

AUGUST 13, 2007

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, AUGUST 13, 2007 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, 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
Roel Carrion, Fire Captain
Fidel Gonzalez, Task Force
Yolanda Cadena, Health Director
Al Lopez, Fire Chief
James Creek, Firefighter
Joey Cordero, Firefighter
Armando Gutierrez, City Engineer
Ricardo Torres, Police Chief
Armando Sandoval, Fire Engineer
Steve Palacios, Firefighter
Mark Rushing, Finance Director
Dora Byington, Purchasing Director
Diana Gonzalez, Human Resource Director
Oscar Montalvo, Fire Captain
Bill Donnell, Public Works Director

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the Commission Chambers at 6:00 P.M., and announced quorum as present.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

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

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for consideration of the minutes of the special meetings of July 13, 2007, July 16, 2007 (11:30 AM & 5:00 PM), and July 17, 2007. Commissioner Laskowski made several corrections to the minutes of the special meeting of 11:30 A.M., July 16, 2007.

Commissioner Pecos made a motion to accept the minutes, as corrected, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos voting "FOR". Wilson "FOR" on the 17th, and "ABSTAINED" from all others.

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

1. Public hearing to rezone 3.77 acres out of Vista Alegre Addition, Block 2, Lots 5-20, Block 3, Lots 3-22 and 207.7 feet of abandoned 60' right-of-way, from R1 Single Family District to C1 Neighborhood Service District. (Interim Director of Development Services).

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

Interim Director of Development Services Bill Donnell stated the Diocese wishes to have this property rezoned in order to sale the property. Mayor Fugate stated there are a lot of neighbors

that do not want this done. Mr. Donnell stated this was approved by the Planning & Zoning Commission.

Mayor Fugate called for questions or comments.

The public hearing was closed at 6:08 P.M

2. Public hearing to rezone 10.41 acres out of Farm Lot 3, and 1.36 acres out of Farm Lot 7, Kleberg Town & Improvement Subdivision, from R3 Multi Family District to R1 Single Family District. (Interim Director of Development Services).

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

Interim Director of Development Services Donnell stated this is a proposed development of 248 units.

Mayor Fugate called for questions or comments.

The public hearing was closed at 6:09 P.M.

3. Public hearing for an alcohol variance application for Mary's Quik Stop located at 128 West Corral. (City Secretary).

The public hearing was opened at 6:09 P.M.

City Secretary Edna Lopez stated the applicant, Esteban M. Martinez has applied for a wine and beer retailer's off premise permit for a business known as Mary's Quik Stop located at 128 West Corral. Letters were sent out to property owners within 300 feet of the location, and there have been no objections.

The public hearing was closed at 6:10 P.M.

III. Petitions, Grievances, and Presentations.²

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the conference he attended in Florida. He stated that Staff is doing a good job on navigating through the issues of encroachment and in navigating through all the dealings with the base. He reported on the JLUS Policy and Technical committee meeting; on the family picnic to be held on Friday; on the continuance of Collective Bargaining with Fire and Police; on the next TML Region 11 meeting in Sinton, Texas; and on giving a presentation at the next TML Region 12 meeting in the Valley. He further provided information on the start of the KWOP program. He stated he had two presentations: Retiring Fire Captain Oscar Montalvo was presented several certificates and presents for his 30 years of service to the City of Kingsville. The United Styles Car Club was honored for their service at the last Trash-Off Day.

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

Mayor Fugate called for the City Attorney's report. City Attorney Courtney Alvarez reported on Collective Bargaining negotiations with Fire and Police; on the City Staff attending NIMS courses and thanked Mr. Ron Pray, Firefighter for teaching the courses; and reported on the next Master Plan advisory meeting.

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

Mayor Fugate called for the City Commission's reports. Commissioner Laskowski asked for an update on the status of the trailer parks for compliance of building and health codes. Commissioner Garcia provided information on a complaint at a business where containers are being used as storage.

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.

Mr. Wayne Sheffey, 320 University Blvd commented on Agenda Item #12.

Mayor Fugate called for consideration of the Consent Agenda Items 1-3.

V. Consent Agenda

1. Motion authorizing the City Manager to enter into a memorandum of understanding with John Womack & Co. P.C. to perform all pre and post audit procedures for the year ended September 30, 2007. (City Manager).
2. Motion authorizing the City Manager to enter into a memorandum of understanding with Patrick L. Moore, CPA to audit the financial statements for the year ended September 30, 2007. (City Manager).
3. Motion to approve an increase in cost for performing janitorial services at the Law Enforcement Center effective September 1, 2007. This action will expend \$107.44 more for the month of September and \$75.06 more starting on October 2007. (Purchasing Director).

Commissioner Laskowski made a motion to accept the Consent Agenda, as presented, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

4. Consider final passage of an ordinance renaming a street for PFC Daniel Alarcon. (Commissioner Garcia).

Commissioner Garcia stated this item be passed as presented, to rename Park Street, PFC Daniel Alarcon. Mayor Fugate asked if this was a motion. Commissioner Garcia replied that was his motion. Commissioner Wilson seconded the motion.

Mr. Rolando Chapa, VFW Post - Kingsville addressed the Commission and thanked them for considering this item, and asked that longer streets be considered. Commissioner Laskowski stated Park Street goes along the back of the Kleberg Bank to Lee Street.

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

5. Consider certification of 2006 excess debt collections and the certification of 2007 anticipated collection rate, pursuant to Section 26.04(b) of the Texas Property Tax Code. (City Manager).

Ms Melissa De La Garza, Tax Assessor Collector stated she was here pursuant to Section 26.04 of the Property Tax Code. She stated, "I, Melissa T. De La Garza, Collector for the City of Kingsville do solemnly swear, that the excess debt collections collected in 2006 for the City of Kingsville, Interest and Sinking Fund has been determined to be -0-. She further stated, "I, Melissa T. De La Garza, Collector for the City of Kingsville do solemnly swear, that the anticipated collection rate for 2007 for the City of Kingsville, Interest and Sinking Fund has been determined to be 100%. She stated this is housekeeping done yearly, pursuant to the Texas Property Code.

Mayor Fugate called for questions or comments.

Commissioner Laskowski made a motion to accept the certification of the 2006 excess debt collections and certification of the 2007 anticipated collection rate, pursuant to Section 26.04(b) of the Texas Property Tax Code, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

6. 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).

Ms De La Garza stated she comes before them pursuant to the Texas Property Tax Code, Section 26.04(b) & (e). She stated, I, Melissa T. De La Garza do hereby submit the total appraised, assessed and taxable values of all property and the total taxable value of new property in the City of Kingsville as certified to her by the Kleberg County Appraisal District and the 2007 Effective and Rollback Tax Rates. She stated the certified rolls may be viewed at her office. She stated that the Certified Appraised Value as per the Kleberg County Appraisal District, Net Taxable Value is \$616,420,286 which is an increase of \$17,385,835.

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

7. 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).

Ms De La Garza stated the roll back tax rate is .77814. She stated this rate was discussed with Finance Director Mark Rushing and Accounting Manager Caron Vela. She stated that from the tax rate of .77814, the debt rate is .26741 which cannot be changed. Ms De La Garza stated that basically what is needed to be discussed is the proposed rate which has to be a specific amount. She stated that Staff is proposing .77813 which is right below the rollback rate and this amount can still go lower. The best thing to do is to approve as much as possible then work down, if needed. She stated the proposed rate has to be a specific amount, there has to be a record vote, and if the City plans to go above the effective rate, two public hearings must be scheduled for September. Ms De La Garza stated the public hearings must be scheduled tonight. She stressed that if the City plans to go higher, then the steps must be followed. She stated the next notice will be published in the Kingsville Record on or about September 2nd which must include the record vote, the time and place of the two public hearings, and the comparison of the proposed budget with last year's budget.

Commissioner Laskowski stated that in order for the City to meet the debt requirements and to bring in the same amount of money as last year, the minimum increase is five cents. Mayor

Fugate called for the City Manager's recommendation. City Manager Yerena stated the City is looking at .77413. Ms De La Garza asked that she be kept informed of the City's intentions.

Mayor Fugate called for questions or comments.

Commissioner Laskowski made a motion to consider adopting a rate not to exceed .77813, and the public hearing dates are September 10th at 6:00 P.M. and September 17th at 6:00 P.M., at the Kingsville City Commission Council Chambers, 200 East Kleberg, seconded by Mayor Fugate. Mayor Fugate called for questions or comments. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

8. Consider introduction of an ordinance to rezone 3.77 acres out of Vista Alegra Addition, Block 2, Lots 5-20, Block 3, Lots 3-22 and 207.7 feet of abandoned 60' right-of-way, from R1 Single Family District to C1 Neighborhood Service District. (Interim Director of Development Services).

Interim Director of Development Services Donnell stated letters were sent out to property owners and four objections were received. The Planning & Zoning Commission has approved this item by a vote of 6-2. He provided information on the residents' complaints.

Mayor Fugate called for questions or comments. Commissioner Laskowski requested a copy of the minutes in order to view residents' comments.

INTRODUCTION ONLY

9. Consider introduction of an ordinance to rezone 10.41 acres out of Farm Lot 3, and 1.36 acres out of Farm Lot 7, Kleberg Town & Improvement Subdivision, from R3 Multi Family District to R1 Single Family District. (Interim Director of Development Services).

Interim Director of Development Services Donnell stated this rezone is for a proposed subdivision. Letters were sent out and no objections were received. The Planning and Zoning Commission unanimously approved this rezone.

Mayor Fugate called for questions or comments.

INTRODUCTION ONLY

10. Consider approval of alcohol variance for Mary's Quik Stop located at 128 West Corral. (City Secretary).

City Secretary Edna Lopez stated the applicant, Esteban M. Martinez has applied for a wine and beer retailer's off premise permit for a business known as Mary's Quik Stop located at 128 West Corral. Letters were sent out to property owners within 300 feet of the location, and there have been no objections.

Commissioner Pecos made a motion to approve the alcohol variance for Mary's Quik Stop, located at 128 West Corral, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Wilson, Pecos voting "FOR".

11. Consider awarding bids to three companies for supplying utility supplies for the Water and Wastewater Departments. (Purchasing Director).

Purchasing Director Dora Byington stated this item authorizes execution of annual contracts with three companies for supplying utility supplies for the Water and Wastewater Departments. Bids were advertised and four bids were received. This action does not directly expend any funds. Rather, the contract specifies unit prices and enables these items to be acquired as needed. She stated it is recommended that Ferguson, H.D. Supply, and Morrison Supply be awarded the contract.

Commissioner Laskowski made a motion to accept the Purchasing Director's recommendation to award the contracts to Ferguson, H.D. Supply and Morrison Supply based on her evaluation of the bid for the certain item numbers as per her recommendation, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

12. Consider awarding bid for the purchase of life insurance for all city employees. (Purchasing Director).

Purchasing Director Dora Byington stated this item authorizes the purchase of life insurance for all city employees. The amount of coverage is based on the employee's annual salary up to a maximum of \$60,000. It is recommended that Fort Dearborn Life Insurance Company be awarded the bid for life insurance coverage for approximately \$13,200.00 per year of \$39,600.00 for a thirty-six month period commencing October 1, 2007 and ending on September 30, 2010. She stated that Fort Dearborn Life Insurance submitted two identical proposals, one on behalf of Wade Nolan from Austin and Mike Cook from San Antonio; the other from Steven Keeven from Corpus Christi and Wayne Sheffey from Kingsville. She stated that the Commission can decide who gets the award by the casting of lots or by awarding the bid to the local bidder.

City Attorney Alvarez explained Section 271.9051 of the Local Government Code that specifies how the bid should be awarded. She stated the principal place of business has to be in the City and this is not the case.

Mayor Fugate stated there is a two-way tie, Mr. Sheffey lives here in Kingsville but the principal place of business is not in Kingsville.

Purchasing Director Byington stated that both representatives were present.

Mayor Fugate asked that each representative roll the dice and whoever gets the highest number gets the contract. Mr. Mike Cook from San Antonio rolled a "five"; Mr. Sheffey from Kingsville rolled a "two".

Mayor Fugate called for a break at 7:05 P.M.

The Commission reconvened at 7:07 P.M.

Commissioner Wilson made a motion based on the casting of lots, the bid be awarded to the San Antonio representative, Mr. Mike Cook, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 5, Traffic Schedules, providing for a new school zone for the Christian Life Academy and the installation of school zone signs; repealing all ordinances in conflict herewith and providing for an effective date and publication. (Public Works Director).

Public Works Director Donnell stated he was approached by members of the school to reduce the speed limit on Ailsie Avenue. He stated the City will expend approximately \$3,000.00.

INTRODUCTION ONLY

14. Discuss and consider a resolution authorizing the Mayor to enter into a tax abatement agreement with Landmark Valley Homes, Inc. in accordance with Guidelines and Criteria governing Tax Abatement for all taxing units located within the City of Kingsville. (City Manager).

City Manager Yerena stated this agreement is a two year agreement that would provide a tax abatement of 50% of the value of the improvements, capped at \$100,000. Mayor Fugate called for questions or comments.

Upon Commissioner Pecos' request Commissioner Laskowski provided an explanation of the tax abatement. City Manager Yerena stated the City is abating future taxes. Commissioner Pecos stated this explanation helps the citizens understand why the City is giving a tax abatement. For clarification, Commissioner Laskowski stated that any houses Landmark Valley Homes builds and sales are on the tax rolls and the taxpayer pays the City of Kingsville for them. He continued to say that only those houses that they have built and which are in inventory waiting to be sold would be subject to a snapshot. He stated the County has approved whatever the City agrees to do.

Commissioner Pecos made a motion to authorize the Mayor to enter into a tax abatement agreement with Landmark Valley Homes, Inc. in accordance with Guidelines and Criteria governing Tax Abatement for all taxing units located within the City of Kingsville, seconded by Commissioner Wilson.

Mayor Fugate called for further discussion. Commissioner Laskowski stated if this agreement is adopted the City is stating that the snapshot will be taken January 1, 2008, and that will be the taxable values that they will pay taxes on for 2008, and taxes will be due on January 2009.

City Manager Yerena stated he would get information for the agreement regarding a dollar amount for the anticipated initial investment. Commissioner Garcia reminded Commissioner Laskowski about the County's discussion regarding the section "Term". Commissioner Laskowski stated the County's requirement was that the abatement would terminate immediately upon Landmark Valley Homes no longer owning the property. Mayor Fugate suggested leaving the language as is, and to address the issue at a later time, if it arises.

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

15. Discuss and consider a resolution authorizing the Mayor to enter into a tax abatement agreement with Kelly-Pharr Investments for Holiday Inn Express in accordance with Guidelines and Criteria governing Tax Abatement for all taxing units located within the City of Kingsville. (City Manager).

City Manager Yerena stated Kelly-Pharr Investment has applied for a tax abatement agreement. They are asking for a five-year tax abatement with 100% for the first and second year, 75% for the third year, and 50% for the fourth and fifth year, with an anticipated improvement value initial investment of \$3,000,000. He announced a representative was present to answer any questions. Mayor Fugate called for questions or comments. Commissioner Laskowski commented on his concern about the project. He stated the City Manager had done a lot of work on a grant application for this project, which the City was successful in receiving the grant, and the developer declined to participate in the grant. He stated the project has been delayed on starting and now they want a five-year tax abatement with 100% for two years. He stated that the City just had a \$26,000,000 investment that is being offered a 50% tax abatement for two years. Commissioner Laskowski stated the City Manager had mentioned that the developer


did not want to sign the agreement because he did not intend to maintain the property for the length as required by the contract.

Mayor Fugate asked about reformatting the numbers. City Attorney Alvarez replied there isn't any reason why the City could not reformat either the number of years or percentage per year. Mayor Fugate stated he applauds Staff for all their hard work on that grant and that these are the same people that are trying to bring the I-Hop into town and that's the most asked question he receives. In fairness to everyone, he stated this needs to be comparable with the last agenda item.

Commissioner Wilson made a motion to table this item until the next regular meeting and give everyone an opportunity to make a fair assessment about what can be offered to them, in light of all the efforts that Staff have gone through to make this deal work, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Wilson voting "FOR". Garcia voting "AGAINST".

VII. Adjournment.

There being no further business to come before the City Commission the meeting was adjourned at 7:35 P.M.


Sam R Fugate, Mayor

ATTEST:


Edna S Lopez, City Secretary