

AUGUST 14, 2006

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS, CITY COMMISSION WAS HELD ON MONDAY, AUGUST 14, 2006 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 - arrived at 6:12 P.M.
 Charles E Wilson, Mayor Pro-tem
 Al Garcia, Commissioner - arrived at 6:12 P.M.
 Stanley Laskowski, Commissioner
 Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager – arrived at 6:12 P.M.
 Courtney Alvarez, City Attorney
 Edna S Lopez, City Secretary
 Diana Gonzales, Human Resource Director
 Jennifer Cantu, Director of Development Services
 Dora Byington, Purchasing Director
 Mark Rushing, Finance Director
 Frank Garcia, Interim Wastewater Supervisor
 Y I Hinojosa, Street Field Supervisor
 Joe Casillas, Water Production Supervisor
 Yolanda Cadena, Health Director
 Julian Cavazos, Lieutenant
 Al Lopez, Fire Chief
 Bill Donnell, Interim Street Superintendent

I. Preliminary Proceedings.

OPEN MEETING

Mayor Pro-tem Wilson called the meeting to order in the Commission Chambers at 6:00 P.M. and announced quorum is present.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

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

Mayor Pro-tem Wilson deviated from the agenda and called for Public Hearings. He reminded the public that this is a public hearing and they may come forward once the presentation has been made, there is a five (5) minute time limit for speaking.

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

1. Public Hearing to rezone 7.25 acres out of K.T. & I. Subdivision, Block 19, Lot 24, from AG Agriculture to C-2 Commercial District, Santiago Cantu applicant. (Director of Development Services).

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

Ms Jennifer Cantu, Director of Development Services stated this property is facing General Cavazos on the west side of 6th Street and Franklin Adams. This is a 7.25 acres of section of property, to the north is currently vacant. This item was brought to the Planning and Zoning Commission, there were no comments at that time, and they voted unanimously to approve this property.

Mayor Pro-tem Wilson called for questions from the Commission, and then called for public comments. No comments were received.

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

2. Public Hearing to rezone 37.75 acres from AG Agriculture to R-1 Single Family Residential; property located at K.T. & I. Block 19, Lot 24 and Block 19, Part of Lot 13, Santiago Cantu applicant. (Director of Development Services).

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

Ms Cantu stated that this property is located immediately south of the Briarwood Subdivision, an established single-family subdivision. The applicant plans to develop a three-phase subdivision, to be known as La Blanco Estates Subdivision, with approximately 100 units. The plat for Phase I of La Blanco Estates will be submitted to the Planning and Zoning Commission in August. The surrounding land use is currently: North: single family, East: Multi-family, single family, and commercial (all across 6th Street) South: vacant AG Agriculture (Note that this property is being requested to be rezoned commercial), and West: is vacant Agriculture. The property does have access to all utilities and the capacity of the existing road (Franklin Adams) is sufficient to handle the additional traffic. She stated that Staff did not receive any comments regarding this rezoning request, and there were no public comments at the Planning and Zoning Commission meeting. The Planning and Zoning Commission recommends unanimous approval.

Mayor Pro-tem called for questions or comments from the Commission and the public. No comments were received.

The public hearing was closed at 6:06 P.M.

Mayor Pro-tem Wilson provided an explanation for skipping through consideration of the Minutes.

III. **Petitions, Grievances, and Presentations.**²

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

Mayor Pro-tem Wilson called for the City Attorney's report. Ms Alvarez announced the City Manager, Mayor and one Commissioner are traveling back from a business trip. She reported on some items that the City Manager was going to report. She thanked the Navy League for being the first set of volunteers to Adopt-a-Spot; reminded employees and Commission members on the health insurance enrollment which will be next week; reported on the next NIMS – ICS 200 Class at the HEB Education Center on August 30th; and reported on the Region 11 Pandemic Influenza Workshop to be held here on Thursday, September 7th.

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

Mayor Pro-tem Wilson called for the City Commission's reports. Commissioner Laskowski encouraged the community to participate in the Adopt-a-Spot program.

1. Proclamation designating School Year 2006-2007 "School Attendance Awareness".

Mayor Pro-tem Wilson presented the proclamation to Dr. Vita Canales, KISD Assistant Superintendent and Mr. Plutarco Castro.

Mayor Pro-tem Wilson announced the arrival of the rest of the Commission.

Mayor Fugate and Lt Julian Cavazos presented City of Kingsville Honorary Police Officer certificates to Scott Mitchell, Ryan Mitchell, Troy Miller for their participation during National Night Out.

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

Mayor Pro-tem Wilson called for the City Manager's report. City Manager Yerena reported that Staff is continuing to work on the budget and future workshops will be set.

At this time, Mayor Fugate presided over the meeting.

Mayor Fugate apologized for his tardiness, but explained that the City Manager, Commissioner Garcia, and he had just arrived from a trip to Reynosa. He stated that in the first part of October a symposium is being planned here in Kingsville. He stated they are looking at economic trade opportunities and are gathering information on a Bi-National Organization to foster international trade between both nations. Commissioner Garcia reported on the character of Reynosa's Mayor and the opportunities that are possible through this friendship.

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for consideration of the minutes of the Special Meetings of July 31, 2006, August 2, 2006 and August 3, 2006. **Commissioner Wilson made a motion to adopt the minutes as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson voting "FOR". Laskowski "ABSTAINED".**

IV. Public Comment on Agenda Items³

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

Mayor Fugate called for comments on all agenda and non-agenda items. There were no comments made.

Mayor Fugate called for consideration of the Consent Agenda items (1-4).

V. Consent Agenda

1. Motion to approve awarding Bid No. 27-05 Cement Products to Alamo Concrete Products of Kingsville. Items to be acquired as needed during this time of the contract. Based on estimate usage, approximately \$10,000.00 will be expended under this contract. (Purchasing Director).

2. Motion to approve awarding Bid No. 27-06 Chlorine to AOC from Kingsville. Based on estimated usage, approximately \$21,937.50 will be expended under this contract. Items will be acquired as needed during the time of the contract. (Purchasing Director).

3. Motion to approve awarding Bid No. 27-07 Liquid Ammonia Sulfate to Bay Chemicals from Odem, Texas. Items to be acquired as needed during the time of the contract. Based on estimated usage, approximately \$20,825.00 will be expended under this contract. (Purchasing Director).

4. Motion to approve a resolution authorizing an addendum to the TCCI HIDTA Task Force Agreement between the DEA and the City of Kingsville Police Department and accepting funding from the Office of National Drug Control Policy HIDTA Program for law enforcement personnel overtime, services, and supplies for Fiscal year 2006-2007; authorizing the Chief of Police to act on the City's behalf with such grant; and providing for an effective date. (Police Chief).

Commissioner Wilson made a motion to approve the items on the Consent Agenda (1-4) as presented, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. **Items for consideration by Commissioners.**⁴

5. Consider accepting certified total appraised, assessed, and taxable values of all property and total taxable values of new property in the City of Kingsville as certified by the Kleberg County Appraisal District. (City Manager).

City Manager Yerena stated this item is just a procedural matter to certify the appraisal records. This information is taken into consideration by the Tax Assessor Collector in the next agenda item. Mayor Fugate asked about the appraised values. City Manager Yerena replied the 2005 Total Taxable Value was \$599,034,451, an increase of a little over \$51,000,000 on the tax rolls for 2005-2006.

Mayor Fugate called for questions or comments. For the record, Commissioner Laskowski stated that there was an increase of \$11,000,000 in new properties that were not on the rolls in the previous year.

Mayor Fugate called for a motion. **Commissioner Wilson made a motion to accept the certified total appraised, assessed, and taxable values of all property and total taxable values of new property in the City of Kingsville as certified by the Kleberg County Appraisal District, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".**

6. Consider a proposed tax rate; if proposed tax rate will exceed the effective tax rate or the rollback rate (whichever is lower), take record vote and schedule public hearings. (City Manager).

City Manager Yerena announced Ms Melissa DelaGarza. Ms DelaGarza addressed the Commission, stating that calculations were based on the total appraised, assessed and taxable values of all property and the total taxable value of new property in City of Kingsville as certified by the Kleberg County appraisal District and the 2006 Effective and Rollback Tax Rates. She explained the Governing Body Summary 1A that compares effective tax rate and rollback rate, compared to last year's tax rate. The rollback rate for 2006 is \$.68545. She stressed the importance to adopt a proposed rate that does not exceed the rollback rate and to adopt a proposed budget in order to continue to schedule public hearings sometime in September to adopt the tax rate.

City Manager Yerena stated that before them was the information on the final values and a memorandum that identifies the proposal. The current tax rate is \$.7100; the effective tax rate is \$.66181 the rate that would provide the same revenue as collected last year. He stated that Staff is proposing to go just below the rollback rate at \$.68544 which would provide a difference in revenue from the effective tax rate of \$137,305, which would keep the City below the rollback rate. Ms DelaGarza recommended the City not exceed the \$.68500.

Commissioner Wilson provided some points of clarification, stating this is the current tax rate, effective tax rate, proposed tax rate and rollback tax rate, the City still has the authority to go to what the law allows. This is only a rollback which would create other events to happen. This is only a matter of record.

Ms DelaGarza provided information on adopting the proposed rate and discussed the planning calendar. She stated that the public hearings would be scheduled on Sept 5th and 11th, 2006 at 6:00 P.M.

Mayor Fugate called for comments or questions.

Commissioner Wilson made a motion to adopt the tax rate of \$.68544, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

Ms DelaGarza stated that the planning calendar also required approval.

Commissioner Wilson made a motion that the planning calendar was adopted at 6:00 P.M. in Commission Chambers, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

7. Consider Commission appointments to the City's Capital Improvement Committee. (Commissioner Laskowski).

Commissioner Laskowski stated he did not have any nominations. Mayor Fugate called for nominations from the rest of the Commission. Commissioner Laskowski requested that this item be brought back on the next agenda.

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

8. Consider appointing two (2) Commission members to work with two County Commission members to address jointly shared departments. (Mayor Fugate).

Mayor Fugate stated that during the joint meeting with the County Commission, there was discussion regarding organizing a committee to address jointly shared departments. He stated he would like to serve. Upon a question from Mayor Fugate, Commissioner Laskowski replied he would like to serve.

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

9. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 7.25 acres out of K.T. & I. Subdivision, Block 19, Lot 24 from AG Agriculture to C-2 Commercial District. (Director of Development Services).

Ms Cantu stated this was brought before them earlier in the form of a public hearing, no comments were heard. This is a request to rezone property which is located on General Cavazos and is bounded by 6th Street and Franklin Adams. The property immediately to the north is zoned agriculture and is vacant. The Planning and Zoning Commission recommended approval of this request.

For clarification Commissioner Laskowski stated that the City owns a 150 feet wide strip along that road. He stated he had no problem as long as applicant is aware that any commercial development requiring ingress and egress of off Franklin Adams will have to go through City property. Ms Cantu responded that was pointed out to the applicant. For the record, Commissioner Laskowski stated that he would like the applicant to know that he is not getting the property all the way to Franklin Adams, that 150 feet belongs to the City.

INTRODUCTION ONLY

10. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 37.75 acres from AG Agriculture to R-1 Single Family Residential; property located at K.T. & I. Block 19, Lot 24 and Block 19, Part of Lot 13. (Director of Development Services).

Ms Cantu stated this was brought before them earlier in the form of a public hearing, no comments were heard. The property is located immediately south of the Briarwood Subdivision which is an established single family subdivision. The applicant plans to develop a three-phase subdivision known as La Blanca Estates with approximately 100 units. The plat for phase 1 is currently submitted to Staff for review. She provided information on surrounding properties. The property has access to all utilities. The Planning and Zoning Commission recommends approval.

Mayor Fugate called for questions or comments.

Commissioner Wilson asked if the developer planned to use Franklin Adams as sole means of ingress and egress, or if he planned to tie into second, fourth & fifth. Ms Cantu replied that as it stands now, the plat submitted is the actual middle of his thirty-seven (37) acres and there is a large undeveloped property to the north which is a budding of Briarwood and plans for that area are unknown.

Mayor Fugate voiced his concern regarding existing traffic on Franklin Adams, a State owned highway. Ms Alvarez stated speed limits will have to be addressed. Ms Cantu stated the plat will be sent to TXDOT.

Mayor Fugate called for questions or comments.

INTRODUCTION ONLY

11. Discuss and consider approving policy inclusions in the City of Kingsville's Administrative Policies and Procedures Manual. (Human Resource Director).

Ms Gonzales provided details on previous discussions and meetings regarding the policy manual.

Mayor Fugate called for questions or comments.

Commissioner Laskowski stated that while reviewing the draft policy manual he noticed there were a lot of referrals with regard to pre-existing policies. He stated that he would prefer that any reference to any other policy should not be included because this is the new policy which would be amended from this day forth. Ms Gonzales stated final draft would only show approval dates.

Commissioner Laskowski referred to numerous sections of the draft policy manual regarding corrections and providing recommendations: Chapter 2, page 3, Reclassification, needs language change because it seemed like the Human Resource Director had authority to reclassify employees; Chapter 3, page 5, change from department's to departments'; and Chapter 4, page 5, paragraph 2, the wording "may be required" was discussed.

Commissioner Wilson stated the problem with the word "may" and leaving it up to the department director is that there is no method in place to equally apply how they will say who gets a physical and who does not. Lengthy discussion followed regarding changing the language.

Regarding, Chapter 5, page 1, paragraph 3, Compensation, last sentence, Commissioner Laskowski asked a question in reference to exempt employees. He stated that he thought that he had spoken to Ms Gonzales about establishing a similar plan for exempt employees to coincide with hourly employees that would set in place an opportunity for people to move up in steps. He continued to say that this gives the department director the authority and discretion to move someone up in that pay range. Ms Gonzales stated that when presented in March there had been discussions but nothing has been formalized. She added that any change could be done at a later time. Commissioner Laskowski stated that he had asked for the change even before the start of the employee handbook. Commissioner Wilson stated there needed to be a way to incorporate as many items in this document as possible. Mayor Fugate asked Commissioner Laskowski what he did not like about this section. Commissioner Laskowski explained hourly employees receive step increases and that in a salaried position a person comes to work at the negotiated salary, at one year exempt employee receives a salary increase and after that only cost of living increases are received. Mayor Fugate asked what the

rationale was for not treating management and hourly employees the same. Commissioner Wilson stated that one of the rationales has been budgetary constraints. Mayor Fugate stated a budget constraint is not a good reason to discriminate. Mayor Fugate stated to Ms Gonzales that he wanted language included in this book.

Commissioner Laskowski pointed out a typo in Chapter 6, page 3, 1st paragraph; Chapter 6, page 5, Policy No. 620.00, last sentence, 1st paragraph, he stated this is contrary to the City's compensation plan. Decision was made to strike the wording "increase in wages". Another concern was the amount of time that an employee is required to be in a position before he can transfer or be promoted. He also addressed the distribution of checks section.

Lengthy discussion followed on the reason for keeping employees in a job for six months before they can transfer to another job.

Commissioner Laskowski stated that in Chapter 6, page 6, Policy No 620.04 – Overtime Pay, paragraph 4, the word "who" should not be stricken; page 8, Separation Pay, upon a question from Commissioner Laskowski, Ms Gonzales explained the pre-1984 sick leave buy back policy; page 9, Commissioner Laskowski stated the need for some language change to the section – Incident; and page 12, Commissioner Laskowski asked about the incentive qualification for exempt employees.

There were questions regarding changes to Chapter 7, page 3, Vacation Leave; page 4, Sick Leave; page 6, Continuing Treatment; page 7, Key Employees (not applicable to the City), page 12, last sentence – strike "operate"; page 17, change language in 2nd paragraph.

Commissioner Laskowski pointed out several areas of concern regarding Chapter 8. On page 1, Standard of Conduct and Practice, he stated that he does not want language to be so restrictive because of Safety Week and Regional Meetings sponsored by City departments. Mayor Fugate stated the Code of Ethics covers this section and this is not needed. Commissioner Laskowski stated the Code of Ethics only covers up to the position of Executive Secretary. On page 8, last paragraph, Commissioner Laskowski asked if the wording was going to be "shall" and "may". Ms Gonzales replied that the wording should be "shall". On page 12, Commissioner Laskowski stated the Dress Code policy would restrict employees from wearing Brahma shirts and caps with company logos. On page 16, Commissioner Laskowski commented on going back and forth on shall/may. He voiced his concern stating there is too much discretionary language that allows someone to be treated differently from another employee because the language says "may". Ms Gonzales stated that originally the wording was "may", Commission recommended "shall", and it was taken to supervisors whom recommended "may".

After much discussion regarding the words, shall/may, Commissioner Wilson recommended that City Manager Yerena develop a policy that gives guidance to supervisors. Mayor Fugate stated that was impossible. He stated there is obviously disagreement among the Commission. He suggested taking controversial items out and voting for them individually.

Commissioner Laskowski stated that the Take Home Vehicle Policy on Chapter 8, page 30, is one of the most discriminatory policies he has ever seen. Commissioner Garcia voiced his concern regarding taking City vehicles home, especially out of town after working hours. Commissioner Laskowski stated his personal opinion regarding this policy is that the City needs to come up with a responsible policy to the taxpayers of this community.

Mayor Fugate called further comments or questions.

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

Mayor Fugate announced that the City Commission would not be convening into Executive Session, Pursuant to Section 551.074 of the Texas Open Meetings Act to deliberate the evaluation of the City Manager, the City Attorney, and the Municipal Court Judge.

12. Executive Session: Pursuant to Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation of the City Manager, the City Attorney, and the Municipal Court Judge. (Mayor Fugate).

Mayor Fugate called for a motion to table this item. **Commissioner Wilson made a motion to table Agenda Item #12, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".**

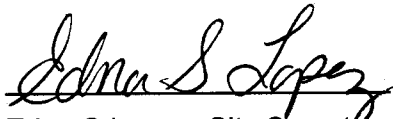
VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 8:15 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, City Secretary