

## CITY OF KYLE

### CITY COUNCIL WORKSHOP

The governing body of the City of Kyle, Texas held a workshop meeting at 7:00 PM on October 3, 2013, at Kyle City Hall, 100 West Center, Kyle, Texas for the purpose of discussing the following agenda with the following persons present:

Mayor Lucy Johnson  
Mayor Pro Tem LeMense  
Council Member Hervol  
Council Member Selbera  
Council Member Benninghoff  
Council Member Bryant  
Council Member Wilson  
Lanny Lamber, City Manager  
James Earp, Assistant CM  
Robert Olvera, IT  
CALL MEETING TO ORDER

Mayor Johnson called the workshop meeting to order at 7:02 P.M.

#### ROLL CALL:

Present were Mayor Johnson, Mayor Pro Tem LeMense, Council Members Hervol, Selbera, Benninghoff, Bryant, and Wilson.

Mayor Johnsons asked if the ESD had to take roll, and Beth Smith responded that she would call the meeting to order between the ESD # 5 and the City of Kyle and that all members were present other than Paul Terry.

#### CONSIDER AND POSSIBLE ACTION

CONSIDERATION AND GENERAL DISCUSSION OF ANY AND ALL ISSUES REGARDING THE EMERGENCY SERVICES DISTRICT #5; AND PROVIDING FOR RELATED MATTERS ~ *LANNY LAMBERT, CITY MANAGER*

Mayor Johnson open the meeting and stated that she and Mayor Pro Tem LeMense met with representatives of ESD #5 on Tuesday of last week to discuss plans to move forward with some type of agreement between the two parties. She stated that they came up with the idea for a resolution with the City of Kyle supporting the ESD's right to have a sales tax election and accepting that ESD # 5 could continue to have the 1/2 cent sales tax collection after any annexations by the city after the November elections, and that they should all have copies of the resolution.

Cody Faulk, City Attorney stated that there were two resolutions, one that was provided by the Attorney for the ESD and the other one had his edits.

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Beth Smith stated that they have Public Comments on their agenda and Mayor Johnson stated that Public Comments were welcomed.

There was no one wishing to speak.

Mayor Johnson asked City Attorney Cody Faulk if he wanted to talk about his edits.

Cody Faulk stated that he had spoken with the ESD 5 Attorney and the attempt to enter into a joint resolution as was just discussed and that the ESD 5 Attorney prepared a draft which was the copy both bodies had before them tonight. He stated that after his review, but not yet sent back to their Attorney, but that this may have more along the lines of adding some exact language as to the allocation of the sales tax between not only the ESD and the City but also Hays County.

Mayor Johnson stated that she would read the document when someone asked for a copy.

"Whereas upon the City annexing any part of the Future Annexed Area ("Annexed Property") after the passage of the November, 2013 HCESD 5 sales and use tax, the implementation and collection of said sales and use tax by the Texas Comptroller, and the Effective Date of this Agreement, HCESD 5 agrees to allocate to the City on a monthly basis HCESD 5's local sales and use tax revenue actually received in hand by HCESD 5 from the Texas Comptroller for the Future Annexed Area and Annexed Property, excluding any deductions or re-allocations by the Texas Comptroller, and derived from Annexed Property in the Future Annexed Area. It is the intent of the parties hereto that Hays County shall receive one-half of one percent of the maximum allowed two percent of the local sales and use tax for the Future Annexed Area and Annexed Property, and the City shall receive one and one-half percent of the maximum allowed two percent of the local sales and use tax for the Future Annexed Area and Annexed Property."

Beth Smith stated that on the 1st of September a law was passed that the Comptrollers office divides it.

Mike Fulton stated that this was not giving a division at all. Mayor Johnson agreed that it did not. Mr. Fulton continued and stated they were not being given anything..

Cody Faulk stated that he thought he had the language in there

Mr. Fulton stated that it gives Hays County their 1/2 percent.

Mr. Faulk said that he would change that.

Mr. Fulton stated that it would be 1/2 cent to ESD #5, 1 cent to City of Kyle, and 1/2 cent to Hays County.

Council Member Benninghoff asked the ESD to brief him on their perception on how this thing started from the beginning and where they are now in their point of view.

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Beth Smith spoke and stated that she missed the February meeting, but that it was on the agenda and going back a year and a half ago, when Buda was going to pass theirs, that at that time she had spoken to Lanny Lambert, City Manager, and told him they would never surprise him with it and asked him if the City be ok with it if they would let him know if they went forward. She stated that Mr. Lambert did not remember the conversation but that she had gone back and checked their meeting minutes and that it stated that she had spoken to Mr. Lambert and that he stated it would not be a problem, that the 1/2 cent would be fine. She stated that she texted him and told him the 1/2 cent would be on this agenda in February just to let him know it was going to be on there. She then missed the meeting but James Earp was at the meeting but they voted to wait on passing it for an MOU from the city to possibly do that 1/2 cent and that they didn't get an MOU, but had a joint meeting in April and were supposed to get an MOU to talk about getting the 1/2 cent sales tax with a time frame before the meeting and then got an MOU from the City that suggested that for two years they got a 1/2 cent and then nothing and they had to vote as it was on the agenda or they would have missed the time frame for the November election. She stated that was pretty much it. Susan Meckel stated that they then called the election for the 1/2 cent.

Council Member Wilson stated that the Council submitted an agreement and that the ESD chose not to do that and go ahead with the election. Beth Smith stated they got the MOU the day before that gave them a 1/2 cent for 2 years and then everything back to the city and that they had to go ahead and call the election so it would make it to the November ballot.

Mayor Johnson stated that fast forwarding to their joint meeting last Tuesday and what came out of that was an agreement to have a resolution that showed the right of the ESD to hold an election and the right for them to continue to have that 1/2 cent in all properties annexed by the city after the November election, annexations that would specifically happen after the election and that needs to be reflected.

City Attorney Cody Faulk stated that the only language after re-reading it should have said the District as opposed to Hays County which was his typographical error and that intends that all properties after annexation the ESD would still get the 1/2 percent sales tax.

Beth Smith stated that their Attorney was a little bit of the opinion that they did not need to have any kind of resolution. Mayor Johnson stated that that was true but that she thought that the feelings of those that were involved in the meeting was that a resolution would be a good step in mending any fences broken between the ESD and City Council, an acknowledgement that it is more helpful if they moved forward together as a team on this rather than separately. Mayor Johnson stated with that there was clearly going to be re-edits. Cody Faulk stated that this obviously not sent to their attorney's yet and that the resolution we got we just wanted a little more clarification as to the actual allocation and that in the original joint resolution there wasn't that it was more of a blanket language about there being re-allocations but not exact numbers and that was all they wanted to correct.

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Beth Smith asked what was wrong with their Attorney's language and Cody Faulk stated that there was no actual reference to either or, as to the ESD getting the 1/2 percent and that the city wanted that language in there. Fire Chief Kyle Taylor stated there was no reason to put that in there, it's a 1/2 cent and we get to keep it and that was what the resolution said to begin with and that the City was supporting the ESD in the election and now they are getting this thing that says that in the future the City gets all the sales tax. Cody Faulk stated that the intent is not to obtain all sales tax.

Susan Meckle spoke and stated she was trying to explain as Beth mentioned before was that their attorney advised that there might not be a need for a resolution however recognizing that this would help pave the way to move forward supporting each other to work through this so that it is not left unresolved somehow, that the 1/2 cent would be theirs after the election and maybe this resolution is not the one that should contain any other future allocations because they can't to allocate something that they don't have and are not seeking. Mayor Johnson stated she thought that because of what specifically is going on with ESD #8, Buda and Kyle, she felt it would help the Council to see those figures reflected in the resolution. Beth Smith stated it had nothing to do with them that it was Buda. Mayor Johnson stated that Buda had nothing to do with Kyle for ESD #8 but they wouldn't go into the specifics on that but felt it would be helpful to have the numbers and recognition specifically of the 1/2cent to ESD #5 in the resolution. Mike Fulton stated that when this started that was what the ESD was seeking where at the point the City was saying we understand that and are in agreement with it. He stated he agreed with the Mayor and asked what was wrong with having an agreement with the City and the ESD that says we're all on the same page, and that the City is not asking for more than ESD is willing to give in the beginning and ESD is not giving up any more than they were wanting to give up. Mr. Holen spoke and stated that the way it reads is that the ESD intends to go out and get additional sales tax which this board has not made any decision on and that it was a concern that it indicates a forgone conclusion. He stated he understood the City trying to ward that off in case it does happen. He stated that the word that was missing and discussed at the last meeting is that the City of Kyle supports the ESD and going out and seeking this half cent in order to provide emergency services, and he would like have that added and Mayor Johnson agreed.

Council Member Bryant stated he had heard about this meeting and wonder what was the reason with just having some of the Council attend instead of all the Council. Mike Fulton said there were no quorum requirements for that and an easy way to communicate. Council Member Bryant stated that it could have been posted to meet the requirements. Susan Meckle stated is was just an idea of approaching it instead of from a contractual basis that also included a lot of other tie-ins to the sales tax election just to discuss whether there would be a more amenable option. Council Member Bryant stated he was just thinking that was going to happen when they were all together.

Mayor Pro Tem LeMense stated that as a follow up to Council Member Bryant she thought there were some hurt feelings and it was a more casual getting back to know one another and be on friendly terms for this meeting to communicate in a constructive

manner versus how the ESD felt that the City was taking advantage of them and the City upset the ESD had called an election.

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Mayor Johnson asked that other than the suggestions made of the City of Kyle supporting the sales tax election and the ESD right to have the sales tax election were there any other things. Beth Smith stated she didn't think so and that she had texted Council Members and the City Manager the night they called the election and acted in good faith doing that. Mayor Johnson stated that no vote was being taken tonight and that the resolution would be re-written by the city attorney and sent back to the ESD attorney for their review.

Mayor Johnson stated another reason for this meeting was to discuss the present needs and goals short term and long term of the fire department and requested by ESD board members and that they could go over the executive summary now.

Fire Chief Kyle Taylor stated he had been meeting with his staff about the direction they needed to take due to the growth that was coming. He stated that according to the projected population growth by 2019 they would need at least 77 firefighters, and that this was only a dream and would never happen. He stated the city was fighting them on annexations to keep them from getting tax money and they had to grow somehow because they could not raise taxes. He stated the city comprehensive plan showed where they needed to be, with personnel and number of stations and that it would double their budget. He stated in the last 3 years their budget has gone down due to lower property taxes. He stated that these were some of the issues they were facing. He stated there were issues that they could work with the city on such as a new station possibly in Plum Creek and asked if they could split costs with possibly a community center and a fire station. Mayor Johnson stated the city had an agreement with the developers of Plum Creek for a certain amount of acreage for government or municipal buildings that could include a fire station that the city would be happy to donate to the ESD for a specific use as a fire station. Mayor Johnson said discussions could begin next year. Beth Smith stated it would be a while before they could do anything. Mayor Johnson asked if they had any other specific goals they wanted to discuss. The Fire Chief stated that they needed to work towards an apparatus rotation schedule moving apparatus to reserve status according to rules by National Fire Protection Association, concerns with the roads on the east side causing wear on the trucks with a cost of about \$3000. for repairs on a truck. He stated another thing would be training for personnel promoting officer development.

Mayor Johnson stated that next up which was passed out an Interlocal Agreement, a contract between the City of Kyle and the Kyle Fire Department to conduct fire inspection and plan review services. Fire Chief Taylor stated this was an existing contract they currently have providing fire inspection services for the city and the only thing changing was the fee schedule. He stated that went around to different stations, ESD's, Travis and Hays County and they came up with a new fee schedule. He stated he knew that the Council just approved an fee schedule for the coming year. After his review on what it is costing them to do these things and this was an fyi that they had

given this fee schedule to the planning department and that they are reviewing it so they can negotiate on these fees.

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Mayor Johnson asked if there were anymore comments and Mr. Holen, a board member spoke and stated it was written as an agreement between the City of Kyle and Kyle Fire Department versus the ESD.

Mayor Johnson stated to Mr. Lambert that his would require a budget amendment for the city and wasn't sure if it could be placed on the second meeting in October.

Beth Smith stated that the point was keeping up with the growth and with ACC coming and confident they would have a mutual response if needed such as San Marcos, and also wanted to clarify a statement she made at a meeting about medical and first response calls. She stated that they are the same personnel, not different personnel.

Mayor Johnson asked Council Members for comments on any of the goals and stated that they would be reviewing the interlocal agreement for the fee increases over the next month and asked Council to be prepared by reviewing the agreement.

Mr. Lambert stated that there was a meeting scheduled for Tuesday Oct. 8 and would propose to take this agreement, have the 2 Attorney's speak to each other and make sure they are in agreement and bring it to Council next Tuesday.

Mayor Johnson stated that in regards to the resolution she wanted to make sure they all had ample time and both Attorney's could spend the time they need to review it and make any corrections and that she thought it would be better timing for the Council if it was on the regularly scheduled Council meeting on the 15th.

Beth Smith stated she did not see any rush to go through with this since it is just the 1/2 cent they are asking for.

Mayor Johnson stated she saw no problem waiting until the 15th. She stated next week would be very busy for Council.

Council Member Hervol stated that they wanted to make sure it was approved in time for the election.

Mr. Lambert stated that the annexation is concluded on the 15th and asked if he wanted to get this done before the annexation.

Beth Smith stated they would love to if it was going to give them 1/2 percent of what the City annexed.

Mayor Johnson stated no.

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Chad Benninghoff spoke to the Fire Chief about his goals, Fire Prevention and Community relations item #2, and looking at our fire code to keep in mind that last month Kyle had some specific standards that were left (unintelligible). Beth Smith said they voted on them as well, but Mr. Fulton stated it was on next week's agenda.

Getting back to the discussion on the resolution Mayor Johnson stated it would be on the next regular meeting to make sure it had been reviewed by both Attorney's and any corrections made and the reality being even if it was passed by Council next week, it would still affect annexations that happened after the election. She stated she was not concerned about timing but wanted to make sure this was clear regardless of what the City decides to annex or not annex.

Council Member Hervol asked why would they wait, and she was confused whether they did it at the regular Council meeting other than the Attorney's reviewing the document.

Mayor Johnson stated she thought there was a belief that if they approved it at the 8th meeting and any property annexed at the 15th meeting those annexations on October 15th would count as future annexations under this document which she didn't think was ever meant to happen and didn't believe that is how it was written. The Mayor stated that if they wanted to do it on the 8th that was fine she just wanted to make sure everyone had time.

Cody Faulk stated that the language is based on the election, future annexation post election in November.

Mayor Johnson stated it was up to the Council and do it on the 8th. Council Member Hervol asked if it would say the same thing and Mayor Johnson said yes.

Beth Smith stated she thought their Attorney would be fine with reviewing it by the 8th.

Mayor Johnson said it could be put on the agenda for the 8th, and Council Member Selbera stated that sounded good to her.

Council Member Hervol asked Attorney Cody Faulk if he could work that up and he stated that he could.

Council Member Hervol stated she had another question; the interlocal agreement regarding fire inspections, then the resolution for the 1/2 cent, but what about the interlocal agreement for the station on the east side?

Beth Smith stated there was nothing to be done with that and that it was a much bigger issue. Mayor Johnson stated we approved funding for this next fiscal year concerning the east side station. Mike Fulton asked if it was for maintenance and Mayor Johnson asked Mr. Lambert what it was for. Mr. Lambert stated it covered insurance for the vehicles,

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and the cash payment we make to the Fire Department and could not remember if it was 30 or 35 thousand dollars. Mike Fulton stated it was for insurance and 5000. dollars.

Beth Smith stated she did not think it had anything to do with the east side station, and that it was an agreement the city had with the school. She stated it was the school property and the building is owned by the City for Fire Station use only and there is a contract with the city and school where the city pays the school \$1.00 a year.

Mayor Johnson asked Mr. Lambert to include the contract with the school, city and fire department in one of the upcoming Friday letters. Beth Smith responded that the contract was only between the city and school with the land belonging to the school and the city built the building for use as fire department only.

Mayor Johnson thanked everyone for coming and having a joint meeting with Council.

Discussion only. No action taken.

ADJOURN

With no further business to discuss

Mayor Pro Tem Lemense moves to adjourn. Council Member Bryant seconds the motion. All votes aye. Motion carried.

The City Council Workshop meeting adjourned at 7:57 P.M.

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Lucy Johnson, Mayor

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Amelia Sanchez, City Secretary