

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on January 21, 2020 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Bobby Gregory
Mayor Pro Tem Rick Koch	Bobby Diaz
Council Member Dex Ellison	Rebecca Chapa
Council Member Tracy Scheel	Angelica Tobias
Council Member Robert Rizo	Brett Corwin
Council Member Alex Villalobos	Lila Knight
Council Member Daphne Tenorio	Evangelina Chapa
Scott Sellers, City Manager	Kate Johnson
James Earp, Assistant City Manager	Gerald Voss
Paige Saenz, City Attorney	
Jerry Hendrix, Chief of Staff	
Jennifer Vetrano, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Matt Dawson, IT Director	
Paul Phelan, Library Director	
Mariana Espinoza, PARD Director	
Arthur Zamarripa, Parks Technician	
Howard Koontz, Community Dev Director	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Andre Marmolejo, Police Lieutenant	
Tracy Vrana, Police Sergeant	
James Jones, Police Sergeant	
Tim Griffith, Police Sergeant	
Catlyn Bone, Police Sergeant	
Coby Bryant, Police Officer	
Dustin Shuler, Police Officer	
Daniel Preston, Police Officer	
James Plant, Police Officer	
Phillip Cleary, Police Officer	
Dan Pruett, Police Officer	
Nathanael Waters, Police Officer	
Lacy Carnes, Police Officer	
Keith Congdon, Police Officer	
Tera Mayfield, Police Officer	
Roy Jones, Police Officer	
Jacob Flemming, Police Officer	
Matt Clark, Police Officer	
Briana Brecher, Animal Control Officer	
Harper Wilder, Director of Public Works	

## **I. Call Meeting to Order**

Mayor Mitchell called the meeting to order at 7:11 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Scheel, Council Member Rizo, Council Member Villalobos, and Council Member Tenorio. A quorum was present.

## **II. Consider and Possible Action**

Mayor Mitchell announced at this time they would open Citizen Comments for the first 11 items and after those items were addressed a formal Citizen Comment item would be held during that portion of the meeting. Mayor Mitchell opened Citizen Comments period for the first 11 items at 7:12 p.m. With no one wishing to speak Mayor Mitchell closed the citizen comments for items 1-11 at 7:12 p.m.

1. First Amendment to the Agreement with Texas Disposal Systems for Solid Waste and Refuse Collection and Disposal Services. ~ *Rick Koch, Mayor Pro Tem and Daphne Tenorio, Council Member*
2. Agreement with TDS for Solid Waste and Refuse Collection and Disposal Services. ~ *Rick Koch, Mayor Pro Tem and Daphne Tenorio, Council Member*
3. TDS Heroes Memorial Park Contract. ~ *Dex Ellison, Alex Villalobos, and Robert Rizo, Council Members*
4. Agreement regarding Confirmation of Right to Construct Heroes Memorial on that Certain Tract of Land located at Northwest Corner of Kohler's Crossing and FM 1626. ~ *Dex Ellison, Alex Villalobos, and Robert Rizo, Council Members*
5. Approve Nudge Design as the Landscape Architect for the Heroes Memorial Park and direct staff to bring back a scope of services and budget at the Feb 4 council meeting. ~ *Dex Ellison, Alex Villalobos, and Robert Rizo, Council Members - Steering Committee*
6. Park and Cultural Trail Design and Permitting Agreement with MG Cardinal at Uptown, LLC. ~ *Travis Mitchell, Mayor and Tracy Scheel, Council Member*
7. Land Dedication Agreement with Plum Creek Development Partners, Ltd. and Mountain Plum and Plum Creek Partners. ~ *Travis Mitchell, Mayor and Tracy Scheel, Council Member*
8. Agreement with Plum Creek Development Partners, Ltd. for Conditions to Construction of Infrastructure for Plum Creek Land. ~ *Travis Mitchell, Mayor and Tracy Scheel, Council Member*
9. Police Headquarters Agreement Between Owner, City of Kyle, and Architect, PGAL, Inc. ~ *Alex Villalobos, Robert Rizo, Dex Ellison, Council Members*

10. Direct staff to issue a Request for Proposal for a public relations firm to lead the campaign for the November 2020 General Obligation bond for a new Police Headquarters and Heroes Memorial Park. ~ *Alex Villalobos, Dex Ellison, Robert Rizo, Council Members*
11. Presentation of a \$1.5M Check (\$750,000 cash and \$750,000 in-kind) to the City of Kyle from Texas Disposal Systems for the Kyle Heroes Memorial Park ~ *Travis Mitchell*

Mayor Mitchell brought forward Item Nos. 1-11 for discussion all at one time. Mayor Mitchell presented the items.

Mayor Pro Tem Koch moved to approve Item Nos. 1-10 as written. Council Member Ellison seconded the motion.

There was discussion on the motion. Council Member Tenorio stated she opposes Item Nos. 5 and 10 but voted aye for all the rest. Item Nos. 1-4, and 6-9, all votes aye; motion carried 7-0. Item Nos. 5 and 10, motion carried 6-1 with Council Member Tenorio dissenting.

Mayor Mitchell brought Item 11 forward for discussion. He mentioned the presentation of the \$1.5M check (\$750,000 cash and \$750,000 in-kind) to the City of Kyle from Texas Disposal Systems.

Mr. Bobby Gregory, Owner of Texas Disposal Systems spoke about the business and the partnership with the City of Kyle. Mr. Gregory said, "Forty-two years ago we started out and our goal was to be noticeably different, noticeably better." He paused with emotion. He continued, "God has blessed our business. I am honored to stand here today with the Council, such an articulate amazing Council, city staff, amazing in all they have done in this and I am humbled we have a chance to partner with Kyle and do what we have done for the last 13 years and what we will do for many, many, years to come. I would like to thank Ray and Rick for the tremendous job they did on this. Equally I would like to thank the staff that we have, the team, team TDS that has made this happen for all these years. I would like to start out by recognizing owners Jimmy and myself. We started out just the two of us and one driver 42 years ago with that goal in mind to be a ministry. Crazy isn't it, to be in solid waste and to have a ministry, but that's what it has been all these years." Mr. Gregory continued thanking all the company's employees from Drivers to Management positions. He spoke on behalf of the VFW, expressing thanks and gratitude for pushing this project forward, to the City of Kyle, TDS, and the Kyle Police Department. Mr. Gregory introduced Bobby Diaz who spoke on behalf of the VFW. He thanked everyone for contributing to the memorial and expressed appreciation for all the First Responders, Fire Fighters, Veteran's, and EMS.

Mayor Mitchell announced a recess at 8:20 p.m. Mayor Mitchell called the meeting back to order at 8:45 p.m. Mayor Pro Tem Koch returned at 8:47 p.m. after the recess.

Mayor Mitchell moved to reconvene. Council Member Tenorio seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

### **III. Approval of Minutes**

12. City Council Meeting Minutes - September 3, 2019. ~ *Jennifer Vetrano, City Secretary*
13. City Council Special Meeting Minutes - September 9, 2019. ~ *Jennifer Vetrano, City Secretary*
14. City Council Special Meeting Minutes - September 16, 2019. ~ *Jennifer Vetrano, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tenorio moved to approve the minutes of the September 3, 2019 Council Meeting, the minutes of the September 9, 2019 Special Council Meeting, and the minutes of the September 16, 2019 Special Council Meeting. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

### **IV. Citizen Comment Period with City Council**

Mayor Mitchell opened citizen comments at 8:46 p.m.

Kate Johnson was called to speak. She asked to wait for the public hearing.

Rebecca Chapa was called to speak. She congratulated the Council on the accomplishments this evening. She spoke about traffic on Center Street. She asked about the City doing a project like Austin's "Don't Block the Box" intersection solution.

Mayor Pro Tem Koch returned at 8:47 p.m.

Evangelina Chapa was called to speak but elected to wait for the public hearing.

Lila Knight was called to speak but elected to wait for the public hearing.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 8:48 p.m.

### **V. Presentation**

15. Martin Luther King, Jr. Proclamation. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 15 for discussion and gave the floor to Council Member Ellison. No action was taken.

16. Recognition of police officers for meritorious conduct in the line of duty. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 16 for discussion. Chief Barnett presented the item. Officers Carnes, Preston, Congdon, Waters, and Bryant were recognized for life saving and merit awards. Officer Roy Jones was recognized for Officer of the Year, and Sergeant Tim Griffith was recognized for Supervisor of the Year. Chief Barnett mentioned absent officers, records specialist Civilian of the Year, Marie Carla Martinez and Rookie of the Year, Officer Daniel Rainwater. No action was taken.

## **VI. Appointments**

18. Appoint nominee for position on City of Kyle Ethics Commission. ~ *Rick Koch, Mayor Pro Tem*

- Brad Growt

Mayor Mitchell brought forward Item No. 18 for discussion and gave the floor to Mayor Pro Tem Koch.

Mayor Mitchell moved to appoint Brad Growt to the Texas Ethics Commission, Seat 5. Council Member Tenorio seconded the motion. All votes aye; motion carried 7-0.

19. Appoint a representative to the CAPCOG Clean Air Coalition. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 19 for discussion and gave the floor to Council Member Ellison.

Council Member Tenorio moved to appoint Council Member Rizo to the CAPCOG Clean Air Coalition. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Ellison stated that Council Member Rizo also sits on the CAPCOG General Assembly.

All votes aye; motion carried 7-0.

20. Economic Development & Tourism Board Re-appointments. ~ *Diana Torres, Director of Economic Development*

- Tony Spano
- Neal Kelley

Mayor Mitchell brought forward Item No. 20 for discussion. Ms. Torres presented the item.

Council Member Tenorio moved to reappoint Tony Spano and Neal Kelley to the Economic Development & Tourism Board. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

## **VII. Consent Agenda**

21. *(Second Reading)* An Ordinance repealing Ordinance No. 975, authorizing and directing the installation and erection of No Through Truck Signs on Kyle Crossing from Kohlers Crossing to Vista Ridge; in the City Limits of Kyle; providing an effective date; and making such other findings and provisions related hereto. ~ *Leon Barba, P. E., City Engineer*

*City Council voted 7-0 to approve on first reading.*

Mayor Mitchell brought forward Item No. 21. There was no presentation.

Council Member Tenorio moved to approve an Ordinance repealing Ordinance No. 975, authorizing and directing the installation and erection of No Through Truck Signs on Kyle Crossing from Kohlers Crossing to Vista Ridge; in the City Limits of Kyle. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

17. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 17 for discussion out of order after Item No. 21. Mr. Barba presented the item. No action was taken.

### **VIII. Consider and Possible Action**

22. Consider approval of an agreement with Kyle Correctional Center for right-of-ways and parks maintenance. ~ *Mariana Espinoza, Director of Parks & Recreation*

Mayor Mitchell brought forward Item No. 22 for discussion. Ms. Espinoza presented the item. Arthur Zamarripa, Parks Technician, was available as well.

Council Member Tenorio moved to approve an agreement with Kyle Correctional Center for right-of-ways and parks maintenance. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

23. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending Chapter 5 of the City of Kyle Code of Ordinances in its entirety; Adopting animal control regulations designed to protect the public health and safety; Providing comprehensive requirements for the keeping and care of animals and fowl; Providing for the control, regulation, licensing, permitting and vaccination of dogs and cats; Providing regulations and requirements for other animals, fowl, livestock and wild and exotic animals; Providing for impounding and disposition of animals running at large or otherwise in violation of this ordinance; Providing procedures for rabies reporting and control; Providing certain exemptions; Providing fines and penalties; Repealing all parts of ordinances in conflict. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 23 for discussion and gave the floor to Council Member Ellison. Chief Barnett introduced Animal Control Officer Brecher, who presented the item.

Mayor Mitchell moved to approve Agenda Item No. 23 and to direct staff to bring back enhancements to Section 5-175, making signage more robust. Council Member Tenorio seconded the motion.

There was discussion on the motion. Mayor Mitchell thanked Council Members Ellison and Tenorio for their work on the item. He mentioned the Ordinance was needed. He spoke about rules clearly weighted towards protecting other animals. He mentioned health and warfare of the citizens meaning a lot to him. He said he did not realize we had these issues.

All votes aye; motion carried 7-0. Mayor Mitchell objected to the ordinance being finally passed so that it will come back for second reading.

24. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle for the purpose of assigning original zoning to approximately 41.38 acres of land from Agriculture 'AG' to Single Family Residential-2 'R-1-2' and to assign original zoning to approximately 8.01 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located between Opal Lane and Roland Lane, west and adjacent to Paramount Subdivision, in Hays County, Texas. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to recommend approval of R-1-2 and CC instead of R/S. Please see the staff report for additional information.*

- Public Hearing

Mayor Mitchell brought forward Item No. 24 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 9:40 p.m.

Angelica Tobias spoke, expressing concerns for the narrow road, which she said is not suitable for high traffic. She spoke about the already high use of the road. She spoke about a serious accident that took place there, and the dangers in that area. She stated that she is opposed unless the City improves the road. She requested responsible change and safety for everyone. She spoke about loose cattle on Roland Lane in the County. She also stated that right before the railroad checks, a utility company came in and left the road very rough with holes. She asked that the City check into that.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 9:44 p.m.

Mr. Sellers spoke about the holes, stating that the holes will be addressed with the pipeline. He said that the remainder of Roland Lane has yet to have been placed on any CIP.

Mr. Barba provided information related to the Paramount development. Brett Corwin spoke on behalf of the developer to address Council Member Scheel's question regarding enhancing Roland Lane. He stated the development is improving from the I-35 frontage road to a place he identified on the map. He mentioned the area to east improving but the area to the west not.

Mayor Mitchell moved to approve staff recommendations of R-1-2 and Community Commercial. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0. There were no objections to the item being finally passed.

25. *(First Reading)* An ordinance of the City of Kyle, Texas, amending Section 53-419 "Conditions and Limitation", Section 53-444 "Conditions and Limitations", and Section 53-53-481 "Conditions and Limitations, of Chapter 53 "Zoning", of the City of Kyle, Code of Ordinances, by adding Limited Outdoor Uses, providing for future outdoor uses, and requiring certain buffers between land uses. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to recommend approval with one amendment outlined in staff report.*

- Public Hearing

Mayor Mitchell brought forward Item No. 25 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 9:57 p.m.

Lila Knight was called to speak as registered for a position of "other". She asked the Council to support the residents of CBD-1 and CBD-2's recommendation. She spoke about P&Z Commissioner Paul Scheibmeir's comment that a marching band is acoustical unamplified music. She mentioned drums were not always amplified and mentioned New Orleans type jazz band. There are music styles that fall within this definition. She stated that she is supportive of outdoor uses and dining. She stated Council should make use of Neighborhood Commercial, Community Commercial and Mixed Use as well. She said she hopes the Council will look again at whether residential uses should be explicitly allowed as well.

Evangelina Chapa was called to speak as registered in opposition of the item. She stated that last year, concerns were brought forward in addition to a signed petition. She stated the main concern was the noise. She spoke about the City's meeting in June or July and said most of those in attendance at meeting were those concerned two blocks to the right and left of Center Street and most all concerns were the noise from the Railhouse that they can hear it all the way to their homes. She asked Council to think of the citizens.

Rebecca Chapa was called to speak as registered in opposition of the item. She stated that she is concerned about the noise but has no objections to an outdoor seating area. She stated that there is a lot of residential in the area still. She spoke of the area children being affected by loud music.

Kate Johnson was called to speak as registered. She mentioned that she is Chairman of Hays County Historical Commission but also the President of Preservation Associates. She spoke on behalf of the Literary Center as the owner of the historic house. She spoke about First Lady Laura Bush attending events in Kyle and she thanked the City and Kyle Police Department for generously providing security support and working with the Secret Service during those events. She mentioned she was in support of the recommendation of the Planning & Zoning Commission to allow outdoor dining and display of merchandise. She said she agreed with Commissioners that outdoor unamplified, and acoustical music should be by conditional use permit only. She mentioned small children getting up early to attend school as well as elderly in the area. She spoke about the indoor book readings by authors at the Katherine Anne Porter House. She mentioned an



incident related to her concerns of a nearby business playing music and although she tried to cooperate by providing the owner a schedule, the music did interfere with the readings by the authors.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 10:05 p.m.

Council Member Tenorio moved to approve an ordinance of the City of Kyle, Texas, amending Section 53- 419 "Conditions and Limitation", Section 53-444 "Conditions and Limitations", and Section 53-53-481 "Conditions and Limitations," of Chapter 53 "Zoning", of the City of Kyle, Code of Ordinances, by adding Limited Outdoor Uses, providing for future outdoor uses and requiring certain buffers between land uses with the exception of making music a conditional use and the conditional approval will be given by Planning & Zoning, and Council will come up with a way for a petitioner to appeal. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Villalobos mentioned that there could be a compromise with the conditional use and the hours and mentioned recommended hours of 8:00 and time zones and said there needed to be more discussion concerning hours. He stated that Council needs to come up with a compromise in case another development comes close to the area of residential areas to limit length they are playing. He asked, "Can we center that around certain locations?" Mayor Mitchell stated that he is not opposed to that. He said we have three different zonings, RS should be different than CBD-1 versus CBD-2 and mentioned CBD-1 is where there should be more restrictive hours. Mayor Mitchell asked staff to bring that back for consideration.

All votes aye; motion carried 7-0. Mayor Mitchell objected to the item being finally passed.

26. *(First Reading)* An ordinance of the City of Kyle, amending Section 53-930 (3), Section 53-933 (b)(d)(e), and Section 53-934 (e) of Chapter 53 "Zoning", of the City of Kyle, Code or Ordinances, by editing Neighborhood Design, Garage Requirements and Design.  
~ Howard J. Koontz, Director of Planning and Community Development

*Planning and Zoning Commission voted 5-1 to recommend approval.*

- Public Hearing

Mayor Mitchell brought forward Item No. 26 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 10:31 p.m.

Rebecca Chapa spoke. She asked whether this is only for new development, not current, and she asked about the positioning of the trees that they are not positioned in such a way to destroy the sidewalks like in other Kyle communities.

Gerald Voss stated that there should be a compromise on the garage requirements because some people prefer attached garages, and some people did not buy in Plum Creek because they wanted their garages attached and facing the street. He would like for people who move to Kyle to have a choice and would like for the Council to compromise so that not all subdivisions are detached garages in the back.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 10:33 p.m.

Mayor Mitchell moved to postpone this item to the next regularly scheduled council meeting, and direct staff to work on a few options and rationale for percentages they might bring back related to this ordinance and alley loaded garages. Motion failed from the lack of a second.

Mayor Mitchell moved to postpone this item until staff has adequate time to bring back and direct staff to bring back with percentages and options for Council to consider. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

### **IX. City Manager's Report**

27. 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*

- 20th Annual Texas Youth Advisory Commission (YAC) Summit Feb 1-2

Mr. Sellers spoke about the 20th Annual Texas Youth Advisory Commission (YAC) Summit Feb 1-2 here in Kyle. He also asked Council to let him know if they and a plus-one would like to attend.

### **X. Executive Session**

28. 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.
  - Golf Course Agreement
  - Kinder Morgan Lawsuit Update
  - TDS Contract
  - Veterans Memorial
  - Police Department Facility Update
  - Uptown Park
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
  - Project Wild Blue
  - Project Indigo

Council Member Scheel read into the record, "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 - Kinder Morgan Lawsuit Update.”

The City Council convened into executive session at 11:06 p.m.

29. Take action on items discussed in Executive Session.

Mayor Mitchell moved to reconvene. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

Council reconvened at 11:35 p.m. Mayor Mitchell announced there was no action taken in executive session and there would be action taken now.

Council Member Tenorio moved to bring forth an item to join the Kinder Morgan lawsuit as discussed in executive session. Council Member Villalobos seconded the motion.

There was discussion on the motion. Council Member Tenorio stated that the item would be discussed and voted on February 4th.

All votes aye; motion carried 7-0.

#### **XI. Adjourn**

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

With no further business to discuss, the City Council adjourned at 11:36 p.m.

  
Travis Mitchell, Mayor

Attest:

  
Jennifer A. Vetrano, City Secretary