

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on January 4, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Diane Hervol
Council Member Dex Ellison	Kay Rush
Council Member Yvonne Flores-Cale	Martha Pinto
Council Member Robert Rizo	Steve Butler
Council Member Ashlee Bradshaw	Ryan Rosborough
Council Member Daniela Parsley	Larry Simone
Council Member Michael Tobias	Joe Cantalupo
Scott Sellers, City Manager	
James Earp, Assistant City Manager	
Jerry Hendrix, Assistant City Manager	
Amber Lewis, Assistant City Manager	
Paige Saenz, City Attorney	
Samantha Armbruster, Communications Dir.	
Grant Bowling, Video Production Specialist	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Kathy Roecker, SWMP Administrator	
Keshav Gnawli, Engineer I	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Matt Dawson, IT Director	
Paul Phelan, Library Director	
Mariana Espinoza, Parks & Recreation Director	
Benito Pareda, Parks & Trails Maint. Supervisor	
Senior Planner, William Atkinson	
Jeff Barnett, Chief of Police	
Harper Wilder, Director of Public Works	
Julie Crookston, Asst. Director of Public Works	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:13 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Council Member Ellison, Council Member Flores-Cale, Council Member Rizo, Council Member Bradshaw, Council Member Parsley, and Council Member Tobias. A quorum was present.

II. Approval of Minutes

1. City Council Special Meeting Minutes - December 16, 2021 at 5:30 p.m. ~ *Jennifer Holm, City Secretary*
2. City Council Special Meeting Minutes - December 16, 2021 at 6:00 p.m. ~ *Jennifer Holm, City Secretary*

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

3. City Council Special Meeting Minutes - December 16, 2021 at 7:00 p.m. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tobias moved to approve the minutes of the December 16, 2021 Special 5:00 meeting, December 16, 2021 Special 6:00 meeting minutes, and the minutes of the Special 7:00 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 7:15 p.m.

Diane Hervol was called to speak as registered. She stated that she has a few questions regarding Item No. 14. She asked whether the City of Kyle provides water to Monarch and also stated that there was no public outreach about this contract. She stated that in the past they have paid a flat rate for wastewater because Monarch was unable to report to the City the amount of water used. She stated they were told it was a better deal, but she would like to meet with someone at the City to find out whether it truly is a better deal. She mentioned the calculation showing as a Monarch customer in within the city limits of Kyle, pay more than \$600 dollars more than a Kyle utility customer would. She said Kyle's base rate includes 2,000 gallons and a Monarch receives zero. She said she understands the formalities on the agenda but would like this explained to her.

Kay Rush was called to speak as registered. She spoke on Item No. 14. She stated that she thinks the Council and city manager do not know the history with Monarch. She spoke about T-Conn going up for sale, but the City declined to purchase it. Monarch took over these customers and immediately raised the rates. There was a lawsuit by Amberwood and other ratepayers, which was successful. She spoke about the Council approving the first agreement that raised rates, and now this new agreement allows for a rate increase again. She compared her invoice from Monarch to what it would be as a City of Kyle customer.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:21 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*
 - January 17 Martin Luther King, Jr. Holiday
 - Hays County MLK Day Celebration (Jan. 16th) and forthcoming City of Kyle MLK Day proclamation on January 18th

Mayor Mitchell brought forward the City Manager's Report.

Mr. Sellers spoke about the January 17 Martin Luther King, Jr. Holiday and gave the floor to Council Member Ellison who presented on the Hays County MLK Day Celebration (Jan. 16th); and forthcoming City of Kyle MLK Day proclamation on January 18th. Mr. Sellers then stated that Communications had put together a video recapping the 2021 accomplishments. The video was shared. No action was taken.

V. Presentation

5. Presentation by the Hays County Master Naturalists. ~ *Mariana Espinoza, Director of Parks & Recreation*

Mayor Mitchell brought forward Item No. 5 for discussion. Ms. Espinoza introduced Martha Pinto representing Hays County Master Naturalists Group, who presented the item. No action was taken.

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

Mayor Mitchell brought forward the CIP/Road Projects. Mr. Barba presented the item. Mr. Wilder provided information about Bunton Creek Lane paving progress. He said the black base has been brought in for the compaction and that paving should start by the end of the week or early next week. Communication to the citizens explaining process of street paving for future projects was agreed upon. Mayor Mitchell requested to send out communication on the current project as well. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward the Consent Agenda and asked whether there were any items to be pulled. Council Member Ellison pulled Item No. 14. Council Member Rizo asked to convene into Executive Session on Item No. 14. Council Member Tobias requested to convene into Executive Session on Item No. 14. Council Member Flores-Cale moved to convene into executive session for Item Nos. 11 and 14. Mayor Mitchell stated his preference to first deal with the consent items that are not being pulled. Mayor Mitchell brought forward Item Nos. 7, 8, 9, 10, 12, 13, and 15 for consideration.

7. Authorize award and execution of a Purchase Order to AUSTIN TURF AND TRACTOR in an amount not to exceed \$20,095.50 for the purchase of (1) Ventrac tiller and (1) Ventrac Boom Mower through Buy Board Purchasing Cooperative 611-20 for the Parks and Recreation Department. ~ *Mariana Espinoza, Director of Parks & Recreation*
8. Authorize award and execution of a Purchase Order to RDO EQUIPMENT CO. in the amount not to exceed \$114,873.19 for the purchase of (1) 2022 John Deere 310L Backhoe through the Buy Board Purchasing Cooperative 597-19 for the Parks and Recreation Department. ~ *Mariana Espinoza, Director of Parks & Recreation*
9. Approve Task Order No. 2 to MEAD & HUNT, INC., a Wisconsin Corporation with their local office being in Austin, Texas in the amount not to exceed, \$16,163.00 for the preparation and processing for a new Industrial (Stormwater) Wastewater Permit Application. ~ *Kathy Roecker, Stormwater Management Plan Administrator*
10. Authorize a reimbursement in an amount not to exceed \$97,050.00 to the Brooks Ranch Phase 1 Subdivision project for upsizing approximately 2,603 linear feet of wastewater line and removing and replacing 177 linear feet of wastewater line. ~ *Leon Barba, P.E., City Engineer*

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

12. *(First Reading)* Approve an Ordinance regulating traffic, authorizing, and directing the installation and erection of a stop sign for traffic control at the intersection of Ranger Drive and Gregg Drive in the city limits of Kyle. ~ *Leon Barba, P.E., City Engineer*
13. Approval of Underground Agreement, Utility Easement, and Work Order #150083 between PEDERNALES ELECTRIC COOPERATIVE, INC., and the City of Kyle for an amount not to exceed \$16,720.68 for electrical service installation to La Verde Park. ~ *Leon Barba, P.E., City Engineer*
15. Authorize the first amendment to lease agreement with Dallas MTA, L.P., d/b/a Verizon Wireless, for the installation and maintenance of telecommunications equipment and appurtenances; use of certain rights-of-way for purposes of access. ~ *Harper Wilder, Director of Public Works*

Council Member Rizo moved to approve Consent Agenda Item Nos. 7, 8, 9, 10, 12, 13, and 15. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

After the vote, Council Member Ellison asked whether Item No. 12 could be finally passed. With no objections, Item No. 12 was finally passed.

After clarification by Ms. Saenz regarding language to enter executive session, Mayor Mitchell stated that Council would go into executive session on Agenda Item Nos. 11 and 14 to consult with legal counsel. The Council convened into executive session at 7:49 p.m.

Mayor Mitchell called the meeting back to order at 8:32 p.m. He announced that no action was taken in executive session and no action would be taken now.

11. Authorize award and execution of a contract with HDR ENGINEERING, INC., Austin, Texas in an amount not to exceed \$19,740.00 for a flood study of the area bound by Plum Creek, North Burluson, and Marketplace Avenue. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No. 11 for discussion and gave the floor to Council Member Flores-Cale who pulled the item. Mr. Barba presented the item.

Council Member Flores-Cale spoke about GAP Strategies being a d/b/a, and she stated the legal name is Dandy Planning, LLC.

Council Member Flores-Cale moved to authorize award and execution of a contract with HDR Engineering, Inc., Austin, Texas in an amount not to exceed \$19,740.00 for a flood study of the area bound by Plum Creek, North Burluson, and Marketplace Avenue. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

14. Consider approval of an extension to the Rate Stabilization Agreement between Monarch Utilities I L.P. and City of Kyle. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 14 for discussion. Mr. Sellers presented the item.

Council Member Rizo moved to postpone an extension to the Rate Stabilization Agreement between Monarch Utilities I L.P. and City of Kyle until the next regularly scheduled meeting. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

There was discussion on the motion. Council Member Tobias stated that he would like his questions answered on this item and allow the residents to review the contract as well. He said they would like to make sure that it is clear for the residents so that they have full understanding.

VII. Consider and Possible Action

16. Authorize the City Manager to negotiate an agreement with A&E DESIGN GROUP, INC., Buda, Texas, an architectural consulting firm, to provide architectural and design services including completion of shovel-ready plans, specifications, and construction/bid documents for a new Senior Activity and Community Center facility to be constructed on City-owned land and to bring back an agreement with all terms and conditions including contract amount for City Council's approval at a future Council meeting. ~ *Jerry Hendrix, Assistant City Manager*

Mayor Mitchell brought forward Item No. 16 for discussion. Mr. Hendrix presented the item. Steve Butler provided information about the square footage calculations and the schematic. Ryan Rosborough with AG|CM provided information on the item as well. Larry Simone, President of the Kyle Area Senior Zone, provided background about their search for a building design.

Mayor Mitchell moved to authorize the City Manager to negotiate an agreement with A&E Design Group, Inc., Buda, Texas, an architectural consulting firm, to provide architectural and design services including completion of shovel-ready plans, specifications, and construction/bid documents for a new Senior Activity and Community Center facility to be constructed on City-owned land and to bring back an agreement with all terms and conditions including contract amount for City Council's approval at a future Council meeting. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

17. Consider and possible action to approve Work Authorization #1.0 with K FRIESE + ASSOCIATES, Austin, Texas in an amount not to exceed \$1,466,783.82 for Project Management Services. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No. 17 for discussion. Mr. Barba presented the item. Joe Cantalupo with K Friese & Associates provided information about the item. Mr. Sellers provided details about the locations of these road projects.

Council Member Rizo moved to approve Work Authorization #1.0 with K Friese + Associates, Austin, Texas in an amount not to exceed \$1,466,783.82 for Project Management Services. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

18. Discuss and take possible action to approve a Resolution authorizing the submittal of one or more DR-4586 HMGP applications to the Texas Division of Emergency Management, authorizing the City Manager to act as the City's authorized representative in all matters pertaining to the application, and committing matching funds. ~ *Harper Wilder, Director of Public Works*

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

Mayor Mitchell brought forward Item No. 18 for discussion. Mr. Wilder introduced Julie Crookston who presented the item.

Council Member Ellison moved to approve a Resolution authorizing the submittal of one or more DR-4586 HMGP applications to the Texas Division of Emergency Management, authorizing the City Manager to act as the City's authorized representative in all matters pertaining to the application, and committing matching funds. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

19. *(First Reading)* An ordinance of the City of Kyle, Texas annexing 102.1599 acres of land, more or less, located at the north corner of SH-21 & E FM 150, Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City of Kyle. (FM Rd 812, LLC - ANNX-21-0013) ~ *Will Atkinson, Senior Planner*

- Public Hearing

Mayor Mitchell brought forward Item No. 19 for discussion. Mr. Atkinson presented the item.

Mayor Mitchell opened the public hearing at 9:46 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:46 p.m.

Council Member Rizo moved to approve an Ordinance of the City of Kyle, Texas annexing 102.1599 acres of land, more or less, located at the north corner of SH-21 & E FM 150, Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City of Kyle. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

20. *(First Reading)* An ordinance of the City of Kyle, Texas, annexing 201.377 acres of lane, more or less located at 1899 Six Creeks Blvd., Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City of Kyle. (Blanco River Ranch Properties, LP - ANNX-21-0014) ~ *Will Atkinson, Senior Planner*

- Public Hearing

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

Mayor Mitchell opened the public hearing at 9:51 p.m. With no one wishing to speak, Mayor Mitchell left the public hearing open at 9:51 p.m.

Mayor Mitchell moved to postpone an Ordinance of the City of Kyle, Texas, annexing 201.377 acres of lane, more or less located at 1899 Six Creeks Blvd., Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City of Kyle. Council Member Ellison seconded the motion. All votes aye; motion carried 7-0.

21. Discussion and possible action regarding the City of Kyle's Comprehensive Plan. ~ *Amber Lewis, Assistant City Manager*

Mayor Mitchell brought forward Item No. 21 for discussion. Ms. Lewis presented the item. No action was taken.

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

22. Discuss Options for the Marker for Sarah Dahlstrom at the Corner of Old Stagecoach Rd and RM 150. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 22 for discussion and gave the floor to Council Member Ellison. Ms. Lewis provided information as well. No action was taken.

23. Discussion and direction regarding currently open board seat applications. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward and presented Item No. 23. Mr. Sellers, Mr. Atkinson, Ms. Lewis, and Mr. Hendrix provided information.

Council Member Flores-Cale moved to wait until a new policy is in place before filling any currently open board seat applications. Council Member Tobias seconded the motion.

There was discussion on the motion. Council Member Rizo stated that Council should acknowledge that we are living in this time of COVID and when people get sick, it is a different time. He spoke about not knowing when it will get to you. He stated that Council must decide whether it's their will that if people are sick, decisions will not be made and there will be delays. He continued that it isn't because people want to get sick or that they don't want to show up to a scheduled meeting. Council Member Ellison stated that this is a difficult decision. He stated that in tackling the Board of Adjustment issue, would Council Member Flores-Cale be amenable to allowing for alternatives to be filled for those places. Council Member Flores-Cale stated that this board is full. Council Member Ellison stated that Board of Adjustment is a slightly different issue and staff is looking for an opportunity to assist this board with a razor thin margin. He sees it as an exception to the board and commission policy. Council Member Flores-Cale said she is amenable for this one to keep from holding the residents up. She asked whether they can be virtual. Ms. Saenz stated that you must have a quorum present, which would be four in person for Board of Adjustment. Mayor Mitchell stated that this item is to address open, posted board seats. These seats were posted, and applications were received before we brought forward ideas of changing policy. Council decided to take action for creating a new policy. He stated for the sake of the current boards without a full body and the people who have applied for those positions, Council must make a decision. Council Member Ellison stated that he is torn but thinks he knows which way he will go. He thanked Council Member Tobias for his words on this item. He will be highly scrutinizing the proposed policy. He stated the challenge is that he doesn't know what the group will bring forward and whether or not current applicants can be salvaged.

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

24. Consider nominations for selection of Mayor Pro Tem. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward and presented Item No. 24.

Council Member Tobias moved to nominate Council Member Rizo for Mayor Pro Tem. Council Member Flores-Cale seconded the motion.

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

There was discussion on the motion. Council Member Ellison stated he had great admiration for Council Member Rizo and thanked Council for taking this decision so strongly. He stated that it seemed passive last year.

Motion carried 6-1 with Council Member Ellison dissenting.

25. Consider appointment of one member of the Kyle City Council to the Executive Board of the Combined Emergency Communications Center. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 25 for discussion. Mr. Sellers presented the item.

Mayor Pro Tem Rizo moved to approve the appointment of Council Member Ellison to the Executive Board of the Combined Emergency Communications Center. Council Member Tobias seconded the motion.

All votes aye; motion carried 6-1 with Council Member Ellison dissenting.

26. Appoint a representative to the CAPCOG Clean Air Coalition. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 26 for discussion and gave the floor to Mayor Pro Tem Rizo.

Mayor Mitchell moved to reappoint Mayor Pro Tem Rizo to serve as representative to the CAPCOG Clean Air Coalition. Council Member Bradshaw seconded the motion. All votes aye; motion carried 7-0.

Mayor Pro Tem Rizo moved to appoint Council Member Flores-Cale as his alternate. Mayor Mitchell seconded the motion. All votes aye; motion carried 7-0.

27. Yearly review and possible revision of the Rules of Council according to Resolution No. 1176. ~ *Yvonne Flores-Cale, Council Member*

Mayor Mitchell brought forward Item No. 27 for discussion and gave the floor to Council Member Flores-Cale.

Council Member Ellison moved to direct staff to work with legal counsel to bring back language that would be comparative to the Texas Open Meetings Act language in order to provide an arbiter for when there's a dispute about a requested agenda item from a council member to refer to the City Attorney whose ruling shall be final. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Flores-Cale stated that if this was an isolated incident about the Mayor Pro Tem item that would be one thing, but this happens to her all the time. She is trying to make her life easier while she serves on Council. She stated that the Rules say the agenda item will be added. She does not think it is fair that a Council Member would have to go through an arbiter process to add an agenda item. Council Member Ellison stated that he understands this motion does not address the issue of her items being at the bottom of the agenda. Council Member Flores-Cale stated that she has cc'd the City Attorney like it was going out of style. She does not want to argue every single time she wants to add a controversial item on the

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

agenda. Mayor Mitchell stated that there is uniqueness about certain items that come forward for the agenda. Council Member Flores-Cale stated that she has been treated differently and she wants to be treated equally and the same as everyone else. She stated that she brought these same Rules of Council up to Mr. Sellers in her first meeting. She stated that it is not the mayor's job to decide whether or not an item should be on the agenda.

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

Mayor Mitchell moved to remove a scrivener's error by striking "A Council Member" on page 4, section E3. Mayor Pro Tem Rizo seconded the motion. All votes aye; motion carried 7-0.

Council Member Flores-Cale moved to remove reference to "Mayor" in Sec. B of Rules of Council. Motion failed for lack of second.

28. Discussion of City processes and procedures, regarding action taken by the City when acting upon legal advice. ~ *Yvonne Flores-Cale, Council Member*

Mayor Mitchell brought forward Item No. 28 for discussion and gave the floor to Council Member Flores-Cale. Ms. Saenz provided information related to the item. No action was taken.

29. 2022 Visioning Workshop planning and scheduling. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward and presented Item No. 29. No action was taken.

VIII. Executive Session

30. 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.
 - Cause No. 20-2048; Save Our Springs Alliance, Inc., et al. v. City of Kyle City Council Members in their Official Capacities, in the 453rd Judicial District, Hays County, Texas
 - Task Force Policy
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 Black Corral

City Council Meeting Minutes
January 4, 2022
Kyle City Hall

There was no executive session.


31. Take action on items discussed in Executive Session.

IX. Adjourn

Mayor Mitchell moved to adjourn. No vote was held.

With no further business to discuss, the City Council adjourned at 11:58 p.m.

Attest:


Travis Mitchell, Mayor


Jennifer Holm, City Secretary