

JULY 28, 2014

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JULY 28, 2014 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:

Vince Capell, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Michael Krueger, Municipal Court Judge
Deborah Balli, Finance Director
Emilio Garcia, Health Director
Willie Vera, Task Force Commander
Robert Isassi, Director of Planning & Development Services
Jennifer Bernal, Community Appearance Supervisor
Charlie Cardenas, Engineer/Public Works Director
David Mason, Purchasing/IT Director
Diana Gonzales, Human Resources Director
Robert Rodriguez, Library Director
Cynthia Martin, Interim Tourism Director
Joey Reed, Fire Chief

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the Robert H. Alcorn Commission Chamber at 6:00 p.m. and announced quorum with all 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

Special Meeting – July 1, 2014
Regular Meeting – July 14, 2014

Mayor Fugate asked for a motion to approve the minutes as presented. Commissioner Garcia asked if minutes could be voted on separately, as some Commissioners were not present at both meetings. Mayor Fugate stated that a separate vote would be taken.

Mayor Fugate asked for a motion to approve the minutes for July 1, 2014.

Motion made by Commissioner Pecos to approve the minutes for July 1, 2014 as presented, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Fugate voting "FOR". Garcia "ABSTAIN".

Mayor Fugate asked for a motion to approve the minutes for July 14, 2014.

Motion made by Commissioner Garcia to approve the minutes for July 14, 2014 as presented, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Leubert, Pena, Garcia, Fugate voting "FOR". Pecos "ABSTAIN".

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

1. None.

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, 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 reported that the City will be placing an ad in the Kingsville Record for advertisement of vacancies in several Boards and Commissions. The ad will run a couple of times through the months of August and September. Staff hopes to attract citizens who are interested in volunteering their time and knowledge to these Boards and Commissions.

Mrs. Courtney Alvarez, City Attorney reported that the next regularly scheduled Commission meeting is set for August 11, 2014 with agenda items due on Thursday, July 31st. Alvarez further reported that staff has made a correction to agenda item #10, the Commission had already approved the definition of weeds that it would be from 18 to 12 inches and will be corrected for the next meeting. Alvarez further reported that she attended the County Commissioners meeting last Monday where the County had an item on the agenda for the County Attorney to meet with the City Attorney to discuss the transferring of maintenance and operations for the Parks within the City and Golf Course. The County Commissioners approved the item by a 4-0 vote with Commissioner Lomas absent.

Commissioner Garcia stated that sometime back the Commission approved an ordinance prohibiting the use of cell phones while operating a vehicle in a school zone with a fine of \$200. Garcia further stated that recently the Commission had approved an ordinance prohibiting the use of cell phones while operating a vehicle with a fine punishable up to \$500. Garcia stated that this may cause a conflict with both ordinances with different fine amounts. Mrs. Alvarez stated that they are two separate ordinances so the Judge is within his right to determine what fine amount to set for each of those, so this may be something that may need to be discussed with the Judge.

IV. Public Comment on Agenda Items³

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

Mr. Glen Jones, Community Plans Liaison Officer NAS-Kingsville stated that he is speaking with regards to agenda item #12. Jones stated that NAS-Kingsville is in support of this ordinance. Notice informs the residents that the property they are interested in buying or renting is near NAS-Kingsville which maybe in or near the controlled compatible land Use area exit potential zone or noise zone and additional zone may apply in this area. Mr. Jones further stated that the notice ordinance was a recommendation from the 2008 Joint Land Use Study of the specific notice is a product in the Kingsville Area Association of Realtors and Naval Air Station Kingsville. Jones reported that Joint Airport Zoning Board has passed a resolution to create a similar ordinance.

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

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 budget for the General Fund to provide funding for the Street Department to purchase paving equipment to be used in operations. (Director of Finance).

2. Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 budget for the General Fund to provide funding for building improvements to city property located at 2211 South Brahma Blvd. (Director of Finance).

3. Motion to approve out-of-state travel for Special Agent Mike Tamez to attend a Commercial Motor Vehicle Criminal Interdiction course in Grand Rapids, Michigan from August 11, 2014 to August 14, 2014, with the Motor Vehicle Criminal Interdiction Association assuming all related travel expenses. (Task Force Commander).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

Mayor Fugate asked if there were no objections from the Commission, he would like to move agenda items #13 and 14, Executive Sessions, before item#4. No objections were made by the City Commission.

Mayor Fugate announced both items on Executive Session. The Commission convened into Executive Session at 6:08 p.m. with Municipal Court Judge, Michael Kreuger entering. Judge Krueger exited at 6:25 p.m. and City Attorney, Courtney Alvarez entered at 6:25 p.m. Mrs. Alvarez exited at 6:35 p.m.

13. Executive Session: Pursuant to Section 551.074, of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation & duties of the Municipal Court Judge. (Commissioner Leubert).

14. Executive Session: Pursuant to Section 551.074, of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation & duties of the City Attorney. (Mayor Fugate).

The Commission reconvened into regular session at 6:45 p.m. to consider the remaining items on the agenda.

4. Presentation on the John E. Connor Museum budget for Fiscal Year 14-15 by Jonathan Plant. (City Manager).

Mr. Jonathan Plant, John E. Connor Museum Director reported on the Museums accomplishments for this year due to the City continual financial support. Mr. Plant reported that the carryover from last year is \$31,393.78 with deposits from September 2013 through July 2014 of \$61,196.96 for a total revenues of \$92,590.74. Expenses paid for salaries, wages and benefits is \$30,387.87, exhibit fees \$12,835.67 and advertisements \$20,985.92 for total operating expenses of \$64,209.46. Mr. Plant mentioned that their actual balance as of July 19th is \$14,691.24 with an estimated revenue for next year of \$80,000 comes to total estimated revenue of \$94,691.24, of that, they estimate salaries, wages and benefits of \$54,000, exhibit fees \$17,457 and advertisements \$20,986, for a total projected operating expenses of \$92,443.

Mayor Fugate asked why salaries and wages were so high. Mr. Plant responded that the museum is fully staffed, to which they increased to four fulltime employees in addition to their part-time staff. Mayor Fugate asked how much is given to the museum from hotel/motel tax. Mrs. Cynthia Martin, Interim Tourism Director stated that the amount given to the museum from hotel/motel tax is roughly around \$70,000.

Mayor Fugate stated that he would like to meet with Mr. Plant sometime in the future to discuss the possibilities of moving the Conner Museum into the gymnasium building locate near the new city hall on 3rd street.

5. Consider a resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement between the City of Kingsville and Texas A&M University-Kingsville relating to Eagle Ford Center for Research, Education, and Outreach. (City Attorney).

Mrs. Alvarez stated that staff has been working with Dr. Nix and his staff with regards to an interlocal agreement for the Eagle Ford Center for Research, Education, and Outreach which would intel the City providing the Call Center building which is city owned property, to the University for the project that is being proposed. Alvarez stated that this agreement is for a five year term beginning September 1, 2014 and end August 31, 2019. Alvarez further stated that it doesn't currently have any renewal provisions in the agreement, but obviously is determined the end gets closer and if everybody is in agreement, something could be worked out. Alvarez stated that early termination, to which either party is allowed to do so, with 60 days advance written notice or for certain reasons in the event of default. Some of the key provisions are that the City will be waiving the lease payments

which are the lease payments the City pays back to the Texas Capital Fund for the note that the city took out when building was purchased. Alvarez further reported that the City will be insuring the building with TAMUK insuring the contents. The City will be responsible for all the repairs and maintenance for major systems and the University will be responsible for minor repairs, janitorial, exterior and interior renovations, which are all things the City Manager had discussed when the resolution was initially

Commissioner Pena asked Mrs. Alvarez if she has had the opportunity to review the entire agreement and asked if she felt comfortable with it. Mrs. Alvarez responded that this is a general interlocal and attached the facility use agreement which is a lease that the city had with a prior tenant but was modified it somewhat since the city is dealing with the University in order to meet some of their request and has also been betted through their Legal Department at College Station. Alvarez reported that they had minimal suggestions.

Commissioner Pena further asked Mrs. Alvarez if she felt comfortable with the agreement. Mrs. Alvarez responded that she believes that the City of Kingsville will be safely guarded with this agreement in place and it would help the University also with spacing issues they may have.

Commissioner Garcia asked Mrs. Alvarez that with regards to page 9, item 11 of the agreement, which states that the City will be responsible for the payments of all repairs and maintenance for major systems and goes on to say built-in furniture, ceiling tiles, floor tiles, carpet, computer networks. Commissioner Garcia stated that what bothers him is the responsibility of computer networks. Garcia stated that computer networks are not an attachment to the building and that his particular opinion is that this is personal property. He further asked if there are computers already there that the University will be taking over or will the City be repairing their computers. Mrs. Alvarez responded that her understanding is that there is a T-1 line and some other lines there which already exist in the building and that they was something they had requested.

Commissioner Garcia further stated that his concern with the word computer network can encompass more than one line. Mr. Capell responded that his understanding is that they will be providing their own computer equipment and network system and be responsible for it. Commissioner Garcia stated that it's fine if they are going to be responsible for their own computer network but the agreement shows that the City will be responsible for the network system. Mrs. Alvarez stated that she believes that TAMUK will be responsible for minor repairs such as non-structural walls, drywalls, built-in furniture, ceiling tiles, floor tiles, carpet, and computer networks.

Commissioner Leubert asked what budget is the interest being paid out of? Mr. Capell responded that it is out of building maintenance fund. Leubert further stated that she keeps hearing that this is going to be a win, win for the City and she is not sure what the win is for the City of Kingsville. She further stated that she has not received a clear answer, all she hears is how wonderful everything is going to be, but has yet to hear how this will benefit Kingsville. Leubert continued to say that at the very beginning she heard that there was a lease agreement being worked on, which she was very excite about, but she hears that a lease is being worked on. A lease to her is a monetary exchange for the lease of property which is not happening. She further stated that the city is giving it to the University which another \$30,000 on top of \$20,000 for repairs, which is great for the University but has to yet to hear what jobs and when are we going to get for Kingsville. She further stated that this is a win, win for someone but not for the City of Kingsville and stated that its not tax dollars, but tax payers dollars and feels very uncomfortable giving this much to the University when economic development does not fit into the criteria on how it's going to help the City of Kingsville.

Mayor Fugate responded to Commissioner Leubert's comments. Fugate stated that if she doesn't understand that economic development doesn't drive this community to help it grow, than she has issues. Fugate further stated that it is important that if we are going to grow our tax base were going to grow this city and enhance the quality of life of our citizens, we have to have people come in here and invest in this community. Fugate further stated that this is an opportunity for the City to assist the University with expansion. He further stated that with the University student enrollment increasing, this will assist them in the sense of space.

Dr. Nix of Texas A&M University-Kingsville stated that one of the major aspects of the Eagle Ford Center is business incubation. He stated that Dr. Rehn has already lined up several companies who are interested in joining the center to begin new ventures related to Eagle Ford, which is where some of the new jobs will be coming from. Dr. Nix stated that in addition to what Mayor Fugate just commented on, this will attract more grad students to get involved with the research program and will receive compensation for their work.

Commission Garcia commented that with regards to the incubator, this is not a new idea it's been throughout the country for years past. So this is an opportunity for the City of

Kingsville where we can really make a name for ourselves using the Eagle Ford project by getting engineers to develop new process and ideas in recovering oil, environmental monitoring and pipeline safety.

Motion was made by Commissioner Pena to authorize the City Manager to enter into an Interlocal Cooperation Agreement between the City of Kingsville and Texas A&M University-Kingsville relating to Eagle Ford Center for Research, Education, and Outreach, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pena, Garcia, Pecos, Fugate voting "FOR". Leubert "AGAINST".

6. Consider a resolution authorizing the Mayor to enter into a Lease Agreement between the City of Kingsville, Texas and Kleberg County Heritage Foundation for the Kingsville Railroad Passenger Depot. (City Attorney).

Mr. Nick Harrel stated that the Kleberg County Heritage Foundation has restored the Train Depot and the railroad retains the land underneath the depot, therefore, it would need to be leased from the railroad. For the first 10 years, the railroad did not charge for the land but now in exchange for the city to use building they would like city to pay the lease on the land and help with maintaining the building.

Mrs. Alvarez stated that the prior agreement between the parties which this is also a 10 year agreement starting August 1, 2014 through July 31, 2024. This agreement does not a renewal but has a group of provisions so that if the parties go beyond 10 year terms, it rolls over with all the terms of the agreement on a month to month basis. Alvarez stated that previously there was no cost associated with the agreement other than the city's maintenance of the facility, but now there is a lease charge of \$2,500. The city is still responsible for maintaining the parking lot and all equipment, including the HVAC and landscaping.

Mayor Fugate made a comment stating that this is same agreement but with \$2,500 more.

Motion made by Commissioner Leubert to authorize the Mayor to enter into a Lease Agreement between the City of Kingsville and Kleberg County Heritage Foundation, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".

7. Consider a resolution authorizing staff to negotiate an Interlocal Agreement for transferring responsibility for parks within the city limits and the L.E. Ramey Golf Course from the County to the City. (City Manager).

Mayor Fugate asked that if he understands this resolution, staff is asking for permission to begin talks with Kleberg County and bring the final item to Commission for their approval.

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".

8. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, Zoning, Section 4, Changes and Amendment, to include notice requirement from state statute. (Director of Planning & Development Services).

Mr. Robert Isassi, Director of Planning & Development Services stated that staff wants to match state statute and add another public hearing notice between the Planning & Zoning and City Commission.

Introduction item.

9. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 8, Landscaping Policy, Exhibit "A" –Preferred Plant List, providing for addition of mesquite trees and correcting spelling errors. (Director of Planning & Development Services).

Mr. Isassi stated that this is to correct the spelling for mesquite which was incorrect on the plant list.

Introduction item.

10. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 9-7-2, providing for modifications to the noxious matter definition. (Director of Planning & Development Services).

Mr. Isassi stated that a few months ago, Commission approved an ordinance that would change the height of overgrowth weeds from 18 inches to 12 inches. This was changed in Section 9-7-2(h) but was not changed under definitions.

Introduction item.

11. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 15-6-124, providing for the option to place pole signs or monument signs along U.S. Highway 77 Bypass. (Director of Planning & Development Services).

Mr. Isassi reported that business owners on US 77 have asked for the option to place an owner-identification/advertising pole sign in lieu of the required monument sign to provide better visibility to their business along the highway. Isassi stated that after a thorough examination of the 2008 Master Plan, the Plan's goals are to support the economic growth of Kingsville while also reducing sign clutter. He further stated that while the city's existing sign ordinance requires that all new signs be of a monument style, it is prudent to allow highway frontage businesses the opportunity to attract highway traffic to their businesses by allowing a pole sign for advanced notification and visibility from a controlled-access highway. Mr. Isassi further reported that the proposed amendment was reviewed by the Planning & Zoning Commission on July 23, 2014 and approved by a 6-0 vote.

Mayor Fugate stated that he wants staff to make contact with NAS-Kingsville and be sure that they are comfortable with this ordinance.

Introduction item.

12. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Chapter XV, Land Use, Article 6, Zoning, Air Installation Zoning Regulations, Section 41, Responsibility of Developers: Subdivisions, providing for a notice to Buyer/Lessee about AICUZ and CCLUA. (Director of Planning & Development Services).

Mr. Isassi reported that earlier this year the Joint Airport Zoning Board (JAZB) passed an ordinance requiring property owners and developers within the Air Installation Controlled Use Zone (AICUZ) to require a Notice to Buyer(s) or Lessee document to be provided by the sellers or lessors. The JAZB would like to see this required within the City and County as well. This will provide notice to residents that a controlled land use area exists around NAS-Kingsville and ensure that full disclosure is provided to make buyers and lessees aware of the area. Isassi stated that this item was previously presented to the Commission but an ordinance requiring the Notice to Buyer or Lessee was not provided. Isassi stated that this ordinance change was evaluated by the Planning & Zoning Commission and amended slightly from the original submittal. After the amended changes, Planning & Zoning Commission approved the ordinance changes by 6-0 vote.

Commissioner Garcia asked if this information would be given to bankers, other real estate agencies and title companies. Mr. Isassi responded that a flyer will be mailed out to all residents or advertised in the local paper.

Introduction item.

15. Consider compensation increase for the City Attorney. (Mayor Fugate).

Motion made by Commissioner Pena to approve a \$10,000 compensation increase for the City Attorney, seconded by Commissioner Pecos.

Discussion took place regarding an effective date. Mayor Fugate suggested an effective date of September 1, 2014. Commission agreed on the effective date. Commissioner Pena amended his motion.

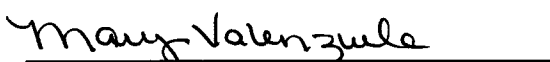
Motion made by Commissioner Pena to approve a \$10,000 compensation increase for the City Attorney effective September 1, 2014, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:20 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, City Secretary