

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on November 4, 2019 at Kyle City Hall with the following persons present:

Mayor Pro Tem Dex Ellison  
Council Member Tracy Scheel  
Council Member Robert Rizo  
Council Member Alex Villalobos  
Council Member Rick Koch  
Council Member Daphne Tenorio  
James Earp, Assistant City Manager  
Paige Saenz, City Attorney  
Jerry Hendrix, Chief of Staff  
Jennifer Vetrano, City Secretary  
Leon Barba, City Engineer  
Yvonne Gil-Vallejo, Project Manager  
Perwez Moheet, Finance Director  
Matt Dawson, IT Director  
Kerry Urbanowicz, PARD Director  
Mariana Espinoza, Incoming PARD Director  
Howard Koontz, Community Dev Director  
Jeff Barnett, Chief of Police  
Pedro Hernandez, Police Captain  
Tim Griffith, Police Sergeant  
Harper Wilder, Director of Public Works

Rebecca Chapa  
Lisa Trahan  
Mark Trahan  
Macey Trahan  
Yvonne Cale  
Marlene Silcocks  
Peter Parcher  
Diane Hervol  
Nicole Romero-Piche  
Ash Crane  
Jo Fenety  
Daniel Campbell

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

Mayor Pro Tem Ellison called the meeting to order at 7:35 p.m. The Pledge of Allegiance was recited. Mayor Pro Tem Ellison asked the city secretary to call roll.

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

Council Member Tenorio stated that members of the audience requested Council Members use the microphones.

Mayor Pro Tem Ellison stated that he would like to take a moment of privilege to recognize any Veteran's in the audience. He thanked them for their service as well as family members of those in the service. Council Member Rizo thanked the veterans for their service and sacrifice. Council Member Villalobos stated that along with the recognition of veterans is the recognition of the families who support them, many who come back in pieces. Mr. Villalobos stated, that he honors them on a regular basis because he knows that it is because of them that he has that privilege. Council Member Tenorio spoke about the school Veterans Programs. She recommended people go to Hays CISD website and go to one of the programs.

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

1. City Council Meeting Minutes - July 16, 2019. ~ *Jennifer Vetrano, City Secretary*

2. City Council Special Meeting Minutes - July 27, 2019. ~ *Jennifer Vetrano, City Secretary*

Mayor Pro Tem Ellison brought forward the minutes for discussion.

Council Member Tenorio moved to approve the minutes of the July 16, 2019 Council Meeting and the minutes of the July 27, 2019 Special Council Meeting. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0.

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

Mayor Pro Tem Ellison opened citizen comments at 7:41 p.m.

Rebecca Chapa was called to speak as registered regarding the recent petition for recall of Mayor Mitchell. Ms. Chapa addressed council concerning three items of concern. She spoke about the date of October 15, 2019 when the D&L Brooks Investments item regarding lots on Rebel Drive was listed on the agenda. Ms. Chapa said that the Mayor acted unprofessionally concerning handling of the item. She mentioned July 16, 2019 regarding fireworks, vendor Pyro Shows where the Mayor, Council, and Coach were so fixated on wrong length of time of sixteen minutes, that they continued to blame the Parks Director when the vendor claimed error was theirs. She said Council Member Tenorio pointed out they were not where they should have been. She further read excerpts from the Pyro contract on the security area. Ms. Chapa continued that complaints were also made regarding communication about the event between the Mayor, Vendor, Parks Director and City Manager, Mr. s by Mayor Mitchell. For the July 2, 2019 meeting, concerning the downtown revitalization she gave props to everyone except Council Member Koch and Mayor Mitchell, in appreciation of their efforts. She stated that complaints were made to Council about the Mayor not being available. Ms. Chapa spoke about her family being an established family in the area, having been married over 50 years and expressed dissatisfaction over the communication and comments between Mayor Mitchell regarding her family.

Lisa Trahan was called to speak as registered regarding the 1200 to 1600 block of Rebel Drive as it relates to her residence in Plum Creek. Her family proposed solutions including retention of brush area, an easement of at least 20 feet for run off, construction of a walking trail, construction of one-story homes for privacy, and for the existing natural landscape. She spoke to the council concerning a petition circulating and mentioned everyone but one signing the petition and said the one was supportive but did not feel comfortable to sign the petition. Comments of the petitioners included leave as much green space, water runoff, environmental sustainability, save green space, prefer small business, residential only with restrictions. She mentioned Plum Creek Residents' concerns on water, and environmental preservations. Mayor Pro Tem Ellison requested she provide the information to Council and City Secretary.

Mark Trahan was called to speak as registered regarding 1200 to 1600 block of Rebel Drive as it relates to his residence in Plum Creek. He reported that the impact of green space being influential to recovery, children's higher cognitive and emotional growth and development when surrounded by trees. He said, "People in Kyle who have grown up here appreciate the beauty and charm of a small town." He spoke about the tremendous growth and the preservation of beauty and charm amongst all the changes. He mentioned he had conversations with the development company and spoke with Mr. Brooks regarding options to mediate challenges. He said the priorities of development and Mr. Brooks are not necessarily in line with residents of Plum Creek and City Council has power in their positions, power to advocate and leverage. Mr. Trahan urged Council to create development agreements. He encouraged Council to use their leverage to keep Kyle beautiful and charming.

Macey Trahan was called to speak as registered regarding 1200 to 1600 block of Rebel Drive as it relates to her residence in Plum Creek. She likes biking down the alley and enjoys the trees. She thanked Council for their time.

Yvonne Cale was called to speak as registered regarding her concerns as a citizen and spoke to council concerning a recent article printed by the Hays Free Press on October 30, 2019 referencing the article, "Recall Effort in Kyle Falls Short" in regards to Mayor Mitchell and Council Member Koch recall effort. She said the article references Mr. Peter Parcher as a person who launched a petition and gave a brief description of the outcome. In addition, the article included a statement made by Mayor Mitchell. She read the article to say, "This is not the first time I have witnessed Mr. Peter Parcher trying to deceive people, Mitchell said. He knew he was supposed to submit those signatures to the City Secretary so they could be verified, instead he posted the unverified results and shredded the original supposedly signed petitions six minutes later. I will not be taking his word for it." Ms. Cale continued to address the council with her concerns on the recall article comment printed in the paper and voicing her dissatisfaction of Mayor Mitchell's comments. She argued that the statement was made to discredit. She spoke in reference to the Chapa family and made mention that her Campaign Treasurer Mrs. Chapa, also being a part in the army of people involved in the recall. Ms. Cale spoke about the Chapa family accomplishments and community standing. She made special mention of local Armando Chapa Middle School being named after Armando Chapa who served as Middle School Principal who began his career at the school in 1974 as a Special Education Counselor. She mentioned the Chapa family being a fundamental part of Kyle whose honesty and integrity is never questioned. Ms. Cale ended with a closing quote, "If you want to go quickly, go alone, if you want to go far, go together."

Peter Parcher was called to speak, but he requested to go last. There were no objections.

Marlene Silcocks was called to speak as registered regarding the Rebel Road housing development. She spoke about the petition that 32 residents along Mather signed about their concern for the area behind homes. She mentioned the varieties of birds that live in a strip of brush there. She said that this has been her home for 19 years, and she gets emotional. She stated that her home backed up to a field and did not want to see that go away. Ms. Silcocks said the City Council makes the choice for the residents. She does not want it to be commercial and asked Council to preserve as many of the old oak trees and green space as possible. She asked Council to get in touch with the developer. She stated that the residents along the alley need to get with the developer over the land.

Diane Hervol was called to speak as registered. She spoke in appreciation for the repairs to drainage area made to Windy Hill and Ms. Hervol thanked the Council, Harper Wilder and the Public Works Department for getting the funding and improving the drainage areas. She also gave thanks for Agenda Item No. 11 addressing the Windy Hill area roads. She spoke about the extensive growth and the numerous accidents in that area. She expressed appreciation of the many residents for the items being addressed. Mayor Pro Tem Ellison expressed gratitude for the Grant being rewarded for the funding.

Nicole Romero-Piche was called to speak. She spoke about the petition and said the reasons for signing the petition were for reasons of their own. She said that there were two petitions and more signed one than the other mentioning numbers not far apart. She asked the council to keep that in mind moving forward and requested they ask citizens why they signed. She spoke about character and the reasons for coming to Kyle and stressed the appreciation of the city charm and green space. She said that investing in the City sometimes looks like putting your foot down and telling developers no. She mentioned developers not caring about green spaces, downtown, or whether

people can pay their property taxes down the road. She said decisions cannot be undone and the Council's decisions will be their legacy. She ended saying, "How many green spaces will there be? How much of Kyle will be left at your final council meeting?"

Peter Parcher was called to speak. Mr. Parcher spoke to council concerning a comment made in the paper. He stated that the Mayor by extension is the City. He said the Mayor said that he witnessed Mr. Parcher trying to deceive previously. He told the Council that he was here tonight to ask Mayor Mitchell to prove that. He reported to the Council that the Mayor also called Council Member Tenorio a liar. He mentioned that she was a Notary Public. Mr. Parcher continued that the Mayor can say what he wants about him - he doesn't care, but what he says about these people, they are here because they want to know why he said that. He mentioned public information requests in since August 8th that have not been dealt with and asked the Council to do something about it. He said he realized there is an election coming up and things may change a little bit, but it did not negate the obligation the City has. Mr. Parcher apologized to Council Member Koch for the unfavorable insinuations made regarding his family and stressed it was not his intention or his desire. He said throughout the recall Mr. Koch conducted himself publicly and as far as he was concerned, with great restraint and respected him for it.

With no one else wishing to speak, Mayor Pro Tem Ellison closed citizen comments at 8:09 p.m.

#### **IV. Presentation**

3. Presentation regarding construction of Phase 2 of the Ash Pavilion at Gregg-Clarke Park.  
~ Kerry Urbanowicz, Director of Parks, Recreation and Facilities

*Special guest appearance by Ash Crane*

Mayor Pro Tem Ellison brought forward Item No. 3 for discussion. Mr. Urbanowicz introduced Project Manager Ash Crane, who presented the item. No action was taken.

4. [Postponed 10/15/2019] Presentation by Ned Davenport related to development in the city of Kyle ETJ. ~ Tracy Scheel, Council Member

Mayor Pro Tem Ellison brought forward Item No. 4 for discussion and gave the floor to Council Member Scheel. Ms. Scheel stated that Mr. Davenport thought the meeting was going to be on Tuesday as usual and was unable to attend. She requested this item be postponed until the November 19, 2019 meeting. No action was taken.

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

Mayor Pro Tem Ellison brought forward Item No. 5 for discussion. Mr. Barba presented the item. No action was taken.

#### **V. Consent Agenda**

Mayor Pro Tem Ellison asked if there were any items to be pulled from the Consent Agenda. Council Member Scheel requested to pull Item No. 6, and Mayor Pro Tem Ellison requested to pull Item No. 9. Mayor Pro Tem Ellison brought forward Item Nos. 7, 8, 10, 11, 12, 13, 14, and 15.

7. Authorize award and execution of a Purchase Order to Texas Underground Inc, Pearland, TX, in an amount not to exceed \$68,676.00, for a PipeHunter Sewer Jetting Machine through

Buyboard Purchasing Cooperative (Contract # 593-19) for the Public Works Department.  
~ *Harper Wilder, Director of Public Works*

8. Authorize award and execution of a Purchase Order to AUSTIN TURF & TRACTOR, Marble Falls, Texas, in an amount not to exceed \$22,494.95 for the purchase of one Ventrac Tractor KN-4500P Kawasaki FD851D with accessories. ~ *Kerry Urbanowicz, Director of Parks, Recreation and Facilities*
10. Authorize award and execution of a Purchase Order to T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$197,000.00, to deliver, construct and install the Phase 2 of the Ash Pavilion at Gregg-Clarke Park. ~ *Kerry Urbanowicz, Director of Parks, Recreation and Facilities*
11. 11. Approve a Resolution authorizing the negotiation of an agreement with LJA ENGINEERING, INC., Austin, Texas, to provide consulting services for the road and drainage improvements needed at Windy Hill Road at Richmond Branch. ~ *Leon Barba, P.E., City Engineer*
12. Approve a Resolution authorizing the negotiation of an agreement with KU & ASSOCIATES, LLC, Austin, Texas, to provide consulting services for the road and drainage improvements needed at Windy Hill Road at Richmond Branch. ~ *Leon Barba, P.E., City Engineer*
13. (*Second Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 4.207 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 1450 E. RR 150, in Hays County, Texas. (Sheerghar Investment, Inc., A Texas Corporation - Z-19-0046) ~ *Howard J. Koontz, Director of Planning and Community Development*  
  
*Planning and Zoning Commission voted 5-0 to recommend approval.*  
  
*City Council voted 6-0 to approve on first reading.*
14. Approve a Resolution designating authorized signatories for the contractual documents and documents for requesting funds pertaining to the Texas General Land Office (TGLO) contract number 19-280-000-B779, Windy Hill Road at Richmond Branch drainage improvement project. ~ *Leon Barba, P.E., City Engineer*
15. Approve employee Code of Conduct Policy guidelines for the procurement of supplies, equipment, construction services, and professional services for the Texas General Land Office (TGLO) program, Contract No. 19-280-000-B779, Windy Hill Road at Richmond Branch drainage improvement project. ~ *Leon Barba, P.E., City Engineer*

Council Member Tenorio moved to approve Consent Agenda Item Nos. 7, 8, 10, 11, 12, 13, 14, and 15. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Tenorio stated that every item was already budgeted.

All votes aye; motion carried 6-0.

6. Authorize award and execution of Purchase Order to DELL COMPUTERS, INC., Round Rock, Texas, in an amount not to exceed \$53,495.64, for the purchase of thirty-three (33)

new patron and sixteen (16) new staff computers for the Kyle Public Library. ~ *Matt Dawson, Director of IT*

Mayor Pro Tem Ellison brought forward Item No. 6 and gave the floor to Council Member Scheel. She asked if the new computers would be replacing current computers. She asked what would become of the equipment that is being replaced. Mr. Dawson said that the items will be repurposed. Council Member Scheel asked about donating to an organization such as the women's shelter or anything similar. Matt Dawson responded he was not opposed but the current process was to repurpose within the city and was not aware of the procedures for donating to another entity. Council Member Rizo asked about the hard drives. Mr. Dawson said the firm the City used would zero out the hard drives. Council Member Villalobos asked about the procedure for utilizing for a city function and mentioned the city having an informal complete count 2020 committee internally and utilizing a couple of the computers for various activities coming up. Mr. Dawson spoke about the City's Chromebooks that are used for web browsing. Council Member Villalobos asked Matt Dawson if he could make a notation to revisit later in the programing. Mr. Earp and Mr. Dawson reported the computers were old and from when the library was opened saying some are beyond useful life, some are salvageable and the others the City could utilize.

Council Member Scheel moved to authorize award and execution of Purchase Order to Dell Computers, Inc., Round Rock, Texas, in an amount not to exceed \$53,495.64, for the purchase of thirty-three (33) new patron and sixteen (16) new staff computers for the Kyle Public Library. Council Member Tenorio seconded the motion. All votes aye; motion carried 6-0.

9. Authorize award and execution of a Purchase Order to T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$34,701.00 to replace the fall zone material at the Lake Kyle Playground with artificial turf surface. ~ *Kerry Urbanowicz, Director of Parks, Recreation and Facilities*

Mayor Pro Tem Ellison brought forward Item No. 9. He stated that he pulled the item in order to publicly recognize and thank Mr. Urbanowicz for his service to the community. Mayor Pro Tem Ellison expressed appreciation and stated, "Mr. Urbanowicz, I would like to thank you for your time and service to our city, the longevity, the experience, the wisdom you have brought to our city and staff is like none other and you will be sorely missed." Mr. Rizo recognized Mr. Urbanowicz for bringing the City's public pool for places kids and families can go. He mentioned him coming forward, the Parks Department coming forward and pushing effort forward. He told Mr. Urbanowicz that our Parks Department has really thrived. Council Member Rizo stated, "Mr. Urbanowicz's fingerprint is on this city and it is going to be there forever." He further thanked him for all he gave to the Parks Department from his heart and for his time. Council Member Scheel recognized Mr. Urbanowicz, saying she has worked on the board with him for years and she enjoyed every minute of it. She said, "Your heart for this city is like no other and I just wanted to say thank you." Mayor Pro Tem Ellison reported that he could not let Mr. Urbanowicz's last council meeting go by without publicly thanking him for all he has done for us. Council Member Tenorio mentioned that some come in just to do their jobs and they go. She said, "One of the things I can truly honestly say and be very appreciative for is that you didn't just do your job, you planted seeds. Those seeds will continue to prosper because of you."

Council Member Tenorio moved to approve Agenda Item No. 9. Mayor Pro Tem Ellison seconded the motion.

There was discussion on the motion. Council Member Villalobos recognized Mr. Urbanowicz and expressed his appreciation for him and for his persistence with regards to making sure the Krug

Activity Center was renovated and continues to be beautiful for our community and a vital piece of our history. The council applauded Mr. Urbanowicz.

All votes aye; motion carried 6-0.

## **VI. Consider and Possible Action**

16. [Recessed on 10/15/2019] (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning of approximately 14.36 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located within the 3400 Block of Kyle Crossing, in Hays County, Texas. (Sterling/Babcock & Brown, LP - Z-19-0047) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

- Public Hearing (*left open on 10/15/2019*)

Mayor Pro Tem Ellison brought forward Item No. 16 for discussion. Mr. Koontz presented the item.

Mayor Pro Tem Ellison reopened the public hearing at 8:46 p.m.

Diane Hervol was called to speak as registered in opposition of the item. She requested Council to deny the requested zoning and consider something mixed use or keep it Retail Services. She does not believe that it would be the best use for the property. She mentioned that Planning & Zoning Commission denied the request. She also considers it the gateway to our city going southbound and is currently surrounded with retail services. She did not see the Economic Development & Tourism Board or Chamber in support. She mentioned the quarry being guaranteed to provide residents within the development an unsettling feeling and said she would feel it personally. Ms. Hervol said the senior management at the quarry would say the blast are within legal limits. She mentioned the quarry having a current application to expand. She said occupants of those apartments would be subjected to unsettling rumbles from the earth beneath them and mentioned Smile Direct coming in and the need for an income study for the project area.

Jo Fenety was called to speak as registered in opposition of the item. She mentioned looking at the map and everything with one exception being on the corner, is zoned Retail Services. She spoke about the regional node and the first sentence of the Comp Plan stating to increase amount of money made in that area to help the City overcome whatever costs they have. She said, "I am a gardener, one of the first things you learn is you put the right plant in the right place, and if don't, you will have a problem." She mentioned this not being the right place and was not the highest and best use concerning the property. She mentioned it needing to be something to generate more income and activity in the area. Ms. Fenety reported to the Council that the property being currently zoned Retail Services is the right zoning for that and not apartments.

With no one else wishing to speak, Mayor Pro Tem Ellison closed the public hearing at 8:52 p.m.

Mr. Koontz clarified that he was reading Agenda Item No.13 but speaking on Item No. 14. It is currently zoned R/S, not AG as he previously stated.

Daniel Campbell, the developer, spoke and gave a bit of background and mentioned the 14 acres being part of a 60-acre project that they are working on between Home Depot and Evo right of I-35 and Kyle Crossing. He reported to council saying, "Retail doesn't exist the way that it did when

the Target center was built 10 or 15 years ago, that type of project doesn't generate interest like it did before.” He discussed allowing use of the 14 acres of the property to create a more live/work/play environment where people in Kyle can walk out their front door, walk onto a park, walk to a restaurant, and let mothers-in-law stay at a hotel on-site. He mentioned things like allowing them to have a community and another place in Kyle to enjoy being in the community. Mr. Campbell said, “Although you may not understand the master plan, this is 14 acres of the total 60 that we feel this is a catalyst project and anchor to a successful mixed-use project.” He thinks is a harbinger of how projects like this should be built going forward. He continued that they have met with Texas Lehigh several times and are working on an agreement that both sides will be okay with where an exhibit to their lease would explain that a quarry is nearby, certain sounds that come from that, and buyer beware type of statement. He thinks this is a capstone unique project that he hopes to bring to Kyle.

Council Member Tenorio moved to deny an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning of approximately 14.36 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located within the 3400 Block of Kyle Crossing, in Hays County, Texas. Council Member Villalobos seconded the motion.

There was discussion on the motion. Council Member Villalobos mentioned understanding the idea in the discussion and trying to place a residential area to guarantee patrons to the retail services throughout that opens the door for that. He spoke about having an enormous amount of growth in other areas around Kyle where people would patron that. He suggested to be more creative on what was utilized at the keystone of the development. He made mention that Council is looking to elevate what they are trying to accomplish in Kyle and that affordable housing, price points probably don't reach that at all. He mentions the Council is looking for something creative for that area. Council Member Villalobos stated that he is not wanting to direct too much to that but that this was his vision rather than another apartment complex. He said it is not the best use, given the other variables in play. He told Mr. Campbell, “I just think you would be better suited with a different cornerstone to the retail services there, something to bring people to that area. We are starving for something a little bit different here in Kyle. I think if you did studies in the area and engaged city in populous you could find some really good ideas to help create the best use for your property so you can adjust for your bottom line. I would appreciate that.” Council Member Rizo stated he liked the idea, but said it was the wrong location for it. He mentioned attending a meeting at Texas Lehigh and further reported on elevation saying the higher you go the more you will feel it and people don't normally read whole contracts and then he stressed concern the Citizens would ask Council what they did to avoid this. Council Member Rizo said he felt the idea was great but the wrong place. Council Member Tenorio stated she has seen the damage done to these homes by the huge cracks going down their walls. Council Member Tenorio mentioned the beware clause and stated the idea that they were going to put in beware, shouldn't have to be done. She expressed concern for the nearby residents stating families should be able to know they are living in a safe home and not have to worry about objects falling off their walls. She said she cannot support that. She mentioned the space being prime retail space said she would be concerned about the costs of repairs for damage due to the blasts. She said she cannot support the zoning change. Council Member Scheel stated that she was also at the Texas Lehigh meeting where they mentioned the higher you go the more you feel it, referencing the rumbles. That concerned her. She continued that knowing the area is the port to the City for people coming south that she would love to see something more innovative for Retail Services to maximize that a bit more. She has a problem with apartments and how residents are going to feel it, even with a clause. She stated the neighborhood she lived in had a clause that you will be living next to a Wastewater Treatment Plant and every night still heard, “What is that foul smell?” She spoke of potential residents and

said they will move in and the next day feel that and ask, "What that was and what did I lease?" She said people will have to break their lease and she had a problem with that. Council Member Koch addressed Mr. Campbell, asked why he feels that it is a mixed-use project. Mr. Campbell said most people think of mixed use as things stacked on top of each other but doesn't make financial sense. He spoke of horizontal mixed use. He mentioned having an apartment project next to a retail project and said it really wasn't a retail project any longer, it would become a development. He said the most successful phase of The Domain is everything from Whole Foods down to Nordstrom. That is all single-story retail with apartments and office behind it, it's not stacked. He continued and said for some reason people think mixed use can only be vertical, but it works very well when things are next to each other and not just stacked. Mr. Koch stated that this came before him while he served on Planning & Zoning Commission. He challenged Endeavor to look at the project for the future for Kyle in the next 20 years and to hammer home on the mixed-use aspect of it. His challenge is, he said, that Endeavor has a great reputation in this area, they revamped an abandoned shopping center and it is now a thriving activity center. He doesn't want to tell them no repeatedly. Council Member Koch said he did not think it should be another Target/Ross shopping center and that the City can do more and get more out of it to create a place people in Kyle will want to go regardless if they live in the apartments there or not. He would like to see the apartment layout but realizes the zoning issues and said we are talking about the appropriateness of it. He wanted to remind Council that these apartments and their desire, much like The Domain that he believed Endeavor was a part of, is part of a greater picture of Retail Services. He said to consider what they are bringing to the table. In the planning process he heard the Planning Director talk about where to put apartment buildings and multi-family housing. He stated that one of the best places a City can put apartments is with close access to I-35 and major arteries. Mr. Koch continued that he has no problem and said he hopes they come to an agreement between them and Texas Lehigh. He mentioned Kyle having a movie theater close by and said, "If you happen to be in there when a blast goes off, it gives you an interesting 4D experience." He gets his hair cut at the homes near retail spaces by The Home Depot. He admits that it is shocking when you first experience it but that he has known that the quarry has been there for a long time. He spoke about making good choices for the community because you are certainly not going to stop Texas Lehigh from operating as a quarry. He cautioned that the Council might be pausing when it doesn't need to pause and possibly could lose a good partner in the development of this property. Mr. Koch continued that retail is changing; Council needs to change with it to get the best outcome for the City and its residents. He spoke about letting incoming residents know, that it should be at the front of any contract signed and take it one step further - anyone who signs any lease, commercial or residential should sign a notice of the quarry located nearby. Council Member Koch urged the Council to take a close hard look at who is bringing this in front of Council and their body of work and what they have to bring to Kyle. Mr. Earp stated that the City Manager has met with Texas Lehigh and has said they are neutral to the project. Mr. Koontz asked a favor, that Council Member Tenorio rescind her motion to deny and reschedule this item for the next meeting. He has an idea that may make the project more palatable. He spoke with the applicant, but he needs further discussion. Mayor Pro Tem Ellison asked Ms. Hervol that when she stated she was in favor of mixed-use, what particularly she meant? She stated that she meant horizontally (from the audience). He addressed Mr. Campbell and thanked him for the explanation of horizontal mixed-use he had provided because that was a question he had. Mayor Pro Tem Ellison appreciated Mr. Earp's input on Texas Lehigh's position. He continued that he too attended the Texas Lehigh meeting and mentioned and reported on behalf of the three Council Members who went to Lehigh. He mentioned it was reported they have 2 to 3 blasts per week, he gave analogies, and mentioned it being an active quarry and how that impacts things around them. They stated they are more than willing for someone from Texas Lehigh to come speak to the Council and Citizens for the public record. He mentioned that he did not want to go out on a limb by saying that this is causing cracks

in people's walls and placing blame. He continued and said that is not our place to say without backup information showing it's truly from blast and things like that. Mayor Pro Tem Ellison expressed concern for residents, businesses and workers concerning the matter. He was in favor of rescinding the denial to provide 2 to 3 weeks to consider a better proposal, and for Texas Lehigh to come to the meeting. Council Member Villalobos mentioned that he had spoken with the CEO of Lehigh, Mr. Neil. He said that he has been very frank about production side increasing 100 percent. Council Member Villalobos mentioned the contract continued for 200 years with production increasing. He also spoke about the location in proximity of I-35 and stressed concern in putting a residence in that close to the interstate. He stressed concern of possible burglaries and increasing call volumes and said he had seen it and taken those type of reports. He said, "When you invite for Retail Services and then put off on I-35 on top of blasting that will be there long after any of us are still here on earth with production increase, there are things there that create my decision for not supporting that." He further mentioned wanting to do what's best for the citizens and expressed his support for growth while looking out for the citizens. Mr. Earp reported Lehigh currently blasting 1 - 2 times per month.

Council Member Tenorio asked Ms. Saenz if she chose not to rescind, if the second reading had to happen? Ms. Saenz reported no, if you deny, it does not come back for a second. Mr. Koontz asked for three weeks - December 3 meeting. She rescinded her motion.

Council Member Tenorio moved to rescind the motion and to postpone the item until the first voting meeting in December. Mayor Pro Tem Ellison seconded the motion.

There was discussion on the motion. Council Member Koch thanked Council Member Tenorio for being willing to work with people who came into our town and he added, like many of the council Members on here we are looking to get the best use out of the piece of land. Council Member Rizo stated that Council is here to look out for the citizens of Kyle and bring in great development for the City of Kyle. Council Member Villalobos mentioned development for the City and creating balance concerning development. He mentioned Lehigh has been clear they are not stopping production, not going to change. Production will increase, create any other agreements that you want, will not sway or decrease production. He enjoys the honesty and frankness of it. Wants Council to recognize that this is nothing new, it will not change, for 200 years it is not going to change. Council Member Tenorio stated that she is doing this because she believes in the staff, because she wants to give the opportunity for staff to do its job. She recommended council and citizens to talk to Texas Lehigh. Urged council to do its homework. Mayor Pro Tem Ellison asked for any further comments on the motion. No further comments were discussed.

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

17. *[Postponed 10/15/2019]* Consider and possible action on an Interlocal Cooperation Agreement between the City of San Marcos, City of Kyle, City of Buda, and Hays County relating to the Management and Operation of the San Marcos Regional Animal Shelter. ~ *Jeff Barnett, Chief of Police*

Mayor Pro Tem Ellison brought forward Item No. 17 for discussion. Chief Barnett presented the item. Council Member Villalobos left the dais at 9:37 p.m. Mr. Earp asked the Chief to add Wednesday closing and owner surrenders.

Council Member Tenorio moved to approve an Interlocal Cooperation Agreement between the City of San Marcos, City of Kyle, City of Buda, and Hays County relating to the Management and

Operation of the San Marcos Regional Animal Shelter. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Koch requested an amendment to the agreement so that Hays County must give 120 days' notice. Council Member Tenorio stated that all the other jurisdictions are considering this same agreement. Chief Barnett stated that City of San Marcos is considering theirs in two days. Ms. Saenz stated if no one has approved that there is time for change. Council Member Tenorio mentioned that perhaps council should postpone until other jurisdictions have approved theirs in the case that the other jurisdiction refuses. She would like to pass the motion correctly on the first try. Mr. Earp explained that what they would do is add in the cost sharing methodology portion that they would deliver, no sooner or no later than 120 days prior to the end of the fiscal year and he explained that the 120 days prior to the budget adoption would give Council an additional 30 days to pull out depending on the budget requested. The Council discussed implementing changes to Section 4.1 of the Agreement.

Council Member Tenorio amended her motion to add a 4.4 stipulation that budget costs be provided within 120 days. Mr. Earp stated that Council could do that or tack it onto the last sentence of 4.1. Council Member Tenorio stated she is comfortable with that. Council Member Scheel stated that she understands that this is an agreement between all the parties, and she asked if we could have a varying agreement between entities or if they would be the same. Ms. Saenz stated that if the other parties agree, the agreement can be signed if not, brought back.

Council Member Scheel seconded the amended motion. All votes aye; motion carried 5-0. Council Member Villalobos was absent for the vote.

Council Member Villalobos returned to the dais at approximately 10:10 p.m.

18. Consider and possible action regarding construction of a shoulder at FM 1626 and Marketplace Avenue and the possible addition of a passthrough lane at the intersection of Rebel Rd. and Silverado. ~ *Harper Wilder, Director of Public Works*

Mayor Pro Tem Ellison brought forward Item No. 18 for discussion. Mr. Wilder presented the item.

Mayor Pro Tem Ellison moved to direct staff to construct a shoulder at FM 1626 and Marketplace Avenue, and no action at this time regarding Rebel Rd. and Silverado. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0.

19. Review of the duties of Mayor and Councilmembers responsibilities under the City Charter. ~ *Daphne Tenorio, Council Member*

Mayor Pro Tem Ellison brought forward Item No. 19 for discussion and gave the floor to Council Member Tenorio.

Council Member Tenorio moved to postpone to November 19, 2019. Council Member Scheel seconded the motion. All votes aye; motion carried 6-0.

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

20. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *James R. Earp, Assistant City Manager*

- City Holiday in observance of Veterans Day November 11
- Special Meeting November 18 at 8:00 a.m.
- Advertising for Planning & Zoning Commission Vacancy
- KAYAC Summit January 31, 2020

Mr. Earp mentioned that Kyle will be hosting the state YAC Convention and the Youth Advisory Council from all over state coming to Kyle. He said that it would be a huge production and spoke of staff sponsors Howard Koontz and Kim Hilsenbeck. He mentioned that there would be plenty of opportunity for volunteer work and all that. He expressed appreciation for staff and expressed gratitude for the event being held in Kyle. He reminded Council regarding the City Holiday in observance of Veterans Day November 11 and the Special Meeting November 18 at 8:00 a.m.

### **VIII. Executive Session**

21. 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.

There was no executive session.

22. Take action on items discussed in Executive Session.

### **IX. ADJOURN**

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

With no further business to discuss, the City Council adjourned at 10:25 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer A. Vetrano, City Secretary