

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on January 18, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Julie Snyder
Mayor Pro Tem Robert Rizo	Vanessa Westbrook
Council Member Dex Ellison	Tracy Scheel
Council Member Yvonne Flores-Cale	Allen Ross
Council Member Ashlee Bradshaw (V)	Patrick Reardon
Council Member Daniela Parsley	
Council Member Michael Tobias	
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	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Matt Dawson, IT Director	
Paul Phelan, Library Director	
Mariana Espinoza, Parks & Recreation Director	
Stacy Anderson, Parks Maintenance Technician	
William Atkinson, Senior Planner	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Krissi Milliken, Emergency Comm. Manager	
Harper Wilder, 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, Mayor Pro Tem Rizo, Council Member Ellison, Council Member Flores-Cale, Council Member Bradshaw, Council Member Parsley, and Council Member Tobias. A quorum was present.

II. Approval of Minutes

1. City Council Special Meeting Minutes - January 4, 2022. ~ *Jennifer Holm, City Secretary*
2. City Council Regular Meeting Minutes - January 4, 2022. ~ *Jennifer Holm, City Secretary*

*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.

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tobias moved to approve the minutes of the January 4th, 2022 Special Council Meeting and the minutes of the January 4th, 2022 Council Meeting. Mayor Pro Tem Rizo seconded the motion.

There was discussion on the motion. Council Member Flores-Cale stated that on Item No. 11, the legal name is Dandy Planning, LLC, and the IE should be removed.

Mayor Mitchell moved to amend the minutes to remove IE before Dandy Planning, LLC. Council Member Flores-Cale seconded the motion.. All votes aye; motion carried 7-0.

After the vote on the amendment, Mayor Mitchell took the vote for the original 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.

Julie Snyder, CEO of the Kyle Area Chamber of Commerce was called to speak as registered in favor of Item Nos. 23 and 24. She stated that the Chamber's board is very excited about the Vybe. She stated that the Chamber has talked about adopting an area of the Vybe. She spoke about it not only bringing outside dollars into the community but also the attraction of bringing Vybe users to those business complexes. She said there was a lot of possibilities. Some ideas that have come forward already are adopt a spot, golf cart charging station, and pet watering station. She stated that the Chamber is excited to offer their services and partnership.

Vanessa Westbrook was called to speak as registered. She spoke about the senior center. She thanked Council and asked them to accept their invitation for lunch on Tuesdays. She stated that at the senior center now and in the future the seniors will engage their spirits, their minds, and their hearts. She spoke about the awareness about what seniors can do, and people have questions about what they can do, and they are accepting donations. There are over 600 members, and they cannot get a third of them in the current building. She said a senior is not the senior that you thought a senior was.

Tracy Scheel was called to speak as registered. She was glad to see Item No. 30 on tonight's agenda. She stated the boards and commissions are struggling, especially the P&Z. After reading the documents, she has some questions about the Council lead. The interview will have the council member from that district on the panel. She posed if there's a candidate from District 2 and from District 4 does that mean that only Districts 2 and 4 will be on the panel. She asked Council to consider filling the spot not just based on district representation. She also posed the issue of differing panels between candidates. She asked how the Council could recommend someone when they didn't interview all four of them and weren't a part of the process for all four. Ms. Scheel stated she had no issues with volunteering for city functions. She read aloud one of the guidelines and said it states once appointed the member/commissioner agrees to serve at one city event per year. Ms. Scheel asked what qualified for a city event and can you force someone to volunteer.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:24 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*
 - National Pie Day - Jan 23
 - Dialogue for Peace and Progress - Feb 4
 - Award for Financial Reporting
 - Team Kyle News

Mayor Mitchell brought forward the City Manager's Report.

Ms. Armbruster announced National Pie Day on January 23rd. Council Member Ellison stated that the first of this year and fifth overall Dialogue for Peace and Progress will be on February 4th from 7:00 - 8:30 p.m.

Mr. Moheet discussed the Award of Excellence in Financial Reporting by the GFOA as received by the City for the eleventh time. He provided background information about the award and the report that is useful for research and due diligence on the City of Kyle. Ms. Duran provided Team Kyle News to include new hires.

V. Presentation

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

Mayor Mitchell brought forward Item No. 4 for discussion and gave the floor to Council Member Ellison, who presented the proclamation. No action was taken.

5. A Resolution of the City Council of the City of Kyle, Texas in Support of the Hays County Master Naturalists. ~ *Robert Rizo, Mayor Pro Tem*

Mayor Mitchell brought forward Item No. 5 for discussion and gave the floor to Mayor Pro Tem Rizo.

Mayor Pro Tem Rizo moved to approve a Resolution of the City Council of the City of Kyle, Texas in Support of the Hays County Master Naturalists. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

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

Mayor Mitchell brought forward the CIP/Road Projects and Consent Agenda. Mr. Barba presented the update. Council Member Bradshaw left the meeting at approximately 7:43 p.m. She returned at approximately 7:48 p.m. 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. 10. Council Member Flores-Cale pulled Item No. 11 and 16. Council Member Ellison also pulled Item No.12. Mayor Mitchell pulled Item No. 15. Mayor Mitchell brought forward Item Nos. 7, 8, 9, 13, and 14 for consideration.

7. Approval of Underground Agreement, Utility Easement, and Work Order #147093 between PEDERNALES ELECTRIC COOPERATIVE, INC., and the City of Kyle for an amount not to exceed \$31,480.65 for electrical service installation to Kyle Public Safety Center. ~ *Bob Farmer, AGCM Project Manager*
8. Authorize award and execution of a Purchase Order to McGRAY & McGRAY, LAND SURVEYORS, INC., Austin, Texas in an amount not to exceed \$18,116.00 for topographic services for the Center Street and South Street Quiet Zone project. ~ *Leon Barba, P.E., City Engineer*
9. Authorize Award and Execution of a Purchase Order to SMART CHARGE AMERICA in an Amount Not to Exceed \$26,500 for the Purchase Electric Vehicle Charging Stations and Related Installation for the Public Safety Center. ~ *Jeff Barnett, Chief of Police*
13. Approve contract Task Order No. 4 to CP&Y, INC., Austin, Texas, in an amount not to exceed \$95,741.00 for the purpose of providing preliminary engineering services for evaluating and recommending an alignment for the Wastewater Treatment Plant Interceptor Phase 1 and 2 ~ *Leon Barba, P.E., City Engineer*
14. Authorize award and execution of a Purchase Order to GLOBAL INDUSTRIAL in the amount not to exceed \$13,480.00 for the purchase of (1) Floor Scrubber through Buy Board Purchasing Cooperative 657-21 for the Parks and Recreation Department. ~ *Mariana Espinoza, Director of Parks & Recreation*

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

10. Authorize the Mayor to Execute and Enter Into a Memorandum of Understanding with Hays County in an Amount Not to Exceed \$10,300 Due in Fiscal Year 2023 for the Purpose of Funding and Implementing Citizen Online Reporting Software Entitled Desk Officer Reporting System and Identified Herein as Coplogic Solutions Provided by LexisNexis. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 10 for discussion and gave the floor to Council Member Ellison who pulled the item. Chief Barnett presented the item.

Mayor Pro Tem Rizo moved to authorize the mayor to execute and enter into a Memorandum of Understanding with Hays County in an amount not to exceed \$10,300 due in Fiscal Year 2023 for the purpose of funding and implementing Citizen Online Reporting Software Entitled Desk Officer Reporting System and identified herein as Coplogic Solutions Provided by LexisNexis. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

11. Approve a contract with EASTER SEALS CENTRAL TEXAS, formerly TIBH INDUSTRIES, INC., Austin, Texas, through Workquest in an amount not to exceed \$54,855.00, as the contractor for litter pick up and grass cutting on Interstate 35 using Easter Seals of Central Texas as the service provider. ~ *Chance Padier, Environmental Services & Trades Division Manager*

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

Council Member Flores-Cale moved to approve a contract with Easter Seals Central Texas, formerly TIBH Industries, Inc., Austin, Texas, through Workquest in an amount not to exceed \$54,855.00, as the contractor for litter pick up and grass cutting on Interstate 35 using Easter Seals of Central Texas as the service provider. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

12. A Resolution by the City Council of the City of Kyle, Texas to approve and adopt grant procedures for the City when the City is a recipient of Federal and/or State funding. ~ *James Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 12 for discussion and gave the floor to Council Member Ellison who pulled the item. Mr. Earp presented the item.

Council Member Ellison moved to approve a Resolution by the City Council of the City of Kyle, Texas to approve and adopt grant procedures for the City when the City is a recipient of Federal and/or State funding. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

15. Discussion and Possible Action Regarding Equipment and Services for Radio and Telephone Operations for the Kyle Public Safety Center to be Provided by the Lower Colorado River Authority (LCRA). ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 15 for discussion. He stated that he does not need Chief Barnett to provide any presentation and asked if there were any motions.

Mayor Pro Tem Rizo moved to approve Equipment and Services for Radio and Telephone Operations for the Kyle Public Safety Center to be Provided by the Lower Colorado River Authority (LCRA). Council Member Flores-Cale seconded the motion.

Motion carried 6-1 with Mayor Mitchell dissenting.

16. Right of Entry License Agreement between Mountain Plum, Ltd., and City of Kyle. ~ *Paige Saenz, City Attorney*

Mayor Mitchell brought forward Item No. 16 for discussion and gave the floor to Council Member Flores-Cale who pulled the item. Ms. Saenz presented the item.

Council Member Flores-Cale moved to approve a Right of Entry License Agreement between Mountain Plum, Ltd., and City of Kyle. Mayor Pro Tem Rizo seconded the motion. All votes aye; motion carried 7-0.

VII. Consider and Possible Action

17. *(First Reading)* An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2017 mid-term comprehensive plan by to amend approximately 535 acres of land from 'Farm District' to 'East FM 150 Employment District' and 42 acres of land to the

'Regional Node' for certain parcels located northwest of the intersection of SH-21 and E. FM 150. ~ *William Atkinson, Senior Planner*

P&Z Commission voted 4-0 to recommend approval to expand the Regional Node (as shown in the comprehensive plan document), and 3-1 to create the E FM 150 Employment district, with an amendment to include scaling of appropriate development adjacent to the church, school, and nearby single-family neighborhood.

- Public Hearing

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

Mayor Mitchell opened the public hearing at 8:17 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:17 p.m.

The presentation continued. Mayor Pro Tem Rizo stated that he has a family member who owns 46 acres of this parcel. Ms. Saenz advised Mayor Pro Tem Rizo to recuse himself. Mayor Pro Tem Rizo recused himself and left the dais at 8:18. Mr. Atkinson continued his presentation.

Council Member Tobias moved to deny an Ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2017 mid-term comprehensive plan by to amend approximately 535 acres of land from 'Farm District' to 'East FM 150 Employment District' and 42 acres of land to the 'Regional Node' for certain parcels located northwest of the intersection of SH-21 and E. FM 150. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Mayor Mitchell asked for clarification if the motion would extinguish a grocer or meat market. He said he thought they had just approved annexation for them to come in. Mayor Mitchell stated a comp plan is the weirdest place to kill a comp plan amendment because it's not zoning. He said if you need to go into executive session to confirm, that is the case then that's fine. He said if he was mistaken, and it wasn't the case, then I stand corrected. Council Member Flores-Cale stated that there are already two gas stations and a car wash that was to go in as well as a meat market. Council Member Tobias asked if by approving this if they would be shooting down the opportunity for retail services to be out there moving forward. He said he is understanding if Council doesn't approve, it would all be warehouse space and distribution. Mayor Mitchell spoke about regional node zoning as the best zoning. He said if retail services aren't recommended, then a prospect cannot apply for retail services. He stated that there are a lot of uses including multi-family, it doesn't mean that is appropriate for that area but would consider retail services. He continued that if the Council does not amend the Comprehensive Plan, then then they can't even apply. Mayor Mitchell said if we deny the amendment, then we are denying retail services. Mr. Atkinson stated that Mayor Mitchell is correct and provided clarification about the area north of the intersection and said that part was already regional node. He continued that the area to the south of FM 150 and west of Hwy 21 is the regional node they were expanding. Mr. Atkinson said if there is going to be a grocer at north corner of 150 and 21 that part is already there. Mayor Mitchell stated that if Council is willing, he would recommend Council approve the regional node expansion then later hold more discussion on an employment district within the Comprehensive Plan. Council Member Flores-Cale asked if the grocer, gas station and car wash were already in place. Council Member Flores-Cale stated that once the Comprehensive Plan goes

through and the residents support this regional node there, then the Comprehensive Plan can change. She stated that this is not a permanent decision. Mr. Atkinson warned Council about the timing of the denial. Council Member Flores-Cale stated that she affirms her second. Ms. Lewis stated that the Planning & Zoning Commission took up the items separately, and Council may want to mirror their action so that way it wouldn't stop any progress. She said P&Z has an application for zoning for the regional node that doesn't match the Comprehensive Plan, and in order to zone them, they have to tie that back to the Comprehensive Plan according to state statute. She said they were wanting to match the Comprehensive Plan to the request that is out there, so they didn't lose that prospect. Council Member Flores-Cale stated that she is interested matching the Comprehensive Plan to what her residents want and then she requested Mayor Mitchell to call the question.

Mayor Mitchell stated the question had been called, a non-debatable motion.

Mayor Mitchell requested a roll call vote on whether to cease debate. Council Member Tobias voted aye; Council Member Parsley voted aye; Council Member Flores-Cale voted aye; Council Member Bradshaw voted aye; Mayor Pro Tem Rizo was registered as recused; Mayor Mitchell voted nay; and Council Member Ellison voted nay. Motion carried 4-2.

Mayor Mitchell called a roll call vote on the motion to deny. Council Member Bradshaw voted nay; Mayor Pro Tem Rizo was registered as recused; Mayor Mitchell voted nay; Council Member Tobias voted aye; Council Member Ellison voted nay; Council Member Flores-Cale voted aye; and Council Member Parsley voted aye. Motion failed 3-3.

Mayor Mitchell stated he would like to take the items up separately.

Mayor Mitchell moved to approve the regional node of this comprehensive plan amendment. Council Member Ellison seconded the motion.

There was discussion on the motion. Council Member Ellison stated he appreciated P&Z's leadership on dividing the items. He said he was in favor of a regional node. He said that intersection is a major part of what that tool is created for. Council Member Flores-Cale asked for clarification about mirroring Planning & Zoning. Mayor Mitchell stated he would like to bring forward the portion addressing regional node. He discussed options for the Council to convene into executive session on the portion addressing employment district portion if they would like, vote, or table that portion.

Mayor Mitchell requested a roll call vote. Council Member Flores-Cale voted nay; Council Member Parsley voted nay; Mayor Pro Tem Rizo was registered as recused; Mayor Mitchell voted aye; Council Member Ellison voted aye; Council Member Tobias voted nay; and Council Member Bradshaw voted aye. Motion failed 3-3

Mayor Pro Tem Rizo returned to the dais at 8:43 p.m. Council Member Ellison left the dais at 8:43 p.m.

18. *(Second 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*

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

Mayor Mitchell brought forward Item No. 18 for discussion. Mr. Atkinson presented the item.

Mayor Mitchell 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. (FM Rd 812, LLC - ANNX-21-0013) Council Member Flores-Cale seconded the motion.

All votes aye; motion carried 6-0. Council Member Ellison was absent for the vote.

19. *[Postponed 1/4/2022] (First Reading)* An ordinance of the City of Kyle, Texas, annexing 201.377 acres of land, 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 (left open on 1/4/2022)

Mayor Mitchell brought forward Item No. 19 for discussion.

Mayor Mitchell stated that the public hearing was left opened on January 4, 2022. He reopened the public hearing at 8:45 p.m. With no one wishing to speak, Mayor Mitchell left the public hearing open at 8:45 p.m.

Mayor Mitchell moved to postpone an Ordinance of the City of Kyle, Texas, annexing 201.377 acres of land, 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 to February 15. Council Member Flores-Cale seconded the motion.

All votes aye; motion carried 6-0. Council Member Ellison was absent for the vote.

20. A Resolution of the City of Kyle, Texas accepting the petition for annexation of 176.023 acres of land, more or less, located at 5260 Hillside Terrace, in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. (Hillside Terrace/Porter Country - ANNX-21-0015) ~ *Will Atkinson, Senior Planner*

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

Council Member Bradshaw left the dais at 8:47 p.m. Council Member Ellison returned to the dais at 8:48 p.m.

Council Member Flores-Cale moved to approve a Resolution of the City of Kyle, Texas accepting the petition for annexation of 176.023 acres of land, more or less, located at 5260 Hillside Terrace, in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. Mayor Pro Tem Rizo seconded the motion.

All votes aye; motion carried 6-0. Council Member Bradshaw was absent for the vote.

21. A Resolution of the City of Kyle, Texas accepting the petition for annexation of 82.951 acres of land, more or less, located on FM 2001, approximately 500' north of Windy Hill Road, in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. (Hillside Terrace/Porter Country - ANNX-21-0016) ~ *Will Atkinson, Senior Planner*

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

Council Member Bradshaw returned to the dais at 8:55 p.m.

Mayor Mitchell moved to approve a Resolution of the City of Kyle, Texas accepting the petition for annexation of 82.951 acres of land, more or less, located on FM 2001, approximately 500' north of Windy Hill Road, 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 7-0.

22. Approval of an engineering proposal from Schaumburg & Polk for preliminary engineering services for The Vybe trail network in the amount of \$397,000. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 22 for discussion. Mayor Mitchell left the dais at 8:56 p.m. Mr. Sellers presented the item. Mayor Mitchell returned to the dais at 8:57 p.m. Mr. Sellers introduced Allen Ross with Schaumburg & Polk who presented the proposal and project. Ms. Saenz provided information about the contract. Mr. Moheet provided information about funding.

Council Member Tobias moved to postpone an engineering proposal from Schaumburg & Polk for preliminary engineering services for The Vybe trail network in the amount of \$397,000. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Ellison asked whether the motion is to postpone to a date certain. Council Member Tobias stated his intent is to direct staff to identify other funding sources for the trails and contract. Mayor Pro Tem Rizo stated that it is also to bring back revisions to the contract. Ms. Saenz stated that there is a motion and a second, so there needs to be an amendment.

Council Member Tobias asked for a friendly amendment to direct staff to bring back other funding for the contract. Council Member Flores-Cale stated to include contract amendments as well. Council Member Flores-Cale was agreeable to the amendment. Mayor Mitchell stated that the motion to postpone is not to a date certain but will be brought back when staff is ready. Council Member Tobias stated this was to look at other funding sources for the contract. Mayor Pro Tem Rizo stated right now we are just looking at the contract.

Council Member Ellison stated that there have been a couple of motions made and he would like Council to be clearer what the expectation of staff is. Mayor Mitchell stated it is to come up with a proposal to cover that stretch of the Vybe outside of the Parks bond. Mayor Mitchell stated the funding source is not Parks Bond funds. He stated there is money for the east side trail, but there

is no way to know how much this will cost until we go through this process. He stated if we were required to use the park development fund, that would be one thing. Mr. Sellers stated that this preliminary engineering report is to bring back what the cost of the trail. He said they had very broad estimates on the cost. He said they would need the preliminary engineering report. He stated there are too many questions until we have this report. Mayor Mitchell stated that he believes this report will help Council to answer questions. He doesn't mind negotiating that. Council Member Flores-Cale stated that she would like to see a solid contract in place. She stated that she would like to see it back at the next Council Meeting.

Council Member Tobias rescinded his motion.

Mayor Mitchell moved to postpone to the next regularly scheduled council meeting and to give the city attorney and staff direction to engage with the representative in the contract as discussed. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

23. *(First Reading)* An ordinance amending Chapter 41 (Subdivisions) of the City of Kyle, Code of Ordinances for the purpose of modifying Sec. 41-1 Definitions (Municipal Utility Easement); Sec. 41-137 Streets, Sec. 41-139 – Crosswalks, Sec. 41-143 Sidewalks & Sec. 41-146 Streetlights, for the purpose of adding requirements for the city-wide trail system (The Vybe). ~ *Will Atkinson, Senior Planner*

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

- Public Hearing

Mayor Pro Tem Rizo made a motion to take up Item Nos. 23, 24, and 25 simultaneously. The motion died from a lack of a second.

Mayor Mitchell brought forward Item No. 23 for discussion. He asked Council whether they would want to bring forward all these items simultaneously. Discussion took place about whether to continue with these items or postpone them based on the previous item not having been approved. Council discussion ensued about creating rules for a project that has not yet been funded. Ultimately, Mayor Mitchell brought forward the items for discussion. Mr. Atkinson presented the item.

Mayor Mitchell opened the public hearing at 9:42 p.m.

Patrick Reardon, with Jeremy Group was called to speak. He expressed concerns that he has not seen the final version of PUD document that the Planning & Zoning Commission voted on this evening. He said they need to complete their portions privately, across their properties meaning design, build, and fund, and would maintain in perpetuity. They could not get a COO until this item is 100% complete, which requires them to build it at the first step. He stated that it includes multiple family buildings, some retail on ground floor. Mr. Reardon spoke of development facing Bebee Road. He continued that normally they build the first building and the clubhouse or leasing center or amenities. He stated that after the 500 units they would get the final COO from the City. He stated that the City could give the developer confidence on the development side, the city needs to figure out the funding and solid. He stated that otherwise the City will have pieces of trail with no continuity in between. He also had a question for the attorney - liability for this portion that the

developer is supposed to build and maintain. He said the City needs to provide indemnity to the developer for accidents that happen on this public trail. Otherwise, he stated that they are excited about this project. He spoke about herringbone, other materials, and they are working with the City. He stated that they need more support from the City because they would like to get started.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 9:47 p.m.

Mayor Pro Tem Rizo moved to approve an Ordinance amending Chapter 41 (Subdivisions) of the City of Kyle, Code of Ordinances for the purpose of modifying Sec. 41-1 Definitions (Municipal Utility Easement); Sec. 41-137 Streets, Sec. 41-139 – Crosswalks, Sec. 41-143 Sidewalks & Sec. 41-146 Streetlights, for the purpose of adding requirements for the city-wide trail system (The Vybe) Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Mayor Mitchell stated that he would like to see staff bring back some of the revisions as discussed for second reading.

All votes aye; motion carried 7-0.

24. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Code of Ordinances for the purpose of modifying Sec. 53-33(n)(4) Parking, Sec. 53-892 Districts and Boundaries, adding Sec. 53-900, and amending Exhibit A, Plum Creek Planned Unit Development, Art. II, Section 1, for the purpose of adding requirements for the city-wide trail system (The Vybe). ~ *Will Atkinson, Senior Planner*

P&Z voted to approve the exhibits as written with one amendment. The amendment is to allow a maximum of 20% of the parking to be replaced with golf cart parking, with a maximum of 26 golf cart spaces.

- Public Hearing

Mayor Mitchell brought forward Item No. 24 for discussion. Mr. Atkinson presented the item.

Mayor Mitchell opened the public hearing at 9:59 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:59 p.m.

Mayor Mitchell moved to approve an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Code of Ordinances for the purpose of modifying Sec. 53-33(n)(4) Parking, Sec. 53-892 Districts and Boundaries, adding Sec. 53-900, and amending Exhibit A, Plum Creek Planned Unit Development, Art. II, Section 1, for the purpose of adding requirements for the city-wide trail system (The Vybe) and amend a contract. Council Member Flores-Cale seconded the motion.

All votes aye; motion carried 7-0.

25. An Ordinance of the City of Kyle, Texas, amending Chapter 47, Article I, by amending Section 47-1 definitions; amending Article VI, by amending Section 47-182 Permitted Locations of Operation, and Section 47-183 Registration Permit; and providing for related matters. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 25 for discussion. Chief Barnett presented the item.

Mayor Pro Tem Rizo moved to approve an Ordinance of the City of Kyle, Texas, amending Chapter 47, Article I, by amending Section 47-1 Definitions; amending Article VI, by amending Section 47-182 Permitted Locations of Operation, and Section 47-183 Registration Permit; and providing for related matters, amending speed limits to a maximum of 25 miles per hour. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

26. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 15.542 acres of land to 'PUD MXD' for property located at 5839 Kyle Parkway, in Hays County, Texas. CTC Residential LLC (Z-21-0091) ~ *William Atkinson, Senior Planner*

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

- Public Hearing

Mayor Mitchell brought forward Item No. 26 for discussion. Mr. Atkinson presented the item.

Mayor Mitchell opened the public hearing at 10:15 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 10:15 p.m.

Council discussion and staff presentation continued. Council Member Bradshaw left the meeting at approximately 10:16 p.m. She returned at 10:18 p.m. Mr. Sellers also provided information on this item.

Mayor Pro Tem Rizo moved to approve an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 15.542 acres of land to 'PUD MXD' for property located at 5839 Kyle Parkway, in Hays County, Texas. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Ellison asked whether it is currently zoned Retail Services. Mr. Atkinson affirmed. Council Member Ellison then asked if it was Council Member Flores-Cale's advocacy to keep the retail services and questioned her comments made about the highest and best use. Council Member Flores-Cale stated that she would dislike seeing apartments there. She continued that full-fledged apartment make her nervous. Mayor Pro Tem Rizo asked if she wanted everything on the bottom floor to be retail, he asked about the areas away from the road. Council Member Flores-Cale stated that at minimum she would like to see Mixed Use. Mayor Mitchell stated that in the best Mixed Use, they don't have all ground floor retail that is based on the market and support. He stated that Council has been pursuing Mixed Use and integration for a very long time.

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

Mayor Mitchell then stated that he would recuse himself from the next item. He stated for the record he would be filing a conflict-of-interest affidavit. Mayor Mitchell left the dais at 10:27 p.m.

27. (First Reading) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 45.5 acres of land from 'RS' to 'PUD' (RS – 19 acres, MXD – 26.5 acres) for property located at 20139 IH-35, in Hays County, Texas. (City of Kyle - Z-21-0092) ~ *William Atkinson, Senior Planner*

- Public Hearing

Mayor Pro Tem Rizo brought forward Item No. 27 for discussion. Mr. Sellers introduced the history of the item and then turned over the presentation to Mr. Atkinson.

Mayor Pro Tem Rizo opened the public hearing at 10:35 p.m. With no one wishing to speak, Mayor Pro Tem Rizo closed the public hearing at 10:35 p.m.

Council discussion and staff presentation continued.

Council Member Flores-Cale moved to approve an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 45.5 acres of land from 'RS' to 'PUD' (RS – 19 acres, MXD – 26.5 acres) for property located at 20139 IH-35, in Hays County, Texas. (City of Kyle - Z-21-0092) Mayor Pro Tem Rizo seconded the motion. Motion carried 5-1

After the vote, Mayor Pro Tem Rizo called for a recess at 10:48 p.m. Mayor Mitchell left the meeting at 10:51 p.m. Mayor Pro Tem Rizo called the meeting back to order at 10:59 p.m.

28. A Resolution of the City of Kyle, Texas, Amending Resolution Number 1176 And Restating the City of Kyle Rules of City Council, Providing for Meetings, Agenda, Council Proceedings, Reconsideration of Agenda Items; Parliamentary Procedure, Debate, Decorum, and Citizen Participation at Meetings; Making Findings of Fact; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*

Mayor Pro Tem Rizo brought forward Item No. 28 for discussion. Ms. Saenz presented the item.

Council Member Flores-Cale motioned to break into executive session regarding personnel matters pursuant to section 551.074 of the Texas Government Code. Ms. Saenz advised that the subject matter of the particular employee had to be listed on the agenda to be discussed.

Council Member Flores-Cale moved to add a section 5 under Section B to stated, "The City Manager shall approve all meeting agendas." Council Member Parsley seconded the motion.

There was discussion on the motion. Council Member Ellison said his concern was that this would be taking one part of the language from the sentence in Section 3.07, he asked why they wouldn't put the exact language within the Charter in the rules. Council Member Ellison stated that he does not see this change will solve Council Member Flores-Cale's issue because if there was a conflict with the City Manager then she would still not have an arbiter. Council Member Ellison stated that this is a very serious issue that Council Member Flores-Cale brought up. He stated that his items too have shown up at the end of the agenda for his five years of service. He continued that the charge of not getting her items on, was only backed up by an example on the first December meeting of last year. He stated that if the Council had approved an amendment to require the City Attorney to provide an opinion every time an agenda item was denied, then Council would be

aware. He stated that no other examples were provided. Council Member Ellison addressed the Council, that on December 1st of 2020, the mayor requested the Mayor Pro Tem item to be on the agenda and it was added. Council voted to wait until the runoff. Then Mayor Mitchell won the runoff, and the item came back on December 15. Council Member Ellison stated that the same thing should have happened in 2021 that happened in 2020. He stated that he has spoken with legal. He went through all the exceptions: He stated Council Member Flores-Cale should have had her item on the agenda placed on the December 6, 2021 meeting. Council Member Ellison stated that he doesn't know why Council Member Flores-Cale would have wanted to bring it forward again except for political reasons, but still she had the right to do that. He continued that he has spoken with the Mayor who expressed contrition about it, but if this method had been in place, the Council would have been made aware of the egregious act that took place. He stated that his heart aches because this should not have happened. He feels like this option is not repetitive. He stated that there are tools at Council's disposal. He stated that Council Member Flores-Cale previously stated that Council can only hold the city manager accountable but that is not true. There's the ethics commission and Council is a judge of its own members according to Charter Section 3.05. He stated that this should not happen to any council member ever. He stated that if all these things had been in place and the city attorney still denied her item, then she could make an ethics complaint against that individual. He stated that if this had happened to him, he would have filed an ethics complaint, and any other staff member that colluded, it would be against them too. He is reluctant to pick and choose language out of the Charter that the citizens have voted on. He implored council to put in a rule in to place council agenda items at the top of the agenda section to solve that problem. This other amendment language will prevent this from ever happening to another council member. Council Member Parsley stated that she thinks these changes will help the City Council. She reviewed other cities Rules of Council. She thinks that since the Charter says city manager or the mayor that there is no need for the mayor if the city manager has reviewed. Council Member Tobias stated that the Charter states that the mayor is required - in Section 3.07 - he asked Ms. Saenz to confirm what the Charter states. Council Member Ellison stated that the last part of 3.07 states, "The Mayor or City Manager shall approve meeting agendas and a Council Member may require any item related to city business to be placed on an agenda for which notice may be given.". Mayor Pro Tem Rizo states that if the city manager is out of town, he thinks that is why it is mayor or city manager so that the City doesn't come to a stand-still. He stated that when Council has agenda items, they can send to either/or - you don't have to send to both. Council Member Flores-Cale stated that she has not sent an agenda item to the mayor, only to the city manager and she is still having this issue. She wants someone held accountable to approve the agenda. She stated that the agenda setting is set out by the Rules of Council, not the Charter. She stated that she appreciates the suggestions made but would like to protect anyone sitting on the dais, so others do not have to experience what she has. She said she will vote yes to Council Member Ellison's amendments. She stated others have been fortunate enough to not have to deal with this. She spoke about the Public Safety Center and stated that it was bigger than the Mayor Pro Tem item. She thought it was a good idea to also add the only reference to the agenda in the Charter to the Rules of Council. Council Member Ellison stated that at the last meeting she only mentioned the items being added to the end of the agenda and the issue about her item not being added to the agenda. He stated that if there was another item, Council didn't know about it, but with this addition Council would know about it. He stated if he saw something egregious, he might file on her behalf. He would like to have the Rules be consistent with the Charter rather than pick

words out. He continued that it doesn't matter whether it's the mayor or the city manager, one could do nefarious things. Council Member Ellison reiterated that this amendment offers accountability.

Mayor Pro Tem Rizo asked Council Member Flores Cale to restate her motion that was on the floor.

Council Member Flores-Cale restated her motion.

Council Member Flores-Cale moved to add a section 5 under Section B to stated, "The City Manager shall approve all meeting agendas." Council Member Parsley seconded the motion.

Mayor Pro Tem Rizo called for a Roll Call vote.

Mayor Pro Tem Rizo voted nay; Council Member Bradshaw voted nay; Council Member Ellison voted nay; Council Member Tobias voted nay; Council Member Parsley voted aye; Council Member Flores-Cale voted aye; and Mayor Mitchell was absent for the vote. Motion failed 2-4.

Council Member Ellison asked if the Mayor had recused himself. Mayor Pro Tem Rizo stated the Mayor was not feeling well so he left. He said the Mayor had stated that to him at the beginning of the meeting and during the break.

Council Member Tobias moved to add a section after Presentations stating "City Council discussion and possible action" as a new line item before the consent agenda. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Ellison stated that the reason he proposed the top of the section, is because the Mayor may change the order of the agenda sections and then the Council Items section could be moved to the end anyway. He proposes to have Council Items at the top of Consider and Possible Action. Council Member Tobias stated that he understands the frustration of having the items at the very end, he said it is twelve o'clock at night and we still have items to go through. He said this is trying to facilitate and not so much speed up the meetings. He stated that he has to take consideration for everyone who is here, everyone who is watching. He wants to make sure that everyone is heard. He is trying to find a way to make it balance. Mayor Pro Tem Rizo spoke about a time limit. If Council puts all Council items at the beginning that will take up the time that business should be getting done. He spoke about Council's passion and stated that we are getting close to midnight and trying to figure out zoning ordinances. Council Member Tobias rescinded his motion.

Council Member Tobias rescinded his motion. Council Member Flores-Cale seconded his motion to rescind. The motion was withdrawn.

Council Member Flores-Cale moved to put Council sponsored agenda items at the top of whatever heading they are under. Council Member Tobias seconded the motion. Motion carried 5-1 with Council Member Bradshaw dissenting.

Council Member Flores-Cale moved to approve the verbiage all council requested agenda items submitted and accordance with Sections B1 and B2 that pertain to city business and that are not otherwise prohibited from being placed on the agenda by these rules, the city Charter, city

ordinance, or applicable state law will appear on the agenda for the meeting. In the event of a disagreement regarding whether a council requested agenda item should appear on the agenda, the Mayor, the City Manager, the Council Member may request an opinion from the city attorney who's ruling shall be given in writing and shared with the Mayor, City Manager, and City Council. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

29. Council direction of staff to schedule joint meetings with boards/commissions to discuss visions, goals, expectations, and efforts of collaboration for the year as previously discussed at May 4th 2021 council meeting (item #31). ~ *Dex Ellison, Council Member*

Mayor Pro Tem Rizo brought forward Item No. 29 for discussion and gave the floor to Council Member Ellison. Council Member Bradshaw left the meeting at approximately 12:08 a.m. Council agreed to meet on each board's regularly scheduled meeting night beginning with the four following boards: P&Z, Parks, Library, and Economic Development. No action was taken.

30. Discussion and possible action to adopt Boards and Commissions Policies and Procedures. ~ *Yvonne Flores-Cale, Council Member*

Mayor Pro Tem Rizo brought forward Item No. 30 for discussion and gave the floor to Council Member Flores-Cale. Council Members Tobias and Parsley read portions of the proposed policy. No action was taken.

31. A Resolution of the City of Kyle, Texas, Establishing Rules and Guidelines for the Creation, Duties, and Dissolution of City Council Appointed Task Forces and Providing for General Powers and Duties, Providing for Qualifications for Appointment, Providing for the Appointment of Officers, and Providing for Other Related Matters. ~ *Dex Ellison, Council Member*

Mayor Pro Tem Rizo brought forward Item No. 31 for discussion and gave the floor to Council Member Ellison. Mr. Hendrix provided information on the item.

Council Member Tobias moved to approve a Resolution of the City of Kyle, Texas, Establishing Rules and Guidelines for the Creation, Duties, and Dissolution of City Council Appointed Task Forces and Providing for General Powers and Duties, Providing for Qualifications for Appointment, Providing for the Appointment of Officers, and Providing for Other Related Matters. Council Member Ellison seconded the motion.

There was discussion on the motion. Mayor Pro Tem Rizo spoke about the importance of task forces. He spoke about the Public Safety Center task force and the product it brought. He stated over time, too many task forces were created. Council Member Parsley left the dais at 1:09 a.m. and returned at 1:12 a.m. He stated he is glad that Council Member Ellison brought this forward. He stated that task forces are good for the big projects. He said he felt these task force policies were going to be important. He thanked everyone for their work concerning this.

All votes aye; motion carried 5-0.

VIII. Executive Session

32. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Savannah Development Agreement
 - Convenience Store Ordinance
 - Bebee PUD
 - LCRA Equipment and Services
 - CTC Residential LLC (Z-21-0091)
 - Public Safety Center
 - Mary Kyle Hartson Plaque
 - La Verde Park
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 3. Personnel matters pursuant to Section 551.074.
 - Planning Director Position
 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 Wild Strawberry
 - Project Shamrock

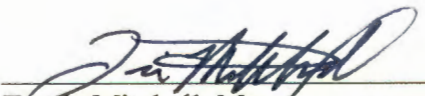
There was no Executive Session.

33. Take action on items discussed in Executive Session.

IX. Adjourn

Mayor Pro Tem Rizo moved to Adjourn. Council Member Tobias seconded the motion. No vote was taken.

With no further business to discuss, the City Council adjourned at 1:13 a.m.



Travis Mitchell, Mayor

Attest:



Jennifer Holm, City Secretary