

APRIL 17, 2006

**A SPECIAL MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, APRIL 17, 2006 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, CITY HALL / 200 EAST KLEBERG AVENUE AT 12:00 NOON.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor  
Charles E Wilson, Mayor Pro-tem  
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  
Frank Garcia, Interim Wastewater Supervisor  
Dora Byington, Purchasing Director  
Yolanda Cadena, Health Director  
Al Lopez, Fire Chief  
Mike Davis, Electrical Inspector  
Jennifer Cantu, Director of Development Services  
Bill Donnell, Engineering Technician & Interim Street Supervisor  
Dianne Leubert, Solid Waste Superintendent  
Diana Gonzalez, Human Resource Director  
Mark Rushing, Finance Director

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the Commission Chambers at 12:00 Noon.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Ms Dora Byington, followed by the Pledge of Allegiance and the Texas Pledge.

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

Mayor Fugate called for consideration of the minutes of the regular meeting of April 10, 2006. **Commissioner Laskowski made a motion to approve the minutes with one correction on page 3, change the word Occupation to Occupancy, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

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

None

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

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on working on several initiatives with the Health Department in an effort to be more opened to the public; and on holding a public hearing for Texas Capital Fund, today at 5:05 P.M.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on attending a mediation that was successfully resolved; on some pre-trial conferences to be heard on Friday; and on the next KICC Task Force meeting, tomorrow at 11:00 A.M. She also reported on the next Chamber Image Kingsville meeting scheduled for Wednesday, and on City Secretary Edna Lopez celebrating 26<sup>th</sup> years of service with the City.

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

Mayor Fugate called for the City Commission's reports. Commissioner Laskowski reported on speaking to the Planning Director with regard to revisiting the taxi cab ordinance, especially the section on insurance. Mayor Fugate reported on the Vietnam Symposium which will be held tomorrow at the Tio & Janell Kleberg Center.

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

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

NONE

**V. Consent Agenda**

Mayor Fugate called for consideration of the Consent Agenda.

**1. Motion to approve resolution ordering the City of Kingsville General Election and City Charter Amendment Election, amending the designation of Voting Precinct #43, designating Polling Places establishing election procedures and appointing Early Voting Clerk. (City Secretary).**

**3. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Sections 15-1-55 through 15-1-66, providing for an increase in electrical permit fees, a decrease in electrical license fees, and changes in electrical licensing requirements to conform with the state requirements. (Director of Development Services).**

**5. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 5-1-35, providing for removal of roll-out containers by 8:00 p.m. on the date of service. (Solid Waste Management Superintendent).**

Commissioner Laskowski made a motion to remove Consent Agenda Item #2 and pass the remaining items, seconded by Commissioner Wilson. Commissioner Pecos made a motion to amend Commissioner Laskowski's motion by also removing Consent Agenda Item #4, seconded by Commissioner Wilson. The amended motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Wilson, Pecos voting "FOR".

**2. Motion to approve final passage of an ordinance amending the Fiscal Year 2005-2006 Budget for the City of Kingsville for Health Department equipment to come from CO 2002-2002A General Fund Unallocated Balance. (City Manager).**

City Manager Yerena stated this action would allow the use of \$7,100.00 for the purchase of equipment for the Health Department, \$4,824.16 from the CO's and the reallocation of \$2,300.00 from the Unallocated Interest Earned Revenue.

Commissioner Laskowski stated that he removed this item from the agenda because the City and County share the operational costs of the Health Department, 50/50. The County has passed a hiring and spending freeze, but the county should consider matching this because everyone pays County taxes. This project will benefit the Citizens of Kingsville and the County should share. **Commissioner Laskowski made a motion to approve this transfer with the instruction to the City Manager to make every effort to get the County to fund their one-half of the cost,**

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

**4. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 33 acres on the north side of FM 1717, to be known as Victorianna Country Estates. (Director of Development Services).**

Commissioner Pecos stated that he removed this from the consent agenda because he is concerned about construction encroachment around the Naval Base.

Ms Cantu, Director of Development Services stated that this item was brought before them at the previous meeting in the form of a public hearing, and there were no comments or opposition. The area is significantly outside the existing AICUZ and the recommended 2000 ft boundary.

Mayor Fugate asked if this subdivision would be located close to the 77 Bypass, about 1 mile. Ms Cantu replied this was truly significantly outside the actual potential zone and the decibel noise level.

Mayor Fugate called for a motion. **Commissioner Wilson made a motion to adopt final passage of the ordinance, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Laskowski, Wilson voting "FOR". Garcia, Pecos voting "AGAINST".**

### **REGULAR AGENDA**

#### **CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

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

**6. Consider authorizing the City Manager to negotiate a contract with LNV Engineering for all project-related engineering services for the City. (City Manager).**

City Manager Yerena stated would allow staff to negotiate a contract with LNV Engineering for engineering services. He stated that at this point there is no in house City Engineer and one is needed for several projects.

Commissioner Laskowski stated that it is critical that whatever firm is hired that they do their due diligence to ensure that cost estimates that are being prepared for the City are realistic.

Mayor Fugate called for other questions or comments. **Commissioner Laskowski made a motion to authorize the City Manager to negotiate a contract with LNV Engineering, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".**

**7. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 729 W. Kleberg Avenue from R-3 Multi-Family to C-2 Retail. (Director of Development Services).**

Ms Cantu stated this item was brought before them at the last City Commission meeting. At that time there was no opposition and staff has received no opposition or comments with regard to this rezoning. At that time the City Commission pointed out that the City is working towards closing down alleys. Part of this request was to have access to the alley. The applicant does have legal access of Kleberg Avenue and there is a feasibility the applicant can get a driveway cut to Armstrong.

Mayor Fugate asked if anyone had complained. Ms Cantu replied there were no complaints.

**Commissioner Wilson made a motion to adopt the final passage of the ordinance, seconded by Commissioner Garcia.**

**Commissioner Laskowski offered an amendment to the motion, "to state that the applicant understands that in the event that the City moves forward with**

alley closures, that the applicant would fully understand that the City would not make an allowance for access for that property in the event that the alley is closed", seconded by Commissioner Wilson.

Mayor Fugate asked Ms Alvarez if this was legal. Ms Alvarez provided some clarification to Commissioner Laskowski's amendment to the motion. Ms Alvarez stated that essentially Commissioner Laskowski's motion is to put the property owner on notice. That however he intends to use his property, he must take into consideration the fact that there is potential for alley closure and if the alley does close the property owner shouldn't and couldn't come back to tell the City that this is his only means of access to the property. Mayor Fugate asked Mr. John Salinas, property owner if he understood. Mr. Salinas replied that he understood and had no problem whatsoever.

Mayor Fugate called for roll-call vote. **The amended motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

As a point of order, Commissioner Wilson stated a roll-call vote was needed for the original motion. Mayor Fugate called for a roll-call vote. **The original motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR"**

**8. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to the north one-half of Lot 5, Haggerton Addition from AG Agriculture to R-1 Single-Family. (Director of Development Services).**

Ms Cantu stated this item was brought before the City Commission in the form of a public hearing, at that time there were no comments with regard to for or against. She stated that this is just one of several in the area that Staff is requesting to have rezoned to bring the property into zoning compliance.

Commissioner Laskowski asked Ms Cantu if she had information on the pipeline. Ms Cantu replied that it was a gas transmission line and that was the only information she had to date.

There was brief discussion on the pipeline.

Mayor Fugate called for a motion. **Mayor Fugate made a motion to approve the adoption of the ordinance, there was no second. The motion died for lack of second.**

**9. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to the south one-half of Lot 5, Haggerton Addition from AG Agriculture to R-1 Single-Family. (Director of Development Services).**

Ms Cantu stated this item was similar to the previous item. This item was heard at the previous City Commission meeting, and there was no opposition or comments with regard to this rezoning. She stated that the Planning and Zoning Commission recommended unanimous approval.

Commissioner Laskowski asked if Planning & Zoning was aware that a pipeline ran through the middle of these properties. Ms Cantu replied they were aware. Commissioner Laskowski voiced his concern about not knowing what type or size this pipeline is or what the City's liability is.

Regarding Commissioner Laskowski's concern, Mayor Fugate stated these items could be tabled until the information is received. He added that once these items die for a lack of motion than it takes about six months to bring these items back to the Commission. City Manager Yerena stated he agreed with the Mayor and this would allow the City time to visit with the Engineering firm to see if there were any concerns.

**Commissioner Laskowski made a motion to table agenda item #9 & 10.** He stated that he could not go back to agenda item #8. He then asked Ms Alvarez if he could table agenda items 8, 9, & 10. Ms Alvarez replied she would tentatively say yes, but would have to double check. She added that essentially it has not been approved or disapproved; only no action was allowed at this time.

Commissioner Laskowski asked if no action was taken, if item could be brought back before the Commission. Ms Alvarez stated that since the City does not have specific procedural rules with regard to all motions, they rely to Robert's Rules of Order, she will double check Robert's Rules of Order.

With regard to the motion, Mayor Fugate stated the motion was to table all three items. Commissioner Wilson stated it would be better, procedurally if the motion were for 9 & 10, which have not been acted on, and then take item #8 as a stand alone item contingent upon Robert's Rules of Order allowing the opportunity to revisit the items. Commissioner Laskowski withdrew his motion. **Commissioner Wilson made a motion to table agenda items #9 & 10, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

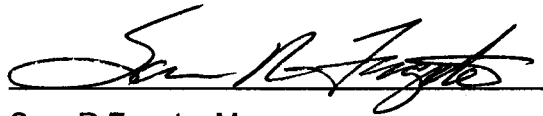
**Commissioner Wilson made a motion to table agenda item #8, if it is so determined by the City Attorney that the Commission has the authority to do so, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".**

**10. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.212 acres out of Hinojosa Estates Lots 1A & 1B from AG Agriculture to R-1 Single-Family. (Director of Development Services).**

TABLED

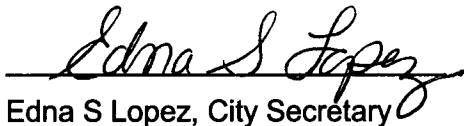
#### VI. Adjournment.

There being no further business to come before the City Commissioner, Mayor Fugate adjourned the meeting at 12:35 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, City Secretary