

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on November 19, 2019 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Lisa Trahan
Mayor Pro Tem Dex Ellison	Mark Rhemann
Council Member Tracy Scheel	Peter Parcher
Council Member Robert Rizo	Sandra O'Neal
Council Member Alex Villalobos	Tracy Gerrish
Council Member Rick Koch	Rick Hanna
Council Member Daphne Tenorio	Ned Davenport
Scott Sellers, City Manager	Scott Stoker
James Earp, Assistant City Manager	Thomas Rhodes
Paige Saenz, City Attorney	Chris Allen
Jerry Hendrix, Chief of Staff	
Kim Hilsenbeck, Communications Mgr.	
Jennifer Vetrano, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Adrian Gooden, IT Technician	
Paul Phelan, Library Director	
Mariana Espinoza, PARD Director	
Howard Koontz, Community Dev. Director	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Harper Wilder, Director of Public Works	

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

Mayor Mitchell called the meeting to order at 7:04 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Ellison, Council Member Scheel, Council Member Rizo, Council Member Villalobos, Council Member Koch, and Council Member Tenorio. A quorum was present.

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

Mayor Mitchell brought forward citizen comments out of order. He opened citizen comments at 7:05 p.m.

Lisa Trahan was called to speak as registered. She thanked Mayor Mitchell and Mayor Pro Tem Ellison for their work on the development plans concerning the property of the 1200 to 1600 block of Rebel Drive. She mentioned that her daughter asked her to speak about the Woodpecker they spotted while walking recently in the area. She spoke about the different species of birds that habitat the area. Ms. Trahan said that she was speaking primarily for the wildlife in the area. She said that she knew Council cared about preserving the critical natural needs of Kyle and the

balance of needs of housing in their growing community. She thanked the Council for their service.

Mark Rhemann was called to speak as registered in favor of Item No. 23. He spoke about the traffic from 6:30 a.m. - 8:00 p.m. Mr. Rhemann spoke about retail property in front of his neighborhood that has been sitting there for four years with no development. He said another retail property going in later down the road would leave the space undeveloped. He stated that he knew the Council did not control the road, but he would prefer residential over retail.

Peter Parcher was called to speak as registered. He congratulated Mr. Rizo on his re-election and thanked Council Member Tenorio for everything she has done. Mr. Parcher said he was there to address Mayor Mitchell directly regarding a statement that he said Mayor Mitchell made regarding a petition. There was no response by Mayor Mitchell.

Sandra O'Neal was called to speak as registered in opposition of Item No. 23. She spoke about the Brooks property and stated that she believes the Brooks family would rather see more preservation of the wildlife. She said that residential would suit the area so much better than retail and mentioned not being happy if retail space was put in. She talked about the road noise and future road widening, pleading to Council to consider area residential only. She mentioned their consideration going far with citizens.

Tracy Gerrish was called to speak as registered in opposition of Item No. 23. She said that she has lived in Kyle for 16 years. She spoke about moving here from Austin and said it had turned into a concrete jungle with few green spaces. Ms. Gerrish mentioned reasons for moving to Kyle were that she could see the stars at night and still see green trees and had a hometown feel. She talked about putting commercial properties in residential areas that were taking away from the hometown feeling. She mentioned retail/residential being unaffordable. She said that she would not like concrete, lights, and a box store near residential area.

Mayor Mitchell said Rick Hannah wanted to speak on an item but the item concerning Brooks Crossing has postponed until December 3<sup>rd</sup>, due to work on a development agreement to accommodate concerns brought up by the residents. Rick Hannah with Blackburn Group spoke about the development of the area. He stated that he is in the process of working out a development agreement. He is aware of the petition circulating about the area. He stated that they are listening, they are preserving a tremendous amount of green space. He spoke about a 10-foot buffer between their development and the Plum Creek development. He said, they intend to keep that buffer, as well as R-1-3 and R-1-2. Even R-1-1. Overall density in line with R-1-2.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:16 p.m.

## **II. Approval of Minutes**

1. City Council Special Meeting Minutes - August 3, 2019. ~ *Jennifer Vetrano, City Secretary*
2. City Council Meeting Minutes - August 6, 2019. ~ *Jennifer Vetrano, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tenorio moved to approve the minutes of the August 3, 2019 Special Council Meeting and the minutes of the August 6, 2019 Council Meeting. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

## **IV. Presentation**

3. Introduction of new Parks and Recreation Director, Mariana Espinoza. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 3 for discussion. Mr. Sellers introduced Mariana Espinoza. Ms. Espinoza introduced herself to the Council.

4. *[Postponed 11/4/2019]* Presentation by Ned Davenport related to development in the City of Kyle ETJ. ~ *Tracy Scheel, Council Member*

Mayor Mitchell brought forward Item No. 4 for discussion and gave the floor to Council Member Scheel who introduced Mr. Ned Davenport. Mr. Davenport presented the item.

Council Member Tenorio moved to direct staff to work with Ned Davenport to bring forward a development agreement that staff has vetted and is in support. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Villalobos mentioned that he would like to see a diagram of surrounding properties that are under development in the area. Mayor Mitchell asked for clarification on annexing when the use changes versus annexing once building is complete. Mayor Mitchell spoke about Stormwater runoff, building standards, setback rules, project, and exceptions for. He said his thoughts were that, if they offered an exception to allow to build to county standards and exempt the development agreement he was a part of from the Ordinance, that it takes the city out of the equation as far as contribution to what kind of project he put in. Mayor Mitchell said he was not saying he was for or against and mentioned he was interested to see staff analysis as it relates to what I am referring to here on development standards and stormwater runoff. Mr. Sellers added, water and wastewater requirements to the items Mayor Mitchell mentioned. Mr. Davenport said Wastewater isn't there yet, so they are talking septic. Council Member Rizo talked briefly about an updated map for the 150 alignment.

All votes aye; motion carried 7-0.

5. CIP/Road Projects Update. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No. 5 for discussion. Mr. Barba presented the item. Mr. Wilder spoke about the consent agenda items for his department.

**V. Appointments**

6. Consideration of nominations for (re)appointment to the Kyle Public Library Advisory Board to fill 2 vacancies. ~ *Paul Phelan, Director of Library Services*

- Priscilla Carruthers, New Appointment
- Gracie Rocha, Reappointment

Mayor Mitchell brought forward Item No. 6 for discussion. Mr. Phelan presented the item.

Council Member Tenorio moved to approve the appointment of Priscilla Carruthers and the reappointment of Gracie Rocha to the Kyle Public Library Advisory Board to fill 2 vacancies. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

7. Consider and Appoint a Representative to the San Marcos Regional Animal Shelter Board. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 7 for discussion. Chief Jeff Barnett presented the item.

Mayor Mitchell moved to appoint Briana Brecher to the San Marcos Regional Animal Shelter Board. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0.

8. Consider and nomination for appointments to the Kyle Parks and Recreation Board to fill 2 vacancies and reappoint existing board members. ~ *Mariana Espinoza, Director of Parks and Recreation*

- Reappointments Chuck Koenen (seat 3) Amanda Stark (seat 5)
- Appointments Tracey Garza (seat 1) Anne Duhon (seat 6)

Mayor Mitchell brought forward Item No. 8 for discussion. Mr. Scott Stoker, Chair of the Parks and Recreation Board presented the item.

Council Member Tenorio moved to approve the reappointments of Chuck Koenen to Seat 3 and Amanda Stark Seat 5 and the appointments of Tracey Garza to Seat 1 and Anne Duhon to Seat 6 to the Kyle Parks and Recreation Board to fill 2 vacancies. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Scheel stated that all four applicants were phenomenal. She looks forward to the ideas that come forward in the future. She spoke about Amanda Stark's insight and past work. She stated she has great expectations for the Parks Board. Mayor Pro Tem Ellison stated that it is great to see that the Boards and Commission applicants are competitive. He expressed appreciation that citizens are showing interest to serve on the board.

All votes aye; motion carried 7-0.

9. Consider appointment to CAPCOG General Assembly to replace Shane Arabie. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 9 for discussion and presented the item.

Council Member Villalobos moved to appoint Robert Rizo to CAPCOG General Assembly to replace Shane Arabie. Council Member Tenorio seconded the motion.

There was discussion on the motion. Mr. Sellers stated that there are two seats, Mayor Mitchell being the other. Mayor Mitchell mentioned being open to vacate his seat on this board if anyone else were interested, then said he felt Mr. Rizo would do a fantastic job.

All votes aye; motion carried 7-0.

10. Appoint a member of City Council to CAMPO. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 10 for discussion. Mr. Sellers presented the item.

Mayor Mitchell moved to appoint Mayor Mitchell to serve as the appointment and Mayor Pro Tem Ellison as proxy to CAMPO. Council Member Scheel seconded the motion. Motion carried 6-1 with Council Member Tenorio dissenting.

11. Consider appointment to the Hays County Citizens Election Advisory Commission. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 11 for discussion and presented the item.

Council Member Scheel moved to appoint Penny Krug to the Hays County Citizens Election Advisory Commission. Mayor Pro Tem Ellison seconded the motion.

There was discussion on the motion. Council Member Villalobos stated that this is a critical piece being worked on, creating structure to take feedback from each political subdivision, and to make recommendations based on usage and projecting out other locations. Council Member Villalobos mentioned that it will give opportunity to locate other locations based on growth patterns. He spoke about assessments and recommendations to change polling locations. Mayor Mitchell asked whether the committee makes recommendations to each political subdivision or straight to Elections Administrator. Council Member Villalobos stated that it will go to Elections Administrator and then through the Commissioners Court and they would make those recommendations based on what they felt appropriate.

All votes aye; motion carried 7-0.

12. A Resolution of the City of Kyle, Texas, Casting and Defining Jurisdictional Votes by the City for the Official Ballot for Election of the 2020-2021 Hays Central Appraisal District Board of Directors. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 12 for discussion. Mr. Sellers presented the item.

Mayor Mitchell moved to approve a Resolution of the City of Kyle, Texas, Casting and Defining Jurisdictional Votes by the City for the Official Ballot for Election of the 2020-2021 Hays Central Appraisal District Board of Directors, splitting the votes between Abel Tenorio and Traci Maxwell. Council Member Tenorio seconded the motion.

There was discussion on the motion. Council Member Tenorio stated Abel Tenorio was a family member. She also said that he was from a different family tree, so there was no proximity to family.

All votes aye; motion carried 7-0.

## **VI. Consent Agenda**

City Attorney Paige Saenz presented changes related to Item No. 18. Council Member Tenorio asked if it would be best to pull the item. Ms. Saenz stated that would probably be easier. Mayor Mitchell said the item was pulled. Mayor Mitchell asked if there were any other items to be pulled from the Consent Agenda. Council Member Koch requested to pull Item No. 19. Council Member Tenorio said she wanted to mention that the items were budgeted for since there were high ticket items on the agenda.

Mayor Mitchell brought forward Item Nos. 13, 14, 15, 16, and 17.

13. Approve a Resolution of the City of Kyle, Texas, accepting dedication of Parkland Dedication in connection with the platting of the Kyle Estates Development and authorizing the Mayor to execute the Special Warranty Deed conveying the parkland; and providing for related matters and approve an Open Space Improvements Agreement with Kyle Estates Development. ~ *Paige Saenz, City Attorney*
14. Authorize award and execution of a Purchase Order to RDO EQUIPMENT COMPANY, Pflugerville, Texas, in an amount not to exceed \$202,735.36 for the purchase of one (1) new John Deere 544L Front End Loader with attachments through Buy Board Purchasing Cooperative (Contract # 515-16) for the Public Works Department (Street Construction). ~ *Harper Wilder, Director of Public Works*
15. Authorize award and execution of a Purchase Order to RDO EQUIPMENT COMPANY, Pflugerville, Texas, in an amount not to exceed \$179,116.36, for the purchase of one (1) new John Deere 544L Front End Loader through Buy Board Purchasing Cooperative (Contract # 515-16) for the Public Works Department (Water/Wastewater). ~ *Harper Wilder, Director of Public Works*
16. Authorize award and execution of a Purchase Order to RDO EQUIPMENT COMPANY, Pflugerville, Texas, in an amount not to exceed \$107,357.25, for the purchase of one (1) new John Deere 310SL Backhoe with attachments through Buy Board Purchasing Cooperative (Contract # 515-16) for the Public Works Department (Water/Wastewater). ~ *Harper Wilder, Director of Public Works*

17. Approve The Park at Plum Creek, Phase 2 - Site Plan (SD-19-0045) 3.5809 acres; 1 Lot located on the southwest corner of Kohler's Crossing and Cromwell Drive. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to approve the site plan.*

Council Member Tenorio moved to approve Consent Agenda Item Nos. 13, 14, 15, 16, and 17. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

18. Consider approval of a Resolution of the City of Kyle, Texas consenting to the annexation of land into North Hays County Municipal Utility District No. 1; an Addendum to the Consent Agreement (Trails at Windy Hill); and an Annexation Agreement. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 18 for discussion. Ms. Saenz presented the item.

City Attorney Paige Saenz stated, "Mayor, Council, if you approve the Resolution in the Annexation Agreement in the form that was emailed to you, that would be sufficient." Mayor Mitchell asked Ms. Saenz if that would be on the backup material so citizens could see what was being voted on. Ms. Saenz replied, "It is currently not in the backup material and that Council had a draft in backup material and what was different from the back up material is that the addendum is no longer part of the package and the Resolution and the Annexation Agreement prevent the developer from being reimbursed through mud bonds." Mayor Mitchell mentioned that he wanted to make sure the backup information was available to the public in the case citizens wanted to see what was being voted on. He clarified with the City Secretary Jennifer Vetrano that the packet with backup material would be updated with what was being voted on today.

Mayor Mitchell moved to approve Item No. 18 with revisions that were emailed to Council by Ms. Saenz and give direction to the City Secretary to update the backup material so that what we are voting on is made available to the public. Council Member Scheel seconded the motion. Motion carried 6-1 with Council Member Tenorio dissenting.

19. Plum Creek Phase II, Uptown North Subdivision - Final Plat (SUB-19-0067) 29.618 acres; 3 Lots located west of and along FM 1626 in Plum Creek Phase 2, approximately 1800 feet south of FM 2770 and approximately 3300 north of Kohler's Crossing. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to approve the final plat.*

Mayor Mitchell brought forward Item No. 19 and gave the floor to Council Member Koch.

Mr. Koontz presented the item.

Mayor Pro Tem Ellison moved to approve Item No. 19. Mayor Mitchell seconded the motion. All votes aye; motion carried 7-0.

## VII. Consider and Possible Action

20. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose to assign original zoning to approximately 7.027 acres of land from Agriculture 'AG' and to rezone approximately 2.495 acres of land from Commercial-2 District 'C-2' to Retail Service District 'RS' for properties located south of 22801 IH-35 in Hays County, Texas. (Texas Realty Retail Partners - Z-19-0050) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

- Public Hearing

Mayor Mitchell brought forward Item No. 20 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 8:03 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:03 p.m.

Mayor Mitchell moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose to assign original zoning to approximately 7.027 acres of land from Agriculture 'AG' and to rezone approximately 2.495 acres of land from Commercial-2 District 'C-2' to Retail Service District 'RS' for properties located south of 22801 IH-35 in Hays County, Texas. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0. There were no objections to finally passing the ordinance.

21. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 275.376 acres of land from Retail Service District 'RS', Residential Townhome 'R-1-T', Single Family Residential-Attached 'R-1-A', Multi-Family Residential-1 'R-3-1', Single Family Residential-2 'R-1-2' and Single Family Residential-1 'R-1-1' to Single Family Residential-3 'R-1-3' for property located at 410 Bunton Lane, in Hays County, Texas. (Walton Texas, LP - Z-19-0049) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-2 to recommend approval of R-1-3 within the requested boundary and maintain the R-1-1 & R-1-2 zoning within the Riparian land-use district inside the requested zoning boundary.*

- Public Hearing

Mayor Mitchell brought forward Item No. 21 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 8:14 p.m.

Thomas Rhodes with TKR Commercial Real Estate Services spoke on behalf of Walton. He mentioned property being originally annexed in 2007 and zoned in 2008. He mentioned going through the Planning and Zoning Commission and working through staff reports and realized issues with the riparian zone. He said so they requested to change the boundary. He mentioned changing from the staff recommendation to follow the R1-3 to follow the riparian zone, area outside riparian R1-3, and the inside riparian to stay as zoned today. He said reason for request is



line on map is arbitrary line from concept land from 2008, which gives no consideration of future growth. He mentioned it would be easier to land plan and layout the subdivision. He spoke about the result of zoning changes and density reducing units by 200. He talked about the area along Plum Creek remaining R1-1. He said per agenda item 13 it is not city property that it is public parkland dedicated as part of this development and development agreement. He mentioned next steps after zoning if approved would be design and engineering.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 8:17 p.m.

Mr. Koontz continued his presentation.

Council Member Tenorio moved to approve an ordinance amending Chapter 53 (Zoning) based on staff recommendation. Council Member Villalobos seconded the motion.

There was discussion on the motion. Mr. Sellers spoke about Bunton Lane Adjacent Line Mile Fee. Council Member Tenorio stated that the roads do not get finished as quickly as the development. Mayor Pro Tem Ellison spoke about the applicant's comment that he would be amendable, regarding R-1-1 being in riparian and the rest R-1-3. He mentioned the changing maps and floodplain to Mr. Rhodes. The applicant Thomas Rhodes spoke about survey design and clarified floodplain concerns. Council Member Scheel asked about the number of homes. Mr. Koontz responded it was 5.5 units to the acre. She asked about R-1-1 and R-1-2 are on the recommended staff map and asked how many acres it was. Mr. Koontz stated 52 acres inside their boundaries. Council Member Scheel asked about R-1-1 and the R1-2 area in the staff recommendation for clarification. Mr. Koontz stated 145 acres of the 275, staff recommendations are 145 of R1-3. Council Member Scheel asked about R1-1 and R1-2 area. Mr. Koontz said, the bulk of remainder being 125 acres.

Mayor Mitchell said he did not like any of the three options. He mentioned land use and development patterns. He said it was very strange to have these random zoning blocks, an echo of old plans and will have a major development implication. He said his preference is for the applicant to engage staff in a development agreement. He stated, to Council Member Tenorio's point, there is quite a lot of traffic in the area already. He mentioned, as with previous applicants Council has tried hard to make sure it goes forward as long as it takes into consideration in a meaningful way, several controls and measures in place for that to happen, straight zoning. He mentioned his priorities being along the lines of first a development agreement, second the staff recommendation, third, no, and last original developer request. Council Member Tenorio spoke about calculations and said R1-3 would be 798 houses and various calculations regarding housing. She mentioned concern regarding the floodplains. Council Member Tenorio mentioned being hesitant to enter into development agreements prior to zoning. She said zoning should be done first and to take into consideration, Planning & Zoning and the hard work they do. Mayor Pro Tem Ellison asked Council Member Tenorio to clarify why the zoning needs to take place prior to a development agreement. Council Member Tenorio said her concerns were that they were circumventing the decisions made by Planning and Zoning who have dedicated their time reviewing the material. She mentioned that she wanted to utilize what they're saying and what they're wanting done. She said she did not want to invalidate their votes by circumventing. She said, she fears if they continued to do development agreements prior to zoning, at some point they are not going to need Planning & Zoning because they were not even using them for their

zoning ideas and thoughts. She said if they enter into a development agreement prior to this, it will tie the hands of the committee. Mayor Pro Tem Ellison spoke about agreements said sometimes certain properties are unique and don't fit in the box. Mayor and Council can enter into a developer agreement at any time. Council Member Rizo stated that staff does a great job of going through the material, City Council needs to step back and really consider their opinion on this.

Mayor Mitchell requested a roll call vote. Council Member Scheel voted nay; Council Member Koch voted aye; Council Member Rizo voted aye; Mayor Mitchell voted nay; Mayor Pro Tem Ellison voted nay; Council Member Tenorio voted aye; and Council Member Villalobos voted aye. Motion carried 4-3.

22. Consider approval of a Development Agreement establishing Development Standards for the Brook's Ranch Subdivision. ~*Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 22 for discussion.

Mayor Mitchell moved to postpone Item No. 22 until December 3, 2019. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

23. (*Second Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 47.3 acres of land from Retail Service District 'RS' to Single Family Residential-3 'R-1-3' for property located within the 1200-1600 block of Rebel Drive, in Hays County, Texas. (D&L Brooks Investments, LLC - Z-19-0048) ~*Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-0 to recommend approval.*

*City Council voted 5-1 to approve on first reading.*

Mayor Mitchell brought forward Item No. 23 for discussion.

Mayor Mitchell moved to postpone Item No. 23 until December 3, 2019. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

24. A brief presentation on the Development Agreement Items. ~*James R. Earp, CPM Assistant City Manager*

Mayor Mitchell brought forward Item No. 24 for discussion. Mr. Earp mentioned that Item Nos. 25, 26, and 27 are meant to be brought forward simultaneously. Mayor Mitchell brought forward Item Nos. 25, 26, and 27 simultaneously.

25. Approve a Chapter 212 Development Agreement for A&D Storage located on RR150 E. ~*James R. Earp, Assistant City Manager*

26. Approve a Chapter 212 Development Agreement with County Line Business Park. ~*James R. Earp, Assistant City Manager*

27. Approve an Amended Chapter 212 Development Agreement with Clayton Properties Group d.b.a Brohn Homes for an additional 25.5 acres of the Jansen Tract, currently under a Chapter 212 agreement. ~ *James R. Earp, Assistant City Manager*

Mr. Earp presented Item Nos. 25, 26, and 27.

Mayor Mitchell moved to approve Item Nos. 25, 26, and 27. Council Member Tenorio seconded the motion. All votes aye; motion carried 7-0.

28. Approve an amendment to Section IX of the two separate Assessment and Collection agreements with Hays County for the collection and remittance of PID assessments for the 6 Creeks PID and SW Kyle PID No. 1. ~ *Perwez Moheet, Director of Finance*

Mayor Mitchell brought forward Item No. 28 for discussion. Mr. Moheet presented the item.

Council Member Tenorio moved to approve an amendment to Section IX of the two separate Assessment and Collection agreements with Hays County for the collection and remittance of PID assessments for the 6 Creeks PID and SW Kyle PID No. 1. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

29. Authorize the City Manager to negotiate and execute a 5-year professional services agreement with RBC Capital Markets, LLC, with one 5-year extension option to provide financial advisory services to the City of Kyle. ~ *Perwez A. Moheet, CPA, Director of Finance*

Mayor Mitchell brought forward Item No. 29 for discussion. Mr. Moheet presented the item.

Council Member Tenorio moved to authorize the City Manager to negotiate and execute a 5-year professional services agreement with RBC Capital Markets, LLC, with one 5-year extension option to provide financial advisory services to the City of Kyle. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Scheel asked what the process was to choose this firm. Mr. Moheet stated that in 2012 there was an RFQ and there was only one response, First Southwest Financial Management. He said, since then, the company had been acquired by Hilltop Securities, which is a national firm as well. He continued that with the population being under 50,000, the City does not attract a national firm. He stated that the City has had a long relationship with Chris Allen who was employed by First Southwest Financial, and he has made himself available literally 24/7. Mr. Moheet said since 2013 he has helped the city save \$8,500,000.00 million and \$5,000,000.00 of that is from savings by refunding and timing the market. The rest of the difference he said, was from selling at premium. He spoke about Chris Allen being a senior level employee who is now with RBC Capital Markets LLC and what he has brought to the City of Kyle. Council Member Scheel stated that in order to keep Mr. Allen the City needs to select RBC. Mr. Moheet stated with the approval of the agreement is also direction to give 30 days' notice to Hilltop Securities. Mayor Pro Tem Ellison expressed his appreciation to Mr. Moheet for the presentation. Chris Allen spoke to explain selling premium bonds. The yields are low, investors want to see a higher coupon, so they pay more for bonds. Mr. Moheet explained a number of things that come into play when you have transactions on

premiums, our credit rating, investors willing to pay more upfront than having longer term maturities. He said, they're willing to give you \$105.00 dollars for a \$100.00 bond because they make money on coupons on the short term rather than waiting on maturities over 20 or 25 years. He explained that the outstanding debt is not \$105.00, it is \$100.00. He explained to the Council that they received \$105.00 for their project but issued only \$100.00 over the same time frame. He mentioned amount of cash gained when sold, saying, the \$100.00 bond had given them \$105.00 for their project. He said, for the \$5.00 dollars gained on a construction project, they did not have to issue debt. Council Member Koch asked about the 5- year extension option. He asked if the professional fees were fixed over 5 years. Mr. Moheet said the fees would be unchanged even for the extension period and the same as the previous 10 years.

All votes aye; motion carried 7-0.

30. Consider a request by Jim Welch, P.E on behalf of LGI Homes for City Council variance to Sec. 53-33(Chart 1)(1)(b) to comply with existing street connection requirements. (Bunton Creek Subdivision, Phase 3) ~ *Howard J. Koontz, Director of Planning and Community Development*

- *On approval by the city Council: ....Up to 25 percent of R-1-2 lots may be less than 6,825 square feet in area but not less than 5,825 square feet, and up to 25 percent of the lots may be less than 65 feet in width but not. less than 55 feet in width.*

Mayor Mitchell brought forward Item No. 30 for discussion. Mr. Koontz presented the item.

Council Member Villalobos moved to approve a request by Jim Welch, P.E on behalf of LGI Homes for City Council variance to Sec. 53-33(Chart 1)(1)(b) to comply with existing street connection requirements. Mayor Mitchell seconded the motion. All votes aye; motion carried 7-0.

31. [Postponed 9/17/2019] Reallocate \$80,000.00 in unencumbered General Fund balance realized from eliminating the new management analyst position added in the Fiscal Year 2019-2020 budget by City Council and direct City Manager to bring back a budget amendment for City Council's approval in order to appropriate specific expenditure line items based on the re-allocations made by City Council. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 31 for discussion and presented the item.

Mayor Mitchell moved to reallocate the \$80,000.00 of unencumbered general fund balance to a new position, Communications Director, and to authorize the City Manager to create and fill the position of Communications Director, and to set that wage range as \$80,000.00 plus benefits for a total of \$101,000.00, and to bring back an amendment to the budget, and to bring back more clarity on the distinctions between the two job descriptions and how those will be utilized under the Chief of Staff. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Koch requested to add in the YouTube repurposing. Council Member Schell seconded the motion.

There was discussion on the motion. Mayor Mitchell stated he does not know how the group feels about it, so that is why he did not add in. Council sought advice from the City Attorney amending the motion. City Attorney Paige Saenz responded, the motion could be amended by a friendly amendment and add to your motion. Mayor Mitchell said he preferred to take vote on that separately and asked if it needed to be a two-part motion, one to authorize for \$18,000.00 for High Five Promotions item and two to amend the budget. Ms. Saenz clarified they would bring back- Budget amendment regardless of the motion.

Council Member Koch moved to amend the original motion and add the \$18,000 for the agreement with High Five Promotions. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Rizo mentioned the salaried position was \$80,000.00 and with benefits would be over \$100,000.00. He asked if they would need to amend for the extra. Mr. Sellers stated that they would bring back a budget amendment for the full amount of salaried position plus the High Five Promotions. Council Member Rizo said they have \$80,000.00 allocated and stated with benefits would be over \$100,000.00 and asked if they had to do another amendment to come up with that money. Mr. Sellers stated full amendment amount would be for \$101,000.00, and the High Five Promotions out of salaried savings.

The motion on the amendment to add \$18,000.00 to the original motion. Amendment carried 6-1 with Council Member Tenorio dissenting.

Mayor Mitchell stated, we have the motion on the floor to reallocate \$80,000.00 for the position, to authorize the position as proposed in this presentation and to bring back clarity to the Council through email or to Council the clarity on the distinction of those two positions.

On the original motion, Mayor Pro Tem Ellison asked whether there is any appetite from Council to rearrange hierarchy on position of the City Manager. He spoke about the Specialist proposed originally. Council Member Koch spoke about taking communications to a higher level with the director position. He said he has no desire to create another lateral position. Council Member Tenorio stated she wants to see the Chief of Staff's job description and how much of the director work he is really doing. She is more amenable to a specialist rather than a director. Council Member Villalobos stated that he is wanting to see a director. He stated that Department Heads are the specialists right now because that's how it is operating. He is wanting to see the job descriptions brought forward.

Motion carried 6-1 with Council Member Tenorio dissenting.

The Council recessed at 10:16 p.m.

Council Member Tenorio left the meeting at 10:28 p.m. and did not return.

Mayor Mitchell moved to reconvene. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

Council reconvened at 10:42 p.m.

32. Consider amendments to CBD-1/CBD-2 zoning to allow for downtown restaurants to have outdoor dining. ~ *Dex Ellison, Mayor Pro Tem*

Mayor Mitchell brought forward Item No. 32 for discussion and gave the floor to Mayor Pro Tem Ellison presented the item.

Mayor Pro Tem Ellison moved to direct staff to begin the process for amending text for CBD-1 and CBD-2 to allow for the establishment of a process for a review of applicants for outdoor dining establishments in those zonings (if there are other retail categories where that use should be potentially allowed, we would not object to you doing that as well). Council Member Scheel seconded the motion All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

33. Discussion and possible action to consider amendments to the Residential Style Guide. ~ *Dex Ellison, Mayor Pro Tem*

Mayor Mitchell brought forward Item No. 33 for discussion and gave the floor to Mayor Pro Tem Ellison.

Mayor Mitchell moved to direct staff to bring the Residential Style Guide to the Planning and Zoning Commission with a thorough review, including focus on evaluating alley loaded section and section on parks and park space amendments to the Residential Style Guide. Mayor Pro Tem Ellison seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

34. Consider and possible action to create and fund an additional position to the Office of the City Secretary. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 34 for discussion and presented the item.

Mayor Mitchell moved to approve the creation of full-time employee (FTE) for Assistant City Secretary position and authorize the staff to make modifications as outlined by Mr. Sellers. Council Member Scheel seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

35. Consider and possible action regarding approving a purchase for holiday lighting for Mary Kyle Hartson Park. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 35 for discussion. Mr. Sellers presented the item.

Mayor Mitchell moved to approve a purchase for holiday lighting for Mary Kyle Hartson Park. Council Member Koch seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

36. *(First Reading)* Approve an Ordinance amending the City's Parking Ordinance No. 955 to adopt parking regulations; to make violations of the parking ordinance a civil offense; establishing a civil penalty; establishing hearing procedures; and providing for related matters. ~ *Paige Saenz, City Attorney*

Mayor Mitchell brought forward Item No. 36 for discussion. Mayor said it was midnight and the item would be long and complicated. He asked if there were any objections to postponing to the next meeting. There were none.

37. *(First Reading)* An Ordinance of the City of Kyle, Texas, amending Ordinance No. 1022, the Ordinance creating the Tax Reinvestment Zone Number Two, City of Kyle, Texas (the "Zone"), adopting a project and financing plan; authorizing the zone to issue tax increment financing bonds or notes, to issue debt to finance eligible facilities and infrastructure in the project and financing plan, and to use tax increment funds for payments on debt issued to finance eligible facilities and infrastructure in the project and financing plan; to authorize the zone board to exercise the authority of the city under Chapter 380, Texas Local Government Code; providing a severability clause; and providing an effective date. ~ *Paige Saenz, City Attorney*

- Public Hearing

Mayor Mitchell brought forward Item No. 37 for discussion. Ms. Saenz presented the item.

Mayor Mitchell opened the public hearing at 11:57 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 11:57 p.m.

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, amending Ordinance No. 1022, the Ordinance creating the Tax Reinvestment Zone Number Two, City of Kyle, Texas (the "Zone"), adopting a project and financing plan; authorizing the zone to issue tax increment financing bonds or notes, to issue debt to finance eligible facilities and infrastructure in the project and financing plan, and to use tax increment funds for payments on debt issued to finance eligible facilities and infrastructure in the project and financing plan; to authorize the zone board to exercise the authority of the city under Chapter 380, Texas Local Government Code; providing a severability clause; and providing an effective date. Council Member Scheel seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

38. *(Second Reading)* An Ordinance of the City of Kyle, Texas, Ordering a Special Election to be held on January 4, 2020 for the election of City Council District Six to serve an unexpired term ending November, 2021; designating the main early voting place for such special election; providing for an order and notice of such special election. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 38 for discussion and presented the item.

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, Ordering a Special Election to be held on January 4, 2020 for the election of City Council District Six to serve an unexpired term ending November, 2021; designating the main early voting place for such special

election; providing for an order and notice of such special election. replacing January 4 with January. 25. Council Member Villalobos seconded the motion.

There was discussion on the motion. Mayor Mitchell stated that the school district had offered the Hays CISD Admin building rather than Chapa or Fire Station No. 2. There were no objections.

Mayor Mitchell restated his motion to move the election to January 25 and authorize the Hays CISD Admin building to be the polling location. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

Mayor Pro Tem Ellison asked a question after the vote regarding the filing period. Mr. Rizo stated filing date begins tomorrow and extending through the date of December 16, 2019. The dates were clarified by the City Secretary.

39. [Postponed 11/4/2019] Review of the duties of Mayor and Councilmembers responsibilities under the City Charter. ~ *Daphne Tenorio, Council Member*

Mayor Mitchell moved to postpone Item No. 39 to December 3. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio was absent for the vote.

### **VIII. City Manager's Report**

40. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward the City Manager's Report. Mr. Sellers mentioned Small Business Saturday designated November 30th. He encouraged everyone to shop local.

### **XI. Executive Session**

Mayor Mitchell said there was no executive session.

41. 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 pursuant to Section 551.071.
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
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.



42. Take action on items discussed in Executive Session.

**X. ADJOURN**

Mayor Mitchell moved to adjourn. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0. Council Member Tenorio absent for the vote.

With no further business to discuss, the City Council adjourned at 12:03 a.m. on November 20, 2019.



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Travis Mitchell, Mayor

Attest:



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Jennifer A. Vetrano, City Secretary