

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on October 4, 2017 at Kyle City Hall with the following persons present:

Mayor Todd Webster  
Mayor Pro Tem Damon Fogley  
Council Member Travis Mitchell  
Council Member Becky Selbera  
Council Member Shane Arabie  
Council Member David Wilson  
James Earp, Assistant City Manager  
Molly Solis, City Attorney  
Jerry Hendrix, Chief of Staff  
Jennifer Vetrano, City Secretary  
Leon Barba, City Engineer  
Diana Torres, Economic Dev Director  
Perwez Moheet, Finance Director  
Kayleigh Soukup, IT Technician  
Paul Phelan, Library Director  
Kerry Urbanowicz, PARD Director  
Howard Koontz, Community Dev Director  
Jeff Barnett, Chief of Police

Brandon Pendleton  
Andrew Cooke  
Lori Huey  
Fabian Munoz  
Lindsey Gerland  
Marylyn Sevon  
Genest Harding  
Gary Jones  
Diane Wassenich  
Tim Miller  
David Crowell  
Bill Sinor  
Lila Knight  
Joyce Milburn  
Kelly Davis  
Robert Kleeman  
William Oppel

### I. Call Meeting To Order

Mayor Webster called the meeting to order at 7:03 p.m. Mayor Webster asked the secretary to call roll.

Present were: Mayor Webster, Council Member Mitchell, Council Member Selbera, Council Member Arabie, Council Member Wilson, and Mayor Pro Tem Fogley. Council Member Tenorio was absent. A quorum was present.

Council Member Wilson moved to excuse Council Member Tenorio's absence due to attending the Texas Municipal League Annual Conference. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

### II. Approval of minutes

1. City Council Regular Meeting Minutes - August 1, 2017. ~ *Jennifer Vetrano, City Secretary*  
Item No. 1 Attachments
2. City Council Regular Meeting Minutes - August 15, 2017. ~ *Jennifer Vetrano, City Secretary*  
Item No. 2 Attachments

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3. City Council Special Meeting Minutes - August 29, 2017. ~ *Jennifer Vetrano, City Secretary*  
Item No. 3 Attachments
4. City Council Regular Meeting Minutes - September 19, 2017. ~ *Jennifer Vetrano, City Secretary*  
Item No. 4 Attachments

Mayor Webster brought forward Item Nos. 1 - 4.

Mayor Pro Tem Fogley moved to approve the minutes of the August 1, 2017 Regular City Council meeting, the August 15, 2017 Regular City Council meeting, the August 29, 2017 Special City Council meeting, and the September 19, 2017 Regular City Council meeting. Council Member Arabie seconded the motion.

There was discussion on the motion. Mayor Webster stated that at the Council meeting on September 19, 2017, Council Member Tenorio had requested a 6-0 vote to be incorrect and asked it to be reflected as a 7-0 vote on the August 1, 2017 council meeting minutes. Mayor Webster stated that there should have been a notation of a "not voting" or "abstention" and that Council Member Tenorio had in fact abstained from that vote. Mayor Webster reminded Council that when abstaining, an affidavit must be filed.

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 7:05 p.m.

Assistant City Manager James Earp was called to speak. He stated that the City was notified today that it was awarded for excellence in transparency for its Certified Annual Financial Report (CAFR). Mayor Webster stated he too received the notification, and he read the notification regarding the GFOA Certificate of Excellence in financial reporting.

Brandon Pendleton of the Hays Caldwell Women's Center spoke about October as Domestic Violence Awareness Month. He spoke about the partnerships with the City of Kyle, Kyle PD, Hays County Sheriff's Office, and Hays CISD. He said they will be attending Hootenanny on the Hill, and hope to see everyone there.

Mayor Webster stated that an item many people have registered to speak about was postponed, and is not on the agenda. The subject is a rezoning of property on Dacy Lane near Kensington Trails to make it eligible for an RV park. He read the names of those registering opposition: Phyllis Mundahl, William Speed, Michael Smith, and Kayla Smith. Others who

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registered a position of opposition without testifying to rezoning AG to RV on Dacy Lane include: Jay Chehal, Joseph Burris, John Galaviz, and Linda Galaviz.

Andrew Cooke of Kensington Trails spoke about the zoning item. He spoke in opposition stating concerns with the property being in a flood plain, risks, and liabilities. He also had concerns for his wife and five young children in Kensington Trails because of temporary residents living in low-income conditions with only 200 meters separating the communities. Mr. Cooke had concerns about noise at the park, safety of motorists on Dacy Lane because of trailers pulling in and out of the lot, impact on city parks planned for the area, and home values. He requested a traffic study, consideration of the flood plain, police enforcement regarding noise, and an ordinance on tiny homes.

Lori Huey, Vice President of Kensington Trails HOA, was called to speak. She spoke in opposition of the rezoning, stating this use would not be an asset to the community. She had concerns about prostitution, drugs, and sexual predators.

Fabian Munoz spoke in opposition to the zoning item with concerns for safety.

Lindsey Gerland was called to speak. She opposed the rezoning near Kensington Trails. She spoke about a lack of regulations on who is coming in and out of the trailer park, a mile away from the elementary school. She had concerns for safety, both with the traffic and the people associated there.

Marylyn Sevon, a Kensington Trails resident, requested to speak. She spoke in opposition of the RV zoning due to concerns about visual distractions, sewage, runoff, the flood plain. She stated she would like to see more housing developments in that area rather than trailers, apartments, and RV parks.

Mayor Webster stated that the applicant has requested to postpone the request for rezoning. He stated that the public hearing remains open at the Planning & Zoning Commission. He thanked the public for speaking during citizen comment.

Genest Harding was called to speak. She stated that she could not find anything about the Blanco River Bridge. She is seeking what its purpose is and where it will be going. She asked Council to take a step back and go through the public process in transparency.

Gary Jones was called to speak. He stated he is a resident of San Marcos, and is opposed to the Blanco River Bridge. He mentioned that the bridge was on the CAMPO agenda last week. Mr. Jones stated his concerns regarding the impact to water quality downstream. His concerns also related to increasing development over the recharge zone and the water quality downstream. Mr. Jones stated that he opposes the bridge because he believes it will support development in that area.

Diane Wassenich, executive director of the San Marcos River Foundation, was called to speak. She urged Council to hold off on this item until more public involvement could be obtained. Her concerns consist of flooding downstream due to dense development. She said the

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state rules are not strict enough to protect the aquifer recharge zone, nor to prevent flooding. Ms. Wassenich stated that she is not against the bridge, but would like time to be given to the stakeholders in the area an opportunity to contribute in the process. She spoke of FEMA requirements that still do not fully protect or prevent flooding downstream.

Tim Miller was called to speak registered as a resource. He spoke about the Blanco River bridge project. He stated that there have not been any workshops on the development of this bridge. Mr. Miller spoke about the growth, the new roads. He spoke about the massive impact of flooding because of this bridge. He spoke about the stores, gas stations, boat landings, apartments, and semi's to support deliveries to the new stores.

David Crowell spoke in opposition of the Blanco River Bridge. He spoke about the FM 150 project and the public outreach that took place for that project. He stated he has no problem with people developing their own land, but he is against using public funds to develop these properties. He spoke of the perception of deals being made behind closed doors. He requested conversation with citizen about where their tax dollars are going to be going.

Bill Sinor was called to speak. He stated that he knows very little about the bridge. He asked Council to practice the transparency for which they have received recognition. He stated while it may be 15 years before the bridge is shovel ready, he suggested slowing down, and not passing this item right now. He requested input from taxpayers, San Marcos, everyone who has a part.

Lila Knight was called to speak. She stated it would be premature for the council to vote on the amendments to the Transportation Master Plan. She stated that the Comprehensive Plan incorporated the Transportation Master Plan, and the Comprehensive Plan requires three public hearings as required by the City Charter. She said there have not been any public hearings regarding changes to the Transportation Master Plan. Ms. Knight quoted Commissioner Conley's comments made at the CAMPO Board September 11 meeting, "This project is not on the City of Kyle's Transportation Plan. It has not been through a local vetting process at home, and those are things we require and need to do before it comes before the board." She stated that the meeting is irregularly scheduled due to National Night Out. She stated that the Council voted on the development agreement without ever having read it. She asked Mayor Webster, Council Member Arabie, and Mayor Pro Tem Fogley whether they had read the agreement before they voted. Each of the polled council member expressed that the development agreement was negotiated over the course of many meetings and many months. There were negotiations still being made during the final executive session on the subject, which was the reason that it was not included in the agenda packet, but the Council had many opportunities to read and understand what they voted on. Mayor Webster stated that it is true that one council member stated she could not vote on it because she had not read it.

Joyce Milburn was called to speak as registered in opposition of Agenda Item No. 13. She is a resident of Hays County, with an address in San Marcos. She stated that the bridge and the little knowledge they have on the development. She said the addition of 9,000 homes would deeply affect the aquifer. Ms. Milburn spoke about her experience growing up in Orange County, California. She said that due to growth from a rural/suburban-at-most area to a densely

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populated region, there was not enough water or electricity for the people who lived there. She asked Council to think about the impact of this ambitious growth.

Kelly Davis was called to speak. She spoke on behalf of Save Our Springs Alliance. She spoke about her experience growing up in nature on three acres in between Bee Cave and Austin. She stated that she attended the CAMPO meeting on September 11 where many spoke in opposition to that bridge. She stated that this is not the process that Chairman Conley or the other officials had in mind when he said that the proposal was premature and needed to go back through a public stakeholder process. Ms. Davis said the public has not been engaged in this process, and that the development agreement was not online prior to today's meeting. She stated that Howard Koontz stated that Hays County would be holding public input sessions. She would like Council to wait until that has happened at least. Ms. Davis continued that the spirit of the Comprehensive Plan would be to have public input for this amendment.

Robert Kleeman spoke on behalf of Scott and Lana Nance, who are the owners of the Nance property. He stated that the property has belonged to the Nance family since 1848, and the Nances are not developers from Houston. He said that from their generations of ownership, they are acutely aware of how flooding affects their property and access to their property. He stated that the development agreement was recorded as a public document for the last nearly 18 months. Mr. Kleeman continued that there is currently no safe bridge over the Blanco River between Post Road and Wimberley, which are not safe during flooding events. He mentioned Lime Kiln Road, a public road that crosses the Blanco River as a low-water crossing. Mr. Kleeman stated that this is an effort for a safe road to cross the bridge during emergency situations, and for flooding events. He stated this is the second step in a multi-year process - it must be added to the plan to continue to do planning, which was the reason for the request in the Development Agreement to have the bridge added to the transportation plan in order to have the opportunity for discussions.

Lori Huey stated that she is concerned about the recent removal of bike lanes in her subdivision. She stated they would like to have their bike lanes back and would like stop signs. She said the Police Department's machine does not work and the HOA is willing to provide half the funding to add the stop signs in order to have increased safety. Mayor Webster informed Ms. Huey of the new stop sign process. He asked Mr. Earp to have city staff follow up on Ms. Huey's stop sign and bike lane issues.

Council Member Selbera returned at 7:52 p.m.

With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:53 p.m.

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### IV. Presentation

5. Presentation of Texas Amateur Athletic Federation's City of Kyle Athlete of the Year Award to Emma Cunningham and Hunter Savage-Pierce for their accomplishments on the Kyle Kudas Swim Team. ~ *Jason Miller, Recreation Division Manager*  
Item No. 5 Cover Sheet

Mayor Webster brought forward Item No. 5 for discussion. Mr. Miller presented the athlete of the year awards to Emma Cunningham and Hunter Savage-Pierce. No action was taken.

### V. Appointments

6. Consideration of Nominations for reappointments to the Planning and Zoning Commission. ~ *Howard J. Koontz, Director of Planning and Community Development*
- Dex Ellison, Seat 1
  - Timothy Kay, Seat 5
  - Jo Fenety, Seat 7
- Item No. 6 Cover Sheet

Mayor Webster brought forward Item No. 6 for discussion. Mr. Koontz presented the item.

Mayor Pro Tem Fogley moved to approve the reappointments of Dex Ellison, Seat 1; Timothy Kay, Seat 5; and Jo Fenety, Seat 7 to the Planning and Zoning Commission. Council Member Arabie seconded the motion.

There was discussion on the Motion. Council Member Mitchell thanked the commissioners who are seeking reappointment for their commitment. He appreciates the stability that these members are bringing to the commission.

All votes aye; motion carried 6-0.

7. Consideration of Nominations for reappointments to the Economic Development & Tourism Board. ~ *Diana Torres, Director of Economic Development*
- Tony Spano
  - Neal Kelley
  - Harish Malkani
- Item No. 7 Attachments

Mayor Webster brought forward Item No. 7 for discussion. Ms. Torres presented the item.

Council Member Mitchell moved to approve the reappointments of Tony Spano, Neal Kelley, and Harish Malkani to the Economic Development & Tourism Board. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

### VI. Consent Agenda

8. Authorize mayor to execute Capital Area Emergency Communications District Interlocal Contract for Public Safety Answering Point Maintenance, Equipment and Training.  
~ *James R. Earp, Assistant City Manager*

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### Item No. 8 Attachments

9. Approve conveyance by Hays Consolidated Independent School District of a wastewater easement to the City of Kyle, Hays County, Texas, containing 0.17 acres, more or less, being 15 feet in width out of the Jesse Day Survey, Abstract No. 152: Hays County, Texas and being part of that certain 21.27 acre tract of land deeded to Hays Consolidated Independent School District (Hays C.I.S.D.) as recorded in Volume 636, Page 784 of the official public records of Hays County, Texas. ~ *Leon Barba, P.E., City Engineer*

### Item No. 9 Attachments

10. Approve Supplement No. 5 to HDR ENGINEERING, INC., Austin, Texas in the amount \$54,644.00 for a total contract amount not to exceed \$1,134,398.50 for additional design services to include a reclaimed water line, revising wastewater plan sheets, revising traffic control and construction sequences, providing additional utility coordination for relocations, revising the pavement sections, and revising all related plan, specifications and estimates for the Lehman Road improvements project. ~ *Leon Barba, P.E., City Engineer*

### Item No. 10 Attachments

11. Approve Supplement No. 6 to ESPEY CONSULTANTS, INC. DBA RPS, Austin, Texas, in an amount of \$23,556.00 for a total contract amount not to exceed \$662,293.00 for additional engineering services associated with the Southside Wastewater Improvements Project. ~ *Leon Barba, P.E., City Engineer*

### Item No. 11 Attachments

12. Authorize award and execution of a Purchase Order to TIBH INDUSTRIES, INC., Austin, Texas, in an amount not to exceed \$18,950.00, as the contractor for litter pick up and grass cutting on Interstate 35 using Easter Seals of Central Texas as the service provider for the Parks & Recreation Department. ~ *Kerry Urbanowicz, Director of Parks and Recreation*

### Item No. 12 Attachments

Mayor Webster asked if there were any items to be pulled from the Consent Agenda. There was none. With no objections, Mayor Webster brought forward Item Nos. 8, 9, 10, 11, and 12.

Council Member Selbera moved to approve Consent Agenda Item Nos. 8, 9, 10, 11, and 12. Mayor Pro Tem Fogley seconded the motion.

There was discussion on the motion. Council Member Arabie commented on Item No. 12. He thanked PARD Director Kerry Urbanowicz for continuing this project. He said it has served Kyle well over the past couple of years and he is happy to see it continue.

All votes aye; motion carried 6-0.

## VII. Consider and Possible Action

13. Consider possible action to update the Transportation Master Plan. ~ *Leon Barba, P.E., City Engineer*

### Item No. 13 Attachments

Mayor Webster brought forward Item No. 13 for discussion. Mr. Earp presented the item.

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Council Member Mitchell asked Mr. Earp to let those in the lobby know that this item was up for discussion in the even they wanted to return for the presentation.

Council Member Wilson moved to approve the update to the Transportation Master Plan. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

14. Consider an amendment to Chapter 53, Article II, of the City's Code of Ordinances, for the creation of two zoning districts, Office Institutional (O/I) and Mixed-Use (MXD), for the City of Kyle. ~ *Howard J. Koontz, Director of Planning and Community Development*  
*Planning and Zoning Commission voted 4-1 to recommend approval with the amendments outlined in staff report.*
  - Public HearingItem No. 14 Attachments

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

Mayor Webster opened the public hearing at 9:14 p.m.

William "Pete" Oppel spoke. He thanked Council for the reappointments to the Planning & Zoning Commission. He stated he is in favor of removing Section 5, Part B, Number 5 completely. Mr. Oppel stated that he does not think restrictions and limitations should be part of the vocabulary. He continued that Section R allows cemeteries and not crematoriums. He recommended amending Section R to allow funeral homes with or without a crematorium. This would give a funeral home the option to have a crematorium, without outright allowing a crematorium as a stand-alone use.

With no one else wishing to speak, and no objections to closing the public hearing, Mayor Webster closed the public hearing at 9:18 p.m.

Council Member Arabie moved to approve an Ordinance to create the office-institutional (o/i) zoning category; establishing a purpose and findings; prescribing allowable uses and structures in the district; prohibiting certain incompatible land uses and structures; establishing allowances for certain accessory uses and structures; establishing lot and building regulations; defining certain conditions and limitations within the district; presenting site development regulations; establishing building façade, screening, parking, and lighting requirements striking 150 foot height, at the end of anything above 55 feet, subject to Council approval, with proposed amendment from Planning & Zoning: 1) Add to Sec. 2(r): "r. Cemetery, mausoleum, and columbarium"; 2) Add to Sec. 4(D): "D. ...Specific uses include, but are not limited to: coffee shop; newsstand; laundry and dry-cleaning pick-up station; box office ticket sales; banks and ATMs; sundries; mail and copy centers."; and 3) Add to Sec. 4(E): "(E) Retail sales of concessions and specialty goods, when located in stadiums, or otherwise indoors, on the grounds of a recreation center". Council Member Mitchell seconded the motion. All votes aye; motion carried 6-0.



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15. [Postponed 8/1/2017] Consider a request by LGI Homes-Texas, LLC for multiple waivers from the City Code of Ordinances for Bunton Creek Subdivision, Phase 3 located off of Treeta Trail and Running Creek Drive. (W-17-001) ~ *Howard J. Koontz, Director of Planning and Community Development*
- Chapter 41, Article 5, Section 41-137(k)(1) which requires 60-foot ROW width for residential lanes. (Treeta Trail)
  - Chapter 41, Article 5, Section 41-137(k)(1) which requires 60-foot ROW width for residential lanes. (Amy Drive)
  - Chapter 41, Article 5, Section 41-137 (k)(1) which requires 38-foot pavement width for collector streets. (Winding Creek)
  - Chapter 41, Article 5, Section 41-137 (h)(1) limits the length of dead-end roads with cul-de-sacs to 200-feet for residential zoning. (Breanna Lane)
  - Chapter 41, Article 5, Section 41-137 (h)(1) limits the length of dead-end roads with cul-de-sacs to 200-feet for residential zoning. (Amy Drive)
  - Chapter 53, Article 2, Division 1, Section 53-33 (k)(9) requires a minimum front width of 65-feet and minimum square footage of 6,825 square feet per residential lot.

Item No. 15 Attachments

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

Mayor Pro Tem Fogley moved to approve a request by LGI Homes-Texas, LLC for six waivers from the City Code of Ordinances for Bunton Creek Subdivision, Phase 3 located off of Treeta Trail and Running Creek Drive. Council Member Selbera seconded the motion. All votes aye; motion carried 6-0.

16. Consider a Resolution of the City of Kyle, Texas, submitting nomination(s) to the Hays Central Appraisal District Chief Appraiser for election as a member the 2018-19 Hays Central Appraisal District Board of Directors. ~ *James R. Earp, Assistant City Manager*  
Item No. 16 Attachments

Mayor Webster brought forward Item No. 16 for discussion. Mr. Earp presented the item. Council Member Arabie stated he would like to recommend Rick Koch. Mr. Koch was asked whether he would accept their nomination of him to the Appraisal District. He accepted.

Council Member Arabie moved to approve a Resolution of the City of Kyle, Texas, submitting the nomination of Rick Koch to the Hays Central Appraisal District Chief Appraiser for election as a member the 2018-19 Hays Central Appraisal District Board of Directors. Council Member Selbera seconded the motion. All votes aye; motion carried 6-0.

### VIII. 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. ~ *James R. Earp, Assistant City Manager*  
Item No. 17 Cover Sheet

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Assistant City Manager James Earp reminded the public not to touch any bats. He stated two recent cases of bats testing positive for rabies have been identified. Mr. Earp stated at the next council meeting staff will present on Enterprise Fleet services. He also mentioned that it is Breast Cancer Awareness month, and National Taco Day.

### IX. 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.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
  - Legal advice to discuss claim filed against the city by Abel and Linda Tenorio
  - Legal advice regarding possible litigation from Steve Tucker
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.
  - Project Teal

Item No. 18 Cover Sheet

Council Member Selbera left the dais at 9:44 p.m.

Mayor Webster moved to convene into executive session regarding Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Legal advice to discuss claim filed against the city by Abel and Linda Tenorio; and Legal advice regarding possible litigation from Steve Tucker; and Economic Development negotiations pursuant to Section 551.087 - Project Teal. Council Member Wilson seconded the motion. All votes aye; motion carried 5-0. Council Member Selbera was absent for the vote.

The City Council convened into executive session at 9:45 p.m.

19. Take action on items discussed in Executive Session.

Item No. 19 Cover Sheet

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

The City Council reconvened into open session at 11:07 p.m. Mayor Webster announced that no action took place in Executive Session but action would be taken now.

Diana Torres, Economic Development Director presented Project Teal.

Council Member Selbera moved to approve Economic Development Chapter 380 agreement. Council Member Wilson seconded the motion.

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There was discussion on the motion. Council Member Mitchell encouraged anyone with concerns on this to read the document. He said it is very weighted to the City's interests. He described the agreement from a financial standpoint a homerun for the City of Kyle.

All votes aye; motion carried 6-0.

X. ADJOURN

Council Member Selbera moved to adjourn. Council Member Arabie seconded the motion. Motion carried 5-1 with Council Member Mitchell dissenting.

With no further business to discuss, the City Council adjourned at 11:17 p.m.

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R. Todd Webster, Mayor

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Attest: Jennifer A. Vetrano, City Secretary