

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on November 1, 2016 at Kyle City Hall with the following persons present:

Mayor Todd Webster	Herman Fabela
Mayor Pro Tem Damon Fogley	
Council Member Travis Mitchell	
Council Member Becky Selbera	
Council Member Shane Arabie	
Council Member David Wilson	
Scott Sellers, City Manager	
James Earp, Assistant City Manager	
Frank Garza, City Attorney	
Meghan Murphy, KAYAC	
Aidan O'Keeffe, KAYAC	
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	
Danielle Harvey, IT Technician	
Marco Forti, IT Technician	
Kerry Urbanowicz, PARD Director	
Chance Padier, Parks and Rec. Crew Leader	
Howard Koontz, Community Dev Director	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Harper Wilder, Director of Public Works	

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, and Mayor Pro Tem Fogley. Council Member Selbera arrived at approximately 7:19 p.m. and Council Member Tenorio was absent. A quorum was present.

II. Approval of minutes

1. City Council Regular Meeting Minutes - October 18, 2016. ~ Jennifer Vetrano, City Secretary
Item No. 1 Attachments

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Mayor Pro Tem Fogley moved to approve the City Council Regular Meeting Minutes for October 18, 2016. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0.

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.

Aidan O'Keeffe was called to speak about Item No. 3. He announced that KAYAC will be holding a charrette meeting for Kyle residents to give their input regarding sidewalks in the city on Thursday, November 10th at 6:30 p.m. in the Council Chambers at Kyle City Hall.

With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:04 p.m.

IV. Resolution

2. A Resolution of the City of Kyle, Texas, indicating support and appreciation for veterans of the United States Armed Forces, especially those who have died in action or are missing, and expressing gratitude for the members of Kyle VFW post 12058 and AMVET post 115 for their tireless and selfless service to the Kyle community and the veterans who have chosen to call Kyle their home. ~ Mayor Pro Tem Damon Fogley, Council Member Shane Arabie, and Council Member David Wilson
Item No. 2 Attachments

Mayor Webster brought forward Item No. 2 for discussion. The floor was given to Mayor Pro Tem Fogley, who introduced the item. Council Member Wilson read the resolution.

Council Member Wilson moved to approve a Resolution of the City of Kyle, Texas, indicating support and appreciation for veterans of the United States Armed Forces, especially those who have died in action or are missing, and expressing gratitude for the members of Kyle VFW post 12058 and AMVET post 115 for their tireless and selfless service to the Kyle community and the veterans who have chosen to call Kyle their home. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

Herman Fabela was called to speak. He spoke about Post 12058 which was recognized nationally for its efforts. He thanked the community and the city for their support, which allows them to serve. He presented the city with a plaque of appreciation.

V. Presentation

3. Presentation on microsurfacing projects. ~ Leon Barba, P.E., City Engineer
Item No. 3 Cover Sheet

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Mayor Webster brought forward Item No. 3 for discussion. Mr. Barba presented the item. Council Member Selbera arrived during this presentation. No action was taken.

4. Presentation of billboard requirements. ~ J. Scott Sellers, City Manager
Item No. 4 Cover Sheet

Mayor Webster brought forward Item No. 4 for discussion. Mr. Sellers presented the item. No action was taken.

5. Presentation by Goodwill Industries of Central Texas. ~ Damon Fogley, Mayor Pro Tem
Item No. 5 Cover Sheet

Mayor Webster brought forward Item No. 5 for discussion. Mayor Pro Tem Fogley was given the floor. He stated that the presenter asked to postpone this item to the following meeting.

Mayor Pro Tem Fogley moved to postpone presentation by Goodwill Industries of Central Texas to the next meeting. Council Member Wilson seconded the motion. All votes aye; motion carried 6-0.

VI. Appointments

6. Consider appointment of Freddie E. Dippel, Jr., P.E., as the City of Kyle's Extra Territorial Jurisdiction (ETJ) Representative on the Impact Fee Advisory Committee as required under Chapter 395 of the Texas Local Government Code for the Water and Wastewater Impact Fee Study. ~ Perwez A. Moheet, CPA, Director of Finance
Item No. 6 Attachments

Mayor Webster brought forward Item No. 6 for discussion. Mr. Moheet presented the item. Council Member Mitchell asked about a real estate representative on this committee. Lori Huey has been that representative, but is terming off of the Planning and Zoning Commission. Mayor Webster recommended staff reach out to Ms. Huey to see if she would be willing to serve as the real estate representative for the very short duration left on this project. Mr. Moheet stated that the final part of this project is coming up on November 7th.

Council Member Mitchell moved to approve the appointment of Freddie E. Dippel, Jr., P.E., as the City of Kyle's Extra Territorial Jurisdiction (ETJ) Representative on the Impact Fee Advisory Committee. Council Member Wilson seconded the motion. All votes aye; motion carried 6-0.

7. Appointments to the P&Z Commission. ~ Howard J. Koontz, Director of Planning and Community Development
 - Mike Torres
 - Rick Koch
 - Allison Wilson (Reappointment)Item No. 7 Attachments

Mayor Webster brought forward Item No. 7 for discussion. Mr. Koontz presented the item.

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Mayor Webster moved to approve appointments to the P&Z Commission: Mike Torres, Rick Koch, and Allison Wilson. Council Member Wilson seconded the motion. All votes aye; motion carried 6-0.

VII. Public Hearings

8. Second 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
Item No. 8 Attachments

Mayor Webster brought forward Item No. 8 for discussion. Mr. Koontz presented the item.

Mayor Webster opened the public hearing at 7:54 p.m. With no one wishing to speak, Mayor Webster closed the public hearing at 7:54 p.m.

VIII. Consent Agenda

Mayor Webster asked if there were any items to be pulled from the Consent Agenda. Council Member Wilson asked to pull Item No. 9. Mayor Webster brought forward Item No. 10 for consideration. Council Member Mitchell left the dais.

10. Authorize award and execution of a Purchase Order to C&M AIR COOLED ENGINES, INC., Waco, Texas, in an amount not to exceed \$46,999.83 for one (1) Ventrac Tractor 4500P and various options and attachments to be used in City of Kyle public parks. ~ Kerry Urbanowicz, Director of Parks and Recreation
Item No. 10 Attachments

Mayor Pro Tem Fogley moved to authorize award and execution of a Purchase Order to C&M Air Cooled Engines, Inc., Waco, Texas, in an amount not to exceed \$46,999.83 for one (1) Ventrac Tractor 4500P and various options and attachments to be used in City of Kyle public parks. Council Member Wilson seconded the motion. All votes aye; motion carried 5-0. Council Member Mitchell was absent for this item.

9. Possible action to dispose of Surplus Equipment. ~ Jeff Barnett, Chief of Police
Item No. 9 Attachments

Mayor Webster brought forward Item No. 9 for discussion. Council Member Mitchell returned. Chief Barnett presented the item.

Council Member Wilson moved to approve disposal of Surplus Equipment. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 6-0.

IX. Consider and Possible Action

11. (First Reading) An Ordinance amending Chapter 50 “Utilities”, of the Code of Ordinances of the City of Kyle, Texas, by the addition of Article X, “Storm Drainage and Flood Risk Mitigation” to establish a municipal drainage utility system; providing for

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drainage service, billing, exemptions, drainage charges and appeals; providing a severability clause, providing a savings clause; providing for a penalty not to exceed the sum of two thousand dollars (\$2,000.00) per day per offense (or violation); and providing for an effective date. ~ Kathy Roecker, Stormwater Management Plan Administrator
Item No. 11 Attachments

Mayor Webster brought forward Item No. 11 for discussion. Ms. Roecker presented the item.

Council Member Arabie moved to approve an Ordinance amending Chapter 50 “Utilities”, of the Code of Ordinances of the City of Kyle, Texas, by the addition of Article X, “Storm Drainage and Flood Risk Mitigation” to establish a municipal drainage utility system; providing for drainage service, billing, exemptions, drainage charges and appeals; providing a severability clause, providing a savings clause; providing for a penalty not to exceed the sum of two thousand dollars (\$2,000.00) per day per offense (or violation); and providing for an effective date. Council Member Selbera seconded the motion. All votes aye; motion carried 6-0.

12. (Second 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
Item No. 12 Attachments

Mayor Webster brought forward Item No. 12 for discussion.

Council Member Wilson 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. Mayor Pro Tem Fogley seconded the motion.

Mayor Webster called for a roll call vote. Council Member Selbera voted aye, Mayor Webster voted aye, Council Member Arabie voted nay, Council Member Wilson voted aye, Council Member Tenorio was absent, Mayor Pro Tem Fogley voted aye, and Council Member Mitchell voted nay. Motion carried 4-2.

13. (First Reading) An Ordinance of the City of Kyle, Texas, declaring a public necessity for the acquisition of fee simple title and/or permanent easement(s) and/or temporary construction easement(s) to all or portions of certain privately owned real property for the Burleson Road Street and Drainage Improvement Project in Hays County, Texas listed as follows: (1) 1.212 acres or 52,773 square feet of land, more or less, out of the Z. Hinton Survey, Abstract No. 220, and being a portion of that tract described as 18.5754 acres in a deed to James Mattox, Trustee, of record in Volume 1361, Page 154, Official Public Records, Hays County, Texas; (2) 0.1569 of one acre or 6,833 square feet of land, more or less, out of the Z. Hinton Survey, Abstract No. 220, and being a portion of that tract described as 18.5754 acres in a deed to James Mattox, Trustee, of record in Volume

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1361, Page 154, Official Public Records, Hays County, Texas, and; (3) 0.0403 of one acre or 1,757 square feet of land, more or less, out of the Z. Hinton Survey, Abstract No. 220, and being a portion of that tract described as 18.5754 acres in a deed to James A. Mattox, Trustee, of record in Volume 1361, page 154, Official Public Records, Hays County, Texas; save and except any oil, gas, or other minerals in, on or under or produced from said property, which may be removed from beneath said property without any right whatsoever remaining to the owner(s) of said oil, gas or other minerals of ingress or egress to or from the surface of said property for the purpose of exploring, developing, drilling, or mining of same, and save and except any subsurface water rights in and to the property together with any and all appurtenant water rights without any right whatsoever remaining to the owner(s) of said water rights of ingress or egress to or from the surface of said property, for the purpose of exploring, developing, drilling or production of same. For the public purpose of construction, operation, reconstruction, improvements, repair and maintenance, of the Burleson Road Street and Drainage and Improvement Project; authorizing all appropriate action of the City in the institution and prosecution of condemnation proceedings to acquire such property that cannot be acquired through negotiation; ratifying and affirming all prior acts and proceedings done or initiated by attorneys, agents and employees of the city to acquire such property; authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to investigate, survey, specify, define, appraise, and secure the necessary fee simple titles and/or permanent easement(s) and/or temporary construction easement(s) to said privately owned real property; and declaring the sections of the ordinance to be severable one from the other in the event any section of this ordinance is determined to be invalid. ~ Leon Barba, P.E., City Engineer
Item No. 13 Attachments

Mayor Webster brought forward Item No. 13 for discussion.

Mayor Webster moved to approve an Ordinance of the City of Kyle, Texas, declaring a public necessity for the acquisition of fee simple title and/or permanent easement(s) and/or temporary construction easement(s) to all or portions of certain privately owned real property for the Burleson Road Street and Drainage Improvement Project in Hays County, Texas listed as follows: (1) 1.212 acres or 52,773 square feet of land, more or less, out of the Z. Hinton Survey, Abstract No. 220, and being a portion of that tract described as 18.5754 acres in a deed to James Mattox, Trustee, of record in Volume 1361, Page 154, Official Public Records, Hays County, Texas; (2) 0.1569 of one acre or 6,833 square feet of land, more or less, out of the Z. Hinton Survey, Abstract No. 220, and being a portion of that tract described as 18.5754 acres in a deed to James Mattox, Trustee, of record in Volume 1361, Page 154, Official Public Records, Hays County, Texas, and; (3) 0.0403 of one acre or 1,757 square feet of land, more or less, out of the Z. Hinton Survey, Abstract No. 220, and being a portion of that tract described as 18.5754 acres in a deed to James A. Mattox, Trustee, of record in Volume 1361, page 154, Official Public Records, Hays County, Texas; save and except any oil, gas, or other minerals in, on or under or produced from said property, which may be removed from beneath said property without any right whatsoever remaining to the owner(s) of said oil, gas or other minerals of ingress or egress to or from the surface of said property for the purpose of exploring, developing, drilling, or

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mining of same, and save and except any subsurface water rights in and to the property together with any and all appurtenant water rights without any right whatsoever remaining to the owner(s) of said water rights of ingress or egress to or from the surface of said property, for the purpose of exploring, developing, drilling or production of same. For the public purpose of construction, operation, reconstruction, improvements, repair and maintenance, of the Burleson Road Street and Drainage and Improvement Project; authorizing all appropriate action of the City in the institution and prosecution of condemnation proceedings to acquire such property that cannot be acquired through negotiation; ratifying and affirming all prior acts and proceedings done or initiated by attorneys, agents and employees of the city to acquire such property; authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to investigate, survey, specify, define, appraise, and secure the necessary fee simple titles and/or permanent easement(s) and/or temporary construction easement(s) to said privately owned real property; and declaring the sections of the ordinance to be severable one from the other in the event any section of this ordinance is determined to be invalid. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 6-0.

14. Consider and possible action to approve a Regulatory Sign Policy. ~ Leon Barba, P.E., City Engineer
Item No. 14 Attachments

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

Council Member Selbera moved to approve a Regulatory Sign Policy. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

15. Consider and possible action to approve installation of a Stop Sign at Front St. at Lockhart. ~ Harper Wilder, Public Works Director
Item No. 15 Attachments

Mayor Webster brought forward Item No. 15 for discussion. Mr. Wilder presented the item.

Council Member Arabie moved to approve installation of a Stop Sign at Front St. at Lockhart. Council Member Wilson seconded the motion. All votes aye; motion carried 6-0.

16. Approve contract Task Order No. 3 to K. FRIESE & ASSOCIATES, INC., Austin, Texas, in an amount not to exceed \$203,625.00 for the purpose of providing engineering services for the Center Street Village Wastewater Improvements which replaces and upsizes an existing 12" wastewater line with an 18" to 21" wastewater line. ~ Leon Barba, P.E., City Engineer
Item No. 16 Attachments

Mayor Webster brought forward Item No. 16 for discussion. Mr. Barba presented the item.

Council Member Wilson moved to approve contract Task Order No. 3 to K. Friese & Associates, Inc., Austin, Texas, in an amount not to exceed \$203,625.00 for the purpose of providing engineering services for the Center Street Village Wastewater Improvements which replaces and

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upsizes an existing 12" wastewater line with an 18" to 21" wastewater line. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 6-0.

17. Discussion and possible action on Union Pacific Railroad siding relocation for preliminary engineering services in the amount of \$270,000. ~ J. Scott Sellers, City Manager
Item No. 17 Attachments

Mayor Webster brought forward Item No. 17 for discussion. Mr. Sellers presented the item.

Council Member Arabie moved to postpone Item No. 17 to the next meeting. Mayor Webster seconded the motion. All votes aye; motion carried 6-0.

18. Consider and possible action to approve Technical Amendment to RSI Economic Incentives Agreement. ~ Diana Torres, Director of Economic Development
Item No. 18 Attachments

Mayor Webster brought forward Item No. 18 for discussion. Ms. Torres presented the item.

Mayor Webster left dais.

Council Member Selbera moved to approve Technical Amendment to RSI Economic Incentives Agreement. Council Member Mitchell seconded the motion. All votes aye; motion carried 5-0. Mayor Webster and Council Member Tenorio were absent.

19. (First Reading) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2016-17 (Budget Amendment No. 1) by increasing total appropriations for expenditures in the City's General Fund by \$480,000 and decreasing fund balance in the General Fund by the same amount in order to provide interest-free cash financing to RSI, Inc., for fulfillment of their obligations under the Economic Incentives Agreement as approved by the City of Kyle. ~ Perwez A. Moheet, CPA, Director of Finance
Item No. 19 Attachments

Mayor Pro Tem Fogley brought forward Item No. 19 for discussion. Mr. Moheet presented the item.

Council Member Mitchell moved to approve an Ordinance amending the City's Approved Budget for Fiscal Year 2016-17 (Budget Amendment No. 1) by increasing total appropriations for expenditures in the City's General Fund by \$480,000 and decreasing fund balance in the General Fund by the same amount in order to provide interest-free cash financing to RSI, Inc., for fulfillment of their obligations under the Economic Incentives Agreement as approved by the City of Kyle. Council Member Selbera seconded the motion. All votes aye; motion carried 5-0. Mayor Webster and Council Member Tenorio were absent.

X. City Manager's Report

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

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- Update on FM 2770 Drainage Project

Item No. 20 Cover Sheet

Mr. Sellers gave a status report on the stormwater culvert under FM 2770. The city is waiting to hear back from TxDOT and the County on their potential partnership in funding for the project.

XI. Executive Session

21. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Jesse Espinoza v. City of Kyle Texas, 16CV-1172RP
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.

Item No. 21 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. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Jesse Espinoza v. City of Kyle Texas, 16CV-1172RP. Council Member Selbera seconded the motion. All votes aye; motion carried 5-0.

The City Council convened into Executive Session at 9:36 p.m.

Mayor Webster returned to the dais and participated in Executive Session.

22. Take action on items discussed in Executive Session.

Item No. 22 Cover Sheet

Mayor Pro Tem Fogley moved to reconvene into open session. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

The City Council reconvened into Open Session at 10:38 p.m. Mayor Webster announced that no action took place in Executive Session and no action will be taken now.

XII. ADJOURN

Council Member Selbera moved to adjourn. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 6-0.

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With no further business to discuss, the City Council adjourned at 10:39 p.m.

R. Todd Webster, Mayor

Attest: Jennifer A. Vetrano, City Secretary