

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on February 16, 2016 at Kyle City Hall with the following persons present:

Mayor Todd Webster	Evangelina Chapa
Mayor Pro Tem David Wilson	Meredith Murray
Council Member Diane Hervol	Madonna Hayes
Council Member Becky Selbera	Lila Knight
Council Member Shane Arabie	Scott Ingalls
Council Member Damon Fogley	Bruce Fallgren
Council Member Daphne Tenorio	Kay Rush
Scott Sellers, City Manager	Dave Douglas
James Earp, Assistant City Manager	Shirley Casida
Ashley White, City Attorney	Nancy Fahy
Leon Barba, City Engineer	Peter Parcher
Diana Torres, Economic Development Director	Michae Watkins
Kathy Roecker, SMPA	Julie Watkins
Perwez Moheet, Finance Director	Lori Huey
Robert Olvera, IT Manager	Allison Wilson
Paul Phelan, Library Director	Jeff Garcia
Kerry Urbanowicz, PARD Director	Joe Harzewski
Howard Koontz, Community Development Director	Jason Claunch
Pedro Hernandez, Police Captain	Scott Polikov
Jacob Luria, Police Sergeant	
Harper Wilder, Public Works Director	

I. Call Meeting To Order

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

Mayor Webster asked the secretary to call roll. Present were Mayor Webster, Mayor Pro Tem Wilson, Council Member Hervol, Council Member Selbera, Council Member Arabie, Council Member Fogley, Council Member Tenorio

II. Approval of Minutes

1. City Council Regular Meeting - January 19, 2016. ~ Amelia Sanchez, City Secretary Item No. 1 Attachments

Council Member Hervol moved to approve the minutes of the January 19, 2016 City Council meeting. Council Member 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 7:03 p.m.

Lila Knight registered her position in support of items 18, 19, and 20, but will not be testifying.

Nancy Fahy registered her position in support of items 19, and 20, but will not be testifying.

Shirley Casida registered her position in support of items 19 and 20, but will not be testifying.

Evangelina Chapa was called to speak in support of items 19 and 20 and other items. She spoke about the postponement of the warehouse zoning regarding the truck stop. She described a warehouse or a truck stop as an eye sore. She has been here since 1974, and have watched the city work to create a beautiful city. She also said that the truck stop would be hazardous.

Meredith Murray, General Manager at Central Texas Speedway, spoke about the events that are coming to the Speedway. She spoke in favor of the Hays County Crawfish Boil.

Madonna Hayes was called to speak. She spoke in support of item 18 and alternate transportation in Kyle. She clarified that the Overlook will be providing transportation twice per week. She still would like to see public transportation in the city for those who don't have it. She urged the Council to pursue public transportation.

Lila Knight was called to speak. She spoke, as a citizen of Kyle and registered voter for many years, in opposition of warehouse zoning for the Yarrington tract and in opposition to a truck stop. She would like to see a destination place of Kyle, and she believes we can do a whole lot better. She stated that she received a phone call this afternoon from the Mayor in Buda regarding the volunteer non profit they have in Buda to transport the elderly citizens and he was on the original board. She said he would be glad to help Kyle get something started similar to that. She said the non-profit's original goal was to go county-wide.

Scott Ingalls was called to speak following up on the issue from the prior council meeting about a request for a subdivision variance for 114A and 114B of Sunrise Circle. He stated he spoke with Ian Harris who handles Planning & Development of Hays County. Mr. Ingalls said that Mr. Harris told him that while Kyle is the owner of the ETJ area, it is up to Hays County for subdivision and approval for septic system. Mr. Ingalls stated Mr. Harris had visited the property and saw no signs of a septic system, but there was a large hole in the backyard. Mr. Harris said that the owner told him that she doesn't live there, but commutes from Austin to bring her kids here, and she told him that there was a porta potty for her use. Mr. Ingalls stated that he checked and found no properties owned by Ms. Briseno in the city of Austin. He also stated he's lived in the area for three years and had never seen a porta potty until the Wednesday after the

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last council meeting. He said he's always seen them there and has also witnessed the Brisenos hosting parties and events during the time he's lived nearby. He believes something else is going on behind the scenes. Mr. Ingalls stated that they should have records for the porta potty rentals for all these years, as well as water bills. He continued that if they had been tying into the original home's septic system, that's illegal. He said they should not be living in that property at all. He doesn't know if Council can rescind this issue to investigate further. Mayor Webster stated that he'd like to have a follow up conversation with staff.

Bruce Fallgren was called to speak. He announced his new business, Nitrogen Innovations and stated he would like to get the city involved to extend the life of tires and save the city money.

Kay Rush of Amberwood spoke regarding the proposed truck stop. She said during the last election she was assured by members of council that they would not vote for it. Now she sees many of the same members on the dais that appear to have changed their minds. She spoke about a business on Windy Hill that was grandfathered in, who was selling vehicles on that land, and was draining vehicle fluids into the ground. During the two flooding events in 2015 runoff came from there. She said that property exists under a warehouse designation. She doesn't want to see warehouse zoning. She stated guests at the LaQuinta get a full view of a junk yard. She said our gateway into Kyle will be a truck stop at the south and a junk yard at the north which is not a destination city.

David Douglas was called to speak. He spoke in favor of items 19 and 20. He stated he would like to see Kyle join the Clean Air Agency. He said as the president of the Hometown Kyle HOA he's spoken to many about the truck stop and they have been overwhelming vehemently opposed to it. He spoke about a two-week old girl who was born without a dad because he was killed in an accident at Burlison. He stated the signage for that turn is horrendous. He is asking the Council for better signage early on so they can move over as quickly as possible. His friend's life was snuffed out because of an irresponsible driver and poor signage.

Lori Huey asked to speak. She spoke on Kensington Trails saying that there's a major speeding issue on Downing towards Bebee. She said people are cutting across and not coming to a full stop. She said there's a hiking trail along there and she's concerned someone will get hit. She proposed a feasibility study for stop signs to prevent a fatality or someone getting hit. Council Member Tenorio stated that it is being addressed because she'd previously sent the information to City Manager Scott Sellers.

Peter Parcher spoke about a new neighborhood watch in Steeplechase that has been formed. He thanked Kyle Police Department, Fire Department, and Parks Department for having supported them in every way they can. He spoke in opposition to the truck stop saying he was a trucker and there will be drug problems, prostitution, kidnappings, all sorts of illegal activities. He also stated that with the neighborhood watch many people have emailed him about the exhibit at Fuentes Elementary with regard to the roads. He stated that many were highly disappointed because there was no presentation with it, and was no one there to explain what was going on.

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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. Appointments

2. Consider nomination and take action for appointment to the Planning and Zoning Commission to fill unexpired term. ~ Howard J. Koontz, Director of Planning and Community Development

a. Allison Wilson - Seat 4

Item No. 2 Attachments

With no objections, Mayor Webster placed Item No. 2 on the table for discussion. Community Development Director Howard Koontz presented the item who explained that the vacancy is due to Michele Christie's move to the northeast. Council Member Tenorio stated that there wasn't enough community engagement in this vacancy and she would like to see more involvement, posts on Facebook, city newsletters, etc. Allison Wilson was called to the podium to introduce herself on Council Member Fogley's request. She stated that she heard about the opening and has a vested interest in the way Kyle is growing. City Manager Scott Sellers was called to the podium to respond to Council Member Tenorio's question for Mr. Sellers. Council Member Tenorio spoke of her concerns of perceived impropriate with Ms. Wilson's connection to an employee with Code Enforcement. Mr. Sellers referred the question to City Attorney Ashley White. Ms. White stated that there is no nepotism recognized because appointment is not a paid position, there is no constitutional issue because Council is making the appointment, not the staff member, and Code Enforcement issues don't overlap with Planning and Zoning. Council Member Hervol asked Mr. Sellers that in the future when positions open to please advertise them.

Mayor Pro Tem Wilson moved to approve the appointment of Allison Wilson to seat number 4 on the Planning and Zoning Commission to fill an unexpired term. Council Member Arabie seconded the motion. Motion carried 6-1 with Council Member Tenorio dissenting.

V. Consent Agenda

Mayor Webster stated he'd like to pull 5, 6, 9, and 10. He asked if there were any other items to be pulled from the Consent Agenda. There were none. With no objections, Mayor Webster placed Item Nos. 3, 4, 7, 8, 11, 12, and 13 on the table for discussion.

Mayor Pro Tem Wilson moved to approve Consent Agenda item nos. 3, 4, 7, 8, 11, 12, and 13. Council Member Tenorio seconded the motion. All votes aye; motion carried 7-0.

3. A resolution of the City Council of the City of Kyle, Texas authorizing the filing of a grant application to the Office of the Governor, General Juvenile Justice and Delinquency Prevention Program to continue to fund a full-time Juvenile Specialist Officer at Kyle Police Department. ~ Jeff Barnett, Chief of Police

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Item No. 3 Attachments

4. A resolution of the City Council of the City of Kyle, Texas authorizing the filing of a grant application to the Office of the Governor, General Victim Assistance Direct Services Program; and authorize applicable matching funds from the Police Department's approved operating budget for FY 2017, to continue to fund the Police Department's full-time Victim's Coordinator position. ~ Jeff Barnett, Chief of Police

Item No. 4 Attachments

7. Authorize award and execution of a Purchase Order to FREIGHTLINER OF AUSTIN, Austin, Texas in an amount not to exceed \$103,327.00 for the purchase of a new 2016 Freightliner 15- Yard Dump Truck through the Buy Board Purchasing Co-operative for the Public Works Department. ~ Harper Wilder, Director of Public Works

Item No. 7 Attachments

8. Authorize award and execution of a Purchase Order to BLUEBONNET MOTORS, New Braunfels, in an amount not to exceed \$18,665.78 for the installation of a new diesel engine in the 2009 Ford 350 hydraulic truck for the Public Works Department. Harper Wilder, Director of Public Works

Item No. 8 Attachments

11. Approve amendment to the lease agreement between the UNION PACIFIC RAILROAD COMPANY (lessor) and the City of Kyle (lessee) to include additional area for use by City and change lease amount to \$6,970.00 per year. ~ Perwez A. Moheet, CPA, Director of Finance

Item No. 11 Attachments

12. (Second 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. ~ Leon Barba, P.E., City Engineer; Kathy Roecker, Stormwater Management Plan Administrator

Item No. 12 Attachments

13. Authorize an amendment to the Tri-Party Development Agreement between the City of Kyle, The Meadows at Kyle, Ltd. and the Meadows at Kyle II, Ltd. having the City of Kyle grant an extension of a deadline for the construction and completion of off-site improvements as contained in the amendment. ~ Howard J. Koontz, Director of Planning and Community Development

Item No. 13 Attachments

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5. Approve Change Order No. 2 to JKB CONSTRUCTION CO., LLC, Liberty Hill, Texas, to add \$12,085.00 for additional work required on the Union Pacific Railroad wastewater crossing at Moreno Street and to decrease contract award by \$11,600.00 for material reductions, a net increase of \$485.00 to the contract amount for a revised total \$288,098.00. ~ Leon Barba, P.E., City Engineer

Item No. 5 Attachments

Mayor Webster stated he pulled this item to give staff an opportunity to talk about the wastewater improvements that are taking place. Mr. Barba presented the item.

Mayor Pro Tem Wilson moved to approve Change Order No. 2 to JKB Construction Co., LLC, Liberty Hill, Texas, to add \$12,085.00 for additional work required on the Union Pacific Railroad wastewater crossing at Moreno Street and to decrease contract award by \$11,600.00 for material reductions, a net increase of \$485.00 to the contract amount for a revised total \$288,098.00. Council Member Hervol seconded the motion. All votes aye; motion carried 7-0.

6. A Resolution supporting the City's desire to become a certified "Film Friendly Texas" Community through the State of Texas Film Commission; and adoption of the Guidelines for Filming in the City of Kyle ~ Diana Torres, Director of Economic Development

Item No. 6 Attachments

Mayor Webster placed Item No. 6 on the table for discussion. Ms. Torres presented the item.

Council Member Fogley moved to approve a Resolution supporting the City's desire to become a certified "Film Friendly Texas" Community through the State of Texas Film Commission; and adoption of the Guidelines for Filming in the City of Kyle. Council Member Selbera seconded the motion. All votes aye; motion carried 7-0.

9. Authorize award and execution of a Contract and a Purchase Order to PYRO SHOWS OF TEXAS, Fort Worth, Texas, in an amount not to exceed \$20,000.00 for the 2016 July 4th Independence Day Celebration fireworks show. ~ Kerry Urbanowicz, Director of Parks and Recreation

Item No. 9 Attachments

Mayor Webster placed Item No. 9 on the table for discussion. PARD Director Kerry Urbanowicz presented the item. Mr. Urbanowicz stated he spoke with a representative of Pyro Shows of Texas regarding a lawsuit that was just filed last week who stated he was unable to discuss it. The company isn't the producer, technician, or manufacturer that was involved in the incident.

Council Member Tenorio moved to approve authorize award and execution of a Contract and a Purchase Order to Pyro Shows OF Texas, Fort Worth, Texas, in an amount not to exceed \$20,000.00 for the 2016 July 4th Independence Day Celebration fireworks show. Council Member Hervol seconded the motion. All votes aye; motion carried 7-0.

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10. Amend the court collections service agreement with LINEBARGER GOGGAN BLAIR & SAMPSON, LLP, to include collection of past due balances for utility services and to extend the term to expire on March 15, 2018. ~ Perwez A. Moheet, CPA, Director of Finance

Item No. 10 Attachments

Mayor Webster placed Item No. 10 on the table for discussion. Director of Finance Perwez Moheet presented the item. Mayor Pro Tem Wilson asked about automation to make this process more efficient. Jeff Garcia, a partner with the Linebarger law firm, stated that they specialize in government collections. He stated that their technology allows them to efficiently handle the collections because it is all done in-house. Council Member Arabie asked about the brackets, how it will be reported, and when the collections will be done. Mr. Garcia stated that they will be handled separately from the Court fees and fines because utilities are protected under consumer debt. He stated that the city staff will have real time access to see what is being done on behalf of the city of Kyle. Additionally they will provide quarterly reports to city staff.

Council Member Hervol moved to approve an amendment to the court collections service agreement with Linebarger Goggan Blair & Sampson, LLP, to include collection of past due balances for utility services and to extend the term to expire on March 15, 2018. Mayor Pro Tem Wilson seconded the motion. All votes aye; motion carried 7-0.

VI. Consider and Possible Action

14. Consider and possible action to amend or rescind the Vigilant Solutions Memorandum of Understanding. ~ Jeff Barnett, Chief of Police

Item No. 14 Attachments

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

Mayor Webster placed Item No. 14 on the table. The item was presented by Captain Pedro Hernandez. Mayor Webster stated that he would like some assurance that there will be no third party selling of data. Mr. Sellers stated that Vigilant amended the MOU to establish that the data will be private. Mayor Webster asked if there were any penalties for rescinding the contract. Mr. Sellers stated no hardware has been installed by Vigilant, but a rescission has not been discussed with Vigilant. Mayor Pro Tem Wilson asked how Vigilant's system works. Specifically, when they run warrants are they running TCIC/NCIC, and are they capturing the data for KPD? He wants to know if those without warrants, does address information come up and is it captured? He wants to know if the information is gotten rid of, and how it's gotten rid of. Joe Harzewski was called to speak on behalf of Vigilant. He stated that the technology is strictly for law enforcement. KPD is the owner of that data and no one else has access to that data outside of city of Kyle user accounts, which are managed by the city of Kyle. Vigilant does not sell law enforcement data. Mr. Sellers stated that the amendment specifies that the data collected belongs to the City of Kyle. Council Member Hervol asked Mr. Sellers how the City intends to use the data, and Mr. Sellers responded that the discussions are in such early phases

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that it hasn't been determined. Mayor Pro Tem Wilson asked where in the process this item would be, and Mr. Sellers responded that if the Council is for it, then it will start the process for installation of hardware. Council Member Fogley asked whether there is a time frame on the contract. Mr. Harzewski stated that if the City of Kyle terminates the agreement, Vigilant will delete the data. There are no termination terms, the city can cancel at any time. Council Member Tenorio stated that it is too invasive for her.

Council Member Tenorio moved to rescind the Vigilant Solutions Memorandum of Understanding. Council Member Arabie seconded the motion. Motion carried 6-1 with Mayor Pro Tem Wilson dissenting.

15. Consider and approve partnership with Gateway Planning/Catalyst Commercial team for Sustainable Development Initiative in Kyle. ~ J. Scott Sellers, City Manager
Item No. 15 Attachments

Mayor Webster placed Item No. 15 on the table for discussion. Mr. Sellers presented the item. Jason Claunch of Catalyst Commercial and Scott Polikov of Gateway Planning were called to speak. Mr. Polikov stated that most developers don't have an incentive to look beyond their property lines. This organization wants to meet with developers and property owners to understand where everyone is at moving forward.

Council Member Arabie moved to approve a partnership with Gateway Planning/Catalyst Commercial team for Sustainable Development Initiative in Kyle. Council Member Hervol seconded the motion. All votes aye; motion carried 7-0.

16. (First Reading) An Ordinance of the City of Kyle, Texas, amending the City of Kyle, TX Code of Ordinances; amending Chapter 41, Article V. Sec. 41-141. Utility Easements, to require certain utility considerations for gated communities; providing for repeal of conflicting ordinances; providing for an effective date and open meetings clauses; and providing for related matters. ~ James R. Earp, Assistant City Manager
Item No. 16 Attachments

Mayor Webster placed Item No. 16 on the table for discussion. Mr. Earp presented the item. Council Member Hervol asked for clarification on who would be responsible for repairing an easement that the city digs up. Mr. Earp stated that we would put it back to soil level grade, but the entity that owns the road would be responsible for anything above that. Mayor Webster asked if this is common for easements. Mr. Earp stated that it is common for easements, but is the difference between it being a public roadway and a non-public roadway.

Council Member Tenorio moved to approve on First Reading an Ordinance of the City of Kyle, Texas, amending the City of Kyle, TX Code of Ordinances; amending Chapter 41, Article V. Sec. 41-141. Utility Easements, to require certain utility considerations for gated communities; providing for repeal of conflicting ordinances; providing for an effective date and open meetings clauses; and providing for related matters. Council Member Fogley seconded the motion. Motion carried 6-1 with Council Member Arabie dissenting.

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17. Consider a request by Central Texas Speedway for a conditional use permit to hold a Hays County Fair and Crawfish Boil from April 7, 2016 to April 9, 2016 on property located at 24801 IH-35. (CUP-16-002) ~ Howard J. Koontz, Director of Planning and Community Development

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

Item No. 17 Attachments

- PUBLIC HEARING

Mayor Webster placed Item No. 17 on the table for discussion. Mr. Koontz presented the item. With no objections, Mayor Webster opened the public hearing at 9:18 p.m. With no one wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 9:18 p.m.

Mayor Pro Tem Wilson moved to approve a request by Central Texas Speedway for a conditional use permit to hold a Hays County Fair and Crawfish Boil from April 7, 2016 to April 9, 2016 on property located at 24801 IH-35. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

18. Discuss and possible action on public transportation program in the City of Kyle. ~ Diane Hervol, Council Member

Item No. 18 Cover Sheet

Mayor Webster placed Item No. 18 on the table for discussion. Jerry Hendrix, Chief of Staff made a presentation on public transportation options.

Council Member Hervol moved to direct staff to come back with a proposal/contract on the per hour reimbursement with Kyle/Buda Taxi. Council Member Fogley seconded the motion. All votes aye; motion carried 7-0.

19. Discussion and possible action on vehicle idling within the city limits of Kyle. ~ Daphne Tenorio, Council Member

Item No. 19 Cover Sheet

Mayor Webster placed Item No. 19 on the table for discussion. Mayor Webster gave the floor to Council Member Tenorio.

Council Member Tenorio requested to postpone this item to the next meeting so that supporting documentation can be attached to the agenda packet.

Mayor Webster stated concern for our ordinance to be consistent with state law and TCEQ, and he would like to know about staffing enforcement commitments.

There were no objections to postponing Agenda Item No. 19.

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20. Consider and possible action to join Central Texas Clean Air Coalition. ~ Daphne Tenorio, Council Member

Item No. 20 Cover Sheet

Mayor Webster placed Item No. 20 on the table for discussion. Mayor Webster gave the floor to Council Member Tenorio. Council Member Tenorio requested this item be placed on the next agenda as well so that background materials could be attached to the agenda packet. Mayor Webster stated that when the representative presented, Mayor Webster asked him what the benefit would be to the city of Kyle to join, the gentleman's response was "You get good public relations." There were no objections to postponing the item.

VII. City Managers Report

21. 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 No. 21 Cover Sheet

There was no report.

VIII. Executive Session

22. 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.
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.

Item No. 22 Cover Sheet

There were no items to discuss in executive session.

23. Take action on items discussed in Executive Session.

Item No. 23 Cover Sheet

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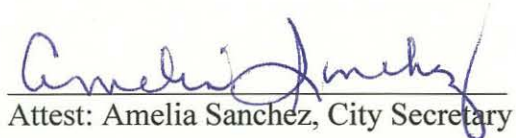
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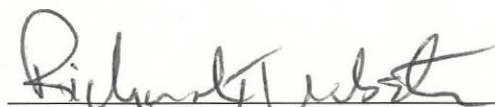
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IX. ADJOURN

Council Member Hervol moved to adjourn. Council Member Selbera seconded the motion. Motion carried 6-1 with Mayor Pro Tem Wilson dissenting.

With no further business to discuss, the City Council adjourned at 9:46 p.m.


Attest: Amelia Sanchez, City Secretary


R. Todd Webster, Mayor