

# ***City of Kingsville, Texas***

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## **AGENDA CITY COMMISSION**

**MONDAY, AUGUST 27, 2012  
REGULAR MEETING**

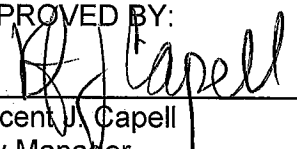
**HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS  
CITY HALL/200 EAST KLEBERG AVENUE  
4:00 P.M.**

### **I. Preliminary Proceedings.**

#### **OPEN MEETING**

Convene into III. **Reports from Commission & Staff.** - Review and discuss proposed fiscal year 2012-2013 budget for departments of the City of Kingsville. (City Manager).

APPROVED BY:

  
\_\_\_\_\_  
Vincent J. Capell  
City Manager

**6:00 P.M. – Regular Session of the Agenda continues**

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

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

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

1. Public Hearing to consider ordinance for creation of a storm water utility. (City Manager).
2. Public Hearing to rezone 1.99 acres out of KT&I Co., Block 22, Part of Lot 6 known as in the 1600 Block of East Trant Road from AG Agricultural district to C4 Commercial District. (Director of Development Services).
3. Public Hearing regarding preliminary plat for Fred Kurth of Melden & Hunt, Inc. and providing for conditional approval of same, located at 1600 Block of Carlos Truan Blvd. (Director of Development Services).
4. Public Hearing on a proposed tax rate increase from \$.84220 to \$.88218 for Fiscal Year 2012-2013. (Finance Director).

### **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, 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."*

### **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)*

1. Motion to approve resolution authorizing the City Manager to execute an amended Professional Services Agreement between the City of Kingsville and Imagine It Studios relating to City website. (Director of Development Services).
2. Motion to approve resolution authorizing participation in Union Pacific Foundation: Community Based Grant Program for four segways and miscellaneous equipment; Authorizing the Fire Chief to act on the City's behalf with such program. (Interim Fire Chief).
3. Motion to approve resolution authorizing the City Manager to enter into an amendment to the revised Water Utility Supply contract (Gov. Contract #N69450-12-C-001) between the City of Kingsville, Texas and the Federal Government for Naval Air Station-Kingsville (to reflect water rate recently adopted by ordinance for NASK). (City Engineer/Public Work Director).

## **REGULAR AGENDA**

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

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

4. Consider introduction of an ordinance granting a subdivision variance from the minimum lot grading requirements for Jalisco Ranch subdivision on property located in the 1600 block of Carlos Truan Blvd. (Director of Development Services).
5. Consider resolution accepting preliminary plat request for Jalisco Ranch Subdivision in the 1600 Block of Carlos Truan Blvd. from Fred Kurth of Melden & Hunt, Inc. and providing for conditional approval of same. (Director of Development Services).
6. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.99 acres out of KT&I Co., Block 22, Part of Lot 6 known as in the 1600 Block of East Trant Road from AG Agricultural District to C4 Commercial District; Amending the comprehensive plan to account for any deviation from the existing comprehensive plan; and providing publication. (Director of Development Services).
7. Consider introduction of an ordinance of the City Commission of the City of Kingsville, Texas, amending Chapter V Public Works of the Code of Ordinances of the City of Kingsville, Texas by adding Article 6 entitled "Stormwater Utility System"; Article 1 "Stormwater Utility System Rules" to establish a Municipal Stormwater Utility System; Establish an administrative appeals process; Provide penalties and remedies for nonpayment; Exempt certain property from fees; and provide a process by which to discontinue the Stormwater Utility System; Providing a cumulative clause; providing a severability clause; Providing a savings clause; and providing an effective date. (City Manager).
8. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 2, Sewer, Providing for an increase in sewer rates. (Finance Director).
9. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 3, Water, Providing for an increase in water rates. (Finance Director).
10. Consider introduction of an ordinance annexing the hereinafter described territory to the City of Kingsville, Kleberg County, Texas and extending the boundary limits of said City so as to include said hereinafter described property (Lot 9, Section 22, KT&I Subdivision) within said City limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the Acts, Ordinances, Resolutions, and Regulations of said City; and Adopting a Service Plan, Repealing all Ordinances in conflict herewith and Providing for an effective date. (Director of Development Services).

#### **VII. Adjournment.**

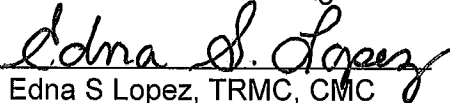
1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizens comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

NOTICE

This City of Kingsville and Commission Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail [elopez@cityofkingsville.com](mailto:elopez@cityofkingsville.com) for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board in the City Hall, 200 East Kleberg, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

August 23, 2012 at 2:50 P.M. and remained so posted continuously for at least 72 hours preceding the schedule time of said meeting.

  
Edna S Lopez, TRMC, CMC  
City Secretary  
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: \_\_\_\_\_

By: \_\_\_\_\_  
City Secretary's Office  
City of Kingsville, Texas

# **MINUTES OF PREVIOUS MEETING(S)**

**AUGUST 20, 2012**

**A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON HONORABLE MONDAY, AUGUST 20, 2012 IN THE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL/200 EAST KLEBERG AVENUE AT 4:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor  
Al Garcia, Commissioner  
Arturo Pecos, Commissioner  
Dianne Leubert, Commissioner

**CITY COMMISSION ABSENT:**

Noel Pena, Commissioner

**CITY STAFF PRESENT:**

Vincent J Capell, City Manager  
Edna S Lopez, City Secretary  
Courtney Alvarez, City Attorney  
Ricardo Torres, Police Chief  
Roel Carrion, Interim Fire Chief  
Willie Vera, Task Force Commander  
David Mason, Purchasing Director  
Yolanda Cadena, Health Director  
Teresa Vasquez, Interim Accounting Manager  
Melissa Perez, Risk Manager  
Diana Gonzalez, Human Resource Director  
Mark Rushing, Finance Director  
Diana Medina, Collections Supervisor  
Bill Donnell, Asst Public Works Director  
Naim Khan, City Engineer/Public Works Director  
Mike Kellam, Director of Development Services  
Bob Trescott, Tourism Service Director  
Rose Morrow, Municipal Court Supervisor

**I. Preliminary Proceedings.**

**OPEN MEETING**

**Mayor Fugate called the meeting to order in the Commission Chambers at 4:00 P.M. and announced quorum as present with Commission Pena absent.**

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

Mayor Fugate called to forego the preliminary proceedings.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Mayor Fugate called for consideration of the minutes of the regular meeting of Monday, August 13<sup>th</sup>, 2012. **Commissioner Pecos made a motion to approve the minutes, as presented, seconded by Commissioner Garcia. The motion was passed and approved the following vote: Fugate, Leubert, Garcia, Pecos voting “FOR”. Pena “ABSENT”.**

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

NONE

## III. Reports from Commission & Staff<sup>2</sup>

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor's Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Chapter 59 project. No formal action can be taken on these items at this time."*

NONE

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

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

Mayor Fugate called for comments on all agenda and non-agenda items. There were no comments made.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-3. **Commissioner Pecos made a motion to accept the Consent Agenda, Items 1-3, as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Fugate, Garcia, Leubert, Pecos voting "FOR". Pena "ABSENT".**

## V. Consent Agenda

1. ORDINANCE NO. 2012-42 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 budget for the General Fund Capital Projects Fund for the City website to utilize Fiscal Year 2010-2011 surplus funds. (Finance Director).
2. ORDINANCE NO. 2012-43 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 budget for the General Fund Capital Projects Fund for Public Works Service Center electric gate opener and fuel pump canopy to utilize Fiscal Year 2010-2011 surplus funds. (Finance Director).
3. ORDINANCE NO. 2012-44 Motion to approve final passage of an ordinance amending the Fiscal Year 2011-2012 budget for the General Fund 001 for the Legal Department Professional Services. (Finance Director).

## REGULAR AGENDA

## CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

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

### **4. Review and discuss proposed fiscal year 2012-2013 budget for departments of the City of Kingsville. (City Manager)**

City Manager Capell addressed the Commission and stated the budget was late due to health insurance information and final numbers on the tax rate and assessed valuations. He spoke about budget in general. He mentioned that budgets are revenues driven and the City has had growing revenues which makes things easier. He stated budgets are management driven. The City is getting more values through management. The goal is to accomplish the City Commissions' goals and give tax payers more value for their tax dollar. Revenues and high performance are making the budgets a little easier. The City has a good local economy and stable property taxes. The budget is presented without a tax increase, basically at existing tax rate, \$0.84220. The City is active at the staff level at revenue management. He stated that municipal court has increased the revenues by \$180,000. Liens have been filed which hadn't been filed in a long time. We identified current budget savings and have been used to help in the current budget. The City has overcome one-time financial challenges with budget surpluses; due to this the health insurance premium will not be increased. Proposed budget includes two areas not previously included: 1) the CO's bonds; and 2) fees for service. The proposed budget is prepared assuming that we continue to have some amount of revenue growth. He stated a major expenditure in the proposed budget is employee compensation. The proposal on compensations is to lower the turnover rate and create internal equity where the City thinks it is lacking. This will have a positive impact on retention and recruitment. The budget includes monies for street improvements.

City Manager Capell referred to the Revenues, Expenditures, & Fund Balances – by Fund Type. He asked the Commission to pay close attention to the General Fund. This fund should not have a fund deficit. The City has monies for 90 days of operations if no revenue came in or for an emergency.

#### **Police Department – Chief Torres**

Chief Torres addressed the Commission the budget reflects the Police Department's commitment in promoting safety, health and general well-being of the community when the bounds of fiscal responsibility while preserving the quality of life. He stated that basically, they worked within the core of their budget. He focused on the department's increases of line items – Salaries has increased because they are proposing a new position an IT Technician. He explained the needs in this department for the position. City Manager Capell stated this addresses a manpower issue because personnel are being used to fix computer problems. If approved, this person will be extremely busy at the Police department. He stated that in Department 210.2 they are requesting more money for supplies in general. There are line item increases for uniforms, minor equipment, computer & associated, training & travel, vehicle maintenance, professional services, and equipment maintenance. He reviewed the line item increases for Department 210.3 and 210.4. As for 210.5, he stated this budget has nothing outstanding. In the forfeiture budget, last year's proposal was for \$600,000 in expenditures but the fencing project is still pending due to getting an ID card system replaced to work with getting access to the building. There are no expenditures for vehicles because the department still doesn't know the total cost for moving over to crimes. He stated that he tries to keep two years' worth of minimum funding as an insurance policy.

He touched on the budget from the Federal Forfeiture Fund. As for grants, he provided information on the grants and equipment that will be received.



### **Fire Department – Interim Chief Carrion**

Interim Fire Chief Carrion addressed the Commission and added that this budget will meet their needs. He thanked the Commission for providing monies for remodeling of Fire Station #2. The budget did not change they stayed within the core. The increases are in line items for salaries, supplies, chemicals, motor gas & oil, utilities, equipment maintenance, building maintenance, and operating leases.

City Manager Capell stated the revenue for ambulance billing is going to come in low, but ambulance fees have not been raised in five years.

### **Task Force – Commander Willie Vera**

Commander Vera addressed the Commission and stated their budget is self-sufficient. He stated they have cut the budget to be able to sustain the twelve employees in the department. He stated they have received grant monies and are being allowed monies from some of the Sheriff Department grants. They have requested a vehicle, if approved, they will hire one agent. City Manager Capell stated the vehicle will be paid for by Seizure Funds. The department was given permission to stay at the present property when the Border Patrol moves into their new location, so they will now be paying utilities. He added an MOU will be presented at a later date. They will maintain the property grounds.

### **Tourism Services – Mr. Bob Trescott**

Mr. Trescott addressed the Commission and stated the good news is that Tourism is a full partner with the city. He stated the bad news is that they are inheriting a civilian budget. He is dealing with three buildings, a very important pool to maintain, and are taking aggressive responsibilities: 1) the Visitor's Center; 2) the Train Depot; & 3) the Conner Museum. He read from a handout that he provided the Commission. He touched on the initiatives that they are trying to take. The City's business goals are to rebuild infrastructure and amenities, to attract private development, and to restore the image and reality of Kingsville as the family and business oasis in the Wild Horse Desert. Our mission is to position Kingsville as a locally, regionally, nationally, and internationally recognized visitor destination by building on our assets, particularly on our historic district and historic downtown, and by developing quality destination management and marketing programs and events to attract visitors, to advance tourism development, to stimulate economic development and growth, and to enhance community pride as part of the overall mission of City government. He added this is a good opportunity to look and change the Conner Museum. The retirement of the Director of the Museum and the appointment of a new dean of the College of Arts and Sciences, who oversees the museum, gives us an opportunity to review the Conner along with our review of the Depot and the Visitors Center. He explained the statutory uses for Hotel Occupancy Taxes. He stated that first and foremost, the revenue must directly promote tourism and hotel and convention business – and be likely to cause hotel stays by visitors from a different city, county, state or beyond. The type of marketing or venue used gives evidence as to whether the event or program meets the "directly" and "likely" criteria. Secondly, once the first criterion is met, the revenue can be used for following: 1) set up and run a visitor center or convention center; 2) advertise; 3) support arts; 4) support historic preservation; 5) support sporting events for out of towners; 6) enhance existing city-owned sports facilities; 7) provide special, local transportation for tourists; 8) build way-finding system; 9) provide for administration; and 10) maintain a reserve.

He provided information on the downtown plan.

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:00 P.M.

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Sam R Fugate, Mayor

ATTEST:

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Edna S Lopez, TRMC, CMC  
City Secretary

**AUGUST 21, 2012**

**A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON TUESDAY, AUGUST 21, 2012 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL/200 EAST KLEBERG AVENUE AT 4:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor  
Al Garcia, Commissioner  
Noel Pena, Commissioner – arrived at 5:18 P.M.  
Arturo Pecos, Commissioner – arrived at 5:10 P.M.  
Dianne Leubert, Commissioner

**CITY STAFF PRESENT:**

Vincent J Capell, City Manager  
Edna S Lopez, City Secretary  
Courtney Alvarez, City Attorney  
Willie Vera, Task Force Commander  
Frank Garcia, Wastewater Supervisor  
Roel Carrion, Interim Fire Chief  
Luke Stevens, Sanitation Supervisor  
Robert Bennett, Landfill Supervisor  
Naim Khan, City Engineer/Public Works Director  
Bill Donnell, Asst Public Works Director  
Teresa Vasquez, Interim Accounting Manager  
Diana Gonzales, Human Resource Director  
Melissa Perez, Risk Manager  
David Mason, Purchasing Director  
Tony Verdin, Computer System Technician  
Joe Casillas, Water Production Supervisor  
Mike Kellam, Director of Development Services  
Jose Valadez, Street Supervisor  
Mark Rushing, Finance Director  
Marco Jimenez, Water Supervisor  
Ricardo Torres, Police Chief  
Bob Trescott, Tourism Services Director  
Arturo Perez, Garage Supervisor

**I. Preliminary Proceedings.**

**OPEN MEETING**

**Mayor Fugate called the meeting to order in the Commission Chambers at 5:00 P.M. and announced quorum as present with three members present, Commissioner Garcia and Leubert and Mayor Fugate.**

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

Mayor Fugate called to forego the preliminary proceedings.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

NONE

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

NONE

**III. Reports from Commission & Staff<sup>2</sup>**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor's Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Chapter 59 project. No formal action can be taken on these items at this time."*

NONE

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

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

Mayor Fugate called for comments on all agenda and non-agenda items. There were no comments made.

**V. Consent Agenda**

NONE

**REGULAR AGENDA**

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

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

1. **Review and discuss proposed fiscal year 2012-2013 budget for departments of the City of Kingsville. (City Manager).**

City Manager Capell

**Public Works – City Engineer/Public Works Director Naim Khan**

City Manager Capell stated tonight the Public Works administration and services will be discussed.

Mr. Khan addressed the Commission and stated several departments are working together to accomplish goals. He provided an introduction regarding information on the projects that have been completed and services being provided. This budget was prepared to try to improve the quality of service in a timely manner. He thanked Staff for all their help with the budget.

Mr. Khan addressed the Solid Waste Mgmt (Landfill & Sanitation) budget. He pointed out several line item increases for the Recycling Center budget. Revenues are going up from current budget. In Sanitation, line increases are for motor gas & oil, and vehicle machinery maintenance. In Landfill, there are several line items that have been increased to replace screens and compactor which is very old. The old compactor will still be used. There was lengthy discussion if after purchasing a new compactor, the old compactor should be fixed and used or be sold.

Mr. Khan addressed Public Works Administration budget. He stated the line item for training and travel has increased, as has building maintenance. The line item for salaries has the largest increase in this budget. In the Public Works Administration and General fund there are two employees in this department and cost is split between general fund and utility fund.

Mr. Khan addressed the Engineering Department budget. This department has an increase to the line item for salaries.

Mr. Khan addressed the Service Center budget and stated he would like to purchase an intercom system to use during meetings. There was discussion on putting a new monument at this location to identify the building.

Mr. Khan addressed the Garage Department budget and stated they are requesting more money for overtime and to service equipment. The Garage department went through a hard time hiring people, but now they are doing better, there's only one vacancy. There was discussion on current salaries for mechanics.

Mr. Khan addressed the Street Department budget and stated there are increases to line items for chemicals and communications. City Manager Capell stated that the City has gone out to look for street lights that are out and AEP is reimbursing some monies. All street repairs will come from CO monies and intersections will be repaired. Retention of employees in this department has been a problem.

Mr. Khan addressed the Water Utility budget and stated there's money for water lines and is requesting a \$40,000 increase. Next year, there will be a water line that will connect two towers. In Water Production, there's an increase in the line item for motor gas & oil from \$9,667 to \$21,164.

Mr. Khan addressed the Wastewater Utility budget and stated this budget shows some items were increased while others were decreased.

Mr. Khan addressed the Municipal Building budget and stated the budget remained the same except for the supplies and minor equipment which were increased.

City Manager Capell addressed the Commission about a change in the proposed budget. He explained departments are asked to give a budget for their base budget which is basically equal to their current year budget, and if they want anything over and above their current year budget in a way of any supplemental expenditures capital outlay or extra people. Department Heads are pretty prudent when they submit their request. He stated what he will present are things that never made to his desk. One thing was for Streets, a pothole patcher for a cost of \$60,000 and \$20,000 to put into operation for a total of \$80,000. He provided a proposal on how to pay for this, if the Commission wanted to purchase this. He referred to the City Manager's Budget Message, page VI. He stated he is proposing to eliminate the parking lot at 7<sup>th</sup> & Yoakum for \$17,220 and post office upgrade lot match \$30,000. The other project that can be adjusted is the City Hall parking lot from \$80,000 to \$47,000. Mayor Fugate suggested eliminating the entire parking lot project. City Manager Capell stated the lot maintenance is expensive for a property that the City doesn't own. This machine is the higher priority.

City Manager Capell stated currently there are 4 part-time positions in Engineering; request is to change one position into a fulltime position, Engineering Technician.

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:45 P.M.

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Sam R Fugate, Mayor

ATTEST:

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Edna S Lopez, TRMC, CMC  
City Secretary

**AUGUST 22, 2012**

**A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON WEDNESDAY, AUGUST 22, 2012 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, CITY HALL/200 EAST KLEBERG AVENUE AT 4:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor – arrived at 4:27 P.M.  
Al Garcia, Commissioner  
Noel Pena, Commissioner  
Arturo Pecos, Commissioner  
Dianne Leubert, Commissioner

**CITY STAFF PRESENT:**

Vincent J Capell, City Manager  
Edna S Lopez, City Secretary  
Courtney Alvarez, City Attorney  
Yolanda Cadena, Health Director  
Melissa Perez, Risk Manager  
Rose Morrow, Municipal Court Supervisor  
David Mason, Purchasing Director  
Tony Verdin, Information System Technician  
Willie Vera, Task Force Commander  
Robert Rodriguez, Library Director  
Diana Gonzales, Human Resource Director  
Mike Kellam, Director of Development Services  
Mark Rushing, Finance Director  
Arturo Moreno, Accountant II  
Diana Medina, Collections Supervisor  
Naim Khan, City Engineer/Public Works Director  
Teresa Vasquez, Interim Accounting Manager  
Roel Carrion, Interim Fire Chief

**I. Preliminary Proceedings.**

**OPEN MEETING**

**Mayor Pro-Tem Garcia called the meeting to order in the Commission Chambers at 4:00 P.M. and announced quorum as present, with Mayor Fugate absent.**

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

Mayor Pro-Tem Garcia called to forego the preliminary proceedings.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

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

**NONE**

**III. Reports from Commission & Staff<sup>2</sup>**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor's Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Chapter 59 project. No formal action can be taken on these items at this time."*

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

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

Mayor Pro-Tem Garcia called for comments on all agenda and non-agenda items. There were no comments made.

#### **V. Consent Agenda**

NONE

#### **REGULAR AGENDA**

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

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

1. **Review and discuss proposed fiscal year 2012-2013 budget for departments of the City of Kingsville. (City Manager).**

City Manager Capell stated tonight we are covering City Administrator functions and salaries are involved.

#### **City Manager/City Secretary – Mr. Vincent Capell/Ms Edna S Lopez**

City Manager Capell addressed the Commission and stated the current budget increased due to 1.5% COLA and a 1.5% COLA and step increase for the City Secretary. The health insurance has increased because both employees added dependents during the year. He pointed out the training & travel line item which is used for maintaining certifications for the City Manager & City Secretary. He stated the Downtown Managers expenses are no longer with this department. Total expenses have gone down mostly because expenses were moved to the Tourism department.

#### **Human Resource - Ms Diana Gonzales**

Ms Gonzales addressed the Commission and stated her office will be looking at policy and procedures, evaluation process, and employee development. The budget allows getting qualified applicants. The budget remained the same, a decrease for supplies, and an increase for medical treatment due to new employees. She provided information on new hires and separations.



### **Risk Management – Ms Melissa Perez**

Ms Perez addressed the Commission and stated the City Manager has given her seven focus areas of what her job entails: 1) Emergency Preparedness and Response; 2) Employee workplace safety and training; 3) Workers Compensation Administration; 4) Safe guarding City assets and facilities; 5) Compliant with applicable FEMA and Homeland Security related Federal & State regulations requirements; 6) maintain and monitoring substance abuse programs & policies; and 7) ADA Coordinator. She provided information on what she is presently doing regarding her focus areas.

### **Legal – Ms Courtney Alvarez**

Ms Alvarez addressed the Commission and stated the budget is the same as prior year. Only increase is 1.5% COLA for two employees which is barely \$1,400. She stated her department is working on a lot of ordinances and resolutions and numerous items. She stated there's an item that she would respectfully like to bring to their attention with regard to salaries. The City Manager and his staff have looked at internal and external equities for positions that he oversees and the positions that the Commission oversees are obviously the City Attorney, City Manager and Municipal Court Judge. It was brought to the Commissions' attention, last year, that there appeared to be some kind of internal equities arising between the EO2 Position – the City Attorney's position and some MO1 positions. Apparently, one of the MO1 Position has eclipsed the EO2 salary for over a year, and that's obviously going to continue until it's addressed. Historically, the City had about a \$15,000 pay separation between the EO1 and EO2, when the new City Manager came aboard that increased \$29,000 and there historically had been about \$11,000 difference between the EO2 – City Attorney and the ML1. One position is making about \$2,000 more and the others just barely \$1,000 under. The additional bumps, 1 ½ % and annual step increases other positions will be encroaching up in on that. With regard to internal equity, she is requesting the Commission look at that, externally as well. She added she received information from Waters Consulting Group for City Attorneys throughout the State and there are seven other cities aside from Kingsville that have compatible population and the lowest is \$91,665 and the highest is \$110,879. The average salary for the seven cities is \$100,954. Her \$87,000 is well below that amount. She asked they look at that when considering adopting a final budget.

### **Planning/Permitting/Community Appearance – Mr. Mike Kellam**

Mr. Kellam addressed the Commission and provided information on current year activity on the housing problems, community appearance, and economic vitality. He discussed revenues and stated they have proposed significant increase for revenues for permits and licenses. They have made significant changes to the proposed budget for Planning Administration, for computers and associated equipment, professional services, printing & publishing, training & travel, and memberships & dues. In Planning/Development Services 160.2 department, there are increases to line item for supplies, communications, professional services, and printing & publishing. In the Community Appearance 160.3 department, significant changes are due to an increase of personnel, two employees that are currently in the Health department. He provided information on the increase for each line item.

### **Purchasing/Technology – Mr. David Mason**

Mr. Mason addressed the Commission and stated the budget has very little changes. All 200 accounts were decreased, in the 300's the training & travel was increased to allow for certifications. He stated that his department has implemented an email able form for requisition. In the Purchasing/IT budget, there's an increase in the account for

Professional Services with Incode. City Manager Capell stated one goal of the City Commission is to improve technology and as more software is bought and upgraded our annual maintenance cost will increase.

#### **Finance/Municipal Court/Utility Billing – Mr. Mark Rushing**

Mr. Rushing addressed the Commission, provided information on the Ad valorem taxes and the Non-property Taxes. The current Taxes – real property proposed is \$4,467,366, delinquent taxes – real property \$127,232, penalty & Interest \$84,941, and late rendition penalty \$4,747. City Manager Capell addressed the Municipal Court budget and stated that court fees are being collected so there's a lot of positive in this department.

In Finance Administration, Mr. Rushing stated that 180.1 core budget remained the same, in Municipal Court there was \$3,600 above the core budget. He stated that there's an increase for training & travel for certifications. The operating expenditures for the warrant officer have been moved to the Municipal court budget from the Police Department budget.

Ms Rose Morrow, Municipal Court Supervisor addressed the Commission. Ms Morrow provided information on programmatic changes regarding administrative fees and other fees relating to ordinance violations. There's has been about 50% increase of people coming in to the court to try to solve their problem. The warrant officer has the capability to take credit cards out in the field. The docket and pictures of people owing monies to the court are posted on the City website.

Mr. Rushing touched on line item increases for Collections and Meter Readers for an increase of \$1,343 overall.

Ms Diana Medina, Collections Supervisor addressed the Commission. Ms Medina thanked the Commission on approving the AR product to be used for all types of liens. She stated an additional person will work half-time to work at the third window and help with the AR packet. Her department is training as per webinar for the AR packet. As for the storm water study, if approved, this will be added to the AR packet. She provided information on working with other departments by helping send out information with the water billing. She stated she will do research on smart meters and streamlining the routes for reading the water meters using the GPS system. They are developing EMS billing system study.

#### **City Special – Mr. Mark Rushing**

Mr. Rushing addressed the Commission and stated there are no monies for elections, and the TMRS settlement decrease because it was paid this year. There's an increase for OPEB Commitment for a total of \$216,775. There's an increase for supplies and postage & freight. There was a reduction in the golf course line item, air show contribution, and training in Human Resource. The proposed money for the Appraisal District is \$156,640.

#### **City Commission - Mayor Fugate/City Secretary Edna Lopez**

Ms Lopez stated this budget had very minor changes. Health Insurance increased due to new Commission members. Overall increase to budget is \$12,393.

City Manager Capell stated there's an article in the newspaper regarding salaries and the amount is incorrect. Mayor Fugate stated that no one reads the newspaper anyway.

There was discussion about BRAC funding. Mayor Fugate provided information on today's visit to Austin regarding the wind farm issues.

There was discussion on the Park's department budget.

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:28 P.M.

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Sam R Fugate, Mayor

ATTEST:

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Edna S Lopez, TRMC, CMC  
City Secretary

# **PUBLIC HEARING(S)**

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## **NOTICE OF PUBLIC HEARING TO CONSIDER ORDINANCE FOR CREATION OF A STORMWATER UTILITY**

The City of Kingsville will hold a public hearing on Monday, August 27, 2012 at 6:00 p.m. at the Kingsville City Hall (200 E. Kleberg) in regard to an ordinance for the creation of a stormwater utility for the City of Kingsville, Texas.

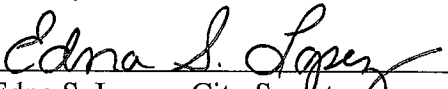
The purpose of the hearing is to allow citizens an opportunity to discuss reasons for or against the creation of a stormwater utility for the City. Citizens unable to attend may submit written comments to the Mayor, Sam Fugate, at City Hall-City of Kingsville, 200 E. Kleberg, Kingsville, Texas

In addition, should any non-English speaking citizen(s) desire to address the City during such hearing and needs the assistance of an interpreter, the City will attempt to provide one if sufficient notice is provided. Also, should any citizen(s) desire technical assistance, handicap accessibility to the hearing site, or need interpreter assistance, please call Edna Lopez, City Secretary at 361/595-8002.

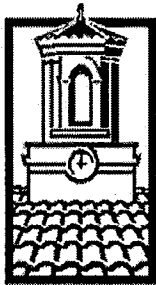
Sam R. Fugate  
Mayor  
City of Kingsville

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Posted: July 25, 2012 @11:55 A.M.

By:   
Edna S. Lopez, City Secretary

Publish three times in newspaper with full copy of ordinance. **PUBLISH JULY 25 & 29 AND August 5, 2012.**



## Reiki, belly dancing courses set to begin in September

By Julie Navejar  
TAMUK Communications

The Center for Continuing Education at Texas A&M University-Kingsville provides a number of classes each semester geared toward improving the individual.

This fall, two of the classes include Reiki and belly dancing.

Reiki (pronounced Rye-key) is a complementary form of Japanese medicine which transfers positive energy from the instructor to the participant.

Practitioners have been known to feel increased energy, vitality and an overall healthier well-being.

During the eight-week course, the instructor will demonstrate how to conduct Reiki in three courses, representing different skill levels: initiation and theory, practical application of techniques, increasing energy, deep relaxation and overall peace.

The Reiki course begins Tuesday, Sept. 4 and will be held every Tuesday and Thursday, from 6 to 8 p.m. through Thursday, Oct. 25, in room 215 of Cousins Hall.

Belly dancing is a Middle Eastern dance practice that is a great way to stay fit while maintaining elegance and beauty.

It has been practiced throughout West Asia and North Africa by both men and women for centuries.

With most movements confined to the hip and abdominal areas, this dance form creates a visually striking spectacle that is sure to attract curiosity and intrigue.

The alluring art is a great way to tone muscle and improve posture with a dance that works with the body.

Belly dancing begins Wednesday, Sept. 5, and continues every Monday and Wednesday, from 6:30 to 8 p.m. through Wednesday, Oct. 24.

The class is held in the dance studio in the Health and Recreation Building.

The cost of each course is \$75 for eight weeks.

Texas A&M-Kingsville faculty and staff receive a \$10 discount and university students may take the courses for only \$45.

For more information or to reserve a place in class, call the Center for Continuing Education at (361) 593-2861, email [conted@tamuk.edu](mailto:conted@tamuk.edu) or visit the office in room 108 of Cousins Hall.

## Notice of Public Hearing on Tax Increase

The CITY OF KINGSVILLE will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 6.10 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

The first public hearing will be held on August 27, 2012 at 6:00 PM at the Honorable Robert H. Alcorn Commission Chambers, City Hall, 200 E. Kleberg, Kingsville, TX.

The second public hearing will be held on September 5, 2012 at 6:00 PM at the Honorable Robert H. Alcorn Commission Chambers, City Hall, 200 E. Kleberg, Kingsville, TX.

The members of the governing body voted on the proposal to consider the tax increase as follows:

**FOR:** Mayor Sam R. Fugate  
City Commissioner Arturo Pecos  
City Commissioner Noel Pena  
Mayor Protem Alfonso R. Garcia  
City Commissioner Dianne Leubert

**AGAINST:**

**PRESENT** and not voting:

**ABSENT:**

The average taxable value of a residence homestead in CITY OF KINGSVILLE last year was \$72,816. Based on last year's tax rate of \$0.84220 per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$613.26.

The average taxable value of a residence homestead in CITY OF KINGSVILLE this year is \$73,293. If the governing body adopts the effective tax rate for this year of \$0.83147 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$609.41.

If the governing body adopts the proposed tax rate of \$0.88218 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$646.58.

Members of the public are encouraged to attend the hearings and express their views.

## NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET AND PROPOSED TAX RATE

The Bishop CISD will hold a public meeting at 6:15 pm, August 30, 2012 in the District Conference Board Room, 719 E. Sixth Street, Bishop, Texas. The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited.

The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.

Maintenance Tax	\$1.039240/\$1.00 (proposed rate for maintenance and operations)
School Debt Service Tax	\$0.511560/\$1.00 (proposed rate to pay bonded indebtedness)
Approved by Local Voters	
<b>Comparison of Proposed Budget with Last Year's Budget</b>	
The applicable percentage increase or decrease (or difference) in the amount budgeted in the preceding fiscal year and the amount budgeted for the fiscal year that begins during the current tax year is indicated for each of the following expenditure categories.	
Maintenance and operations	5.68 % increase
Debt Service	-0.62 % decrease
Total expenditures	4.46 % increase
<b>Total Appraised Value and Total Taxable Value</b> (as calculated under Section 26.04, Tax Code)	
	<b>Preceding Tax Year</b> <b>Current Tax Year</b>
Total appraised value* of all property	\$638,513,302      \$701,646,722
Total appraised value* of new property**	\$1,635,753      \$2,205,429
Total taxable value*** of all property	\$461,453,430      \$466,922,840
Total taxable value*** of new property**	\$1,083,469      \$2,004,777
*Appraised value is the amount shown on the appraisal roll and defined by Section 1.04(8), Tax Code.	
** "New property" is defined by Section 26.01(17), Tax Code.	
*** "Taxable value" is defined by Section 1.04(10), Tax Code.	
<b>Bonded Indebtedness</b>	
Total amount of outstanding and unpaid bonded indebtedness* \$24,149,823	
*Outstanding principal.	
<b>Comparison of Proposed Rates with Last Year's Rates</b>	
	<b>Maintenance &amp; Operations</b> <b>Interest &amp; Sinking Fund**</b> <b>Total</b> <b>Local Revenue Per Student</b> <b>State Revenue Per Student</b>
Last Year's Rate	\$1.039240      \$0.516554*      \$1.555794      \$6,010      \$3,429
Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service	\$1.062255      \$0.511560*      \$1.573815      \$6,021      \$3,769
Proposed Rate	\$1.039240      \$0.511560*      \$1.550800      \$5,941      \$3,436
*The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both.	
The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.	
<b>Comparison of Proposed Levy with Last Year's Levy on Average Residence</b>	
	<b>Last Year</b> <b>This Year</b>
Average Market Value of Residences	\$81,831      \$86,169
Average Taxable Value of Residences	\$50,465      \$53,936
Last Year's Rate Versus Proposed Rate per \$100 Value	\$1.555794      \$1.550800
Taxes Due on Average Residence	\$785.13      \$836.44
Increase (Decrease) in Taxes	~\$51.31
Under state law, the dollar amount of school taxes imposed on the residence homestead of a person 65 years of age or older or of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, may not be increased above the amount paid in the first year after the person turned 65, regardless of changes in tax rate or property value.	
Notice of Rollback Rate: The highest tax rate the district can adopt before requiring voter approval at an election is \$1.551560. This election will be automatically held if the district adopts a rate in excess of the rollback rate of \$1.551560.	
<b>Fund Balances</b>	
The following estimated balances will remain at the end of the current fiscal year and are not encumbered with or by a corresponding debt obligation, less estimated funds necessary for operating the district before receipt of the first state aid payment.	
Maintenance and Operations Fund Balances	\$0
Interest & Sinking Fund Balances	\$146,000

**PETITIONS,  
GRIEVANCES, &  
PRESENTATIONS**

# **CONSENT AGENDA**



# **AGENDA ITEM #1**

**RESOLUTION # 2012-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF KINGSVILLE AND IMAGINE IT STUDIOS RELATING TO CITY WEBSITE; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville ("City") and Imagine It Studios ("IIS") desire to work together to create a better, more functional website for the City for the benefit of our citizenry and others wanting to know more about our community to move or develop here; and

**WHEREAS**, IIS has the skills to create an improved website that will allow for greater efficiencies by staff and enhance online services and information; and

**WHEREAS**, the City approved an agreement between the parties on August 13, 2012 and was subsequently advised that IIS desired to replace the word "maintenance" with the word "hosting" throughout the document, necessitating this new resolution and amended agreement;

**WHEREAS**, it is mutually deemed sound, desirable, practicable, and beneficial for the parties to this agreement to work together in accordance with these terms;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Manager is authorized and directed as an act of the City of Kingsville, Texas to execute an Amended Professional Services Agreement Between the City of Kingsville and Imagine It Studios Relating to City Website in accordance with Exhibit A hereto attached and made a part hereof.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the \_\_\_\_\_ 27th day of August, 2012.

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

**AMENDED  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF KINGSVILLE  
AND IMAGINE IT STUDIOS  
RELATING TO  
CITY WEBSITE**

**WITNESSETH:**

**WHEREAS**, the City of Kingsville ("City") and Imagine It Studios ("IIS") desire to work together to create a better, more functional website for the City for the benefit of our citizenry and others wanting to know more about our community; and

**WHEREAS**, IIS has the skills to create an improved website that will allow for greater efficiencies by staff and enhance online services and information; and

**WHEREAS**, it is mutually deemed sound, desirable, practicable, and beneficial for the parties to this agreement to work together in accordance with these terms; and

**NOW, THEREFORE**, the City of Kingsville and IIS, in consideration of these mutual covenants and agreements, agree as follows:

1. **PARTIES**. The parties to this Interlocal Agreement ("Agreement") are the City of Kingsville ("City"), a Texas home rule municipality, and Imagine It Studios ("IIS"), a business operating under the laws of the State of Texas.

2. **PURPOSE**.

- A. IIS will provide services as set out on the document attached hereto for the improvement and increased efficiencies to the City's internet website, to include creating a new website within 120 days and hosting the website for one year after the new website is functioning and approved by the City.
- B. City will assist IIS by providing input on said improvements to the website.

3. **TERM**.

- A. The design and construction phase of the website phase of this project will be for an initial term of four months (120 days), starting August 13, 2012. The hosting phase of this project will be for a 12 month period starting when the new website is functioning and approved by the City. After the expiration of the initial 12 month term for hosting, this Agreement shall continue on a month to month basis.
- B. This Agreement may be terminated at any time by any party with or without cause upon fifteen (15) days advance written notice.
- C. Any notice of termination shall be sent to the other party to this Agreement at the address listed in paragraph 5 of this Agreement.

4. FUNDING.

- A. The total cost for the project is \$33,000, consisting of \$27,000 for the design and construction of the website phase and \$6,000 per year (\$500 per month) for the hosting of website phase. A breakdown showing how these amounts were derived is attached hereto.
- B. The \$27,000 cost for the design and construction of the website shall be paid in two (2) equal installment payments of \$13,500, with one payment being due at the start of the contract and a second payment being due at the end on performance and acceptance of the contracted services which are set out in the document attached hereto. The hosting of the website fee of \$500 per month shall be payable on the 5<sup>th</sup> day of each month starting when the new website is functioning and approved by the City.

5. MISCELLANEOUS PROVISIONS.

A. Notice. Notice required by this Agreement may be given or served by depositing the notice in the United States Mail, in certified or registered form, postage prepaid, addressed to the other party, or by delivering the notice in person to the other party. Notice deposited in the United States Mail in the manner prescribed in this subsection is effective upon deposit. The addresses of the parties are:

City of Kingsville, Texas  
Attention: City Manager  
P.O. Box 1458  
Kingsville, Texas 78364  
Telephone: (361) 595-8002  
Facsimile: (361) 595-8024

Imagine It Studios  
Attn: Manager  
4316 N. 10<sup>th</sup> Street, Suite 400  
McAllen, Texas 78504  
Telephone: (956) 687-1521  
Facsimile: (956) 687-4395

B. Effect of Waivers. No waiver by either party of any default, violation, or breach of the terms, provisions, and covenants contained in this Agreement may be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants of this Agreement.

C. Amendment of Agreement. This Agreement may be amended at any time. Any amendment to this Agreement must be in writing and agreed to by the governing bodies of the parties. No officer or employee of any of the parties has authority to waive or otherwise modify the limitations in this Agreement, without the express action of the governing body of the party.

D. Not For Benefit of Third Parties. This Agreement and all activities under this Agreement are solely for the benefit of the parties and not the benefit of any third parties.

E. Exercise of Police Powers. This Agreement and all activities under this Agreement are undertaken solely as an exercise of the police power of the parties, exercised for the health, safety, and welfare of the public generally, and not for the benefit of any particular person or persons. The parties do not have and may not be deemed to have any duty to any particular person or persons.

F. Immunities Not Waived. Nothing in this Agreement waives any governmental, official, or other immunity or defense of any of the parties or their officers, employees, representatives, and agents as a result of the execution of this Agreement and the performance of the covenants contained in this Agreement.

G. Mutual Indemnification: To the extent allowed by the Constitution and Laws of the State of Texas, IIS and City agree that each party assumes any and all risks of liability, loss, damages, claims, or causes of action and related expenses, including attorney fees, caused or asserted to have been caused directly or indirectly by or as the result of the negligent acts or omissions of that party and the officers, employees, and agents thereof.

H. Captions. Captions to provisions of this Agreement are for convenience and shall not be considered in the interpretation of the provisions.

I. Fiscal Obligations. Each party which performs services or furnishes aid under this Agreement must do so with funds available from current revenues of the party.

J. Approval by Governing Bodies. Each party represents that this Agreement has been duly passed and approved by the governing body of the party or that proper power and authority has been delegated by the governing body.

K. Entirety of Agreement. No other oral or written commitments of the parties with respect to the work to be performed under this Agreement may have any force or effect if not contained in this Agreement or any amendments thereto.

L. Severability. If any provision contained in this Agreement is held invalid for any reason, the invalidity does not affect other provisions of the Agreement that can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

M. Validity and Enforceability. If any current or future legal limitations affect the validity or enforceability of a provision of this Agreement, then the legal limitations are made a part of this Agreement and operate to amend this Agreement to the minimum extent necessary to bring this Agreement into conformity with the requirements of the limitations, and so modified, this Agreement continues in full force and effect.

N. Warranty. The individuals executing this agreement on behalf of each party represent and warrant that they are each the duly authorized representatives of such party on whose behalf the individuals are signing, each with full power and authority to bind said party to each term and condition set forth in this agreement.

O. Governing Laws. This Agreement shall be governed by the laws of the State of Texas.

P. Venue. Venue for an action arising under this Agreement is in Kleberg County, Texas.

Q. Effective Date. This Agreement is effective on the date when the last party executes this agreement.

R. Multiple Originals. Two (2) copies of this Agreement are executed; each shall be deemed an original.

**EXECUTED** by Imagine It Studios on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Name:

Title:

**ATTESTED BY:**

\_\_\_\_\_  
Name:

Title:

**EXECUTED** by the City of Kingsville on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Sam R. Fugate  
Mayor

**ATTEST:**

\_\_\_\_\_  
Edna Lopez  
City Secretary

**APPROVED AS TO FORM:**

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Courtney Alvarez  
City Attorney



# **AGENDA ITEM #2**

RESOLUTION #2012-\_\_\_\_\_

**A RESOLUTION AUTHORIZING PARTICIPATION IN UNION PACIFIC FOUNDATION: COMMUNITY BASED GRANT PROGRAM FOR FOUR SEGWAYS AND MISCELLANEOUS EQUIPMENT; AUTHORIZING THE FIRE CHIEF TO ACT ON THE CITY'S BEHALF WITH SUCH PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Union Pacific Foundation has a Community Based Grant Program that helps 501(c)(3)'s and governmental entities located along Union Pacific service lines with health and human service projects, as well as community and civic projects; and

**WHEREAS**, the Kingsville Fire Department desires to apply with the Union Pacific Foundation Community Based Grant Program for an amount of no more than \$70,000 to seek funding for four Segways and miscellaneous equipment for the Kingsville Fire Department; and

**WHEREAS**, the grant has no cash match and will allow law enforcement personnel to provide improved services to the citizens of our City.

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City authorizes the Kingsville Fire Department through the Fire Chief to participate in the Union Pacific Foundation Community Based Grant Program for an amount of no more than \$70,000 to seek funding for four Segways and miscellaneous equipment for the Kingsville Fire Department.

II.

**THAT** the Fire Chief is hereby authorized and directed to act on the City's behalf in all matters pertaining to Union Pacific Foundation Community Based Grant Program including any certifications, amendments or representations stipulated therein and that the Fire Chief will administer the program and execute and submit all certifications, reports, or contracts necessary for the administration and expenditure of such program.

III.

**THAT** this Resolution shall be and become effective on or after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 27th day of August, 2012.

Sam R. Fugate, Mayor

ATTEST:

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Edna Lopez, City Secretary

APPROVED AS TO FORM:

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Courtney Alvarez, City Attorney



# KINGSVILLE FIRE DEPARTMENT

P.O. Box 1458  
Kingsville, Texas 78364  
(361) 592-6445  
FAX (361) 595-4798

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Date: August 14, 2012  
To: City Commission through the City Manager  
From: Roel Carrion Interim Fire Chief  
Subject: Union Pacific Foundation Grant

The Kingsville Fire Department is requesting a resolution supporting the application of a grant to the Union Pacific Foundation; Community –Based Grant Program. The program assists 501c3 organizations and governmental entities in improving the quality of life in areas served by the Union Pacific Railroad.

The grant is for the purchase of four Segways for use by EMS personnel in events such as the La Posada parade, the Wings over South Texas (Blue Angels) Air Show and similar events. The cost for the EMS version of the four Segways and miscellaneous equipment will be between \$65,000 to \$70,000 dollars. The first phase of the grant process is due on August 14, 2012 and the second phase is due on August 15, 2012.

We do not expect any financial impact on our budget or any matching fund requirements with this grant application. Felix Camarillo, our Director of EMS Operations will be preparing and submitting the grant for the Kingsville Fire Department. Please forgive me for the late submittal of this request as I was dealing with a family medical issue and was not able to address this in a timely manner. Thank you for your consideration and support of this grant proposal.

# **AGENDA ITEM #3**

**RESOLUTION # 2012-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO THE REVISED WATER UTILITY SUPPLY CONTRACT (GOV. CONTRACT #N69450-12-C-0011) BETWEEN THE CITY OF KINGSVILLE, TEXAS AND THE FEDERAL GOVERNMENT FOR NAVAL AIR STATION-KINGSVILLE; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Kingsville recognizes that the continued operation of Naval Air Station Kingsville (NAS Kingsville) is important to the economy of the City of Kingsville, Kleberg County, and the region and that its future operational capacity should be protected because it fulfills an essential community purpose; and

**WHEREAS**, the NAS Kingsville desires to continue purchasing water from the City of Kingsville through an up-dated water utility supply contract; and

**WHEREAS**, the contract will be for a ten (10) year term, requires periodic meter testing, and thirty (30) days prior written notice of any water rate change; and

**WHEREAS**, on April 23, 2012, the City approved a contract with wording revisions to Section C.2. and the Navy requested that paragraph be stricken from the contract and that FAR Clause 52.241-7 control rate increases and decreases, and the City approved the revised contract NASK requested on May 14, 2012; and

**WHEREAS**, the City of Kingsville had the engineering firm of HDR conduct a water rate study to determine the price for NASK as it had not been modified in several years and on June 25, 2012, the Commission adopted by ordinance the new water rate recommended by HDR for NASK;

**WHEREAS**, the City provided written notice to NASK of the newly adopted water rate as required by contract;

**WHEREAS**, NASK has submitted an amendment to the water supply contract entered into between the parties in May of this year, so that the amended contract reflects the newly adopted water rate as determined by the rate study;

**WHEREAS**, the parties believe the contract to be in the best interest of both parties;

**NOW THEREFOR, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Manager is authorized and directed as an act of the City of Kingsville, Texas to enter into an Amendment to the revised Water Utility Supply Contract with the federal government to supply water to Naval Air Station-Kingsville in accordance with Exhibit A hereto attached and made a part hereof.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the  
27th day of August, 2012.

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# CITY OF KINGSVILLE



P. O. BOX 1458 -- KINGSVILLE, TEXAS 78364

August 23, 2012

Vincent Capell  
City Manager  
City of Kingsville  
P.O. Box 1458  
Kingsville, Texas 78364

**Re: Updated Naval Air Station-Kingsville Water Rate**

Mr. Capell,

Following the City adopted resolution for amended contract N69450-12-C-011 on June 25<sup>th</sup>, 2012 with NAS-Kingsville, this memo is submitted to request that the new reflected rate be updated to \$1.75/1,000 gallons.

Thank you for your consideration of this matter.

Sincerely,

*Mark A. Rushing*

Mark A. Rushing

CC: Courtney Alvarez, City Attorney



<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>				1. CONTRACT ID CODE <b>J</b>		PAGE OF PAGES <b>1   5</b>	
2. AMENDMENT/MODIFICATION NO.		3. EFFECTIVE DATE <b>11-Jul-2012</b>		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)	
6. ISSUED BY CODE  NAVFAC SOUTHEAST ACQ CORE UTILITIES BLDG 903, PO BOX 30 JACKSONVILLE FL 32212-0030		N69450		7. ADMINISTERED BY (If other than item 6) CODE			
				<b>See Item 6</b>			
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code) KINGSVILLE, CITY OF 200 E KLEBERG AVE KINGSVILLE TX 78363-4573				9A. AMENDMENT OF SOLICITATION NO.			
				9B. DATED (SEE ITEM 11)			
				X 10A. MOD. OF CONTRACT/ORDER NO. N69450-12-C-0011			
				X 10B. DATED (SEE ITEM 13) 01-Jun-2012			
CODE 1QCU9		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of offer <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACT/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).							
X C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: FAR 52.243-1 Alt I - Changes - Fixed Price							
D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input checked="" type="checkbox"/> is required to sign this document and return <u>1</u> copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) Modification Control Number: <b>jacada55122698</b> 1. Incorporate new potable water rate at \$1.75/1,000 gallons based on rate study completed 09 May 2012  2. In an effort to clarify the quantity and Unit of Issue in the Navy's system, this modification will change the Unit of Issue on the CLINs from 'Each' to 'Project', decrease detail quantity and increase total cost of Line Item. This does NOT effect the total cost to the contractor.  Reason Code: SCPE  Acceptance of this modification by the contractor constitutes an accord and satisfaction and represents payment in full for both time and money and for any and all costs, impact effect, and for delays and disruptions arising out of, or incidental to, the work as herein revised.							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
				TEL: _____ EMAIL: _____			
15B. CONTRACTOR/OFFEROR  _____ (Signature of person authorized to sign)		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA  BY _____ (Signature of Contracting Officer)		16C. DATE SIGNED	

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

**SUMMARY OF CHANGES**

SECTION B - SUPPLIES OR SERVICES AND PRICES

CLIN 0001

The pricing detail quantity has decreased by 1,499,999.00 from 1,500,000.00 to 1.00.

The unit price amount has increased by \$1,499,999.00 from \$1.00 to \$1,500,000.00.

The unit of issue has changed from Dollars, U.S. to Project.

SECTION C - DESCRIPTIONS AND SPECIFICATIONS

The following have been modified:

SCOPE OF WORK

**C.1. SCOPE FOR WATER SERVICE**

The contractor shall furnish, and the Government shall purchase and receive, water service as requested by the Government for the Naval Air Station (NAS) Kingsville. Service shall be provided as stated in the provisions contained herein, and pursuant to the contractor's effective rates, tariffs, rules, regulations and practices subject to the appropriate regulatory body.

Contractor shall supply clear, potable water safe for human consumption in accordance with standards adopted by the Safe Water Drinking Act (SDWA) for drinking and culinary water supplied by common carriers in interstate commerce and such revisions thereof as may be made from time to time. Contractor shall operate and provide its water service in conformity with all applicable laws, rules, codes, industry standards, permits and regulations promulgated by any and all governmental authorities having jurisdiction.

**C.2. RATES AND CHARGES**

All meters (if any) shall be installed by the contractor in a manner that allows verification by Government personnel. The Government reserves the right to have the contractor install meters at any location served by the system. The cost of such installations will be negotiated by the Government and contractor.

For all services furnished under this contract to the service location, the Government shall pay the contractor at the rates and charges specified in Rates, Fees and Charges attached hereto and made a part of this contract, and all revisions thereof.

For purposes of charges, any demands due to faulty operation of, or to excessive or fluctuating pressure on the contractor's system, shall not be included as part of the Government's requirement.

The contractor shall give the Contracting Officer written notice of the filing of an application for rate changes concurrently with the filing of an application. The notice shall fully describe the proposed rate change.

In the event that the regulatory body promulgates any regulation not concerning rates which materially affects this contract, the contractor shall immediately notify the Contracting Officer.

### **C.2.1. Rates**

Per Ordinance Number 2012-29, rate is set at \$1.75/1,000 gallons.

### **C.3. CHANGES IN CHARACTER OF SERVICE**

The Government shall give reasonable notice (at least 30 days) of any material changes anticipated in demand or service requirements. The contractor shall give reasonable notice (at least 30 days) of any material changes anticipated in service capability or capacity.

### **C.4. DEFINITIONS**

As used throughout this contract, the following terms are defined as follows. Additional definitions can be found in the "DEFINITIONS" clause (FAR 52.202-1) of Section I.

*Contracting Officer (KO).* An employee of the Government with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives acting within the limits of their authority as delegated by the Contracting Officer.

*Contractor.* Refers to both the prime contractor and subcontractors and includes any of its subsidiaries and parent companies. The prime contractor shall ensure that their subcontractors comply with the provisions of this contract.

*Safe Water Drinking Act (SDWA).* The main federal law that ensures the quality of Americans' drinking water. Under SDWA, Environmental Protection Agency sets standards for drinking water quality and oversees the states, localities, and water suppliers who implement those standards. For more information visit; <http://water.epa.gov/lawsregs/rulesregs/sdwa/>

### **C.5. COORDINATION OF WORK**

The Government hereby grants to the contractor, free of any rental or similar charge, but subject to the limitations specified in this contract, a revocable permit to enter the service location for any proper purpose under this contract, including use of the site or sites agreed upon by the parties hereto for the installation, operation, and maintenance of the facilities of the contractor required to be located upon Government premises. Authorized representatives of the contractor will be allowed access to the facilities of the contractor at suitable times to perform the obligations of the contractor with respect to these facilities. It is expressly understood that the Government may limit or restrict the right of access herein granted in any manner considered to be necessary for the National security. In such a case, the contractor may not be held liable for interruptions of service due to facts beyond his control in order to operate and maintain service.

Routine work, such as the scheduled replacement or retirement/removal of inventory and equipment shall be coordinated with the designated Government representative.

The contractor shall provide 24-hour service for trouble calls made to a published telephone line. The Government employee responsible for the building or facility experiencing service outages or trouble will call the contractor's published telephone number to report any outages. Restoration of service shall be coordinated with the individual responsible for the building or facility.

The contractor shall cooperate with the Government and contractors of the Government to facilitate outages and underground utilities location markings to allow construction/repairs on the installation(s).

The contractor shall notify a designated Government representative at least 10 days prior to any scheduled excavation. The contractor shall mark the proposed excavation location with standard industry markings, no more than 24 hours prior to providing notification. The contractor shall not begin any excavations without prior site

approval. Such approval/disapproval shall be timely and not cause unreasonable delays in contractor's related work or be unreasonably withheld. The contractor shall be liable for all damages incurred by the Government related to excavations by the contractor without prior approval; however, the contractor shall not be held liable for any excavations without prior approval where said excavations are necessary to address an emergency condition.

#### **C.6. Emergency Service Requests**

Trouble calls and service calls shall be classified as an emergency at the discretion of the Contracting Officer or authorized Government official as designated by the Contracting Officer. An emergency condition is one that is detrimental to the mission of the installations, significantly impacts operational effectiveness, or compromises the safety, health, and life of personnel. Once an emergency request is received, the contractor will respond as soon as possible and endeavor to take such action as is necessary to downgrade the level of the service request to routine. The response point for all emergency calls will be the security entrance gate at each installation. Installation personnel will be responsible for facilitating rapid access of the contractor's personnel through the security entrance to the site of the emergency.

Emergency calls may include complaints and communications concerning back-ups, flood conditions, stoppages, spillages, leaks, breaks and emergencies. The emergency will be isolated as soon as possible. The emergency will be resolved and/or repaired as soon as possible. Work will be continuous until the emergency condition is eliminated or downgraded and service is restored. Additionally, repair crews appropriately trained to eliminate the condition must respond to the emergency site as soon as possible.

During non-working hours, once the emergency is isolated, the contractor, with the concurrence of the Contracting Officer or authorized Government official as designated by the Contracting Officer, will determine if the emergency needs to be resolved immediately or can wait until the next business day. If the emergency must be resolved immediately, repair crews appropriately trained to eliminate the condition must respond to the emergency site as soon as possible. If the repair can wait until the next business day, the appropriate repair crews will be on site at the start of the next business day or as soon thereafter as possible.

All emergencies will be remedied or downgraded to a non-emergency status as soon as possible.

#### **C. 7. COMPLIANCE WITH ENVIRONMENTAL AND SAFETY LAWS/CODES**

The contractor shall comply with all federal, state and local environmental and safety laws and shall be responsible for environmental assessments, studies and coordination applicable to federal, state, and local agencies required to execute their portion of this contract. This shall include, but not be limited to, all assessments, studies, permitting and coordination required to comply with federal, state and local laws regarding endangered species, historic/archaeological, and hazardous/toxic materials.

#### **SECTION F - DELIVERIES OR PERFORMANCE**

The following Delivery Schedule item for CLIN 0001 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	UIC
POP 01-JUN-2012 TO 31-MAY-2022	N/A	N/A FOB: Destination	

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	UIC
---------------	----------	-----------------	-----

POP 01-JUN-2012 TO  
31-MAY-2022

N/A

N/A  
FOB: Destination

(End of Summary of Changes)

# **(REGULAR AGENDA)**

# **AGENDA ITEM #4**

**ORDINANCE #2012-\_\_\_\_\_**

**AN ORDINANCE GRANTING A SUBDIVISION VARIANCE FROM THE  
MINIMUM LOT GRADING REQUIREMENTS FOR JALISCO RANCH  
SUBDIVISION ON PROPERTY LOCATED IN THE 1600 BLOCK OF  
CARLOS TRUAN BLVD.; PROVIDING FOR PUBLICATION.**

**WHEREAS**, the Planning and Zoning Commission held a meeting on August 8, 2012 in regard to a request made by Fred Kurth on behalf of Melden & Hunt, Inc. to approve a subdivision variance from the minimum lot grading requirements for Jalisco Ranch subdivision on property located in the 1600 Block of Carlos Truan Blvd.;

**WHEREAS**, section 15-3-49 of the Code of Ordinances of the City of Kingsville says subdivisions will be sloped at a minimum grade of 1%; and, section 15-3-101(K) of the Code of Ordinances of the City of Kingsville requires residential lots be graded to the front of the lot at a minimum slope of 1.0% to provide positive drainage;

**WHEREAS**, the developer would like a variance to grade the slope at 0.75% and/or other varying percent below 1% and has requested a variance for that deviation pursuant to section 15-3-101(O);

**WHEREAS**, Planning & Engineering staff recommended denial of the subdivision variance request based on the research and analyzed findings found within the staff report and supplemental information;

**WHEREAS**, the Planning and Zoning Commission recommended approval of the subdivision variance request by a 4-1 vote, this matter is now before the City Commission for consideration;

**WHEREAS**, approval of the preliminary plat is dependent upon the granting of a subdivision variance from the minimum lot grading requirements as prescribed by the subdivision code;

**WHEREAS**, the City Commission has determined that this subdivision variance request would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

**SECTION 1.** That the subdivision variance request (for lot grading of the site to be graded at 0.75%) and/or other varying percents below 1% from the minimum lot grading requirements as prescribed in the subdivision code (of 1.0%) is hereby granted for the property located in the 1600 block of Carlos Truan Blvd.

**SECTION 2.** That the subdivision code of the City of Kingsville, Texas, as amended from time to time, shall remain in full force and effect and apply to this property except for the



variance to lot grading as noted in this ordinance.

**SECTION 3.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.

**SECTION 4.** That if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**SECTION 5.** That this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**SECTION 6.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

INTRODUCED on this the 27th day of August, 2012.

PASSED AND APPROVED on this the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2012.

**THE CITY OF KINGSVILLE**

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Edna Lopez, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Courtney Alvarez, City Attorney



## Planning & Development Services Department

---

**TO:** Mayor & City Commission

**THROUGH:** Vincent Capell, City Manager

**FROM:** Michael Kellam, AICP, Director of Planning & Development Services

**SUBJECT:** Subdivision Variance Request in the 1600 Block of Carlos Truan Blvd.

**DATE:** August 14, 2012

---

The City of Kingsville Planning and Zoning Commission met on August 8, 2012 at 7:00 p.m. in regard to a request made by Melden & Hunt, Inc. Fred L. Kurth serving as the agent, to approve a subdivision variance from the minimum lot grading requirements on property located in the 1600 block of Carlos Truan Blvd. Fred L. Kurth appeared at the meeting to present in favor of the preliminary plat. No other residents were present to speak on the matter.

Staff presented the attached staff report to the Planning & Zoning Commission. As stated in the staff report the request was recommended to be denied based on the findings found within the report. The applicant maintains the position that the lot grading is cumbersome, will hinder the development and attempts to save a majority of the existing trees. Staff researched the issue and has found the grading can and should be done prior to the individual lot development to ensure proper drainage within the entire site. Additionally, the approval of the preliminary plat is dependent upon the granting of a subdivision variance from the minimum lot grading requirements as prescribed by the subdivision code.

As previously stated, Planning staff recommends denial of this subdivision variance request based on the researched and analyzed findings found within the staff report. The Planning & Zoning Commission recommended approval of the request with a 4/1 vote.

Attachments

**August 8, 2012 P&Z Meeting Minutes for:**

- 1. Discuss and take action on- Requesting a variance to the subdivision ordinance to allow relief from the minimum one percent grading slope on each lot to be created within Jalisco Ranch at the 1600 Block of Carlos Truan Blvd. Staff recommendation: Denial.**

Mr. Kellam stated that a variance is being requested for 52.61 acres to allow the lot grading of the site to be graded at 0.75% versus the Subdivision Code requirement of 1.0%. He also stated that staff had discussed various options regarding the lot grading and offered sample designs that could be adequately graded during the required infrastructure. Additionally, he informed the board that the site grading for the lots is the responsibility of the developer and not the individual builder. Mr. Kellam states that the variance was recommended Denial for the following reasons; That there are no special or unusual circumstances affecting the property such that the strict application of the provisions of this article would deprive the owner of the reasonable use of his land, and is not the mere grant of a privilege not granted to others. Also, the variance is not necessary for the preservation and enjoyment of a substantial property right of the owner as the granting of the variance will not preserve the trees as intended, due to the fact that a majority of the trees will still need to be removed for infrastructure and home construction, and the burden of the lot grading will be placed on the individual builder or lot purchaser. Lastly, the granting of the variance would not be detrimental to the public safety, or be injurious to other property in the vicinity but there may be consideration of an inconvenience and a burden on the welfare of the individual builder or lot purchaser.

Chairman Zamora asked how much natural slope is out at the proposed site. Mr. Kahn stated that the area is very flat. He also stated the 1.0% slope is very common in building aspects. It is nothing unusual and is in our Code of Ordinances. Mr. Kellam also stated that lot grading should be done all at once so there is a natural flow and not ponding in the area and which makes a mosquito hazard and potential flooding issue. Chairman Zamora confirmed if there was a storm drain ditch and Mr. Kahn agreed.

Mr. Garcia stated if the board was to grant approval to the variance request how much would grade be affected in terms to the negative impact to the City. Mr. Kahn stated that even though the code states 1.0% with all the construction is still goes below the 1.0%. If you go less it will affect the neighbors and not drain properly and create mosquito hazards.

At this point, lengthy discussion took place regarding the slope percentages, and advantages to grading the site all at once and the argument that grading at time of construction was beneficial to the developer and preservation of the existing trees. Staff presented the point that the trees will be

required to be moved once infrastructure and home construction began so the preservation would be minimal, so the argument was moot.

Mr. Kurth stated that Melden & Hunt is requesting a little relief from the Subdivision code. Also, that if the variance was given more trees can be saved. He also requested that the grading be done at the building phase and not at the subdivision phase.

Chairman Zamora asked if there was a motion to be entertained for the item that the staff recommendation is to deny the variance. Mrs. Tiffie made a motion to approve the request of the variance. MR. McCreight seconds. Motion passed 4/1 there by recommending approval of the variance to the City Commission.

## **Staff Report to the PLANNING & ZONING COMMISSION and CITY COMMISSION**

by the Development Services Department, Planning Division  
City of Kingsville, Texas

**Request:** Approval of a variance to the subdivision ordinance to allow relief from the minimum one percent grading slope on each lot to be created within Jalisco Ranch

**Location:** 1600 Block of Carlos Truan Blvd.

Petitioner and Agent: Melden & Hunt Inc., Fred Kurth, P.E., Agent

Date of PC Hearing: August 8, 2012

Existing Zoning Classification: R-1 Single Family Residential District

Adjacent Zoning: East: C-4 Commercial District  
North, South: R-1 Single Family Residential District  
West: R-3 Multi-Family Residential District

### **EXISTING INFRASTRUCTURE**

Transportation: Carlos Truan Blvd.- Arterial  
Caesar Avenue- Arterial

Community Facilities: Services provided

Capital Improvements: Public Street Improvements, Sanitary Sewer & Storm Water Collection to be performed by the developer

Fire Station Proximity: Within two miles

100 Year Flood Plain: The property is not within a floodplain

### **EXHIBITS PRESENTED**

- Chapter 15 of the Kingsville Code of Ordinances (present at the meeting)
- City of Kingsville Master Plan (present at meeting)
- Site Plan
- Application for the subdivision variance

### **STAFF REVIEW AND RECOMMENDATION**

The subject property consists of approximately 52.61 acres of land located in the 1600 block of Carlos Truan Blvd. in the southeastern portion of Kingsville.

Melden & Hunt Inc. is requesting a variance to the Subdivision Code, on behalf of their client Mark Dizdar, that would allow the grading of the site to be minimal or as needed for each individual lot with the utilization of drainage swales. Section 15-3-49. Lot Grading, specifically states the requirement that each lot have a minimum slope of one percent to ensure proper drainage.

According to the application, the applicant is requesting this variance for the following reasons:

1. The existing terrain of the area is very flat and the developer is requesting relief to retain the existing trees where possible.

2. The one percent slope will require a mass grading effort that will require 18 to 24 inches of fill in the rear of some lots, with grade cuts in the front of the lots. This poses a risk of covering the roots of the existing trees, which the developer wishes to avoid.
3. Both the engineer and the developer have extensive experience in developing flat properties, and know how to raise the foundation/pad while constructing a swale between the homes to allow drainage from the rear of the property to the front flowing into the street. This is accomplished by providing fill elevating the lot four to eight inches during street/infrastructure construction. When the foundation is constructed at a later date, six to twelve inches of fill is brought in leaving the drainage swales to the side of the lot, and the foundation design is engineered to provide adequate penetration of the natural ground and no additional compaction testing is required.

Staff has discussed various options regarding the lot grading and has offered a sample design in which the development could be adequately graded during the installation of the required infrastructure, thereby alleviating the need for fill dirt to raise each individual lot in the future. The Engineering Department states grading at a minimum slope of 1.0% in an unpaved area is necessary to prevent unwanted flooding and is an industry standard that is a widely accepted practice in different cities in Texas. Although the Jalisco Ranch development site is flat, achieving a 1.0% grade for the swale is not difficult. This can be achieved by lowering the streets and thereby raising the building pads. Since the storm pipe will be day-lighted to the existing Caesar ditch, which is very deep, and the sanitary sewer line along Carlos Truan is about 10 feet deep, lowering the site will not create any discharge issues for both the sanitary sewer and storm water. It is agreed upon that this site has a lot of trees but the number of trees saved by changing the swale grade from 1.0% to 0.75%, will be very minimum. Moreover, the site grading is the responsibility of the developer not the individual builder. Staff requests the development lots be graded at 1.0% slope by the developer as required by the Subdivision Code. Staff does not recommend reducing the grade requirements from 1.0% to 0.75%.

When reviewing a variance to the subdivision ordinance, the Planning Commission should consider the following findings of fact:

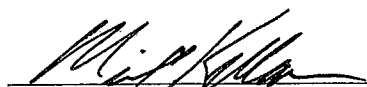
1. That there are special or unusual circumstances affecting the property such that the strict application of the provisions of this article would deprive the owner of the reasonable use of his land, and is not the mere grant of a privilege not granted to others; and,
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the owner; and,
3. The granting of the variance would not be detrimental to the public safety, convenience or welfare or be injurious to other property in the vicinity.

Staff's findings, based on review of the site and the application, state that the applicant's request does not meet the criteria for finding 1 in that there are no special circumstances affecting the property and also does not meet the criteria for finding 2 in that granting the variance will not preserve the trees as intended, due to the fact that a majority of the trees will still need to be removed for infrastructure and home construction, and the burden of the lot grading will be placed on the individual builder or lot purchaser. Staff agrees that finding 3 is met, as this action will not be detrimental to the public safety or injurious, but there may be consideration of an inconvenience and a burden on the welfare of the individual builder or lot purchaser.

Therefore, Staff recommends **Denial** of this request based on the following findings of fact:

1. That there are no special or unusual circumstances affecting the property such that the strict application of the provisions of this article would deprive the owner of the reasonable use of his land, and is not the mere grant of a privilege not granted to others; and,
2. The variance is not necessary for the preservation and enjoyment of a substantial property right of the owner as the granting of the variance will not preserve the trees as intended, due to the fact that a majority of the trees will still need to be removed for infrastructure and home construction, and the burden of the lot grading will be placed on the individual builder or lot purchaser; and,
3. The granting of the variance would not be detrimental to the public safety, or be injurious to other property in the vicinity but there may be consideration of an inconvenience and a burden on the welfare of the individual builder or lot purchaser.

Prepared by:



Mike Kellam, AICP  
Director of Planning & Development Services



# *Engineering*

DATE: July 30, 2012

TO: Mr. Michael Kellam, Director of Development Services

FROM: Naim Khan, Director of Public Works/City Engineer

SUBJECT: Swale Grade for the residential lots from 1.0% to 0.75%

The City of Kingsville Ordinance number 15-3-101(K) says "Residential lots shall be graded to provide positive drainage towards the front of the lot at a minimum slope of 1.0%". Grading at minimum slope of 1.0% in an unpaved area to prevent unwanted flooding is an industry standard and widely accepted practice in different cities in Texas. Although Jalisco Ranch site is flat, achieving 1.0% grade for the swale is not difficult by lowering the streets and raising the building pads. Since the storm pipe will be day-lighted to existing Caesar ditch which is very deep and the sanitary sewer line along Carlos Truan is about 10 feet deep, lowering the site will not create any discharge issue for both the sanitary sewer and storm water. I agree that this site has a lot of trees but the number of trees saved by changing the swale grade from 1.0% to 0.75%, will be very minimum. Moreover the site grading is the responsibility of the developer not the builder. Staff wants to see the swale be graded at 1.0% slope by the developer. The staff does not recommend changing the swale grade from 1.0% to 0.75%.



CITY OF KINGSVILLE  
PLANNING AND ZONING DIVISION  
MASTER APPLICATION

PROPERTY INFORMATION: (Please **PRINT** or **TYPE**)

Project Address \_\_\_\_\_ Nearest Intersection CARLOS TRUAN BOULEVARD

(Proposed) Subdivision Name JALISCO RANCH DEVELOPMENT Lot \_\_\_\_\_ Block \_\_\_\_\_

Legal Description: 52.61 AC. OUT OF FARM LOTS 2,3, 7 SECT. 17 KLEBERG T&I SUBD

Existing Zoning Designation R1-SINGLE FAMILY DISTRICT Future Land Use Plan Designation R1-SINGLE FAMILY DISTRICT

OWNER/APPLICANT INFORMATION: (Please **PRINT** or **TYPE**)

Applicant/Authorized Agent MELDEN & HUNT, INC. Phone (956) 381-0981 FAX (956) 381-1839

Email Address (for project correspondence only): fkurth@meldenandhunt.com

Mailing Address 115 W. MCINTYRE ST. City EDINBURG State TX Zip 78541

Property Owner \_\_\_\_\_ Phone \_\_\_\_\_ FAX \_\_\_\_\_

Email Address (for project correspondence only): \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Select appropriate process for which approval is sought. Attach completed checklists with this application.

<input type="checkbox"/> Annexation Request.....No Fee	<input type="checkbox"/> Preliminary Plat.....Fee Varies
<input type="checkbox"/> Administrative Appeal (ZBA).....\$250.00	<input type="checkbox"/> Final Plat.....Fee Varies
<input type="checkbox"/> Comp. Plan Amendment Request.....\$250.00	<input type="checkbox"/> Minor Plat.....\$100.00
<input type="checkbox"/> Re-zoning Request.....\$250.00	<input type="checkbox"/> Re-plat.....\$250.00
<input type="checkbox"/> SUP Request/Renewal.....\$250.00	<input type="checkbox"/> Vacating Plat.....\$50.00
<input type="checkbox"/> Zoning Variance Request (ZBA).....\$250.00	<input type="checkbox"/> Development Plat.....\$100.00
<input type="checkbox"/> PUD Request.....\$250.00	<input checked="" type="checkbox"/> Subdivision Variance Request.....\$25.00 ea.

Please provide a basic description of the proposed project \_\_\_\_\_

BEING 52.61 ACRES OF LAND TO INCLUDE:

1.) LA VILLA @ JALISCO RANCH

3.) QUE LINDO @ JALISCO RANCH

2.) LA PERLA @ JALISCO RANCH

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application  
I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's signature: \_\_\_\_\_ Date: 7-10-12

Property owners signature: \_\_\_\_\_ Date: \_\_\_\_\_

Accepted by: [Signature] - Section 15-3-49 Date: 7-11-12

### Subdivision Code Variance Application Check List:

The following must be submitted prior to the application deadline. Otherwise, the application will be deemed incomplete and may result in unnecessary delays to your application: (Please ✓ when complete)

Detail in writing responses to all the following:

- X 1. Describe the special and unusual circumstances affecting your property for which the strict application of the subdivision code would deprive you of the reasonable use of land, and is not the mere granting of a privilege not granted to others.

IT IS OUR DESIRE TO MOVE AS LITTLE AMOUNT OF DIRT AS POSSIBLE  
SO TO NOT ADVERSELY AFFECT THE EXISTING ONSITE TREES WHILE  
STILL HAVING EXCELLENT DRAINAGE OFF THE LOTS INTO THE STREETS.  
THE SPECIAL CIRCUMSTANCES ARE TWO:

1.) THE EXISTING LAND IS VERY FLAT

2.) THE SITE HAS HUNDREDS OF TREES ON IT WHICH MAKE THE  
LOTS DESIREABLE.

- X 2. Describe why the variance is necessary for the preservation and enjoyment of a substantial property right.

A 1% SLOPE WILL REQUIRE A MASS REGRADING OF THE SITE PLACING  
18" TO 24" OF FILL AT THE REAR OF THE LOTS AND CUTTING  
SIGNIFICANTLY THE FRONT OF THE LOTS & STREETS. THIS WILL COVER  
ROOTS OF THE TREES AT THE REAR AND EXPOSE ROOTS NEAR THE FRONT  
OF THE LOTS RESULTING IN KILLING MANY OF THE TREES.

- X 3. Describe why the variance would not be detrimental to the public safety, convenience or welfare, or be injurious to other property in the vicinity.

BOTH THE ENGINEER & DEVELOPER HAVE EXTENSIVE EXPERIENCE WITH  
FLAT PROPERTY AND KNOW HOW TO RAISE THE HOUSE PAD ADEQUATELY,  
BUT KEEP THE SWALE BETWEEN HOMES SUCH THAT ANY WATER BUILDING  
UP IN THE REAR YARD CAN FLOW OUT TO THE STREET. THE BEST WAY TO  
ACCOMPLISH THIS IS TO PLACE STREET CUT MATERIAL AT THE REAR OF  
THE LOT ELEVATING IT 4-8 INCHES DURING THE INFRASTRUCTURE  
CONSTRUCTION. DURING THE HOME BUILDING PHASE, THE FOUNDATION  
CONTRACTOR PLACES 6-12 INCHES OF FILL FOR THE PAD LEAVING THE  
SWALES AT THE SIDES. THE FOUNDATION DESIGN IS SUCH THAT THE  
ADEQUATE PENETRATION OF NATURAL GROUND IS DESIGNED INTO THE  
PLAN AND NO ADDITIONAL TESTING IS NOT REQUIRED.

# **AGENDA ITEM #5**

**RESOLUTION NO. 2012-\_\_\_\_\_**

**A RESOLUTION ACCEPTING PRELIMINARY PLAT REQUEST FOR JALISCO RANCH SUBDIVISION IN THE 1600 BLOCK OF CARLOS TRUAN BLVD. FROM FRED KURTH OF MELDEN & HUNT, INC. AND PROVIDING FOR CONDITIONAL APPROVAL OF SAME.**

**WHEREAS**, the City of Kingsville Planning and Zoning Commission met on August 8, 2012 in regard to a request made by Fred Kurth of Melden & Hunt, Inc. to approve a preliminary subdivision plat for Jalisco Ranch Subdivision, which is located in the 1600 Block of Carlos Truan Blvd.;

**WHEREAS**, the staff recommended it be given conditional approval based on findings found within the staff report and applicant is agreeable to the conditions and willing to comply;

**WHEREAS**, the approval is dependent upon the granting of a subdivision variance from the minimum lot grading requirements as prescribed by the subdivision code, which variance will be presented to the City Commission for their consideration;

**WHEREAS**, the Planning & Zoning Commission recommended conditional approval of the request with a unanimous 5-0 vote;

**WHEREAS**, the applicant will still have to submit a final plat for approval;

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City accepts the preliminary subdivision plat from Fred Kurth of Melden & Hunt, Inc. for Jalisco Ranch Subdivision in the 1600 Block of Carlos Truan Blvd and conditionally accepts same as per the recommendation of the Planning & Zoning Commission.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on or after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 27<sup>th</sup> day of August, 2012.

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Edna Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney  
RES- Accepting Preliminary Plat-082712-Fred Kurth



## Planning & Development Services Department

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**TO:** Mayor & City Commission

**THROUGH:** Vincent Capell, City Manager

**FROM:** Michael Kellam, AICP, Director of Planning & Development Services

**SUBJECT:** Preliminary Plat Request in the 1600 Block of Carlos Truan Blvd.

**DATE:** August 14, 2012

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The City of Kingsville Planning and Zoning Commission met on August 8, 2012 at 7:00 p.m. in regard to a request made by Melden & Hunt, Inc. Fred L. Kurth serving as the agent, to approve a preliminary subdivision plat, which is located in the 1600 block of Carlos Truan Blvd. Fred L. Kurth appeared at the meeting to present in favor of the preliminary plat. No others were present to speak on the matter.

Staff presented the attached staff report to the Planning & Zoning Commission. As stated in the staff report the request was recommended to be given conditional approval based on the findings found within the report. The applicant is agreeable to the conditions and is willing to comply. Additionally, the approval is dependent upon the granting of a subdivision variance from the minimum lot grading requirements as prescribed by the subdivision code. That request will be presented as an accompaniment to the City Commission for consideration.

As previously stated, Planning staff recommends conditional approval of this preliminary subdivision plat request. The Planning & Zoning Commission recommended conditional approval of the request with a unanimous 5/0 vote.

Attachments

## **August 8, 2012 P&Z Meeting Minutes for:**

1. **Discuss and take action on-Requesting approval of a major preliminary subdivision plan to be known as Jalisco Ranch Development, located in the 1600 block of Carlos Truan Blvd.; proposes 90 lots on property currently zoned R-1 Single Family Residential District. Staff recommendation: Conditional Approval**

Mr. Kellam stated that this is a new subdivision in the area that was originally proposed by LMV Homes, but is now proposed for Jalisco Ranch, by Mark Dizdar. Mr. Kurth is the Engineer and Mark Dizdar is the developer. Mr. Kellam also stated that the petitioner is requesting approval of this major preliminary subdivision plat which will contain 90 lots and seven internal streets. Jalisco Ranch Boulevard, a through street with boulevard planting treatment, will connect with the existing arterial streets to the north and south. Virginia Street will be an extension of an existing street which will interconnect with Que Lindo Drive, a new street proposed in the subdivision. The other five streets will be inter-connecting loops or short cul-de-sacs. In all, Jalisco-Ranch will have two points of arterial street access outside the subdivision. One tract of permanent open space will be provided, within which will contain a storm water detention basin to control storm water runoff. A homeowner's association will own and maintain the open space common areas. The development is not within the Controlled Compatible Land Use Area, and is outside of the Noise Zones and the Accident Potential Zones. The area is within the Military Influence Area #3.

Mr. Kellam stated that Staff recommended Conditional Approval due to the following reasons; Full construction plans must be submitted which include installation of monuments, streets and street lights, sanitary sewers, storm sewers, sidewalks, water lines, and other improvements required in Article V of the Subdivision regulations;

The street names "La Esmeralda Court" and "La Esmeralda Drive" are too similar. One still needs to be renamed to a dissimilar street name. This can cause confusion on emergency calls, given there are two streets named La Esmeralda with two separate access points. The Codes, Covenants and Restrictions (CCR's) requiring the planting of trees on the building lots as they develop shall be stated and carried out by the CCR's and the Homeowners Association. We will require a copy of the filed CCR's, which clearly state this, once completed. No building permits shall be issued until this is completed.

Lot Grading Plan- In order for staff to allow a slope less than 1% as required by code, a variance must be granted by the City Commission. The preliminary plat will proceed with consideration of the granting of a variance as a condition of approval. If the variance is not approved, the Preliminary Plat approval will not stand and a sufficient lot grading plan will be required. The approval of a TXDOT Driveway/Entrance Permit will be a condition of approval for the Preliminary Plat. The proposed detention/drainage calculations still require modifications; however this can be corrected at the final construction plan review. This will be required to be completed prior to final plat submittal/recording.

Chairman Zamora asked if there were any type of illustrations or layouts other than the plat that were provided.

Mr. Kurth stated he had illustrations available for viewing. In the drawings there were color changes to depict the three different price points. He stated that there is six phases all together in the project and he was only presenting three at this time. Mr. Kurth did state that there is open space in the plans, but it was not slated for a park. Mr. Kellam stated that a park was strongly encouraged, as prescribed in the Comprehensive Housing Plan but not required by code. The developer chose not to include that amenity in the plan.

Mrs. Tiffie asked if the Homeowners Association would maintain the Boulevard in the Subdivision. Mr. Kellam states that the Homeowners Association will maintain the landscaped area.

Mr. Kurth stated that Mr. Dizdar started developing in 1987 and has completed many projects successfully and is very excited about developing in Kingsville.

Chairman Zamora moved to entertain a motion to approve the preliminary subdivision plan. Mr. Kellam clarified if it was indeed for conditional approval. Chairman Zamora agreed. Tom Dock made a motion to approve. Debbie Tiffie seconds. Motion passed 5/0.

## **Staff Report to the PLANNING & ZONING COMMISSION and CITY COMMISSION**

by the Development Services Department, Planning Division  
City of Kingsville, Texas

**Request:** APPROVAL OF A MAJOR PRELIMINARY SUBDIVISION PLAT ENTITLED JALISCO RANCH, CONTAINING 90 LOTS, LOCATED IN THE 1600 BLOCK OF CARLOS TRUAN BLVD.

Petitioner and Agent: Melden & Hunt Inc., Fred Kurth, P.E., Agent

Date of P&Z Hearing: August 8, 2012

Comprehensive Plan Land Use: Residential

Existing Zoning Classification: R-1 Single Family Residential District

Adjacent Zoning: East: C-4 Commercial District

North, South: R-1 Single Family Residential District

West: R-3 Multi-Family Residential District

### **EXISTING INFRASTRUCTURE**

Transportation: Carlos Truan Blvd.- Arterial  
Caesar Avenue- Arterial

Community Facilities: Services provided

Capital Improvements: Public Street Improvements, Sanitary Sewer & Storm Water Collection  
to be performed by the developer

Fire Station Proximity: Within two miles

100 Year Flood Plain: The property is not within a floodplain

### **EXHIBITS PRESENTED**

- Chapter 15 of the Kingsville Code of Ordinances (present at the meeting)
- City of Kingsville Master Plan (present at meeting)
- Site Plan
- Application for major preliminary subdivision plat

### **BACKGROUND AND HISTORY**

This petitioner is requesting approval of this major subdivision plat which will contain 90 lots and seven streets. Jalisco Ranch Boulevard, a through street with boulevard planting treatment, will connect with the existing arterial streets to the north and south. Virginia Street will be an extension of an existing street which will interconnect with Que Lindo Drive, a new street proposed in the subdivision. The other five streets will be inter-connecting loops or short cul-de-sacs. In all, Jalisco Ranch will have two points of arterial street access outside the subdivision. One tract of permanent open space will be provided, within which contain a storm water detention basin to control storm water runoff. A homeowner's association will own and maintain the open space common areas. The development is not within the Controlled Compatible Land Use Area, and is outside of the Noise Zones and the Accident Potential Zones. The area is within the Military Influence Area #3.

The following comments have been provided by City staff in the review of the proposal as shown to date:



- (1) Full construction plans must be submitted which include installation of monuments, streets and street lights, sanitary sewers, storm sewers, sidewalks, water lines, and other improvements required in Article V of the Subdivision regulations;
- (2) The street names "La Esmeralda Court" and "La Esmeralda Drive" are too similar. One still needs to be renamed to a dissimilar street name. This can cause confusion on emergency calls, given there are two streets named La Esmeralda with two separate access points.
- (3) The Codes, Covenants and Restrictions (CCR's) requiring the planting of trees on the building lots as they develop shall be stated and carried out by the CCR's and the Homeowners Association. We will require a copy of the filed CCR's, which clearly state this, once completed. No building permits shall be issued until this is completed.
- (4) Lot Grading Plan- In order for staff to allow a slope less than 1% as required by code, a variance must be granted by the City Commission. The preliminary plat will proceed with consideration of the granting of a variance as a condition of approval. If the variance is not approved, the Preliminary Plat approval will not stand and a sufficient lot grading plan will be required.
- (5) The approval of a TXDOT Driveway/Entrance Permit will be a condition of approval for the Preliminary Plat.
- (6) The proposed detention/drainage calculations still require modifications; however this can be corrected at the final construction plan review. This will be required to be completed prior to final plat submittal/recording.

#### **STAFF REVIEW & RECOMMENDATION**

When reviewing a preliminary plat of a major subdivision the Planning Commission typically shall consider the following factors:

1. Whether the plat conforms to the Subdivision Regulations and the applicable provisions of the zoning ordinance and other land use regulation; and,
2. Whether the plat represents an overall development pattern that is consistent with the goals and policies of the City's Master Plan, the Major Street Plan, the official future land use map, the capital improvements program and any other applicable planning documents adopted by the City.

Staff recommends **CONDITIONAL APPROVAL** of this preliminary plat with the following conditions:

- (1) Full construction plans must be submitted which include installation of monuments, streets and street lights, sanitary sewers, storm sewers, sidewalks, water lines, and other improvements required in Article V of the Subdivision regulations;
- (2) The street names "La Esmeralda Court" and "La Esmeralda Drive" are too similar. One still needs to be renamed to a dissimilar street name. This can cause confusion on emergency calls, given there are two streets named La Esmeralda with two separate access points.
- (3) The Codes, Covenants and Restrictions (CCR's) requiring the planting of trees on the building lots as they develop shall be stated and carried out by the CCR's and the Homeowners Association. We will require a copy of the filed CCR's, which clearly state this, once completed. No building permits shall be issued until this is completed.
- (4) Lot Grading Plan- In order for staff to allow a slope less than 1% as required by code, a variance must be granted by the City Commission. The preliminary plat will proceed with consideration

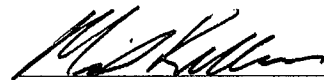
of the granting of a variance as a condition of approval. If the variance is not approved, the Preliminary Plat approval will not stand and a sufficient lot grading plan will be required.

- (5) The approval of a TXDOT Driveway/Entrance Permit will be a condition of approval for the Preliminary Plat.
- (6) The proposed detention/drainage calculations still require modifications; however this can be corrected at the final construction plan review. This will be required to be completed prior to final plat submittal/recording.

With the above conditions, the following findings of fact have been considered:

- 1. The plat conforms to the Subdivision Regulations and the applicable provisions of the zoning ordinance and other land use regulation; and,
- 2. The plat represents an overall development pattern that is consistent with the goals and policies of the City's Master Plan, the Major Street Plan, the official future land use map, the capital improvements program and any other applicable planning documents adopted by the City.

Prepared by:



Michael Kellam, Director of Development Services

CITY OF KINGSVILLE  
PLANNING AND ZONING DIVISION  
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address \_\_\_\_\_ Nearest Intersection Carlos Truan Blvd.

(Proposed) Subdivision Name La Villa @ Jalisco Ranch Lot \_\_\_\_\_ Block \_\_\_\_\_

Legal Description: 6.24 acres out of Farm Lot 2, Section 17, Kleberg Town & Improvement

Existing Zoning Designation R1-Single Family District Future Land Use Plan Designation R1-Single Family District

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Melden & Hunt, Inc. Phone (956) 381-0981 FAX (956) 381-1839

Email Address (for project correspondence only): f.kurth@meldenandhunt.com

Mailing Address 115 W. McIntyre City Edinburg State TX Zip 78541

Property Owner \_\_\_\_\_ Phone \_\_\_\_\_ FAX \_\_\_\_\_

Email Address (for project correspondence only): \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Select appropriate process for which approval is sought. Attach completed checklists with this application.

<input type="checkbox"/> Annexation Request.....No Fee	<input checked="" type="checkbox"/> Preliminary Plat.....Fee Varies
<input type="checkbox"/> Administrative Appeal (ZBA).....\$250.00	<input checked="" type="checkbox"/> Final Plat.....Fee Varies
<input type="checkbox"/> Comp. Plan Amendment Request.....\$250.00	<input type="checkbox"/> Minor Plat.....\$100.00
<input type="checkbox"/> Re-zoning Request.....\$250.00	<input type="checkbox"/> Re-plat.....\$250.00
<input type="checkbox"/> SUP Request/Renewal.....\$250.00	<input type="checkbox"/> Vacating Plat.....\$50.00
<input type="checkbox"/> Zoning Variance Request (ZBA).....\$250.00	<input type="checkbox"/> Development Plat.....\$100.00
<input type="checkbox"/> PUD Request.....\$250.00	<input type="checkbox"/> Subdivision Variance Request.....\$25.00 ea.

Please provide a basic description of the proposed project:

development of 6.24 acres into 26 residential lots

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's signature: [Signature] Date: 4-19-12

Property owners signature \_\_\_\_\_ Date: \_\_\_\_\_

Accepted by: [Signature] Copy of Contract on File Date: \_\_\_\_\_

CITY OF KINGSVILLE  
PLANNING AND ZONING DIVISION  
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address \_\_\_\_\_ Nearest Intersection Carlos Truan Blvd.

(Proposed) Subdivision Name La Perla @ Jalisco Ranch Lot \_\_\_\_\_ Block \_\_\_\_\_

Legal Description: 19.68 ac. out of Farm Lots 2, 3, and 7, Sect. 4, Kleberg Town & Imprv. Co.

Existing Zoning Designation R1-Single Family District Future Land Use Plan Designation R1-Single Family District

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Melden & Hunt Phone <sup>(956)</sup> 381-0981 FAX <sup>(956)</sup> 381-1839

Email Address (for project correspondence only): f.kurth@meldenandhunt.com

Mailing Address 115 W. McIntyre City Edinburg State TX Zip 78541

Property Owner \_\_\_\_\_ Phone\* \_\_\_\_\_ FAX\* \_\_\_\_\_

Email Address (for project correspondence only): \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Select appropriate process for which approval is sought. Attach completed checklists with this application.

<input type="checkbox"/> Annexation Request.....No Fee	<input checked="" type="checkbox"/> Preliminary Plat.....Fee Varies
<input type="checkbox"/> Administrative Appeal (ZBA).....\$250.00	<input checked="" type="checkbox"/> Final Plat.....Fee Varies
<input type="checkbox"/> Comp. Plan Amendment Request.....\$250.00	<input type="checkbox"/> Minor Plat.....\$100.00
<input type="checkbox"/> Re-zoning Request.....\$250.00	<input type="checkbox"/> Re-plat.....\$250.00
<input type="checkbox"/> SUP Request/Renewal.....\$250.00	<input type="checkbox"/> Vacating Plat.....\$50.00
<input type="checkbox"/> Zoning Variance Request (ZBA).....\$250.00	<input type="checkbox"/> Development Plat.....\$100.00
<input type="checkbox"/> PUD Request.....\$250.00	<input type="checkbox"/> Subdivision Variance Request.....\$25.00 ea.

Please provide a basic description of the proposed project A Residential development of 19.68 acres into 34 lots.

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's signature: [Signature] Date: 4-19-12

Property owners signature: \*\* Date: \_\_\_\_\_

Accepted by: [Signature] Contract on File Date: \_\_\_\_\_

CITY OF KINGSVILLE  
PLANNING AND ZONING DIVISION  
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address \_\_\_\_\_ Nearest Intersection Carlos Truan Blvd.  
(Proposed) Subdivision Name Que Lindo @ Talisco Ranch Lot \_\_\_\_\_ Block \_\_\_\_\_  
Legal Description: 6.70 acres out of Farm Lot 2, Section 17, Kleberg Town & Imprv.  
Existing Zoning Designation R1-Single Family District Future Land Use Plan Designation R1-Single Family District  
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)  
Applicant/Authorized Agent Melden & Hunt, Inc. Phone (976) 381-0981 FAX (956) 381-1839  
Email Address (for project correspondence only): f.kurth@meldenandhunt.com  
Mailing Address 115 W. McIntyre City Edinburg State TX Zip 78541  
Property Owner \_\_\_\_\_ Phone \_\_\_\_\_ FAX \_\_\_\_\_  
Email Address (for project correspondence only): \_\_\_\_\_  
Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Select appropriate process for which approval is sought. Attach completed checklists with this application.

<input type="checkbox"/> Annexation Request.....No Fee	<input checked="" type="checkbox"/> Preliminary Plat.....Fee Varies
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<input type="checkbox"/> SUP Request/Renewal.....\$250.00	<input type="checkbox"/> Vacating Plat.....\$50.00
<input type="checkbox"/> Zoning Variance Request (ZBA).....\$250.00	<input type="checkbox"/> Development Plat.....\$100.00
<input type="checkbox"/> PUD Request.....\$250.00	<input type="checkbox"/> Subdivision Variance Request.....\$25.00 ea.

Please provide a basic description of the proposed project a development of 6.70  
acres in to 28 residential lots.

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's signature: [Signature] Date: 4-19-12  
Property owners signature: [Signature] Date: \_\_\_\_\_  
Accepted by: [Signature] Contract on File Date: \_\_\_\_\_

**PAGE 7**

1  
—  
REAR VIEW  
DATE: 1/10/10

d) Area Table	
50, FT.	Area
14972.15	0.343
14974.56	0.341
14974.56	0.341
14974.55	0.341
14974.55	0.341
14974.55	0.341

Period #	Sec. 75	Avg
1	14702.11	0.90
2	14678.56	0.91
3	14674.06	0.91
4	14674.58	0.91
5	14674.65	0.91
6	14674.58	0.91
7	25964.57	0.98
8	26773.45	0.882
9	22575.70	0.815
10	17169.64	0.411
11	17022.77	0.411
12	17191.51	0.411
13	16478	0.328
14	18000.01	0.334
15	18000.01	0.344
16	18064.75	0.352
17	14732.81	0.248
18	14681.28	0.248
19	15000.00	0.244
20	15000.00	0.244

Crown Tails				
Dorsal Length	Peduncle Size	Head Diameter	Snout Length	Trunk Length
10	10/10	10/10	10/10	10/10
11	11/11	11/11	11/11	11/11
12	12/12	12/12	12/12	12/12
13	13/13	13/13	13/13	13/13
14	14/14	14/14	14/14	14/14
15	15/15	15/15	15/15	15/15
16	16/16	16/16	16/16	16/16
17	17/17	17/17	17/17	17/17
18	18/18	18/18	18/18	18/18
19	19/19	19/19	19/19	19/19
20	20/20	20/20	20/20	20/20
21	21/21	21/21	21/21	21/21
22	22/22	22/22	22/22	22/22
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38	38/38	38/38	38/38	38/38
39	39/39	39/39	39/39	39/39
40	40/40	40/40	40/40	40/40
41	41/41	41/41	41/41	41/41
42	42/42	42/42	42/42	42/42
43	43/43	43/43	43/43	43/43
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76	76/76	76/76	76/76	76/76
77	77/77	77/77	77/77	77/77

*La Perla at Jalisco Ranch*  
*La Villa at Jalisco Ranch*  
*Que Lindo at Jalisco Ranch*  
KLEBERG COUNTY, TEXAS

DRAWN BY : \_\_\_\_\_ DATE : \_\_\_\_\_  
 SUPPLIED, CHECKED BY : \_\_\_\_\_ DATE : \_\_\_\_\_  
 FINAL CHECK BY : \_\_\_\_\_ DATE : \_\_\_\_\_

PRINCIPAL	CONTACTS	NAME	ADDRESS
OWNER:	MARK CIGAR	1405 N. MAIN	
ENGINEER:	FRED L. KURTH	115 W. MONTGOMERY	
SURVEYOR:	FRED L. KURTH	115 W. MONTGOMERY	

**MELDEN & HUNT INC.**  
CONSULTANTS • ENGINEERS • SURVEYORS  
115 W. McINTIRE  
DUNSMO, TX 75841  
TEL (409) 725-0851  
FAX (409) 725-0852  
ESTABLISHED 1947  
www.meldenandhunt.com

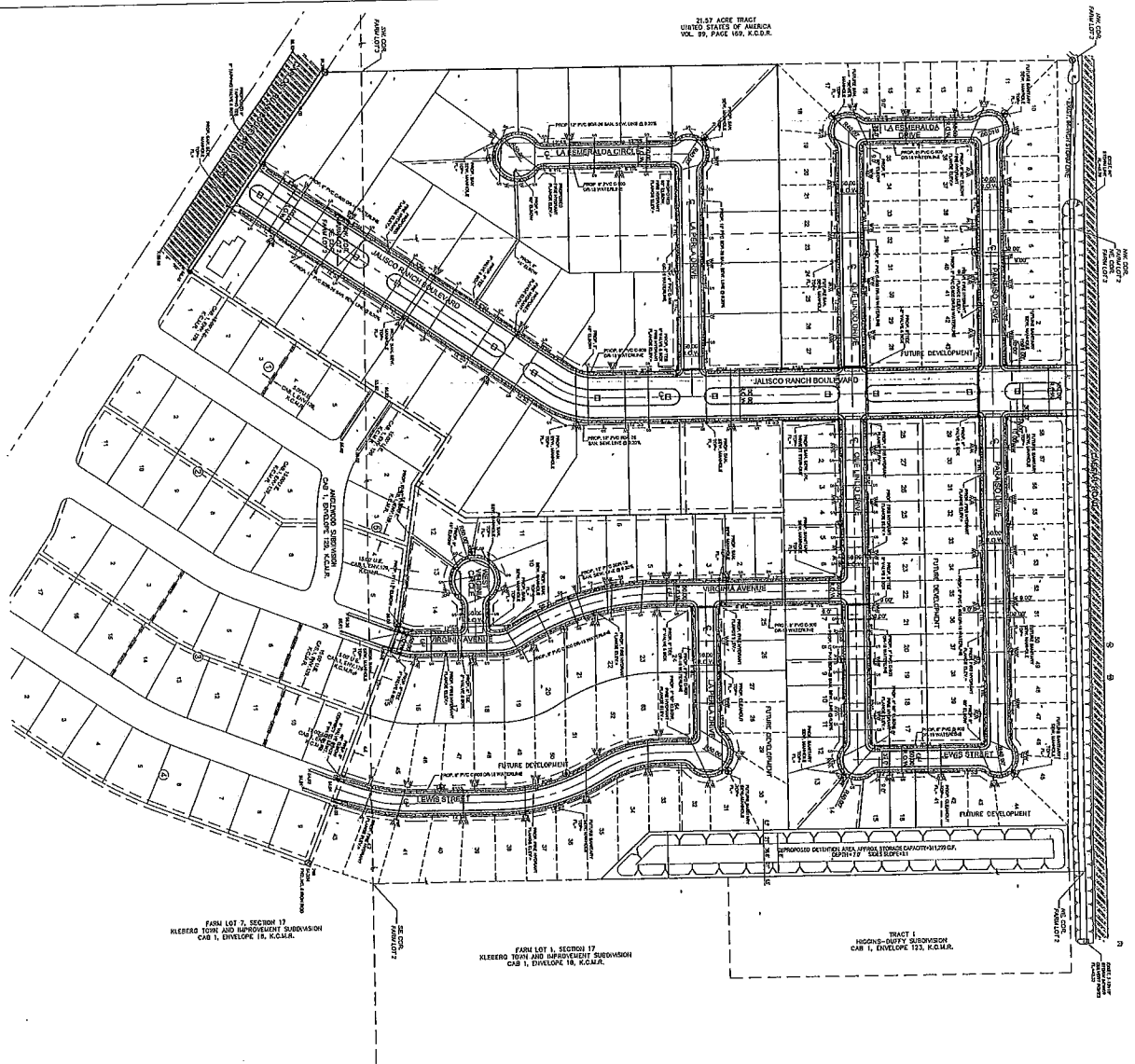








21.57 ACRE TRACT  
UNITED STATES OF AMERICA  
VOL. 59, PAGE 169, K.C.D.R.



FARM LOT 7, SECTION 17  
KLEBERG TOWN AND IMPROVEMENT SUBDIVISION  
C&B 1, DEVELOP 16, K.C.M.R.

FARM LOT 1, SECTION 17  
KLEBERG TOWN AND IMPROVEMENT SUBDIVISION  
C&B 1, DEVELOP 16, K.C.M.R.

TRACT 1  
KLEBERG TOWN AND IMPROVEMENT SUBDIVISION  
C&B 1, DEVELOP 16, K.C.M.R.

- LEGEND**
- PROPOSED DUAL WATER SERVICE
  - PROPOSED SINGLE WATER SERVICE
  - PROPOSED FIRE HYDRANT
  - PROPOSED WATER VALVE
  - PROPOSED TIE
  - PROPOSED SANITARY SERVICE MAIN/PIPE
  - PROPOSED SANITARY STREET LIGHT POLE
  - PROPOSED DISCONTINUING STREET LIGHT POLE



## WATER & SANITARY SEWER LAYOUT

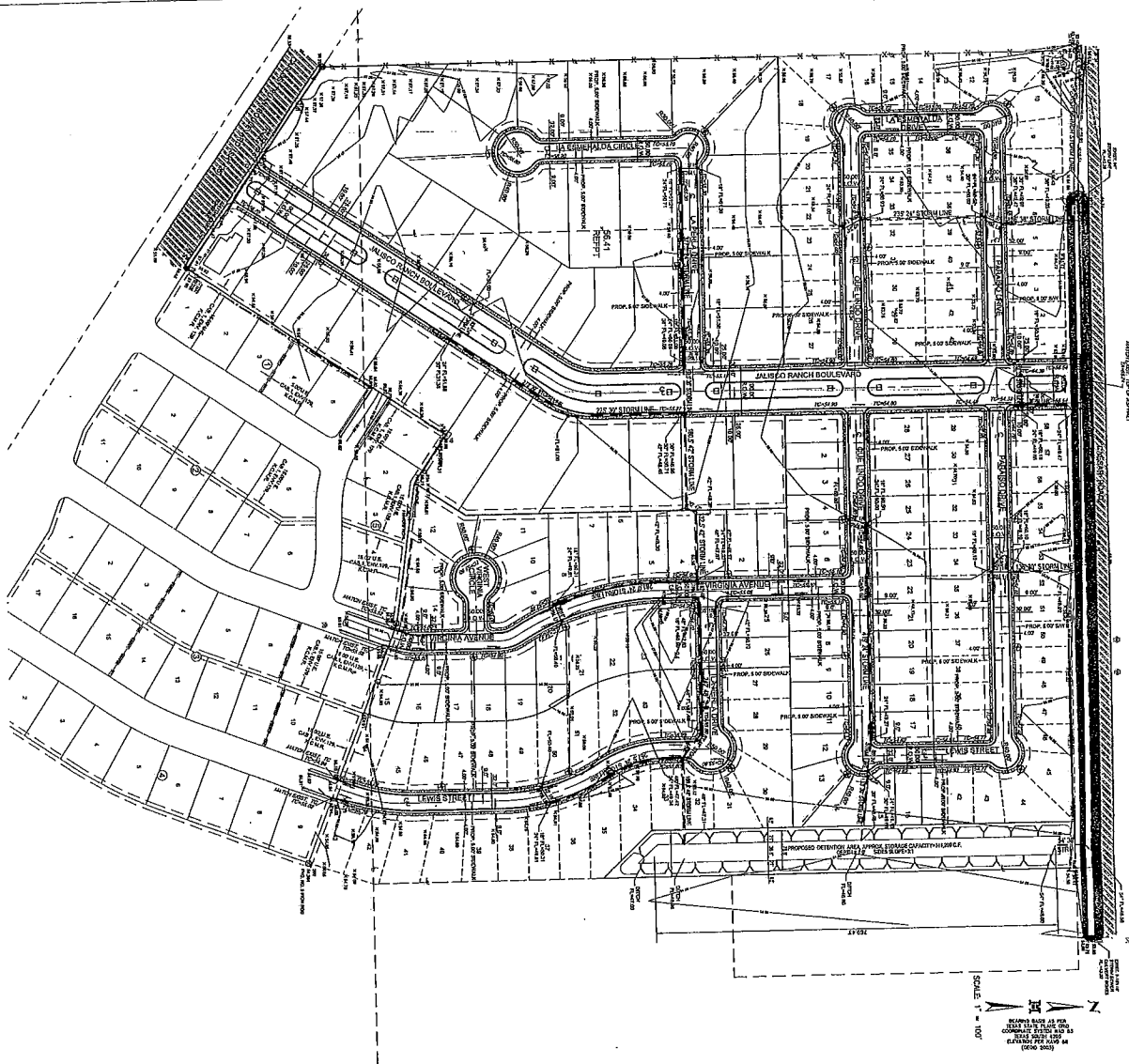
JALISCO RANCH  
DEVELOPMENT  
KINGSVILLE, TEXAS



DRAWN BY: J. F. Z.  
CHECKED BY: F. J. Z.  
DESIGNED BY: F. J. Z.  
DATE: 06-19-2012  
SCALE: 1" = 100'

**MELDEN & HUNT, INC.**  
CONSULTANTS ENGINEERS ARCHITECTS  
1111 W. MAIN STREET  
KINGSVILLE, TEXAS 78401  
TEL: (361) 571-0001  
FAX: (361) 571-0002  
WWW.MELDENANDHUNT.COM

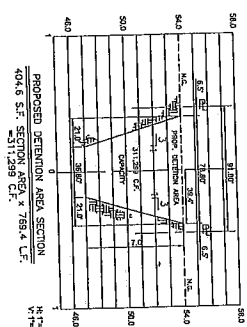
DATE: 06-19-2012  
SHEET 1 OF 2



SCALE: 1" = 100'

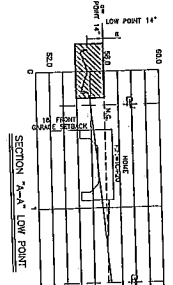
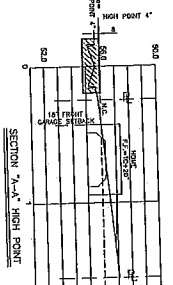
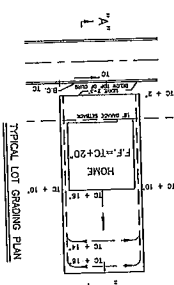
N

DETONATION AREA  
 REQUIRED - 310,748 C.F.  
 PROVIDED - 311,289 C.F.



### LEGEND

- PROPOSED TYPE 'N' ALLEY
- PROPOSED STORM DRAIN LINE
- PROPOSED DIRECTION OF FLOW
- PROPOSED 12" OF CURB ELEVATION
- PROPOSED STANDARD STREET LIGHT POLE
- PROPOSED DECORATIVE STREET LIGHT POLE



## PAVING & STORM DRAINAGE LAYOUT

JALISCO RANCH DEVELOPMENT  
 KINGSVILLE, TEXAS

DESIGNED BY: J.F.Z.  
 CHECKED BY: J.F.Z.  
 DESIGNED BY: J.F.Z.  
 RELEASE DATE:  
 SCALE: 1" = 100'

DATE: 04-10-2012

THE STATE OF TEXAS  
 COUNTY OF KINGS  
 JALISCO RANCH DEVELOPMENT  
 KINGSVILLE, TEXAS

12038.04

DATE: 04-10-2012

BY: J.F.Z.

PROJECT: JALISCO RANCH DEVELOPMENT

CONSULTANT: MELDEN & HUNT, INC.  
 1000 W. ARROYO  
 EDINBURGH, TX 78041  
 PH: (281) 461-1000  
 FAX: (281) 461-1001  
 WWW.MELDENANDHUNT.COM

# **AGENDA ITEM #6**

**ORDINANCE #2012-\_\_\_\_\_**

**AMENDING THE ZONING ORDINANCE BY CHANGING THE ZONING MAP IN REFERENCE TO 1.99 ACRES OUT OF KT&I CO., BLOCK 22, PART OF LOT 6 KNOWN AS IN THE 1600 BLOCK OF EAST TRANT ROAD FROM AG AGRICULTURAL DISTRICT TO C4 COMMERCIAL DISTRICT; AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; AND PROVIDING FOR PUBLICATION.**

**WHEREAS**, the Planning Commission has forwarded to the City Commission its reports and recommendations concerning the application of Larry Smith, for amendment to the zoning ordinance and zoning map of the City of Kingsville;

**WHEREAS**, with proper notice to the public, public hearings were held on Wednesday, August 8, 2012 during a meeting of the Planning and Zoning Commission, and on Monday, August 27, 2012 during a meeting of the City Commission, at City Hall, in the City of Kingsville, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, a majority of the Planning Commission by a 5-0 vote DENIED the requested rezone; and

**WHEREAS**, the City Commission has determined that this amendment would best serve public health, necessity, and convenience and the general welfare of the City of Kingsville and its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

**SECTION 1.** That the Zoning Ordinance of the City of Kingsville, Texas, is amended by changing the zoning of 1.99 acres out of KT&K Co., Block 22, part of Lot 6, in area known as 1600 block of East Trant Road from AG Agricultural District to C4 Commercial District, as more specifically described on the Zone Change Map, attached as Exhibit A.

**SECTION 2.** That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendments to the Zoning Ordinance made by Section 1 of this ordinance.

**SECTION 3.** That the Zoning Ordinance and Zoning Map of the City of Kingsville, Texas, as amended from time to time, except as changed by this ordinance and any other ordinances adopted on this date, remain in full force and effect.

**SECTION 4.** That to the extent that these amendments to the Zoning Ordinance represent a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.

**SECTION 5.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.

**SECTION 6.** That publication shall be made in the official publication of the City of Kingsville as required by the City Charter of the City of Kingsville.

**INTRODUCED** on this the 27th day of August, 2012.

**PASSED AND APPROVED** on this the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2012.

**THE CITY OF KINGSVILLE**

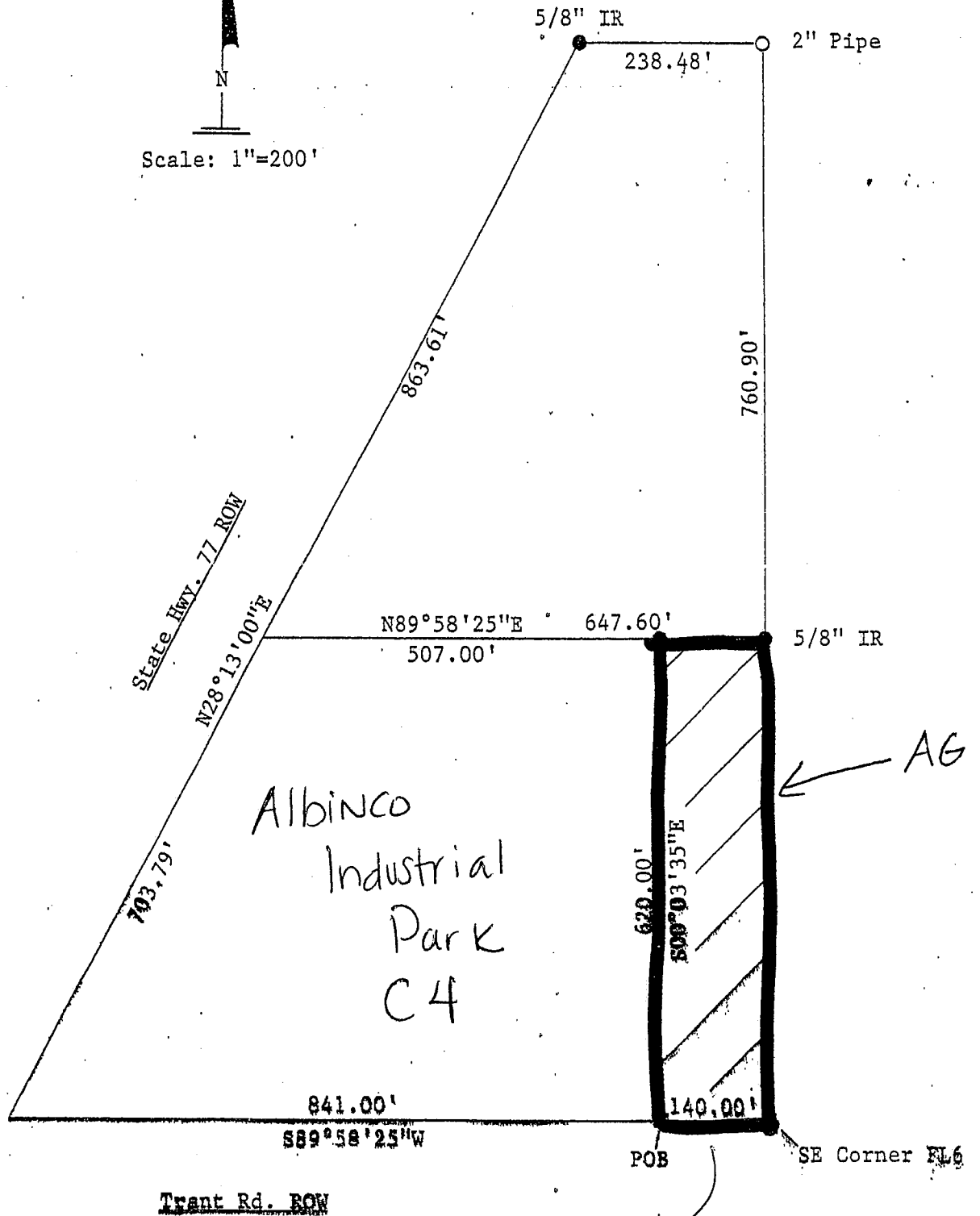
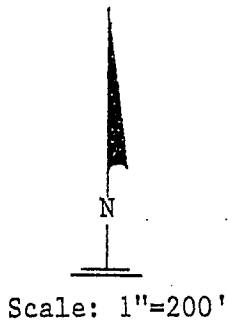
\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Edna S. Lopez, City Secretary

**APPROVED:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney



Proposed area to be rezoned  
from AG Agricultural District  
to C-4 Commercial District

NOTES:

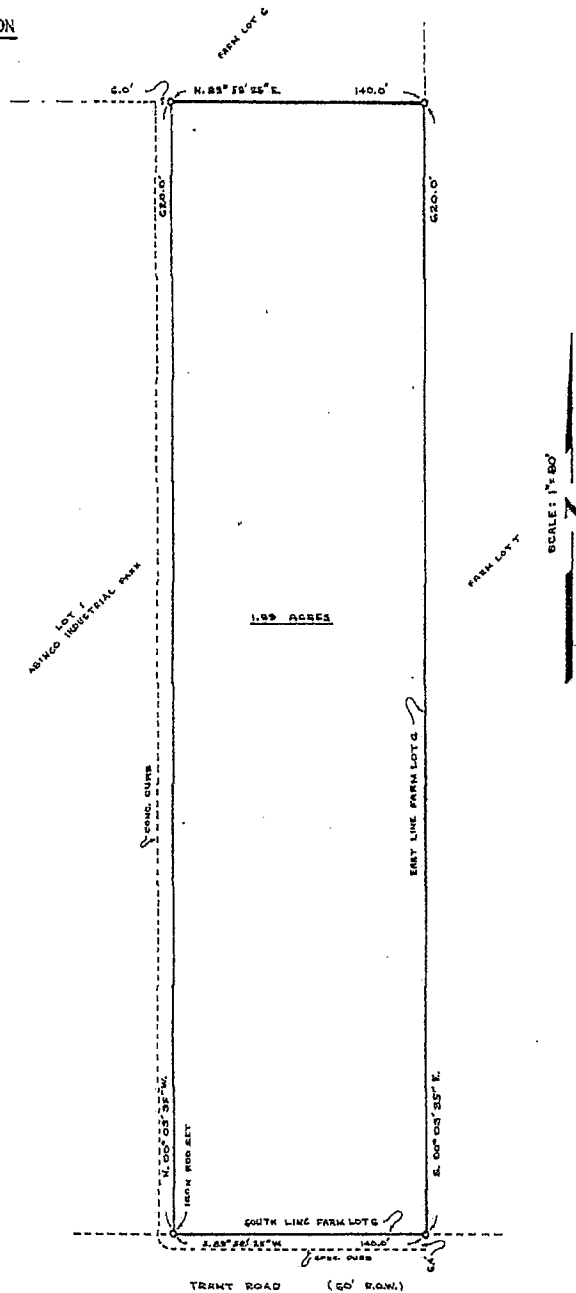
1) KLEBERG TOWN AND IMPROVEMENT COMPANY SUBDIVISION

RECORDED: VOLUME 3, PAGE 26, ENVELOPE 87  
MAP AND PLAT RECORDS  
KLEBERG COUNTY, TEXAS

2) ABINCO INDUSTRIAL PARK

RECORDED: ENVELOPE 147  
MAP AND PLAT RECORDS  
KLEBERG COUNTY, TEXAS

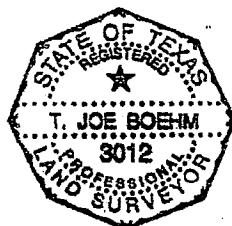
- 3) IRON ROD FOUND AT ALL PROPERTY CORNERS EXCEPT SOUTHWEST PROPERTY CORNER. IRON ROD SET AT SAID SOUTHWEST PROPERTY CORNER. BEARINGS TAKEN AS INDICATED BY PLAT OF RECORD REFERENCED IN NOTE 2 HEREON.



SURVEY

SHOWING 1.99 ACRES OF LAND OUT OF FARM LOT 6, SECTION 22, KLEBERG TOWN AND IMPROVEMENT COMPANY SUBDIVISION, KLRBERG COUNTY, TEXAS, SURVEYED ON THE GROUND UNDER MY SUPERVISION ON 03 SEPTEMBER 1993 FOR LARRY R. SMITH.

BY: T. Joe Boehm  
T. Joe Boehm, P.E., R.P.L.S.



**BBE**

BOEHM BROTHERS  
ENGINEERING  
SHINER, TEXAS





## Planning Development Services Department

---

**TO:** Mayor & City Commission

**THROUGH:** Vincent Capell, City Manager

**FROM:** Michael Kellam, AICP, Director of Planning & Development Services

**SUBJECT:** Rezoning Request in the 1600 Block of E. Trant Road

**DATE:** June 26, 2012

---

The City of Kingsville Planning and Zoning Commission met on June 20, 2012 at 7:00 p.m. in regard to a request made by Smith & Sullivan Inc., with Larry Smith serving as the agent, to rezone 1.99 Acres of property, which is located within the KT&I Co. Block 22, part of lot 6, in the 1600 block of East Trant Road. The request is to rezone from AG Agricultural District to C4 Commercial District. There were no persons in favor or in opposition present at this meeting.

All pertinent notices were published and sent out to the surrounding property owners that are within the 200ft radius. No questions, comments or complaints regarding this rezone were made to the Planning Department.

The applicant was not present at the meeting; therefore staff presented the attached staff report to the Planning & Zoning Commission. As stated in the staff report the request was found to be inconsistent with proper planning and land use management due to its proximity to existing residential development. Staff identifies the highest and best use of the property to be utilized as residential including, multi-family, townhome/duplex and single family type development creating a transitional development pattern from 77 highway. Additionally, the request is inconsistent with the future land use plan and the master plan of the city.

Planning staff recommends denial of this rezoning request. The Planning & Zoning Commission recommended denial of the request with a unanimous 5/0 vote.

Attachments

**August 8, 2012 P&Z Meeting Minutes for:**

**Discuss and take action on –Requesting approval for the rezoning of KT&I CO, Block 22, LOT PT 6, property located in the 1600 block of East Trant Road, from AG Agricultural District to C-4 Commercial District. Staff recommendation: Denial.**

Mr. Kellam stated that action was already taken in June 2012 and the noticing/publishing date was missed by two days and did not satisfy statute. He also stated that it would need to be re-heard to relieve any concerns regarding procedure. Staff recommendation still remains the same of denial because it did not conform to the long term housing plan.

Chairman Zamora stated that a vote was taken in June 2012 and recollected that it was denied.

Debbie Tiffie moved that a denial be made on the rezoning of KT&I CO, Block 22, LOT PT 6, property located in the 1600 block of East Trant Road, from AG Agricultural District to C-4 Commercial District. Tom Dock seconds. Motion passed 5/0.

**June 20, 2012 P&Z Minutes to accompany the above:**

**Discuss and take action on –Request for approval of a rezoning of KT&I CO, Block 22, Lot pt. 6, property also known as East Trant Road., from AG Agricultural District to C-4 Commercial District. Staff Recommendation: Disapproval.**

Mr. Kellam stated the current agenda sent out to board members had a typo and new agenda was printed and corrected. Mr. Kellam stated that the petitioner was requesting the area to be used as a vehicle storage area. Staff performed the necessary research and analysis and based on several findings of fact it was determined the highest and best use of this property is to be utilized as residential. Additionally, the proposed area is shown in the future land use plan and the Master Plan as residential use. The Commercial zoning, if approved would create an incompatible use and would not be conducive to future growth needs.

Mr. McCreight asked what does a vehicle impound lot mean.

Mr. Kellam stated that it was described as a tow yard for impounded cars and trucks.

Mr. Aldrich asked if a towing company will operate the impound lot.

Mr. Kellam stated that the information was not provided.

Mr. Dock asked if the petitioner asked the City for any recommendations for what the property could be used for.

Mr. Kellam stated that the petitioner has not asked the City for any recommendations nor has any discussion taken place with the applicant.

Mr. Zamora asked what the proposed site is identified as within the future land use plan for whether it is multi-family or single family homes.

Mr. Kellam states it is identified to be utilized as residential and in the Master Plan it states it is identified as an Auto Urban residential use for future growth and development. This can best be described as an area that would best be developed as a transitional area from the highway and existing hotel, transitioning to a multi-family/townhome use down to single family residential.

Mr. Aldrich makes a motion to deny the rezoning request from AG-Agricultural to C4- Commercial District.

Mr. Alvarez seconds.

Motion Passed 5/0.

## **Staff Report to the PLANNING & ZONING COMMISSION and CITY COMMISSION**

by the Development Services Department, Planning Division  
City of Kingsville, Texas

**Request:** APPROVAL OF A ZONING DISTRICT CHANGE FROM AG AGRICULTURAL DISTRICT TO C-4 COMMERCIAL DISTRICT FOR A PROPERTY LOCATED IN THE 1600 BLOCK OF EAST TRANT ROAD.

Petitioner and Agent: Smith & Sullivan Inc., Larry Smith, Agent

Date of P&Z Hearing: August 8, 2012

Comprehensive Plan Land Use: Residential

Existing Zoning Classification: AG Agricultural District

Adjacent Zoning: West: C-4 Commercial District

North, South & East: AG Agricultural District

### **EXISTING INFRASTRUCTURE**

Transportation: Trant Road- Local

Community Facilities: Services provided

Capital Improvements: None planned

Fire Station Proximity: Within three & one-half miles

100 Year Flood Plain: The property is not within the floodplain

### **EXHIBITS PRESENTED**

- Chapter 15 of the Kingsville Code of Ordinances (present at the meeting)
- City of Kingsville Master Plan (present at meeting)
- Application for a Zoning District Change
- Mailing list of property owners within 200 feet

### **BACKGROUND AND HISTORY**

The petitioner is requesting a zoning district change in order to facilitate the location of a vehicle storage lot to be operated on this site. The historical use of the property consists of solely agricultural uses. The identified parcel lies to the east of State Highway 77 and to the north of Trant Road. The requested zoning does not conform to the Future Land Use Plan, which designates the future use as Residential. Continued residential growth is intended to take place in this area, given its proximity to the already developed Paulson Falls Subdivision. Staff concurs with the adopted Master Plan in that the highest and best use of this property and the surrounding area is residential.

### **FIELD INSPECTION AND PERTINENT DATA**

This parcel is currently undeveloped and is used for agricultural row crop. At the present time, the petitioner is planning to utilize the site as a vehicle storage lot. The surrounding zoning varies but the proposed zoning will cause a detrimental impact to the planned development of the area, and the available land for housing growth. This area was also identified as the priority area for future residential growth in the recently adopted Comprehensive Housing Plan.

**STAFF REVIEW & RECOMMENDATION**


In general, the Planning Commission shall consider the following factors when making a recommendation on the Zoning District Change request:

1. Whether the proposal is in conformance with the goals and policies contained in all elements of the master plan;
2. Whether the proposal is in keeping with the purpose of the zoning districts;
3. Whether the proposal is detrimental to the public health, safety and welfare;
4. Whether the proposal is detrimental to existing or potential adjacent land uses;
5. Whether the proposal will generate traffic levels inappropriate, hazardous or detrimental to the existing or potential nearby land uses.

Staff recommends **DENIAL** of this request with the following findings:

1. The proposed zoning district change is not in conformance with the general goals and policies of the city in that it is not consistent with the adopted Master Plan or Comprehensive Housing Plan; and
2. Commercial zoning would not be appropriate to the area, and will be detrimental to the future planned growth of the community.
3. The proposal is not in keeping with the purpose of the zoning districts wherein the zoning to be consistent with all adopted plans and policies.

Prepared by:



Michael Kellam, AICP, Director of Planning & Development Services

**CITY OF KINGSVILLE  
PLANNING AND ZONING DIVISION  
MASTER APPLICATION**

**PROPERTY INFORMATION: (Please PRINT or TYPE)**

Project Address E. Trant Road Nearest Intersection Hwy 77  
 (Proposed) Subdivision Name \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_  
 Legal Description: KT+I CO, Block 22, Lot 6 (S/E COR 140X 620)  
 Existing Zoning Designation AG Future Land Use Plan Designation C4

**OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)**

Applicant/Authorized Agent Larry Smith Phone 281-485-7281 FAX \_\_\_\_\_  
 Email Address (for project correspondence only): Larry.Bojac@gmail.com  
 Mailing Address 4527 Russett Place N City Pearland State Tx Zip 77584  
 Property Owner Smith & Sullivan Inc Phone \_\_\_\_\_ FAX \_\_\_\_\_  
 Email Address (for project correspondence only): Larry.Bojac@gmail.com  
 Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Select appropriate process for which approval is sought. Attach completed checklists with this application.

<input type="checkbox"/> Annexation Request..... No Fee	<input type="checkbox"/> Preliminary Plat..... Fee Varies
<input type="checkbox"/> Administrative Appeal (ZBA)..... \$ 250.00	<input type="checkbox"/> Final Plat..... Fee Varies
<input type="checkbox"/> Comp. Plan Amendment Request..... \$ 250.00	<input type="checkbox"/> Minor Plat..... \$ 100.00
<input checked="" type="checkbox"/> Re-zoning Request..... \$ 250.00	<input type="checkbox"/> Re-plat..... \$ 250.00
<input type="checkbox"/> SUP Request/Renewal..... \$ 250.00	<input type="checkbox"/> Vacating Plat..... \$ 50.00
<input type="checkbox"/> Zoning Variance Request (ZBA)..... \$ 250.00	<input type="checkbox"/> Development Plat..... \$ 100.00
<input type="checkbox"/> PUD Request..... \$ 250.00	<input type="checkbox"/> Subdivision Variance Request..... \$ 25.00 ea.

Please provide a basic description of the proposed project: Request to re-zone  
from Ag to C4.

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's Signature: [Signature] Date: 05/10/2012  
 Property Owner(s) Signature: [Signature] Date: 05/10/2012  
 Accepted by: Jessica J. Bojac Date: 5/10/12

PROPERTY 12190  
Legal Description  
K T & I CO, BLOCK 22, LOT PT 6, (S/E COR 140 X 620),  
ACRES 1.99

OWNER ID  
51684

OWNERSHIP  
100.00%

Ref ID2: R12190  
Map ID G-6, AERIAL D4

ACRES: 1.9900  
EFF. ACRES:

APPR VAL METHOD: Cost

SMITH & SULLIVAN INC  
4527 RUSSETT PL N  
PEARLAND, TX 77584-7608

IMPROVEMENTS  
LAND MARKET  
MARKET VALUE  
PRODUCTIVITY LOSS  
APPRAISED VALUE  
HS CAP LOSS  
ASSESSED VALUE

100%  
100%  
100%  
100%  
0  
0  
6,370

0  
+  
=  
-  
=  
-  
=

6,370  
6,370  
0  
6,370  
0  
6,370

SITUS HWY 77

GENERAL

UTILITIES  
TOPOGRAPHY  
ROAD ACCESS  
ZONING  
NEXT REASON

LAST APPR. LR  
2009

LAST APPR. YR  
2009

LAST INSP. DATE  
02/09/2009

NEXT INSP. DATE

REMARKS

FOR 2009 NO VALUE CHG TO ACCT PER APPR  
LR 2/09/09 2/23/09 MMG -  
ALT ACCT-OUT290002205100192 - FOR '06  
START ROLLBACK PER FIELD VISIT REMOVE

ISSUE DT PERMIT TYPE PERMIT AREA ST PERMIT VAL

SALE PRICE GRANOR DEED INFO

12/07/2006 \*\*\*\*\* SMITH LARRY WD / 351 / 278

11/08/2001 \*\*\*\*\* ABINCO WD / 225 / 166

\*\*\*\*\* UNKNOWN OT / /

ISSUE DT PERMIT TYPE PERMIT AREA ST PERMIT VAL

TYPE DESCRIPTION METH CLASS/SUBCL AREA UNIT PRICE/UNITS BUILT EFF YR COND. VALUE DEPR PHYS ECON FUNC COMP ADJ ADJ VALUE

ISSUE DT PERMIT TYPE PERMIT AREA ST PERMIT VAL

1. IMPROVED PASTURE

CLS TABLE P25

SC HS D2 N A

METH A

DIMENSIONS 1.9900 AC

UNIT PRICE 3,200.00

GROSS VALUE 6,370

ADJ MASS ADJ 1.00

ADJ VAL SRC 1.00 A

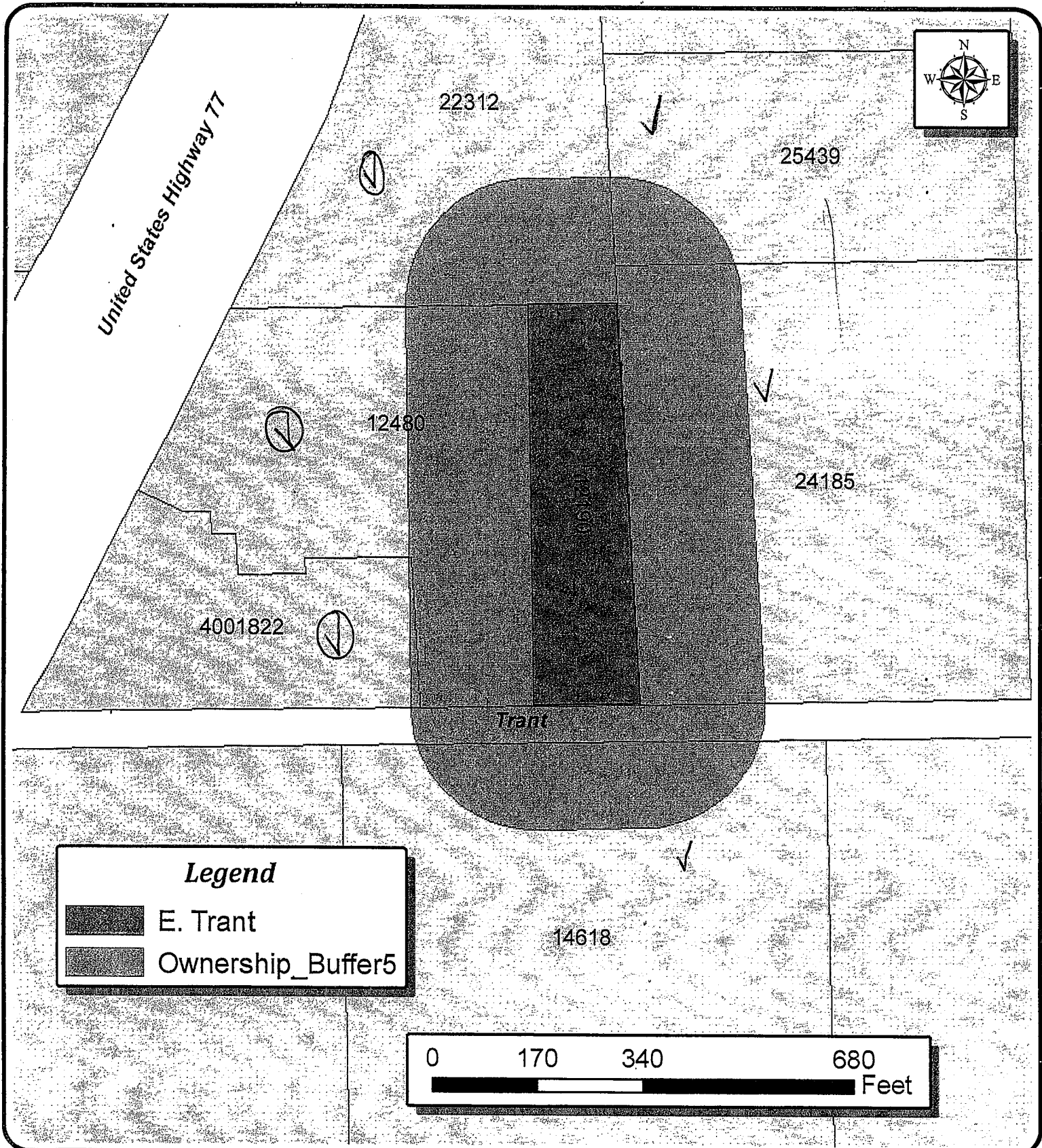
MKT VAL 6,370


AG APPLY AG CLASS AG TABLE AG UNIT PRC AG VALUE

AG-R11 253.00

0

# VARIANCE REQUESTED FOR E. TRANT



Page 1 / 1	Drawn By: Valerie Valero Date: 6/4/12 Job #: Note:	DISCLAIMER THIS MAP IS FOR VISUAL PURPOSES ONLY. THE INFORMATION ON THIS SHEET MAY CONTAIN INACCURACIES OR ERRORS. THE CITY OF KINGSVILLE IS NOT RESPONSIBLE IF THE INFORMATION CONTAINED HEREIN IS USED FOR ANY DESIGN, CONSTRUCTION, PLANNING, BUILDING, OR ANY OTHER PURPOSE.	 <p> <b>CITY OF KINGSVILLE</b>  <b>ENGINEERING DEPARTMENT</b>          200 East Kleberg          Kingsville, Texas 78363          Office 361.595.8005          Fax 361.595.8035       </p>
	(Handwritten signature/initials over the Note field)		



# **AGENDA ITEM #7**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS, AMENDING CHAPTER V PUBLIC WORKS OF THE CODE OF ORDINANCES OF THE CITY OF KINGSVILLE, TEXAS BY ADDING ARTICLE 6 ENTITLED "STORMWATER UTILITY SYSTEM"; ARTICLE 1 "STORMWATER UTILITY SYSTEM RULES" TO ESTABLISH A MUNICIPAL STORMWATER UTILITY SYSTEM; ESTABLISH AN ADMINISTRATIVE APPEALS PROCESS; PROVIDE PENALTIES AND REMEDIES FOR NONPAYMENT; EXEMPT CERTAIN PROPERTY FROM FEES; AND PROVIDE A PROCESS BY WHICH TO DISCONTINUE THE STORMWATER UTILITY SYSTEM; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is necessary to ensure that the collection of stormwater runoff and conveyance of stormwater within the City of Kingsville ("City") protects the public health, safety, and welfare of City residents, as well as protects against property damage; and

**WHEREAS**, the City Commission of the City of Kingsville, Texas ("the City Commission") desires to address the various water quality and environmental issues that may further burden the City's stormwater infrastructure; and protect against surface water overflow, standing water, and pollution; and

**WHEREAS**, the City Commission desires to establish a Stormwater Utility System, as authorized by the Texas Local Government Code Chapter 552, Subchapter C "Municipal Drainage Utility Systems," ("the Act") within the City's municipal boundaries; and

**WHEREAS**, the Act further authorized the City to establish a municipal Stormwater Utility System service area; to provide rules for the use, operation, and financing of the system; to declare, after a public hearing, the City's Stormwater System to be a "public utility" as defined in the Act; to prescribe bases upon which to fund a Stormwater Utility System and to assess the fees and charges to support the system; and to require certain exemptions along with other mandatory exemptions contained in Texas Local Government Code sections 552.053 and 580.003(a); and

**WHEREAS**, the City desires to adopt the Act and establish a Stormwater Utility System as a public utility; and

**WHEREAS**, it is the intent of the City to fund the Stormwater Utility System in a manner that fairly, equitably, and in a non-discriminatory manner allocates the cost of stormwater control and treatment to properties in proportion to stormwater runoff potential for each class of property; and

**WHEREAS**, proper notice has been given and a public hearing has been held regarding the adoption of this Ordinance, as required by law.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS THAT:**

**SECTION 1:** The Code of Ordinances of the City of Kingsville, Texas is hereby amended by adding Chapter Article 6, "Stormwater Utility System" to Chapter V Public Works to read as follows:

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## **Article 6. STORMWATER UTILITY SYSTEM**

### **ARTICLE I. STORMWATER UTILITY SYSTEM RULES**

#### **Sec. 5-6-1. Authority to create Stormwater Utility System.**

The City does hereby declare under the Texas Constitution and the Texas Local Government Code, Chapter 552, Subchapter C, The Municipal Drainage Utility System Act, that said Act is hereby adopted and it is declared that the stormwater utility of the City of Kingsville, Texas, shall be a "public utility" as defined in the Act. Pursuant to the provisions of Section 552.046 of the Act, the City incorporates its existing stormwater facilities, materials, equipment, and supplies into the Stormwater Utility System ("Stormwater System" or "Utility" or "Public Utility").

#### **Sec. 5-6-2. Finding and determinations.**

- (a) *Determination of Utility Service Area.* The Stormwater System shall serve the City, the boundaries of which shall be the City's municipal boundaries.
- (b) It is hereby found, determined, and declared that the City shall:
  - 1) Ensure that the cost of operating and maintaining the Stormwater System, and the financing of necessary repairs, replacements, improvements, and extension thereof must be related to stormwater service and the terms of the Stormwater Utility Fees;
  - 2) Provide stormwater facility and services for benefitted real property within the utility service area upon payment of the Stormwater Utility Fee unless the property is exempt under Section 5-6-11; and
  - 3) Establish a schedule of Stormwater Utility Fees for benefitted properties within the utility service area in accordance with the provisions of the Act; and
  - 4) Offer stormwater service under non-discriminatory, reasonable, and equitable terms.

#### **Sec. 5-6-3. Application.**

This Article applies to the Owner or Customer of a benefitted property within the utility service area, as determined by Section 5-6-2, to which stormwater service is provided, either directly or indirectly.

#### **Sec. 5-6-4. Definitions.**

The following definitions shall apply to the establishment and operation of the Stormwater System:

*Act* means Chapter 552, Subchapter C “Municipal Drainage Utility Systems,” of the Texas Local Government Code, as amended.

*Allocated portion of a parcel* means the lot, tract, or part of a parcel that has been assigned to an Owner or Customer based on the portion used by the Owner or Customer as compared to the parcel’s total area.

*Benefitted property* means an improved lot, tract or parcel within the utility service area to which stormwater service is made available under this Article. All real property within the utility’s service area directly or indirectly receives stormwater service.

*City* means the City of Kingsville, Texas and the City’s officers and employees.

*City Engineer* means the City’s Engineer or his/her designee responsible for the administration and enforcement of this Article.

*Customer* means the person(s) or entity(ies) recorded as the customer or user of utility services for a parcel based on the records of the City or its contracted utility billing system provider.

*Equivalent residential unit (ERU)* means a unit of measurement of impervious surface area calculated for the average single family residential property within the utility service area, as measured in square feet (SF), including the residential structure, garage, driveway, sidewalk, patio, out buildings, and any other impervious surface.

*Impervious surface* means a surface that has been compacted or covered with a layer of material so that it is resistant to penetration by water and does not have vegetative cover. An impervious surface includes, but is not limited to, parking lots, driveways, a sidewalk or private roadway, a building or artificial structure, or any surface that changes the natural landscape and increases, concentrates, pollutes, or otherwise alters the flow or amount of stormwater runoff.

*Impervious area* means a measurement in square feet (SF) of impervious surface on which the amount of stormwater runoff potential for a benefitted property within a customer class is estimated.

*Improved parcel* means a parcel, lot or tract or portion of lot or tract that has been changed from its natural state by addition of a building, facility, structure or other improvement on all or a portion of the parcel, which creates an impervious surface.

*KCAD* means the Kleberg County Appraisal District.

*Non-residential property* means an improved parcel that is not a residential property, including commercial, industrial, institutional, and government uses, a condominium or apartment consisting of four (4) or more residential units, a homeowner’s association, or other similar uses or properties.

*Owner* means the person(s) or entity(ies) listed as the owner of a parcel in the records of KCAD or the City.

*Public Utility (or Utility)* shall have the same meaning as defined by the Act, Section 552.044(7).

*Residential property* means an improved parcel upon which three (3) or fewer residential units are constructed in one building on the Improved Parcel.

*Residential dwelling unit* means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by applicable City codes, for not more than one family. A residential unit may be a single-family house, a town home, a condominium, a manufactured home or a portion of a duplex, triplex, or quadplex.

*Service area* means the geographical area within the incorporated limits of the City.

*Stormwater infrastructure* means the property – real, personal or mixed – that is used in providing stormwater capacity to manage and control stormwater runoff for the stormwater system, including bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, retention ponds, ditches, draws, creeks, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the stormwater runoff away, collect, store, or treat the stormwater runoff, or divert the stormwater runoff into natural or artificial watercourses.

*Stormwater Utility expenditures* means an expenditure required to finance, operate and maintain stormwater infrastructure, including debt service, equipment, personnel, educational and administrative expenditures.

*Stormwater runoff potential* means the relative potential for causing stormwater runoff quantities, qualities, or velocities from an improved parcel based on the type of development or land use on the parcel and the size of the parcel.

*Stormwater Utility Fee* means the fee established under Article 6 of Chapter V of the Code of Ordinances of the City of Kingsville, Texas that is levied against the Owner or Customer of a benefitted property for stormwater services provided by the Stormwater System, including but not limited to, the items described in the definition of “cost-of-service” in the Act. The Stormwater Utility Fee may also be referred to as a *Fee*.

*Stormwater System* means the Stormwater Utility System owned or controlled, in whole or in part, by the City, including the City’s existing stormwater facilities, materials, and supplies and any stormwater facilities, materials, and supplies hereafter constructed or utilized and dedicated to the service of benefitted property, and including provision for additions to the system. The Stormwater System may also be referred to as a *Public Utility* or *Utility*.

*Wholly sufficient and privately owned Stormwater System* means land and a facility owned and operated by a person or entity other than the City and from which stormwater does not discharge, under any storm frequency event or conditions, into a creek, river, slough, culvert, channel or other infrastructure that is part of the City’s Stormwater System.

#### **Sec. 5-6-5. Administration**

- (a) *Duty of City Engineer.* The City Engineer shall administer the Stormwater System. The City Engineer shall maintain an accurate record of all properties benefitted or served by the Stormwater System and the Stormwater Utility Fee levied for each parcel or portion of a parcel. The record may be maintained within the City's billing system or in another record keeping system that may be developed.
- (b) *Program Implementation.* By the adoption of this Article, the City makes no representation that all stormwater problems may or will be remedied and the City Commission retains full discretion in establishing the priorities in expending funds as they become available to meet the City's stormwater needs. The adoption of this Article shall not be construed to relieve private land owners, developers or other individuals or entities from providing stormwater improvements required by the Code of Ordinances of the City of Kingsville, Texas, and federal or State laws and regulations.
- (c) *Access to Benefitted Properties.* City employees shall have access to a benefitted property within the utility service area to inspect, maintain, repair, or enforce this Article or State laws or regulations.
- (d) *Governmental Immunity.* The City does not waive any immunity granted under any law.

**Sec. 5-6-6. Stormwater Utility Fee, billing policies, and procedures.**

- (a) *Stormwater Utility Rate Classes.* A Stormwater Utility Fee is established, and the fee shall be imposed on each benefitted property within the utility service area for stormwater services and stormwater facilities provided by the Stormwater System. A benefitted property within the utility service area shall be classified and charged a Stormwater Utility Fee based on the Stormwater Utility rate determined by the property's rate class. Depending on the use of the benefitted property, the property shall be classified as one of the rate classes:
  - 1) Residential property; or
  - 2) Non-residential property.
- (b) *Responsible Party.*
  - 1) A Customer or Owner shall be billed monthly for stormwater services. The Stormwater Utility Fee shall be levied along with other municipal utility services provided to the premises, including water, wastewater or solid waste/refuse services.
  - 2) The utility bill imposing the Stormwater Utility Fee will be mailed to either the Customer or Owner; and, the Customer or Owner recorded in the utility billing system shall be responsible for payment of the Stormwater Utility Fee.
  - 3) If there is no active Customer account for a benefitted property recorded in the City's utility billing system, or at the discretion of the City, or when a benefitted property is not served by other municipal utility services, the City Engineer shall establish a "Stormwater Only Account" and shall bill the Owner of the benefitted property for the Stormwater Utility Fee. The Owner

of the benefitted property shall be responsible for payment of fees imposed via a Stormwater Only Account.

- (c) *Revision of Rates.* The City Commission shall establish the initial Stormwater Utility Fee and Stormwater Utility rates through an ordinance pursuant to the provisions of the Act. The City Commission reserves the right to review the fee and rate schedules at any time and may, by ordinance, increase or decrease the Stormwater Utility Fee or rates within the schedule upon a determination that the increase or decrease is warranted.
- (d) *Billing Procedures and Policies.*
  - 1) Any partial payment of the Stormwater Utility Fee shall be applied against the amount due in accordance with the policies and procedures established for municipal utility services.
  - 2) A late charge and interest may be imposed in accordance with the policies and procedures established for municipal utility services.
- (e) *Non-Payment.* The City may file suit to recover any unpaid fees, together with maximum interest, attorney's fees and other costs and fees allowable under State or federal law. In addition, to any other remedies or penalties provided by State or federal law or in this Article, a Customer's failure to pay the Stormwater Utility Fee when due shall subject the Customer to disconnection of any or all municipal utility services and/or the placement of lien against the benefitted property to the extent authorized by law and the Code of Ordinances of the City of Kingsville, Texas, as amended.

#### **Sec. 5-6-7. Calculation of Fees.**

- (a) *Rates in Accordance with the Act.* The Stormwater System rates shall be established in accordance with the provisions of the Act and this Section.
- (b) *Fee Calculation.* The Stormwater Utility Fee shall be based on an inventory of improved parcels within the service area. The inventory shall evaluate the stormwater runoff potential for improved parcels within the service area and establish a rate for each class of benefitted properties. The stormwater runoff potential for each class shall be equitably and proportionately distributed between classes and among parcels within each class of benefitted properties relative to the contribution of each class to stormwater runoff.
- (c) *Stormwater Runoff Potential.* For purposes of establishing the stormwater runoff potential for each class of benefitted properties and between classes of benefitted properties, the City Engineer shall calculate the impervious area for parcels within the service area based on data gathered from KCAD, Geographic Information System records, and aerial photography and site plans or plats available. The City Engineer shall then determine the relative stormwater runoff potential for each rate class and among parcels within each rate class. The rate for each class of benefitted properties and for parcels within each rate class shall be based on the impervious area measured in square feet (SF).

#### **Sec. 5-6-8. Appeal.**

- (a) *Standing and Exclusive Remedy.* An Owner or Customer who has been charged with and contests a Stormwater Utility Fee, or who challenges action taken by the City under this Article for non-payment of the Stormwater Utility Fee charged to that Owner or Customer, shall have standing to appeal under this Article; that Owner or Customer will be referred to as an "appellant" in this section. The provisions in this section shall be the exclusive administrative remedy for an appellant. By way of example and not limitation, an appellant may appeal an error in calculating the Stormwater Utility Fee for a benefitted property due to an error in calculating impervious surface area or an error in calculating the customer class; or an appellant may appeal the discontinuance of utility service, the filing of a lien, or other legal action taken by the City under this Article for non-payment of the Stormwater Utility Fee. The City's appeal process is set forth in Appendix C of "\_\_\_\_\_."
- (b) *Burden of Proof.* The appellant shall bear the burden of proving by a preponderance of the evidence the relief sought in the appeal. By way of example and not limitation, the appellant shall bear the burden of proving that a fee does not apply, or that the fee is calculated in error, or that the rate class assigned to the appellant is incorrect.

#### **Sec. 5-6-96. Termination of Stormwater Utility System.**

If, after at least five (5) years of substantially continuous operation of the Stormwater System, the City Commission determines that the Stormwater System should be discontinued, the powers under the Act should be revoked, and the provision for financing municipal stormwater costs should be made by using other revenues, the City Commission may adopt an ordinance that in effect, after providing notice and a public hearing as required by the Act, discontinues the Stormwater System.

#### **Sec. 5-6-10. Stormwater Utility fund.**

- (a) *Stormwater Utility fund.* A Stormwater Utility fund is established and may consist of one or more accounts. All Stormwater Utility fees shall be deposited as collected and received into this fund, and shall be used exclusively for stormwater services as provided in the Act, but not limited to the following:
- 1) The cost of the acquisition of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;
  - 2) The cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;
  - 3) The cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, designing, providing, or determining the feasibility and capability of structures, equipment, and facilities used in draining the benefitted property;
  - 4) The cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;



- 5) The prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a stormwater facility used in draining the benefitted property;
  - 6) The prorated cost of debt service and reserve requirements for funding of stormwater infrastructure, equipment and facilities paid with revenue bonds or other securities or obligations issued by the City and supported by pledge of stormwater revenues, including any fees and expenses incidental thereto;
  - 7) To the extent permitted by law, the cost of constructing, sampling, monitoring, building, inspecting and maintaining structures needed for the State's regulation and permitting requirements imposed on the City for providing stormwater quality improvements for the benefitted property; and
  - 8) The administrative costs of the Stormwater System.
- (b) *Stormwater Utility fund accounting.*
- 1) The City shall clearly account for revenues and expenditures authorized for operation of the Stormwater System.
  - 2) The revenues collected from Stormwater Utility Fees shall be segregated and completely identified from other City funds and accounts.
  - 3) Funds and revenues in the Stormwater Utility fund may be transferred to the City's general fund as allowed by law.
- (c) *Stormwater Utility service deposit.* A deposit shall not be imposed for initiation or continuation of Stormwater Utility service.

#### **Sec. 5-6-11. Exemptions.**

- (a) The following shall be exempt from payment of the fees established by the Article:
- 1) Entities to which a mandatory exemption under Section 580.003(a) of the Texas Local Government Code applies.
  - 2) Any property to which a mandatory exemption under Section 552.053 of the Texas Local Government Code applies, including without limitation:
    - A. Property with proper construction and maintenance of a wholly sufficient and privately owned Stormwater System that does not discharge under any storm frequency event or conditions to waterways controlled or maintained by the City;
    - B. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the City for maintenance; or
    - C. A subdivided parcel or lot, until a structure has been built on the subdivided parcel or lot and a certificate of occupancy has been issued, or the City has taken another official action to release the property for occupancy.
- (b) *Proof of Exemption.* If an Owner asserts that property is exempt pursuant to this Section or any other applicable law, the Owner has the burden of proving the exemption by filing with the City Engineer a notice of exemption eligibility and

sufficient evidence of entitlement to such exemption. If the exemption is not granted, the Owner may appeal under Section 5-6-8.

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**SECTION 2:** It is provided that in case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a Court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair or invalidate the remainder of this Ordinance.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage and approval.

**INTRODUCED** on this the 27th day of August, 2012.

**PASSED AND APPROVED** by the City Commission on this the 10th day of September, 2012.

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SAM FUGATE, MAYOR

ATTEST:

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EDNA S. LOPEZ, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

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COURTNEY ALVAREZ, CITY ATTORNEY

# **AGENDA ITEM #8**

**ORDINANCE NO. 2012-\_\_\_\_\_**

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER V, ARTICLE 2, SEWERS, PROVIDING FOR AN INCREASE IN SEWER RATES; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

WHEREAS, the City had a waste water rate study done by HDR Engineering and the following increases were recommended by that study,

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 5-2-2 of Article 2: Sewers of Chapter V, Public Works, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 5-2-2 USER CLASSIFICATIONS; SCHEDULE OF CHARGES.**

(A) *Single-family residential*. Minimum monthly charge of \$40.23 ~~\$10.54~~ with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of \$2.92 ~~\$3.01~~ per 1,000 gallons will be levied to a maximum of 15,000 gallons after which no further charge shall be levied.

(B) *Duplex*. Minimum monthly charge of \$42.55 ~~\$12.93~~ with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of \$2.92 ~~\$3.01~~ per 1,000 gallons will be levied.

(C) *Multi-family residential (includes apartments of 3-4 units)*. Minimum monthly charge of \$49.49 ~~\$19.76~~ with an allowance for 3,000 gallons. For consumption in excess of 3,000 gallons, a charge of \$2.92 ~~\$3.01~~ per 1,000 gallons shall be levied.

(D) *Commercial (includes hotels, motels, apartments over 4 units, and all others not meeting any other categories)*. Minimum monthly charge of \$23.60 ~~\$24.31~~ with an allowance of 3,000 gallons. For consumption in excess of 3,000 gallons a charge of \$3.08 ~~\$3.17~~ per 1,000 gallons will be levied.

(E) *Irrigation*. No customer using city water services solely for irrigation purposes shall be assessed a sewer charge.

(F) *Industrial plants*. By special contract with the city.

(G) *Billing charge.* All sewer customers who are not billed for water services shall be assessed a monthly billing charge of ~~\$2.00~~ \$2.06 in addition to their sewer charges.

(H) (1) *Outside city limits.* All parts of this section shall apply to customers located outside the city limits and who receive city sewer service except the rates to such customers shall be as follows:

(2) *Single-family residential.* Minimum monthly charge of ~~\$44.73~~ \$12.08 with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of ~~\$3.35~~ \$3.45 per 1,000 gallons of water consumed to a maximum of 15,000 gallons after which no further charge shall be levied.

(3) *Duplex.* Minimum monthly charge of ~~\$44.15~~ \$14.58 with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of ~~\$3.55~~ \$3.66 per 1,000 gallons of water consumed.

(4) *Multi-family residential (includes apartments of 3-4 units).* Minimum monthly charge of ~~\$22.06~~ \$22.73 with an allowance of 3,000 gallons. For consumption in excess of 3,000 gallons a charge of ~~\$3.55~~ \$3.66 per 1,000 gallons of water consumed.

(5) *Commercial (includes hotels, motels, apartments over 4 units, and all others not meeting any of the above categories).* Minimum monthly charge of ~~\$27.44~~ \$27.96 with an allowance of 3,000 gallons. For consumption in excess of 3,000 gallons a charge of ~~\$3.54~~ \$3.65 per 1, 000 gallons of water consumed.

## II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

## III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

## IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 27<sup>th</sup> day of August, 2012.

PASSED AND APPROVED on this the 10<sup>th</sup> day of September, 2012.

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Sam R. Fugate, Mayor

ATTEST:

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Edna Lopez, City Secretary

APPROVED AS TO FORM:

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Courtney Alvarez, City Attorney

# Memo

To: Vince Capell, City Manager  
From: Mark Rushing, Finance Director  
CC: Courtney Alvarez, City Attorney  
Date: 08/17/2012  
Re: Water and Waste Water Rates

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Following the Water and Waste Water rate models provided by HDR Engineering, it is time to update the water and waste water rates increases.

This request is to add the first reading of the water and waste water rate increases to the commission meeting scheduled for August 27<sup>th</sup>, 2012. The proposed increase represents a Water 1% rate increase and a Waste Water 3% rate increase. This is still in accordance with the scheduled FY13 rate increases in the City of Kingsville 5-Year Water/Waste Water Model (August 27, 2010) adopted by the City of Kingsville in September 2010. If the FY13 rate increases are approved by the City of Kingsville Commission as stated, this would generate an additional Water Sales Revenue of \$42,829.53 and Sewer Sales Revenue of \$93,922. These increases have already been incorporated in the Proposed "Draft" FY13 Budget.

Thank you for your consideration in this matter.

*Mark A. Rushing*

Mark Rushing, Finance Director

# **AGENDA ITEM #9**



**ORDINANCE NO. 2012-\_\_\_\_\_**

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER V, ARTICLE 3, WATER, PROVIDING FOR AN INCREASE IN WATER RATES; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

WHEREAS, the City had a water rate study done by HDR Engineering and the following increases were recommended by that study,

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 5-3-51 of Article 3: Water of Chapter V, Public Works, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 5-3-51 MINIMUM MONTHLY CHARGE; RATE SCHEDULE.**

(A) The following monthly rates shall be charged inside-city customers for the use of city water, provided that minimum monthly charges shall be made and bills rendered accordingly, under the standard water rates schedule as follows:

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***Minimum Monthly Bill Water Service***

<b><i>Meter Allowance Size</i></b>	<b><i>Meter Allowance Size</i></b>	<b><i>Multi-Family Residential*</i></b>	<b><i>Commercial**</i></b>	<b><i>Irrigation</i></b>	<b><i>Gallons</i></b>
5/8 - 3/4 inch	12.04 <b><u>12.16</u></b>	\$0.00	\$0.00	\$0.00	0
5/8 - 3/4 inch	—	22.82 <b><u>23.04</u></b>	23.73 <b><u>23.96</u></b>	27.20 <b><u>27.47</u></b>	3,000
1 inch	24.68 <b><u>24.92</u></b>	27.76 <b><u>28.03</u></b>	29.99 <b><u>30.28</u></b>	34.08 <b><u>34.42</u></b>	5,000
1 1/4 inch	30.01 <b><u>30.31</u></b>	33.18 <b><u>33.51</u></b>	36.26 <b><u>36.62</u></b>	43.39 <b><u>43.82</u></b>	7,000

1½ inch	36.80 <b><u>37.16</u></b>	40.95 <b><u>41.35</u></b>	45.65 <b><u>46.10</u></b>	55.52 <b><u>56.07</u></b>	10,000
2 inch	53.66 <b><u>54.19</u></b>	56.48 <b><u>57.04</u></b>	64.44 <b><u>65.08</u></b>	79.80 <b><u>80.60</u></b>	16,000
3 inch	—	105.69 <b><u>106.74</u></b>	113.96 <b><u>115.09</u></b>	156.70 <b><u>158.26</u></b>	35,000
4 inch	—	170.42 <b><u>172.12</u></b>	175.72 <b><u>177.47</u></b>	257.86 <b><u>260.43</u></b>	60,000
6 inch	—	338.74 <b><u>342.12</u></b>	335.69 <b><u>339.04</u></b>	520.90 <b><u>526.10</u></b>	125,000
8 inch	---	---	640.06 <b><u>646.46</u></b>	---	200,000

\* Includes apartments of 3-4 units.

\*\* Includes hotels, motels, and apartments over 4 units.

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(B) The following monthly rates shall be charged outside-city customers for the use of city water, provided that minimum monthly charges shall be made and bills rendered accordingly, under the standard water rates schedule as follows:

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***Minimum Monthly Bill Water Service***

<b><i>Meter Allowance Size</i></b>	<b><i>Single-Family Residential</i></b>	<b><i>Multi-Family Residential</i></b>	<b><i>Commercial**</i></b>	<b><i>Irrigation</i></b>	<b><i>Gallons</i></b>
5/8 – ¾ inch	43.85 <b><u>13.98</u></b>	\$0.00	\$0.00	\$0.00	0
5/8 – ¾ inch	—	26.24 <b><u>26.50</u></b>	27.28 <b><u>27.55</u></b>	31.27 <b><u>31.58</u></b>	3,000
1 inch	28.39 <b><u>28.67</u></b>	31.92 <b><u>32.24</u></b>	34.48 <b><u>34.83</u></b>	39.18 <b><u>39.58</u></b>	5,000

1¼ inch	34.54 <b><u>34.85</u></b>	38.15 <b><u>38.54</u></b>	41.69 <b><u>42.10</u></b>	49.37 <b><u>49.86</u></b>	7,000
1½ inch	42.30 <b><u>42.72</u></b>	47.09 <b><u>47.56</u></b>	52.49 <b><u>53.01</u></b>	63.85 <b><u>64.48</u></b>	10,000
2 inch	61.72 <b><u>62.33</u></b>	64.96 <b><u>65.60</u></b>	74.10 <b><u>74.84</u></b>	91.76 <b><u>92.67</u></b>	16,000
3 inch	—	121.54 <b><u>122.75</u></b>	131.04 <b><u>132.35</u></b>	180.19 <b><u>181.99</u></b>	35,000
4 inch	—	195.98 <b><u>197.93</u></b>	202.08 <b><u>204.10</u></b>	296.53 <b><u>299.49</u></b>	60,000
6 inch	—	389.54 <b><u>393.43</u></b>	386.02 <b><u>389.88</u></b>	599.02 <b><u>605.01</u></b>	125,000
8 inch	---	---	736.05 <b><u>743.41</u></b>	---	200,000

\* Includes apartments of 3-4 units.

\*\* Includes hotels, motels, and apartments over 4 units.

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(C) For all water furnished in excess of the minimum allowance, the charge per 1,000 gallons of water delivered per month shall be shown as follows:

	In-side City	Outside City
Single-family residential:		
0 - 5,000 gallons	2.52 <b><u>2.54</u></b>	2.91 <b><u>2.93</u></b>
5,001 - 10,000 gallons	2.66 <b><u>2.68</u></b>	3.06 <b><u>3.09</u></b>
10,001 – 15,000 gallons	2.77 <b><u>2.79</u></b>	3.20 <b><u>3.23</u></b>

15,001 - 20,000 gallons	2.90 <u>2.92</u>	3.34 <u>3.37</u>
20,001 - 30,000 gallons	3.02 <u>3.05</u>	3.47 <u>3.50</u>
30,000 + gallons	3.94 <u>3.94</u>	4.50 <u>4.54</u>
Multi-family:	2.68 <u>2.70</u>	3.08 <u>3.11</u>
Commercial:	3.20 <u>3.23</u>	3.68 <u>3.71</u>
Irrigation	4.03 <u>4.07</u>	4.64 <u>4.68</u>

(D) These rates shall be applied to all water that passes through the meter regardless of whether the water is used or not.

(E) Industrial rates by special contract with the city.

(F) Naval Air Station Kingsville water rate, as determined by the most current water rate study, is set at \$1.75/1,000 gallons.

## II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

## III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 27<sup>th</sup> day of August, 2012.

**PASSED AND APPROVED** on this the 10<sup>th</sup> day of September, 2012.

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Sam R. Fugate, Mayor

ATTEST:

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Edna Lopez, City Secretary

APPROVED AS TO FORM:

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Courtney Alvarez, City Attorney

# Memo

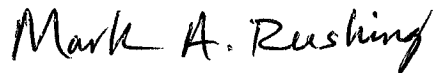
To: Vince Capell, City Manager  
From: Mark Rushing, Finance Director  
CC: Courtney Alvarez, City Attorney  
Date: 08/17/2012  
Re: Water and Waste Water Rates

---

Following the Water and Waste Water rate models provided by HDR Engineering, it is time to update the water and waste water rates increases.

This request is to add the first reading of the water and waste water rate increases to the commission meeting scheduled for August 27<sup>th</sup>, 2012. The proposed increase represents a Water 1% rate increase and a Waste Water 3% rate increase. This is still in accordance with the scheduled FY13 rate increases in the City of Kingsville 5-Year Water/Waste Water Model (August 27, 2010) adopted by the City of Kingsville in September 2010. If the FY13 rate increases are approved by the City of Kingsville Commission as stated, this would generate an additional Water Sales Revenue of \$42,829.53 and Sewer Sales Revenue of \$93,922. These increases have already been incorporated in the Proposed "Draft" FY13 Budget.

Thank you for your consideration in this matter.



Mark Rushing, Finance Director

# **AGENDA ITEM #10**

**ORDINANCE NO. 2012-\_\_\_\_\_**

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF KINGSVILLE, KLEBERG COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY (LOT 9, SECTION 22, K.T.&I. SUBDIVISION) WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING A SERVICE PLAN, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville ("City") is a home rule city and municipal corporation of Kleberg County, Texas; and

**WHEREAS**, §43.021 of the Texas Local Government Code and Article I, Section 4 of the Charter of the City of Kingsville, Texas, an incorporated home-rule city, authorizes the annexation of territory, subject to the laws of this state.

**WHEREAS**, the area proposed for annexation is contiguous to the city limits and within the City's extraterritorial jurisdiction; and

**WHEREAS**, City approved a resolution (#96012) on March 11, 1996 whereby it authorized the City Manager to enter into a contract with Landmark Organization, Inc. not to annex certain land (also known as Hawk's Landing area) for a prescribed period of time and that period of time has since expired; and

**WHEREAS**, the contract not to annex certain land (also known as Hawk's Landing area) provided the City would provide water service, sewer service, and trash collection service as though the area was within the City and that those services would be provided at rates as if for a comparable user in the City; and

**WHEREAS**, the City now desires to annex Lot 9, Section 22, K.T.&I. Subdivision, which is the land not previously annexed as per contract; and

**WHEREAS**, Section 43.052(h) of the Texas Local Government Code provides several exceptions that authorize cities to annex territory without placing the territory in an annexation plan;

**WHEREAS**, the City has determined the area proposed for annexation to be exempt from an annexation plan by virtue of Section 43.052(h)(1) of the Texas Local Government Code; and

**WHEREAS**, the City Commission passed Resolution #2012-25 on May 14, 2012 establishing dates, times and locations for two public hearings on the proposed



annexation (public hearing dates are July 23 and 26, 2012 at 5:00p.m. in the Alcorn Commission Chambers located in City Hall, 200 E. Kleberg Ave, Kingsville, Texas) and providing all required notices and preparing a service plan; and

**WHEREAS**, the City Commission held the two public hearings on the proposed annexation after duly posting and noticing them; and

**WHEREAS**, the procedures prescribed by the Texas Local Government Code and the Charter of the City of Kingsville, Texas, and the laws of this state have been duly followed with respect to the following described territory, to wit:

Lot 9, Section 22, K.T.&I. Subdivision

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

1. **THAT** the heretofore described property is hereby annexed to the City of Kingsville, Kleberg County, Texas, and that the boundary limits of the above described territory within the city limits of the City of Kingsville, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Kingsville and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.

2. **THAT** a service plan for the area is hereby adopted and attached as Exhibit A.

3. **THAT** the City Secretary is hereby directed to file with the County Clerk of Kleberg Texas, a certified copy of this ordinance.

4. **THAT** all Ordinances of parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

5. **THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

6. **THAT** this Ordinance shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this 27<sup>th</sup> day of August, 2012.

**PASSED AND APPROVED** on this the 10th day of September,  
2012.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# City Of Kingsville~ HAWKS LANDING ANNEX



## Legend

- HAWKS\_LANDING\_ANNEX
- City Limits
- Parcels

0 112.5 225 450  
Feet

Page  
1/1

Drawn By: Lisa McLaughlin  
and JR Cavazos

Date: 5/9/2012

Job #:

Note:

**DISCLAIMER**  
THIS MAP IS FOR VISUAL PURPOSES ONLY.  
THE INFORMATION ON THIS SHEET MAY  
CONTAIN INACCURACIES OR ERRORS.  
THE CITY OF KINGSVILLE IS NOT  
RESPONSIBLE IF THE INFORMATION  
CONTAINED HEREIN IS USED FOR ANY  
DESIGN, CONSTRUCTION, PLANNING,  
BUILDING, OR ANY OTHER PURPOSE.

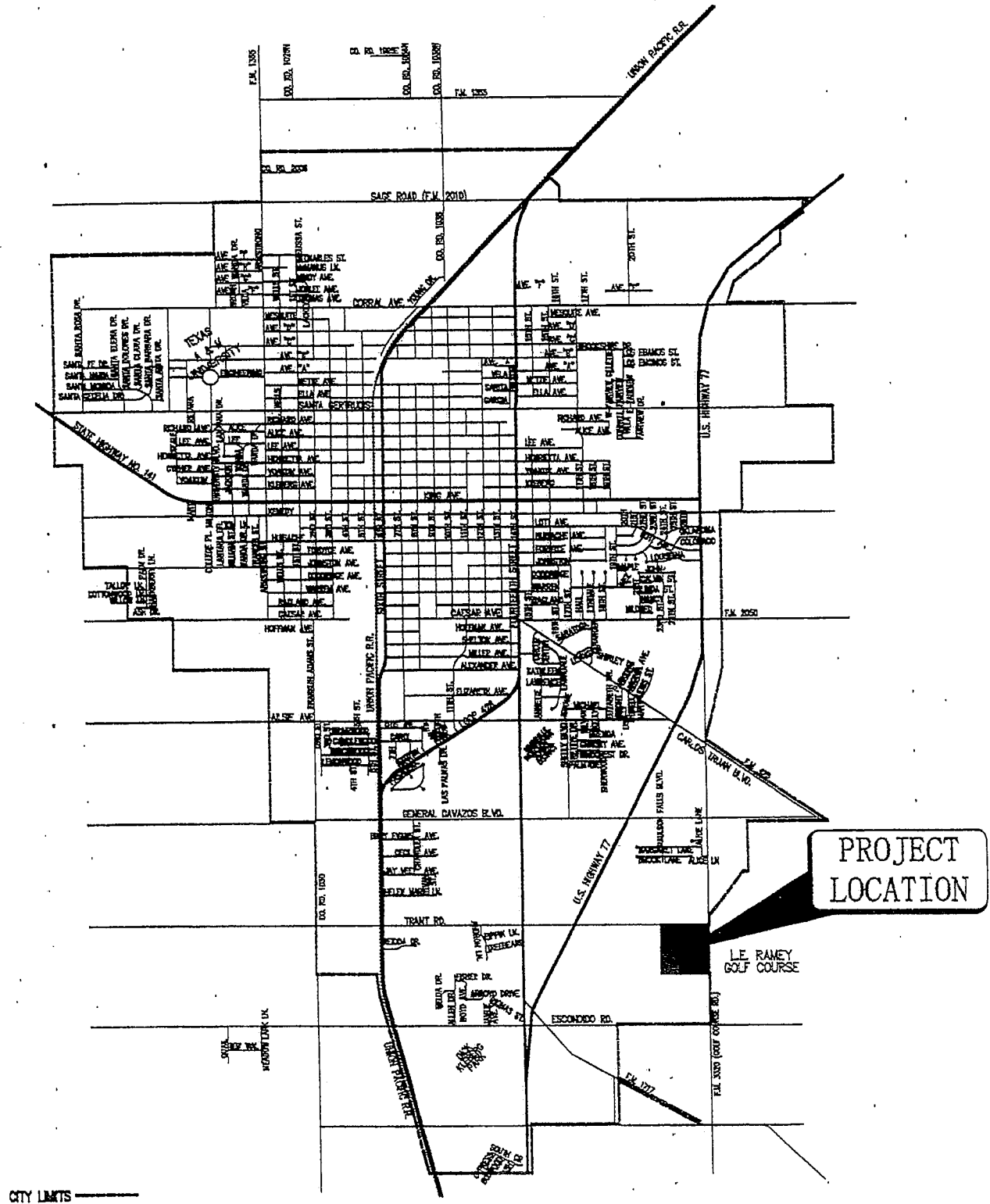


## CITY OF KINGSVILLE ENGINEERING DEPARTMENT

200 East Kleberg  
Kingsville, Texas 78363  
Office: 361-595-8005  
Fax: 361-595-8035

FILE: C:\Documents and Settings\draftech\My Documents\0 Projects\Municipal\Annexations\Hawks Landing\Hawks Landing Annexation.dwg

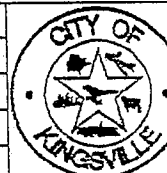
## CITY OF KINGSVILLE, TEXAS



CITY LIMITS

## HAWKS LANDING ANNEXATION

Drawn by: A. Vigstol  
 Date: August 20, 2009  
 Note: SITE MAP  
 Job:  
 Scale: 1" = 4000'



CITY OF KINGSVILLE  
 ENGINEERING DEPARTMENT

200 East Kleberg  
 Kingsville, Texas 78363  
 Office 361.595.8005  
 Fax 361.595.8035

## MUNICIPAL SERVICE PLAN

### FIRE

Existing Services: City of Kingsville Fire Department

Services to be Provided: Fire suppression will continue to be available to the area upon annexation. Primary fire response will be provided by Fire Station No.1, located at 119 North 10<sup>th</sup>. Adequate fire suppression activities can be afforded to the annexed area within current budget appropriation. Fire prevention activities will be provided by the Fire Marshall's office as needed. Please see Appendix A for further description of City Fire services to the area.

### POLICE

Existing Services: Kleberg County Sheriff's Office

Services to be provided: Currently, the area is under the jurisdiction of the Kleberg County Sheriff's Office. However, upon annexation, the City of Kingsville Police Department will extend regular and routine patrols to the area. It is anticipated that the implementation of police patrol activities can be effectively accommodated within the current budget and staff appropriation. Please See Appendix B for further description of City Police services.

### BUILDING INSPECTION

Existing Services: None

Services to be provided: The Building Inspection Department will provide Code Enforcement Services upon annexation. This includes issuing building, electrical and plumbing permits for any construction and remodeling, and enforcing all other applicable codes which regulated building construction within the City of Kingsville.

### PLANNING AND ZONING

Existing Services: None

Services to be Provided: The Planning and Zoning Department's responsibility for regulating development and land use through the administration of the City of Kingsville Zoning Ordinance will extend to this area on the effective date of the annexation. The property will also continue to be regulated under the requirements of the City of Kingsville Subdivision Ordinance. These services can be provided within the department's current budget. Additionally, the zoning of the property to be annexed into the City will be established with a zoning designation of R-3 Multi-Family Residential District. This will take effect on the same day as the effective date of the annexation.

### LIBRARY

Existing Services: None

Services to be Provided: Upon the effective date of annexation, free Library use privileges will be available to anyone residing in this area. These privileges can be provided within the current budget appropriation.

#### HEALTH DEPARTMENT-HEALTH AND COMMUNITY APPEARANCE CODE ENFORCEMENT SERVICE

Existing Services: Kleberg County/City of Kingsville Health Department

Services to be Provided: The Kleberg County/City of Kingsville Health Department jointly with the Community Appearance Division will implement the enforcement of the City of Kingsville's health & property maintenance ordinances and regulations on the effective date of the annexation. Such services can be provided with current Health Department and Community Appearance Personnel and within the current budget appropriation. In addition, animal control services will be provided to the area as needed.

#### STREET

Existing Services: Kleberg County Road Maintenance

Services to be Provided: Maintenance to the street facilities will be provided by the City upon effective date of the annexation. This service can be provided within the current budget appropriation. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

#### STORM WATER MANAGEMENT

Existing Services: None

Services to be Provided: Developers will provide storm water drainage at their own expense and will be inspected by the City Engineers at time of completion. The City will then maintain the drainage upon approval. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

#### STREET LIGHTING

Existing Services: None

Services to be Provided: The City of Kingsville will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

#### TRAFFIC ENGINEERING:

Existing Services: None

Services to be Provided: The Engineering Department will be able to provide, after the effective date of annexation, any additional traffic control devices. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

### WATER SERVICE:

Existing Services: City Water Services are currently provided.

Services to be Provided: Water service to the area will continue to be provided in accordance with the applicable codes and departmental policy. When other property develops in the adjacent area, water service shall be provided in accordance with extension ordinances. Extension of service shall comply with City codes and ordinances. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

### SANITARY SEWER SERVICE

Existing Services: City Sanitary Sewer Services are currently being provided to the majority of the area.

Services to be provided: Sanitary sewer service to the area of proposed annexation will continue to be provided in accordance with applicable codes and departmental policy. When property develops in the undeveloped adjacent areas, sanitary sewer service shall be provided in accordance with the present extension ordinance. Extension of service shall comply with applicable codes and ordinances. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

### SOLID WASTE SERVICES

Existing Services: Solid Waste Collection, such as Trash & Brush services, is currently being provided by the City.

Services to be Provided: Solid Waste Collection shall continue to be provided to the area of annexation in accordance with the present ordinance. Service shall comply with existing City policies, beginning with occupancy of structures. **\*\*Note\*\*** See Appendix C for further information regarding Public Works services to be provided.

### MISCELLANEOUS

All other applicable municipal services will be provided to the area in accordance with the City of Kingsville's established policies governing extension of municipal services to newly annexed areas. Please refer to the appendices for further information and explanation of detailed services that are currently provided and/or will be provided.

### EFFECTIVE DATE OF ANNEXATION

The effective date of the annexation is to be September 27, 2012.



# KINGSVILLE FIRE DEPARTMENT

P.O. Box 1458  
Kingsville, Texas 78364  
(361) 592-6445  
FAX (361) 595-4798

Appendix A

To: Director of Development Servs., Mike Kellam  
From: Interim Fire Chief, Roel Carrion  
Re: Municipal Annexation  
Date: May 10, 2012

In response to your request for the information required in the Municipal Annexation Inventory of Services and Facilities Required line (f) numbers (1) through (4), I have compiled the following information.

- (1) Response time from Central Fire Station to that area is approximately five to six minutes.
- (2) The Kingsville Fire Department currently maintains the following equipment.
  - 2- Fire Engines – w/foam capabilities; 2 Thermal Imagers
  - 1-100' Ladder/Platform unit w/foam capabilities
  - 3-BLS Ambulance units w/MICU capabilities
  - 1-Brush unit
  - 1-Rescue unit with light/air and extrication capabilities
  - 1-SUV (Tahoe) Captain's Command unit
  - 1-SUV (Tahoe) Fire Chief's unit
  - 1-SUV (Expedition) Fire Marshal's unit
  - 1-23' Gooseneck Trailer with flatbed truck to be used at Hazmat and other large scale incidents as a command center. The trailer is equipped with an awning for shade and can be loaded with pre-stocked carts of Hazmat or rescue equipment.
  - 1-Zumroe Decontamination Shelter w/non-ambulatory capabilities and a compliment of Hazmat decontamination equipment. Other rescue equipment available, for high angle Rescue, water rescue and confined space rescue.
- (3) 33 Paid personnel ( State certified in Fire and EMS) to include:
  - 1- Fire Chief 1- Fire Marshal 1- Executive Secretary
  - 30 – Firefighters (7- Paramedics 4-EMT-Intermediates 16- EMT-Basic)Four of the Firefighter EMT-Basic's are soon to be certified as Paramedics and two other Paramedics will be hired in the near future. Of those 27 Firefighters six are water rescue certified, six are high angle rescue certified, five are confined rescue certified and five are certified Fire Inspectors.
- (4) The annual operating budget for the Kingsville Department for FY 2011-2012 is \$2,833,170.



**City of Kingsville Police Department**  
**Kingsville, TX 78363**

Appendix B

- Dispatch time for High Priority Calls is 0 to 30 seconds. High priority calls are dispatched immediately. In those instances where an officer is not available the dispatcher will dispatch the call over the radio so that officers handling lower priority calls can leave those calls to handle the high priority calls immediately.
- Dispatch time for Low Priority Calls will be dispatched in 0 seconds up to 20 minutes depending on officer availability. Officers may be busy on higher priority calls.
- Delivery time for police officers responding to high priority calls can range in time from 0 minutes to 5 minutes depending from where in the city the officer is responding. Officers can make it from the furthest point in the city to the other side of town and that furthest point normally within 5 minutes.
- Delivery time for police officer on low priority calls can be anywhere from 0 minutes to 20 minutes depending on the availability of officers.

Ricardo Torres  
Chief of Police  
Kingsville Police Department  
Kingsville, Texas 78363  
PH# (361) 592-4311 Option #5  
Fax# (361) 593-1714  
e-mail: [chiefofpolice@kingsvillepd.us](mailto:chiefofpolice@kingsvillepd.us)

## Engineering Report

Hawks Landing apartment complex is located at south of Trant Road, west of Farm-to-market Road 3320, east of US 77 and north of Escondido Road. Total area of this property is 15.82 acres. This apartment complex has 23 buildings and 102 units. During the recent site observation, no structural damage in any building was noticed. All of the car ports were found in good condition. All of the roofs and windows looked good. Swimming pool was working fine.

Currently the City of Kingsville is providing Water, Sanitary Sewer, Trash & Brush Pick-up service to this property.

There are two- ingress and egress in this property, one from Trant Road and another is from FM 3320. The streets in this property are reinforced concrete pavement with 6" standard curb on both sides of the streets. Total length of the pavement is about a mile. Most of the pavement is 20 feet wide with invert in the center. The street connecting Trant Road to the property has 10 feet median with 20 feet wide pavement on each side of the median. At the end of this road there is a circular turn around. Streets with the invert at the center have grate inlet to collect the storm water. Overall condition of the pavement, curb and inlet is good. The property has 5 feet wide concrete sidewalk on both sides of the pavement. All of the sidewalks are in good condition. During the site observation, no damaged pavement or sidewalk was found. All of the open spaces are covered with grass and trees. Automatic irrigation system is installed for the grass and other land cover. The trees are mostly live oak, Palm, wild Pomegranate and Crape myrtle. There is no soil erosion from the site.

A 12" gravity sanitary sewer line is running along FM 3320. There is a lift station at the intersection of FM 3320 and Escondido Road. Sanitary sewer from Hawks Landing drains to this lift station through 12" sanitary sewer gravity line and eventually towards the City's South Wastewater Treatment Plant which is located on FM 1717. Existing pipe, manholes, lift station and the Wastewater Treatment Plant have enough capacity to handle the wastewater from this property.

The City of Kingsville provides potable water to this property through different pipe sizes. There are 4 Fire hydrants to provide fire protection to each unit. Currently there is one 12" water line running along west side of FM 3320 and one 12" waterline is located on the south side of Trant road. This property is served by two water connections located one at Trant Road and another one at FM 3320. Instead of one master meter, each building has its own water meter. Overall water distribution system including pipes and fire hydrants in this property are maintained by the City of Kingsville.

Since most of the streets have invert in the middle, storm water drains to the streets and are collected through grate inlets located in the center of the streets. This storm water flows through closed conduit and discharges to existing ditch located on the west and south side of the property. There are two outfall structures to this ditch —one on the west and another one on the south side of the property. Water from the ditches at the vicinity of this property eventually discharge to Santa Gertrudis Creek which is located at the south of this property.

The City provides the garbage collection service to this property. 4 - 4 cu. yd dumpsters with enclosures is located within the property. Garbage is scheduled to be picked up by the City of Kingsville Sanitation Division three times a week.