

## REGULAR CITY COUNCIL MEETING MINUTES

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

Mayor Travis Mitchell	Susan Reyna
Mayor Pro Tem Michael Tobias	Nelia Barrera
Council Member Bear Heiser	Joe Cantalupo
Council Member Yvonne Flores-Cale	Tino Robledo
Council Member Miguel Zuniga	
Council Member Ashlee Bradshaw	
Council Member Daniela Parsley	
Jerry Hendrix, Interim City Manager	
Amber Schmeits, Assistant City Manager	
Paige Saenz, City Attorney	
Rachel Sonnier, Communications Director	
Grant Bowling, Video Production Specialist	
Jennifer Kirkland, City Secretary	
Leon Barba, City Engineer	
Victoria Vargas, Economic Dev. Director	
Perwez Moheet, Finance Director	
Andy Alejandro, Finance Manager	
Sandra Duran, HR Director	
Marco Forti, IT Director	
Colleen Tierney, Library Director	
Mariana Espinoza, Parks & Rec Director	
Will Atkinson, Planning Director	
Kaela Sharp, City Planner	
Debbie Guerra, Project Development Coordinator	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Assistant Chief of Police	
James Jones, Police Commander	
Jonathan Akers, Police Commander	
Joseph Swonke, Police Sergeant	
Keith Congdon, Police Sergeant	
Philip Cleary, Police Sergeant	
Matthew Michaelson, Police Sergeant	
Colby Bryant, Police Corporal	
Anthony Guzman, Police Corporal	
Tera Mayfield, Police Corporal	
Kelly Delagarza, Victims Services Coordinator	
Hannah-Bea Bickford, Victim Advocate	
Briana Geddes, Neighborhood Services Supervisor	

### **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.

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

Mayor Mitchell opened citizen comments at 7:02 p.m.

Chief Barnett was called to speak as registered. He introduced the members of the Kyle Police Department who were recently promoted and sworn into office this evening. Commanders James Jones, Jonathan Akers, Sergeants Joseph Swonke and Keith Congdon, Philip Cleary, Matthew Michaelson, Corporals Colby Bryant, Anthony Guzman, Tera Mayfield.

Susan Reyna was called to speak as registered, representing Preservation Associates. She spoke about Jericho Brown scheduled to be at the Katherine Anne Porter House on Friday, March 24th at 7:30 p.m.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:06 p.m.

### **II. Approval of Minutes**

1. City Council Special Meeting Minutes - March 7, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
2. City Council Meeting Minutes - March 7, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*

Mayor Mitchell brought forth the minutes for approval after Citizen Comments.

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

### **IV. Agenda Order**

3. Agenda Order per Rules of Council Sec. B1

No action was taken.

### **V. Presentation**

4. Recognizing KASZ City Hall front desk volunteers. ~ *Michael Tobias, Mayor Pro Tem and Miguel Zuniga, Ph.D., Council Member*

Mayor Pro Tem Tobias and Council Member Zuniga recognized the KASZ volunteers. Certificates and a token of appreciation were presented. Ms. Nelia Barrera provided information about Mr. Don Crow having been 90 years old and serving as the first front desk KASZ volunteer. She thanked members of Team Kyle and Council. No action was taken.

5. Presentation and discussion of the Mueller development information tour. ~ *Daniela Parsley and Yvonne Flores-Cale, Council Members*

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
  - Easter Egg-stravaganza
  - Seed Swap Event
  - Kyle Public Library Programs
  - Overdrive is changing to Libby
  - Comprehensive Master Plan Update
  - Employee Survey
  - TIRZ No. 2 Meeting
  - Proposition F Special Meeting
  - Budget Calendar
  - Team Kyle Update

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

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

Mr. Barba, Ms. Vargas, and Chief Barnett presented the item. No action was taken.

#### **VI. Consent Agenda**

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

8. Approve a Resolution by the City of Kyle, Texas Suspending the May 1, 2023 Effective Date of the Proposal by CenterPoint Energy Resources Corp., D/B/A CenterPoint Energy Entex And CenterPoint Energy Texas Gas – South Texas Division, to Implement Interim Grip Rate Adjustments for Gas Utility Investment in 2022 and Requiring Delivery of this Resolution to the Company and Legal Counsel. ~ *Kaela Sharp, City Planner*
9. Approve Amendment No. 1 to Task Order No. 2 to COBB, FENDLEY & ASSOCIATES, INC., Austin, Texas, in the amount not exceed \$332,477.42, increasing the total contract amount not to exceed \$448,971.70 for 60%, 90%, and 100% design, bid, and construction phase services associated with the Waterleaf Subdivision Wastewater Line Upsize/Relocation Project. ~ *Leon Barba, P.E., City Engineer*
10. Authorize award and execution of a construction agreement with CEDAR HILLS CONSTRUCTION, LLC., Austin, Texas, the best value and lowest bidder, in an amount not to exceed \$484,742.50, which includes a ten (10) percent contingency to perform all work required for the construction of the Schlemmer & Porter Street Wastewater Improvements Phase 2 Project. ~ *Leon Barba, P.E., City Engineer*



11. Approve a Memorandum of Understanding between Rural Capital Area Workforce Development Board, Inc., Hays CISD and City of Kyle to work in partnership to implement the Teacher Externship Program. ~ *Victoria Vargas, Director of Economic Development*
12. Authorize the Chief of Police to apply for a 2-year Victims of Crime Liaison grant from the Texas Attorney General's Office in the amount of \$49,500 each year, totaling \$99,000 to provide continued funding for the Crime Victim Advocate staff position in the Police Department. ~ *Jeff Barnett, Chief of Police*
13. Approve a Resolution of the City Council of the City of Kyle, Texas, Authorizing the Acceptance of a Two Year Grant in the Amount of \$99,000 from the Office of the Attorney General, Victim Coordinator and Liaison Grant for the Purpose of Funding the Kyle Police Department's Victim Advocate I Full-Time Position for Fiscal Years 2024 – 2025; Agreeing and Assuring that in the Event of Loss or Misuse of Said Grant Funds, the City Will Return the Total Amount of Funds to the Office of the Attorney General; Authorizing the City Manager to Apply for, Accept, Reject, Alter or Terminate the Grant on Behalf of the City Council; Finding and Determining that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; Providing for an Effective Date; And Making Such Other Findings and Provisions Related Hereto. ~ *Jeff Barnett, Chief of Police*
14. Consideration and possible action to approve joining the Texas Attorney General's global opioid settlement with Allergan, CVS, Walgreens, and Walmart and authority the City Manager to execute Settlement Participation Forms and any other documents required to participate in the settlement. ~ *Paige Saenz, City Attorney*

Council Member Flores-Cale 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. Consider and Possible Action**

15. Approve Task Order No. 2 to LOCKWOOD, ANDREWS & NEWNAM, INC., San Marcos, Texas in the amount not to exceed \$631,347.90 for engineering services and design of Windy Hill Road from IH 35 Northbound Frontage Road to Purple Martin Ave. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*
16. Approve Task Order No. 2 to COBB, FENDLEY & ASSOCIATES, INC., San Marcos, Texas in the amount not to exceed \$2,794,679.68 for engineering services and design of the extension of Kyle Parkway from Lehman Road to Dacy Lane and the extension of Lehman Road from Bunton Creek Road to Dacy Lane. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*
17. Approve Task Order No. 5 to PAPE-DAWSON ENGINEERS, INC., San Antonio, Texas in the amount not to exceed \$488,657.77 for engineering services and design of Center Street (On-System) from Veterans Drive to Main Street. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*

18. Approve Supplemental Work Authorization No. 4 to Work Authorization No. 1 to K FRIESE AND ASSOCIATES, INC., Austin, Texas, increasing the contract amount authorized to date by \$1,270,130.38 for Work Authorization 1 for a total authorized contract amount not to exceed \$2,736,914.20 for project management services in support of the projects in the 2022 Road Bond Program. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*

Mayor Mitchell brought forward Item Nos. 15-18 simultaneously. Mr. Cantalupo and Mr. Moheet presented the items.

Council Member Parsley moved to approve Item Nos. 15-18. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

19. Acceptance of the City's Annual Comprehensive Financial Report (ACFR) and the Independent Auditor's Report for the fiscal year ended September 30, 2022. ~ *Andy Alejandro, City's Accounting Manager & Tino Robledo, CPA, Senior Director, RSM US, LLP, Certified Public Accountants*

Mr. Alejandro and Mr. Moheet presented the item. Mr. Tino Robledo, Audit Director, also provided information.

Council Member Bradshaw moved to approve Agenda Item No. 19. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

20. Consider and possible action to approve the Proposed Development Agreement Related to Plum Creek Employment Zoning; District Architectural Standards. ~ *Will Atkinson, Director of Planning*
21. *(Second Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of amending the Plum Creek Planned Unit Development, Employment District (Ch. 53, Exhibit A. - Plum Creek Planned Unit Development, Art. II., Part C.-PUD Districts: Regulations & Performance Standards, Section 9. - "EMP" Employment PUD District in Hays County, Texas. ~ *Will Atkinson, Director of Planning*

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

*City Council voted 5-0 to approve on First Reading on 12/6/2022.*

Item Nos. 20 and 21 were skipped for a discussion to take place in Executive Session.

22. Discussion and possible action regarding enhancing and amending the Kyle Style Guide/development ordinances to attract and encourage high quality developments within the city. ~ *Ashlee Bradshaw, Council Member*

Mr. Atkinson, Ms. Saenz, and Ms. Schmeits provided information on the item. No action was taken.

23. Discussion and possible action regarding the Kyle City Council retaining an employment attorney to include but not limited to the following work: employment discussions,



research, drafting and finalizing the contract of the future city manager. ~ *Yvonne Flores-Cale, Council Member*

Mr. Hendrix and Ms. Saenz provided information on this item.

Council Member Flores-Cale moved to direct staff to place an RFQ for an employment attorney with experience in City Management. Mayor Pro Tem Tobias seconded the motion.

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

24. Discussion and possible action to host the "First Annual City of Kyle Gingerbread House Contest". ~ *Daniela Parsley, Council Member*

Ms. Espinoza provided information on the item.

Mayor Mitchell moved to direct staff to proceed with the proposal to host the First Annual City of Kyle Gingerbread House Contest. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

25. Discussion and possible action to amend the rules of council to require a co-sponsor (two council members) for Kyle City Council Agenda items, excluding proclamations. No council member will be allowed to have their name on more than FOUR agenda items per meeting. ~ *Bear Heiser and Daniela Parsley, Council Members*

Council Member Parsley moved to amend the rules of council to require a co-sponsor for two items that are discussion and possible action, no co-sponsor for proclamations or bringing items that have been denied, and you can have a single item, for a maximum of four items including presentation/proclamation. Council Member Zuniga seconded the motion.

Council Member Heiser moved to amend the motion to have two items without a co-sponsor and one item with a co-sponsor. Council Member Zuniga seconded the motion.

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

Mayor Mitchell moved to amend the motion to exclude the mayor from this requirement. Council Member Parsley seconded the motion.

Council Member Bradshaw moved to call the question.

This is a non-debatable motion. Mayor Mitchell requested a roll call vote on calling the question. Council Member Bradshaw voted aye; Mayor Pro Tem Tobias voted aye; Mayor Mitchell voted aye; Council Member Flores-Cale voted nay; Council Member Zuniga voted aye; Council Member Heiser voted nay; and Council Member Parsley voted aye. Motion carried 5-2.

Mayor Mitchell requested a roll call vote on the motion to amend to exclude the Mayor from this requirement. Council Member Flores-Cale voted nay; Mayor Mitchell voted aye; Council Member Zuniga voted aye; Council Member Heiser voted aye; Mayor Pro Tem Tobias voted nay; Council Member Parsley voted aye; and Council Member Bradshaw voted aye. Motion carried 5-2.

Mayor Mitchell restated the original motion including the amendments.

Mayor Mitchell requested a roll call vote on the original motion as amended. Council Member Parsley voted aye; Council Member Heiser voted aye; Council Member Bradshaw voted aye; Mayor Mitchell voted aye; Council Member Flores-Cale voted nay; Council Member Zuniga voted aye; and Mayor Pro Tem Tobias voted nay. Motion carried 5-2.

### **IX. Executive Session**

26. 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.
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 Lion King

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: Agenda Item Nos. 20 and 21.”

The City Council convened into executive session at 10:57 p.m. Council Member Flores-Cale recused herself from executive session.

27. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 11:32 p.m. Mayor Mitchell announced that no action took place in Executive Session, but action would be taken now.

Mayor Mitchell moved to direct the City Attorney and City staff to proceed in negotiations with the relevant parties for the two agenda items that were discussed, as directed in executive session.

Mayor Pro Tem Tobias seconded the motion. Motion carried 5-0. Council Members Flores-Cale and Zuniga were absent for the vote.

**X. Adjourn**

Mayor Mitchell moved to adjourn. Mayor Pro Tem Tobias seconded the motion. No vote was held.

With no further business to discuss, the City Council adjourned at 11:33 p.m.

  
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Travis Mitchell, Mayor

Attest:

  
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Jennifer Kirkland, City Secretary