

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on October 18, 2016 at Kyle City Hall with the following persons present:

Mayor Todd Webster	David Douglas
Mayor Pro Tem Damon Fogley	Cindy Slovak-Barton
Council Member Travis Mitchell	Myra Goepp
Council Member Becky Selbera	Mark Jones
Council Member Shane Arabie	Erica Carpenter
Council Member David Wilson	David Smith
Council Member Daphne Tenorio	Matt Weinberg
Scott Sellers, City Manager	Elliot Kilmer
James Earp, Assistant City Manager	Lyndee Jordan
Frank Garza, City Attorney	
Meghan Murphy, KAYAC	
Jerry Hendrix, Chief of Staff	
Sarah Watson, Programs and Events Specialist	
Jennifer Vetrano, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Robert Olvera, IT Manager	
Paul Phelan, Library Director	
Kerry Urbanowicz, PARD Director	
Howard Koontz, Community Dev Director	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Harper Wilder, Director of Public Works	
Jason Biemer, Div. Mgr. - Treatment Operations	
Mario Perez, Building Official	

### I. Call Meeting To Order

Mayor Webster called the meeting to order at 7:01 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 at approximately 7:27 p.m.

### II. Approval of minutes

1. City Council Regular Meeting Minutes - September 20, 2016. ~ Jennifer Vetrano, City Secretary  
Item No. 1 Attachments

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2. City Council Regular Meeting Minutes - September 30, 2016. ~ Jennifer Vetrano, City Secretary  
Item No. 2 Attachments

Council Member Tenorio moved to approve the City Council Regular Meeting Minutes for September 20, 2016 and September 30, 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.

David Douglas was called to speak on behalf of the Hometown Kyle HOA. He thanked the Council for adopting the impervious coverage ordinance. He requested Council to put the onus of requiring a permit on the HOAs. He also spoke on the Stormwater drainage utility fee. He stated that Hometown Kyle residents will be paying \$4,000.00 per month to the city, while still maintaining their own detention ponds. He stated their HOA currently has \$8,000.00 of planned improvements to their drainage, and that Waterleaf enjoys city maintenance of their detention ponds. He asked the city to consider paying for Hometown HOA's maintenance.

Cindy Slovak-Barton was called to speak. She spoke about the traffic and barricades on parking for an event that took place this past weekend. She stated that they blocked off the parking on Thursday morning for an event taking place Saturday morning, and she witnessed a couple having trouble because they had to park further away and walk to their destination.

Sarah Watson was called to speak. She announced the Hogwash event taking place this Friday and Saturday at Gregg-Clarke Park.

With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:10 p.m.

### IV. Presentation

3. Presentation of ABA Basketball. ~ Sylvia Gallo, Central Texas ABA  
Item No. 3 Cover Sheet

Mayor Webster brought forward Item No. 3 for discussion. Ms. Gallo was not present.

4. Presentation on FM 2770 Stormwater. ~ Alan Rhames, Axiom Engineers  
Item No. 4 Cover Sheet

Mayor Webster brought forward Item No. 4 for discussion. Mr. Rhames was unable to attend. Ms. Myra Goepp came forward to make herself available for any questions. Mr. Sellers presented the item. Council Member Wilson asked about the financial position of the sidewalk

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project and whether some of those funds would be used to correct this issue. City Engineer Leon Barba stated there is about \$763,000 available from state and federal funding and the city has an additional \$700,000 available. The bid was about \$850,000, so he said technically there's about \$600,000 left in the account. No action was taken.

5. Presentation on Hays County Road Bond. ~ Mark Jones, Hays County Commissioner  
Item No. 5 Attachments

Mayor Webster brought forward Item No. 5 for discussion. Commissioner Jones presented the item. Council Member Tenorio asked whether there will be a tax increase for this project. Commissioner Jones stated that with the growth Hays County has experienced, and anticipated growth to continue, the county doesn't anticipate raising taxes. Council Member Tenorio also asked about how it would work for moving the UPPR, and whether that 1.5 million would be held and for how long. Commissioner Jones stated that the election will provide that they can use the money for that purpose.

Council Member Selbera arrived at the meeting during this presentation.

6. Presentation on 9-1-1 and Public Safety Dispatching Services for Police, Fire & EMS in Hays County. ~ Hays County  
Item No. 6 Attachments

Mayor Webster brought forward Item No. 6 for discussion. Erica Carpenter, Hays County Emergency Communications Operations Supervisor, presented the item and provided a summary to the Council.

7. Presentation on ESD No. 9. ~ David Smith, Chief of San Marcos Hays County EMS  
Item No. 7 Cover Sheet

Mayor Webster brought forward Item No. 7 for discussion. Chief Smith presented the item. Matt Weinberg was called to the podium to discuss the System Demand in Proposed ESD #9 for May 2016 thru Sept 2016.

### V. Appointments

8. Appoint nominee for position on City of Kyle Ethics Commission. ~ Shane Arabie, Council Member

- Silvia Torres

Item No. 8 Attachments

Mayor Webster brought forward Item No. 8 for discussion and gave the floor to Council Member Arabie. Council Member Arabie moved to approve the appointment of Sylvia Torres to the City of Kyle Ethics Commission. Council Member Wilson seconded the motion. All votes aye; motion carried 7-0.

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### VI. Public Hearings

9. First of two Public Hearings regarding a petition for voluntary annexation from Lennar Homes of Texas Land and Construction, Ltd. The property is 51.48 acres of land located southwest of the intersection of FM 2770 and FM 1626. ~ Howard J. Koontz, Director of Planning and Community Development

- PUBLIC HEARING

Item No. 9 Attachments

Mayor Webster brought forward Item No. 9 for discussion. Mr. Koontz presented the item.

Mayor Webster opened the public hearing at 8:53 p.m. With no one wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 8:54 p.m.

### VII. Consent Agenda

Mayor Webster asked if there were any items to be pulled from the Consent Agenda. Council Member Tenorio pulled Item No. 12, and Council Member Mitchell pulled Item No. 10. With no objections, Mayor Webster brought forward Item Nos. 11, 13, 14, 15, 16, 17, 18, and 19.

11. Approve execution of a continuing disclosure agreement with Guadalupe-Blanco River Authority (GBRA) to provide information updates of reporting events through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System in association with the GBRA Contract Revenue Refunding Bonds, Series 2016. ~ Perwez A. Moheet, CPA, Director of Finance  
Item No. 11 Attachments

13. (First Reading) An ordinance adopting Unanimous Settlement Agreement, setting rates and establishing tariffs for the provision of natural gas service by Texas Gas Service Company, a division of One Gas, Inc., within the City of Kyle; declaring this ordinance to be a final determination of rates; requiring acceptance by Texas Gas Service Company of the rates prescribed herein; and establishing an effective date. ~ Jerry Hendrix, Chief of Staff  
Item No. 13 Attachments

14. (Second Reading) An ordinance of the City of Kyle, Texas, amending the City of Kyle, Tx Code of Ordinances; amending Article II. Water and Waste Water System Generally Section 50-29, to add an exception to recover construction costs of utility lines. ~ James R. Earp, Assistant City Manager  
Item No. 14 Attachments

15. Authorize award and execution of Purchase Order for AQUATECH LABORATORIES, Bryan, Texas in an amount of \$36,500.00 for routine laboratory analysis for the drinking water system bacteriological samples and the permit required samples for the wastewater treatment plant. ~ Harper Wilder, Director of Public Works  
Item No. 15 Attachments

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16. Authorize award and execution of Purchase Order for PUMP SOLUTIONS, Hutto, Texas in an amount of \$30,228.00 for the replacement of two liftstation pumps at the wastewater treatment facility. ~ Harper Wilder, Director of Public Works  
Item No. 16 Attachments
17. Authorize award and execution of Purchase Order for SHERIDAN CLEARWATER, LLC, Austin, Texas in an amount of \$330,000.00 for sludge pressing and solids disposal from sludge generated at the wastewater treatment plant. ~ Harper Wilder, Director of Public Works  
Item No. 17 Attachments
18. Authorize award and execution of Purchase Order for NAPCO, Spring, Texas in an amount of \$182,000.00 for sodium bisulfite and bleach used in the treatment of wastewater at the wastewater treatment plant. ~ Harper Wilder, Director of Public Works  
Item No. 18 Attachments
19. Authorize award and execution of Purchase Order for WASTEWATER TRANSPORT SERVICES, Austin, Texas in an amount of \$31,680.00 for monthly complete cleanings of the wastewater treatment plant liftstation to remove rags, grit and other debris while station remains in service. ~ Harper Wilder, Director of Public Works  
Item No. 19 Attachments

Council Member Wilson moved to approve Consent Agenda Item Nos. 11, 13, 14, 15, 16, 17, 18, and 19. Council Member Tenorio seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Fogley was absent.

10. Authorize award and execution of a Purchase Order to MUSCO SPORTS LIGHTING, LLC from Oskaloosa, Iowa, in an amount not to exceed \$105,000.00 for softball field relight and controllers at softball and football fields at Gregg-Clarke Park. ~ Kerry Urbanowicz, Director of Parks and Recreation  
Item No. 10 Attachments

Mayor Webster brought forward Item No. 10. Council Member Mitchell was given the floor. He asked Kerry Urbanowicz, Director of Parks & Recreation about the increase. Mr. Urbanowicz stated that there was one extra electric meter that they weren't aware of during the budget estimate. The \$105,000 is the worst-case estimate/not to exceed amount, although the goal is under \$100,000. If it goes over the \$105,000, Musco will cover the difference. Mayor Pro Tem Fogley returned to the dais during the discussion.

Council Member Mitchell moved to authorize award and execution of a Purchase Order to Musco Sports Lighting, LLC from Oskaloosa, Iowa, in an amount not to exceed \$105,000.00 for softball field relight and controllers at softball and football fields at Gregg-Clarke Park. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

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12. (Second Reading) An ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 53 ("Zoning"), Article V ("Landscaping and Screening Requirement"). ~ Howard J. Koontz, Director of Planning and Community Development  
Planning and Zoning Commission voted 5-0 to recommend amendment.

Item No. 12 Attachments

Mayor Webster brought forward Item No. 12. Council Member Tenorio was given the floor. She asked about pools, which are not involved in this item. She subsequently withdrew her request to pull the item.

Council Member Arabie 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 Requirement"). Council Member Tenorio seconded the motion. All votes aye; motion carried 7-0.

### VIII. Consider and Possible Action

20. (First Reading) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 5 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 245 Lehman Road, in Hays County, Texas. (Tom and Lyndee Jordan - Z-16-007). ~ Howard J. Koontz, Director of Planning and Community Development  
Planning and Zoning Commission voted 3-2 to recommend conditional approval.

- PUBLIC HEARING

Item No. 20 Attachments

Mayor Webster brought forward Item No. 20 for discussion. Mr. Koontz presented the item.

Mayor Webster opened the public hearing at 9:05. With no one wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 9:06 p.m.

Council Member Fogley moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 5 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 245 Lehman Road, in Hays County, Texas. Council Member Selbera seconded the motion.

There was discussion on the motion. Council Member Mitchell asked about the use for the property, including questions about storage unit business. Council Member Tenorio asked about possibility for adult oriented usage. Mr. Koontz stated that there are only two uses for this property that are not normally include in Retail Services: storage and warehouse. Council Member Arabie stated that he is fundamentally opposed to the area becoming a warehouse district especially at the center of our city. Council Member Fogley offered support for the project, especially as it would relate to incubator space for small businesses to start out. Elliot Kilmer was called to speak on behalf of the Jordans. He stated they would like to put in a large warehouse in the front to start, with retail space. Council Member Arabie asked Mr. Koontz to clarify the two uses that are being asked for. Mr. Koontz stated that storage and warehouse components as primary uses for the property. Mrs. Jordan stated that the flag poles are

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manufactured out of San Antonio, and they previously had a retail store in Beaumont, in which they were heavily involved in their community. She stated they are currently officing out of their guesthouse at their home in Wimberley and would be proud to bring their business to Kyle.

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

21. (Second Reading) An ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 53 ("Zoning"), Article I ("In General"), Section 53-5 ("Definitions"); and Article II ("Zoning Districts and Regulations"), Section 53-33 (I) ("Impervious Coverage"); amending Chart 2 and Associated Notes. ~ Howard J. Koontz, Director of Planning and Community Development  
Planning and Zoning Commission voted 5-0 to recommend amendment.  
Item No. 21 Attachments

Mayor Webster brought forward Item No. 21 for discussion. Mr. Koontz presented the item.

Council Member Tenorio moved to approve an ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 53 ("Zoning"), Article I ("In General"), Section 53-5 ("Definitions"); and Article II ("Zoning Districts and Regulations"), Section 53-33 (I) ("Impervious Coverage"); amending Chart 2 and Associated Notes. Council Member Fogley seconded the motion. All votes aye; motion carried 6-0. Council Member Arabie was absent.

22. Authorize renewal of the lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for a total of three (3) FLHP Police Electra Glide Harley-Davidson motorcycles and to extend the lease period to expire September 30, 2017, at the lease rate of \$390.00 per month for each motorcycle for a total amount not to exceed \$14,040.00 for lease payments to be made during Fiscal Year 2016-17. ~ Jeff Barnett, Chief of Police  
Item No. 22 Attachments

Mayor Webster brought forward Item No. 22 for discussion. Chief Barnett presented the item. Council Member Arabie returned to the dais.

Council Member Selbera moved to authorize renewal of the lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for a total of three (3) FLHP Police Electra Glide Harley-Davidson motorcycles and to extend the lease period to expire September 30, 2017, at the lease rate of \$390.00 per month for each motorcycle for a total amount not to exceed \$14,040.00 for lease payments to be made during Fiscal Year 2016-17. Council Member Fogley seconded the motion.

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

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23. Consider and possible action to approve a Resolution of the City Council of the City of Kyle, Texas, authorizing the acceptance of a one year grant in the amount of \$41,370.48 from the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention for the purpose of funding the Kyle Police Department's Juvenile Justice Officer full-time position for fiscal years 2016- 2017; authorizing and providing matching funds in an amount not to exceed \$32,900.00 from the Kyle Police Department's approved budget for fiscal years 2016- 2017; agreeing and assuring that in the event of loss or misuse of said grant funds, the city will return the total amount of funds to the Criminal Justice Division of the Office of the Governor; authorizing the City Manager to apply for, accept, reject, alter or terminate the grant on behalf of the City Council; finding and determining that the meeting at which this resolution is passed is open to the public as required by law; providing for an effective date; and making such other findings and provisions related hereto. ~ Jeff Barnett, Chief of Police  
Item No. 23 Attachments

Mayor Webster brought forward Item No. 23 for discussion. Chief Barnett presented the item.

Council Member Tenorio moved to approve a Resolution of the City Council of the City of Kyle, Texas, authorizing the acceptance of a one year grant in the amount of \$41,370.48 from the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention for the purpose of funding the Kyle Police Department's Juvenile Justice Officer full-time position for fiscal years 2016- 2017; authorizing and providing matching funds in an amount not to exceed \$32,900.00 from the Kyle Police Department's approved budget for fiscal years 2016- 2017; agreeing and assuring that in the event of loss or misuse of said grant funds, the city will return the total amount of funds to the Criminal Justice Division of the Office of the Governor; authorizing the City Manager to apply for, accept, reject, alter or terminate the grant on behalf of the City Council; finding and determining that the meeting at which this resolution is passed is open to the public as required by law; providing for an effective date; and making such other findings and provisions related hereto. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

### IX. City Manager's Report

24. 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
- Council Retreat
- Item No. 24 Cover Sheet

Mr. Sellers brought forward discussion regarding a Council Retreat to discuss goals and priorities for the future. Items such as the Comprehensive Plan would be addressed at joint meetings. Council discussion took place. No action was taken.

### X. Executive Session

25. 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

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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. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
  - Property acquisitions for road bond projects.
3. Personnel matters pursuant to Section 551.074.
4. Economic Development negotiations pursuant to Section 551.087.

Item No. 25 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. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 - Property acquisitions for road bond projects. Council Member Arabie seconded the motion. All votes aye; motion carried 7-0.

The City Council convened into Executive Session at 10:10 p.m. Council Member Selbera left the meeting.

26. Take action on items discussed in Executive Session.

Item No. 26 Cover Sheet

Council Member Tenorio moved to reconvene into open session. Council Member Wilson seconded the motion. All votes aye; motion carried 6-0. Council Member Selbera was absent.

The City Council reconvened into Open Session at 10:24 p.m.

Council Member Arabie stated that the consensus of the Council was to direct staff to draft an ordinance to begin condemnation on the property located 1119 South Old Highway 81, the Maddox Property. Mayor Webster stated no action was taken in Executive Session, and no other action besides the staff direction would be taken now.

## XI. ADJOURN

Council Member Tenorio moved to adjourn. Council Member Fogley seconded the motion. All votes aye; motion carried 6-0. Council Member Selbera was absent.

With no further business to discuss, the City Council adjourned at 10:25 p.m.

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R. Todd Webster, Mayor

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Attest: Jennifer A. Vetrano, City Secretary