

City of Kingsville, Texas

AGENDA CITY COMMISSION

**MONDAY, FEBRUARY 11, 2013
REGULAR MEETING**

**HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS
CITY HALL/200 EAST KLEBERG AVENUE
6:00 P.M.**


I. Preliminary Proceedings.

OPEN MEETING

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

MINUTES OF PREVIOUS MEETING(S) – Required by Law

APPROVED BY:



Vincent J. Capell
City Manager

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

III. Reports from Commission & Staff.² (City Manager's Staff Report Attached).

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

IV. Public Comment on Agenda Items³

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being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 final passage of an ordinance amending the zoning ordinance by granting a Special Use Permit for 1727 S. 7th Street (Lots 20-21, Southmore AC) for a lawn service and tree trimming business, amending the comprehensive plan to account for any deviations from the existing comprehensive plan, providing for publication. (Director of Planning & Economic Development).
2. Motion to approve resolution authorizing the release of Chapter 59 funds of the Kingsville Specialized Crimes and Narcotics Task Force for donation to the Boys Scouts of America Venado District. (Task Force Commander).
3. Motion to approve resolution authorizing participation in Ride on the 10th Annual Wild Side Charity Bike Ride to be held on April 27, 2013 and execution of Indemnity Agreement with King Ranch for said event. (City Attorney).
4. Consider authorizing two new bank accounts at Cutwater for the incoming CO2013 funds and establishing two new funds on Incode for same. (Finance Director).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. Consider resolution in support of House Bill 605 by State Representative J.M. Lozano relating to expansion of the area of influence of a Joint Airport Zoning Board to better protect airports, especially at military bases. (Mayor Fugate).
6. Consider authorizing staff to negotiate an emergency debris management services contract with Ashbritt Environmental. (PRP #13-05). (Director of Purchasing).
7. Consider introduction of an ordinance amending Chapter XV, Land Use, Article 3, Subdivisions, Sections 17, 30, 51, & 56, revising assurance for completion & warranty of improvements, improvement agreement and guarantee of completion of public improvements, & streets; adding open space & preservation. (Director of Development Services).

8. Consider waiving interest on weed liens for property owned by Charles T. Green, Lots 29-30, Block 7, 8th Addition as per staff recommendation. (Finance Director).

VII. Adjournment.

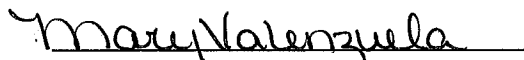
1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative 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 are 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 mvalenzuela@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:

February 6, 2013 at 10:30 A.M. and remained so posted continuously for at least 72 hours preceding the schedule time of said meeting.


Mary Valenzuela
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)

JANUARY 28, 2013

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JANUARY 28, 2013 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

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

CITY STAFF PRESENT:

Vincent J. Capell, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
David Mason, Purchasing Director
Mark Rushing, Finance Director
Mike Kellam, Director of Development Services
Diana Gonzales, Personnel Director
Bill Donnell, Asst. Public Works Director
Rick Torres, Chief of Police
Joey Reed, Fire Chief
Emilio Garcia, Health Director
Naim Kahn, Public Works Director/City Engineer
Melissa Perez, Risk Manager
Dionicio Perez, Building Official
Willie Vera, Task Force Commander
Ruthie Valdez, Interim Library Director
Rose Morrow, Municipal Court Manager
Valerie Valero, Engineering Technician
Robert Bennett, Landfill Supervisor

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:01 P.M. and announced quorum as present.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by Mark Rushing, Finance Director, followed by the Pledge of Allegiance and the Texas Pledge.

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for consideration of the minutes for regular meeting held on Monday, January 14, 2012. **Commissioner Pecos made a motion to accept the**

minutes as presented, second by Commissioner Leubert. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".

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

1. Public hearing on proposed ordinance amending the zoning ordinance by granting a Special Use Permit for 1727 S. 7th Street (Lots 20-21, Southmore AC) for a lawn service and tree trimming business, amending the comprehensive plan to account for any deviations from the existing comprehensive plan, providing for publication. (Director of Planning & Development Services).

Mayor Fugate opened the public hearing at 6:04 p.m.

Mike Kellam, Director of Development Services, stated that this request is being made by Mr. Israel S. Lopez to allow for the operation of lawn care and tree trimming service, to be located in a residentially zoned area at 1727 S. 7th street. The property is located in an R-2 Two Family Residential District and is immediately adjacent to a C-2 Retail District to the west which is occupied by existing commercial uses. The Planning & Zoning Commission met on January 16, 2013 and recommended conditional approval of the request with a unanimous 5/0 vote, but with the following conditions: 1) To avoid spot zoning for a commercial property within a residential neighborhood, this special use permit shall expire should the approved special use cease, or in the case of a change in ownership, 2) Any future outdoor storage of equipment and or materials shall be limited to small equipment and shall be completely enclosed by a 100% sight obscuring privacy fence to prevent the contents from being visible from the public right of way and/or adjacent property owners, 3) The business shall obtain all required licenses and permits for the planned construction activity and improvements, thereby meeting all adopted codes to operate said business, 4) No stockpiling of any mulch, brush clippings, grass clippings, rock or other such materials shall be allowed to be stored on the site wherein a nuisance may be created. All activity on site shall be in complete compliance of the nuisance, building and zoning codes.

Commissioner Garcia asked if the proposed future home site is where the mulch will be located. Mr. Kellam responded that it's on the southern part of the property.

Mayor Fugate closed the public hearing at 6:10 p.m.

III. Reports from Commission & Staff.² (City Manager's Staff Report Attached).

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction

Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor. No formal action can be taken on these items at this time."

Vincent Capell, City Manager, introduced and welcomed the new Fire Chief Mr. Joey Reed.

Mr. Reed stated that he is happy to be on board with the City of Kingsville and looks forward to working with everyone.

Mr. Capell stated that he attended his first trash off this past Saturday, and thank all those who volunteered. The City collected 39 tons of trash, 4 tons of brush, 1 ton of metal and 10,000 pounds of tires. Total trash collected was around 49 tons.

Courtney Alvarez, City Attorney reminded staff that the deadline for agenda items for the February 11th Commission meeting is Friday, February 1st.

Mayor Fugate read and presented a proclamation to Saint Gertrudis Catholic School for Catholic School Week.

Commissioner Pecos and Commissioner Garcia spoke briefly regarding the Installation Innovation 2013 Conference they attended in San Antonio.

IV. Public Comment on Agenda Items ³

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)

Mayor Fugate asked for a motion to approve the consent agenda as presented. Commissioner Pecos made a motion to approve consent agenda items 1-4 as presented and remove agenda item 5 to the regular agenda, second by Commissioner Garcia. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

1. Motion to approve final passage of an ordinance vacating, abandoning, and closing Block 11, Lots 1-15, including a 20' alley, and a utility easement in Young Terrace Addition Subdivision. (City Engineer/Public Works Director).
2. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 budget for the General Fund for the Street Department to receive funding for street improvements and repairs for work done in front of the Santa Gertrudis Independent School District Administration and School building. (City Engineer/Public Works Director).
3. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 budget for the Police Department to purchase an ID Card System from Fiscal Year 2012 surplus. (Chief of Police).
4. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 budget for the General Fund's City Administration Dept. for an increase in compensation as a result of the City Manager's new Professional Services Contract. (Finance Director).
5. Motion to approve resolution authorizing the City Manager to execute an Administrative Services Agreement with Nationwide Retirement Solutions, Inc. for a deferred compensation plan for city employees. (Human Resources Director).

Diana Gonzales, Human Resources Director stated that the City has had the deferred compensation program since 1995 which was called PEBSCO, Public Employees Benefit Services Corporation. Approximately 51 City employees currently contribute to the Nationwide Deferred Compensation Program with a total month contribution average of \$5,500.

Commissioner Garcia stated that his basic approach was what if any changes are going to be made with this re-agreement.

Debbie Cavazos, Nationwide Representative stated that there are no extra fees or anything else that is added to it.

Commissioner Garcia asked what type of benefits is Nationwide providing.

Ms. Cavazos stated that this is a supplemental retirement plan that employees will benefit from it at time of retirement. The plan allows the employee to withdraw funds for emergency reasons only. They can also use the loan provision which would allow them to borrow money against themselves.

Commissioner Garcia asked how this information would be communicated to employees.

Ms. Cavazos stated that she visits with employees during open enrollment and visits with all city departments.

Commissioner Pecos stated that he would like to see this information included in the brochure that is given to employees who are retiring.

Commissioner Pena stated that he participated with Nationwide Program for over 30 years. He stated that it's an excellent program as well as having an excellent return, but only if contribution starts at an early time.

Motion made by Commissioner Pecos to approve resolution authorizing the City Manager to execute an Administrative Services Agreement with Nationwide Retirement Solutions, Inc., second by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

6. Consider resolution establishing Guidelines and Criteria for Stimulating Economic Development within the City; authorizing the City Manager to accept applications on behalf of the City for presentation to the Commission; and providing for evaluation of each application for conformity with such Guidelines and Criteria prior to submission to the Commission. (Director of Planning & Economic Development).

Mr. Kellam addressed the Commission regarding the Economic Development Guidelines and Criteria. The biggest changes to the original Guidelines and Criteria for any economic development agreement was solely for residential single family purposes. These changes are to make the previous agreement broader, so instead of it being solely a residential agreement it is now considered an Economic Development Agreement with the incentives being the same. This is coming about because the previous guidelines have expired which have to be approved every two years.

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

7. Consider introduction of an ordinance amending the zoning ordinance by granting a Special Use Permit for 1727 S. 7th Street (Lots 20-21, Southmore AC) for a lawn service and tree trimming business, amending the comprehensive plan to account for any deviations from the existing comprehensive plan, providing for publication. (Director of Planning & Economic Development).

Mayor Fugate commented that this is a good idea to rehabilitate this area.

Introduction item only.

8. Discussion on possible reduction of the Landfill's hours of operation on Saturdays. (City Engineer/Public Works Director)

Mr. Naim Kahn, City Engineer/Public Works Director stated that the hours of operation for the landfill are from 8:00 a.m. to 2:00 p.m. but most of the customers come to use the landfill from 8:00 a.m. to 12:00 p.m. Mr. Kahn stated that Mr. Robert Bennett, Landfill Supervisor looked at last year's revenue, and it being so low with a dollar amount of \$814.25. The city spent about \$10,000 last year just by keeping the landfill open an extra two hours on Saturdays. He further stated that staff is recommending changing the landfill operation hours from 8:00 a.m. to 2:00 p.m. to 8:00 a.m. to 12:00 p.m. which would give the city a significant savings.

Commissioner Pecos asked for clarification from staff that if from now on the landfill operating hours will be from 8:00 a.m. to 12:00 p.m. instead of 8:00 a.m. to 2:00 p.m.

Mr. Kahn stated yes, the new landfill operation hours will be from 8:00 a.m. to 12:00 p.m.

Commissioner Garcia asked how this information would be communicated to the public and how soon this will take effect.

Mr. Kahn stated that they have already spoken to their customers and staff will be publishing the new landfill hours in the Kingsville Record.

Mr. Robert Bennett, Landfill Supervisor stated that once TCEQ is notified of the new landfill hours it shouldn't take no more than two weeks for the new hours to be put into place.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:50 p.m.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

PUBLIC HEARING(S)

CONSENT AGENDA

AGENDA ITEM #1

ORDINANCE NO. 2013-_____

AMENDING THE ZONING ORDINANCE BY GRANTING A SPECIAL USE PERMIT FOR 1727 S. 7TH STREET (LOTS 20-21, SOUTHMORE AC) FOR A LAWN SERVICE& TREE TRIMMING BUSINESS; AMENDING THE COMPREHENSIVE PLAN TO ACCOUNT FOR ANY DEVIATIONS FROM THE EXISTING COMPREHENSIVE PLAN; PROVIDING FOR PUBLICATION.

WHEREAS, the Planning Commission has forwarded to the City Commission it's reports and recommendations concerning the application of Israel S. Lopez, for amendment to the zoning map of the City of Kingsville;

WHEREAS, with proper notice to the public, public hearings were held on Wednesday, January 16, 2013, during a meeting of the Planning Commission, and on Monday, January 28, 2013, during a meeting of the City Commission, in the Commission Chambers, 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 an unanimous 5-0 vote APPROVED 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 and a Special Use Permit is granted for a lawn service & tree trimming business on the premises known as 1727 South 7th Street, Lots 20-21, Southmore AC, as more specifically describe on site plan attached as Exhibit A.

SECTION 2. That the Special Permit granted in Section 1 of this Ordinance is subject the following conditions:

1. ALLOWED USE: The only uses authorized by this Special Permit other than the permitted "R2" Two-Family Residential District uses is as a lawn service & tree trimming business.

2. TIME LIMIT: This Special Permit is good for the duration of the business from the date of this ordinance **unless** (a) the property is not being used for the purpose outlined in Condition 1, or (b) any other conditions have not been complied with, or (c) there is a change in ownership of the business.

4. SPECIAL CONDITION: (4.1) The applicant shall obtain all required licenses for

operating the business and permits for building, fire and health thereby meeting all adopted codes to operate said business, and shall cooperate with all annual fire safety, health, and sanitation inspections, in order to maintain compliance with state and city regulations for the operation of a lawn service & tree trimming business. (4.2) Outdoor storage of equipment and/or materials shall be limited to small equipment and shall be completely enclosed by a 100% sight obscuring privacy fence to prevent the contents from being visible from the public right-of-way and/or adjacent property. (4.3) No stockpiling of any mulch, brush clippings, grass clippings, rock or other such materials shall be allowed to be stored on the site wherein a nuisance may be created. (4.4) All activity on site shall be in complete compliance of all City codes, especially the nuisance, building and zoning codes.

SECTION 3. That the official Zoning Map of the City of Kingsville, Texas, is amended to reflect the amendment to the Zoning Ordinance made by Section 1 of this ordinance.

SECTION 4. 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 5. That to the extent that this amendment to the Zoning Ordinance represents a deviation from the Comprehensive Plan, the Comprehensive Plan is amended to conform to the Zoning Ordinance, as amended by this ordinance.

SECTION 6. That all ordinances or parts of ordinances in conflict with this ordinance are hereby expressly repealed.

SECTION 7. 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. Codification is not required.

INTRODUCED on this the 28th day of January, 2013.

PASSED AND APPROVED on this the ____ day of February, 2013.

THE CITY OF KINGSVILLE

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

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 *(MK)*

SUBJECT: Special Use Permit request to allow a lawn care and tree trimming service in a residential area at 1727 S. 7th St.

DATE: January 18, 2013

The City of Kingsville Planning and Zoning Commission met on January 16, 2012 at 7:00 p.m. in regard to a request made by Mr. Israel S. Lopez, to allow for the operation of a lawn care and tree trimming service, to be located in a residentially zoned area at 1727 S. 7th St. The property is located in a R-2 Two Family Residential District and is immediately adjacent to a C-2 Retail District to the west which is occupied by existing commercial uses. This type of use requires a special use permit to be approved by the City Commission as it is not a use allowed by right within the R-2 Two Family Residential District.

All pertinent notices were published and sent out to the surrounding property owners that are within the 200ft radius 15 days prior to the meeting. One neighboring resident, Mr. Roger Pollard, spoke at the Planning & Zoning Commission meeting regarding concerns and past complaints he'd had regarding the piling of mulch on the site and other debris. Mr. Lopez indicated the site has been and is in the process of being cleaned in preparation of the lawn care business as well as his intent to construct a new home immediately to the north of the garage to be utilized as the storage of his lawn care equipment. Additionally, conditions of approval regulating the storage of equipment, materials or any other potential violations would not be allowed as part of the special use permit.

Additionally, staff presented the attached staff report, supplemental information and applicant information to the Planning & Zoning Commission. As stated in the staff report the request was found to not be a detriment to the surrounding uses as the equipment and materials will be limited and will be mostly within the existing structure that is to be repaired and remodeled. Additionally, the conditions, in conjunction with city nuisance codes, will address the concerns of the City and those of the neighbor who spoke.

Additionally, given the proximity to the existing commercial corridor, neighboring commercial uses and the aforementioned findings, staff is comfortable with the issuance of the special use permit with conditional approval. This specially permitted use is a lesser intense quasi-commercial activity that can co-exist with the existing surrounding uses, while also allowing for future residential occupancy upon the ceasing of this operation.

Planning staff recommends conditional approval of this rezoning request. The Planning & Zoning Commission recommended **Conditional Approval** of the request with a unanimous 5/0 vote, with the following conditions:

1. To avoid spot zoning for a commercial property within a residential neighborhood, this special use permit shall expire should the approved special use cease, or in the case of a change in ownership.
2. Any future outdoor storage of equipment and or materials shall be limited to small equipment and shall be completely enclosed by a 100% sight obscuring privacy fence to prevent the contents from being visible from the public right of way and/or adjacent property owners.
3. The business shall obtain all required licenses and permits for the planned construction activity and improvements, thereby meeting all adopted codes to operate said business.
4. No stockpiling of any mulch, brush clippings, grass clippings, rock or other such materials shall be allowed to be stored on the site wherein a nuisance may be created. All activity on site shall be in complete compliance of the nuisance, building and zoning codes.

Attachments

Staff Report to the PLANNING & ZONING COMMISSION and CITY COMMISSION

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

Request: APPROVAL OF A SPECIAL USE PERMIT TO ALLOW FOR A LAWN SERVICE AND
TREE TRIMMING BUSINESS AT 1727 S. 7TH STREET.
Petitioner and Agent: Israel S. Lopez
Date of P&Z Hearing: January 16, 2013

Comprehensive Plan Land Use: Low Density Residential
Existing Zoning Classification: R-2 Two-Family Residential District
Adjacent Zoning: North & South: R-2 Two Family Residential District
East: R-1 Single Family Residential District
West: C-4 Commercial District

EXISTING INFRASTRUCTURE

Transportation: Ailsie Street- Local
7th Street- Local
Community Facilities: Services provided
Capital Improvements: Services Provided
Fire Station Proximity: Within one and one half mile
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 map
- Aerial Photo
- Mailing list of owners within 200 feet

BACKGROUND AND HISTORY

The petitioner is requesting a special use permit to allow the operation of a lawn care and tree trimming business. The property is currently unoccupied but historically has been utilized as a mobile home park. One existing structure remains on the property consisting of a two car (26'x24') garage. The applicant is the owner of the site wherein the proposed lawn care and tree trimming business will be housed.

FIELD INSPECTION AND PERTINENT DATA

The site is located near the southwest corner of the 7th Street and Ailsie Street intersection. The proposed site to be occupied by the specially permitted lawn and tree trimming service totals one half acre, and also contains the aforementioned existing structure. The applicant states he will make significant repairs to rehabilitate the existing two car garage, if approved. The applicant states the lawn and tree trimming service equipment will be housed within the structure with no outdoor storage of equipment or materials. The applicant indicates additional trees and other site improvements will be made to the property to enhance the

appearance of the area. In addition the applicant intends to construct his personal home on the two lots (one half acre) immediately to the north.

Pertaining to the business, staff has determined the special use permit will be the best route for allowing this type of use as it prevents spot zoning or the potential creation of future incompatible uses. Given the intent of the current user to house all equipment and materials within the existing structure, little to no impact will be made on adjacent residential uses. There is no anticipated customer traffic therefore not detriment is caused in that regard. Staff would recommend that conditions be placed on the special use permit to ensure no outdoor storage is created without a 100% sight obscuring fence to where equipment and materials are not visible from the right of way and/or by neighboring property owners. This shall be in addition to the expiration of the special use permit upon transfer of title, cessation of the business by the current owner/applicant.

Given the proposed improvements to the property, the intent of the applicant to construct a future home adjacent to the property and the aforementioned findings, staff is comfortable with the issuance of the special use permit. This specially permitted use will not be a detriment to the neighborhood and with the proposed conditions to be placed on the special use permit can easily co-exist with the existing surrounding uses, while also allowing for future residential occupancy upon the ceasing of this operation.

STAFF REVIEW & RECOMMENDATION

In general, the Planning & Zoning Commission shall consider the following factors when making a recommendation on the Special Use Permit request:

1. The proposed special use permit is in harmony with the general purpose, goals, objectives and standards of the adopted city master plan;
2. The use will not be detrimental to existing adjacent uses or to uses permitted generally in the zoning district in which the proposed conditional use is to be located;
3. The use will not generate volumes and/or types of vehicular traffic that will be hazardous to or conflict with the existing or anticipated traffic in the surrounding area; and
4. The proposed use meets the height, area and design standards established in the zoning district.

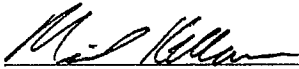
Staff recommends **Conditional Approval** of this request with the following findings:

1. To avoid spot zoning for a commercial property within a residential neighborhood, this special use permit shall expire should the approved special use cease, or in the case of a change in ownership.
2. Any future outdoor storage of equipment and or materials shall be limited to small equipment and shall be completely enclosed by a 100% sight obscuring privacy fence to prevent the contents from being visible from the public right of way and/or adjacent property owners.
3. The business shall obtain all required licenses and permits for the planned construction activity and improvements, thereby meeting all adopted codes to operate said business.

And with the following findings:

1. The proposed special use permit is in harmony with the general purpose, goals, objectives and standards of the adopted city master plan;

2. The use will not be detrimental to existing adjacent uses or to uses permitted generally in the zoning district in which the proposed conditional use is to be located;
3. The use will not generate volumes and/or types of vehicular traffic that will be hazardous to or conflict with the existing or anticipated traffic in the surrounding area; and
4. The proposed use meets the height, area and design standards established in the zoning district.

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 1727 S. 7th Street Nearest Intersection 7th and Ailsie
(Proposed) Subdivision Name Southmore Lot 20,21 Block —
Legal Description: Southmore Ac, Lot 20,21
Existing Zoning Designation Residential Future Land Use Plan Designation Commercial

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Israel S. López Phone 522-6007 FAX N/A
Email Address (for project correspondence only): lopezlawn@yahoo.com
Mailing Address P.O. Box 5899 City Kingsville State TX Zip 78364
Property Owner Israel S. López Phone 522-0858 FAX N/A
Email Address (for project correspondence only): lopezlawn@yahoo.com
Mailing Address P.O. Box 5899 City Kingsville State TX Zip 78364

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: See attached

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: Israel S. López / Candi López Date: 12-07-12

Property Owner(s) Signature: Israel S. López / Candi López Date: 12-07-12

Accepted by: _____ Date: _____

Application Check List for Special Use Permits

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

Site and landscape plans: Applicant must provide 15 - 11"x17" or 8 ½"x11" copies of the plans, plus the following:

- ☒ 1.
- ☒ 2. The location, dimension, material and configuration of all buildings, structures and other improvements.
- ☒ 3. The location and extent of usable open space.
- ☒ 4. The location, access and other dimensions of proposed off-street parking and loading facilities and the number and configuration of spaces to be provided.
- ☒ 5. The location, dimensions and materials of sidewalks, driveways and other impervious surfaces.
- ☒ 6. The location and intensity of illumination of any illuminated areas.
- ☒ 7. The proposed use of open space.
- ☒ 8. A landscaping plan, which shall include existing and proposed landscaping on both the subject property and adjacent public areas and including an installation schedule.
- ☒ 9. The location of all utilities, including electric lines, storm drainage, sanitary sewers and water service.
- ☒ 10. The location and extent of required setbacks and yards.
- ☒ 11. The elevation of all buildings and structures to depict height.
- ☒ 12. The lot size in square feet and the dimensions thereof.
- ☒ 13. Any areas proposed for outdoor storage, refuse collection, exterior mechanical equipment, exterior communication devices and utility apparatus.
- ☒ 14. The dimensions, location and landscaping of required landscape/buffer setbacks and screening.
- ☒ 15. The land uses surrounding the lot(s) for which site plan approval is being sought.
- ☒ 16. The zoning on the lots and parcels surrounding the lot(s) for which site plan approval is being sought.
- ☒ 18. Such additional information as the Director of Development Services may deem pertinent and essential to the application.

Please note that this process can take up to 100 days.

Also, make sure you contact 595-8020 for information on City-required inspections and certificate of occupancy.

Amended to a S.U.P. Request
~~RE-ZONING REQUEST~~

- 1) This request is for Lots 20 & 21 (1 acre) of Southmore Acres. The physical address is 1727 S. 7th Street, Kingsville, Texas. At one time this property was a small mobile home/RV park known as "Shady Acres".
- 2) Currently, there are no mobile homes or RVs located on the property. The only structure that remains is a garage (approximate size is 26' x 24'). There are also several concrete pads the largest being a 12' x 60' section that was once an open porch to a mobile home.
- 3) Lot 20 – 76.4' x 285' (.50 acres)
Lot 21 - 76.4' x 285' (.50 acres)
- 4) Lot 19 (1729 S. 7th Street) is owned by Delwin Randall and is currently being used as a mobile home park. There are three mobile homes on the property.
Lots 22 and 23 are owned by us (Israel S. and Candi K. Lopez). We acquired this property in 2010 and intend for this to be our residence.
- 5) All lots (19, 20, 21, 22 and 23) are currently zoned residential.
- 6) Our intent for this property is the following:
 - Garage – Replace roof and all rotted wood.
Replace current exterior with fiber cement siding.
Add new garage door.
Repaint exterior of garage.

Concrete Porch – (12' x 60' section) – Leave as is.

Smaller concrete pads – break and remove cement from property.

Our request, should it be granted, is to use this property for our small lawn service and tree trimming business. The main purpose would be to store all equipment in the garage area to keep it out of plain site. We have already began the process of removing any unsightly debris and trimming/cleaning the existing mesquite trees to enhance the "park like" feel the property still has. Our future plans include planting more trees/grass/shrubs as well as a privacy fence.

EBERG COUNTY APPRAISAL DISTRICT
PROPERTY 14729 R
OWNER ID 49566
319 S 25TH ST
KINGSVILLE, TX 78363-6007
OWNERSHIP 100.00%

Ref ID2: R14729
0000002000192
ACRES: 0
EFF. ACRES: 0
APPR VAL METHOD: Cost

US 1727 S 7TH ST

GENERAL
LAST APPR. LR
LAST APPR. YR 2012
LAST INSP. DATE 02/17/2012
NEXT INSP. DATE
R2
EXT REASON

MARKS
FOR '12 FLV IMPS PER APPR LR 2/17/12 3/5/12
MMG -- FOR '11 ADJ DEPR TO 45% ON MA PER
APPR LR 4/17/11 4/20/11 MMG -- FOR '11 CHG
LAND DIMENSIONS, REMOVE DEPTH FACTORS

BUILDING PERMITS
SUE DT PERMIT TYPE PERMIT AREA ST PERMIT VAL

ALERT PRICE GRANOR DEED INFO
3/08/2005 ***** RICHTER KATIE GE OT / /
3/30/2001 ***** RICHTER GENELL WD / 221 / 437
3/28/2001 ***** RICHTER KATIE GE SPWD / 221 / 423

IMPROVEMENT INFORMATION
SUBD: S700 100.00% NBHD
TYPE DESCRIPTION MTHD CLASS/SUBCL AREA UNIT PRICE/UNITS BUILT EFF YR COND. VALUE DEPR PHYS ECON FUNC COMP ADJ ADJ VALUE
MA: MAIN AREA F FF2/ 840.0 0.00 1 1974 1,000 45% 100% 100% 100% 100% 0.45 1,000
OPT OPEN PORCH B F 720.0 0.00 1 1974 1,000 5% 100% 100% 100% 100% 0.05 0
AGU ATTACHED GAR SP SPI/ 624.0 9.24 1 1974 5,770 5% 100% 100% 100% 100% 0.05 290
STG STORAGE F SPI/ 238.0 0.00 1 1974 5% 100% 100% 100% 100% 0.05 0
STG STORAGE F FLV/ 130.0 0.00 1 0 250 100% 100% 100% 100% 1.00 250
RESIDENTIAL STCD: A1 2,552.0 1.10 1,540

MH (14X60) #MT1291

LAND INFORMATION
SUBD: S700 100.00% NBHD
CLS TABLE SPECIAL C1 N
DIMENSIONS 76.4X285 130.00
UNIT PRICE 130.00
GROSS VALUE 9,930 1.00
ADJ MASS ADJ VAL SRC 1.00 A
RR Wells: 0 Capacity: 0
MKT VAL AG APPLY AG CLASS AG TABLE AG UNIT PRC AG VALUE
9,930 NO 0.00 0
19,860 NO 0.00 0
0

EBERG COUNTY APPRAISAL DISTRICT
 PROPERTY 13154
 R
 gal Description
 LUTTHMORE AC, LOT 22, 23
 Ref ID: R13154
 Map ID PLAT
 3000002200192
 OWNER ID 17473
 OWNERSHIP 100.00%
 LOPEZ ISRAEL S
 ETUX CANDI K
 PO BOX 5899
 KINGSVILLE, TX 78364-5899
 ACRES:
 EFF. ACRES:
 APPR VAL METHOD: Cost

GENERAL
 ILITIES
 POGRAPHY
 AD ACCESS
 INING
 XT REASON
 LAST APPR. LR
 LAST APPR. YR 2011
 LAST INSP. DATE 04/17/2011
 NEXT INSP. DATE
 MARKS
 FOR 2011 NO VAL CHG ON ACCT PER APPR LR
 4/17/11 4/18/11 VG - FOR '11 CHG LAND UNIT
 PRICE PER IE 9/14/10 4/26/11 JO - FOR 2008 NO
 VALUE CHG PER LR/RC 4/1/08 MM - FOR '06

BUILDING PERMITS
 SUE DT PERMIT TYPE PERMIT AREA ST PERMIT VAL

IMPROVEMENT INFORMATION
 TYPE DESCRIPTION MTHD CLASS/SUBCL AREA UNIT PRICE/UNITS BUILT EFF YR COND. VALUE DEPR PHYS ECON FUNC COMP ADJ ADJ VALUE
 UBD: S700 100.00% NBHD
 03/2010 ***** ISASSI ALFRED L WD / 431 / 975
 12/27/2005 ***** KLEBERG COUNTY TXRS / 307 / 177
 10/1/2005 ***** TREVEY DORIS D SHF / 305 / 252

LAND INFORMATION
 DIMENSIONS UNIT PRICE GROSS VALUE ADJ MASS ADJ VAL SRC IRR Acres: 0 Oil Wells: 0
 76.4X285 130.00 9,930 1.00 1.00 A 9,930 NO 0.00
 76.4X285 130.00 9,930 1.00 1.00 A 9,930 NO 0.00
 19,860

VALUES
 IMPROVEMENTS 0
 LAND MARKET + 19,860
 MARKET VALUE = 19,860
 PRODUCTIVITY LOSS - 0
 APPRAISED VALUE = 19,860
 HS CAP LOSS - 0
 ASSESSED VALUE = 19,860
EXEMPTIONS
 PICTURE
 IMPROVEMENT FEATURES

Jessica Storck

From: Candi K. Lopez <lopezlawn@yahoo.com>
Sent: Monday, December 17, 2012 10:09 AM
To: Jessica Storck
Cc: lopezlawn@yahoo.com
Subject: Equipment listing - Lopez Lawn Service

Hi Jessica -

Here is the equipment listing you asked for:

- 1 - Skid Loader
- 2 - Walk Behind Mowers
- 2 - Push Mowers
- 3 - Back Pack Blowers
- 3 - Weed Trimmers
- 1 - Stump Grinder
- 1 - Tiller

Approx. 30 handheld tools such as rakes, shovels, hoes, brooms, etc.

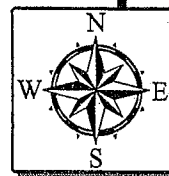
- 3 - Utility trailers
- 2 - Work trucks (2001 Ford Crewcab flatbed pickup and 1994 Ford Crewcab pickup)

As a side note, the back hoe that is currently at the 1727 S. 7th Street location is not ours. We are just borrowing it for clean up of the location.

Let me know if you need anything else.

Thank you,
Candi K. Lopez

1727 S. 7th



11567

20062

4005191

4005192

1718 S. 7th St
1722 S. 7th

13154

S 7th

18540

14729

20185

21708

17026

15503

E Ailsle

16567

24922

17327

25674

18094

10375

18860

11121

19655

11916

1727 S. 7th
200' Radius

0 62.5 125 250 Feet



Proposed Special Use Permit for a Lawn Care and Tree Service

Applicant: Mr. Israel S. Lopez



- Future single family development site by applicant

- Proposed S.U.P. site

AGENDA ITEM #2

RESOLUTION #2013-_____

A RESOLUTION OF THE CITY OF KINGSVILLE AUTHORIZING THE RELEASE OF CHAPTER 59 FUNDS OF THE KINGSVILLE SPECIALIZED CRIMES AND NARCOTICS TASK FORCE FOR DONATION TO THE BOY SCOUTS OF AMERICA VENADO DISTRICT.

WHEREAS, the Texas Code of Criminal Procedure, Article 59.06(h) allows for the release of Chapter 59 funds for nonprofit programs for the prevention of drug abuse;

WHEREAS, the Boy Scouts of America Venado District is a non-profit organization that provides drug abuse prevention programs in two ways (1) through the Learning for Life character development program in the public schools of Kleberg and Kenedy counties, which serves over 2,000 youths and (2) through the advancement requirements for both Cub Scouts and Boy Scouts, which serves approximately 238 boys locally;

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

I.

THAT the City Commission authorizes the Kingsville Specialized Crimes and Narcotics Task Force to assist with a \$5,000 donation to the Boy Scouts of America Venado District, to help educate young people about living a drug-free and alcohol-free lifestyle. Boy Scouts of America Venado District will submit quarterly charitable contribution reporting forms to the Kingsville Specialized Crimes and Narcotics Task Force and comply with any reporting requirement the Task Force may designate.

II.

THAT local elected representatives shall be encouraged to promote, endorse, and support the Boy Scouts of America Venado District in their efforts for the benefit of the community through drug abuse prevention programs.

PASSED AND APPROVED by a majority vote of the City Commission on the 11th day of February, 2013.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

**KINGSVILLE SPECIALIZED CRIMES
AND NARCOTICS TASK FORCE
APPLICATION FOR CHAPTER 59 DONATION**

1. APPLICANT'S
NAME George Arciba ADDRESS S. TX. Council, BSA PHONE
2. ORGANIZATION'S
NAME Boy Scouts of Amer. ADDRESS 700 Everhart Terrace
Building A
Corpus Christi, TX. 78411 PHONE 361-814-4300
3. NARRATIVE: Explain what will be done with the contribution to insure compliance with the disposition of forfeited property under Chapter 59 of the Texas Code of Criminal Procedure and the number of citizens it will affect in our community.

See Attached Letter.

APPROVED: Guillermo Vera

Kingsville Task Force Commander

DATE: 01/30/2013

TIME: 9:35 AM

NOTE: \$5,000.00~~xx~~ Donation approved in KTF
2012/2013 Budget. G. Vera, Cmdr.

KINGSVILLE SPECIALIZED CRIMES AND NARCOTICS TASK FORCE Chapter 59 Donation Policy

1. A person/entity seeking a donation (financial assistance) through the Kingsville Specialized Crimes and Narcotics Task Force and with particularity Chapter 59 Forfeiture Funds shall file an application with the Commander on forms provided through his office.
2. The filing procedures shall be as follows:
 - a. Filing period. An application for financial assistance shall be filed with the Commander not less than 30 days or more than 60 days prior to the proposed donation.
 - b. The name, address and telephone number of the entity seeking a donation.
 - c. No more than one donation will be made per calendar year.
 - d. Applicant shall provide documentation relating to any other financial assistance that they receive for review by the Commander.
3. Applicant must meet one of the following criteria:
 - a. Nonprofit program for the prevention of drug abuse, applicant must provide a copy of the organization's charter.
 - b. Nonprofit chemical dependency treatment facilities licensed under Chapter 464, Health and Safety Code;
 - c. Nonprofit drug and alcohol rehabilitation or prevention programs administered or staffed by professionals designated as qualified and credentialed by the Texas Commission on Alcohol and Drug Abuse; or
 - d. Must be an organization that has the same beliefs and value system as the Kingsville Specialized Crimes and Narcotics Task Force and the law enforcement code of ethics.
 - e. Short written statement explaining what will be done with the contribution to insure compliance with the disposition of forfeited property under Chapter 59 of

the Texas Code of Criminal Procedure and the number of citizens it will affect in our community.

4. The Commander shall grant or deny a permit solely on the basis of the requirements stated in the aforementioned sections above. The Commander shall advise the organization's point of contact of the decision to grant or deny the request for contribution no later than the sixtieth day after date of receiving the completed application and all required attachments.



BOY SCOUTS OF AMERICA®
SOUTH TEXAS COUNCIL

January 15, 2013

Willie Vera, Commander
Kingsville Specialized Crimes & Narcotics Task Force
P.O. Box 213
Kingsville, Texas 78364

Re: Drug Abuse Prevention Programs of Boy Scouts of America/Chap.59

Gentlemen,

Part of the Boy Scouts of America's mission is to teach youth positive character traits, leadership, responsibility, and the skills necessary to make ethical and moral choices. This mission is accomplished through the countless lessons taught in traditional Scouting programs; such as Cub Scouts and Boy Scouts.

The volunteers of the Boy Scouts of America, South Texas Council provide these programs in partnership with local Police and Border Patrol Agency's at weekly Scout Unit and Explorer Post meetings and outdoor activities, including Cub Scout Day Camp and Camporees held throughout the year. Scouts who attend these events fulfill requirements for rank advancement and merit badges. As a requirement for advancement in Scouting programs, the drug abuse prevention and awareness message is instilled at each rank/level for Cub and Boy Scouts. For Explorers, that message plays a pivotal role in the Character Education lessons in which each youth is taught to help them make better ethical and moral choices.

These funds help support 238 youth registered in 11 traditional Scout Units in the Kleberg and Kenedy County area. Along with our traditional units we also have an Explorer Post with the United States Border Patrol. The age in which youth can be a part of this program is 14, and they are taught how an officer in the field prepares and puts into effect everything they learn in training. In order to continue providing a Drug Abuse Prevention Program for the youth in Kleberg and Kenedy County, we are requesting your consideration of an annual contribution of \$5,000, which would greatly assist our efforts.

Thank you for your consideration.

Yours in Scouting,

George Arciba
Venado District Executive
South Texas Council, BSA

David Rossee
Friends Of Scouting Chairman



AGENDA ITEM #3

RESOLUTION #2013-_____

A RESOLUTION OF THE CITY OF KINGSVILLE AUTHORIZING PARTICIPATION IN THE 10th ANNUAL RIDE ON THE WILD SIDE CHARITY BIKE RIDE AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN INDEMNITY AGREEMENT WITH THE KING RANCH FOR SAID EVENT.

WHEREAS, the City of Kingsville is participating in the 10th Annual Ride on the Wild Side Charity Bike event with the Kingsville Noon Lions Club;

WHEREAS, the charity bike event benefits local youths and the ride takes place through part of the King Ranch;

WHEREAS, the King Ranch requires an Indemnity Agreement and insurance coverage for the event, which the City has historically provided.

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

I.

THAT the City Commission authorizes participation in the 10th Annual Ride on the Wild Side Charity Bike Event and authorizes the City Manager, as an act of the City, to execute the Indemnity Agreement with the King Ranch for the 2013 Ride on the Wild Side Charity Bike Event, as per the attached.

II.

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 11th day of February, 2013.

Sam R. Fugate

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

PERMISSION AND INDEMNITY AGREEMENT

In consideration for King Ranch, Inc.'s permission (evidenced by its execution below) for a portion of the Ride On The Wild Side Charity Bike Ride (or similarly named event) ["Bike Ride"] (with participation/sponsorship by the Kingsville Noon Lions Club & the City of Kingsville) to be held on the premises of King Ranch, Inc. in or about April 27th of 2013, the sufficiency and adequacy of which consideration is hereby acknowledged, the City of Kingsville, Texas, hereby unconditionally and irrevocably agrees to defend, indemnify and hold harmless King Ranch, Inc., its directors, employees, shareholders and agents from and against any and all claims based on, or arising out of, personal injury (including death) to, and/or property damage of, any of the participants, support personnel or other individuals participating in, observing as by-stander of, or providing organizational or other support or safety services for, the above Bike Ride, including the arrival to or departure from the above Bike Ride and all other ancillary and related activities related to the Bike Ride. **The foregoing defense, indemnity and holding harmless shall apply in full force and effect despite any sole, joint or concurrent negligence, strict liability or other fault of any of the above indemnified persons.**

At least 30 days prior to the Bike Ride, the City of Kingsville shall provide a certificate of insurance to King Ranch, Inc. in a form and from an insurer acceptable to King Ranch, Inc. showing contractual indemnity insurance coverage in the amount of at least \$5,000,000 per claim or occurrence for general liability, automobile liability and law enforcement liability, to cover this contractual indemnity agreement. Such certificate shall require the insurer to provide King Ranch, Inc. at least 30 days prior written notice of any change, deletion or expiration to such coverage and terms and such insurance and certificate shall indicate that such coverage for the contractual indemnitees is primary and shall respond without contribution from any other insurance of such indemnitees.

The Bike Ride's sponsors shall obtain and provide King Ranch, Inc. waivers of liability, on forms approved by King Ranch, Inc., executed by all Bike Ride participants in the Bike Ride.

Executed this ____ day of _____, 201__.

City of Kingsville, Texas, by:

King Ranch, Inc.

Name

Name

Title

Title

WAIVER & RELEASE

In consideration for my participation in the bicycle tour event known as "A Ride on the Wild Side" which will be held Saturday, April 27, 2013, on King Ranch and areas in and around Kingsville, Texas, I hereby agree to this Waiver and Release. I fully realize the dangers of participating in a bicycle ride and fully assume the risk associated with such participation, including by way of example and not limitation, the following: the danger of collision with pedestrians, vehicles, other riders and fixed and moving objects; the danger rising from surface hazards, equipment failure, inadequate safety equipment, and weather conditions; and the possibility of serious physical and/or mental trauma or injury associated athletic cycling participation. I hereby waive, release and discharge for myself, my heirs, executors, administrators, legal representatives, signers, successors in interest any rights and claims which I have or which may hereafter accrue to me against the sponsors of this event, the organizers, and any promoting organizations, property owners (including King Ranch Inc. and its directors, employees, shareholders, and agents), law enforcement agencies, all public entities, and special districts, through or by which the event will be held for any and all claims (**including those caused by the Negligence and Gross Negligence of such released persons**) for all damages arising out of personal injury (including death) or property damage which may be sustained by me directly or indirectly in connection with the event, or travel to or return from the event. I agree it is my sole responsibility to be familiar with the ride and operation of my bicycle so as to neither endanger others or myself. I accept responsibility for the condition and adequacy of the equipment I use to participate in the charity bicycle ride and I will wear an ANSI approved helmet at all times while riding my bicycle during such ride. I have no physical or mental condition which, to my knowledge, would endanger others or myself if I participate in this event. I understand and agree that I will be financially responsible for any loss or damage caused by my actions during the event. I further understand and agree with all the terms and conditions of this Waiver and Release.

I have read and I agree to the stated terms and conditions above.

Signature: _____

Date: _____

Parent or Guardian if under 18:

I have read and agree to the stated terms and conditions above and hereby acknowledge the authorization for my: _____,

Relationship

Name: _____ to participate in this event. I also authorize the medical treatment for any injuries sustained during this bicycle tour on King Ranch and areas in and around Kingsville, Texas.

Signature: _____

Date: _____ Phone: _____

Make check payable and mail with completed form to:

Kingsville Noon Lions Club

Attn: Mary Windham

628 E. Escondido Road

Kingsville, TX 78363

AGENDA ITEM #4

CITY OF KINGSVILLE

TO: MAYOR AND COMMISSIONERS
FROM: MARK A. RUSHING, FINANCE DIRECTOR
DATE: 02/04/13
SUBJECT: CO 2013 STREET PROJECTS/STORM WATER

We were advised as per our Auditors that the City will need to open two separate bank accounts strictly for the Certificates of Obligation 2013- Street Projects and Storm water Projects.

“Proceeds from the sale of bonds can be used only for the purpose for which the bond issue states. (Barrington v. Cokinos, 338 S.W.2d 133 (Tex. 1960); Attorney General Opinion H-968 (1977)). Therefore, if consolidation of bond proceeds into one fund would result in improper use of the bond revenue, such consolidation would be unlawful.”

We respectfully request the authorization of two new bank accounts at Cutwater, the City's current investment depositor. Additionally, two Funds within the City's Accounting Program Incode; will be set up to account for the proceeds. The City has created Fund 067 for CO 2013 Street Projects and Fund 055 for CO 2013 Storm Water.

CITY OF KINGSVILLE



P. O. BOX 1458 - KINGSVILLE, TEXAS 78364

February 1, 2013

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

Re: Authorization for Certificate of Obligation 2013 Accounts

Mr. Capell,

I need the authorization from the City of Kingsville Commission to open/designate accounts for the Certificate of Obligation 2013. Please refer to the attachment which indicates the account name and number. We can utilize 2 old dormant accounts at Cutwater as designated.

Sincerely,

Mark A. Rushing

Mark A. Rushing

CERTIFICATE OF OBLIGATION 2013

CUTWATER ACCOUNT NUMBER	CUTWATER OLD ACCOUNT NAME	CUTWATER NEW ACCOUNT NAME	INCODE ACCOUNT NUMBER	INCODE ACCOUNT NAME
TX-01-0170-0009	REV BDS-DEBT SERV	CO 2013 Street Projects	FUND 067	CO 2013 Street Projects
TX-01-0170-0010	REV BDS-RESERVE	CO 2013 Storm Water	FUND 055	CO 2013 Storm Water

REGULAR AGENDA

AGENDA ITEM #5

RESOLUTION #2013-_____

A RESOLUTION OF THE CITY OF KINGSVILLE CITY COMMISSION IN SUPPORT OF HOUSE BILL 605 BY STATE REPRESENTATIVE J.M. LOZANO RELATING TO EXPANSION OF THE AREA OF INFLUENCE OF A JOINT AIRPORT ZONING BOARD TO BETTER PROTECT AIRPORTS, ESPECIALLY AT MILITARY BASES.

WHEREAS, the City of Kingsville is the county seat of Kleberg County, Texas and home to the world famous King Ranch, Naval Air Station-Kingsville and Texas A&M University-Kingsville; and

WHEREAS, according to the Southwest Defense Association, Department of Defense activities in Texas are an estimated \$100-billion-a-year industry; and

WHEREAS, an economic impact analysis conducted by the Texas Comptroller's Office showed that Department of Defense activities are a \$4-billion-a-year economic activity in the Coastal Bend; and

WHEREAS, studies conducted by Data Impact Analysis showed that Naval Air Station Kingsville is a \$458-million-a-year economic engine for Kingsville and the surrounding area; and

WHEREAS, Naval Air Station Kingsville is the Navy's premier advance jet training facility, producing over 50% of all Navy and Marine Corps pilots that land on aircraft carriers; and

WHEREAS, the long term viability of NAS-Kingsville has been threatened by the development of wind farms that create electromagnetic interference from wind turbines; and

WHEREAS, currently the only federal, state or local authority that can influence the siting of wind farms, and other air hazards and encroachment issues, near Texas military bases is found in Local Government Code Chapter 241 through the creation of a Joint Airport Zoning Board (JAZB); and

WHEREAS, the JAZB is limited to an area of influence of five (5) miles off the end of the center runway and 1.5 miles off each side of the runway; and

WHEREAS, House Bill 605, as filed by State Representative J.M. Lozano, would allow for the expansion of the JAZB area of influence to a maximum 25 mile radius around a military base and thereby provide local control over encroachment at Texas military bases that does not currently exist.

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

1. That the City Commission of the City of Kingsville, Texas supports House Bill 605 by State Representative J.M. Lozano and hereby recommends its passage and encourages all members of the Texas Legislature to demonstrate their support for the 15 military bases in Texas by voting for passage of H.B. 605.

PASSED AND APPROVED by the City Commission of the City of Kingsville this
the 11th day of February, 2013.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM

Courtney Alvarez, City Attorney

AGENDA ITEM #6



Purchasing Department

361-595-8025
361-595-8035 Fax

DATE: February 1, 2013
TO: City Commission through City Manager
FROM: David Mason, Purchasing Director
SUBJECT: Emergency Debris Management Services

SUMMARY

This item authorizes the city to enter into negotiations with Ashbritt Environmental. The services are for an Emergency Debris Management Services contract.

BACKGROUND

We published Request for Proposal # 13-05 in the local newspaper on December 9, 2012 and December 15, 2012. "Requests for Proposals" were accepted until 1:30 P.M. on January 8, 2013 and eight (8) responses were received. Staff reviewed and scored the responses and the summary is included. Scoring members included Luke Stevens, Sanitation Supervisor; Melissa Perez, Risk Manager, William Donnell, Assistant Public Works Director with David Mason, Purchasing/IT Director serving as facilitator.

<u>EVALUATION CRITERIA</u>	<u>Max. Pts</u>	<u>AshBritt, Inc.</u>	<u>Asplundh</u>	<u>Ceres</u>	<u>Crowder Gulf</u>	<u>D & J</u>	<u>DRC</u>	<u>Omni Pinnacle</u>	<u>Phillips & Jordan</u>
Qualifications and experience	20	63	46	47	53	58	63	53	57
Operational plan for the City	25	65	65	60	55	60	65	65	65
Resources and availability	20	63	53	53	58	53	58	58	56
Past performance	25	65	38	55	45	45	66	44	43
Price Proposal	10	26	24	26	25	29	26	26	24
TOTAL POINTS	100	282	226	241	236	245	278	246	245

FINANCIAL IMPACT

None at this time. This action will only allow staff to negotiate the final contract with Ashbritt Environmental. Staff will come back to the City Commission for approval of said contract. Upon implementation of the contract no costs will be incurred unless the contract is activated.

RECOMMENDATION

It is recommended that City Staff be allowed to negotiate the contract with Ashbritt Environmental for Emergency Debris Management Services.

Approved:

Vincent Capell
City Manager

RFP NO. 13-05 EMERGENCY DEBRIS MANAGEMENT SERVICES ANALYSIS

EVALUATION CRITERIA	Max. Pts	AshBritt, Inc.	Asplundh	Ceres	Crowder Gulf	D & J	DRC	Omni Pinnacle	Phillips & Jordan
Qualifications and experience	20	25	15	10	15	20	25	20	20
Operational plan for the City	25	20	25	20	20	20	20	20	20
Resources and availability	20	25	20	20	20	20	20	20	20
Past performance	25	20	0	10	0	0	20	0	0
Price Proposal	10	10	10	10	10	10	10	10	10
TOTAL POINTS	100	100	70	70	65	70	95	70	70

RFP NO. 13-05 EMERGENCY DEBRIS MANAGEMENT SERVICES ANALYSIS

EVALUATION CRITERIA	Max. Pts	AshBritt, Inc.	Asplundh	Ceres	Crowder Gulf	D & J	DRC	Omni Pinnacle	Phillips & Jordan
Qualifications and experience	20	18	16	17	18	18	18	18	17
Operational plan for the City	25	20	20	20	20	20	20	20	20
Resources and availability	20	18	18	18	18	18	19	18	18
Past performance	25	20	18	20	20	20	21	19	18
Price Proposal	10	6	6	6	6	9	8	7	6
TOTAL POINTS	100	82	78	81	82	85	86	82	79

RFP NO. 13-05 EMERGENCY DEBRIS MANAGEMENT SERVICES ANALYSIS

<u>EVALUATION CRITERIA</u>	<u>Max. Pts</u>	<u>AshBritt, Inc.</u>	<u>Asplundh</u>	<u>Ceres</u>	<u>Crowder Gulf</u>	<u>D & J</u>	<u>DRC</u>	<u>Omni Pinnacle</u>	<u>Phillips & Jordan</u>
Qualifications and experience	20	20	15	20	20	20	20	15	20
Operational plan for the City	25	25	20	20	15	20	25	25	25
Resources and availability	20	20	15	15	20	15	19	20	18
Past performance	25	25	20	25	25	25	25	25	25
Price Proposal	10	10	8	10	9	10	8	9	8
TOTAL POINTS	100	100	78	90	89	90	97	94	96

RFP NO 13-05 EMERGENCY DEBRIS MANAGEMENT SERVICES ANALYSIS

TOTAL

<u>EVALUATION CRITERIA</u>	<u>Max. Pts</u>	<u>AshBritt, Inc.</u>	<u>Asplundh</u>	<u>Ceres</u>	<u>Crowder Gulf</u>	<u>D & J</u>	<u>DRC</u>	<u>Omni Pinnacle</u>	<u>Phillips & Jordan</u>
Qualifications and experience	20	63	46	47	53	58	63	53	57
Operational plan for the City	25	65	65	60	55	60	65	65	65
Resources and availability	20	63	53	53	58	53	58	58	56
Past performance	25	65	38	55	45	45	66	44	43
Price Proposal	10	26	24	26	25	29	26	26	24
TOTAL POINTS	100	282	226	241	236	245	278	246	245

AGENDA ITEM #7

ORDINANCE NO.2013-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, LAND USE, ARTICLE 3, SUBDIVISIONS, SECTIONS 17, 30, 51 & 56; REVISING ASSURANCE FOR COMPLETION & WARRANTY OF IMPROVEMENTS, IMPROVEMENT AGREEMENT AND GURANTEE OF COMPLETION OF PUBLIC IMPROVEMENTS, & STREETS; ADDING OPEN SPACE & PRESERVATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City of Kingsville has recently adopted a Comprehensive Housing Plan and previously adopted a Master Plan, which both recommend certain changes to Chapter XV, Article 3 of the City of Kingsville Code of Ordinances to improve the quality of life in the city;

WHEREAS, the City of Kingsville Planning & Zoning Commission met on February 20, 2013 to consider these recommended changes and voted ____ to ____;

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 Sections 15-3-17, 30 & 51 of Article 3: Subdivisions of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows and Section 15-3-56 shall be adopted to read as follows:

...

SEC. 15-3-17. - FINAL PLAT; DECISION OF COMMISSION; FEES.

The final plat and accompanying data shall conform to the preliminary plat as conditionally approved by the Planning Commission, incorporating any and all changes, modifications, alterations, corrections and conditions required by the Planning Commission.

(A) *The original and ten copies of the final plat.* This plat shall be drawn on mylar, a minimum scale of one inch to 100 feet or larger in ink with all figures and letters legible, and the whole proper for filing for record in the office of the County Clerk with the following information given:

- (1) The title or name by which the subdivision is to be identified, north point, the scale of the map and the name of the state-registered professional engineer and/or state-licensed or registered land surveyor responsible.
- (2) A definite legal description and identification of the tract being subdivided. This description shall be sufficient for the requirements of title examination. The plat shall be a descriptive diagram drawn to

scale. The plat shall show by reference that the subdivision is a particular portion or part of the previously filed plat; recognized grant or partition.

- (3) The boundaries of the subdivided property, the location or designation of all streets, alleys, parks and other areas intended to be dedicated or deeded to the public use, with proper dimensions. The boundaries of the subdivisions shall be indicated by a heavy line and shall be tied by dimensions to the parent subdivision.
- (4) The location of all adjacent streets and alleys, with their names, and the names of adjoining subdivisions with exact location and designation by number of lots and blocks.
- (5) All lot, block and street boundary lines, with blocks and lots numbered or lettered consecutively. Building lines and easements shall be shown and shall be defined by dimension. The actual width of all streets shall be shown, measured at right angles or radially, where curved. All principal lines shall have the bearing and any deviations from the norm shall be indicated.
- (6) Accurate dimensions, both linear and angular, of all items on the plat; the boundary survey on the site shall close within one in 10,000. Linear dimensions shall be expressed in feet and decimals of a foot; angular dimensions may be shown by bearings. Curved boundaries shall be fully described and all essential information given (radius, delta, arc), circular curves shall be defined by actual length of radius and not by degree of curve. Complete dimensional data shall be given on fractional lots.
- (7) The location and description of all lot, block and subdivision corners.
 - (a) Lot corners shall be three-fourths inch iron pipe or five-eighths iron rod 24 inches to 30 inches long with the top set flush with the ground.
 - (b) Block corners shall be three-fourths inch iron pipe or five-eighths inch iron rod 24 inches to 30 inches long. They shall be double pinned with the top rod being set flush with ground and shall include the beginning and end of all curves within each block.
 - (c) Subdivision corners will be marked by a concrete monument that meets or exceeds the following standard. A five-eighths inch iron

rod shall be set in a concrete block measuring six inches in diameter and 24 inches long.

- (8) The flood hazard areas shall be delineated on the final plat, and reserved by deed restrictions as areas not suitable for development.
 - (9) A certificate of ownership in fee of all land embraced in the subdivision, and of the authenticity of the plat and dedication, shall be signed and acknowledged by all owners of any interest in the land. The acknowledgment shall be in the form required in the conveyance of real estate. Approval and acceptance of all lien holders shall be included.
 - (10) A certificate by the responsible surveyor in charge, duly authenticated, that the plat is true and correct and in accordance with the determination of surveys as staked on the ground.
 - (11) A disclosure statement that all or a portion of the subdivision falls within the AICUZ; the disclosure statement to be displayed prominently with other required certificates.
 - (12) In addition to other required certificates, the forms set out in the appendix shall be entered on the plat following the certificates of owner, engineer, and the like, and preceding the certificate of the County Clerk.
 - (13) The final plat submitted to the Planning and Zoning Commission, as well as the City Commission, and to be filed for record with the County Clerk, shall not show construction features such as curb lines or public utility lines or other structures not involved in the title covenant.
 - (14) The area of each lot shall be clearly indicated by writing the number of square feet in each lot on the final plat.
- (B) *Final restrictive covenants.* A copy of the final restrictive covenants to govern the nature of the use of the property in the subdivision shall be submitted if the subdivision is planned for the use of individual septic tanks in lieu of a sanitary sewer system. The Planning and Zoning Commission may, in the public interest, require that these be filed simultaneously with the plat.
- (C) *Planning and Zoning Commission to render decision within 30 days.* Upon filing of the final plat along with other required information, the Planning

and Zoning Commission, as well as the City Commission, shall both render a decision thereon within 30 days after their respective regular meetings. The decision may consist of approval, disapproval or conditional approval. Reasons for disapproval or conditional approval shall be stated in writing. When a plat is conditionally approved, the subdivider may subsequently refile the final plat meeting the objections or required conditions, and the Planning and Zoning Commission shall, at the next regular meeting thereafter, sign the final plat, provided it meets the objections or imposed conditions.

(D) *When final plat approved.* Upon approval of the final plat, the plat being otherwise fully endorsed and all provisions of the Subdivision Ordinance complied with shall be filed by the city with the County Clerk of Kleberg County, Texas.

~~(E) *Guarantee of performance.* In order to ensure the provision of improvements in the development of subdivisions, the city requires the subdivider to provide a performance bond or allow the Department of Planning and Community Development to hold the final plat in escrow. The subdivider may choose which method he prefers.~~

~~(1) *Performance bond to be required.* The subdivider shall provide a one and one-half year performance bond. The performance bond shall be in the amount of 100% of the costs of construction.~~

~~(2) *Final plat to be held in escrow.* The final plat shall not be signed by the Mayor and allowed to be filed for record until all improvements within the subdivision have been constructed, inspected and approved by the City Engineer.~~

~~(F) *Assurance for completion and warranty of improvements.*~~

~~(1) *Completion of improvements.*~~

~~(a) Except for a single or two-family residential subdivision which may exercise the option provided in section 115-3-17(f) as provided below, all applicants shall be required to complete, to the satisfaction of the Director of Public Works all street, sanitary and other public improvements, as well as for improvements on the individual residential lots of the subdivision or addition as required in Article III of these regulations prior to approval of the final plat for the subdivision. The required improvements shall be those specified in the approved infrastructure improvement plan(s) and said improvements shall be initiated within two years.~~

(b) As a condition of preliminary plat approval, the City Commission may require the applicant to deposit in escrow a deed describing by metes and bounds and conveying to the city all street rights of way, easements and public land required by these regulations, pending acceptance of improvements by the city and recording of the final plat. In the event the applicant is unable to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the city may compel the delivery of the deed in order to complete the improvements as required.

(F)

~~Maintenance bond to be required.~~ The subdivider's contractor shall provide a two-year maintenance bond for faulty workmanship and/or materials utilized in the improvements of the subdivision. The maintenance bond shall be in the amount of 100% of the cost of the construction. Should the total cost of the construction be less than \$25,000.00, the developer or contractor may elect to post a cash deposit, or other negotiable security acceptable to the city, equivalent to 25% of the cost of the improvements.

~~(G) Improvement agreement and guarantee of completion of public improvements.~~

(1) ~~Subdivision improvement agreement.~~ The City Commission may waive the requirement of Section 15-3-17(F) for the completion of required improvements prior to issuance of building permits and, in lieu thereof, may permit the applicant to enter into a subdivision improvement agreement by which the applicant covenants and agrees to complete all required public improvements no later than five years following the date upon which the final plat is signed. Such five-year period may be extended for up to an additional five years upon its expiration at the discretion of the Director of Public Works. The City Commission may also require the applicant to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a subdivision improvement agreement for completion of the remainder of the required improvements during such five-year period. The applicant shall covenant to warranty the required public improvements for a period of two years following acceptance by the city of all required public improvements and shall provide a warranty that all required

public improvements shall be free from defect for a period of two years following such acceptance by the city. The subdivision improvement agreement shall contain such other terms and conditions as are agreed to by the applicant and the city.

(2) *Covenants to run with the land.* The subdivision improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs and assigns of the applicant. The subdivision improvement agreement shall be recorded with the county recorder of deeds. All existing lienholders shall be required to subordinate their liens to the covenants contained in the subdivision improvement agreement.

(3) Completion security.

(a) Whenever the City Commission permits an applicant to enter into a subdivision improvement agreement, the applicant shall be required to provide sufficient security to ensure completion of the required public improvements. Such security shall be in the form of a surety bond, cash escrow or letter of credit.

(b) The surety bond, cash escrow or letter of credit shall be in an amount estimated by the Director of Public Works as reflecting the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the subdivision improvement agreement.

(c) In addition to all other security, when the city participates in the cost of an improvement, the applicant shall provide a performance surety bond from the contractor, with the city as a co-obligee.

(d) The issuer of any surety bond shall be subject to the approval of the City Attorney.

(4) *Escrow agent.* If security is provided in the form of a cash escrow, the applicant shall deposit same with the Director of Finance and with an escrow agent mutually agreed upon by the director and the applicant subject to commission approval and audit, a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Public Works pursuant to Section 115-3-17(f)(3)(c).

(5) *Accrual.* The surety bond or cash escrow account shall accrue to the city for administering the construction, operation and maintenance of the improvements.

(6) Warranty Bond/Maintenance Security

(a) The applicant shall guarantee the improvements, excluding sidewalks and streetlights, against defects in workmanship and

materials for a period of two years from the date of city acceptance of such improvements. The maintenance security shall be secured by a surety bond, cash escrow or letter of credit in an amount reflecting 50% of the cost of the completed improvements pursuant to Subsection 15-3-17(f)(3)(c).

(b) If the applicant has entered into a subdivision improvement agreement for the completion of required improvements, the surety bond, cash escrow or letter of credit may be retained by the city in lieu of the warranty bond/maintenance security, provided the total amount of the surety bond, cash escrow or letter of credit reflects 50% of the cost of the completed improvements pursuant to Subsection 15-3-17(f)(3)(c).

(c) The applicant shall enter into a maintenance agreement with the city providing the applicant's guarantee of the improvements as required by Section 15-3-17(f)(6)(a). The maintenance agreement shall be accompanied by maintenance security in the form of a surety bond, cash escrow or letter of credit totaling 50% of the costs of all completed improvements pursuant to Subsection 15-3-17(f)(3)(c). The maintenance security shall run with the land and bind all successors, heirs, and assigns of the applicant and shall be filed with the City Secretary's office.

(d) The city shall have the right, by ordinance, to waive the warranty bond/maintenance security on those sanitary sewers and street improvements constructed that were inspected and approved by the Director of Public Works and have been in use for two or more years.

(G) *Approval to be valid for 12 months.* Approval of a final plat shall be valid for a period of 12 months; provided, however, that this period may be extended by the Planning and Zoning Commission upon written request by the subdivider.

(H) *Filing fees.* Upon the submission of each final plat for approval, a filing fee shall be paid to the city as noted below.

Plat Filing Fees (Payable Upon Submittal)

Up to 0.99 acres \$100.00

One acre to 4.99 acres 200.00

Five acres or more 40.00 per acre

(I) *Recording fees.* Subdivider shall be responsible for all recording fees, which shall consist of \$50.00 for the first page and \$40.00 for each

additional page, plus \$10 for certification of the first page and \$5.00 for each additional page.

...

SEC. 15-3-30. - STREETS.

- (A) *Streets to conform to comprehensive plan.* The arrangement, character, extent, width, grade and location of all streets shall conform to the general plan for the city and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- (B) *Arrangement of streets.* Where such is not shown in the general plan for the city, the arrangement of streets in a subdivision shall either:
 - (1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - (2) Conform to a plan for the neighborhood, approved or adopted by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing street impracticable.
- (C) *Minor streets.* Minor streets shall be so laid out that their use by through traffic be discouraged.
- (D) *Existing or proposed arterial streets or highways.* Where a subdivision abuts or contains an existing or proposed main arterial street or highway, the Planning and Zoning Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential property and to afford separation of through and local traffic.
- (E) *Reserve strips prohibited.* Reserve strips controlling access to streets shall be prohibited, except where their control is definitely placed in the city under conditions approved by the Planning and Zoning Commission.
- (F) *Street jogs to be avoided.* Street jogs with centerline offsets of less than 125 feet shall be avoided.
- (G) *Tangents.* Reverse curves to be discouraged.

- (H) *Streets to intersect at right angles.* Streets shall be laid out so as to intersect as nearly as possible at right angles.
- (I) *Property lines to be rounded.* Property lines at street intersections shall be rounded with a radius of 10 feet for 60 foot right-of-ways and a 20 foot radius for right-of-ways greater than 60 feet.
- (J) *Right-of-way widths.* Street right-of-way widths shall be as shown in the general plan for the city, and where not shown therein shall be not less than as follows:

Street Type Right-of-Way Width:

Major thoroughfares	100 feet
Collector	60 feet
Minor for apartments	60 feet
Minor for other residences	60 feet
Marginal access	60 feet

- (K) *Half streets.* Half streets shall be prohibited.
- (L) *Dead-end streets and cul-de-sacs.* Dead-end streets (designed to be so permanently) longer than 500 feet are to be discouraged and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet.
- (M) *Street grades.* Street grades shall be established with due regard being had for topography, contemplated land use and the existing city drainage plan and facilities in the area surrounding the land to be subdivided; provided that the minimum street grade shall be two-tenths of one percent.

(N) *Street trees.* Inasmuch as street trees help to lower the temperature and provide interest along the street and sidewalk, it shall be the standard practice in subdivisions to plant shade trees along streets. When planted between the street and sidewalk, they provide a measure of protection for pedestrians, help buffer traffic noise and filter pollution.

(1) *Street tree plan.* A street tree plan shall be provided as part of subdivision design. It shall be conceived in a total pattern for the entire subdivision and shall show where street trees are or will be located and planting or construction details.

- (2) *Tree type.* As a general rule, all trees on a street shall be the same kind except to achieve special effects. Trees shall be selected from an approved list on file with the department of development services. Selection of tree type shall be approved by the Director of Development Services.
- (3) *Planting specifications.* All trees at the time of planting shall have a caliper of no less than two inches measured four feet above finished grade, and be of substantially uniform size and shape, having straight trunks. Trees shall be properly planted and staked. Trees shall be of a deciduous species that will have a trunk of least 12 inches in diameter when fully matured.
- (4) *Protection during construction.* Where existing trees are to be retained, the applicant shall include in the plans, proposed methods of protecting trees during construction wherein the landscaping will be adequately protected from vehicular encroachment.
- (5) *Maintenance.* Plantings shall be watered regularly through the first growing season and in a manner appropriate for the specific plant species until they are established. Planted street trees shall be maintained in a healthy condition for the first two years after installation. Dead and dying street trees shall be replaced by the applicant/developer during the first two years after installation.
- (6) *Location.* Shade trees shall be installed on both sides of all streets in accordance with the approved landscape plan. Trees shall be spaced evenly along the street.

Spacing shall depend on tree size as follows:

<i>Ultimate Tree Height/ Planting Size (in feet)</i>	<i>Interval (in feet)</i>
Large trees (40+)	50-70
Medium trees (30-40)	25-30
Small trees (to 30)	25-30

When a street canopy effect is desired, trees may be planted closer together following the recommendations of a certified landscape architect. The trees shall be planted so as not to interfere with utilities, roadways, sidewalks, sight easements or street lights. Tree location, landscape design and grading shall be approved by the Public Works Director and/or the Director of Planning & Development Services as part of preliminary plat and final construction plans.

...

SEC. 15-3-51. - SIDEWALKS.

Concrete sidewalks having a width of not less than four feet and thickness of not less than four inches shall be constructed on each side of each street within the subdivision. The sidewalk shall be located along the back of the curb and shall extend along all street frontage, including the side of corner lots and block ends; provided however, that where it is impractical to provide such sidewalks on the side lot lines abutting major thoroughfares or drainage ditches, then in those instances sidewalks are not required. The builder will put in sidewalks at the time of building construction.

A concrete walk at least five feet in width and four inches thick shall be provided continuously on both sides of each street for each block in the subdivision. This standard shall be considered a minimum and may be increased at the discretion of the Director of Public Works for areas adjacent to or in the vicinity of schools, parks and other locations with significant pedestrian traffic. In the case of a high pedestrian traffic area, sidewalk widths may be required to be a minimum of 8-10 feet depending on the application. The sidewalk shall be located within the dedicated right of way, with a parkway of a minimum of two feet and shall extend along all street frontage. This shall include the side of corner lots and block ends; provided however, that where it is impractical to provide such sidewalks on the side lot lines abutting major thoroughfares or drainage ditches, then in those instances sidewalks are not required. The builder shall put in sidewalks at the time of building construction. Additionally, the developer of record shall be responsible for the completion of sidewalks adjacent to any open space or common area at the time of the construction of street improvements.

(1) *Curbs.* Curbs at intersections shall be designed and constructed to provide a ramp for wheelchairs and/or bicycles in accordance with the American Disabilities Act (ADA) as set forth in city standards.

...

15.3.66. - OPEN SPACE AND PRESERVATION

The following specific areas shall be preserved as undeveloped open space, to the extent consistent with the reasonable utilization of the land in the proposed subdivision as a whole, and in accordance with applicable state or local regulations:

- (1) Unroute and/or fragile areas, including wetlands as defined in Section 404 of the Federal Water Pollution Control Act Amendments of 1972, and delineated on wetland maps prepared by the U.S. Fish and Wildlife Service, field verified by onsite inspection.
- (2) Lands in the floodplain, as defined by applicable state and/or local regulations.
- (3) Historically significant structures and sites, as designated by appropriate federal, state or local regulations.

(4) Areas deemed to be conservation buffers, conserve high quality native trees, are critical habitat areas, or have high quality soil resources are to be considered high priority areas and shall be preserved.

(5) Any new development site shall set aside area(s) to be utilized for open space for public or private use which shall not be developed. Open space may be used as community open space or preserved and dedicated as open space.

...

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 11th day of February, 2013.

PASSED AND APPROVED on this the 25th day of February, 2013.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #8

CITY OF KINGSVILLE



January 28th, 2013 P. O. BOX 1458 – KINGSVILLE, TEXAS 78364

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

Re: Consider waiving interest on Weed Liens
Property owned by Charles T Green
Lot 29-30, Block 7, 8th

Lien # 1 Vol. 437 Page 017, filed 08/10/10 principal \$ 140.73 + interest \$ 30.96 = \$ 171.69
Lien # 2 Vol. 441 Page 332, filed 10/26/10 principal \$ 281.46 + interest \$ 56.29 = \$ 337.75
Lien # 3 Vol. 460 Page 900, filed 10/31/11 principal \$ 844.38 + interest \$ 84.44 = \$ 928.82
Totals: \$1,266.57 \$171.69 \$1,438.26

Mr. Capell,

Mr. Charles T. Green is requesting the City waive the Weed Lien Interest accrued **prior to 11/02/2011** on the property he owns located at Lot 29-30, Block 7, 8th Addition (629 W. Johnston). Mr. Green acquired the property through a tax sale from Kleberg County. Per Mr. Green there was no title policy purchased so he was unaware of the above referenced liens. His actual purchase date was September 22, 2011 yet the deed was actually recorded on 11/02/2011. Therefore, we would like the Commission to consider waiving (voiding) Lien #3 in the amount of \$928.82 altogether due to a timing error. Current taxes were paid in full on 1/3/2013 in the amount of \$485.91 and no recent code violations have been reported or cited.

There are three (3) separate Weed Lien filed against the property. The liens have been numbered Lien # 1, Lien # 2, and Lien # 3 for reference purposes of this letter. **Lien #1** covers work performed from 10/20/2006 by the City, **Lien # 2** covers work performed on 08/14/2008 and 11/06/2008 by the City, **Lien #3** covers work performed on 10/29/2009, 03/24/2010, 06/16/2010, 08/30/2010, 11/30/2010, and 6/10/2011 by the City.

If the Commission were to approve the waiver of interest in the amount of **\$87.25 and the full waiver of Lien #3 in the amount of \$928.82**, Mr. Charles T. Green would be required to pay the principal amount of **\$422.19** within 30 days after the Commission approval date for the waiver of interest to be effective.

Also, we request that the Commission consider writing-off or voiding **Lien#3** in the amount of **\$928.82** in its entirety due to the timing error.

Sincerely,

Mark A Rushing
Mark A. Rushing



Roll Year 2012
Statement Number 2012009530
Account Number 1-009-007-29000-192
Name GREEN CHARLES T
Address 2107 OKLAHOMA ST
Payment Address:
 Kleberg County Tax Office
 P.O. Box 1457
 Kingsville, TX 78363
 361-595-8542
 361-595-8546 (fax)

Legal Description KINGSVILLE, TX 78363-6051
Property Location 8TH, BLOCK 7, LOT 29, 30
Homestead Description 000626 W JOHNSTON
Mortgage Co. Name
Market Value 15,460

Entity	Taxable Value	Tax Rate	HS Exemption	DV Exemption	Other Exemption	Current Levy	Penalty/Interest Due	Other Due	Amount Paid	Last Pay Date	Amount Due
CITY OF KINGSVILLE	15,460	.842200	0	0	0	\$130.20	\$0.00	\$0.00	\$130.20	20130103	\$0.00
KINGSVILLE ISD	15,460	1.494100	0	0	0	\$230.99	\$0.00	\$0.00	\$230.99	20130103	\$0.00
KLEBERG COUNTY	15,460	.744810	0	0	0	\$115.15	\$0.00	\$0.00	\$115.15	20130103	\$0.00
SOUTH TX WATER AUTH	15,460	.061890	0	0	0	\$9.57	\$0.00	\$0.00	\$9.57	20130103	\$0.00

Total Due Today \$0.00
Total Due In February \$0.00
Total Due In March \$0.00
Total Due In April \$0.00

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your social security number or your driver's license number.

TAX RESALE DEED

STATE OF TEXAS

X

X

KNOW ALL MEN BY THESE
PRESENTS

COUNTY OF KLEBERG

X

That Kleberg County, Trustee, acting through the presiding officer of its governing body, hereunto duly authorized by resolution and order of said governing body which is duly recorded in its official Minutes, hereinafter called grantor, for and in consideration of the sum of \$2,000.00 cash in hand paid by

**Charles T. Green
2107 Okla Ave.
Kingsville, TX 78363**

hereinafter called grantee(s), the receipt of which is acknowledged and confessed, has quitclaimed and by these presents does quitclaim unto said grantee(s) all of the right, title and interest of grantor and all other taxing units interested in the tax foreclosure judgment against the property herein described, acquired by tax foreclosure sale heretofore held under **Cause No. 7419-C; Kleberg County vs. Martin Robinson, et al**, in the district court of said county, said property being located in Kleberg County, Texas, and described as follows:

ACCT. NO. 1-009-007-29000-192; Lots 29, and 30, Block 7, Eighth Addition, an addition to the City of Kingsville, Kleberg County, Texas, as described in Volume 378, Page 215, Deed Records of Kleberg County, Texas

TO HAVE AND TO HOLD the said premises, together with all and singular the rights, privileges, and appurtenances thereto in any manner belonging unto the said grantee(s), their heirs and assigns forever, so that neither the grantor, nor any other taxing unit interested in said tax foreclosure judgment, nor any person claiming under it and them, shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Taxes for the present year are to be paid by grantee(s) herein.

This deed is given expressly subject to any existing right of redemption remaining in the former owner of the property under the provisions of law and also subject to any recorded restrictive covenants running with the land, and valid easements of record as of the date of this sale, if such covenants or easements were recorded prior to January 1 of the year the tax lien(s) arose.

IN TESTIMONY WHEREOF the Kleberg County has caused these presents to be executed this 22nd day of September, 2011.

Kleberg County

BY: Juan M. Escobar
Juan Escobar
County Judge
Kleberg County

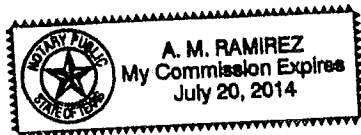
STATE OF TEXAS

X

COUNTY OF KLEBERG

X

This instrument was acknowledged before me on this 22nd day of September, 2011, by Juan Escobar, County Judge, of Kleberg County.



[Signature]

Notary Public, State of Texas
Commission Expires: 7/20/2014

After recording return to:

LINEBARGER GOGGAN BLAIR
& SAMPSON, LLP
500 N SHORELINE BLVD STE 1111
CORPUS CHRISTI, TEXAS 78471-1028
(361) 888-6898
FAX (361) 888-4405

FILE# 288928

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FILED FOR RECORD

2011 NOV -2 PM 1:57

LEO ALARCON
COUNTY CLERK KLEBERG COUNTY

BY *[Signature]*
DEPUTY
CONNIE G. MARTINEZ

**THE STATE OF TEXAS, COUNTY OF KLEBERG, I HEREBY CERTIFY THAT
THIS INSTRUMENT WAS FILED ON THE DATE AND TIME STAMPED
HEREON BY ME AND WAS DULY RECORDED IN THE OFFICIAL RECORDS
OF KLEBERG COUNTY, TEXAS**

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DELIVERY DATE

Indexed

[Signature]

Compared

**LEO ALARCON
COUNTY CLERK, KLEBERG COUNTY**

**ANY PROVISIONS HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR
USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR
RACE INVALID AND ENFORCEABLE UNDER FEDERAL LAW**

RETURN TO:

LINEBARGER GOGGAN BLAIR
& SAMPSON LLP

500 N SHORELINE BLVD-STE 1111

CORPUS CHRISTI, TX 78471-1028

RECORDERS MEMORANDUM:

**ALL OR PART OF A SOCIAL SECURITY NUMBER, IF CONTAINED IN THIS DOCUMENT,
MAY HAVE BEEN REDACTED. TEX. GOV'T CODE SEC. 552.147 (b) THE COUNTY CLERK
MAY REDACT A LIVING PERSON'S SOCIAL SECURITY NUMBER FROM ANY OR
ALL DOCUMENTS CONTAINED FOR DISCLOSURE BY KLEBERG COUNTY.**