

SEPTEMBER 7, 2010

A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON TUESDAY, SEPTEMBER 7, 2010 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, Commissioner
Charles Wilson, Commissioner
Stanley Laskowski, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Naim Khan, City Engineer
Mark Rushing, Finance Director
Frank Garcia, Wastewater Supervisor
Joe Casillas, Water Production Supervisor
Diana Gonzalez, Human Resource Director
Diana Medina, Collections Supervisor
Bill Donnell, Public Works Director
Rick Torres, Police Chief
Yolanda Cadena, Health Director
Bob Trescott, Downtown Manager

I. Preliminary Proceedings.

OPEN MEETING

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

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by City Manager Yerena, 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, August 23, 2010. **Commissioner Laskowski made a motion to approve the minutes, as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Wilson, Pecos, Laskowski voting "FOR". Fugate "ABSTAINED".**

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

1. Public Hearing on a proposed tax rate increase from \$.80187 to \$.84220. (Finance Director).

Mayor Fugate opened the public hearing at 6:02 P.M., announced the subject of the public hearing and called for comments. He announced the vote to adopt the City of Kingsville's 2010-2011 fiscal year tax rate will take place on September 20, 2010 at a special City Commission meeting at 6:00 P.M., in the Alcorn Commission Chambers here at City Hall, 200 E Kleberg, Kingsville, Texas.

Upon a question from Mayor Fugate, Ms Alvarez replied there are no restraints or time limits in the tax code about required duration to keep the public hearing opened.

Mayor Fugate closed the public hearing at 6:04 P.M.

2. Public Hearing on the proposed Fiscal Year 2010-2011 budget. (Finance Director).

Mayor Fugate opened the public hearing at 6:04 P.M., announced the subject of the public hearing and called for comments.

Mr. Rushing stated there was an email that explained some changes to the group health and life insurance, an adjustment of \$400 in the General Fund current year taxes,; the General fund bottom line net receipts over disbursement were in the black \$24,015;

Tourism netted out to zero; the Task Force is in the black, \$4,694; and Utility Fund was \$34,568, after adjustments.

Upon a question from Mayor Fugate, Ms Alvarez replied there is no required period in the Local Government Code for the duration for the hearing to remain open.

Mayor Fugate closed the public hearing at 6:07 P.M.

III. Reports from Commission & Staff²

"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, Keep Kingsville Beautiful, 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, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project. No formal action can be taken on these items at this time."

City Manager Yerena reported on department activities due to the storm. He further reported the power outages at the Wastewater plants. He reported on a vacancy in the Health Department Board and the Fire Department had forty-five (45) calls relating to AEP equipment, downed power lines and transformers due to last night's storm.

Ms Alvarez reported there is a scheduled meeting with the Police Union and that the Fire Union meeting of Thursday had to be rescheduled. She stated there will be a regular Commission meeting on Monday, September 13th.

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 & 2. **Commissioner Laskowski made a motion to approve as presented, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

V. Consent Agenda

1. **ORDINANCE ORD2010-27 Motion to approve final passage of an ordinance amending Chapter XV, Article 1, Building Regulations, adopting the 2009 version of the International Building Code. (Director of Development Services).**
2. **ORDINANCE ORD 2010-28 Motion to approve final passage of an ordinance of the City of Kingsville, Texas, amending the Code of Ordinances of the City of Kingsville by adopting Section 13-2-50 Through 13-2-56 relating to certain definitions, prohibiting the sale or delivery of restricted smoking materials to individuals below materials to individuals below the age of twenty-one (21); Prohibiting the possession of restricted smoking materials by individuals below the age of twenty-one (21); Prohibiting the sale of restricted smoking material within 1,000 feet of certain protected uses; Restricted smoking materials subject to this regulation shall be those substances known as Synthetic Cannabinoids or Salvia Divinorum which are frequently known as or marketed as products such as "K-2", "K-2 Summit", "K-2 Sex", "Genie", "Dascents", "Zohai", "Sage", "Spice", "KO Knock-Out 2", "Spice Gold", "Spice Diamond", "Yucatan Fire", "Solar Flare", "Pep Spice", "Fire N' Ice", and "Salvia Divinorum"; Providing a repealing clause; Providing a savings clause; Providing a severability clause; Providing for penalty of a fine not to exceed two thousand dollars (\$2,000.00). (Police Chief).**

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

3. RESOLUTION NO. R2010-37 Consider resolution declaring intention to reimburse certain expenditures with borrowing proceeds. (Finance Director).

Ms Alvarez reminded the Commission that this was previously done in October 2008 for the 2009 CO expenditures. She stated she double check this resolution and the only thing that changed was the dollar amount all the wording is essentially the same and the project description write-up has changed.

Mr. Rushing stated this sets forth because the City is obligating their fund balance and shows a good faith method on doing cash flows in financing these projects in the interim until certificates of obligation is issued. He further explained the interim financing procedure. He stated these are safe perimeters if money will be spent prior to the issuance. He provided information on probable major projects. He stated this mechanism shows there is adequate fund balance.

Fugate commented his understanding is that the city is borrowing this money but there is no reason if decided to use some of these proceeds to pay for these projects. Mr. Rushing explained this does not earmark the dollars, only the dollars that you spend in the activity and this does not mean that the city has to spend money.

City Manager Yerena stated this needs to be in place to function with the upcoming budget.

Commissioner Wilson stated this instrument seems to be reasonable except it calls for \$9.2 million in the resolution.

Mr. Rushing stated this shows you have the capacity to do advanced funding to these limits.

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

4. Consider introduction of an ordinance amending Chapter XI: Business Regulations, Article 14 Vendor Solicitations of the Code of Ordinances of the City of Kingsville; providing for modification of the days for charitable solicitations in the streets or right of ways. (City Attorney).

Ms Alvarez stated the only change is having the days changed from consecutive days and would still restrict the charitable solicitation to three days per year but they wouldn't have to be consecutive. She added this came up during a meeting with the Fire Union. This doesn't increase the number of days that any charity can solicit in a year only allows them to do it in a different period of time. They are still required to submit one application a certain amount of days prior to the first date of solicitation, but will have to provide the days for the year that they want.

INTRODUCTION ONLY

5. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 3, Water, providing for an increase in water rates. (Finance Director).

Mr. Rushing stated this is in accordance with the model looked at by HDR Engineering in the August 27th meeting. He stated the water rate would increase by 2% and wastewater 3%. Mayor Fugate stated this is what the experts are saying to do.

INTRODUCTION ONLY

6. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 2, Sewers, providing for an increase in sewer rates. (Finance Director).

Mr. Rushing stated this is also from the same study and projections and model provided by HDR. He added that wastewater was increased last year but water was not.

INTRODUCTION ONLY

7. RESOLUTION NO. R2010-38 Consider resolution authorizing the Mayor to enter into a one year extension of the Water Supply Contract with the South Texas Water Authority which is set to expire on September 30, 2010. (City Manager).

Mayor Fugate stated everybody dealing with STWA is asking for this extension. This will be a difficult year to negotiate with STWA so there is no way the City will enter into a contract by September 30th. Commissioner Laskowski stated the City is also approving an increase of 20% in the handling charge fee.

Commissioner Laskowski made a motion to authorize the Mayor to enter into a one year extension of the Water Supply contract with STWA, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski voting "FOR". Wilson "AGAINST".

8. Consider resolution authorizing the Mayor to enter into an extension of the Water Pass Through Contract with the South Texas Water Authority which is set to expire on December 31, 2010. (City Manager).

Mayor Fugate stated this is the rate charged to Ricardo and they are in process of building a pipeline around Kingsville. Commissioner Laskowski recommended this item be tabled to give Staff the ability to look at the handling charge fee. He stated this is the time to consider increasing the fee to Ricardo because the fee has not been increased since the agreement was entered into in 2006. He stated that the fee could have been increased during the life of this contract.

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

9. Consider request to waive some or all interest on paving lien from February 27, 1961 for Lots 19-23, Block 18, Tranquitas Addition. (Mayor Fugate).

Mayor Fugate stated the owner, Mr. Frank Garza came to him and stated there was a lien that was owed on this property. He stated someone is interested in buying the property, the amount started at \$260 and now it is at \$20,000. Mayor Fugate stated that if Mr. Garza would have known he owed this he would have paid. The property being sold is lots 19-23. As a point of order, Commissioner Wilson requested Mrs. Maria Ofelia Garza approach the microphone and introduce herself. Ms Garza explained they have never been late on their taxes even when they owned thirty (30) properties and they are very surprised they didn't pay.

Commissioner Laskowski suggested collecting paving liens by sending an invoice annually instead of waiting for someone to sell the property.

There was discussion that whatever is done tonight will set precedence. There was discussion on the allowance for uncollectible amounts.

Commissioner Laskowski recommended that staff take a look at that, then come back with a recommendation. Mayor Fugate stated the Commission has to look at this because this will set precedence.

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

Mayor Fugate announced the item on Executive Session. The Commission took a break at 7:03 P.M. The Commission convened into Executive Session at 7:13 P.M. with City Manager Yerena; at 7:30 P.M., Mr. Nordeen joined the Commission and City Manager Yerena in executive session. Mr. Nordeen exited executive session at 7:48 P.M., and Ms Alvarez entered executive session at 7:48 P.M.

10. Executive Session: Pursuant to Section 551.074, Texas Open Meetings Act, the City Commission shall convene in Executive Session to deliberate the appointment/employment of Darrell Nordeen as Interim City Manager. (Mayor Fugate).

The Commission reconvened into regular session to consider agenda items, 11 & 12 at 8:04 P.M. Mayor Fugate announced all members are present and no votes were taken.

11. Consider appointment of Interim City Manager and matters related thereto. (Mayor Fugate).

Commissioner Wilson called for no action to be taken.

12. Consider selection process for City Manager position and matters related thereto. (Mayor Fugate).

Mayor Fugate stated he would like to see a head hunting service to locate the best qualified candidates. He stated he has seen it work in several places in order to get good candidates.

Commissioner Wilson suggested that Human Resources find several companies and provide the information to the Commission. The turnaround on the RFQ would be about 14 days.

Commissioner Laskowski suggested drafting a job description for the position.

Ms Alvarez stated the job description would be ready for the meeting of the 13th or 20th for their consideration, so that can be incorporated into the RFQ. Commissioner Wilson recommended for the RFQ to be ready for the meeting on the 27th.

Ms Gonzales stated there is a current job description available that will be emailed for their consideration.

No action taken.

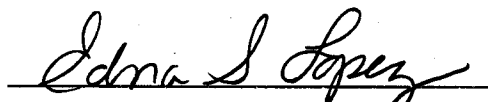
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 8:10 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary