

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on September 7, 2021 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Kay Rush
Mayor Pro Tem Rick Koch	Consuelo Castillo
Council Member Dex Ellison (v)	Jeff Thompson
Council Member Yvonne Flores-Cale	Iris Tate
Council Member Robert Rizo	Mae Watts-Parrish
Council Member Ashlee Bradshaw (v)	Mark Jones
Council Member Michael Tobias	Ryan Rosborough
Scott Sellers, City Manager	John Dean
James Earp, Assistant City Manager	Jason Arechiga
Paige Saenz, City Attorney	Patrick Riordan
Jerry Hendrix, Chief of Staff	Daniel McElrath
Samantha Armbruster, Communications Dir.	Todd Kaiser
Grant Bowling, Video Production Specialist	George Karayannis
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Matt Dawson, IT Director	
Paul Phelan, Library Director	
Mariana Espinoza, PARD Director	
Howard Koontz, Community Dev Director	
Pedro Hernandez, Police Captain	
Tim Griffith, Police Lieutenant	
James Plant, Police Officer	
Harper Wilder, Director of Public Works	

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

Mayor Mitchell called the meeting to order at 7:30 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 - August 17, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - August 17, 2021. ~ *Jennifer Holm, City Secretary*
3. City Council Special Meeting Minutes - August 25, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tobias moved to approve the minutes of the August 17, 2021 Special Council Meeting, the minutes of the August 17, 2021 Regular Council Meeting, and the minutes of the August 25, 2021 Special Council Meeting. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

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

Mayor Mitchell opened citizen comments at 7:32 p.m.

Kay Rush was called to speak as registered. She spoke about her belief in God, Country, Truth, and Hard Work. She stated that she expects the Mayor and Council to tell her they have lowered her taxes, but that is not true. She stated the value of her land has increased \$20,000 and her home value has increased also. Ms. Rush continued that the City allows \$30,000 exemption for "old age," which is the same rate for 15 years. She stated that the elderly now have an exemption worth \$10,000, so Council has raised her taxes. She spoke about research performed with the help of the Hays County Tax Assessor's office and stated that under Texas Tax Code 11.261 the City of Kyle can do two things: Freeze taxes on the elderly. She stated Hays County has done this for ages 65 or disabled, and they have also provided an exemption of \$50,000 for the elderly and disabled, which the City of Kyle could do also. Ms. Rush said the City of Kyle does not have a homestead exemption. She asked for fair treatment for the Citizens of Kyle and to stop over-taxing the elderly and disabled in this city.

Consuelo Castillo, representing Capital Idea, a non-profit, was called to speak as registered in favor of Item No. 38. She stated that as the City continues to expand, she would like to see the City invest in its residents to contribute to their development and growth. She stated that Capital Idea is one of many non-profits that provide an investment for its attendees that triples within five years. She spoke about the ripple effect to their families and their community.

Jeff Thompson, representing Corridor Interfaith Alliance for Families, was called to speak as registered in favor of Item No. 38. He spoke about the board adding workload to the City Staff, but its importance and an added benefit of identifying the needs of the community.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:37 p.m.

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

4. 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*
  - Gathering of Kyles photo
  - Emergency Preparedness Fair
  - Public Safety Center groundbreaking
  - Squeeze Box event
  - Founders and Veterans Parade
  - Team Kyle News

Mayor Mitchell brought forward the City Manager's Report.

Ms. Armbruster spoke about and shared photos from the Gathering of Kyles event, the Emergency Preparedness Fair this coming Saturday, and the Public Safety Center groundbreaking.

Ms. Espinoza stated that this Sunday is the final Market Day, themed Squeeze Box, event of the season. She also spoke about the Founders and Veterans Parades and encouraged interested parties to put in their registration form.

Ms. Duran presented Team Kyle News, including staff who passed the Spanish Proficiency Exam, news on the Annual Awards Banquet, and new employees.

## V. Presentation

5. Hunger Action Month Mayoral Proclamation. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 5 for discussion and presented the proclamation.

Iris Tate with Hays County Food Bank spoke about the upcoming Turkeys Tackling Hunger. Hays County Commissioner Mark Jones, dressed as a turkey provided some information. Ms. Tate spoke about distributions on Tuesdays at the Kyle First Baptist Church. She also spoke about the need for volunteers. Mae Watts-Parrish was also in attendance. No action was taken.

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

Mayor Mitchell brought forward Item No. 6 for discussion. Mr. Barba presented the item. Mr. Earp provided information about sidewalks during the presentation. No action was taken.

## VI. Consent Agenda

Mayor Mitchell brought forward the Consent Agenda and pulled Item Nos. 10 and 14. He asked if there were any other items to be pulled. There were none. Council Member Ellison stated that Item No. 35 is to be postponed to the next meeting and that he wanted to provide notice in case anyone was here waiting for that item. Mayor Mitchell brought forward Item Nos. 7, 8, 9, 11, 12, and 13.

7. A Resolution of the City Council of the City of Kyle, Texas accepting the Cypress Forest Phase 3B Subdivision improvements: finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law. ~ *Leon Barba, P.E., City Engineer*
8. A Resolution of the City Council of the City of Kyle, Texas accepting the Cypress Forest Phase 4B Subdivision improvements: finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law. ~ *Leon Barba, P.E., City Engineer*
9. Authorize the Chief of Police to Execute a Memorandum of Understanding with the Office of the Texas Attorney General for the Purpose of Continuing Participation as a Member of Internet Crimes Against Children Task Force. ~ *Jeff Barnett, Chief of Police*

11. Authorize award and execution of a Purchase Order to CEDAR HILLS CONSTRUCTION, LLC, Leander, Texas, lowest and most responsible bidder, in an amount not to exceed \$456,665.99 which includes a five (5) percent contingency for the Schlemmer and Porter Wastewater, Phase 1 improvement project. ~ *Leon Barba, P.E., City Engineer*
12. Approval of Work Order #145535 between PEDERNALES ELECTRIC COOPERATIVE, INC., and the City of Kyle for an amount not to exceed \$29,876.51 for electrical service installation to Heroes Memorial Park located near intersection of Kohlers Crossing and FM 1626. ~ *Leon Barba, P.E., City Engineer*
13. Approve an Additional Service Request #3 with NUDGE DESIGN in an amount not to exceed \$9,500.00, increasing the total contract amount to \$656,200.00 for the design/engineering for an 8-inch reclaimed water line extension for Heroes Memorial Park. ~ *Leon Barba, P.E., City Engineer*

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

10. Approve an Engagement Agreement with Tim Austin of ALLEN BOONE HUMPHRIES ROBINSON LLP for TIRZ Consultant Services. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 10.

Mayor Mitchell moved to approve Item No. 10, with an amendment where it says TIRZ #3, it should be TIRZ #4. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Flores-Cale stated that her backup letter was not legible. Mr. Sellers stated that that is the line that has TIRZ #3. Council Member Flores-Cale asked whether Council has voted on TIRZ #4. The answer was no, Council has not. Mr. Sellers stated that this approval would begin the process of creating a TIRZ #4. Council Member Flores-Cale stated that a resolution creating the TIRZ has not yet been considered. Ms. Saenz stated that this approval will hire a consultant to prepare those documents. Council Member Flores-Cale asked if the City hires them and then Council does not create the TIRZ, will the City just lose money, and Mr. Sellers affirmed.

All votes aye; motion carried 7-0.

14. Discussion and approval of a Sludge Handling Services Agreement with Wastewater Transport Services. ~ *Harper Wilder, Director of Public Works*

Mayor Mitchell brought forward Item No. 14 for discussion.

Mayor Mitchell moved to postpone Item No. 14 to the next regularly scheduled Council meeting. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

## VII. Consider and Possible Action

15. Approval of the guaranteed maximum price in an amount not to exceed \$30,139,839.00 as proposed and guaranteed by BARTLETT COCKE GENERAL CONTRACTORS and authorization to issue notice to proceed for the construction of the City's Public Safety Center facility. ~ *Bob Farmer, AGCM*

Mayor Mitchell brought forward Item No. 15 for discussion. Mr. Ryan Rosborough presented the item in Mr. Farmer's absence.

Council Member Flores-Cale moved to approve Bartlett Cocke General Contractors to begin construction on a Public Safety Center using the original layout and floor plans originally obtained by the City in duplicates the City of College Station's Police Department. Motion failed for lack of second.

Council Member Tobias moved to approve the guaranteed maximum price in an amount not to exceed \$30,139,839.00 as proposed and guaranteed by Bartlett Cocke General Contractors. Mayor Pro Tem Koch seconded the motion.

There was discussion on the motion. Council Member Tobias amended his motion to include "and authorization to issue notice to proceed for the construction of the City's Public Safety Center facility". Council Member Flores-Cale asked whether this includes the plans in the backup material. She also asked whether every Council Member had reviewed those plans. She stated that the entire building was created without all of Council's consent. Council Member Ellison stated that he was excited to see that the guaranteed maximum price came in lower than \$37 million that was approved by the voters. He asked whether this price includes fixtures, furnishings, and equipment (FFE). Mr. Sellers stated that it does not include FFE. Council Member Ellison mentioned there is still capacity with what the voters approved for the furnishings. He asked if there was something unforeseen happens, he wants to make sure the City is still locked into this price. Mr. Rosborough stated that within the GMP, there are contingencies for things like escalation, which are built into this GMP. Council Member Ellison stated that this was a very long process, and there is always room for improvement and better communication. He stated that the reason he would not want to use the same College Station plans, is that they wanted to start with something already created, but then modify it to be unique to Kyle and the needs of our police department. He stated that Chief Barnett and Captain Hernandez were involved every step of the way. Council Member Ellison continued that this process began in 2018, and there was public engagement in 2019. He spoke about the opportunity arising with the TIRZ and Momark Development for the land and location. He also spoke about the firm hired to determine the size and other needs of the City's police department in 2018. Council Member Ellison continued speaking about the process of working in a governmental body, you don't get everything you want, but you push for everything you can. He spoke about the future growth and the work that went in long before it came to this item. He acknowledged the work that the police chief and captain put into this project. He spoke about the police department having been housed in its current location as a temporary place in 2011, and now it is 2021. He congratulated the Council on this achievement. He stated that this building will be the most unique that the City has ever built. He concluded that the residents deserve this, and the police department deserves this. Mayor Mitchell mentioned Captain Hernandez, one of the longest standing Kyle Employees, and a conversation

they had a couple of years ago about the police department building. He stated that talk is cheap, but now, two years later, the Council is taking the final vote to start building this building. He stated that he is honored and proud of this building. He mentioned Officer Dan Pruett having used this as an incentive in a recruiting event in Hutto. Mayor Mitchell continued that he agrees with the comments about compromise, finding a path to move this forward and solve a problem for the future generation. He is thankful and happy for that. Council Member Tobias spoke about a conversation with Officer James Plant years ago. He stated that he had mentioned that one day the City would have a new police department. He is proud to be a part of Council while this is taking place. He stated that this was desperately needed by the City, for our residents and for our police department. He spoke about the benefit of recruiting with this new facility. Council Member Flores-Cale asked whether Captain Hernandez and Officer Plant could have a word. Captain Hernandez stated that it is a very exciting time for the City and police department. Council Member Rizo stated that it has been a pleasure to work alongside Captain Hernandez and the task force and see this come to fruition. He stated that the citizens believe in and are investing in our police department. Mayor Pro Tem Koch stated that he is excited and this is more than two years in the making, and here we are. He is looking forward to the upcoming groundbreaking, gave his congratulations to the police officers, and stated that it is a great day in the City of Kyle. Council Member Ellison stated that he, Council Member Villalobos and Mayor Mitchell had a meeting with Captain Hernandez a couple of years ago about the possibilities of a new building. He spoke of previous Council Members, Scheel and Villalobos, and wanted to recognize their efforts for this project as well. Council Member Flores-Cale stated that she wishes she felt the same way as everyone else, but she also stated that the current building is in such terrible shape that it isn't sufficient for City Staff. She then asked how recruiting will be affected once officers know that they will share it with Council. Council Member Rizo stated that it is not right to put staff in a place of answering that question. Council Member Flores-Cale continued that the building should be for the police department alone. Council Member Rizo spoke about being proud of the Council's work and mentioned that it is a public safety center. He mentioned that eventually the police department will take up the entire building. He doesn't want to take away from this achievement.

Mayor Mitchell requested a roll call vote. Council Member Tobias voted aye; Council Member Flores-Cale voted aye; 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 aye. Motion carried 7-0.

16. Consider approval of a Site Specific Declaration of Covenants, Restrictions, and Easements for the Public Safety Center; and authorize the City Manager or Mayor to execute all documents necessary to accept conveyance of the Public Safety Center site. ~ *Paige Saenz, City Attorney*

Mayor Mitchell brought forward Item No. 16 for discussion. Ms. Saenz presented the item.

Council Member Rizo moved to approve Site Specific Declaration of Covenants, Restrictions, and Easements for the Public Safety Center; and authorize the City Manager or Mayor to execute all documents necessary to accept conveyance of the Public Safety Center site. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

17. Approval of an agreement with ECS SOUTHWEST, LLP in an amount not to exceed \$93,233.06 for materials testing in association with the construction of the City's Public Safety Center facility project. ~ *Bob Farmer, AGCM*

Mayor Mitchell brought forward Item No. 17 for discussion. Mr. Rosborough presented the item.

Council Member Ellison moved to approve an agreement with ECS Southwest, LLP in an amount not to exceed \$93,233.06 for materials testing in association with the construction of the City's Public Safety Center facility project. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Tobias asked about the process of testing the soil and groundwater conditions. Mr. Rosborough explained that the testing was already done during the geotechnical phase, but the phase moving forward is for independent materials testing, QA through construction, taking samples of poured concrete, soil compaction testing, and a whole variety of services they will be providing as required. Mayor Mitchell stated that this is a big part, just like with the Wastewater Treatment Plant, there was an independent third party for quality control, so no corners are cut. Mayor Mitchell asked whether this party reports to the City and who they represent. Mr. Rosborough explained that the party will report through them, and when a failed test comes through it gets flagged to go back to the general contractor who will be responsible for re-testing. The City is responsible for only one of each test.

All votes aye; motion carried 7-0.

18. Update on the Police Department's Citizens On Patrol program and to seek approval to increase the size of the program from four (4) to eight (8) members as discussed in the recent budget workshop. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 18 for discussion. Officer James Plant presented the item.

Council Member Rizo moved to approve an increase the size of the program from four (4) to eight (8) members as discussed in the recent budget workshop. Council Member Tobias seconded the motion.

There was discussion on the motion. Council Member Rizo stated that Citizens on Patrol have done so much for our community. He would love to see this program go forward and expand. Council Member Ellison stated that he appreciated the way the agenda item was written. He mentioned that this program is in great hands. He mentioned that in the Public Safety Center there will be space for this program. He spoke about public engagement, citizen involvement, education and outreach. He spoke about the additional four officers budgeted for in the coming year, and this great addition as well.

All votes aye; motion carried 7-0.

19. Approval of Transportation Master Plan. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 19 for discussion. Mr. Sellers introduced John Dean of CP&Y who was available for Council questions, and then presented the item. Ms. Saenz provided information about acquiring land for the roads.

Council Member Rizo moved to approve Agenda Item No. 19. Mayor Pro Tem Koch seconded the motion. Motion carried 6-1 with Council Member Tobias dissenting.

20. Presentation on a citywide trail master plan. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 20 for discussion. Mr. Sellers presented the item. No action was taken.

21. [Postponed 8/3/21] (*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) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

- Public Hearing

Mayor Mitchell left the dais at approximately 9:45 p.m. Mayor Pro Tem Koch brought forward Item No. 21 for discussion.

Mayor Pro Tem Koch opened the public hearing at 9:46 p.m. With no one wishing to speak, Mayor Pro Tem Koch recessed the public hearing at 9:46 p.m.

Jason Arechiga with NRP Group provided a presentation regarding Bebee Road Apartments.

Patrick Riordan with Journeyman Group also provided a presentation regarding vertical integrations and their company.

Mayor Pro Tem Koch moved to postpone this item until the first meeting in October and recess the public hearing for one month. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

22. Approve a contract with UBER TECHNOLOGIES, INC., to provide public transit services within the Kyle city limits and other areas as specified in the agreement. ~ *Jerry Hendrix, Chief of Staff*

Mayor Pro Tem Koch brought forward Item No. 22 for discussion. Council Member Tobias left the dais at approximately 10:08 p.m. A quorum in-person was lost. Mayor Pro Tem Koch stated this item will be postponed until the next regular meeting.



23. Public Hearing on the creation of the Kyle 57 Public Improvement District. ~ *James R. Earp, Assistant City Manager*

Mayor Pro Tem Koch brought forward Item No. 23 for discussion. Mr. Earp began presenting, but without a quorum, Mayor Pro Tem Koch called a five-minute recess at 10:10 p.m.

Mayor Mitchell called the meeting back to order at 10:19 p.m. Council Member Flores-Cale was absent, but returned at 10:20 p.m. All other members were present. Mayor Mitchell stated that there was a request to bring up the board ordinance and the appointments out of order. There were no objections.

30. *(Second Reading)* An Ordinance of the City of Kyle, Texas Amending the Code of Ordinances Sec 2-40. – Definitions, Sec. 2-43. - Term of Appointment, and Sec. 2-45 - Qualifications; Providing Exceptions; Providing an Effective Date; and Making Such Other Findings and Provisions Related Hereto. ~ *J. Scott Sellers, City Manager*

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

Mayor Mitchell brought forward Item No. 30 for discussion out of Order. Mr. Sellers presented the item.

Council Member Rizo moved to approve an Ordinance of the City of Kyle, Texas Amending the Code of Ordinances Sec 2-40. – Definitions, Sec. 2-43. - Term of Appointment, and Sec. 2-45 - Qualifications; Providing Exceptions; Providing an Effective Date; and Making Such Other Findings and Provisions Related Hereto. Mayor Pro Tem Koch seconded the motion.

There was discussion on the motion. Council Member Flores-Cale stated her concern is that if they are reappointing someone for a third term, is Council not accepting anyone new? She stated that the backup material includes original applications. She stated there was an email for Planning & Zoning Commission that was a mistake, which she would like to discuss. She read the email and the reply. Mayor Mitchell spoke about the board appointment policy which allows a pathway for reappointment. He spoke about the required chair recommendation for reappointment. He stated by policy currently, a reappointment recommendation negates an application process. He stated that this ordinance is not to change that policy, but instead to change from a maximum of four years of appointment to six years. Council Member Flores-Cale spoke about a need to reapply. Mayor Mitchell stated that their participation on that board is their application. She stated that as a new person she doesn't know the appointment. Council Member Ellison stated that the pathway to that would be to change the policy. He believes the policy should be updated. Council Member Flores-Cale asked Mr. Sellers to explain the email and stated that the email was very generic. Mr. Sellers stated that the generic application process online provides a generic response. He continued that Planning and Zoning appointments are established by Charter, and that situation has been corrected. Council Member Flores-Cale asked whether the automated response usually states that, "during the last City Council meeting..." Mayor Mitchell stated that he is not sure whether what was read is accurate, but assuming it is, it is incorrect to say that you will be automatically appointed to an additional term. He stated it is no more guaranteed than a second term, which is subject to the reappointment process. Council Member Flores-Cale stated that people have been under the impression that it is automatic. Mayor Mitchell stated they are mistaken. Council

Member Flores-Cale said that it was a Planning & Zoning Commission application, and it was an auto-reply about the Planning & Zoning Commission. Mayor Mitchell asked whether Council Member Flores-Cale understands that Council is not considering a Planning & Zoning appointment tonight. Council Member Flores-Cale stated that the process in this email, someone had the misunderstanding the Council had approved to allow all expired members who wish to be appointed a third term. She continued that during her last year on Council, no reappointment has ever been questioned. She stated that if Council is going to go off what Staff says, then Council doesn't need to even approve it. Council Member Rizo stated that the process still brings these appointments before Council and council members can reach out to the board chairs and the departments to inquire on performance and how much time they gave to the appointment. He stated there's more council can do and that he reaches out as well. He stated his concern that the email that went out could deter someone from applying, although he isn't saying that is what happened. Mr. Sellers stated that the City did issue an apology to the applicant.

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

31. Consideration of the reappointment of Amanda Stark to Seat 5 of the Park & Recreation Board for a two-year term to expire September 30, 2023. ~ *Mariana Espinoza, Director of Parks & Recreation*

Mayor Mitchell brought forward Item No. 31 for discussion. Ms. Espinoza presented the item and reintroduced Amanda Stark to Council. Ms. Stark received comments from Council.

Council Member Rizo moved to reappoint Amanda Stark to Seat 5 of the Park & Recreation Board for a two-year term to expire September 30, 2023. Council Member Tobias seconded the motion.

There was discussion on the motion. Council Member Tobias recommended boards meet with Council. Council Member Ellison seconded Council Member Tobias' comment. Mayor Mitchell stated that Ms. Stark may be surprised to know that Council is hungry for feedback from boards. He went on to speak of the length of tonight's agenda and each item takes an enormous amount. He agreed with Council Member Flores-Cales comments about being loud and stated that when he was first elected he wanted to have quarterly meetings with the boards and commissions. He continued that Council had one with Planning & Zoning, and that Council Member Ellison is correct – it is on the Council which hasn't been as pro-active to get everyone together. He spoke about the budget worksessions and the numerous reasons why those meetings haven't occurred, but Mayor Mitchell said it would be helpful when items are being taken up to be sure that Council hears how the Parks Board weighed in on any particular item. He stated that he is ready to dedicate time, and said it isn't a lack of want-to, it's a lack of capacity. He appreciated Ms. Stark's feedback.

All votes aye; motion carried 7-0.

32. Consideration of nominations for reappointments to the Library Board to fill expired terms.

~ *Paul Phelan, Director of Library Services*

- Morgan Harrell (for a second term)
- Susan Reyna (for a second term)
- Gracie Rocha (for a third term)

Mayor Mitchell brought forward Item No. 32 for discussion. Mr. Phelan presented the item.

Council Member Ellison moved to reappoint Morgan Harrell, Susan Reyna, and Gracie Rocha to the Library Board to fill expired terms. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

23. Public Hearing on the creation of the Kyle 57 Public Improvement District. ~ *James R. Earp, Assistant City Manager*

After the conclusion of Item No. 32, Mayor Mitchell brought back Item No. 23 for discussion.

Mayor Mitchell opened the public hearing at 10:52 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 10:52 p.m.

No action was taken.

24. Approve a Resolution of the City of Kyle, Texas, Authorizing and Creating the Kyle 57 Public Improvement District within the City of Kyle, Texas Pursuant to Chapter 372 of the Texas Local Government Code and Providing an Effective Date. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 24 for discussion. Mr. Daniel McElrath with Milestone Community Builders presented the item.

Council Member Rizo moved to approve a Resolution of the City of Kyle, Texas, Authorizing and Creating the Kyle 57 Public Improvement District within the City of Kyle, Texas Pursuant to Chapter 372 of the Texas Local Government Code and Providing an Effective Date. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

25. Approve a Deposit Agreement with Kyle Mortgage Investors regarding Proposed Kyle 57 Public Improvement District. ~ *James R. Earp, Assistant City Manager*

26. Approve an Agreement with Kyle Mortgage Investors Regarding the Dissolution of Kyle 57 Public Improvement District. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item Nos. 25 and 26 simultaneously. Ms. Saenz presented the items.

Mayor Mitchell moved to approve Item Nos. 25 and 26. Council Member Tobias seconded the motion.

There was discussion on the motion. Mayor Mitchell stated that he is hearing that within a year this is ready to go, or the dissolution will take place.

All votes aye; motion carried 7-0.

27. Approve a proposal from BARNES GROMATZKY KOSAREK ARCHITECTS (BGK Architects) in an amount not to exceed \$215,000 for professional services for Downtown Master Planning and city-wide Design Standards. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 27 for discussion. Mr. Sellers presented the item.

Mr. Todd Kaiser with BGK provided information on the item.

Council Member Tobias moved to approve a proposal from Barnes Gromatzky Kosarek Architects (BGK Architects) in an amount not to exceed \$215,000 for professional services for Downtown Master Planning and city-wide Design Standards. Council Member Rizo seconded the motion.

Council Member Tobias amended his motion to direct staff to bring back a budget amendment from the Land Development Fund. Council Member Rizo seconded the amendment.

Motion carried 6-1 with Mayor Mitchell dissenting.

28. Engage Honeywell on a Smart Cities initiative in an amount not to exceed \$25,000.00.  
~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 28 for discussion and gave the floor to Council Member Rizo. Mr. Sellers introduced George Karayannis who presented the item.

Mayor Mitchell moved to approve an agreement with Honeywell on a Smart Cities initiative in an amount not to exceed \$25,000.00. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Ellison asked whether there are other companies that provide these services, and if so, did the City use the bidding process. Mr. Sellers stated that there are multiple companies that do Smart Cities initiatives, and that the City has been approached by another company for a similar scope at twice-to-three-times the price. He stated that Council could choose to go to bid, if Council desires, but this is considered a special services agreement and bidding is not required. He continued that Honeywell has offered that if the City moves forward with a product that Honeywell offers, the dollar amount associated with this item will be applied as credit toward that product. Council Member Ellison asked why Honeywell was selected for this particular professional service. Council Member Rizo stated that Honeywell approached the City. He spoke about Honeywell's approach of using their federal lobbyist to help the City acquire federal funding for smart initiatives. Council Member Ellison asked Mr. Sellers to confirm that Honeywell approached staff about this. Mr. Sellers affirmed. Council Member Tobias asked whether we are asking Honeywell to work with the City's lobbyist to secure funding. Council Member Rizo stated that Honeywell has its own lobbyist. Mr. Karayannis stated that Honeywell would be working on a strategic plan for the City, and would seek funding from various federal sources and the utility Pedernales. Council Member Flores-Cale asked if it would be in the form of writing grants as well. Mr. Karayannis stated Honeywell would support the writing of the grant, but would not write the grant, as that is not in the scope. Council Member Flores-Cale asked Mr. Karayannis if he would explain what supporting the grant looks like. Mr. Karayannis said he would prefer not to. Council Member Ellison stated that Council is trying to determine what the

money is going to be used for. Mr. Karayannis clarified that Honeywell is proposing to facilitate the creation and implementation of a Smart Cities strategic plan. He continued that embedded in that plan would be several shovel-ready projects that would be submitted for federal funding and utility funding from Pedernales. He estimated between half a dozen and a dozen shovel-ready projects. He stated they haven't done the strategic planning yet, and so it is hard to say. Mr. Karayannis stated that the grant writing support – they will support, but cannot be the lead applicant for the grant application. He stated they will actively help because it is important to their business and they want to support the City of Kyle. Council Member Ellison reiterated that Council Member Flores-Cale asked what that would look like and that Mr. Karayannis had stated he could not describe that or give an example of that from other communities. Council Member Ellison asked what that support looks like, and that it is understood Honeywell will not write the grant. Mr. Karayannis stated that he will follow up with the City Manager, and it involves strategic advice, editing, and lobbying the City's representatives and various federal agencies to secure the grants that Honeywell will help the City submit. He described it as active support across that spectrum. Mr. Karayannis elaborated that Honeywell is providing strategic guidance through the development of the strategic plan and the crafting of each specific grant application. Council Member Ellison asked how nuanced Honeywell is on providing guidance for the grants. Mr. Karayannis spoke about their \$37 billion global company, and he is tasked with finding two or three cities across North America that want to team with Honeywell who will co-invest in those cities. He continued that he cannot see in great detail what that looks like, but for the current \$25,000 proposal, that is fully credited to any project, for the creation of the strategic plan that usually costs a quarter of a million dollars, they will invest in those cities that help Honeywell launch their business in North America. Council Member Tobias stated that it seems as though Items 27, 28, and 29 all tie in together, consultant services, just in different areas, and Council just approved the proposal for the architect. Mr. Sellers stated that staff is guided by planning processes. He spoke about Kyle turning a corner with its robust plans acting as "road maps" for staff. He spoke about this plan provided both large and small items, the small items being things staff can just plug in and get started, but the large items identified, the City can go and find the funds for. He spoke about smart light posts for the trail system, which would be a heavy lift if the City tried to do it itself. He stated that there are federal dollars available right now for these smart city initiatives that Council could assign to Item No. 29, the federal lobbyist to be our advocate. He stated that part of the scope of that lobbyist agreement is to be hands on with the writing of grants and requests for federal appropriations. He stated this is to engage Honeywell in creating a plan and the City would consider Honeywell a resource as it attempts to find the funds. Mr. Sellers continued that on the AMI meter and infrastructure project, Honeywell has offered not only their lobbyist team, but their grant writing team as well, retaining their own grant writing for the City of Kyle's use. Mr. Sellers stated that it is a project-by-project basis and there may be a fee put into that project for the grant writer. Mayor Mitchell mentioned that the difference between the first time and now, and why he was originally against it, is the idea that Council pays to develop these project scopes with the expectation that there's a multimillion-dollar capital project, then you weight the multimillion-dollar capital project against the needs of all these other capital projects and the meter-reading, the Smart Cities just didn't seem to rise to the level of the other needs. He stated that the way it has been proposed tonight, he can support this proposal because the \$25,000 is not for a grant writer, is not for a lobbyist, but is for a strategic plan. Council Member Ellison stated that a presentation that can answer the questions that were asked, his position is to seek a

company that the City does want to go all the way with. Council Member Flores-Cale stated that she would like to put cameras in strategic places. She feels this is a good start to that. She stated that use of a grant writer is huge for her. Council Member Rizo stated that if the City goes for bid, it will delay their start by weeks and months, meanwhile federal dollars are being expensed to other cities. He stated time is of the essence.

Mayor Mitchell requested a roll call vote. Mayor Pro Tem Koch voted aye; Council Member Rizo voted aye; Council Member Tobias voted aye; Council Member Ellison voted nay; Council Member Bradshaw voted aye; Mayor Mitchell voted aye; and Council Member Flores-Cale voted aye. Motion carried 6-1.

29. Approve an agreement with AKIN GUMP STRAUSS HAUER & FELD, LLP in the amount of \$172,000.00 for providing federal legislative advocacy services to the City of Kyle. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 29 for discussion. Mr. Sellers presented the item.

Mayor Pro Tem Koch moved to approve an agreement with Akin Gump Strauss Hauer & Feld, LLP in the amount of \$172,000.00 for providing federal legislative advocacy services to the City of Kyle. Council Member Rizo seconded the motion. Motion carried 5-2 with Council Members Tobias and Ellison dissenting.

After the vote, Council Member Ellison inquired about options for having a continued meeting. He stated his understanding is that Council can reconvene within 24 hours without having to repost the agenda or post a special meeting with 72 hours' notice. Ms. Saenz provided feedback.

Council Member Rizo moved to recess until 8:00 p.m. September 8, 2021. Council Member Flores-Cale seconded the motion. Motion carried 6-1 with Mayor Pro Tem Koch dissenting.

Council recessed at 12:18 a.m. on September 8, 2021.

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

Council Member Rizo called the meeting to order at 8:04 p.m. on September 8, 2021. Council Member Rizo asked the city secretary to call roll.

Present were: Council Member Ellison, Council Member Flores-Cale (virtually), Council Member Rizo. Mayor Mitchell, Mayor Pro Tem Koch, Council Member Bradshaw, and Council Member Tobias were absent. A quorum was not present.

Staff in attendance included:

Scott Sellers, City Manager  
Paige Saenz, City Attorney  
Grant Bowling, Video Production Specialist  
Jennifer Holm, City Secretary  
Diana Torres, Economic Dev Director  
Perwez Moheet, Finance Director (v)  
Harper Wilder, Director of Public Works (v)

The following items were not brought forward for discussion and no action was taken:

33. Discussion regarding proposed code changes to Sec. 11-176, Sec. 11-177, Sec. 41-136, Sec. 53-33 (Chart 4), Sec. 53-143 and provide direction to staff to pursue code amendments. ~ *Howard J. Koontz, Director of Planning and Community Development*
34. A Resolution of the City of Kyle, Texas accepting the petition for annexation of 2.548 acres of land, more or less, located at 4750 Dacy Lane, in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. (ANNX-21-0011) ~ *Howard J. Koontz, Director of Planning and Community Development*
35. Consider a request from the Southlake Ranch HOA to remove no parking signs on Granite Shoals Dr. ~ *Dex Ellison, Council Member*
36. Consider a request for a comprehensive plan amendment to add Warehouse 'W' and Construction Manufacturing 'CM' Zoning Districts to the 'Regional Node' Land Use District in the Comprehensive Plan, in the City of Kyle, Texas. (Caraway Cattle Co. Family Partnership – Z-21-0087) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to recommend approval.*

- Public Hearing

37. A Resolution of the City of Kyle, Texas accepting 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) ~ *Howard J. Koontz, Director of Planning and Community Development*
38. Discussion and possible action on implementing a process to create a Human Services Board/Commission to review, advise, and create an equitable and fair process for allocating grant funding to non-profits organizations serving in the Kyle area. ~ *Dex Ellison, Council Member*
39. Evaluation of expectations, from City Council and City Manager, when presenting direction of council, to staff. ~ *Yvonne Flores-Cale, Council Member*
40. Discussion and possible action to restructure official City task forces. ~ *Travis Mitchell, Mayor*

#### **VIII. Executive Session**


41. 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.

- Discussion regarding the City's task forces
  - TIRZ Consultant
  - Alexander Mediation
  - Belt Press and Sludge Hauling Service Agreements
  - Brick and Mortar District Roadway Funding
  - City Lights and Kyle Marketplace Subdivision/Development DA
  - FM 150 Zoning
  - 104 S. Burlison
  - Bebee Road Development Agreement
  - Event Contracts and COVID Policies
  - Heroes Memorial Park Construction Project
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 Fire Engine Red
    - Project Wild Strawberry
    - Project MBA
    - Project Just Peachy

42. Take action on items discussed in Executive Session.

#### IX. Adjourn

Council Member Rizo moved to adjourn due to lack of a quorum. Council Member Flores-Cale seconded the motion. No vote was taken. The meeting adjourned at 8:05 p.m. on September 8, 2021.

  
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Travis Mitchell, Mayor

Attest:

  
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Jennifer Holm, City Secretary