

DECEMBER 17, 2003

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS WAS HELD ON WEDNESDAY, DECEMBER 17, 2003 AT 6:00 P.M. IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT CITY HALL, 200 EAST KLEBERG AVENUE.

**CITY COMMISSION MEMBERS PRESENT:**

Filemon "Phil" Esquivel, Jr., Mayor  
 Horacio "Hoss" Castillo, City Commissioner  
 Al Garcia, City Commissioner  
 Arturo Pecos, City Commissioner  
 Charles E. Wilson, City Commissioner

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
 Courtney Alvarez, City Attorney  
 Irene Ramirez, City Secretary  
 Dora Byington, Purchasing Director  
 Jennifer Detloff, Director of Development Services  
 Dianne Leubert, Solid Waste Management Superintendent  
 Vilma Castillo, Utility Billing Supervisor  
 Yolanda Vasquez, Municipal Court Supervisor  
 Rick Torres, Chief of Police  
 Art Alvarez, Risk Manager  
 Joe Casillas, Water Production Field Supervisor  
 Diana Gonzales, Human Resource Director  
 Stanley Fees, City Engineer  
 Caron Vela, Interim Finance Director  
 Joel Saenz, Code Enforcement Officer  
 John Garcia, Garage Superintendent  
 Chito Hinojosa, Street Supervisor  
 Robert Rodriguez, Library Director

**I. PRELIMINARY PROCEEDINGS.**

**OPEN MEETING**

The meeting was opened at 6:01 p.m. by Mayor Esquivel.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Esquivel)**

Ms Dora Byington lead everyone in prayer, followed by the Pledge of Allegiance led by Ms. Irene Ramirez, and the Pledge to the Texas flag led by Commissioner Charles Wilson.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

None available.

**II. PUBLIC HEARING - (REQUIRED BY LAW).<sup>1</sup>**

1. Public Hearing for an alcohol variance application for Club Escalade located at 510 West Huisache. (City Manager).

The public hearing was opened at 6:02 p.m., and no comments were received. The city manager stated we received two letters opposing the request with over 500 letters mailed out. Also, there was a large turn- out in favor of the request at the 12/08/03 public hearing. Hearing closed at 6:04 p.m.

### III. PUBLIC COMMENT ON AGENDA ITEMS.<sup>3</sup>

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

Mr. Darrel Finallei of 2 Greenway Plaza, Ste. #2, Houston, Texas, representative of T-Mobile (Voicestream PCS) asked for Agenda Item #14 to be moved up.

### IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS.<sup>2</sup>

1. City Manager's Report. (City Manager).

City Manager Yerena stated staff is working on a city newsletter; he reported the new tractor is a great addition to the equipment we have; and he asked the commission to check their calendars for a special meeting for an alcohol variance request for the week of January 19<sup>th</sup>.

2. City Attorney's Report. (City Attorney).

Ms Alvarez stated she is working on an infrastructure interlocal agreement; the legal department had a substantial increase in open records requests in 2003 for a total of 76 requests compared to the 8 received in 2002; she has been researching annexation laws and plans to address the commission in January to ask what areas they are interested in annexing. As stated at a prior meeting, in Senate Bill 8 cities should have passed or adopted annexation plans that they anticipate dealing with in the next 3 years. After researching the minutes, it has been determined the last annexation was done in 1997 and the time frame ended in 1999, therefore we may need to get a plan in place for the future.

Mayor Esquivel stated Hawks Landing was excluded from the annexation for a period of 5 years which has now expired, therefore we need to look at bringing them into the city to increase our tax base.

3. Mayor and City Commissioner's Reports. (City Commission).

Commissioner Pecos stated he is receiving calls from citizens, namely the elderly, having problems getting containers across the street. He stated he would like staff to be more pro-active in communicating with those calling and asking for assistance.

Commissioner Wilson stated the Wildlife Birding Festival was a big success. He also announced the upcoming Whataburger Cactus Bowl scheduled for January 9, 2004 with kick-off at 7 p.m.

Mayor Esquivel expressed holiday wishes to everyone and announced Governor Rick Perry will be at TAMUK tomorrow morning to announce funding for the Irma Rangel School of Pharmacy. He stated the NLC was an excellent meeting with great information provided, including telecommunication towers; adding the city voted on all national resolutions.

A motion was made by Commissioner Wilson, seconded by Commissioner Pecos to move Agenda Item #14 to the front. Motion carried, 4/0.

V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.<sup>4</sup>

**14. Consider approval of a Communications Facilities License Agreement by T-Mobile USA, Inc. (Voicestream) for a wireless telecommunications site at 1133 West Kenedy. (Mayor Esquivel).**

Mayor Esquivel stated the city is looking at generating additional revenues by way of leasing tower space on water towers to benefit telecommunication users and owners by saving monies for the construction of new towers. Mr. Darrell Finelli has been communicating with the city attorney and an agreement was prepared and reviewed by both parties. The site plan has been reviewed and the new agreement would generate \$15K per year in permit fees.

**A motion by Commissioner Garcia, seconded by Commissioner Pecos to approve the communications facilities license agreement presented to the commission for a wireless telecommunications site at 1133 West Kenedy.**

Commissioner Wilson raised the question about removal of the equipment and the time lines for such if they are in default. Mr. Finnelli stated he would be happy to accommodate whatever time period the city feels is a reasonable time and can insert a clause in the contract to address the matter. Commissioner Garcia asked if a certificate of insurance has been received prior to commencement of the agreement, to which Mrs. Alvarez responded the city has not yet received the certificate.

**Motion carried, with a vote of 4/0.**

**Resumed regular agenda.**

**1. Consider approval of alcohol variance application for Club Escalade located at 510 West Huisache. (City Manager).**

The City Manager recommended approval of an alcohol variance for Club Escalade, located at 510 W. Huisache.

**A motion was made by Commissioner Pecos, seconded by Commissioner Garcia to grant the variance as requested. Motion carried, 4/0.**

**2. Consider purchase of banners for the City's centennial celebration and for \$1,300 payment for designer fee for the centennial banners pursuant to request by the Chamber of Commerce. (City Manager).**

Mayor Esquivel stated the Chamber made a presentation at the last regular meeting requesting the city fund \$2,550 for the designer fee and purchase of 10 banners for the city's centennial celebration. The monies are budgeted in Department 103, Special Services.

A motion was made by Commissioner Wilson, seconded by Commissioner Pecos to approve the purchase of 10 banners and assist with the design fees for a total of \$2,550. Motion carried, 4/0.

**3. Consider approval of Incode Municipal Court Software Contract. (Interim Finance Director).**

Ms Caron Vela, Interim Finance Director, stated approval of this item will allow the purchase of an Incode Municipal Court Software system for a total of \$35,246, which includes training and licensing of individuals on the system.

A motion was made by Commissioner Pecos, seconded by Commissioner Garcia to approve the purchase of an Incode Municipal Court Software system. Motion carried, 4/0.

**4. Consider introduction of an ordinance amending the Fiscal Year 2003-2004 budget for worker's compensation insurance (Budget Amendment #3). (Interim Finance Director).**

Ms Caron Vela stated after reviewing the budget, it was not necessary to request this budget amendment, therefore, no action was taken on this item.

**5. Consider awarding bid for all city insurance coverage, except health and life. (RFP 24-22) (Purchasing Director).**

Ms Dora Byington, Purchasing Director stated one bid was received from TML for \$464,598K and she recommended the award to TML. Ms. Georgina Ybarra, a representative of TML stated the city makes quarterly payments, and if the payment was made as a lump sum annual payment the city could receive a discount of \$13K. Mayor Esquivel asked the city manager to look into all possibilities.

A motion was made by Commissioner Wilson, seconded by Mayor Esquivel to award the bid for all city insurance coverage, except health and life to TML. Motion carried, 4/0.

**6. Consider awarding bid for the Armstrong Street Handicap Ramp Additions project. (Bid #24-23) (Purchasing Director).**

Mayor Esquivel stated this bid is for a handicap ramp project along Armstrong Street in front of Memorial Middle School to aid handicap children. The contract is for 7 ramps and includes the removal of 116 concrete drives along Armstrong for a total bid of \$20,474. The low bid recommended by staff is to DMB Construction Company.

The Mayor noted he received a call from Commissioner Castillo asking if we can provide the barricades for this work to save money. Ms Byington stated the bid needed to be awarded as all or none, or the Commission has the option to reject all bids and go line-by-line.

After a brief discussion, a motion was made by Commissioner Pecos, seconded by Commissioner Garcia to award the bid as

recommended by staff to DMB Construction Company. Motion carried, 3/1, with Mayor Esquivel casting the descending vote.

7. **Consider authorizing the City Manager to enter into an Interlocal Agreement on behalf of the City of Kingsville with Texas A&M University-Kingsville for preparation of a stormwater utility fee program conceptual feasibility study. (City Engineer).**

The City Engineer stated this is the same agreement reviewed earlier this year with the South Texas Environmental institute, with the main change reading TAMUK instead of STEI.

Mayor Esquivel stated he would like to bring the question of impact fees or user fees before the citizens of Kingsville at the May election. Commissioner Wilson stated an assessment should be made of what type of fee we want done first. The mayor asked what the time line is, to which the city secretary responded she would check into the election calendar.

A motion was made by Commissioner Wilson, seconded by Commissioner Pecos for the city manager to enter into the interlocal agreement with TAMUK. Motion carried, 4/0.

8. **Consider final passage of an ordinance rezoning 0.254 acres of land from "R-2" Two-Family District to "R-3" Multi-Family, Lot 1, Block 27, Retama Park Subdivision. (Director of Development Services).**

Ms. Jennifer Detloff, Director of Development Services, stated no comments have been received and the Planning and Zoning Commission recommended approval of rezoning of this property.

A motion was made by Commissioner Pecos, seconded by Commissioner Garcia to rezone 0.254 acres of land (Lot 1, Block 27, Retama Park Subdivision) from Class R-2 to Class R-3, Multi-Family District. Motion carried, 4/0.

9. **Consider final passage of an ordinance rezoning 14.60 acres of land from "AG" Agricultural District to "R-1" Single-Family District on Lot 2, Section 22, K.T. & I. Subdivision. (Director of Development Services).**

Ms. Detloff stated this property is Phase I of the Paulson Falls Subdivision, being 14.60 acres out of a 55.28 acres tract. No comments have been received and the Planning and Zoning Commission recommended approval of the request.

A motion was made by Commissioner Garcia, seconded by Commissioner Pecos to rezone the requested 14.60 acres out of Farm Lot 2, Section 22, K.T. & I. Subdivision from Class AG to Class R-1, Single Family District. Motion carried, 4/0.

10. **Consider final passage of an ordinance amending Chapter XV, Article 1, Building Regulations, providing for penalties for**

**electrical work without a permit or by an unlicensed electrician.  
(Director of Development Services).**

Ms. Detloff stated a significant amount of electrical work is being done without permits by unlicensed electricians and the current penalty is not enough of a deterrent. Staff is recommending additional penalties for work that is started without a permit, with a fee of \$150 for the first offense and compounded thereafter with no maximum.

**A motion was made by Mayor Esquivel to table this item until the next commission meeting to allow staff time to inform the public, seconded by Commissioner Pecos. Commissioner Wilson stated he will abstain from voting on this item.**

Mayor Esquivel removed his first, followed by Commissioner Pecos removing his second in order to discuss the situation. Ms. Detloff stated she is in the process of revising the electrical ordinance and can bring this item back when all proposed changes are complete and can provide information to the public via the city newsletter on what improvements require permits as well as through water bills.

After a lengthy discussion, a second motion was made by Mayor Esquivel and seconded by Commissioner Pecos to table this item until the next regular meeting.

**Motion carried, 4/0/1, with Commissioner Wilson abstaining from voting.**

(Commissioner Castillo joined the meeting at 7:27 p.m. during this item)

**11. Consider final passage of an ordinance amending Chapter V, Article 1, Garbage, providing for an increase in the truck rental fee for residential or non-profit customers. (Solid Waste Collections Field Supervisor).**

**A motion was made by Commissioner Wilson, seconded by Commissioner Pecos to adopt the revised version distributed by staff prior to the meeting. Residential rates will increase from \$6.50 to \$12, with commercial rates staying the same at \$33.30. Motion carried, 5/0.**

**12. Consider final passage of an ordinance amending Chapter V, Article 1, Garbage, providing for rates for special pickups. (Solid Waste Collections Field Supervisor).**

**A motion was made by Commissioner Wilson, seconded by Commissioner Pecos to adopt the revised version distributed by staff prior to the meeting. Motion carried, 5/0.**

Mayor Esquivel stated this ordinance compliments the regular white goods pickups that we do free of charge and zone pickups. Dumping of brush is still free at the landfill on weekends.

**13. Consider introduction of an ordinance amending Chapter XV, Land Usage, Article 1, Building Regulations, providing for permit fees for telecommunication towers and antennas. (Mayor Esquivel).**

Mayor Esquivel stated staff recently obtained some information from a telecommunications firm and was not yet prepared to present this item.

(Skip Item #14 – considered before Item #1)

**15. Executive Session: Under Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in Executive Session to evaluate the job performance of the City Manager, the City Attorney, and the Municipal Court Judge. (Mayor Esquivel).**

In accordance with Section 551.074 of the Texas Open Meetings Act, the City Commission convened into executive session at 7:45 p.m. to evaluate the job performance of the City Manager, the City Attorney, and the Municipal Court Judge.

The City Commission reconvened into open session at 8:18 p.m.

**16. Consider approval of employment contract for City Manager Carlos Yerena. (Mayor Esquivel).**

Ms Alvarez highlighted the City's employment contract with Carlos Yerena as city manager which included the following: City employee instead of an independent contractor; 2-year employment contract unless terminated in writing with 30 days notice or if terminated by city commission in accordance with city charter; compensation plan has been adjusted and budget amendment approved to cover annual salary and benefits; annual car allowance same as other commissioners; reimbursed for travel pursuant to travel policy; is entitled to 3.5% for new grants to be paid within 90 days of grant awards; \$73K annual salary; no compensation for grants he doesn't complete, submit and administer; accrual of vacation and sick leave; will be reimbursed out-of-pocket moving expenses not to exceed \$1,500; increase on annual base salary after first year of service; including separation language in Section F-6,7, and 8.

Commissioner Castillo stated he would like to change the second to the last sentence in F-2 from "complete" to "prepare" or "write". No objection was made by anyone. City Manager Yerena stated he did not have a problem with the change.

**A motion was made by Commission Castillo, seconded by Commissioner Pecos to approve the contract for City Manager Carlos Yerena as stated. Motion carried, 3/2, with Commissioners Wilson and Garcia casting the descending votes.**

City Manager Yerena stated he looks forward to working with staff, and stated all the goals and objectives set will be complete only by the help and assistance of our staff as teamwork, otherwise we can't accomplish them. He thanked the commission for the opportunity to work with the city

Mayor Esquivel congratulated City Manager Yerena.

**VI. ADJOURNMENT.**

**A motion was made by Commissioner Pecos, seconded by Commissioner Wilson to adjourn at 8:25 p.m. Motion carried.**

\_\_\_\_\_  
Filemon "Phil" Esquivel, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Irene Ramirez, City Secretary

PRESENTED and ADOPTED by the Kingsville City Commission on this 12<sup>th</sup> day of April, 2004.

\_\_\_\_\_  
Charles E Wilson, Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Edna S Lopez, Interim City Secretary