

REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on August 18, 2015 at 7:00 p.m. at Kyle City Hall, with the following persons present:

Mayor Todd Webster	Cindy Van Wort
Council Member Diane Hervol	Craig Wiseman
Council Member Becky Selbera	Steven Cook
Mayor Pro Tem David Wilson	Laurie Luttrell
Council Member Damon Fogley	Tim Miller
Council Member Daphne Tenorio	Pedro Hernandez
Scott Sellers, City Manager	Gloria Luyten
Jerry Hendrix, Chief of Staff	Albert Saucedo Sr.
Kerry Urbanowicz, Parks Director	
Mario Perez, Building Official	
Cody Faulk, City Attorney	
Diana Blank, Director of Economic Development	
Howard Koontz, Planning Director	
Leon Barba, City Engineer	
Harper Wilder, Public Works Director	
Robert Olvera, IT	
Jeff Barnett, Chief of Police	

CALL MEETING TO ORDER

Mayor Webster called the meeting to order at 7:00 p.m.

ROLL CALL

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

Council Member Shane Arabie was absent.

APPROVAL OF MINUTES

CITY COUNCIL REGULAR MEETING – AUGUST 4, 2015 ~ *AMELIA SANCHEZ, CITY SECRETARY*

Council Member Hervol moved to approve the minutes of the City Council Regular Meeting – August 4, 2015. Council Member Tenorio seconds the motion. All aye. Motion carried 6-0.

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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. Cindy Van Wort and Allen Deavor spoke with a proposal to honor vets, called Freedom Day USA on September 10, 2015 and asked the Council for a proclamation. Craig Wiseman spoke on item 16 regarding a resolution appointing an officer for information from council to the City Manager and that he did not agree with this and that the contact person should be the City Manager as stated in the Charter in sections 4.03 and 4.05 on how the council must act. Steven Cook spoke and stated the last time he was here he was requesting funds to take the poppy display to Nashville, and Pittsburg PA., and they did that and won first place and how very proud of the auxiliary he was as Kyle should be. Laurie Luttrell spoke and stated that she would like for the council to try and adjust the tax rate in the budget and that she felt the tax rate was too high for homeowners. Tim Miller stated he had a certified organic vegetable farm just outside of town. He stated he had concerns with the growth in the ETJ with more cars and bottlenecks and that this was a big problem with no apparent solution and was concerned with the impact on the region and his farm. He stated that since he was instrumental in getting the tree ordinance started and that now was the time for strengthening it so that more trees will not be taken down. Captain Pedro Hernandez reminded everyone that IH 35 SB would be closed at 10:00 till 2:00 a.m. to continue an investigation of a fatality that occurred on Friday morning. Gloria Luyten spoke on item #14 rezoning the property to retail and stated this property was not worth the zoning change because of the flooding and tall grass they had to deal with all the time, along with the Union Pacific noise and rodents. Mr. Saucedo spoke on item 14 rezoning and stated that the property belonged to his mother who was in a nursing home and need to pay her bills and hoped to get more money if he sold the property to care for her. With no one else wishing to speak Mayor Webster closed Citizens Comments at 7:15 p.m.

PRESENTATION

With no objection from Council, Mayor Webster opened the following item for discussion.

KYLE AREA CHAMBER OF COMMERCE QUARTERLY REPORT AND SCOPE OF WORK DISCUSSION. ~ JULIE SNYDER, CEO, KYLE CHAMBER

Julie Snyder, Kyle Chamber CEO presented the Kyle Chamber of Commerce quarterly report and a Scope of Work discussion.

PRESENTATION REGARDING GREATER SAN MARCOS PARTNERSHIP'S INITIATIVES. ~ ADRIANA CRUZ, PRESIDENT, GREATER SAN MARCOS PARTNERSHIP

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Adriana Cruz, President of the Greater San Marcos Partnership provided a detailed presentation on the partnership with Kyle, marketing, destination recruitment, web presence and strategic plan.

PUBLIC HEARINGS

HOLD THE FIRST OF TWO STATE-MANDATED PUBLIC HEARINGS FOR THE POSSIBLE EXTENSION OF THE KYLE MUNICIPAL BOUNDARIES BY THE ANNEXATION OF APPROXIMATELY 135.78 ACRES. (CYPRESS FOREST ANNEXATION). ~ *HOWARD J. KOONTZ, AICP, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT*

Mayor Webster opened the Public Hearing at 8:20 p.m. to hear comments on the possible extension of the Kyle municipal boundaries by the annexation of approximately 135.78 acres. (Cypress Forest Annexation). With no one wishing to speak Mayor Webster closed the Public Hearing at 8:20 p.m.

CONSENT AGENDA

APPROVAL OF EXECUTION OF THE TEMPORARY PARK TRAIL GRADING EASEMENT FOR WALTON TEXAS, LP. ~ *LEON BARBA, P.E., CITY ENGINEER*

APPROVAL OF EXECUTION OF THE STORM WATER DETENTION AND WATER QUALITY CONTROLS EASEMENT FOR WALTON TEXAS, LP. ~ *LEON BARBA, P.E., CITY ENGINEER*

APPROVAL OF EXECUTION OF THE STORM WATER DETENTION AND WATER QUALITY CONTROLS EASEMENT 2 (SECOND SEPARATE EASEMENT) FOR WALTON TEXAS, LP. ~ *LEON BARBA, P.E., CITY ENGINEER*

(FIRST READING) APPROVE AN ORDINANCE AMENDING THE CITY'S APPROVED BUDGET FOR FISCAL YEAR 2014-15 BY INCREASING THE NUMBER OF AUTHORIZED POSITIONS BY ADDING THREE (3) FULL-TIME POSITIONS TO THE PUBLIC WORKS DEPARTMENT FOR THE OPERATIONS AND MAINTENANCE OF THE WASTEWATER TREATMENT PLANT. ~ *PERWEZ A. MOHEET, CPA, DIRECTOR OF FINANCE*

APPROVAL OF EXECUTION OF THE WASTE WATER LINES EASEMENT FOR WALTON TEXAS, LP. ~ *LEON BARBA, P.E., CITY ENGINEER*

APPROVAL OF EXECUTION OF THE DETENTION AND WATER QUALITY CONTROLS EASEMENT FOR BIGELOW SAN MARCOS DEVELOPMENT, LLC. ~ *LEON BARBA, P.E., CITY ENGINEER*

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AWARD A BID TO VIKING CONSTRUCTION, INC., GEORGETOWN, TEXAS, LOWEST AND MOST RESPONSIBLE BIDDER, IN AN AMOUNT NOT TO EXCEED \$66,920.00 for the 2015 MISCELLANEOUS STREETS MICRO-SURFACING PROJECT. ~ *LEON BARBA, P.E., CITY ENGINEER*

AWARD A BID TO CAPITAL EXCAVATION COMPANY, BUDA, TEXAS, LOWEST AND MOST RESPONSIBLE BIDDER, IN AN AMOUNT NOT TO EXCEED \$3,798,891.00 FOR THE CONSTRUCTION OF THE MARKETPLACE AVENUE ROAD BOND PROJECT. ~ *LEON BARBA, P.E., CITY ENGINEER*

APPROVAL OF AMENDED PERPETUAL PARKLAND EASEMENT FOR THE OAKS ON GOFORTH APARTMENT PROJECT. ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS*

Mayor Webster stated that on the Consent Agenda, at the request of the developer, the following items needed to be postponed to the next Council meeting: #5 ~ Approval of Execution of the Temporary Park Trail Grading Easement for Walton Texas, LP.; #6 ~ Approval of Execution of the Storm Water Detention and Water Quality Controls Easement for Walton Texas, LP.; #7 ~ Approval of Execution of the Storm Water Detention and Water Quality Controls Easement 2 (second separate easement) for Walton Texas, LP.; #9 ~ Approval of Execution of the Waste Water Lines Easement for Walton Texas, LP.; #10 ~ Approval of Execution of the Detention and Water Quality Controls Easement for Bigelow San Marcos Development, LLC., and item # 11 ~ Award a bid to VIKING CONSTRUCTION, INC., Georgetown, Texas, lowest and most responsible bidder, in an amount not to exceed \$66,920.00 for the 2015 Miscellaneous Streets Micro-Surfacing Project due to an error in the amount. It should be \$66,992.00 and not \$66,920.00.

Council Member Wilson moved to approve item #8 ~ (*First Reading*) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2014-15 by increasing the number of authorized positions by adding three (3) full-time positions to the Public Works Department for the operations and maintenance of the wastewater treatment plant; item #12 ~ Award a bid to CAPITAL EXCAVATION COMPANY, Buda, Texas, lowest and most responsible bidder, in an amount not to exceed \$3,798,891.00 for the construction of the Marketplace Avenue Road Bond Project; item # 13 ~ Approval of amended Perpetual Parkland Easement for the Oaks on Goforth Apartment project. Council Member Tenorio seconds the motion. All aye. Motion carried 6-0.

Mayor Webster asked if there was any objection to placing items 5, 6, 7, 9, and 10 on the table. There was no objection.

Mayor Webster moved to postpone items #5 ~ Approval of Execution of the Temporary Park Trail Grading Easement for Walton Texas, LP.; #6 ~ Approval of Execution of the Storm Water Detention and Water Quality Controls Easement for Walton Texas, LP.; #7 ~ Approval of Execution of the Storm Water Detention and Water Quality Controls Easement 2 (second separate easement) for Walton Texas, LP.; #9 ~ Approval of Execution of the Waste Water Lines Easement

for Walton Texas, LP.; #10 ~ Approval of Execution of the Detention and Water Quality Controls Easement for Bigelow San Marcos Development, LLC. Mayor Pro Tem Wilson seconds the motion. All aye. Motion carried 6-0.

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Mayor Webster asked if there was any objection to placing item 11 on the table. There was no objection.

AWARD A BID TO VIKING CONSTRUCTION, INC., GEORGETOWN, TEXAS, LOWEST AND MOST RESPONSIBLE BIDDER, IN AN AMOUNT NOT TO EXCEED \$66,920.00 for the 2015 MISCELLANEOUS STREETS MICRO-SURFACING PROJECT. ~ *LEON BARBA, P.E., CITY ENGINEER*

Leon Barba, City Engineer stated there was a typo in the amount shown in agenda item # 11 that should be \$66,992.00 and not \$66,920.00.

Mayor Pro Tem Wilson moved to approve a bid to Viking construction, INC, lowest bidder in the amount not to exceed \$66,992.00. Council Member Tenorio seconds the motion. All aye. Motion carried 6-0.

Mayor Webster asked if there was any objection to placing item 14 on the table. There was no objection.

CONSIDER AND POSSIBLE ACTION

(FIRST READING) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 0.53 ACRES OF LAND FROM SINGLE FAMILY RESIDENTIAL “R-1” TO RETAIL SERVICE DISTRICT “RS” LOCATED AT 713 AND 715 N. OLD HIGHWAY 81, IN HAYS COUNTY, TEXAS. (ALBERTO SAUCEDO, SR. ON BEHALF OF YPOLITA CRUZ SAUCEDO, Z-15-007). ~ *HOWARD J. KOONTZ, AICP, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT*

Planning and Zoning Commission voted 5-0 to recommend approval of the request.

PUBLIC HEARING

Mayor Webster opened the Public Hearing at 8:28 p.m. to hear comments on *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 0.53 acres of land from Single Family Residential “R-1” to Retail Service District “RS” located at 713 and 715 N. Old Highway 81, in Hays County, Texas. (Alberto Saucedo, Sr. on behalf of Ypolita Cruz Saucedo, Z-15-007. Mr. Saucedo stated that there was nursery and a restaurant so all of that property next to his was commercial and had proper drainage.

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With no one else wishing to speak Mayor Webster closed the Public Hearing at 8:26 p.m.

Council Member Hervol moved to approve (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 0.53 acres of land from Single Family Residential “R-1” to Retail Service District “RS” located at 713 and 715 N. Old Highway 81, in Hays County, Texas. Council Member Tenorio seconds the motion. All aye. Motion carried 6-0.

Mayor Webster asked if there was any objection to placing the following item on the table. There was no objection.

(FIRST READING) AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING CHAPTER 29, "SIGN STANDARDS AND PERMITS" OF THE CITY'S CODE OF ORDINANCES RELATIVE TO PERMITTING EXISTING OFF-PREMISE COMMERCIAL BILLBOARDS TO BE CONVERTED TO CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS ("CEVMS") SUBJECT TO SPECIFIC APPROVAL OF THE CITY COUNCIL; REQUIRING A SIGN FACE EXCHANGE RATIO FOR DIGITAL DISPLAY SIGNS; REPEALING THE SUNSET CLAUSE FOR THE SIGN FACE EXCHANGE RATIO; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE. ~ *MARIO PEREZ, BUILDING OFFICIAL*

Mayor Pro Tem Wilson moved to approve (*First Reading*) An Ordinance of the City of Kyle, Texas, Amending Chapter 29, "Sign Standards and Permits" of the City's Code of Ordinances relative to permitting existing off-premise commercial billboards to be converted to changeable electronic variable message signs ("CEVMS") subject to specific approval of the City Council; requiring a sign face exchange ratio for digital display signs; repealing the sunset clause for the sign face exchange ratio; repealing all conflicting Ordinances; and providing an effective date. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

COUNCIL REQUESTED AGENDA ITEMS

Mayor Webster asked if there was any objection to placing the following item on the table. There was no objection.

A RESOLUTION OF THE CITY OF KYLE, TEXAS, APPOINTING AN OFFICER PURSUANT TO SECTION 4.05 OF THE KYLE CITY CHARTER. ~ *TODD WEBSTER, MAYOR*

Council Member Fogley moved to approve a Resolution of the City Of Kyle, Texas, Appointing an Officer Pursuant To Section 4.05 of the Kyle City Charter and asked for a roll call vote. Council Member Selbera seconds the motion. Mayor Webster called for a roll call vote. Council Member Hervol votes nay, Council Member Fogley votes aye, Council Member Selbera votes aye, Mayor

Webster votes aye, Council Member Tenorio votes nay, Mayor Pro Tem votes aye. Motion carried 4-2.

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Mayor Webster asked if there was any objection to placing the following item on the table. There was no objection.

CITY MANAGERS REPORT

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

Mr. Sellers informed Council about the Transportation Master Plan workshop by LAN to be held at Wallace Middle School next Tuesday, and also wanted to announce that the Finance Department had received another award for excellence in financial reporting called the CAFR award (Comprehensive, Annual, Financial Report).

EXECUTIVE SESSION

PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE, THE CITY COUNCIL RESERVES THE RIGHT TO CONVENE INTO EXECUTIVE SESSION(S) FROM TIME TO TIME AS DEEMED NECESSARY DURING THIS MEETING. THE CITY COUNCIL MAY CONVENE INTO EXECUTIVE SESSION PURSUANT TO ANY LAWFUL EXCEPTION CONTAINED IN CHAPTER 551 OF THE TEXAS GOVERNMENT CODE INCLUDING ANY OR ALL OF THE FOLLOWING TOPICS.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Aqua Litigation Update
 - Bunton PID Litigation Update
 - Property Damage Claims Due to Recent Flooding
 - Annexation Terms and Conditions
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074
4. Economic Development negotiations pursuant to Section 551.087.
 - Annexation Terms and Conditions
 - Economic Development Negotiations Update

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Mayor Pro Tem Wilson moved to Convene into Executive Session at 9:06 p.m. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics. Council Member Tenorio seconds the motion. All aye. Motion carried 5-0 with Council Member Fogley off the dais and not voting.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071
 - Aqua Litigation Update
 - Bunton PID Litigation Update
 - Property Damage Claims Due to Recent Flooding
 - Annexation Terms and Conditions
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072
3. Personnel matters pursuant to Section 551.074
4. Economic Development negotiations pursuant to Section 551.087.
 - Annexation Terms and Conditions
 - Economic Development Negotiations Update

TAKE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION.

Council Member Hervol moved to reconvene into open session at 10:25 p.m. Council Member Fogley seconds the motion. All aye. Motion carried 6-0.

Council Member Hervol stated no action was taken during Executive Session and none would be taken now.

ADJOURN

With no further business to discuss, Council Member Hervol moves to adjourn. Council Member Selbera seconds the motion. All votes aye. Motion carried 6-0.

The City Council meeting adjourned at 10:26 p.m.

R. Todd Webster, Mayor

Attest: Amelia Sanchez, City Secretary