING SERVICES FOR THE MORENO STREET WASTEWATER IMPROVEMENTS. - *LEON BARBA, P.E., CITY ENGINEER*

APPROVE CONTRACT AMENDMENTS NO. 3 AND NO. 4 WITH ESPEY CONSULTANTS, INC. DBA RPS, AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$226,922.00 FOR THE PURPOSE OF PROVIDING ADDITIONAL PROFESSIONAL ENGINEERING SERVICES FOR DESIGN CHANGES, BID AND AWARD PHASE, CONSTRUCTION PHASE AND MATERIALS TESTING TO THE SOUTHSIDE WASTEWATER IMPROVEMENTS PROJECT. - *LEON BARBA, P.E., CITY ENGINEER.*

APPROVE A RESOLUTION AUTHORIZING THE NEGOTIATION OF AN AGREEMENT WITH CIVIL ENGINEERING CONSULTANTS (CEC) TO PROVIDE CONSULTING SERVICES TO PROVIDE A COMPREHENSIVE STREET PAVEMENT EVALUATION AND ASSESSMENT; PROVIDING THAT THE MEETING AT WHICH THIS RESOLUTION WAS 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*

Mayor Pro Tem Hervol moved to approve Consent Agenda items # 2 ~ (*Second Reading*) An ordinance granting Frederick Smith dba S&S TRANSPORT a franchise to provide non-emergency shuttle services within the boundaries of the City of Kyle, Texas; providing an agreement prescribing conditions, terms, and regulations governing the operation of the non-emergency shuttle services; providing penalties for noncompliance with franchise; # 3 ~ (*Second Reading*) An ordinance suspending the implementation of the interim rate adjustment by TEXAS GAS SERVICE COMPANY under Section 1.04.301 of the Texas Utilities Code within the City of Kyle, Texas, pending hearing and discussion by the City Council;

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#4 ~ (*First Reading*) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2014-15 by increasing total appropriations for expenditures by \$16,629.13; General Fund by \$9,529.13 and the Hotel Occupancy Fund by \$7,100.00 and decreasing fund balance by the same amounts in the respective Funds; #5 ~ Approve a professional services agreement with SPARKS ENGINEERING, INC., Round Rock, Texas, in an amount not to exceed \$4,600.00 to complete an initial structural assessment of the Kyle Historic Water Tower & Storage Tank; #6 ~ Declare all IT computer equipment as identified and listed herewith to be surplus city owned property and authorize the sale of said surplus city property as listed to the highest bidder by auction on GovDeals, an internet-based auction marketplace; #7 ~ Approve a resolution accepting Bunton Creek Subdivision Phase 1B improvements; #8 ~ Approve contract Task Order No. 2 to NEPTUNE-WILKINSON ASSOCIATES, INC., Austin, Texas, in an amount not to exceed \$20,000.00 for the purpose of providing engineering services for the Moreno Street Wastewater Improvements; #9 ~ Approve Contract Amendments No. 3 and No. 4 with ESPEY CONSULTANTS, INC. dba RPS, Austin, Texas, in an amount not to exceed \$226,922.00 for the purpose of providing additional professional engineering services for design changes, bid and award phase, construction phase and materials testing to the Southside Wastewater Improvements Project; #10 ~ Approve a resolution authorizing the negotiation of an agreement with CIVIL ENGINEERING CONSULTANTS (CEC) to provide consulting services to provide a comprehensive street pavement evaluation and assessment; providing that the meeting at which this resolution was 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. Council Member Arabie seconds the motion. All aye. Motion carried 5-0.

### CONSIDER AND POSSIBLE ACTION

CONSIDER A REQUEST BY CIRCUS AGUILAR ON BEHALF OF EDWARD R. COLEMAN FOR A CONDITIONAL USE PERMIT TO HOLD A CIRCUS OPEN TO THE PUBLIC FROM MAY 14TH - MAY 18TH, 2015 ON PROPERTY LOCATED AT 24801 IH-35 (CENTRAL TEXAS SPEEDWAY). CUP-15-002 ~ *DEBBIE A. GUERRA, PLANNING TECHNICIAN*

### PUBLIC HEARING

Mayor Webster opened the Public Hearing at 7:11 p.m. to hear comments on a request by Circus Aguilar on behalf of Edward R. Coleman for a Conditional Use Permit to hold a Circus open to the public from May 14th - May 18th, 2015 on property located at 24801 IH-35 (Central Texas Speedway). CUP-15. With no one wishing to speak Mayor Webster closed the Public Hearing at 7:11 p.m.

Mayor Pro Tem Hervol move to approve a request by Circus Aguilar on behalf of Edward R. Coleman for a Conditional Use Permit to hold a Circus open to the public from May 14th - May 18th, 2015 on property located at 24801 IH-35 (Central Texas Speedway). CUP-15. Council Member Swaton seconds the motion. All aye. Motion carried 5-0

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*(FIRST READING)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING LOT 15 OF KYLE INDUSTRIAL PARK (APPROXIMATELY 0.792 ACRES) FROM COMMERCIAL-2 "C-2" TO WAREHOUSE "W" AND TO ASSIGN ORIGINAL ZONING TO LOT 16 (APPROXIMATELY 1.175 ACRES) AND LOT 17 (APPROXIMATELY 1.05) OF KYLE INDUSTRIAL PARK FROM AGRICULTURE "AG" TO WAREHOUSE "W", ON PROPERTY LOCATED ON KYLE CROSSING AND SOUTH OF KOHLER'S CROSSING, IN HAYS COUNTY, TEXAS. (JOE AND KATHERINE TORRES, Z-14-020). ~ *DEBBIE A. GUERRA, PLANNING TECHNICIAN*

*Planning and Zoning Commission voted 6-0 to approve the request*

PUBLIC HEARING

Mayor Webster stated *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning Lot 15 of Kyle Industrial Park had been requested removal by the requestor.

Council Member Wilson moved to table the item. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 5-0.

AUTHORIZE AN EXPENDITURE FROM THE HOTEL OCCUPANCY TAX FUND IN AN AMOUNT NOT TO EXCEED \$2,500 TO FUND IN-KIND CONTRIBUTIONS IN SUPPORT OF THE CINCO DE MAYO FIESTA SCHEDULED FOR MAY 2, 2015, AS REQUESTED BY HAYS FIESTA, SYLVIA GALLO. ~ *JERRY HENDRIX, CHIEF OF STAFF*

Council Member Wilson moved to approve an expenditure from the Hotel Occupancy Tax Fund in an amount not to exceed \$2,500 to fund in-kind contributions in support of the Cinco de Mayo Fiesta scheduled for May 2, 2015, as requested by Hays Fiesta, Sylvia Gallo. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 5-0.

COUNCIL REQUESTED AGENDA ITEMS

UPDATE ON GRANICUS. ~ *JERRY HENDRIX, CHIEF OF STAFF*

Chief of Staff Jerry Hendrix provided a brief update on Granicus and stated that he hoped to have it up and running by early May.

DISCUSSION AND POSSIBLE ACTION OF CITY COUNCIL APPROVED TRAVEL FOR COUNCIL MEMBERS. ~ *TODD WEBSTER, MAYOR*

Mayor Webster stated that as he was going through the committee ordinances there was no authorization for the mayor, council, or anyone else to appoint council members to committees.

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He stated there were also other things coming up including travel, committee related travel, with an event coming up and whether council members should attend and he had never been in favor of council travel. He stated that they needed to make a decision on who should attend. Council Member Wilson stated he had chosen not to attend due to location and because of appearances. Mayor Pro Tem Hervol stated she thought it was important for council members to be there for staff to assist in whatever way possible and she thought it was beneficial. Mayor Webster stated he thought sending a couple of staff members along with the city manager would be fine. Council Member Arabie stated he agreed with Council Member Wilson and felt that Economic Development staff would be better suited for that conference and not appropriate for council members to attend. Council Member Swaton stated she agreed with Council Member Arabie.

Council Member Selbera arrived at 7:35 p.m.

Council Member Selbera stated she agreed that staff should be the ones to send to the conference.

### DISCUSSION AND POSSIBLE ACTION REGARDING REQUESTING THE CHARTER REVIEW COMMISSION TO REVIEW CERTAIN PROVISIONS AND SECTIONS OF THE CHARTER ~ *MAYOR TODD WEBSTER*

Mayor Webster wanted to have some decision or direction to submit their issues they have seen in the regards to the Charter to the commission in a way that is not directive to the commission, but wanted to discuss a way to do that. He stated he was not looking for a list of things but looking for some decision or direction, then provide the issues to the City Manager to submit to the commission at the next meeting. City Attorney reminded Council that in order to put the Charter amendments on the November ballot the election would need to be called in the later part of August. Council Member Selbera asked for a copy of the list once it was submitted to staff.

### CITY MANAGERS REPORT

#### UPDATE ON VARIOUS CAPITAL IMPROVEMENT PROJECTS, ROAD PROJECTS, BUILDING PROGRAM, AND/OR GENERAL OPERATIONAL ACTIVITIES ~ *J. SCOTT SELLERS, CITY MANAGER*

- Budget retreat update
- Letter of support for FM 1626 widening

City Manager Scott Sellers reminded Council that at the budget workshop priority ranking sheets were handed out and if they wanted to go over line by line with staff and talk about priorities at that time and that would help staff shape priorities in general. He stated the city was asked to write a letter of support to the FM 1626 widening for 967 to 2770 and that this was outside the city limits but requested by County Commissioners. Council agreed to send the letter.

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### GENERAL DISCUSSION

#### DISCUSSION ONLY REGARDING COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

No items were requested.

### EXECUTIVE SESSION

#### 1. PENDING OR CONTEMPLATED LITIGATION OR TO SEEK THE ADVICE OF THE CITY ATTORNEY PURSUANT TO SECTION 551.071

- Properties not maintained by HOA's
- Contract negotiation with other entity for utility services
- Possible amendment to development agreement with utility district

#### 2. POSSIBLE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL ESTATE PURSUANT TO SECTION 551.072

- Regarding properties within the ETJ
- Acquisition of ROW

#### 3. PERSONNEL MATTERS PURSUANT TO SECTION 551.074

#### 4. ECONOMIC DEVELOPMENT NEGOTIATIONS PURSUANT TO SECTION 551.087.

- Incentives for Economic Development prospects

Council Member Selbera moved to convene into Executive Session at 7:56 p.m. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene in Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session to discuss any or all of the following topics. Properties not maintained by HOA's, Contract negotiation with other entity for utility services and Possible amendment to development agreement with utility district; Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 regarding properties within the ETJ and Acquisition of ROW. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 6-0.

### TAKE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

Mayor Pro Tem Hervol moved to reconvene into Regular Session at 11:23 p.m. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

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Mayor Pro Tem Hervol stated no action was taken during Executive Session.

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 6-0.

The City Council meeting adjourned at 11:25 p.m.

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R. Todd Webster, Mayor

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Amelia Sanchez, City Secretary