

MARCH 20, 2014

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 20, 2014 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 4:00 P.M.

**CITY COMMISSION PRESENT:**

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

**CITY STAFF PRESENT:**

Vincent J. Capell, City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Deborah Balli, Finance Director  
Bill Donnell, Asst. Public Works Director  
Emilio Garcia, Health Director  
Charlie Cardenas, Public Works Director/City Engineer  
Bob Trescott, Tourism Director  
Robert Isassi, Director of Planning & Development Services  
Willie Vera, Task Force Commander  
Diana Gonzales, Human Resources Director  
David Mason, Purchasing/IT Director  
Melissa Perez, Risk Manager  
Ricardo Torres, Chief of Police

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the Robert H. Alcorn Commission Chamber at 4:00 p.m. and announced quorum with five Commission members present.

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

The invocation was delivered by Courtney Alvarez, City Attorney, 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. NONE.

**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. Vince Capell, City Manager, announced upcoming events in the City, TML Region 11 Quarterly Meeting on Thursday, March 27, 2014 and Wings over South Texas Air Show at NAS-Kingsville on March 29-30, 2014. Capell further stated that he will be scheduling special workshops through the months of April & May regarding streets, parks, GCS Building, and Downtown Park improvements.

Mrs. Courtney Alvarez, City Attorney, reported that the next scheduled Commission meeting is scheduled for April 14, 2014. The deadline to submit items for this agenda is April 4, 2014.

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

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

#### 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)*

**Motion made by Commissioner Pecos to accept the consent agenda as presented, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".**

1. **Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to Lots 17-26, (Mobile Home Park), Block 7, Hoffman Subdivision known as 210 E. Miller from R1-Single Family Residential District to C4-Commercial Business District, applicant Bill Cumberland. (Director of Planning & Economic Development).**
2. **Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 General Fund Budget for the City of Kingsville to accept a donation made from ExxonMobile to the Kingsville Fire Department. (Director of Finance).**
3. **Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 Fund 017 PD Grant Border Star (LBSP) for the City of Kingsville to accept a grant award from the Texas Department of Public Safety to the Kingsville Police Department. (Director of Finance).**
4. **Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 budget for the General Fund to finance professional service fees for the Planning Department to make improvements to the City website. (Director of Finance).**
5. **Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 Budget for the General Fund to finance the contracting costs of removing a nuisance, abandoned sign structure. (Director of Finance).**

##### REGULAR AGENDA

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

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

6. **Consideration and approval of a resolution authorizing the commencement of proceedings relating to the issuance of refunding bonds and other matters related thereto. (Director of Finance).**

Mr. Cris Vela, Senior Vice President of First Southwest Company, reported on the Market Update and Refunding Analysis for the City of Kingsville. Mr. Vela further reported on the Market Update stating that the index tracks general obligation bonds maturing in 20 years, Aa2/AA average ratings by Moody's and the lowest point during this 20 year period was 3.27%, which occurred on December 6, 2012 with the current rate being 4.47%. Mr. Vela further reported on refunding conditions. Vela stated that just as low interest rates represent an opportunity to refinance, they also represent a low rate of return on investments. When this refunding opportunity was brought to the attention of the City in November 2012, with a call date in August 2014, this means that the City would have had to fund an escrow to pay principal and interest on the refunded bonds

until that date. By refunding the Certificated 90 days or less in advance of the August 2014 call date, the City does not have to establish an escrow and does not incur negative arbitrage. Negative arbitrage is the difference between the investment yield on the escrow and the interest rates on the bonds representing a potential loss in savings to the City. Vela stated that by waiting until the 2005 Certificates became currently callable in August 2014, the City will, mitigate negative arbitrage, increase debt service savings, and preserve ability to advance refund the 2014 Refunding Bonds in the future. Bonds are able to be refunded in advance of their call date only once per tax law. Mr. Vela reported on the refunding candidates of Series 2005. He reported that the original principal amount is \$11,780,000 when the city issued them and the callable principal is \$8,900,000 and the callable maturities are 2015-2025, but being called in August 1, 2014. He further stated that these bonds had coupons ranging from 4% – 5% with the call date on August 1, 2014. Mr. Vela reported on the Limited Tax Refunding Summary stating that the refunding par amount is \$9,345,000, gross savings \$719,872, average annual savings \$65,290 with the net present value savings of \$605,607 and the present value benefit of 6.805% and true interest cost of 2.857% estimated. Mr. Vela reported on the proposed timetable of events with the important date of April 28, 2014 being the pricing of the refunding bonds and the delivery date of May 21, 2014 closing date which City delivers the refunding bonds to underwriter(s) and receives funds. August 1, 2014 is the redemption date of refunded bonds. Mr. Vela stated that from his prospective, things are looking very positive for the City.

Mr. Capell asked that with the lower debt service, does this give the City an opportunity to stabilize our utility fees. Mr. Vela stated yes.

Mr. Dan Martinez of Winstead, PC stated that he recommends for the City Commission to approve this resolution as presented.

**Motion made by Commissioner Pena to approve resolution authorizing the commencement of proceedings relating to the issuance of refunding bonds and other matters related thereto, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".**

**7. Consider a resolution authorizing the City Manager to enter into an Amended Collective Bargaining Agreement between the City of Kingsville, Texas and the International Association of Firefighters Local #2390 for fiscal years 2013-2016. (Director of Human Services).**

Diana Gonzales, Human Resources Director reported that this item is for a proposed amendment to the Collective Bargaining Agreement between the City of Kingsville and the Kingsville Professional Firefighters Association, IAFF Local #2390. On March 11, 2014, the City and the Association entered into a renegotiation of Article 16 and Article 25 regarding the method utilized to calculate compensation for firefighters working on holidays and the holidays observed by firefighters on 40 hour week schedules. Mrs. Gonzales reported that the tentative agreement reached by both teams was for civil service firefighters working on holidays to receive the additional half time for the hours worked as all other City employees (both civil service police officers and non-civil service employees) in addition to allowing 40 hour work week firefighters to utilize City holidays.

**Motion made by Commissioner Leubert to approve this resolution, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".**

**8. Consider a resolution appointing Election Judges and the Early Voting Ballot Board Judge for the City of Kingsville and Kingsville Independent School District Joint General Election and for the Kingsville Independent School District Special Election on May 10, 2014. (City Secretary).**

*(CONSIDERE UNA RESOLUCIÓN QUE NOMBRA JUECES ELECTORALES Y EL JUEZ DE LA JUNTA DE VOTACIÓN ANTICIPADA PARA LAS ELECCIONES GENERALES CONJUNTAS DE LA CIUDAD DE KINGSVILLE Y DEL DISTRITO ESCOLAR INDEPENDIENTE DE KINGSVILLE Y LA ELECCIONES ESPECIAL DEL DISTRITO ESCOLAR INDEPENDIENTE DE KINGSVILLE, QUE SE LLEVARÁN A CABO EL 10 DE MAYO DE 2014.) (SECRETARIA MUNICIPAL).*

Mayor Fugate asked if all voters will be voting in one location and one ballot.

Mrs. Mary Valenzuela, City Secretary stated that their will be three different ballot styles. On ballot style will list both the City and the School District, second ballot will list only KISD and third ballot will list only City.

**Motion made by Commissioner Garcia to approve this resolution, seconded by Commissioner Pecos. The motion was passed and approved by the following voter: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".**

**9. Consider a resolution authorizing the City Manager to enter into a First Amended Joint Election Agreement between the City of Kingsville and the Kingsville Independent School District, relating to the 2014 General Joint Election and the KISD Special Election. (City Attorney).**

Mrs. Courtney Alvarez, City Attorney reported that this item is to amend the agreement due to KISD Board member resigning recently. KISD Board members met with regards to the vacancy and voted to have a Special Election in conjunction with the General Election. The other thing that changed was the Election training, changing it from KISD to City Hall. Mrs. Alvarez further stated that the last change in the agreement was if there were any additional cost due to the Special Election, KISD would be fully responsible for that cost.

**Motion made by Commissioner Pena to approve this resolution, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".**

**10. Consider a resolution authorizing the City Manager to enter into the First Amended 2014 Election Services Agreement between the City of Kingsville and Kleberg County Clerk, relating to the 2014 General Joint Election between the City and KISD and the KISD Special Election. (City Attorney).**

Mrs. Alvarez reported that the only change to this agreement, is to add the KISD Special Election term.

**Motion made by Commissioner Pena to approve this resolution, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".**

**11. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 8, Traffic Control Devices, providing for the installation of a stop sign at the Naval Air Station Kingsville Gate. (City Engineer/Public Works Director).**

Mr. Charlie Cardenas, City Engineer/Public Works Director reported that item is for the placement of a permanent stop sign on General Cavazos at Naval Air Station-Kingsville guard station inside the city limits. The Engineering Department received a request on March 7, 2014 from NAS-Kingsville to place a permanent stop sign. Currently, there is a temporary stop sign that has been set up by NAS-Kingsville. The temporary stop sign has exceeded its limitations as per the Manual of Uniform Traffic Control Devices and is not as visible as a permanent approved stop sign. Cardenas further stated that the location for the stop sign is within the city limits. There is no financial impact to the City and changing this condition is in accordance with stated and federal guidelines and the Manual of Uniform Traffic Control Devices.

Introduction item only.

**12. Consider authorizing the purchase of an asphalt paver for the Street Department from Closner Equipment Co. via BuyBoard as per staff recommendation. (Director of Purchasing & IT).**

Mr. David Mason, Purchasing/IT Director reported that this item authorizes the purchase of one Roadtec Asphalt Paver for the Street Department from Closner Equipment Co. This approval relates to the Notice to Proceed with leasing funds available from Capital City Leasing. It is available as a BuyBoard purchase. Mason further reported that the best value for the City is Roadtec RP170-8 for \$300,500.00. This unit is a 2013 demo model with approximately 85 hours. It is fully equipped with an extendable rear screed which gives it a total width capacity of 15'6". It also comes with a TOPCON Sonic Grade and Slope Control, Road Light Package, Release Agent Spray Down System, and Truch Hitch in lieu of Oscillating Push Rollers. An extended warranty of 3 years, 3,000 hour bumper to bumper and 5 years 6,000 hour engine warranty are also included in the package. Mason further stated that leasing funds are available of \$80,000 is budgeted for FY 14 from 001-5-305.0-641.00 fund.

Commissioner Pecos asked if the company would be training employees on how to use this equipment. Mr. Mason responded that this does include the delivery and a day and a half of training. Additional training is available for an additional cost.

Mayor Fugate asked what the expected delivery date is. Mr. Mason stated that things would need to be worked out with the leasing company regarding the release of the money.

**Motion made by Commissioner Garcia to approve this purchase, seconded by Commissioner Pecos. Motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".**

**13. Consider introduction of an ordinance amending the fiscal year 2013-2014 budget for Community Appearance to purchase five (5) benches and fifteen (15) litter/recycling receptacles for the downtown area. (Director of Finance).**

Mrs. Deborah Balli, Finance Director stated that this is for the purchase of benches and litter recycling receptacles for the downtown area. The total proposal was for \$21,175 of which \$6,500 was being contributed for the purchase of five benches. The request is for the City to contribute the remaining \$14,775.

Introduction item only.

**14. Workshop to discuss the proposed changes to City Planning ordinances regarding accessory use buildings, fence code, schedule of permit fees, land use chart, definitions, planned unit developments, solar energy systems and wind energy systems. (Director of Planning & Development Services).**

Mr. Robert Isassi Director of Planning & Development Services reported that this workshop is to update the City's current ordinances. Isassi further turned over the explanation of the proposed changes to Mr. Mike Kellam of CK Consulting.

Mr. Mike Kellam reported on the Fence Regulations. Kellam stated that the fence code was reviewed during the February Planning & Zoning Commission meeting and by the City Commission during a meeting in February. Changes were made upon request of the City Commission and changes were made and presented to the Planning & Zoning Commission last night. First change is in Section 15-6-28(f) requiring maximum heights on fences which was currently four feet in the front yard and has now been changed to six and half feet in the side for rear yard. Subsection K, P&Z asked for it to be solely regarding perimeter fences. In subsection (K)(3) additional language was added to make sure that when different types of materials could be utilized and be compatible materials, but not necessarily the same. Number 5 additional languages was added to state that where visible from the public right-of-way, all fences shall be constructed with the finished side facing outward from the property or with both sides finished. Fences along interior property lines, not exposed to a public right-of-way, may place the fence with the finished face facing outward or inward depending on preference.

Commissioner Garcia asked a question regarding existing fences, once this ordinance approved, existing fences are grandfathered. Mr. Kellam stated yes, unless they become disrepair or become a nuisance and have to be rebuilt. Garcia asked that on replacement on those fences, is it going to be allowed, even with fences that already exist, is it going to be allowed for the property owners to replace those fences as they existed within the location they currently existed or well they have restriction on the locations because of code infractions. Kellam stated that if the repair or the replacement is more than 50%, than it will automatically require a new permit and a new plan review. Subsection (K)(7) language was added to state that Agricultural field fence post do not require the use of concrete base. P&Z would like to add additional language Subsection (I)(4) to read, with the exception of government agencies. Mr. Kellam further discussed on swimming pools added language to make it clear that a permanent fence will need to be up around the pool area to prevent unwanted entry. Kellam stated that in addition to this, a definition was added to define a construction fence.

Mr. Kellam further discussed the Accessory Uses and Structures code. Kellam stated that P&Z has reviewed this section three times and it's been refined to work best for the City. Section 15-6-27(h) lots exceeding one and half acres as the bench mark whether you can have accessory structure in the front yard rather in the rear yard. Originally it was three acres but there was discussion that it was too big of a property. In subsection (i)(6), added language that overnight parking of a truck which is a non-commercially licensed box truck or non-CDL licensed vehicle in working condition in a residential zone district. In subsection 10(c)(1) language was added to read that the use of galvanized (painted or unpainted) metal is prohibited as an exterior siding material, however roofs may utilize painted galvanized panels. Subsection 10(3) added for freestanding metal carport that are not certified by a licensed engineer and sealed and arched steel structures (aka Quonset huts) are prohibited. Freestanding metal carports accompanied by engineered stamped plans may be approved. Mr. Kellam further discussed the following, Subsection J Variances, (1) the overnight parking of a commercially licensed box truck, CDL licensed vehicle or moving van for more than one night. Subsection (j)(2) The commercial repair or construction of power boats, racing vehicles or other recreational type vehicle in residential district. Subsection K(2) The overnight parking of a semi-tractor trailers, dump trucks, service/delivery van or similar scale of vehicle in residential district.

Mr. Capell stated that he is concerned regarding subsection (j)(2) regarding the repair of construction of power boats and racing vehicles. He stated that he doesn't agree with this section. After some discussion, Commission agrees to remove this section from the code.

Commissioner Garcia stated that he has some concerns with the detachable carports since some of those have been approved through Commission. Mr. Kellam stated that if it was built in compliance with the existing code than it would be grandfathered, because if it was compliance and the code changes while it still exist that it becomes a legal non-conforming structure. Further discussion took place regarding existing carports.

Commissioner Garcia stated that in subsection (j) regarding boats parked in front of homes. Mr. Kellam stated that this would not be allowed. This section states that you can apply for a variance from the Board of Adjustment to park a boat in order to do the commercial repair and construction of power boats.

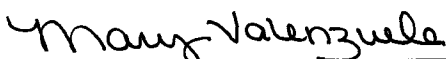
Mr. Kellam further discussed Section 15-6-55, Planned Used Development Districts. Mr. Kellam stated that the City currently has a planned used development code. After working with staff, it is to be enhanced the planned unit development and adds some modern language to it that would allow some additional flexibility and tradeoffs. Further discussion took place regarding Section 15-6-174 through 187, Solar Energy Systems. Kellam stated that with technology changes, things become more affordable and seeing more solar panels being used. Kellam further discussed additions to Section 15-6-21, definitions. An added definition of Construction Fence stating that a fence that is temporary in nature, but serves as a barrier to prevent unwanted entry into a site where construction is underway. Fencing materials may include but are limited to orange barrier fence secured to metal posts and inter-locking chain link fencing. Also added to the definitions is the Home occupation, an accessory use carried out by the occupants for compensation in a residential dwelling unit. Definition removed was, Kennel, the keeping of three or more dogs or other animals at least four months old. Added to the definitions is Planned Unit Development, an area to be planned, developed, and maintained with a common architectural and landscaped theme. Also added is the Sight-obscuring fence, any fence over three feet in height and where more than 50% of the fence fascia is designed to obstruct the view of the area beyond the fence. Added was also sight visibility triangle. In section 15-1-6, Schedule of permit fees added was New fence construction. A fee of \$35.00 shall be charged for the plan review and issuance of a fence permit for any new fence construction or significant repair/replacement of over 50% of the existing fence. Section 1, Land use chart, added Wind Energy Conversion Systems and Solar Energy Systems.

#### VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:15 P.M.

  
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 Sam R. Fugate, Mayor

ATTEST:

  
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 Mary Valenzuela, City Secretary