

May 27, 2003

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE WAS HELD IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE ON THURSDAY, MAY 27, 2003 AT 6:00 P.M.

City Commission Members:

Mayor Filemon "Phil" Esquivel, Jr.
Comm. Horacio "Hoss" Castillo
Comm. Al Garcia
Comm. Arturo Pecos
Comm. Charlie Wilson

Staff Members:

John A. Garcia, Interim City Manager
Irene Ramirez, Interim City Secretary
Courtney Alvarez, City Attorney
Corando Garza, Assistant City Manager/Fire Chief
Stanley Fees, City Engineer
Vilma Castillo, Collections Manager
Sammy Maldonado, Utilities Superintendent
Danny Almeida, Wastewater Supervisor
Dora Byington, Purchasing Director
Jennifer Detloff, Director of Development Services
Dianne Leubert, Solid Waste Superintendent
Diana Gonzales, Human Resource Director
Roel Cavazos, Interim Fire Marshal
Joe Casillas, Water Production Supervisor
Art Alvarez, Risk Manager
Anthony Noyola, Health Dept. Director
Joel Saenz, Code Enforcement Officer

I. PRELIMINARY PROCEEDINGS.

OPEN MEETING

The meeting was opened at 6:00 P.M. by Mayor Phil Esquivel, Jr.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Esquivel).

Mayor Esquivel asked Mrs. Dora Byington to lead everyone in prayer, followed by the pledge of allegiance lead by Mr. Roel Cavazos, and the pledge to the Texas flag was lead by Commissioner Castillo.

MINUTES OF PREVIOUS MEETING(S) – REQUIRED BY LAW

None.

II. PUBLIC HEARING – (REQUIRED BY LAW).¹

None.

III. PUBLIC COMMENT ON ALL AGENDA ITEMS.³

None.

IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS.²

1. Follow-up presentation on prospective Animal Control Advisory Committee by Teresa Mayorga. (Interim City Manager).

No one was available to speak.

2. INTERIM CITY MANAGER'S REPORT. (INTERIM CITY MANAGER).

Mr. Garcia read a letter from the EDC board dated May 10, 2003 with regard to the city manager's pay. The Board recommended the City Commission increase the pay range to attract the best qualified candidate for the position. On another note, Mr. Garcia stated the City of Corpus Christi recently made a presentation to city staff on the Clean Sweep Program, which allows us to get rid of older buildings and cut costs. He stated he will try to set up a presentation for the commission in the near future.

Mr. Garcia informed the commission of a \$30,000 anticipated revenue due from the County for arrest fees dating back to the start of fiscal year 1997 which is forth coming. He stated he intends to transfer the monies into the Fire Department budget to address the mold remediation problem at the central fire station. He stated he received a call from Mr. Mike Krueger who is very interested in purchasing the old bank vault door, which according to him, was originally in the "Sims Building" which he purchased and is in the process of restoring. Mrs. Byington stated she could possibly go out in sealed bids if directed to do so.

1.1 Presentation by Mr. David Jacobson with Entrust Health Insurance Company.

Mr. David Jacobson of Entrust Health Insurance Company, made a presentation on the city's claims during the past 6 months. He stated everything is running smooth, there is good communication with city staff, and the reserve fund is looking good.

He stated the city cut funding by \$300,000 last year and still has over \$180,000 in reserves. He recommended the city consider funding \$1.5 million for the upcoming budget year in order to have a healthier reserve.

Commissioner Wilson stated he was concerned that the charts presented did not accurately reflect the present fund of \$1.2 million. Mr. Jacobs stated he would take care of this.

Mayor Esquivel asked stated prior to renewal he wants a health fair for employees and stated it is important for the city to be pro-active on illness such as diabetes. Mr. Jacobs stated he will look at forwarding the Hope Health Newsletter to the city to distribute to all employees.

3. CITY ATTORNEY'S REPORT. (CITY ATTORNEY).

None.

4. MAYOR AND CITY COMMISSIONER'S REPORT. (CITY COMMISSION).

Commissioner Castillo stated he wants monthly reports from finance on line items for capital outlay. He also asked for staff to prepare a report explaining the directives given by city staff to Mr.

James McKibben, attorney, on his presentation concerning the temporary injunction hearing held on Friday, May 23, 2003.

Mayor Esquivel stated he will be attending the U.S. Conference of Mayors from June 5 to June 10, 2003 which includes an international conference of mayors and will make a report to the commission when he returns. He stated he concurs with the EDC's request to increase the pay for the city manager to recruit a more qualified candidate.

Mayor Esquivel read a letter from the Kingsville Area Industrial Foundation regarding the South Texas Military Task Force base closures coming in 2005 where they are asking for a \$5,000 contribution from the City, the County, and the South Texas Water Authority. Commissioner Wilson stated he is a member of the foundation and that he abstained from voting on this issue.

Mayor Esquivel stated a writ of mandamus was filed by Commissioners Castillo and Pecos against the city secretary and the recall group for a temporary injunction of the June 7, 2003 recall election. On Friday, May 23, 2003 District Judge Banales ruled in favor of the plaintiffs and ordered a writ of temporary injunction for Ms. Ramirez to refrain from complying with orders given by Judge Federico Garza until a hearing is held in his courtroom on June 16, 2003.

Mayor Esquivel stated AEP-CPL is building their training and warehouse facility at the old C&C Bakery location on east Corral and will generate 80 jobs.

Mr. John Garcia, city manager, requested moving items #9 and #10 after agenda item #1 as they are involved with purchasing.

A motion was made by Commissioner Castillo and seconded by Commissioner Garcia to move agenda item #9 and #10 after agenda item #1. Motion carried, 5/0.

V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.⁴

1. CONSIDER AWARDING BID FOR TRAILER MOUNTED SEWER MACHINE. (BID #23-35). (DIRECTOR OF PURCHASING).

Mrs. Byington stated recommend the bid be awarded to the low bidder, Kinlock Equipment & Supply of Pasadena, Texas for \$33,160. Mr. Danny Almeida stated the sewer cleaning machine is a trailer mounted sewer cleaning machine to be used by the wastewater department to clean drains and unclog manholes.

A motion was made by Commissioner Pecos, and seconded by Commissioner Garcia to award the bid as recommended by staff. Motion carried, 5/0.

ITEMS #9 & #10 WERE MOVED FORWARD AS MOTIONED.

9. CONSIDER REMOVING AGENDA ITEM #10 FROM TABLE.

A motion was made by Commissioner Castillo and seconded by Commissioner Wilson to remove agenda Item #10 from table. Motion carried, 5/0.

10. CONSIDER AWARDING BID FOR DEMOLITION SERVICES OF SEVEN (7) STRUCTURES LOCATED WITHIN THE CITY LIMITS OF KINGSVILLE. (BID #23-27). (DIRECTOR OF PURCHASING).

Mrs. Byington stated this item pertains to the demolition of 7 structures and is recommending the bid be awarded to the two low bidders, Hector Hernandez for 4 structures totaling \$10,900 and Michael Pena for 3 structures totaling \$4,300. Mr. Pena has advised the city he will not charge for demolishing the property addressed as 1115 East Henrietta, therefore saving the city approximately \$1,800. Work will be completed within 30 days after permits are obtained.

The 7 properties are: 613 East Avenue D, 211 East Ella, 412 West Caesar, 1115 East Henrietta, 723 East Ella, 514 East Alice, and East Corral.

Mrs. Courtney Alvarez stated there is a process for filing a lien against the property owners to recover the cost incurred by the city. Upon authorization from the commission, the city manager will file liens on the owners.

A motion was made by Commission Pecos and seconded by Commissioner Garcia to award the bid for demolition was noted above. Motion carried 4/1 with Commissioner Wilson casting the descending vote.

AGENDA RESUMED:

2. CONSIDER APPOINTMENT OF A TEMPORARY MUNICIPAL COURT JUDGE FOR CASE NUMBER 23-02884 STATE OF TEXAS V. OSCAR G. CASTILLO PENDING THE MUNICIPAL COURT OF THE CITY OF KINGSVILLE. (CITY ATTORNEY).

Mrs. Alvarez stated both she and Judge Dyson have recused themselves from the matter involved Daniel Suson and Oscar Castillo. After speaking with Judge Dyson they agreed it was better to hire a temporary judge or attorney to hear the case. Mrs. Alvarez asked for direction.

A motion was made by Mayor Esquivel and seconded by Commissioner Pecos directing staff to contact at least 3 attorneys and or JPs and bring their names to them for review.

Commissioner Wilson asked for a point of order and asked if it was for a specific date. It was agreed it would be on the next meeting of June 9, 2003.

Mayor Esquivel asked staff to bring 3 names them for review and stated afterwards they can have an action item to appoint someone to hear the case.

Upon a roll call vote, the Commission voted 4/0/1 to table this item until June 9, 2003. Commissioner Castillo abstained from voting on this issue.

3. CONSIDER RESOLUTION PROVIDING FOR THE ADOPTION OF REVISED TRAVEL POLICY 2.1 FOR THE CITY OF KINGSVILLE. (HUMAN RESOURCE DIRECTOR).

Ms. Diana Gonzales stated approval of this item will update the mileage rate to the current rate adopted by the state of \$0.35 per mile and update some of the language in the policy.

A motion was made by Commissioner Pecos and seconded by Commissioner Wilson to adopt the resolution to update Travel Policy 2.1 for the City of Kingsville. Motion carried, 5/0.

4. CONSIDER RESOLUTION PROVIDING FOR THE ADOPTION OF HUMAN RESOURCE INITIATIVES FOR THE CITY OF KINGSVILLE REGARDING WORKPLACE POLICIES: POLICY NO. 890.1 NO SMOKING; POLICY NO. 890.2 CONFIDENTIALITY; POLICY NO. 890.3 CONDUCT AND WORKING ENVIRONMENT; POLICY NO. 890.4 PRIVACY; POLICY NO. 890.5 GUNS AND FIREARMS. (HUMAN RESOURCE DIRECTOR).

Ms. Gonzales stated approval of this item will create new policies as noted: Policy 890.1 No Smoking; Policy No. 890.2 Confidentiality; Policy No. 890.3 Conduct and Working Environment; Policy 890.4 Privacy; and Policy 890.5 Guns and Firearms.

Commissioner Wilson made a motion to adopt the policies as presented by staff, seconded by Commissioner Pecos.

Commissioner Wilson stated as a point of order this includes Policies 890.1-5 with exhibits A, B, C.

Commissioner Castillo made a motion to amend Policy 890.5 Guns and Firearms to include a sentence to read: *"an employee, including designated peace officers and city marshals, may not carry firearms to a city commission meeting unless he is designated or duly appointed as a security officer by the city manager"*. The motion was seconded by Commissioner Pecos.

Commissioner Wilson asked how this will affect the police department's policy. Mrs. Alvarez stated she is not certain, but would look into it.

A roll call vote on the amendment passed with a vote of 3/2, with Commissioners Wilson and Garcia casting the descending votes.

A roll call vote on the first motion passed with a vote of 3/2, with Commissioners Wilson and Garcia casting the descending votes.

5. CONSIDER MOTION TO APPROVE LINE ITEM TRANSFERS FOR THE CITY OF KINGSVILLE GENERAL FUND FOR FISCAL YEAR 2002-2003. (CITY ACCOUNTANT).

Mr. Garcia stated Caron Vela prepared the budget amendments being presented to the commission. The line item transfer are necessary to cover unexpected shortfalls in Sanitation Department due to the new vehicles coming in at the end of the fiscal year and high maintenance costs to four garbage trucks, and brush truck and tractor. He stated the amendment includes approximately \$30,000 in arrest fees which the city is waiting on from the county to cover the mold remediation problem at the fire station. The County informed him they may deduct around \$10,000 from that amount that is owed to them.

After some discussion on the line items and he unforeseen shortfalls, a motion was made by Mayor Esquivel and

seconded by Commissioner Castillo to approve the line item transfers as prepared by staff. Motion carried, 5/0.

6. DISCUSS AND CONSIDER APPROVAL OF INDEMNITY AGREEMENT WITH THE KING RANCH, INC. FOR THE RIDE ON THE WILD SIDE-BIKE RIDE SET JUNE 21, 2003. (CITY ATTORNEY).

Mayor Esquivel and Commissioner Wilson stated they were abstaining from this discussion as they are both members of the of the Lions Club that is sponsoring the event. Mayor Pro Tem Hoss Castillo presided over this discussion.

A motion was made by Commissioner Pecos and seconded by Commissioner Garcia to approve the indemnity agreement with the King Ranch.

Mrs. Alvarez stated the indemnity agreement is rather broad and there are issues of non-coverage by TML. The city would be self-insured for certain items and is waiting for a quote to determine what portions are covered and what ours is as self-insured.

Mayor Pro Tem Castillo stated the insurance premium is higher than anticipated as the King Ranch requires \$5 million coverage. The KCVB had indicated they would pay for the cost of the insurance.

Mrs. Carol Ann Anderson stated the event is scheduled for June 21, 2003 from 7:30 a.m. to 2 p.m. on the Ranch. She stated they anticipate around 300 participants, and although the costs will most likely exceed the proceeds, it will be positive event for additional tourists to visit Kingsville. She stated at the present time it appears the cost will be around \$8,000 for the one-day event.

A roll call vote on the motion was 3/0/2, with Commissioner Wilson and Mayor Esquivel abstaining.

Pursuant to Section 551.074 of the Texas Open Meetings Act, the City Commission convened into Executive Session at 7:40 p.m. to deliberate the appointment, employment of application for the position of city manager.

7. EXECUTIVE SESSION: UNDER SECTION 551.074 OF THE TEXAS OPEN MEETINGS ACT, THE CITY COMMISSION SHALL CONVENE IN EXECUTIVE SESSION TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OF APPLICANTS FOR THE POSITION OF CITY MANAGER. (MAYOR ESQUIVEL).

The City Commission reconvened into regular session at 8:00 p.m.

8. DISCUSS AND ACT ON NARROWING DOWN APPLICATIONS FOR CITY MANAGER POSITION. (MAYOR ESQUIVEL).

Mayor Esquivel stated the commission received copies of the applications and would go over them individually and re-groups at a later date to review their lists. He stated he was impressed with number and types of applicants.

No action on this item.

VI. ADJOURNMENT.

**A motion was made by Commissioner Pecos and seconded by Commissioner Castillo to adjourn the meeting at 8:02 p.m.
Motion carried, 5/0.**

Filemon "Phil" Esquivel, Jr., Mayor

ATTEST:

Irene Ramirez, Interim City Secretary