

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on October 20, 2020 and due to COVID-19, some members attended virtually (v) at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell (v)	Graham Moore
Mayor Pro Tem Rick Koch (v)	Carol Pumbo
Council Member Dex Ellison (v)	Connor Overby
Council Member Tracy Scheel	Shawn McCormack
Council Member Robert Rizo	Sierra Holloway
Council Member Alex Villalobos (v)	Harrison Hudson
Council Member Michael Tobias (v)	Steve Jenkins
Scott Sellers, City Manager (v)	John Hines
James Earp, Assistant City Manager (v)	CJ Kimley-Horn
Paige Saenz, City Attorney (v)	Jason Najjar
Jerry Hendrix, Chief of Staff (v)	Jesse Bates
Samantha Armbruster, Communications Dir.	Mike Haddon
Jennifer Holm, City Secretary	Dennis Lake
Leon Barba, City Engineer (v)	Deborah Lake
Kathy Roecker, SWMP Administrator (v)	Marta Lyons
Diana Torres, Economic Dev Director (v)	Jennifer Ritter
Perwez Moheet, Finance Director (v)	
Matt Dawson, IT Director	
Paul Phelan, Library Director (v)	
Mariana Espinoza, PARD Director (v)	
Howard Koontz, Community Dev Director (v)	
Jeff Barnett, Chief of Police (v)	
Harper Wilder, Director of Public Works (v)	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:09 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 Tobias. A quorum was present.

II. Approval of Minutes

1. City Council Special Meeting Minutes - October 6, 2020. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - October 6, 2020. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Scheel moved to approve the minutes of the October 6, 2020 Special Council Meeting and the minutes of the October 6, 2020 Council Meeting. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

III. Citizen Comment Period with City Council

3. Members of the public that wish to provide citizen comment have the following options:
 1. In-Person at Kyle City Hall
 2. Virtual Attendance - Submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign>. Registration must be received by 12 p.m. on the day of the meeting.

Mayor Mitchell opened citizen comments at 7:11 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 7:12 p.m.

IV. Presentation

4. Update on the progress of Old Post Road. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 4 for discussion and gave the floor to Council Member Ellison. Mr. Leon Barba, City Engineer presented the item. No action was taken.

5. Presentation on Streets Division and projects. ~ *Harper Wilder, Director of Public Works*

Mayor Mitchell brought forward Item No. 5 for discussion. Mr. Wilder presented the item. No action was taken.

6. Presentation on Marijuana Statistics. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 6 for discussion and gave the floor to Council Member Ellison. Council Member Ellison stated that if there are no objections, he would like to postpone this item to a later date. There were none. No action was taken.

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

Mayor Mitchell brought forward Item No. 7. Mr. Leon Barba, City Engineer presented the item. No action was taken.

8. Presentation regarding launch of projects module on city website. ~ *Samantha Armbruster, Director of Communications*

Mayor Mitchell brought forward Item No. 8 for discussion. Ms. Armbruster presented the item. No action was taken.

V. Consent Agenda

Mayor Mitchell asked if there were any items to be pulled from the Consent Agenda. There were none. Mayor Mitchell brought forward Item Nos. 9, 10, and 11.

9. Agreement Between the City of Kyle Reinvestment Zone #2 and the City of Kyle Texas for the Reimbursement of Maintenance Expenses for the Parking Structures and Associated Landscaping for the Performing Arts Center Owned by Hays Consolidated Independent School District. ~ *James R. Earp, Assistant City Manager*

10. Approve Second Addendum to the City of Kyle's Landscape Management Contract of October 1, 2020 with WLE, LLC, to increase the contract award amount by \$27,584.43 for additional grounds and parking lot maintenance services at the Hays Consolidated School District's Performing Arts Center facility. ~ *James R. Earp, Assistant City Manager*
11. Approve a two-year term renewal for the City's investment advisory services agreement with HILLTOP SECURITIES ASSET MANAGEMENT, LLC, to begin effective November 1, 2020 and end October 31, 2022. ~ *Perwez A. Moheet, CPA, Director of Finance*

Council Member Scheel moved to approve Consent Agenda Item Nos.9, 10, and 11. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

VI. Consider and Possible Action

12. Approve a Resolution approving the Resolution by the Board of Directors of the Alliance Regional Water Authority (ARWA) authorizing the issuance of Contract Revenue Bonds, Series 2020B in the amount of \$34,530,000.00 for the City of Kyle's share of capital costs for the regional water supply contract project. ~ *James R. Earp, Assistant City Manager & Graham Moore, Executive Director of ARWA*

- Public Hearing

Mayor Mitchell brought forward Item No. 12 for discussion. James R. Earp, Assistant City Manager & Graham Moore, Executive Director of ARWA presented the item.

Mayor Mitchell opened the public hearing at 8:05 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:05 p.m.

Council Member Scheel moved to approve a Resolution approving the Resolution by the Board of Directors of the Alliance Regional Water Authority (ARWA) authorizing the issuance of Contract Revenue Bonds, Series 2020B in the amount of \$34,530,000.00 for the City of Kyle's share of capital costs for the regional water supply contract project. Council Member Rizo seconded the motion.

There was discussion on the motion. Mayor Mitchell stated his appreciation for Mr. Graham's work on this and mentioned how technical this project is. He thanked Mr. Graham for shepherding it through. He spoke about how important this project is and the efficiency of it as a testament to Mr. Graham's leadership. He also thanked Mr. Earp for his work on this, and Council Member Scheel, being on the board now.

All votes aye, motion carried 7-0.

13. Authorize award and execution of a purchase order to M.A. SMITH CONTRACTING CO., INC., Austin, Texas, lowest and most responsible bidder, in an amount not to exceed \$2,607,513.40 which includes a five (5) percent contingency for the reconstruction and widening of Windy Hill Street. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No. 13 for discussion. Mr. Barba presented the item.

Council Member Ellison moved to authorize award and execution of a purchase order to M.A. Smith Contracting Co., Inc., Austin, Texas, lowest and most responsible bidder, in an amount not to exceed \$2,607,513.40 which includes a five (5) percent contingency for the reconstruction and widening of Windy Hill Street. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Ellison asked if there were any items that needed to be adjusted or improved if approving the contract would prevent that. He asked if adjustments could be added a later time. Mr. Barba stated that the contractor intends to keep the cost as close to the original approved amount as possible, but if something happens the contingency allows them to keep the project moving forward.

All votes aye; motion carried 7-0.

14. Approve a resolution of support for the Transportation Development Credit application.
~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 14 for discussion. Council Member Villalobos stated he would need to recuse himself from this item. He left the meeting at 8:20 p.m. Mr. Sellers presented the item.

Council Member Rizo moved to approve a resolution of support for the Transportation Development Credit application. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0. Council Member Villalobos abstained.

15. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 2.4 acres of land from Multi-Family Residential-3 'R-3-3' to Residential Condominium District 'R-1-C' for property located at 104 Creekside Trail, in Hays County, Texas. (KCW Interests 3, LLC, Whited Enterprises, LLC D/B/A Vision Partners and FHC Consolidated - Z-20-0063) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to recommend approval of the request.

- Public Hearing

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

Mayor Mitchell opened the public hearing at 8:27 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:28 p.m.

Council Member Ellison moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 2.4 acres of land from Multi-Family Residential-3 'R-3-3' to Residential Condominium District 'R-1-C' for property located at 104 Creekside Trail, in Hays County, Texas. (KCW Interests 3, LLC, Whited Enterprises, LLC D/B/A Vision Partners and FHC Consolidated - Z-20-0063) Council Member Tobias seconded the motion. All votes aye; motion carried 6-0. Council Member Villalobos was absent for the vote.

16. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to assign original zoning to approximately 2.67 acres of land from Agriculture 'AG' to Retail

Service District "RS" for property located at 1805 W. RR 150, in Hays County, Texas. (Covey Fund I, LP - Z-20-0064) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to recommend approval of the request.

- Public Hearing

Mayor Mitchell brought forward Item No. 16 for discussion. Mr. Koontz presented the item. Mr. Connor Overby spoke as the applicant.

Mayor Mitchell opened the public hearing at 8:38 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:38 p.m.

Mayor Mitchell moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to assign original zoning to approximately 2.67 acres of land from Agriculture 'AG' to Retail Service District "RS" for property located at 1805 W. RR 150, in Hays County, Texas. (Covey Fund I, LP - Z-20-0064) Council Member Scheel seconded the motion. All votes aye; motion carried 6-0. Council Member Villalobos was absent for the vote.

17. Request to Consent for the Addition of Land to North Hays County Municipal Utility District No. 1. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 17 for discussion but stated that this item needs to be discussed in executive session. Mr. Sellers stated he thinks council could get through the other items relatively quickly and discuss this in executive session with the other items. Mayor Mitchell moved on to Item No. 18.

18. [Postponed 10/6/2020] Consider approval of Brohn Homes (Casetta Ranch) ROW license agreement. ~ *Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 18 for discussion and stated he believes this item was to be postponed. Mr. Earp confirmed that the item should be postponed.

Mayor Mitchell moved to postpone Brohn Homes (Casetta Ranch) ROW license agreement until the next regularly scheduled council meeting. Council Member Tobias seconded the motion. All votes aye, motion carried 6-0. Council Member Villalobos was absent for the vote.

19. (*Second Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 128.58 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' and approximately 30.27 acres of land to Residential Townhome 'R-1-T' and approximately 20.37 acres of land to Community Commercial 'CC' for property located off of E. Post Road, just north of Quail Ridge Subdivision, in Hays County, Texas. John H. Spooner Revocable Trust - Z-20-0061) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to recommend approval of the request.

City Council voted 6-1 to approve on First Reading.

Mayor Mitchell brought forward Item No. 19 for discussion. Mr. Koontz presented the item. Mr. Sellers suggested Council enter into executive session for this item as well.

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 - Item Nos. 17 and 19."

The City Council convened into executive session at 8:43 p.m. Council Member Villalobos returned to the meeting at approximately 8:47 p.m. in executive session.

Mayor Mitchell moved to reconvene into open session. Council Member Villalobos seconded the motion. All votes aye, motion carried 7-0.

The City Council reconvened into open session at 9:34 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

Mayor Mitchell brought forward Item No. 19 for discussion. Mr. Sellers stated that he and the applicant will be working on an agreement and would like to postpone until the next meeting.

Mayor Mitchell moved to postpone Item No. 19 until the next regularly scheduled council meeting. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

17. Request to Consent for the Addition of Land to North Hays County Municipal Utility District
No. 1. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought back Item No. 17 for discussion. Mr. Sellers presented the item.

Ms. Deborah and Dennis Lake spoke. She spoke about being a retired schoolteacher of Hays CISD. She spoke about their 25.3 acres, which they planned to sell to supplement their retirement. They have their property for sale but have found it is impossible to sell unless they are annexed into the MUD. Mr. Lake stated that they have lived on this property for almost 50 years. He spoke about Windy Hill widening, that they did not fight, they allowed it, and they also allowed the easement for access by giving away a portion of their property to get to the MUD's Wastewater Treatment Plant through their property. He stated that the treated wastewater then comes back through their property into a creek for about 800 feet, cutting off two acres of their property. He stated that it runs 24 hours a day and that has gone on for years. He stated that the subdivision across the street was annexed and granted access into the MUD and they respectfully request to be treated equally to preserve the value of their property. Harrison Hudson, with Kimley-Horn, spoke about City of Kyle not having wastewater services anywhere near the property.

Council discussion resumed. With no one making a motion, and no objections to moving on, Mayor Mitchell moved on with no action taken on Item No. 17.

VII. 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*

- November 3 - Election Day/Council Meeting
- Kyle Mass Food Distribution Event
- Wastewater Averaging
- Early Voting
- West RM 150 Naming Committee Meeting
- Spook-Tacular Cruise
- Free COVID Testing

Mr. Sellers spoke about the November 3rd Election Day/Council Meeting conflict. Council had no objections to moving the meeting to November 4. Mr. Sellers continued speaking about Kyle Mass Food Distribution Event, Wastewater Averaging, Early Voting, West RM 150 Naming Committee Meeting, Spook-Tacular Cruise, and Free COVID Testing.

VIII. 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.
 - Alexander Property
 - Coronavirus Relief Funds
 - Barton PID
 - K47
 - Low income development on Philomena
 - Cause Number 19-1492; 1200 S. Old Stagecoach Road, LLC v. City of Kyle, Texas; pending in the 22nd Judicial District Court of Hays County, Texas
 - Delinquent utility account at New Haven Assisted Living and Memory Care
 - Changeable Electronic Variable Message Sign
 - 104 S Burlison and Design Build Agreement
 - North Hays County Municipal Utility District No. 1
 - Agreement with LaSalle MUD
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 Indigo

- Project Shamrock
- Project Black Stamp
- Project Cranberry
- Project Out of the Blue

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 - Alexander Property, Coronavirus Relief Funds, Barton PID, K47, Low income development on Philomena, Changeable Electronic Variable Message Sign, 104 S Burleson and Design Build Agreement."

The City Council convened into executive session at 9:55 p.m. Mayor Pro Tem Koch was absent for executive session. Mayor Mitchell left the meeting at 11:37 p.m.

22. Take action on items discussed in Executive Session.


Council Member Scheel moved to reconvene into open session. Council Member Rizo seconded the motion. All votes aye' motion carried 5-0. Mayor Mitchell and Mayor Pro Tem Koch were absent for the vote.

The City Council reconvened into open session at 12:03 a.m. on October 21, 2020. Council Member Scheel announced that no action took place in Executive Session and no action would be taken now.

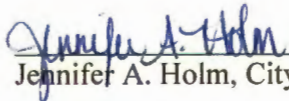
IX. Adjourn

Council Member Scheel moved to adjourn. Council Member Rizo seconded the motion. All votes aye; motion carried 5-0. Mayor Mitchell and Mayor Pro Tem Koch were absent for the vote.

With no further business to discuss, the City Council adjourned at 12:04 a.m. on October 21, 2020.


Travis Mitchell, Mayor

Attest:


Jennifer A. Holm, City Secretary