

JUNE 23, 2003

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE WAS HELD ON MONDAY, JUNE 23, 2003 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE AT 6:00 P.M.

**CITY COMMISSION PRESENT:**

Filemon "Phil" Esquivel, Mayor  
Al Garcia, Commissioner  
Charles E Wilson, Commissioner

**CITY STAFF PRESENT:**

John Garcia, Interim City Manager  
Irene Ramirez, City Secretary  
Courtney Alvarez, City Attorney  
Diana Gonzales, Human Resource Director  
Corando Garza, Asst City Manager/Fire Chief  
Jennifer Detloff, Director of Development Services

**I. PRELIMINARY PROCEEDINGS.**

**OPEN MEETING**

The meeting opened at 6:00 P.M.

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

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

**II. PUBLIC HEARING - (Required by Law).<sup>1</sup>**

None.

**III. PUBLIC COMMENT ON AGENDA ITEMS.<sup>3</sup>**

Comments on all agenda and non-agenda items.

**IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS.<sup>2</sup>**

**1. Presentation by Halo Flight for funding request FY 2003-2004 budget. (Interim City Manager).**

No information found (not on audio)

**2. Presentation regarding Operation Clean Sweep by George Orecso, Zoning Project Coordinator for the City of Corpus Christi. (Interim City Manager).**

A representative from Operation Clean Sweep made a presentation to the commission, stating that this is a tremendous program. He stated that the National Guard knocks the houses down, and they haul it off. He stated that in the case of the City of Corpus Christi, they did not want to take on the entire burden, so a non-profit group

called Neighborhood Visions, Inc. was started. He also stated this group is a legal 5013C non-profit. He stated at the start of the program, there is media coverage.

Mr. George Oresco, Zoning Project Director addressed the commission, stating that as far as paperwork is done by the police department or the code enforcement officer. Mr. Oresco gave a brief description of the procedure used to demolish properties. He stated that they will come if there are fifteen properties to demolish.

Mayor Esquivel thanked both parties for their presentation.

### **3. Interim City Manager's Report. (Interim City Manager).**

#### **3.1 Civil Service Commissioner nominations.**

Mr. Garcia stated he was looking for nominations for civil service commissioners.

#### **3.2 TML Region 11 Meeting announcement.**

Mr. Garcia stated a Regional TML meeting will be Wednesday, June 25<sup>th</sup> in Ganado.

#### **3.3 City of Kingsville Safety Week.**

Mr. Garcia stated all commissioners are invited to attend Safety Week, starting at 7:00 AM. He also stated the budget workshop will start on July 14<sup>th</sup> – 27<sup>th</sup>, lunch type workshops.

### **4. City Attorney's Report. (City Attorney).**

Ms Courtney Alvarez stated the City had received a request for a joint committee meeting with the South Texas Water Authority negotiating team tentatively July 2<sup>nd</sup> at 5:30 PM. She also stated she attended the Annual Texas City Attorney Associations Conference, interesting topics and speakers. She stated she received information regarding the legislative session. She added that she would like to bring up a few points that had to do with municipal law to the commissioners' attention. She stated that HB1549 - changed uniform election day, HB9 Homeland - to allow for those sessions where the Federal Government has required the water system to do a vulnerability assessments when conducted in closed sessions, those closed sessions must be tape recorded, and those are the only closed sessions that are tape recorded. She stated that lastly there was an item that allows for entities wherein a court is located on premises a concealed hand gun can be band from the municipal court property.

**5. Mayor and City Commissioner's Reports. (City Commission).**

Upon a question raised by Commissioner Wilson, Ms Alvarez stated that she needed to follow up to see if something that has been vetoed or has been signed or signature has been taken still be effect.

Commissioner Wilson stated TML sent packet, there are others of interest which give municipalities latitude, one of interest is a road fund within a municipality and charges can be approved through an election.

Commissioner Wilson also stated that he had a concern regarding a salary that was budgeted for \$45,889, which is being paid at \$50,937, he added there was a budget amendment for that department. He stated that budget amendment was to cover any of the Interim City Manager swoops and move arounds and for no other employees within that department. He also stated that in a budget that is extremely tight it concerns him that we are doing that within the departments. He added he stated he wanted to follow up on Commissioner Garcia's item.

Commissioner Garcia stated he had a complaint on a small crater developing on 2<sup>nd</sup> Street.

Mayor Esquivel gave brief explanation of problems on 2<sup>nd</sup> Street.

Commissioner Castillo stated he wanted to address some of the issues addressed by Denise. He stated that he was involved in the 1989 recall election, but he could not address the legal issues.

Mayor Esquivel briefed the audience regarding homeland security. He thanked fire, police and risk management personnel for the assessment of what's need in Kingsville for homeland security.

**1. Discuss potential administrative policy requiring memorandum on effect of new or revised ordinances. (Mayor Esquivel).**

Mayor Esquivel stated this is important not only for today's financial fiscal help, but for years to come. He stated he would like to see when there is a revision of an ordinance or administrative change. He stated he would like to see a cover letter describing the purpose, overall goal, financial impact and the recommendation with the potential administrative policy.

Mayor Esquivel stated that he had a writ of temporary injunction from Judge Manuel Banales, of the 105<sup>th</sup> District Court. Mayor Esquivel read the order by Judge Banales which stated, "You are to resist and refrain from complying with or following the orders from Judge Federico Garza, Jr. on the election of May 27, 2003". He added that this was basically because the order was not written in both English and Spanish. He stated none of the other issues were addressed.

Mayor Esquivel requested for Mr. Garcia to make sure that KISD, STWA, and Kleberg County have the two representatives working on the multi jurisdiction master plan. He stated he had requested Ms Ramirez set up a conference call with EDA.

## **V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.**

### **1. Discuss and approve revised capital improvement schedule for Parks Department. (Parks Director).**

Ms Susan Ivy, Parks Director addressed the commission, stating she had provided them with a revised capital improvement schedule. She stated the commission had approved a schedule in back in June 2002, but some adjustments had been made due to some priority changes. She stated some of the things completed since is the irrigation process, three adult softball fields; three little league fields, irrigated in two more soccer fields with additional assistance from the Soccer Organization, and concrete work at the skatepark.

Ms Ivy stated that the list of improvement needing completion were purchase of \$6,000.00 of skate park equipment; \$2,500.00 to finish replacement of the piping and fencing to the adult softball complex; \$12,000.00 to re-pipe and re-fence field #1; completion of the restroom at Flores Park, portable bleachers for the skate park. \$5,000.00 for completion of the Military Park on the bypass (landscaping project), a basketball court at Corral St Park, and the pavilion and barbecue pit needs to be enlarged. Ms Ivy added that their latest statement of expenses reflects a balance in the capital improvement line item of \$38,000.00. She stated \$15,000.00 is due from Brookshire Foundation and \$25,000.00 from the City for capital improvements.

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

### **2. Discuss and approve placement of skate park equipment purchased with City committed funds at County Precinct #4 location. (Parks Director).**

Ms Ivy stated catalog price is over \$9,000.00 but was offered at cost of \$6,000.00. She stated they would like to provide at location more accessible to the children which is at Precinct #4. She stated that they would like permission to put the \$6,000.00 worth of skate park equipment at Precinct #4 Skate Park. She added funds would be found to open another location for skate boarding.

**Commissioner Castillo made a motion to approve the placement of skate park equipment purchased at the Precinct #4 location, seconded by Commissioner Wilson. The motion carried, 5/0.**

**3. Consider awarding contract for demolition services of 3 condemned structures. (Director of Purchasing).**

Mr. Garcia stated these structures are located throughout various locations of the city limits.

Mr. Corando Garza, Asst City Manager stated that the structures are located at 613 E Ave D, 1115 E Henrietta, and 723 E Ella. He stated that these structures were awarded to Pena Construction who was given 10 days to provide worker's compensation coverage, but could not meet the requirement. He stated that the next two bidders were considered, Mr. Joe Garcia and SAC from Corpus Christi, both bid on 613 E Ave D, each bidding \$2,400.00. He stated that at 723 E Ella, SAC bid \$2,200.00. He also stated that 1115 E Henrietta had been bid by Pena Construction, at no cost to the City. Mr. Garza stated staff recommends approval.

Mr. Joel Saenz, Code Enforcement Officer stated that 1115 E Henrietta would be demolished by George Oresco and the National Guard Crews.

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

Commissioner Wilson wanted clarification on the motion, which was only for two properties. He stated he had great concern because during the presentation, the gentleman stated they needed fifteen properties to be demolished before coming to the community. He stated that the National Guard comes maybe every six months to a year. He added there has to be a trade off as to what is better for the community over the individual.

Mr. Garza stated that the houses need to meet criteria before the National Guard will demolish them.

Commissioner Wilson amended the motion to award Joe's Dumping Truck Service of Kingsville the 613 E Ave D property, and that SAC from Corpus Christi be awarded 1115 E Henrietta and 723 E Ella which would still be same amount of dollars, seconded by Commissioner Garcia for discussion.

Commissioner Garcia stated that if three properties were bid on together maybe there would be a discount.

Commissioner Wilson stated each property stands alone.

Mayor Esquivel stated once properties are torn down, there should be a property lien in place. He stated that he would take care of tearing down 1115 E Henrietta because he had told the man he would do it. He stated he needed three weeks.

**On the motion made by Commissioner Wilson, the motion, failed 2/3, with Mayor Esquivel, Commissioners Pecos and Castillo casting the dissenting votes.**

On the original motion made by Commissioner Pecos, the motion carried, 4/1, with Commissioner Wilson casting the dissenting vote.

**4. Consider awarding bid for placement of hot mix on General Cavazos Boulevard east of Hwy. 77 to Senator Carlos Truan Boulevard. (Interim City Manager).**

Mr. Garcia stated that a meeting was held with different entities to discuss cost savings. He stated TXDOT would be paying for materials, and the County and City would provide the labor and materials.

He stated staff is recommending that Hunter Industries be awarded the bid of \$18,217.20.

Commissioner Wilson made motion to approve.

Mayor Esquivel intervened stating that before any motion was made he wanted the commission to know that the County had agreed to pay half of \$18,217.20.

**Commissioner Wilson made a motion to table this item until more information is provided, seconded by Commissioner Pecos. The motion carried, 5/0.**

Mayor Esquivel asked Mr. Garcia to poll the commission in order to set up a special meeting after clarification.

**5. Consider appointment of a Temporary Municipal Court Judge for Case Number 23-02884 State of Texas v. Oscar G. Castillo pending in the Municipal Court of the City of Kingsville. (City Attorney).**

Ms Alvarez stated that Judge Dyson has requested to recuse himself from this case, contrary to what was in the newspaper. She stated Mr. Jaime Carrillo and Mr. Sam Fugate had indicated they were interested in the temporary appoint position.

Commissioner Castillo stated that staff needs to enforce all rules on everyone while in a commission meeting.

Commissioner Wilson made a motion to appoint Mr. Carrillo, Temporary Municipal Court Judge for Case Number 23-02884 State of Texas v. Oscar G. Castillo pending in the Municipal Court of the City of Kingsville, seconded by Commissioner Garcia.

Commissioner Pecos stated there might be a conflict of interest because Mr. Carrillo is representing the water committee in the South Texas Water Authority court case.

The motion failed, 2/2, with Mayor Esquivel and Commissioner Pecos casting the dissenting votes.

**6. Consider resolution providing for the adoption of Policy #890.6, E-mail and Internet and Policy #890.8, Use and Care of City Property for the City of Kingsville. (Human Resource Director).**

Ms Diana Gonzales, Human Resource Director gave a brief description of both policies. She stated the Human Resource would be training employees and that copies of policies will be distributed to the directors so they can disseminate to employees. She also stated these policies will be incorporated into the employee handbook.

Commissioner Castillo stated he had a problem with the section regarding home location, stating that this might violate privacy.

Commissioner Wilson stated this section indicates dial up which is provided by the City. He also stated this section needs to be clarified.

Commissioner Castillo made a motion to table this item, seconded by Commissioner Garcia. The motion carried, 5/0.

**7. Consider resolution amending the City of Kingsville's Compensation Plan to reclassify the position of Information System Technician, reclassify the position of Municipal Court Clerk, and the position of Municipal Court Specialist for FY 2002-2003. (Human Resource Director).**

Mr. Garcia stated that he would like to pass on this item due to changes he would like to make.

Commissioner Castillo stated he would like to take vote, in order to vote it down because it is not appropriate to be reclassifying midway through the budget.

Commissioner Garcia made a motion to table this item, seconded by Mayor Esquivel. The motion carried, 3/2, with Commissioners Wilson and Castillo casting the dissenting votes.

**8. Discuss renewable extension of the tax abatement agreement with Proco, Inc. (Commissioner Garcia).**

Commissioner Garcia stated he had a concern regarding Proco not keeping up with abatement agreement.

Ms Alvarez gave brief description of agreement to the commission.

Upon a question raised by Mayor Esquivel regarding if Proco was in compliance, Ms Alvarez stated she does not recall them coming

to any City Commission meeting to see if they are in compliance, therefore violating one of the terms.

Mayor Esquivel stated Proco is ready to provide whatever is needed.

Commissioner Garcia stated Proco is refusing to provide information to the City. He stated he would like for staff to bring up all abatement contracts to see where the City is.

No action was taken.

**9. Discuss request for property/ street name change for Loop 428. (Director of Development Services).**

Ms Jennifer Detloff stated that several citizens had requested a name change for Loop 428. She stated she had spoken to Chris Caron, from the TXDOT regarding the name change. She stated that a name change can be done through a resolution.

Mayor Esquivel stated he would like to get everyone involved in naming street.

Commissioner Castillo stated there an ordinance already exists.

No action was taken.

**10. Consider introduction of an ordinance abandoning an alley and retaining an easement for utility purposes in Block 20 of the Fifth Addition. (Director of Development Services).**

Ms Alvarez asked to have this item passed on.

**11. Executive Session: Pursuant to Section 551.087 of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the offer of a financial or other incentive to a business prospect that the governmental body seeks to have locate and stay in the City of Kingsville and with which the City is conducting economic development negotiations. (Director of Development Services).**

No action was taken

**12. Consider and act on offering an economic incentive to Walgreen's to locate and stay in the City of Kingsville. (Director of Development Services).**

No action was taken



**13. Discuss and approve an investigation by the City Commission under Section 19, Article V, City Charter, regarding the misconduct of certain city employees actively involved in the circulation of the Recall Petition during March 2003. (Commissioners Castillo and Pecos).**

No action was taken, Commissioner Castillo made motion to withdraw Item, seconded by Commissioner Pecos.

**14. Discuss and authorize selection of outside legal counsel to review the constitutional legality of Section 24, Article II, Recall Election, of the City Charter regarding this section's lack of due process for city elected officials and authorize the request for review by the Texas Attorney General's Office. (Commissioners Castillo and Pecos).**

Request will be submitted for opinion from State Rep. Escobar, State Senator Lucio, and City Attorney.

This item was approved, 5/0.

**15. Discuss and approve the procedures for the preparation and processing of Recall Election petitions and other documentation by the City Secretary and City Attorney, and authorize hiring of outside counsel to review and/or prepare such procedures and documentation. (Commissioners Castillo and Pecos).**

Commissioner Castillo stated inconsistencies in handling of petitions from 1989 to 2003.

Mayor Esquivel stated Mr. Garcia can decide and ask TML for assistance.

Commissioner Castillo stated if staff works it, then there needs to have all discrepancies raised.

This item was approved 3/2, with Commissioners Wilson and Garcia casting the dissenting votes.

**16. Executive Session: Under Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in Executive Session to discuss the job performance of the Director of Development Services. (Commissioner Castillo).**

Commissioner Wilson stated he did not think the commission had authority to go into executive session on this due to commission not having supervision over this employee.

**17. 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).**

No action taken.

**18. Discuss and act on narrowing down applications for the City Manager position. (Mayor Esquivel).**

No action taken.

**VI. ADJOURNMENT.**

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Filemon "Phil" Esquivel, Jr., Mayor

**ATTEST:**

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Irene Ramirez, City Secretary

**PRESENTED and ADOPTED by the Kingsville City Commission on this 27<sup>th</sup> day of April, 2004.**

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Charles E Wilson, Presiding Officer

**ATTEST:**

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