

SEPTEMBER 26, 2011

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, SEPTEMBER 26, 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
Arturo Pecos, Commissioner
Stanley Laskowski, Commissioner

CITY COMMISSION ABSENT:

Charles Wilson

CITY STAFF PRESENT:

Vincent J. Capell, City Manager
Courtney Alvarez, City Attorney
Mary Valenzuela, Legal Assistant/Paralegal
David Mason, Purchasing Director
Mark Rushing, Finance Director
Bob Trescott, Downtown Manager
Jason Torres, Health Inspector
Diana Gonzales, Human Resources Director
Bill Donnell, Asst. Public Works Director
Willie Vera, Task Force Commander
Caron Vela, Accounting Manager
Al Lopez, Fire Chief
James Creek, Fire Fighter
Mike Kellam, Director of Development Services
Ricardo Torres, Police Chief
Diana Medina, Collections Manager

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:00 P.M. and announced quorum as present, with Commissioner Wilson absent.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by Mark Rushing, Finance Director 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 for special meetings held on Monday, August 29, 2011 and Tuesday, September 6, 2011. **Commissioner Laskowski made a motion to accept the minutes, as presented, seconded by Commissioner Garcia and Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting “FOR”. Wilson “ABSENT”.**

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

None.

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, PublicInformation, 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."

Vince Capell, City Manager had nothing to report at this time, but stated that Mr. James Creek of the Kingsville Fire Department had a short presentation.

Mr. James Creek presented the Commission with t-shirts in support of Cancer Awareness for the month of October. He stated that the Fire Union is selling t-shirts to raise money to donate to organizations in support of cancer awareness.

Courtney Alvarez, City Attorney, reminded staff that the next regular commission meeting is scheduled for Monday, October 10, 2011 and the deadline to submit agenda items is Friday, September 30, 2011. She further stated that she will be out of the office attending an electric board meeting on Thursday, September 29th and Friday, September 30, 2011, but the office will be open, so if anyone wants to drop off their agenda items they may do so or can submit them via email. She further stated that on Tuesday, October 4, 2011 from 6:00 P.M. to 10:00 P.M. at the J.K. Northway is National Night Out which is co-sponsored by the Kingsville Police Department in association with the Kleberg County Sheriff Department and the District Attorney's Office. She further stated that Texas A&M Kingsville Javelinas have a home game this Saturday, October 1, 2011 at 7:00 P.M. and would like to remind the citizens that there is no parking on the north side of the stadium on Corral. Mrs. Alvarez made the Commission aware that agenda item #2 had a change to page 6, which was passed out prior to this meeting. She stated that the finance director wanted to add the Utility Fund balance stay at least at 25%.

IV. Public Comment on Agenda Items³

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

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

There were no comments from staff or the public.

Mayor Fugate called for consideration of the items in Consent Agenda, Items 1 through 8. **Commissioner Laskowski made a motion to accept the Consent Agenda items 1, 2, 3, 5, 6, and 7 as presented with the exception of items 4 and 8, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Pecos, Laskowski, Fugate voting "FOR". Wilson "ABSENT".**

V.

Consent Agenda

Notice to the Public

The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.

CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:

(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)

1. **Consider approval of a resolution authorizing the City Manager to execute a Revised Training and Development Agreement with Del Mar College for the City of Kingsville Specialized Crimes and Narcotics Task Force. (Task Force Commander).**
2. **Consider approval of a resolution to authorize amending the Fund Balance Policy of the City of Kingsville to conform to the requirements of the Government Accounting Standards Board Statement No. 54. (Finance Director).**
3. **Consider approval of a resolution authorizing the City Manager to enter into an engagement letter between the City of Kingsville and John Womack & Co. P.C. for the 2010-2011 Fiscal Year audit. (Finance Director).**
4. **Consider approval of a resolution accepting communication letter from Independent Auditor John Womack & Co., P.C.; Authorizing the Mayor to execute**

the letter on the City's behalf and directing all three matters requested be reported to the Commission. (Finance Director).

5. Consider approval of a resolution authorizing the City Manager to enter into a Cooperative Purchasing Agreement between the City of Kingsville and Western States Contracting Alliance participating addendum for auto parts between the City of Kingsville and Autozone. (Purchasing Director).

6. Consider authorizing annual purchases for automotive filters (Bid #12-18) to Carquest, which does not expend any funds but provides unit prices for purchase when needed. (Purchasing Director).

7. Consider authorizing annual purchases for lubricants and oils (Bid #12-15) to Arnold Oil Company as the primary supplier, and Oil Patch Company from Corpus Christi as secondary supplier, which does not expend any funds but provides unit prices for purchase when needed. (Purchasing Director).

8. Consider appointment of Tom Dock to the City of Kingsville Planning and Zoning Commission to fill a vacant position. (Director of Development Services).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

4. Consider approval of a resolution accepting communication letter from Independent Auditor John Womack & Co., P.C.; Authorizing the Mayor to execute the letter on the City's behalf and directing all three matters requested be reported to the Commission. (Finance Director).

Mark Rushing, Finance Director, stated that this is the same compliance communication that was done last year. Last year the election of the Commission was to have all of the cases listed on page 3, which are the election choices. All cases of fraud except for the senior management would be reported to the Commission and the general entries that were recommended for posting to the accounting record, would be reported to the Commission. All past non-material journal entries that are not posted will also be reported to the Commission.

Commissioner Laskowski stated that the only reason he pulled this agenda item from consent, was to give the Commission the opportunity to change their position.

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

8. Consider appointment of Tom Dock to the City of Kingsville Planning and Zoning Commission to fill a vacant position. (Director of Development Services).

Commissioner Laskowski stated that he asked to pull this item from under the Consent Agenda because he has spoken to Mr. Bill Aldridge, who has expressed an interest in serving on the Planning & Zoning Commission. Mr. Aldridge had moved out of town for a period of time and has since returned to Kingsville. Commissioner Laskowski further stated that although Mr. Dock is a good choice, he would also like to nominate Mr. Aldridge to one of the two vacancies on the Planning & Zoning Board.

Mayor Fugate stated that he had an issue with regards to adding Mr. Aldridge to the Planning & Zoning Commission since his name wasn't posted on the agenda as a nominee. He further asked Mrs. Alvarez to give some clarification.

Mrs. Alvarez stated that agenda item #8, could be placed at the next regular scheduled meeting. The Commission can choose to approve the appointment of Mr. Tom Dock tonight and Mr. Aldridge at the next regular scheduled meeting or do both gentlemen at the next meeting.

Commissioner Laskowski made a motion to accept the appointment of Mr. Tom Dock to the City of Kingsville Planning and Zoning Commission, seconded by Commissioner Pecos.

Commissioner Garcia stated that other than the recommendation from Mr. Kellam, is there a resume submitted by Mr. Dock.

City Manager Capell stated that included in the Commission packet is a biography of Mr. Dock.

The motion was passed and approved by the following vote: Pecos, Garcia, Laskowski, Fugate voting "FOR". Wilson "ABSENT".

9. Consider resolution approving the City of Kingsville's 2011 Tax Roll as submitted by the Kleberg County Tax Assessor-Collector pursuant to the Texas Property Tax Code, Chapter 26, Section 26.09(e). (Finance Director).

Mr. Rushing stated that this is as presented by Melissa De La Garza, Tax Assessor, in the same format which she submitted last year.

Commissioner Pecos asked if this item was related to the article that was published in the Kingsville Record.

Mr. Rushing stated that this was the certified tax roll that was provided to the city and yes it was published in the newspaper, in a summary recap version.

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

10. Consider a 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, 2011. (City Attorney).

Mrs. Alvarez stated that this is essentially the same resolution and contract extension that the Commission had approved last year with the Water Authority. She further stated that there was not a contract or long term contract negotiated during the course of the last year and there is still some items that the Authority is trying to get answers to from TCEQ prior to doing negotiations. She further stated that they have asked to maintain the handling charge at the same rate that was adopted last year. The correspondence from the Authority's Executive Director is attached along with the resolution that their board has already approved, and a copy of the extension of the water supply contract for an additional one year term. She further stated that most of the Authority's customers have approved this item.

Commissioner Laskowski stated that he had a comment that he would like to share with the Commission. He stated that he had a concern about adopting the same rate that the Authority had last year and wanted to share with Commission as to how the Authority used the city's money. He further stated that the Authority gave all of their employees a \$1,000 net employee appreciation award, and so he feels that this was very unfair since the city can't do for their employees, but yet the Authority states that this is what they need to operate the water authority, and year end they come up and have extra funds. He stated that if you look at their packet, they are now saying that they need this increase because they need to build their reserves back up because of expenditures that were drawn down on their reserves. He stated that a \$1,000 net bonus to each of their employees means that they had a \$1,000 in their hands and all the taxes were covered and therefore he finds this disturbing.

Commissioner Garcia asked how many employees the Authority had on staff.

Commissioner Laskowski stated that they had 13 employees. He further stated that they did not tear down a water storage tank in Bishop, instead they choose to use that money to give the employees an appreciation award. He further stated that he wanted the Commission to know how they are representing the city.

Commissioner Garcia asked Commissioner Laskowski, how he would rectify this issue.

Commissioner Laskowski stated that there was a meeting held with the City of Bishop and Bishop was going to challenge the increase. He stated that the attorney for the City of Bishop had notes and the Mayor recalled that in our negotiations last year for this increase in the handling charge, that it was a one-time thing. He further stated that they chose not to pursue the matter and felt that the cost was negligible and added about \$200 to \$300 a month to their overall expense for purchasing water. He feels that the city

needs to look closely into what the Authority is doing with the money the city is giving them.

Commissioner Pecos stated that it seems that the city has no control over this particular agency, because of the fact that the County selects the members to represent us. He further stated that the only thing the city can do is stop buying water from the authority.

Commissioner Laskowski stated that he doesn't agree with Commissioner Pecos because whenever a citizen has a concern, they come to a Commissioner or the Mayor to voice their concern. He further stated that the appointments that are made by the County, we know each and every one of them and if you're not happy with the job they are doing, as a representative of the board of directors, you have the right as a tax paying citizen of the South Texas Water Authority to express your concerns to each and every one of those board members. He stated that maybe we don't have a choice as to who is appointed to that board, but you do have a choice to pick up a phone and voice your concerns.

Mayor Fugate commented to Commissioner Pecos that because they have the ability to access an ad valorem tax, even if the city decided not to take water from them, our citizens would be subjected to that tax and we would not benefit from any water and would still be paying taxes.

Commissioner Pecos stated that back in those times it might have been a great idea, but the way its structured seems that the City of Kingsville has supported that agency since day one and we continue to do so.

Mayor Fugate stated that the city is obligated and it is set up in a very interesting way because even though the citizens of Kingsville, which is part of Kleberg County, really don't have a say as to who gets appointed to the board, because they are appointed by Commissioners Court of the County, so we really don't have an input as to who serves on that board. They are not elected and the fact that they have the ability to access an ad valorem tax on the city really puts the city in a difficult position. He stated that the city negotiated a good contract last time and he believes that after TCEQ, hopefully comes back with some answers to questions that were submitted to them, that the city can come up with another good contract. The way to do this is by getting all the customers to agree to the contract and hand it to them, and it works pretty well that way.

Commissioner Pecos stated that we are going back to what Commissioner Laskowski stated that the citizens need to voice their concerns and bring it to their attention and it is the same thing, that whenever they choose to raise their taxes, it's unfortunate that they have giving them that right to get taxed and if they want to raise the taxes, how do you go about blocking that.

Commissioner Laskowski stated that all it takes is a phone call from each one of the Commissioners to each one of the five people that represent Kleberg County and he feels it could have some influence on the decisions they are making.

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

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

Diana Gonzales, Human Resources Director, stated that this item is here for a second reading and has been adjusted as a result of the changes with the budget passing.

Commissioner Laskowski made a motion to approve the final passage of this ordinance, seconded by Commissioner Garcia.

Commissioner Pecos asked that in the exempt positions, he noticed that some positions require a degree and some don't and he sees that there is a mixture of them. He stated that maybe in the future, it could be worked out where if a degree is required, and those people may be placed in a different exempt position.

City Manager Capell stated that this is one way of doing it and he feels that experience can substitute for a college degree and therefore you have some positions that don't require a degree, because sometimes experience weighs more than a degree.

Mayor Fugate stated that when he served on the KISD Board, they had a surveyor come in and do their reclassifications and what they found was there were some recommendations they couldn't afford.

The motion was passed and approved by the following vote: Garcia, Pecos, Laskowski, Fugate voting "FOR". Wilson "ABSENT".

12. Consider introduction of an ordinance ratifying classifications and prescribing the number of positions in such classifications for the classified service in the Police Department by adding one new officer position. (Human Resources Director).

Commissioner Garcia asked if the Warrant Officer would be working an eight hour shift.

City Manager Capell stated that the hours would be flexible.

INTRODUCTION ITEM ONLY

13. Consider final passage 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 that this was the second reading for this item which is to increase the wastewater sewer in accordance to the five year plan to reflect on the capital projects and the HDR Study that was presented in the summer.

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

14. Consider final passage 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 that this was the other portion of the model as well.

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

15. Consider final passage of an ordinance amending the Fiscal Year 2010-2011 Budget for the City of Kingsville for deficit accounts and year end contractual amounts. (Finance Director).

Mr. Rushing stated that a few adjustments were made to the year-end budget amendment. The unrestricted fund balance previously was \$67,367 which changed to \$251,512. He stated that there was an audit from the State Comptroller that sent the city another \$227,000 in our September payment therefore it was blended into our year end expected which was able to bump it up to \$225,000. He stated that he tweaked it due to the model he is using in making those projections for sales tax. He further stated that \$225,000 of that \$227,000 comes specifically from that audit. He further stated that there was a change that was added in expenditures under Commission Salaries, Municipal Building Communications and Building Maintenance, and those salaries are relating to a Commissioner that was not originally budgeted for this fiscal year that will be going full time for a portion of this year. He stated that in the Municipal Building under communications, this is to cover phone charges for City Hall through September 30th and the Building Maintenance to cover the air conditioning and plumbing repairs at City Hall. He continued to say that under the Volunteer Fire Department, \$32,850 is for the roof at the Volunteer Fire Department. Under Utility Fund originally the unrestricted fund balance from the previous budget was \$139,409 and that changed to \$409,809 due to the changes in STWA and other services, \$10,000 was added. Under utilities line items for Wastewater 700.1 is \$16,000 and 700.3 is \$3,600 was added as well which made up the changes in Utility Fund. Task Force and Tourism Fund had no changes.

Commissioner Laskowski asked if the city was going to move forward with the last item on the agenda which is to approve the agreement with Kleberg County for the L.E. Ramey Golf Course, we would need to add the \$35,000 for the Golf Course.

Mr. Rushing stated that if that was the wishes of the Commission then yes and a line item would need to add a line item for Kleberg County Golf Course under the 001-5-103.0-314.30 and the dollar amount would be for \$35,000.

Mayor Fugate asked if agenda item #17 would need to be approved prior to voting on item #15.

Mrs. Alvarez stated that the money could be allocated to the budget and if the agenda item #17 does not get approved, the money would flush to fund balance.

Mayor Fugate stated put that line item in the budget.

Mr. Rushing stated that this would make the unrestricted fund balance in this budget amendment at \$216,512 and increase \$35,000 for the golf course line item.

Commissioner Laskowski asked a question that if \$45,347 for sewer line will that cover materials and labor.

Mr. Capell stated that it doesn't cover labor only materials. The City will work on this project itself.

A motion was made by Commissioner Laskowski to pass final passage of ordinance as amended, seconded by Commissioner Garcia.

Commissioner Garcia did the County pass the \$35,000 for the Golf Course.

Mayor Fugate stated yes.

The motion was passed and approved by the following vote: Garcia, Pecos, Laskowski, Fugate voting "FOR". Wilson "ABSENT".

16. Consider final passage of an ordinance amending the Fiscal Year 2010-2011 General Fund budget to relocate the Main St./Tourism Department to the City Manager Department; to combine the Purchasing Department and Computer Operations Department into one department "Purchasing/IT"; for the Utility Fund to combine the Collections Department and Meter Readers Department into one department as the Utility Billing Department; and for clarification in the Tourism Fund salary and benefits expenses. (Finance Director).

Mr. Capell stated that these changes were reflected in the proposed budget provided to the Commission.

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

17. Consider resolution authorizing the Mayor to enter into a new Interlocal Agreement with Kleberg County for the L.E. Ramey Golf Course. (Mayor Fugate).

Mayor Fugate stated that it was his understanding that in this Interlocal Agreement that the city will match \$35,000 that the County will be putting into the L.E. Ramey Golf Course this year. If for some reason the County does not match the money, then the city would withdraw their match. He stated that they are not limited but it's for the purpose of the Golf Course.

Mrs. Alvarez stated that it is limited to the Golf Course but it's not limited as the prior one that was approved back in March which was strictly for electric. It state that they would have to invoice us monthly so that we can make sure that the County is paying their half and so we can see the drawdown of our half. She further stated that the changes from the prior one that the Commission had approved are on page 1, participant funding and also reflected on page 2 under responsibilities section A. The only other thing that changed was the term that was extended under 6A on page 2, till September 30, 2012.

Mayor Fugate stated that since the new administration has taken over the Golf Course, things have been looking really good although it still has a long way to go. He further stated that they have worked on the water system to where they could water during the evening hours. He further stated that the drought in Texas has really taken a toll on all the Golf Courses around our state. He further stated that he hopes it's not something that needs to be done annually, this is just get them jumpstarted and hopefully next year they can be in a position to be able to carry this on their own because this is a County project and not a city project. He stated that since they were in such need of assistance last year, he couldn't imagine the city our size not having a golf course. He further stated that this is going to be a year to year thing and he hopes that they can re-group and take this on as their project again.

Commissioner Garcia made a motion to approve resolution, as presented, seconded by Commissioner Pecos.

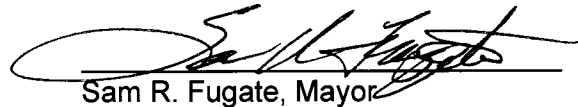
Commissioner Garcia asked if this agreement was presented to the County this morning at their Commissioner Court meeting.

Mrs. Alvarez stated that the agreement was presented to them last week and placed on their agenda for a 1:30 P.M. meeting scheduled for today, September 26, 2011 which was posted last week. She further stated that it is her understanding that Commissioner Schulz phoned advising that the County had approved the agreement.

The motion was passed and approved by the following vote: Pecos, Laskowski, Pecos, Fugate voting "FOR". Wilson "ABSENT".

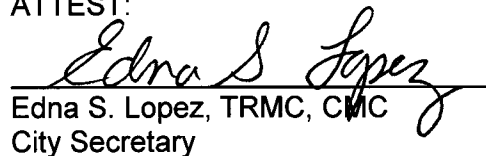
VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:40 P.M.



Sam R. Fugate, Mayor

ATTEST:



Edna S. Lopez, TRMC, CMC
City Secretary