

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on April 18, 2023 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Lauren Foye
Mayor Pro Tem Michael Tobias	Sarah Leos
Council Member Bear Heiser*	Marcella Alvarado-Vasquez
Council Member Yvonne Flores-Cale	Conor Hearn
Council Member Miguel Zuniga	Vanessa Westbrook
Council Member Ashlee Bradshaw	Zach Ryan
Council Member Daniela Parsley*	Derek Bird
Jerry Hendrix, Interim City Manager	Vincent Huebinger
Amber Schmeits, Assistant City Manager	Spencer Collins
Paige Saenz, City Attorney	Andrew Grimm
Alison Kelly, Communications Manager	
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	
Danny Benavides, Assistant Director of IT	
Colleen Tierney, Library Director	
Mariana Espinoza, Parks & Recreation Director	
Aimee Garcia, Recreation Manager	
Sheba Aligaweesa, Recreation Programmer	
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	
Kelly Barron, Victims Services Coordinator	
Hannah-Bea Bickford, Victims Advocate	
Briana Geddes, Neighborhood Services Supervisor	
Will Paiz-Tabash, Emergency Mgmt. Coordinator	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:15 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.

*One or more members of the governing body may participate in the meeting by videoconference pursuant to Section 551.127, Texas Government Code, provided that a quorum of the governing body will be present at Kyle City Hall.

II. Approval of Minutes

1. City Council Special Meeting Minutes - April 1, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
2. City Council Special Meeting Minutes - April 4, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*
3. City Council Meeting Minutes - April 4, 2023. ~ *Jennifer Kirkland, TRMC, City Secretary*

Mayor Pro Tem Tobias moved to approve the minutes of the April 1, 2023 Special Council Meeting, April 4, 2023 Special Council Meeting and the minutes of the April 4, 2023 Council Meeting. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

III. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 7:16 p.m.

Lauren Foye representing PALS as its president, was called to speak as registered in favor of Item No. 18. She spoke about Prevent A Litter and their services. She stated she hopes the Council will consider using their services with any funds they put toward the program.

Sarah Leos was called to speak as registered. She spoke about the Vybe Trail, stating they had not heard back from anyone and so they would like to speak again, and urged the Council to use the natural paths that are already there and being used. She asked whether there are plans for a buffer between the trail and the homes. She stated that their HOA has urged them to contact City Council.

Marcella Alvarado-Vasquez stated her name and address. Assistant Chief Pedro Hernandez stated he was asked to relay her comments due to her not speaking English very well. He stated that she would like to ask Council to consider removing no parking signs on Onyx Lake Drive. She lives on the corner of Onyx Lake and Ruby Lake and has received two citations for parking in front of her own home. The signs were initially put up over concerns of students parking in the neighborhood. Her opinion is that there isn't an issue with Lehman High School students parking on Onyx Lake.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:23 p.m.

IV. Agenda Order

4. Agenda Order per Rules of Council Sec. B1.

No action was taken.

V. Presentation

5. National Crime Victims' Rights Proclamation. ~ *Yvonne Flores-Cale, Council Member*

Council Member Flores-Cale read aloud the Proclamation acknowledging National Crime Victims' Rights. Chief Barnett, Kelly Barron, Victims Services Coordinator and Hannah-Bea Bickford, Victims Advocate, spoke regarding the item. No action was taken.

6. Presentation of the FLOCK Safety Automated License Plater Reader System. ~ *Jeff Barnett, Chief of Police*

Chief Barnett presented the item. Mr. Conor Hearn of Flock Safety also provided information.

At 7:30 p.m. Council Members Heiser and Parsley were not on camera and were considered absent pursuant to Texas Government Code Sec. 551.127(a-3). Council Member Parsley was back on camera at 7:33 p.m. Council Member Heiser returned on camera at 7:35 p.m. Due to technical difficulties, Council Member Heiser was considered absent or present intermittently between 7:39 and 8:12 p.m.

No action was taken.

7. Arts & Cultural Commission updates. ~ *Colleen Tierney, Director of Library Services*

Ms. Tierney introduced Ms. Vanessa Westbrook, Chair of the Arts & Cultural Commission, who provided the update. Council Member Heiser was present at 8:33 p.m. No action was taken.

8. 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*

- Skate Night
- Art in the Park
- 4th of July Update
- National Library Week
- Overdrive is Changing to Libby
- Ribbon Cutting of Seed Library
- Teen Job Fair
- Landscape Code Updates
- Residential Style Guide Updates
- Comprehensive Master Plan Update
- After Action Report and Improvement Plan for Exercise at City Hall
- Team Kyle Update

Mr. Hendrix, Ms. Rocha, Ms. Tierney, Mr. Atkinson, and Mr. Paiz-Tabash presented the item. Council Member Bradshaw left the dais at 8:35 p.m. Council Members Heiser and Parsley had intermittent video between 8:36 p.m. and 8:38 p.m. Mayor Mitchell left the dais at 8:39 p.m. A quorum was not present. Mayor Mitchell and Council Member Bradshaw returned at 8:42 p.m.

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

Mr. Barba presented the item. Council Member Flores-Cale left the dais at 8:47 p.m. She returned at approximately 8:50 p.m. Mr. Zach Ryan with LJA provided information on Bebee Road to Hillside Terrace Road Construction. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward Item Nos. 10 and 11 for consideration.

10. *(Second 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*

City Council voted 7-0 to approve on first reading on 4/4/2023.

11. Approve Task Order No. 5 to PAPE-DAWSON ENGINEERING, INC., Austin, Texas in an amount not to exceed \$72,800.00, for a preliminary engineering report (PER) and 30% design documents for a one-million-gallon elevated water storage tank, a 500,000-gallon pre-stressed concrete water ground storage tank, and an associated pump station and appurtenances for the proposed CR 158 water storage project. ~ *Leon Barba, P.E., City Engineer*

Council Member Zuniga moved to approve Consent Agenda Item Nos. 10 and 11. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

Mayor Mitchell stated that before the public hearing item, there was a request to go into executive session to discuss the city manager employment agreement before proceeding with the agenda.

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. The City Council may convene pursuant to any lawful exception in Chapter 551: Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to 551.071-City Manager Employment Agreement."

The City Council convened into executive session at 9:03 p.m.

Mayor Mitchell called the meeting back to order at 9:08 p.m. Mayor Mitchell announced that no action took place in Executive Session, but action would be taken now.

Mayor Mitchell moved to approve the offer letter and city manager employment agreement with Bryan Langley and authorize the mayor to sign the agreement after Mr. Langley passes the employment pre-screening. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

VII. Items Pulled from Consent Agenda

VIII. Public Hearings

12. Public Hearing Concerning the Approval of the Amended and Restated Project and Finance Plan and the Amended Interlocal Agreement for the Tax Increment Zone Number Two, City of Kyle and Approval of the Extension of the Zone. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Ms. Leibe presented the item.

Council Member Bradshaw left the dais at 9:09 p.m. Council Member Parsley was off-camera and marked absent at 9:10 p.m.

Mayor Mitchell opened the public hearing at 9:10 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:10 p.m.

IX. Consider and Possible Action

13. Consideration and Approval of an Ordinance of the City of Kyle, Texas Approving the Amended and Restated Project and Finance Plan and Amended Interlocal Agreement for the Tax Increment Reinvestment Zone Number Two, City of Kyle and Approving the Extension of the Zone; and Other Matters Related Thereto. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Council Member Bradshaw returned to the dais at 9:11 p.m.

Council Member Bradshaw moved to approve Item No. 13. Mayor Pro Tem Tobias seconded the motion. Motion carried 6-0. Council Member Parsley was absent for the vote.

14. Consider approval of a Transportation Improvement Design, Permitting and Construction Agreement with TIRZ No. 2 and Plum Creek Development Partners. ~ *Paige Saenz, City Attorney*

Council Member Parsley was present at 9:13 p.m.

Mayor Pro Tem Tobias moved to approve Agenda Item No. 14. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

15. Consider and possible action to approve a Resolution of the City of Kyle, Texas Approving the Form and Authorizing the Distribution of a Preliminary Limited Offering Memorandum for the City of Kyle, Texas Special Assessment Revenue Bonds, Series 2023 (Porter Country Public Improvement District Improvement Area #1 Project); and Resolving Other Matters Incident and Related Thereto. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

16. Consider and possible action to approve a Resolution of the City of Kyle, Texas Determining the Costs of Certain Authorized Improvements to be Financed within Improvement Area #1 of the Porter Country Public Improvement District; Approving a Preliminary Service and Assessment Plan Updated For Improvement Area #1, Including a Proposed Improvement Area #1 Assessment Roll; Directing the Filing of the Proposed Improvement Area #1 Assessment Roll with the City Secretary to Make Available for Public Inspection; Noticing a Public Hearing for May 16, 2023 to Consider an Ordinance Levying Assessments on Property Located within Improvement Area #1 of the Porter Country Public Improvement District; Directing City Staff to Publish and Mail Notice of Said Public Hearing; and Resolving Other Matters Incident and Related Thereto. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Ms. Leibe presented on Items 15 and 16 at the same time.

Mayor Pro Tem Tobias moved to approve Item Nos. 15 and 16. Council Member Bradshaw seconded the motion. Motion carried 5-0. Council Members Heiser and Parsley were absent for the vote.

17. Discussion regarding the feasibility of utilizing the rainwater harvesting system lift station design from the Public Safety Center to another City project/location. ~ *Derek Bird, AGCM, City of Kyle Project Manager*

No action was taken.

18. Presentation, update, and possible action regarding spay/neuter/vaccinate program for City of Kyle including vouchers, requirements, participation, and costs. ~ *Jeff Barnett, Chief of Police*

Chief Barnett spoke and introduced Ms. Geddes who presented the item.

Council Member Flores-Cale moved to direct staff to bring back corresponding procedures for Agenda Item No. 18 in the amount of \$22,250. Council Member Parsley seconded the motion. Motion carried 6-1 with Council Member Bradshaw dissenting.

19. Authorize execution of a professional services agreement with CATALYST COMMERCIAL, INC., Dallas, Texas, for total consulting fees in the amount not to exceed \$25,000.00 which includes reimbursable expenses at 115 percent of actual costs to provide services related to recruitment of targeted retail, hospitality, entertainment and destination recreation in the City of Kyle for the period April 1, 2023 through September 29, 2023. ~ *Victoria Vargas, Director of Economic Development*

Mayor Mitchell moved to table Agenda Item No. 19. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

20. Approve an updated Interlocal Agreement (ILA) between the Plum Creek Watershed Partnership and the City of Kyle regarding the continued participation and implementation of the Plum Creek Watershed Protection Plan. ~ *Kathy Roecker, Stormwater Management Plan Administrator*

Mayor Mitchell moved to approve Item No. 20. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

21. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 4.68 acres of land from 'RS' (Retail Services) to 'R-1-T' (Townhomes) for property locate at 1290 Bebee Road in Hays County, Texas (Dacy Lane LLC - Z-23-0113). ~ *Will Atkinson, Director of Planning*

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

- Public Hearing

Council Member Heiser was absent at 9:39 p.m.

Mayor Mitchell opened the public hearing at 9:42 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:42 p.m.

The Mayor asked if there were any objections to the applicants presenting briefly. There were none.

Vincent Huebinger, the applicant, spoke about Bebee Road being part of the Road Bond, stating that the project was denied previously due to transportation concerns. Spencer Collins with McAllister & Associates Real Estate spoke about retail inquiries he has received for the property that it is not suitable for retail. He also spoke about ad valorem versus sales tax revenues. He stated that Council should consider this space for a residential project.

Council Member Parsley moved to deny Item No. 21. Council Member Bradshaw seconded the motion.

Council Member Parsley amended her motion to deny the zoning and direct staff to work with the developer to bring back a PUD zoning request with a development agreement including elevations and concept plans that is consistent with the discussion and includes townhomes that are for ownership and retail. Council Member Bradshaw seconded the motion. Motion carried 7-0.

22. Approve License Agreement Between the City of Kyle & Caroline Marketplace, LP. ~ *Will Atkinson, Director of Planning*

- *The license agreement is for maintenance of public street parking associated with the Caroline on Marketplace project. The project was entitled through the CSW, LLC development agreement.*

Council Member Heiser was absent at 10:22 p.m. Andrew Grimm with Caroline Marketplace spoke about the notification process provided for in the agreement.

Council Member Parsley moved to approve Item No. 22. Council Member Zuniga seconded the motion. Council Member Heiser was present at 10:31 p.m. Motion carried 7-0.

23. Consider and Possible Action to Support the City of Kyle's Participation in a Regional Climate Pollution Action Plan Grant. ~ *Bear Heiser, Council Member*

Ms. Kathy Roecker presented the item.

Mayor Mitchell moved to approve Agenda Item No. 23. Council Member Flores-Cale seconded the motion. Motion carried 7-0.

24. Discussion and possible action regarding the Rules of Council, to include but not limited to, the rescision of votes. ~ *Yvonne Flores-Cale, Council Member*

Council Member Flores-Cale moved to amend the rules of council to add the verbiage she read regarding the rescision of votes and have staff bring it back for council review. Mayor Mitchell seconded the motion. Motion carried 6-1 with Council Member Zuniga dissenting.

25. Discussion regarding council budget workshop calendar and scheduling of visioning workshop. ~ *Travis Mitchell, Mayor*

No action was taken.

X. 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, 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
 - Marshall Tract
 - City Manager Employment 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 Pearly Whites
 - Project Lion King
 - Project Limoncello
 - Project Chile Pepper

Mayor Pro Tem Tobias 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 the following topics: Pending litigation, settlement agreements, advice of Attorneys, Disciplinary Rules of Conduct - Cause No. referencing Old Stagecoach Road; also the Marshall Tract; City Manager Employment; and also Convene into executive session pursuant to Section 551.087 to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to locate, stay, and expand in or near the City - Project Pearly Whites; Project Lion King; Project Limoncello; Project Chile Pepper.”

The City Council convened into executive session at 10:40 p.m. The council did not convene into executive session regarding city manager employment as was read into the record.

Council Member Flores-Cale recused herself from the discussion regarding 1200 S. Old Stagecoach Road, LLC v. City of Kyle, Texas; pending in the 22nd Judicial District Court of Hays County, Texas.

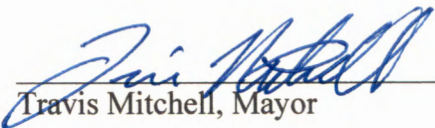
27. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 11:21 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 Flores-Cale seconded the motion. No vote was held. Council Members Bradshaw, Parsley and Heiser were absent.

With no further business to discuss, the City Council adjourned at 11:21 p.m.



Travis Mitchell, Mayor

Attest:



Jennifer Kirkland, City Secretary