

City of Kingsville, Texas

AGENDA CITY COMMISSION

MONDAY, APRIL 11, 2011
REGULAR MEETING

HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS
CITY HALL/200 EAST KLEBERG AVENUE
6:00 P.M.

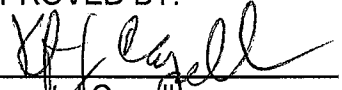
I. Preliminary Proceedings.

OPEN MEETING

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

MINUTES OF PREVIOUS MEETING(S) – Required by Law

APPROVED BY:



Vincent J. Capell
City Manager

II. Public Hearing - (Required by Law).¹

NONE

III. Reports from Commission & Staff²

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor's Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public, Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor presentation. No formal action can be taken on these items at this time."

IV. Public Comment on Agenda Items³

1. Comments on all agenda and non-agenda items.

V. Consent Agenda

Notice to the Public

The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.

CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:

(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)

NONE

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. Consider resolution of the City of Kingsville authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to Palmer Drug Abuse Program (PDAP). (Police Chief).
2. Consider final passage of an ordinance amending the Fiscal Year 2010-2011 Budget for the General Fund to allocate funds for an Interlocal Agreement with Kleberg County to cover one half of the electricity expense and to cover equipment repairs for the Golf Course and for the Utility Fund Wastewater Department to allocate funds for TCEQ fines. (Finance Director).
3. Consider reallocation of CO 2009 funds for the purchase of an excavator for the Landfill. (Finance Director).
4. Consider introduction of an ordinance providing for the renewal of the nighttime curfew regulations for minors and the daytime curfew regulations for minors found in Chapter XIII, Article 2, Offenses Against Public Peace and Safety, Sections 13-2-10 to 13-2-13 and Sections 13-2-20 to 13-2-23 of the City Code of Ordinances. (City Attorney).

VII. Adjournment.

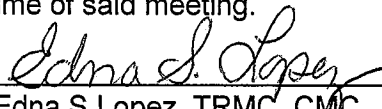
1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizens comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

NOTICE

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail citysec@cityofkingsville.com for further information. Braille Is Not Available. The City of Kingsville reserves the right to convene into Closed Session under Government Code 551.071-551.074 and 551-086 regarding any item on this agenda.

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board in the City Hall, 200 East Kleberg, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

April 8, 2011 at 2:00 P.M. and remained so posted continuously for at least 72 hours preceding the schedule time of said meeting.



Edna S Lopez, TRMC, CMC
City Secretary
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: _____

By: _____
City Secretary's Office
City of Kingsville, Texas

**MINUTES OF PREVIOUS
MEETING(S)**

APRIL 5, 2011

A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON TUESDAY, APRIL 5, 2011 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL/200 EAST KLEBERG AVENUE AT 12:00 P.M.

CITY COMMISSION PRESENT:

Sam R Fugate, Mayor
Al Garcia, Commissioner
Charles Wilson, Commissioner
Stanley Laskowski, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Vincent Capell, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Mark Rushing, Finance Director
Naim Khan, City Engineer
Al Lopez, Fire Chief
Willie Vera, Task Force Commander
Diana Gonzalez, Human Resource Director
Yolanda Cadena, Health Director
John Garcia, Risk Manager
Bill Donnell, Public Works Director
Gary Fuselier, Landfill Supervisor
Julian Cavazos, Lieutenant

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chambers at 12:00 P.M., and announced quorum as present. He announced if there were no objections, he would forego the formalities.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for consideration of the minutes of the regular meeting of Monday, March 28th, 2011. **Commissioner Wilson made a motion to approve the minutes from the previous meeting, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting “FOR”.**

II. Public Hearing - (Required by Law).¹

NONE

III. Reports from Commission & Staff²

“At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor’s Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public, Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor presentation. No formal action can be taken on these items at this time.”

City Manager Capell reported he has met with Staff, held his first Staff meeting and has toured some City departments. He stated he was glad to be here. Ms Alvarez stated she’s glad to have Mr. Capell here, and she will be out of the office tomorrow to attend a TCAP Board meeting in Austin.

Commissioner Laskowski announced the Chamber of Commerce and the City will be hosting a Meet and Greet for the new City Manager, Mr. Capell on Tuesday, April 12, 2011 at 5:30 P.M. at the Henrietta Memorial Center.

IV. Public Comment on Agenda Items³

1. Comments on all agenda and non-agenda items.

Mayor Fugate called for comments on all agenda and non-agenda items. There were no comments.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-4. **Commissioner Laskowski made a motion to accept the Consent Agenda, as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting “FOR”.**

V. Consent Agenda

1. **Motion to approve Corporate Authorization Resolution for Bank signatories. (City Manager).**
2. **ORDINANCE NO. ORD2011-11 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter IX, Article 5, Fire Prevention and Protection, updating the Edition of the International Fire Code. (Fire Chief).**
3. **ORDINANCE NO. ORD2011-12 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 6, Traffic Control Devices; providing for the restriction of parking on both sides of Santa Gertrudis Street from University Blvd to Santa Monica. (City Engineer).**

4. RESOLUTION NO. R2011-22 Motion to approve resolution authorizing the Mayor to execute a Certified Resolution and Notice of Appointment of Successor Trustee for the City of Kingsville Employee Benefit Plan Trust. (Human Resource Director).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. RESOLUTION NO R2011-23 Consider resolution authorizing submission of an application to the Texas Department of Agriculture for funding through the Texas Capital Fund for Real Estate Improvements. (City Manager).

Ms Martha Drake with Grant Works addressed the Commission and stated they were here as a result of the last Commission meeting. The resolution for the Texas Capital fund application was tabled until a more interactive meeting could occur with the representatives from Proco. She stated the owners are present, Mr. Otto Ewer, Mr. Mike Ewer and Ms Stacie Ewer. Ms Drake called for questions or concerns. Mayor Fugate called for questions or comments from the Commission. Commissioner Laskowski stated at the last meeting the Commissions' concern was the term of repayment. The City Attorney has come up with a couple of options, one that he feels comfortable with which would be a ten (10) year repayment amortization over twenty (20) years with a balloon at the end of that ten (10) years. Mayor Fugate called for Mr. Mike Ewer's opinion. Ms Stacie Ewer, chief financial officer for Proco addressed the Commission. She stated it is their feeling to request the twenty (20) years that's offered by TCF because it's to their benefit. Their industry is growing they would like to take advantage of it and they would like to get this done and move on to the next thing. They don't want to have to come back and revisit it in ten (10) years because they won't know where the economy is going to be. If it's not doable they would rather get their financing now, at a good interest rate and keep going forward rather than have to revisit it in ten (10) years when possibly interest rates aren't as good. Ms Ewer added they have always been on the cautious side. Their request is to be approved for the twenty (20) years. They know the City's concerns of what's happened in the past with possibly a previous grant, but they are in a different situation where their business has been around for over thirty (30) years.

Mayor Fugate commented that their industry, Proco is growing. Ms Ewer stated their industry is spread throughout the United States, even in Wyoming. Mayor Fugate stated the Commissions' concern is the twenty (20) year period and leaving that to another administration to deal with in the future. Commissioner Laskowski commented they are talking about 6.5%, and this is a 0% loan. In doing a twenty (20) year amortization, this would actually cut their payments in half, they would be getting free money for ten (10) years and they will have 50% on the balance of the \$750,000 repaid at the end of ten (10) years. He added they are actually looking at paying the balance of the \$375,000 back in that single balloon or getting financing at that time to handle the balance. Personally, he would like to be free and clear of the City's obligation with their business because his concern is that they don't know what ten (10) years is going to bring to their industry. Commissioner Laskowski added they want to help them grow and they are excited about their interest in expanding their business by adding additional employees but they have to look at the City's position. The City could end up with a piece of property that's land locked. The City would have access to it with a limited cliental to solicit to fill those facilities for the ten (10) years.

Ms Drake addressed the Commissioner Laskowski's concerns, stating that if his concern is that the business may go belly up and that the City will be stuck with another building like the Call Center, in this case, the State is going to mandate that there be a protection in place so that if the business does fail they have a guarantee provided to the City of a negotiated form, whether it be a performance bond, a personal guarantee an assignment of asset. These things will still be available to the City so that the City can take and recoup whatever outstanding balance is left. Mayor Fugate asked who would give a personal guarantee. Ms Drake responded it could be the Ewers or a Proco guarantee. Mayor Fugate commented he has never seen a performance bond on a real estate transaction. Ms Drake further explained that the City of Seadrift required it on their Capital Fund grant.

Mayor Fugate asked if the City of Seadrift's resolution had a provision requiring receiving of a performance bond in the amount of the principal of the note. Ms Drake replied it did not, the only thing the resolution had, as does the City of Kingsville's is in Section 4, a requirement for repayment. Therefore, Proco will be required to repay any capital fund monies received according to the terms of the lease agreement that will be between Proco and the City. A sample lease agreement has been sent to the City Attorney and in that; those kinds of stipulations can be made, if the Commission chooses.

Commissioner Laskowski asked how the City would monitor if the bond is in place for the entire length of the loan. Ms Drake replied the same as they would require Proco through the lease agreement that once a year they have to provide to the City proof that the insurance has been maintained. She added that can be added into each of the liability and protections. Commissioner Laskowski stated his experience with the last economic development incentives that were offered to businesses, Lowe's and the Call Center, where the City set down requirements for reporting, the City never received information. He stated it is easy to say to put in writing, but it's not enforceable because the City can't make them give us the information. Ms Drake stated for the term of the grant award period, the City will certainly be receiving information because that would be a requirement of the contract between the City and the State and the sub recipient contract with them. Following that time, if included in the lease agreement some sort of annual reporting the business would comply.

Mayor Fugate asked for the cost of performance bond insurance. He added he has never heard of a performance bond on a payment of a real estate transaction most performance bonds deal with construction projects. Ms Drake replied she really didn't know the cost.

Mayor Fugate asked Ms Ewer if she wanted to sign this note with the City; Ms Ewer replied she feels comfortable and they are being judged and penalized for mistakes other people have made. Mayor Fugate stated they are good people, great citizens and the City wants to help.

Ms Drake provided information on recent real estate awards in other Counties. She stated the Ewers have been here and are members of the community. Commissioner Garcia asked the life of the bond, referring to the information Ms Drake had provided about the City of Seadrift. Ms Drake replied the life of the bond was for the repayment period. Commissioner Garcia commented the problem with bonding companies is that today they may be willing to do it for a three year or five year period, but then that same bonding company will not renew the bond for financial reasons.

Upon a question from Mayor Fugate, City Manager Capell replied his more accustomed to letters of credit.

Commissioner Laskowski reminded everyone about the improvements made at Paulson Falls, Phase III. The City had discussed the requirement of repayment and there's a contract with Mr. Disdar that he has to meet. There was discussion on an insurance to cover that loan or the improvements that were made for him. In Mr. Disdar's findings, he couldn't find any insurance that would cover him for that, so what ended up happening was that the Industrial Foundation pledged their assets or guaranteed the repayment in the event that Mr. Disdar didn't meet his requirement. Commissioner Laskowski stated not to construe his comments to be negative to Proco. The Commission has a responsibility to the taxpayers to make sure that whatever decisions are made are in the best interest of the community. In the event that the company could not repay the balance then the taxpayers are asked to pay for that and if the City can't get the insurance or the bond, then there has to be some type of document to guarantee the loan.

Ms Ewer stated they could investigate the possibility of insurance for added comfort but they already have funding in place and they have to provide personal guarantee to them. Commissioner Pecos asked how many people are employed with the company at this time. Ms Ewer stated they have seventy (70) employees but will add another seventy (70).

Mayor Fugate stated this will go on the tax rolls, even though the City will own it, because it will be of commercial use at probably about \$700,000.

City Manager Capell stated it is his understanding this is a two (2) step process. So today, they are being asked to approve just applying for the loan, there would be subsequent agreements for a lease or some kind of agreement between the company and the City that actually would line out the terms and provisions of lease rates. He added he understands that saying, yes, to the loan application, the City is committing to following through all the way. The City is kind of saying they will reach an agreement because it is his understanding it's not a popular thing to apply for one of these loans with the State then pull it back. He stated the Commission is trying to gain enough comfort to be ultimately comfortable entering into an agreement. So they are trying to get some ideas as the structure of the final agreement even though they are not being asked to enter into it today. But the reality is they still have more time to talk about the specific lease terms and provisions, and maybe to investigate the insurance issue or letter of credit or the personal guarantees that would make the Commission comfortable on the repayment. City Manager Capell stated the Commission did have an out that they could take, but that would probably not be a good thing.

Commissioner Wilson stated City Manager Capell makes a good point, except Proco needs to understand the Commission's level, even though they may say they are going to apply for the grant. If Proco is not comfortable with what the City is holding them to, and Proco understands where the City is going, then they might want to get their own financing. It is vitally important that the City give them where the final deal is going to be. He stated that he agrees with City Manager Capell, that they are just here to say let's move forward. Commissioner Wilson stated he thinks the City is best served with a ten (10) and a balloon of ten (10), as is Proco. He added that in ten (10) years, Proco is half way there.

Mr. Robert Ewer stated it's better to lock down what you know for sure. Ms Ewer stated for their level of comfort, they would rather know ahead of time in order to plan. Commissioner Wilson commented he can't speak for everyone but can give the general rule of thumb that they are all happy they are here and the Commission will work with them as far and as long to get the best deal done as to what the Commission believes is best for both.

Mayor Fugate called for further comments or questions. Commissioner Pecos suggested fifteen (15) years for repayment. This would be great for the economy and the citizens. Mr. Ewer stated this will help kids that don't want to go to college.

Ms Drake stated timing from this point forward would be that the final application gets submitted in a week, or so, and at that point the Capital Fund will begin doing its internal credit worthiness, evaluation of the company's financial performance over the last three (3) years, as well as their projections into the next three (3) years. This review will take about one month to six weeks. When their comfortable level is in place, they will schedule a site visit. A meeting will be held to go over rules of the program, the site will be toured, and they will go back to Austin and have a credit committee to do an internal final approval which will take another two (2) to three (3) weeks. Basically there will no contract coming to the City for three (3) months. This would be the time to finalize the any negotiations. Ms Drake stated the Capital Fund is a unique position with their grant pool of money if they award a contract, then the contract is terminated by the locality the Capital Fund loses that economic development money back to the sister agency which goes into the disaster relief fund.

Commissioner Wilson made a motion to approve the resolution authorizing the submission of an application to the Texas Department of Agriculture for funding through the Texas Capital Fund for real estate improvements, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".

6. Consider introduction of an ordinance amending the Fiscal Year 2010-2011 Budget for the Solid Waste Capital Projects Fund to allocate funds for a truck and an excavator. (Finance Director).

Mr. Rushing stated this is relation to the Landfill equipment, the excavator and the 14 yd truck. He stated he prepared details on the accumulation of the additional Sanitation revenues. Originally what was implemented was a half click of what was recommended in the increase of garbage rates for Fiscal Year 2007-08 (\$114,247.33); 2008-09 (\$369,225.56); and 2009-10 (\$466,034.72). The offsetting transfer to debt service fund for the related debt service for last fiscal year was \$434,912.00. The available balance at the end of September 30th, 2010, is \$514,595.61. This year the projection is a net difference of \$32,224 when you bring in the revenues in expenditures for this current fiscal year, for sum total at this point and time of \$546,819.61. If this budget amendment is passed for these two items of purchase there would be a residual balance of \$349,422.61.

Commissioner Laskowski suggested to Staff on discussing with Mr. Gary Fuselier, Landfill Supervisor his thoughts and ideas of the future of the Landfill. He stated Mr. Fuselier talked about not needing future cover because he wants to do a permit modification to take the Landfill deeper which would provide adequate cover for the future. Commissioner Laskowski stated the City has \$200,000 that was borrowed for land for future cover. He suggested taking that \$200,000 and using it to cover the cost of this equipment and then save these reserves because Solid Waste will need a couple of new commercial trucks in the next year. If there's not a need for the money for the land, for a future cover then the City should consider utilizing that and not be put in a position to have to do an arbitrage calculation because the City didn't spend the money in a timely manner.

Commissioner Pecos asked what happens if the permit modification is not approved. Commissioner Laskowski stated Mr. Fuselier has plans for alternative cover that will

reduce the amount of dirt. He stated the City borrowed money twice to buy the land and the land hasn't been bought. He suggested giving Mr. Fuselier the opportunity to see what he can do in implementing his plans. He requested Staff look at this and come back to the Commission with a recommendation.

Mr. Donnell stated there's approximately \$240,000 to \$250,000 budgeted for modification. He added that \$120,000 was for the purchase of the land. He stated they were looking at presenting a proposal to the Commission of the modification and taking that money for the modification and using the Sanitation revenue to purchase this equipment. He stated the Sanitation department has two (2) new commercial units, one (1) of the older unit is a 2004 year model that is also being used for commercial and they have four (4) residential. Commissioner Laskowski asked if there was residual on the construction of the Landfill. Mr. Donnell replied yes, there's some. Commissioner Laskowski suggested saving the money for future cash purchases for new equipment. Commissioner Pecos stated what is being suggested is to spend the monies that the City borrowed and put the rest in reserves. Commissioner Laskowski stated the money is already in reserves.

Mr. Fuselier provided information on his plan. Commissioner Laskowski stated the permit modification will be a long term process.

INTRODUCTION ONLY

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 12:42 P.M.

Sam R Fugate, Mayor

ATTEST:

Edna S Lopez, TRMC, CMC
City Secretary

PUBLIC HEARING(S)

**PETITIONS,
GRIEVANCES, &
PRESENTATIONS**

CONSENT AGENDA

(REGULAR AGENDA)

AGENDA ITEM #1

RESOLUTION _____

A RESOLUTION OF THE CITY OF KINGSVILLE AUTHORIZING THE RELEASE OF CHAPTER 59 FUNDS OF THE KINGSVILLE POLICE DEPARTMENT FOR DONATION TO THE PALMER DRUG ABUSE PROGRAM (PDAP).

WHEREAS, the Texas Code of Criminal Procedure, Article 59.06(h) allows for the release of Chapter 59 funds for nonprofit programs for the prevention of drug abuse;

WHEREAS, the Palmer Drug Abuse Program (PDAP) is a non-profit organization working to (1) turn the tide against drug and alcohol abuse in the Kingsville community and (2) make a positive statement to our young people about living a drug-free and alcohol-free lifestyle; and

WHEREAS, the Palmer Drug Abuse Program has provided services to 170 first time participants and spoke to over 1, 801 young people and parents;

WHEREAS, PDAP provided approximately 624 initial and follow-up appointments to community members of Kleberg County last year;

NOW, THEREFORE BE IT RESOLVED by the City Commission of the City of Kingsville, Texas:

I.

THAT the City Commission authorizes the Kingsville Police Department to assist with a \$5,000.00 donation to the Palmer Drug Abuse Program (PDAP) to help educate young people about living a drug-free and alcohol-free lifestyle.

II.

THAT local elected representatives shall be encouraged to promote, endorse, and support Palmer Drug Abuse Program for the benefit of the community.

PASSED AND APPROVED by a majority vote of the City Commission on the 11th day of April, 2011.

Sam R. Fugate, Mayor

ATTEST:


Edna Lopez, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

**KINGSVILLE POLICE DEPARTMENT
INTER-OFFICE MEMORANDUM**

March 29, 2011

TO : I/City Manager, Courtney Alvarez

FROM : Chief R. Torres
SUBJECT : PDAP Corporate Sponsorship

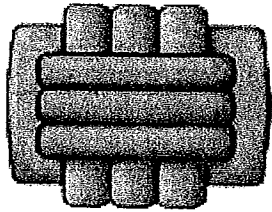
I am in receipt of a letter from the Palmer Drug Abuse Program soliciting a donation for the Kingsville, Texas program. The Palmer Drug Abuse Program provides a proactive means in our continued battle against the abuse of drugs. We here at the City of Kingsville Police Department have a longstanding relationship with PDAP and now that we have the means would like to assist them in our goal.

The Texas Code of Criminal Procedure under Chapter 59 allows awarded funds to be used to assist in the funding of nonprofit programs for the prevention of drug abuse. The Palmer Drug Abuse Program is a tax-exempt organization and is totally dependent upon support from individuals, corporations, and private foundations of our community.

I would ask that this be placed on the next available agenda for city council approval of a donation in the amount of **\$5,000.00** to assist PDAP with our mission to help young people and families recover from chemical abuse and addiction.

In keeping with the Chapter 59 we would request that the applicant entity after being awarded funds provide a report on a quarterly basis regarding what types of programs they have provided along with the number of participants they have been able to serve. This data is necessary for performance measurements reporting of all or the Kingsville Police Department's Federal and State grants such as JAG, BVP and Recovery Grants.

Thank you for your assistance regarding this matter.



PALMER

DRUG ABUSE PROGRAM

Board of Trustees Executive Committee

Chairman
Alan Wilson

Vice-Chairman
Morgan Spear

Treasurer
Alan Lucke

Secretary
Gretchen Arnold

Board Members

Richard Bonner
Robert Cagle
Tom Dobson
J.T. "Jack" Dugan, II M.D.
Jesse Garcia
A.C. Gilmore, Jr.
Lucy Hill
Eloy Salazar
Suellen West

Kingsville Member
Max Duncan

Alice Advisory Members
Mary Dru Burns
The Rev. John W. Fox

Advisory Members
Dan Countiss
Hoyte Gentry
Fred W. Heldenfels, III
Peter Holt
Lanette Joubert
Charles Kaffie
Nelda Martinez
William H. Locke, Jr.
Wayne Lundquist
Day Manley
Robert B. Rowling
The Rev. Warren Spanutius
Wallace Sparkman
Alan J. Stoner
Michael Swantner
George Tanner
Leah Woolford

Executive Director
Bruce Cooper, LCDC, CCS,
NCACII, ADCIII, AAC, CCJP,

Chief Ricardo Torres
City of Kingsville - Police Dept.
P. O. Box 1458
Kingsville, TX 78364-1458

Dear Chief Torres,

I am honored to be involved with Palmer Drug Abuse Program (PDAP) as the **2011 Drug-Free Walk Grand Marshal!** The walk will start at 9am, on 05/07/2011 at the Kleberg County Courthouse steps.

Kingsville is very fortunate to have PDAP serving its citizens. PDAP is fighting back against the use of drugs and alcohol by reaching out to our young people and letting them know there are positive options. PDAP works and is cost-effective with services that are readily available, extremely confidential, anonymous, and absolutely **free of charge**. Currently, the cost to PDAP per participant is \$150.00 a month for its full spectrum of services.

In their **thirty-one years** of experience, PDAP has carried its positive message of recovery, support, love and understanding to over **20,000** teenagers, young adults, and parents affected by drugs and alcohol. **Last year alone the Kingsville center** was able to provide services to 170 first time participants and spoke to over 2,000 young people and parents. PDAP provided 700 initial and follow-up appointments to community members of Kleberg County.

PDAP is totally dependent upon support from individuals, corporations, and private foundations of our community and now, more than ever, needs our support. As the 2011 Grand Marshal and a supporter of the Palmer Drug Abuse Program, I am asking you to join me by becoming a **Corporate Sponsor of this year's Drug-Free Walk** at the **\$500 level**. Corporate Sponsors will be recognized in an ad placed in the Kingsville Record one week prior to the Walk. All proceeds from the walk will benefit PDAP's **Kingsville center** and will be used towards operating costs for 2011. **Please send your tax-deductible contribution to:**

PDAP – Kingsville
P. O. Box 5184
Kingsville, TX 78364.

I trust that you will join me in helping PDAP turn the tide against drug and alcohol abuse in the Kingsville area. Rest assured PDAP will be exceptional stewards of **whatever amount you may choose to give** and will be deeply grateful for your support and participation in the 2011 Drug-Free Walk.

Thank you for your attention to this request and I look forward to seeing you on May 7, 2011.

Sincerely,

Guadalupe O. Mendoza
Judge, Kleberg County Court at Law
2011 PDAP Grand Marshal

RECEIVED
MAR 2011
Kingsville Police



AGENDA ITEM #2

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FISCAL YEAR 2010-2011 BUDGET FOR THE GENERAL FUND TO ALLOCATE FUNDS FOR AN INTERLOCAL AGREEMENT WITH KLEBERG COUNTY TO COVER ONE HALF OF THE ELECTRICITY EXPENSE AND TO COVER EQUIPMENT REPAIRS FOR THE GOLF COURSE AND FOR THE UTILITY FUND WASTE WATER DEPARTMENT TO ALLOCATE FUNDS FOR TCEQ FINES.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2010-2011 budget be amended as follows:

CITY OF KINGSVILLE
DEPARTMENT EXPENSES
BUDGET AMENDMENT

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
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Fund 001 General Fund

<u>Revenues</u>				<u>Credit</u>	
4-305	Street	Street Other Income	599.40	36,375	
<u>Expenses</u>				<u>Debit</u>	
103.0	City Special	Prf Srv-KC Golf Course	314.30	36,375	

[To allocate funds for an interlocal agreement with Kleberg County to cover one half of the electricity expense of approximately \$24,375 and for \$12,000 to cover equipment repairs for the golf course.]

Fund 051 Utility Fund

<u>Revenues</u>				<u>Credit</u>	
700	Waste Water	Sewer Sales	823.00	10,600	
<u>Expenses</u>				<u>Debit</u>	
700.3	Waste Water	State Fees-TCEQ Fines	321.10	10,600	

[To allocate funds for the Waste Water Department for TCEQ fines.]

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the ____ day of _____, 2011.

PASSED AND APPROVED on this the ____ day of _____, 2011.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Edna Lopez, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #3



PUBLIC WORKS DEPARTMENT

DATE: April 8, 2011
TO: Vince Capell, City Manager
FROM: William Donnell, Director of Public Works *wd*
SUBJECT: Fund 2009 CO Reallocation Request Landfill Land/Soil Cover

In planning for the future operations for the City's Landfill it is staff's recommendation not to purchase the land previously budgeted by the 2009 certificate of obligation as it would not generate enough final cover to sustain the landfill's needs as it is currently permitted. Staff is recommending reallocating part of the \$122,000 budgeted for land to purchase an excavator in the amount of \$113,786.00.

Staff is reviewing a potential future request to reallocate the remaining C.O. 2009 funds of the land purchase and the permit resubmission for the purchase of a 14 yd dump truck and a new commercial garbage truck. Preliminary studies show the permit amendment would generate more soil by permitting the new cells to be 20 feet deeper and increasing the side slopes to offset the purchase of the land. Also, staff has been approved to use a tarp system as alternate daily cover which will be a considerable saving of soil. Furthermore, due to the extended time frame of a permit amendment, future recommendations will be to utilize part of Fund 087 Sanitation Additional Revenues to avoid arbitrage issues in C.O. 2009.

				Before		After (If Approved)
Account Number	Department	Description		Balance 3/31/11	Reallocation	Balance 4/11/11
064-5-170.2- 220.00	3	Sanitation	96 Gal. Cart	81.00	(81.00)	0.00
064-5-170.3- 714.00	13	Landfill	Permit Resubmission	250,000.00		250,000.00
064-5-170.3- 714.00	14	Landfill	Land/soil cover	122,000.00	(113,786.00)	8,214.00
064-5-170.3- 314.00	Landfill	Engineering & Inspection - Landfill Gas Vents Landfill Gas Vent/s Construction New Cell (stated in acres)		396.08		396.08
064-5-170.3- 714.00	Landfill					
064-5-170.3- 714.00	15			Landfill		
Note: There is an O/S Encumbrance #103969 for \$1,845.00 to Shaw Enviromental already taken into account in the 3/31/11 balance of \$396.08						
064-5-170.3- 712.00	Landfill	Excavator			113,867.00	113,867.00
064-5-440.0- 711.00	22	Health Dept	Truck (w/ boxes, lights, bumper, etc.)	344.57		344.57
Note: There is an O/S Encumbrance #101546 for \$449.80 to Trucker Equip Supply already taken into account in the 3/31/11 balance of \$344.57						
				372,821.65	0.00	372,821.65
Unallocated Interest as of 3/31/11				5,838.06		5,838.06
TOTAL CO 2009 UNEXPENDED BALANCE				378,659.71	0.00	378,659.71

CO 2009

BUDGET ACCT	DESCRIPTION FUND 064	QTY	UNIT COST	ORIGINAL EST COST	REVISSED ALLOCATION TOTAL	YTD as of 03/31/11 EXPENDED TOTAL	as of 03/31/11 ENCUMBERED TOTAL	Add + Commission Agenda Items Less (-) Expend and the encumbrances BALANCE
CO 2009	064-5-160-3- 711.00	1	Pickup Truck	18,000.00	19,553.75	19,553.75	0.00	0.00
CO 2009	064-5-170-2- 220.00	2	96 Gal. Cart	277,080.00	203,532.89	203,532.89	0.00	0.00
3/22/10 the Commission approved the full \$57,171.XX for Commercial Truck to be pulled from the 96 gal Carts Alloc. These are for 3 & 4 CY Containers								
CO 2009	064-5-170-2- 220.00	3	96 Gal. Cart (was under CO 2001)		57,171.00	57,090.00	81.00	81.00
CO 2009	064-5-170-2- 220.00	3	96 Gal. Cart			0.00	0.00	0.00
CO 2009	064-5-170-2- 217.00	4	Mobil Radio	210,000.00	1,943.36	1,943.36	0.00	0.00
CO 2009	064-5-170-2- 711.00	4	Side Loader Truck - Residential	210,000.00	194,939.50	194,939.50	0.00	0.00
CO 2009	064-5-170-2- 711.00	5	Side Loader Truck - Residential	210,000.00	194,939.50	194,939.50	0.00	0.00
CO 2009	064-5-170-2- 711.00	6	Side Loader Truck - Commercial	200,000.00	181,735.50	181,735.50	0.00	0.00
CO 2009	064-5-170-2- 711.00	7	Side Loader Truck - Commercial	200,000.00	188,625.50	188,625.50	0.00	0.00
Comm Realloc 9/13/10	064-5-170-2- 712.00	8	Comm Realloc 9/13/10	12,225.00	(64.58)	(64.58)	0.00	(64.58)
CO 2009	064-5-170-2- 712.00	8	Welding Machine	12,225.00	12,225.00	12,160.42	0.00	64.58
CO 2009	064-5-170-2- 712.00	9	Viking Cab Enclosure	16,220.00	16,220.00	16,220.00	0.00	0.00
CO 2009	064-5-170-2- 712.00	9	Note: A the sum = 1,156 s/b 1,216 so need another 60 carts at \$60	1,125,525.00	1,051,267.67	1,051,186.67	81.00	81.00
Comm Realloc 9/13/10	064-5-170-3- 712.00	10	Comm Realloc 9/13/10	434,000.00	(306.00)	(306.00)	0.00	(306.00)
CO 2009	064-5-170-3- 712.00	10	Scaper	434,000.00	434,000.00	433,694.00	0.00	306.00
Comm Realloc 9/13/10	064-5-170-3- 712.00	11	Comm Realloc 9/13/10	25,000.00	(4,559.07)	(4,559.07)	0.00	(4,559.07)
CO 2009	064-5-170-3- 712.00	11	Water Pump 4"	25,000.00	25,000.00	20,440.93	0.00	4,559.07
Comm Realloc 9/13/10	064-5-170-3- 713.00	12	Comm Realloc 9/13/10	70,000.00	(8,780.00)	(8,780.00)	0.00	(8,780.00)
CO 2009	064-5-170-3- 714.00	12	Litter Fence	70,000.00	70,000.00	61,220.00	0.00	8,780.00
CO 2009	064-5-170-3- 714.00	13	Permit Resubmission	250,000.00	250,000.00	250,000.00	0.00	0.00
CO 2009	064-5-170-3- 714.00	14	Land/soil cover	122,000.00	122,000.00	122,000.00	0.00	0.00
CO 2009	064-5-170-3- 414.00	14	Leachate Pumping System (Rehab)	0.00	29,119.00	27,794.23	0.00	1,324.77
Comm Realloc 9/13/10	064-5-170-3- 711.00	15	Comm Realloc 9/13/10	0.00	(1,324.77)	(1,324.77)	0.00	(1,324.77)
CO 2009	064-5-170-3- 711.00	15	Pickup Trucks	0.00	51,013.58	51,013.58	0.00	0.00
CO 2009	064-5-170-3- 414.00	15	Water Tank (Rehab on Stealing Truck)	0.00	8,450.00	8,450.00	0.00	0.00
CO 2009	064-5-170-3- 411.00	15	Rebuild Landfill Dozer	0.00	91,500.00	91,500.00	0.00	0.00
Comm Realloc 9/13/10	064-5-170-3- 411.00	15	Comm Realloc 9/13/10	0.00	(46,954.82)	(46,954.82)	0.00	(46,954.82)
CO 2009	064-5-170-3- 714.00	15	Engineering & Inspection - Landfill Gas Vents	1,567,500.00	38,180.00	14,850.22	0.00	23,329.78
CO 2009	064-5-170-3- 714.00	15	Landfill Gas Vents Construction	1,567,500.00	95,870.00	94,025.00	0.00	1,845.00
CO 2009	064-5-170-3- 714.00	15	New Cell (stated in acres)	2,469,500.00	1,385,574.15	1,361,553.03	24,021.12	24,021.12
Comm Realloc 9/13/10	064-5-303-0- 712.00	16	Comm Realloc 9/13/10	23,000.00	(1,010.00)	(1,010.00)	0.00	(1,010.00)
CO 2009	064-5-303-0- 712.00	16	Fork Lift	23,000.00	23,000.00	23,329.78	0.00	1,010.00
CO 2009	064-5-305-0- 711.00	17	Street Sweeper	320,000.00	302,272.00	302,272.00	0.00	0.00
CO 2009	064-5-305-0- 711.00	18	Tandem 15 yrd Dump Truck	79,000.00	72,475.00	72,475.00	0.00	0.00
CO 2009	064-5-305-0- 712.00	19	Skid Loader	30,000.00	22,187.26	22,187.26	0.00	0.00
CO 2009	064-5-305-0- 712.00	20	Slope Mower Tractor w/Boom Cutter	80,000.00	114,833.00	114,833.00	0.00	0.00
Comm Realloc 9/13/10	064-5-305-0- 712.00	21	Comm Realloc 9/13/10	10,000.00	(7,232.74)	(7,232.74)	0.00	(7,232.74)
CO 2009	064-5-305-0- 712.00	21	Street Striping Machine (DON'T BUY)	10,000.00	7,232.74	7,232.74	0.00	0.00
CO 2009	064-5-305-0- 712.00	21	Street Striping Machine (DON'T BUY)	519,000.00	511,767.26	511,767.26	0.00	0.00

CO 2009	BUDGET ACCT	DESCRIPTION	QTY	UNIT COST	ORIGINAL EST COST	REVISED ALLOCATION TOTAL	YTD EXPENDED TOTAL as of 03/31/11	ENCUMBERED TOTAL as of 03/31/11	Add + Commission Agenda Items Less (-) Expend and the encumbrances BALANCE
CO 2009	064-5-440.0- 711.00	22 Truck (w/ boxes, lights, bumper, etc.)	2	20,000.00	40,000.00	46,053.14	45,258.77	449.80	344.57
CO 2009	064-5-440.0- 712.00	23 Tractor Mower	1	32,240.00	32,240.00	36,972.36	36,972.36		0.00
CO 2009	064-5-440.0- 712.00	24 Scag Mower	1	10,600.00	10,600.00	10,550.00	10,550.00		0.00
					82,840.00	93,575.50	92,781.13	449.80	344.57
						per agreement			
CO 2009	064-5-450.0- 711.00	25 Truck	1	16,500.00	16,500.00	16,478.75	16,478.75		0.00
CO 2009	064-5-450.0- 712.00	26 Scag Mower	1	10,600.00	10,600.00	10,550.00	10,550.00		0.00
					27,100.00	27,028.75	27,028.75	0.00	0.00
						per agreement			
TOTAL FUNDING					4,263,965.00	4,263,965.00	3,888,348.55	2,294.80	372,821.65
						Proceeds net of Bond Issuance Costs			372,821.65
									0.00

AGENDA ITEM #4



**CITY OF KINGSVILLE
LEGAL DEPARTMENT**

P.O. Box 1458, Kingsville Texas 78364 Phone: 361-595-8016 Fax: 361-592-4696

Date: April 7, 2011

To: City Commission Members

From: Courtney Alvarez, City Attorney *CA*

Re: Curfew Ordinance

Issue: The daytime and nighttime curfew ordinance has to be renewed every three years.

History: The last time this ordinance was brought before you for introduction to consider renewal was April 14, 2008. The ordinance was approved for renewal at the second meeting in April 2008. The ordinance assists the Police Department in reducing crime against minors and crime committed by minors.

Action Required: Staff requests the ordinance be approved for renewal by the City Commission.

ORDINANCE NO. _____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XIII, ARTICLE 2, OFFENSES AGAINST PUBLIC PEACE AND SAFETY, SECTIONS 13-2-10 TO 13-2-13 AND SECTIONS 13-2-20 TO 13-2-23, PROVIDING FOR THE RENEWAL OF THE NIGHTTIME CURFEW REGULATIONS FOR MINORS AND THE DAYTIME CURFEW REGULATIONS FOR MINORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

WHEREAS, this ordinance has helped to keep our citizens and their children safer and it is in the best interests of the community to renew this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 13-2-10 to 13-2-13 and sections 13-2-20 to 13-2-23 of Article 2: Offenses Against the Public Peace and Safety of Chapter XIII, General Offenses, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

§ 13-2-10 DEFINITIONS.

For the purpose of this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURFEW HOURS.

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

ESTABLISHMENT. Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

GUARDIAN.

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

MINOR. Any person under 17 years of age.

OPERATOR. Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

PARENT. A person who is:

(1) A natural parent, adoptive parent, or step-parent of another person;
or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody for a limited time for a specific purpose of a minor.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

REMAIN.

(1) To linger or stay; or

(2) To fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

SERIOUS BODILY INJURY. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

§ 13-2-11 OFFENSES.

(A) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(B) A parent or guardian of a minor commits an offense if he knowingly or acting with criminal negligence permits or by insufficient control allows, the minor

to remain in any public place or on the premises of any establishment within the city during curfew hours.

(C) The owner, operator, or any employee of an establishment commits an offense if he knowingly or acting with criminal negligence allows a minor to remain upon the premises of the establishment during curfew hours.

§ 13-2-12 DEFENSES TO PROSECUTION.

(A) It is an affirmative defense to prosecution under § 13-2-11 that the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) In a motor vehicle involved in interstate travel;
- (3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (4) Involved in an emergency;
- (5) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (6) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
- (7) Married or had disabilities of minority removed in accordance with TEX. FAM. CODE, Ch. 31.

(B) It is a defense to prosecution under § 13-2-11(C) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

§ 13-2-13 ENFORCEMENT.

Before taking any enforcement action under this section, a peace officer shall ask the apparent offender's age and reason for being in the public place or on the premises of the establishment. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense

has occurred and that, based on any response and other circumstances, no defense in § 13-2-12 is present.

§ 13-2-20 DEFINITIONS.

For the purpose of this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURFEW HOURS.

(1) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday; provided however, the hours defined in this definitions shall not be considered as curfew hours for minors not subject to compulsory school attendance pursuant to TEX. EDUC. CODE § 25.085 , nor shall the hours herein defined be considered as curfew hours on days or during periods in which the school where the applicable minor is enrolled is closed or classes for which the applicable minor is enrolled have been cancelled under the order and direction of officials authorized to issue such orders and directives.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

ESTABLISHMENT. Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

GUARDIAN.

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

MINOR. Any person subject to compulsory school attendance.

OPERATOR. Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment, The term includes the members or partners of an association or partnership and the officers of a corporation.

PARENT. A person who is:

(1) A natural parent, adoptive parent, or step-parent of another person;
or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody for a limited time for a specific purpose of a minor.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

REMAIN.

(1) To linger or stay; or

(2) To fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

SERIOUS BODILY INJURY. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

§ 13-2-21 OFFENSES.

(A) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(B) A parent or guardian of a minor commits an offense if he knowingly or acting with criminal negligence permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(C) The owner, operator, or any employee of an establishment commits an offense if he knowingly or acting with criminal negligence allows a minor to remain upon the premises of the establishment during curfew hours.

§ 13-2-22 DEFENSES TO PROSECUTION.

(A) It is an affirmative defense to prosecution under § 13-2-21 that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) In a motor vehicle involved in interstate travel;

(3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(4) Involved in an emergency;

(5) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;

(6) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(7) Married or had disabilities of minority removed in accordance with TEX. FAM. CODE Ch. 31.

(B) It is a defense to prosecution under § 13-2-21(C) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

§ 13-2-23 ENFORCEMENT.

Before taking any enforcement action under this section, a peace officer shall ask the apparent offender's age and reason for being in the public place or on the premises of the establishment. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in § 13-2-22 is present.

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the ___ day of April, 2011.

PASSED AND APPROVED on this the ___ day of April, 2011.

Sam R. Fugate, Mayor

ATTEST:

Edna Lopez, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney