

October 28, 2002

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINSVILLE, TEXAS WAS HELD ON MONDAY, OCTOBER 28, 2002 AT 6:00 P.M. IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT CITY HALL, 200 EAST KLEBERG AVENUE.

**CITY COMMISSION PRESENT:**

Filemon "Phil" Esquivel, Mayor  
 Horacio "Hoss" Castillo, Commissioner  
 Arturo Pecos, Commissioner  
 Charles E Wilson, Commissioner  
 Al Garcia, Commissioner

**CITY STAFF PRESENT:**

Hector Hinojosa, City Manager  
 Diana Valadez, City Secretary  
 Courtney Alvarez, City Attorney  
 Jennifer Detloff, Director of Development Services  
 Dianne Leubert, Solid Waste Superintendent  
 Stanley Fees, City Engineer  
 Sammy Maldonado, Utility Superintendent  
 Corando Garza, Asst. City Manager  
 Dora Byington, Director of Purchasing  
 Caron Vela, Accountant  
 Joe Casillas, Water Production Supervisor  
 Artemio Alvarez, Risk Manager

**I. PRELIMINARY PROCEEDINGS.**

**OPEN MEETING**

The meeting was opened at 6:00 PM.

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

Dora Byington lead everyone in prayer, Sammy Maldonado the Pledge of Allegiance, and Commissioner Pecos the Texas Pledge.

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

None.

**II. PUBLIC HEARING – (Required by Law)**

**1. Receive comments and input regarding the rezoning of Lots 14 and 15, Block 6, Vista Alegre Addition from Class "R-2" Two-Family Residential District to Class "C-2" Retail Commercial District, 1421 East Kleberg Avenue. (Director of Development Services)**

The public hearing opened at 6:01 P.M.

Ms Jennifer Detloff, Director of Development Services addressed the Commission, stating this was a request from Mr. Ramos; letters were sent, no comments were received; drove around neighborhood told people what was going to be done, neighbors thought it was a good idea. She also stated that the Planning and Zoning did not express any concerns.

There was no one in the audience to address the commission regarding this item.

The public hearing closed at 6:03 P.M.

**2. Receive comments and input regarding a proposed ordinance amending Chapter XI, Article 11, Oil and Gas Wells, adopting Sections 11-11-60 through 11-11-68 providing for seismic testing permits, fees, applications, terms, conditions, bonds, and hours of operation. (Director of Development Services).**

The public hearing opened at 6:04 P.M.

Ms Detloff addressed the commission, stating that request came from representative that works for the gas industry because they want to do seismic testing outside city limits and test vibrations within city limits. She stated that there was no ordinance addressing this request, so one was drafted up.

Mayor Esquivel stated he wanted to make sure the draft addressed the protection of aquifer from any contamination. Ms Detloff stated this ordinance does not address the subject. She stated all this is for fibrosis testing to measure vibration within the city limits, and has nothing to do with going below the surface.

Upon a question raised by Mayor Esquivel, Ms Detloff stated this did not include any TNT. She stated meeting was held on May with representative from the gas company and quite a few citizens, and no one voiced any opposition.

Upon a question raised by Commissioner Castillo, Ms Detloff stated the City was covered for any damages to any City facilities.

Ms Courtney Alvarez, City Attorney addressed the commission, stating that in the ordinance on page 2, Section I – Permittee: states that whoever applies for the permit, will pay for any and all actual damages incurred.

Upon a question raised by Mayor Esquivel, Ms Detloff stated citizens pipes could be damaged, and may cause foundation problems. She stated special care has been given to the city's water wells. She also stated the amount for the indemnity bond is \$100,000.00.

The public hearing closed at 6:10 P.M.

**3. Receive comments and input regarding the 2002 Local Law Enforcement Block Grant. (Chief of Police)**

The public hearing opened at 6:10 P.M.

Mr. Hinojosa addressed the commission in the absence of Chief Granato, stating the grant will be used CAD RMS radio system. He stated this is a yearly grant that the City and County are eligible for and requires approval. He also stated the amount was \$17,034.00.

The public hearing closed at 6:15 P.M.

**III. PETITIONS, GRIEVANCES, AND PRESENTATIONS.**

NONE

**IV. PUBLIC COMMENT ON AGENDA ITEMS**

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

Mr. Hinojosa stated that the next meeting on November 11, 2002 is a holiday, and would like to have the meeting on Wednesday, November 13<sup>th</sup>.

Mayor Esquivel asked for comments from the Commission due to error on agenda.

Mayor Esquivel stated that he wanted to thank the Public Works employees for all their work during the floods. He stated that sand bags are available at Public Works. He also asked the public to do their part in keeping gutters and curbs clean.

## V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.

### 1. Consider removing from the table the ordinance providing for amendments to the City of Kingsville Classification and Compensation Plan and certain benefits and incentives. (City Commission)

Commissioner Pecos made a motion to remove this item from the table, seconded by Commissioner Castillo. The motion carried 5/0.

#### 1.1 Consider final passage of an ordinance amending Chapter III, Article 7, Personnel Policies, providing for amendments to the City of Kingsville Classification and Compensation Plan and certain benefits and incentives related thereto. (City Manager)

Mr. Hinojosa went over the management level changes, the maximum annual amount. He stated that the City Manager's amount was dropped from \$84,200.00 to \$70,000.00; the City Attorney from \$73,500.00 to \$65,000.00; the Municipal Court Judge from \$73,500.00 to \$65,000.00; the Fire Chief from \$70,000.00 to \$65,000.00; the Police Chief from \$70,000.00 to \$65,000.00; and so on. He recommended stopping at the Director of Development Services at \$52,000.00. But it was recommended that adjustments be made to the ML-3 grade. He stated this would affect new hires only. He also stated that the Accountant was moved from an ML6 to an ML4 to be compatible with the duties that are done.

Upon a question raised by Mayor Esquivel, Mr. Hinojosa stated the Animal Control officers are in Range 7.

Mayor Esquivel thanked Mr. Hinojosa for working with Commission on this matter.

Commissioner Castillo made a motion to approve, seconded by Commissioner Pecos.

Commissioner Wilson raised a question about employees being scheduled to receive a pay raise starting October 1<sup>st</sup>. Ms Alvarez stated the effective date of the compensation plan would be October 6<sup>th</sup>, and employees in those positions on October 6<sup>th</sup>, as they are changed in the compensation plan being currently adopted, would receive a pay since this is being approved.

Mr. Hinojosa stated there were no changes to the budget because everything was included in the budget.

The motion passed, 3/2, Commissioners Wilson and Garcia casting the dissenting vote.

### 2. Consider removing from the table the policy regarding hiring of senior management level positions. (City Commission)

Mayor Esquivel stated no action would be taken on this item, unless there was a motion to remove this item from the table.

**2.1 Discuss and approve new policy regarding hiring of senior management level positions, ML-1 and ML-2 (Commissioner Castillo)**

There was no discussion on this item.

**3. Consider removing from the table the safety incentive program for the 2002/2003 budget year. (City Commission)**

Commissioner Garcia made motion to remove item # 3 from the table, seconded by Commissioner Castillo. The motion carried 5/0.

**3.1 Discuss and approve the safety incentive program for the City of Kingsville employees for the 2002/2003 budget year. (Commissioner Castillo)**

Mayor Esquivel thanked staff for creating a reasonable solution and stated the overall goal of the Safety Incentive program. He stated the concept and belief in this increase in pay for the incentive is to help employees who are non-collective bargaining. He stated that the commission wanted to put additional dollars in the hands of employees.

Art Alvarez, Risk Manager addressed the commission, stating the intent of the safety incentive program. He stated the safety committee, which is made up of City employees, reviews accidents. Mr. Alvarez stated for this year in Public Works there have been only seven preventable accidents.

Mayor Esquivel stated that by having a good safety incentive plan, it lowers the cost of our workmen's compensation insurance costs.

Commissioner Castillo made a motion to approve, seconded by Commissioner Pecos.

Commissioner Castillo also thanked staff for doing a good job on the safety incentive plan.

The motion carried, 5/0.

**4. Consider appointments to the Keep Texas Beautiful – Kingsville Committee. (Mayor Esquivel)**

Mayor Esquivel stated this was a statewide program which works in conjunction with Keep America Beautiful. He stated the overall goal is to beautify our City. He stated the City provides all the tools to keep our City clean. He provided information to the public as to the hours of operation at the City and County landfills.

Commissioner Castillo stated his nomination was Susan Ivy, Kleberg County Parks Director; Commissioner Wilson stated his nomination was a member of the Board of Directors of the KCVB as appointed by their Board of Directors; Commissioner Pecos nominated Clarissa Martinez; Commissioner Garcia did not have a nomination at the present time, but reserves his spot; and Mayor Esquivel nominated Abel Garza, who had presented him with a cleanup plan.

No motion was needed because Commissioner was given authority to appoint their own member.

**5. Consider appointments to the City of Kingsville Sports Commission. (Mayor Esquivel)**

Mayor Esquivel stated this sports commission was created to go after an Olympic Training Center. He stated this would include water events to be held in Corpus Christi; and the City of Kingsville would be handling boxing, judo, volleyball and

track & field. He stated that a presentation to the Olympic committee in Colorado was scheduled for November 13<sup>th</sup>. He stated sports have a rich tradition in the City of Kingsville.

Commissioner Castillo nominated Jaime Cantu from the Kingsville Boxing Club; Commissioner Wilson nominated a member of the Board of Directors from the KCVB as appointed by their Board; Commissioner Pecos nominated Sony Barrera, for his involvement with softball; Commissioner Garcia nominated Henry Molina, active with girls' softball; and Mayor Esquivel nominated Neil Lehue, football coach for the Javelinas.

**6. Consider appointment to the Zoning Board of Adjustment. (Director of Development Services)**

Mayor Esquivel stated that this item was brought up last week at which time he recommended Sylvia Aparicio, Vice-President of First Community Bank. He stated he has made contact with Ms Aparicio and she has agreed to serve.

Mayor Esquivel read Ms Aparicio qualifications, and stated he would like to move her to the Planning and Zoning Board when a vacancy occurs.

Commissioner Castillo seconded the motion to appoint Ms Aparicio to the Board of Adjustment, the motioned carried, 5/0.

**7. Consider resolution authorizing publication of notice of intention to issue certificates of obligations. (City Manager)**

Mr. Hinojosa stated he wanted to make the commission aware that a presentation would be made on November 7<sup>th</sup>. He stated he would like for some of the commissioners and the public at this presentation. He stated that Moody's Investment was impressed with the City's presentation done approximately eighteen months ago, and that help maintain bond rating which is BAA.

Mayor Esquivel stated the better the rating the cheaper the cost of insurance. He stated certificates of obligation would be used to purchase equipment.

Commissioner Garcia made a motion to approve, seconded by Commissioner Pecos.

Commissioner Pecos stated originally when discussion first came up \$4 million was the amount being asked for, but now another \$1 million has been added and would like to know where this would be spent. Mr. Hinojosa stated that the extra \$1 million is in the event the City decides to build a new fire station and the purchase of a vacuum truck. He stated any purchases exceeding the \$4 million would have to be commission approved. He also stated another reason was due to the interest rate at the time.

Commissioner Pecos stated that the commission needs to set priorities. He stated that he would like to see monies spent on the drainage system. He stated he would agree only if \$1 million is set aside for drainage system.

Discussion followed regarding setting aside the \$1 million for drainage system.

Ms Alvarez stated the only request of the commission is that authorization is given to publish the intent to go for the certificates and to an amount not to exceed \$5 million. She stated that at a later point in time, the full amount would be brought back to them with a plan as to where money is to be allocated.

Discussion followed regarding meeting on November 13<sup>th</sup> in order to take action on this item and attending Dr. Juarez's welcome at TAMUK.

Mr. Hinojosa stated the meeting has to be on that day, November 13<sup>th</sup> based on the time line. He stated agenda would be for single item.

Mayor Esquivel stated this was an important issue that had to be taken care of.

The motion carried, 5/0.

**8. Consider request by St. Martin's Church to waive Zoning Board of Adjustment various application fee. (Mayor Esquivel)**

Mayor Esquivel stated that Father Jim asked for a waiver on application fee for renovations to the church rectory. Mayor Esquivel stated that this was a first for him, so he was making presentation to commission.

Commissioner Castillo made motion to waive the application fee, seconded by Commissioner Pecos. The motion carried, 5/0.

**9. Consider amending the line item budget for repairs to the North Wastewater Treatment Plant. (Utilities Superintendent)**

Sammy Maldonado, Utilities Superintendent addressed the commission, stating in 1994-95 the City received bonds and monies that were left over were \$27,000.00. He stated that he would like to see money transfers to utility fund from the North Treatment Plant. He stated money would be used for equipment.

Commissioner Garcia made a motion to approve, seconded by Commissioner Pecos. The motion carried, 5/0.

**10. Consider introduction of an ordinance changing the zoning of Lots 14 and 15, Block 6, Vista Alegre Addition from Class "R-2" Two Family Residential District to Class "C-2" Retail Commercial District, 1421 East Kleberg Avenue. (Director of Development Services)**

Mayor Esquivel stated that Ms Detloff had given a briefing regarding this item during the public hearing. He asked for any additional comments from the commission. He stated this is only an introduction.

Ms Detloff advised she had notified the church per letter.

**11. Consider ordinance amending Chapter XI, Article 11, Oil and Gas Wells, adopting Sections 11-11-60 through 11-11-68 providing for seismic testing permits, fees, applications, terms, conditions, bonds, and hours of operation. (Director of Development Services).**

Ms Detloff stated that the City does not have an ordinance, which addressed this type of testing; therefore staff developed this draft document. She stated the draft ordinance has been completed and reviewed by the Planning and Zoning commission. She stated that the permitting process required in this ordinance will generate funds for the City. Ms Detloff stated the Planning and Zoning Board is recommending approval. She stated that page 1, section 11-11-61, Permit Application, Fee Procedure, under the second paragraph, had a correction, "remove mobile vibratory units and/or".

Ms Detloff reviewed several sections of the Ordinance with the commission.

Mayor Esquivel raised a question regarding seismic testing. Ms. Alvarez stated that the permittee would have to get the permission of the landholder before they could set any seismic claims within the city to test and get a permit from the City.

Mayor Esquivel stated he had a concern with section G – No shot holes, dynamite, or charges shall be placed within or detonated within the city limits of the City of Kingsville. He advised for staff to look further into this.

Ms Detloff pointed out several items in section 11-11-64 Hours of Operation; and 11-11-66 Notification.

Commissioner Garcia raised a question as to how complaints and inspections were going to be handled. Ms Detloff stated she would assume they would wait until complaints are filed. Ms Detloff asked if they had a preference.

A representative from the gas company addressed the commission, stating that complaints are handled as they come up.

Discussion followed on complaints. All agreed that everyone needed to be informed when complaints come up.

Mayor Esquivel stated he would Ms Detloff to log all complaints.

Commissioner Castillo suggested that on page 2, item F, an addition be made "needs a spacing of 25' to on those lines".

**12. Consider introduction of an ordinance amending Sections 9-3-2 and 9-3-3, Enumerating and Conforming the Animal Permit List; limiting the livestock exhibition exception to exhibitions held in Kleberg County. (Health Director)**

Mr. A.L. Noyola, Health Director addressed the commission, stating it is the same ordinance that is in place only certain terminology was added. He stated that Section B – Kleberg County was added.

Discussion followed regarding advancing to the San Antonio Livestock Show.

Mr. Corando Garza, Asst. City Manager stated that by-laws for the Kleberg County Livestock Show were changed as of March. He stated that if the child chooses to retain possession of the animal he/she can take that project on to San Antonio, after San Antonio show decision is made as to whether animal goes on truck to be sold, or they bring it home for a later showing at the Houston Livestock Show.

Mayor Esquivel stated that this teaches responsibility and self-confidence, and we should not deter that.

Mr. Noyola stated that citizens' complaints are that these animals are kept too long. He stated that complaints are reviewed according to the ordinance.

Upon a question raised by Commissioner Garcia, Ms Alvarez stated under the current fine schedule for any City ordinance violation, the first offense is \$150.00; and a staggered scale for if only one conviction and second conviction is \$300.00.

Upon a question raised by Commissioner Garcia, Mr. Noyola stated complaints are about smell, number of animals, and why they are kept longer than stated in the ordinance.

Mayor Esquivel suggested Mr. Noyola and Mr. Garza get together to work some issues out.

**13. Consider final plat approval of Texas Terrace Plat. (Director of Development Services)**

Ms Detloff stated this project is the rehabilitation /remodeling of residential property formerly used as housing by the U.S. Navy. She stated the site is approximately 30 acres located between East Caesar and Carlos Truan Blvd. She also stated final plat was submitted and reviewed by staff and appropriate utility companies. Ms Detloff stated this will add approximately 180 housing units and will not have created any new demand on the infrastructure.

A representative from the company addressed the commission, stating a lot of remodeling and landscaping were going to occur. He stated another major improvement is to get rid of all carports. He stated several thousand dollars are dedicated for the removal of asbestos; \$600,000.00 is dedicated for plumbing and hot water. He stated they would like to bring it back to what it used to be.

Upon a question raised by Commissioner Garcia, the representative stated on a percentage basis it is usually \$200.00 per unit per year.

Mayor Esquivel voiced his concerns of safety for residents around the area.

Commissioner Garcia made a motion to approve, seconded by Commissioner Pecos. The motion carried, 4/0, with Commissioner Castillo abstaining.

**14. Consider final plat approval of Lowe's Home Center Plat. (Director of Development Services)**

Mayor Esquivel stated that Lowe's wants to open doors on September 2003 rather than December 2003.

Mr. Hinojosa stated Alpha Engineers are working on plat and first invoice has been received with 25% completion.

Mr. Stanley Fees, City Engineer stated project for Shelly Street is definitely on schedule, estimated time of completion, weather permitting around May or June.

Commissioner Pecos made motion to approve, seconded by Commissioner Garcia. The motion carried, 3/2, with Commissioners Wilson and Castillo casting the dissenting vote.

**15. Executive Session: Under Section 551.071 of the Texas Open Meetings Act, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding potential litigation regarding administration and enforcement of City obligations under the South Texas Water Authority Supply Contract. (City Manager)**

The commission convened into executive session.

The commission reconvened back into opened session.

**16. Consider memorandum of understanding between the City of Kingsville and the South Texas Water Authority for the provisions of surface water supplies to the City of Kingsville. (City Manager)**

Mayor Esquivel thanked everyone for the involvement in creating this agreement.

Commissioner Pecos made a motion to approve, seconded by Commissioner Castillo.

Ms Alvarez read the statement to be included in the statement of MOU #13 – it is understood that approval of this memorandum of understanding shall not constitute an admission, acknowledgment or waiver of any interpretation, right or interest to STWA or the City of Kingsville may wish to a certain any future negotiations, mediation, or litigations regarding the interpretation administration of the water supply contract.

Commissioner Pecos withdrew his original motion.

Commissioner Pecos made a motion to accept the amendment to approve the memorandum of understanding with section #13 as read by the City Attorney, seconded by Commissioner Castillo. The motion carried, 3/1. Mayor Esquivel abstained.



**VI. ADJOURNMENT:**

The meeting was adjourned.

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Filemon "Phil" Esquivel, Mayor

ATTEST:

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Diana F. Valadez, City Secretary

**PRESENTED and ADOPTED by the Kingsville City Commission on this 12<sup>th</sup> day of April, 2004.**

\_\_\_\_\_  
Charles E Wilson, Presiding Officer

ATTEST:

*Edna S Lopez*  
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Edna S Lopez, Interim City Secretary