

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on May 4, 2021 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  
Mayor Pro Tem Rick Koch  
Council Member Dex Ellison (v)  
Council Member Yvonne Flores-Cale  
Council Member Robert Rizo (v)  
Council Member Ashlee Bradshaw  
Council Member Michael Tobias  
Scott Sellers, City Manager  
James Earp, Assistant City Manager  
Paige Saenz, City Attorney  
Jerry Hendrix, Chief of Staff  
Samantha Armbruster, Communications Dir.  
Jennifer Holm, City Secretary  
Leon Barba, City Engineer  
Diana Torres, Economic Dev Director  
Victoria Vargas, Economic Dev. Specialist  
Lauren Lyons, Economic Dev Coordinator  
Perwez Moheet, Finance Director  
Sandra Duran, HR Director (v)  
Matt Dawson, IT Director  
Grant Bowling, Video Production Specialist  
Danielle De Leon Guerrero, Systems Analyst  
Paul Phelan, Library Director  
Mariana Espinoza, PARD Director (v)  
Howard Koontz, Community Dev Director (v)  
Jeff Barnett, Chief of Police  
Pedro Hernandez, Police Captain  
Kelly Delagarza, Victims Services Coordinator  
Hannah-Bea Bickford, NIBRS Compliance  
Coordinator  
Harper Wilder, Director of Public Works  
Scott Egbert, Div. Mgr. - Streets

Eric West  
Vanessa Westbrook  
Aaron Marchon

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

Mayor Mitchell called the meeting to order at 7:00 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 Workshop Meeting Minutes - April 17, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Workshop Meeting Minutes - April 18, 2021. ~ *Jennifer Holm, City Secretary*
3. City Council Special Meeting Minutes - April 20, 2021. ~ *Jennifer Holm, City Secretary*
4. City Council Meeting Minutes - April 20, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Ellison moved to approve the minutes of the April 17, 2021 City Council Workshop Meeting, April 18, 2021 City Council Workshop Meeting, April 20, 2021 Special Meeting, and the April 20, 2021 Council Meeting Minutes. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 7-0.

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

5. 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*
  - Upcoming Budget Work sessions
  - COVID testing and vaccination info.
  - Parks events and programming
  - New Library hours
  - Utility Billing System Upgrade
  - 9pm Routine Campaign
  - Kyle Mass Food Distribution Event

Mr. Sellers spoke about upcoming budget work sessions. He mentioned information on COVID testing and vaccination taking place 05/16/2021 at Lehman High School from 8:00 a.m. - 5:00 p.m., which is a drive thru event and the Kyle Mass Food Distribution Events 05/22/2021 from 9:00 a.m. to 12:00 p.m. and 06/26/21 8:00 a.m. to 11:00 a.m. at ACC Hays Campus. Mr. Sellers said that volunteers were needed. He also spoke about Parks events and programming - Market Days at Gregg-Clarke Park will be held this time from 9:00 a.m. to 12:00 p.m. on Saturday, May 8<sup>th</sup> and Skate Night May 21<sup>st</sup> at Ash Pavilion from 5:30 to 8:00 p.m. He continued his report with the 9pm Routine Campaign and Utility Billing System Upgrade, for which anyone with automatic bill pay will need to update their credit card information. Mr. Sellers discussed the New Library hours as of May 1<sup>st</sup> in person programming hours. The new hours will be 10:00 a.m. to 8:00 a.m. Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Fridays and 10:00 a.m. to 4:00 p.m. on Saturdays. Mr. Sellers also spoke about Independence Day staffing.

## **IV. Recognition**

6. Recognition of Star Wars Day. ~ *Scott Solo, Millennium Falcon Manager; Mayor Boba Fett Mitchell; Emperor Palpatine Koch, Mayor Pro-Sith Lord; Yoda Ellison; Princess Leia Flores-Cale; Darth Rizo Vader; Ashlee Rey Bradshaw; and K250 Tobias*

The Council, Department Heads, and Staff participated in recognition of Star Wars Day. Scott Solo, Millennium Falcon Manager; Mayor Boba Fett Mitchell; Emperor Palpatine Koch, Mayor Pro-Sith Lord; Yoda Ellison; Princess Leia Flores-Cale; Darth Rizo Vader; Ashlee Rey Bradshaw; and K250 Tobias were present. No action was taken.

**V. Recess**

Mayor Mitchell called a recess at 7:10 p.m. Mayor Mitchell called the meeting back to order at 7:25 p.m.

**VI. Presentation**

7. Air Quality Awareness week, May 3-7. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 7 for discussion and gave the floor to Council Member Flores-Cale. Council Member Rizo also provided information on Air Quality. No action was taken.

8. Asian Pacific American Heritage Month Proclamation. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 8 for discussion and gave the floor to Council Member Ellison. He introduced City Employee, Danielle De Leon Guerrero who read the proclamation. No action was taken.

9. National Economic Development Week Proclamation and Celebrating the 15-Year anniversary of the creation and impact of the Economic Development Department. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 9. Ms. Torres provided a presentation. Mayor Mitchell read the proclamation. No action was taken.

**VII. Citizen Comment Period with City Council**

Mayor Mitchell called forward Citizen Comments out of order, ahead of Item No. 10. Mayor Mitchell opened citizen comments at 8:03 p.m.

Vanessa Westbrook was called to speak as registered. She spoke about the 15-member renaming committee for which she served as chair. She stated that Kyle has a wonderful problem. She stated that there are many citizens who want to do their civic duty and serve. She stated that there is some confusion, she stated that when the committee came together, there was an application, people were appointed, and they served. She spoke about in other instances there are interviews, and nothing to say how those interviews are held.

Eric West was called to speak as registered. He stated that he came about seven years ago and helped the police department with their ADA compliance. He stated that the Police Department is still not ADA compliant which it wasn't at that time either. He stated that all the handicapped citizens are being bypassed. He stated that navigating ADA is not easy. He stated that there are many items elsewhere in the city that are not ADA compliant, which he mentioned six years ago and not one has changed. He stated that handicapped citizens are just as important as any other citizen.

Aaron Marchon was called to speak as registered. He stated that a couple of years back, there was an issue with parking in neighborhoods near Lehman High School. He stated he would like an agenda item to remove some of those signs. Continuing, he stated that the high school has bridged their two parking lots which has provided better traffic flow.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 8:10 p.m.

## **VI. Presentation**

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

Mayor Mitchell brought forward and presented the CIP/Road Projects and Consent Agenda Presentation after Citizen Comments. Mr. Barba presented the update. No action was taken.

## **VIII. Consent Agenda**

Mayor Mitchell brought forward Consent Agenda Item Nos. 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 for consideration. Council Member Ellison pulled Item No. 11.

12. Approve a Resolution of the City Council of the City of Kyle, Texas, Authorizing the Acceptance of a Two Year Grant in the Amount of \$90,000 from the Office of the Attorney General, Victim Coordinator and Liaison Grant for the Purpose of Funding the Kyle Police Department's Victim Advocate I Full-Time Position for Fiscal Years 2022 - 2023; Agreeing and Assuring that in the Event of Loss or Misuse of Said Grant Funds, the City Will Return the Total Amount of Funds to the Office of the Attorney General; Authorizing the City Manager to Apply for, Accept, Reject, Alter or Terminate the Grant on Behalf of the City Council; Finding and Determining that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Providing for an Effective Date; and Making Such Other Findings and Provisions Related Hereto. ~ *Jeff Barnett, Chief of Police*
13. Authorize renewal of the lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for a total of three (3) FLHP Police Electra Glide Harley-Davidson motorcycles and to extend the lease period to expire September 30, 2021, at the lease rate of \$390.00 per month for each motorcycle for a total amount not to exceed \$14,040.00 for lease payments to be made during Fiscal Year 2020-2021. ~ *Jeff Barnett, Chief of Police*
14. *(Second Reading)* An Ordinance of the City of Kyle, Texas Regulating Sex Offender Residency within the City and Establishing Child Safety Zones; Amending Chapter 23 of the Code of Ordinances Entitled "Miscellaneous Offenses" by adding Article XI to be Entitled "Child Safety Zones;" Making it Unlawful for Certain Sex Offenders to Reside within 1000 feet of Premises where Children Commonly Gather; Providing Exceptions to the Ordinance; Prohibiting Property Owners from Renting Real Property to Certain Sex Offenders; Providing Penalties for Violations of the Ordinance; Repealing Ordinances or Parts of Ordinances in Conflict Therewith; Providing a Severability Clause, Findings of Fact and Providing for Open Meetings. ~ *Jeff Barnett, Chief of Police*

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

15. Authorize award and execution of a Purchase Order to DOGGETT FREIGHTLINER of SOUTH TEXAS in an amount not to exceed \$197,100.00 for the purchase of one (1) Rosco Maximizer 3B Liquid Asphalt Distributor through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
16. Authorize award and execution of a Purchase Order to CLOSNER EQUIPMENT COMPANY, INC., in an amount not to exceed \$292,100.00 for the purchase of one (1) Rosco 8' to 16' Variable Width Chip Spreader through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
17. Authorize award and execution of a Purchase Order to NUECES POWER EQUIPMENT in an amount not to exceed \$81,345.74 for the purchase of one (1) Hamm HD 14 VO DD Roller through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
18. Authorize award and execution of a Purchase Order to NUECES POWER EQUIPMENT in an amount not to exceed \$138,052.36 for the purchase of one Hamm HP 180-15 Pneumatic Roller through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
19. Authorize award and execution of a contract with HALFF ASSOCIATES, INC., Austin, Texas in an amount not to exceed \$20,000.00 for a flood study of the Bunton Branch. ~ *Leon Barba, P.E., City Engineer*
20. Approve Regional Detention & Soccer Field Grading Improvements (SD-21-0097) for Approximately 92.43-Acres, Adjacent to and West of the Union Pacific Railroad and Approximately 2,500 Feet North of Kohler's Crossing. ~ *Howard J. Koontz, Director of Planning and Community Development*

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

Council Member Rizo moved to approve Consent Agenda Item Nos. 12, 13, 14, 15, 16, 17, 18, 19, and 20. Council Member Bradshaw seconded the motion. All votes aye; motion carried 7-0.

11. Amend the Joint Use Agreement for HCISD Parking Facilities. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 11 and gave the floor to Council Member Ellison. He asked for Exhibit A to be brought to the screen for some clarification points. Mr. Sellers presented the item.

Council Member Rizo moved to approve Item No. 11, to amend the Joint Use Agreement for HCISD Parking Facilities. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

#### **IX. Consider and Possible Action**

21. *(First Reading)* An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan; Providing for the amendment of the plan by including Manufactured Home Subdivision District 'M-2' and Manufactured Home Park 'M-3' to the

New Town Community Land Use District; Providing for Related Matters. (Hadsell Estate - Z-21-0075) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to approve.*

- Public Hearing

Mayor Mitchell brought forward Item No. 21 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 8:27 p.m. The presentation continued.

Mayor Pro Tem Koch moved to approve an Ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan; Providing for the amendment of the plan by including Manufactured Home Subdivision District 'M-2' and Manufactured Home Park 'M-3' to the New Town Community Land Use District; Providing for Related Matters. Council Member Rizo seconded the motion.

There was discussion on the motion. Mayor Mitchell stated that we amend our comp plan, we amend our transportation plan, we amend our stormwater plan, and we have another transportation plan amendment coming up. Council Member Flores-Cale stated that she wouldn't take issue if it wasn't so old. Mayor Mitchell stated that the map was created in 2017, not 2010. Mayor Mitchell stated three seated members reviewed this particular map in 2017. Council Member Rizo stated that the members of Council at that time couldn't have known who was going to come in. Council Member Ellison stated that his point is he felt they could wait until the comprehensive plan. He stated that he hasn't seen this document hold importance with Council to maintain and update. He said he would like to see the policy aspect be put forward as a priority.

Mayor Mitchell requested a roll call vote. Council Member Tobias voted aye; Council Member Flores-Cale voted nay; Council Member Bradshaw voted aye; Mayor Pro Tem Koch voted aye; Mayor Mitchell voted aye; Council Member Rizo voted aye; and Council Member Ellison voted nay. Motion carried 5-2.

22. *(First Reading)* An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan by amending a portion of the Farm District to the Regional Node and to the New Settlement Land Use District; Providing for Related Matters. (FM 812, LLC - JD's Market - Z-21-0076) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to approve.*

- Public Hearing

Mayor Mitchell brought forward Item No. 22 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 8:43 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:43 p.m. The presentation continued.

Council Member Rizo moved to approve an Ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan by amending a portion of the Farm District to the Regional Node and to the New Settlement Land Use District; Providing for Related Matters. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

After Item No. 23, Mayor Mitchell asked whether there were any objections to this item being finally passed. There were none.

23. *(First Reading)* An ordinance of the City of Kyle, Texas, annexing 25.2 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 finding of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. (Peggy Lehman Jansen and CTX Park - ANNX-21-0008) ~ *Howard J. Koontz, Director of Planning and Community Development*

- Public Hearing

Mayor Mitchell brought forward Item No. 23 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 8:53 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:53 p.m.

Council Member Tobias left the dais at 8:53 p.m.

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, annexing 25.2 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 finding of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 6-0. Council Member Tobias was absent for the vote.

25. Authorize award and execution of a contract with CADENCE MCSHANE CONSTRUCTION COMPANY in an amount not to exceed \$7,950,000.00 for the construction of Heroes Memorial Park. ~ *J. Scott Sellers, City Manager*
26. Authorize award and execution of a contract with STODDARD CONSTRUCTION MANAGEMENT, INC., in an amount not to exceed \$4,850,000.00 for the construction of Uptown Central Park and Cultural Trails. ~ *J. Scott Sellers, City Manager*
27. Acceptance of the Resolution of the Board of Kyle Tax Increment Reinvestment Zone Number Two, as passed on April 29, 2021, authorizing the City Council of the City of Kyle to issue on its behalf Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of three roads in Uptown Plum Creek development and other related matters and direct the City to prepare a reimbursement agreement between the City and TIRZ #2 for the repayment of debt associated with this bond. ~ *J. Scott Sellers, City Manager*

28. Consider approving a Resolution directing publication of a Notice of Public Hearing and Intention to Issue Combination Tax and Revenue Certificates of Obligation. ~ *Travis Mitchell, Mayor*

29. Consider approving an Amendment Regarding Declaration related to the Conveyance of the Central Park Parcel to the City and Authorize the City Manager to Execute Documents Related to Closing on the Parcel. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item Nos. 25-29 for discussion out of order after Item No. 23 and stated that he was recommending postponement of all these items to allow time to understand all details within the agreements and contracts.

Mayor Mitchell moved to postpone Item Nos. 25 - 29. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0. Council Member Tobias was absent for the vote.

Council Member Tobias returned to the dais at 8:56 p.m.

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

Mayor Mitchell left the dais at 8:56 p.m. Mayor Pro Tem Koch brought forward Item No. 24 for discussion. Mr. Barba presented the item.

Council Member Tobias moved to amend the Transportation Master Plan. Council Member Bradshaw seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

30. Request council to assign a task force to review, revise and update boards/commissions policy. ~ *Dex Ellison, Council Member*

Mayor Pro Tem Koch brought forward Item No. 30 for discussion and gave the floor to Council Member Ellison who presented the item.

Mayor Mitchell returned to the dais at 9:00 p.m.

Council Member Flores-Cale moved to approve Council to assign a task force to review, revise and update boards/commissions policy. Council Member Ellison seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Pro Tem Koch voted nay; Council Member Rizo voted nay; Council Member Tobias voted nay; Council Member Ellison voted aye; Council Member Bradshaw voted nay; Mayor Mitchell voted nay; and Council Member Flores-Cale voted aye. Motion failed 2-5.

31. Request council to schedule joint meetings to discuss vision and goals for the year with the P&Z Commission and Parks Board. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 31 for discussion and gave the floor to Council Member Ellison who presented the item. No action was taken.



**X. Executive Session**

32. 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.
    - Sales Tax Matters
  2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
    - Acquisition of property for park purposes
  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 Pacific Blue
    - Project Eburnean
    - Project Gold
    - Project SUFC

Council Member Flores-Cale 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: 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 Eburnean."

The City Council convened into executive session at 9:56 p.m.


33. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 10:18 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

**XI. Adjourn**

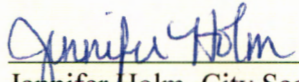
Mayor Mitchell moved to adjourn. Council Member Bradshaw seconded the motion. No vote was held. Mayor Pro Tem Koch and Council Member Rizo were absent for adjournment.

With no further business to discuss, the City Council adjourned at 10:18 p.m.

  
Travis Mitchell, Mayor

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Kyle City Hall

Attest:



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Jennifer Holm, City Secretary