## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on November 1, 2021 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell Mayor Pro Tem Rick Koch Council Member Dex Ellison\* Council Member Yvonne Flores-Cale Council Member Robert Rizo Council Member Ashlee Bradshaw Council Member Michael Tobias Scott Sellers, City Manager James Earp, Assistant City Manager Jerry Hendrix, Assistant City Manager Paige Saenz, City Attorney Samantha Armbruster, Communications Dir. Jennifer Holm, City Secretary Carla Sheridan, Assistant City Secretary Leon Barba, City Engineer Kathy Roecker, SWMP Administrator Diana Torres, Economic Dev Director Victoria Vargas, ED Project Manager Perwez Moheet, Finance Director Sandra Duran, HR Director Matt Dawson, IT Director Benito Pereda, Park and Trails Maint. Supv. Will Atkinson, City Planner Debbie Guerra, Planning Technician Jeff Barnett, Chief of Police Pedro Hernandez, Police Captain Harper Wilder, Director of Public Works

Colby Harris Carlos Lopez David Harding Jon Snyder

#### 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 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 October 19, 2021. ~ Jennifer Holm, City Secretary
- 2. City Council Meeting Minutes October 19, 2021. ~ Jennifer Holm, City Secretary

Mayor Mitchell brought forward the minutes for discussion. Council Member Bradshaw left the dais at 7:12 p.m.

\*One or more members of the governing body may participate in the meeting by videoconference pursuant to Section 551.127, Texas Government Code, provided that a quorum of the governing body will be present at Kyle City Hall. Council Members attending virtually are designated by \*.

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Council Member Tobias moved to approve the minutes of the October 19, 2021 Special Council Meeting and the minutes of the October 19, 2021 Council Meeting. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0. Council Member Bradshaw was absent for the vote.

## III. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 7:12 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 7:13 p.m.

# IV. City Manager's Report

- 3. 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* 
  - Parks and Recreation Halloween Recap
  - 2021 Elections
  - Arbor Day Nov 6th
  - Veterans Parade Nov 13th
  - Special Meeting Nov 9th
  - Team Kyle News

Mayor Mitchell brought forward the City Manager's Report.

Mr. Pereda, Park and Trails Maintenance Supervisor, presented the Center Street Trick or Treat Contest Winners, and spoke about Arbor Day, which is November 6. He announced the Veterans Day Parade, taking place November 13th from 12 - 6pm.

Ms. Holm spoke about Election Day, taking place tomorrow, November 2, 2021. Voters can vote at any Hays County location, see <u>www.cityofkyle.com/election\_for</u> details. Election results will be posted at <u>www.cityofkyle.com/electionresults</u> as they become available. Mr. Sellers stated that the election will be canvassed at a special called City Council meeting on November 9th.

Ms. Duran presented Team Kyle News to include anniversaries, promotions and graduations, and announced the City's observance of Veterans Day on Thursday, November 11th - City offices will be closed. Additionally, City offices will be closed on November 17th from noon - 1:30 p.m. for the Team Kyle Thanksgiving luncheon.

Ms. Torres announced that Victoria Vargas has completed the OUEDI three-year program.

### V. Presentation

4. CIP/Road Projects Presentation. ~ Travis Mitchell, Mayor

Mayor Mitchell brought forward the CIP/Road Projects. Mr. Barba presented the item. Colby Harris with BGE, representing Hays County, spoke about the Windy Hill Road Bond Project. No action was taken.

# VI. Consider and Possible Action

17. [Postponed 10/4/21] (First Reading) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 10.81 acres of land to Retail Service District 'RS' and approximately 34.83 acres to Multi-Family Residential-3 'R-3-3' for property located at 20139 IH-35, in Hays County, Texas. (Sunrise Village Investments, LLC - Z-21-0082) ~ James R. Earp, Assistant City Manager

Planning and Zoning Commission voted 4-0 to recommend approval of the request.

Public Hearing

With no objections, Mayor Mitchell brought forward Item No. 17 for discussion out of order before Item No. 5. Mayor Mitchell turned the floor over to Mayor Pro Tem Koch and left the dais at 7:30 p.m.

Mayor Pro Tem Koch opened the public hearing at 7:30 p.m. With no one wishing to speak, Mayor Pro Tem Koch closed the public hearing at 7:30 p.m.

Mayor Pro Tem Koch moved to deny an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 10.81 acres of land to Retail Service District 'RS' and approximately 34.83 acres to Multi-Family Residential-3 'R-3-3' for property located at 20139 IH-35, in Hays County, Texas. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

5. Consider approving an Interlocal Agreement (ILA) between the City of Kyle and Hays County for the City's funding obligations of each entity for the Center Street Union Pacific Rail Siding Project. The City's total funding obligation shall not exceed \$1,230,000.00 under this ILA. ~ Paula Gruber, HNTB

Mayor Pro Tem Koch brought forward Item No. 5 for discussion after Item No. 17. Mr. Carlos Lopez presented the item.

Council Member Rizo moved to approve an Interlocal Agreement between the City of Kyle and Hays County for the City's funding obligations of each entity for the Center Street Union Pacific Rail Siding Project. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

6. Authorize the City Manager to execute Site Specific Declarations of Covenants, Restrictions and Easements for the Heroes Memorial Tracts, approve letter agreements authorizing the conveyance and addressing drainage and restrictive covenant obligations, and authorize the City Manager or Mayor to execute all documents necessary to accept conveyance of Heroes Memorial Tracts. ~ J. Scott Sellers, City Manager

Mayor Pro Tem Koch brought forward Item No. 6 for discussion. Mr. Sellers presented the item. Ms. Saenz provided information about the signatories.

Mayor Pro Tem Koch moved to authorize the City Manager to execute Site Specific Declarations of Covenants, Restrictions and Easements for the Heroes Memorial Tracts, approve letter agreements

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authorizing the conveyance and addressing drainage and restrictive covenant obligations, and authorize the City Manager or Mayor to execute all documents necessary to accept conveyance of Heroes Memorial Tracts. Council Member Rizo seconded the motion. Motion carried 5-1 with Council Member Flores-Cale dissenting. Mayor Mitchell was absent for the vote.

7. Approval of Change Order No. 4 to CADENCE MCSHANE CONSTRUCTION COMPANY LLC, Austin, Texas, in an additional amount not to exceed \$438,030, increasing the total contract amount to \$8,388,030 for the purpose of funding value engineering items that were later denied and kept in project. ~ David Harding, AGCM Project Manager

Mayor Pro Tem Koch brought forward Item No. 7 for discussion. Mr. Harding presented the item.

Council Member Rizo moved to approve Change Order No. 4 to Cadence McShane Construction Company LLC, Austin, Texas, in an additional amount not to exceed \$438,030, increasing the total contract amount to \$8,388,030 for the purpose of funding value engineering items that were later denied and kept in project. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

8. Approval of Change Order No. 6 to CADENCE MCSHANE CONSTRUCTION COMPANY LLC, Austin, Texas, in an additional amount not to exceed \$99,002, increasing the total contract amount to \$8,487,032 for the purpose constructing 8" reclaimed waterline underneath Kohlers Crossing. ~ *Leon Barba, P.E., City Engineer* 

Mayor Pro Tem Koch brought forward Item No. 8 for discussion. Mr. Barba presented the item.

Council Member Rizo moved to approve Change Order No. 6 to Cadence McShane Construction Company LLC, Austin, Texas, in an additional amount not to exceed \$99,002, increasing the total contract amount to \$8,487,032 for the purpose constructing 8" reclaimed waterline underneath Kohlers Crossing. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

9. Approve a Resolution of the City of Kyle, Texas Accepting a Preliminary Service and Assessment Plan for the Plum Creek North Public Improvement District; Directing the Filing of Proposed Assessment Rolls for said Public Improvement District; Approving the Publication of Notice of a Public Hearing to Consider an Ordinance Levying Assessments on Property Located within said Public Improvement District that is Specially Benefitted by the Improvements Being Financed; Directing City Staff to Publish and Mail Notice of said Public Hearing; and Resolving Other Matters Incident and Related Thereto; and Providing an Effective Date. ~ Jon Snyder, P3Works, LLC, City's PID Administrator

Mayor Pro Tem Koch brought forward Item No. 9 for discussion. Mr. Snyder presented the item. Mayor Mitchell returned to the dais at 7:49 p.m.

Mayor Pro Tem Koch moved to approve a Resolution of the City of Kyle, Texas Accepting a Preliminary Service and Assessment Plan for the Plum Creek North Public Improvement District; Directing the Filing of Proposed Assessment Rolls for said Public Improvement District; Approving the Publication of Notice of a Public Hearing to Consider an Ordinance Levying Assessments on City Council Meeting Minutes November 1, 2021 - Page 5 Kyle City Hall

Property Located within said Public Improvement District that is Specially Benefitted by the Improvements Being Financed; Directing City Staff to Publish and Mail Notice of said Public Hearing; and Resolving Other Matters Incident and Related Thereto; and Providing an Effective Date. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

10. Authorize award and execution of a Purchase Order to Rushworks in an amount not to exceed \$29,600.00 utilizing PEG funds, for the upgrade of servers and AV equipment used to record and broadcast public meetings on the internet and public access channel, inside council chambers. ~ *Matt Dawson, Director of Information Technology* 

Mayor Mitchell brought forward Item No. 10 for discussion. Mr. Dawson presented the item.

Council Member Ellison moved to authorize award and execution of a Purchase Order to Rushworks in an amount not to exceed \$29,600.00 utilizing PEG funds, for the upgrade of servers and AV equipment used to record and broadcast public meetings on the internet and public access channel, inside council chambers. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

 11. Authorize the Police Department to Purchase Four (4) Haenni Instruments WL101 Wheel Load Weigher Scales in an Amount Not to Exceed \$21,000 from Loadometer Corporation.
~ Jeff Barnett, Chief of Police

Mayor Mitchell brought forward Item No. 11 for discussion. Chief Barnett presented the item.

Council Member Ellison moved to authorize the Police Department to Purchase Four (4) Haenni Instruments WL101 Wheel Load Weigher Scales in an Amount Not to Exceed \$21,000 from Loadometer Corporation. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Mr. Sellers stated that this would help with the designation of truck routes within the city. He mentioned working with developers at construction sites regarding directing truck routes away from certain neighborhoods and arterials. Mr. Sellers said our goal was to implement truck routes on the loops and bypasses. He mentioned work with TxDOT to get Center Street designated as a non-truck route. He said this work would be a step in that direction as routes are designated within the city. Council Member Rizo stated that he couldn't agree more, and this will alleviate a lot for Buda and Kyle, and that he is looking forward to the future.

All votes aye; motion carried 7-0.

12. Consider amending the Project Management Services contract with K FRIESE & ASSOCIATES, INC., Austin, Texas to add two additional roads to their scope of work. ~ Leon Barba, P.E., City Engineer

Mayor Mitchell brought forward Item No. 12 for discussion. Mr. Barba presented the item.

Council Member Ellison moved to amend the Project Management Services contract with K Friese & Associates, Inc., Austin, Texas to add two additional roads to their scope of work. Council Member Rizo seconded the motion.

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There was discussion on the motion. Council Member Flores-Cale advised Mr. Floyd to keep his passion. She stated that the residents deserve that same passion and fire he had from the beginning. Council Member Flores-Cale asked that if he feels the City isn't being fair, to come to a Council meeting so they can work on that. Mr. Floyd stated the legal side doesn't always bring the passion out in the subject and that this was just the framework, and they aren't done yet. Council Member Rizo stated that he is looking forward to this project, setting the bar high for developers. He is looking forward to this high standard development in this area.

Motion carried 6-1 with Council Member Tobias dissenting.

15. Accept the withdrawal of the petition for annexation of 37.99 acres, more or less, of land located in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. (ANNX-21-0012) ~ *Will Atkinson, City Planner* 

Mayor Mitchell brought forward Item No. 15 for discussion. Mayor Pro Tem left the dais at 8:38 p.m. and did not return. Mr. Atkinson presented the item.

Council Member Ellison moved to accept the withdrawal of the petition for annexation of 37.99 acres, more or less, of land located in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

16. (Second Reading) An ordinance of the City of Kyle, Texas annexing 2.548 of land, more or less, located at 4750 Dacy Lane, 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. (ANNX-21-0011) ~ Will Atkinson, City Planner

City Council voted 5-1 to approve on first reading.

Mayor Mitchell brought forward Item No. 16 for discussion. Mr. Atkinson presented the item.

Council Member Rizo moved to approve an ordinance of the City of Kyle, Texas annexing 2.548 of land, more or less, located at 4750 Dacy Lane, 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. Mayor Mitchell seconded the motion. Motion carried 5-1 with Council Member Flores-Cale dissenting. Mayor Pro Tem Koch was absent for the vote.

18. Consideration and possible action to update the Stormwater Regulations ordinance to include more stringent requirements for construction concrete washout pits. ~ *Yvonne Flores-Cale, Council Member* 

Mayor Mitchell brought forward Item No. 18 for discussion and gave the floor to Council Member Flores-Cale.

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There was discussion on the motion. Council Member Tobias referenced a map provided in the presentation, specifically the circles at Kyle Parkway, Lehman, and Seton Parkway, and asked whether those are what he thinks they are. Mr. Barba stated yes. Council Member Tobias stated that he recently witnessed an accident at Kyle Parkway and Dacy. Mr. Barba stated that there was a formal study done at Kyle Parkway and Dacy Lane and stated there have been a number of accidents there. He guesstimated that the intersection would warrant a traffic signal at this time. Council Member Tobias stated that people are coming down the hill from Dacy Lane coming south, and he spoke about another accident on Lehman and FM 150. He stated that people are coming down the hill at a high rate of speed, there is nothing to stop them, at least if they know there will be a streetlight there is a concern. Council Member Tobias continued that people in that area trying to get out of Kensington Trails are just trying to pull out as fast as they can. Mr. Sellers stated that the City asked the Transportation Master Plan engineer to look at places where roundabouts make sense, and where there are hills, it does make sense, at Dacy and Kyle Parkway where there was the accident. He stated he would address the other accident referred to at Lehman and FM 150 this weekend, a vehicle at a signal turned left in front of a motorcycle, and the motorcycle riders were critically injured. Mr. Sellers continued that if a roundabout had been at that intersection, the accident would not have happened because it forces the right turn, whereas the signal forces a left turn. He stated he believes the vehicle that turned thought they had a green signal, but it turned in front of the motorcycle who had the right-of-way. Mr. Sellers stated that the transportation engineer concluded that by forcing vehicles to the right, the severity of an accident should one occur is significantly mitigated. He continued that last week the City did a mock-up of what a roundabout could look like there and found that it does fit very well with the space. He said because of the limited sight distance, the hill, etc., the City will have the subcontractors look at, but chances are they will recommend a roundabout. Council Member Tobias stated there is a large amount of traffic that goes through that area. He stated that he could maybe understand areas like Burleson, but this area is very populated with cars, trucks and commercial vehicles. Mr. Sellers stated that the roundabout will get more traffic through, for one, but will slow down the approach and make the intersection safer. He stated that cars coming down a hill to a signal will try to beat the light and will have to lock up their brakes if the light changes too quickly. The City wants to avoid the speeding up at an intersection and the roundabout will naturally do that. Mayor Mitchell asked as it relates to K Friese as the GEC, the last roundabout the City did had a lot of problems with the engineer and expectations, standards, which the City has adopted new standards. He would like to get a sense of what role K Friese would play in assuring everything the City assigns to them is meticulously and properly engineered for not only the current climate but future climates as well. He added also during construction, make sure that intersections and roads aren't being shut down. He asked whether that is under their purview or their subs purview. Mr. Barba stated it will be both, the City expects K Friese Associates to review the plans and meeting criteria established. The City expects the contract firm to make sure they follow the same rules and regulations set for them. Mr. Barba continued that he has a meeting with K Friese and Associates Wednesday to go over the details regarding expectations. Mayor Mitchell asked about the timing of construction. He mentioned the Kyle Parkway and Dacy intersection being scary, regardless of what kind of intersection it is. Mayor Mitchell asked if this is five years out are we sure we want to tie the intersection in this larger project or deal with this intersection as a standalone project and would it be faster. Mr. Sellers stated that either way, on this project, if we were to engage the engineer for just the roundabout or the full road, we could task the engineer with starting on phase 1 as the roundabout. He mentioned having City Council Meeting Minutes November 1, 2021 - Page 7 Kyle City Hall

them design the whole road but with this being their first priority. Mr. Barba stated that there is money in this year's budget for traffic signals and intersections. Mayor Mitchell stated he doesn't want to solve this problem and forget about the road. Mr. Barba stated his first recommendation was an all-way stop. Mr. Barba spoke about advanced warning signs. Council Member Rizo stated the quickest fix would be the stop signs and asked what the current speed limit is. Mayor Mitchell asked whether Council remembered what happened at Bunton and Dacy and said the traffic was backed up the hill. Mr. Sellers stated that the speed limit is 45 and that usually when installing new stop signs, it takes three to six weeks for traffic patterns to normalize. Council Member Rizo stated, for an intersection that is dangerous, we are looking at what we can do to mitigate and doing what is best for the citizens. He continued that most citizens would see and know that the City has their best interest at heart, and this is about identifying problem areas, making sure people are safe, and moving forward. Council Member Ellison stated that he appreciates the discussion, and agrees with Council's comments, particularly the mayor's and he believes some remediation is necessary now, until we get to the point of what that intersection will be, would be very beneficial for residents in that area.

All votes aye; motion carried 6-0. Council Member Flores-Cale was absent for the vote, but arrived back at 8:10 p.m.

13. Development Agreement Establishing Development Standards for the RPC Kyle, LLC and Kyle 120, LLC Development. ~ *Will Atkinson, City Planner* 

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

Mayor Pro Tem Koch moved to approve a Development Agreement Establishing Development Standards for the RPC Kyle, LLC and Kyle 120, LLC Development. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

14. (Second Reading) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 318 total acres (PUD Zoning - 256 acres to Single Family Attached 'R-1-A') (43.92 to Apartments Residential-3 'R-3-3') (18.38 acres to Retail Service District 'RS') for property located at 700 Bunton Lane and 800 Bunton Lane, in Hays County, Texas. (RPC Kyle, LLC and Kyle 120 LLC - Z-21-0088) ~ William Atkinson, City Planner

*P&Z voted 6-0 to recommend approval of the request.* 

City Council voted 6-0 to approve on first reading.

Mayor Mitchell brought forward Item No. 14 for discussion. Mr. Atkinson presented the item. Hunter Floyd, the applicant provided information about the project.

Council Member Rizo moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 318 total acres (PUD Zoning - 256 acres to Single Family Attached 'R-1-A') (43.92 to Apartments Residential-3 'R-3-3') (18.38 acres to Retail Service District 'RS') for property located at 700 Bunton Lane and 800 Bunton Lane, in Hays County, Texas. Mayor Pro Tem Koch seconded the motion.

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Mayor Mitchell moved to direct staff to bring back a standard detail as discussed to include more stringent requirements for construction concrete washout pits. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Ellison stated that he is in support. He stated that the agenda item states update the Stormwater Regulations Ordinance, so he was curious whether Council needs to approve new language. Ms. Roecker stated that they determined the standard detail would better accomplish their goal in a late meeting on a Friday and she was unable to update the agenda language.

All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

19. Discussion and possible action regarding the City of Kyle's Comprehensive Plan. ~ *Yvonne Flores-Cale, Council Member* 

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

Council Member Flores-Cale moved to bring back this item at the January 4, 2022 Council Meeting. Mayor Mitchell seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

### VII. Executive Session

- 20. 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.
    - Public Safety Center
    - Procurement Process
    - Code Enforcement Project
    - TIRZ Process
    - PUD Zoning
    - Kyle Uber \$3.14 Update
    - Heroes Memorial 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 Just Peachy
    - Project Brown
    - Project Root Beer

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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 - Public Safety Center; and Procurement Process."

The City Council convened into executive session at 8:56 p.m.

21. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 9:51 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now. Mayor Pro Tem Koch and Council Members Ellison and Rizo were absent.

#### VIII. Adjourn

Mayor Mitchell moved to adjourn. Council Member Flores-Cale seconded the motion. No vote was taken.

With no further business to discuss, the City Council adjourned at 9:51 p.m.

Attest:

hifer Holm, City Secretary