

SEPTEMBER 10, 2012

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, SEPTEMBER 10, 2012 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

Sam R. Fugate, Mayor
Al Garcia, Commissioner
Dianne Leubert, Commissioner
Noel Pena, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Vincent J. Capell, City Manager
Courtney Alvarez, City Attorney
Mary Valenzuela, City Secretary
Mark Rushing, Finance Director
Diana Gonzalez, Personnel Director
Yolanda Cadena, Health Director
Roel Carrion, Interim Fire Chief
Ricardo Torres, Police Chief
Willie Vera, Task Force Commander
Mike Kellam, Director of Development Services
Diana Medina, Collections Manager
Rose Morrow, Municipal Court Supervisor
Naim Kahn, Engineer/Public Works Director
Bob Trescott, Tourism Services Director
Tony Verdin, Computer Technician
Melissa Perez, Risk Manager
Julian Cavazos, Lieutenant
Arturo Moreno, Accounting II
James Creek, Fire Department
James Bryson, Accounting Manager

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:03 P.M. and announced quorum as present.

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

None

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

1. Public Hearing to consider ordinance for creation of a stormwater utility rates. (City Manager).

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

No comment was made from the public or staff regarding this public hearing.

Mayor Fugate asked a question to Mrs. Courtney Alvarez, City Attorney. Is there any time required by law to keep this public hearing open. Mrs. Alvarez stated, the statute just requires us to post for the notice in the local newspaper and post for the meeting in which we have met statutory requirements for the posting. All that is left to do is conduct the hearing and there is no specific time that this public hearing should stay open.

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

III. Reports from Commission & Staff.² (City Manager's Staff Report Attached).

"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. No formal action can be taken on these items at this time."

Mr. Vince Capell, City Manager announced the appointment of the new City Secretary, Mary Valenzuela. He further stated that Mrs. Valenzuela has been employed with the City of Kingsville for sixteen years. Mr. Capell stated that Mr. Grady of HDR was available to make a presentation regarding water, sewer and wastewater items that are up for Commission approval.

Commission would like to hold off on the presentation until the items come up for discussion.

Mr. Mark Rushing introduced Mr. James Bryson the new Accounting Manager for the Finance Department. He stated that Mr. Bryson was recently the Senior Accountant for the City of Corpus Christi.

Mrs. Courtney Alvarez reminded staff that Friday, September 14, 2012 is the deadline for agenda items for a regular meeting on Monday, September 24, 2012, however we do have a special meeting on September 17, 2012 at 6:00 P.M.

IV. Public Comment on Agenda Items³

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

No comments were made.

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)

None.

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. Consider request for an alcohol variance at 716 W. Santa Gertrudis for applicant Marty West on behalf of University Liquor. (Director of Development Services).

Mr. Mike Kellam, Director of Development Services stated that the application was received and pertinent notices were mailed out as per state statute to properties within 300 feet of the establishment. No comments or concerns were received from these properties. Only one call was received with a concern unrelated to the application. No negative comments towards the application for the alcohol variance at this point. Staff is in favor for this variance and cannot see any reason for denial.

Commissioner Leubert made a motion to approve the alcohol variance at 716 W. Santa Gertrudis, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate, voting "FOR".

2. Consider accepting a \$500 donation from Apache Corporation for the Kingsville Police Department. (Chief of Police).

Julian Cavazos, Lieutenant stated that Apache Corporation has business between here and Agua Dulce and were giving money to police departments. All they ask is to purchase equipment that can be used by the police department. The Kingsville Police Department is looking to purchase one Deluxe Command Board with large map pouch, rain black all-weather pen, three pocket guides, one accessory kit and one law enforcement system command package refill for all the equipment that comes inside of it.

Commissioner Pena asked is this was the total amount and will it require a match. Lieutenant Cavazos stated that the total amount is \$501.75 and \$1.75 will be paid from the Kingsville Police Department budget.

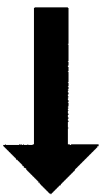
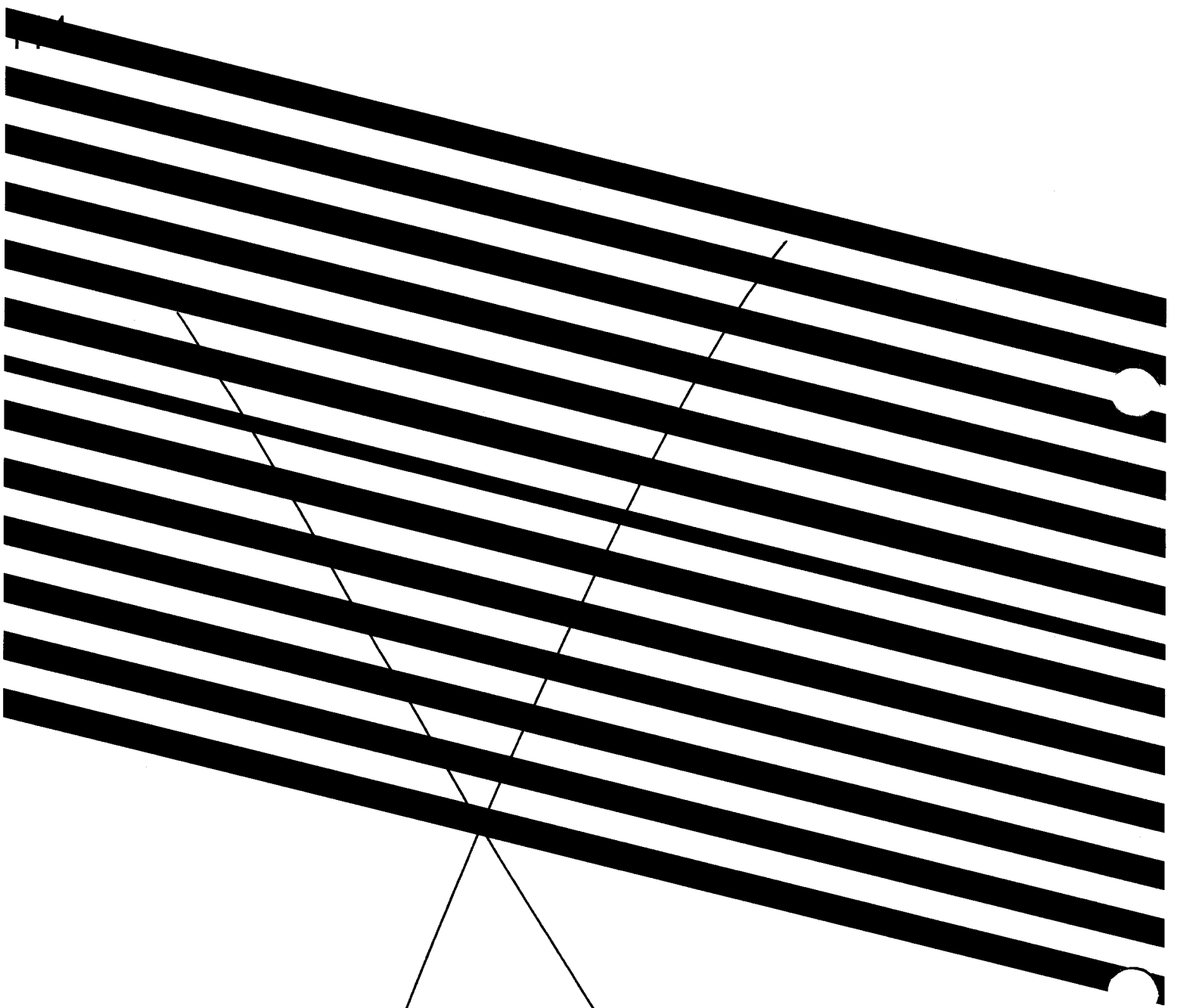
Commissioner Garcia made a motion to accept the \$500 donation from Apache Corporation, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

3. Consider introduction of an ordinance of the City Commission of the City of Kingsville, Texas amending the fiscal year 2011-2012 budget for donation of \$500 to the Kingsville Police Department. (Finance Director).

Introduction item only.

4. 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. Gardy Reed, representative for HDR made a brief presentation to Commission regarding water and sewer rates. He stated that HDR has had the privilege of working with the City of Kingsville for several years in performing updates to a Microsoft Excel water and wastewater rate model that was created for the City in 2005. Some major assumptions were used in updating the rate model for this pending fiscal year 2013. The major assumptions that were assumed is that the City will continue to make a payment of \$350,000 per year to South Texas Water Authority. The way the rate model is setup is by inputting the City's water and wastewater budget on a line item basis within the model, so that they can control inflation on a line item basis. They assumed 3% rate of inflation on all budgetary items except for fuel and utilities which they have assumed, the 7% rate inflation on those forecasting forward. They have also assumed that there will be a contribution of capital fund of \$760,000 in fiscal year 2013 and in the following years. This is a transfer out of utility fund into capital fund that the City is using to pay cash for most capital projects instead of issuing debts for those projects. It is one of the things that this City does that not a lot of cities do, and it's to the city's benefit that they do this. What it allows the City to do, is to keep rates a little more constant whenever we are cash funding projects. Instead of having the utility rates bounce up and down as the City cash funds a large project, and then in the following year the City may not fund any projects. What



HDR does, is look at a five year period and looks at all the items the City would like to cash fund over the five year period. Another word, in order to make that happen we would have to transfer some amount of money which they will try to add up everything and divide by five to see if that would work. What it allows us to do is send the same amount of money over every a year, or pretty close to the same amount of money over a year so that we don't see those spikes in the spending coming out of water and wastewater fund.

Mayor Fugate stated that used to be \$300,000.

Mr. Reed stated that it used to be \$300,000 when they first started and ramped it up over time, but the City is paying cash, not for all CIP projects but for the vast majority of them. This is good in a way that the City is avoiding taking on more utility debt. The other major assumption that they always assume in the rate model is that they want to maintain at least a three months cash reserve in the utility fund. This just means that the City has three months of cash on hand should something happen. If the City has a wet summer, water sales will decline and the revenue is going to be lower than forecasted. Unfortunately, most of the City expenses are still going to be present as they don't go away just because it rains. This just helps us to assure that the City has adequate funding to get through wet weather periods, primarily during the summer. At the end of the rate model, which goes out to fiscal year 2017, the City will still have about a four and a half month reserve. The assumption of an approximate rate of growth of .2% per year in the number of new connections, just working with staff historically it's what has been seen. Kingsville is growing but it's not growing by leaps and bounds. Slower growth rate does put a little more pressure on the rates, just because, if expenses are going up at a higher percent than .2% and growing our connections as fast as cost are going up which could put a little upper pressure on the rates as well. The total utility fund expenditures increase about \$170,000 for fiscal year 2013 over fiscal year 2012. He stated that the City does not want this to fall below 3%. What they are trying to do is trying to draw the utility fund balance down over time. He stated that a lot of people will ask the question, because they recommended a 1% increase on water rates and a 3% on sewer rates, the logical question is, why if the City has an excess fund balance, why are we raising rates at all, why not keep them the same, raise and pull the fund balance quicker. They want to draw the reserves down but don't want to draw it all down in one year. What they want to do is pull the fund balances gradually so that it's very easy to transition from something that's going down to something that's stable at three to four months reserves. The way to do this is by still having rate increases but just smaller than what they would be if trying to have a balanced budget or increase the reserve target. CIP does not include any projects for fiscal year 2016 and 2017, but still assume that there would be the same amount of transfer over \$760,000 for those two years. There are a couple of large wastewater projects, there one being a force main in 2014 and centrifuge in 2015. The City has been pro-active and established capital fund and transferring money to that. Most cities would go out and probably issue debt or try to wrap other projects in with those and try to issue debt for those projects. Because the City has been pro-active they will pay cash for those, but will put a little short term pressure on the wastewater rates. If the City was to issue debt in lieu of cash funding those projects would still be pressure on the wastewater rates as increased debt funding. Our recommendation for this upcoming fiscal year is a 1% increase on the water rate and 3% increase on the wastewater rate. With that, the City will continue to meet a reserve requirement of three months and will continue to meet any coverage requirements that the City may have in an outstanding debt or any future debt should the City decide to issue in the future. A 1% increase in water rates creates additional revenue by \$42,000. A 3% increase in the sewer rates creates additional revenue by about \$94,000. Also included is the historical water and wastewater, going back to fiscal year 2006, this year was a pretty hefty catch up on the wastewater increase by 20%. Before that time when HDR was not involved in the City's rates, which the City had gone a while without increasing wastewater rates and fell behind on projects. The general rate of inflation is about 2-3% which varies from year to year. Any year the City does not increase their rates by 2-3%, if the cost goes up by 2-3% then the City falls behind, which will require the City to play catch up sooner or later.

Commissioner Leubert asked if the cost has gone up 3%. Mr. Reed stated that this year between the fiscal year 2012 and 2013 utility budget, the increase and expenses was \$170,000. This is for water and wastewater combined.

Commissioner Leubert asked if this is a 3% total for both. She asked if the Commission was voting for a total of 4% or 5%. Mr. Reed stated that 1% increase on water and 3% increase on wastewater.

Mr. Reed stated that a survey of other cities in Texas was done for comparison to the City rates against other rates. With residential bills, if any residents were using 10,000 gallons of water and 10,000 of sewer their current combined bill would be about \$72.00 and with the 1% increase it would go up to \$73.00. In compare to other cities, we are lower to right in the middle which is really not a bad place to be. This is one of the things that the Commission always wants to see, is how we compare to other cities. It's also a dangerous thing to show because our situation different than everyone else around us. There is different infrastructure growth, their infrastructure condition may be poor and may be trying to play catch up. This is why other cities have lower rates because they aren't keeping up with operation maintenance. The different supply characteristics for example, Uvalde is incredibly cheap. All of Uvalde supply comes from Edwards Aquifer Water so it's really cheap. They don't have to send that water anywhere which is an easy solution for them. A commercial bill will pay about \$342 per month combined water and wastewater bill and that would increase with a 3% increase to about \$349 per month for water and wastewater. He further stated that rates should be adjusted every year based upon any change conditions. The City has done a good job with this but you have some cities that get a long range rate projection for 5 years and follow that every year without looking at things that change from year to year.

Commissioner Leubert asked to explain what CIP stands for so those citizens watching can understand what it means.

Mr. Reed stated that CIP stands for Capital Improvements Plan. These are capital projects that the City is planning on purchasing or building for example pipelines, storage tanks also included are equipment such as trucks, backhoes and those types of items.

Commissioner Pecos made a motion to adopt this ordinance as presented, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".

5. Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 2, Sewer, Providing for an increase in sewer rates. (Finance Director).

Commissioner Pecos made a motion to adopt this ordinance as presented, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".

6. Consider final passage of an ordinance of the City Commission of the City of Kingsville, Texas, amending Chapter V Public Works of the Code of Ordinances of the City of Kingsville, Texas by adding Article 6 entitled "Stormwater Utility System"; Article 1 "Stormwater Utility System Rules" to establish a Municipal Stormwater Utility System; Establish an administrative appeals process; Provide penalties and remedies for nonpayment; Exempt certain property from fees; and provide a process by which to discontinue the Stormwater Utility System; Providing a cumulative clause; providing a severability clause; Providing a savings clause; and providing an effective date. (City Manager).

Commissioner Pecos asked if the residents would be charge \$1.25 per month.

Mrs. Alvarez stated that this particular ordinance will be decided during a meeting on Monday, September 17, 2012.

Mayor Fugate stated that his understanding is that for residents the charge would be \$15.00 a year. He further stated that the City Manager has done a great job in explaining this and after living in Kingsville all his life, we get storm water but it doesn't stick around very long. He stated that houses don't flood here but our streets do. It didn't make any sense at first, but when you think about using your streets to drain storm water, you also deteriorate those streets. This is why it's

important to develop storm water programs and in the long run it will help us with our street conditions. He stated that when he first saw this he wasn't in favor but after speaking with Mr. Capell, he thought it would be a good idea.

Commissioner Leubert asked if this is going to affect some of the alleys. She stated the alleys were part of the drainage. Water would drain into the alley then into the street and out of yards so they wouldn't get flooded. Over the years, we have fixed our alleys to the point where they are pretty high now, and so the water in the alley's are now going into garages and backyards causing them to flood.

Mr. Naim Kahn, Public Works Director stated that if this happens, the alley can be lowered. Residents would need to call the Engineering Department and they will survey the problem.

Commissioner Pena stated that he would like to thank Mr. Reed for a great job on his presentation, showing how the process works.

Commissioner Pecos stated that he had the opportunity to speak with some citizens, and they stated that if it never rains here, why do we need storm water. He stated that in defense to the decision the Commission makes tonight, the charge would only be \$1.25 per month and that the charge will not be forever. He stated that once the City has met the amount of money needed, the charges are to be removed.

Commissioner Pena made a motion to adopt the ordinance as stated, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena Fugate voting "FOR".

7. Consider introduction of an ordinance of the City Commission of the City of Kingsville, Texas, amending Chapter V Public Works of the Code of Ordinances of the City of Kingsville, Texas by amending Article 6 entitled "Stormwater Utility System", as amended, by adding "Stormwater Utility Fees", to establish monthly stormwater utility fees for the purpose of funding the Stormwater Utility System; providing a cumulative clause; providing a severability clause; Providing a savings clause; and providing an effective date. (City Manager).

Mr. Reed stated that this ordinance would create the rates for the stormwater utility Those rates will be \$1.25 per ERU or equivalent residential unit. This means that each house is one ERU and will pay \$1.25 per month. A commercial business is based upon impervious cover that they have on their parcel. The average commercial parcel contains ten ERU's so their average bill will be ten times \$1.25 per month. Keep in mind, that the City has some larger commercial customers such as Wal-Mart, which is basically just a paved over or has a gigantic building on it, so their stormwater bill will considerably higher.

Introduction item only.

8. Consider introduction of an ordinance adopting the City Manager's annual budget as amended of the City of Kingsville, Texas, and appropriating funds for the fiscal year beginning October 01, 2012 and ending September 30, 2013 in the particulars hereinafter stated. (City Manager).

Mr. Capell stated that there is nothing more to say than what already has been said regarding the budget. He would like for Commission to state any comments or ask any questions they may have regarding this ordinance. He stated that this item will go up for adoption on the next Commission meeting on Monday, September 17, 2012.

Mayor Fugate stated that if Commission has any questions or comments, to contact Mr. Capell.

Introduction item only.

9. Consider introduction 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 01, 2012 and ending September 30, 2013, 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. (City Manager).

Mayor Fugate stated that if Commission has any questions or comments, to contact Mr. Capell.

Introduction item only.

10. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter III, Article 7, Personnel Policies (Comp Plan for FY2012-2013). (Human Resources Director).

Diana Gonzalez, Human Resources Director, stated that this item corresponds to the proposed budgetary changes with the salaries and wages that have been brought before them.

Commissioner Pecos asked if the rate for the employees is 1 ½ increase.

Ms. Gonzalez stated that straight across the board is 1 ½ increase.

Commissioner Pecos stated that in the last three years there has been no increase for the employees.

Ms. Gonzalez stated that last year there wasn't and increase but year before was a 2% increase.

Mayor Fugate stated that one year there was a dollar amount that was given to employees.

Introduction item only.

11. Consider final passage of an ordinance annexing the hereinafter described territory to the City of Kingsville, Kleberg County, Texas and extending the boundary limits of said City so as to include said hereinafter described property (Lot 9, Section 22, KT&I Subdivision) within said City limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the Acts, Ordinances, Resolutions, and Regulations of said City; and Adopting a Service Plan, Repealing all Ordinances in conflict herewith and Providing for an effective date. (Director of Development Services).

Mayor Fugate thanked Mr. Kellam for all the hard work he has put into this annexation.

Mr. Kellam stated that staff has assisted him with this process and thanked Mrs. Alvarez for her assistance in helping him get this done. He stated that we are at the end of the road and with Commissions approval we can move on to the next step which is distributing the new map, ETJ and a copy of the ordinance for annexation to all the appropriate state offices.

Mayor Fugate stated that he has not heard anything negative regarding this annexation.

Mr. Kellam stated that he has spoken to Hawks Landing which is the same people who have expressed interest in street lighting, but have not expressed any opposition at all. He stated that they consider themselves fortunate that for so long they didn't have to pay. They knew this day was coming and they have accepted and we are happy to have them within the city.

Mrs. Alvarez stated that just to note, the only revision to the ordinance before the Commission is including the GEO numbers to further clarify.

Mr. Kellam stated that it is for clarification for the County for taxing purposes as to what properties will be included in the next year.

Commissioner Garcia asked if there was any need for additional traffic control within that area due to the annexation.

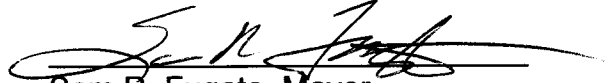
Mr. Kellam stated that no traffic conditions will change at this time, but as that area develops, that will be one thing they will be looking at as far as impacts from development, whether the road needs to be widened, what type of improvements need to be made such as turn lanes, street lighting, curb and gutter and things of that nature.

Commissioner Garcia made a motion to approve this ordinance as presented, seconded by Commissioner Pecos. The motion was passed and

approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

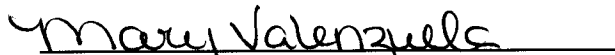
VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:50 P.M.



Sam R. Fugate, Mayor

ATTEST:



Mary Valenzuela, City Secretary