

APRIL 28, 2003

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS WAS HELD MONDAY, APRIL 28, 2003 AT 5:30 P.M. IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT CITY HALL, 200 EAST KLEBERG AVENUE.

CITY COMMISSION MEMBERS PRESENT:

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

CITY STAFF PRESENT:

John A. Garcia, Interim City Manager
 Irene Ramirez, Interim City Secretary
 Courtney Alvarez, City Attorney
 Corando Garza, Fire Chief / Assistant City Manager
 Stanley Fees, City Engineer
 Sam Granato, Chief of Police
 Vilma Castillo, Director of Collections
 Caron Vela, Accountant
 Sammy Maldonado, Utilities Superintendent
 Dora Byington, Director of Purchasing
 Jennifer Detloff, Director of Development Services
 Diane Leubert, Solid Waste Superintendent
 Diana Gonzalez, Human Resource Director
 Joe Casillas, Water Production Supervisor
 Art Alvarez, Risk Manager
 Anthony Noyola, Director of Health
 George Crocker, Sergeant
 Joel Saenz, Code Enforcement Officer
 Luke Womack, CPA

I. PRELIMINARY PROCEEDINGS.

OPEN MEETING:

Mayor Filemon "Phil" Esquivel, Jr. opened the meeting at 5:30 p.m.

IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS.

1. WORKSHOP / DISCUSSION BY SOUTH TEXAS ENVIRONMENTAL INSTITUTE ON STATUS OF PHASE II STORMWATER PERMIT AND ON UTILITY FEE FOR FUTURE COMPLIANCE WITH THE STORMWATER PERMIT WITH TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (CITY ENGINEER).

In a workshop / discussion session, Mr. Javier Guerrero and Dr. Andrew Ernest of TAMUK made a presentation on stormwater permit compliance which is required by the TCEQ. The workshop concluded at 5:50 p.m.

6:00 P.M. – REGULAR SESSION OF THE AGENDA CONTINUES.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Esquivel)

Mayor Phil Esquivel opened the regular meeting at 6:00 p.m. Mrs. Ester Quesada led the commission and the audience in an invocation, followed by the pledge of allegiance led by the Silver Award recipients of Girl Scouts Troop #209.

Commissioner Charles Wilson read a proclamation recognizing Girl Scouts Troop #209 Silver Award recipients Heather Garcia, Debbie Gerd, Donica Lopez and Mallory Wilson for their accomplishments.

MINUTES OF PREVIOUS MEETING(S):

A motion was made by Commissioner Pecos and seconded by Commissioner Wilson to approve the minutes of March 11, March 12, March 14, March 25, and March 31, 2003 as printed. Motion carried, 5/0.

II. PUBLIC HEARING - (REQUIRED BY LAW).

None.

III. PUBLIC COMMENT ON AGENDA ITEMS.

Mrs. Peggy Hayes, Executive Director of the Chamber of Commerce, announced a Military Appreciation Day Picnic will be celebrated on Saturday, May 17, 2003 from 10 a.m. to 4 p.m. at Dick Kleberg Park. The public is invited.

Mrs. Virginia Frenzel, 1229 W. Henrietta, asked questions about roof repairs and the mold situation at the central fire station, about random drug testing of elected city officials, and the hiring of a municipal court prosecutor.

Mr. Anse Windham, 628 East Escondido, stated they are inviting everyone to stop in and enjoy the award-winning city park at 14th and Kenedy Street which is maintained by the master gardeners of Kingsville.

IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS (continued)

2. COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE CITY OF KINGSVILLE FOR FYE 09/30/02 BY MR. PATRICK L. MOORE, C.P.A. (INTERIM CITY MANAGER).

Mr. Luke Womack, financial consultant, made a presentation on the Comprehensive Annual Financial Report for FYE 09/30/02, assisted by Mr. Patrick L. Moore, auditor. Overall, Mr. Womack stated the general fund did okay, debt service did what is was supposed to do and the capital fund depletes. Mr. Patrick L. Moore strongly recommended the city have an off-site data processing back-up copy done daily.

3. QUARTERLY REPORT BY THE KINGSVILLE CONVENTION AND VISITOR'S BUREAU. (KCVB BOARD PRESIDENT).

Mr. Anse Windham, KCVB President, briefed the commission on the KCVB's quarterly report for the first quarter of 2003. The Mayor stated he is pleased with the KCVB's hard work and publicly recognized Mrs. Carol Ann Anderson and Mr. Anse Windham. Commissioner Garcia recognized KCVB volunteers for contributing long hours. Commissioner Wilson asked everyone to visit the bureau and stated it is the hub of activities and the city is reaping the rewards.

4. INTERIM CITY MANAGER'S REPORT.

Mr. John Garcia introduced Ms. Irene Ramirez as the Interim City Secretary. He requested that Agenda Item #8 be moved to Item #1.

Mr. Garcia updated the commission on the following issues:

1. Drainage and street improvements for Second Street from King Avenue to Caesar Avenue.
2. Reconstruction of Aislie Street from Sixth Street to Business 77.
3. Estimated city revenues from King's Crossing development.

5. CITY ATTORNEY'S REPORT.

Mrs. Courtney Alvarez, City Attorney, stated Mr. Chris Champion of TABC met with city staff with regard to proposed changes to city's alcohol license ordinance.

Mrs. Alvarez stated she received a hearing notice from Judge Fred Garza's office of Edinburg, Texas for May 1, 2003 to decide on whether or not to order a recall election. She also mentioned the South Texas Aggregation project received a settlement from CPL benefiting the city \$22,833. She stated she is working on developing a policy for random drug testing for elected city officials

6. Mayor and City Commissioner's Reports. (City Commission).

Commissioner Castillo stated he and Mayor Esquivel traveled to Austin on Friday, April 25, 2003 to meet with Mr. Pedro Garza, chief executive officer of the EDA, and had a productive meeting.

Commissioner Pecos stated he has received numerous calls from citizens on the city-wide cleanup efforts. He received several complaints about school traffic lights operating on Corral Street near McRoberts School and on 9th Street, near St. Martin's School.

Commissioner Garcia stated he is disappointed the Task Force deadline has come and gone but is glad to see the force is not completely going to go away as either Brooks, Kenedy or Jim Wells county will be picking them up.

Mayor Esquivel stated the city will soon be reviewing applications for city manager. While in Austin, the Mayor and Commissioner Castillo attended Senator Lucio's Governor for a Day program and he delivered the resolution supporting a multi-jurisdictional task force to Senator Lucio.

Corando Garza, fire chief, stated 7 bids were received on the mold remediation needed at the central fire station and he will forward his recommendation to the city manager.

V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.

1. CONSIDER REMOVING FROM THE TABLE THE REJECTION OF THE SOLE BID RECEIVED FOR A TRENCH BURNER. (CITY COMMISSION).

A motion was made by Commissioner Pecos and seconded by Commissioner Garcia to remove the rejection of the sole bid received for a trench burner from table. Motion carried, 5/0.

At this time, the city manager reminded the commission about moving Agenda Item #8 forward. A motion was made by Commissioner Wilson and seconded by Commissioner Pecos to move Agenda Item #8 up to Item #1. Motion carried, 5/0.

8. CONSIDER AUTHORIZING SOUTH TEXAS ENVIRONMENTAL INSTITUTE TO PERFORM A ENGINEERING STUDY FOR THE DEVELOPMENT OF A STORM WATER UTILITY AND DETERMINING APPLICABLE FEES. (CITY ENGINEER).

A motion was made by Commissioner Wilson and seconded by Commissioner Pecos to authorize the South Texas Environmental Institute from TAMUK to perform a study pending an agreeable contract and funding. Motion carried, 5/0.

The Commission then resumed the regular agenda:

1.1 CONSIDER REJECTING THE SOLE BID RECEIVED FOR A TRENCH BURNER. (BID #23-26). (DIRECTOR OF PURCHASING).

A motion was made by Commissioner Castillo and seconded by Commissioner Pecos not to reject sole bid received for a trench burner. Motion carried, 5/0.

2. CONSIDER AWARDING THE SOLE BID RECEIVED FOR A TRENCH BURNER. (BID #23-26). (DIRECTOR OF PURCHASING).

A motion was made by Commissioner Castillo and seconded by Mayor Esquivel to table awarding the sole bid received for a trench burner. Motion failed 2/3, with Commissioners Pecos, Wilson and Garcia casting the dissenting votes

A second motion was made by Commissioner Pecos and seconded by Commissioner Garcia to award the bid for a trench burner to the sole bidder, H. V. Equipment Co. in the amount of \$39,777. Motion carried 3/2, with Commissioner Wilson and Mayor Esquivel casting the dissenting votes.

3. CONSIDER AWARDING BID FOR 90-GALLON ROLL OUT GARBAGE CONTAINERS. (BID #23-30). (DIRECTOR OF PURCHASING).

A motion was made by Commissioner Garcia, and seconded by Commissioner Pecos to award the bid for 300 90-gal. garbage containers in the amount of \$19,200 to Ameri-Kart Corporation. Motion carried, 5/0.

4. CONSIDER AWARDING BID FOR RESTROOM REMODELING AT THE CITY RECYCLING CENTER. (BID #23-33). (DIRECTOR OF PURCHASING).

A motion was made by Commissioner Garcia and seconded by Commissioner Pecos to award the bid for restroom remodeling at the Recycling Center in the amount of \$11,850 to the sole bidder, Coast to Coast Construction Company of Corpus Christi. Motion carried, 5/0.

5. CONSIDER FINAL PASSAGE OF AN ORDINANCE AMENDING CHAPTER XI, BUSINESS REGULATIONS, ARTICLE 3, ALCOHOLIC BEVERAGES; PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES WITHIN 1000 FEET OF A PRIVATE SCHOOL, DAYCARE OR CHILD CARE FACILITY AND PROVIDING FOR VARIANCES TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES WITHIN 1000 FEET OF A CHURCH, PUBLIC OR PRIVATE SCHOOL, DAYCARE FACILITY OR PUBLIC HOSPITAL. (COMMISSIONER WILSON).

Commissioner Wilson stated the city attorney revised the proposed alcohol ordinance to include provisions for granting variances to allow the sale of alcoholic beverages within 1000 ft. of a church, public or private school, daycare facility or public hospital if the business possesses a food and beverage license. The ordinance includes a grandfather clause for businesses that are currently operating until such time there is a change in owners, officers, stockholders, corporation, entities or names.

A motion was made by Commissioner Pecos and seconded by Commissioner Wilson to approve final passage of the ordinance to amend Chapter XI, Business Regulations, Article 3, Alcoholic Beverages as prepared by staff.

A motion to amend the original motion was made by Commissioner Castillo and seconded by Commissioner Pecos to read "A majority vote" rather than a 4/5 vote of the members of the City Commission shall be necessary to approve a request for a variance...

A roll call vote on the amended motion passed with a vote of 3/2, with Commissioners Garcia and Wilson casting the dissenting votes.

A roll call vote on the original motion passed with a vote of 4/1, with Commissioner Garcia voting against the motion.

6. CONSIDER FINAL PASSAGE OF AN ORDINANCE AMENDING CHAPTER XV, ARTICLE 2, TRAILERS AND TRAILER PARKS, RENAMING ARTICLE 2, MOBILE HOME AND MOBILE HOME PARKS AND PROVIDING FOR OTHER CHANGES THEREIN. (DIRECTOR OF DEVELOPMENT SERVICES).

A motion was made by Commissioner Garcia and seconded by Commissioner Pecos to approve the recommended changes to Chapter XV, Land Usage, Article 2, Trailers and Trailer Parks as presented by staff. Motion carried, 5/0.

6.1 CONSIDER FINAL PASSAGE OF AN ORDINANCE AMENDING CHAPTER XV, ARTICLE 4, FLOOD DAMAGE PREVENTION, ADDING MOBILE HOME TO THE DEFINITION OF MANUFACTURED HOME AND MANUFACTURED HOME PARK OR SUBDIVISION. (DIRECTOR OF DEVELOPMENT SERVICES).

A motion was made by Commissioner Garcia and seconded by Commissioner Castillo to approve the recommended changes to Chapter XV, Land Usage, Article 4, Flood Damage Prevention as presented by staff. Motion carried, 5/0.

6.2 CONSIDER FINAL PASSAGE OF AN ORDINANCE AMENDING CHAPTER XV, ARTICLE 6, ZONING, AMENDING SECTION 15-6-21, SECTION 15-6-23, SECTION 15-6-94 AND APPENDICES A & B OF THE LAND USE CHARTS; ADDING MANUFACTURED HOME TO DEFINITION OF MOBILE HOME, DELETING SECTION 15-6-23 AND SECTION 15-6-94, ADDING MANUFACTURED HOME AND MANUFACTURED HOME PARK TO EXISTING LAND USE CHART CATEGORY MOBILE HOME PARK OR MOBILE HOME ON LOT IN APPENDIX A, AMENDING LOT SIZES FOR MOBILE HOMES IN APPENDIX B: SPACE REQUIREMENTS. (DIRECTOR OF DEVELOPMENT SERVICES).

A motion was made by Mayor Esquivel and seconded by Commissioner Pecos to table Item 6.2 for clarification on grandfathering. Motion carried, 5/0.

7. CONSIDER INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 5, TRAFFIC SCHEDULES, REDUCING SPEED LIMIT ON CERTAIN AREAS OF GENERAL CAVAZOS BOULEVARD (FM 1356) TO 35 MILES PER HOUR; PROVIDING FOR APPROPRIATE PENALTIES, FINES, AND FEES REGARDING THE REGULATION THEREOF. (CITY ENGINEER/STREET SUPERINTENDENT).

Mr. Stanley Fees, city engineer, stated this is an introduction only which was requested by TXDOT to reduce the speed limit along General Cavazos Boulevard from U.S. Bypass 77 approximately 1300 feet west to Sixth Street for the purpose of a construction project currently underway. Mayor Esquivel asked Mr. Fees to

contact NAS Kingsville about reducing the speed limit east of U.S. Bypass 77.

The following item was moved to Agenda Item #1:

8. Consider authorizing South Texas Environmental Institute to perform a engineering study for the development of a storm water utility and determining applicable fees. (City Engineer).

9. CONSIDER RESOLUTION APPROVING AN INCREASE IN THE PRESENT MAXIMUM ACCESS LINE RATES TO THE NEW CPI ADJUSTED MAXIMUM RATES AND AUTHORIZING THE INTERIM CITY MANAGER TO SUBMIT TO THE PUBLIC UTILITY COMMISSION AN AUTHORIZATION TO IMPLEMENT AN INCREASE IN THE ACCESS LINE RATES FOR THE CITY. (INTERIM CITY MANAGER).

A motion was made by Commissioner Pecos and seconded by Commissioner Wilson, to authorize the Interim City Manager to submit to the PUC an authorization to implement an increase in the access line rates for the city. Motion carried, 4/1, with Mayor Esquivel casting the dissenting vote.

10. DISCUSS AND APPROVE AUTHORIZING FUNDS FOR REPAIRS TO THREE WATER TOWERS AND ONE GROUND STORAGE TANK. (UTILITIES SUPERINTENDENT).

A motion was made by Commission Castillo and seconded by Commissioner Garcia to authorize funds in the amount of \$24,500 for repairs to 3 water towers and a ground storage tank. Motion carried, 5/0.

11. CONSIDER OUT-OF-STATE TRAVEL FOR MAYOR ESQUIVEL TO ATTEND THE 71ST ANNUAL UNITED STATES CONFERENCE OF MAYORS IN DENVER, COLORADO ON JUNE 5 - 10, 2003. (MAYOR ESQUIVEL).

A motion was made by Commissioner Castillo and seconded by Commissioner Pecos to approve out-of-state travel for Mayor Phil Esquivel, Jr. to attend the U. S. Conference of Mayors in Denver, Colorado from June 5 - 10, 2003. Motion carried, 5/0.

12. DISCUSS AND ACT ON OPTIONS FOR SOUTH TEXAS SPECIALIZED CRIMES AND NARCOTICS TASK FORCE GRANT APPLICATION AND POSSIBLE RELOCATION OF SAME. (MAYOR ESQUIVEL).

Mayor Esquivel stated he contacted the Brooks County Judge, Mayor and the Chief of Police from Falfurrias, the Kleberg County Judge to take over the South Texas Task Force and is waiting to hear from them.

13. DISCUSS UPCOMING NEGOTIATIONS FOR A NEW WATER SUPPLY CONTRACT WITH THE SOUTH TEXAS WATER AUTHORITY. (COMMISSIONER PECOS).

Commissioner Pecos stated the South Texas Water Authority will meet on April 30, 2003 to discuss upcoming negotiations for a new water supply contract. Mayor Esquivel asked Commissioner Pecos to report at the next city commission meeting.

14. EXECUTIVE SESSION: UNDER SECTION 551.074 OF THE TEXAS OPEN MEETINGS ACT, THE CITY COMMISSION SHALL CONVENE IN EXECUTIVE SESSION TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OF APPLICANTS FOR THE POSITION OF CITY MANAGER. (MAYOR ESQUIVEL).

16. EXECUTIVE SESSION: UNDER SECTION 551.074 OF THE TEXAS OPEN MEETINGS ACT, THE CITY COMMISSION SHALL CONVENE IN EXECUTIVE SESSION TO DELIBERATE THE EMPLOYMENT OF A MUNICIPAL COURT PROSECUTOR ON A CONTRACT BASIS. (COMMISSIONERS CASTILLO AND PECOS).

The Commission convened into executive session pursuant to Section 551.074 of the Texas Open Meetings Act at 8:42 p.m. to discuss Agenda Items #14 and #16.

The Commission reconvened into open session at 9:37 pm. At this time the Mayor stated Agenda Item #15 would be heard in open session as per a request from Sam Granato, Chief of Police.

15. 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 CHIEF OF POLICE SAMUEL GRANATO. (MAYOR ESQUIVEL).

Mayor Esquivel addressed the city manager stating he wanted to share his concerns about the duties and position of Sam Granato as Chief of Police. He referenced an article that appeared in the April 20, 2003 Kingsville Record where Sam Granato was quoted as stating "Sure and we can make Mo Gonzalez the project director (of the task force)" when asked by Bob Odom, editor, what his thoughts were about the idea of Sheriff (Tony) Gonzalez overseeing the present task force. The Mayor stated professionalism is very important and these comments are contrary to what is expected of a professional staffer. He stressed that Sam Granato needed to remember he is the chief of police of Kingsville, 24 hours a day and comments such as these are not becoming of a chief of police. He asked the city manager to use his discretion in addressing this issue.

Mayor Esquivel also referred to a letter that was published in the Corpus Christi Caller which was written by Chief Granato stating 60% of the children in Kingsville have a drug problem. A third concern that Mayor Esquivel asked directly to Chief Granato was a comment that was made during a task force meeting where Chief Granato stated that the district attorney's (Carlos Valdez') spouse is related to Modesto Gonzalez. Mayor Esquivel stated he asked

Valdez and he stated there is no relationship between Modesto Gonzalez and his wife. Again, he stated this is very unprofessional and could be a liability to the city when false statements such as this are made in public. He added that the City of Kingsville has taken a beating during the past few months.

Chief Granato stated he stood by his comments about Valdez's wife being related to Modesto Gonzalez, that "it was done as a matter of record". He stated Bob Odom contacted him by email on his personal email account that he was not asked as a chief, and as a citizen stands by his first amendment rights. He stated he will comment on issues of concern to him. He also stands by his letter to the editor on the drug problem in our schools.

Mayor Esquivel reiterated his concern that Chief Granato should maintain a level of professional as chief of police, as he is "Chief Sam Granato" 24 hours a day. Sam Granato stated that they "*must from time to time agree to disagree*". He also stated everyone knows there is no love lost between him and Sheriff Tony Gonzalez and he continues to exercise his first amendment right to speak out of issues of concern. He also commented the district attorney has never attended a single task force meeting since he took office over 2 years ago. He stated the City of Kingsville is not responsible for the task force going away, and stated there are two individuals who are responsible for this.

Commissioner Garcia asked Sam Granato if he had any idea his comments were going to be published to which he replied "he knew Bob Odom was going to use it for a story".

17. DISCUSS AND APPROVE HIRING A MUNICIPAL COURT PROSECUTOR ON A CONTRACT BASIS. (COMMISSIONERS PECOS AND CASTILLO).

A motion was made by Commissioner Castillo to authorize the interim city manager to work with the city attorney to contract a court prosecutor on an hourly-basis if the budget allows and the work load is required. Motion was seconded by Commissioner Pecos. Motion carried, 3/2, with Commissioners Wilson and Garcia casting the dissenting votes.

VI. ADJOURNMENT.

The meeting adjourned at 9:57 p.m.

Filemon "Phil" Esquivel, Jr. Mayor

ATTEST:

Irene Ramirez, Interim City Secretary

For the next meeting the mayor asked the city manager to come up with a recommendation for remediation; also info on reimbursement from insurance company – will TML reimburse us? He asked the city manager to research the paper trail on who did work and ?