

April 12, 2004

A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF KINGSVILLE WAS HELD ON MONDAY, APRIL 12, 2004 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE 6:00 P.M.

City Commissioner Present:

Charles E Wilson, Commissioner
Al Garcia, Commissioner

City Staff Present:

Carlos Yerena, City Manager
Edna S. Lopez, Interim City Secretary
Courtney Alvarez, City Attorney
Stanley Fees, City Engineer
Corando Garza, Asst. City Manager
George Bejarano, Finance Director
Dora Byington, Purchasing Director
Diana Gonzales, Human Resource Director
Dianne Leubert, Solid Waste Superintendent
Macario Mayorga, Utility
Joe Casillas, Water Production Supervisor
Rick Torres, Police Chief
Jennifer Detloff, Director of Development Services
Joel Saenz, Code Enforcement Officer
Tina Galvan, Solid Waste Field Supervisor
Arnold Valadez, Warehouse Clerk
Caron Vela, Accountant

I. Preliminary Proceedings.

OPEN MEETING

The meeting opened at 6:00 P.M. by Presiding Officer Wilson.

INVOCATION / PLEDGE OF ALLEGIANCE – (Presiding Officer)

Commissioner Wilson called for a moment of silence for Nuevo Progreso and Iraq.

Ms. Dora Byington led everyone in prayer, followed by the Pledge of Allegiance, and Texas Pledge by Commissioner Garcia.

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Commissioner Wilson requested the audience to be patient, as the Commission would be dealing with approving thirty (30) sets of minutes from years past. Commissioner Wilson expressed thanks to Mary Valenzuela, from the Legal Department and Edna S. Lopez, Interim City Secretary for working diligently to get these thirty sets done, he added that there are still twenty-five (25) other sets pending.

Commissioner Wilson stated that corrections were needed on some. He added that he had already passed at least three corrections to Ms Lopez. Corrections from Commissioner Wilson were: January 17, 2003 – need to add who was at this meeting; October 28, 2002 – page 6 name change, from Dehue to Lehue; and September 22, 2003 - #4 the outcome of this item.

Commissioner Garcia thanked Ms Lopez for the sets, adding that he had been requesting them for a while. He stated that he would like to see how the commission voted recorded. He gave an example: July 12, 2003 – where it involved Chief Granato's firing, he stated that according to the minutes, side "B" of the tape did not record. He suggested that we borrow tapes from some individuals in the audience that were recording at the time in order for the minutes to be completed. He stated that it is very difficult for anyone to go back, specifically to any particular date to decide what was done. But said that at least the minutes are done.

Upon a question raised by Commissioner Garcia regarding approving minutes in presented form, and if there are questions over the presented form, how would that apply on the approval of the minutes. Ms Courtney Alvarez, City Attorney stated that the minutes could be passed, subject to the addition of the notations that were requested being made with regard to the motions and the votes and then if other things come up at a later time, they could come back and amend. She added if they have any hesitation, they could pass on approving these and could approve all of them in one batch at the next meeting.

Commissioner Garcia stated that according to the Auditor these minutes were needed, and that the majority of these were done. He asked for the date of the cut-off point. Commissioner Wilson stated the cut-off point was the nineteenth.

City Manager Yerena stated that Ms Lopez and Ms Valenzuela had done a tremendous job of reconciling everything, he added not only what the auditors are asking for, but actually getting everything together so that the minutes can be kept up on an a normal basis.

Commissioner Garcia made a motion to approve the minutes as presented, barring those questions he brought up and the grammatical changes, seconded by Commissioner Wilson. The motion carried, 2/0.

NOTE* (Minutes Approved) September 2, 2002, September 23, 2002, October 14, 2002, October 28, 2002, November 13, 2002, November 25, 2002, December 9, 2002, December 16, 2002, January 6, 2003, January 13, 2003, January 17, 2003, January 27, 2003, February 3, 2003, February 10, 2003, February 24, 2003, April 14, 2003, May 12, 2003, June 9, 2003, June 27, 2003, June 30, 2003, July 12, 2003, July 18, 2003, July 24, 2003, July 28, 2003, September 22, 2003, October 30, 2003, November 3, 2003, December 8, 2003, December 17, 2003, January 12, 2004, March 22, 2004, and April 5, 2004.

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

1. Public Hearing for an alcohol variance application for the Island Club located at 1114 East Avenue D. (City Manager).

The public hearing was opened at 6:10 PM by Commissioner Wilson.

Mr. Luis Bernal, Pastor of El Centro De Milagros commented that when the previous business was opened he had to pick up beer bottles everyday from his property. He stated that people consume alcohol and this is an accident waiting to happen and asked the commission to consider all that.

Ms Estela Lara, applicant for the Club stated that she agreed with Mr. Bernal. She stated that she is planning changes and that she invites help from county and city law enforcement to stop problems. She stated that her business will be a bar and grill club, and that they will be providing taxi service for its patrons. She also stated that she is planning a fall and spring

festival, a variety of bands, and will be donating monies to boys and girls club. She said that security will be provided for dances, there will be no outside drinking, the property will be cleaned and that she would try not to have her business opened during church time.

Mr. Bernal stated that all this can be done without alcohol because this causes liver problems. He also stated that people control it is easier said than done. He also stated that they are teaching their kids that alcohol is bad, and that this would be a bad image to for their children.

The public hearing was closed at 6:17 PM.

III. Public Comment on Agenda Items.³

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

None

IV. Petitions, Grievances, and Presentations.²

1. Present Proclamation designating April 22, 2004 as "Benavides Day".

Commissioner Wilson read the proclamation.

2. Present Proclamation designating the month of April 2004 as "Sexual Assault Awareness Month".

Commissioner Wilson read the proclamation and made the presentation to Ms Janie Lopez from the Women's Shelter in Corpus Christi, Texas. She stated that the Women's Shelter had a cooperative working agreement with the City of Kingsville and that this Thursday an agreement will be signed at 11:00 AM at the Police Department. Ms Lopez stated that in 2003 there were 8 victims of sexual assault from Kleberg County and gave the shelter's location, corner of 6th and King.

3. Present Proclamation designating the month of May 2004 as "Firefighter Appreciation Month".

Commissioner Wilson read the proclamation and made presentation to Firefighters Shawn Mitchell and Eric Adame, Asst. City Manager/Fire Chief Corando Garza, Retired Fire Marshal Guadalupe Garcia, and Volunteer Joel Saenz.

Commissioner Wilson stated that our fire fighters are well trained, and were ready to serve in Progreso, Mexico, if needed.

4. Present Proclamation designating April 18, 2004 as "Mr. V" day in honor of Rene Villarreal.

Commissioner Wilson read the proclamation and made presentation to Mr. "V" who thanked everyone for being there for him in his time of need.

5. Recognize Lupe Garcia for 40 years of service to the City. (Fire Chief).

Commissioner Wilson stated that it was with great sadness, pride and joy to present this Proclamation. He stated that Lupe served 40 yrs in the Fire Department. Mr. Garcia was presented with a key to the City plaque, and a watch from the Fire Department.

Mr. Garcia stated he enjoyed working, and should receive an extra party from the five captains that can be promoted. He reminded everyone to vote.

6. Recognize Sammy Maldonado for 23 years of service to the City. (City Manager).

Commissioner Wilson stated that Mr. Maldonado was leaving to pursue other ventures in life. Mr. Maldonado received a key to the City plaque and a King Ranch knife and pen set. He thanked the City of Kingsville for his 23 yrs.

7. Presentation of Second Quarterly Report by the Kingsville Convention and Visitors Bureau. (KCVB Executive Director).

Ms Carol Ann Anderson, KCVB Executive Director, gave a King Ranch notebook to the Commissioners, the City Manager and the City Attorney. She stated that Mr. Martin Clements, President of the KCVB Board was present if the Commission had any questions for him.

Ms Anderson reported that the hotel/motel tax was down .25%, but that it was below the rest of state 8% average. She explained that this could be due to price of gas and economy. She stated they are below budget at 49% due to unbudgeted advertising at beginning of year, but they are canceling some advertisement and travel.

Ms Anderson stated that visitor count is down and that visits from Winter Texan are also down. She stated that they had 13,000 inquiries; the building was painted by a winter volunteer; and that the air conditioner had broken last month, but that an air conditioner company had donated one to them. She reported that they are still closing out the Cactus bowl, and are preparing for 2005 Cactus bowl, the Bull Riders competition in January and Casino Night Navy League, and had assisted in the Young Performer Competition. She also stated that Sue Miller and Ben Glusing are creating the brochure for Centennial week. She invited everyone to go watch the Kingsville Oilers Semi-Pro football team. She stated that are working on the Wildlife Festival which is held in November, the weekend before thanksgiving, they are in process of making the Wildlife Festival a 501C3 because they have lost a couple of grants and sponsorships, and added that they are a C6. The main item that they are working on is Texas Tropical Trail Grant Application which is going to the Texas Historical Commission and it is due on May 7 in Austin. Ms Anderson stated she had received the two resolutions from the county and the city and the proclamation from their representative and ten letters of support. She stressed that if this trail get grant money Kingsville will probably the hub for the Trail Coordinator, that this would require free office space for 3 yrs and a computer. She also stated that the railroad depot brochure is being worked and will be ready another month. She added that she is working on

modified uniforms, aprons made pin stripe material for volunteers. Ms Anderson stated that 20 volunteers are needed for railroad depot; they are two volunteers short at depot. She stated another major event is the Bike Ride on April 24th, which starts with a pasta dinner at the Caesar Camp house and the proceeds go to Lions Cripple Children's Camp in Kerrville, Texas, and the children from Kleberg County can go to this camp.

Commissioner Garcia stated Mr. Robert Broadback over-shadows in volunteering and said that he noticed the Board of Directors attendance. Ms Anderson responded that Ghandi is renovating his hotel which has been a challenge and added that the Advisory Board meets with the Board of Directors. Commissioner Garcia suggested that the City get back in the loop of auditing hotel/motels. Ms Anderson replied that it has been possibly 3 years without an audit.

Commissioner Wilson commented on how well they represent the City of Kingsville.

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

City Manager Yerena reported that the Fire Fighters were ready, able and mobile to assist in rescue efforts in Neuvo Progreso. He stated that the Fire Chief is well connected with other Fire Departments. He reported that on Thursday of last week staff made a presentation to the Kingsville Realtors Association on the tax increment financing concept that was presented at the previous meeting. He added that they spoke on the concept and benefits that it would entail, and good feedback was received. He added that as instructed he would be moving forward with EDC and KISD and within the next couple of weeks a presentation would be brought to the Commission.

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

Ms Courtney Alvarez reported that her office had received six open record requests, and will have various meetings with attorneys in Corpus Christi who are representing the City on certain matters. She also stated that the Attorney General's opinion which was out last Wednesday, officially, in regards to Halcom City and portions to that opinion which applied to our situation as well has been covered really well

10. City Commission's Reports. (City Commission).

Commissioner Garcia commended Ms Alvarez's particular stance in that area and added that it was hard for one individual to defend what is right for community which was the logical thing to do.

Commissioner Wilson said that he echoed Commissioner Garcia's position. He stated that we are all tasked with difficult job and that the City of Kingsville made a very wise decision when they chose Ms Alvarez for their attorney. He added that she had stuck to her guns before and during, and that clearly the Attorney General's opinion for Halcom City surely vindicated her position. He went on to say that she looked up case law, which speaks very highly for the person who will guide the 5 men or women on legal matters come May 15th. He stated that the Attorney General's opinion will be posted on City website and asked everyone to please vote. Commissioner Wilson advised of the candidate forum on Tuesday, at the

Earth Science Bldg Texas A&M and advised the audience to ask questions, and educate themselves.

V. Items for consideration by Commissioners.⁴

1. Consider approval of alcohol variance application for Island Club located at 1114 East Avenue D. (City Manager).

City Manager Yerena stated that 112 letters were mailed to property owners.

Ms Jennifer Detloff stated that Ms Estela Lara had applied to the City of Kingsville for a change in ownership for a Wine and Beer Retailer's On-Premise License for an existing business located at 1114 E Ave D. She stated that staff had called the Pastor from the Church on Friday to make him aware. She stated there were no comments received.

Commissioner Garcia asked how long particular business had been closed. Ms Lara replied for one year.

Commissioner Wilson stated that if this was to pass, he would like to see Ms Lara work with Mr. Bernal to keep an open line of communication.

Commissioner Garcia made a motion to approve the alcohol variance for application to the Island Club located at 1114 E Ave D, seconded by Commissioner Wilson. The motion carried, 2/0.

2. Consider award for sale of city property located at 601 and 601 ½ N. 14th Street. (Bid No. 24-32). (Director of Purchasing).

Ms Dora Byington stated that this item authorizes the sale of two tracts of land located at 601 and 601 ½ North 14th Street. She stated there were two options, and that staff was recommending option A – Award the bid to the highest bidder for a total of \$2,232.00, to Mr. Xavier Rodriguez. She added she had some concerns which were discussed with the Appraisal office and stated they resolved to her satisfaction. She added that the City has met the requirements of Section 253.008 and 272.001.

Commissioner Garcia asked Ms Byington what her concerns were; Ms Byington replied that the appraisal value seemed low. Commissioner Garcia stated the first time this was brought up, the property was in a different location and asked if this was cleared up. Ms Byington responded everything had been corrected.

Commissioner Wilson asked questions regarding covering all legal basis. He asked about the Deed of Sale, which there was none available, and asked if it that can actually be executed. He stated that he was assuming that the City will be able to draw up proper legal documents that will transfer the ownership to the prospect buyer. Ms Alvarez responded that was correct.

Commissioner Garcia questioned about the minerals. Ms Alvarez replied that she remembers discussion about this at a prior Commission meeting

and added that did not go out on this bid because it had already been advertised prior to the meeting.

Ms Byington stated that the City followed the law at time, as far as the language. She stated that it was advertised three times instead of the two, as normally done.

Commissioner Garcia made a motion sale piece of property highest bidder for a total of \$2,232.00, seconded by Commissioner Wilson. The motion carried, 2/0.

3. Consider award asphalt paver for the Street Department. (Bid No. 24-34). (Director of Purchasing).

Ms Byington stated that this item authorizes the purchase of one asphalt paver for the Street Department. She added this was advertised on March 7th & 14th, and three (3) bids were received. She stated that the Street Supervisor feels safer with a machine that has an air cooled engine because he will eliminate the hazards of a radiator. She also stated that training on the use of the lowest bidder's asphalt paver will be done by someone from out of state who will come to Kingsville to train our employees, and delivery will be made within 6-10 weeks after award is made. Ms Byington stated this action will expend \$40,355.00, in which \$40,000.00 are available in account # 039-5-305.0-712.00 and that the balance will come from money left over from other purchases under this line item to make up the difference of \$355.00. She stated that staff is recommending the bid be awarded to Nueces Power Equipment from Corpus Christi, Texas.

Commissioner Garcia made a motion to accept staff recommendation, seconded by Commissioner Wilson. The motion carried, 2/0.

4. Consider resolution designating the month of April, 2004, as Fair Housing Month and supporting Fair Housing Activities within the City. (City Engineer).

Mr. Stanley Fees, City Engineer stated that this is part of the requirement for the grant application for Eddie Yaklin and Neesen projects. He stated that this information was provided by our grant management company, Kim Lacey, and is basically an official act that is needed to comply with the grant department.

Commissioner Wilson read the proclamation.

Commissioner Garcia made a motion to adopt the resolution as presented, seconded by Commissioner Wilson. The motion carried, 2/0.

5. Consider resolution designating the City Manager, Director of Finance, and the City Attorney as the Investment Officers of the City of Kingsville. (Finance Director).

Mr. George Bejarano stated that in order to be in compliance with the Auditor, the City has to appoint an Investment Officer and this came about due to the change in personnel.

Commissioner Wilson read the resolution.

Commissioner Garcia made a motion to approve the resolution as presented, seconded by Commissioner Wilson. The motion carried, 2/0.

6. Consider resolution reclassifying the management level position of Utilities Superintendent, Management Level 3, to Public Utilities Director, Management Level 3. (City Manager).

City Manager Yerena stated that this reclassifies the utility department which staff is proposing to reconfigure and consolidated all departments which would be the Street, Solid Waste, Garage, Service Center, and Water Construction into one department in order to effectively function more efficiently and be more productive. He stated that at this point the only thing being asked is to change the title of Utility Superintendent to Public Utilities Director. He stated that the Commission had a copy of the flow chart and what it would be now.

Commissioner Garcia stated that as indicated earlier the position's salary would not increase. City Manager Yerena stated that was correct.

City Manager Yerena stated he is proposing to have a Public Works Director that would effectively bring all departments together and supervise them as well and further reorganization would be occurring. He also stated that at this point all that is being asked is to consolidate all departments into one and the change title.

Commissioner Garcia asked the reasoning, City Manager Yerena stated this was to stream line operations and become more efficient, he added that his belief is that we can function as one unit where everybody serves under one director.

Commissioner Garcia asked who would head the Street Department. City Manager Yerena responded he anticipates to have a Street Foreman, but again in obtaining a Public Works Director we would anticipate the supervision would come from the Public Work Director, himself.

Commissioner Garcia asked if titles of Superintendents would be changed, Ms Alvarez responded unless another resolution is brought up.

Commissioner Garcia asked if this was discussed with others and staff. City Manager Yerena responded it was discussed with the Assistant City Manager and Sammy, and everyone was in agreement and felt positive about change.

Commissioner Wilson stated that he had a previous conversation with the City Manager Yerena and Mr. Bejarano regarding this subject. He added that now that he sees the flow chart he would like to take the opportunity to sleep on it and deal with it at the next meeting. He stated that one of the

concerns voiced is that it creates an extremely large department under one individual. He stated that a development plan that streamlines efficiency was needed. That some of the fear is that this will give one individual extreme power and that it comes from the guidance given to the individual as to how they are perceived in the community and by the employees. He added that he would like to look at it and discuss a little more with the City Manager. Commissioner Wilson stated that he would like to see the selected individual's characteristics to make sure that his comfort level of the chosen individual is one that is worthy to lead all those employees. He stated that he appreciated City Manager Yerena doing this, and that as he settles in to his position he will find the tools to help him most efficient.

City Manager Yerena stated that from staff's point of view they are trying to become as efficient as possible. He stated that he will work with the Commission to assure that the individual credentials are there and that at some point the salary will have to be looked at.

Commissioner Garcia stated that personally he does not want to see a dictator there because this has happened before.

Ms Diana Gonzales, Human Service Director stated that approximately 100 employees are in the Public Works Department.

Commissioner Wilson requested a brief summary be written up to see what City Manager Yerena's thoughts and patterns were in relations to this item. He stated this could be brought up at the next meeting.

No action was taken.

7. Consider out-of-state travel for three firefighters from the Kingsville Fire Department to attend the National Center for Exercise Excellence for training in Weapons of Mass Destruction in Bechtel, Nevada. (Fire Chief).

Mr. Corando Garza, Assistant City Manager/Fire Chief stated that he had submitted a request to the City Manager for three fire fighters to attend the National Center for Exercise Excellence for training in Weapons of Mass Destruction on May 24-27, 2004 in Bechtel, Nevada. He stated that the Fire Fighters were chosen by their Captains, and they were: Joseph Adame, James Creek, and Red Sandoval. He also stated that there were no limits to training, and that the Valley Fire Departments have participated in this training. He added that this is a win-win situation for the City.

Mr. Garza stated that the City would be reimbursed for the flight tickets upon the completion of the course at the end of the week, meals and hotel accommodations are at no cost to the City, as the Office of Justice Programs and Office for Domestic Preparedness will incur those expenses.

Commissioner Garcia asked if there was an exam at the end of the course, Mr. Garza stated that they have to pass. He then asked what happens if they do not pass. Mr. Garza stated that the City would not be reimbursed, but that he was very selective on choosing the fire fighters that would be attending.

Mr. Garza stated fire fighters are all trained in haz-mat technician level and this training enlightens the training to higher level.

Commissioner Garcia asked if any of the individuals will be eligible for retirement in 2/3 years, Mr. Garza responded they were not.

Commissioner Garcia made a motion to approve, seconded by Commissioner Wilson. The motion carried, 2/0.

8. Consider resolution authorizing the City Manager to enter into a Local Transportation Project Advance Funding Agreement with the Texas Department of Transportation for Kingsville Landscape Improvements. (City Attorney).

Ms Alvarez stated that the City received this Local Project Advance Funding Agreement from Texas Department of Transportation. She added that in 2003, Mr. Chris Caron, from TXDOT made a presentation to the Commission and that part of the presentation had to do with a landscape project that they wanted to put up at certain locations within the City. She stated the locations that would have the landscapes; area within the US 77 and SH 141 interchange; (2) area within the BU 77 V and 6th Street intersection; and (3) the area from May Street to Milton Street. She also stated the total estimated cost of this project is \$100,000.00 which will be paid by the State. She stated that basically this is one of the things that they were interested in doing in order for us to make sure that the project gets done and the Commission needs to take action.

Ms Alvarez read the proclamation.

Commissioner Garcia made a motion to approve as presented, seconded by Commissioner Wilson. The motion carried, 2/0.

9. Consider amendment to Human Resource Initiative Policy No. 890.5 Guns and Firearms. (Commissioner Wilson).

Commissioner Wilson stated that he asked for this to be put on agenda. He stated that in May 2003 there was a lengthy discussion as to who could carry a gun or firearm in the Commission Chambers and it was decided at that time by split vote that nobody could carry a firearm in Commission room. He stated that as that policy was developed and implemented it has severely handicapped the City Manager to use any of the resources that he potentially had available to him if some type of calamity occurred. He stated that unless there was a Police Officer specifically assigned to do a detail he would be the only one authorized to carry a weapon and the City Manager would have to call on only him. He added that this would allow the City Manager to use all the resources that would potentially available to him.

Commissioner Wilson read the change on Policy No. 890.5 - The possession of guns and firearms on the City's premises, whether during normal work hours or otherwise, is strictly prohibited. Any Employee, other than designated peace officers or city marshals, found to be carrying or holding a gun or firearm on City property will be immediately terminated from his or her employment.

Upon a question raised by Commissioner Wilson regarding if this gave the City Manager the latitude that is needed to make sure he has all resources available. Ms. Alvarez responded that this is basically the same as what was adopted previously, but it just deletes the second paragraph that was in the May 27, 2003 Policy that restricted him.

Commissioner Garcia stated that it does not address the Commission.

Commissioner Wilson stated that this was a good point and that there has been discussion on other items like an ethics policy that was not successful on being implemented. He stated that the Commission has tried to include themselves in the drug policy which is designed for full time employees.

Ms. Alvarez stated that there was a Legislative change in 2003, a House Bill that was introduced and got passed and approved with regard to a person not being able to bring firearms unto certain City locations and one of those was within location of a court. She added that since our Municipal Court is within this Chamber where Commission meetings are held it would be prohibited to bring firearms within that unless they meet one of the exceptions.

Upon a question raised by Commissioner Garcia regarding State Law superseding in that regard, Ms Alvarez responded it would. Commissioner Garcia requested a copy in order to orientate the Commission.

Commissioner Garcia made a motion to approve the amended Human Resource Initiative Policy #890.5 – Guns and Firearms to read as read, seconded by Commissioner Wilson. The motion carried, 2/0.

10. Consider introduction of an ordinance amending the Fiscal Year 2003-2004 Budget for the City of Kingsville for Accounting Software. (Finance Director).

Mr. Bejarano stated that this is an amendment to current budget and that they are looking at resources to do a better job. He stated that the budget is done on excel and the ability to make mistakes is there. He also stated that the software Project Management will be tied to Incode and tied back into the system and will give reports on any projects and updates. He stated that this is necessary to do good job in the accounting system and that the monies will be taken from the 2002-2003 CO from money left over from purchase of vehicles and said that a total of \$8,000.00 would be used which would be moved into a finance equipment line.

Commissioner Wilson stated that his only concern is that this is completely compatible with everything being used now. Mr. Bejarano stated this is part of the package.

Commissioner Garcia asked who has access to the software. Mr. Bejarano stated only accounting people, who have password and ID.

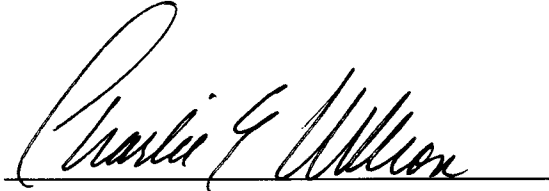
City Manager Yerena stated that security is done through layers and some employees can only read information

Mr. Bejarano stated that back up of the system is done at midnight. He stated no outside access, only the company can change the code.

No action taken, introduction only.

VI. Adjournment.

The meeting was adjourned at 8:05 P.M.



Charles E. Wilson, Presiding Officer

ATTEST:



Edna S. Lopez, Interim City Secretary