

JULY 9, 2012

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JULY 9th, 2012 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
Arturo Pecos, Commissioner
Dianne Leubert, Commissioner

CITY COMMISSION ABSENT:

Al Garcia, Commissioner
Noel Pena, Commissioner

CITY STAFF PRESENT:

Vincent J Capell, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
David Mason, Purchasing Director
Naim Khan, City Engineer/Public Works Director
Mike Kellam, Director of Development Services
Bob Trescott, Downtown/Special Projects Manager
Willie Vera, Task Force Commander
Mark Rushing, Finance Director
Roel Carrion, Interim Fire Chief
Yolanda Cadena, Health Director
Tony Verdin, Information System Technician
Diana Medina, Collections Supervisor
Rose Morrow, Municipal Court Supervisor
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 6:02 P.M. and announced quorum as present, with three members present, and Commissioners Garcia and Pena absent.

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, June 25th. **Commissioner Pecos made a motion to accept the minutes, as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Fugate, Leubert, Pecos voting “FOR”. Garcia, Pena “ABSENT”.**

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

1. Public Hearing regarding condemnation proceeding for structures located at 707 West Warren, 519 North 6th, & 624 West Johnston. (Director of Development Services).

Mayor Fugate opened the public hearing at 6:04 P.M.

Mr. Kellam addressed the Commission, stating that the information on said locations is in their packets, the necessary protocol was followed, inspections were made and photos are enclosed to show the state of the buildings. There's documentation of the attempts to come to a different solution and in some cases they are not available because of the conditions of the building.

Mayor Fugate called for comments from the public.

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."

City Manager Capell had no comments.

Ms Alvarez reported Friday is the deadline for agenda items for next regularly scheduled meeting on Monday, July 23rd; there will be a special public hearing scheduled to begin at 5:00 P.M. with the regular Commission meeting at 6:00 P.M.; and there will be a special Commission meeting at 5:00 P.M. on Thursday, July 26th to conduct the public hearing for the annexation of the Hawks Landing area which requires two public hearings.

Commissioner Leubert asked if the current landscaping policy addresses maintenance of landscaping after it is put in. Ms Alvarez replied she did not receive a copy of the policy prior to the meeting but her recollection is, yes. Mr. Kellam replied the language in the code is vague and doesn't call it out, but staff is working on code additions to make things clearer.

IV. Public Comment on Agenda Items^{.3}

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

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

Dr. Miguel Martin, 723 S 12th, spoke about how good the new taxi service is for the City.

Mr. Lance Hamm, 912 S Creek, spoke about landscaping and other issues at the new RV Park.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-6.

Commissioner Leubert made a motion to accept the Consent Agenda, Items 1-6, as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Leubert voting "FOR". Garcia, Pena "ABSENT".

V.

Consent Agenda

1. **ORDINANCE NO. 2012-30 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 Budget for the Police Department State Forfeiture Fund for the purchase of computer hardware software for the Crimes Software Program. (Finance Director).**
2. **RESOLUTION NO. 2012-32 Motion to approve resolution authorizing the City Manager to enter into a CRIMES Law Enforcement Software License & Master Agreement with Sam Houston State University for the Kingsville Police Department. (Police Chief).**
3. **ORDINANCE NO. 2012-31 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 Budget for the CO Series 2011- General Fund Capital Projects for the Fire Department expenses of remodeling and upgrading Fire Station 2. (Finance Director).**
4. **ORDINANCE NO. 2012-32 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 Budget for the General Fund for the Development Services Department Community Appearance Division to fund hauling of debris for nuisance abatement projects. (Finance Director).**
5. **ORDINANCE NO. 2012-33 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 Budget for the General Fund for Solid Waste Department Sanitation Collection fuel and vehicle maintenance expenses. (Finance Director).**

6. Motion to approve authorizing participation in the activities being planned in support of and building upon the King Ranch – Ranch Hand Breakfast to be held on November 16th – 18th, 2012. (Downtown /Special Project Manager).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

7. Consider condemnation of structure located at 707 West Warren. (Director of Development Services).

Mayor Fugate called for items 7, 8, & 9 to be taken together and posed the question to Ms Alvarez if this could be done. Ms Alvarez replied so long as they note that sufficient findings are in place. List each of the locations and say sufficient findings are in place for each of the locations and identify them separately they could be done in one motion. She added for their information, 45 days from today is August 23rd.

Mayor Fugate called to take Items #7, 8, & 9 together. Mayor Fugate stated the only location being condemned that bothers him is the old "Apple House" because that is a historical building. Mr. Kellam stated that the walls are buckled and the roof is collapsing. The owner has expressed that due to the economy they don't have the funds to fix it. There is a new owner.

Mayor Fugate called for Ms Toni Curtis who resides at 415 E Henrietta and is the current owner of the building located at 519 North 6th (Old Apple House) to address the Commission. Ms Curtis stated she has done everything asked of her to do per Mr. Abel Carrillo, former Building Official. The last request received was to take down the signage which she has done. She stated the roof doesn't leak and it is not collapsing. The awning was taken down as per Mr. Carrillo's request. She stated she doesn't want the building demolished because she would like to develop it and move her Kleberg Street business to that location.

Mr. Kellam stated he wasn't aware of Mr. Carrillo's statements. The photos and condition report from Mr. Carrillo do state that the roof is collapsing and the walls are buckled, and that the building is in structural disrepair.

Commissioner Leubert asked Ms Curtis, for her timeline. Ms Curtis stated it would be about another year before she could start working on the building, but the yard is clean and mowed. Everything that can fly off has been removed. Mr. Kellam stated he has not been inside this building. The former building official made the inspection and noted that he has not been inside. There's specific deterioration on the outside and would get worse in one year. The building is secured. City Manager Capell stated a concern is someone gaining access or getting injured. Ms Curtis stated that the building is uninsured. Mr. Kellam stated the concern is strong winds could cause a large amount of debris to come off this building. It is understood that the owner has intentions for the building and it is a historical building.

Mayor Fugate asked to pass on this building so that Ms Curtis could allow Mr. Kellam to go inside. Mr. Kellam replied getting inside the building would not change the structural integrity of the building. The walls are buckling which is a serious concern. Mayor Fugate stated what concerns him is that the building official told her if she did certain things she would be okay, so there is some conflict. Ms Curtis stated that the building official indeed did enter the building.

City Manager Capell suggested removing the item from the agenda, so that the owner and the City could enter into some type of repair plan. Mr. Kellam stated the walls can be braced and could give owner a timeline. Mayor Fugate suggested Staff report back to the Commission and that the owner do something to the building and work a little faster on her timeline. Mayor Fugate stated this building has some history to it.

Commissioner Pecos made a motion that the finding is not able to repair 624 W Johnston and 707 West Warren, the structure is unsafe and present condition is a violation of ordinance and cannot be corrected without substantial reconstruction, then declare the building(s) or structure(s) to be a public nuisance and order its demolition by owner/agent/person in charge with a specified time. The city shall abate in any manner it deems necessary and properly, seconded by Commissioner Leubert. Ms Alvarez stated to verify the time period which would be the standard 45 days, August 23rd. Both Commissioners Pecos and Leubert agreed with Ms Alvarez's statement. The motion was passed and approved by the following vote: Fugate, Leubert, Pecos voting "FOR" Garcia, Pena "ABSENT".

8. Consider condemnation of structure located at 519 North 6th. (Director of Development Services).

NO ACTION

9. Consider condemnation of structure located at 624 West Johnston. (Director of Development Services).

10. RESOLUTION NO. 2012-33 Consider resolution authorizing the Mayor to enter into a Tax Abatement Agreement with NSH Fund, LP in accordance with Guidelines and Criteria Governing Tax Abatement for all Taxing Units located within the City of Kingsville. (Director of Development Services).

Mr. Kellam stated this is for the new student housing development near the campus on Seale and Corral. This is for phase one of the development which is two large student housing buildings with phase two & three to come at a later date. This tax abatement agreement is for 10 years, 100% of the city's portion which is only on the improvements and not including the land values. This will increase the housing to meet the needs of the City. This is a partnership between the City, the University and the Newman Student Housing. The economic development aspect of this is that it will increase student population, increase tax base and garner additional sales tax revenue.

Mayor Fugate stated this is a win-win situation for the college. Mr. Kellam stated also for the City because the City gets the private ownership of the land which gives the City some tax revenues. Mayor Fugate stated that University President, Dr. Tallant describes this is a game changer for the University which has the potential of increasing their enrollment. City Manager Capell stated if this doesn't happen the City will not get any tax revenue and the fact that there's a 10 year tax abatement means that the City will not be getting all the taxes, until after ten years. This is still very positive.

Commissioner Leubert made a motion to accept Staff's recommendation to authorize the Mayor to enter into a Tax Abatement Agreement with NSH Fund, LP in accordance with guidelines and criteria governing tax abatement for all taxing units located with the City, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Leubert voting "FOR". Garcia, Pena "ABSENT".

11. Consider authorizing the purchase of replacement bar screens at both Wastewater plants. (Purchasing Director).

Mr. Mason stated this authorizes the purchase of replacement bar screens at both Wastewater plants. There were four respondents to the bid. Recommendation is to award the contract to Treatment Equipment Company, Houston, Texas in the amount of \$292,771 which will expend from the North Plant \$161,386 and the South Plant \$131,385 from Fund 054.

Commissioner Pecos made a motion to approve Staff recommendation of replacement of bar screens at both Wastewater Plants, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Fugate, Leubert, Pecos voting "FOR". Garcia, Pena "ABSENT".

12. RESOLUTION NO. 2012-34 Consider resolution of the City of Kingsville approving the Municipal Service Plan for the proposed annexation of Lot 9, Section 22, K.T. & I. Subdivision. (Director of Development Services).

Mr. Kellam stated this is in preparation of the upcoming annexation hearings, presenting to you the municipal service plan outlining how the City intends to serve the newly annexed area as required Section 43 of the Texas Local Government Code. This will be communicated at the July 23rd and 26th public hearings and available for viewing before that, as well. Basically it calls out the fire and police basic services that the City provides which the City is already providing, in most cases because of the proximity of the annexed area in the City. Currently, there is no building inspection for that area which is something that the City will be affording them. They would be brought under the City and the Planning and Zoning ordinances that are established. Additionally, the Health Department which already services that area through the County, but now the City would also become a partner in that. Public Works efforts are, such as streets, storm water, street lighting, traffic, engineering, water, solid waste services all of which are being provided at the present time, except for street lighting. Mr. Kellam called for questions.

Mayor Fugate stated this has been a long time coming and the property in the front can be developed. City Manager Capell stated this would generate an additional annual property taxes estimated at \$33,000.

Mayor Fugate called for Ms Alvarez legal aspect. Ms Alvarez stated the resolution was prepared and publication notices were in the paper, and letters were sent to the school district and other taxing entities.

Commissioner Pecos made a motion to accept the resolution, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Fugate, Leubert, Pecos voting "FOR". Garcia, Pena "ABSENT".

13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter V – Public Works, Article 1 – Garbage, Amending the number of days for corrective action after notice of violation to seven. (Director of Development Services).

Mr. Kellam stated this is an attempt to make the notice and compliance time lines consistent across the board.

INTRODUCTION ONLY

14. Consider accepting \$500 donation from the Kingsville Historic District Business Association to Keep Kingsville Beautiful for various beautification projects. (Finance Director).

Mr. Rushing stated this donation is from the Kingsville Historic District Business Association for beautification projects for consideration.

Commissioner Leubert made a motion to accept the \$500 donation from the Kingsville Historic District Business Association to Keep Kingsville Beautiful, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Leubert voting "FOR". Garcia, Pena "ABSENT".

15. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 General Fund Budget for the City of Kingsville to accept donations for Keep Kingsville Beautiful for various beautification projects. (Finance Director).

Mr. Rushing stated this is an introduction to authorize the acceptance of the donation.

INTRODUCTION ONLY

16. 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 the west side of Wilson Street from Ella Ave to Avenue A. (City Engineer/Public Works Director).

Mr. Khan stated several complaints were received from citizens in the neighborhood about the parking of different type of vehicles and commercial trucks on this street. He stated the Police chief and he went to the location and found vehicles parked on the street. After several visits to the location they found vehicles parked every time. The business at that location there is doing work on vehicles that are parked in the street. For the safety of drivers and persons working there the City is proposing to put "No Parking" signs on the west side of the street from Ella to Ave A on Wilson Street. City Manager Capell stated even though the City was not required to notify the residents, letters were sent to everyone within 200 feet,

Commissioner Leubert asked if the trucks parked on the street were commercial trucks. Mr. Khan replied commercial and regular vehicles are parked on the street and the mechanics are working on the vehicles that are parked on the street. If both sides of the street are being used for parking then the garbage trucks and emergency vehicles cannot pass.

City Manager Capell stated City has received several calls and the Police Chief has visited with the business. Promises have been made to keep the vehicles off the streets and a repeated visit has to happen. Enforcement will be an important part. Mayor Fugate suggested doing both sides of the street. City Manager Capell stated initially that was the plan, but it was decided to try only the one side which would hopefully allow true access. Mr. Khan stated the reason for choosing the west side of the street was because Ella, Vela and Ave A Streets are on the west side of that business and this is where the problem was occurring.

INTRODUCTION ONLY

17. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 Budget for the Solid Waste Capital Projects Fund to purchase commercial dumpsters. (City Engineer/Public Works Director).

Mr. Khan stated there was \$320,000 in the Solid Waste Capital fund 087. The City used \$93,440.60 for a front-wheel loader; \$200,283 was spent for the commercial garbage truck, so there's a savings of \$26,276.40. This money will be used to purchase the

dumpsters. The City will purchase 20 – 3 cubic yard and 25- 4 cubic yard dumpsters, for a cost of \$26,180.

INTRODUCTION ONLY

18. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 Budget for the General Fund Capital Projects Fund for the Finance Department Accounts Receivable module to utilize Fiscal Year 2010-2011 Surplus Funds. (Finance Director).

Mr. Rushing stated this would authorize the purchase of specialized receivable software to efficiently and effectively manage Sundry Services. These Sundry Services include, but are not limited to, paving assessments, mowing and vacant lot clearance, abatement and noxious matters, and inter-local agreements with other governments. Staff recommends the purchase of the Incode "Accounts Receivable" software for this purpose. The cost of purchasing and installing this software is \$9,000.

INTRODUCTION ONLY

19. Consider budget amendment request from KCVB for employee severance pay. (Downtown /Special Project Manager).

Mr. Trescott stated he didn't have anything to add beyond what he has already addressed in his memo.

For clarification, Ms Alvarez stated that Mr. Trescott's memo talks about what can and can't be done. With regard to the KCVB by-laws, in Article 3, Section 4, there's a sentence that talks about the KCVB is to comply with the contract between them and the City with Texas Open Meetings Act, the Texas Open Records Act, and Chapter 351 of the Tax Code which controls the Hotel/Motel fund monies. Also, they have to comply with Article 3, Sections 52 & 53 of the Texas Constitution which states that they need to comply with the Texas Nonprofit Corporation Act and the IRS Tax Code and things of that nature. Article 3, Section 53 of the Texas Constitution which talks about how Counties and Cities authorities can or cannot give extra compensation for certain things and unauthorized claims. One of the things pointed out is that unless there is a previously approved policy or plan in place for giving employees, and things that were cited were like Cities, Counties, Housing Authorities and Water Authorities, unless they already have a previously approved plan in place for the award of additional compensation, such as, sick leave and vacation accrual on separation than those are not authorized by the Texas Constitution. Ms Alvarez stated that it wasn't clear to her at the time that the memo was written that such a plan or policy that had been previously approved or was in place by the Board prior to them taking the vote for the particular compensation plan that they voted on. So, if the plan was not in place prior to the vote being taken, then it is in conflict with the Texas Constitution and under their by-laws they are supposed to abide by that particular section of the Constitution.

Mayor Fugate asked Ms Alvarez if she had anything from the KCVB Board. Ms Alvarez replied she had not been in contact with them because Mr. Trescott was designated as the Staff Liaison, but it is her understanding she isn't aware of any such policy or plan. Mr. Trescott stated he wasn't aware of any such policy or plan.

Mayor Fugate called for comments or questions. Commissioner Leubert stated what she is hearing from the City Attorney is that, as it stands right now, this is not something that the Commission should or could approve. Ms Alvarez replied the City doesn't have sufficient knowledge. She stated that the contract would technically be in place until the end of August unless, on the next agenda item, the City Commission approves the KCVB request to terminate the contract early. Commissioner Leubert stated that the KCVB could still have a Board meeting to correct this. Ms Alvarez replied they can't do it retroactive. The board could put something in place and then vote on something new, then the City would have to examine whether or not there is still sufficient information to make that compliant with everything.

Mr. Trescott stated he was at the KCVB Board meetings when this was presented. He stated that the City ran into a couple of things on what was submitted, both their method of arriving at and doing a bonus, severance or retirement award seemed arbitrary.

Mayor Fugate called for questions or comments. Ms Alvarez stated if no action is taken on this item that would be the equivalent of not approving. If the Commission decides to table this item, it would have to be brought up at the next Commission meeting and voted on then. The only difference that would make is if they came up with some previously prior to the date the vote was taken by the Board for this particular package, policy in place to show that what they did was in conformance with a previously established policy. Commissioner Leubert asked Mr. Anse Windham, KCVB Board President, if there was anything, bonuses prior to this action by the Board. Mr. Windham stated he had communication from a representative from the Attorney General's office,

stating that Hotel/Motel tax money can be used for bonuses and awards. He stated the representative did not address having a policy in place. Ms Alvarez stated having a policy in place is in the by-laws.

NO ACTION

20. Consider a request from KCVB for 30-day early termination of the Professional Services Contract between the City of Kingsville and the Kingsville Convention & Visitors Bureau. (Downtown /Special Project Manager).

Mr. Trescott stated the City has a contract with KCVB to provide tourism services under the use of the hotel occupancy tax which expires at the end of September. The City was informed that the entire staff was going to retire before that date. The KCVB Board is requesting the contract be mutually terminated early so the termination date of the contract will match the time when staff stops operating. The termination date should be August 3rd.

City Manager Capell stated the contract needs to be extended or rescinded prior to the 60 day window. If Commission approved, tonight, the City would be in compliance with that because the contract would have been terminated prior to 60 days.

Ms Alvarez stated if the Commission were to choose, by mutual agreement of the parties to terminate the contract early, you would not need to go back and have another action item at the July 23rd meeting to provide them notice of the City's desire to terminate the contract when it expires on September 30th. If the parties are not mutually agreeable to the early termination then an agenda item would be needed on July 23rd. Ms Alvarez stated the motion should include the date. Mayor Fugate stated that Mr. Windham had shaken his head that August 3rd would be appropriate.

Commissioner Pecos made a motion to consider the request from KCVB for a 30-day early termination of the Professional Services Contract between the City of Kingsville and the Kingsville Convention & Visitor's Bureau, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Fugate, Leubert, Pecos voting "FOR". Garcia, Pena "ABSENT".

21. Consider introduction of an ordinance amending Chapter III, Article 7, Personnel Policies, Section 1 Classification and Compensation Plan to add the position of Tourism Services Director and the position of Downtown & Volunteer Manager to the Kingsville Classification and Compensation Plan for Fiscal Year 2011-2012. (Human Resource Director).

Ms Gonzales stated that the HR office has been asked to coordinate with the Downtown Special Projects Manager in the creation of a new City department, the Tourism Services Department and personnel to support the function of the department. A Director position will be created, a Tourism Service Director and support personnel, a Downtown and Volunteer Manager. The City has different levels of clerical support personnel no additional new titles are being presented.

Commissioner Leubert stated the City is adding a Tourism Services Director, a Downtown Special Projects Manager and a Downtown and Volunteer Manager. City Manager Capell stated only two positions are being added, the current Downtown Special Projects Manager would be converted to the Downtown & Volunteer Manager at a lower pay range.

Ms Alvarez stated that procedurally Mr. Trescott's position, the Downtown Special Projects Manager cannot be eliminated until the new positions are established. The two positions will be created in the Compensation Plan and once created; the current position will be eliminated in new budget year.

INTRODUCTION ONLY

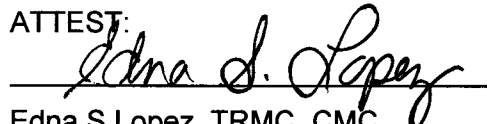
VI. Adjournment.

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



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary