

**JUNE 14, 2004**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JUNE 14, 2004 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, CITY HALL / 200 EAST KLEBERG AVENUE 6:00 P.M.**

**CITY COMMISSION MEMBERS PRESENT:**

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

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
Courtney Alvarez, City Attorney  
Edna S. Lopez, City Secretary  
Dianna Leubert, Solid Waste Superintendent  
Jennifer Detloff, Director of Development Services  
Joel F. Saenz, Code Enforcement Officer  
George Bejarano, Finance Director  
Dora Byington, Purchasing Director  
Y I Hinojosa, Street Field Supervisor  
Ricardo Torres, Police Chief  
Diana Gonzalez, Human Resource Director  
Joe Casillas, Water Production Supervisor  
Macario Mayorga, Water Supervisor  
Stanley Fees, City Engineer  
A L Noyola, Health Director  
Oscar Montalvo, Fire Captain  
John Garcia, Garage Supertintendent

**I. PRELIMINARY PROCEEDINGS.**

The meeting was opened at 6:00 PM, by Mayor Fugate.

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

Ms Dora Byington led everyone in prayer, immediately thereafter, Commissioner Wilson led everyone in the Pledge of Allegiance and the Texas Pledge.

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

Commissioner Pecos made a motion to approve the minutes of the previous meeting, June 2, 2004, seconded by Commissioner Garcia. The motion passed and approved, 5/0.

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

1. Public Hearing to discuss an application for a Texas Community Development Program grant. (City Manager).

The public hearing opened at 6:03 P.M.

City Manager Carlos Yerena briefed the Commission regarding an application for grant funding that will be submitted by the City to the Office of Rural Community Affairs (OCRA) through the Community Development Block Grant. He advised this was for some infrastructure improvement needed for a new funeral home being built on General Cavazos Blvd. He

said that at the next meeting a resolution in support of this item would be provided for approval.

Mayor Fugate asked the audience for comments on this agenda item.

Mr. Dick Messberger, EDC Director said that Kim Lacey, Consultant for Capital Fund Projects was not able to attend but she had prepared a statement which stated that this public hearing was to provide information regarding the eligible activities under the Community Development Block Grant program and to record any questions or comments regarding these funds. Ms Lacey's statement also mentioned that this hearing would satisfy the requirement for any application submitted to the Office of Rural Community Affairs or the Department of Agricultural as it relates to the Community Block Program.

Mr. Messberger stated this was the same type of project accessed for Neessen Chevrolet, Yaklin Ford, and Calling Solutions and that there is \$7.4 million left in the program, which goes in different cycles.

City Manager Yerena stated this was an effort initiated by the City because staff felt it was important to provide infrastructure improvements, and that the City qualified for this grant and would provide an opportunity for growth in the area.

Mr. Messberger stated that the consultant felt very positive about this project being funded. He added that this particular type of grant program does not have to be paid.

City Manager Yerena reminded the audience that anyone can ask questions, or write the Mayor or City Manager with questions or comments.

The public hearing closed at 6:07 P.M.

2. Public Hearing for an alcohol variance application for Club Escape located at 601 N. 7th. (Director of Development Services).

The public hearing was opened 6:08 P.M.

Ms Jennifer Detloff provided the Commission with the history of this alcohol variance request. She stated that the applicant had previously applied on April 19, 2004, but the Commission took no action at that time. She added that the property is currently closed. She mentioned that one hundred forty-five (145) letters were sent to surrounding property owners, and one telephone call opposing the variance was received. Ms Detloff stated that at the April 19<sup>th</sup> meeting several citizens within the surrounding neighborhood spoke in regarding their concerns.

Commissioner Wilson reported that at the last meeting a petition from the local community was presented to the Commission at that time, which was inadvertently left in commission room. City Manager Yerena mentioned that there were approximately forty-five (45) signatures on the petition. Ms Detloff said the correct amount was forty-four (44).

Mr. Chris McJunkin, Attorney representing Mr. Miguel Medrano, applicant stated that unless a variance is approved, Mr. Medrano will not be able to create a business income. He mentioned all the services Mr. Medrano would provide to make club safe. The Commission was presented with a petition with sixty-six (66) signatures in favor of granting a variance.

Mr. Juan Soliz, 220 E Alice commented he had addressed the Commission approximately two (2) months earlier. He briefed the Commission on the history of businesses on Richard Street. He added that he had previously collected a petition with forty-four (44) signatures opposing the variance.

Ms Dora Rivera, 222 E Alice commented on the elderly living in the area, children walking from school, and not enough parking for this type of business.

Ms Armela Soliz, 220 E Alice commented on people too scared to talk and area needing to be addressed. She asked the Commission to consider the people that live there.

Ms Nicole Lozano, College student commented she would like to see something for college students to do, and added that there is sufficient parking.

Mayor Fugate asked for comments from the Commission. There were none.

The public hearing was closed 6:20 P.M.

3. Public Hearing for a special use permit to place mini-warehouse structures on 2000 North Armstrong. (Director of Development Services).

The public hearing opened at 6:21 P.M.

Ms Detloff reported on the history of the property, adding that Mr. M.A. Schoech is requesting a Special Use Permit to install a 30' x 200' mini warehouse structures on a 3.13 acre tract of land. She advised that prior to receiving a Special Use Permit this property must be rezoned.

Ms Detloff reported on the background stating that five (5) letters were mailed to the surrounding property owners within the required 200 feet and no responses were received.

Mayor Fugate asked for comments from the audience and the Commission.

Commissioner Pecos asked if there was water and sewage available at the site. Ms Detloff replied she wasn't sure if it had water, but that there is a mobile home park in the area.

Commissioner Pecos asked if there is infrastructure at that location. Ms Detloff replied there was not and added that they did not request anything with this rezoning.

Commissioner Pecos questioned the specific time for service available to a customer when annexed. Ms Detloff replied that State Law has changed which allows three (3) years to provide the service. She added that since this was annexed prior to that law the City is not required by specific time to provide the services.

Commissioner Pecos asked if the City is grandfathered. Ms Detloff answered that the City is grandfathered to not have to provide them with sewer.

The public hearing closed at 6:25 P.M.

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

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

City Manager Yerena reported that he wanted to thank the staff at Coastal Bend College for the training session that was offered to the City employees.

Secondly, he reported on an update of the streets being worked in the next several months. He said that the streets will be seal coated and added that the project for 10<sup>th</sup> Street will also begin in the near future. He mentioned that the 10<sup>th</sup> Street will be barricaded while work is being done.

Commissioner Laskowski asked the process being used on 10<sup>th</sup> street. Mr. Y I Hinojosa, Street Field Supervisor replied that the top will be removed, and caliche and lime will be used.

Mayor Fugate asked if the use of that street by 18-wheelers was considered. He suggested that concrete be used at the corners for turning.

Commissioner Laskowski asked if the material was for two (2) inches of hot mix. Mr. Hinojosa responded it was, and that he would check with PSI.

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

City Attorney, Ms Courtney Alvarez reported that she had attended the Texas City Attorney Association Conference this past Thursday and Friday, and had received some good information. She also reported that one of the two things of interest is an Attorney General opinion that came out regarding alcohol variances. She stated that an alcohol variance can not be delegated to a board that is something that the governing body has to do. She added the exact opinion number is GA120. Ms Alvarez mentioned that there had been a guest speaker, District 25 State Senator Jeff Wentworth.

Ms Alvarez also reported that she had spoken to Ms Lacey, who will be here on June 28<sup>th</sup>, for another public hearing to close out the Lowe's project. She added that the Resolution for application for public hearing which was heard tonight will be brought before the Commission. She mentioned that people can write the City Manager or the Mayor with regard to that issue.

In reference to the application currently being looked at, she stated this is to develop infrastructure on General Cavazos Blvd. at Golf Course Road. She added that on the south side of General Cavazos there is some infrastructure, but none on the north side. She advised the audience that if anyone is looking at developing commercial businesses, they might want to contact the City to see if they can be tied into the grant application, which will be brought to the Commission for submittal in two (2) weeks.

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

Commissioner Pecos reported that our National Guard has been activated and will be leaving for Mississippi, California and then Iraq, for a full year. He added that on Saturday, June 26<sup>th</sup> between 10:00 AM to 2:00 PM, the soldiers and their families will be honored and added that the Mayor would be one of the speakers at the event. He invited the public and added that everyone should "Support our Troops" and their families.

Mayor Fugate encouraged everyone to attend, and added that these men and women are making a big sacrifice for our country.

Commissioner Garcia reported that Texas has a 211 number, which connects health services with human resources throughout the State. He gave a description of what to do when you call, and added that it is sponsored locally by United Way in Corpus Christi, and is available in Kleberg County and the surrounding area.

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

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

Mr. Juan Soliz, 220 E Alice commented that he had approached about 200 people on the 200 Block of Richard, Santa Gertrudis, & Alice and that he finds it hard to believe that sixty-six (66) signatures were found in favor of the variance.

Mr. Gilbert Elkaid III, no address, commented about having difficulty with Police Officers, that the young officers treat you as a criminal, never apologize, officers are too young, and get mean too fast too quick.

Ms Dora Rivera, 222 E Alice commented that the elderly in the area of the alcohol variance pay taxes and another building could be found to house a club.

Mr. Otis Myers, 1417 Brenda, commented on the people working on getting donations on 14<sup>th</sup> & King. He said his concern is safety and added he had no problem with fireman doing it because it is advertised and safety cones are there.

**V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.<sup>4</sup>****1. Consider approval of alcohol variance application for Club Escape located at 601 N. 7th. (Director of Development Services).**

Ms Detloff reported that this item was brought to the Commission previously at the public hearing. She repeated the information given to the Commission at the public hearing.

Mayor Fugate asked how many clubs or bars are serving alcohol at that corner. Ms Detloff answered that at that particular intersection, three (3) businesses are closed and one (1) is opened.

Mayor Fugate asked how many bars are opened on Richard. Commissioner Pecos answered there is only one (1).

Mayor Fugate asked if TABC regulations were to be followed would there be any schools within the area of the variance. Ms Detloff replied there would not be any.

Commissioner Garcia commented that other than the petition presented by the applicant, the applicant has brought in an attorney, and there is no real change to the facts. Ms Detloff responded that was correct.

Ms Alvarez stated it died for lack of motion on April 19th.

Mayor Fugate requested a motion to approve this variance.

**The item died for lack of motion.**

**2. Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Land Usage, Article 1, Building Regulations; providing for multiple changes and for penalties for electrical work without a permit or by an unlicensed electrician. (Director of Development Services).**

Commissioner Wilson announced he was going to abstain from discussion and left the room.

Ms Detloff said that this is essentially a total revision to the Electrical Code. She mentioned that the Electrical Board had been updating the existing Electrical Ordinance for approximately one year. She added that this review was prompted by the amount of outdated information in the existing document. Ms Detloff advised that public comment was minimal during public meetings. She mentioned that the Electrical Ordinance draft was presented to the City Commission on March 15, for a public hearing and the first reading.

Ms Detloff explained that major revisions were done to the permits and fees section due to contractors doing work without permits.

Commissioner Laskowski mentioned he had several comments/corrections: (1) thanked Electrical Board for their work; (2) page 9, section 2, line 5 – no need for *helpers* in ordinance because the previous page reference to helpers has been stricken so there is no need for term helpers; (3) page 11, (B) – change the word tamps to lamps; and (4) page 16 – change the word it, to if.

Mayor Fugate voiced his concerns about contractors coming to Kingsville and having to learn different codes and regulations that aren't elsewhere. He asked if this document is something based on what the industry standard is, and if it is different than what contractors are used to. Ms Detloff replied that the only problem with this document is that the City was operating under the 1996 National Electrical Code, and that this is what prompted the revision, so the 2000 National Electrical Code could be adopted.

Mayor Fugate asked if contractors are told that we are a little different. Ms Detloff answered no.

City Manager Yerena stated that Mr. Stanley Fees, City Engineer is working on a customer friendly brochure. He explained what this does is that it helps from having to revise the electrical ordinances and provides the ordinance to be on a current basis.

Ms Detloff said because there have been questions, there is a section that is called Electric Rules exceptions which will be put on one page and will be given as a handout.

Commissioner Pecos asked if the City is following the National Electrical Code. Ms Detloff replied, yes.

Commissioner Pecos asked why more stringent were added, and why is the City going beyond the National Electrical Code. Ms Detloff replied that we have exceptions and added that local electricians felt it was relevant for the betterment of the community.

Commissioner Pecos commented that the City had a problem with Lowe's and that it is costing more money whenever you ask for more and going beyond the average, when it is acceptable in the entire United States.

Commissioner Garcia asked if the local board could take away the privilege of a Texas license. Ms Detloff answered, no, because that license goes into effective on September 1<sup>st</sup>, and until that time the document was revised as it was.

Ms Detloff briefed the Commission on the procedure for receiving a license.

Mayor Fugate stated that if a contractor has state license, they don't have to go before the electrical board.

Mr. Yerena stated that based on the information, it is important to outline the process. He added that staff is trying to go forth with recommendations from people actually doing work.

Commissioner Laskowski asked how many licensed electricians were on the Electrical Board. Ms Detloff answered three (3) out of five (5). He asked if they understood the requirements on the MC Cable. Ms Detloff answered they did.

**Commissioner Laskowski made a motion to approve this ordinance, seconded by Commissioner Garcia. The motion was passed and approved with the following votes: Fugate, Garcia, Laskowski, and Pecos voting "FOR". Commissioner Wilson, abstained.**

**3. Consider final passage of an ordinance changing the zoning map in reference to 0.1607 acres out of Lot 4, Block 11, College Acres from "R-3", Multi Family District, to "C-2", Commercial District. (Director of Development Services).**

Ms Detloff stated property is located at 600 West Corral and would be used as a car wash. She stated that the property was formerly operated as a car wash in the R-3 Multi-Family District, and the property has been closed for more than six months, thereby voiding the grandfather clause. She added that this item was previously heard before the May City Commission meeting for the public hearing and the first reading.

Ms Detloff stated that in regards to the question the Commission had about the requirements of TCEQ for car washes, it was determined that there are specific requirements if a car wash were going to use a septic tank due to concerns with the by-products which would leach into the drain field and the city's storm water drainage system. She added that these concerns do not apply to this site because it is connected to the public utility sanitary sewer.

Commissioner Laskowski asked for clarification on applicant agreeing to put up an eight (8) foot fence on two sides. Ms Detloff answered he had. Commissioner Laskowski stated his understanding was that it was a cedar type fence.

Mr. Morning said that he would install a picket type cedar fence. He mentioned he would work with the City in order to do some landscaping at the property.

Ms Alvarez mentioned that there doesn't have to be a fence, but there does have to be a screening device, and height requirement is not specified.

Mayor Fugate asked about requirements for landscaping. Ms Detloff replied that since nothing is being built, the applicant doesn't have to concur.

Ms Alvarez stated the landscaping ordinance would need to be reviewed.

**Commissioner Garcia made a motion to approve the final passage of this ordinance, seconded by Commissioner Wilson. The motion was passed and approved 5/0.**



**4. Consider final passage of an ordinance changing the zoning map in reference to 2.05 acres of Lot 1 and 1.08 acres of Lot 2 (3.13 acres total), T.C. Moore Subdivision from "R-1", Single Family District, to "C-4", Commercial District. (Director of Development Services).**

Ms Detloff stated that previously the Special Use Permit was heard and that now Mr. Schoech is requesting to have this property rezoned for installation of mini warehouses. She stated that this item was heard before the City Commission in May, and there were no public comments at that time. She added that the Planning and Zoning Commission recommends approval.

**Commissioner Wilson made a motion to adopt the ordinance as presented by staff, seconded by Commissioners Pecos and Garcia. The motion was passed and approved, 5/0.**

**5. Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 5-1-55, providing for amendment of commercial monthly garbage collection charges. (Director of Finance).**

Mr. Bejarano stated this was the second reading of this ordinance and that all that is being done is to extend a table to help the City implement a larger container for different businesses that are requiring it.

Commissioner Laskowski asked if our current side-lift trucks were able to service the five (5), six (6), and seven (7) yard containers. Mr. Bejarano answered they would not.

Commissioner Laskowski then asked if a new truck was needed. City Manager Yerena answered yes, but the intent of this ordinance was to propose new services to a potential customer.

Commissioner Laskowski stated that the investment to provide a truck to service a few customers with these size containers will be costly. Mr. Bejarano stated at this point it is just feasible to have ordinance in place, so that if in the future it is decided to step into the business then the City can actually provide the service to the customer.

Mayor Fugate asked if this would bind us. Mr. Yerena answered that the interpretation is that it does not.

Ms Alvarez stated that they are trying to be proactive as oppose to being reactive, and if the goods are not available at that time then obviously the City can't provide the service.

**Commissioner Garcia made a motion to approve, seconded by Commissioners Wilson and Laskowski. The motion was passed and approved, 5/0.**

**6. Consider introduction of an ordinance granting a Special Use Permit to place mini-warehouse structures at 2000 North Armstrong. (Director of Development Services).**

Ms Detloff reported that this was the property that was just rezoned to commercial in one of the Commissions previous action. She added that in order for the owner to place mini warehouses on property, it requires that the Commission approve a special use permit. She also added that earlier during the public hearing there were no comments. Ms Detloff said that letters were sent to five (5) surrounding property owners and no comments were received. She said that the Planning and Zoning Commission recommends approval.

Mayor Fugate called for a motion; Commissioner Wilson stated as point of order, this was for introduction only.

**7. Consider resolution appointing Charles E. Wilson as Mayor Pro Tempore. (City Commission).**

Commissioner Laskowski made a motion to adopt the resolution designating Charles E. Wilson, Mayor Pro Tempore, seconded by Commissioner Garcia. The motion was passed and approved with the following votes: Fugate, Garcia, Laskowski, and Pecos voting "FOR". Commissioner Wilson, abstained.

**8. Consider resolution recommending Sam R. Fugate to the Governor of the State of Texas for appointment to the Coastal Bend Regional Review Committee. (Commissioner Garcia).**

Commissioner Pecos made a motion to approve the resolution, seconded by Commissioner Laskowski. The motion was passed and approved with the following votes: Wilson, Garcia, Laskowski, and Pecos voting "FOR". Mayor Fugate, abstained.

**9. Consider resolution authorizing the submission of an application to the Coastal Bend Council of Governments for the purpose of requesting funding for the grant period of fiscal year 2004-2005 for brush mulching contract. (Solid Waste Management Superintendent).**

Ms Dianne Leubert said that the grant is for \$25, 000 for mulching on a contract basis. She added that the only monies the City will spend in-kind, which will be a turn key situation if grant is awarded. She said the company will mulch the brush and the City can either give it away or sale it.

Commissioner Garcia asked where the mulching will be done. Ms Leubert answered this is the brush that has been diverted to the landfill, and added that this is the first step to try to get the tipping fees back.

Commissioner Garcia asked if this company was going to mulch all the brush at the landfill for \$25,000. Ms Leubert answered no, and that the old brush will have to be burned.

Commissioner Garcia said that he thought it had been agreed that the old brush pile would be burned. Ms Leubert stated that as soon as there are enough trucks and manpower this will be done.

City Manager Yerena advised the brush is being burned but at a slow pace.

**Commissioner Garcia made a motion to approve, seconded by Commissioner Wilson. The motion was passed and approved, 5/0.**

**10. Consider appointments to Coastal Bend Council of Governments, the South Texas Water Authority Negotiating Committee and the Economic Development Council. (City Manager).**

City Manager Yerena stated that all the appointments made by the Commission are being considered and reported the last appointments made to these committees. STWA, Commissioners Garcia and Pecos served on this committee; and COG, Commissioner Garcia and the City Manager (alternate).

Commissioner Wilson asked if three separate motions were needed. Ms Alvarez answered it could be done in three separate motions.

Ms Alvarez said that a motion to the EDC would also be needed, and mentioned that Commissioner Wilson was the appointee.

**Commissioner Wilson made a motion to appoint Commissioner Pecos and Laskowski to the South Texas Water Authority Negotiating Team, seconded by Commissioner Garcia. The motion was passed and approved, 5/0.**

Commissioner Garcia mentioned that the Mayor is historically appointed to the EDC. Mayor Fugate said that he appreciated that but he would prefer to appoint Commissioner Wilson.

**Mayor Fugate made a motion to appoint Commissioner Wilson to the EDC, seconded by Commissioner Garcia and Pecos. The motion was passed and approved with the following votes: Fugate, Laskowski, Garcia, and Pecos voting "FOR". Commissioner Wilson, abstaining.**

**Commissioner Laskowski made a motion to appoint Mayor Fugate to the COG and Mr. Yerena as the alternate, seconded by Commissioner Wilson.**

**Mayor Fugate made motion for discussion, seconded by Commissioner Wilson.**

Mayor Fugate asked if this committee was something that he had to be a member of. Mr. Yerena answered that historically the Mayor serves on that committee but it can be anyone that is appointed by the Commission.

Ms Alvarez asked Commissioner Garcia if he is currently attending the COG meetings. Commissioner Garcia answered he was. Ms Alvarez mentioned that they meet on one Friday per month.

Commissioner Laskowski withdrew his motion, and Commissioner Wilson withdrew his seconded.

Commissioner Laskowski made a motion to appoint Commissioner Garcia to the COG, and City Manager Yerena as the alternate, seconded by Commissioner Wilson. The motion was passed and approved with the following votes: Fugate, Laskowski, Pecos, and Wilson voting "FOR". Commissioner Garcia, abstaining.

Mayor Fugate announced that there might be a possibility that there will be action taken for Item #12.

The Commission took a five minute break, and then convened into executive session at 7:43 P.M.

**11. Executive Session: Under Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in Executive Session to deliberate the appointment and duties of the Municipal Court Judge. (Human Resource Director).**

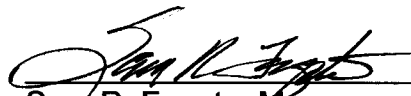
The Commission reconvened into Open Session at 8:00 P.M.

**12. Consider selection process for appointment of Municipal Court Judge and potential appointees. (Human Resource Director)**

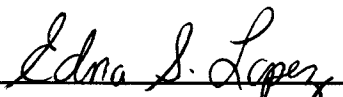
No action was taken.

## VI. ADJOURNMENT.

Mayor Fugate adjourned the meeting at 8:00 P.M. on June 14, 2004.

  
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 Sam R. Fugate, Mayor

ATTEST:

  
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 Edna S. Lopez, City Secretary