

**AUGUST 25, 2003**

**A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS WAS HELD FRIDAY, AUGUST 25, 2003 AT 5:00 P.M. IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, 200 E. KLEBERG AVENUE AT 5:00 PM.**

**CITY COMMISSION MEMBERS PRESENT:**

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

**CITY STAFF PRESENT:**

John Garcia, Interim City Manager  
 Courtney Alvarez, City Attorney  
 Irene Ramirez, City Secretary  
 Stanley Fees, City Engineer  
 Billy McCoy, Police Officer  
 Macario Mayorga, Water Field Supervisor  
 A. L. Noyola, Health Director  
 Joe Casillas, Water Production Supervisor  
 Yolanda Vasquez, Court Supervisor  
 Art Alvarez, Risk Manager  
 Daniel Almeida, Waste Water Supervisor

**I. PRELIMINARY PROCEEDINGS.**

**OPEN MEETING**

The meeting was opened at 5:00 PM, and Convened into Petitions, Grievances, and Presentations-Item IV-#1/Workshop Session with City Staff

The meeting reconvened at 6:00 PM for the regular meeting.

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

Ms. Dora Byington lead everyone in prayer, Mr. Javier Limon the Pledge of Allegiance, and Commissioner Pecos the Texas Pledge.

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

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

**1. Presentation of Certificates of Appreciation to Mr. Javier Limon, Mr. Bill Davis, and Mrs. Peggy Hayes with regard to "City of Kingsville Day at Aviator's Stadium". (Mayor Esquivel).**

Mayor Esquivel made presentation to Mr. Javier Limon, Mr. Bill Davis, and Ms Peggy Hayes. He stated that they were gracious enough to host the City of Kingsville at the Aviator's Stadium in Robstown, Texas.

**2. Presentation by Mr. Ron Massey of the City of Corpus Christi on desalination plant. (Mayor Esquivel).**

Mr. Massey was not present.

Mayor Esquivel requested that Ms Carola Serrato Director of South Texas Water Authority, Chairperson for Coastal Bend Regional Water Board and the Chair of the City of Corpus Christi Water Resource Advisory Committee make presentation. Ms Serrato stated that the Governor announced that he was starting a desalination of seawater initiative. She added that basically it was his vision that with so many miles of coast in Texas it was imperative that we start looking at the possibility of removing the salt from seawater. She added that the Texas Water Development Board opened up a request for proposals for applications. She stated that there were ten (10) applications submitted, and it was narrowed down to three; one in the Houston area, one in the Valley, and one in the Corpus Christi area. She stated the City of Corpus Christi is requesting support on a regional basis from entities such as the City of Kingsville. She stated that the South Texas Water Authority sent a letter of support last week. She added that the letter of support goes a long way towards the City being able to receive grant funds. She stated that basically it will be looking at the different processes that are available, where a suitable plant can be located, and to use such disposable environmental concerns.

**3. Presentation by Ms. Garza of Boys & Girls Club of Kingsville. (Mayor Esquivel).**

Ms Annabelle Garza made a presentation to the Commission. She stated the Club is making the same request as last year, and that they are in the same situation. She added that the Commissions' consideration is very much appreciated. She stated that she hopes to see the same funds this year. She stated that the Club has seven programs. It was stated that the Club has been painted, the children were given cards so when they arrive they check in. These card help the Club track what programs the children are using the most.

Mayor Esquivel stated that he was a product of the Club, and the City has budgeted to help.

**III. PUBLIC COMMENT ON AGENDA ITEMS.**

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

Michael Sword, Quicksilver Amusements requested consideration of a charity sweepstakes program.

Doug Tuskey, Houston, Texas stated he was interested in opening up a game room. He stated they would like to be considered for a game room.

Ms Peggy Hayes stated she wanted clarification on how charities are chosen by the game rooms.

#### **IV. PETITIONS, GRIEVANCES, AND PRESENTATIONS.**

##### **1. Review and discuss department budget requests, revenues, new proposals and projections pertaining to the proposed fiscal year 2003-2004 budget.**

Ms Caron Vela, Interim Finance Director stated that there were changes that were made in the packets that the Commission had received. She stated one change was in the City Special. She stated the comprehensive plan would cost \$10,000.00 cash match, and added that would be the max. She stated that the spreadsheets showed all the form 6 at a glance and that the Commission could see what everybody is requesting.

Ms Vela stated that the general fund is \$537,649.00, and the utility is \$47,545.00.

Mayor Esquivel requested that Ms Vela, Mr. Garcia and Mr. Luke Womack, Auditor look at this to see where there are essential positions that can be done without. Mayor Esquivel asked for a total cost on new and added positions. He stated that between reclassifying and adding new employees the City is adding \$537,000.00 to this budget. Ms Vela stated that the new positions are not included in the budget, and added that these were only requests. She stated she was asking for direction from the Commission as to which ones they want. She stated only the ones in Finance administration were included.

Upon a question raised by Commissioner Castillo, Ms Vela stated that the R6 to R7 is the \$11,998.00, and that \$1,600.00 is the recommendation to move all the positions on Range 6 to Range 7 and that is the total impact. She also stated it was fifteen (15) employees from the general fund and two (2) from employee fund.

Upon a question raised by Mayor Esquivel, Ms Vela stated the roof is not included in this, but it will be part of the eight liner monies.

Commissioner Castillo stated that staff misunderstood him in reference to halving the City Special, he explained that because all these items from 314.02 to 314.06 are budget set by Commission action throughout the year, and his recommendation to the City Manager is that the Commission sets the levels at what the commission set previously, because it was Commission action that set those levels. He added that during the budget process he stated that he did not mind evaluating each individually and reducing them by half if it had to be. He stated that he thought that would be Commission action and not staff recommendation.

Mayor Esquivel asked if correction had been made to STWA, Ms Vela responded, yes. He asked if numbers are current. Ms Vela stated those had been corrected, \$112,000.00.

Ms Vela stated she needed direction on the residential garbage and sewer rates, because the two ordinances will have to be approved.

Mayor Esquivel stated he would not support the residential fee. He also stated he opposed to the \$159,000.00 for proposed increase.

Commissioner Pecos stated that the City is still under the amount that other City's are charging for sewer.

Ms Vela stated that the tax rate being used is 70.5. Mayor Esquivel asked about going to the 68 cent rate. Commissioner Wilson stated they would be minus \$100,000.00.

Mayor Esquivel requested something be proposed for Friday.

Mayor Esquivel requested that Ms. Courtney Alvarez, City Attorney call TML. Ms Alvarez stated she was awaiting a call from their Legal department regarding the cellular tower permit fee. She added she had spoken to Mr. Scott Houston, from the Legal Department.

Mayor Esquivel stated that some tough decisions needed to be made. He stated that there was \$112,000.00 in the Utility fund, and the Mr. Womack had said that approximately \$2 million can be justified to transfer, that's if the \$100,000.00 is included. He added that the Commission needs to start narrowing down the options and would have liked to meet on Wednesday. Ms Alvarez stated that the meeting would have had to be posted on Friday. She added that she was not notified about the Thursday request, so nothing got posted today.

Mayor Esquivel stated he would like a full explanation as to why staff would recommend the increases on the residential sewer rates, and how it will be addressed to the taxpayers.

Ms Vela stated that the \$41,000.00 for an inspector is a new position in the Planning Department. She stated that the reclassification of the Electrical Inspector would be done to move this position up to the same range.

Ms Jennifer Detloff, Director of Development Services stated that the two existing positions have gotten to a level of work that the two present inspectors can't do and do it well.

Commissioner Pecos stated that by giving them more money does not mean that they will do more work.

Ms Detloff stated they are already doing more work, and that since these positions are trades people they have a tendency not to last very long because of burnout for doing a lot and not getting a lot of compensation for it.

Commissioner Pecos stated that he would like a comparison of salaries with other Cities.

Commissioner Pecos stated that the budget is based on .705 and asked if a public hearing would be scheduled. Ms Vela stated only if the budget rate was higher.

Ms Vela stated that it has to go on record if the Commission will go with the .705, which will go on Item #3. She

explained to the Commission that if they go higher than what is proposed a seventy-two hour notice would have to be given for a public hearing.

Mr. Garcia stated that he would like to echo the fact that the building inspectors are hard to keep on board due to them being trade.

Mayor Esquivel asked that staff brief the Commission at the next meeting on the Code Enforcement Officer's position.

The Budget workshop was closed.

**Mayor Esquivel recessed the meeting until 6:00 P.M.**

**2. Interim City Manager's Report. (Interim City Manager).**

Mr. Garcia stated that on Thursday, at 9:00 AM at the Fire Department a company will be bringing a decontamination truster. He also stated that they are working on expenditures for Homeland Security. He stated that the Brush Crew is in Zone 5, and there had been a problem on 19<sup>th</sup> Street and Lott with seal coating. He stated that the seal coating machine had broken down. He also stated that due to the rains the grass is very high and the employees are working on getting everything mowed. Mr. Garcia stated that he would like to set up a budget meeting for Friday afternoon at 1:30 PM.

Mayor Esquivel suggested 12:00 to 1:30 PM.

**3. City Attorney's Report. (City Attorney).**

Ms Courtney Alvarez stated that she had a follow up on Friday's comment for a meeting tomorrow morning with Doug Barbier from Celanese regarding the current tax contract. She stated that negotiations with the Fire Fighters Union continues regarding their Collective Bargaining Contract. She also stated that good news was received from Ben Glusing regarding the environmental report that had been forwarded to TXDOT which has been approved, and hopefully the City will be allowed to go out on bids on the restoration on the Depot project much earlier than anticipated, so it can be completed for the City's Centennial on July 4<sup>th</sup>.

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

Commissioner Pecos stated that a meeting had been held with Homeland Security First Responders and figures were received from the Coastal Bend Council of Governments so equipment can be bought. He added that the majority of the monies were given to the first responders, one-third of the monies went to the Fire Department; one-third to the Police Department; and the other one-third went to the rest of the departments. He also stated that the target date is August 30<sup>th</sup>.

Mayor Esquivel stated that he attended a COG meeting on Friday, and that the money that was received one of the fruits of labor that the COG has gone through to create a more effective homeland security plan for our region.

## **V. ITEMS FOR CONSIDERATION BY COMMISSIONERS.** <sup>4</sup>

Commissioner Castillo made a motion that Item #8 and #9 to go first. Mayor Esquivel stated that Item #14 up as well, seconded by Commissioner Wilson. The motion passed by unanimous vote.

### **8. Consider removing from the table final passage of an ordinance abandoning an alley and retaining an easement for utility purposes in Block 5 of the Clyde Addition. (City Engineer).**

Commissioner Wilson made motion to remove from the table, seconded by Commissioner Pecos. The motion carried, 5/0.

### **9. Consider final passage of an ordinance abandoning an alley and retaining an easement for utility purposes in Block 5 of the Clyde Addition. (City Engineer).**

Mr. Stanley Fees, City Engineer stated that he had not spoken to lady living next door to Whataburger, but a memo in their packet states that Whataburger agrees to construct a fence. He stated that was her concern.

Mayor Esquivel asked for a motion. Commissioner Castillo made a motion, seconded by Commissioner Pecos. The motion carried, 5/0.

### **14. Consider waiver of amusement premise permit fee to relocate Mardi Gras and Gold Mine game rooms. (Director of Development Services).**

Ms Jennifer Detloff stated this item is a request from a property owner for a waiver similar to the one presented during comments. She stated that Mr. Norman had purchased \$21,000.00 for two site permits, one is at the old True Value building and the other is on 6<sup>th</sup> Street. She stated that what customer wants to do is to move premise permits to another location. She stated that as the ordinance is now, if you move you have to pay the entire amount, and then again he would have to pay to renew at the end of September, first of October. She stated he is asking for the Commission to waive the premise permit fees for either one or both because he paid \$20,000.00 two weeks ago, and \$20,000 tomorrow, and then another \$21,000.00 on the 1<sup>st</sup> of October. She added that this would enable him to go to another piece of property and facilitate a sale, and would allow him to open his business and save him on his financial output. She stated that he requested

that Staff waive permit fee but he was told only the Commission could do that.

Mayor Esquivel asked if any thing had been done regarding the parking. Mr. Garcia stated that different locations are being looked at. Mr. Garcia stated that the only concern he had for parking was at Domino's.

Commissioner Wilson asked about the alley problems, Mr. Garcia stated that their concern was the alley being blocked. He stated the City would have to enforce the parking ordinance.

A lengthy discussion followed regarding the parking situation.

Mayor Esquivel requested the City have several plans in writing.

Ms Detloff clarified the locations of the game rooms for Commissioner Garcia.

Mr. Norman, owner of the game rooms, addressed the Commission, stating that he did not know that he was in a historical business. He briefed the Commission on his plan for parking.

Commissioner Castillo made to table Item #14, seconded by Commissioner Pecos. The motion carried, 5/0.

Mayor Esquivel requested Mr. Garcia and Ms Detloff meet with the downtown merchants regarding parking, and report back to the Commission on Friday.

**Commissioner Wilson made a motion to move Item #13 next, seconded by Commissioner Castillo. The motion passed by unanimous vote.**

**13. Consider final passage of an ordinance amending Chapter XI, Article 4, Section 11, Games and Amusement Devices, requiring a permit for establishments operating certain game and amusement devices; requiring payment of fee prior to issuance of permit; providing for miscellaneous prohibitions. (Mayor Esquivel).**

Mr. Michael Guerra, Attorney addressed the Commission, stating revisions discussed last week had been done. He stated there were no changes to page 1.

Ms Alvarez stated that just for clarification the item that was in packet was the format that was in place since 2002 which incorporated the suggestions that Mr. Guerra had presented to the Commission since last Monday. She stated it was needed in the format for our confers for continuity where we generally underline new sections and strike through the deleted sections. She stated that since she recused herself, her secretary was able to take what he had prepared and put it in to the ordinance that is currently in place, and that is

what is in their packet. She also stated that she did not know what had been passed out tonight. She stated that there is one typo, Section H, in the insertion in current packet, 2<sup>nd</sup> sentence – it's a combination of the 1<sup>st</sup> and 3<sup>rd</sup> and it should not be there- An active permit holder shall have priority four machines or more, that should be deleted.

Mr. Guerra stated the new one has bold and italic print and those are the changes. He stated that on page 2, Section A – table of fees, down in bold under that, the language permits being specific to the premises and not to the holder. He stated what that does is that it addressed the problem that the gentlemen had. He stated that the new ordinance does address moving locations, but the gentleman requested the move under the old ordinance.

Mr. Guerra stated the limit or cap of the number of permits that the City Commission will allow is still blank. He stated that the numbers that he has heard allows for new establishment to come in, but added that the moratorium would have to be lifted.

Mayor Esquivel stated that he would like to include an analysis of how the environment would be affected. He stated that is important as part of the criteria.

Commissioner Wilson stated that would do more harm than good because each time the criteria might be different on which the Commission acts and bases their sole interpretation of the information given. He stated that unless there is specific criteria, all criteria must be met before a business can open.

Discussion followed on criteria for game rooms.

Mr. Guerra stated that everyone agrees that there needs to be some type of mechanism for measuring what the impact will be in the neighborhood. He stated that the P&Z Board is in place, and they might as well make use of it.

Commissioner Wilson stated his concern is that if City Staff is tasked to do it they need to make sure it is the exact same criteria every time for every merchant.

Mayor Esquivel stated he would like to include an impact analysis.

Mr. Guerra stated he would like a clause inserted stating that Director of Planning established objective criteria for assessing the impact on neighboring properties, and it be required that staff make an affirmative finding or favorable finding of no significant impact on the neighborhood. It was decided that appeals could come directly to the Commission.

Commissioner Garcia asked that an amended permit for a change of location.

Mr. Guerra stated that this was not included because the City is regulating the location and not the machines. He stated that the locations get an upgraded permit if they want to add more machines. He stated that language should be expressed regarding upgraded permits.

Much discussion followed on game rooms owners amending their permits.

A game room owner (name unknown) addressed the Commission stating that the more game rooms allowed the more trouble that it will bring to the Commission. He stated that \$100.00 is set aside per machine, per week. He added that if they continue to up the permits that will allow them to give less to charities.

Mayor Esquivel stated that the Commission wanted to reanalysis the ordinance, and the over population of eight-liner machines in the City. He added he appreciated everyone working with the Commission.

Ms Peggy Hayes addressed the Commission, stating that she wishes all eight liners in town would take the same task that the owner of the Treasure Chest, Rick Taylor and give money to non-profit agencies of the community.

Mr. Guerra stated that there was an application pending to come in to the historical district, and he did not know if the grandfather would apply to applicants for existing permit holders or applicants. He added that he would have ordinance with added language ready for the Commission on Friday.

Mayor Esquivel thanked everyone for working together.

Mayor Esquivel made a motion to table this item, seconded by Commissioner Pecos. The motion carried, 5/0.

Commissioner Wilson asked for a 5 minute recess.

**The Commission reconvened back into session, starting with Item #1.**

**1. Consider awarding Bank Depository Contract (Finance Accountant).**

Motion Unknown.

**2. Consider approval of budget amendment. (Finance Accountant).**

Motion made by Commissioner Pecos, second by Commissioner Garcia, Motion passed by a 4/1 vote with Commissioner Wilson casting the dissenting vote.

**3. Discuss and act on a proposed tax rate; if proposed tax rate will exceed the rollback rate or 103 percent of the effective tax rate (whichever is lower), take a record vote and schedule a public meeting. (Finance Director).**

Motion made by Commissioner Pecos, second by Commissioner Castillo, Motion passed by a 4/1 vote with Commissioner Wilson casting dissenting vote.

**4. Consider a resolution authorizing the Interim City Manager to enter in the Coastal Bend Mitigation Action Plan Interlocal Agreement with the City of Corpus Christi. (City Attorney).**

Motion made by Commissioner Wilson, second by unknown, Motion passed by a 5/0.

**5. Consider designation of a Hazard Mitigation Coordinator. (City Attorney).**

Motion made by Commissioner Wilson, second by Commissioner Garcia, motion carried 5/0.

**6. Discuss and consider resolution supporting Operation Crackdown with the Texas National Guard. (Nuisance Abatement Officer).**

Joel F. Saenz, Nuisance Abatement Officer addressed the Commission, stating that a resolution must be in placed before any further action can be taken on Operation Crackdown.

Commissioner Pecos made motion, seconded by Commissioner Garcia.

Commissioner Wilson questioned the date on the resolution. Ms Alvarez stated that the date would be corrected to the date it is passed.

The motion carried, 5/0.

**7. Consider resolution of the supporting the City of Corpus Christi's grant application to study the feasibility of seawater desalination. (Mayor Esquivel).**

Commissioner Castillo made motion to consider resolution of the supporting the City of Corpus Christi's grant application to study the feasibility of seawater desalination, seconded by Commissioner Garcia. The motion carried, 5/0.

**10. Consider final passage of an ordinance rezoning a half (.5) acre tract out of Farm Lot 1, Section 20, K.T.&I. Subdivision from Class "AG", Agriculture District to Class "I-1", Light Industrial District. (Director of Development Services).**

Ms Detloff stated that this was brought before the Commission on August 11<sup>th</sup>, also stating that there was a public hearing and first reading of the ordinance. She stated there has been no negative response received. She stated that the property surrounding this property is undeveloped. She added that rezoning will not cause significant traffic in area. Ms Detloff stated that the Planning and Zoning Commission recommends approval.

Commissioner Wilson made motion to adopt the ordinance as presented by staff, seconded by Commissioner Pecos. The motion carried, 5/0.

**11. Consider final passage of an ordinance amending the zoning ordinance \_\_\_\_\_ by granting a Special Use Permit to locate a mobile home on Farm Lot 1, Section 20, K.T.&I. Subdivision. (Director of Development Services).**

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

**12. Consider final passage of an ordinance amending Schedule III: Truck Routes of Chapter VII, Article 5, traffic schedules, providing for an addition to the truck route schedule of Shelley Street from 900 feet north of General Cavazos Boulevard to General Cavazos Boulevard. (City Engineer).**

Motion made by Commissioner Castillo, second by Commissioner Garcia. Motion carried 5/0.

**13. Consider final passage of an ordinance amending Chapter XI, Article 4, Section 11, Games and Amusement Devices, requiring a permit for establishments operating certain game and amusement devices; requiring payment of fee prior to issuance of permit; providing for miscellaneous prohibitions. (Mayor Esquivel)**

Motion made by Mayor to table item, second by Commissioner Pecos. Motion carried 5/0.

**14. Discuss negotiations with South Texas Water Authority. (Commissioner Pecos).**

Mayor Esquivel and Commissioner Wilson recuse themselves.

Commissioner Pecos stated that various meetings have taken place with the STWA. He stated they have discussed the contract for the 2005-06. He added that the water percentage was being reduced from 22.5 to 18.5. He stated that anticipated volume will be 245,000,000 gallons per year. He stated this has been discussed with staff. He stated that anticipated water rate for the purchase of water is \$1.95. He added that a study was made in 1985-86 by Colston Engineering who determined that 25% was maximum amount for the City to purchase water from STWA. He stated that based on those figures the City would have an invoice of \$674,000.50. He stated that Ms Serrato has stated there are changes.

Ms Serrato stated that the information for the 674,000.00 is an estimated amount. She stated that they have received some finding information from the consultant hired by STWA that was going to be giving them a computer model to look at the fixed cost versus variable cost to be able to come up with the different components being proposed in the long term contract. She stated based on going through their negotiating committee to see what is being recommended versus where some of the areas are that staff may have issues, they are looking at a difference of \$674,000.00 to & \$779,025.00.

Ms Serrato stated it all depends on one of the main things, and is that on the Utilities, the fixed cost is only 6% and that is one of the things that would be streamlined. She add that this whole process would make is fair to all users to take Utilities out of the equation, and work towards the City taking possession of that. She stated that all entities would share in this.

Ms Serrato stated there is a draft on the contract which the Commission could receive.

Commissioner Garcia stated the Ms Serrato had done a good job explaining.

Commissioner Pecos stated he would to set a tentative date to meet.

A meeting was scheduled for September 4<sup>th</sup>, 5:00 PM.

**VI. ADJOURNMENT.**

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

\_\_\_\_\_  
Filemon "Phil" Esquivel, Jr., Mayor

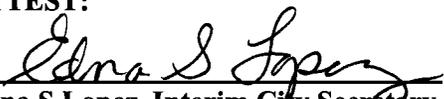
**ATTEST:**

\_\_\_\_\_  
Irene Ramirez, City Secretary

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

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

**ATTEST:**

  
\_\_\_\_\_  
Edna S Lopez, Interim City Secretary