

June 28, 2004

A REGULAR MEETING OF THE KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JUNE 28, 2004 AT 6:00 PM IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE.

MEMBERS PRESENT:

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

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Courtney Alvarez, City Attorney
Edna S. Lopez, City Secretary
George Bejarano, Finance Director
Caron Vela, Accountant
Corando Garza, Asst. City Manager/Fire Chief
Dianne Leubert, Solid Waste Superintendent
Barry Blackstock, Lieutenant
Ricardo Torres, Police Chief
Y I Hinojosa, Field Supervisor
Dora Byington, Purchasing Director
Arnold Valadez, Warehouse Clerk
Stanley Fees, City Engineer
Jennifer Detloff, Director of Development Services
John Garcia, Garage Superintendent
Art Alvarez, Risk Manager
Joe Casillas, Water Production Supervisor
Diana Gonzalez, Human Resource Director
Tina Galvan, Field Supervisor

I. PRELIMINARY PROCEEDINGS.

OPEN MEETING

The meeting was opened at 6:00 P.M. by Mayor Fugate.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

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

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Commissioner Laskowski addressed some grammatical errors in the minutes. He said that on the June 14th minutes, page 4, grandfather should be grandfathered, and on page 5, paragraph above #3, on the 4th line – connect should be contact.

Commissioner Wilson made motion to adopt the minutes as corrected, seconded by Commissioner Garcia and Commissioner Pecos. The motion was passed and approved with the following votes: Fugate, Garcia, Laskowski, Wilson, and Pecos voting, "FOR".

Note* - Approved Minutes -May 27, 2004, June 14, 2004, and June 21, 2004.

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

1. Public Hearing to discuss final public comment regarding the completion of the Texas Capital Fund Project for Lowe's. (City Manager).

The public hearing was opened at 6:04 P.M.

Ms Kim Lacey with Municipal Development Services gave a brief overview on the accomplishments of the project. She added it had been a successful project and that this was the final public hearing. She also mentioned that Lowe's had hired the number of employees needed, and have provided her with the necessary documentation. She added that the proper documents would be prepared and submitted to the State by the end of next week.

The public hearing was closed at 6:05 P.M.

2. Public Hearing for an alcohol variance application for Rax located at 1701 South Brahma, Suite C. (Director of Development Services).

The public hearing was opened at 6:05 P.M.

Ms Jennifer Detloff, Director of Development Services stated that an application was received for a Beer Retailer's Off-Premise License for a Sports Bar to be located at 1701 South Brahma, Suite C, which would be known as Rax. She advised that because the property is within 1000 feet of Perez Elementary School, Coastal Bend College and the First Christian Church a variance is required. Ms Detloff said that sixty-one (61) letters were sent to surrounding property owners, and only one (1) letter opposing the variance was received.

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

III. PETITIONS, GRIEVANCES, AND PRESENTATIONS.²

1. Comprehensive Annual Financial Report of the City of Kingsville for Fiscal Year ending September 30, 2003 by Mr. Patrick L. Moore, C.P.A. (Finance Director).

Mr. George Bejarano, Finance Director stated that this was the annual financial report for the year 2002-2003 and added that the presentation was an award winning presentation. He said that the recognition goes to Mr. Luke Womack and Mr. Patrick L. Moore.

Mr. Patrick L. Moore, C.P.A. gave a brief explanation as to why two people are involved in the auditing procedure. He added that Mr. Womack and his firm have functioned as internal auditors of the City.

Mr. Luke Womack, C.P.A. added that this is something new and that the more CPA's involved with the client the less it appears to be independent.

Mr. Moore mentioned that there was a new set of financial statements due to the levels of the City's revenues, which exceeds \$10,000,000. He explained the new reporting model and added that one of the requirements is that all has to be lumped together in one column. He added that the costs and values of our infrastructure have to be picked up and depreciated.

Mr. Moore gave a brief explanation of the financial statements.

Mr. Moore explained that page 12-13 simply states that the financial statements are fairly presented; starting on page 14 and continuing for 10 to 15 pages - Management Discussion and Analysis – is basically a summary of the activities of the City of Kingsville; beginning on page 26 are balance sheets which indicates assets, liabilities, and fund balances of this new statement; page 27 & 28 is the second part of new statement which reflect revenues and expenditures; and page 29 are standard financial statements that have been used for years and is more of a cash basis type of financial statement which shows the balance sheets.

Mr. Womack added that the City has 1.128 million set aside for landfill, and is growing at approximately \$250,000, cash.

Mayor Fugate asked Mr. Womack for explanation; Mr. Womack said that \$3.00 a month for garbage containers is added on to that assessment.

Mr. Moore continued with page 31 explaining that this explains how to go from the new statement to the old statement; page 32 is the statement of revenues and expenditures what most governmental bodies always like to see as to what was taken in and spent. He added that total revenues were only about \$300,000 more than the previous year. He gave explanation of current expenditures of bond proceeds.

Mr. Womack said that to analyze 3.2 million, there was approximately 1 million bond money left over, so the general fund excluded all the capital acquisitions and ended up approximately \$200,000 or better. He also added that that step was taken to control spending.

Mr. Moore continued with page 35, which is a balance sheet for the utility fund and self-funded insurance plan. He added that restricted assets made up cash are up \$700,000 over previous year, and net fixed assets are up \$600,000. He continued with page 37, and said that the operating revenue is approximately \$5,000,000, up about \$400,000 over the previous year, so the operating expenditures are down, and the operating income of \$800,000 is about \$700,000 more than the previous year. He said that \$1 million was transferred to the general fund as was done the previous year, leaving a small deficit of \$284,000, thereby reducing the fund balance in the utility fund down to \$5.3 million.

Mr. Womack discussed the \$1 million transfer.

Mr. Moore said that beginning on page 41 and continuing for about 20 pages are notes for financial statements.

Mr. Womack said that on page 39 shows actual cash dollars generated by the general fund.

Mr. Moore said that the next 20 pages are comparisons of budget numbers to the various more detail items in revenues and expenditures.

Finally, Mr. Moore said that on page 82 is his report on the compliance and internal controls over the financial reporting of the City; page 84 relates to his auditors report on the compliance requirements applicable to a major federal program. He added that the last 10-15 pages of this report are the statistics of the City.

Mr. Womack said that over the last two years a lot of progress has been made; upgraded computer system, gone on-line with purchase orders, the budget broke even or better, and the City received GFOA certification.

Commissioner Laskowski asked if money for Task Force was squared away, Mr. Womack answered, "Yes" and that money was transferred and State money has been received.

2. Presentation to recognize two citizens for service to the City. (Chief of Police).

Ricardo Torres, Chief of Police, Corporal Gonzales, and Lieutenant Blackstock made presentation to Albert Villarreal, private citizen for assisting Officer Salinas and Officer Garza in capturing suspect.

Chief Torres mentioned that another citizen, Mr. Rene Alaniz who was not present, would also receive award.

3. Presentation to current and former City employees for service to the City. (City Manager).

Mr. Pablo Carrion, from the Street Department was presented a retirement plaque, for over 25 years of service to the City of Kingsville.

Mr. R. Robert Alvarez, Sergeant for the Police Department was presented with a retirement plaque for his 22 years of service.

Mr. Jesus Garcia, Jr, Landfill employee was not present to receive his award for 17 years of service to the City of Kingsville.

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

City Manager Yerena reported on the employees who were recognized for their retirement and thanked the citizens for the help they provided to the Police Department. He also mentioned that Ms Edna S. Lopez had been appointed permanent City Secretary. He added that he would like to recognize the Task Force, especially, Richard Kirkpatrick for the seizure that was made recovering \$27,850 in cash and \$5,000 - \$6,000 in assets.

City Manager Yerena reported on the activities for the Centennial Celebration to be held on July 4, 2004.

Mr. Ben Glusing thanked the commission for the opportunity to speak and stated it allows for some closure that began three (3) years ago. He mentioned that the Kleberg County Heritage Foundation and City of Kingsville became partners in the operation of putting together the centennial activities.

He announced the restoration of the depot is complete and on the 4th of July after proper ceremony the doors will be opened.

Mr. Stanley Fees, City Engineer gave update of what City crews are doing to get City prepared for the Centennial Celebration.

Ms Courtney Alvarez, City Attorney briefed the audience regarding activities for the Centennial Celebration as given to her by Kathy Martinez, Chamber of Commerce Director.

City Manager Yerena reminded the audience that there would be no City services on Monday, July 5th.

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

Ms Courtney Alvarez reported that a letter from TXDOT Railroad Depot department was received regarding closing the railroad crossing on West Richard Street; she added that an ordinance would be brought for their approval at a future meeting.

Mayor Fugate asked why they would want to close that intersection, Ms Alvarez answered for safety reasons.

Ms. Alvarez said that the Audit Committee had a very productive meeting. She added that both the Police and Fire Unions have submitted collective bargaining proposals.

6. City Commission's Reports. (City Commission).

Commissioner Wilson commented on having the honor to send off the National Guard Battalion stationed here. He added that he had the extreme pleasure of being on the podium with the Battalion Commander and others. He also mentioned that City Staff had put together a very good proclamation which was different from others because all five (Mayor and Commissioners) had the opportunity to put their signature on the Proclamation. He then read the Proclamation.

Commissioner Garcia also commented that he attended the morning session of the send off. He mentioned that it was very moving for him. He also said that he was the spokesperson for the City. He reminded the audience to make their presence at the National Guard Armory at 9:00 AM, tomorrow morning for the send off.

Mayor Fugate encouraged the citizens of Kingsville to participate in all the events for the centennial celebration, and have pride in our community. He mentioned that he would like to see a team building, goal setting workshop. He explained that a mediator is hired and goes over roles, setting short and long term goals, helps budget process, and is able to come up with evaluation instrument fair to everyone. He added this will cost but is money well spent.

IV. PUBLIC COMMENT ON AGENDA ITEMS .³

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

Mr. Wally Lynch, 1621 Annette voiced his concerns about the Sport Bar.

Ms Carol Ann Anderson, 1501 West Lee commented on the hard work done by the Women's Club for the bandstand. She added that \$1,200 worth of special milled wood was stolen along with the flat bed it was on. She added that she is asking organizations for donations to pay for the wood for the bandstand.

Mr. Rocky Dominguez, Jr. commented that he was applying for a variance for a business on 14th Street. He gave a brief overview on his project.

Mr. Yerena requested that Agenda Item #2 be considered at this time. It was the consensus of the Commission to grant request.

V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.⁴

2. Consider resolution authorizing the City Manager to apply for a Texas Community Development Program grant on behalf of Greenwood Mortuary. (City Manager).

Ms Kim Lacey stated that this is another Texas Capital Fund Application on the behalf of Greenwood Mortuary. She added that the location needs sewer and culvert improvements. She added that the cost is \$250,000 for the entire grant including administration. She added it is 100% grant and the City puts up no money. She said that Mr. Greenwood would be creating jobs for Kingsville. She mentioned this is a Resolution supporting the application, which will go through the review and approval process. She added the final contract will be brought to the City for final approval and signature.

Commissioner Laskowski asked if the sewer line being installed is just to service one business, Mr. Fees answered that at this time it was be that it had the capability to extend further as need arises.

Commissioner Laskowski asked what area the 28 foot deep lift station could serve, Mr. Fees answered that it could service from General Cavazos, north to Caesar Street, and east 3 farm lots and then to King Street.

Commissioner Garcia asked how many employees would be employed by this business, Ms Lacey stated ten employees, which is the minimum.

Commissioner Pecos stated that this property was annexed a long time ago, and mentioned that by law the infrastructure should have already been set up. He added that this would expedite the planning, and setting up the infrastructure.

Commissioner Pecos made a motion to approve resolution approving an application for funding through the Texas Department of Agriculture/Office of Rural Community Affairs Texas Capital Fund Infrastructure Grant Program, seconded by Commissioner Garcia. The motion was passed and approved with the following votes: Fugate, Pecos, Garcia, Wilson and Laskowski voting "FOR".

1. Consider approval of alcohol variance for Rax located at 1701 South Brahma, Suite C. (Director of Development Services).

Ms Detloff stated that Mr. Rogelio Dominguez, Jr. had applied for a Beer Retailer's Off-Premise License for a Sports Bar to be located at 1701 South Brahma, Suite C, which would be known as Rax. She advised that because the property is within 1000 feet of Perez Elementary School, Coastal Bend College and the First Christian Church a variance is required. Ms Detloff said that sixty-one (61) letters were sent to surrounding property owners, and only one (1) letter opposing the variance was received.

Mr. Dominguez said that his establishment will have billiards, air hockey, dart and pool league, flat screen, full bar, new age feeling, a classy place for people to meet.

Commissioner Garcia asked what the intentions for safety were. Mr. Dominguez answered he would have two security guards, and surveillance cameras.

Mayor Fugate asked if trash would be picked up. Mr. Dominguez answered he would help the maintenance man.

Mayor Fugate asked if this was only a beer license. Mr. Dominguez answered that he had also questioned this with the Planning Administrator, who said it was okay. Mayor Fugate asked for Ms Alvarez's opinion. Ms Alvarez answered that what has been posted is to consider the alcohol variance, which does not specify whether it is on or off premise or mixed beverage or beer only.

Commissioner Wilson voiced his concern, and advised that the public hearing held was in relationship for a variance for a beer and retailer's off premise license and stated that the two things appear to be in conflict. He stated that a public hearing has not been held on what needed to be heard.

Mayor Fugate said that the public hearing was for an alcohol variance, which is a general term.

Ms Alvarez said that the letter received from person responding against it did indicate a mixed beverage permit.

Commissioner Wilson said that his concern was that in the paper it was published incorrectly.

Ms Alvarez stated that with regard to the alcohol variance ordinance that the Commission approved it specifies for liquor, whether it can be sold or not. She added that the ordinance for the variances does not specify that the City needs to note or give the public any type of particularity with regard to type of liquor variance is required just the fact the liquor is being requested to be sold in the area or within a prohibited distance.

Mayor Fugate asked that if it is published in the paper, and if an individual just wants a beer license, and in fact they want a beer and mixed drink license than it is okay to act on it. Ms Alvarez said that the state law and our

ordinance do not require the specificity that is being provided in the notice to the public and so technically the City is still legally complying with our City ordinance and State Law.

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

3. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by adopting Section 13-2-2 to Chapter XIII, Article 2, Offenses Against Public Peace and Safety, providing for obedience to barricades and penalties for violations. (City Engineer).

Mr. Fees stated that the purpose behind this ordinance is that the City has numerous low water crossings in the city limits. He added that this ordinance will basically allow any law enforcement officer to issue citations to people that go around barricades or signs when there are high waters.

Mayor Fugate asked if there was any other criminal offense that covers this. Ms Alvarez said that this ordinance was modeled on one of the City of San Antonio's ordinances.

Commissioner Garcia asked if ordinance is a general type and asked about parades and other types of events. Ms Alvarez said it would apply to any situation where a violator goes through any barricades.

Commissioner Pecos made a comment concerning barricades on Ailsie Street.

No action was taken, Introduction Only.

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

Ms Detloff stated that this was the final passage of this ordinance which was first brought to the Commission on June 14th. She stated there were no comments or opposition at the public hearing held on June 14th.

Commission Pecos made a motion to approve the final passage of an ordinance granting a Special Use Permit to place mini-warehouse structures at 2000 North Armstrong, seconded by Commissioner Garcia. The motion was passed and approved by the following votes: Fugate, Pecos, Garcia, Wilson and Laskowski voting "FOR".

5. Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances by adopting Sections 15-1-13 through 15-1-16, providing for the review of plans and permit documents by approved third party companies and procedures for said companies. (City Manager).

City Manager Yerena stated that this ordinance would allow applicants to utilize this mechanism in order for persons wishing to obtain a building permit in a more expedited manner. He added that it is the intent of the City to maintain a minimum standard that must be met by all city certified third party plan review companies. He also added that any and all fees associated with third party plan reviews would be the responsibility of the party requesting the review and obtaining the permit. City Manager Yerena stated this would serve the City and the citizens' well.

Commissioner Wilson expressed concern that once this ordinance is passed he wanted to make sure that everything is done to make sure initially to protect the interest of the City and the ability of our staff to be in complete control of the plans and building process. He added he had a grammatical suggestion, on page 2 of the ordinance, first sentence of the underline text, the letter (a) would make the sentence read better (The City shall ensure that a competent.....).

There was discussion to make the word firm plural instead of adding an (a).

City Manager Yerena said that the on the next underlined paragraph, "to the City of Kingsville" should be deleted.

Commissioner Wilson made a motion to adopt the ordinance as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following votes: Fugate, Wilson, Pecos, Laskowski and Garcia voting "FOR".

6. Consider resolution setting pre-qualification requirements and procedures for third party plan review companies. (City Manager).

City Manager Yerena stated that this is the resolution that would set the prequalification requirements and would allow for the third party plan process.

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

The City Commission convened into executive session at 7:48 PM., but first took a five minute recess.

- 7. Executive Session: Under Section 551.074, Texas Government Code, Personnel Matters. The City Commission shall convene in executive session to interview Municipal Court Judge applicants, Phillip Goff, Guadalupe Mendoza, David Cano, Michael Krueger, and Ron Walker, and to deliberate the appointment and employment of said individuals for the position of Municipal Court Judge and may include from time to time recesses as needed. (Mayor Fugate).**

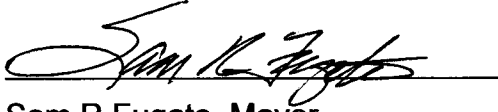
- 8. Consider appointment of Municipal Court Judge. (Mayor Fugate).**

The City Commission reconvened into open session at 8:17 P.M.

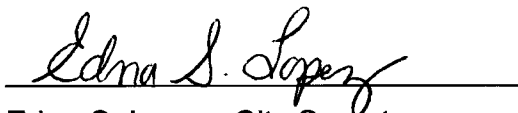
Commissioner Garcia made a motion to hire Mr. Michael Krueger as Municipal Court Judge, seconded by Commissioner Pecos. The motion was passed and approved with the following votes: Fugate, Garcia, Pecos, Laskowski, and Wilson voting, "FOR".

VI. ADJOURNMENT.

The meeting was adjourned at 8:18 P.M.


Sam R Fugate, Mayor

ATTEST:


Edna S. Lopez, City Secretary