

REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on July 2, 2013, at 7:00 pm at Kyle City Hall, with the following persons present:

Mayor Lucy Johnson	James Adkins
Mayor Pro Tem Diane Hervol	Lila Knight
Council Member Samantha LeMense	Ed Winn
Council Member Becky Selbera	John Atkins
Council Member Ray Bryant	Beth Smith
Council Member David Wilson	Jerry Kolacny
Lanny Lambert, City Manager	Michael Wilson
Jerry Hendrix, Director of Communications	Chief Jeff Barnett
Perwez Moheet, Finance Director	
Steven Widacki, City Engineer	
Kerry Urbanowicz, Director Parks & Recreation	
Sandra Duran, HR Director	
Sophia Nelson, Director of Planning	
Mark Shellard, IT Director	
Jeff Barnett, Police Chief	
Frank Garza, City Attorney	
Cody Faulk, City Attorney	
Lea A. Ream, City Attorney	

CALL MEETING TO ORDER

Mayor Johnson called the meeting to order at 7:00 P.M.

ROLL CALL

Mayor Johnson called for roll call. Present were Mayor Johnson, Mayor Pro Tem LeMense, Council Member Hervol, Council Member Selbera, Council Member Bryant, and Council Member Wilson.

Mayor Johnson stated that Council Member Benninghoff would not be attending due to his work schedule.

APPROVAL OF MINUTES

CITY COUNCIL REGULAR MEETING - JUNE 18, 2013 ~ *AMELIA SANCHEZ, CITY SECRETARY*

CITY COUNCIL SPECIAL CALLED MEETING - JUNE 20, 2013 ~ *AMELIA SANCHEZ, CITY SECRETARY*

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Council Member Hervol moved to approve the City Council Regular Meeting - June 18, 2013 minutes, and the June 20, 2013 City Council Special Called Meeting minutes. Council Member Bryant seconds the motion. All aye. Motion carried.

CITIZEN COMMENT PERIOD WITH CITY COUNCIL

Mayor Johnson opened the citizens comment period at 7:03 P.M. and called for comments on items not on the agenda or posted for public hearing. Former Mayor James Adkins spoke regarding Council Member Selbera's issues stating that everyone makes mistakes, and that this issue should be put to rest and that the City had bigger issues to deal with. Lila Knight spoke and stated that she wasn't a tax payer but had supported Council Member Selbera and contributed money to her campaign for Council. She stated that Council Members have a responsibility to follow the law as prescribed by the oath of office and the Ms. Selbera failed in her oath of office, compliance to the City Charter, and responsibility to the citizens, and that Council serves the people of Kyle first and foremost. Ed Winn spoke and stated that he was speaking with sadness because he knew each one and they were personal friends and hated to see them facing the accusations around the community. He stated this was a serious thing and encouraged and pled with Council to take the responsible actions that they have the authority to do. John Atkins spoke about the City Charter and how important it was, and that it stated that a member of Council not be delinquent on any indebtedness to the city and that this issue had been going on for six years. He asked who at the City was responsible for checking qualifications. His other concern was a recently elected Council Member that had missed 3 Council meetings and that someone cannot do the job they shouldn't have taken it. Beth Smith spoke representing the Emergency Services District and stated she thought this item was on the agenda but she did not see it but would speak on it anyway. She stated that the City had a fire truck that the City owned and City's title and the ESD voted to transfer back to the City an even trade, contingent upon the Council vote on it, with a car the ESD owned and titled to them and that the City Police Chief desperately needed this car. She stated they also voted to proceed with a sales tax procedure to call for a sales tax, not calling a sales tax but a procedure meaning the ESD would like to have joint meetings with Council and discuss negotiations and thought it would need to be called by August 1st. She stated a Fire Chief had been hired. Jerry Kolacny spoke and stated he wanted to speak on Section 3.02 of the City Charter and agenda item #28. He stated that District 2 was the home in Kyle to manufactured homes, mobile home parks, and over 50% of the residents in District 2 are Hispanic with the highest percentage of black residents in their neighborhood, that District 2 has the highest percentage of minorities in Kyle and undoubtedly the lowest income of any district. He stated they were denied basic infrastructure services such as sidewalks and animal control and that new people coming in wanting to change the way people in District 2 live. He stated now there was a push from the newspapers to disenfranchise the residents of District 2 and

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kick out a legitimately elected Council Member out of office over some phony trumped up delinquency charges and asked if the City was going to investigate the charges or just take the word of the newspapers. He stated that he read section 3.02 of the Charter about delinquency standards and that it was very vague and that it could include anyone late on paying their water bill. He asked what was going to happen if they kicked out Council Member Selbera and if they were just going to ignore the last election where they elected someone to represent their district. Michael Wilson spoke and wanted to continue comments he made at a previous meeting about safe concerns on his street at the corner of Wetzel and Mather in Plum Creek and the thoroughfare created from Sonic into Plum creek. His concern is with a 25 foot roadway with cars parked on both sides creating a lack of access for fire trucks and EMS, and no 4 way stop at that intersection with several accidents occurring. He asked Council to consider to have the north side of Wetzel be considered a fire lane or add texture strips to the road or make 4 way stop at Wetzel and Mather. Chief Barnett introduced the new part time Animal Control Officer, Jesus Salas. Sue Ferral spoke and stated after the comments she heard tonight she had to speak. She stated she read the newspaper and was shocked, appalled and saddened and disappointed. She stated that Council Member Selbera has served many years and done a good job, that she owned 2 homes in Kyle and lived in District 2 and attended most meetings. She stated she did not know the group of people who had done this but could not believe this horrible thing happened to Ms. Selbera and wanted to personally apologize to her for whomever had done this to her. With no one else wishing to speak Mayor Johnson closed Citizen's Comments at 7:29 P. M.

PRESENTATION

PRESENTATION OF EMPLOYEE OF THE MONTH FOR THE MONTH OF JUNE
~ *LANNY LAMBERT, CITY MANAGER*

- Cindy DeLeon

Mr. Lambert presented Cindy DeLeon the Employee of the Month award.

PLUM CREEK WATERSHED PROJECT UPDATE ~ *NICK DORNAK, PLUM CREEK WATERSHED COORDINATOR*

Nick Dornak provided Council with an update on the Plum Creek Watershed Project.

APPOINTMENTS

CONFIRMATION OF THE CITY MANAGER'S APPOINTMENT TO THE CIVIL SERVICE COMMISSION ~ *LANNY LAMBERT, CITY MANAGER*

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- *Cindy Lawton* - Reappointment to third three-year term
- *James Adkins* - Reappointment to second three-year term

Council Member Hervol moved to approve the re-appointment of Cindy Lawton and James Adkins. Council Member Wilson seconds the motion. All aye. Motion carried.

CONSIDERATION OF NOMINATION(S) FOR APPOINTMENT TO THE PIE FESTIVAL COMMITTEE ~ *LUCY JOHNSON, MAYOR*

- Cynthia Bentley
- Rachel McKenna
- Mary Halenza
- Ivana Flowers

Mayor Johnson moved to approve the appointment of Cynthia Bentley, Rachel McKenna, Mary Halenza and Ivana Flowers to the Pie Festival Committee. Mayor Pro Tem LeMense seconds the motion. All aye. Motion carried.

CONSIDER CITY COUNCIL MEMBER APPOINTMENT TO THE PUBLIC SAFETY ANSWERING POINT (PSAP) CO-LOCATION PROJECT EXECUTIVE COMMITTEE ~ *LUCY JOHNSON, MAYOR*

Mayor Johnson moved to appoint Council Member David Wilson to the PSAP Committee. Council Member Selbera seconds the motion. All aye. Motion carried.

CONSENT AGENDA

Council Member Hervol asked to pull Items #16 and 17 from Consent Agenda.

Council Member Hervol moved to approve the remaining Consent Agenda. Items #8 ~ Authorize award and execution of a Purchase Order to WORKPLACE RESOURCE of Austin, Texas in an amount not to exceed \$8,196.94 for the purchase, design and installation of office furniture for the Kyle Public Library; Item # 9 ~ Authorize the City Manager to negotiate and amend the master copier lease agreement with RICOH USA, INC., (fka IKON OFFICE SOLUTIONS, INC.) for two copiers/printers for the Building Inspection and Financial Services Departments in order to (1) reduce the lease charges from \$787.00 to \$712.90 per month and (2) renew the contract term for a 60-month period beginning July 2013 and ending June 2018; Item # 10 ~ Authorize award and execution of a Purchase Order to T.F. HARPER & ASSOCIATES, L.P., Austin, Texas, in an amount not to exceed \$11,468.00 for the purchase, delivery and installation of picnic tables and trash receptacles for Gregg-Clarke Park; Item # 11 ~ Authorize award and execution of a Purchase Order to T.F. HARPER & ASSOCIATES, L.P., Austin,

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Texas, in an amount not to exceed \$11,136.00 for the purchase, delivery and installation of picnic tables, trash receptacles and drinking fountain for Lake Kyle Park; Item # 12 ~ Kensington Trails Section 5 - Preliminary Plan (PP-12-006) 36.04 acres; 119 Lots; Location: 2200 Block of Bebee Road, East end of Downing Way; Item #13 ~ Plum Creek Phase 1 Section 6E2-1 - Final Plat (FP-13-011) 11.256 acres; 62 lots located between the extension of Kirby and extension of Sanders adjacent to Golf Course; Item # 14 ~ Plum Creek Phase 1 Section 6E2-1 Preliminary Plan (PP-13-004) 11.256 acres; 62 lots located between extension of Kirby and extension of Sanders adjacent to the Golf Course; Item #15 ~ Meadows at Kyle Phase Two - Final Plat (FP-13-010) 14.673 acres; 60 lots located on the north side of Windy Hill Road approximately 1 mile east of IH-35. Mayor Pro Tem LeMense seconds the motion. All aye. Motion carried.

(Second Reading) AN ORDINANCE AUTHORIZING THE RELEASE OF A PORTION OF THE CITY OF KYLE'S EXTRATERRITORIAL JURISDICTION ("ETJ"); APPROVING AN AGREEMENT BETWEEN THE CITY OF SAN MARCOS AND THE CITY OF KYLE REGARDING THE MUTUAL RELEASE OF ETJ; AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS RELATING TO AN AGREEMENT BETWEEN THE CITY OF KYLE AND THE CITY OF SAN MARCOS FOR THE MUTUAL RELEASE OF ETJ AND KYLE EXPANSION OF ITS ETJ; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING. ~ *Sofia Nelson, Director of Planning*

Council Member Hervol moved to approve *(Second Reading)* An Ordinance Authorizing the release of a portion of the City of Kyle's Extraterritorial Jurisdiction (ETJ); Approving an Agreement between the City of San Marcos and the City of Kyle regarding mutual release of ETJ; Authorizing the Mayor to execute the necessary documents relating to an Agreement between the City of Kyle and the City of San Marcos for the mutual release of ETJ and Kyle expansion of its ETJ. Council Member Selbera seconds the motion. Mayor Pro Tem LeMense asked for an amendment to the motion to include approval contingent upon San Marcos approval at their meeting. Council Member Hervol and Selbera agree to the amendment. All votes aye. Motion carried.

(Second Reading) AN ORDINANCE AMENDING CHAPTER 23 OF THE CODE OF ORDINANCES, MISCELLANEOUS OFFENSES OF THE CITY OF KYLE SO AS TO ADD ARTICLE IX MASS GATHERINGS AND ESTABLISH PERMIT REQUIRMENTS, APPLICATION PROCESS AND REGULATE NOISE LEVELS FROM SUCH EVENTS, DECLARING A PUBLIC PURPOSE, ESTABLISHING A PENALTY AND SETTING AN EFFECTIVE DATE ~ *Jeff Barnett, Chief of Police*

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Council Member Hervol moves to Amend Section 23-270 Item A-i to 500 persons and A2 to 250 persons, and in Section 23-281 to include under Exceptions to Permit and Fee to include wedding, family reunions, wakes and funerals. Council Member Bryant seconds the motion. Council Member Wilson asks Council Member Hervol for an amendment to double the numbers in the motion. Council Member Hervol says no. Mayor Johnson asked Council Member Wilson if he would like to make a motion. Council Member Wilson moved to amend the motion to 1000 instead of 500 and in events where over 50% would be children and alcohol served to 500. Council Member Selbera seconds the motion. Mayor Johnson asked for a roll call vote on the motion to amend the motion. Council Member Hervol votes nay, Mayor Pro Tem LeMense votes aye, Council Member Selbera votes aye, Mayor Johnson votes aye, Council Member Bryant votes nay, and Council Member Wilson votes aye. Mayor Johnson stated the motion to amend passed 4-2. . Mayor Johnson asked for a roll call vote on the amended motion. Council Member Hervol votes aye, Mayor Pro Tem LeMense votes aye, Council Member Selbera votes aye, Mayor Johnson votes aye, Council Member Bryant votes nay, and Council Member Wilson votes aye. Mayor Johnson stated the motion to amend passed 5-1.

Mayor Johnson moves to Item #19

CONSIDER AND POSSIBLE ACTION

(First Reading) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 33.90 ACRES OF LAND FROM 'RS' RETAIL SERVICE DISTRICT TO 'R-1-A' SINGLE FAMILY ATTACHED, ON PROPERTY LOCATED WITHIN THE 1000-1100 BLOCK OF REBEL ROAD, JUST NORTH OF SILVERADO DRIVE, IN HAYS COUNTY, TEXAS. (D&L BROOKS INVESTMENTS Z-13-007); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW. ~ Sofia Nelson, Director of Planning

Planning and Zoning Commission voted 4-0 to approved the rezone request

PUBLIC HEARING

Mayor Johnson opened the Public Hearing at 8:23 P.M. to hear comments on Rezoning 33.90 acres from 'RS' Retail to 'R-1-A' within the 1000-1100 block of Rebel Road.

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Jerry Kolacny spoke and stated he wanted to speak on Items # 19, 20, 21, and 22 and stated that these four agenda items involved the rezoning for residential purposes of almost 34 acres and almost 35 acres of commercial property in the city limits of Kyle. He stated that the City needed to be aware of the impact of these developments on infrastructure, particularly roads, sewer, solid waste, and water. His concerns included out-stripping of water supplies, sewer lines, treatment plant and lines feeding to it along with roadways and a development being proposed for 8000 acres along Highway 21 in Uhland and that they would be competing for water with Kyle. With no one else wishing to speak Mayor Johnson closed the Public Hearing at 8:26 P.M.

Council Member Hervol moved to approve Rezoning 33.90 acres from 'RS' Retail to 'R-1-A' within the 1000-1100 block of Rebel Road. Council Member Bryant seconds the motion. Motion carried 5-1 with Council Member Selbera voting nay.

(First Reading) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 8.63 ACRES OF LAND FROM 'RS' RETAIL SERVICE DISTRICT TO 'CC' COMMUNITY COMMERCIAL, ON PROPERTY LOCATED WITHIN THE 1000-1100 BLOCK OF REBEL ROAD, JUST NORTH OF SILVERADO DRIVE, IN HAYS COUNTY, TEXAS. (D&L BROOKS INVESTMENTS Z-13-009); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW. ~ *Sofia Nelson, Director of Planning*

Planning and Zoning Commission voted 4-0 to approve the rezone request

PUBLIC HEARING

Mayor Johnson opened the Public Hearing at 8:32 P.M. to hear comments on Rezoning 8.63 acres from 'RS' Retail to 'CC' Community Commercial within the 1000-1100 block of Rebel Road. With no one wishing to speak Mayor Johnson closed the Public Hearing at 8:32 P.M.

Council Member Wilson moved to approve Rezoning 8.63 acres from 'RS' Retail to 'CC' Community Commercial within the 1000-1100 block of Rebel Road. Council Member Hervol seconds the motion. All votes aye. Motion carried. Mayor Pro Tem LeMense was off the dais and did not vote.

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(First Reading) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'W' WAREHOUSE DISTRICT TO APPROXIMATELY 25.10 ACRES, ON PROPERTY LOCATED AT 23045 IH-35 IN HAYS COUNTY, TEXAS. (NL LAND HOLDING – Z-13-006); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW. ~ *Sofia Nelson, Director of Planning*

Planning and Zoning Commission voted 3-1 to approve the zoning request

PUBLIC HEARING

Mayor Johnson opened the Public Hearing at 8:36 P.M. to hear comments of assigning Original Zoning of 'W' Warehouse District to approximately 25.10 acres on property located at 23045 IH 35. The owner of the property spoke and stated that they were asking for the zoning request because they felt the appropriate uses for warehouses or industrial would afford a nice transitional area between the prison and future uses south of their property and were asking Council to support the P&Z ruling and approve their zoning request. With no one else wishing to speak Mayor Johnson closed the Public Hearing at 8:37 P.M.

Council Member Wilson moved to approve Original Zoning of Warehouse District to 25.10 acres located at 23045 IH 35. Council Member Selbera seconds the motion. All aye. Motion carried.

(First Reading) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY .41 ACRES OF LAND FROM 'R-3-2' MULTI-FAMILY RESIDENTIAL 2 TO 'RS' RETAIL SERVICE DISTRICT, ON PROPERTY LOCATED AT 575 E. RR 150 – BUILDING 3, IN HAYS COUNTY, TEXAS. (KYLE RETAIL PARTNERS); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW. ~ *Sofia Nelson, Director of Planning*

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Planning and Zoning Commission voted 4-0 to approve the rezone request.

PUBLIC HEARING

Mayor Johnson opened the Public Hearing at 8:49 P.M. to hear comments on rezoning approximately .41 acres of land FROM 'R-3-2' Multi Family Residential 2 to 'RS' Retail Service District on property at 575 E. RR 150. With no one wishing to speak Mayor Johnson closed the Public Hearing at 8:49 P.M.

Council Member Hervol moved to approve rezoning approximately .41 acres of land FROM 'R-3-2' Multi Family Residential 2 to 'RS' Retail Service District on property at 575 E. RR 150. Mayor Pro Tem LeMense seconds the motion. All aye. Motion carried.

Mayor Johnson moved to Executive Session items #28 and 29.

EXECUTIVE SESSION

CONVENE INTO EXECUTIVE SESSION PURSUANT TO TEX. GOV'T. CODE, § 551.071 AND TEX. GOV'T. CODE § 551.074, CONSULTATION WITH CITY ATTORNEY AND PERSONNEL MATTERS TO DISCUSS INTERPRETATION OF SECTION 3.02 OF THE CITY CHARTER REGARDING QUALIFICATIONS FOR CITY COUNCIL OFFICE

CONVENE INTO EXECUTIVE SESSION PURSUANT TO TEX. GOV'T. CODE, § 551.071, CONSULTATION WITH CITY ATTORNEY REGARDING SETTLEMENT NEGOTIATIONS BETWEEN THE CITY OF KYLE AND AQUA OPERATIONS, INC.

Mayor Johnson moved to Convene into Executive Session at 8:53 P. M. pursuant to Tex. Gov't. Code, § 551.071 and Tex. Gov't. Code § 551.074, Consultation with City Attorney and Personnel Matters to discuss interpretation of Section 3.02 of the City Charter regarding qualifications for City Council office and Convene into Executive Session pursuant to Tex. Gov't. Code, § 551.071, Consultation with City Attorney regarding settlement negotiations between the City of Kyle and Aqua Operations, Inc. Mayor Pro Tem LeMense seconds the motion. All aye. Motion carried.

RECONVENE INTO PUBLIC SESSION AND TAKE ACTION AS APPROPRIATE IN THE COUNCIL'S DISCRETION REGARDING:

1. SECTION 3.02 OF THE CITY CHARTER REGARDING QUALIFICATIONS FOR CITY COUNCIL;

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2. SETTLEMENT NEGOTIATIONS BETWEEN THE CITY OF KYLE AND AQUA OPERATIONS, INC.

Mayor Johnson moved to Reconvene into Public Session at 10:57 P. M. and take action as appropriate in the Council's discretion regarding 1. Section 3.02 of the City Charter regarding qualifications for City Council and 2. Settlement negotiations between the City of Kyle and Aqua Operations, Inc. Council Member Hervol seconds the motion. All aye. Motion carried.

Mayor Johnson stated she would start with item 2- Settlement negotiations between the City of Kyle and Aqua Operations, Inc. She stated no action was taken during Executive Session and none would be taken now.

Mayor Johnson moved to item 1 - Section 3.02 of the City Charter regarding qualifications for City Council. Mayor Johnson stated that the City Attorney Frank Garza went by the rules of the City Charter along with the process that the Council could follow and their jobs and responsibilities as the City Council. Mayor Johnson asked the City Attorney to go over the process that the Council had taken.

City Attorney Frank Garza discussed Section 3.02 of the Charter that talks about the 7 qualifications one must have to be a Council Member. 1) 18 years of age, 2) US Citizen, 3) Qualified voters of the City, 4) Residents of the State of Texas for 12 consecutive months, 5) Residents of the City and District sought for 12 consecutive months, 6) No delinquency or indebtedness to the City, 7) Meet all qualifications for eligibility set forth in the Texas Election Code. He said Section 3.02 also states that if any member of Council ceases to possess any of the qualifications of office, upon such fact being determined by the Council, that office becomes vacant. He stated that the question would be how the Council make that determination. He stated that Section 3.05 of the Charter clearly states that the Council shall be the judge of the qualifications of its members, not city staff, not anyone else, it is the Council that determines whether or not an elected official possesses the qualifications necessary. He stated that in order to remove officials it requires due notice and an opportunity to be heard. He stated that the City Charter required 6 affirmative votes for certain provisions if they lack those qualifications and 6 affirmative votes for removal for conviction of a felony, gross immorality, habitual drunkenness, corruption, misconduct of malfeasance in office or residency. For other qualifications, specifically 18 years of age, qualified voters of the City, whether indebted to the City or meet the other qualifications of the Texas Election Code it would only require 4 votes by the Council to remove an individual. He stated indebtedness is one that would require 4 votes and not the 6 votes based on Section 3.05. He stated again that it does require an opportunity to be heard and if the Council wanted to schedule this it would require scheduling a hearing by notice to the elected official as to the causes for removal.

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Mayor Johnson asked the City Attorney to speak in respect to the decisions and typical actions of City Council's regarding determining qualifications and eligibility for office of current Council Members or candidates.

City Attorney Frank Garza replied that in every instance where an individual's qualifications is being challenged it is usually a result of the election process or opponents of the candidate raising the issue of someone having the qualifications and is the media doing research on elected officials as to whether or not they have the qualifications for office. He stated it could be any citizen who raises the issue of qualifications, and that when those facts are provided the Council in this instance, under the Charter the Council would be the determining factor, looking at the evidence to make a determination as to whether or not one of your City elected official's maintains those qualifications. He stated that with regard to indebtedness the Charter is very general, and that most Charters he had seen were more specific in regard to indebtedness, such as delinquent taxes, or a specific finding, but that the City of Kyle Charter is very general and simply states indebtedness to the city. He stated that it could be a utility bill, a speeding ticket or a parking violation, but that the City Council would have to make that decision according to Section 3.05. He stated that in the case that had been raised due to delinquent taxes in one case the taxes had been paid as of June 28th and no longer an issue regarding delinquency of those taxes, and in the other matter there is a case currently pending with the Council person and 6 siblings with no finding by the court as to who owes those taxes because that property is owned in undivided interest. He stated that if the elected official went to pay their portion they would still owe the other portion because it is undivided interest to the property. He stated that in one case there is there is a suit but no determination on who owes those taxes, in the other matter there was a suit, there was a judgment, and that the judgment had been satisfied as of June 28th and that payment had been made so that there was no longer indebtedness in that matter.

Mayor Johnson stated that she wanted to add that this Council had never specifically asked the City Secretary to riffle through the tax records at the Tax Assessors office or investigate any City Council Member of ineligibility for office. Mayor Johnson stated that eligibility for office is sworn by each person when they run for election and unless there is a complaint the City Council has always taken those oaths of eligibility at their word. She stated that the Council was not informed of the delinquency until the press brought this matter to the Council's attention. Mayor Johnson stated that it was the Council's determination, which they have through the City Charter the power to determine, that Council Member Selbera was not in debt to the City until January 2013 and that issue had been resolved. Accordingly because of these circumstances and of that temporary indebtedness to the City, the Council out of concern for Council Member Selbera's actions, although not currently in debt to the City, had decided to issue a letter of censure based on her behavior and the Council's concern for her behavior as a City Council Member.

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Mayor Johnson made a motion to issue a letter of censure. Mayor Pro Tem seconds the motion. Mayor Johnson stated Council Member Selbera was not allowed to vote on this issue but allowed to participate in the discussion.

Mayor Johnson asked Council Member Selbera if there was anything she wished to say. Council Member Selbera stated she accepted the letter of censure and wanted to apologize to the city staff and her fellow Council Members for putting everyone in the spot she personally had and thanked all who supported her.

Mayor Johnson took a vote on motion. All votes aye. Motion carried.

Mayor Johnson goes back to Item # 18.

CONSIDER AND POSSIBLE ACTION

A RESOLUTION OF THE CITY OF KYLE, TEXAS, AUTHORIZING NO MORE THAN TWO CITY OF KYLE COUNCIL MEMBERS TO BE APPOINTED TO A SELECTION COMMITTEE FOR THE PURPOSES OF REVIEWING SUBMITTALS RELATING TO THE ROAD BOND ENGINEERING SERVICES RFQ FOR THE DESIGN OF LEHMAN ROAD, NORTH BURLESON STREET, MARKETPLACE AVENUE, GOFORTH ROAD, AND BUNTON CREEK ROAD, AND MAKING A RECOMMENDATION TO THE CITY COUNCIL FOR THE SELECTION OF A FIRM(S) TO PERFORM THE DESIRED WORK. ~Steven Widacki, P. E., City Engineer

Mayor Johnson nominated herself and Mayor Pro Tem LeMense to a selection committee for the purposes of reviewing submittals relating to the Road Bond Engineering Services RFQ. Council Member Selbera seconds the motion. All aye. Motion carried.

A RESOLUTION TO PROVIDE FOR THE POSSIBLE EXTENSION OF THE CITY OF KYLE MUNICIPAL BOUNDARIES BY THE ANNEXATION OF APPROXIMATELY 47.2 ACRES OF LAND IN HAYS COUNTY, TEXAS THAT IS GENERALLY LOCATED SOUTH OF RR 150 AND WEST OF SIEBERT DRIVE / HEIDENREICH LANE AND ADJACENT AND CONTIGUOUS TO THE CITY LIMITS; SETTING THE DATES AND TIMES OF TWO PUBLIC HEARINGS FOR THE PURPOSE OF ANNEXING PROPERTY AND SETTING AN EFFECTIVE DATE.

~ SOFIA NELSON, DIRECTOR OF PLANNING

Planning and Zoning Commission voted 4-0 to approve the rezone request.

Council Member Hervol moved to approve Annexation of 47.2 acres south of 150, west of Siebert Dr. Mayor Pro Tem LeMense seconds the motion. All aye. Motion carried.

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COUNCIL REQUESTED AGENDA ITEMS

CONSIDERATION AND POSSIBLE ACTION TO REPLACE AND INSTALL AUTO OPENING DOOR(S) IN KYLE CITY HALL AT AN ESTIMATED COST OF \$39,200.00 ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS & RECREATION*

Mayor Pro Tem LeMense moved to approve installation of auto opening doors, one at the Council Chambers and the other one off of Center Street with signage at other doors. Council Member Bryant seconds the motion. All votes aye. Motion carried.

CONSIDERATION AND POSSIBLE ACTION TO REPAIR AND REPLACE LIGHTS AND FIXTURES ON KYLE PARKWAY AND SETON PARKWAY AT AN ESTIMATED COST OF \$35,000.00 ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS & RECREATION*

Council Member Wilson moved to approve option #2, to repair, and replace lights and fixtures on Kyle Parkway and Seton Parkway at an estimated cost of \$42,00.00. Council Member Selbera seconds the motion. All votes aye. Motion carried.

(FIRST READING) CONSIDERATION AND POSSIBLE ACTION TO APPROVE AN ORDINANCE TO AMEND THE CITY'S APPROVED BUDGET FOR FISCAL YEAR 2012-13 BY INCREASING TOTAL APPROPRIATIONS IN THE GENERAL FUND BY \$74,200.00 FOR (1) THE INSTALLATION OF AUTOMATIC DOORS AT KYLE CITY HALL WITH AN ESTIMATED COST OF \$39,200.00 AND (2) FOR THE REPAIR AND OR REPLACEMENT OF STREET LIGHT FIXTURES ON KYLE PARKWAY/SETON PARKWAY WITH AN ESTIMATED COST OF \$35,000.00. RELATED TO AGENDA ITEM NOS. 24 AND 25. ~ PERWEZ A. MOHEET, CPA, DIRECTOR OF FINANCE

Mayor Pro Tem LeMense moved to approve (*First Reading*) An Ordinance to amend the City's approved budget for fiscal year 2012-2013 by increasing total appropriations in the general fund by \$74,000.00 for (1) The installation of automatic doors at Kyle City hall with an estimated cost of \$39,200.00 and (2) For the repair and or replacement of street light fixtures on Kyle Parkways/Seton Parkway with an estimated cost of \$35,000.00 related to agenda item nos. 24 and 25. Council Member Wilson seconds the motion. All votes aye. Motion carried.

CITY MANAGERS REPORT

UPDATE ON VARIOUS CAPITAL IMPROVEMENT PROJECTS, ROAD PROJECTS, BUILDING PROGRAM, AND/OR GENERAL OPERATIONAL ACTIVITIES ~ *LANNY LAMBERT, CITY MANAGER*

CITY COUNCIL REGULAR MEETING

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Kyle City Hall

- Discuss Date for City Council Retreat
- Discuss Starting Time for All Council Budget Workshops (6:00 p.m., 6:30 p.m., or 7:00 p.m.)
- Discuss Preliminary Budget Estimates for FY 2014 and Efforts Underway to Present a Balanced City Budget on August 1st.

Council discussed dates that everyone would be available and Mayor Johnson stated that Council Member Benninghoff sent her his availability. It was decided to have the workshop on 2 evenings starting at 7:00 P.M. on July 29th and July 30th.

City Manager Lanny Lambert stated that the budget workshops dates were scheduled but that the time needed to be decided. The Council chose to start at 7:00 P.M.

City Manager Lanny Lambert gave Council a brief review of the preliminary budget estimates for FY 2014.

ADJOURN

With no further business to discuss Council Member Hervol moved to adjourn. Mayor Pro Tem LeMense seconds the motion. All votes aye. Motion carried.

The City Council meeting adjourned at 11:58 P M.

Lucy Johnson, Mayor

Amelia Sanchez, City Secretary