

FEBRUARY 24, 2003

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE WAS HELD ON MONDAY, FEBRUARY 24, 2003 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT 6:00 P.M, CITY HALL / 200 EAST KLEBERG AVENUE.

CITY COMMISSION PRESENT:

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

CITY STAFF PRESENT:

Corando C. Garza, Interim City Manager
 Diana F. Valadez, City Secretary
 Courtney Alvarez, City Attorney
 Diana Gonzales, Human Resource Director
 Al Lopez, Interim Fire Chief
 John Garcia, Asst, City Manager
 Stanley Fees, City Engineer
 Dianne Leubert, Solid Waste Superintendent
 Sammy Maldonado, Utility Superintendent
 Jennifer Detloff, Director of Development Services
 Dora Byington, Purchasing Director
 Vilma Castillo, Director of Collections
 Joel Saenz, Code Enforcement Officer
 Joe Casillas, Water Production Supervisor
 Daniel Almeida, Wastewater Const. Supervisor
 Caron Vela, Accountant
 Art Alvarez, Risk Manager
 Jaime Garza, Task Force Commander
 J R Ybarra, Asst. Commander

I. Preliminary Proceedings.

OPEN MEETING

The meeting was opened by Mayor Esquivel at 6:01 P.M.

INVOCATION/ PLEDGE OF ALLEGIANCE - (Mayor Esquivel)

Ms Dora Byington lead everyone in prayer, Commissioner Garcia in the Pledge of Allegiance, and Mr. John Garcia the Texas Pledge.

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

None

Mayor Esquivel read a proclamation proclaiming the month of March as "Master Gardeners Month".

III. Public Comment on Agenda Items.³

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

Ron Pray, 518 E Yoakum, representing the Kingsville Professional Fire Fighters Association, Local 2390, commented on agenda item IV, #3, 3.1 Report on mold inspection at the Central Fire Station. He stated some fire fighters have complained about respiratory type and hay fever symptoms. He stated he wanted to stress that this issue needs to be moved on quickly by removing mold from station to insure a safe and healthy environment for employees.

IV. **Petitions, Grievances, and Presentations.**²

1. Presentation by Johnson Controls regarding the proposed facility and infrastructure improvement project. (City Engineer / Interim Assistant City Manager).

Terry L. Moore, representative of Johnson Controls addressed the commission, and discussed information of a preliminary assessment of the City's operations. He stated they spent a lot of time on water and sewer revenues. Mr. Moore presented a slide show presentation.

Mr. Moore stated that when choice is made, a project development agreement must be signed. He stated that \$85,000.00 would be the amount for this specific project for their company to do the engineer and project development. He stated if they put project in they monitor and verify for saving throughout life of project. He stated that at any point the savings or revenues do not materialize, then Johnson Controls will write a check for the deficiency and correct the problem.

Mr. Moore discussed the things that were found or determined in analyzes, stating (1) the City is currently experiencing at least 17% water loss; (2) there is opportunity in different areas for water and wastewater distribution system to make improvement with pumps and motors; (3) lighting is 25 – 35% of commercial building load; (4) buildings have standard thermostats which need to be changed to programmable thermostats; (5) a/c and heating systems need to be changed out; and (6) zoning issues.

2. MAYOR AND CITY COMMISSIONER'S REPORTS. (CITY COMMISSION).

3. INTERIM CITY MANAGER'S REPORT. (INTERIM CITY MANAGER).

Mr. Corando Garza, Interim City Manager stated that Mr. Art Alvarez, Risk Manager and Mr. Bill Morris from Health and Safety Management had made mold inspection at the Fire Department.

3.1. Report on mold inspection at Central Fire Station. (Risk Manager).

Mr. Alvarez stated complaints were received from fire fighters, as a result of these complaints a claim was filed with TML. He added that TML alleged that the claim itself was not a loss. He stated an inspection was contracted out to Bill Morris.

Upon a question raised by Mayor Esquivel, Mr. Alvarez stated it was not the toxic mold, but he would let Mr. Morris explain.

Mr. Morris stated they was contracted on December 20th, and was completed on January 6th. He stated report was issued to Chief Garza. He stated that coming from their company that holds certified industrial hygienists you can't really define what toxic mold is, because it affects everyone differently. He stated what was found was the outside count of the mold spores to be greater than the inside, which is good news. However, areas were found that were recommending that it be remediate, not because "toxic" mold, but because it is not known what is behind the wall cavity wear where mold was found. He stated his company does not remediate. He added that it is unknown what is in the duct work because it was not tested. Mr. Morris stated that if this is addressed then an asbestos issue prior to this must be addressed under state law and the Texas Department of Health. He stated mold found is not a deadly mold, unless person is allegoric to penicillin, then it can have an adverse affect.

Mr. Morris stated that what caused this mold were mainly roof leaks. He stated even if leaks have been repaired, moisture is still being found in walls.

Upon a question raised by Mayor Esquivel, Mr. Morris stated ducts were not checked because they were not instructed to, and that is a larger expense to the City.

Mayor Esquivel stated that the commission would like for him to come back to the next meeting, after they have had a chance to review the report.

Upon a question raised by Commissioner Garcia, Mr. Garza stated that repairs for the roof were never approved during the budget hearings.

Upon a questions raised by Commissioner Garcia, Mr. Alvarez stated that claims were filed on the something.

Mayor Esquivel stated he would like for Mr. Alvarez to find out if claims were paid and where money was utilized. He stated the importance is the fire fighters.

Georgina Ybarra, a representative for Texas Municipal League IIRP, addressed the commission, stating claim was received in September 24th, responded October 21st, advising the City it was a maintenance problem.

3.2. Update on new mower (equipment) for Street Department (Interim City Manager).

Mr. Stanley Fees, City Engineer addressed the commission, stating that a mower with mulching option was purchased after receiving comment about amount of grass on sidewalk on 6th Street. He stated this mower will also be used in the creeks.

3.3. Status of connecting city departments to accounting software system. (Information Systems Technician).

Mr. David Gibson, Information Systems Technician addressed the commission, stating that within the next 60-90 days all remote departments can tie in to City Hall's server. He added that departments will be able to input purchase orders within the next 60 days. He also stated that projected cost should be between \$8,000 - \$10,000.00. He added that another networking project is to get the Police Department tie in with the Municipal Court System.

3.4. Update on Residential Development Guidelines and Criteria. (Director of Development Services).

Ms. Jennifer Detloff, Director of Development Services stated that public comments and inputs have been solicited for requested criteria for guidelines. She added they hope to bring information to the commission within the next couple weeks.

Upon a question raised by Mayor Esquivel, Ms Detloff stated everyone at the hearing were very supportive, one major comment was staff recommended a minimum square footage of the new houses be 1500, comments were that they go down to a minimum of 1000 ft, up to 1200 ft. She stated most in attendance were realtors.

3.5. Report on progress of city department's plans for future growth and development. (Interim City Manager).

Mr. Garza stated copies of the resolutions have been sent of the department heads.

3.6. Update regarding recent improvements to 3MGD Wastewater Treatment Plant. (Utilities Superintendent).

Sammy Maldonado, Utilities Superintendent addressed the commission, stating that on December 9th, he approached the commission for approval of \$23,645.00 for Delta Prime for repairs to the Clarifier Overhang. He added that any additional work would be at 365.00 per cubic ft. installed, and upon completion of project, materials used exceeded the original 45 cu. Ft/\$23,645.00 by 24 cu. Ft at an additional cost of \$8,760.00.

Upon a question raised by Mayor Esquivel, Mr. Maldonado stated money had been transferred from Mr. Joe Casillas's department.

Mr. Garza reminded commission of next TML meeting.

Mayor Esquivel reminded the audience of the Chamber banquet.

4. **CITY ATTORNEY'S REPORT. (CITY ATTORNEY).**

Ms. Courtney Alvarez stated she attend a Municipal Law one day seminar and received interesting information regarding economic development, ordinance and resolution drafting, ethics and public information act, and some personnel laws. She stated that in the analysis she wrote in comments about addressing Planning & Zoning issues.

V. **Items for consideration by Commissioners.**⁴

1. **Consider final passage of an ordinance amending Chapter XV, Article 3, Subdivision Regulations, amending Section 15-3-53(F), Subdivider may seek assistance for extension of water and sewer utilities. (Director of Development Services).**

Ms. Detloff addressed the commission, stating the administrative change must be done before residential development agreement. She stated the recommended change which currently reads: the subdivider shall extend the utilities to his property at no cost to the City, and are recommending that be changed to add: unless a Residential Development Agreement with the city has been executed by all necessary parties.

Mayor Esquivel stated he would like to add more criteria, if possible. Ms Alvarez stated that it would be more prudent at this point to leave it in the guidelines and criteria in the event that number changes at any point and time.

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

Commissioner Wilson stated that the time line is no longer valid.

Mayor Esquivel requested a workshop be set.

The motion carried, 5/0.

2. **Consider introduction of an ordinance amending Chapter XV, Article 1, Building Regulations, amending Section 15-1-64, providing for the use of metal clad cable in certain circumstances. (Director of Development Services).**

Ms Detloff stated the electrical board has been asked by electrician to be able to use metal clad cable (MC Cable). She stated this item was brought before the Electrical Board at the January 14th meeting for discussion and at the February 11th meeting for action. She stated it was determined by the Electrical Board, with input from the City Engineer/ Building Inspector, that Metal Clad cable could be used in a specific manner. Ms Detloff stated that this item was approved by the Planning and Zoning Commission. She stated a recommended change is to paragraph 4, item B Service entrance and meter location, of Section 15-1-64, to include the following statement **"METAL CLAD CABLE (TYPE MC MAY BE USED IN SUSPENDED CEILINGS WITH A MAXIMUM 6' FACTORY MANUFACTURED FIXTURE WHIP."**

Mayor Esquivel requested the minutes from the Electrical Board meeting.

3. Consider introduction of an ordinance amending Chapter XV, Article 6, Zoning, Appendix A: Land Use Categories, Section 1 Land Use Chart, providing for storage warehouses to be changed from a permitted use to requiring a special use permit. (Director of Development Services).

Ms Detloff stated based on conversations in the past concerning the allowable use of storage warehouses in the C-4 Commercial District, staff reviewed the existing zoning ordinance to determine if the ordinance could be amended to be more in keeping with the input received in past meetings.

Mayor Esquivel stated does not make economic sense to allow a storage facility to be built where it could be prime retail property to create ad valorem sales tax for the City.

4. Consider resolution proclaiming the month of March, 2003 as Purchasing Month in the City of Kingsville. (Director of Purchasing).

Ms Dora Byington addressed the commission, and requested support for proclaiming month of March "Purchasing Month". She stated that during this month her department had scheduled two "How to do Business with the City of Kingsville" workshops.

Commissioner Wilson made a motion to adopt resolution as presented, seconded by Commissioner Pecos.

The motion carried, 5/0.

5. Consider awarding bid for the purchase of garbage containers. (Bid #23-17). (Director of Purchasing).

Ms Byington stated this item is to approve (39) 3 cubic yard and (50) 4 cubic yard garbage containers. She stated there were two options, but staff was asking that option (A) to purchase (89) steel bottom garbage containers from the lowest bidder, Fugua Enterprises with a projected delivery of sixty days. She stated she did not advertise and only received informal sealed bids. She also stated the total cost for containers is \$24,834.00. Ms Byington added that \$24,000.00 was approved for this item through the certificate of obligations, and that the difference of \$834.00 would be transferred from money leftover from the pick up truck.

Commissioner Wilson made a motion to accept staff recommendation, seconded by Commissioner Pecos.

The motion carried, 5/0.

6. Consider awarding bid for the purchase of two brush bed trucks. (Bid #23-20). (Director of Purchasing).

Ms Byington stated staff is recommending to award bid to the lowest bidder, Fleetpride from Alice, Texas. She stated delivery date is 30-45 days. She also stated funds are from the certificate of obligations series 2002 & 2002A budget. She added this item will expend \$121,982.00

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

The motion carried, 5/0.

7. Consider awarding bid for the purchase of two dump trucks. (Bid #23-21). (Director of Purchasing).

Ms Byington stated this purchase is for two dump trucks, a 6-8 cubic yard dump truck for the Water department and a 12-14 cubic yard dump truck for the Street department. She stated staff is recommending entire bid be award to the lowest bidder, Fleetpride from Alice, Texas, for a total of \$104,281.00. She also stated these funds will come from the certificate of obligation series 2002-2002A budget. She mentioned delivery is 60-120 days.

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

The motion carried, 5/0.

8. Confirm City Manager's appointment for Project Director of the South Texas Specialized Crimes and Narcotics Task Force. (Commissioner Castillo).

Commissioner Castillo requested Mayor Esquivel discuss item 8.1 before he could make presentation.

8.1. Discuss status of Task Force Grant. (Mayor Esquivel).

Mayor Esquivel stated he would do anything to save Task Force. He stated item 8 is basically to confirm Ms Alvarez as project director, after the resignation of Sam Granato.

Ms. Alvarez stated that the grant application was submitted timely. She stated letter was sent to CJD on January 21st, for clarification. She also stated notice of deficiency had not been received on grant application, but can be anticipated since the City doesn't have a contract with the District Attorney or a signature for a working agreement with the Sheriff of Kleberg County.

Mayor Esquivel asked her to explain worst case scenario without signatures and what is alternative. Ms Alvarez stated that the City could

try to seek a waiver, but pretty much if there is no contract with the District Attorney, there will be any Task Force because you have someone to prosecute your cases.

Mayor Esquivel stated it is important to retain however it can be done.

Jaime Garza, Task Force Commander stated that Austin hasn't distributed funds, as of yet. He stated he doesn't know of anyone who has received a deficiency letter.

Commissioner Castillo made motion not to confirm Hector Hinojosa's appointment for project director and to recommend that direction be given to the Interim City Manager to appoint himself or Mr. John Garcia as project director, seconded by Commissioner Pecos.

Commissioner Garcia stated that Commissioner Castillo's motion didn't jive because the two gentlemen that were named are in the same position was Ms Alvarez regarding to work load. He stated that Ms Alvarez was given to option to advise the commission if it was overwhelming, and she hasn't stated that.

Mayor Esquivel stated that further investigation was needed before confirming a project director.

Mr. Garza stated he had a full plate, but will support and help 100%.

Commissioner Castillo withdrew his prior motion, and made a motion to table this item, seconded by Commissioner Pecos.

The motion carried, 4/1, with Commissioner Wilson casting the dissenting vote.

9. Consider out-of-state travel request for Mrs. Dora Byington, Director of Purchasing to attend the National Institute of Governmental Purchasing (NIGP) 2003 Annual National Forum in Nashville, Tennessee on August 16-20, 2003. (Director of Purchasing).

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

The motion carried, 5/0.

The commissioner commended Ms Byington for all her work.

10. Discuss media policy for the City of Kingsville. (Mayor Esquivel).

Mayor Esquivel stated that an incident in the past where management knew nothing about media being contacted. He advised he would like to see something in writing preventing this from happening again.

Ms Alvarez stated that several cities had been contacted and the person whom they spoke to didn't recall any thing in place. She stated that the City of Corpus Christi has a form that is filled out in the event that anybody contacts the media this form is filled out and sent to the director and the public relations person.

Commissioner Garcia commented on the freedom of speech.

Mayor Esquivel stated he did not want to stop employees from talking, only for management to know what is going on.

11. Discuss and act on job description for position of City Manager. (Mayor Esquivel).

Mayor Esquivel stated the job description passed out at the last meeting wanted to know if anyone had any thing to add.

Commissioner Wilson stated it was pretty inclusive and lists of items are fair representation of what the commission should be looking for. He stated it gives enough latitude to hire an individual to move the City forward.

Mayor Esquivel requested job be put into writing and advertised.

Ms. Alvarez stated that a public hearing would be held sometime between March 3rd – 12th, regarding the request by the suspended City Manager for a public hearing, pursuant to Charter provision. She stated that after the public hearing they could follow through with provision, to pass a second resolution to end employment with the City. She added that at that time if item is requested, then item can be placed for seeking and placing ad in paper for a City Manager.

12. Executive Session: Under Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in Executive Session to deliberate the duties of the City Accountant. (Mayor Esquivel).

VI. ADJOURNMENT.

The meeting was adjourned.

Filemon "Phil" Esquivel, Jr., Mayor

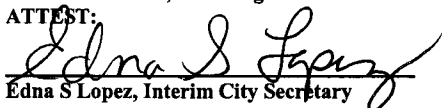
PRESENTED and ADOPTED by the Kingsville City
Commission on this 12th day of April, 2004.

ATTEST:

Charles E Wilson, Presiding Officer

ATTEST:

Diana F. Valadez, City Secretary


Edna S Lopez, Interim City Secretary