

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on February 2, 2016 at Kyle City Hall with the following persons present:

Mayor Todd Webster	Angelita Tobias
Mayor Pro Tem David Wilson	Lila Knight
Council Member Diane Hervol	Philip Amos
Council Member Becky Selbera	Karen Wacker
Council Member Shane Arabie	Dr. Michael Watkins
Council Member Damon Fogley	Juanita Parsons
Council Member Daphne Tenorio	Grant Goodwin
Scott Sellers, City Manager	Richard Johnson
James Earp, Assistant City Manager	Marjorie Ewing
Frank Garza, City Attorney	Madonna Hayes
Jerry Hendrix, Chief of Staff	Ann Valdespino
Leon Barba, City Engineer	Chuck Thompson
Perwez Moheet, Finance Director	Scott Ingalls
Sandra Duran, Human Resources Director	Frank Owen
Paul Phelan, Library Director	Paul DeHart
Howard Koontz, Community Development Director	Allen Crozier
Harper Wilder, Public Works Director	Clark Wilson

I. Call Meeting To Order

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

ROLL CALL

Mayor Webster called for roll call.

Mayor called for roll call. Present were Mayor Todd Webster, Mayor Pro Tem David Wilson, Council Member Diane Hervol, Council Member Becky Selbera, Council Member Shane Arabie, Council Member Damon Fogley, and Council Member Daphne Tenorio.

II. Approval of Minutes

1. City Council Regular Meeting - January 5, 2016. ~ Amelia Sanchez, City Secretary

Item 1 Attachment(s)

Council Member Becky Selbera moved to approve City Council Regular Meeting Minutes for January 5, 2016. Council Member Daphne Tenorio seconded the motion. All votes aye; motion carried 7-0.

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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 7:04 p.m. Jerry Hendrix, Chief of Staff introduced Paul Phelan, our new Director of Library Services. Mr. Phelan stated he is happy to be here, and is excited to see the development. He is looking forward to developing a world class library here in Kyle. Angelita Tobias was called to speak. She stated that she lives south of Kyle for 38 years. She spoke in opposition of the truck stop. She wants to see the area planned well, and she believes it is not in the best interest of the community to have a truck stop. She spoke of the hazardous materials that will be produced by the truck stop which would be added to the hazardous items coming through on the railroad. She spoke about the dangers of the trucks on the frontage road and traffic congestion. She also stated that this topic has come before the council over and over again. She proposed that the council put it to the citizens to vote whether they'd like it. Rosalio Tobias Jr. was called to speak, but he stated Ms. Tobias had spoken for him. Lila Knight was called to speak. Ms. Knight spoke about her experience working with Save the Wells, she realized the importance of working with our neighbors, elected officials, and community groups in all corners of the county. She spoke about a statement made by the mayor in the Kyle Report that a regional strategy for the Yarrington project might be possible, but PGI would need a seat at the table for negotiations. She stated that she would like to see the residents of Blanco Vista and the adjacent property owners who would be directly impacted also having a seat at that table. She suggested also having a county commissioner since the area is part of the Hays County Transportation Reinvestment Zone No. 1. She also suggested the Greater San Marcos Partnership as well. She asked for clarification about the Mayor's comment regarding Council Member Arabie getting credit for the applicant withdrawing its request for this meeting, while the city's website shows the zoning application as postponed. Mayor Webster answered with response to Council Member Arabie's strong encouragement to not give up on working with the City of San Marcos on this project, and clarified that the zoning application is postponed. Philip Amos of Aztec Village Oak Hill Community was called to speak. He is also a developer, having done development in California and Arizona. As a developer, he stated that he would consult the regional plan and seek out a property that allows for the use that he was wanting to build, and if not, he would certainly want the support of his neighbors. He stated that he has paid property taxes to the City of Kyle for the last 18 years, and he wants a clean community. He opposes the truck stop, opposed it two years ago. He said it is not appropriate, doesn't adhere to the regional plan, and will degrade his property and surrounding properties. Mr. Amos is prepared to do a study on emissions. Karen Wacker spoke on transportation needs. She would like to have transportation to shop. She is from Michigan and has been here for two weeks. Doctor Michael Watkins of Blanco River Ranch was called to speak. He is a cardiologist with Seton Hospital here in Kyle. His plea to the Council is to please work together with the City of San Marcos. He has two important issues with respect to the Yarrington Road project. The first is air pollution - diesel is bad for lungs and other cardiorespiratory systems. His second issue is mosquito borne illnesses. He stated that the property in question diverted the spring under Yarrington Road a couple years ago. Since they diverted the water, he continued, there is a ditch from Yarrington Road through Champions

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Apartment Complex to Post Road. Dr. Watkins stated there is constant water present in that ditch. He stated that the Zika virus, which is a World Health Organization top priority, has been identified in South America, and Central America coming north, and there are now reported cases in the state of Texas. This disease causes microcephaly in babies of pregnant women, and is a huge disaster in Brazil and elsewhere. There is no vaccine for the virus, and the same mosquito that carries this carries West Nile and other virus of the same grouping. He believes that water needs to be cleaned up and stated it is now from the city of Kyle to San Marcos property. He said we have a mutual responsibility to deal with that water and verify that we haven't created a haven for mosquitos. He asked Council to put it on their agenda and deal with San Marcos. Juanita Parson was called to speak. She reminded Council about her invitation to her home on Thursday the 4th from 4:00 - 5:30 to see the area that may be annexed. Grant Goodwin, staff attorney of Combined Law Enforcement Association of Texas, was called to speak. He represents Sgt. Espinoza in his arbitration, which will be discussed in executive session this evening. He said they'd hoped to have the decision from the arbitrator by this time, but that is not the case. He encouraged Council to ask questions during their executive session and become familiar with the record, which is currently with the arbitrator while he makes his decision. Mr. Goodwin said regardless of the outcome of the arbitrator's decision, the vast majority of the record will become public information. He encouraged the Council to look at the record from the six-day arbitration. Richard Johnson was called to speak. He stated he was here to speak about alternate transportation. He asked to consider the subject and they will be happy. Marjorie Ewing spoke about being devastated to not have transportation especially for the disabled. She stated that people see her coming to their door, and they say, "Oh she wants a ride again." She said it would really be great to think about getting some kind of transportation for the disabled. Madonna Hayes spoke about alternate transportation in Kyle. She stated that she has a number of emails as well as being accompanied by people from her complex. She stated that this is not just a senior issue, but transportation is needed for all ages of Kyle. She read a letter from Sherry Nethaway in support of alternate transportation. In the email, Ms. Nethaway suggested the city contract with Buda Taxi, or Kyle could have their own Taxi service. She also suggested that a city bus system could be created with passes for regular riders and discount passes for seniors and those living below poverty. She stated there are smaller towns than Kyle that have successfully provided bus service, such as Brownwood, TX. She continued suggesting applying for grants for transportation, but asked the City to please not rely on volunteer services. Mayor Webster asked Ms. Hayes to submit her other written comments for the record. Ms. Hayes continued speaking about her office manager at her complex has repeatedly said they will not provide transportation services. Ann Valdespino spoke in opposition to the truck stop. She stated that she's lived in Kyle for seven years and brought her parents down here. She and her husband have enjoyed watching the city grow. Ms. Valdespino stated that there is a budget problem in this city. She is concerned about proposed truck stop with her main concern being safety. Most of the children arrive by car or bus to the elementary in Blanco Vista. Her next concern is the environmental impact of a 247 bay truck stop. She said that Hays County currently is at 68% air quality and at 70% residents must add inspection quality for their vehicles and those with breathing problems will suffer. She believes the truck stop will not be sufficient for the budget shortfalls. She continued with recommendations of Costco, Trader Joe's, Whole Foods, and Frys Electronics. Chuck Thompson spoke regarding concerns with the truck stop that has been proposed. He said from 2010 - 2015 there were 476 dispatches for the San Marcos truck stop at exit 204. Mr. Thompson said the proposed Kyle truck stop is 16 times larger than the San

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Marcos truck stop, which has a potential for 1306 dispatches per year. He said that 31% of the dispatches were for accidents. His daughter has near misses with trucks pulling out of the San Marcos truck stop daily. He said the truck drivers are courteous to other truckers, not other drivers. Scott Ingalls spoke regarding the possible subdivision, lot no. 33 on Sunrise Circle - 114A and 114B. He said that in 2001 it was created and a modular home was erected on the land. In 2006 it was sold to some brothers and they put a stone wall was placed between the lots and they put another home with a concrete slab on the other side. He said a home was built but, they never put in a septic system. He questioned how someone could build a home without a septic system and still obtain a certificate of occupancy. In 2009 they sold property 114B, which was the home without a septic system, to the Brisenos. In 2014 the Brisenos paid off the property. He said he doesn't believe they went through a bank because he doesn't know of a bank that would provide a loan for a house without a septic system, nor has been subdivided. He contacted Hays County who informed him that property deeds can only be given out once it is surveyed, which it looks like a survey was done, and application of a subdivision was done. He said Hays County told him sometimes things aren't filed correctly, or people don't know proper procedures, and deeds are given out, but those would be considered fraudulent deeds, and he thinks those wouldn't be legally binding. He said that it appears fraudulent deeds were given out, and that concerns him, and the only reason anyone looked into it is because in 2015 the current owners wanted to put in a septic system. He continued that someone has lived there since 2006 without a septic system, and he wonders where all the wastewater has gone for 7+ years. He has nothing against homeowners, but he believes there is a legal issue, and not something that can be rectified tonight. He wants proper channels followed and things done in a correct way. Frank Owen, who is a dispatcher in San Marcos, was called to speak. He lives in Blanco Vista and is a dispatcher for the San Marcos Police Department. He is a father of three, is a realtor, and investor, and dispatcher, and he holds a degree in Emergency Management. Mr. Owen proposed that Blanco Vista has 1000 families at least, and if they spent \$50/day, over a year, that's \$18 million and change from one neighborhood. He spoke about the two recent historic floods and stated that the truck stop would demolish neighborhoods due to the amount of concrete. He said the 14 trucks at the truck stop in San Marcos has been a beacon of not the best symptom of the city. He said PGI Investments doesn't invest in their community. He'd like them to be more public in their positive plans of their 200+ truck stop with its diesel fuel that harms us. He stated that he was a veteran of Coast Guard and their 8 diesel boats required them to clear out of the command center every morning because of the diesel. Dr. Paul DeHart, a Professor of Political Science at Texas State was called to speak. He and his wife reside in San Marcos, and love Kyle. He said they moved back to the area after failed fertility treatments, miscarriages, failed adoptions, among other things because Texas foster/adopt is better. They now have an 8 month old and a 2.5 month old that they are now caring for. He said we live in factious and fractious times in which self-interest prevails over the common good. He stated that James Madison said that people go into politics for 3 reasons, the public good, selfish interest, and personal ambition with the vast majority going into politics for the latter few. He asked Council to choose the right thing because it's the right thing. Mr. DeHart said that in a time when people would walk away, we would have civic friendship preserved. He asked that the Council protect his children and stand for what's right. With no one else wishing to speak, Mayor Webster closed citizen comments at 7:56 p.m.

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V. Consent Agenda

3. (Second Reading) An Ordinance calling a Special Election to be held on May 7, 2016 in the City of Kyle, Texas to submit propositions on amendments to the City of Kyle Home Rule Charter; Making provision for the conduct of the election; Resolving other matters incident and related to such election; Providing for severability and setting an effective date. ~ Frank Garza, City Attorney

Item 3 Attachment(s)

4. (Second Reading) An Ordinance of the City of Kyle, Texas, ordering the May 7, 2016 General Election; Establishing the procedure therefore; and Providing for related matters. ~ Frank Garza, City Attorney

Item 4 Attachment(s)

5. Ratify the award of a Purchase Order to ALSAY INCORPORATED of Houston, Texas in the amount of \$27,225.08 for emergency repairs ordered by the Public Works Department to include water pump rebuild and to replace bearing at Well 2 site located at 701 W Moore Street in Kyle, Texas. ~ Harper Wilder, Director of Public Works

Item 5 Attachment(s)

6. Approve Change Order No. 2 to CAPITAL EXCAVATION COMPANY, Buda, Texas, in an amount not to exceed \$7,000.00 for a total contract amount of \$3,814,876.00 for additional drainage work required for Marketplace Avenue construction project. ~ Leon Barba, P.E., City Engineer

Item 6 Attachment(s)

7. Approve Supplement No. 7 to FREESE AND NICHOLS, INC., Austin, Texas, in an amount not to exceed \$37,180.00 for a total contract amount of \$1,361,175.00 for the purpose of performing additional utility engineering, geotechnical testing, and property acquisition services needed to realign a wastewater line for the Bursleson Street project. ~ Leon Barba, P.E., City Engineer

Item 7 Attachment(s)

With no objection, Mayor Webster placed the Consent Agenda on the table. Mayor Webster asked if there were any items requested to be pulled from the Consent Agenda. There were none.

Mayor Pro Tem David Wilson moved to approve Consent Agenda Item Nos. 3, 4, 5, 6, and 7. Council Member Daphne Tenorio seconded the motion. All votes aye; motion carried 7-0.

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VI. Consider and Possible Action

Council Member Daphne Tenorio moved to discuss Item 15 above Item 8. Council Member Diane Hervol seconded the motion. All votes aye; motion carried 7-0.

15. Discussion on public transportation in the City of Kyle. ~ Diane Hervol, Council Member

Item 15 Cover Sheet

With no objection, Mayor Webster placed Item No. 15 on the table and gave the floor to Council Member Hervol.

Council Member Hervol spoke about the direction that had been given to staff regarding public transportation options. She would like staff to identify what the true need is and what the program would be, and what the cost would be. Jerry Hendrix, Chief of Staff, was called to speak on the findings of his CARTS study with regard to usage statistics. Council discussion continued.

Council Member Shane Arabie moved to call for previous question. Mayor Pro Tem David Wilson seconded the motion. All votes aye; motion carried 7-0.

Council Member Shane Arabie moved to instruct staff to find a viable public transportation option to replace the CARTS program with a cap of \$50,000 to be brought back at the next Council meeting. Mayor Pro Tem David Wilson seconded the motion.

Ayes: Mayor Pro Tem David Wilson, Council Member Diane Hervol, Council Member Becky Selbera, Council Member Shane Arabie, Council Member Damon Fogley, Council Member Daphne Tenorio

Nays: Mayor Todd Webster

Motion carried 6-1.

IV. Appointments

2. Confirm City Manager's appointment to the Civil Service Commission to fill a vacancy for an unexpired term to expire July 7, 2016. ~ J. Scott Sellers, City Manager

- Aaron Townsend

Item 2 Cover Sheet

Mayor Webster went back to Item No. 2 and placed it on the table. Mr. Sellers presented the item and introduced Mr. Townsend.

Council Member Daphne Tenorio moved to approve the City Manager's appointment, Aaron Townsend, to the Civil Service Commission to fill a vacancy for an unexpired term to expire July 7, 2016. Council Member Shane Arabie seconded the motion. All votes aye; motion carried 7-0.

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Environmental Quality; providing for penalties; repealing all ordinances or parts of ordinances in conflict herewith; providing a savings clause; providing for the inclusion in the Code of Ordinances; providing for an effective date associated training. ~ Leon Barba, P.E., City Engineer; Kathy Roecker, Stormwater Management Plan Administrator

Item 9 Attachment(s)

With no objection, Mayor Webster placed Item No. 9 on the table. Mr. Barba introduced Ms. Roecker. Ms. Roecker presented the item and provided related training.

Mayor Pro Tem David Wilson moved to approve on First Reading an ordinance amending Chapter 50 "Utilities", of the Code of Ordinances of the City of Kyle, Texas, by the addition of Article IX, "stormwater regulations; providing findings and definitions; providing for the regulation non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by both the United States Environmental Protection Agency and the Texas Commission on Environmental Quality; providing for penalties; repealing all ordinances or parts of ordinances in conflict herewith; providing a savings clause; providing for the inclusion in the Code of Ordinances; providing for an effective date associated training. Council Member Becky Selbera seconded the motion. All votes aye; motion carried 7-0.

10. Consider and take action to approve Supplement No. 3 to HDR ENGINEERING, INC., Austin, Texas, in an amount not to exceed \$79,600.00 for a total contract amount of \$1,044,754.50 as requested by City Council for the purpose of revising the Lehman Road engineering plans to remove the proposed bridge structure over the tributary to Plum Creek, lowering the profile of the proposed roadway, and reducing construction costs by approximately \$1.0 million. ~ Leon Barba, P.E., City Engineer

Item 10 Attachment(s)

With no objection, Mayor Webster placed Item No. 10 on the table. Mr. Barba presented the item. Mayor Webster asked if there would be any significant time savings from going this route. Allen Crozier with HDR Engineering spoke stating a time savings of potentially a couple of months. He continued speaking as to the processes that are to take place. Council Member Hervol asked about the sidewalk for that area. Mr. Crozier stated that the right-of-way is extremely constrained. He also said there is an issue with providing access to the adjacent property there, and any elevation will require more right-of-way. Council Member Tenorio stated her disappointment with not receiving the roads that were promised although she understands the reasoning behind it. She asked how much right-of-way would be needed to widen the sidewalk. Mr. Barba stated that it would require negotiating with the property owners which has not been successful. He also stated that there will be a sidewalk on both sides. Mr. Crozier stated that the wider of the two will be on the park side. Mayor asked about the time line for condemnation if it came to that, which Mr. Barba responded he understands it is six to nine months.

Mayor Pro Tem David Wilson moved to approve Supplement No. 3 to HDR ENGINEERING, INC., Austin, Texas, in an amount not to exceed \$79,600.00 for a total contract amount of \$1,044,754.50 as requested by City Council for the purpose of revising the Lehman Road

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8. Consider a request by Noe and Maria Briseno (114-A and 114-B Sunrise Circle) for a variance to Chapter 41 (Subdivision) Section 82, Rural Subdivision Standards (e) (2) of the City of Kyle Code of Ordinances, which states all lots in a rural subdivision shall have a minimum width of 130 feet at the front property line. ~ Howard J. Koontz, Director of Planning and Community Development

Planning and Zoning Commission voted 6-1 to recommend approval of the request.

- PUBLIC HEARING

Item 8 Attachment(s)

With no objection, Mayor Webster placed Item No. 8 on the table. Mr. Koontz presented the item. He stated that the lot was divided by a metes and bounds survey and then ownership was transferred among private parties. The process did not go through city of Kyle subdivision despite the fact that the property is in Kyle's ETJ. Mr. Koontz stated that if the variance is approved, it will allow the applicants to receive a permit from the county to put in a septic system. Currently it is not considered a lawful lot of record because there are two dwelling units on one lot. Council Member Arabie asked about the status of the deed. Mr. Koontz has reviewed the paper chain of dates, names, and notary stamps and believes it to be in order. Council Member Arabie asked to clarify that if the variance is not approved, then a septic system will continue to be disallowed for this residence. Council Member Tenorio expressed concern about the status of the deeds being lawful, and that they didn't follow the subdivision guidelines set forth by the City of Kyle. Mr. Koontz stated that this request for a variance is the end of the subdivision process that will enable them to overcome the deficiencies with the City's subdivision ordinance.

Mayor Webster opened the public hearing at 8:50 p.m. Scott Ingalls approached the podium. He stated that he would like to see this follow in a legal manner, and wants this to set a precedent. He was concerned with how they obtained a certificate of occupancy without having a septic system and how they were able to get a deed without the property having been subdivided. He doesn't want things like this to fall through the cracks in the future. Council Member Arabie asked whether Mr. Ingalls is for this variance now. He stated that he doesn't know what they're doing now for a septic system and something needs to be done. With no one else wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 8:54 p.m.

Mayor Pro Tem David Wilson moved to approve a variance request to Chapter 41 (Subdivision) Section 82, Rural Subdivision Standards (e) (2) of the City of Kyle Code of Ordinances, which states all lots in a rural subdivision shall have a minimum width of 130 feet at the front property line. Council Member Becky Selbera seconded the motion. All votes aye; motion carried 7-0.

9. (First Reading) An ordinance amending Chapter 50 "Utilities", of the Code of Ordinances of the City of Kyle, Texas, by the addition of Article IX, "Stormwater Regulations"; providing findings and definitions; providing for the regulation non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by both the United States Environmental Protection Agency and the Texas Commission on

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engineering plans to remove the proposed bridge structure over the tributary to Plum Creek, lowering the profile of the proposed roadway, and reducing construction costs by approximately \$1.0 million. Council Member Damon Fogley seconded the motion. All votes aye; motion carried 7-0.

11. Discussion on Smoking Ordinance. ~ Becky Selbera, Council Member

Item 11 Cover Sheet

With no objection, Mayor Webster placed Item No. 11 on the table. Council Member Selbera was given the floor. She proposed a 1000 feet distance for non-smoking near government buildings. She stated that Council Member Fogley is supportive. Council Member Fogley spoke in favor although he mentioned perhaps not 1000 feet. The consensus of Council was to direct staff to come back with a proposal.

Mayor Pro Tem David Wilson moved to direct staff to research and return with a proposed ordinance. Council Member Becky Selbera seconded the motion. All votes aye; motion carried 7-0.

12. Update on County Support for Drainage and Stormwater Improvements. ~ Todd Webster, Mayor

Item 12 Cover Sheet

Mayor Webster asked Mayor Pro Tem Wilson to take the gavel. With no objection, Mayor Pro Tem Wilson placed Item No. 12 on the table. Mayor Webster spoke on the issue and a need for direction to come from Council rather than individual members due to a prioritization of projects having been made. Mayor Pro Tem Wilson stated he would like to ensure a smaller neighborhood isn't left out that has as much need. Mr. Sellers spoke about the negotiations with Hays County to provide a one-time maintenance for drainage areas that have been neglected over the years. He stated that the property owners are responsible for those easements and the maintenance of those areas, however certain areas require heavy machinery to remove trees and other debris in order to reset the clock. Mr. Sellers stated there is a list that city staff worked with Council Member Hervol to create which have been prioritized based on what the county and the city has the ability to assist with. The county assistance list includes: Jose Addition (including Moreno St. ditches and culverts), Steeplechase Subdivision drainage ditch area and retention pond, Amberwood drainage ditch along Windy Hill Rd., and certain portions between Amberwood and Indian Paintbrush. Harper Wilder, Director of Public Works, elaborated on this section stating there are trees blocking flow. Mr. Sellers continued with Bebee Rd. areas that were damaged in flood event. These are the main areas for the county. The city list includes: Live Oak St. drainage areas, Steeplechase Park, Old Hwy 81 from Railroad through the Cross Plants area through the interstate, Indian Paintbrush other drainage ditches that we can get to, and Dacy Ln. east of bridge by Dollar General. Mr. Wilder stated that he's been coordinating with the County on what types of equipment they have to determine which areas the county would clear, and which areas the city's equipment can be used for. Mr. Sellers stated that we would place these details in the ILA that the County's attorney is preparing. Council Member Selbera mentioned Quail Ridge drainage gets backed up,

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and Roland Ln. low water crossing. Mayor Pro Tem Wilson stated that it could be a design problem because the water goes from the drainage into people's backyards. Mayor Pro Tem Wilson mentioned the Plum Creek crossing that includes the access road about a mile from Center Street. He believes TxDOT should be repairing that area, and wanted to know whether there's a drainage issue there. Mr. Sellers stated that the city has talked to TxDOT about that area and they have elevated its priority. They want to move the frontage road out of the floodplain, but the timing will be sometime next year. Council Member Selbera also mentioned the entrance to Conoco. Mayor Webster asked about the timeline for the county. Mr. Wilder stated that he will be following up with the county. His concern is that some of the items the city has asked them to do, they may not have the equipment necessary.

13. Discussion and action regarding rescinding approval of ILA with Mountain City and Hays County for annexation and ETJ release and to provide utility services. ~ Todd Webster, Mayor

Item 13 Attachment(s)

Mayor Pro Tem Wilson placed Item No. 13 on the table. Mayor Webster was given the floor. He stated that since this item has been sitting a year, and he believes it is time to move forward. Mayor Pro Tem Wilson asked about the intentions of Mountain City. Mr. Sellers stated there was a meeting recently that didn't have a real outcome. Since we have been meeting since February/March of last year, the applicant has asked us to move forward with an alternate plan.

Mayor Todd Webster moved to rescind approval of the offer of an ILA with Mountain City and Hays County for annexation and ETJ release and to provide utility services. Council Member Daphne Tenorio seconded the motion. All votes aye; motion carried 7-0.

14. Approve a letter of intent with Mountain City 150, LP. ~ Todd Webster, Mayor

Item 14 Attachment(s)

Mayor Pro Tem Wilson placed Item No. 14 on the table. Mayor Webster presented the item. It will set up the development as an out-of-city water/wastewater customer. Clark Wilson spoke on behalf of Mountain City 150, LP and Anthem subdivision. He stated that the letter of intent states that Anthem will be paying for necessary water and wastewater extension lines as well as costs to assist in upgrading the wastewater plant. Mayor Webster stated that Mr. Wilson's team has been extraordinarily patient and he appreciates the good faith that has been extended to the city.

Council Member Daphne Tenorio moved to approve a letter of intent with Mountain City 150, LP. Council Member Shane Arabie seconded the motion. All votes aye; motion carried 7-0.

VII. City Managers Report

16. 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

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- Disposition of Hurlston vs. City of Kyle

Item 16 Cover Sheet

Mr. Sellers stated that the Hurlston vs. City of Kyle lawsuit had been dismissed with prejudice.

VIII. Executive Session

17. 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.
 - Jesse Espinoza Appeal Update
 - Aqua Lawsuit Update
 - Negotiations for Extension of Wastewater Services.
2. Property acquisitions for road bond projects. 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.
 - Negotiations for Extension of Wastewater Services.

Item 17 Cover Sheet

Mayor Webster placed Item No. 17 on the table.

Mayor Pro Tem David 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: Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Jesse Espinoza Appeal Update; Aqua Lawsuit Update; and Negotiations for Extension of Wastewater Services; and Economic Development negotiations pursuant to Section 551.087 - Negotiations for Extension of

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Wastewater Services. Council Member Damon Fogley seconded the motion. Council Member Selbera had left the dais for this motion and vote. All other votes aye; motion carried 6-0.

The City Council convened into Executive Session at 9:47 p.m.

Council Member Daphne Tenorio moved to reconvene into open session. Council Member Damon Fogley seconded the motion. All votes aye; motion carried 7-0.

18. Take action on items discussed in Executive Session.

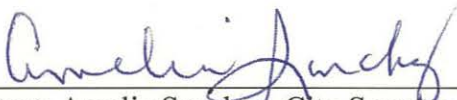
Item 18 Cover Sheet

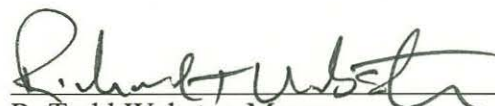
The Council reconvened in Open Session at 10:58 p.m. Council Member Hervol announced that no action took place in Executive Session, and none would be taken now.

IX. ADJOURN

Council Member Diane Hervol moved to adjourn. Council Member Damon Fogley seconded the motion. All votes aye; motion carried 7-0.

With no further business to discuss, the City Council adjourned at 10:58 p.m.


Attest: Amelia Sanchez, City Secretary


R. Todd Webster, Mayor