

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on July 19, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Vanessa Westbrook
Mayor Pro Tem Robert Rizo	Tommy Kosarek
Council Member Dex Ellison	Makayla Ponce
Council Member Yvonne Flores-Cale	Narsis Holmes
Council Member Ashlee Bradshaw	Justin Belmore
Council Member Daniela Parsley	Kevin Pierce
Council Member Michael Tobias	
Jerry Hendrix, Acting City Manager	
James Earp, Assistant City Manager	
Amber Lewis, Assistant City Manager	
Paige Saenz, City Attorney	
Rachel Sonnier, Interim Communications Dir.	
Grant Bowling, Video Production Specialist	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Victoria Vargas, Interim Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Matt Dawson, IT Director	
Paul Phelan, Library Director	
Mariana Espinoza, Parks & Recreation Director	
William Atkinson, Interim Planning Director	
Jeff Barnett, Chief of Police	
Tim Griffith, Police Lieutenant	
Harper Wilder, Director of Public Works	

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

Mayor Mitchell called the meeting to order at 7:04 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 Regular Meeting Minutes - June 7, 2022. ~ *Jennifer Holm, City Secretary*
2. City Council Regular Meeting Minutes - June 21, 2022. ~ *Jennifer Holm, City Secretary*
3. City Council Special Meeting Minutes - June 25, 2022. ~ *Jennifer Holm, City Secretary*
4. City Council Special Meeting Minutes - July 5, 2022. ~ *Jennifer Holm, City Secretary*
5. City Council Regular Meeting Minutes - July 5, 2022. ~ *Jennifer Holm, City Secretary*

Council Member Bradshaw left the dais at 7:05 p.m. Council Member Tobias moved to approve the minutes of the June 7, 2022 Regular Council Meeting, June 21, 2022 Regular Meeting, June 25, 2022 Special Meeting, July 5, 2022 Special Meeting and the minutes of the July 5, 2022 Regular Meeting. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0. Council Member Bradshaw was absent for the vote.

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

Mayor Mitchell opened citizen comments at 7:06 p.m.

Vanessa Westbrook was called to speak as registered on behalf of the Kyle Buda Kiwanis Club. She spoke about tomorrow being National Hot Dog Day. She announced a free hot dog lunch tomorrow, July 20 at the AMVET building 401 Veterans Drive from 11:00 a.m. - 1:00 p.m. She spoke about the various organizations that will be represented there.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:07 p.m.

### **IV. Agenda Order**

6. Agenda Order. ~ *Travis Mitchell, Mayor*

No action was taken.

### **V. Presentation**

7. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *Jerry Hendrix, Acting City Manager*
  - Budget Workshops
  - Road Bond Program Workshop - July 23
  - South Central Regional Roundtable in Kyle – July 22
  - Boards and Commissions Openings
  - Dive In Movie – July 22
  - Free Guided Trail Tours – July 23
  - Bunton Bird Blind Ribbon Cutting – July 23
  - Free Public Swim Day – July 24
  - Music in the Park – July 25
  - Stars At Night – July 30-31
  - Pie in the Sky Day Celebration – Sept. 3
  - Save the Date: Heroes Memorial Park Ribbon Cutting – Sept. 11
  - Summer Reading Program
  - Team Kyle Update

Council Member Bradshaw returned to the dais some time prior to 7:09 p.m. Mr. Hendrix, Ms. Vargas, Ms. Sonnier, Ms. Espinoza, and Mr. Phelan presented the item. No action was taken. Mr. Hendrix recognized outgoing staff members Mr. Phelan and Mr. Earp.

8. BGK Architects Presentation regarding Downtown Masterplan Survey Results. ~ *Will Atkinson, Interim Planning Director*

Mr. Atkinson introduced Tommy Kosarek of BGK Architects, who presented the item. He also introduced his colleagues Makayla Ponce and Narsis Holmes who assisted in the presentation.

No action was taken.

9. CIP/Road Projects and Consent Agenda Presentation. ~ *Leon Barba, P.E., City Engineer*

No action was taken.

## **VI. Consent Agenda**

Mayor Mitchell brought forward Item Nos. 10, 11, 12, 13, 14, and 15 for consideration.

10. Authorize the City Manager to execute a 60-month lease with DEX IMAGING LLC., 5109 W. Lemon St. Tampa, FL, 33609, for a Kyocera TASKalfa Model 4004i photocopier for the Kyle Public Library, in the amount of \$127.20 per month based on an average monthly volume of 3,500. Copy overages will be charged at .0072 per copy. ~ *Paul Phelan, Director of Library Services*
11. Approve a Resolution requesting the Texas Department of Transportation initiate the process to remove a portion of RM 967 and convey to the City of Kyle for future ownership of the right of way and maintenance. ~ *Leon Barba, P.E., City Engineer*
12. Ratify emergency submersible well repairs to Well No. 1 at the Veterans Drive Water Facility in an effort to maintain public health and safety, in an amount not to exceed \$56,199.12 payable to ADVANCED WATER WELL TECHNOLOGIES, Converse, Texas. ~ *Harper Wilder, Director of Public Works*
13. Approve Amendment No. 3 to Task Order No. 6 to LJA ENGINEERING, INC., Austin, Texas, in the amount not to exceed \$6,966.40 increasing the total contract amount to \$225,229.49 for additional engineering services for the Anthem to Kohlers Crossing Waterline Connection Project. ~ *Leon Barba, P.E., City Engineer*
14. Approve a contract with ARIAS AND ASSOCIATES, INC., Austin, Texas in an amount not to exceed \$29,505.00 for forensic testing on Kohlers Crossing from FM 2770 to Southbound I35 Frontage Road. ~ *Leon Barba, P.E., City Engineer*
15. Authorize the Police Department to sell surplus property, namely thirty-five (35) 12-gauge shotguns, to Sidepeace Packin' (San Marcos, Tx), a licensed Federal Firearms Dealer, in an amount of not less than \$8,960 paid via in-store credit to be used for future equipment for the police department. ~ *Jeff Barnett, Chief of Police*

Mayor Pro Tem Rizo moved to approve Consent Agenda Item Nos. 10, 11, 12, 13, 14, and 15. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

## **VII. Items Pulled from Consent Agenda**

### VIII. Consider and Possible Action

16. Consider and possible action on an interlocal agreement by and between the City of Kyle, Texas and Hays County, Texas for the improvement of park facilities at sites owned by the City of Kyle. ~ *Jerry Hendrix, Acting City Manager*

Mayor Mitchell moved to approve an interlocal agreement by and between the City of Kyle, Texas and Hays County Texas for the improvement of park facilities at sites owned by the City of Kyle Mayor Pro Tem Rizo seconded the motion. Motion carried 7-0.

17. *(First Reading)* An Ordinance Repealing Ordinance No. 1033, Regulating Traffic, Authorizing and directing the installation and erection of stop signs for the traffic control at the intersection of Silverado Drive and fm150 (Rebel Drive) in the City Limits of Kyle; Repealing any ordinance or resolution in conflict; providing a severability clause; Declaring a penalty; and providing an effective date. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell moved to approve an Ordinance Repealing Ordinance No. 1033, Regulating Traffic, Authorizing and directing the installation and erection of stop signs for the traffic control at the intersection of Silverado Drive and fm150 (Rebel Drive) in the City Limits of Kyle; Repealing any ordinance or resolution in conflict; providing a severability clause; Declaring a penalty; and providing an effective date. Council Member Bradshaw seconded the motion.

Mayor Mitchell requested a roll call vote. Council Member Parsley voted aye; Council Member Ellison voted nay; Council Member Bradshaw voted aye; Mayor Mitchell voted aye; Council Member Flores-Cale voted nay; Mayor Pro Tem Rizo voted aye; and Council Member Tobias voted nay. Motion carried 4-3.

18. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 15.542 total acres of land from Retail Service District 'RS' to Planned Unit District – Mixed Use District 'PUD MXD' for property located at 5839 Kyle Parkway, in Hays County, Texas. (CTC Residential LLC - Z-22-0101) ~ *Will Atkinson, Interim Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-0 to recommend approval of the request.*

- Public Hearing

Mr. Atkinson stated that the applicant has requested a delay until 8/16.

Mayor Mitchell opened the public hearing at 8:19 p.m. With no one wishing to speak, Mayor Mitchell left the public hearing open.

Mayor Mitchell moved to postpone an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 15.542 total acres of land from Retail Service District 'RS' to Planned Unit District – Mixed Use District 'PUD MXD' for property located at 5839 Kyle Parkway, in Hays County, Texas until August 16, 2022. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

19. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of amending Sec. 53-1230 (Zoning), to add Indoor Firing Range to the Entertainment “E” zoning district and amend the associated zoning use chart. ~ *Will Atkinson, Interim Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-1 to recommend approval of the amendment.*

- Public Hearing

Mayor Mitchell opened the public hearing at 8:32 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:32 p.m.

Council Member Parsley moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of amending Sec. 53-1230 (Zoning), to add Indoor Firing Range to the Entertainment “E” zoning district and amend the associated zoning use chart. Council Member Flores-Cale seconded the motion. Motion carried 6-1 with Mayor Mitchell dissenting.

20. Consider and possible action to approve a Resolution of the City Council Authorizing and Creating the Limestone Creek Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code; resolving other matters incident and related thereto; and providing an effective date. ~ *Amber Lewis, Assistant City Manager*

- Public Hearing

Mayor Mitchell opened the public hearing at 8:37 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:37 p.m.

Justin Belmore with Meritage Homes, spoke about the project and introduced Kevin Pierce, Developer's PID Attorney, and Patrick Bourne, Developer's Financial Advisor. Mr. Pierce also presented on the item.

Mayor Mitchell requested the Council convene into executive session on this item to seek the advice of the city attorney. The Council convened into executive session at 8:46 p.m. Mayor Mitchell called the meeting back to order at 8:59 p.m. Council Member Bradshaw was not present when the meeting was called back to order. With no objections, Mayor Mitchell reopened the public hearing at 9:00 p.m.

Mayor Mitchell moved to postpone a Resolution of the City Council Authorizing and Creating the Limestone Creek Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code; resolving other matters incident and related thereto; and providing an effective date until the next regularly scheduled council meeting. Council Member Flores-Cale seconded the motion. Motion carried 6-0. Council Member Bradshaw was absent for the vote.

21. Consider and possible action approving continued design for intersections at Kohlers Crossing and Marketplace Avenue and/or Kohlers Crossing and Kyle Crossing. ~ *Leon Barba, P.E., City Engineer*

Council Member Bradshaw returned at some point during this item, but the time is unknown.

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Mayor Mitchell moved to direct staff to do nothing at the intersection of Kohlers Crossing and Marketplace Avenue and to proceed with Option 1 at the intersection of Kohlers Crossing and Kyle Crossing. Council Member Tobias seconded the motion. Motion carried 7-0.

22. Task force update on alternative traffic calming measures to be considered in single residential zoned areas (including but not limited to R-1-1, R-1-2, R-1-3, R-1-A, M-1, M-2, M-3). ~ *Leon Barba, P.E., City Engineer*

Council Member Ellison presented the update.

Council Member Ellison moved to postpone Item No. 22 until the second meeting in August. Mayor Pro Tem Rizo seconded the motion. Motion carried 7-0.

23. Discussion and possible action regarding an update to the City's Personnel Policy regarding a capped pay out of unused, accrued sick time upon retirement or departure of employment (without cause) with the City. ~ *Yvonne Flores-Cale, Council Member*

Council Member Flores-Cale moved to direct staff to bring back a proposed policy that includes a minimum of five years of service, a capped amount of 144 hours, separating from the City without cause, and being retroactive to the beginning of the year to be brought back for review by the budget meeting on July 28, 2022. Mayor Pro Tem Rizo seconded the motion. Motion carried 7-0.

24. Discussion and possible direction to form Council Compensation Committee per the City Charter and to direct said committee to recommend best practices for Council expense reimbursements as part of their compensation tasks. ~ *Travis Mitchell, Mayor*

Council Member Tobias moved to approve selection of a council compensation committee that will review all policies and procedures referencing compensation of council members including credit cards, any reimbursements and policies that fall in line with the charter. Council Member Flores-Cale seconded the motion.

Mayor Mitchell moved to amend the motion to give direction to form a committee to bring their recommendation by August 16 and use the draft credit card policy provided by the Finance Department as a framework. Council Member Flores-Cale seconded the motion. Motion carried 6-1 with Council Member Ellison dissenting.

Mayor Mitchell called for the vote on the original motion. Motion carried 6-1 with Council Member Ellison dissenting.

25. [Postponed 7/5/2022] Update on the status regarding staff's creation of the City Council's credit card policy. ~ *Yvonne Flores-Cale, Council Member and Travis Mitchell, Mayor*

*On April 19, 2022, Council directed staff to put City Council expenses on the City's website and to bring back a Council expense policy for review and adoption. Motion carried 7-0.*

No discussion or action was taken.

26. [Postponed 7/5/2022] Consider authorizing execution of a professional services agreement with RSM US, LLP, in an estimated amount of \$45,000.00 to conduct an examination of all

City credit card transactions of and all expense reimbursements to City Council, City Manager, and other City staff incurred over a 5-year period beginning October 1, 2017 and ending March 31, 2022. ~ *Jerry Hendrix, Acting City Manager and Paige Saenz, City Attorney*

*On April 5, 2022, Council directed staff to do an internal audit regarding council and city manager expenses and make sure they add up, and to see each line item as one reimbursement. Motion carried 5-2.*

Mayor Mitchell moved to authorize a professional services agreement with RSM US, LLP, in an estimated amount of \$45,000 to conduct an examination of all City credit card transactions of and all expense reimbursement to City Council, City Manager, and other City staff incurred over a 5-year period beginning October 1, 2017 and ending March 31, 2022. Council Member Parsley seconded the motion. Motion carried 5-2 with Council Members Bradshaw and Tobias dissenting.

27. Council Review of City Charter. ~ *Travis Mitchell, Mayor*

No action was taken.

### **IX. Executive Session**

28. 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.
  - Meet & Confer Update
  - Personnel matter
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose.
  - Downtown Property Acquisition
3. Personnel matters pursuant to Section 551.074.
  - Appointment of Planning & Zoning Commission Members
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 Shamrock

There was no executive session.

29. Take action on items discussed in Executive Session.

### **X. Adjourn**

Mayor Mitchell moved to adjourn. Council Member Tobias seconded the motion. No vote was held.

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

  
Travis Mitchell, Mayor

Attest:

  
Jennifer Holm, City Secretary