

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on January 19, 2021 and due to COVID-19, some members attended virtually (v) at Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live> with the following persons present:

Mayor Travis Mitchell	David Glover (v)
Mayor Pro Tem Rick Koch	Glen Coleman (v)
Council Member Dex Ellison (v)	Kate Johnson (v)
Council Member Yvonne Flores-Cale	Garrett Martin(v)
Council Member Robert Rizo	Robert Deegan (v)
Council Member Ashlee Bradshaw	
Council Member Michael Tobias (v)	
Scott Sellers, City Manager	
James Earp, Assistant City Manager (v)	
Paige Saenz, City Attorney (v)	
Jerry Hendrix, Chief of Staff (v)	
Samantha Armbruster, Communications Dir.	
Sarah Watson, Programs & Events Coord. (v)	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer (v)	
Kathy Roecker, SWMP Administrator (v)	
Diana Torres, Economic Dev Director (v)	
Perwez Moheet, Finance Director (v)	
Sandra Duran, HR Director (v)	
Matt Dawson, IT Director	
Grant Bowling, Video Production Specialist	
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 Flores-Cale, Council Member Rizo, Council Member Bradshaw, and Council Member Tobias. A quorum was present.

II. Approval of Minutes

1. City Council Special Meeting Minutes - January 5, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - January 5, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Ellison moved to approve the minutes of the January 5, 2021 Special Council Meeting and the minutes of the January 5, 2021 Council Meeting. Council Member Tobias 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 7:11 p.m.

IV. Appointments

4. Appoint nominee for position on City of Kyle Ethics Commission. ~ *Ashlee Bradshaw, Council Member*
 - Amanda McCullough

Mayor Mitchell brought forward Item No. 4 for discussion and gave the floor to Council Member Bradshaw.

Council Member Bradshaw moved to approve the appointment of Amanda McCullough to the City of Kyle Ethics Commission. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Bradshaw stated that the nominee is the most fair-minded and levelheaded person she has had the pleasure of knowing and will be an asset to the Commission. Council Member Rizo expressed his appreciation for her volunteerism. Council Member Flores-Cale spoke about a conversation she had with the nominee and that Ms. McCullough stated in response that we are all faced with ethical issues every day. She appreciated Ms. McCullough's response.

All votes aye; motion carried 7-0.

V. Presentation

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

Mayor Mitchell brought forward Item No. 5 for discussion and gave the floor to Council Member Ellison who presented the proclamation. Council Member Tobias spoke about it being a National Day of Service as well, and that he and others provided PPE to people downtown yesterday. Council Member Rizo thanked Council Member Ellison for bringing forward the proclamation and the Stevie Wonder song, which he did not know about previously. He also spoke about service of others and doing a small good deed for someone else. Council Member Bradshaw echoed the comments of the other Councilmembers.

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

Mayor Mitchell brought forward Item No. 6 for discussion. Mr. Barba presented the updates. Director of Communications, Samantha Armbruster, provided information about communications regarding City Projects. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward the Consent Agenda.

Mayor Mitchell asked if there were any items to be pulled from the Consent Agenda. There were none.

7. Approve a two-year service agreement with GOVERNMENTJOBS.COM, INC., DBA NEOGOV of El Segundo, California, in the amount of \$20,181.00 for online employee onboarding solutions to include EForms for document and workflow management software subscription services. ~ *Sandra Duran, Director of Human Resources*
8. Authorize award and execution of a Purchase Order to T-MOBILE in an amount not to exceed \$38,879.30 for the purchase of 70 mobile phones for the Kyle Police Department. The devices support the joining of T-Mobile's "Heroes Connected" program which provides 10 years of free service for all First Responders. ~ *Jeff Barnett, Chief of Police*
9. Approve a payment in the amount of \$207,543.00 to the Hays County registry of the Court for payment of the Special Commissioner's Award related to acquisition of property from Alexander Family Trust. ~ *J. Scott Sellers, City Manager*
10. Approval of contract in the amount of \$15,850 to PARALLEL, A Brand Agency for PR Services. ~ *Sarah Watson, Events & Programs Coordinator*
11. *(Second Reading)* An Ordinance granting Acadian Ambulance Service of Texas, LLC, D/B/A Acadian Ambulance Service, a franchise to provide non-emergency and rollover emergency ambulance services within the boundaries of the City of Kyle, Texas; providing an agreement prescribing conditions, terms, and regulations governing the operation of the non-emergency ambulance services; providing penalties for noncompliance with franchise. ~ *Jerry Hendrix, Chief of Staff*

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

12. Approve Howerton Plum Creek - Site Plan (SD-20-0079) 2.976 acres; 1 commercial lot for property located at 4282 S. FM 1626. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve the site plan.

13. Approve Silberberg Phase 2 - Site Plan (SD-20-0086) 2.427 acres; 1 commercial lot for property located at 4210 Benner Road. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve the site plan.

14. Plum Creek Phase 1, Section 11G Replat of Lot 1B, Block A (SUB-20-0156) 2.139 acres; 2 commercial lots for property located at 4600 FM 1626. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve the Replat.

Council Member Rizo moved to approve Consent Agenda Item Nos. 7, 8, 9, 10, 11, 12, 13, and 14. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

VII. Consider and Possible Action

15. Owners Representative Consultant Services Contract Between the City of Kyle and AG|CM, Inc. in the amount of \$32,292.00 monthly for a period of twenty-two months. ~ *J. Scott Sellers, City Manager*

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

Council Member Rizo moved to approve Owners Representative Consultant Services Contract Between the City of Kyle and AG|CM, Inc. in the amount of \$32,292.00 monthly for a period of twenty-two months. Council Member Bradshaw seconded the motion. All votes aye; motion carried 7-0.

16. Consider and Possible action to amend the Brooks Crossing Development Agreement to accept negotiated language regarding a buffer strip between Brooks Crossing and Plum Creek HOA. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 16 for discussion. Mr. Earp presented the item. Mayor Pro Tem Koch left the dais at 7:51 p.m.

Mayor Mitchell moved to approve the first amendment to the Brooks Crossing Development Agreement and strike the amendment to section 2.02(13). Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0, Mayor Pro Tem Koch was absent for the vote.

17. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 1.4 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 101 Sunflower Circle, in Hays County, Texas. (Jimmy and Diana Owen - Z-20-0066) ~ *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. 17 for discussion. Mr. Koontz presented the item. Mayor Pro Tem Koch returned at 8:01 p.m.

Mayor Mitchell opened the public hearing at 8:03 p.m.

David Glover stated that he represents the owner of the property and was available for any questions. Mayor Mitchell stated that he would allow questions to Mr. Glover as representing the developer outside of the public hearing.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 8:03 p.m. The presentation continued. Mr. Glover provided information as requested.

Mayor Mitchell moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 1.4 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 101 Sunflower Circle, in Hays County, Texas. (Jimmy and Diana Owen - Z-20-0066) Council Member Rizo seconded the motion. Motion carried 6-1, with Council Member Flores-Cale dissenting.

18. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 5.87 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 1400 E. RR 150, in Hays County, Texas. (1400 E. FM 150, LLC - Z-20-0068) ~ *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. 18 for discussion. Mr. Koontz presented the item. Mayor Mitchell opened the public hearing at 8:18 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:18 p.m.

Council Member Ellison moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 5.87 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 1400 E. RR 150, in Hays County, Texas. (1400 E. FM 150, LLC - Z-20-0068) Council Member Tobias seconded the motion.

There was discussion on the motion. Council Member Flores-Cale asked whether there will be a second reading. Mayor Mitchell stated if Council wants, then yes. Flores-Cale stated she would like more information. Council Member Rizo asked Mr. Koontz what the proposal was and if it was zoned as R1, or R3. Mr. Koontz asked for clarification from Council Member Rizo. Mr. Koontz stated it was Commercial Zoning. Mr. Rizo apologized stating he didn't see that. Council Member Flores-Cale questioned if there were currently homes on the lot. Glen Coleman spoke on behalf of the applicant about the single home on the lot. He stated he is unsure whether it is occupied, but believes it is and is unsure about the developer's plans for that structure. Mr. Koontz stated and that after the rezoning, the occupancy of the house would be allowed to continue, but

that the use of the property as a home would be non-conforming, therefore they would not be allowed to expand the current home or add to the property other residential buildings.

All votes aye; motion carried 7-0.

19. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas. (DDR DB Kyle LP - Z-20-0069) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 5-1 to deny the request.

- Public Hearing

Mayor Mitchell brought forward Item No. 19 for discussion. He stated that he proposes Council postpone the item after opening the public hearing and stated that he will leave the public hearing open so that people may speak when the item returns.

Mayor Mitchell opened the public hearing at 8:23p.m. With no one wishing to speak, Mayor Mitchell left the public hearing open.

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

20. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 57-acres of land from Single Family Residential-2 'R-1-2' (42.3-acres) and Retail Service District 'RS' (15-acres) to Planned Unit District 'PUD' (Single Family Attached 'R-1-A', 54-acres) and (Retail Service District 'RS', 3.3-acres) for property located at 1821 W. RR 150, in Hays County, Texas. Kyle Mortgage Investors, LLC (Z-20-0067) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 4-2 to recommend approval of the request.

- Public Hearing

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

Mayor Mitchell opened the public hearing at 8:28 p.m.

Kate Johnson spoke on behalf of the Hays County Historical Commission. She spoke in opposition to the proposed PUD rezoning from R-1-2 to R-1-A. She said it was designed to encourage imagination and innovated design and asked if rules of PUD were being adhered to concerning scenic culture and historical significance. Ms. Johnson voiced her concern of the possibility of flooding and mentioned the grating of the land at Yarrington and I-35. Ms. Johnson spoke about protecting historical oak trees surrounding property and about a well on the property and asked the developer to address what is planned for the well and protection of historical trees. Ms. Johnson stated that she believes government has a responsibility to address these concerns of its citizens.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 8:31 p.m. The presentation continued. Garrett Martin, representing the applicant, provided information about the project. Robert Deegan provided a presentation.

Mayor Mitchell recapped all the conditions that the developer is amenable to: 1400 square foot minimum floor plan, single story behind Mr. Franke's house and preservation of his oak trees (stating that he is unsure whether PUD zoning is where that agreement will go), a setback agreement with Mr. Franke, sidewalk discussion (which he stated is not under the purview of the PUD zoning), and 4.7 maximum buildable lots per acre, agreeing to the concept plan that has been laid out.

Mayor Mitchell moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 57-acres of land from Single Family Residential-2 'R-1-2' (42.3-acres) and Retail Service District 'RS' (15-acres) to Planned Unit District 'PUD' (Single Family Attached 'R-1-A', 54-acres) and (Retail Service District 'RS', 3.3-acres) for property located at 1821 W. RR 150, in Hays County, Texas with the following conditions: that the zoning would include a 1400 square foot minimum floor plan, a 4.7 maximum buildable lots per acre, and the deal points referenced in the letter that was submitted to Council by Mr. Green related to fencing.

Before a second was made, Mr. Koontz stated that the density should be capped at dwellings per acre rather than lots per acre due to some non-residential lots planned. Mayor Mitchell amended his motion according to Mr. Koontz's suggestion. Council Member Bradshaw seconded the motion.

There was discussion on the motion. Mayor Mitchell asked if all these conditions are amenable to the applicant. Mr. Martin replied affirmatively. Council Member Rizo thanked the developer for getting back to all the residents and working with them. He stated that he is in support of this project, but would like this to come back for second reading to allow residents to speak on it. Mayor Mitchell echoed Council Member Rizo and stated that he is proud to have a community partner like Milestone coming into the City of Kyle. He spoke about the Residential Style Guide, stating that this project depicts what the Residential Style Guide is all about, and mentioned curbed linear streets, good product mixture, a lot of green space, parks, quality of life components. He thanked the developer for the work they have put in.

All votes aye; motion carried 7-0. Mayor Mitchell mentioned that there is Council desire to have this back for a second reading.

21. *(Second Reading)* An Ordinance of the City of Kyle, Texas annexing 29.792 acres of land, more or less, located in Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City, at the request of the property owner; approving a service plan for the annexed area; making findings of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. ~ *Howard J. Koontz, Director of Planning and Community Development*

City Council voted 6-1 to approve on first reading.

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

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas annexing 29.792 acres of land, more or less, located in Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City, at the request of the property owner; approving a service plan for the annexed area; making findings of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Ellison asked about the nay vote from last reading. Council Member Flores-Cale spoke about the space between the houses. She spoke about another situation with a resident who cannot put his shed anywhere except the middle of his yard and he also would like to put a hot tub. She stated that she doesn't want to have to tell this resident that he will have to choose between a hot tub and a shed. She stated that she also had a concern for traffic.

Motion carried 6-1, with Council Member Flores-Cale dissenting.

22. Direct staff and possibly a task force to restart the Comprehensive Plan revision process and hiring a firm to assist. ~ *Dex Ellison, Council Member*

Mayor Pro Tem Koch brought forward Item No. 22 for discussion and gave the floor to Council Member Ellison. Much discussion took place. Council decided to move forward with budget discussions first. No action was taken.

VIII. City Manager's Report

23. 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*
 - Black History Month Programming
 - National Pie Day
 - COVID Vaccine and Testing Information

Mr. Sellers spoke about COVID Vaccine and Testing Information, National Pie Day, and Black History Month Programming.

IX. Executive Session

24. 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.
 - PGAL Contract
 - Parallel Contract
 - Workforce housing on Philomena
 - Marketplace Development Agreement

- Sign Regulations
- 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
- 3. Personnel matters pursuant to Section 551.074.
 - City Manager Consulting Opportunity
- 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 Goldfish
 - Project Carnation Pink

Council Member Bradshaw 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 – Workforce housing on Philomena."

The City Council convened into executive session at 9:47 p.m.

25. Take action on items discussed in Executive Session.

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


The City Council reconvened into open session at 10:17 p.m.

Mayor Pro Tem Koch announced that no action took place in Executive Session and no action would be taken now.

X. Adjourn

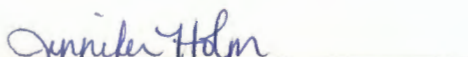
Council Member Rizo moved to adjourn. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

With no further business to discuss, the City Council adjourned at 10:17 p.m.



Travis Mitchell, Mayor

Attest:



Jennifer Holm, City Secretary