

AUGUST 10, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, AUGUST 10, 2009 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL/200 EAST KLEBERG AVENUE AT 4:30 P.M.

CITY COMMISSION PRESENT:

Sam R Fugate, Mayor
 Al Garcia, Mayor Pro-tem
 Charles E Wilson, Commissioner arrived at 4:45 P.M.
 Arturo Pecos, Commissioner
 Stanley Laskowski, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
 Edna S Lopez, City Secretary
 Courtney Alvarez, City Attorney
 Yolanda Cadena, Health Director
 Frank Garcia, Wastewater Supervisor
 Macario Mayorga, Water Supervisor
 Mark Rushing, Finance Director
 Naim Khan, City Engineer
 Dianne Leubert, Solid Waste Superintendent
 Y I Hinojosa, Street Field Supervisor
 Diana Gonzalez, Human Resource Director
 Caron Vela, Accounting Manager
 Ken Clark, Director of Development Services
 Dora Byington, Purchasing Director
 Bill Donnell, Public Works Director
 Jennifer Vela, Code Enforcement Officer
 John Garcia, Risk Manager
 Fidel Gonzalez, Task Force Commander
 Joe Casillas, Water Production Supervisor
 Ricardo Torres, Police Chief
 Al Lopez, Fire Chief

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order at 4:44 P.M. in the City Commission Chambers announced quorum was present with Commissioner Wilson absent, and that this was a workshop.

CONVENE INTO REPORTS FROM COMMISSION & STAFF – ITEM III- REGARDING BUDGET WORKSHOP FOR CITY DEPARTMENTS.

City Manager Yerena stated this workshop gives the Commission the opportunity to hear from the Department Heads, Finance is still working on revenue, and it appears Staff's goal is to maintain the same rate. He asked the Commission adopt a proposed tax rate right below the roll-back rate.

Mr. Rushing announced there is a tentative calendar schedule for department budgets. Commissioner Laskowski suggested that only the scheduled department heads attend the scheduled meeting in order to avoid having staff just sitting around.

Municipal Building: Mr. Khan, City Engineer addressed Commission and stated everything remained the same, but is requesting money for repairs to the employee parking lot, additional security cameras for collections, and repairs to the stairway. Mr. Khan addressed professional services, stating that the increase is due to higher prices for cleaning services.

Train Depot: Mr. Khan stated there is a change to the amount of printing and publishing, and there is an increase for the building maintenance due to a door that needs to be fixed.

Streets: Mr. Khan explained there is an increase in overtime due to employees working with hot mix; an increase for materials for street & bridges; and an increase in drainage. Mr. Khan stated he is planning to do a lot of reconstruction. The Commission was provided a handout.

Mayor Fugate stated he has had a lot of compliments on the City working on the streets. There was discussion on manpower. Commissioner Pecos suggested hiring an extra person making the total of twenty-one employees. Mr. Khan stated it is always good to have two people working on the sweeper. Mayor Fugate suggested the City Manager look at this option and come back with a recommendation.

Engineering: Mr. Khan explained there were two changes for professional services, and training & travel. He stated he is planning to attend several seminars to receive some certifications.

Planning: Mr. Ken Clark, Director of Development Service addressed the Commission and stated the objective was to try to keep everything as close to the current budget year. He explained the discrepancy in salaries; there is an increase for supplies; there are no monies for computers; and training & travel has a small amount for anything that may come up. He stated he is fine with the reduction in training & travel.

Permits & Licenses: Mr. Clark stated this budget is in line with the current budget. There is a small amount for overtime in case of an emergency. He stated both department vehicles are old and repairs will be needed. He stated he has returned the City's cell phone and that training & travel was decrease due to staff requiring very little training for this year.

Litter Abatement: Ms Jennifer Vela, Code Enforcement Officer addressed the Commission and stated there is an increase for motor, gas & oil due to a new vehicle that was added to the department; two new laptops for the vehicles; professional services programs will be added; and training & travel has increase due to employee receiving certification and training and license renewals will be needed.

Mayor Fugate called for a recess at 5:55 P.M. before beginning the regular meeting.

Mayor Fugate called the meeting to order in regular session at 6:04 P.M.

6:00 P.M. – Regular Session of the Agenda continues.

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 Monday, July 27th, 2009. **Commissioner Pecos made a motion to accept the minutes, as presented, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Laskowski, Pecos voting "FOR".**

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

1. Public Hearing for an alcohol variance application for K-2 Food Mart located at 128 W Corral. (City Secretary).

Mayor Fugate opened the public hearing at 6:07 P.M., and announced anyone wanting to speak on this item could do so.

Ms Lopez, City Secretary stated that the property owner is requesting a variance for a wine and beer retailer's off-premise permit. The Engineering department performed the research and physical inspection and concluded that the property is question falls within the 300 ft boundary of a school, therefore requires a variance. Letters were mailed to residents within the 300 ft boundary, and no opposition was received.

Mayor Fugate closed the public hearing at 6:09 P.M.

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, Tax Increment Zone Presentation, Budget Workshops. No formal action can be taken on these items at this time.”

City Manager Yerena advised that Staff would be having a public hearing for a potential Texas Capital Fund application on Monday, August 17th, 2009, he reported there will be an ad in the local newspaper on Wednesday.

Ms Alvarez provided information on the tax planning calendar and explained there is an alternate date for adopting the tax rate on a Monday that still met with the timeline of the tax code and yet still convenient for the Tax Assessor Collector to get her notices out.

Commissioner Laskowski updated the Commission on a visit with the Kleberg County Sheriff with regard to incident with him refusing to take the City prisoners on eighty-five (85) occasions. He stated he did not know if he made any progress because the Sheriff alluded to the fact that there are occasions when prisoners are brought in and he has to contact an outside facility to move one of his prisoners over to that facility but is told that there are no beds available. Commissioner Laskowski stated he told the Sheriff the City is paying for ten beds and they should be maintained for the City. He stated that he had received a call from a lieutenant asking what he had done to the Sheriff because the Sheriff is not providing a daily report for City prisoners that are housed in the jail. Commissioner Laskowski stated he is with the opinion that the Sheriff is the chief officer for Kleberg County and that it is his responsibility to uphold the law of this State, City and Nation. He stated the City and County have had a simple contract for the past thirteen years, and the Sheriff is not accepting prisoners and that he will continue to work to assure that the City is allowed the ten beds. Mayor Fugate stated he would like Commissioner Laskowski to follow up and look at the City's remedies and that he report back to the Commission at the next meeting. Commissioner Garcia stated he was appealing to the public with regard to calling the Sheriff and asking him to reverse his decision of not accepting City prisoners. Mayor Fugate clarified that the Sheriff is not taking Class "C" misdemeanors. Chief Torres further clarified the situation. Commissioner Wilson stated you could get clear feeling of the Sheriff's management style when the Sheriff department's representative that attended the City/County meeting referred to the contract as the "so-called contract" and continued to refer to the so-called contract until he was corrected by the County Commissioners. He stated that clearly, that problem is at the top and the City must find a way to send a very clear message as a community that is unacceptable behavior at that level of an elected official. Mayor Fugate stated that what was so disconcerting about that situation was that the individual representing the Sheriff did not have the most current contract. Commissioner Laskowski stated that they have a current copy now.

Mayor Fugate commented on the citizens complaints with the cable contract. Ms Alvarez stated she would look at the cable franchise contract. Mayor Fugate requested a list of the houses that were condemned and have not been demolished. He stated a citizen was concerned about a new junk yard on 5th and Santa Gertrudis.

Commissioner Wilson reported the Javelinas are back in town and are in Spring training. Commissioner Pecos requested the creeks be cleaned up now that they are dry.

IV. Public Comment on Agenda Items ³

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

Mayor Fugate called for comments on all agenda and non-agenda items.

Ms Stephanie Yuma, 623 W Ave H spoke about a concern about a junk yard at 5th & Santa Gertrudis.

Mayor Fugate called for consideration of items on the Consent Agenda. Commissioner Laskowski made a motion to accept the consent agenda, as presented, seconded by Commissioner Wilson and 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. ORD2009-20 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 6, Zoning, adopting the definition of cargo containers and providing for regulations. (Director of Development Services).
2. ORDINANCE NO. ORD2009-21 Motion to approve final passage of an ordinance amending the Fiscal Year 2008-2009 Budget for the City of Kingsville to allocate an increase in revenues from various sources for expenditures in the Sanitation Collection Department in the General Fund. (Finance Director).
3. Motion to approve out-of-state travel for two police officers to attend the Desert Snow Conference in Muskogee, Oklahoma from August 17th until August 20th, 2009 using Chapter 59 Funds. (Police Chief).
4. Motion to approve out-of-state travel for one police officers to attend the DIAP/EPIC Conference in Indianapolis, Indiana from August 17th until August 21st, 2009 using Chapter 59 Funds for what isn't reimbursed by DIAP. (Police Chief).
5. Motion to approve out-of-state travel for three task force agents to attend the DIAP/EPIC Conference in Indianapolis, Indiana from August 17th until August 21st, 2009 using Chapter 59 Funds for what isn't reimbursed by DIAP. (Police Chief).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

6. Consider approval of alcohol variance for K-2 Food Mart located at 128 W Corral. (City Secretary).

Ms Lopez stated that this item was heard during a public hearing and Staff recommends approval.

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

7. Consider accepting Comprehensive Annual Financial Report of the City of Kingsville for Fiscal Year 2007-08. (City Manager).

Mr. Luke Womack, Auditor, Womack & Womack referred to page 12 of the Comprehensive report which is the unqualified audit report which stated that the financial statements have been stated maturely correct in uniformity to the prior year which is the best opinion a City can receive. Mr. Womack used the almost cash flow financial statement to analyze the operations of the City. He explained the governmental funds, general fund, and the Police forfeiture fund and stated the unreserved fund balance is \$4,899,045 which has improved. He stated the Police forfeiture fund has about \$3.1 million in cash, and \$4,000,000 in total assets. The fund balance is \$1,521,000 which continues to grow. The debt service fund has resources of \$551,000 and has liabilities of \$196,000 with a fund balance of \$355,000. He stated the balance sheet has improved over prior year mainly because of operations. He stated that sales taxes and property taxes charges for services like ambulance and garbage were up. He stated that long-term debt continues to pay off. Mr. Womack stated that the City did very well, both funds are strong, good cash reserves, there have been major projects with the sewer

and streets continue to pave. He explained that information on pages 118-119 stated that the cash was behind in reconciliations which have now been caught up by the Finance department. Mr. Womack stated three issues from the prior year were corrected. He stated that financially the City is in very good shape. Mayor Fugate called for questions or comments. Upon a question from Mayor Fugate, Mr. Womack replied he has provided auditing services for City for approximately 16 years and has never seen the City as strong, financially.

Commissioner Laskowski made a motion to accept the Comprehensive Annual Financial Report of the City of Kingsville for Fiscal Year 2007-2008, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

8. 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 Melissa DelaGarza, Tax Assessor Collector stated that pursuant to the Texas Property Tax Code, Section 26.01 (b) & (e), I, Melissa T. DelaGarza 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 by the Kleberg County Appraisal District, as attached in packets. The net taxable value is \$671,285,466 and property outstanding for 2009 is \$5,049,070.

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

9. 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 DelaGarza explained the figures and asked that they decide which way the Commission is going with the proposed tax rate. She stated there will be an ad in the local newspaper on Wednesday explaining the City's direction. Basically, the City needs to give her some direction on the tax rate. She stated this year's effective tax rate is \$.77532 and roll back rate is \$.81058. She stated this is a benchmark, if the Commission decided to go with the effective tax rate that would mean no tax increase and no public hearings would be needed. If the tax rate is exceeding, at this time a specified rate would need to be determined and voted on and a record vote taken in order to proceed. City Manager Yerena stated the Commission was emailed several scenarios and keeping in mind as to what was said in the previous workshop, Staff is recommending to go right below the roll back rate, \$.81057 which would give the option of coming down. Staff's goal is to try to be consistent and hopefully keep last year's tax rate, but Staff is still working on the model. Ms DelaGarza stated that last year's rate was \$.80187. She announced that dates for the public hearings will be on August 24th and September 8th, 2009. She stated she would get with Mr. Rushing regarding the public hearing notice publications and after that the schedule will be followed in order to meet the deadline. Mayor Fugate called for questions or comments.

Commissioner Pecos made a motion to approve Staff's recommendation at \$.80187. He amended his motion to approve Staff's recommendation for a proposed tax rate at \$.81057 and public hearing dates on August 24th, 2009 and September 8th, 2009 at 6:00 P.M. in the City Hall Commission Chamber, and adopt the tax rate on September 21st, 2009 at 6:00 P.M. in the City Hall Commission Chambers, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Garcia, Pecos voting "FOR". Wilson "AGAINST".

10. Consider approval of a request to install several street lights on Sage Road (113, 305, 313, 321 W Sage Road). (City Manager).

City Manager Yerena stated various requests were received and staff has inspected and staff is recommending approval. There is no cost to the City for the installation.

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

11. Consider approval of a request to install a street light at 813 N. Martin Luther King, Jr. Street (2nd Street). (City Manager)

City Manager Yerena stated Staff has looked at request and there is street light in the area. Staff is not recommending approval. Mr. Khan stated the distance between lights is not acceptable.

No action taken

12. Consider approval of a request to install a street light at 3421 Golf Course Road. (City Manager).

Mr. Khan stated this area is dark and Staff is recommending approval. Estimated cost is \$233.00.

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

13. Consider approval of a request to install a street light on Johnston Circle. (City Manager).

Mr. Khan stated this location has a light on Johnston and 16th Street and the distance does not qualify. Staff is not recommending approval.

No action taken

14. Consider awarding Bid No. 10-02 for the purchase of tires for all departments except Police and Task Force. (Purchasing Director).

Ms Byington stated this item authorizes the award of a bid for the purchase of tires to the lowest bidder, A-Z Tire Company from Amarillo for approximately \$50,000, for all departments except Police and Task Force.

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

15. Consider authorizing the execution of annual contracts with two companies for supplying utility supplies for the Water and Wastewater Departments. (Purchasing Director).

Ms Byington stated this item authorizes execution of annual contracts with two companies for supplying utility supplies for the Water and Wastewater Departments.

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

16. Consider authorizing the purchase of one new Year 2009 Case 589SM3 backhoe. (Purchasing Director).

Ms Byington stated this item authorizes the purchase of one new Year 2009 Case 589SM3 backhoe. Staff recommends purchasing the backhoe through H-GAC from Nueces Power equipment from Corpus Christi, Texas for a total of \$58,851. The purchase price for the backhoe is \$66,351 minus \$7,500 trade-in for a Year 1992 Case 580SK backhoe. Upon a question from Commissioner Laskowski, Mr. Donnell replied there is not an extended warranty included. Suggestion was made to look into purchasing an extended warranty. Staff will provide information at a later date.

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

17. Consider awarding Bid No. 2009-35 for the purchase of three pick-up trucks for the Water Production and Water Departments. (Purchasing Director).

Ms Byington stated this item authorizes the purchase of three pick-up trucks. It is recommended that the bid be awarded to the lowest bidder, Eddie Yaklin Ford, for a total of \$49,160.30. Mr. Donnell stated that the price did not include the accessories and would like to purchase with the monies that are left over.

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

18. RESOLUTION NO. R2009-42 Consider resolution of the City of Kingsville City Commission supporting the Kleberg County Armed Forces Community Covenant. (City Manager).

Mayor Fugate stated that Mr. Dick Messberger requested this item and a ceremony will be held at the half time Javelina game. All military branches will be represented.

Commissioner Laskowski made a motion to approve the resolution of the City of Kingsville City Commission supporting the Kleberg County Armed Forces Community Covenant, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

19. RESOLUTION NO. R2009- 43 Consider approval of a resolution establishing the City of Kingsville Citizen Complaint Procedures for the Texas Community Development Program. (City Manager).

City Manager Yerena stated staff is looking to make sure that policies are in place if the City decides to move forward with a Texas Community Capital Fund application.

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

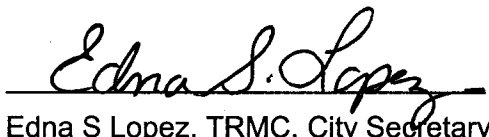
VI. Adjournment.

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