

APRIL 8, 2013

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 8, 2013 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

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

**CITY STAFF PRESENT:**

Vincent J. Capell, City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Tony Verdin, Information Systems Technician  
Mark Rushing, Finance Director  
Mike Kellam, Director of Planning & Development Services  
Bill Donnell, Interim Public Works Director  
Emilio Garcia, Health Director  
Ruthie Valdez, Interim Library Director  
Melissa Perez, Risk Manager  
Joey Reed, Fire Chief  
Daniel Ramirez, Building Official  
Jennifer Bernal, Community Appearance Supervisor  
Ricardo Torres, Chief of Police  
Bob Trescott, Tourism Director  
Cynthia Martin, Downtown and Volunteer Manager  
Dionicio Perez, Building Inspector

**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.

**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).<sup>1</sup>**

**1. Public hearing regarding condemnation proceeding for structures located at 1107 W. Kenedy, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:02 P.M.

Mrs. Courtney Alvarez, City Attorney commented that Commission would have to hear from staff first, then allow individuals from the public to speak to Commission after staff presents their report on behalf of these condemnations.

Mr. Mike Kellam, Director of Planning & Development Services reported that the structure located on 1107 W. Kenedy has had some notices of violation. The condition report shows that there is a lot of issues with the structure that make it unsafe and delapidated. The structure is beyond repair over 50% of the value of the structure. The roof and walls have collapsed and windows are broken it also houses rodents, rats, and snakes and other vermouth. This structure has not had water services since May, 2005. Tax statements show that the taxes have been kept up to date as of 2012. Staff has provided proper notices and public hearing

notices and recommends for this structure to be placed for a demolition order by the city due to its current delapidated state.

Ms. Sandy Gutierrez, 8220 Robin Rest Drive San Antonio, stated that she is representing her father Evan Gutierrez who is the property owner and is here to address the issues with the structure located at 1107 W. Kenedy. She stated that she understands the disrepair that this structure is in but, would like the opportunity to fix the structure and therefore is asking the Commission for 30 days to repair the roof, replace subflooring, broken windows and install a fence around structure.

Commissioner Pena stated that the City goes through a process of mailing notices to property owners and asked Mrs. Gutierrez if she had received any of those notices.

Ms. Gutierrez stated that her mom receives Mr. Evan Gutierrez's mail but does not open it since they are separated. She stated that her mom called her to notify her of this issue.

Commissioner Leubert asked how long this structure has been unoccupied.

Ms. Gutierrez responded around 10 years.

Commissioner Leubert asked if anyone in the family had ever accessed the property.

Ms. Gutierrez stated that due to her father having a heart surgery 8 years ago, nobody has been by the property since. She further stated that they have hired help to mow the grass and keep up with the yard. She stated that after walking through the property today, she noticed that garbage in the backyard and stated that she can rent dumpster and have it cleaned up.

Mayor Fugate stated that for 10 years, neighbors within this location have had to look at this property and would like for something to be done.

Ms. Gutierrez stated that if Commission would allow her the 30 days, she can improve the property and then allow the city to reinspect the property, if not, she will demolish the structure herself.

Commissioner Leubert asked what she would do within those 30 days.

Ms. Gutierrez stated that she would retrieve roofing permits, hire a crew to clean the yard, build a fence around the structure to control the surrounding area then start work on the interior of the structure.

Commissioner Garcia asked what type of material is used on the side of the house.

Mr. Kellam responded that the material is wood planks.

Mayor Fugate stated that it should not have to come to this point for property owners to clean up their property.

Mayor Fugate closed this public hearing at 6:15 P.M.

**2. Public hearing regarding condemnation proceeding for structures located at 619 E. Lee, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:15 P.M.

Mr. Kellam reported that this property has numerous notices of violation for the past year which is when Community Appearance has taken over. There are existing nuisance and notice of violations when the operation was underneath the Health Department. The condition of the building has broken windows, consistent high grass and no water account since 2006. It also has unstable foundation issues and decomposed interior due to termites and mold. This property has back taxes since 2004 in the amount of \$3,200. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current state of the structure.

Commissioner Pecos asked if staff has received any contact from the property owner of this structure.

Mr. Kellam stated that staff has not had any contact with the property owner.

Mayor Fugate closed this public hearing at 6:20 P.M.

**3. Public hearing regarding condemnation proceeding for structures located at 512 E. Alice, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened the public hearing at 6:20 P.M.

Mr. Kellam reported that the original inspection was done July 30, 2012. There is no roof on the structure and no water service since 2003. The structure is unsecure and abandon with no plumbing or sanitary utilites are provided within the structure and has back taxes since 2007 with a balance of \$2,300. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current state of disrepair.

Commissioner pecos asked if staff has received any contact with the property owner of this structure.

Mr. Kellam responded that there has been no contact from the property owners.

Mayor Fugate closed this public hearing at 6:23 P.M.

**4. Public hearing regarding condemnation proceeding for structures located at 330 W. Nettie, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:23 P.M.

Mr. Kellam reported that this structure has a consistant violation history. City has abated this property at least once and has no water services since 2005. The structure has delapilated walls and cracked foundation.

Mayor Fugate asked if staff has received any contact from the property owner.

Mr. Kellam stated that there has been no contact from the property owners.

Mayor Fugate closed this public hearing at 6:25 P.M.

**5. Public hearing regarding condemnation proceeding for structures located at 400 E. Caesar, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:25 P.M.

Mr. Kellam reported that this is the old County Hospital next to Saint Gertrude Catholic Church and Elementary School. This structure has had no water services since April 2010 and has had notice of violations since June 7, 2012. The City has a abated this property for high weeds and noxious matter in December 18, 2012. The structure has also had 2 electrical fire calls and back taxes since 2009 for an amount of \$18,000. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current delapilated state.

Commissioner Pecos stated that with this structure being so large, will this take a lot of space in the landfill.

Mr. Kellam stated that it has been taken into consideration and an environmental testing will need to be done for asbestos. Staff is working on bids as to the cost for this demolition, upon Commission approval.

Mrs. Debbie Hickman Schlomach stated that the building is not all in disrepair and is asking Commission to allow her 6 months to repair what is salvageable of this structure and possibly sale the property. This structure was used for a storage for the past 33 years.

Commissioner Leubert asked if anything has been done in the last 5 years.

Mrs. Schlomach stated that nothing has been done in the last 3 years.

Commissioner Leubert asked if anyone has had any interest in this property.

Mrs. Schlomach stated that no one has had any interest in this property.

Commissioner Garcia asked what is going to become of this structure if Commission allows the additional time requested.

Mrs. Schlomach stated that she would try selling the property.

Commissioner Pecos asked Mrs. Schlomach if she understands that if the City demolishes this building, she is responsible for the cost of the demolishing and if the expenses are not paid back to the City, the City will file a property lien on the property.

Mrs. Schlomach asked if the cost would be divided upon her family.

Mayor Fugate stated that she would need to consult with her attorney with regards to dividing cost amongst the family.

Terry Schlomach, 316 E. Fordyce, stated that he has been maintaining the building for the past 10 years. He further stated that the building is secure and to have someone come into the building it would take tools to break into the building. The two fires in the past were from individuals who have broken into the building. He is asking for Commission to allow him 60 days to board up the building and actively pursue selling it.

Mayor Fugate closed this public hearing at 6:40 P.M.

### III. Reports from Commission & Staff.<sup>2</sup> (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, Tourism, 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. Capell, City Manager, reported that Mr. Charlie Cardenas, new City Engineer will begin working with the City of Kingsville on April 15, 2013. He further reported that during this week he will be emailing some information on a retreat session.

Mrs. Alvarez reported that the next Commission meeting is scheduled for April 22, 2013 and deadline for agenda items is Friday, April 12, 2013.

### IV. Public Comment on Agenda Items<sup>3</sup>

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

Mr. Terry Schlomack, 316 E. Fordyce, commented about the service provided by the local cable company in Kingsville and asked for Commission to look into the poor service provided.

Rami Garza, 2801 S. Brahma Blvd. stated that he is also unhappy with the services provided by CMA Cable Company. He would like for the City to allow other cable companies into the area.

Tad (unclear of lastname) 2801 S. Brahma Blvd., stated that he is also unhappy with the services provided by CMA Cable Company and would like to see other cable companies offered in Kingsville.

### 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)*

Mayor Fugate asked for a motion to approve the consent agenda as presented. Commissioner Garcia made a motion to approve the consent agenda as presented, second by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".

**1. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 Budget for Community Appearance to fund the purchase and installation of trees for the West Santa Gertrudis corridor landscaping project. (Finance Director).**

**2. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 budget for the Planning Department's Community Appearance Division to fund the second phase of the Dumpster Enclosure Project utilizing FY12 Fund Surplus. (Director of Finance).**

**3. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 Certificate of Obligation Capital Project Funds budgets for various Public Works Departments to utilize Fiscal Year 2011-2012 unexpended funds & General Fund to utilize auction revenues. (Director of Finance).**

**4. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 budget for Water Departments to fund well house #19. (Director of Finance).**

**5. Consider approval of a resolution authorizing participation in the Bullet Proof Vest Partnership Program FY2013 with the U.S. Department of Justice for bulletproof vests for the Kingsville Police Department; authorizing the Chief of Police to act on the City's behalf with such program. (Chief of Police).**

**REGULAR AGENDA**

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

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

**6. Consider condemnation of structures located at 1107 W. Kenedy, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opposed a question to Mr. Kellam, if Ms. Sandy Gutierrez can rehabilitate the property within thirty days.

Mr. Kellam responded unfortunately no. He stated that there will be a lot of engineering cost for an assessment which is going to take more than thirty days. He stated that he understands that Ms. Gutierrez has just become aware of this issue, but several notices were sent since June, 2012. He stated that he understands what the family is trying to do, but staffs professional opinion is that this structure is not savable.

Ms. Gutierrez stated that within her family members, she has professional engineers who can make an assessment of the structure to see if it's even worth fixing. She further stated that if it's not fixable she would demolish the property herself.

**Motion made by Commissioner Leubert to allow the family thirty (30) days to work with city staff for the structure located at 1107 W. Kenedy to see if they can come up with something, and within the thirty (30) days make a decision on whether the structure is salvageable or condemned, second by Commissioner Pecos.**

Mayor Fugate recommended for Commission to pass on this item and allow the property owner thirty (30) days to make an assessment regarding this property.

He further stated that he would like for this item to be placed back on the agenda for the May 28, 2013 meeting.

**Commissioner Leubert and Commissioner Pecos withdrew their motion.**

**7. Consider condemnation of structures located at 619 E. Lee, Kingsville, Texas. (Director of Planning & Development Services).**

**Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Leubert. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia and Fugate voting "FOR".**

**8. Consider condemnation of structures located at 512 E. Alice, Kingsville, Texas. (Director of Planning & Development Services).**

**Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Garcia. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert and Fugate voting "FOR".**

**9. Consider condemnation of structures located at 330 W. Nettie, Kingsville, Texas. (Director of Planning & Development Services).**

**Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Pena. The motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos and Fugate voting "FOR".**

**10. Consider condemnation of structures located at 400 E. Caesar, Kingsville, Texas. (Director of Planning & Development Services).**

Mr. Kellam stated that the reuse of this building would be impossible. There is evidence showing that this facility is not a viable option or it would still be moving forward in that direction.

Mayor Fugate stated that there has to be a purpose for these types of structures and he can't see any purpose to keep this building.

**Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**11. Consider final passage of an ordinance amending Section 15-1-56, adopting the 2011 Edition of the National Electric Code, & Section 15-1-62, repealing owners permits. (Director of Planning and Development Services).**

Mr. Kellam stated that this ordinance is to formally recongnize the 2011 NEC verses the 2005 and also repealing section 15-1-62 regardin owners permit and testing.

Commissioner Leubert stated that by brining this code up to the 2011 edition is fine, but she has a concern repealing the owners permit. She stated that it's the

city burden for not keeping up with the test. She asked how hard would it be bring that test up to date.

Mr. Kellam stated that the test isn't the issue, it's that the majority of the permits issued are based on the owners test and the owners permit, where they do the work and it was unsafe and wouldn't call back for an inspection.

**Motion made by Commissioner Garcia to adopt final passage of this ordinance adopting the 2011 Edition of the National Electrical Code and repealing owners permits, second Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, and Fugate voting "FOR". Leubert voting "AGAINST".**

**12. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Utility Fund Budget for water treatment operations and modified permit penalties imposed by TCEQ. (Director of Finance).**

Mr. Rushing stated that this is an introduction of an ordinance for the TCEQ penalties. He stated that there has been a reduction on the penalty fee from \$34,040 to \$30,533 which is a reduction of \$3,507.


Commissioner Leubert asked if the penalty will be paid or is the City doing an SEP.

Mrs. Alvarez stated that the SEP will be used.

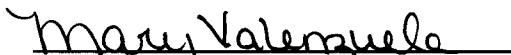
**Introduction item only.**

**VII. 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:

  
Mary Valenzuela, City Secretary