

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on February 21, 2023 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Rick Coleman
Mayor Pro Tem Michael Tobias	Lisa Crane
Council Member Yvonne Flores-Cale	Ash Crane
Council Member Miguel Zuniga	Alex Guerra
Council Member Ashlee Bradshaw	Stuart Hoyt
Council Member Daniela Parsley	Derek Bird
Jerry Hendrix, Interim City Manager	Kevin Kurtz
Amber Schmeits, Assistant City Manager	David Russell
Paige Saenz, City Attorney	Stephanie Leibe
Rachel Sonnier, Communications Director	
Grant Bowling, Video Production Specialist	
Jennifer Kirkland, City Secretary	
Leon Barba, City Engineer	
Kathy Roecker, SWMP Administrator	
Victoria Vargas, Economic Development Director	
Perwez Moheet, Finance Director	
Marco Forti, IT Director	
Colleen Tierney, Library Director	
Cara Waits, Assistant Library Director	
Michael Kaufmann-Lynch, Adult Services Librarian	
Jen Cardenas, Library Assistant	
Mary Folsom, Library Assistant	
Judy Thomas, Library Assistant	
Joel Ysla, Library Assistant	
Briseida Torres, Library Assistant	
Zoe Reyna, Circulation Desk Clerk	
Orlando Perez, Library Assistant	
Mariana Espinoza, Parks & Recreation Director	
Aimee Garcia, Recreation Manager	
Claudia Rocha, Special Events Manager	
Will Atkinson, Planning Director	
Kaela Sharp, City Planner	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Assistant Chief of Police	
Tim Croyley, Facilities Division Manager	
Will Paiz-Tabash, Emergency Management Coord.	

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

Mayor Mitchell called the meeting to order at 7:09 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Tobias, Council Member Flores-Cale, Council Member Zuniga, Council Member Bradshaw, and Council Member Parsley. A quorum was present. Council Member Heiser was absent.

Mayor Mitchell moved to excuse Council Member Heiser's absence due to illness. Council Member Parsley seconded the motion. Motion carried 6-0.

## **II. Approval of Minutes**

1. City Council Special Meeting Minutes - February 7, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
2. City Council Meeting Minutes - February 7, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
3. City Council Workshop Meeting Minutes - February 13, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*

Mayor Pro Tem Tobias moved to approve the minutes of the February 7, 2023 Special Council Meeting, February 7, 2023 Council Meeting and the minutes of the February 13, 2023 Workshop Meeting. Council Member Parsley seconded the motion. Motion carried 6-0.

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

Mayor Mitchell opened citizen comments at 7:11 p.m.

Rick Coleman was called to speak as registered, representing FM 158 Land LTC. He stated that property owners around him are trying to divert water onto his property. He recapped the Council interactions regarding this issue up from December 2022.

Lisa Crane was called to speak as registered, representing Kyle Hockey. She spoke about the tourism that hockey brought to town recently, to include hotel rooms, visits to Evo, Summer Moon, and others. She stated that most of the players in the league do not live in the City of Kyle but travel here to play. She spoke about a tournament in Nashville.

Ash Crane was called to speak as registered, representing Kyle Hockey. He stated that two years ago Kyle was unknown to the hockey community, but people are now travelling from Mexico, Dallas, and other regions to play hockey in Kyle.

Alex Guerra was called to speak as registered. He spoke about Proposition F passed in 2020 for oversight of the Police Department. He stated that a committee has yet to be established in accordance with this proposition. He stated that Council has forgotten about this proposition, which needs to be rectified.

Stuart Hoyt was called to speak as registered, representing Sons of the American Revolution. He spoke of the importance of recognizing February 22 as George Washington's birthday. He spoke about the precedence that was set by George Washington. He stated that seven states recognize George Washington's birthday, but Texas is not one of them.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:24 p.m.

## **IV. Agenda Order**

4. Agenda Order per Rules of Council Sec. B1

Mayor Pro Tem Tobias asked to move up Agenda Item No. 41. Council Member Parsley asked to move Item No. 27 up. Council Member Parsley withdrew her request.

## V. Presentation

5. Presentation of the Police Department's 2022 Annual Racial Profiling Report. ~ *Jeff Barnett, Chief of Police*

Chief Barnett reported for the record that the report has been submitted to the Texas Commission on Law Enforcement. No action was taken.

6. Presentation of a plan for working with the local school swim teams and a plan for offering free pool days as requested by City Council on 1/28/2023. ~ *Mariana Espinoza, Director of Parks & Recreation*

No action was taken.

7. Presentation of the 2023 Kyle Fair TexTravaganza. ~ *Mariana Espinoza, Director of Parks & Recreation*

Ms. Espinoza and Ms. Rocha presented the item. No action was taken.

8. Kyle Public Library awarded the Texas Municipal Library Directors Association Award for 2022. ~ *Colleen Tierney, Director of Library Services*

No action was taken.

9. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *Jerry Hendrix, Interim City Manager*

- Pickleball Tournament
- Family Skate Night
- International Women's Day - March
- Seasonal Staff Hiring Events
- Kyle Public Library Programs
- Coffee Station in Library Lobby
- Great Texas River Cleanup
- PIERate Treasure Hunt
- Comprehensive Master Plan Update
- Downtown Master Plan Update
- Team Kyle Updates

Mayor Mitchell stated that Item No. 41 would be taken up at the end of the City Manager's Report.

Mr. Hendrix, Ms. Espinoza, Ms. Tierney, Ms. Roecker, Ms. Sonnier, and Mr. Atkinson presented the item. Mr. Barba spoke about National Engineers Week. Mr. Moheet spoke about the achievement of the Government Finance Officers Association award.

41. Recap of Ice Storm Response. ~ *Jerry Hendrix, Interim City Manager*

Mr. Hendrix then presented Item No. 41. Mr. Paiz-Tabash also provided information. No action was taken.

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

No action was taken.

**VI. Consent Agenda**

Mayor Mitchell stated that staff requested Item No. 16 be removed and that it will be brought back at another time. Mayor Mitchell brought forward Item Nos. 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, and 22 for consideration.

11. Authorize the City's Chief of Police and or his designee to dispose through sale to an authorized Federal Firearms Licensee (FFL) sixty-one (61) City-owned Glock 22 Generation 4 pistols determined to be surplus items by the Police Department. ~ *Jeff Barnett, Chief of Police*
12. Approve an agreement with TRANSCEND INC., DBA SPA SKATEPARKS, Austin, for the design and construction of the Gregg-Clarke Park Skatepark. A Purchase Order to TRANSCEND INC., DBA SPA SKATEPARKS in the amount of \$1,000,000.00 for this project was authorized by City Council on December 6, 2022. ~ *Mariana Espinoza, Director of Parks & Recreation*
13. Authorize award and execution of a Purchase Order to KRAFTSMAN, LP, Spring, Texas, in amount not to exceed \$192,376.26 for the design and construction of an inclusive playground at Lake Kyle Park. ~ *Mariana Espinoza, Director of Parks & Recreation*
14. Authorize award and execution of a Contract and Purchase Order to MATEFLEX, INC., Utica, New York, in an amount not to exceed \$80,755.00 for the installation of athletic sports flooring at the Ash Pavilion. ~ *Mariana Espinoza, Director of Parks & Recreation*
15. Authorize award and execution of a Purchase Order to CHES-LEE ENTERPRISES LLC DBA AMERICAN FIREWORKS, Bastrop, Texas, in amount not to exceed \$107,730.00 for the firework shows for Kyle Fair TexTravaganza, 4th of July, and Pie in the Sky events. ~ *Mariana Espinoza, Director of Parks & Recreation*
17. Approve Amendment No. 1 to Task Order No. 12 to LJA ENGINEERING, INC., Austin, Texas, in the amount not exceed \$149,630.06, increasing the total contract amount not to exceed \$547,659.38 for additional water and wastewater lines related engineering services associated with the IH 35 South Bound Frontage Road Project. ~ *Leon Barba, P.E., City Engineer*
18. A Resolution of the City Council of the City of Kyle, Texas accepting the Sage Hollow Phase 1 subdivision improvements; finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law. ~ *Leon Barba, P.E., City Engineer*
19. Consider and possible action to authorize the Interim City Manager to execute a Contract and a Change Order in the amount of \$14,415.71 for CONSTANT TECHNOLOGIES, INC., to upgrade the 4x2 Fiber Cable at the Public Safety Center. Funding for this Change Order will be provided from budget savings realized as shown in attached Exhibit B. ~ *Derek Bird, AGCM, City of Kyle Project Manager*

20. Consider and possible action to authorize the Interim City Manager to execute a Change Order in an amount not to exceed \$190,000.00 to BARTLETT COCKE GENERAL CONTRACTORS to construct the Vybe trail as designed around the Public Safety Center.  
~ *Derek Bird, AGCM, City of Kyle Project Manager*

21. Approve a proposal from KALBACHER ASSOCIATES, LLC, Alexandria, VA, in the amount not to exceed \$13,000.00 to provide grant writing services to apply for the FY 2023 WaterSMART: Water Recycling and Desalination Planning Grant. ~ *Leon Barba, P.E., City Engineer*

*City Council approved applying for the grant on 1/17/2023.*

22. Approve Task Order No. 5 to COBB, FENDLEY & ASSOCIATES, INC., Austin, Texas, in the amount not to exceed \$9,384.00 to provide cost estimates to Kalbacher & Associates in support of the WaterSMART Grant application to assist the City of Kyle in applying for US Bureau of Reclamation funding for reclaimed water infrastructure improvements.  
~ *Leon Barba, P.E., City Engineer*

*City Council approved applying for the grant on 1/17/2023.*

Council Member Flores-Cale moved to approve Consent Agenda Item Nos. 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, and 22. Council Member Parsley seconded the motion.

Mr. Barba and Ms. Schmeits provided information regarding Item Nos. 21 and 22.

After Mayor Mitchell called for the vote on the motion, Council Member Zuniga stated he had questions on Item No. 13. Ms. Espinoza and Ms. Garcia provided information regarding the item.

After Item No. 40, Mayor Mitchell asked whether there were any nay votes on consent agenda. There were none. Consent agenda was approved 6-0.

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

16. Authorize award and execution of a Purchase Order to THE BRANDT COMPANIES, LLC, Pflugerville, Texas, in an amount not to exceed \$73,079.00 to remove and replace heating, ventilation, and air conditioning (HVAC) units 1, 2, and 3 at the Kyle Public Library. This procurement is being made through the BuyBoard Purchasing Cooperative Contract No. 638-21. ~ *Timothy Cropley, Facilities Division Manager*

No action was taken.

#### **VIII. Public Hearings**

23. Public Hearing Concerning the Creation of Reinvestment Zone Number Four (TIRZ #4), Pursuant to the Provisions of Chapter 311 of the Texas Tax Code. ~ *Stephanie Leibe, Norton Rose Fulbright*

*Public Hearing was left open on 2/7/2023.*

Mayor Mitchell opened the public hearing at 8:28 p.m. With no one wishing to speak, the public hearing was left open.

**IX. Consider and Possible Action**

24. Approve a Resolution authorizing the negotiation of an agreement with CP&Y, INC., Austin, Texas, to provide professional engineering consulting services for the design of the Wastewater Treatment Plant Expansion Phase 2. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell moved to approve a Resolution authorizing the negotiation of an agreement with CP&Y, INC., Austin, Texas, to provide professional engineering consulting services for the design of the Wastewater Treatment Plant Expansion Phase 2. Council Member Parsley seconded the motion. Motion carried 6-0.

25. Acceptance of \$2 Million from Lloyd Doggett's Office. ~ *Amber Schmeits, Assistant City Manager*

Mayor Mitchell moved to officially accept the \$2 Million dollars from Lloyd Doggett's office for the water reclamation project. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

26. Approve scope of services for 2023-2024 and reaffirm engagement agreement with AKIN GUMP STRAUSS HAUER & FELD, LLP., in the amount of \$172,000.00 per year for providing federal legislative services to the City of Kyle. ~ *Mayor Travis Mitchell*

Council Member Parsley moved to approve Item No. 26. Council Member Flores-Cale seconded the motion. Motion carried 5-1 with Mayor Pro Tem Tobias dissenting.

27. Discussion to address damages created by AT&T and the other fiber companies and the timeline of repairs. ~ *Daniela Parsley, Council Member*

Kevin Kurtz spoke on behalf of AT&T. David Russell spoke on behalf of Frontier. No action was taken.

28. Consider approval of an Agreement with P3Works, LLC, for Administration Services or Tax Increment Reinvestment Zone No. 2. ~ *Stephanie Leibe, Norton Rose Fulbright*

Mayor Pro Tem Tobias moved to approve an Agreement with P3Works, LLC, for Administration Services or Tax Increment Reinvestment Zone No. 2. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

29. Approve Task Order No. 6 to COBB, FENDLEY & ASSOCIATES, INC., Austin, Texas in the amount not to exceed \$19,403.05 for Traffic Signal versus Roundabout Analysis and Design for Dacy Lane at Bunton Creek Road Intersection Improvements. ~ *Leon Barba, P.E., City Engineer*

Council Member Parsley moved to approve Item No. 29. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

30. Consider and possible action to approve a cooperation agreement in lieu of taxes between the Kyle Housing Authority and the City of Kyle. ~ *Jerry Hendrix, Interim City Manager*

Council Member Flores-Cale moved to waive the five-year period in taxes owed to the City by the Kyle Housing Authority in the amount of \$29,301.08. Mayor Pro Tem Tobias seconded the motion.

Council Member Flores-Cale moved to amend her motion to include waiving all future tax payments from the Kyle Housing Authority. Mayor Pro Tem Tobias seconded the motion.

Mayor Mitchell stated the motion and motion to amend would be considered as one motion.

Council Member Flores-Cale moved to amend and restate her motion to waive the past due amount from the Kyle Housing Authority in the amount of \$29,301.08, to waive any future payments to be made to the City of Kyle, and to direct staff to bring back an agreement for Council to review. Council Member Parsley seconded the motion. Motion carried 6-0.

31. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 14.75 Acres of land from 'W' (Warehouse), to 'O/I' (Office/Institutional) for property located at 400 Old Post Road in Hays County, Texas. (Vertical Church - Z-23-0112) ~ *Will Atkinson, Director of Planning*

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

- Public Hearing

Mayor Mitchell opened the public hearing at 9:33 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:33 p.m.

Mayor Mitchell moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 14.75 Acres of land from 'W' (Warehouse), to 'O/I' (Office/Institutional) for property located at 400 Old Post Road in Hays County, Texas. (Vertical Church - Z-23-0112) Council Member Parsley seconded the motion. Motion carried 6-0.

32. *(Second Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 18.84 acres of land from 'RS' (Retail Services) to 'PUD' (Planned Unit Development) for property located approximately 400' southwest of the intersection of Marketplace Ave & City Lights Dr. in Hays County, Texas. (Joe Brooks - Z-22-0099) ~ *Will Atkinson, Director of Planning*

*Planning and Zoning Commission voted 3-2 to recommend approval of the request.*

*City Council voted 6-1 to approve first reading on 2/7/2023.*

Mayor Mitchell moved to approve an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 18.84 acres of land from 'RS' (Retail Services) to 'PUD' (Planned Unit Development) for property located approximately 400' southwest of the intersection of Marketplace Ave & City Lights Dr. in Hays County, Texas. Council Member Parsley seconded the motion. Motion carried 5-1 with Council Member Flores-Cale dissenting.

33. [Postponed 2/7/2023] Consider and possible action to direct staff to bring back reports regarding City of Kyle Boards goals to include: New projects, future activities, and or local, state federal grant possibilities for the Year 2023. ~ *Michael Tobias, Mayor Pro Tem*

Board Updates to include from:

- Arts and Cultural Commission
- Library Board

- Parks and Recreation Board
- Economic Development & Tourism Board
- Planning & Zoning Commission

Mayor Pro Tem Tobias moved to direct staff to bring back reports regarding the Kyle Boards goals including future projects, and any grants for state and local for the next year. Council Member Parsley seconded the motion.

Mayor Mitchell left the dais at 9:35 p.m. He returned at 9:37 p.m.

Mayor Pro Tem Tobias moved to amend his motion to direct staff to bring back reports regarding Kyle Boards goals to include new projects, future activities, and local, state grant possibilities for the Arts Commission, Library Board, Parks and Recreation Board, Economic Development & Tourism Board, Planning & Zoning Commission, Kyle Train Depot, and the Kyle Animal Shelter. Council Member Parsley seconded the motion. Motion carried 5-0. Council Member Bradshaw left the dais at 9:37 p.m. and was absent for the vote.

34. [Postponed 2/7/2023] Consider and possible action to add more trail head signage and amenities at Plum Creek Bike Trails such as benches, signage, tables, trash containers, viewing platform, bike wash station, etc. ~ *Miguel A. Zuniga PhD, Council Member*

Council Member Bradshaw returned at 9:39 p.m. Ms. Espinoza presented on the item. No action was taken.

35. Consider and Possible action to add two additional Uber rides for residents of Kyle within City of Kyle City Limits. ~ *Miguel A. Zuniga PhD, Council Member*

Mr. Hendrix provided information on the item. No action was taken.

36. Discussion and possible action regarding providing direction to the Art Commission to research cost, types and locations of a statute to place within the City of Kyle. ~ *Yvonne Flores-Cale, Council Member*

Council Member Flores-Cale moved to direct the Art Commission to research cost, types and locations for works of art to place within and throughout the City of Kyle. Mayor Pro Tem Tobias seconded the motion. Motion carried 6-0.

37. Consider and possible action to cost share two additional PEC streetlights at Simon Middle School between Hays CISD, Hays County, and City of Kyle not to exceed 2500 dollars. ~ *Miguel A. Zuniga PhD, Council Member*

Mayor Pro Tem Tobias moved to approve Agenda Item No. 37 as written. Council Member Zuniga seconded the motion. Motion carried 5-1 with Council Member Bradshaw dissenting.

38. Discussion and possible action for the proposed Eastside TIRZ, to include but not limited to proposed retail. ~ *Yvonne Flores-Cale, Council Member*

Council Member Flores-Cale moved to postpone Agenda Item No. 38. Mayor Mitchell seconded the motion. Motion carried 5-0. Mayor Pro Tem Tobias left the dais at 10:11 p.m. and was absent for the vote.



39. Possible action to rescind Vote regarding relocation of Fire station number 1. ~ *Daniela Parsley, Council Member*

*City Council voted 6-1 to approve directing staff to work with the Kyle Fire Department to discuss the potential relocation of Kyle Fire Department Station 1, located at 210 W Moore St, Kyle, TX on 2/7/2023.*

Council Member Flores-Cale called a point of order. Mayor Mitchell overruled. Council Member Flores-Cale appealed.

Mayor Pro Tem Tobias returned to the dais at 10:13 p.m. Mayor Mitchell requested a roll call vote and stated a yes vote allows for Council Member Parsley to rescind her vote, and a no vote sustains the point of order.

Mayor Mitchell voted aye; Council Member Bradshaw voted aye; Mayor Pro Tem Tobias voted aye; Council Member Zuniga voted aye; Council Member Parsley voted aye; Council Member Heiser was absent; and Council Member Flores-Cale voted nay. Motion carried 5-1.

Council Member Parsley moved to rescind the direction given to staff during the last meeting regarding relocation of Fire station number 1. Mayor Pro Tem Tobias seconded the motion.

Mayor Mitchell requested a roll call vote and stated an aye vote rescinds the direction given to staff and a nay vote allows the conversation to continue.

Council Member Heiser was absent; Mayor Pro Tem Tobias voted aye; Council Member Parsley voted aye; Council Member Flores-Cale voted nay; Mayor Mitchell voted nay; Council Member Bradshaw voted aye; and Council Member Zuniga voted nay. Motion failed 3-3.

40. Discussion regarding FY 2023-24 Budget Development Calendar. ~ *Jerry Hendrix, Interim City Manager*

No action was taken.

## **X. Executive Session**

42. 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 and Attorneys concerning legal issues pursuant to Section 551.071, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct for the following matters:
    - Reinvestment Zone Number Two (TIRZ #2)
    - Reinvestment Zone Number Four (TIRZ #4)
    - 104 S. Burleson
  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.
  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 Two-Step
  - Project Water Wheel
  - Project Chia Pet
  - Project Good Neighbor

Mayor Mitchell read into the record, “Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics: Pending or contemplated litigation or to seek the advice of the City Attorney or Attorneys concerning legal issues pursuant to Section 551.071, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct for the following matters - 104 S. Burleson.”

The City Council convened into executive session at 10:32 p.m.


43. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 10:56 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

#### **XI. Adjourn**

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

With no further business to discuss, the City Council adjourned at 10:56 p.m.

  
\_\_\_\_\_  
Travis Mitchell, Mayor

Attest:

  
\_\_\_\_\_  
Jennifer Kirkland, City Secretary