

MARCH 28, 2011

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 28, 2011 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:**

Courtney Alvarez, Interim City Manager  
Edna S Lopez, City Secretary  
Naim Khan, City Engineer  
Frank Garcia, Wastewater Department  
Al Lopez, Fire Chief  
Rick Torres, Police Chief  
Gary Fuselier, Landfill Supervisor  
Able Carrillo, Building Official  
Yolanda Cadena, Health Director  
Bill Donnell, Public Works Director  
Bob Trescott, Downtown Manager  
Mark Rushing, Finance Director  
James Creek, Firefighter  
Diana Gonzales, Human Resource Director  
Willie Vera, Task Force Commander  
Ken Starr, Asst Task Force Commander  
John Garcia, Risk Manager

**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 Mr. Mark 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 minutes of the regular meeting of Monday, February 28<sup>th</sup>, 2011. **Commissioner Wilson made a motion to accept the minutes, as presented, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson voting "FOR". Laskowski "ABSTAINED".**

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

1. Public Hearing regarding condemnation proceeding for structures located at 404 E Lee and 331 E Ave B. (Building Official).

Mayor Fugate opened the public hearing at 6:03 P.M. and announced anyone wanting to speak on this subject could do so at this time.

Mr. Abel Carrillo, Building Official stated these houses located on Ave B and on East Lee need to be condemned. Mayor Fugate called for questions or comments. Regarding the first address, 404 E Lee, Commissioner Laskowski commented the gentleman aged two years during the condemnation process and asked why it took two years to get this before the Commission. Mr. Carrillo explained they had problems with the family members. Interim City Manager Alvarez explained that the house had almost gone on the KWOP list but was pulled. Commissioner Laskowski stated that the process took two years and that hopefully next time this can be turned around a little quicker because it is important to the appearance of the community.

Mr. Rene Garza, 400 E Lee, spoke about the structure at 404 E Lee and asked if the City was in the process of proceeding.

Mayor Fugate closed the public hearing at 6:05 P.M.

2. Public Hearing regarding resolution denying gas rate increase. (Interim City Manager).

Mayor Fugate opened the public hearing at 6:06 P.M. announced anyone wanting to speak could do so at this time.

Interim City Manager Alvarez stated back in December, Centerpoint Gas filed a notice for a rate increase. The notice was filed it with the Cities and with the Railroad Commission. The City and several other cities involved in a coalition had filed a resolution to suspend the rate increase to give everyone time to study the requested rate increase. The increase was about 20%. About 5 years ago this previously happened. She stated it is her understanding that parties involved are trying to reach a settle agreement with regard to an increase that's a little more reasonable. She added the increase would not be quite what the company or what the Steering Committee of Cities wants. They are trying to reach a happy medium. Procedurally, the City is supposed to have a public hearing to give anybody an opportunity to talk about this resolution. She added that even if our City and the other cities involved in the Steering Committee, pass resolutions to deny the rate increase, if a settlement isn't reached between the parties, then the Railroad Commission can go ahead and approve whatever the new increase will be. Mayor Fugate called for questions or comments.

Mayor Fugate closed the public hearing at 6:08 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, Financial Advisor presentation. No formal action can be taken on these items at this time."*

Interim City Manager reported on the Kingsville JLUS and Implementation program having won an Outstanding Federal Planning Program Award from the American Planning Association, and that Mr. Rick Russ notified the City of having received the award. She reported on Street department projects; an update on the tree planting; and on the Bigger Event project being successful. She stated the new City Manager, Mr. Vincent Capell will be here on Monday, April 4<sup>th</sup>. The next regular meeting will be on April 11<sup>th</sup>. She thanked Staff and the Commission for helping her during the last several months that she held the interim capacity. Mayor Fugate thanked her for a job well done.

Commissioner Laskowski echoed the Mayor's comments and thanked Ms Alvarez. He announced the Meet & Greet for the new City Manager on Tuesday, April 12<sup>th</sup> at 5:30 P.M. at the Chamber of Commerce. He thanked everyone involved in the Bigger Event.

Commissioner Garcia also thanked Ms Alvarez for all her hard work at Interim City Manager. Commissioner Pecos also thanked Ms Alvarez, as did Commissioner Wilson.

Mayor Fugate reported that he and Mr. Dick Messberger, with the EDC had testified in front of a House Committee regarding natural resources. There are two bills, in the House and Senate that deal with Military Bases that deal with air training. There's a problem with Wind Farms being too close. One Bill would make it a reporting requirement; the other Bill, sponsored by our Representative would require a permitting process that will be limited to NAS-Kingsville. He stated this is an interest to all of us, especially here in Kingsville.

Commissioner Pecos provided information on his and several other Commissioners business trip to Washington, and talking to Congressman Blake Farenthold about the wind farms.

#### 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.

Mr. Fred Bigelow, 916 S Creek, spoke in opposition of the rezone for the RV Park.

Lt Erik Holvorson, 209 Reidda Drive, spoke in opposition of the rezone and read a letter from Lt Commander Jim Frank Phillip, 5448 Boxwood Creek, also in opposition of the rezone.

Mr. Arthur Sholtis, 5445 Boxwood Creek, spoke in opposition of the rezone.

Mr. Nick Brown, 1906 S Park, spoke in opposition of the rezone.

Mr. Gail Oldham, 305 North FM 2619, spoke in opposition of the rezone.

Ms Mary Ann Oldham, 305 North FM 2619, spoke in opposition of the rezone.

Ms Kim Hamm, 912 S Creek, spoke in opposition of the rezone.

Mr. Lance Hamm, 912 S Creek, spoke in opposition of the rezone.

Mr. Ralph Ambrose, 1499 Sunray Road, Ingleside, Texas spoke in favor of the rezone stating it will be a first class facility.

Mr. Jerry Underbrink, 801 General Cavazos, spoke in opposition of the rezone.

Dr Alvon Fedynich, 5415 Boxwood Creek, spoke in opposition of the rezone.

Dr. Alan Fedynich, 5415 Boxwood Creek, spoke in opposition of the rezone.

Mr. Ken Kelly, 804 S Creek, spoke in favor of the rezone.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-9. Commissioner Laskowski made a motion to not consider Agenda Item #7 and to accept the remainder of the Consent Agenda, 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 No. ORD2011-10 Motion to approve final passage of an ordinance amending the Fiscal Year 2010-2011 to allocate funds for the Kingsville Specialized Crimes and Narcotics Task Force received from Kleberg County District Attorney's Office and to utilize Fund Balance for the balance of the equipment purchase. (Finance Director).

2. RESOLUTION NO. R2011-15 Motion to approve resolution authorizing the submission of an application to the U.S. Department of Justice for the purpose of requesting funding for bullet proof vests through the BulletProof Vest Program Grant. (Police Chief).

3. RESOLUTION NO. R2011-16 Motion to approve resolution authorizing the Mayor to enter into a Federal Equitable Sharing Agreement between the City of Kingsville, Texas, the Kingsville Police Department, and the U.S. Federal Government. (Police Chief).

4. Motion to approve budget amendments for the Police Department's 2010-2011 state and federal forfeiture accounts. (Police Chief).

5. Motion to approve authorization to set up a separate bank account for hotel occupancy tax dollars. (Finance Director).

6. RESOLUTION NO. R2011-17 Motion to approve resolution authorizing the City Manager to enter into an amended Collective Bargaining Agreement between the City of Kingsville, Texas and the International Association of Firefighters Local #2390 for Fiscal Year 2010-2013. (Interim City Manager).

7. Motion to approve resolution authorizing the Mayor to enter into an Interlocal Assistance Agreement for Regional Environmental Enforcement Task Force between the City of Kingsville and participating COG Members. (Interim City Manager).

Commissioner Laskowski stated he would like to wait until the new city manager, Mr. Capell arrives so that this can be presented. He stated that he spoke to the Police Chief and that the Chief is not familiar with this agreement which calls for participation from the law enforcement agencies.

**8. Motion to approve out-of-state travel for the City Attorney at the request and expense of the Department of Defense to attend the 2011 Sustaining Military Readiness Conference in Nashville, Tennessee July 25-29, 2011. (City Attorney).**

**9. RESOLUTION NO. R2011-18 Motion to approve resolution authorizing the Mayor to enter into a 2011 Letter Agreement between the City of Kingsville, Texas and the Texas Historical Commission for the Texas Main Street Program. (Interim City Manager)**

## **REGULAR AGENDA**

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

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

**10. Consider resolution authorizing submission of an application to the Texas Department of Agriculture for funding through the Texas Capital Fund for Real Estate Improvements. (Interim City Manager).**

Interim City Manager Alvarez stated that on January 24<sup>th</sup>, Ms Martha Drake from Grant Works presented a resolution for infrastructure and real estate improvement for Proco. Ms Drake has been in discussions with the benefiting business, Proco. They have worked out a change to the scope of the program that they are interested in pursuing which would be an acquisition of buildings which would strictly be a real estate program. So that's why this resolution is being presented tonight.

Mayor Fugate called for questions. Commissioner Laskowski stated that he wanted to make sure what was being done tonight is approving a grant application for \$750,000 and the City would own the buildings on a piece of property that's owned by Proco. Ms Drake replied not entirely, yes to the point that the City would be buying the buildings and Proco would be occupying it. As part of the contractual obligation she explained that Proco has to deed over the property on which those buildings are constructed to the City for the twenty (20) year term of repayment. She explained that the real change is that this took out any of the public infrastructure because the road is owned between Proco and the railroad. The road wasn't a City designated road. The other change is instead of building new buildings for Proco there's a third party company that's building those buildings. Proco is moving into them and will be occupying them as a lease. When the contract comes through from the Capital Fund, the City will receive \$700,000 and will buy those buildings from the third party unrelated person who constructed them. It will still be real estate and will still have a repayment like the other proposal. She added this one will just be buying existing buildings instead of building new buildings. Commissioner Laskowski voiced his concern that the City already owns a building located on Brahma Blvd, and that the City is getting into the real estate business and he didn't think the City needed any more buildings. Ms Drake stated in this case it will be carved out of the larger Proco land that's owned which they have been occupying and operating their business. This will just be an expansion. Mayor Fugate asked what the length of the lease was. Ms Drake responded twenty (20) years. She explained that it can be up to twenty (20) years and can be 0% interest which is the benefit to the business. Rather than go for a commercial loan, this is a 0% interest loan. She added the City can dictate through negotiations with Proco if the City wants a fifteen (15) year payout or for whatever years. Commissioner Laskowski stated that the last time Ms Drake was present; she mentioned that the State would set the length of term of the loan. Ms Drake replied up to twenty (20) years, and for \$700,000 because they don't have to pay back the \$50,000 that's for environmental assessment activities and administration. The City has the right to choose the years. Ms Drake stated there's no guarantee from the business in the case that they fail to meet job creation or financial commitments. She added there has to be a guarantee in place so that the City doesn't get stuck holding that repayment amount. Once again, Commissioner Laskowski voice his concern about the building on Brahma Blvd, stating that the lease is fixing to run out and the City will have to start making payments to the State for the second time.

Commissioner Garcia asked about the ad valorem tax implication. Ms Drake replied the City can require taxes to be paid even though the land is technically owned by the City. The City could waive the taxes as an additional incentive for them to do their expansion.

Upon a question from Mayor Fugate, Interim City Manager Alvarez replied the increase in the value of the ad valorem can be waived through the abatement, but the personal property tax still has to be paid. Mayor Fugate stated if there's no abatement then you have to pay it all because it takes a commercial character.

Commissioner Garcia stated since the City will hold title, normally a City doesn't pay ad valorem tax. Ms Drake stated they will be required to pay ad valorem taxes on the improved value of the property unless the City specifically waives it.

Upon a question from Commissioner Laskowski, Interim City Manager Alvarez replied the City has not had discussions with Proco regarding the pay back.

Upon a question from Mayor Fugate, Ms Drake replied the preliminary application was submitted in January. The project is within funding range but because of Proco's urgency to get their buildings constructed this arrangement was worked out with an independent third party business to construct the buildings for them. The final submission was due on March 20<sup>th</sup>, but a new deadline of April 11<sup>th</sup> was given to get the rest of application.

Mayor Fugate stated he shares Commissioner Laskowski's concern.

Ms Drake stated Proco manufactures their tanks for more than just the oil industry. They have universal applications for the things that they fabricate. Mayor Fugate asked if there was anyone from Proco present at this meeting. Ms Drake replied the owners were out of town. Ms Drake explained that in addition to their financial commitment of repaying this award, they also will be matching it with another investment of \$750,000 in their facilities which includes new equipment and in creating thirty-eight (38) full-time jobs.

Upon Mayor Fugate's request, Mr. Dick Messberger addressed the Commission stating this company has been here fourteen (14) years and this is a different situation from the Call Center. He stated the City is dealing with a different client or prospect, and they have been a very successful business. He added they have invested a tremendous amount of money into their operation.

Upon a question from Commissioner Laskowski, Ms Drake replied the buildings being built are to house additional facilities and the company is putting on a second manufacturing line. Mr. Messberger stated they are going into a whole new line of products and they have gone into a third shift and are training high school students in welding.

Mayor Fugate called for further questions or comments. Commissioner Garcia asked if the company is willing to disclose their revenues for the past fourteen (14) years. Ms Drake replied they have disclosed the last three (3) years worth of operations to the Capital Fund staff. She added when Staff does their financial evaluation they can determine whether it's been flat, losing, or gaining. As far as three (3) years, the company has already agreed to provide that, but going back beyond that she would have to ask them. They will have to provide audited financial statements or their tax returns for the last three (3) years, in addition to providing financial projections for the future three (3) years.

Mayor Fugate stated he could see a whole new series of problems that the City doesn't have at the Call Center. He stated if they close down then the City has a building that's out in the middle of their property. How would the City get on and off to our building? Ms Drake explained when they deed over the area that would have to be boundary surveyed and deeded over. The State will require that the deed include enough of road improvements that are deeded to the City to have ingress and egress, as well as a sufficient pad around the outside of the improvement that the City is acquiring to allow a vehicle to drive around.

Commissioner Garcia asked about the amount of the repayment plan. Interim City Manager replied about \$3,916. Commissioner Laskowski stated there needs to be serious conversation with Proco with regard to the repayment. He stated that he knows it is a lot to ask of the business but he wouldn't be interested in going anymore than ten (10) years on the financing of the loan. He added that the City is being put in a tough position because the City doesn't have any idea what their ability is to pay back this loan. The City is hanging-out itself for potentially up to twenty (20) years and there are too many unknowns. Mayor Fugate stated they are good citizens, with a good business that's well run but he just doesn't feel comfortable tonight. Mayor Fugate suggested a special Commission meeting so that the owners can be present to answer questions. He asked that the owners have some type of proposal of their business plan, and information on their intentions because there are too many unknowns.

#### **NO ACTION TAKEN**

#### **11. Consider condemnation of structure located at 404 E Lee. (Building Official).**

Mayor Fugate asked that both items #11 & 12 be taken together. There was no objection from the Commission.

**Commissioner Pecos made a motion that the findings at 404 E Lee & 331 E Ave B are not able to repair the various homes, agenda items #11 & 12, the buildings or structures are unsafe, their present condition is in violation of ordinance and**

cannot be corrected without substantial reconstruction, the buildings or structures are a public nuisance and order its demolition by owner/agent/person in charge within forty-five (45) days, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR".

**12. Consider condemnation of structure located at 331 E Ave B. (Building Official).**

**13. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 10.04 acres out of KT&I Co., Block 32, Lot PT 4, 5, 8, 9 acres 59.01 known as the property located adjacent to the Westside of Hwy 77 and north of South Creek Addition from R-1 Single Family District to C-2 Commercial Retail District. (Interim Director of Development Services).**

Mr. Donnell addressed the Commission and stated water and sewer is available for this project. He added that currently the County is still working on an ingress and egress easement.

Mayor Fugate asked if the developer still has to come back for a special use permit for the RV Park if the zoning changed. Interim City Manager Alvarez replied that was correct. Mayor Fugate asked if at that time the Commission could make any conditions that they want, within reason. Interim City Manager Alvarez replied that was correct and that the former Director of Development Services had gotten with Staff for the draft of the special use permit ordinance. She explained that in the special use permit ordinance there's a section with regard to conditions and restrictions that can be put on the use if it's allowed. Mayor Fugate stated if it is rezoned tonight, the developer still has to come back and ask that it be developed into an RV Park through the special use ordinance.

Commissioner Pecos asked if the County has agreed upon on the easement. Interim City Manager Alvarez stated the City hasn't heard that the County has approved the easement, it was being surveyed, advertised, and after a period of time they could make a decision. Mr. Donnell stated the County is surveying out the property that the developer is trading for the easement. Commissioner Laskowski explained that the developer is swapping a piece of land on the western portion of his property which is being appraised to determine if it's of equal value to the road or 16 ft wide road that he is asking the County to grant him for easement. He added that the County is waiting to see what the City is going to do before they take action.

Mayor Fugate stated the ingress and egress is an issue. He doesn't know how that subdivision was started because it is dangerous having to go onto the highway, and adding to that problem is not acceptable. He asked if that could be a condition that could be required in the special use permit. Interim City Manager Alvarez asked if there's a TXDOT approved ingress and egress plan. Mayor Fugate replied yes. Interim City Manager Alvarez stated then yes, those are conditions that can be required. Mayor Fugate stated if the developer can't fix it, then he doesn't get his RV Park.

Commissioner Wilson stated there hasn't been any discussion on any other use for this piece of property, then an RV Park. He added he would hope they are not being disingenuous by entertaining the thought that the location is going to be changed to C2. If Mr. Ambrose can't get the special use of the easement from the County to get a TXDOT approved ingress and egress plan that the City is comfortable with, then the City would have basically rezoned it C2 and not approve the RV Park. He stated then the City would have a piece of property that's C2 that still doesn't have an ingress and egress plan that the County may or may not ever do. He added the City needs to continue that thought and if nothing else is done, ask the County to make a decision. Commissioner Wilson stated this just isn't flowing right. The entire conversation has been an RV Park and absolutely nothing else. He added the Commission has to be more thoughtful of all the other things that could go in there. He stated he wasn't necessarily opposed to that location being C2, and he firmly believes that corridor should be C2. He continued to say that there are other instances where residential properties butt up to commercial pieces of property in that area already, and they are compatible. He gave an example of the Shell Gas Station at a corner of Bypass 77 & General Cavazos Blvd that goes right up to a subdivision, Paulson Falls. He added it is compatible, there are extra lights and there is noise but people continue to buy property and build at that subdivision.

Mayor Fugate stated he appreciated Commissioner Wilson's concern, but regardless of what C2 project goes in there, they will still have to come back to the Commission for a special use permit. Interim City Manager Alvarez stated they would only have to plat. Commissioner Wilson stated as long as they adhere to the platting regulations, but he

didn't think that the Commission can put extenuating circumstances on the plat if they follow the rules and regulations.

Commissioner Laskowski stated that any business going in there has to have ingress & egress approved from TXDOT. Mr. Khan stated that he has attended various meetings with TXDOT; TXDOT has no problem with ingress and egress. The only thing TXDOT has advised that is needed is on the South side exit, there has to be something there so that no one can enter. Commissioner Wilson asked if Mr. Ambrose doesn't get the property from the County then TXDOT will not sign off because they won't have the length for the turn around. Mr. Khan replied that was correct. Commissioner Laskowski asked if on the south side no one could enter. Mr. Khan replied that was correct. Commissioner Laskowski stated the way the plan is drawn no one can pull out.

Mayor Fugate called for further discussion. Commissioner Garcia echoed Commissioner Wilson's comments about the area around the Shell station. Commissioner Wilson stated his concern was more that you can have C2 and R1 compatibility, but that area is very heavily trafficked and opened all the time, have a lot of concrete, a lot of noise, and a lot of traffic. Commissioner Laskowski explained the locations for the overpasses when the Highway 77 becomes I-69.

County Commissioner David Rosse addressed the Commission. He stated the County has voted to move forward with the easement, but contingent upon the appraisals coming back that show that the value received from the land donated along the creek is of equal or greater value. Upon a question from Commissioner Wilson, Commissioner Rosse replied he did not know when they were going to receive the information, but as soon as they receive it they will move forward.

Mayor Fugate called for further questions. **Commissioner Wilson made a motion to table this item until April 11<sup>th</sup>, seconded by Commissioner Pecos. Mayor Fugate suggested passing the item. Commissioner Wilson withdrew his motion, Commissioner Pecos withdrew his second.**

Commissioner Wilson stated there will be another meeting before the 11<sup>th</sup> so he would not restrict it to that date. Commissioner Laskowski suggested not bringing this item back until the County resolves the issue.

#### **NO ACTION TAKEN**

**14. RESOLUTION NO. R2011-19 Consider resolution authorizing the Chief of Police to enter into the FBI CJIS-The Security Addendum, the Non-Satellite Based Computing Devise Agreement, and an Interlocal Cooperation Agreement with the City of Lindale, Texas and the City of Kingsville – Police Department regarding TLETS access, and a non-binding Grant Contingency Agreement. (Interim City Manager).**

Police Chief Torres stated these are several agreements security addendums between the City of Kingsville and the City of Lindale for the Police to be able to access FBI and Texas DPS information. With regard to the next two agenda items #15 & 16, the COPSync technology, the department will be purchasing software and hardware to be able to access the COPSync technology. This is a tool that allows the access of several Local, State and Federal data basis to assist them in criminal interdiction and crime programs.

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

**15. Consider authorizing the purchase of COPSync Technology for use by the Kingsville Task Force. (Purchasing Director).**

Commander Vera stated COPSync will also give the Task Force the ability to have an RMS system. Commissioner Garcia asked if this software had GPS capability. Commander Vera replied that was correct and they will be able to track the location of each unit.

**Commissioner Laskowski made a motion to approve the purchase of the COPSync Technology, 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 COPSync Technology for use by the Kingsville Police Department. (Purchasing Director).**

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

**17. Consider authorizing the purchase of an MCC Electrical Panel upgrade. 17. (Purchasing Director).**

Mr. Donnell stated this panel will be located at the north plant. This panel is old and has been there since plant was built. The lowest bidder was CC Electric at \$33,975. The purchase will come from the following fund, 054-5-700.1-543.00. The cost for the installation will be \$19,600 and will be installed by the City's contract electrical company.

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

**18. Consider awarding Bid No. 11-23 authorizing the purchase of one (1) excavator for the Landfill. (Purchasing Director).**

Mr. Donnell stated in an effort to minimize the cost, the bid called for quotes on a new and used machine. Recommendation from Staff is to award the bid to Nueces Power Equipment for a used Hyundai 210 LC9. The machine has low hours, 213 hours. The machine carries a three year bumper to bumper warranty, and a five year 10,000 hour in the structure. Staff feels the used piece of equipment fits the City's need in the best manner. Funds will come from Sanitation additional revenues.

Commissioner Pecos asked if the trade-in was a caterpillar. Mr. Donnell replied they would be trading in the old scraper and are proposing to replace it with this excavator and tandem. Commissioner Laskowski asked how much money was previously spent to fix the caterpillar. Mr. Donnell replied they did not spend lots of money, but a new motor was installed, about \$15,000 to \$20,000. Commissioner Pecos stated that the City is only getting \$11,000 for the trade-in. Mr. Donnell stated if they keep this machine it will cost the City more money.

Mayor Fugate called for further questions or comments. Interim City Manager Alvarez stated that the Purchasing Director is attending the Annual State Purchasing Conference, but in his memo under recommendation, he indicates this recommendation would be the best value for the City overall.

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

**19. Consider awarding Bid No. 11-24 authorizing the purchase of three (3) dump trucks for the Landfill, Street, and Water Departments. (Purchasing Director).**

Mr. Donnell provided a correction to the memo in the packet, stating the amount should be \$62,941 for the 7.5 yd truck for the Water department, and not \$61,941. He stated it is recommended the bid for the two large trucks be awarded to Santex Truck Center, as they were the low bid, and the small truck for the Water department be awarded to Grande Truck Center, as they were the low bid. He added to disregard the tailgate cross conveyor. Interim City Manager Alvarez stated the tailgate cross conveyor was bid out but will be awarded at another meeting.

Commissioner Laskowski asked if these monies were coming from the Certificates of Obligation. Mr. Donnell replied funds for the Street department truck will come from the CO's, funds for the Water department truck will come from Fund 054 cash, and funds for the Landfill truck will come from additional revenues in Sanitation. Commissioner Laskowski suggested that the Commission receive some type of accounting for the purchases coming from the Certificates of Obligation, and information on what is being taken from the excess Landfill revenue.

Mayor Fugate called for a motion. **Commissioner Wilson made a motion to approve the purchase of the three: two 14yd trucks and one 7.5yd truck, seconded by Commissioner Garcia. Mayor Fugate called for further discussion. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".**

**20. Consider awarding Bid No.11-25 authorizing the purchase of five (5) pick-up trucks for the Street Department. (Purchasing Director).**

Mr. Khan stated it is recommended Item #1, the RCLB 2WD pickup be awarded to BuyBoard vendor Philpott Motors. He stated that Philpott Motors bid was ten percent (10%) lower than the local bidder, Eddie Yaklin Ford. As for Item #2, the two (2) RCLB 4WD and Item 3, one (1) CCLB 4WD recommendation is to award the bid to the local vendor, Eddie Yaklin Ford. Staff recommends bypassing apparent lower bidders because the local vendor, Eddie Yaklin Ford, falls within 5% of the lower bids.



Commissioner Wilson made a motion to approve Item #1 to Philpott Motors and Items #2 & 3 to Eddie Yaklin Ford, seconded by Commissioner Laskowski and Commissioner Garcia. With regard to, Items 2 & 3, Interim City Manager Alvarez stated that the bid is being awarded to the local vendor because they are within 5% of the lowest bids and it serves our community best. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, Wilson voting "FOR".

**21. Consider authorizing the purchase of a Vactor truck for the Wastewater Department. (Purchasing Director).**

Mr. Donnell stated bids were received through BuyBoard and HGAC. It is recommended the purchase of the Vactor 2100 Plus be awarded to Kinloch for \$223,436.00, which includes the City's 2004 Vactor 2100 with a trade-in value of \$50,000. The price includes the repair of the City's current Vactor at no charge and Kinloch will provide a loaner machine during the repair time. Commissioner Laskowski voiced his concern about going with Freightliner from Corpus Christi after all the problems the City has had with their service. Mr. Donnell replied the problem is mechanic issues throughout the industry and he doesn't believe Freightliner is singled out with this problem.

Commissioner Wilson made a motion to approve the purchase of a Vactor 2100 Plus body from Kinloch Equipment, for \$223,436, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".

**22. Consider authorizing the purchase of three (3) Chevrolet Police Special Tahoes from Caldwell Country Chevrolet. (Purchasing Director).**

Chief Torres stated the Purchasing Director was doing research and noticed that the pricing for three (3) Chevy Tahoes will be going up in price right after this month. Pricing was received from Buyboard, of \$26,733 per vehicle, plus a \$400 Buyboard fee.

Commissioner Laskowski made a motion to authorize the purchase of three more Tahoes for the Police Department, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

**23. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 6, Traffic Control Devices; Providing for the restriction of parking on both sides of Santa Gertrudis Street from University Blvd to Santa Monica. (City Engineer).**

Mr. Khan stated currently there are restrictions on the north side and this is for the south side of the street. He stated many calls have been received. Commissioner Wilson suggested a little time be spent in the education process. Once approved, before the time that this ordinance is enforceable, that the City print some fliers and that somebody walk that street for two or three days in a row to place fliers on the cars parked on that street. He also suggested the City install adequate signage.

**INTRODUCTION ONLY**

**24. Consider introduction of an ordinance amending the Fiscal Year 2010-2011 Budget for the General Fund to allocate funds for an Interlocal Agreement with Kleberg County to cover one half of the electricity expense and to cover equipment repairs for the Golf Course and for the Utility Fund Wastewater Department to allocate funds for TCEQ fines. (Finance Director).**

Mr. Rushing stated this budget amendment is for half of the electricity at golf course projected from March 15<sup>th</sup> – September 30<sup>th</sup>, at \$24,375, and for \$12,000 to cover equipment repairs for the golf course. For a sum total of \$36,375 coming from additional revenues expected in the Street other income that does not relate to liens. He added this is just a projected line item that has monies, \$50,000, that came in but was budgeted initially in the process of an interlocal agreement in splitting some cost with another entity, the University. Also, in the budget amendment is the Utility Fund for some projected TCEQ fines of \$10,600 coming from the additional projected revenues of Sewer Sales.

**INTRODUCTION ONLY**

**25. RESOLUTION NO. R2011-20 Consider resolution authorizing the Mayor to enter into an Interlocal Agreement between the City of Kingsville, Texas and Kleberg County for the L.E. Ramey Golf Course. (Interim City Manager).**

Interim City Manager Alvarez stated the City Secretary was able to get an executed contract from the County. She read the Responsibilities as stated on page 2 of the Interlocal Agreement: The City and County will equally split the monthly electric bill for the L.E. Ramey Golf Course from March 15, 2011 to September 30, 2011; and the City will provide a worker to perform a maximum of four 8-hour work days per month to assist with work for the golf course to include but not be limited to grounds maintenance such as mowing routes, tree trimming, ditch work, and weed-eating. This was previously approved by the County and it is along the same terms that the Commission directed Staff to work on a draft with the County.

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

**26. Consider request from Kleberg County for contribution of half of the expenses for repairs to golf course equipment at the L.E. Ramey Golf Course. (Interim City Manager).**

Interim City Manager Alvarez stated this request was received from the County for reimburse of one half for the cost of fixing some equipment to be used at the golf course. The contribution the County is seeking from the City is \$11,503.68. The invoices in the Commission packet are for quotes and not for actual repairs. The County will pay from the Certificates of Obligation assigned to the Parks Department. County Commissioner Rosse stated the amount would not exceed the amount of \$11,503.68. Commissioner Laskowski stated that during a previous conversation with County Commissioner Rosse, Commissioner Rosse mentioned that he only wanted a couple of things from the City: (1) to pay half of the electricity bill and (2) to provide a man four (4) days, eight (8) hours per day for a total of thirty-two (32) hours, and that the County could make the rest. He added that now he's back for another \$11,000. County Commissioner Rosse stated it wasn't his intend to come back but if the City can help that would be great.

Commissioner Wilson commented this is the beginning of an adventure down the rabbit hole.

Commissioner Laskowski voiced his concern about not having seen a set of financials for this City for this fiscal year. He added that the price of a barrel of oil is \$105 and the City is modifying the budget to make these amendments, and the City still has six and a half (6 ½) months left in the budget. He stated the City will probably be looking at monies to pay for the cost overrun on fuel. County Commissioner Rosse stated they have his word he won't be asking for any more money for L E Ramey Golf Course.

Commissioner Wilson stated that the City is going to appropriate funds that have not been allocated through the proper budget process. Mr. Rushing stated this is a budget estimate through the designated revenue to that line item. Commissioner Wilson stated the City is going to authorize the expenditure of this amount which has not yet been budgeted for because the budget amendment, Agenda Item #24, is only an introduction. He added the amendment could fail and the City would have appropriated funds that had not been budgeted. The sum of \$50,000 has been received but the budget has not been adjusted to appropriate those funds. Mr. Rushing replied that was correct. Mayor Fugate asked if there was something illegal about how this was being done. Interim City Manager Alvarez replied this might come up as a dink in the financial audit.

**Mayor Fugate made a motion to pay up to the amount of \$11,503.68, seconded by Commissioner Garcia and Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Wilson, Laskowski "AGAINST".**

**27. Consider request to appoint someone to serve on the L.E. Ramey Golf Course Steering Committee. (Interim City Manager).**

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

**28. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter IX, Article 5, Fire Prevention and Protection, updating the Edition of the International Fire Code. (Fire Chief).**

Chief Lopez stated the City has already adopted the 2009 Building Code, and to have everybody on the same page it would be in the best interest if all are working under the same edition.

**INTRODUCTION ONLY**

**29. RESOLUTION NO. R2011-21 Consider resolution of the City of Kingsville, Texas finding after reasonable notice and hearing that Centerpoint Energy Entex and Centerpoint Energy Texas Gas South Texas Division requested increases to its Natural Gas rates and charges within the City should be denied; providing for recovery of rate case expenses; preserving regulatory rights of the City; resolving other provisions related to the subject matter hereof; 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 the company and legal counsel. (Interim City Manager).**

Interim City Manager Alvarez stated the company filed applications with the City and the Railroad Commission in December, the City passed a resolution to suspend that increase along with some other cities in the Steering Committee. To suspend that they had some hearings and at one point they were going to need a little bit of discovery. The proposed increases that the company wanted are over 6.5 million, there are twenty-three (23) other cities that are in this Steering Committee of Cities served and it is recommended that even though a settlement is in the works for an increase but less of what was requested, procedurally they would like for the cities to approve this resolution denying the original increase until the settlement is approved.

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

Mayor Fugate announced the Executive Session at 8:25 P.M. The Commission convened into Executive Session at 8:27 P.M.

**30. Executive Session pursuant to Section 551.071, Texas Government Code, Consultation with Attorney Exception, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter. (City Attorney).**

The Commission reconvened into regular session at 8:52 P.M.

**31. Consider action on street assessments. (Interim City Manager).**

Mayor Fugate stated what is needed is to work with the complaintives in this case, at Interim City Manager Alvarez's pleasure this week, and if she reaches an impasse, he suggests she seek the services of McKibben's firm. Interim City Manager Alvarez stated with regards to other persons, if they come in or if the title changes they will deal with that on a case to case basis.


Mayor Fugate called for a motion. **Commissioner Wilson motion to approve what the Mayor recited in, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

## **VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 8:54 P.M.

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Sam R Fugate, Mayor

ATTEST:

  
Edna S Lopez, TRMC, CMC  
City Secretary