

MARCH 12, 2003

A SPECIAL MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS WAS HELD WEDNESDAY, MARCH 12, 2003 AT 12 NOON IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT CITY HALL, 200 EAST KLEBERG AVENUE.

CITY COMMISSION MEMBERS PRESENT:

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

CITY STAFF PRESENT:

Corando Garza, Interim City Manager
Courtney Alvarez, City Attorney
Diana F. Valadez, City Secretary
Diana Gonzales, Director of Personnel
Tina Galvan, Solid Waste Supervisor
Caron Vela, Accountant
Chito Hinojosa, Street Supervisor
John Garcia, Garage Superintendent / Interim Assistant City Manager
Sammy Maldonado, Utilities Superintendent
Joel Saenz, Code Enforcement Officer
Vilma Castillo, Director of Collections
Arnold Valadez, Warehouse Clerk

I. PRELIMINARY PROCEEDINGS.

OPEN MEETING:

Mayor Filemon "Phil" Esquivel, Jr., opened the meeting at 12 Noon.

INVOCATION / PLEDGE OF ALLEGIANCE – (MAYOR ESQUIVEL).

Mayor Esquivel led the Commission and members of the audience in an invocation. Immediately thereafter, Mrs. Caron Vela, Accountant, led the Pledge of Allegiance.

MINUTES OF PREVIOUS MEETING(S)

There were no minutes for approval.

II. PUBLIC HEARING – (REQUIRED BY LAW).

1. NONE.

III. PUBLIC COMMENT ON AGENDA ITEMS.

1. **COMMENTS ON ALL AGENDA AND NON-AGENDA ITEMS.**

Mrs. Bernise "Cotton" Markham, 3339 Boyd Street, stated that Mr. Faustino Erebia recently addressed the Commission during a meeting expressing his dissatisfaction about being contact at his place of employment. She stated that the only reason she contacted Mr. Erebia was because she was told that he wrote for a newspaper.

IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS.

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

No report was given at this time.

2. CITY ATTORNEY'S REPORT. (CITY ATTORNEY).

Mrs. Courtney Alvarez, City Attorney, stated that Mr. Sam Westergren attorney for Mr. Hector Hinojosa requested that Mr. Hinojosa's entire statement be read in order to become part of the record and official minutes.

Commissioner Horacio (Hoss) Castillo stated that he did not feel that Mr. Hinojosa's written statement should be made part of the record and should not be read at all.

There was a discussion between members of the Commission and Mayor Esquivel regarding whether or not Mr. Hinojosa's statement should be read. Mrs. Alvarez requested that the statement be read either by Mayor Esquivel or herself.

Mayor Esquivel stated that he would read the statement only to comply with Mrs. Alvarez' request. At this time Mayor Esquivel proceeded to read the entire statement.

The following is the statement prepared by Mr. Hector M. Hinojosa in its entirety.

"Mayor and Commissioners. On February 3, 2003 by a vote of 3-2 the City Commission decided to suspend me because of the following reasons: 1) Inadequate communication with the City Commission on on-going projects, jobs, issues, concerts, etc. 2) Lacks skills in communicating with the citizens in not responding to their problems, concerns or issues. 3) Fails to complete or implement ideas suggested on numerous occasions by the City Commission. 4) Fails to anticipate problems and does not develop effective plans or approaches to solve them. 5) Reactive to situations instead of being proactive. 6) Seldom represents the City in community activities. 7) Fails to treat City employees with proper respect, and 8) Loss of grant opportunities for not submitting property documentation.

I totally disagree with all of the above reasons for my suspension.

Mayor and Commissioners, it has been hard trying to run the City in a hostile environment the last nine months because I knew it would be a matter of time before I would get fired. I mentioned it to you, Mayor that I should try to do my job and not worry about getting fired.

Response to #1 reason:

I did try to communicate with Commissioner's Pecos and Castillo. I started to e-mail to all the Commissioners but the Mayor stated that e-mail was not the answer to comply with the City Commissioner's request. The Mayor stated that I had to go to Commissioner's Castillo and Pecos' offices to inform them on issues, problems and concerns. I felt uncomfortable going to Commissioner Pecos' office because we would be discussing City business during County time. I did not think that the County taxpayers would appreciate

Commissioner Pecos spending County time discussing City business.

Communication is a two-way street. Commissioner's Pecos and Castillo were quoted on television that they had received complaints from the taxpayer, but they failed to communicate the complaints to me.

Response to #2 citizens problems, concerns, issues, etc.

The system in place at City Hall is to delegate the problems to the appropriate department head for the proper action to occur; however there were times that I had to handle problems that were not favorable to taxpayers because we had to follow the ordinances, resolutions, and our charter.

Response to #3 Micro Management

Commissioner Castillo wanted monthly reports from the department heads. He also requested the construction plans for the wastewater plants. On one occasion when we went out for lunch, Commissioner Castillo suggested that the City hire Coym and Rehmet Engineering firm from Alice, Texas. The City of Kingsville had been using Smith and Russo from Corpus Christi, Texas.

Smith and Russo had constructed our wastewater plants. Why did you, Commissioner Castillo want the City to change engineering firm? I can only speculate as to why you wanted the change.

Response to #'s 4, 5, & 7

On the reasons for my suspension and future termination, you have failed to tell me or point out specific incidents and occasions of the things I was doing wrong or not meeting your expectations. You did not give me the chance to improve on what you felt were my deficiencies. In fact, this City Commission has only done one evaluation for the period May 6, 2002 through January 6, 2003. The City Commission has failed to sit down with me to discuss the evaluation and set up a plan to improve my deficiencies within six months to twelve months.

Response to #6 Community activities

I do represent the City in the community by attending EDC meetings, COG meetings, and Chamber of Commerce banquets, Boys Club banquets, PDAP fund raisers, La Posada parades, MLK parades, Homecoming parades, 9-11 functions by the Police and Fire Departments and Texas A & M University, KISD, and Navy functions. I am active in my church community by serving in the Finance Committee and as a Eucharistic Minister and I am a member of the Third and Fourth Degree Knights of Columbus and presently serving as a Trustee.

Response to #8

Now, here are the reasons why I feel you, Commissioner's Pecos and Castillo and Mayor have decided to suspend me and to terminate me.

Lets start with Commissioner Castillo. The only reason you decided to run for City Commission was to fire me. You became upset with me because I did not support a \$1,500,000 grant that the City

applied for with the Economic Development Administration. If I recall correctly, Raul L. Rubio was the one that applied for the grant with your help Commissioner Castillo. You, Commissioner Castillo and Mr. Rubio had just completed a \$1,500,000 grant for the City of Falfurrias or Brooks County.

The reason why I did not support the grant for \$1,500,000 was because the City had not budgeted the matching funds, \$300,000. The other reason I did not support the grant was because in the grant application you stated that Yaklin Ford and Whataburger were going to relocate on the East side of U.S. Highway 77. We knew that they were going to relocate on the West side of U.S. Highway 77. I did not feel that the City should be misrepresenting the facts on a grant application. Mayor, soon after that, the City Commission decided not to apply for the grant. You decided to put me on the agenda and evaluate me because I had not supported the grant. I did not understand why you, Mayor were upset. Maybe you had promised Mr. Rubio we would apply for the grant.

Another reason Mr. Castillo you became upset with me was because we questioned you on a \$300,000 grant on how the water lines were going to be laid in the ground. The plans did not show how the City was going to get the water lines from one side of the street to the other side. You took offense to our request. In fact, Mr. Castillo you failed to consider the cost of replacing the driveways. The City had to pay for replacing the driveways from the current budget. You, Mr. Castillo, resigned as the engineer on the project because you did not want to prepare a completed set of plans. The City did the work and the plans were later completed after the work was done. You sent your letter of resignation to the Economic Development Administration and later you finally finished the plans after the City completed the work.

This is the same grant that the proper documentation was not submitted by September 2002. To your credit Mr. Castillo, you did tell us that we needed to submit proper closing documents. I did pass the information to Caron Vela, the City Accountant, but she failed to submit the paper work in a timely manner. I will accept part of the blame for not following up with Caron that the closing documents were submitted timely. This grant was in trouble from the beginning because there were incomplete plans. It was over budget and the engineer resigned during the grant period, during this time the City did not have a Finance Director because he had resigned in March 2002. Mr. Castillo you told me that you would be the first to criticize me if I would hire a Finance Director from outside of the City of Kingsville. The City was in the process of hiring a Finance Director from Corpus Christi. He was a CPA and had experience as a Finance Director with the City of Pearland and Regional Transit Authority in Corpus Christi. I did not hire the person because I did not want that person to come into a hostile environment knowing that my days as City Manager were numbered. You, Mr. Castillo wanted us to hire local professionals, but yet you recommended the City hire an attorney from Falfurrias, Texas on an interim basis while our attorney went on maternity leave. The committee reviewed the applications for the Interim City Attorney and did not recommend the attorney from Falfurrias. You, Mr. Castillo with the help of the Mayor and Mr. Pecos decided to hire the attorney from Falfurrias anyway.

Mr. Pecos the reason you want to fire me is because I fired the Personnel Director, who is Sheriff Gonzales' cousin. After I fired him, you asked me to hire him back and I refused. You felt

committed to pay back a favor to the Sheriff by asking me to hire the Personnel Director because he hired you at the Sheriff Department after you resigned from Texas A & M University as the Financial Aid Director.

Another reason that you want to fire me is that I fired the Public Works Director who is a very good friend. You also wanted me to reprimand Chief Granato because the Chief and the Sheriff do not agree on how the South Texas Task Force should operate. Another reason you wanted me to reprimand the Chief was because of the nightclub incident in which the Chief was cleared of any wrong doing by the District Attorney and the Corpus Christi Chief of Police.

Mayor, you have claimed that I have smeared the City of Kingsville and two City Commissioners. Well, Mayor lets set the record straight. You had the opportunity to put a stop to my suspension for 90 days. At a meeting you were asked by the Chief of Police to put on hold my suspension for 90 days to allow a drug investigation on Modesto Gonzalez. At the meeting with Chief Granato, the South Texas Task Force Commander, the Assistant Task Force Commander, Kenedy County Sheriff, Acting Lieutenant Cuellar and other members of the Task Force. You were provided the same information the Federal Judge received but you decline to hold off on the suspension. You must have recognized a name on the information you were provided.

You did not expect for me to go to Federal Court with this information. I did it because I felt that I had to protect the citizens of Kingsville and Kleberg County from the drug problem and to improve the quality of life.

Mayor the reason you wanted to fire me is because I do not jump when you say jump. Also if I do not agree with you, you get made at me because I do not support an idea that you may have. You need to realize that you cannot be right all the time.

It is hard to communicate with a person that does not listen to reason and thinks that his way is always the right way. You expect things to get done in a moments notice. You are notorious for asking for information at the last minute and expecting results in a short period of time. A good example is the networking that you wanted Citywide. In one of your press conferences, you stated that you had to step in to get networking done. Yes, you did step in and you almost cost the City plenty of monies because Southwestern Bell was ready to file a lawsuit had the City signed the contract with Hughes Data Systems as stated by SBC Representative.

Luke Womack, David Gibson and I had been working on networking City Hall with the Police, Fire, Public Works, Recycling Center and the Task Force. David had requested proposals from various companies and had received them, but we were waiting on Computer Concepts to submit their proposal. The company never did submit their proposal so we went forward. Then you stepped in and put everything on hold because you wanted Computer Concepts to submit their proposal. That was not filed by the due date. Your cousin, who owns Computer Concepts stated that David did not know what he was doing. You kept pushing that we go into a contract with Hughes Data Systems because Computer Concepts had teamed up with them.

Mayor, I do not agree with you in the way you use the City tax dollars to your benefit. Let me explain!! You wanted Hughes Data

Systems to get the networking contract because your cousin was going to benefit from the contract. You are overcharging the City on your Sprint cell phone bill. Your plan is for 10,000 minutes for \$149.99. The rate per minute is \$.01499 per minute and you charge the City 35 cents a minute for any City business related call. I had not paid you the cell phone bills that you had submitted for the last three months because we had over paid you.

Yes, I am an "at will" employee and the Commission can terminate me at any time, but the Commission is now saying that they have "just cause" to terminate me because of the eight reasons mentioned above.

On November 13, 2002 the City Commission did an evaluation in open session at my request on my job performance. The evaluation was very unprofessional and a personal attack on me. The Commission did not present me with a written evaluation and a list of my deficiencies.

At the November 13, 2002 City Commission Meeting, Mayor, you stated that I did not communicate with the Commission especially with Commissioner's Pecos and Castillo. My response was "I will try to do better in communicating with all the Commissioners". The Commission did not give me a written plan on how to communicate with them. Since the Commission did not state how I was to communicate with them, I chose the e-mail system to communicate because this is the most efficient and quickest way to communicate with all the Commissioners at once.

Commissioners Pecos and Castillo agenda when they ran for City Commissioner in May 2002 was to fire me. They told some mutual friends that they were running so they could have the opportunity to fire. It is obvious by their actions. Their intentions were to give me a hard time so I could resign.

Certain prominent people in the community had a meeting to display their unhappiness about my action regarding the temporary injunction. I guess they are not worried about the drug problems in the community. If the prominent leaders of this community do not accept we have a drug problem, then we will never improve the quality of life in Kingsville and Kleberg County.

Mayor and Commissioners, tomorrow you are going to consider a resolution to terminate me. I respectfully request that you do not terminate me. I believe that all of the reasons given for terminating me is merely a pretext to hide the real reasons that a majority of the Commission wants to say justify my termination. The reasons given by the Mayor and Commissioners Pecos and Castillo are simply a pretext to conceal their real reason for having me fired: That I wanted to uphold the law and would not let them interfere with the legitimate law enforcement activities and investigations by Chief of Police Granato. Other examples I have given further support my position that no valid reasons have been stated for firing me.

Thank you for your undivided attention and good luck on your future actions.

One last thought Commissioner Castillo; if you expect respect, you have to give respect to earn respect. Respect is earned and not given".

Respectfully,

/s/

Hector M. Hinojosa
City Manager

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

Members of the City Commission made no comments at this time.

V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.

1. CONSIDER WHETHER TO APPROVE THE FINAL RESOLUTION OF DISMISSAL OF HECTOR M. HINOJOSA FROM THE OFFICE OF CITY MANAGER AND AS AN EMPLOYEE OF THE CITY OF KINGSVILLE. (MAYOR ESQUIVEL).

A motion was made by Commissioner Arturo Pecos and seconded by Commissioner Horacio (Hoss) Castillo to approve Resolution #R-2003-07, final resolution of dismissal of Hector M. Hinojosa from the office of City Manager and as an employee of the City of Kingsville.

Commissioner Charles E. Wilson stated that he continues to stand by his thoughts he has stated in prior meetings. He stated that the written evaluation of Mr. Hinojosa's job performance was never communicated with Mr. Hinojosa. Commissioner Wilson stated that an open evaluation was discussed with Mr. Hinojosa during a City Commission meeting; however, nothing was ever put in writing.

Commissioner Al Garcia stated that he totally agrees with Commissioner Wilson. He stated that he has been a City Commissioner for eight years, and has not these types of action before. He asked other members of the Commission to reconsider their actions. Commissioner Garcia stated that recent actions by the City Commission has created dissention, divided friends, and could only hope that these friendships will come together again.

Commissioner Castillo stated that Mr. Hinojosa's statement is quite typical of what this City has suffered for the last two years. He stated that as a City

Commissioner he would represent the majority of the people of this City. Commissioner Castillo stated that the City must move forward in a positive way.

Commissioner Pecos stated that all the reasons for Mr. Hinojosa's dismissal have been stated. He said that based on those facts, he does not trust Mr. Hinojosa and has no confidence in him.

Mayor Esquivel stated that this entire process has been an experience for him. He stated that he has always supported the Kingsville Police Department and the South Texas Specialized Narcotics Task Force. He stated that it is the Commission's responsibility to set policy for the City Manager to follow.

The Commission proceeded to vote on the motion. The motion passed by a 3/2 vote. Commissioner's Wilson and Garcia cast the dissenting votes.

2. CONSIDER APPROVAL OF JOB DESCRIPTION FOR THE POSITION OF CITY MANAGER. (MAYOR ESQUIVEL).

A motion was made by Commissioner Wilson and seconded by Commissioner Pecos to approve the City Manager job description as presented to the Commission. To motion failed by a 2/3 vote. Commissioner's Castillo and Pecos, and Mayor Esquivel cast the dissenting votes.

Another motion was made by Mayor Esquivel and seconded by Commissioner Castillo to approve the City Manager job description as presented to the Commission with an amendment that the minimum qualifications include business management experience. This motion passed by a 3/2 vote. Commissioner's Wilson and Garcia cast the dissenting votes.

Upon a question raised by Commissioner Garcia, Mayor Esquivel responded that no one in particular is being accommodated for this position.

3. CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR THE POSITION OF CITY MANAGER AND SETTING GUIDELINES FOR SUCH ADVERTISEMENT. (MAYOR ESQUIVEL).

A motion was made by Commissioner Pecos and seconded by Commissioner Castillo to authorize staff to advertise for the position of City Manager.

Mayor Esquivel requested that City Manager job advertisements be sent to Texas Municipal League, U.S. Conference of Mayors, National League of Cities, and the Texas Workforce Commission as well as surrounding area newspapers and larger newspapers.

There was a brief discussion on other requirements. It was the consensus of the Commission to also advertise with the University of Texas in Austin, Texas A & M University System, and also specify that the position be opened until filled, and that the Commission would begin reviewing the application in sixty days.

The Commission proceeded to vote on the motion. The motion passed by a unanimous vote.

VI. ADJOURNMENT

The meeting adjourned at 1:00 p.m.

Filemon "Phil" Esquivel, Jr., Mayor

ATTEST:

Diana F. Valadez, City Secretary