

MAY 11, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MAY 11, 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
Arturo Pecos, Commissioner
Stanley Laskowski, Commission

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Naim Khan, City Engineer
Dora Byington, Purchasing Director
Dianne Leubert, Solid Waste Superintendent
Al Lopez, Fire Chief
Ricardo Torres, Police Chief
Diana Gonzalez, Human Resource Director
Yolanda Cadena, Health Director
Mark Rushing, Finance Director
Bill Donnell, Public Works Director
Ken Clark, Director of Development Services

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, 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 27th, 2009. **Commissioner Laskowski made a motion to accept the minutes, with changes, 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).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, Proclamations, Entrust Health Insurance Fund Presentation and

First Southwest Company Presentation. No formal action can be taken on these items at this time."

City Manager Yerena reported that City Hall will be closed on Monday, May 25th in observance of Memorial Day; the date for the next regular meeting of the Commission will be on Tuesday, May 26th; the Kingsville Firefighters will be doing their annual MDA drive on Thursday, Friday, & Saturday, May 14th – 16th, 2009 at 14th and King; and the ribbon cutting ceremony for the beautification project will be on Thursday, May 14th at 3:00 P.M.

Mr. Rick Medrano, Entrust representative provided information on a six month evaluation in comparison to same time from last year. He stated the Aggregate Report is an accumulative six month report which is below the expected. He explained the Paid Claims by Type; PPO Savings by Claim Type; PPO Utilization; Paid Claims by member type; Top 10 Providers; Aggregate Claim loss ratio; Aggregate Claim history; Claim Utilization trends; and PPO Savings trends. The top provider is Christus Spohn for inpatient and outpatient services.

Mr. Donnell, Public Works Director, presented information on the I & I Study. He stated pipeline analysis had smoke tested approximately 85% of the City. He stated problems were found with the sewer lines which were the service line clean outs and broken service lines. He stated there was an indication for manhole rehabs and some sewer lines replacements. He stated that the collections division has started doing some of this maintenance. In accordance with the TCEQ plan for the sanitary sewer overflows, he stated this report will be utilized to put the plan in action. He added this will be addressed in the near future. Mr. Donnell explained that Water Well #24 building will be completed at the end of May. With regard to the I & I Study, Commissioner Laskowski asked if the serious problem was identified for the South side of the City. Mr. Donnell replied he has not looked for that, but will identify when rehab report is ready.

Ms Alvarez reported on receiving a calendar from the financial advisor and bond council with regard to 2009 Certificates of Obligation that the City is contemplating for the refunding of older bonds for a lower interest rate. She stated that according to the calendar a special meeting will be necessary for next Monday to consider the adoption of an ordinance authorizing issuance of the bonds and authorizing execution of the bond purchase agreement. She announced that agenda items for the next City Commission regular meeting are due on Wednesday, May 20th.

Mayor Fugate presented a Motorcycle Safety & Awareness month proclamation to members of the Gypsy Motorcycle Club.

Commissioner Laskowski reiterated the City Manager's comments with regard to the ribbon cutting ceremony at the beautification project located at 6th & E Yoakum.

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.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-5. **Commissioner Laskowski made a motion to accept the consent agenda, as presented seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".**

V. Consent Agenda

1. **ORDINANCE NO. ORD2009-09 Motion to approve final passage 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).**
2. **ORDINANCE NO. ORD2009-10 Motion to approve final passage 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).**

3. RESOLUTION NO. R2009-23 Motion to approve a resolution of the City of Kingsville authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Boy Scouts of America Venado District. (Police Chief).

4. RESOLUTION NO. R2009-24 Motion to approve a resolution authorizing the submission of an application to the U.S. Department of Homeland Security for the Assistance to Firefighters Grant Program for self-contained breathing apparatus units. (Fire Chief).

5. RESOLUTION NO. R2009-25 Motion to approve a resolution authorizing the Police Chief to enter into a Memorandum of Understanding between the Texas Department of Family and Protective Services and the Kingsville Police Department relating to protocols for joint investigations of reports of abuse of children. (Police Chief).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

6. Consider authorizing First Southwest to proceed with the Certificates of Obligation 2009 Bond Refunding Issue. (Finance Director).

Ms Entrekin, First Southwest Company addressed the Commission, and stated this was a follow-up to a previous presentation. She stated her company had worked very closely with City Staff to bring to the Commission three different scenarios for their guidance and recommendation on how they wish Staff to move forward. She explained tab #1, CO, Series 1998, original principal amount \$3,000,000; proposed refunded principal, \$1,845,000; proposed refunded maturities, 2010-2018; and coupons range from 4.60% - 4.90%. She stated the other issues are the CO, Series 2001, original principal amount, \$3,305,000; proposed refunded principal, \$400,000; proposed refunded maturity, 2011; and the coupon is a 4.30%. She explained the Summary table with the three scenarios. She stated this year the debt service tax rate for the City is \$0.26 and next year it is projected to go to \$0.28. She stated this is the case due to the equipment purchases that were made within the last year. Ms Entrekin stated that in 2012 the City's tax rate has a dramatic increase. She explained scenario #1: Par amount \$2,275,000; Maturities 2010-2018, Projected True Interest cost 2.879%; Projected net present value debt service savings, \$94,935; Projected present value benefit as a percent, 4.229%; Projected FYE 2010 I&S Fund tax rate increase, \$0.0205; Scenario #2: Par amount, \$2,270,000; maturities 2010-2018; Projected true interest cost, 2.916%; Projected net present value debt service savings, \$99,935; Projected present value benefit as a percent, 4.447%; projected FYE 2010 I&S fund tax rate increase, None. Ms Entrekin stated that Scenario #3 is another option. She stated that rather than using debt to refinance and pay off some of the higher coupon bonds, this option looks at using some of the City's fund balance to pay off the bonds. There are no par amounts, no maturities, no projected true interest cost, the net present value savings is \$262,586. However, she pointed out that the reduction to fund balance is \$1,589,215. She added that the City would spend approximately \$1,600,000 of the fund balance to get \$262,500 or the City can use none of the City's existing fund balance and save between \$95 – 99,000. She added that when refinancing, real market rates are used. Ms Entrekin added that these numbers are subject to change. She explained the timetable and added that there had been a very positive phone call with Standard & Poor. She stated that City staff did an excellent job of representing the City, that they had given great insides into the economy in Kingsville. Ms Entrekin stated that the calendar indicates that a special meeting is needed on Monday the 18th, but can be done at regular meeting of May 26th. She stated the information doesn't require resolution or formal action at this time, but is hopeful that the Commission can give them guidance as to which scenario they would like to move forward with. She asked that the Commission provide a minimum savings threshold.

Mayor Fugate called for questions. Commissioner Laskowski asked if Series 2001 was for bonds for the landfill. City Manager Yerena replied that was correct. Commissioner Laskowski then asked if the balance of the bond was only \$400,000. He stated that personally he would like to use some of the City's reserves to pay off the \$400,000 because the money that was borrowed was for a sector of the landfill which is going to be full very soon, and would not want to be making debt service payments on it. He

explained that his concern was that the City was going to refinance something that is no longer there and no longer available to the City.

Mayor Fugate called for Staff's recommendation. City Manager Yerena responded that Staff's recommendation is for scenario #2. After several comments about concerns with scenario #2, Ms Entrekin stated that a scenario #4 could be provided for their consideration. She suggested waiting until the meeting of the 26th for their consideration. Commissioner Laskowski stated he did not need to wait until that time as long as he had the number he could look at it and tell her if that is reasonable. Ms Entrekin stated they would use the same rate as if information was provided on May 5th. She asked for guidance in order to proceed and asked for an amount of minimum savings that the Commission would like to see. Ms Alvarez reminded the Commission that only two Commissioners could provide feedback, if not they could be in violation of the Open Meetings Act. Commissioner Wilson stated that he would be comfortable moving forward with scenario #4. Upon a request from Mayor Fugate, Ms Entrekin suggested an amount around the 3%, no less than 2.5%, she added that she was hesitant to give a firm number, but if she sees it is getting too low she would communicate with the City Manager.

Commissioner Garcia made a motion to accept the recommendation from Bond Council with a minimum threshold of 2.5%, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Laskowski, Garcia voting "FOR".

7. Consider authorizing the City Manager to enter into a memorandum of understanding with John Womack & Co. P.C. to audit the financial statements for the year ended September 30, 2008. (City Manager).

City Manager Yerena stated that Mr. Patrick Moore is withdrawing as the City's independent auditor. The information provided is a communication letter from Mr. John Womack who was assisting in the City's financial area, so he was required to have someone check his work. He explained there were two things happening, first there is the resignation from the independent auditor, and secondly, some of the task that Mr. Womack was doing are now being done by the City's finance department so there does not exist a conflict anymore. He stated that Staff's recommendation is to continue the relationship with Mr. John Womack and for him to serve as the independent auditor.

Commissioner Wilson made a motion to authorize the City Manager to enter into a memorandum of understanding with John Womack & Co. P.C. to audit the financial statements for the year ended September 30, 2008, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

8. RESOLUTION NO. R2009-26 Consider resolution accepting communication letter from independent auditor John Womack & Co., P.C., authorizing the Mayor to execute the letter on the City's behalf. (Finance Director).

Mayor Fugate stated this resolution would allow him to sign the independent auditor's communication letter.

Commissioner Wilson made a motion to approve the resolution, seconded by Commissioner Pecos. Mayor Fugate called for further discussion. Commissioner Laskowski asked about designating to whom three different matters that may arise in an audit be reported to (i.e. the Commission or Management). Mr. Rushing responded this should be reaffirmed. Ms Alvarez explained that in the prior resolution the option was given to select but now this resolution states it under roman numeral one. 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 City of Kingsville Code of Ordinances by amending Chapter XV, Land Use, Article 6, Land Use Categories; addition of trap shooting and skeet shooting establishments. (City Attorney).

Ms Alvarez stated that currently there is nothing in the land use chart to allow for trap shooting or skeet shooting, so it was suggested for Staff to prepare an amendment to the land use chart. She stated that since item was printed and put in Commission packet, a concern with regard to allowing it to be permitted in AG was brought up since there are a couple of spaces in town near residential areas. She stated that it might be considered to allow it only in I1 & I2, and not having it be allowed in AG or having it be allowed with a special use permit.

Mayor Fugate called for questions. Commissioner Laskowski asked if there was a defined area for gun range in the land use chart. Ms Alvarez replied this would be under the provisioning and recreational sporting goods sales including boats and vehicles. She stated this could be added as a separate item in those same areas. Ms Alvarez stated that at the final reading, a separate line will be created in the chart. She asked about a preference with regard to AG or with a special use permit. Commissioner Wilson replied as minimum with special use permit. For clarification, Commissioner Laskowski asked if a special use permit goes before the Planning and Zoning Commission. Ms Alvarez replied that was correct and once approved by them it is presented to the Commission as an ordinance. Upon a question from Commissioner Garcia, Ms Alvarez replied this is just a land use as to where that type of activity can be conducted. Mayor Fugate stated that as the law stands a firearm can not be discharged in the city limits unless there are certain circumstances. He then asked why this is being done. Ms Alvarez replied that a property owner has a tenant that is interested in building this type of business. Mayor Fugate stated this is very loud so why is it being considered. Ms Alvarez stated that one of the Commission member's had suggested that this be brought to the Commission at this meeting. Commissioner Wilson explained that he wanted to include trap and skeet shooting establishments in the previous language and there was no way to accommodate. He added that it should be dropped from the original language and to only make it an indoor shooting range which would eliminate the need for having to zone it. Commissioner Laskowski explained that an ordinance was voted by consent which allows the discharge of firearms at shooting galleries, pistol ranges, trap shooting and skeet shooting establishments and there is nothing in the City's zoning ordinance that designates the area to do all these things. He added that the change should have been done in the ordinance. There was a question about revisiting the previously approved ordinance. A decision was made to revisit the ordinance with the change along with the land use chart during the meeting on the 18th.

INTRODUCTION ONLY

10. Consider awarding the Bid No. 2009-29 for the purchase of one Cat 908H wheel loader for the Brush Crew in the Sanitation Department. (Purchasing Director).

Ms Byington stated it is recommended that the bid be awarded to the bidder offering the best value to the City, Holt Company from Corpus Christi, Texas for a total of \$79,182.00 to come from account 063-5-170.2-712.00.

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

11. RESOLUTION NO. R2009-27 Consider resolution authorizing the City Manager to enter into an Interlocal Agreement between the City of Kingsville and Kleberg County relating to the Justice Assistance Grant (JAG) Program award. (Police Chief).

Chief Torres stated this is the interlocal agreement drafted by Ms Alvarez. This agreement was presented to the County Commissioners and is awaiting signatures.

Commissioner Wilson made a motion to authorize the City Manager to enter into an Interlocal Agreement between the City of Kingsville and Kleberg County relating to the JAG Program award, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, Wilson voting "FOR".

12. RESOLUTION NO R2009-28 Consider resolution of the City of Kingsville, Texas authorizing intervention in AEP Texas Central Company's and AEP Texas North Company's request for approval of an Advanced Metering System (AMS) Deployment Plan and request for AMS surcharges filed a the Public Utility Commission of Texas; Approving cooperation with the Steering Committee of cities served by AEP Texas Central Company and Steering Committee of cities served by Texas North Company to review the application, hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; Finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to legal counsel. (City Attorney).

Ms Alvarez stated that AEP is looking to purchase approximately 900,000 Advance Metering System (AMS) overall estimated cost is \$474,000,000. She stated that in order for them to do that they have to get approval from the appropriate regulatory agency. The two things that have to be approved are: First, the Commission has to certify or approve that the metering devices that will be used by AEP will in fact meet the Commission's requirements, and secondly, the Commission has to approve a plan for recuperating the cost for the metering system. There is a proposed two step surcharge for monthly residential customers for additional \$3.25 per month for the first 4 year deployment period (2009 – 2012). It will then decrease to \$2.83 per month for seven additional years (2013-2020). All customers will pay the infrastructure surcharge whether or not they have received an advanced meter. The resolution would allow the firm that has been used in the past through STAP to retain a law firm, Lloyd Gosselink Rochelle and Townsend, P.C., to intervene in all member cities behalf. She stated there is no out of pocket expense to the City.

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

13. RESOLUTION NO. R2009-29 Consider resolution authorizing the City Manager to enter into a professional services agreement with Matrix Design Group, Inc. for the Joint Land Use Study (JLUS) Implementation Plan for Kingsville, Texas. (City Manager).

City Manager Yerena stated this allows Staff to enter into an agreement with Matrix Design Group and Staff is comfortable with the contract. The funding will come from the grant with a 10% match from the City. The total grant is for \$188,000.

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

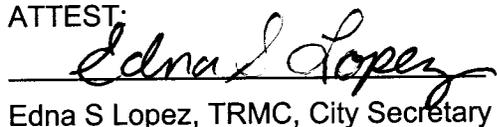
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:15 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, City Secretary