

**May 10, 2004**

**A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE WAS HELD ON MONDAY, MAY 10, 2004 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Charles E. Wilson, Commissioner  
Al Garcia, Commissioner

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
Edna S. Lopez, Interim City Secretary  
Courtney Alvarez, City Attorney  
Diana Gonzalez, Human Resource Director  
Dianne Leubert, Solid Waste Superintendent  
Stanley Fees, City Engineer  
Dora Byington, Purchasing Director  
Joel Saenz, Code Enforcement Officer  
Corando Garza, Asst City Manager/Fire Chief  
Rick Torres, Chief of Police  
Macario Mayorga, Water Supervisor  
Y I Hinojosa, Street Field Supervisor  
Jennifer Detloff, Director of Development Services  
Joe Casillas, Water Production Supervisor  
Tina Galvan, Solid Waste Field Supervisor  
J R Ibarra, Task Force Asst Commander  
George Bejarano, Finance Director  
A L Noyola, Health Director

**I. Preliminary Proceedings.**

OPEN MEETING at 6:00 PM

**INVOCATION / PLEDGE OF ALLEGIANCE – (Presiding Officer)**

Ms Dora Byington led everyone in prayer, Mr. Stanley Laskowski the Pledge of Allegiance, followed by the Texas Pledge.

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

**Commissioner Garcia made a motion to approve the minutes as presented, seconded by Commissioner Wilson. The motion passed 2/0.**

NOTE\* Minutes approved August 1, August 14, 2003, September 18, 2003, January 26, 2004, February 2, 2004, April 26, 2004, & April 27, 2004, Resubmitted with corrections: September 8, 2003.

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. Public Hearing for an alcohol variance application for Homer's Convenience Store located at 324 East Avenue C. (Director of Development Services).

The Public Hearing was opened at 6:02 PM.

Ms Jennifer Detloff stated that Ms Josefa Garza had applied to the City of Kingsville for a beer retail dealer's off-premise license for a change in ownership of an existing business. She added that one hundred thirty-

seven (137) letters were sent to property owners within 1000 feet of the location, and no responses were received.

Commissioner Wilson asked for comments from the public. No one responded.

The public hearing was closed at 6:03 PM.

2. Public Hearing for an alcohol variance application for Port-O-Call located at 1406 N. 14th. (Director of Development Services).

The Public Hearing was opened at 6:03 PM.

Ms Detloff addressed the Commission, stating that Ms Sharon Lynn Pennington had applied to the City of Kingsville for a Beverage Cartage Permit, a Mixed Beverage Late Hours Permit. She added that one hundred fifty-five (155) letters were sent to property owners within 1000 feet of the location, and no responses were received.

Commissioner Wilson asked for comments from the public. No one responded.

The public hearing was closed at 6:04 PM.

### **III. Petitions, Grievances, and Presentations.<sup>2</sup>**

1. Present Proclamation designating the month of May 2004 as "Elder Abuse Prevention Month".

Commissioners Wilson and Garcia presented proclamation to Mr. Javier Solis, Adult Protective Service Caseworker. Commissioner Wilson read proclamation.

2. Present Proclamation designating the week of May 9-15, 2004 as "Police Officer Memorial Week".

Commissioners Wilson and Garcia presented proclamation to Chief Torres and Police Officer Cindy Garza. Commissioner Wilson read proclamation.

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

City Manager Yerena stated that Mr. Stanley Fees, City Engineer would give an update on the Ailsie Street project and Mr. Corando Garza, Asst. City Manager would give an update on the seal coating project.

Mr. Fees stated that the status of the project on Ailsie Street was delayed for several months due to telephone cables being in the way of street crossing, and cables being too close to the street. He stated that the telephone company took approximately six months to locate lines. He added the cables have been located and the Contractor has done the sub-grade on north side of the street and the south side will be done later this

week. He stated that their estimated time frame, weather permitting is 6/8 weeks for completion, and added that there was plenty of contract time left.

Mr. Garza informed the Commission of the streets that will be seal coated. He added that on Wednesday, the Street department will receive a hot mix machine. He reported on information in reference to the cost for using the hot mix versus seal coating. He also added that the laydown machine lays asphalt 2 inches thick or less and the longevity is 7-10 years with hot mix.

Mr. Y I Hinojosa, Street Field Supervisor reported on the streets being worked on. He also explained the use of hot mix versus seal coating and added that with a laydown machine work can be done year round.

Commissioner Garcia stated that an Engineer from TXDOT had given a complement on how the streets are being done.

City Manager Yerena informed the Commission that the old jail at 103 E Yoakum would be demolished by KWOP, adding that this building met the KWOP guidelines and the Texas Historical Commission had no problems in demolishing this building.

Mr. Joel Saenz, Code Enforcement Officer stated that an inspection was made of the inside of the building. Both, he and the Fire Marshal recommend this building be demolished. He added that this was part of the original 22 buildings and that there was an increase of \$1,800.00. Mr. Saenz stated he did not have an exact date for the start of KWOP.

City Manager Yerena informed the Commission that as of today there were: 1497 Early Voting by Personal Appearance and 287 Ballots by mail had been received.

#### 4. City Attorney's Report. (City Attorney).

Ms Courtney Alvarez reported that tomorrow is the last day for early voting at KISD and the City, Election Day is Saturday, from 7:00 am to 7:00 pm. She added that Wednesday, May 12<sup>th</sup> at 8:30 am, there will be Peace Officer Memorial Service at the Police Department parking lot. She added that the Blue Angels Show is on Saturday and Sunday, May 22<sup>nd</sup> and 23<sup>rd</sup>, and gates open at 10:00 AM, with show at 11:00 AM. Ms Alvarez also stated her office was taking care of regular routine matters in the office, and citizens concerns. She also added that KISD High School Band has been invited to the Orange Bowl in Florida, and is the only Texas band invited, she added there would be a lot of fundraising going on and asked everyone to assist.

#### 5. City Commission's Reports. (City Commission).

Commissioner Garcia asked that the election results to be televised.

Ms Alvarez advised the Commission that the voting ballots might have received some humidity due to the air conditioner being broken for several days during early voting.

Commissioner Wilson asked everyone to vote.

#### IV. Public Comment on Agenda Items <sup>3</sup>

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

Ms Ann Brooks, 1821 Annette, commented on information regarding a code enforcement issue located behind her house.

Ms Karen Wiesman, 513 Alexander, commented on Item 6, stating that the amount of permit is substantial and would like it waived.

Mr. Rudy Lopez, KISD Superintendent, 2801 S Brahma Blvd, commented that it is critical that all entities work together.

Ms Betty Jo Hass, 1501 Annette, commented on Item 6, and asked for the City of honor KISD's request for a waiver.

#### V. Items for consideration by Commissioners. <sup>4</sup>

1. **Consider approval of the Annual Budget and Media Plan for the Kingsville Convention and Visitors Bureau (KCVB) for Fiscal Year 2004-2005. (City Manager).**

Ms Mary Ann Oldham, Board member reported that several Board members were present and were ready to answer any questions on this agenda item.

Upon a question raised by Commissioner Wilson, Ms Oldham replied that the percentage of increase from 2003 to 2004 was 1.72%. She added that the majority was due to the hiring of a part-time person and there was a decrease in maintenance due to volunteers helping out.

Upon a question raised by Commissioner Garcia, Ms Oldham stated that there was a \$6,000.00 increase in the special events/festival funds due to them taking on the Ranching Heritage festival. Ms Oldham added that the KVCB will also be responsible for the depot not dollars but over sight.

**Commissioner Garcia made a motion to approve the annual budget and media plan for the Kingsville Convention and Visitor's Bureau for Fiscal Year 2004-05 as presented, seconded by Commissioner Wilson. The motion carried, 2/0.**

2. **Consider approval of alcohol variance application for Homer's Convenience Store located at 324 East Avenue C. (Director of Development Services).**

Ms Detloff stated that Ms. Josefa Garza has applied to the City of Kingsville for a beer retail dealer's off-premise license for a change in ownership of an existing business. She added that one hundred thirty-seven (137) letters were sent to property owners within 1000 feet of the location, and no responses were received. Ms Detloff stated that at the

public hearing held earlier, no comments were received and added that staff recommends approval.

**Commissioner Garcia made a motion to approve agenda item as presented, seconded by Commissioner Wilson. The motion carried, 2/0.**

**3. Consider approval of alcohol variance application for Port-O-Call located at 1406 N. 14th. (Director of Development Services).**

Ms Detloff stated that Ms Sharon Lynn Pennington had applied to the City of Kingsville for a Beverage Cartage Permit, a Mixed Beverage Late Hours Permit. She added that one hundred fifty-five (155) letters were sent to property owners within 1000 feet of the location, and no responses were received. She said that a public hearing was held earlier, no comments were received, and that staff recommends approval.

**Commissioner Garcia made a motion to approved agenda item as presented, seconded by Commissioner Wilson. The motion carried, 2/0.**

**4. Consider entering into engineering contract for water and gas monitoring at the City Landfill. (Solid Waste Management Superintendent).**

Ms Dianne Leubert, Solid Waste Superintendent stated that Mr. Mike Stringer, Ground Water Scientist for Southern Ecology Management was present to answer any questions in reference to the contract with his company. Ms Leubert stated that this contract would take care of this year and part of next year. She added that TCEQ requires the City to monitor.

Upon a question raised by Commissioner Wilson, Ms Leubert replied that the City has taken over what Dr. Finch did, and the water has to be monitored twice a year. She added that there are new wells that require background sampling and gas monitoring which has to be done four times a year and added that the City is changing the permit to update it.

Upon a question raised by Commissioner Garcia, Mr. Mike Stringer replied that they had interacted with TCEQ and that it is an ongoing basis, and added that monitor system was been updated with new wells.

Ms Leubert stated that the total contract is for \$21, 863.33, time frame from now to next year.

Commissioner Wilson recommended the contract cycle be worked out try to get it with the City's fiscal year.

**Commissioner Garcia made a motion to enter into an engineering contract for water and gas monitoring with SME, seconded by Commissioner Wilson. The motion carried, 2/0.**

**5. Consider resolution appointing election judges and the early voting ballot board judge for the City General Election on May 15, 2004. (Interim City Secretary).**

Ms Edna Lopez, Interim City Secretary stated that the Presiding Judge from Polling Place #1 – Ms Ofelia Garza would not be available to work on Election Day, May 15, 2004. She stated that the Alternate Judge – Ms Selina Perez, would be moved up to the Presiding Judge position. She also added that Mr. Jon Bargas would serve as Alternate Judge. She also read the names of Presiding Judges and Alternate Judges for all Polling Places.

**Commissioner Garcia made a motion to approve the agenda item as presented, seconded by Commissioner Wilson. The motion carried, 2/0.**

**6. Consider waiver of permit fees for the Kingsville Independent School District for Gillette Intermediate School. (Commissioner Garcia).**

Ms Detloff stated that KISD is building a new school, Gillette Intermediate School to be located at 1007 N 17<sup>th</sup> Street. She stated that Ms Karen Wiesman, Assistant Superintendent for Support Services had requested that the City waive the building permit fees. Ms Detloff explained the current status of new construction permit fees. She added that based on the 94, 1986 square feet the permits for Gillett Intermediate school would be as follows: Building Permit - \$15,069.76; Mechanical Permit - \$3,767.44; Electrical Permit - \$5,651.16; Plumbing Permit - \$3,767.44; and Plan Review Fee - \$7,534.88; for a total of \$35,790.68. Ms Detloff also informed the Commission the amount for permits paid within the past two years by KISD for other school construction projects. She also added that the City does not collect permit fees for city projects, state projects (such as the Pharmacy School) and railroad.

Ms Detloff stated that this item was being brought to the Commission because staff does not waive fees.

Commissioner Garcia asked for the amount requested to be waived, Ms Detloff replied, \$22,604.00 but that KISD was not aware of the additional cost for plumbing fee which would bring it up to \$35,790.68.

Ms Wiesman stated that the estimate given to them for building fees permits was approximately \$22,000.00.

Upon a question raised by Commissioner Garcia regarding the bond issue and costs associated, and asked if the fees were considered in the package. Ms Wiesman responded that the fees were considered, but if the permit is waived, KISD receives a credit back on the proposal.

Upon a question raised by Commissioner Garcia, Ms Wiesman replied that the credit back on the proposal was \$16,000.00.

Commissioner Garcia stated that he recognizes all monies are public monies and all monies are needed for education. He stated he was

considering \$22,604, but did not realize there would be additional amounts.

City Manager Yerena commented that this particular item proposes an interesting dilemma for everyone. He added that the City has a tight budget and added this was brought to the Commission because he felt it was beyond his authority. He stated he would like to additional revenue, but he understands the other side.

Upon a question raised by Commissioner Wilson, Mr. Ray Suarez, KISD representative, resides at 821 Inez, stated that there are no local trades, but they are hiring local people.

**Commissioner Garcia made a motion to waive the total amount \$35,790.68 to KISD, seconded by Commissioner Wilson. The motion carried, 2/0.**

Commissioner Wilson stated that he hopes that KISD encourages the contractor to buy Kingsville, which has not been done.

Commissioner Garcia added that his reason for siding with them was due to the additional fees that were not anticipated.

City Manager Yerena stated that as the City encounters this situation that this does not set precedence and that each case is looked at in a case by case basis by the Commission.

**7. Consider resolution adopting Human Resource Initiative Policy No. 830 Substance Abuse Policy. (Human Resource Director).**

Ms Diana Gonzales, Human Resource Director stated that this was a revision of the policy by changing some of the wording. She stated that DOT personnel will be allowed to be randomly tested. She explained all the revisions and additions.

Discussion followed regarding the definition of "employee".

**Commissioner Garcia made a motion to adopt the resolution for implementing the Human Resource Initiative Policy, 830 – Substance Abuse Policy, seconded by Commissioner Wilson. Commissioner Wilson read the resolution to audience because it had not been included in the packet. He also requested a correction be made to the resolution, there were two numbers III. The motion carried, 2/0.**

**8. Consider final passage of an ordinance amending the Fiscal Year 2003-2004 Budget for the City of Kingsville for the Task Force. (Finance Director).**

Mr. George Bejarano stated that this was the second reading of the ordinance. He stated the amount being requested was \$216,000.00 for June 1<sup>st</sup> – Sept 30<sup>th</sup>. He added that this would bring them into compliance with our fiscal year.

Commissioner Garcia made a motion to accept the final passage of an ordinance amending the Fiscal Year 2003-2004 Budget for the City of Kingsville for the Task Force, seconded by Commissioner Wilson. The motion carried, 2/0.

**9. Consider final passage of an ordinance adopting the City of Kingsville Code of Ordinances Chapter III, Administration, Article 13, Code of Ethics, providing for definitions, scope of coverage, lobbyists, financial disclosure, ethics review board, enforcement mechanism, and administrative provisions. (Commissioner Wilson).**

Commissioner Wilson stated there were a number of changes to the code. He stated that requested reports were to be included. He stated that part of the financial disclosure process was left to state law. He stated travel financial requirements were retained and also the provision that if a person receives a gift of \$100.00 it would become the property of the City and would have to be tagged and inventoried.

Commissioner Wilson stated that recommendations from the Ethic Review Board were realigned to within ninety (90) days of receiving such recommendation.

Ms Alvarez stated that Commissioner Wilson had hit on all the highlights everything with regards to personal financial disclosure has been struck through due to coverage by state law. She added that items with regard to gifts, travel reporting, and quarterly reporting had been touched. Ms Alvarez stated that the only thing that has yet to be considered or decided is on page 22, under 3-13-25 (F); she stated they might want to consider a fee for the lobbyist. She added it is up for Commission consideration.

Upon a question raised by Commissioner Wilson, Ms Detloff replied that a fee for a general contractor is \$125.00.

Ms Alvarez stated that the first sentence in section 3-13-25 (F) would be modified to read "At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the city, and the City Secretary shall collect, a fee of \$125.00.

Discussion followed regarding section 3-13-7 "Representation of Private Interests".

Upon a question raised by Commissioner Wilson, Ms Alvarez responded that a complaint form will be modified; the gift and travel form will be combined into one.

There was a question raised by Commissioner Garcia regarding the new commission being made aware of the new policy.

Commissioner Wilson stated in order to implement it would take a lot of education, at certain threshold of employee to make sure it is understood. He added that this is an extremely dense document. He added that staff be given enough time to work through process, and added that it would be unfair to implement on the 17<sup>th</sup> day, given magnitude to the document.

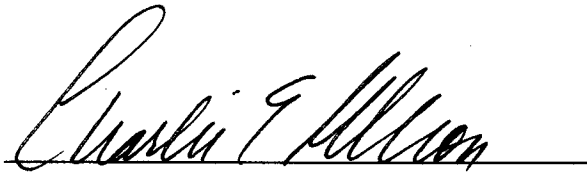


City Manager Yerena stated that 30 days would be more than enough time. He added that it will require a lot of education.

Commissioner Garcia made a motion to consider the adoption of the final passage of an ordinance adopting the City of Kingsville Code Ordinances Chapter III, Administration, by adopting Article 13, Code of Ethics; providing for definitions, scope of coverage, lobbyists, financial disclosure, ethics review board, enforcement mechanism, administrative provisions; with the corrections that were submitted tonight, seconded by Commissioner Wilson. Commissioner Wilson stated an implementation date be included, as August 1<sup>st</sup>, which was made part of the motion. The motion carried, 2/0.

#### VI. Adjournment.

The meeting was adjourned at 8:05 PM.

  
Charles E. Wilson, Presiding Officer

ATTEST:

  
Edna S. Lopez, Interim City Secretary