

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on March 6, 2018 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Tim Miller
Mayor Pro Tem Shane Arabia	Chencho Vasquez
Council Member Dex Ellison	Lisa Vasquez
Council Member Tracy Scheel	Annette Berry
Council Member Alex Villalobos	Lila Knight
Council Member Daphne Tenorio	Genest Harding
Scott Sellers, City Manager	Michael Bowen
James Earp, Assistant City Manager	
Paige Saenz, City Attorney	
Jerry Hendrix, Chief of Staff	
Jennifer Vetrano, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Matt Dawson, IT Director	
Howard Koontz, Community Dev Director	
Jeff Barnett, Chief of Police	
James Plant, Police Officer	
Harper Wilder, Director of Public Works	
Jason Biemer, Div. Mgr. – Treatment Operations	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:01 p.m. Mayor Mitchell asked the city secretary to call roll.

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

Mayor Mitchell moved to excuse Council Member Fogley's absence due to a work-related commitment. Council Member Tenorio seconded the motion. All votes aye; motion carried 6-0.

II. Approval of Minutes

1. City Council Meeting Minutes - February 20, 2018. ~ *Jennifer Vetrano, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tenorio moved to approve the minutes of the February 20, 2018 Council Meeting. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0.

III. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 7:04 p.m.

Tim Miller was called to speak as a resource for Item No. 10. He spoke about his certified organic farm, and land value in monetary terms. He continued about the new roads planned adjacent to his property and vehicle pollution.

Chencho Vasquez was called to speak as registered in opposition of Item No. 10. He read 53-3 convenient, safe, vehicular and pedestrian traffic. He stated the development will increase vehicle and pedestrian traffic with no sidewalks or improvements planned. Mr. Vasquez provided a list to Mayor Mitchell of 20 local residents who oppose the development. He quoted last year's citizen survey.

Lisa Vasquez was called to speak as registered in opposition of Item No. 10. She stated that they walked the neighborhood and she is speaking on behalf of her neighbors who were unable to be here due to work and other commitments. She stated that they are all against the rezoning, primarily due to infrastructure. Ms. Vasquez continued that the streets are too small, and that the bridge does not allow two vehicles to pass at the same time. She recommended the developer pay for the streets and improvements. She said only select residents received the notice.

Annette Berry was called to speak as registered in opposition of Item No. 10. She stated that in there is enough densely populated areas in the community. Ms. Berry stated that the developer has made promises to not build to the minimum standard of R-1-3, but she said his website advertises 50-60 foot lots. She said R-1-2 is so much better than R-1-3.

Lila Knight was called to speak as registered in opposition of Item Nos. 10, 13, and other topics. She stated that the City needs an annexation plan. She also stated her opposition of R-1-3 on Sledge Street. Ms. Knight said it is not the best zoning possible for that particular area, agreeing with the issues stated previously by the neighbors of that property. She brought up a zoning issue that had come up a couple years ago regarding Live Oak Street behind the Catholic Church, and Silverado residents had brought up the same issues - traffic, congestion, and the Council listened. She said there is still nothing built there. Her three minutes expired.

Genest Harding was called to speak as registered in opposition of Item No. 10. She stated that the residents have come forward with a reasonable request of R-1-2 zoning for modestly larger lots. She stated that she sent Council an email earlier today with questions that she would like Council to answer publicly so that citizens could know where each member stands. Ms. Harding read her questions. She appealed for zoning in a more consistent manner, and said the developer will not be living here. She asked Council to appeal to the residents who live in the area.

Michael Bowen was called to speak. He stated that he is the property owner of 1001 S. Sledge Street. He said that he respects the concerns of the residents of Bradford Meadows. Mr. Bowen began to provide testimony regarding the density of his proposed subdivision, which he said is less dense than Bradford Meadows in actuality. Mayor Mitchell stated that his information would be better presented during discussion on the item.

With no one else wishing to speak, and no objections to closing citizen comments, Mayor Mitchell closed citizen comments at 7:24 p.m.

IV. Appointments

2. Appoint Akers & Akers as Ethics Commission Legal Counsel and to serve as the City's Ethics Compliance Officer. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 2 for discussion and presented the item.

Council Member Tenorio moved to approve the appointment of Akers & Akers as Ethics Commission Legal Counsel and to serve as the City's Ethics Compliance Officer. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0.

3. Consider nominations for appointment to the Economic Development & Tourism board to fill vacant citizen seat. ~ *Diana Torres, Director of Economic Development*
 - Colby Machaud – Citizen Seat

Mayor Mitchell brought forward Item No. 3 for discussion. Ms. Torres presented the item.

Council Member Ellison moved to approve the appointment of Colby Machaud to a vacant citizen seat of the Economic Development & Tourism Board. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0.

V. Consent Agenda

Mayor Mitchell pulled Item No. 9 to postpone. He asked if there were any other items to be pulled from the Consent Agenda. There were none. With no objections, Mayor Mitchell brought forward Item Nos. 4, 5, 6, 7, and 8.

4. *(Second Reading)* An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 1.12 acres of land from Agriculture 'AG' to Single Family Residential 2 'R-1-2' for property located at 503 N. Old Stagecoach Road, in Hays County, Texas. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 7-0 to recommend approval of the request.

Council voted 6-0 to approve this item.

5. Award a 3-year contract to TEXAS TANK SERVICES, Whitehouse, Texas, in an amount not to exceed \$13,650.00 or \$4,550.00 per year for in-service water storage tank inspection services, mandated by TCEQ, of all city-owned water storage tanks, for calendar years 2018 through 2020. ~ *Harper Wilder, Director of Public Works*
6. Award a 3-year contract to TEXAS TANK SERVICES, Whitehouse, Texas, in an amount not to exceed \$26,950.00 or at an average cost of \$1,925.00 per in-service cleaning services of city-owned water storage tanks for calendar years 2018 through 2020. ~ *Harper Wilder, Director of Public Works*

7. Approve a leasing order to ENTERPRISE FLEET MANAGEMENT, INC., for a total of nine (9) new vehicles for various City departments and approve the resale of two (2) City-owned vehicles under the Master Equity Lease Agreement authorized by City Council. ~ *Perwez A. Moheet, CPA, Director of Finance*
8. Approve contract task Order No. 3 to CP&Y, INC., Austin, Texas, in an amount not to exceed \$41,044.00 for the purpose of providing preliminary engineering services for evaluating alternatives for improving Old Post Road from CR 158 to E RR150. ~ *Leon Barba, P.E., City Engineer*

Council Member Tenorio moved to Consent Agenda Item Nos. 4, 5, 6, 7, and 8. Council Member Scheel seconded the motion. All votes aye; motion carried 6-0.

9. Approve contract Task Order No. 3 to HDR ENGINEERING, Inc., Austin, Texas, in an amount not to exceed \$25,292.00 for the purpose of providing a feasibility study for evaluating and recommending options for removing the existing overhead utilities on Center St. between Burlison St. and Front St. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell asked if there were any objections to postpone the item. There were none.

Mayor Pro Tem Arabie spoke about Items 5 and 6 as improvements to infrastructure for the City of Kyle. He thanked Jason Biemer and the Public Works Department for their service to the City.

VI. Consider and Possible Action

10. Reconsideration of vote and possible action regarding (First Reading) An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 17.19 acres of land from Agriculture 'AG' to Single Family Residential 3 'R-1-3' for property located at 1001 S. Sledge Street, in Hays County, Texas. (Tom and Mary Ayers - Z-18-0023) ~ *Tracy Scheel, Council Member*

Planning and Zoning Commission voted 5-2 to recommend approval of the request.

Council voted 3-3 to approve R-1-2 zoning. Council voted 3-3 to approve R-1-3 zoning.

Mayor Mitchell brought forward Item No. 10 for discussion. He stated he will turn over the floor to Council Member Scheel and a motion could be made to reconsider the vote made at the last meeting on this agenda item. Mayor Mitchell then gave the floor to Council Member Scheel.

Council Member Scheel moved to reconsider and renew the motion to approve an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 17.19 acres of land from Agriculture 'AG' to Single Family Residential 3 'R-1-3' for property located at 1001 S. Sledge Street, in Hays County, Texas. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Tenorio stated that a 3-3 vote is a denial of the zoning request. She stated that usually when a zoning ordinance fails, it has to wait a year to come

back. Ms. Tenorio asked if it was legal to bring this zoning back. City Attorney Saenz stated that a petitioner cannot bring the item back for a year, but this item was brought back by a Council Member which is consistent with the Rules of Council and the City's Charter.

Motion carried 4-2 with Council Members Villalobos and Tenorio dissenting.

Mr. Koontz presented the item. Council discussion took place. Assistant City Manager Earp stated that the minimum residence square footage was an addition into the new zoning and therefore in R-1 minimum square footage was not addressed. Mr. Koontz continued his presentation. Mr. Earp addressed Mayor Mitchell's question about perimeter road fees, adjacent lane mile fees, and impact fees. Mr. Koontz continued his presentation. Michael Bowen was called to speak. He addressed his preference for R-1-3 zoning. Mayor Pro Tem Arabie had questions for Harper Wilder, Public Works Director. Mr. Wilder addressed water pressure concerns and spoke about infrastructure upgrades in the area. He spoke about Sledge Street, undersized culverts, and that they are being addressed as part of the Stormwater Master Plan by Halff & Associates. Mr. Wilder spoke about new developments, Cypress Forest and Blanco River Ranch and he said that the improvements were to address these new developments. Mayor Pro Tem Arabie asked if the new development is benefiting the older developments in Kyle with regard to water and wastewater as well as the funding for those upgrades. Mr. Wilder affirmed. Mr. Koontz continued his presentation. Mr. Bowen addressed the Council with responses related to Bradford Meadows lot sizes. Mr. Koontz continued his presentation. Mr. Sellers spoke with regard to the Stormwater Master Plan.

Mayor Mitchell moved to approve an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 17.19 acres of land from Agriculture 'AG' to Single Family Residential 3 'R-1-3' for property located at 1001 S. Sledge Street, in Hays County, Texas. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Scheel commented that the detail in the presentation on the infrastructure that is in place, or planned to be put in place, and listening to the Developer with regard to lot sizes, she will be supporting the zoning. Council Member Ellison thanked the Developer for the packet of information that was provided. He also thanked the residents who came to speak. He said that the questions have been addressed in the presentation. Mr. Ellison spoke about the numbers and comparison made between Bradford Meadows and this development, and stated that he struggles to see why he would vote against this development and zoning requested. He spoke about the points made on how this development can improve the area. He is in favor of the zoning. Council Member Villalobos spoke about the lot sizes of Bradford Meadows, and stated that the main difference seems to be that the roads are wider. He stated his appreciation for the explanation on all the financing that the development provides but said he cannot bring himself to support this zoning. Mayor Pro Tem Arabie stated that we are voting on zoning right now and there will be site plan approvals to come. Mr. Koontz stated that there will be public hearings before Planning & Zoning on the site plans. Council Member Villalobos stated that with the plans in front of them, it makes a difference. Mayor Pro Tem Arabie stated that the Council does not get the opportunity to dig into that right now, only whether this zoning is appropriate for the area. Council Member Tenorio stated that she disagrees because the Developer has provided these plans to the Council. She said a new subdivision should enhance the community around it. She spoke in response to Mayor Pro Tem Arabie's argument related to Bunton Lane. She said she takes the citizen's comments very seriously

and will not be in support of the zoning. Mayor Mitchell stated that if he voted against zoning based on public opposition alone, no zoning change would ever be approved. He spoke about Bradford Meadows having little flood prevention, and that when that subdivision came in, the Ayers were in opposition to it. Mayor Mitchell said that development is the only way to catalyze infrastructure spending and increase property values all around. He also spoke about increased quality of life and the idea that development should pay for itself. Mayor Mitchell said that idea has been clearly demonstrated by the many projects that are currently ongoing.

Motion carried 4-2 with Council Members Villalobos and Tenorio dissenting.

11. *(First Reading)* An Ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 2 ("Administration"), Article III ("Boards, Committees and Commissions"), Division 2 "Planning and Zoning Commission"; §2-72 "Quorum, Vote and Records."; altering permissible commission members who can make motions; authorizing the city secretary to amend the aforementioned section so as to reflect this change; and determining that the meeting at which this ordinance was passed as open to the public as required by law. ~ *Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 11 for discussion.

Council Member Tenorio moved to Approve an Ordinance amending the Code of Ordinances of the City of Kyle, Texas; amending Chapter 2 ("Administration"), Article III ("Boards, Committees and Commissions"), Division 2 "Planning and Zoning Commission"; §2-72 "Quorum, Vote and Records."; altering permissible commission members who can make motions. Mayor Mitchell seconded the motion. All votes aye; motion carried 6-0.

12. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending Sec. 41-1 "Definitions" And Sec. 41-4 "Application and Administration", of Chapter 41 "Subdivisions", of the City of Kyle Code of Ordinances, by adding new definitions, amending certain other definitions, and amending the chapter's applicability and administration, authorizing the city secretary to amend the aforementioned section so as to reflect this change; and determining that the meeting at which this ordinance was passed as open to the public as required by law. ~ *Howard J. Koontz, Director of Planning and Community Development*

- Public Hearing

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

Mayor Mitchell opened the public hearing at 8:30 p.m. With no one wishing to speak, and no objections to closing the public hearing, Mayor Mitchell closed the public hearing at 8:31 p.m.

Council Member Tenorio moved to approve an Ordinance of the City of Kyle, Texas, Amending Sec. 41-1 "Definitions" And Sec. 41-4 "Application and Administration", of Chapter 41 "Subdivisions", of the City of Kyle Code of Ordinances, by adding new definitions, amending certain other definitions, and amending the chapter's applicability and administration. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0.

13. Consider possible action to amend the Transportation Master Plan. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No. 13 for discussion. Mr. Barba presented the item.

Mayor Pro Tem Arabie moved to approve an amendment to the Transportation Master Plan modifying the new alignment of Cypress Road. Mayor Mitchell seconded the motion. Motion carried 5-1 with Council Member Tenorio dissenting.

14. Consider a request by Texas Engineering Solutions, on behalf of Felder CND, LLC. for the following waivers for Utility Lots 901, 902, 903 from the Mayor & Council. ~ *Howard J. Koontz, Director of Planning and Community Development*

- Reduction of Minimum Lot Area Required of 6,825 square feet to a range of 1,839 square feet to 3,864 square feet (41-136(a));
- Reduction of Minimum Lot Street Width of 65 feet to 15 feet (41-136 (a)).
- Remove the requirement for ratio lot depth to average lot width of 5:1. Lots 901, 902 and 903 are approximately 8:1, 17:1 and 14:1, respectively (41-136 (c)).

Mayor Mitchell brought forward Item No. 14 for discussion. Mr. Koontz presented the item.

Council Member Tenorio left the dais at 8:35 p.m.

Council Member Ellison moved to approve the following waivers for Utility Lots 901, 902, 903 requested by Texas Engineering Solutions, on behalf of Felder CND, LLC: Reduction of Minimum Lot Area Required of 6,825 square feet to a range of 1,839 square feet to 3,864 square feet (41-136(a)); Reduction of Minimum Lot Street Width of 65 feet to 15 feet (41-136 (a)); and Remove the requirement for ratio lot depth to average lot width of 5:1. Lots 901, 902 and 903 are approximately 8:1, 17:1 and 14:1, respectively (41-136(c)). Mayor Mitchell seconded the motion.

There was discussion on the motion. Mr. Sellers stated that these are HOA maintained lots.

All votes aye; motion carried 5-0. Council Member Tenorio was absent for the vote.

15. Approve the First Revision of Final Plat of Cypress Forest Phase Two (SUB-17-0027) 73 Residential Lots, 3 Municipal Utility Lots and 2 Open Space Lots located off of N. Old Stagecoach Road and at the extension of Cypress Forest Drive. ~ *Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 15 for discussion. Mr. Koontz presented the item.

Council Member Tenorio returned to the dais at 8:38 p.m.

Council Member Tenorio moved to approve the First Revision of Final Plat of Cypress Forest Phase Two (SUB-17-0027) 73 Residential Lots, 3 Municipal Utility Lots and 2 Open Space Lots located off of N. Old Stagecoach Road and at the extension of Cypress Forest Drive contingent upon the

substandard properties being owned and maintained by the HOA. Mayor Pro Tem Arabie seconded the motion. All votes aye; motion carried 6-0.

16. Agreement to oversize Cool Springs Wastewater Interceptor between City of Kyle and LaSalle Holdings Ltd. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 16 and stated that this item would be postponed.

VII. City Manager's Report

17. 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*
 - Mike Gershon outside counsel

Mr. Sellers spoke about open-ended agreement with Mike Gershon as outside counsel. He stated the City is in the process of updating its CCN, Certificate of Convenience and Necessity, for areas in the ETJ that the City will annex at some point. He continued that as the City has pursued this update, there have been several statutory obstacles and Mike Gershon, who has worked on past water and wastewater issues for the City, has been asked to represent the City in this matter. Council Member Scheel asked Mr. Sellers to speak about the Great River Cleanup, but City Attorney Saenz stated it could not be discussed due to it not being on the agenda.

VIII. Executive Session

18. 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.
 - Windy Hill Zoning
 - Plum Creek PID
 - Hays County MOU
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 3. Personnel matters pursuant to Section 551.074.
 4. Economic Development negotiations pursuant to Section 551.087.
 - Project Maria
 - Project Electric Light
 - Project Last Mile
 - Project Purple Mountain

Mayor Mitchell moved to convene into executive session pursuant to: pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Windy Hill Zoning,

Plum Creek PID, and Hays County MOU; and Economic Development negotiations pursuant to Section 551.087 - Project Maria, Project Electric Light, Project Last Mile, and Project Purple Mountain. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0.

The City Council convened into executive session at 8:49 p.m.

19. Take action on items discussed in Executive Session.

Mayor Mitchell moved to reconvene into open session. Mayor Pro Tem Arabie seconded the motion. All votes aye; motion carried 6-0.

The City Council reconvened into open session at 10:05 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

IX. ADJOURN

Council Member Tenorio moved to adjourn. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0.

With no further business to discuss, the City Council adjourned at 10:05 p.m.

Attest:

Travis Mitchell, Mayor

Jennifer A. Vetrano, City Secretary