

MAY 9, 2005

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS, CITY COMMISSION WAS HELD ON MONDAY, MAY 9, 2005 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, CITY HALL / 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION 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
Stanley Fees, City Engineer
Dianne Leubert, Solid Waste Superintendent
Diana Gonzales, Human Resource Director
Jennifer Cantu, Director of Development Services
Al Lopez, Interim Fire Chief
Ricardo Torres, Police Chief
J. R. Ibarra, Task Force
Jaime Garza, Task Force Commander
George Crocker, Police Sergeant
Susan Ivy, Parks Director
Macario Mayorga, Water Supervisor
Y I Hinojosa, Street Field Supervisor
John Garcia, Garage Superintendent
Joe Casillas, Water Production Supervisor
Art Alvarez, Risk Manager

**I. Preliminary Proceedings.
OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chambers at City Hall at 6:00 P.M.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by City Manager Yerena, followed by the Pledge of Allegiance and the Texas Pledge.

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for approval of the minutes of the City Commission's regular meeting of April 25, 2005 and the special meeting of May 3, 2005. **Commissioner Laskowski made a motion to approve the minutes as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".**

II. Public Hearing - (Required by Law).¹

1. Public Hearing regarding the proposed location of new water well #24 at the southeast corner of 2nd and Nettie. (City Engineer).

The Public Hearing was opened at 6:03 P.M.

Mr. Stanley Fees, City Engineer went over a PowerPoint presentation depicting the proposed site of the new water well and other water well sites. He pointed out that the site would have a fence screening. He said that letters were sent to neighboring residents and that KISD prefers this site. Mr. Fees stated that the Engineer is checking the geology of other sites, and nothing is definite at this time.

Mayor Fugate asked for comments from the public.

Ms Darrell Lynn Pray, 506 West Nettie, spoke against the proposed site of the new water well.

Ms Edna Ybarra, 415 West Ave A, also spoke against the proposed site of the new water well, and presented a petition.

Ms Barbara Goode, 502 West Ella, also spoke against the proposed site of the new water well.

Mr. Erasmo Mosqueda, 424 West Nettie, also spoke against the proposed site of the new water well.

Ms Carolyn Fees, 1506 Santa Cecilia, advised that site should be a park, and people should talk to School Board.

The Public Hearing was closed at 6:18 P.M.

III. Petitions, Grievances, and Presentations.²

1. Proclamation designating May 15, 2005 as "St. Paul Lutheran Church Day".

Mayor Fugate presented the proclamation to Pastor Eckert.

2. Proclamation designating the week of May 15-21, 2005 as "Hurricane Awareness Week 2005."

Mayor Fugate presented the proclamation to Mr. Tomas Sanchez, Emergency Management Coordinator.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on meeting with Mr. Robert Wood and Mr. John Dechene, from the Texas Department of Agriculture concerning the closing of several contracts. He also reported on the holiday closing at City Hall.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez updated the Commission on the AICUZ zone project and ordinance. She stated that the Attorney for Mr. Sam Granato would be speaking regarding agenda item #15 and would like extra time to speak. She reported on the Task Force KWOP meeting and the Tank Pro Preconstruction meeting.

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

Mayor Fugate called for the City Commission's report. Commissioner Pecos reported on having attended a Hazardous Material Incident Command class. Mayor Fugate reported on a potential client for the Calling Solution Center and informed the Commission on the progress of the Old High School. Mayor Fugate also reported on the meeting held with STWA.

IV. Public Comment on Agenda Items³

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

Mr. Chris Gill, Attorney, San Antonio, Texas, spoke in support of the request to reinstate with automatic voluntary resignation by Mr. Sam Granato.

V. Consent Agenda

1. Motion approving an ordinance abandoning a 10 foot wide access easement between Lots 42 and 43 in Block 6 of the Lyndale Park subdivision and a 30 foot wide access easement between Lots 14 and 15 in Block 5 of the Terrace Village addition. (City Engineer).
4. Motion authorizing the Mayor to enter a Federal Equitable Sharing Agreement with the U S Department of the Treasury for a period of three years, effective October 1, 2005 to September 30, 2008. (Task Force Commander).
5. Motion approving a Resolution of the City of Kingsville, Texas, designating the authorized signatories for drawdown requests from the Office of Rural Community Affairs for all of the City's Texas Community Development Program projects. (City Manager).
6. Consider resolution reclassifying the position of Code Enforcement Officer, a Non-Classified Service Position and repealing all resolutions in conflict herewith and providing for an effective date. (Human Resource Director).

Mayor Fugate called for a motion to approve the consent agenda. Commissioner Wilson made a motion to remove Item #2 & 3 from the consent agenda, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

Mayor Fugate called for a motion to the amended consent agenda. Commissioner Garcia made a motion to approve the consent agenda as amended, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

2. Motion approving an ordinance amending the City of Kingsville Code of Ordinances by amending Sections 3-4-50 and 3-4-58, Providing for the establishment of Volunteers in Policing, control by Chief of Police, eligibility requirements and qualifications, application, oath, duties, power and authority, limitations, and status for Volunteers in Policing. (Chief of Police).

Commissioner Laskowski recused himself from this agenda item.

Chief Torres stated that he is asking to formulate the Volunteers in Policing section to be used in handicap parking enforcement, abandoned and junked vehicles, neighborhood watch, vacation house watch, and volunteers on patrol.

Mayor Fugate called for a motion. Commissioner Garcia made a motion to approve the ordinance, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson voting "FOR". Laskowski "ABSTAINED".

3. Motion approving an ordinance amending the zoning Ordinance by changing the zoning map in reference to .160 acres of Lots 22 and 23, Block 1, Penny Subdivision from "R-2", Two-Family District to "C-2", Retail Commercial. (Director of Development Services).

Ms Jennifer Cantu, Director of Development Services stated this item was brought to the Commission at the previous meeting. A public hearing was held and no one spoke in opposition.

Mayor Fugate asked for questions or comments. Commissioner Wilson explained that he had requested to remove this item from the consent agenda because a previous Commission had gotten in trouble for what was considered to be spot zoning and he

wanted to make sure this would not be considered to be spot zoning. He provided some details of the situation.

Ms Cantu stated that there had been significant discussion at the Planning and Zoning Commission meeting with regard to whether or not this was spot zoning. Staff considered this to be spot zoning because along that particular area there is no other commercial. Ms Cantu stated that was why there were two votes at the Planning and Zoning meeting. She said it was finally voted in recommendation of rezoning this property because the structure looked like it had been commercial.

Commissioner Wilson made a motion to approve the ordinance amending the zoning Ordinance but for the change, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

7. Discuss and consider approval of priority list for Park Master Plan. (Parks Director).

Ms Susan Ivy, Parks Director discussed the preliminary listing of things that are needed to address future planning at the parks. She stated that a resolution supporting the Master Plan would be needed at a later date. Ms Ivy stated the highest priority is the Brookshire Pool, and second is the athletic facilities. She provided information on the accomplishments at the park. She discussed the grant application that would be submitted to the Texas Parks and Wildlife.

There was discussion on making the soccer field lighting a priority and fixing the roads at the park.

Mayor Fugate asked what type of format was needed. Ms Ivy responded it should be categorized for athletic facilities, and that she would get prices and would return with a firm request.

Mayor Fugate asked for a motion. **Commissioner Garcia made a motion to table this agenda item, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".**

8. Consider a resolution of the City of Kingsville authorizing intervention in AEP Texas Central Company's True-Up proceeding to be filed at the Public Utility Commission of Texas, Authorizing the joining with other intervening cities to coordinate efforts to protect Municipal and Ratepayer interests; Authorizing the hiring of Attorneys and Consultants; and requiring reimbursement of the Cities' ratemaking costs. (City Attorney).

Ms Alvarez stated that several years back the City participated in another matter like this one that did not cost any money, and this one likewise will not cost the City any money. She explained the Public Utility Regulation Act. She stated that it is anticipated that AEP Texas Central will soon be filing an application with the PUC to finalize stranded costs. Stranded costs are the difference between the market and book value of AEP's generating units. AEP is in the process of selling its share of the South Texas Nuclear Project and its other generation assets and is expected to claim stranded costs totaling about \$2 billion. Electric surcharges necessary to collect TCC's stranded costs will be substantial causing a significant increase in the cost of electricity. She added that this surcharge will adversely impact competition in South Texas.

She stated that the STAP Attorneys are recommending that the City does intervene in AEP's stranded cost case in the PUC along with some other member Cities. Finally, she stated that the resolution sets that out.

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

9. Consider appointments to the Kingsville Charter Review Committee. (Commissioner Laskowski).

Commissioner Laskowski stated that there was an article in the Kingsville Record regarding this item. He said that it was voted last month to establish a procedure for each Commissioner to provide the name of one appointment, and two would be selected and voted for by the entire Commission.

Ms Alvarez stated that along with the Kingsville Record she had also spoken to Ms Rozelle from the Kingsville Journal. She stated that letter of interest should be submitted to the City Secretary.

Mayor Fugate called for each Commissioner's appointment. Commissioner Wilson appointed Ms Rosie Moreno; Commissioner Laskowski appointed Mr. Roy Medina and stated that a resume was provided; Commissioner Pecos appointed Mr. Phil Esquivel; Mayor Fugate appointed Mr. John Williams; Commissioner Garcia stated he did not have an appointment to make at this time, but would make his appointment at the next meeting.

Mayor Fugate called for a motion. **Commissioner Garcia made a motion to appoint the members that have been identified, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".**

10. Consider appointment(s) to the Kingsville Economic Development Task Force. (City Manager).

City Manager Yerena stated that during meetings with the EDC Director it was discussed that there be an effort to refine the economic development process which greets potential prospects with a formulation of an Economic Task Force from several entities.

Mayor Fugate called for a motion. **Commissioner Laskowski made a motion to appoint Commissioner Wilson and City Manager Yerena to the Task Force, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski voting "FOR". Wilson "ABSTAINED".**

11. Consider removing from the table an item to consider introduction of an ordinance amending the Fiscal Year 2004-2005 Budget for the City of Kingsville for the General Fund, Task Force Fund, Utility Fund, I&S Revenue Bond Fund, CO 2002-2002A Fund and CO 2005 Fund for revenues and expenditures. (City Manager).

Commissioner Wilson made a motion to remove the item from the table, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

12. Consider introduction of an ordinance amending the Fiscal Year 2004-2005 Budget for the City of Kingsville for the General Fund, Task Force Fund, Utility Fund, I&S Revenue Bond Fund, CO 2002-2002A Fund and CO 2005 Fund for revenues and expenditures. (City Manager).

City Manager Yerena stated that the first two pages explain where the changes are coming from and the last page is a rundown of the changes being proposed in order to

amend the budget. He said Mr. Luke Womack, Auditor was present and would answer questions.

Commissioner Laskowski voiced his concern about the language, "it was unforeseen when the budget was adopted". He requested alternative language be used. He went on to say items were discussed during the budget and that for the record, "items were discussed and budget was adopted based on the recommendation of the Finance Director".

Mr. Womack provided a brief explanation of all information provided in the Budget Amendment Ordinance. He stated that these amendments are only stop gaps to provide for a decent closing of this year's budget, but next year's budget will be a real challenge.

INTRODUCTION ONLY

The City Commission took a break at 7:30 P.M., than convened into Executive Session.

13. Executive Session: Under Section 551.071 of the Texas Open Meetings Act, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding potential litigation regarding administration and enforcement of City obligations under the South Texas Water Authority Supply Contract. (Mayor Fugate).

14. Executive Session: Under Section 551.071 of the Texas Open Meetings Act, the City Commission shall convene in Executive Session to seek legal advice from the City Attorney regarding pending litigation concerning the case of Sam Granato vs. City of Kingsville, Civil Action No. 04-463, In the United States District Court for the Southern District of Texas, Corpus Christi Division. (City Attorney).

The City Commission reconvened into Regular Session at 8:18 P.M.

15. Consider request for reinstatement with automatic voluntary resignation by Sam Granato. (City Attorney).

Ms Alvarez stated the City was under court order to mediate this matter and mediation was held on Saturday, April 23rd in Corpus Christi, Texas. No City funds are necessary for the settlement of this matter. She added this was one of the things requested during mediation.

Mayor Fugate asked for a motion to consider reinstatement.

Item died for lack of motion.

16. Discuss and consider proposed and current contracts with the South Texas Water Authority and any other action necessary regarding the current water supply contract. (City Attorney).

Ms Alvarez advised that the proposal that was in the Commission packet incorporates in some suggested language received from the Water Authority at the recent negotiating meeting.

Mayor Fugate asked for questions or comments. **Commissioner Wilson made a motion to proceed with the signed contract that has already been delivered to the Water Authority, seconded by Commissioner Pecos. The motion was passed and**

approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

17. Discuss and consider the policy allowing the purchase of firearms through the City for law enforcement personnel and the use thereof. (Commissioner Garcia).

Commissioner Garcia explained the reason for placing this item on the agenda. He stated that each Commission member had received a list of particular interest. He stated the interest of this matter is that in the past, weapons have been sold in the public and Cities were liable for weapons being used in crimes. He voiced his concern that officers are purchasing exorbitant amounts of weapons.

Commissioner Wilson asked Ms Alvarez for direction on suspending immediately. Ms Alvarez responded it is part of their collective bargaining agreement.

Chief Torres explained the information adds to the original policy. He stated that an investigation by him and Sgt Cuellar has occurred regarding an employee with an excess amount of weapons.

There was discussion on the contract language, signatures on purchase orders, and qualifying when weapon is purchased.

Commissioner Wilson stated this policy was a dismal failure, and added that it is inconceivable to him that one individual can possess five AR15.

Commissioner Laskowski asked Ms Alvarez to get a copy of the internal affairs investigation for her review.

Commissioner Wilson commented that he wants the Police Department and its Officers to be able to use the amount of fire power that can be provided to protect themselves and the citizens of this community. He stated that his main concern is that this policy up until April 23rd was not working right.

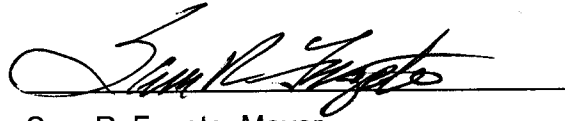
Commissioner Garcia stated that the policy needs some revamping.

Commissioner Laskowski recommended that a policy be established that if anybody wants to purchase a weapon has to go through the Chief, if the Chief is not in, the Officer can wait.

No Action Taken

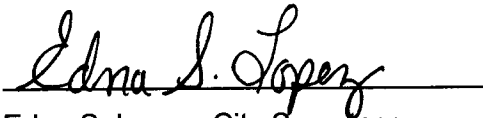
VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 8:18 P.M. on Monday, May 9, 2005.



Sam R. Fugate, Mayor

ATTEST:



Edna S. Lopez, City Secretary