

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on March 7, 2023 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Sarah Leos
Mayor Pro Tem Michael Tobias	Moses Leos
Council Member Bear Heiser	Evangelina Chapa
Council Member Yvonne Flores-Cale	Jared White
Council Member Miguel Zuniga	Jack Peterson
Council Member Ashlee Bradshaw	Stephanie Leibe
Council Member Daniela Parsley	Melissa Rodriguez
Jerry Hendrix, Interim City Manager	Amanda Stark
Amber Schmeits, Assistant City Manager	
Paige Saenz, City Attorney	
Rachel Sonnier, Communications Director	
Jennifer Kirkland, City Secretary	
Leon Barba, City Engineer	
Victoria Vargas, Economic Dev. Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Marco Forti, IT Director	
Colleen Tierney, Library Director	
Mariana Espinoza, Parks & Recreation Director	
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 Griffith, Police Commander	
Daniel Preston, Police Sergeant	
Mark Spencer, Police Officer	
Hannah-Bea Bickford, Victim Advocate	
Briana Geddes, Neighborhood Svcs. Supervisor	
Tim Cropley, Facilities Division Manager	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:01 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 Heiser, Council Member Flores-Cale, Council Member Zuniga, Council Member Bradshaw, and Council Member Parsley. A quorum was present.

II. Approval of Minutes

1. City Council Special Meeting Minutes - February 21, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*

2. City Council Meeting Minutes - February 21, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*

Mayor Pro Tem Tobias moved to approve the minutes of the February 21, 2023 Special Council Meeting and the minutes of the February 21, 2023 Council Meeting. Council Member Parsley seconded the motion. Motion carried 7-0.

III. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 7:03 p.m.

Sarah Leos was called to speak as registered. She stated her concerns about the Vybe trail near Spring Branch subdivision related to it being in the flood zone and safety for those using the trails. She continued with concerns about flooding homes. She requested natural trails as opposed to concrete.

Moses Leos was called to speak as registered. He spoke about Silverado residents' concerns as well. He spoke about the width of the path for bicycles and pedestrians, but he has safety concerns for golf carts and motorized scooters. He spoke about the trail going through flood plain areas. He suggested finding a different path for the project. Mr. Leos also had concerns about the lack of buffer and privacy between the trail and area homes along the path.

Evangelina Chapa was called to speak as registered. She thanked Council for the 2023 Master Plan Open House here at City Hall. She appreciated the yellow signs posted and the letter received by some residents. She stated that residents heard by the letter, word of mouth and one heard from a friend who lives out of town. She appreciates what has been done so far.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:11 p.m.

IV. Agenda Order

3. Agenda Order per Rules of Council Sec. B1

Council Member Flores-Cale requested Item Nos. 27-29 be moved to Consent and Item No. 26 moved to the top of Consider and Possible Action. Mayor Mitchell stated that there are paid consultants and attorneys here for items on the agenda, so his goal is to move through those items while they are here, and then to allow for the Prop F discussion to happen after. Council Member Parsley requested to move Item No. 30 up.

V. Presentation

4. International Women's Day Proclamation. ~ *Daniela Parsley, Council Member*

Council Member Parsley read aloud the Proclamation acknowledging International Women's Day. No action was taken.

5. Proclamation acknowledging Jared White for his work as an Eagle Scout to benefit the Kyle Housing Authority. ~ *Jerry Hendrix, Interim City Manager*

Mr. Hendrix read aloud the Proclamation acknowledging Jared White. Mr. White spoke about his project. No action was taken.

6. 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*
 - Wall That Heals
 - International Women's Day
 - Family Camp Out at Lake Kyle
 - Easter Egg-stravaganza
 - Seed Swap Event
 - Spring Break Events at Kyle Public Library
 - Silver Screen Movie
 - Display for Women's History Month
 - PIERate Treasure Hunt
 - Comprehensive Master Plan Update
 - Downtown Master Plan Update
 - Team Kyle Updates

Mr. Hendrix, Ms. Espinoza, Ms. Tierney, Ms. Sonnier, and Mr. Atkinson presented the item.

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

Mr. Barba presented the item. Mr. Moheet provided information on the wastewater impact fee fund. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward Item Nos. 8, 9, 10, 11, 12, 13, and 14 for consideration.

8. 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*
9. Approve Amendment No. 1 to Task Order No. 4 to CP&Y, INC., Austin, Texas, in the amount not exceed \$391,628.00, increasing the total contract amount not to exceed \$487,369.00 for 60% design phase engineering services and special services associated with the Wastewater Treatment Plant Interceptor Phase 1 & 2 Project. ~ *Leon Barba, P.E., City Engineer*
10. Approve a Resolution authorizing the Interim City Manager to negotiate an agreement with LJA ENGINEERING, INC., Austin, Texas and STATESIDE RIGHT OF WAY SERVICES, LLC, Dallas, Texas to provide Right of Way Acquisition Services. ~ *Leon Barba, P.E., City Engineer*

11. Approve a Resolution of the City Council of the City of Kyle, Texas accepting the Crosswinds Phase 3A 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
12. Approve a Resolution of the City Council of the City of Kyle, Texas accepting the Crosswinds Phase 4A 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
13. Approve a Resolution of the City Council of the City of Kyle, Texas accepting the Crosswinds Phase 5A/5B 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
14. *(Second 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.

City Council voted 6-0 to approve on first reading on 2/21/2023.

Council Member Bradshaw moved to approve Consent Agenda Item Nos. 8, 9, 10, 11, 12, 13, and 14. Council Member Parsley seconded the motion. Motion carried 7-0.

VII. Items Pulled from Consent Agenda

VIII. Public Hearings

15. 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, City's Bond Counsel

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

Mayor Mitchell opened the public hearing at 7:50 p.m.

Jack Peterson, representing FM 158 Land, spoke in opposition of Items 15-17. He spoke about the approximate 250,000 gallons per minute of water that will flow to the San Marcos ETJ. He added that Texas Water Code Chapter 11, Section 86 states that no person may divert or impound the natural flow of surface water in this state. He stated that the pond footprint of Limestone Creek would require the pond on FM 158 Land to triple in size. He stated that a possible solution is to send the water toward the east towards Waterstone property, which would also avoid violating the Water Code provision.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 7:54 p.m.

IX. Consider and Possible Action

16. *(First Reading)* Consideration and Approval of an Ordinance of the City Council of the City of Kyle, Texas, Designating a Contiguous Geographic Area within the Corporate Limits of the City as a Reinvestment Zone Pursuant to Chapter 311 of the Texas Tax Code, to be known as Reinvestment Zone Number Four, City of Kyle; Describing the Boundaries of the Zone; Creating a Board Of Directors for the Zone; Establishing a Tax Increment Fund for the Zone; Containing Findings Related to the Creation of the Zone; Providing a Date for the Termination of the Zone; Providing that the Zone Take Effect Immediately Upon Passage of the Ordinance; Providing a Severability Clause; and Providing an Effective Date. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*
17. Consider and possible action on the Second Amendment to the Amended and Restated Limestone Creek Development Agreement. ~ *Paige Saenz, City Attorney*

Mayor Mitchell brought forward Item Nos. 16 and 17 simultaneously. Ms. Leibe presented the items. She stated that this ordinance, if passed, would become effective immediately and will not come back for a second reading.

Council Member Parsley moved to approve Item Nos. 16 and 17. Council Member Bradshaw seconded the motion.

Council Member Zuniga moved to amend the motion to include the commercial piece. Council Member Flores-Cale seconded the motion.

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

Mayor Mitchell called for the vote on the motion to approve Item Nos. 16 and 17. Motion carried 5-2 with Council Members Parsley and Flores-Cale dissenting.

18. Consideration and approval of a Resolution of the City of Kyle, Texas, accepting a Petition to Increase the Estimated Costs of the Improvements for Improvement Area #2 of the Southwest Kyle Public Improvement District No. 1 and calling for a Public Hearing pursuant to Chapter 372 of the Texas Local Government Code. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Council Member Parsley moved to approve Item No. 18. Mayor Pro Tem Tobias seconded the motion. Motion carried 7-0.

19. Approve Task Order No. 2 to BGE, INC., Houston, Texas in the amount not to exceed \$947,810.00 for engineering services and design of Bunton Creek Road from Lehman Road to Porter Cove. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*

20. Approve Task Order No. 2 to AMER ICAN STRUCTUREPOINT, INC., Dallas, Texas in the amount not to exceed \$436,194.96 for engineering services and design of Bebee Rd. from I35 NB Frontage Road to Dacy Lane. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*
21. Approve Task Order No. 3 to AMER ICAN STRUCTUREPOINT, INC., Dallas, Texas in the amount not to exceed \$788,221.88 for engineering services and design of Bebee Rd. from Dacy Lane to East of Green Pastures Road. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*
22. Approve Task Order No. 16 to LJA ENGINEERING, INC., Austin, Texas in the amount not to exceed \$1,101,207.34 for engineering services and design of Kohlers Crossing from IH 35 NBFR to Seton Parkway. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*
23. Approve Task Order No. 17 to LJA ENGINEERING, INC., Austin, Texas in the amount not to exceed \$2,158,287.27 for engineering services and design of Kohlers Crossing from the IH 35 SBFR to the IH 35 NBFR. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*

Mayor Mitchell brought forward Item Nos. 19 - 23 simultaneously. Mr. Cantalupo presented the items.

Council Member Parsley moved to approve Item Nos. 19-23. Mayor Mitchell seconded the motion. Motion carried 7-0.

30. Consider and possible action to direct staff to work with Hays Caldwell Women's Center to negotiate a contract for services provided to residents of Kyle on a yearly basis, and to identify funding sources that does not exceed \$15,000 to fund services for the remainder of the Fiscal Year 2022-2023. ~ *Daniela Parsley and Bear Heiser, Council Members*

Mayor Mitchell brought forward Item No. 30 out of order, after Item No. 23.

Mr. Hendrix provided information on the item.

Council Member Flores-Cale moved to direct staff to bring back funding not to be unlimited, but not to be capped at \$15,000 to bring back at the next meeting. Council Member Parsley seconded the motion. No vote was taken.

Melissa Rodriguez, CEO of the Hays Caldwell Women's Center, spoke.

Council Member Flores-Cale moved to amend her motion to direct staff to draft a service agreement with the Hays Caldwell Women's Center for \$15,000 for the remainder of the fiscal year 2022-2023. Council Member Parsley seconded the motion. Motion carried 7-0.

24. Consider and possible action to approve a Resolution of the City of Kyle, Texas, Amending the Contract for Kyle Texas 3.14 ADA Transportation Program with Maruti Transportation Group Executed April 5, 2022; Making Findings of Fact; and Providing for Related Matters. ~ *Jerry Hendrix, Interim City Manager*

Council Member Flores-Cale moved to approve Agenda Item No. 24. Council Member Parsley seconded the motion. Motion carried 7-0.

25. *(First Reading)* An Ordinance of the City of Kyle, Texas Repealing Article II. Alcoholic Beverages Division 2. Permits and Licenses Sections 11-42 License and Permit Fees, 11-43 Payment of Fees, and 11-44 Review and Recommendation; Amending 11-47 Violations and Penalties; Repealing 11-53; Providing Open Meeting Clauses; Providing an Effective Date; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*

City Council voted 5-2 to deny fees associated with Alcoholic Beverage Permits and Applications on 2/7/2023.

Council Member Flores-Cale moved to approve Agenda Item No. 25. Council Member Bradshaw seconded the motion.

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

Mayor Mitchell moved to reconsider. Council Member Parsley seconded the motion. Motion carried 7-0.

Mayor Mitchell moved to deny Agenda Item No. 25 repealing, and to direct staff to implement the policy on the books and begin charging the fee. Council Member Parsley seconded the motion.

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

26. Discussion and possible action regarding the 2020 Prop F Ordinance presented to Council on June 15, 2021, referencing the 2020 Prop F bond language, to include but not limited to, creating a committee name, requirements for a committee seat selection and committee mission statement. ~ *Yvonne Flores-Cale, Council Member and Michael Tobias, Mayor Pro Tem*

Mayor Pro Tem Tobias moved to select a committee of five seats, named Kyle Police Oversight Committee, and that the selection process for the committee shall follow the City of Kyle boards and commissions process. Mayor Mitchell seconded the motion.

Council Member Parsley moved to amend Mayor Pro Tem Tobias' motion to wait until a city manager is well-established and then have a workshop to establish this committee. Council Member Flores-Cale seconded the motion. No vote was taken.

Mayor Mitchell requested a roll call vote on the motion made by Mayor Pro Tem Tobias. Mayor Mitchell voted aye; Council Member Heiser voted nay; Council Member Flores-Cale voted nay;

Council Member Bradshaw voted nay; Mayor Pro Tem Tobias voted aye; Council Member Parsley voted nay; Council Member Zuniga voted aye. Motion failed 3-4.

Council Member Parsley moved to direct staff to set up a workshop to discuss the drafting of the oversight committee. Council Member Flores-Cale seconded the motion.

Council Member Parsley moved to call the question. This is a non-debatable motion. Motion carried 6-1 with Council Member Heiser dissenting.

Mayor Mitchell called for the vote on the motion to set up a workshop. Motion carried 6-1 with Mayor Pro Tem Tobias dissenting.

27. Resolution for Establishing a City of Kyle Trails Committee. ~ *Mariana Espinoza, Director of Parks & Recreation*

Parks and Recreation Board voted 7-0 to recommend this committee.

28. Resolution for Establishing a City of Kyle Keep Kyle Beautiful Committee. ~ *Mariana Espinoza, Director of Parks & Recreation*

Parks and Recreation Board voted 7-0 to recommend this committee.

29. Resolution for Establishing a City of Kyle Community Gardens Committee. ~ *Mariana Espinoza, Director of Parks & Recreation*

Parks and Recreation Board voted 5-0 to recommend this committee.

Mayor Mitchell brought forward Item Nos. 27 - 29 simultaneously. Ms. Espinoza presented the items. Parks and Recreation Board Chair, Amanda Stark, also provided information on the items.

Mayor Mitchell moved to approve Agenda Items 27, 28, and 29. Council Member Zuniga seconded the motion. Motion carried 7-0.

Mayor Mitchell called a recess at 10:12 p.m. Mayor Mitchell called the meeting back to order at 10:24 p.m.

31. Consider and possible action to approve a Take-Home Vehicle Program and related policy for the Police Department and to direct the Interim City Manager to implement the take-home vehicle program for all sworn police officers in phases as part of the future budgets of the Police Department. ~ *Bear Heiser and Daniela Parsley, Council Members*

Chief Barnett and Commander Griffith provided information on the item.

Council Member Bradshaw moved to direct staff to bring back three different phasing options for take home vehicles for officers within a 10-mile radius of the city. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

32. Consider and Possible Action to Bring back the Citizen and Volunteer of the Year Award for City of Kyle. ~ *Miguel A. Zuniga PhD, Council Member*

Council Member Heiser moved to authorize Council Member Zuniga to work with the Chamber to create a volunteer citizen of the year award. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

33. Consider and Possible Action to increase Urban Tree Canopy "Green Infrastructure" throughout the City of Kyle. ~ *Miguel A. Zuniga PhD, Council Member*

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

34. Discussion and possible action regarding offices to be located in the Public Safety Center, including but not limited to Staff, City administration and City Council. ~ *Yvonne Flores-Cale, Council Member*

Mayor Mitchell moved to direct the interim city manager to continue moving forward with the development of the offices as he sees fit until such a time as the permanent city manager is appointed and can make those decisions. Council Member Zuniga seconded the motion.

Mayor Mitchell moved to call the question. This is a non-debatable motion. Mayor Mitchell stated a yes vote ends debate, and that a no vote allows debate to continue.

Mayor Mitchell requested a roll call vote. Council Member Zuniga voted nay; Council Member Bradshaw voted aye; Council Member Heiser voted aye; Mayor Pro Tem Tobias voted nay; Council Member Parsley voted nay; Council Member Flores-Cale voted nay; Mayor Mitchell voted aye. Motion failed 3-4.

Chief Barnett provided information on the item.

Mayor Mitchell restated the motion to direct the interim city manager and then requested a roll call vote. Council Member Heiser voted aye; Mayor Mitchell voted aye; Council Member Parsley voted nay; Council Member Zuniga voted aye; Council Member Flores-Cale voted nay; Council Member Bradshaw voted aye; and Mayor Pro Tem Tobias voted aye. Motion carried 5-2.

X. Executive Session

35. 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:
 - Opioid Settlements Negotiated by the Texas Attorney General
 - Reinvestment Zone Number Four (TIRZ #4)
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 Midnight Blue
- Project Sendero

There was no executive session.

36. Take action on items discussed in Executive Session.

XI. Adjourn

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

With no further business to discuss, the City Council adjourned at 11:53 p.m.



Travis Mitchell, Mayor

Attest:



Jennifer Kirkland, City Secretary