

FEBRUARY 14, 2005

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, FEBRUARY 14, 2005 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS AT CITY HALL / 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

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

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Courtney Alvarez, City Attorney
Edna S. Lopez, City Secretary
Stanley Fees, City Engineer
George Bejarano, Asst. City Manager
Jennifer Cantu, Director of Development Services
Dora Byington, Purchasing Director
Al Lopez, Interim Fire Chief
Ricardo Torres, Police Chief
Art Alvarez, Risk Manager
Diana Gonzalez, Human Resource Director
Tina Galvan, Field Supervisor
Jose Casillas, Water Production Supervisor
Dianne Leubert, Solid Waste Superintendent

**I. Preliminary Proceedings.
OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chambers of City Hall at 6:00 P.M.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by Ms Dora Byington, followed by the Pledge of Allegiance and the Texas Pledge.

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for approval of the minutes of the regular meeting of the City Commission held on January 24, 2005. **Commissioner Wilson made a motion to approve the minutes as amended, seconded by Commissioner Pecos and Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting “FOR”.**

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

1.None.

III. Petitions, Grievances, and Presentations.²

1.Present proclamation designating the month of February, “Black History Month”.

Mayor Fugate read the proclamation and presented it to Ms Madeline Caraway. Ms Caraway announced the events that are planned during Black History Month.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the schedule for garbage pick up during the Good Friday holiday and on the Kingsville Chamber of Commerce Annual Banquet.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on the rescheduling of the meeting with the TML Adjustor, announced the next All-America City Award Steering Committee meeting and Region II TML Quarterly Meeting in Port Lavaca, Texas.

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

Mayor Fugate called for the City Commission's report. Commissioner Wilson echoed comments made by Ms Caraway on Black Heritage events. Mayor Fugate reported on the Celebrity Weekend Hunt which benefits the Caesar Kleberg Wildlife Institute and the Spohn Kleberg Memorial Hospital and reported on attending the Legislative Update Seminar in Austin, Texas.

IV. Public Comment on Agenda Items ³

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

Ms Carolyn Fees, 1506 Santa Cecilia, spoke on the City's dental plan – Ameritus Dental Insurance.

Mayor Fugate asked for approval of the Consent Agenda. Commissioner Wilson stated he would like Consent Agenda Item #7 removed. Mayor Fugate asked that Consent Agenda Items #1, 2, 3, & 6 be removed. **Commissioner Wilson made a motion to remove Agenda Items 1, 2, 3, 6, & 7 from the Consent Agenda, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".**

V. Consent Agenda

4. Motion to approve awarding Bid No. 25-28 Hauling Services to the lowest bidder Pena Welding & Backhoe Service. This contract is for hauling debris from demolished houses located throughout the City to the City's landfill. This action will expend approximately \$23,200.00 for approximately 400 loads. Payment for these services will come out of the 001-5-160.0-512.00 account. (Director of Purchasing).

5. Motion to approve resolution of the City of Kingsville, Texas endorsing certain Legislative changes to S.B. 7 supported by South Texas Aggregation Project, Inc. (City Manager).

8. Motion to approve a resolution authorizing the submission of an application to the Justice Assistance Grant Program for the purpose of requesting funding for a broad range of activities to prevent and control crime and to improve the Criminal Justice System. (Chief of Police).

9. Motion to approve a resolution authorizing the submission of an application to the Coastal Bend Council of Governments, for the purpose of acquiring Grant funding for planning, outreach and management of Citizen Corps Programs. (Chief of Police).

Commissioner Garcia made a motion to approve the balance of the Consent Agenda, seconded by Commissioner Pecos. The motion was

passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. Motion to approve the authorization to expend funds for the purchase of two new additional portable radios and related equipment for the City Manager and the Risk Manager. Radios will be used to communicate with the Fire, Police and other area emergency responding entities during an emergency. (Interim Fire Chief).

Interim Fire Chief Al Lopez briefly explained the need for the Risk Manager and City Manager having contact with the Fire and Police Departments during emergencies. He pointed out that the Risk Manager is used as a Safety Officer at a fire scene, and the City Manager is a part of the EOC. He said that two different types of radios would be purchased.

There was discussion on the Emergency Coordinator's radio.

City Manager Yerena stated that in the event of an emergency, he or someone from administration would have access to a radio.

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

2. Motion to approve awarding Bid No. 25-29 Scale House Project to the lowest bidder, Gravely Construction from Kingsville. This contract is for the construction of the landfill scale house. This action will expend \$113,183.30 if the scale foundation, the two paper towel dispensers and the toilet paper dispensers are deleted at this time. Funds for this purchase will come out from the landfill bond proceeds (038-5-170.3-713.00). (Director of Purchasing).

Ms Leubert explained the type of work required for the scale house, the cost of the project, and the bid award outcome. Work will start as soon as possible.

Commissioner Wilson made a motion to approve Bid No. 25-29 for the Scale House Project to Gravely Construction from Kingsville, seconded by Commissioner Laskowski and Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

3. Motion to approve awarding Bid No. 25-30 Equipment Shed to the lowest bidder, EGH Construction, Inc. from Corpus Christi. The equipment shed will be built at the City Landfill to protect the landfill's newer trucks and equipment. This action will expend \$128,426.00, Funds for this building will be taken from the landfill bond proceeds Account # 038-5-170.3-713.00. (Director of Purchasing).

Ms Byington stated that staff's recommendation is the lowest bidder, EGH Construction. Mayor Fugate voiced his concern regarding the lowest bidder being so much lower than the other two. Ms Leubert responded that the bid was consistent.

Commissioner Laskowski made a motion to award Bid No. 25-30 for the Equipment Shed in the amount of \$128,426.00 to EGH Construction, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson, Laskowski voting "FOR".

6. Motion to approve a contract with LNV Engineering Company for engineering services for the design, surveys, bidding and construction phases for the rehabilitation of the Wastewater Treatment Plants, Lift Stations and Infiltration and Inflow Studies. The City Commission authorized City Staff on November 8, 2004 to negotiate a contract. The negotiated cost is \$490,000.00. LNV Engineering will wait for their money until the City receives the C.O. funds. (City Manager).

City Manager Yerena stated that based on the directive given to staff, parallel items were done due to monies not available. He stated this line item is for \$7,000,000.00 for infrastructure improvements to the Wastewater Plants and blowers. He advised RFQ's were requested on October 5, 2004, notices mailed to twenty-two (22) engineering firms and seven (7) responses were received.

Ms Alvarez advised two contracts were received, January 2005 and February 10, 2005, approval would be on the February 2005 contract. The difference in the two contracts is that an additional item was added during negotiations specifying certain projects that they would be working on for the funds and that the City would be paying for.

Mr. Robert Viero, LNV Engineering gave a brief explanation of the added information and on the meaning of periodic visits.

Commissioner Wilson voiced his concern about the amount of money that the firm would be receiving and the City would only receive periodic visits at the site from Mr. Viero.

There was much discussion on the basic services and special services.

Mayor Fugate asked for Ms Alvarez's opinion of the contract. Ms Alvarez stated this is fairly standard. One thing that is beneficial, it allows the City to terminate the contract with or without cause.

Commissioner Laskowski made a motion to approve a contract with LNV Engineering Company for \$490,000.00 including Appendix or Attachment A, seconded by Commissioner Pecos and Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

7. Consider authorizing the Police Chief to enter into a Memorandum of Agreement between Naval Air Station Kingsville, Texas and Kingsville Police Department. (Chief of Police).

Police Chief Ricardo Torres provided a brief overview of the agreement which was previously signed between NAS and Kingsville Police Department by the former Chief and former Commander. The new agreement would update the previous agreement with the current authorized official's signatures.

Ms Alvarez advised she had reviewed the contract and the new Commander was very interested in updating all MOU's.

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

10. Discuss and consider whether amounts received from investment of the City of Kingsville, Texas Certificates of Obligation Series 2005 Proceeds Fund should be retained in that fund or deposited to the Interest and Sinking Fund. (City Attorney).

Ms Alvarez stated that since the funds are being depleted and made available at the end of this week, 10:00 AM, Thursday, February 17th. Part of the approved ordinance specifies that when the funds are received, it specifies the type of account that they be placed in. Thus, a decision is needed as to whether the investment proceeds from the 2005 CO's will (1) go back into the Proceeds Fund or (2) go into the Interest and Sinking Fund, which helps pay off the debt. The decision is up to the City Commission and not Staff.

City Manager Yerena stated Staff recommends the Proceed Funds.

Commissioner Laskowski made a motion that the money is invested and that proceeds go back into the account and at the end of all projects being completed for which the money is borrowed that it be brought back to the Commission for further discussion, seconded Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

11. Consider authorizing the City Manager to negotiate a contract with R.W. Beck Company from Austin, Texas for water/sewer rate study. (City Manager).

City Manager Yerena provided a brief summary and background on this agenda item. A pre-proposal meeting was held on January 19, 2005 and representatives from all three companies submitting proposals were present. Each committee member (Finance Director, City Engineer, Collections Manager, and Purchasing Director) evaluated each company independently from each other. The firm receiving the highest score was R.W. Beck Co. from Austin, Texas.

Commissioner Laskowski voiced his concern about negative comments made about R.W. Beck Co. He then asked if references were contacted in regard to performance of R.W. Beck Co. duties. Mr. Bejarano and Mr. Fees both responded they had not contacted references. Mention was made that there would not be any conflict between HDR Engineering, the City and STWA, since HDR has done work for both.

City Manager Yerena advised that the company submitted a list of municipalities who they have done work for.

Mr. Bejarano stated that HDR has a lot of information on the City already, and would like someone who will start from scratch.

Ms Byington stated that two (2) cities were not happy with R. W. Beck's study, adding that the company had to be guided.

Commissioner Laskowski made a motion to authorize the City Manager to negotiate a contract with HDR, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

12. Consider authorizing the City Manager to enter into a contract with Ford Motor Credit for a Lease Purchase Finance Plan on a 2005 Ford F-150 Super Crew truck. (City Manager).

Police Chief Torres provided information on the new IRS Task Force which allows \$8,400.00 for a leased vehicle. Approval would allow the City Manager to submit a finance application for a 2005, Ford F-150, Super Crew truck at a cost of \$22,811.75. Number of payments is 36 months; at the end of lease contract the City can purchase the vehicle for \$1.00.

Commissioner Laskowski made a motion to purchase the 2005 Ford F-150 Pickup through the Lease Purchase for 36 months, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

13. Consider introduction of an ordinance amending the Fiscal Year 2004-2005 Budget for the City of Kingsville for City of Kingsville, Texas Certificates of Obligation Series 2005 Proceeds Fund and Water and Wastewater projects expenditures. (Finance Director).

Mr. Bejarano stated this ordinance sets up the distribution of funds into a major category within the City's accounting system. After actual contract is received further breakdowns will occur. He read over the Capital Project Uses.

INTRODUCTION ONLY

The Commission took a recess at 7:20 P.M.

The Commission convened into Executive Session at 7:33 P.M.

14. 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. (City Attorney).

The Commission reconvened into Regular Session at 9:02 P.M.

15. Consider proposal for a five year contract with the South Texas Water Authority and billing and payment under current water supply contract and any other action necessary regarding the current water supply contract. (City Attorney).

Ms Alvarez stated that Staff met and revised the draft 5 year Water Supply Contract with STWA. The Commission voted and submitted a contract to the Water Authority in October 2004, which modifications were made by the Authority's Board. The Authority Board voted and returned the contract, but was not returned as submitted, and a counter offer was enclosed. The City has had the opportunity to review the counter offer, and staff has made some additional suggestions to the contract for the upcoming term. With regard to the bills, the Water Authority is billing at a rate that they believe is based on the current or 1981 Water Supply contract. The City still does not believe that interpretation is correct. The City has tendered payments, timely, for water actually received, and will be seeking from the Water Authority the five (5) year average of total water. So calculations billed and paid are in exact accordance with the current existing contract.

Mayor Fugate commended Staff for all their hard work, and congratulated Commissioner Laskowski and Commissioner Pecos. Mayor Fugate continued to say that the City negotiated in good faith with the best interest of the citizens.

Commissioner Wilson made a motion that the Mayor draft a cover letter, attach it to the invoices, and that the City pay the South Texas Water Authority what they have invoiced, under protest, and that the City submit the current contract as amended with the attachments (A, B, & C) for their prompt consideration, and that at the next scheduled meeting litigation is considered for same, seconded Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

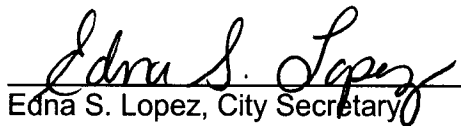
VII. Adjournment.

There being no further business to come before the City Commission, Mayor Fugate adjourned the meeting at 9:10 P.M. on Monday, February 14, 2005.



Sam R. Fugate, Mayor

ATTEST:



Edna S. Lopez, City Secretary