

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on April 4, 2023 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Virginia Parker
Mayor Pro Tem Michael Tobias	Matthew Tobias
Council Member Bear Heiser	Christina Thompson
Council Member Yvonne Flores-Cale	Misty Kinnison
Council Member Miguel Zuniga	Sandy Gonzalez
Council Member Ashlee Bradshaw	Kyle Benacquisto
Council Member Daniela Parsley	Nathan Larsen
Jerry Hendrix, Interim City Manager	David Mirza Kadjar III
Amber Schmeits, Assistant City Manager	Logan Beyer
Paige Saenz, City Attorney	Eduardo Jimenez
Rachel Sonnier, Communications Director	Quintin Nieskes
Grant Bowling, Video Production Specialist	Dakota Nieskes
Jennifer Kirkland, City Secretary	Zadok Benjamin Gallus
Leon Barba, City Engineer	Brenna Kadjar
Victoria Vargas, Economic Development Director	Joe Cantalupo
Perwez Moheet, Finance Director	Derek Bird
Sandra Duran, HR Director	Stephanie Leibe
Marco Forti, IT Director	Kyle Taylor
Colleen Tierney, Library Director	Cary Cobb
Mariana Espinoza, Parks & Recreation Director	Rusty Wood
Claudia Rocha, Special Events Manager	
Jason Lutz, Senior Planner	
Kaela Sharp, City Planner	
Pedro Hernandez, Assistant Chief of Police	
Tracy Vrana, Police Sergeant	
Daniel Gooding, Police Sergeant	
Kelly Barron Victims Services Coordinator	
Hannah-Bea Bickford, Victims Advocate	
Briana Geddes, Neighborhood Services Supervisor	
Kacie Olivo, Animal Control Officer	
Harper Wilder, Director of Public Works	
Will Paiz-Tabash, Emergency Mgmt. Coordinator	

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

Mayor Mitchell called the meeting to order at 7:07 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 - March 21, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
2. City Council Meeting Minutes - March 21, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
3. City Council Special Meeting Minutes - March 23, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*

Mayor Pro Tem Tobias moved to approve the minutes of the March 21, 2023 Special Council Meeting, March 21, 2023 Council Meeting and the minutes of the March 23, 2023 Special 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 7:09 p.m.

Virginia Parker, representing the San Marcos River Foundation, was called to speak as registered. She spoke about the Blanco River that flows from Kyle downstream into San Marcos. She then stated her concerns about the City's TCEQ wastewater permit application for increasing its discharge into Plum Creek. She stated they plan to request a contested case hearing if the application stays as is. She asked Council to amend the application to a 5/5/2/.5 request (CBOD-5, total suspended solids-5, ammonia-2, phosphorus- 0.5). She would like to see dissolved oxygen at 6, stating it is currently at 5. She stated they would like to see reuse in the plan. She offered to visit with Council along the way.

Matthew Tobias, representing Autism Acceptance, was called to speak as registered. He stated that he is a junior at Lehman High School. He spoke about being in the marching band, athletic training, and on the student council. He stated that Autism isn't something to be sad about because it's something that makes him who he is. He thanked the City Council for supporting Autism Awareness.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:14 p.m.

## IV. Agenda Order

4. Agenda Order per Rules of Council Sec. B1. ~ *Travis Mitchell, Mayor*

Council Member Parsley moved to move Item No. 35 to the top of consider and possible action. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

## V. Appointments

5. Consideration of nomination for appointment to the Kyle Public Library Advisory Board to fill a vacancy - Seat 6. ~ *Colleen Tierney, Library Director*
  - Christina Thompson

Mayor Pro Tem Tobias moved to approve the appointment of Christina Thompson to Seat 6 of the Kyle Public Library Advisory Board. Council Member Parsley seconded the motion.

Ms. Thompson answered Ms. Flores-Cale's question.

Mayor Mitchell called for the vote. Motion carried 7-0.

6. Consideration and possible appointment of a city council member to the Combined Emergency Communications Center Executive Board. ~ *Jerry Hendrix, Interim City Manager*

Council Member Flores-Cale moved to appoint Mayor Pro Tem Tobias as a city council member to the Combined Emergency Communications Center Executive Board. Council Member Zuniga seconded the motion. Motion carried 7-0.

## **VI. Presentation**

7. Autism Awareness Month Proclamation. ~ *Michael Tobias, Mayor Pro Tem*

Mayor Pro Tem Tobias read aloud the Proclamation acknowledging Autism Awareness Month. Misty Kinnison with CARD Kyle spoke about their work with area children with Autism and the services they offer. No action was taken.

8. National Animal Control Officer Appreciation Week Proclamation. ~ *Miguel A. Zuniga PhD, Council Member*

Council Member Zuniga read aloud the Proclamation acknowledging National Animal Control Officer Appreciation Week. No action was taken.

9. Sexual Assault Awareness Month Proclamation. ~ *Daniela Parsley, Council Member*

Council Member Parsley read aloud the Proclamation acknowledging Sexual Assault Awareness Month. Sandy Gonzalez representing Hays Caldwell Women's Center spoke on the item. No action was taken.

10. Child Abuse Awareness Proclamation. ~ *Travis Mitchell, Mayor*

Mayor Mitchell read aloud the Proclamation acknowledging Child Abuse Awareness. Sandy Gonzalez with Hays Caldwell Women's Center provided information on their upcoming fundraiser. Kyle Benacquisto representing CASA of Central Texas also provided information and announced information about volunteering and their upcoming fundraiser. No action was taken.

11. Proclamation recognizing Kyle Eagle Scouts Class of 2022. ~ *Daniela Parsley, Council Member*

Council Member Parsley read aloud the Proclamation acknowledging the Kyle Eagle Scouts Class of 2022. Nathan Larsen, Troop 967, David Mirza Kadjar III, Troop 967, Logan Beyer, Troop 125, Eduardo Jimenez, Troop 125, Quintin Nieskes, Troop 812, Dakota Nieskes, Troop 812, and Zadok Benjamin Gallus, 812, were all recognized. No action was taken.

12. Earth Month Awareness Proclamation. ~ *Miguel A. Zuniga PhD, Council Member*

Council Member Zuniga read aloud the Proclamation acknowledging Earth Month Awareness. No action was taken.

13. Presentation of Master Schedule and Public Outreach Plan for the 2022 Road Bond Program. ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager.*

No action was taken.

14. 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
- Earth Day Native Plant Give-Away
- Earth Day Camp Out
- Seasonal Staff Hiring Update
- Autism Awareness Event
- Food for Fines
- Ribbon Cutting of Seed Library
- Teen Job Fair
- Comprehensive Master Plan Update
- Economic Development Joint Workshop
- City Hall Emergency Training
- Team Kyle Update

Mr. Hendrix, Ms. Espinoza, Ms. Tierney, Mr. Lutz, Ms. Vargas, Ms. Sonnier, Mr. Paiz-Tabash, and Assistant Chief of Police Hernandez presented the item.

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

Mr. Barba and Ms. Espinoza presented the item. No action was taken.

**VIII. Items Pulled from Consent Agenda**

20. Authorize the Interim City Manager to execute Add Service Agreements with PGAL, Inc., in an amount not to exceed \$54,500.00 for additional design services for the Vybe Trail (\$30,000.00), Lift Station for Rainwater Harvesting (\$23,500.00), and Distributed Antenna System (\$1,000.00) in association with the City's Public Safety Center project. Funding will be provided from the remaining funds in PGAL's contract (\$24,500.00) and from the Vybe trail funds (\$30,000.00) for this agenda item. ~ *Derek Bird, AGCM, City of Kyle Project Manager*

Mayor Mitchell brought forward Item No. 20, out of order after Item No. 15. Mr. Bird and Ms. Saenz presented the item.



Council Member Flores-Cale moved to approve Item No. 20, excluding \$23,500 for lift station rainwater harvesting. Council Member Parsley seconded the motion. Motion carried 7-0.

21. Authorize the Interim City Manager to accept a \$25,000.00 grant from the Burdine Johnson Foundation for the purpose of creating a community garden at Post Oak Park. ~ *Mariana Espinoza, Director of Parks & Recreation*

Mayor Pro Tem Tobias moved to approve Agenda Item No. 21. Council Member Flores-Cale seconded the motion. Motion carried 6-0. Council Member Heiser left the dais at approximately 9:10 p.m. and was absent for the vote.

## VII. Consent Agenda

Mayor Mitchell brought forward Item Nos. 16, 17, 18, 19, 22, 23, 24, and 25 for consideration.

16. Approve a Resolution by the City of Kyle, Texas suspending the April 10, 2023 effective date of the proposal by Texas Gas Service Company, A division of One Gas, Inc. to implement interim GRIP rate adjustments for gas utility investment in 2022 and requiring delivery of the resolution to the company and legal counsel. ~ *Kaela Sharp, City Planner*
17. Approve a Resolution establishing the date for a public hearing to be held on May 16, 2023, as required under Chapter 395 of the Texas Local Government Code, to consider, discuss, and review the update to the water and wastewater land use assumptions, water and wastewater capital improvements plan, and imposition of updated water and wastewater impact fee amounts. ~ *Leon Barba, P.E., City Engineer*
18. Authorize the Interim City Manager to execute The Public Highway At-Grade Crossing Agreement with UNION PACIFIC RAILROAD COMPANY and in an amount not to exceed \$36,000.00 estimated for project management and inspections for the Center Street and South Street quiet zone railroad crossings. ~ *Leon Barba, P.E., City Engineer*
19. Approve Amendment No. 5 to Task Order No. 6 to LJA ENGINEERING, INC., Austin, Texas, in the amount not to exceed \$3,039.20 increasing the total contract amount to \$233,735.00 for additional survey of temporary construction easements for the Anthem to Kohlers Crossing Waterline Connection Project. ~ *Leon Barba, P.E., City Engineer*
22. Authorize the Police Department to apply for a Strategic Traffic Enforcement Program (STEP) Click It Or Ticket (CIOT) grant in an amount no greater than \$5,000.00 from the Texas Department of Transportation and authorize an estimated 20% matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$1,000 to fund the STEP Grant Program for two weeks beginning May 22, 2023 and ending June 4, 2023. ~ *Jeff Barnett, Chief of Police*
23. Authorize the Police Department to apply for a Strategic Traffic Enforcement Program (STEP) Operation Slow Down (OpSlow) grant in an amount no greater than \$5,000.00 from Texas Department of Transportation (TXDOT) and authorize an estimated 20% matching funding from the Police Department's approved operating budget for FY 2022-

2023 in an amount not to exceed \$1,000 to fund the STEP Grant Program for two weeks beginning July 14, 2023 and ending July 30, 2023. ~ *Jeff Barnett, Chief of Police*

24. Discuss and take action to pay Kazoo, Inc. DBA WorkTango an additional \$3,069.00 subscription fee to add 55 plus users to conduct Boards & Commissions engagement surveys as needed. ~ *Sandra Duran, Director of Human Resources*
25. Approve an agreement with and award a purchase order in the guaranteed minimum amount of \$18,000.00 to ALAMO ATTRACTIONS, INC., San Antonio, Texas for providing carnival rides, concessions and amusements for the Kyle Fair TexTravaganza. ~ *Mariana Espinoza, Director of Parks & Recreation*

Council Member Parsley moved to approve Consent Agenda Item Nos. 16, 17, 18, 19, 22, 23, 24, and 25. Council Member Flores-Cale seconded the motion. Motion carried 6-0. Council Member Heiser was absent for the vote.

### **IX. Public Hearings**

26. Public Hearing Regarding the Petition to Increase the Estimated Costs of the Improvements for Improvement Area #2 of the Southwest Kyle Public Improvement District No. 1. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Mayor Mitchell opened the public hearing at 9:11 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:12 p.m.

### **X. Consider and Possible Action**

35. Discussion and possible action to amend the fire code section 503.2.1 and establish a new safe unobstructed width for public and private roads. ~ *Daniela Parsley, Council Member*

Mayor Mitchell brought forward Item No. 35 out of order, after Item No. 26. Council Member Heiser returned to the dais at approximately 9:13 p.m. Kyle Taylor, Fire Chief of ESD No. 5 provided information on the item.

Council Member Parsley moved to amend the fire code to go from a minimum width of 20 feet to 24 feet. Council Member Flores-Cale seconded the motion. Motion carried 6-1 with Mayor Mitchell dissenting.

27. Consideration and Approval of a Resolution of the City of Kyle, Texas, Approving an Amendment to the Southwest Kyle Public Improvement District No. 1 within the City of Kyle Pursuant to Chapter 372 of the Texas Local Government Code. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Ms. Leibe, City's Bond Counsel, presented the item. Cary Cobb of Intermandeco, the developer, provided information on the item.

Mayor Pro Tem Tobias moved to approve Agenda Item No. 27. Council Member Parsley seconded the motion. Motion carried 7-0.

28. Approve Task Order No. 4 to PAPE-DAWSON ENGINEERS, INC., San Antonio, Texas in the amount not to exceed \$1,067,346.60 for engineering services and design of Old Stagecoach Road from Veterans Drive (RM 150) to Center Street (Off-System) and also Center Street (Off-System) from Old Stagecoach Road to Veterans Drive (RM 150). ~ *Joe Cantalupo, K Friese & Associates, City's 2022 Road Bond Program Manager*

Council Member Zuniga moved to approve Item No. 28. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

29. *(First Reading)* An Ordinance regulating traffic, authorizing and directing the installation and erection of stop signs for traffic control at the intersection of County Road 158 and Old Post Road; Spring Branch Drive and Spring Branch Loop/Fall Creek Drive; and Sanders and Kohler's Crossing in the city limits of Kyle. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell moved to approve Agenda Item No. 29. Council Member Parsley seconded the motion. Motion carried 7-0.

With no objections, the ordinance was finally passed.

30. *(First Reading)* An Ordinance granting Acadian Ambulance Service of Texas, LLC, D/B/A Acadian Ambulance Service, a franchise to provide non-emergency and rollover emergency ambulance services within the boundaries of the City of Kyle, Texas; providing an agreement prescribing conditions, terms, and regulations governing the operation of the non-emergency ambulance services; providing penalties for noncompliance with franchise. ~ *Kaela Sharp, City Planner*

- Public Hearing

Ms. Schmeits presented the item.

Mayor Mitchell opened the public hearing at 9:40 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:40 p.m.

Rusty Wood, Director of Operations for Acadian Ambulance, provided information on the item.

Council Member Zuniga moved to approve Item No. 30. Mayor Pro Tem Tobias seconded the motion. Motion carried 7-0.

Mayor Mitchell asked if there were any objections to the ordinance being finally passed. Ms. Saenz stated that the City's Charter requires two readings for a Franchise.

31. Approve Change Order No. 1 in the amount of \$125,000.00 increasing the total contract amount awarded to OASIS WATER PLAYGROUNDS, Houston, TX, from \$500,000.00 to a total amount not to exceed \$625,000.00 and authorize execution of a contract in the total amount of \$625,000.00 for the design and construction of a 3,000 sq. ft. Splashpad and other associated structures and equipment as included in the proposal at the City's Gregg-Clarke Park. ~ *Mariana Espinoza, Director of Parks & Recreation*



Council Member Flores-Cale moved to approve Agenda Item No. 31. Council Member Parsley seconded the motion. Motion carried 7-0.

32. Approve an agreement with and a purchase order to OASIS WATER PLAYGROUNDS, Houston, TX, in an amount not to exceed \$495,065.00 for the design and construction of a 2,300 sq. ft. Splashpad and other associated structures and equipment as included in the proposal at the City's Steeplechase Park. ~ *Mariana Espinoza, Director of Parks & Recreation*

Council Member Flores-Cale moved to approve Agenda Item No. 32. Mayor Pro Tem Tobias seconded the motion. Motion carried 7-0.

33. Consider Approval of a Service Area Agreement between Crosswinds Municipal Utility District, the City of Kyle, and Texas Water Utilities, L.P., to transfer service area to City of Kyle to provide retail water utility services. ~ *Paige Saenz, City Attorney*

Ms. Saenz presented the item. Mr. Barba provided additional information on the item.

Council Member Zuniga moved to approve Agenda Item No. 33. Council Member Parsley seconded the motion.

Council Member Zuniga restated his motion to approve Item No. 33 and authorize the Interim City Manager to enter into an agreement with Texas Water Utilities, L.P. Motion carried 7-0.

34. Discussion and possible action regarding a Request for Proposals for the preparation of the U.S. Department of Housing and Urban Development 2023-2024 Consolidated Plan as it relates to becoming a CDBG Entitlement City. ~ *Amber Schmeits, Assistant City Manager*

Council Member Parsley moved to approve Item No. 34. Mayor Pro Tem Tobias seconded the motion. Motion carried 7-0.

36. Discussion and possible action regarding the City of Kyle's future use of reclaimed water lines, including but not limited to review/discussion of past reports, future plans to incorporate lines into the city's infrastructure, including new development and possible direction to staff to obtain additional information. ~ *Yvonne Flores-Cale, Council Member*

Ms. Schmeits, Mr. Atkinson, and Mr. Barba provided information on the item.

Council Member Flores-Cale moved to direct staff to review our current ordinances, state laws, codes, and other legal barriers, find possible users, and bring back ideas regarding rainwater harvesting incentives and development landscaping requirements better suited for the City's landscaping conditions. Council Member Parsley seconded the motion. Motion carried 7-0.

## **XI. Executive Session**

38. 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, settlement agreement, 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. Cause No. 22-0873; the State of Texas, ex. rel. 1200 S. Old Stagecoach Road, LLC, v. City of Kyle, Texas; pending in the 207th Judicial District Court of Hays County, Texas, and Cause No. 19-1492; 1200 S. Old Stagecoach Road, LLC v. City of Kyle, Texas; pending in the 22nd Judicial District Court of Hays County, Texas Water Services Area Agreement
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 Provision
  - Project Lime Zest
  - Project DNA

Mayor Mitchell brought forward Item No. 37 for executive session.

Mayor Mitchell read into the record, “Agenda Item No. 37 is consideration and possible action to disannex or discontinue from being part of the city properties described in Ordinance No. 1010, consisting of approximately 62.47 acres of land, and to repeal Ordinance No. 1010; and I will also request that we go into executive session on 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 - Cause No. 22-0873; the State of Texas, ex. rel. 1200 S. Old Stagecoach Road, LLC, v. City of Kyle, Texas; pending in the 207th Judicial District Court of Hays County, Texas, and Cause No. 19-1492; 1200 S. Old Stagecoach Road, LLC v. City of Kyle, Texas; pending in the 22nd Judicial District Court of Hays County, Texas.”

The City Council convened into executive session at 10:15 p.m.

Council Member Flores-Cale recused herself and did not attend executive session.

39. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 10:45 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

37. Consideration and possible action to disannex or discontinue from being part of the city properties described in Ordinance No. 1010, consisting of approximately 62.47 acres of land, and to repeal Ordinance No. 1010. ~ *Paige Saenz, City Attorney*

Mayor Mitchell moved to table Item No. 37. Mayor Pro Tem Tobias seconded the motion. Motion carried 6-0.

**XII. 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 10:46 p.m.

  
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Travis Mitchell, Mayor

Attest:

  
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Jennifer Kirkland, City Secretary