

SEPTEMBER 20, 2010

**A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, SEPTEMBER 20, 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  
Stanley Laskowski, Commissioner  
Arturo Pecos, Commissioner

**CITY COMMISSION ABSENT:**

Charles Wilson, Commissioner

**CITY STAFF PRESENT:**

Courtney Alvarez, Interim City Manager  
Edna S Lopez, City Secretary  
Naim Khan, City Engineer  
Al Lopez, Fire Chief  
Yolanda Cadena, Health Director  
Frank Garcia, Wastewater Supervisor  
Ricardo Torres, Police Chief  
Willie Vera, Task Force Commander  
Robert Rodriguez, Library Director  
Ken Clark, Director of Development Services  
Grace Garcia, Task Force Agent  
Anita Stewart, Task Force  
Diana Gonzales, Human Resource Director  
Richard Kirkpatrick, Task Force Agent  
Gus Ruiz, Task Force Agent  
John Garcia, Risk Manager  
Bill Donnell, Public Works Director  
Joe Casillas, Water Production Supervisor

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the Commission Chambers at 6:04 P.M. and announced quorum as present with Commissioner Wilson absent.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Mr. Rushing, 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 workshop and the regular meeting of Monday, September 13, 2010. **Commissioner Pecos made a motion to approve the minutes, as presented, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos voting "FOR". Wilson "ABSENT".**

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. Public hearing to request to amend the zoning ordinance by granting a Special Use Permit to place a mobile home on a .36 Acre tract on Lot PT NE/4 9, Block 2, K.T.& I Subdivision. (Director of Development Services).

Mayor Fugate opened the public hearing at 6:06 P.M. and announced the subject and called for anyone that wanted to speak could do so at this time.

Mr. Clark stated this request is for a special use permit, the Code of Ordinances allows for this provision. He added that basically if there is a hardship or infirmity or reason that justifies allowing a mobile home to go in an area that is not zoned for it, then someone can apply for a special use permit by coming before the Planning and Zoning

Commission for a recommendation and then come before the City Commission. This was before the Planning and Zoning Commission at their last meeting and voted unanimously to grant the special use permit. He stated the applicant provided a letter explaining both parents have health issues. The applicant bought the piece of property, and put the mobile home on it. The applicant they thought the property was in the County when it came time to hook up utilities they found out it was in the City. Staff met with the applicant and explained to them that mobile homes were not allowed at that particular zoning district. The City Attorney has prepared the special use permit in accordance with the ordinance. In the applicant's letter they asked for a ten year period of time. The City has put a condition that whatever the period of time is the City would like a notarized document to record in case ownership changes. The mobile home will be inspected to make sure it is up to code.

Mayor Fugate closed the public hearing at 6:08 P.M.

2. Public hearing to amend Chapter XV, Land Use, Article 6, Appendix A. Land Use Categories; Changing the allowed zones for wrecking or salvage yards for auto or parts. (Director of Development Services).

Mayor Fugate opened the public hearing at 6:08 P.M. and announced the subject and called for anyone that wanted to speak could do so at this time.

Mr. Clark stated the current ordinance allows that as a permitted use but they have to get a license and they have to go through to get approval for that. They started putting to use and then came before the Planning and Zoning Commission and they were denied the license for them to locate at that location. They felt it is unfair for the City to have in the books an ordinance that would allow the use if in fact they don't want to have those kinds of uses in that area along that corridor. They directed Staff to take a look at revising the ordinance so that it would be a special use, so that they would have to come in and ask for if they wanted to be on Corral Street. When working with the City Attorney to revise the ordinance, they found this was also in the C4 general commercial as well. This was deleted as an allowed use in the C4 and now would require a special use and public hearings. He stated now it would only be permitted in the heavy industrial districts. Mr. Clark stated this is something that the Planning and Zoning Commission felt very strongly about.

Mayor Fugate closed the public hearing at 6:14 P.M.

**III. Reports from Commission & Staff<sup>2</sup>**

*"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."*

Interim City Manager Alvarez called for welcoming and swearing-in of the new Task Force Commander, Mr. Willie Vera. The swearing in ceremony was conducted by Chief Torres.

Interim City Manager Alvarez thanked Ms Grace Garcia for serving as Interim Task Commander and the brush collection site is closed. She provided an update on Street Department projects. She stated there will be a Staff meeting tomorrow and the City Secretary will host the Coastal Bend Chapter of City Secretaries on Friday. She announced the TML Region meeting on Wednesday and the date of the next Trash-Off Day. She announced several civic events, National Night Out on October 5<sup>th</sup>, and the Art Walk on October 9<sup>th</sup>.

Interim City Manager Alvarez reported there is a tentative Collective Bargaining agreement, the Police Union has already voted on it and the Fire Union will vote on theirs, Thursday. She thanked both Unions for their cooperation.

Commissioner Garcia voiced his concern about the flooding at Santa Gertrudis Estates. He provided Interim City Manager Alvarez photos of the affected areas. Commissioner Pecos voiced his concern about tires, sofas and other items being thrown in Tranquitas Creek and Sage Road. He asked the citizens to take information from the vehicles and report it to the Police Department. Commissioner Laskowski explained the City's procedure for getting on the City's list to have the items picked up.

**IV. Public Comment on Agenda Items<sup>3</sup>**

- 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 on the Consent Agenda, Items 1-3. **Commissioner Laskowski made a motion to approve Consent Agenda items # 1 & 3, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting "FOR". Wilson "ABSENT".**

**V.**

**Consent Agenda**

1. **RESOLUTION NO. R2010-39 Motion to approve resolution of the City of Kingsville authorizing the release of Chapter 59 Funds of the Kingsville Specialized Crimes & Narcotics Task Force for donation to the Boy Scouts of America Venado District and Boys & Girls Club of Kingsville. (Interim Task Force Commander).**

2. **RESOLUTION NO. R2010-40 Consider resolution authorizing the City Manager to enter into an engagement letter with John Womack & Co. P.C. to audit the financial statements for the year ended September 30, 2010. (Interim City Manager).**

Commissioner Laskowski stated this is a \$93,500.00 contract so he wanted to remove it from the Consent Agenda so the general public are aware of what some of the costs are that the government keeps coming up with these unfunded mandates creating additional requirements on municipalities and school districts for accounting information. Several years ago the City's audit was only \$45,000.

**Commissioner Laskowski made a motion to approve the resolution authorizing the City Manager to enter into an engagement letter with John Womack & Co., seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski voting "FOR". Wilson "ABSENT".**

3. **Consider accepting a \$58.55 donation from Girl Scout Troup #9217 for Keep Kingsville Beautiful. (Public Works Director).**

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

**VI. Items for consideration by Commissioners.<sup>4</sup>**

4. **Consider introduction of an ordinance amending the zoning ordinance by granting a special use permit to place a mobile home on a .36 acre tract on lot PT NE/4 9, block 2, K.T.& I subdivision. (Director of Development Services).**

Mr. Clark stated this is the same item that was heard earlier during the public hearing. Commissioner Laskowski suggested revising the recommendations to allow changes from ten years to allow them an exception to allow the trailer to be there as long as both parents are living and when the last family member passes then the trailer has to be removed within 60 days. That way if it goes beyond the ten years they don't have to come back to the Commission because it is granted for their lifetimes. He also suggested including the family members names, Juan and Rachel Riojas. If they don't reside there, then it is 60 days from that date. Commissioner Garcia suggested adding information on the transfer of the title. Mayor Fugate suggested including that they (the parents) have to reside there and if they no longer reside there then it has to be removed within 60 days.

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## INTRODUCTION ONLY

**5. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Land Use, Article 6, Appendix A, Land Use categories; changing the allowed zones for wrecking and salvage yards for auto or parts. (Director of Development Services).**

Mr. Clark stated the Planning and Zoning Commission very much recommends this change. Upon a question from Commissioner Pecos, Mr. Clark replied the property was previously owned by Mr. Joe Garcia. This would be strictly for cars. Mayor Fugate stated he agrees with Planning and Zoning because that is an entry way to the City. Mr. Clark stated Planning and Zoning was pretty adamantly.

## INTRODUCTION ONLY

**6. RESOLUTION NO. R2010-41 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. (Interim City Manager).**

Interim City Manager Alvarez stated previously the Commission has voted to have all three matters reported to the City Commission as opposed to Staff.

Commissioner Garcia made a motion to accept the communication letter and keep it as it is, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia voting "FOR".

**7. ORDINANCE NO. ORD2010-32 Consider final passage of an ordinance adopting the annual budget of the City of Kingsville, Texas and appropriating funds for the fiscal year beginning October 01, 2010 and ending September 30, 2011. (Interim City Manager).**

Mayor Fugate stated the Commission has received everything they need. Mr. Rushing provided information on the three scenarios: (a) terminating two positions; (b) employees continue for three months into the next fiscal year; and (c) the street department position is allowed to continue for three months but not the water department position. He stated there is some restructuring from a consultant, \$25,000 in the City special to assist with searching for City Manager; there are additional costs for the contract negotiations, there were monies for that in the Fire department budget but for Police department there was an additional \$788. The other factor would be the version of the three different scenarios.

Mayor Fugate called for questions. Commissioner Pecos stated he thought employee (B) was going to retire at the end of this fiscal year. Mr. Rushing replied at the end of the year. Interim City Manager Alvarez stated the preference had been to wait until the end of the calendar year, but due to the restructuring and the efficiency measures then both positions is set to expire at the end of this fiscal year. Personally both gentlemen would rather wait until the end of the calendar year. One of which has a negative impact in the general fund and the other has an impact in the utility fund. If looking at that direction, it would be preferable to do it for both positions as opposed to just one position.

Mr. Rushing stated if they do it for both positions then the general fund net receipts over disbursements would be \$2,854 and the utility fund would be \$397 net receipts over disbursement. Upon a question from Commissioner Pecos, Mr. Rushing stated the City Manager's position is budgeted at its current salary but there may be some saving or additional costs. Commissioner Laskowski stated this is going to be dependent upon how quickly the position is filled and the next City Manager might require a higher salary to get the quality that the Commission expects. He voiced his concern about the amount of revenues over expenditures. Mayor Fugate stated he sees opportunities in this budget depending on how events occur and he sees some savings depending on how the Commission decides to act, that can make up the difference rather rapidly. He thanked the Finance Director for giving them real numbers.

Upon a question from Commissioner Pecos, Mr. Rushing replied the difference in sales tax revenues from this year to last year is City is short \$150,000 to \$165,000. Upon a question from Commissioner Garcia, Mr. Rushing replied he is studying property taxes closely. He stated the paving liens will not bring in a lot of money. There is no fluff in this budget at all which really concerns him.

Commissioner Pecos made a motion to adopt the Annual Budget, Option #B to include both positions staying until December, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Laskowski "AGAINST". Wilson "ABSENT".

Interim City Manager Alvarez stated Section 3 of the Ordinance would be changed to reflect the sum of \$23,121,765.

**8. Discuss and consider ratifying the property tax increase reflected in the 2010-2011 Annual Budget of the City of Kingsville. (Interim City Manager).**

Mr. Rushing stated this is the rate right under the roll back rate. He stated the revenues generated from this tax rates are in the budget as presented. The general fund is .62543; the debt service is .21677, for a sum total of .84220.

Commissioner Pecos made a motion to ratify the property tax increase reflected in the 2010-2011 Annual Budget of the City of Kingsville, seconded by Commissioner Garcia. Mayor Fugate called for discussion. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Laskowski "AGAINST". Wilson "ABSENT".

**9. ORDINANCE NO. ORD2010-33 Consider final passage of an ordinance establishing and adopting the ad valorem tax rate for all taxable property within the City of Kingsville, Texas for the fiscal year beginning October 1, 2010 and ending September 30, 2011, distributing the tax levy among the various funds, and providing for a lien on real and personal property to secure the payment of taxes assessed. (Interim City Manager).**

Commissioner Garcia made a motion that the property tax rate be increased by the adoption of a tax rate of 0.84220, which is effectively a 7.06 percent increase in the tax rate, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Laskowski "AGAINST". Wilson "ABSENT".

**10. Consider introduction of an ordinance amending the Fiscal Year 2009-2010 Budget for the City of Kingsville for deficit accounts and year end contractual amounts. (Finance Director).**

Mr. Rushing stated this is normally done at year end, included is to accept a donation for Keep Kingsville Beautiful. There is additional benefit cost associated with the Safety Incentive. The total of those in the General Fund \$2,875, additional cost to cover additional benefits \$2,875 which is balanced in the general fund. The Tourism funds has additional expenditures in revenues that did come in, there's a decrease in the penalty fees on garbage and interest income relating to the additional half clicks in Sanitation which are being paired down, and a decrease in the penalties for the landfill closure fund. He stated the other departments will be covered from other line items within the department. Mr. Rushing explained there will be more expenditures than revenues this fiscal year.

**INTRODUCTION ONLY**

**11. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies. (Human Resource Director).**

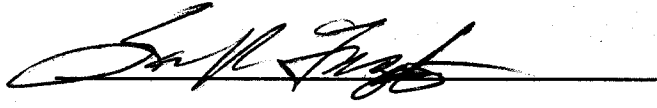
Ms Gonzales stated the comp plan has a 2% cost of living increase incorporated. She provided some corrections: non-management civil service levels, equipment mechanics from range 13 to range 17, the monies were already incorporated in this budget; there's an addition of other positions, the probationary firefighters, 0-12 months are now included in the non-civil service portion, as a result of the tentative negotiations with the Fire Department. In the Management level salary plan, Management Level 1, the mid-point is not \$65, 989.48, but is \$66,948 and the maximum level is \$86,000.

**INTRODUCTION ONLY**

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**VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 7:12 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary