

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on January 5, 2016 at Kyle City Hall with the following persons present:

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| Mayor Todd Webster | Jerry Kolacny |
| Mayor Pro Tem David Wilson | Steven Cook |
| Council Member Diane Hervol | Kate Johnson |
| Council Member Becky Selbera | Madonna Hayes |
| Council Member Shane Arabie | Carol McElyea |
| Council Member Damon Fogley | Jerry McElyea |
| Scott Sellers, City Manager | Eddie Ethridge |
| Frank Garza, City Attorney | David Manuel |
| Jerry Hendrix, Chief of Staff | Sue Ellen Creek |
| Cindy Stohr, Special Events Coordinator | Dane Jackson |
| Leon Barba, City Engineer | Linda Tenorio |
| Diana Torres, Economic Development Director | Tyler Williams |
| Perwez Moheet, Finance Director | Margaret McGuinness |
| Howard Koontz, Community Development Director | Kevin Allen |
| Jeff Barnett, Chief of Police | Crystal Aviles |
| Harper Wilder, Public Works Director | |

I. Call Meeting To Order

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

ROLL CALL

Mayor Webster called for roll call and indicated he had an announcement. Present were Mayor Todd Webster, Mayor Pro Tem David Wilson, Council Member Diane Hervol, Council Member Becky Selbera, Council Member Shane Arabie, and Council Member Damon Fogley. Mayor Webster announced that Council Member Daphne Tenorio was absent due to illness. Mayor Webster asked if there were any objections to excusing Council Member Tenorio's absence. There were none; Mayor Webster asked for the record to show Ms. Tenorio's absence excused.

He announced that former City of Kyle Mayor James Adkins had passed away Sunday afternoon and funeral services would be at True Vine Baptist Church in Tyler, Texas on Saturday at 11:00 a.m. Mayor Webster stated that former Mayor Adkins would do an invocation before each council meeting. Mayor Webster proceeded with a prayer message in former Mayor Adkins' honor.

II. Approval of Minutes

1. City Council Regular Meeting - December 15, 2015. ~ Amelia Sanchez, City Secretary

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Item 1 2015 1215 Minutes

Council Member Hervol moved to approve City Council Regular Meeting Minutes for December 15, 2015. Council Member Arabie seconded the motion. Motion carried 6-0.

III. Citizen Comment Period With City Council The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak are encouraged to sign in before the meeting begins. Speakers may be provided with an opportunity to speak during this time period on any agenda item or any other matter concerning city business, and they must observe the three-minute time limit.

Mayor Webster opened Citizen Comments at 7:05 p.m. Chief of Staff Jerry Hendrix introduced Cindy Stohr, the new Special Events Coordinator. Jerry Kolacny spoke regarding the lack of planning for the new roads that are going in, specifically the Public Works needing to cut through the road to access the water and sewer lines. He spoke of a new development in which they are cutting the street to put the water and sewer connections in. His concern is for the City to minimize or possibly eliminate the need to cut into the streets on the new 20- or 30-million dollar worth of streets that are going in. He thinks the city should be planning ahead and having taps for sewer, water, fire hydrants and whatever else is needed in the new developments so that we don't have to be cutting into the newly paved streets. He explained that doing so results in potholes and patchwork. Mr. Kolacny would like the Council to consider weight limits on some roads. He stated that the life of the road is impacted by this. Steven Cook, Commander of the VFW in Kyle, was called to speak. He thanked the city for its support and spoke about the many events and contributions the Kyle VFW has made over the last year, including being active during the flood recovery in October, helping a homeless veteran, and maintaining the flags throughout the city. He requested to be able to take over the sign near the VFW, replace the plastic to read VFW, repaint it, and use it to promote VFW events. He also invited the community to the VFW Open House taking place January 28th at 7:00 p.m. Kate Johnson, Chair of the Kyle Train Depot Board, was called to speak. She stated that the Board is working with the Hays County Historical Commission to provide additional volunteers and expertise for the operation of the Depot Visitors Center and Museum. There will be a soft opening held January 23rd from 10:00 a.m. - 12:00 p.m. Betty Harrison has authored a book on the history of Kyle which will be available soon, and a book signing will be held as a featured event of the soft opening. Proceeds will be donated for the upkeep of the Depot. A grand official re-opening will be announced at a later date. Madonna Hayes spoke regarding the CARTS program which ended December 31, 2015. She would like the Council to find an alternative transportation program for the citizens to use that is more affordable. Carol McElyea spoke regarding recent events in our nation allowing for immigration. She requested that our city prepare an impact statement regarding immigrants with respect to social security and jobs. She stated that among these immigrants there will likely be some Jihadists who are out to destroy the United States. Jerry McElyea spoke regarding the Planning and Zoning Commission issuing permits without consideration of water supply. He would like the Council to come up with regulations to require a commitment on water supply before the issuance of a permit. He also spoke regarding Highway 150's heavy traffic. He spoke about visibility due to hills and traffic lights and stated there have been accidents in front of our schools. He stated many residents would like to see the speed limit reduced from Highway 21 to Interstate 35 to 40 miles per hour. He also spoke about the intersection of Highway 150 and the Interstate, giving suggestions for a

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dedicated right turn lane. With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:30 p.m.

IV. Presentation

2. LAN Transportation Master Plan Update. ~ David Manuel, Senior Planning Manager

Item 2 LAN Transportation Master Plan Update

Eddie Ethridge spoke and introduced David Manuel, who made the presentation. He also announced that the final public meeting will be held at Fuentes Elementary on February 9th. No action was taken.

V. Consent Agenda

Mayor Webster asked if there were any items requested to be pulled from the Consent Agenda. There were none. With no objections, Mayor Webster placed Consent Agenda Item Nos. 3, 4, 5, 6, and 7 on the table for discussion.

3. Authorize award and execution of a Purchase Order to BLUEBONNET MOTORS, New Braunfels, Texas, in the amount of \$29,150.23 for the purchase of one (1) 2016 Ford 150 four- wheel drive truck for the Public Works Department through the Lower Colorado River Authority's (LCRA) Cooperative Government Pricing Contract. ~ Harper Wilder, Director of Public Works Department

Item 3 Authorization to Purchase One 4X4 Truck for Public Works

4. Approve contract Task Order No. 5 to NEPTUNE-WILKINSON ASSOCIATES, INC., Austin, Texas, in an amount not to exceed \$22,500.00 for the purpose of providing engineering services for restoration of the Downtown Elevated Tank located on W. Lockhart Street. ~ Leon Barba, P.E., City Engineer Attachments

Item 4 Downtown Elevated Tank Restroation - Neptune-Wilkinson

5. Approve Amendment No. 3 to LNV, INC., Austin, Texas, in an amount not to exceed \$64,774.00 for the purpose of providing additional acquisition services for the Elliott Branch Wastewater Interceptor Project. ~ Leon Barba, P.E., City Engineer

Item 5 Elliott Branch Acquisition Services (Amendment #3) - LNV, Inc.

6. (First Reading) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2015-16 by increasing total appropriations for expenditures by \$79,500.00 to complete storm related repairs authorized for various City parks and decreasing fund balance by the same amount in the Park Development Fund. ~ Perwez A. Moheet, CPA, Director of Finance

Item 6 Budget Amendment No. 1 FY 2015-16 Flood Damage Repairs to Parks

7. Declare six 4-drawer CD/DVD cabinets as surplus property and approve the donation of the cabinets from the Kyle Public Library to The Friends of the Kyle Library. ~ Jerry Hendrix, Chief of Staff

Item 7 Library donation of CD-DVD cabinets to Friends of the Library

Council Member Hervol moved to approve Consent Agenda Item Nos. 3, 4, 5, 6, and 7. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

VI. Consider and Possible Action

8. (First Reading) An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.30 acres of land from Single Family Residential 'R-1' to Residential Townhome 'R-1-T' on property located at 707 Live Oak Street, in Hays County, Texas. (Richard Giberson - Z-15-020). ~ Howard J. Koontz, Director of Planning and Community Development Planning and Zoning Commission voted 5-1 to recommend approval of the request.

Item 8 Richard Giberson - Zoning

PUBLIC HEARING

With no objections, Mayor Webster placed Item No. 8 on the table for discussion. Mr. Koontz presented the item. Mayor Webster opened the Public Hearing at 8:03 p.m. Sue Ellen Creek, a resident of Silverado Subdivision spoke in opposition to the zoning change. She stated her main concern as a resident is the traffic because there is only one outlet: Monterra Street. Ms. Creek stated that building townhomes versus homes will be likely 400 vehicles driving through their main thoroughfare. She also mentioned concerns for the effect on their property values and more kids in the schools, which are already at capacity. Dane Jackson then spoke stating his concerns for the property values of the Silverado Subdivision. He also expressed concerns with traffic flow issues as well as run off. Linda Tenorio stated that she felt it was poor planning on these townhouses, and that there hasn't been enough information provided to either the citizens or the Council. She was concerned with the traffic and the drainage. Mayor Webster then gave an opportunity to the applicant to speak in defense of the proposed zoning change. Tyler Williams spoke about the project describing the townhomes as a buffer between commercial to single family attached to single family detached. He also stated that traffic would not need to flow from the properties through Silverado unless they were visiting friends or family who live in that subdivision, and actually their project would alleviate traffic from San Felipe and Salado by providing an alternate route out of the neighborhood. He also mentioned the requirement by city code to detain runoff for that area, which would be an improvement from leaving it undeveloped. He shared their plan is to connect with Cockerham, with no additional traffic on Live Oak. Dane Jackson returned to the podium stating that there is only one access point, which is Monterra, for entrance and exit to the property. Margaret McGuinness spoke of her concern of Monterra and San Felipe being the main thoroughfare for the trucks and debris from the property. She also stated that traffic is bad now and that they removed the stop sign near her house about six years ago. She

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stated people are driving 40 miles per hour in that area. She stated everyone will be using the fastest way whether commuting to work or returning home. Kevin Allen, a resident of the Silverado Subdivision, then spoke about the homes that are going in on the north side of them which will likely add 200 vehicles to the area, in addition to this project with an estimated 400 vehicles. He said no one wants to see the town's value go down. Crystal Aviles, a resident of Silverado, spoke regarding the flood in October, and traffic issues in the area. She spoke about the children using routes in the neighborhood to get to school. She stated the traffic and flooding is going to get worse. With no one else wishing to speak, and with no objections to closing, Mayor Webster closed the Public Hearing at 8:23 p.m. Discussion continued between the City Council and Planning and Community Development Director Howard Koontz.

Council Member Arabie moved to approve on First Reading An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.30 acres of land from Single Family Residential 'R-1' to Residential Townhome 'R-1-T' on property located at 707 Live Oak Street, in Hays County, Texas. (Richard Giberson - Z-15-020). Mayor Webster seconded the motion. Mayor Webster called for a roll call vote. Council Member Selbera voted nay, Mayor Webster voted nay, Council Member Arabie voted aye, Mayor Pro Tem Wilson voted nay, Council Member Hervol voted nay, Council Member Fogley voted nay. Motion failed 1-5.

9. (First Reading) An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 14.083 acres of land from Single Family 'R-1' to Residential Townhome 'R-1-T', on property located at the northwest corner of Live Oak Street and St. Anthony's Drive, in Hays County, Texas. (WS Live Oak Kyle LLC - Z-15-019). ~ Howard J. Koontz, Director of Planning and Community Development Planning and Zoning Commission voted 5-1 to recommend approval of the request.

Item 9 WS Live Oak Kyle - Zoning

PUBLIC HEARING

With no objections, Mayor Webster placed Item No. 9 on the table for discussion. Mayor Webster opened the Public Hearing at 9:00 p.m. Council Member Arabie noted that the comments from the Public Hearing on Item No. 8 will also apply to this item. With no one wishing to speak, Mayor Webster closed the Public Hearing at 9:00 p.m. The applicant withdrew the item.

10. Consider a request by Krishna Kyle, LLC (Hampton Inn Suites - 151 Bunton Creek Road) for a Conditional Use Permit to construct a building with a height greater than 45 feet as required by Chapter 53 (Zoning) Section 1047 - Authorized Conditional Uses (13) of the City of Kyle Code of Ordinances, which states buildings with a height of up to 150 feet may be allowed in the Retail Service District. ~ Howard J. Koontz, Director of Planning and Community Development

Planning and Zoning Commission voted 6-0 to recommend approval of the request.

Item 10 Hampton Inn - Height Waiver

PUBLIC HEARING

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With no objections, Mayor Webster placed Item No. 10 on the table for discussion. Mr. Koontz presented the item. Mayor Webster opened the Public Hearing at 9:05 p.m. With no one wishing to speak, Mayor Webster closed the Public Hearing at 9:05 p.m.

Council Member Hervol moved to approve a request by Krishna Kyle, LLC (Hampton Inn Suites - 151 Bunton Creek Road) for a Conditional Use Permit to construct a building with a height greater than 45 feet as required by Chapter 53 (Zoning) Section 1047 - Authorized Conditional Uses (13) of the City of Kyle Code of Ordinances, which states buildings with a height of up to 150 feet may be allowed in the Retail Service District. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0. Council Member Fogley left the dais during this item and did not vote.

11. Consider a request by MNT & S Development (Sonic Drive In) for a waiver to exceed the maximum number of parking spaces per the Code of Ordinances, Chapter 53 (Zoning) Section 53-33 (n) (3) (Maximum Parking) for property located at 400 E. RR 150. ~ Howard J. Koontz, Director of Planning and Community Development

Item 11 Sonic Drive In - Parking Waiver

With no objections, Mayor Webster placed Item No. 11 on the table for discussion. Mr. Koontz presented the item. Council Member Fogley returned to the dais for the presentation of this item.

Council Member Fogley moved to approve a request by MNT & S Development (Sonic Drive In) for a waiver to exceed the maximum number of parking spaces per the Code of Ordinances, Chapter 53 (Zoning) Section 53-33 (n) (3) (Maximum Parking) for property located at 400 E. RR 150. Council Member Selbera seconded the motion. All votes aye; motion carried 4-0. Council Members Hervol and Arabie left the dais during this item and did not vote.

12. Approve a split-funding agreement with VIGILANT SOLUTIONS, INC., Livermore, CA, to install license plate recognition products in three Kyle Police Department vehicles to collect on outstanding municipal warrants and fines for a 25 percent fee of the amount of the fine. ~ Jeff Barnett, Chief of Police

Item 12 License Plate Reader Program

With no objections, Mayor Webster placed Item No. 12 on the table for discussion. Chief Barnett presented the item. Council Member Selbera left the dais during the presentation and did not return or vote on any following items.

Mayor Pro Tem Wilson moved to approve a split-funding agreement with VIGILANT SOLUTIONS, INC., Livermore, CA, to install license plate recognition products in three Kyle Police Department vehicles to collect on outstanding municipal warrants and fines for a 25 percent fee of the amount of the fine. Council Member Hervol seconded the motion. All votes aye; motion carried 5-0.

13. (First Reading) Approve an Ordinance amending the City's Code of Ethics as adopted by Ordinance No. 581, to amend Part G, Section 2(d) items (2) and (3) pertaining to the itemized list of disqualifications from serving on the Ethics Commission as follows; Section 2(d)(2) is amended to read "an elected city official" instead of "an elected public official" and Section 2(d)(3) is amended to read "a candidate for elected city office" instead of "a candidate for elected public office." ~ Frank Garza, City Attorney

Item 13 (First Reading) Approve an Ordinance amending the City's Code of Ethics

With no objections, Mayor Webster placed Item No. 13 on the table for discussion. Mr. Garza presented the item.

Mayor Pro Tem Wilson moved to approve on First Reading an Ordinance amending the City's Code of Ethics as adopted by Ordinance No. 581, to amend Part G, Section 2(d) items (2) and (3) pertaining to the itemized list of disqualifications from serving on the Ethics Commission as follows; Section 2(d)(2) is amended to read "an elected city official" instead of "an elected public official" and Section 2(d)(3) is amended to read "a candidate for elected city office" instead of "a candidate for elected public office." Council Member Fogley seconded the motion. All votes aye; motion carried 5-0.

14. (First Reading) An Ordinance of the City of Kyle, Texas Amending the Membership of Boards; Providing Terms, Appointments, Qualifications for Ex Officio Members; Amending Section 53-5 Definitions of the Code of Ordinances; Providing an Effective Date; and Making Such Other Findings and Provisions Related Hereto. ~ Diana Torres, Director Economic Development

Item 14 (First Reading) Ordinance Amending Boards to include Ex Officio Membership

With no objections, Mayor Webster placed Item No. 14 on the table for discussion. Mr. Garza presented the item.

Council Member Hervol moved to approve on First Reading an Ordinance of the City of Kyle, Texas Amending the Membership of Boards; Providing Terms, Appointments, Qualifications for Ex Officio Members; Amending Section 53-5 Definitions of the Code of Ordinances; Providing an Effective Date; and Making Such Other Findings and Provisions Related Hereto.. Council Member Arabie seconded the motion. Motion carried 4-1 with Mayor Webster dissenting.

15. A Resolution of the City Council of the City of Kyle, Texas Ratifying Ex Officio Membership for the Economic Development & Tourism Board; Providing for an Effective Date. ~ Diana Torres, Director Economic Development

Item 15 ED&T Ex Officio Resolution

Mayor Webster placed Item No. 15 on the table for discussion. Mrs. Torres presented the item.

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Mayor Pro Tem Wilson moved to approve a Resolution of the City Council of the City of Kyle, Texas Ratifying Ex Officio Membership for the Economic Development & Tourism Board; Providing for an Effective Date.. Council Member Hervol seconded the motion. All votes aye; motion carried 5-0.

16. Appointment of two (2) Ex-officios and two (2) Citizen Members to the Economic Development and Tourism Board. ~ Brian Ziegler, Economic Development & Tourism Board Chairman Adriana Cruz, Greater San Marcos Partnership President Julie Snyder, Kyle Area Chamber of Commerce CEO Jim Hough, Kyle Resident Jo Fenety, Kyle Resident

Item 16 Appointments to ED&T Board Ex Officios and Citizen Members

With no objections, Mayor Webster placed Item No. 16 on the table for discussion. Mr. Ziegler presented the item.

Mayor Pro Tem Wilson moved to approve appointments of two (2) Ex-officios (Adriana Cruz, Greater San Marcos Partnership President and Julie Snyder, Kyle Area Chamber of Commerce CEO) and two (2) Citizen Members (Jim Hough, Kyle Resident and Jo Fenety, Kyle Resident) to the Economic Development and Tourism Board.. Council Member Fogley seconded the motion. All votes aye; motion carried 5-0.

VII. City Managers Report

17. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ J. Scott Sellers, City Manager

Item 17 CM Report Cover Sheet

Mr. Sellers spoke about FEMA approval for public assistance for the Halloween flooding event. It will allow the City to recuperate qualifying expenditures. A training meeting is coming up for that to be mostly reimbursed for those costs.

VIII. Executive Session

18. 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.
 - Contemplated Litigation - Driskell Property.
 2. Property acquisitions for road bond projects. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.

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- Property acquisitions for road bond projects.
3. Personnel matters pursuant to Section 551.074.
 4. Economic Development negotiations pursuant to Section 551.087.

Item 18 Convene Executive Session Cover Sheet

Mayor Webster placed Item No. 18 on the table.

Mayor Pro Tem Wilson moved to convene into 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. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0.

The City Council convened into Executive Session at 9:41 p.m.

19. Take action on items discussed in Executive Session.

Item 19 Reconvene Open Session Cover Sheet

The Council reconvened in Open Session at 10:47 p.m. Council Member Hervol announced that no action took place in Executive Session, and none would be taken now.

IX. ADJOURN

Mayor Pro Tem Wilson moved to adjourn in memory of James Adkins who passed this week in honor of his good service for our community. All Council Members seconded. All votes aye; motion carried 5-0.

With no further business to discuss, the City Council adjourned at 10:48 p.m.

R. Todd Webster, Mayor

Attest: Amelia Sanchez, City Secretary