

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on August 17, 2016 at Kyle City Hall with the following persons present:

Mayor Todd Webster	Tim Miller
Mayor Pro Tem Damon Fogley	Kyle Taylor
Council Member Travis Mitchell	Adam Moore
Council Member Becky Selbera	Rick Rosenberg
Council Member Shane Arabie	Becky Collins
Council Member David Wilson	
Council Member Daphne Tenorio	
Scott Sellers, City Manager	
James Earp, Assistant City Manager	
Ashley White, Assistant City Attorney	
Jerry Hendrix, Chief of Staff	
Jennifer Vetrano, City Secretary	
Leon Barba, City Engineer	
Kathy Roecker, SWMP Administrator	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Andy Alejandro, Accounting Manager	
Sandra Duran, HR Director	
Kristiana Spencer, HR Generalist	
Paul Phelan, Library Director	
Kerry Urbanowicz, PARD Director	
Howard Koontz, Community Dev Director	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Harper Wilder, Public Works Director	
Jason Biemer, Div. Mgr. Treatment Operations	
Warren Christian, Div. Mgr. Water/Wastewater	
Mario Perez, Building Official	

### 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, Council Member Mitchell, Council Member Arabie, Council Member Wilson, Council Member Fogley, and Council Member Tenorio. Council Member Selbera arrived during discussion on Item No. 10. A quorum was present.

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### II. Approval of minutes

1. City Council Workshop Meeting Minutes - July 30, 2016. ~ *Jennifer Vetrano, City Secretary*  
Item No. 1 Attachments

Council Member Tenorio moved to approve the City Council Workshop Meeting Minutes for July 30, 2016. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

2. City Council Regular Meeting Minutes - August 2, 2016. ~ *Jennifer Vetrano, City Secretary*  
Item No. 2 Attachments

Council Member Tenorio moved to approve the City Council Regular Meeting Minutes for August 2, 2016. Council Member Fogley seconded the motion. All votes aye; 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 7:02 p.m.

Tim Miller was called to speak on Agenda Item No. 10. He stated that he has a Certified Organic Farm on the south side of town. He spoke in favor of the community garden and said the location is of utmost importance. He continued, stating approving something like this will take a lot of volunteers, water, and labor. He asked whether citizens outside the subdivision will be able to participate. He stated the proposed location is close to the wastewater plant, which wouldn't be a good location. Mr. Miller proposed that near Simon Middle School would be a better location for the Community Garden. He spoke about his experience with starting the Kyle Elementary Community Garden and his 12 years of participation there. Additionally, Mr. Miller worked at a 6-acre garden in Austin for 9 years.

Kyle Taylor, Fire Chief was called to speak. He spoke as a resident and stated that he pays twice for EMS - through city taxes, and through County taxes. He encouraged the Council to support ESD #9. He also thanked the Council on behalf of the Fire Department for supporting them in the budget this fiscal year.

With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:08 p.m.

### IV. Consent Agenda

Mayor Webster asked if there were any items to be pulled from the Consent Agenda. Council Member Tenorio pulled Item Nos. 4, 7, and 8. With no objections, Mayor Webster brought forward Item Nos. 3, 5, 6, and 9.

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3. Authorize award and execution of a Contract and Purchase Order to TYLER TECHNOLOGIES, INC., Lubbock, Texas, in an amount not to exceed \$18,000.00 for the Parks and Rec Software Module and Installation Services for the Kyle Parks and Recreation Department. ~ *Kerry Urbanowicz, Director of Parks and Recreation*  
Item No. 3 Attachments
5. Award a bid to DATA FLOW SYSTEMS, INC., Melbourne, Florida, lowest and most responsible bidder, in an amount not to exceed \$182,637.00 for providing nine Remote Terminal Units (RTU), related equipment and on-site start up services for eight lift stations and the wastewater treatment plant for Supervisory Control and Data Acquisition (SCADA). ~ *Harper Wilder, Director of Public Works*  
Item No. 5 Attachments
6. A Resolution approving the annual review and update of the City's Investment Policy as required under the Public Funds Investment Act (PFIA). ~ *Perwez A. Moheet, CPA, Director of Finance*  
Item No. 6 Attachments
9. Authorize acceptance of a \$5,000.00 non-matching grant from the HEB Community Investment initiative for the 2016 Summer Reading Program. ~ *Paul Phelan, Director of Library Services*  
Item No. 9 Cover Sheet

Council Member Wilson moved to approve Consent Agenda Item Nos. 3, 5, 6, and 9. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

4. Approve Change Order No. 5 to CAPITAL EXCAVATION COMPANY, Buda, Texas, for the Marketplace Avenue improvement project in the amount not to exceed \$4,568.87 for a total contract amount of \$3,880,171.45 for work items requested of the contractor in order to open the road to the public which consisted of erosion control measures and pavement striping for transitioning traffic, for finalizing work quantities, and for establishment of wetland plantings and maintenance of the area for a 1-year period. ~ *Leon Barba, P.E., City Engineer*  
Item No. 4 Attachments

Mayor Webster gave the floor to Council Member Tenorio who pulled Item No. 4. She asked City Engineer Leon Barba whether the funds had already been spent. Mr. Barba stated that some of the work has been done, but some of the plantings have not been done.

Council Member Tenorio moved to approve Change Order No. 5 to Capital Excavation Company, Buda, Texas, for the Marketplace Avenue improvement project in the amount not to exceed \$4,568.87 for a total contract amount of \$3,880,171.45 for work items requested of the contractor in order to open the road to the public which consisted of erosion control measures and pavement striping for transitioning traffic, for finalizing work quantities, and for establishment of wetland plantings and maintenance of the area for a 1-year period. Council Member Wilson seconded the motion. All votes aye; motion carried 6-0.

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7. (Second Reading) An ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 53 (Zoning), Article V (Landscaping and Screening Requirements); Relating to Outdoor Lighting Standards. ~ *Howard J. Koontz, Director of Planning and Community Development*

- *Planning and Zoning Commission voted 5-0 to recommend approval with the exceptions outlined in staff report.*

Item No. 7 Attachments

Mayor Webster gave the floor to Council Member Tenorio who pulled Item No. 7. She asked Community Development Director Howard Koontz whether this ordinance would apply to newly annexed areas. Mr. Koontz responded that it would apply. Ms. Tenorio also asked whether it would apply to Plum Creek. Mr. Koontz stated that he would have to review the Plum Creek Ordinances for anything related to lighting, but if there isn't anything about lighting, then this ordinance would apply to them as well.

Council Member Wilson moved to approve an ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 53 (Zoning), Article V (Landscaping and Screening Requirements); Relating to Outdoor Lighting Standards. Council Member Arabie seconded the motion. Motion carried 5-1 with Council Member Tenorio dissenting.

8. Authorize the City Manager to execute a 60-month lease with BIZDOC, INC., San Marcos, Texas, for a Kyocera 306ci photocopier for the City of Kyle Community Development Department, in the amount of \$270.00 per month based on an average monthly volume of 10,000. ~ *Howard Koontz, Director of Community Development*

Item No. 8 Attachments

Mayor Webster gave the floor to Council Member Tenorio who pulled Item No. 8. She asked City Manager Scott Sellers whether the printers are for individual departments only or whether everyone can use the printers, and if so whether the prints are counted per department with a code. Mr. Sellers stated that currently this is not the practice, but it will be with this new machine.

Council Member Tenorio moved to authorize the City Manager to execute a 60-month lease with Bizdoc, Inc., San Marcos, Texas, for a Kyocera 306ci photocopier for the City of Kyle Community Development Department, in the amount of \$270.00 per month based on an average monthly volume of 10,000. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

### V. Consider and Possible Action

10. Consider and possible action to approve a Development Agreement with Walton Group for Pecan Woods Development. ~ *James R. Earp, Assistant City Manager*

Item No. 10 Attachments

Mayor Webster brought forward Item No. 10 for discussion. Mr. Earp presented the item. Mayor Webster asked whether the development was in the City Limits. Mr. Earp stated that it is in the city's ETJ, but the plans are to build in compliance with City standards with a Public Improvement District for that development. They will not be city water customers, but

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will be wastewater customers. Mayor Webster asked Mr. Earp to discuss points of interest for the public's sake. Mr. Earp responded that one of the biggest items is the prevailing parkland, a large trail dedication to the larger connecting trail system. They will be providing space to the Fire Department. There is a potential to access the wastewater treatment plant through their development, giving a second point of access in addition to Waterleaf. The development agreement provides for \$2 million towards wastewater expansion. Mayor Webster asked whether the \$2 million is in lieu of impact fees. Mr. Earp confirmed that it is not in lieu of impact fees. Mr. Sellers also spoke stating that there are parts of the agreement to allow travel through Pecan Woods for future developments. Mayor Webster asked about the Community Garden and whether it is just for the neighborhood, in accordance with the Citizen Comment. Mr. Sellers stated that it is to be maintained by the HOA but anyone can participate. He stated that the desire of the City is to annex this property in 20 years. The City has been working with the County to ensure that when that annexation takes place, the infrastructure will be in a condition that will not be disadvantageous to the city through the County's maintenance standard. He spoke about the agreement with the County to have a third party evaluate the roads in the twentieth year, and any road scoring less than 70 percent will be corrected by the county before the City annexes the development. Council Member Mitchell stated that he would like to see the intent in the language for what the standard is for the road quality. Mayor Pro Tem Fogley asked about the phases, and whether the phases would all be built out by the 20-year period. Adam Moore, Planning and Development Manager of Walton Development and Management, was called to speak and said the HOA will maintain the areas not maintained by the Parks Department. Mayor Pro Tem Fogley asked Mr. Moore to speak to the commercial development. Mr. Moore stated that there are 16 acres of commercial development at FM 150 and Heidenreich Lane. That portion is planned for phase 2 or 3, but he stated if someone came in tomorrow, they would work with that partner and the city to possibly annex that portion early. Mr. Moore stated that when they submit their first plat, that area will be annexed in. Council Member Arabie asked about the Fire Code. Mr. Moore stated that they can insert that into the agreement to use the then current Fire Code. Council Member Tenorio asked Mr. Sellers why we are waiting 20 years to annex. Mr. Sellers stated that from a bonding perspective, since this is a bond-funded development, the City asked the Developer to accept a shorter bond time frame of 20 years. Council Member Tenorio then asked whether the development could not happen without the PID. Mr. Sellers deferred to Mr. Moore who stated that with the quality of the project they are proposing, it could not happen without the support of the PID. Council Member Mitchell stated his support for this development contingent on the agreement with the County to maintain infrastructure at 70 percent. Council Member Wilson spoke to the demand for this type of quality development, and supported the development. Mayor Pro Tem Fogley stated his support based on filling a need in our community for higher end housing. Council Member Arabie asked Mr. Moore the projected start date. Mr. Moore stated that their intention is to begin as soon as possible with considerations of the market. Becky Collins, General Manager of Walton Development and Management, stated that once they receive their approvals, then they will need to secure builder interest and financing. She stated it could take a short or long period of time based on the market. Mayor Webster asked whether Walton could sell. Ms. Collins stated that she has a fiduciary obligation to the investors that if someone came in interested in buying the project, she would have to

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present it to the investors; however, the agreements follow the land regardless of who the owner is.

Council Member Selbera arrived at approximately 7:23 p.m.

Council Member Wilson moved to approve a Development Agreement with Walton Group for Pecan Woods Development as submitted and presented, with the textual changes that were submitted correcting the signatories and language for the style, along with Council's expectation that the 2015 or the then current Fire Code be complied with during the construction of the development. Council Member Fogley seconded the motion.

Mayor Webster called for a roll call vote. Council Member Arabie voted nay, Council Member Wilson voted aye, Council Member Tenorio voted nay, Council Member Mitchell voted aye, Mayor Pro Tem Fogley voted aye, Council Member Selbera voted aye, and Mayor Webster voted aye. Motion carried 5-2 with Council Member Arabie and Council Member Tenorio dissenting.

11. Conduct a Public Hearing in accordance with Texas Local Government Code §372.009 to consider the creation of the Pecan Woods Public Improvement District in the area commonly known as the Pecan Woods Master Plan Community. ~ *James R. Earp, Assistant City Manager*  
Item No. 11 Attachments

Mayor Webster brought forward Item No. 11 for discussion.

With no objections, Mayor Webster opened the public hearing at 8:09 p.m. With no one wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 8:09 p.m.

12. Discussion and possible action in accordance with Texas Local Government Chapter 372 to consider the creation of the Pecan Woods Public Improvement District in the area commonly known as the Pecan Woods Master Plan Community. ~ *James R. Earp, Assistant City Manager*  
Item No. 12 Attachments

Mayor Webster brought forward Item No. 12 for discussion. Mr. Earp presented the item. Council Member Mitchell asked Mr. Sellers whether the PID Policy is retroactively effective, so that if the PID Policy is amended, will that affect previously approved PIDs. Mr. Sellers stated that if there were any proposed PID Policy amendments, those would need to be made now. Rick Rosenberg, Managing Principal of Development Planning & Financing Group (DPFG), was called to speak about the components of the PID Policy proposed amendments to include the PID annual installment in the escrow arrangement. The second recommended amendment is to include the PID Assessment in any MLS-type listing of any homes for sale within the PID. Becky Collins stated that Walton is fine with the proposed changes that may or may not be forthcoming.

Council Member Mitchell moved to approve the creation of the Pecan Woods Public Improvement District in the area commonly known as the Pecan Woods Master Plan Community

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to include the following two requirements, “all purchasers of property within a PID that elect to set up an escrow account to pay for mortgage payments, property taxes, insurance, and/or other related expenses shall be required to include the payment and any PID annual installments in the amounts collected via such escrow account; and all property owners within a PID that elect to utilize a Multiple Listing Service or other comparable mass distribution services of available properties for sale are required to include within such listing the presence of the PID and the estimated annual installments due.” Council Member Fogley seconded the motion.

There was discussion on the motion. Council Member Arabie asked whether there is anything with regard to a time limit for construction or a bond issuance to begin. Mr. Sellers stated that Walton could not create a specific time frame because of economic conditions. Mr. Sellers stated that the City had proposed language to the Development Agreement that barring any economic decline, would require Phase 1 to begin in 2017, but that language ultimately was not included in the Development Agreement. Assistant City Attorney Ashley White was asked to clarify how to amend the motion. She stated that since Travis Mitchell made the motion he would have to amend or recall his motion. Mayor Pro Tem Fogley stated that he doesn't support putting a time limit on the development agreement. Council Member Tenorio's concern is for the City to continue working in good faith with the developers. Council Member Wilson stated that he is comfortable with the thought that Walton's investors are going to put enough pressure to move the project forward. Council Member Mitchell stated that the Council would be overstepping to require a business to move forward on their timeline.

Mayor Webster called for a roll call vote. Council Member Tenorio voted nay, Council Member Mitchell voted aye, Mayor Pro Tem Fogley voted aye, Council Member Arabie voted nay, Council Member Selbera voted aye, Council Member Wilson voted aye, and Mayor Webster voted aye. Motion carried 5-2 with Council Member Arabie and Council Member Tenorio dissenting.

13. Discussion and possible action to join Central Texas Clean Air Coalition as a supporting or general member. ~ *Travis Mitchell, Council Member*  
Item No. 13 Cover Sheet

Mayor Webster brought forward Item No. 13 for discussion. Mayor Webster gave the floor to Council Member Mitchell. Mr. Mitchell stated he brought the item back to provide an opportunity for all Council Members to vote on this item because the vote was close at 3-2, with two Council Members absent.

Council Member Tenorio moved to join Central Texas Clean Air Coalition as a supporting member. Council Member Fogley seconded the motion.

There was discussion on the motion. Council Member Wilson stated that the I-35 traffic, the rail system, and the school buses contribute heavily to the pollution in this city. His concern remains that the city would burden its citizens to upgrade their vehicles. Mayor Webster stated that his reply is that we are not bound, and we can withdraw at any time. Council Member Selbera spoke about an Austin-American Statesman article regarding the City of Austin losing out on business due to the standards. Council Member Tenorio stated her support for joining based on keeping those tougher regulations. Council Member Mitchell stated that the Clean Air Coalition can

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lobby to keep over-burdensome regulations at bay. City Manager Scott Sellers stated that we have missed the deadline for the grant application.

Mayor Webster called for a roll call vote. Mayor Pro Tem Fogley voted nay, Council Member Mitchell voted nay, Council Member Arabie voted aye, Council Member Selbera voted nay, Council Member Tenorio voted aye, Council Member Wilson voted nay, and Mayor Webster voted aye. Motion failed 3-4 with Council Member Mitchell, Council Member Selbera, Council Member Wilson, and Council Member Fogley dissenting.

14. Conduct a public hearing as required under Sec. 8.05 (a) of the City Charter on the City's Proposed Budget for Fiscal Year 2016-17 totaling approximately \$79.2 million. ~ *J. Scott Sellers, City Manager*  
Item No. 14 Attachments

Mayor Webster brought forward Item No. 14 for discussion. Mr. Sellers presented the item.

With no objections, Mayor Webster opened the public hearing at 8:47 p.m. With no one wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 8:47 p.m.

City Manager Scott Sellers presented his budget for FY 2017 recommending a one-cent tax reduction. The budget includes nine new full time equivalents (FTEs): five for Public Works, three for the proposed Drainage Utility, and one for Utility Billing. Mr. Sellers stated that the tax assessment came in higher than what was proposed, which gives additional funds to the budget. The rollback rate is 0.5798. The proposed rate is 0.5748. Mr. Sellers stated that in the Civil Service Commission meeting they reduced the amount of college hours required. Council Member Wilson asked whether any other qualifications were reduced or were presented to be reduced. Chief Barnett stated that the Civil Service Commission only elected to change that rule, but made other policy changes. Council Member Selbera asked about the status of the employees listed in the memo provided to Council. Chief Barnett explained the categories of staffing and certification stages. Mayor Pro Tem Fogley asked about the Fire Department budgeted funds. Mr. Sellers stated that the memo never made it to staff, so the amount in the budget is the amount from last year. Fire Chief Kyle Taylor was called to speak. He stated they have one more year on the heart rate monitors before they become obsolete. He spoke about the other proposed expenditures.

Mayor Webster opened the public hearing at 9:07 p.m. With no one wishing to speak, he closed the public hearing at 9:07 p.m.

15. Conduct a public hearing to obtain comments on the City Council's proposal to set the ad valorem tax rate not to exceed a maximum rate of \$0.5848 per \$100 of assessed taxable valuation for Fiscal Year 2016-17. ~ *J. Scott Sellers, City Manager*  
Item No. 15 Attachments

Mayor Webster announced:

This is the first of two public hearings scheduled on the proposed ad valorem tax rate for Fiscal Year 2016-17. The second public hearing will be held at 7:00 p.m.,



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on August 24, 2016 at Kyle City Hall, 100 W. Center Street, Kyle, Texas 78640. The City Council is scheduled to consider a proposal to set the ad valorem tax rate not to exceed a maximum of \$0.5848 per \$100.00 of assessed taxable valuation for Fiscal Year 2016-17. When compared to the effective tax rate of \$0.5444 per \$100.00 of assessed taxable valuation, the proposed ad valorem tax rate of \$0.5848 will increase the total tax revenue of the City from properties on the tax roll in the preceding year by 7.42 percent. The total tax revenue proposed to be raised this year at the proposed maximum tax rate of \$0.5848 for each \$100.00 of taxable valuation, including tax revenue to be raised from new property added to the tax roll this year, is \$13,488,918. The Kyle City Council is scheduled to vote on the ad valorem tax rate at public meetings to be held at 7:00 p.m. on August 31, 2016 (1st Reading of City Ordinance) and at 7:00 p.m. on September 6, 2016 (2nd Reading of City Ordinance) at Kyle City Hall, 100 W. Center Street, Kyle, Texas 78640. All Kyle residents and members of the public are invited to attend and express their views at the public hearings and City Council meetings scheduled on the proposed budget and property tax rates.

With no objections, Mayor Webster opened the public hearing at 9:10 p.m. With no one wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 9:10 p.m.

16. Consider and possible action on the City Manager's Proposed Budget for Fiscal Year 2016-17 totaling approximately \$79.2 million for all City Funds including an ad valorem tax rate, water and wastewater rates, other fees and charges for various City services, and the addition of nine (9) new positions for a total of 215.5 full time equivalent positions.  
~ *J. Scott Sellers, City Manager*  
Item No. 16 Attachments

Mayor Webster brought forward Item No. 16 for discussion.

Council Member Mitchell moved to amend the budget from the three-dollar stormwater fee to a five-dollar stormwater fee. Council Member Fogley seconded the motion.

There was discussion on the motion. Mayor Webster stated that this should be considered in relation to the HCPUA fee. Mayor Pro Tem Fogley stated that people are supportive of the Stormwater Utility, and he will support the five-dollar fee. Mr. Sellers stated the additional would provide a Gradall and an operator.

Mayor Webster called for a roll call vote. Council Member Wilson voted aye, Council Member Selbera voted aye, Council Member Tenorio voted nay, Mayor Pro Tem Fogley voted aye, Council Member Arabie voted aye, Mayor Webster voted aye, and Council Member Mitchell voted aye. Motion carried 6-1 with Council Member Tenorio dissenting.

Council Member Arabie moved to amend the budget to include two FTEs for sewer and wastewater to come from the Utility Fund. Council Member Selbera seconded the motion.

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There was discussion on the motion. Mayor Webster asked why these two positions weren't included, and whether it is a timing issue. Mr. Sellers stated that once the lift stations come online, the positions will be more necessary, but due to the Infiltration and Inflow (I&I) issues the positions could be used right way. Council Member Arabie asked about projections for new customers. Mr. Sellers stated that that is already included and factored in. He continued that a general fund transfer is included to make up the difference as well as developer contributions.

Mayor Webster called for a roll call vote. Mayor Webster voted aye, Mayor Pro Tem Fogley voted nay, Council Member Arabie voted aye, Council Member Mitchell voted nay, Council Member Selbera voted aye, Council Member Wilson voted aye, and Council Member Tenorio voted nay. Motion carried 4-3 with Mayor Pro Tem Fogley, Council Member Mitchell, and Council Member Tenorio dissenting.

Council Member Fogley moved to amend the budget by bringing the funding from \$80,000 to \$105,000 to ESD #5 from the revenue source unexpended balance. Council Member Tenorio seconded the motion.

There was discussion on the motion. Council Member Mitchell commented that he cannot support the motion because they are pulling from the "slush" or "cushion" fund, which he believes should be maintained for sales tax projection coverage. He stated he could support it if it came from another capital improvement.

Mayor Webster called for a roll call vote. Council Member Mitchell voted nay, Mayor Pro Tem Fogley voted aye, Council Member Arabie voted aye, Council Member Tenorio voted aye, Council Member Selbera voted aye, Mayor Webster voted nay, and Council Member Wilson voted aye. Motion carried 5-2 with Council Member Mitchell and Mayor Webster dissenting.

Mayor Webster moved to amend the budget to remove the \$10,000 from the transportation program. Council Member Arabie seconded the motion.

There was discussion on the motion. Council Member Tenorio stated she could not support this motion because it is a nominal amount to offer as a service for people who might need it. Mayor Pro Tem Fogley agreed with Council Member Tenorio, and couldn't support eliminating the program. Mayor Webster stated that his position is to protect the city from being exposed to possible lawsuit. Council Member Wilson called the question.

Mayor Webster called for a roll call vote. Council Member Arabie voted aye, Council Member Wilson voted aye, Council Member Tenorio voted nay, Mayor Webster voted aye, Council Member Mitchell voted aye, Mayor Pro Tem Fogley voted nay, and Council Member Selbera voted aye. Motion carried 5-2 with Council Member Tenorio and Mayor Pro Tem Fogley dissenting.

There was a consensus of Council for the \$10,000 to go towards the contingency fund.

Council Member Fogley moved to amend the budget to fund the Community Health Program in the amount of \$20,000 from the contingency fund. Council Member Arabie seconded the motion.

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There was discussion on the motion. Council Member Mitchell asked about the status of the \$200,000 contingency fund. Perwez Moheet, Director of Finance stated two positions were added to the wastewater utility, which is \$120,000, \$25,000 was added to the Fire Department for the rescue boat, \$10,000 was added from the elimination of the transportation program, and this would be \$20,000 more if approved, leaving \$45,000 in the contingency fund.

Mayor Webster called for a roll call vote. Council Member Tenorio voted aye, Council Member Mitchell voted nay, Mayor Pro Tem Fogley voted aye, Council Member Arabie voted aye, Mayor Webster voted aye, Council Member Selbera voted aye, and Council Member Wilson voted aye. Motion carried 6-1 with Council Member Mitchell dissenting.

Mayor Webster moved to amend the budget to allocate \$200,000 for pay parity for Civil Service. Council Member Arabie seconded the motion.

Mayor Webster called for a roll call vote. Mayor Pro Tem Fogley voted aye, Council Member Mitchell voted aye, Council Member Arabie voted aye, Council Member Selbera voted aye, Council Member Tenorio voted aye, Council Member Wilson voted aye, and Mayor Webster voted aye. All votes aye; motion carried 7-0.

Mayor Webster moved to amend the budget to allocate \$100,000 for pay parity for general fund non-civil service employees from the contingency fund. Council Member Tenorio seconded the motion. All votes aye; motion carried 7-0.

Mayor Webster called for a recess at 10:33 p.m. Council reconvened at 10:54 p.m.

Mayor Webster discussed his idea to take the \$50,000 in the Civil Service litigation fund with a contingency that it would be reallocated to the Police Department. Mr. Sellers stated that if the Council supported this, that it would be a one-time salary adjustment. Mayor Webster stated that the contingency would be for the entire Police Department, not just civil service.

Mayor Webster moved to approve a policy change that any balance of \$50,000 for the Civil Service Legal Expense line fund be used as a secondary one-time salary adjustment for Police Department staff. Council Member Arabie seconded the motion.

Mayor Webster called for a roll call vote. Council Member Wilson voted aye, Council Member Selbera voted aye, Council Member Tenorio voted aye, Mayor Pro Tem Fogley voted aye, Council Member Arabie voted aye, Mayor Webster voted aye, and Council Member Mitchell voted aye. All votes aye; motion carried 7-0.

Mayor Webster moved to approve City Manager's Proposed Budget as amended at this meeting for Fiscal Year 2016-17 totaling approximately \$79.5 million for all City Funds including an ad valorem tax rate, water and wastewater rates, other fees and charges for various City services, and the addition of eleven (11) new positions for a total of 217.5 full time equivalent positions. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

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### VI. City Manager's 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 No. 17 Cover Sheet

Mr. Sellers stated that staff has recommend Kyle Field Day be postponed until spring due to the transition of the position and needed additional time for appropriate advertising. He also announced new signage for Adopt a Street.

### VII. 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: Economic Development negotiations pursuant to Section 551.087 - Project Steel Blue.
    1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
    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.
      - a. Project Steel Blue
- Item No. 18 Cover Sheet

Council Member 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 - Economic Development negotiations pursuant to Section 551.087 - Project Steel Blue. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

The City Council convened into Executive Session at 11:08 p.m.

19. Take action on items discussed in Executive Session.  
Item No. 19 Cover Sheet

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

The City Council reconvened into Open Session at 11:30 p.m. Council Member Wilson announced that no action took place in Executive Session and none would be taken now.

### VIII. ADJOURN

Council Member Tenorio moved to adjourn. Council Member Wilson seconded the motion. All votes aye; motion carried 7-0.

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With no further business to discuss, the City Council adjourned at 11:31 p.m.

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R. Todd Webster, Mayor

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Attest: Jennifer A. Vetrano, City Secretary

Attachments to Minutes as follows:

1. Textual Amendments to Pecan Woods Development Agreement
2. Hays County Engineer Memo regarding Pecan Woods Development
3. Kyle Police Department Memo regarding Action Plan for Vacancies, Staffing, and Assignments

- f. With each subsequent phase of development shown on **Exhibit B-1**, Owner will dedicate to the City the corresponding parkland located within the phase of parkland, and replace the unpaved hike and bike trails described in Subsection ~~De~~(IViii) above, with eight foot (8') wide concrete trails. Dedication and construction will be as shown in **Exhibit E-2** and described below. In the event that the Project phasing is altered, as described in Section 4.01 above, the parkland may be dedicated (at the City's discretion) in sequential, contiguous phases instead of those associated with the corresponding phase of development. For example, if Phase Three of the Project is developed after Phase One of the Project, the City may elect to have the Owner dedicate the Phase Two Parkland (which is contiguous to the Phase One Parkland) in connection with the final plat of Phase Three.
  - i. Phase Two Parkland shall be dedicated to the City and the portion of the eight foot (8') wide trail located in the Phase Two Parkland constructed no later than the date of approval of the last final plat within Phase Two.
  - ii. Phase Three Parkland shall be dedicated to the City and the portion of the eight foot (8') wide trail located in the Phase Three Parkland constructed no later than the date of approval of the last final plat within Phase Three.
  - iii. Phase Four Parkland shall be dedicated to the City and the portion of the eight foot (8') wide trail located in the Phase Four Parkland constructed no later than the date of approval of the last final plat within Phase Four.
  - iv. Phase Five Parkland shall be dedicated to the City and the portion of the eight foot (8') wide trail located in the Phase Five Parkland constructed no later than the date of approval of the last final plat within Phase Five.
- g. The Parkland to be dedicated pursuant to subparts (d), ~~(e)~~ and ~~(ef)~~ above will contain a mix of the types of parks described in **Exhibit E-1**.
- h. Maintenance of parks, trails, facilities (including the Park Maintenance Building) and open space dedicated for public use to the City shall be the responsibility of the City, with the exception of a 13.1 acre community garden which shall be the responsibility of a to-be-formed homeowners association. All other parks, trails, and open space not dedicated to the City will be maintained by one or more homeowners associations. Note that the Amenity Center may be reserved for use only by some or all of the residents, tenants and invitees of the owners of the Property. Notwithstanding the foregoing, it is hereby agreed that until the 1.9 mile trail is paved and dedicated to the City, the HOA will maintain it (which will include mowing at a minimum).
- i. Owner reserves the right to retain access easements and/or utility easements located within any dedicated parkland or open space.

#### **Section 4.08 Additional Development Standards.**

- a. A six foot (6') masonry wall shall be constructed where residential lots abut public roadways (FM 150, Heidenreich and Grist Mill) external to the Project. Such wall may consist of one or more of the following materials: stone, brick, decorative concrete masonry unit, pre-cast concrete panels, or similar materials. The wall may taper at entry features.
- b. Where single family homes abut public roadways (FM 150, Heidenreich and Grist Mill) external to the Project, the rear façade of such homes shall consist entirely of

brick, stone, stucco, or a combination of such materials except windows and doors.

- c. Where single family homes abut the main collector roadway within the Project, the rear façade of twenty five percent (25%) of such homes shall consist entirely of brick, stone, stucco, or a combination of such materials except windows and doors; provided, however, such 25% shall be interspersed throughout the given roadway.
- d. Portions of Pecan Woods may be gated pods. Masonry, metal, or similar quality fencing may be installed along the perimeter of the pods, provided that all public amenities and publicly-maintained infrastructure are located outside of the gated area.
- e. The Project shall be permitted to construct alley loaded garages for single family homes.
- f. The Project will be subject to comprehensive design criteria that will be detailed in design guidelines as referenced in the Declaration of Covenants, Conditions, and Restrictions ("CCRs") to be established by the Owner. A set of CCRs will be recorded concurrently with the final plat for each Phase of the Project, or at Owner's election, against the entire Project prior to or concurrently with the recordation of the final plat for Phase 1 of the Project. The following topics will be addressed in the CCRs subject to approval by the Director.
  - Future home builders within the project will have all product types (elevations) reviewed and approved by City of Kyle prior to issuance of building permits
  - All elevations of homes must be 100% masonry product (stone, brick, stucco, cementitious siding or other City approved masonry product or combination)
  - AC condensing units must be screened from view
  - Plans with the same elevation can only be repeated every third lot
  - Plans with the same elevation cannot be placed on a lot directly across the street from the same plan
  - Color pallets of proposed exterior (brick, stone, other masonry and etc.) has to be approved by the Developer/Architectural Control Committee (ACC) (note that Developer/Architectural Control Committee – or some other equivalent will be appropriately defined in the future CC&R document and are used herein to identify that obligation).
  - All exterior building materials must be approved by the ACC
  - Roof Pitch: a minimum of sixty five (65%) percent of the roof of the primary residence erected on a lot shall have a roof pitch of no less than 8:12 unless otherwise approved in advance by the ACC. The roof pitch of dormers, porches and other similar accessory structures attached to the primary residence shall be exempt for this requirement, but nonetheless subject to approval by the ACC.
  - Roofing Materials: shall be limited to material (composite shingles, tile, high quality metal) that has a rating of 30 years or more
  - Energy Efficiency Roofing: roofs of buildings may be constructed with "Energy Efficiency Roofing" with the advance written approval of the ACC

WALTON TEXAS, LP,  
a Texas limited partnership

By: Walton Texas GP, LLC,  
a Texas limited liability company,  
its General Partner

By: Walton International Group, Inc.,  
a Nevada corporation,  
its Manager

By: \_\_\_\_\_  
Name: ~~Title:~~ John Vick

~~By:~~ \_\_\_\_\_  
~~Name:~~ \_\_\_\_\_  
Title: Authorized Signatory

STATE OF ~~ARIZONA~~ TEXAS §  
COUNTY OF ~~MARICOPA~~ \_\_\_\_\_ § ACKNOWLEDGEMENT

~~This instrument was acknowledged before me~~ BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this \_\_\_\_\_ day of January, 2016, by  
~~\_\_\_\_\_ and \_\_\_\_\_, each~~ day personally appeared  
John Vick, an Authorized Signatory of Walton International Group, Inc., a Nevada corporation, Manager of Walton Texas GP, LLC, a Texas limited liability company, General Partner of Walton Texas, LP, a Texas limited partnership, on behalf of said limited partnership, in the capacity herein stated.

GIVE UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of  
\_\_\_\_\_, 201\_\_\_\_\_.

~~[STAMP]~~  
~~Arizona~~ Texas

\_\_\_\_\_  
Notary Public, in and for the State of



WALTON PECAN WOODS, LP,  
a Delaware limited partnership

By: WPW GP, LLC,  
a Delaware limited liability company,  
its General Partner

By: Walton Land Management (USA), Inc.,  
a Delaware corporation,  
its Manager

By: \_\_\_\_\_  
Name: ~~Title:~~ John Vick  
Title: Authorized Signatory

~~By:~~ \_\_\_\_\_  
~~Name:~~ \_\_\_\_\_  
~~Title:~~ \_\_\_\_\_

STATE OF ~~ARIZONA~~ TEXAS §  
§ ~~ACKNOWLEDGEMENT~~  
COUNTY OF ~~MARICOPA~~ \_\_\_\_\_ §

~~This instrument was acknowledged before me~~ BEFORE ME, the undersigned Notary  
Public in and for the State of Texas, on this \_\_\_\_\_ day of January, 2016, by  
~~-and-~~ , each day personally appeared  
John Vick, an Authorized Signatory of Walton Land Management (USA), Inc., a Delaware  
corporation, Manager of WPW GP, LLC, a Delaware limited liability company, General Partner  
of Walton Pecan Woods, LP, a Delaware limited partnership, on behalf of said limited  
partnership, in the capacity herein stated.

GIVE UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of  
\_\_\_\_\_, 201\_\_\_\_\_.

[STAMP]

Notary Public, in and for the State of ~~Arizona~~ Texas

WPW DEVELOPMENT SUB, LP,  
a Delaware limited partnership

By: Walton Pecan Woods Development GP, LLC,  
a Delaware limited liability company,  
its General Partner

By: Walton Pecan Woods Development, LP,  
a Delaware limited partnership,  
its Manager

By: WPW GP, LLC,  
a Delaware limited liability company,  
its General Partner

By: Walton Land Management (USA), Inc.,  
a Delaware corporation,  
its Manager

By: \_\_\_\_\_  
Name: John Vick

Title:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Signatory

STATE OF ~~ARIZONA~~TEXAS §  
COUNTY OF ~~MARICOPA~~ \_\_\_\_\_ §  
ACKNOWLEDGEMENT

~~This instrument was acknowledged before me~~BEFORE ME, the undersigned Notary  
Public in and for the State of Texas, on this \_\_\_\_\_ day of January, 2016, by  
~~\_\_\_\_\_ and \_\_\_\_\_~~, each day personally appeared  
John Vick, an Authorized Signatory of Walton Land Management (USA), Inc., a Delaware  
corporation, Manager of WPW GP, LLC, a Delaware limited liability company, General Partner  
of Walton Pecan Woods Development, LP, a Delaware limited partnership. Manager of Walton

Pecan Woods Development GP, LLC, a Delaware limited liability company, General Partner of WPW Development Sub, LP, a Delaware limited partnership, on behalf of said limited partnership, in the capacity herein stated.

GIVE UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of  
\_\_\_\_\_, 201\_\_\_\_.

{STAMP}  
~~Arizona~~Texas

\_\_\_\_\_  
Notary Public, in and for the State of



**OFFICE OF THE COUNTY ENGINEER**  
**Jerry Borcharding, P.E.**  
**P. O. Box 906 San Marcos, Texas 78667**  
**(512) 393-7385 Fax (512) 393-7393**

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**August 17, 2016**

**Mr. Moore:**

**The process for acceptance of roads into the County maintenance system follows an established process as follows:**

- 1. Roads are to be designed and constructed in accordance with Hays County standards.**
- 2. A Hays County Transportation Department inspector will inspect all stages of road and drainage\* construction.**
- 3. At the end of a project or phase of a project a punch-list will be presented to the contractor.**
- 4. After punch-list items are corrected the project or phase of the project will be brought before Commissioners Court for approval of construction. Included in this Court action will be acceptance of a 2-yr maintenance bond presented by the responsible entity. This bond will be "called" in the event the contractor, developer, MUD, or other responsible entity fails to maintain the roads during the 2-year maintenance period.**
- 5. As the end of the 2-year maintenance period approaches, an additional punch-list will be developed by a Transportation Department inspector.**
- 6. After punch-list items are corrected, the project or phase of the project will be brought before Commissioners Court for acceptance into the County maintenance system.**
- 7. The County will continue to maintain the accepted roads and drainage improvements\* until such time a City annexes the subdivision (project or phase of the project).**

**County maintenance efforts are performed on an as-needed basis and could include:**

- Crack sealing**
- Pot hole patching**
- Curb repairs**
- Total reconstruction if warranted**
- Overlays if warranted**
- Chip-seal if warranted**
- ROW maintenance ( ditch maintenance, grass cutting)**



OFFICE OF THE COUNTY ENGINEER  
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P. O. Box 906 San Marcos, Texas 78667  
(512) 393-7385 Fax (512) 393-7393

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Tree trimming

At the time of annexation the condition of the roads can be discussed between the City and County with appropriate actions taken based on prearranged agreements.





# KYLE POLICE DEPARTMENT

## Memorandum

Date: August 17, 2016

To: Scott Sellers, City Manager

Cc: James Earp, Assistant City Manager

From: Jeff Barnett, Chief of Police

Re: Update on Action Plan for Vacancies, Staffing, and Assignments

We are making tremendous progress in our hiring efforts at the police department. As you know, we are working diligently on hiring well-qualified police officers that will carry our positive change in culture forward as we continue to raise the bar of expectations in professionalism, performance, and service to the community. Based on this success, I would like to outline the action plan that addresses the current state of hiring for police vacancies and the staffing rollout as those vacancies are filled. Specifically, we are excited about the approaching return of the police department's motor officers. The police motor officers are perhaps some of the most visible and effective officers within the department in respects to their given assignment (improving roadway safety and adherence to traffic laws).

### **Current Status**

The police department currently has eight police vacancies for sworn police staff. We conducted a Civil Service police entrance exam on July 15, 2016, resulting in thirty-one successful candidates. Two police officer certified applicants have been offered jobs this week. Background investigations have been initiated on a list of potential applicants, and three applicants are scheduled for interview boards next Tuesday. More interview boards will be held in the following weeks as the next round of background investigations are completed. Four of our pending applicants are currently enrolled in police academies on their own; therefore, they will be available much sooner than a non-sworn applicant. This is a direct reflection of our aggressive recruiting at local police academies as well as our recent change to the Civil Service Rules.

Two Kyle PD police cadets are currently attending the AACOG Police Academy in San Antonio, and two other cadets are attending the CAPCOG Police Academy in Austin. One recently hired officer successfully completed the FTO program last week and is now assigned to full duties as a Patrol Officer. Two other cadets, now called Probationary Police Officers, are currently in the Field Training program at Kyle PD. While these officers are in training in preparation for the future patrol officer assignment, we have reassigned several officers/positions to assist with

# KYLE POLICE DEPARTMENT

## Memorandum

patrol coverage. Among those reassigned include officers assigned to the Special Services Bureau, Traffic Division, as well as two Warrant Officers. Our first commitment continues to be to provide police officers to patrol and respond to the increasing calls for service.

Below is a breakdown of the current new hires and those in the final stages of the hiring process:

### Employees Currently Enrolled in a Police Academy:

Paras	(graduates Nov 21st)
Waller	(graduates Nov 21st)
Bryant	(graduates Jan 20th)
Mitchell	(graduates Jan 20th)

### Applicants currently enrolled in a Police Academy:

Rodriguez	(graduates Nov 21st)
Anzaldua	(graduates Nov 21st)
Richardson	(graduates Aug 30th)
Wilson	(graduates Aug 19th)

### Certified Peace Officer Recruits starting employment on August 29th

Jones	(already certified)
Nunez	(already certified)

In addition to these officers listed above, we hired eight police officers in the past twelve months. Of those eight, we trained and assigned six police officers to patrol, while two of the hires did not successfully complete the training process. These six officers have assumed or will assume the vacancies created by attrition.

### **Rollout Assignments**

As outlined, it is the determination of the police department to aggressively fill the current vacancies with qualified police applicants and to quickly and effectively train them to the degree that they can relieve the traffic and warrant officers so they may return to their assignments. In the normal course of their enforcement duties, the traffic officers improve roadway safety and cite violators to the Kyle Municipal Court. The Warrant Officers will also be instrumental; serving warrants gaining compliance on the \$12M in outstanding court fines and fees as well as the reduction of the more than 4000 currently active warrants.



# **KYLE POLICE DEPARTMENT**

## **Memorandum**

### **Civil Service Commission Rules**

Another component to this approach involves the realignment of the current hiring standards to something more consistent for police agencies in Central Texas. The Kyle Police Department operates under the Civil Service statutes found in the Texas Local Government Code as well as those provided in the Civil Service Rules of the City of Kyle Civil Service Commission. In those locally adopted rules, there was a rule in which the City of Kyle was identifiably more stringent than surrounding law enforcement agencies as they relate to hiring standards. Section 143.023 (2)(g) required a minimum of 30 hours of college to be eligible to take the Civil Service test. Kyle PD successfully sought a rule change to eliminate this requirement for eligibility, and it was approved by the Civil Service Commission on Monday of this week.

This change makes our minimum eligibility standards more in line with the current job market, more consistent with other nearby law enforcement agencies, and will allow for standards that will not substantially lower the high standards expected by the City.

### **Recruiting and Testing**

Although we have a current applicant list, we requested and received another testing date from the Civil Service Commission. We are scheduled to conduct another police officer entrance examination on October 1, 2016, and we have initiated our aggressive recruitment efforts for that test. We believe that our existing and future lists will provide enough candidates to fill all of the remaining vacancies with qualified candidates. It is highly possible that we will enter the new 16/17 fiscal year with only five vacancies remaining, and those are likely to be filled by the end of November 2016.

### **Summary**

The hiring process for a police agency governed by civil service laws and rules is tedious and time consuming. We initiated a very aggressive hiring process in the FY 15/16 year, and we are now seeing the positive results of those efforts. We will have the allotted police officer positions filled soon, and we look forward to the return of our police motor and warrant officers. We continue to improve our department culture, operations, and services to the community through our hiring, promotional, and operational processes. We regularly receive praise from the community and neighboring law enforcement agencies for our professionalism and service, and we are continuously implementing strategies to improve all aspects of our department.