

CITY OF KYLE



Notice of Regular City Council Meeting

KYLE CITY HALL
100 W. Center Street

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on 1/9/2012, at Kyle City Hall, 100 West Center Street, Kyle, Texas for the purpose of discussing the following agenda.

Posted this 5th day of January, 2012 prior to 7:00 p.m.

I. Call Meeting To Order

II. Citizen Comment Period With City Council

The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak must sign in before the meeting begins at the Kyle City Hall. Speakers may be provided with an opportunity to speak during this time period, and they must observe the three-minute time limit.

III. Consider and Possible Action

1. A RESOLUTION OF THE CITY OF KYLE, TEXAS, RESPONDING TO THE REQUEST BY MONARCH UTILITIES I, L.P. TO INCREASE WATER RATES ON A SYSTEMWIDE BASIS BY 62.3 PERCENT AFTER CONSOLIDATING SEVEN STAND-ALONE UTILITIES WITH MONARCH; AUTHORIZING THE SUSPENSION OF RATES FOR NINETY DAYS; AUTHORIZING THE CONTINUED PARTICIPATION WITH A COALITION OF CITIES; AUTHORIZING SPECIAL COUNSEL TO SEEK PROMPT REIMBURSEMENT OF RATE CASE EXPENSES FROM MONARCH; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE ~ *Jerry Hendrix, Director of Community Development*

 [Attachments](#)

IV. ADJOURN

At any time during the Regular City Council Meeting, the City Council may adjourn into an Executive Session, as needed, on any item listed on the agenda for which state law authorizes Executive Session to be held

*Per Texas Attorney General Opinion No. JC-0169; Open Meeting & Agenda Requirements, Dated January 24, 2000: The permissible responses to a general member communication at the meeting are limited by 551.042, as follows: "SEC.551.042. Inquiry Made at Meeting. (a) If, at a meeting of a government body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by the subchapter, the notice provisions of this subchapter, do not apply to:(1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.



CITY OF KYLE, TEXAS

Monarch Resolution

Meeting Date: 1/9/2012

Date time: 7:00 PM

Subject/Recommendation:

A RESOLUTION OF THE CITY OF KYLE, TEXAS, RESPONDING TO THE REQUEST BY MONARCH UTILITIES I, L.P. TO INCREASE WATER RATES ON A SYSTEMWIDE BASIS BY 62.3 PERCENT AFTER CONSOLIDATING SEVEN STAND-ALONE UTILITIES WITH MONARCH; AUTHORIZING THE SUSPENSION OF RATES FOR NINETY DAYS; AUTHORIZING THE CONTINUED PARTICIPATION WITH A COALITION OF CITIES; AUTHORIZING SPECIAL COUNSEL TO SEEK PROMPT REIMBURSEMENT OF RATE CASE EXPENSES FROM MONARCH; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE ~ *Jerry Hendrix, Director of Community Development*

Other Information:

This is the correct resolution that was intended to be attached to the January 3rd council agenda

Budget Information:

none

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 [Monarch Resolution](#)

RESOLUTION NO. ___

A RESOLUTION OF THE CITY OF KYLE, TEXAS, RESPONDING TO THE REQUEST BY MONARCH UTILITIES I, L.P. TO INCREASE WATER RATES ON A SYSTEMWIDE BASIS BY 62.3 PERCENT AFTER CONSOLIDATING SEVEN STAND-ALONE UTILITIES WITH MONARCH; AUTHORIZING THE SUSPENSION OF RATES FOR NINETY DAYS; AUTHORIZING THE CONTINUED PARTICIPATION WITH A COALITION OF CITIES; AUTHORIZING SPECIAL COUNSEL TO SEEK PROMPT REIMBURSEMENT OF RATE CASE EXPENSES FROM MONARCH; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, on or about November 10, 2011 Monarch Utilities I, L.P. (“Monarch”) delivered a rate filing package with the City Secretary for the City of Kyle, Texas requesting a 62.3 percent increase in water rates for customers located within the City of Kyle; and

WHEREAS, the rate request filed by Monarch was based on the aggregated data of Monarch plus seven other stand-alone water utilities which currently are not part of Monarch; and

WHEREAS, Monarch filed a request with the Texas Commission on Environmental Quality (“SOAH”) on or about February 28, 2011 to have the seven stand-alone water utilities to be acquired or merged with Monarch; and

WHEREAS, the request to merge the seven water utilities with Monarch was docketed by the TCEQ and referred to SOAH for a hearing; and

WHEREAS, the same rate filing package that was filed with the City Secretary on or about November 10, 2011 had previously been filed with the TCEQ for the areas that outside of cities or municipalities over which the Commission has original jurisdiction ; and

WHEREAS, Monarch’s request for a rate increase filed with the TCEQ was referred to SOAH for an evidentiary hearing; and

WHEREAS, the City of Kyle (“City”) has participated in both dockets at SOAH as part of a coalition of cities which includes the Cities of Pflugerville, Buda, Blue Mound and Ivanhoe.

WHEREAS, on November 8, 2011, the two SOAH Administrative Law Judges, assigned to the proceedings dealing with the Monarch’s rate increase request and its request to have seven stand-alone water utilities merge with Monarch, ruled that the rate case should be abated until there is a final decision by the TCEQ on whether it is in the public interest to let Monarch acquire any or all of the seven stand-alone utilities; and

WHEREAS, the rate filing package filed with the City Secretary by Monarch is five volumes, totaling more than 1700 pages; and

WHEREAS, Monarch is requesting a system wide increase in rates of 62.3 percent; and

WHEREAS, the rate increase request by Monarch, if granted, would be harmful to the financial health and well-being of customers who reside within the City; and

WHEREAS, Monarch is requesting that the minimum monthly charge for almost all residential customers, with no water usage, be raised to \$59.82; and

WHEREAS, the proposed minimum charge discourages conservation and is unfair to low use customers who are on fixed or modest incomes; and

WHEREAS, Monarch is proposing that the tap fee to be paid by a new customers be raised by 92 percent, from \$365.00 to \$700.00; and

WHEREAS, it appears that a 92 percent increase in the cost to connect a new customer appears to be exorbitant; and

WHEREAS, it is appropriate to suspend the effective date for changes in rates and tariffs requested by Monarch for ninety days because: a) the complexity of the case requires considerable analysis and discovery which cannot be completed by the effective date; b) the order by the SOAH Administrative Law Judges abated the rate case at the TCEQ, which necessitates that more work being done at the municipal level; and c) for the health and welfare of the citizens of the City of Kyle who are served by Monarch it is important to delay any potential increase in rates for as long as possible.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF KYLE, TEXAS THAT:

Section 1. The statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. The continued participation by the City of Kyle with the Coalition of Cities is in all respects affirmed and ratified.

Section 3. The City suspends the requested effective date by Monarch for 90 days pursuant to the authority granted the City under Section 13.187 of the Texas Water Code.

Section 4. Monarch is ordered to pay the City's reasonable rate case expenses incurred in response to Monarch's rate increase application within 30 days of receipt of invoices for such expenses.

Section 5. The City affirms and ratifies the hiring of Jim Boyle of Herrera & Boyle, PLLC as special counsel with regard to Monarch's request to increase water rates within the City of Kyle.

Section 6. An advance copy of this resolution has been sent to Mr. George Freitag, Rate Manager, Monarch Utilities I, L.P. , 12535 Reed Road, Sugar Land, Texas 77478 with the understanding that the resolution is subject to approval, rejection or change by the Council.

Section 7. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 8. This resolution shall be effective immediately upon passage.

PASSED AND APPROVED this 9th day of January, 2012.

Lucy Johnson, Mayor

ATTEST:

Amelia Sanchez, City Secretary