

**APRIL 23, 2012**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 23, 2012 AT 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 E Wilson, Commissioner  
Stanley Laskowski, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Vincent Capell, City Manager  
Edna S Lopez, City Secretary  
Courtney Alvarez, City Attorney  
Naim Khan, City Engineer/Public Works Director  
Bill Donnell, Asst Public Works Director  
David Mason, Purchasing Director  
Yolanda Cadena, Health Director  
Robert Rodriguez, Library Director  
Mike Kellam, Director of Development Services  
Susan Ivy, Parks Director  
Robert Trescott, Downtown Manager/Special Projects  
Gary Fuselier, Landfill Supervisor  
Mark Rushing, Finance Director  
Roel Carrion, Interim Fire Chief  
Ken Starrs, Asst Task Force Commander  
John Garcia, Risk Manager  
Diana Gonzales, Human Resource Director  
Caron Vela, Accounting Manager  
Ricardo Torres, Police Chief

**I. Preliminary Proceedings.**

**OPEN MEETING**

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

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

The invocation was delivered by 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 the minutes of the regular meeting of Monday, April 9<sup>th</sup>, 2012. Commissioner Laskowski made a motion to accept the minutes, as presented, seconded by Commissioner Wilson. The motion was approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

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

NONE

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

City Manager Capell reported on two things: (1) there's an opportunity to cleanup Kingsville with an abandoned tire cleanup program on Saturday, May 5<sup>th</sup>; and (2) parking on 1<sup>st</sup> row of City Hall parking lot will be restricted for early voting parking only.

Mr. Rick Medrano, Entrust representative addressed the Commission. Mr. Medrano provided information on the 6 month report beginning in October. He touched on the first report – The turnaround time which is measured from 88.07% of claims received have been processed. Next report is the loss ratio; 4½ year illustration which is running at 117% above the City's attachment point of 146% of expected which is high. He stated there is a large claim that has come in. The City's liability on this claim is over so the next report will stabilize because the financing now is coming from the carrier as opposed to the City. He stated that Wellness is at 1% and initiatives will be looked at to try to increase the City's employees and family getting their annual exams. He touched on the prescription services and the summary of the prescription utilization. The PPO savings for inpatient was 41.57%, outpatient was 6%, surgery 52%, and diagnostic x-ray was 67-68%. Finally, Mr. Medrano provided information on the top ten providers.

City Attorney Courtney Alvarez reported the next regular Commission meeting is in three weeks on Monday, May 14<sup>th</sup>, deadline for agenda items is Friday, May 4<sup>th</sup> and the City Election is May 12<sup>th</sup>.

#### 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.

Ms Nicole Watson, 301 E Kleberg and Paige Williams 213 E 5<sup>th</sup> Bishop, TX thanked the City Commission, employees and volunteers for all their hard work on the event – Touch The Trucks.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-3. **Commissioner Laskowski made a motion to accept 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. 2012-22 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 budget in the amount of \$67,408 for the General Fund Capital Projects Fund using FY 2010-2011 Budget Surplus for the City's Time and Attendance System. (Finance Director).**
2. **ORDINANCE NO. 2012-23 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 Budget for the Police Department State Forfeiture Fund in the amount of \$27,600 and to receive insurance proceeds for the replacement of a Patrol Car. (Finance Director).**
3. **Motion to approve waiving all City fees and any fees for services for participants of the Palmer Drug Abuse Program – Drug Free Walk event to be held on April 28<sup>th</sup>, 2012. (Downtown Manager).**

##### REGULAR AGENDA

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

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

4. **RESOLUTION NO. 2012-18 Consider a resolution authorizing the City Manager to enter into a Water Utility Supply Contract (GOV. Contract #N69450-12-C-0011) between the City of Kingsville and the Federal Government for Naval Air Station-Kingsville. (City Engineer/Public Works Director).**

City Engineer/Public Works Director Naim Khan stated that NAS is in the process of changing the whole water distribution system. He stated the City has a contract with NAS but is old and needs to be updated. Mayor Fugate stated this has been a long time coming they have been having a lot of problems with their quality of water. He added this is a good thing and this was part of his and Dr. Dick Messberger's presentation in Washington to supply water to NAS and hopefully get to wastewater.

Commissioner Laskowski stated he brought to the City Manager's attention, in the memo it states that HDR is going to update the City's model and do a study on water rates for NAS Kingsville. He added based on this contract they are not proposing to raise the water rates based. The terms of the contract specifically state that the City can't raise NAS rates unless everybody else rates are raised. He stated his question to the City Manager today was that the water rates were raised three or four years in a row and he wanted to know if NAS water rates were ever raised whenever everybody else rates were raised, and the answer to that is, we have not. He added now the City is considering approving a contract that says if the City doesn't raise everybody else rates we can't raise their rates. He added he didn't know how long their water rate has been \$1.39, but it has probably been \$1.39 for a long time. Commissioner Laskowski stated he wasn't sure that the Commission want to approve this contract not being able to raise the rates unless everybody else rates are raised. City Manager Capell stated there are a couple of options to consider, (1) the word from NAS is that this is boiler plate language that can be easily changed and should be changed. Mr. Khan stated he has spoken to the Navy several times and has saved the emails concerning that subject. When the study is done the rate can be increase, but without the study, the rate cannot be increased. He referred to page 3, stating that the Navy does not have a problem with changing the language.

Ms Alvarez referred that the language on page 3, C2 – "No increase shall be requested in the contract rate unless the contractor has placed into effect a general rate increase to all of his customers". She added if you emphasis, "under similar conditions of service" it was her understanding when Grady was looking to do the rate study it was because they are in a unique specific classification of service, the customer being bulk and outside the city limits, that they would have their own rate analysis and fee structure in the code of ordinances. She added if there was some other large bulk user that came in that was outside the city limits a similar assessment or rate could be charged that person. There's a good argument that the language is sufficient to cover the base at this point and they are aware of the City's desire to have the rate increase because it has been in place for so long. Mayor Fugate asked Ms Alvarez if she was satisfied with this language. Ms Alvarez stated because it states under similar conditions of service and right now there's nobody but them that is in similar condition.

Mayor Fugate called for further questions. Commissioner Wilson voiced his concern over the last months the Commission has received boiler plate ordinance and resolutions from State or Federal agencies and all have required some kind of massaging after it was put on the agenda, the Commission was told it was boiler plate. He stated that is a concern for him and he hopes it is a concern for the rest of Staff because the City should not take wholesale take boiler plate items from State or Federal agencies and just implement them.

Commissioner Laskowski added he would like to insert some type of language to clarify the issue that even though the City has the email, the email is different from a contract. He added maybe the City could use the language "under similar conditions of service" to say that would be the City's out to raise their rates. This is a contract and they have lawyers.

City Manager Capell stated in talking with them today they appear to be willing to give the City that latitude. Mayor Fugate asked how time sensitive this was. Mr. Khan replied they would like to start the contract effective May 1<sup>st</sup>. Ms Alvarez stated the contract using the current existing rate, once the rate study is complete, the City will give them a written notice. Mayor Fugate asked Ms Alvarez if she was comfortable the language, as is. Ms Alvarez stated she was comfortable because it states under similar conditions of service of which there are no other end users with similar conditions of service. Commissioner Garcia asked about the capacity. Mr. Khan replied they doubled up their water model and they are concentrating on all the requirements and their model was perfect.

Mayor Fugate called for further questions. Commissioner Pecos asked what the revenue would be. Ms Alvarez replied at a \$1 per gallon estimate, it would be \$1.5 million because they are estimating 1.5 million gallons of usage annually.

**Commissioner Laskowski made a motion to change the language to "No increase shall be requested until a rate study have been completed by HDR for NAS-Kingsville at that time the City shall negotiate an increase in the water rate based**

on that study". City Manager Capell asked to shorten that. He stated, "The increase shall be allowed to the extent the rate is supported by a cost of service study." Commissioner Laskowski stated that was fine and to remove all other language. Commissioner Laskowski accepted the City Manager's recommendation and stated to strike the entire paragraph and add the language the City Manager had proposed. Commissioner Wilson seconded the motion. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

**5. Consider authorizing the expenditure of \$5,000 to Kleberg County Parks Department for repairs to Brookshire Pool contingent on department securing the other \$15,000 needed for repairs. (City Manager).**

Commissioner Wilson made a motion to authorize the expenditure of \$5,000, seconded by Commissioner Garcia. For clarification, Ms Alvarez asked if this was contingent on the department securing the other \$15,000 needed for the repairs. Commissioner Wilson replied as the agenda item states. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".

**6. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 Budget for the General Fund Capital Projects Fund in the amount of \$5,000 for the request from the Parks Department for the Brookshire Pool renovations. (Finance Director).**

Mr. Rushing stated this relates to the previous item.

**INTRODUCTION ONLY**

**7. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 Budget for the Municipal Court Technology Fund Computer Equipment Supplies in the amount of \$2,118. (Finance Director).**

Mr. Rushing stated this budget amendment is for utilizing Municipal Court Technology funds available. This would purchase the Brazos Software update and a printer, wide screen television, couple of upgrades Microsoft Office 2010 and for additional funds for annual maintenance agreement.

**INTRODUCTION ONLY**

**8. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 Budget for the Utility Fund Capital Projects Fund 054 for the Water Production Department Well #19 Pump House to Fund 062 CO2005 in the amount of \$12,987. (Finance Director).**

Mr. Rushing stated he provided a spreadsheet showing the different sources in funding this and the projected cost that has been utilize from increase revenues. An additional \$12,987 will come from fund balance in 054. In CO 2005 \$50,000 was earmarked, for subtotal \$200,000 needed for project.

Commissioner Laskowski voiced his concern about the life expectancy of this well. He asked if the well goes down is there a use for the pump house. He stated that normally the City has a use for the pump house and if the well goes bad what will be the pump house use. Mayor Fugate stated the pump house will be utilized. Commissioner Laskowski stated they are going to build a new one. City Manager Capell stated the existing pump house will be used as an apparatus bay for the Volunteer Fire Department as approved by the City Commission at the January 23<sup>rd</sup> meeting. This item today is to build a new pump house adjacent to the south. Commissioner Laskowski stated this is a significant investment for a pump house that will not be able to be used if the well goes down. Mr. Khan replied this well is one of the best and is working very good. This is one of the best water wells that the City has. This well was drilled in 1967.

**INTRODUCTION ONLY**

**9. Consider approval of revisions to the Kingsville Civil Service Rules and Regulations Chapter 7-Classification, Section 7.06 regarding entry level hiring requirements, as recommended by staff and approved by the Civil Service Commission. (Human Resources Director).**

Human Resource Director Diana Gonzales stated the Fire Department is requesting a revision to Chapter 7 Classification, Section 7.06 due to the difficulty in attracting the

qualified applicants according to the last revision. This is a minor change which will increase the pool of applicants. This was presented and approved to the Civil Service Commission on April 17<sup>th</sup>.

**Commissioner Laskowski made a motion to approve the revisions, seconded by Commissioner Pecos.** Upon a question from Commissioner Garcia, Interim Fire Chief Carrion explained that the State of Texas got of the testing business in 2002 due to budgetary constraints so they depended on the National Registry for testing. The State of Texas certification lasts for four years and the National Registry certification lasts for two years. He stated Texas is not a National Registry State but Texas observes the standards.

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

**10. Consider introduction of an ordinance amending Chapter VII, Article 5, Traffic Schedules, temporarily setting a construction speed zone of 55 miles per hour to be in effect when signs are displayed within the construction project on US Highway 77, from 4,300 feet north of Caesar Avenue to 8,500 feet south of Caesar Avenue, with the completion and/or acceptance of each project cancelling the provisions of the ordinance and causing the removal of any remaining construction speed zone signs. (City Engineer/Public Works Director).**

Mr. Khan stated this request came from TXDOT to reduce speed from 65 to 55 in the construction area from King to Trant Road. Commissioner Wilson stated maybe since the State has requested the City to drop the speed within that zone, maybe the City can coerce them nicely into dropping their speed from 70 to 65 in the area that has been asked by the City. He added he is not in any way opposed, anything for the safety of the men and women working in that area, but he is equally interested in the safety that has been ask for consideration with. It is two different things, one is permanent and the other is temporary because it has a built in life and he understands this. Mr. Khan stated he would work on this. Mayor Fugate stated he did not want to slow down the process.

#### INTRODUCTION ONLY

**11. RESOLUTION NO. 2012-19 Consider a resolution amending the appointment of Election Judges and the Early Voting Ballot Judge for the City General Election on May 12, 2012. (City Secretary).**

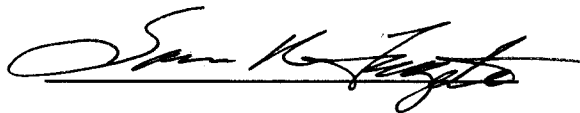
**(CONSIDERE UNA RESOLUCIÓN QUE ENMIENDA EL NOMBRAMIENTO DE LOS JUECES ELECTORALES Y EL NOMBRAMIENTO DE LA JUEZA DE LA JUNTA DE VOTACIÓN ANTICIPADA PARA LAS ELECCIONES GENERALES DE LA CIUDAD, QUE SE LLEVARÁN A CABO EL 12 DE MAYO DE 2012) (SECRETARIA MUNICIPAL).**

City Secretary Edna S Lopez explained that the previously approved resolution has changed due to Judges and Alternate Judges calling in about not being able to work.

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

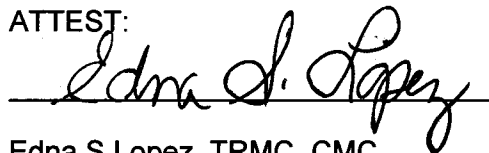
#### VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:47 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary