

APRIL 27, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 27, 2009 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
Al Garcia, Mayor Pro-tem
Charles E Wilson, Commissioner – arrived at 6:27 P.M.
Arturo Pecos, Commissioner
Stanley Laskowski, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Md Naim Khan, City Engineer
Al Lopez, Fire Chief
Diana Gonzalez, Human Resource Director
Ricardo Torres, Police Chief
Frank Garcia, Wastewater Superintendent
Robert Rodriguez, Library Director
Mark Rushing, Finance Director
Joe Casillas, Water Production Supervisor
Dora Byington, Purchasing Director
Yolanda Cadena, Health Director
Vilma Castillo, Collections Supervisor
Ken Clark, Director of Development Services
Bill Donnell, Public Works Director

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:00 P.M., and announced quorum as present, Commissioner Wilson is excused.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by Ms 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 meeting of Monday, April 13th, 2009. Commissioner Laskowski made a motion to accept the minutes, seconded by Commissioner Pecos with a correction to the word McMullen. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos "FOR". Wilson "ABSENT".

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

Mayor Fugate announced there were no public hearings.

III. Reports from Commission & Staff.²

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor's Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration – Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, GASB 45 Report, Proclamations, and Entrust Health Insurance Fund Presentation. No formal action can be taken on these items at this time."

City Manager Yerena updated the Commission on an email that was received from a Fire Chief that is participating in the MOU – Task One who has informed the City that the State has paid 100%.

Ms Alvarez reported on being contacted by Mr. Mike Willet, Ricardo Water Supply; she wished all students good luck on the Texas TAKS test and wished all mothers a Happy Mother's Day.

Commissioner Pecos congratulated Staff on cleaning creek on Sage Road; he stated that the neighbors were very happy.

Commissioner Laskowski reported on events of Keep Kingsville Beautiful and on the beautification project on 6th & Yoakum. He congratulated several Texas A&M University-Kingsville organizations for their participation. He thanked the Women's Club and the Kingsville Volunteer Fire Department for their efforts on placing the blue reflectors marking the fire hydrants.

Commissioner Garcia provided information on job training classes and certification for students on May 5th, 2009.

Mayor Fugate reported on his trip to Reynosa, visiting with the Mayor from Reynosa and the Past Mayor's brother.

Mayor Fugate presented proclamations to volunteers of VITA – Kingsville Volunteer Income Tax Assistance.

City Manager Yerena announced there was a presentation. Ms Bonnie S. Albritton, Vice President & Principal for Louis and Ellis, Inc. addressed the Commission and provided an overview of the company, Louis and Ellis, Inc. She present the report on the analysis of the post-retirement health benefits which included a projection of benefit costs and a determination of disclosures as specified by GASB Statement 45. She stated that the City pays for and reports retiree benefits on a "pay-as-you-go" basis, which is the practice of paying for these benefits as they become due each year. She discussed information on the Retiree Health Projections GASB Statement NO. 45 booklets. Ms Albritton explained that some clients have modified their benefits. Ms Albritton discussed the advance funding disclosure options.

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.

V. Consent Agenda

NONE

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. **RESOLUTION NO. R2009-19 Consider resolution authorizing the City Manager to enter into an Interlocal Agreement between the City of Kingsville and Santa Gertrudis Independent School District relating to COPS Hiring Recovery Grant Program 2009 and Cooperative Working Agreement. (Police Chief).**

Chief Torres stated that the grant was submitted and this is the next step, should the grant be awarded, to get an officer at SGISD. Mayor Fugate called for questions or comments. Commissioner Wilson commented on setting up a fund account and having SGISD pay into that fund, whatever the three year mark is, and in year four the City would not have to ask them for money. He stated that the City's position is already funded and there would be no financial obligation on anybody's part. He stated that would be a more logical methodology of putting all this in place. Ms Alvarez stated that was the way the interlocal was drafted and presented to SGISD, but their attorney stated there is some type of school law where that can be construed as a loan. She added that

it was their attorney's recommendation to paying a lump sum in the fourth year so that they do not get into any issues. Commissioner Wilson asked if the City had explored the situation. Ms Mary Spring, Superintendent SGISD, addressed the Commission and stated there is issues with school boards, other than bond issues are not able to commit future funds to other entities. She stated it is a general law and agreed this would have been easier if it was legal.

Mayor Fugate called for further questions. Commissioner Laskowski asked a question with regard to annual appropriation and if the school board decides not to fund in the fourth year. Ms Alvarez replied this is a legal obligation.

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

2. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XIII, Article 2, Weapons Control, Adopting §13-2-30(D) providing for discharge of firearms at shooting galleries, pistol ranges, trap shooting, and skeet shooting establishments. (City Attorney).

Ms Alvarez stated a local property owner contacted the City in reference to someone executing a lease for an indoor shooting range and sporting good store. She stated that under the current City ordinance even with a regulated well designed indoor shooting range would not be allowed based on how the ordinance is written. She stated the current ordinance has not been touched since 1959.

Mayor Fugate called for questions or comments. Commissioner Wilson commented on Section (D) and asked if the City's building code has in it enough language that it would create a facility built well enough to accommodate. He also questioned trap shooting and skeet shooting which would require an enormous amount of property. He asked how this was addressed separately from an indoor facility. Ms Alvarez replied that with regard to the building code issue the City through its code of ordinance has adopted the International Building code that addresses multitude types of buildings. She added there are provisions that set out specific types of indoor shooting ranges. She added that the outdoor shooting area would have to be in compliance with zoning, building code and approved by the Fire Marshal. Ms Alvarez stated that there is no request for a trap or skeet shooting establishment, but when someone makes a request the land use chart would have to be amended. Commissioner Wilson commented that if this ordinance is amended then the land use chart should be changed as well. Ms Alvarez stated that the Fire Marshal's involvement is in case the ammunition explodes.

INTRODUCTION ONLY

3. Consider approval of a request to install a street light at 310 S. 25th Street.

(City Manager).

City Manager Yerena stated there was no action on this item at the last meeting, and Staff is not recommending approval. The applicant was notified about this agenda item but was not present.

Commissioner Pecos made a motion NOT to approve the request for a street light at this location, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR".

4. RESOLUTION NO. R2009-20 Consider resolution authorizing the submission of an application to the Justice Assistance Grant (JAG) Program for the purpose of requesting funding for a broad range of activities to prevent and control crime and to improve the Criminal Justice System. (Police Chief).

Chief Torres stated this grant would allow apply for a broad range of activities to prevent and control crime. He stated as part of the recovery act this has allowed for them to apply for a grant in the amount of \$122,502.00 for Kleberg County and the City of Kingsville. He stated this particular grant has to be filed along with the County due to being identified as despaired entity. He stated that the City is eligible for \$108,999.00 of the total amount. No cash match is required for accepting this grant. Chief Torres stated that if they do not apply they would not be eligible for the \$1.6m grant funds from the COG. He recommended that the City work in partnership with the County and actually apply for 50% allocation. He added that the Sheriff is in agreement, but has to be approved by Commissioners' Court.

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

5. RESOLUTION NO. R2009-21 Consider resolution establishing the City of Kingsville Red Flag Policy for identity theft detection and prevention for utility customer accounts. (Finance Director).

Mr. Rushing provided some history, in 2003 the Fair and Accurate Credit Transaction Act came forth and then the Red Flag legislation was put forth in January 1, 2008. He stated that the City has safeguards in place on data received, but this is looking in red flags that would indicate patterns of deception and information that comes through in verification of the identity of people as they set up accounts and transfer accounts. He added that the Utility department qualifies under this act. He stated there would be in-house training.

Commissioner Laskowski made a motion to adopt this resolution establishing the City of Kingsville Red Flag Policy for identity theft detection and prevention for utility customer accounts, seconded by Commissioner Garcia. Mayor Fugate stated this will be policy and it sets the standards. Mayor Fugate called for a roll-call vote. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

6. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV; providing for amendment to Section 15-3-50 pertaining to the type and height of curbs. (City Engineer).

Mr. Khan stated this ordinance proposes six inch curbs and would help with the passage of street to carry the water. Commissioner Wilson commented that this would help with the yard parking problem.

INTRODUCTION ONLY

7. Consider resolution of the City Commission of the City of Kingsville urging a moratorium on Home Foreclosures and Congressional Enactment of a Homeowners and Bank Protection Act. (Commissioner Garcia).

Commissioner Garcia stated this resolution was being promoted at the National League of Cities. A group was urging this resolution, especially the Valley. Mayor Fugate voiced his concern about government getting involved in banking between private citizens and banking institutions. He then voiced his concern about the stimulus package. He stated that government wants to bypass laws that are already in existence. Commissioner Garcia stated that the Federal government had gotten involved and the economy is slowly turning around. Commissioner Pecos stated that banks were lending monies to people that they knew could pay back the money.

Commissioner Garcia made a motion to approve the resolution, seconded by Commissioner Pecos. The motion FAILED by the following vote: Garcia, Pecos voting "FOR". Fugate, Wilson, Laskowski voting "AGAINST".

8. **RESOLUTION NO. R2009-22 Consider resolution authorizing the City Manager to enter into contract with HDR Engineering, Inc. for professional services for a water and sewer rate model update for the City of Kingsville, Texas. (City Manager).**

City Manager Yerena stated this would allow the City to enter into a contract for a water and sewer rate study, costing \$24,000.00, monies are budgeted. Upon a question from Commissioner Pecos, City Manager Yerena explained this was previously done about five years ago and the last leg was implemented this year, now the City is looking at making projections for an additional five years. He added this is a continual study. Mayor Fugate called for questions or comments. Commissioner Laskowski stated that the City fell behind because the same rates were kept for years and the cost for operation continued to escalate and the rates stayed the same. He added that's the reason for massive catch up. He stated this is a proactive approach providing the citizens with a good quality service, being able to plan long range for infrastructure improvements, and to make sure that the City is getting the value of the service being provided. City Manager Yerena stated this would keep the city in line with other communities and with actual projected costs. Upon a question from Commissioner Garcia, Commissioner Laskowski replied that the City followed the recommended proposal right down the line, and that the water and sewer rates were raised as recommended by HDR.

Commissioner Laskowski made a motion to authorize the City Manager to enter into a contract with HDR Engineering for professional services for a water and sewer rate model update, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".

Commissioner Wilson asked that Agenda Item #11 could be heard at this time. The Commission was in agreement.

9. **Discuss potential tax increment finance zone request by developer Mark Dizdar for Paulson Falls Phase III. (Mayor Fugate).**

City Manager Yerena stated the city has looked at this concept some time ago, specially adopting it for Main Street. This allows for any additional increases in the appraised value of a property to go to designated zone for designated infrastructure improvements. He stated a developer is requesting this for Phase III of Paulson Falls. He stated that any additional increases in the appraised value would go back into that zone. The developer is looking at a total of 133 new residences. This would add an average value per \$150,000.00 per home adding approximately \$20,000,000.00 to tax base of the City, County, and School District. He stated the City is being asked to participate up to the M&O tax rate. He added that it was discussed that they would assist with the City's street failure issues at Paulson Falls Phase II. He stated they are looking at estimated time frame for the zone to be 19 years. City Manager Yerena stated a financing plan was provided and Staff does have some questions on the numbers provided. He stated that they are asking for 100% reimbursement of all the improvements, but Staff does not think that is feasible. If anything the City is looking at 50% reimbursement and would need County participation. He stated that if there is no County participation it would make this project very difficult to be feasible.

Mayor Fugate stated that Paulson Fall has about 6 or 7 lots left in Phase I & II, Las Palmas is full, and the subdivision by the park is full, quite frankly the City is running out of lots. He stated 100% is out of the question and he is concerned about County participation. He stated that other communities have used this tool to encourage development and the City is going to have to resort to some of these types of innovative ideas and financing ideas to get develop to the City.

Commissioner Pecos stated that every time the City brings in economic development the County is getting their share of the taxes but they don't share the burden. He reminded the Commission that people are coming and we need the housing.

Upon a question from Mayor Fugate, City Manager Yerena replied the City will get clarification on including Phases I & II. Commissioner Laskowski stated it is the whole Paulson Falls Phases I, II, & III. Mayor Fugate commented that will not work.

Commissioner Laskowski stated that two County Commissioners were not interested in giving away any of their tax money and they have a lack of understanding of what is trying to be accomplished. Commissioner Pecos stated if the City does not build, then the County gets nothing. Commissioner Laskowski suggested educating the County Commissioners so they fully understand what the City is trying to accomplish. He suggested bringing Mr. Dizdar and the person from San Antonio make a presentation to the County Commissioners court. City Manager Yerena stated this is a viable economic development tool and in some point in the future the City will be able to use it.

Mayor Fugate stated that with this particular project it is really late for the developer to be waiting six to seven months to start this program. Commissioner Wilson commented that this Commission for the last ten to twelve years has worked aggressively and thought outside of the box and has let a lot of communities in finding ways to help contractors and developers come to town.

Mayor Fugate provided Staff with the direction to get a hold of Mr. Dizdar and the County to set up a meeting for a presentation. Commissioner Laskowski stated that the developer should be made aware that the City will not consider any more than 50% and hinges upon County's participation. Mayor Fugate stated it would be limited to Phase III.

10. Discuss possible conversion of the old H.M. King High School building located at Kleberg Avenue and North 3rd Street into a new City Hall. (Mayor Fugate).

Mayor Fugate stated that about a month ago he thought this was a dead issue because it did not look like the foundation and the school could come to terms with their agreement, but it seems like they have. KISD has approved an agreement to transfer the school district's interest to the H M King High foundation which was established three ladies. He stated they are a 501C3 foundation, tax non-profit organization. He stated they are in the process of organizing foundation and accepting the agreement. Then the old high school will go into this foundation. He stated this could a great project for the City and community. There needs to be a mechanism in place between the foundation and the City, if the City is still interested. Ms Macon is the attorney for the foundation and Judge Krueger will be involved. He stated that the city does not have the money, but this will have to be a private and public partnership, heavy on the private. He stated he is hoping to move this forward.

Mayor Fugate called for questions or comments. Commissioner Laskowski asked about the City's portion for a cash match. Mayor Fugate replied to get the building stabilize the City might have to put some money into it. Mayor Fugate stated it will be significant money but not significant to what the overall project will cost. An architect has looked at the building, it is structurally sound, and the brick on the outside is in good shape. The inside has to be gutted due to mold remediation, and it is a 20,000 square foot building. City Manager Yerena stated there isn't any question that the City needs additional space, and he likes the possibilities of the building because it lends itself to the downtown district concept. He stated the question will be the amount of the match then Staff can see if it is feasible. Mayor Fugate stated some grant writers have an interest in this building, including the Texas Historical Commission. City Manager Yerena stated that if it had been a courthouse this would have brought in more grant money.

11. Consider approval of a change order for the Carriage Park Drainage Project. (City Engineer).

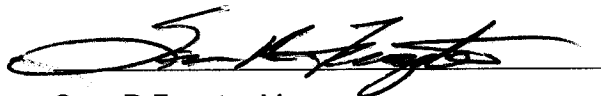
Mr. Khan stated he had made some revisions to the project. He stated he changed the: (1) changed the inlet sizes, (2) the outfalls structures had no connection to the outfall pipes to proposed 42" pipe, (3) no backflow calculations were found, and is proposing to install 100-150 LF of open channel with concrete line at the base and both sides to hold

more water before it goes to upstream. Commissioner Laskowski thanked City Engineer Khan for his diligence on this project. Commissioner Garcia asked for the location of the beginning of the project. Commissioner Laskowski replied they are putting in two inlets that never existed, one on either side of Ailsie behind Kelly Street. They are running a 24 inch pipe line all the way down behind east of Shelly which will tie into the revamp drainage for Sherwood, Christy, and Palm. He stated they are re-cutting a ditch on the westside of Shelly Street all the way down.

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

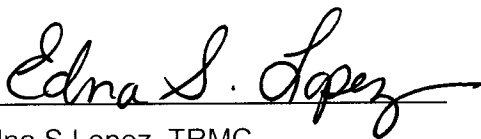
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:48 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC
City Secretary