

January 26, 2004

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS WAS HELD ON MONDAY, JANUARY 26, 2004 AT 6:00P.M. IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT CITY HALL, 200 EAST KLEBERG AVENUE.

CITY COMMISSION MEMBERS PRESENT:

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

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Irene Ramirez, City Secretary
Corando Garza, Assistant City Manager/Fire Chief
Courtney Alvarez, City Attorney
Joel Saenz, Code Enforcement Officer
Dora Byington, Purchasing Director
Stanley Fees, City Engineer
Jennifer Detloff, Director of Development Services
Other staff unknown

I. Preliminary Proceedings.

Mayor Esquivel opened the meeting at 6:00 p.m.

INVOCATION / PLEDGE OF ALLEGIANCE – (Presiding Officer)

Mayor Esquivel led the Commission and members of the audience in the Pledge of Allegiance. Commissioner Castillo led the Texas Pledge.

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

1. Public hearing for an alcohol variance application for K-2 Food Mart located at 128 West Corral. (City Manager)

City Manager Carlos Yerena turned this item over to City Secretary, Irene Ramirez, who stated the applicant wants to open a convenience store but is unable to sell alcohol due to change in ownership. Fifty-six letters were sent out. One response was received from someone who had no objection to the alcohol license being granted, and four were returned undeliverable. No one in the audience had any comments. Public comments closed at 6:05pm.

III. Public Comment on Agenda Items.³

1. None.

IV. Petitions, Grievances, and Presentations.²

1. Present Proclamation designating the week of January 25, 2004 through January 31, 2004 as "Catholic Schools Week". (Mayor Esquivel).

Mayor Esquivel invited the Saint Gertrude's School students to come forward for the reading of the proclamation. The principal then commented on the purposes of the school.

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

City Manager Carlos Yerena reported on the first faith based initiative meeting and have another meeting scheduled for Friday, February 6, 2004. He also stated that the City has put together a task force of City employees and department heads to come up with an initiative to beautify the community and are also working with the Keep Kingsville Beautiful Committee and turned over the presentation to Mr. Corando Garza and Mr. John Garcia.

Mr. Garza stated that a meeting had been held last Thursday at City Hall with a cross section of employees assigned to a task force to oversee the city and target the areas needing immediate attention and that the first major cleanup should be started by February 28, 2004. He added that city employees and equipment would be used on one Saturday along with the help of the Knights of Columbus and other civic organizations and invited the public to volunteer or report any areas needing attention as well as possibly using jail trustees.

Mr. Garcia then stated that a meeting is planned for Wednesday for the Keep Kingsville Beautiful Committee and read a description of the purpose of the program. He stated that he would be approaching various organizations for help in hopes of making it an annual event. The programs included are Adopt-A-Spot, Adopt-A-Street and Adopt-A-Park.

Mr. Garza then mentioned KWOP and stated that Mr. Joel Saenz had brought the Texas National Guard on board but there had been a delay to March 2, 2004 to allow five more structures to be included. Mr. Saenz said there would be a total of 25 or 26 structures and there would be no charge to the City, but Chief Garza stated that the only charge would be the hauling charge.

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

Ms Courtney Alvarez reminded everyone that the Kleberg County Livestock show would be held January 28-31 and encouraged as many as possible to attend and support the kids. Also mentioned article on BRAC closures criteria and that Congressman Ortiz has an online petition by which people in the communities could give their input. Ms Carola Sarrato received notice that Water Development Board received a grant of about \$44,000 which the City had applied jointly for.

Mayor Esquivel asked Ms Alvarez to explain to the Commission and the people where the City stands on the issue of the 25 percent rule. She explained the ordinance was ambiguous and based on conversations with the City Secretary, newspaper articles on the former City Attorney's interpretation of the rule, and because she had no legal reason to change what the City had been doing all these years, she upheld the former City Attorney's interpretation. She added that e-mail from attorney with the Secretary of State's office states that matters of the charter are up to the City Attorney's interpretation.

Mayor Esquivel then explained how Mr. Augustine Rivera was brought on board to clarify decision.

Mr. Rivera explained that the 1989 recall set the standard for recalls and these standards were followed in 2003 with the City Secretary verifying

the signatures and determining there were insufficient signatures. The recall group then filed Writ of Mandamus and the City responded that the City Secretary was following the procedure which was followed in the past because there was an implied duty for her to review the signatures and defended the way the 25 percent rule was applied by the City. The Court of Appeals held that the City Secretary and City Commission did not have the authority to review the petitions and ordered the City Secretary to tender to the City Commission the recall petitions. The City then took the issue to the State District Court for clarification. The attorneys agreed to file written briefs with the Trial Court. The opinion of the Trial Court was read to allow any qualified voter to sign a petition as long as they were a qualified voter at the time the petition is signed, and they do not have to have voted in the last City election. Mr. Rivera stated that section 24 is not "the model of clarity" and suggested that it be looked at for a revision.

Commissioner Wilson thanked Mr. Rivera, and suggested that the entire text of the opinion be posted on the web.

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

Mayor Esquivel recognized Mr. Ron Pray for receiving the Earl Malone award from the Texas Association of Fire Educators for Training Officer of the Year of Texas.

Commissioner Pecos said 2 1/2 yrs ago he asked Mr. Anse Windham to take an aerial photograph of the City to look at the southeast area of Kingsville which flooded about two years. He said that now that General Cavazos has been reconstructed, all the water will be flowing towards NAS Kingsville and that it would be best to make sure that the area is clean so water does not get blocked and flow back into the city.

Mayor Esquivel said that the U.S. Conference of Mayors went really well and he took two tours at the White House where he got to see the President coming in on his helicopter and go into the Cabinet Office. He also got to see the Oval Office and the cabinet room. He said most rewarding was the program offered to the Conference of Mayors. He said they met with heads of various organizations and brought copies of the briefing papers to commissioners and staff so staff can continue work on the Faith Based Initiative for the grants, the Department of Justice, Amber strategy, COPS program and other organizations that partnered with Faith Based initiatives. He added that they got to meet with President Bush and when introduced to him, President Bush said he knew him. He also wanted to comment about his disappointment by an article that was in the Corpus Christi Caller. He said that the reporter had not given the complete story; therefore, from now on he will be reviewing these articles to make sure that the full story is reported on any articles that are printed about him or any of the commissioners. He said that he wrote a letter to the editor in response to the reporter's lack of providing complete information.

V. Items for consideration by Commissioners.⁴

1. Consider resolution designating voting precincts and polling places, establishing election procedures, and appointing early voting clerk for a special recall election on February 7, 2004 ordered by Judge J. Manuel Banales. (City Secretary).

Ms Irene Ramirez said that a copy of this information had been printed in the newspaper and posted at City Hall. Anyone needing more information can contact her office. She stated that there were two changes in polling places: Polling place #1 - Instead of McRoberts School which is now closed changed to Industrial Technology Building at the University, 1005 N. Armstrong and polling place #4 moved from Colston School to Saint Joseph's Church Hall, 1430 Brookshire. The resolution establishes Ms. Ramirez as the early voting clerk. Early voting will start on Wednesday morning at 8am until 5pm on weekdays, Saturdays and Sundays 10am – 3pm. Early voting ceases February 3, 2004 at 5pm. The election will take place on February 7. Upon question from Commissioner Castillo, Ms. Ramirez stated the ballots will arrive sometime tomorrow. Mayor Esquivel asked how the ballot would read and she responded that it would read according to the wording in the City Charter. She then read the three ballots aloud in English and in Spanish.

Motion passed by unanimous vote.

2. Consider resolution appointing election judges and the early voting ballot board judge for a special recall election on February 7, 2004 ordered by Judge J. Manuel Banales. (City Secretary).

Ms. Ramirez said that the resolution lists the polling places (1 – 6) and the presiding and alternate judges who have agreed to work on the election. Presiding judges and alternate judges by polling place are place #1 Evangelina Garcia, Maria Garcia, Place #2 Kay Loftis, Diana Garcia, Place #3 Estella Rodriguez, Angie Saenz, Place #4 Janie Munoz, Laura B. Garza, Place #5 Priscilla A. Cantu, Donna Torres, #6 Tony Torres, Velma Quintanilla, Early voting ballot board Antonia Lozano.

Motion made by Commissioner Castillo, seconded by Commissioner Wilson.

Commissioner Castillo commented that there were several changes in judges presiding over this election due to political affiliations. Ms. Ramirez responded that there were other people available to work at these polling places, and she felt confident with them. Mr. Yerena said he felt comfortable. Commissioner Castillo said that care needs to be taken in replacing judges due to political affiliations.

Motion carried 5/0.

3. Consider authorizing funding for the Gospel Choir Centennial Concert for the City's centennial celebration in the amount of \$2,700 from the City Commission travel budget. (Commissioners Wilson and Garcia).

Ms. Alvarez explained this item was brought back and then they received a specific request and brought back the agenda item and that this amount is what was requested at the time and just putting the public on notice of the Commission's intend to fund the Gospel Choir.

Commissioner Pecos said that the amount had been \$3,000, but Ms. Alvarez said that this is what had been requested.

Commissioner Wilson apologized to the group for not being there at previous meeting and said that after meeting with Sandra and Jeanette, he had asked to bring back this agenda item. He stated that the original request was \$3,000 but after discussions they decided \$2,700 would be acceptable. He then commented on the importance and value of an event such as this.

Commissioner Wilson moved to fund an amount not to exceed \$3,000 to bring the Gospel Choir concert as part of the City of Kingsville Centennial Celebration and that it be taken from the travel portion of the City Commissioner's budget and/or in a fashion that is not ad valorem tax based and then from that line item that it be reimbursed from the City Commissioners travel budget. Commissioner Garcia seconded the motion.

Commissioner Garcia asked if they were having trouble getting more than \$3,000. Ms Sandra Jefferson responded that they were. Another representative added that Mayor Esquivel and two City Commissioners had promised to contribute from their own personal travel and thanked them. Mayor Esquivel thanked them for the presentation. He then gave them a check for \$171. He instructed City Manager Yerena to look at the budget for the most strategic place to take the money from. Commissioner Wilson stressed that the Gospel Choir needs the money and said to find it. Mayor Esquivel said they were making the amount \$3,000 plus the \$171 and Commissioner Garcia contributed \$200 and said that he would buy tickets and give them out to have a good attendance.

Motion carried 5/0.

4. Consider approval of alcohol variance application for K-2 Food Mart located at 128 West Corral. (City Manager).

Motion made by Commissioner Pecos, seconded by Commissioner Castillo. No discussion followed. Motion carried 5/0.

5. Consider awarding bid for restoration of the train depot under the Transportation Enhancement Project. (Bid No. 24-24) (Purchasing Director).

Commissioner Wilson abstained from this item. Mrs. Dora Byington stated that this was advertised on December 14, 16, 18, 21,23, 25 to obtain bids for restoring the train depot in The Valley Morning Star, Corpus Christi Caller, San Antonio Express and Kingsville Record. Bids were accepted until 1:30pm January 6, and two bids were received. This project will cost \$525,000 and recommended that the contract be awarded to Barcom Commercial of Corpus Christi under the recommendation of TXDOT officials. Mrs. Byington said that she and Jennifer concur with that.

Commissioner Garcia made a motion, Commissioner Castillo seconded.

Commissioner Castillo asked if the local bidder was more than 3% of the low bid and Mrs. Byington responded that it is, but that TXDOT would only go with the lowest responsible bidder who meets specifications.

Motion carried 4/0.

6. Consider authorizing purchase of Fire Brush Truck for the Kingsville Fire Department. (Purchasing Director).

Ms Byington said that the purchase is being made through the Houston-Galveston Council of Governments and the company providing the vehicle is Emergency Vehicles of Texas out of Fort Worth, Texas. This had been previously advertised on August 31 and September 7 and no bids were received. Delivery will be made within 120 days after purchase order is received. Total expense is \$77,035 which is \$76,636 plus a \$400 administrative fee for the COG.

In response to Mayor Esquivel's request, Mr. Corando Garza explained that the Fire Department had been without a brush truck for the last year and a half and that the undercarriage of the previous brush truck was rusted away creating a hazard. He consulted with a fabricator, who recommended against refurbishing the truck because of the condition of the undercarriage. The new truck will have a system to carry 250 gallons of water which when converted into a compressed air foam system will give 750 gallons. The truck is highly maneuverable through rough terrain.

Commissioner Pecos commented that we give a lot of support to Ricardo and Chief Garza agreed and said that Ricardo has also helped us during grass fires that fire trucks cannot go into.

Commissioner Wilson moved to accept recommendation of staff, seconded by Commissioner Garcia. Motion carried 5/0.

7. Consider awarding bid for storm sewer joint repairs on Second Street from King Street to Caesar Avenue. (Bid No. 24-28) (Purchasing Director).

Ms Byington reported that this was advertised for bids on December 21 and 28. Bids were opened on January 13 and two bids were received. After reviewing bids, recommendation was made for Donald Hubert Construction Company of Kingsville for \$44,500.

Motion made by Commissioner Castillo, seconded by Commissioner Garcia.

At the request of the Mayor, Stanley Fees said that this project would seal up the open joints on the storm sewer on Second Street from King to Caesar Avenue and eliminate the continual creation of potholes on Second Street.

Motion carried 5/0.

8. Consider approval of Infrastructure Interlocal Cooperation Agreement with Kleberg County and the South Texas Water Authority. (Mayor Esquivel).

Mayor Esquivel said that Courtney had been working on this to make Paulson Falls happen. Mrs. Alvarez stated that the South Texas Water Authority had a board meeting last Thursday and that the City Manager

and City Engineer attended. The Water Authority had decided to assist the City with the funding in an amount not to exceed \$50,000. The executive director sent Mrs. Alvarez an e-mail and the item went before the Kleberg County Commissioners Court today at 1:30 and the Commission continued with the \$70,000 cash and/or in kind contributions that they had previously committed to and in support of the infrastructure interlocal. She added that the item is being brought before the Commission for approval to enter into the infrastructure interlocal with South Texas Water Authority and Kleberg County for the sewer improvements subject to the funding being worked out.

Commissioner Castillo made a motion, seconded by Commissioner Garcia.

Commissioner Garcia questioned if the County had agreed to the participant funding as presented because he wants to approve what everyone else approves so it is the same as the funding goes on percentages. Mr. Stanley Fees explained that the Commissioners Court agreed that they want to have the same type payment plan: 25% upfront, another 25% at 50% complete, 25% at 75% complete and final payment when the City accepts the project. Commissioner Wilson stated that all three entities need to have the same document so that they all obligated to the same thing and that as project manager, the City should be able to tell the other entities what stage we are at and when we have accepted the project. The paragraph needs to identify in what fashion everyone will pay.

Ms Alvarez stated that this interlocal agreement is project-specific. Ms Carola Serrato, South Texas Water Authority, addressed the commission and said that she is in the process of calling a special meeting for Friday at noon so the board can take final action on the document. City Manager Yerena said that we will be spear heading the project but the developer will be participating in the project financially as well.

Commissioner Castillo said he wanted to approve the document as presented with the understanding that staff understands the direction that the other two entities have given them and that the commission has given them and he would like to approve it tonight.

Motion carried 5/0.

9. Consider amending Guidelines and Criteria for Stimulating Residential Development within the City of Kingsville. (City Attorney).

Ms Alvarez said that an issue had come up with the Paulson Falls project, which needed clarification in the residential development guidelines and criteria. The simplest way to make clarification is add the word "prior" to the word liens in paragraph five.

Upon request of Mayor Esquivel, Ms Jennifer Detloff explained that the purpose for the change is so that there is nothing that the City is not aware of that can hold up a project if we are going to commit our services. The Mayor asked if it would be checked out before committing to services to make sure there is no lien. Ms Detloff said that when they sign, they are committing to that.

Commissioner Wilson said he would like to change the language to say, "The property shall be free and clear with no existing liens except such that is required to facilitate its future development and/or sale and all property taxes must be current."

Motion made by Commissioner Wilson, seconded by Commissioner Castillo. Motion carried 5/0.

10. Consider sale of city-owned property located at Lot 1-4, South 1/3 of Lot 5, Block 18, Third Addition. (City Attorney).

Ms Alvarez reported that there was a property owner who wanted to make some improvements and noticed there was a small piece of land adjacent to their property that they were interested in purchasing. They contacted the Appraisal District they discovered it was owned by the City and they contacted staff to see about the procedure to purchase the property. The property is undeveloped and of no real value to the City. The valuation is \$70. She suggested that it would be in the City's best interested to place it for sale by public auction or sealed bid pursuant to Local Government Code 253.008 to get it back onto the tax rolls. Mayor Esquivel brought up the issue of the City abandoning easement for large corporations such as Walgreens, Eckerds, HEB and Whataburger, and that he could not see a small proprietor being charged. Ms. Alvarez explained that Walgreens and Whataburger had paid in excess of \$1,000 and that this piece of property does not meet the definition for an easement and therefore had to be taken before the Commission.

Motion carried 5/0.

11. Consider out-of-state travel to attend the National League of Cities 2004 Congressional City Conference in Washington, DC on March 5 – 9, 2004. (Commissioner Pecos).

Commissioner Pecos requested that no action be taken on this item at this time.

12. Consider resolution authorizing Chief of Police to apply for FY 2004 Bulletproof Vest Program Grant. (Chief of Police).

Chief Torres addressed the Commission and stated that the program is a federal grant that will reimburse the City up to 50% of the cost of the bulletproof vests purchased for the police officers. He provided historical data back to 1999 with percentages that they have paid back to the jurisdictions and added that they are targeting entities with populations less than 100,000. The percentage is determined by the number of entities that apply.

Motion made by Commissioner Garcia, seconded by Commissioner Pecos.

Commissioner Wilson questioned if there was room in the budget to pay if it only comes back 40% to pay 60% and Chief Torres responded, "Yes". Mayor Esquivel also gave Chief Torres some Department of Justice information he got at the US Conference of Mayors.

Motion carried 5/0.

13. Discuss and determine areas for potential annexation within the next three years. (City Attorney).

Ms Alvarez stated that they would be bringing before the Commission an item which would allow Commission as a whole to give guidance to staff on what areas they would like to see annexed within the next five years. Formal action would give staff guidance as to what property they would like looked into as to whether exemptions apply and whether an annexation plan needs to be created and have that property put into it. This would also enable staff to begin working on plans for services for those areas. This would be the first step on where the Commission wants to go.

Commissioner Wilson said he wanted to make it clear that Mr. Messbarger had indicated to the STWA that Hawks Landing was on the tax rolls but they are not on the City tax roll. This is the first area he would like to see annexed.

Commissioner Garcia said he would like to see an overlay of the acres over the existing City Limits. Commissioner Wilson said that this is available on the City's web-site.

Mayor Esquivel agreed that Hawks Landing is top priority. He added that he wanted a study on the growth and infrastructure along 77 since it will continue growing. The other area of concern is the Escondido neighborhood. The water system need to be checked to see if annexation is feasible. He said that the last time the annexation issue came up, they did not want to get annexed but this was before the water issue came up and now the wells and infrastructure are in bad shape. Commissioner Pecos noted that there is no sewer service to that area and this would be very costly and Mayor Esquivel responded that there are grants for wastewater plants.

Commissioner Castillo commented that at the Kleberg County Commissioners meeting this afternoon, the judge talked about holding a special joint meeting with the City Commission on Friday. City Manager Yerena said that he was aware and they would be having the meeting on Friday.

VI. Adjournment.

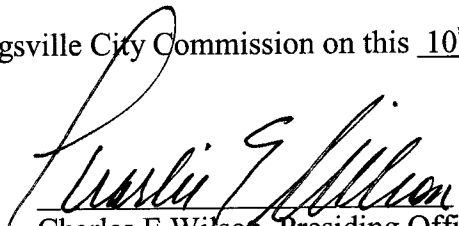
Motion was made to adjourn and seconded by Commissioner Castillo. Meeting adjourned at unknown time.

Filemon "Phil" Esquivel, Jr., Mayor

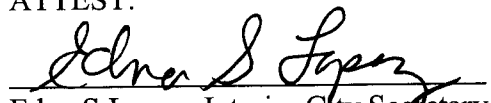
ATTEST:

Irene Ramirez, City Secretary

PRESENTED and ADOPTED by the Kingsville City Commission on this 10th day of May, 2004.


Charles E Wilson, Presiding Officer

ATTEST:


Edna S Lopez, Interim City Secretary