

September 27, 2004

**A REGULAR MEETING OF THE KINGSVILLE CITY COMMISSION WAS HELD IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE ON MONDAY, SEPTEMBER 27, 2004 AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor  
Charles E Wilson, Commissioner  
Arturo Pecos, Commissioner  
Stanley Laskowski, Commissioner  
Al Garcia, Commissioner

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
Courtney Alvarez, City Attorney  
Edna S. Lopez, City Secretary  
Dora Byington, Director of Purchasing  
Diana Gonzales, Human Resource Director  
Jennifer Cantu, Director of Development Services  
George Bejarano, Asst. City Manager/Finance Director  
Arnold Valadez, Warehouse Clerk  
Stanley Fees, City Engineer  
Ricardo Torres, Police Chief  
John Garcia, Garage Superintendent  
Macario Mayorga, Water Supervisor  
Y I Hinojosa, Street Field Supervisor  
Daniel Almeida, Wastewater Supervisor  
Frank Garcia, Field Supervisor

**I. Preliminary Proceedings.  
OPEN MEETING**

Mayor Fugate called the meeting to order at 6:00 P.M.

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

Ms Dora Byington led everyone in prayer. The Pledge of Allegiance and the Texas Pledge followed.

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

**Commissioner Laskowski made a motion to adopt the minutes as presented, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting “FOR”.**

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. Public hearing to rezone 2.3 acres out of Lot 6, Block 6, K.T&I Subdivision from “C-2” Retail District to “I-1” Light Industrial District, located at N. 14<sup>th</sup> Street. Applicant Danny Salinas. (Director of Development Services).

Mayor Fugate opened the Public Hearing at 6:02 P.M.

Ms Jennifer Cantu stated that the applicant is requesting this property be rezoned to light industrial to possibly locate a sexually oriented business. She said that this was an item at the Planning & Zoning Commission meeting held on September 21, 2004 and representatives from the Knights of Columbus and Wilcox Furniture spoke to express opposition to the zoning request. She added that the Staff and the Planning & Zoning Commission are recommending denial.

Mr. Abraham Flores III, 717 E Henrietta, representing the Knights of Columbus, stated that he is opposed to the type of business that wants to locate there because of the church activities that are held at their hall.

The Public Hearing was closed at 6:07 P.M.

2. Public hearing to rezone 26.46 acres out of Farm Lot 12 & 13, Section 22, K.T&I Subdivision from "AG" Agriculture to "C-4", Commercial, located at US 77 & FM 1717. Applicant Catherine Haunschild. (Director of Development Services).

Mayor Fugate opened the Public Hearing at 6:07 P.M.

Ms Cantu stated that this is a large tract of property in a major intersection in which the applicant is requesting it to be rezoned to C-4 Commercial. She said that eight (8) letters were mailed out and no responses were received. She added that there were no comments or responses at the Planning & Zoning Commission meeting and said that the Planning and Zoning Commission recommends approval.

The Public Hearing was closed at 6:08 P.M.

Mayor Fugate excused himself because the following zoning issue is in his neighborhood.

3. Public hearing to rezone 1.499 acres out of Lots 29-31, Southmore Acres from "R-2", Two-Family, to "C-4", Commercial, located at 1701 S. 7<sup>th</sup> Street. Applicant Jesse Mendez. (Director of Development Services).

Mayor Pro-tem Wilson opened the Public Hearing at 6:10 P.M.

Ms Cantu stated that the applicant purchased this property about three (3) years ago. She said that a complaint was received about a commercial business being operated at the site. The complaint was investigated and found to be valid.

Ms Cantu stated that the applicant is seeking the most intense level of commercial, which is a C-4. She mentioned that the applicant's access is to be off of 7<sup>th</sup> Street.

Ms Cantu said that Staff is recommending denial of this rezoning request because the property does not have access to the commercial road of 6<sup>th</sup> Street. The Planning & Zoning Commission recommended denying, however four (4) members voted to deny request and three (3) voted to allow.

Ms Cantu said that the applicant only has access to 7<sup>th</sup> Street, while the previous owner had access to 6<sup>th</sup> Street.

There was discussion on when the buildings at this location were built, who built them and if permits were issued.

There was discussion on an ordinance that is in place that disallows entrance from 6<sup>th</sup> Street and exit on 7<sup>th</sup> Street.

Mr. Lynn Peters, 1519 S 7<sup>th</sup>, spoke about the applicant not keeping his equipment and pile of dirt on his property.

Mr. Howard Henderson, 303 Alexander, stated problems with the previous owner and spoke of an ordinance in place that disallows entrance from 6<sup>th</sup> Street with exit on 7<sup>th</sup> Street. He expressed concern about heavy trucks using residential roads built for cars.

Mr. Bill Kuyatt, 314 Elizabeth, spoke about filing a complaint with the City that was never addressed.

Mr. Gary Bowden, 304 Elizabeth, spoke about complaining to elected and appointed officials of the City. He said that during the night the applicant installed a gate on 7<sup>th</sup> Street.

Ms Danielle Bowden, 304 Elizabeth, spoke about almost getting hit by trucks from that business, and their business hours.

Mr. Tom Driver, 504 Elizabeth, spoke about filing a complaint with the Zoning Commission due to trucks filled with dirt that are using Elizabeth Street.

Mr. Marvin Wuensche, 409 Elizabeth, spoke about the road being re-topped in which the citizens paid one-third of the cost and asked to keep the area residential.

The Public Hearing was closed at 6:42 P.M.

### **III. Petitions, Grievances, and Presentations.<sup>2</sup>**

1. Proclamation designating September 28, 2004 as "American Dream Day".

Mayor Fugate read the proclamation that was recommended by the National League of Cities.

2. Proclamation designating the month of October 2004 as "National Domestic Violence Awareness Month".

Mayor Fugate read and presented proclamation to Michelle Perez from the South Texas Women's Shelter.

3. Presentation by Hal Hamm on the Hotel/Motel Tax Fund for the John E. Conner Museum.

Mr. Hal Ham, Director of the John E Conner Museum, addressed the Commission stating that the packet provided details of the expenditures of the Hotel/Motel Tax devoted to the museum in the past year and a generalized budget of the proposed expenditures for this year.

There was discussion on the passed year expenses for the Ranching Heritage.

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

Ms Carol Ann Anderson addressed the Commission and introduced her staff. She provided the Commission with information on upcoming activities. She stated that expenses are up \$4,600, but down 8% from last year and hotel collections are up.

Ms Anderson said that the head count at Visitor's Center is down about 400 people less per month. She provided information on the Cactus Bowl, Wildlife Festival, and the Ranch Hand breakfast. She provided the Commission with brochures for La Posada, RR depot and Wildlife Festival.

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

City Manager Yerena reported on the Paulson Falls Grand Opening on October 2<sup>nd</sup>. He also reported that City Secretary Edna Lopez would be hosting the Coastal Bend Chapter Municipal Clerks Association quarterly meeting. He said that he will be attending a meeting with the County Judge, a luncheon at the Port of Corpus Christi, and will be implementing a consent agenda for the next meeting.

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

Ms Courtney Alvarez reported that she would also be meeting with the County Judge, and attending a CLE in Houston regarding federal practice. She mentioned that the Solid Waste Department is asking that rollouts be removed from the streets after collection and added that information on this subject will be provided at a later meeting.

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

Mayor Fugate presented Ms Byington with a certificate and flowers for her dedicated years of services (42 yrs).

Mayor Fugate reported on his trip to Washington. He stated he will have a report available for the public to see and he now understands where we are in BRAC process.

IV. Public Comment on Agenda Items<sup>3</sup>

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

Mr. Anse Windham, 622 Escondido, spoke about the new chipper at the Recycling Center and encouraged people to bring in tree trimmings for mulching.

Mr. Harry Henderson, 303 Alexander, spoke about a bag of limbs that have not been picked up.

V. Items for consideration by Commissioners.<sup>4</sup>

**1. Consider resolution supporting the Texas Department of Transportation's closure of Caesar Street cross-over on U.S. 77 and request for Caesar Street Overpass funding to be reallocated to FM 1717 Overpass project. (City Engineer).**

Mr. Stanley Fees, City Engineer stated that the purpose for the resolution is to close the crossover on Caesar Street leading to the NAS north gate. He said that funds allocated for the overpass at that location could be redirected to the FM 1717 crossing to help accelerate that project.

Chris Caron, Area Engineer with TXDOT, suggested closure and said that this would greatly improve the safety of that section of roadway and would encourage people to go to great separations that are much safer. He said that it could be proposed that this intersection be closed with barricades until a decision can be made if this was a good idea.

Mayor Fugate asked about informing the public about the closing due to the response about previously closing Richard Street. City Manager Yerena replied that the Richard Street closure was under City jurisdiction, and that this particular street is State owned which requires no public hearing.

Commissioner Laskowski suggested that NAS be included in the proposal and said that the gate is used for air shows.

Commissioner Laskowski made a motion to table this item until such time that TXDOT has had an opportunity to talk to NAS and get their input on the item, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson, Laskowski voting "FOR".

**2. Consider confirmation of appointments of Dr. Barbara Oates, Mr. Anse Windham, Ms. Maria Cerda, and Lt. Matthew Sklerov to the Board of Directors of the Kingsville Convention and Visitors Bureau. (KCVB Board President).**

Ms. Mary Ann Oldham addressed the Commission, stating that each individual has enthusiastically accepted the possible appointment and the Board voted unanimously to submit their names for confirmation and would appreciate the Commission's consideration.

Commissioner Garcia made a motion to accept appointments, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".

**3. Consider approval of the final plat for South Creek Subdivision Phase 2. (Director of Development Services).**

Ms. Cantu gave an overview on the history at this location, and stated that staff reviewed and found no deficiencies. She added that P&Z recommends approval. She said that the applicant would be asking for assistance with water and/or sewer.

Commissioner Laskowski made a motion to approve the final plat for South Creek Subdivision Phase 2, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

**4. Consider resolution approving the City of Kingsville's 2004 Tax Roll as submitted by the Kleberg County Tax Assessor-Collector pursuant to the Texas Property Code, Chapter 26, Section 26.09 (e). (City Manager).**

Mr. George Bejarano stated that this resolution is for the 2004 Tax Roll as submitted by the Kleberg County Tax Assessor-Collector. Mr. Bejarano read the Submission of the 2004 Tax Roll for the City of Kingsville pursuant to Section 26.09 (e) of the Texas Property Tax Code and added that the net taxable value is \$518,985,224. He said that there is \$186,250,000 under a protested amount that is included in the budget.

Commissioner Laskowski made a motion to consider the resolution approving the City of Kingsville's 2004 Tax Roll submitted by the Kleberg County Tax Assessor-Collector, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

**5. Consider awarding bid for replacement of the HVAC located at City Hall. (Bid #24-42). (Director of Purchasing)**

Ms. Dora Byington stated that this item authorizes entering into contract for the replacement of the HVAC located on the first floor at city hall. She added that the amount recommended is \$36,822.00 to Charlie's A/C & Heating Company.

Commissioner Laskowski stated he wanted to confirm information that was previously discussed with Mr. Fees regarding the three (3) year parts and labor and five (5) years on the compressor. Mr. Fees replied that was correct.

Commissioner Laskowski made a motion to award the contract to Charlie's Heating and Air with the understanding that prior to him starting the project that he puts the warranty on the air conditioner, three (3) years parts and labor and five (5) years on the compressor, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

Commissioner Laskowski made a motion to consolidate Items 6, 7, 8, & 9, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

**6. Consider awarding bid for annual contract for automotive parts. (Bid #25-10). (Director of Purchasing).**

Ms Byington stated that Staff recommendation is to award two separate annual contracts for various types of automotive parts is awarded to Carquest Auto Parts and O'Reilly Auto Parts from Kingsville. Estimated amount for these two contracts is \$25,000 for a twelve-month period, and recommends approval.

**7. Consider awarding bid for annual contract for lubricants and oils. (Bid #25-14). (Director of Purchasing).**

Ms Byington stated that Staff recommendation is to award contract to two bidders, Arnold Oil Company and Oil Patch Company from Corpus Christi. The estimated amount to be spent is \$10,800 for a twelve-month period.

**8. Consider awarding bid for annual contract for automotive batteries. (Bid #25-16). (Director of Purchasing).**

Ms. Byington stated that recommendation is to award the contract to S & C Auto Parts from Kingsville, for an approximate annual cost of less than \$5,000.

**9. Consider awarding bid for Truck Chassis for Durapatcher. (Bid No. 24-43). (Director of Purchasing).**

Ms Byington stated that Staff recommendation is to award bid to Crosstown Ford Sales, Inc. from Corpus Christi for a total of \$40,573.

Commissioner Laskowski made a motion that contracts be awarded to the qualified bidders as recommended by Staff for Items #6, 7, 8, & 9, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

**10. Consider re-appointments for Mrs. Idolina "Nina" Cortez, Mrs. Ricki Cunningham, Mr. Rudy Galvan, and Mr. Albert Garcia; and appointment to the Zoning Board of Adjustment. (Director of Development Services).**

Ms Cantu stated that this is a very organized committee and attendance is very good. She advised that there is one vacancy.

Commissioner Pecos made a motion to approve re-appointments, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR".

**11. Consider appointment to the Historical Development Board. (Director of Development Services).**

Ms Cantu stated that this position has been vacant for a long time and added that this Board meets during the day.

**Commissioner Laskowski made a motion to nominate Ms Carol Ann Anderson.**

Commissioner Laskowski stated that she has a lot of experience in historical preservation and she has advised an interest in serving on this committee.

**Commissioner Garcia seconded the motion. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".**

**12. Consider final passage of an ordinance amending the Fiscal Year 2003-2004 Budget for the City of Kingsville for CO 2002-2002A Wastewater Utility Plant expenditures. (Finance Director).**

Mr. Bejarano stated that this is a second reading of an ordinance to re-class the expenses of the CO 2002-2002A from the Wastewater Department.

**Commissioner Laskowski made a motion to adopt the ordinance amending the Fiscal Year 2003-2004 Budget for the City of Kingsville for CO 2002-2002A Wastewater Utility Plant, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

**13. Consider final passage of an ordinance amending the Fiscal Year 2003-2004 Budget for the City of Kingsville. (Finance Director).**

Mr. Bejarano stated that some numbers had changed which were expected due to the year-end operations. He added that expenses were moved from the CO 2002-2002A to the General and Utility Funds. He presented information on the amounts of the changes.

There was discussion on the 8-liner and CO monies.

Commissioner Laskowski asked if monies from the 8-liners fees would be used to pay back the Cap 2002 monies used to pay for rollouts. Commissioner Wilson replied that is the intention.

The Commission then discussed the over budget amounts in Sanitation and Fire Departments.

Mr. Bejarano stated that due to new Sanitation trucks not arriving on time, there were extensive costs for repairs to the old trucks.

Ms Alvarez recommended passing on further discussion of this item until the end of the meeting in order to give the City Manager time to try to address the questions.

Commissioner Pecos stated that action was needed in order to pass the budget.

Ms Alvarez asked if the Commission was proposing to include in the ordinance to approve the amendments to the 03-04 Budget, Account #39 from the CO 2002-2002A be replenished with the Capital Projects money. Commissioner Laskowski replied that was correct and that it are up to Staff to monitor the departments' budgets on a monthly basis.

Commissioner Laskowski made a motion to approve with proper amendments, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".

**14. Consider introduction of an ordinance amending Chapter V, Article 2, Sewers of the City of Kingsville Code of Ordinances, providing for grease trap definitions, regulations and inspections fees. (Waste Water Supervisor).**

Mr. Daniel Almeida, Wastewater Supervisor said that the purpose for this ordinance is to enforce the pretreatment program. He said this would curtail the overtime and recoup some funds.

No Action, Introduction Only.

**15. Consider introduction of an ordinance changing the zoning map in reference to 2.3 acres of land out of Lot 6, Block 6, K.T&I Subdivision from "C-2", Retail Commercial, to "I-1", Light Industrial, N. 14<sup>th</sup> Street, formerly the Crimson Palace. (Director of Development Services).**

Ms Cantu stated that this item was brought before the Commission tonight at the Public Hearing, there was opposition and staff is recommending disapproval.

No Action, Introduction Only.

**16. Consider introduction of an ordinance changing the zoning map in reference to 26.46 acres of land out of Farm Lot 12&13, Section 22, K.T&I Subdivision from "AG", Agriculture, to "C-4", Commercial District, at the corner of US 77 and FM 1717. (Director of Development Services).**

Ms Cantu stated that this item was brought before the Commission tonight at the Public Hearing, and there was no one who spoke for or against.

No Action, Introduction Only.

**17. Consider introduction of an ordinance changing the zoning map in reference to 1.499 acres of land out of Lots 29-31, Southmore Acres from "R-2", Two-Family District, to "C-4", Commercial District, on 1701 South 7<sup>th</sup> Street. (Director of Development Services).**

Ms Cantu stated that this item was brought to the Commission tonight at the Public Hearing, and there was a lot of opposition. She added that the next time it is presented she will provide information on the ordinance that was cited, and information on permits that were issued for this location.

There was discussion on occupancy permits, and penalties to property owners that open up without certificate of occupancy.

No Action, Introduction Only

**18. Consider resolution authorizing the City Manager to enter into a Collective Bargaining Agreement between the City of Kingsville and the International Association of Firefighters Local No. 2390 for the period covering October 1, 2004 to September 30, 2007. (Human Resource Director).**

Ms Diana Gonzales presented an overview on the Firefighters contract.



The Commission asked to hear the differences between the current contract and the proposed contract.

Ms Gonzales said that there isn't a set increase for wages, a new section that was added was "Paid Time Off" (PTO), and Section 4 – Residency was changed.

There was lengthy discussion on changing the language to Section 4 – Residency.

Mayor Fugate said that this is a safety issue, and not an economic issue.

**Commissioner Laskowski made a motion to table this item, seconded by Commissioner Wilson.**

Ms Alvarez requested that the Commission hear the rest of the contract.

**Commissioner Laskowski withdrew the motion, and Commissioner Wilson withdrew his second.**

Ms Gonzales gave an overview of the rest of the contract.

Ms Alvarez said that the first sentence from the existing contract would be included "All firefighters employed after June 25, 1998 shall reside within the boundaries of Kleberg County. She said that it would continue with the language that is in the proposal regarding "All firefighters employed after October 1, 2004, shall reside within the boundaries of Kleberg County and within 38 miles of the City of Kingsville inside Kleberg County.

There was more discussion on the residency issue.

City Manager Yerena said that it was important to move forward.

**Commissioner Laskowski made a motion to adopt this contract with the changes that were discussed on Section 4 – Residency, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate Garcia, Pecos, Wilson, Laskowski voting "FOR".**

**19. Consider introduction of an ordinance amending Chapter VII, Article 2, Stopping, Standing & Parking; Providing for Parking not to obstruct Traffic, Parking on Narrow Streets & Stopping, Standing or Parking near Hazardous or Congested Places. (City Engineer).**

Mr. Fees stated that this ordinance is being brought to the Commission because of a concern that was raised to City Staff. He said that this ordinance would strengthen the existing parking ordinance.

**No Action, Introduction Only**

**20. Consider introduction of an ordinance amending Chapter III, Article 7, Personnel Policies. (Human Resource Director).**

Ms Gonzales stated that there were a few updates to this ordinance. She said that the orientation period reflects the change by Commission Resolution. She added that the tables include the 3% cost of living increase, title changes, and modifications to hourly chart. She said that for uniformity there is only one table for management employees.

Commissioner Laskowski voiced his concerns regarding the paragraph "Hourly employees shall commence at the same step of pay upon the promotion, transfer, or temporary reassignment as they held at the time of such promotion, transfer, or reassignment in the above Classification Plan".

**No Action, Introduction Only**

The City Commission convened into executive session at 9:10 PM

**21. Executive Session: Under Section 551.071 of the Texas Open Meetings Act, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding potential litigation regarding administration and enforcement of City obligations under the South Texas Water Authority Supply Contract. (Mayor Fugate).**

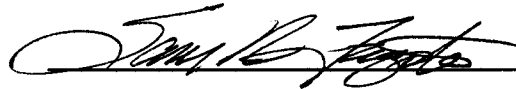
The City Commission reconvened into regular session at 9:40 P.M.

**22. Consider recommendation to Staff regarding potential mediation with South Texas Water Authority. (City Manager).**

No action taken.

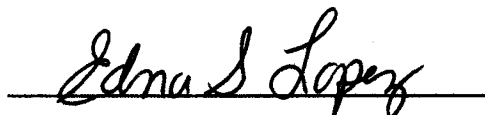
**VI. Adjournment.**

Mayor Fugate adjourned the meeting at 9:41 P.M.



Sam R. Fugate, Mayor

ATTEST:



Edna S. Lopez, City Secretary