

MARCH 14, 2005

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

CITY COMMISSION PRESENT:

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

CITY COMMISSION ABSENT:

Al Garcia, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Courtney Alvarez, City Attorney
Edna S Lopez, City Secretary
George Bejarano, Asst. City Manager/Finance Director
Ricardo Torres, Chief of Police
Al Lopez, Interim Fire Chief
Jose A Garcia, Water Supervisor
Macario Mayorga, Water Superintendent
Jennifer Cantu, Director of Development Services
Diana Gonzales, Human Resource Director
Dora Byington, Purchasing Director
Stanley Fee, City Engineer
Frank Garcia, Wastewater Supervisor
Daniel Almeida, Wastewater Superintendent
Robert Rodriguez, Library Director
Dianne Leubert, Solid Waste Superintendent
Y I Hinojosa, Street Field Supervisor

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chambers at 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 City Commission's regular meeting of February 28, 2005 and the special meeting of March 7, 2005. **Commissioner Laskowski made a motion to accept the minutes as presented, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting "FOR". Garcia "ABSENT".**

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

1.None.

III. Petitions, Grievances, and Presentations.²

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the closing of City Hall due to the Good Friday holiday, PDAP

luncheon attended by City employees, and the submission of the All-America City Award Application.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on the dismissal of a case and that the Attorney's working on such case were present; working with new client relocating to town; and on working on new ordinances regarding dangerous or aggressive animals.

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

Mayor Fugate called for the City Commission's Report. There were no comments made.

Public Comment on Agenda Items³

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

Mr. Roland Ramirez, 1903 Margaret Lane, spoke in support of amending the guidelines and criteria for stimulating residential development with the City of Kingsville.

Ms Ricki Cunningham, 1210 Cypher, provided information on current status of Paulson Falls subdivision stats as of 3/14/05.

Mr. Robert McCreight, 1016 W Kenedy, spoke in support of amending the guidelines and criteria for stimulating residential development with the City of Kingsville.

Mr. Bruce Harvey, County Rd 356, George West, Texas, representing H&V Equipment, provided information on his product (backhoe).

IV. Consent Agenda

Notice to the Public

1. Motion approving final passage of an ordinance amending Chapter XI, Article X: Taxicabs, providing for deletion of zones; increase in fare from \$3.00 to \$7.00; and allowing pets in the vehicle. (Director of Development Services).

2. Motion approving final passage of an ordinance amending the Code of Ordinances, Chapter VII, Traffic Code, Article 8, Traffic Control Devices; providing for the authority to install, specifications, and locations of Traffic Control Devices. (City Engineer).

3. Motion approving final passage of an ordinance amending the Code of Ordinances, Chapter IX, General Regulations, Article 7, Nuisances; providing for affirmative defenses. (City Attorney).

4. Motion approving awarding Bid No. 25-34 for the mulching services to the lowest bidder, Texas Tree & Landscape from Corpus Christi, Texas. This action will expend approximately \$25,000.00, funding will be provided under account number 089-5-170.0-314.01. These services will be paid through grant monies. (Director of Purchasing).

5. Motion approving Resolution authorizing the submission of an application to the Office of National Counterdrug Technology Assessment Center and the Office of Management and Budgeting for the purpose of acquiring Grant funding from the Technology Transfer Program. (Chief of Police).

6. Motion approving re-appointment of Mrs. Aurora Garza to the Library Board and appointment of Mr. Bobby White to serve the unexpired term of Mrs. Betty Eshom on the Library Board. (Library Director).

Mayor Fugate called for approval of the consent agenda. Commissioner Laskowski made a motion to authorize the consent agenda items 1-6, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting "FOR".

Mayor Fugate made a motion to amend the agenda, to hear agenda item #12 next, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Wilson voting "FOR".

12. 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 pending litigation concerning the case of Roberto Alvarez vs. City of Kingsville, Civil Action No. V-04-064, In the United States District Court for the Southern District of Texas, Victoria Division. (City Attorney).

The Commission convened into Executive Session at 6:23 P.M.

The Commission reconvened into Regular Session at 6:57 P.M.

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

V. Items for consideration by Commissioners.⁴

7. Consider awarding Bid No. 25-32 for two backhoes/loaders for the Water and Wastewater Departments to Waukesha-Pearce Industries from Corpus Christi. (Director of Purchasing).

Ms Byington provided information regarding the two backhoes, bids were advertised on February 6 and 13, 2005, and five bids were received. Recommendation from the users is to award bid for two Kamatsu backhoes to Waukesha-Pearce Industries from Corpus Christi, Texas for a total of \$104,990.00. There was a safety concern regarding the stabilizers on the Terex backhoe.

There was discussion on the specification differences and on the backhoe stabilizers.

Commissioner Pecos made a motion to approve Staff recommendation for the purchase of both backhoes from Waukesha-Pearce Industries from Corpus Christi, for the Kamatsu brands, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos voting "FOR".

8. Consider Resolution authorizing an Interlocal Agreement between the City of Kingsville, Texas and County of Kleberg, Texas for the 2005 Byrne Justice Assistance Grant (JAG) Program Award. (Chief of Police).

Chief Torres stated that he would be submitting a joint application for the City of Kingsville and Kleberg County for an award amount of \$18,460.00. He

asked for Commission approval of the resolution. The monies will be split between both entities.

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

9. Consider removing from the table to discuss and consider modifications to the Guidelines and Criteria for Stimulating Residential Development within the City of Kingsville. (Mayor Fugate).

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

10. Discuss and consider modifications to the Guidelines and Criteria for Stimulating Residential Development within the City of Kingsville. (City Manager).

City Manager Yerena provided an overview of the agreement. Agreement in place does not exceed two years, or 115 platted single family residential lots. All single family residential lots must be sold within three years of execution of the agreement. Economic incentives are such so the City provides a maximum of 50% of the total cost of the water and sewer infrastructure, and the City's contribution are in-kind in the form of labor and equipment. The construction of homes must be a minimum of 1300 sq. ft., and must be 50% completed no later than the expiration of the agreement. The amount and term of economic incentives shall be determined by the City Commission. City Manager Yerena stated that the agreement has been a great asset to the community.

City Manager Yerena provided compliance background on the Paulson Falls developer. At issue is whether the City wants to extend the agreement for a specified number of time or units.

Commissioner Laskowski commented on what has been done for Paulson Falls, the direct benefit of the installation of the sewer line was an additional \$21,634.49. Commissioner Laskowski asked how many more linear feet of water line are needed, Mr. Roland Ramirez, Developer responded about 2,000 feet.

Commissioner Laskowski asked how much time was spent on the three projects and projects slated for the coming year. Mr. Macario Mayorga, Water Superintendent responded about three months, and there are a lot of water lines that need to be replaced throughout the City.

Commissioner Wilson asked about local vendors being used for the Paulson Falls project. Mr. Ramirez provided names of local businesses.

Mayor Fugate asked if other communities utilize these types of incentives. Mr. Ramirez responded they do provide incentives, but they don't have a residential development agreement.

Ms Alvarez stated that the actual item would be for the modification of the guidelines and criteria. The guidelines were originally passed on March 24, 2003 and subsequently amended on August 11, 2003, coming up to the two year expiration prior to the next Commission meeting. If guidelines are to continue in place the Commission would have to readopt them.

Mayor Fugate asked for City Manager Yerena's recommendation. City Manager Yerena stated this agreement has had a great economic impact in our community, was well thought of, and has been utilized well. The City was a lead agent in bringing this development to the community. At issue is the decision to extend this agreement.

Commissioner Wilson stated that the intention at the time was to spar development and not to continue to come back, revise, and update agreement.

There was discussion on why the City would limit itself.

Mayor Fugate made a motion to extend the residential development guidelines and criteria for an additional two years, and increase the number of new single family residences from 115 to 400 homes, seconded by Commissioner Pecos.

Commissioner Laskowski voiced his concern about the City's water crews putting in water lines for everybody but the rest of our citizens paying the taxes. He added he was not against extending the term, but could not vote on extending to 400 houses.

Mayor Fugate asked for his amendment. Commissioner Laskowski responded to extend the agreement for two years and extend the number of homes on a case by case basis.

Mayor Fugate withdrew his motion, Commissioner Pecos withdrew his second.

Commissioner Laskowski made a motion to extend the residential development agreement for two years, and increase the number of houses on a case by case basis to be brought back before the Commission for approval, seconded by Mayor Fugate. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos voting "FOR". Wilson voting "AGAINST".

11. Consider resolution establishing guidelines and criteria governing tax abatement and creation of reinvestment zones; authorizing the City Manager to accept applications on behalf of the City for presentation to the Commission; and providing for evaluation of each application for conformity with such guidelines and criteria prior to submission to the Commission. (City Manager).

Ms Alvarez stated the item in packet is a copy of what was previously adopted by the Commission in 2002. She stated that there were three areas to be revised and discussed at length the additions and revisions to the guidelines and application.

There was discussion on the length of time to file application.

City Manager Yerena recommended that language indicate timelines.

Commissioner Laskowski made a motion to authorize resolution establishing the guidelines and criteria for governing tax abatement and creation of the reinvestment zone with changes recommended by Ms Alvarez and that application process to state 15 working days, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Laskowski voting "FOR".

13. 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 Commission took a 5 minute break at 8:02 P.M. than convened into Executive Session.

14. Executive Session: Under Section 551.087 of the Texas Open Meetings Act, the City Commission shall convene in executive session to discuss and deliberate the offer of a financial or other incentive to a business prospect that the City seeks to have located in the City and with which it is conducting economic development negotiations. (City Manager).

The Commission reconvened into Regular Session at 9:10 P.M.

15. Consider authorizing the City Manager or his designee to negotiate a confidential settlement agreement for the resolution of all matters in dispute regarding pending litigation of Roberto Alvarez vs. City of Kingsville and all other matters relating thereto with the final agreement being subject to future Commission approval. (City Attorney).

Commissioner Wilson made a motion to authorize the City Manager or his designee to enter into such a confidential settlement agreement, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Wilson voting "FOR".

16. Consider authorizing the Mayor to enter into an Economic Incentive Agreement with Customer Relationship, L.L.C. and other matters related thereto. (Mayor Fugate).

Mayor Fugate asked for motion, discussion or comments. Commissioner Laskowski stated he would like to see a final document even if a special meeting was needed.

Commissioner Laskowski made a motion to table this item until a completed economic incentive agreement is prepared, and if need, call for a special meeting, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Laskowski voting "FOR".

17. Consider proposal for a five year contract with the South Texas Water Authority and any other action necessary regarding the current water supply contract. (City Manager).

Ms Alvarez provided information discussed at the joint meeting. Contract proposal comments received from Mr. Willet, Water Authority Attorney, and comments received at the meeting were incorporated into a revised draft contract. She suggested presenting another contract to the Water Authority at their next meeting, or wait to see what occurred with the smaller customers.

Commissioner Laskowski stated he was prepared to offer a motion. Commissioner Laskowski made a motion to send the contract to the Water Authority for their consideration with the changes as noted on page 1, deletion on Section G on page 2, the addition of the language on page 3, the change on the language on page 5, the changes in the

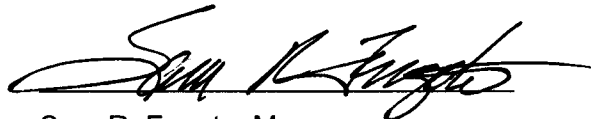
language on page 6, and change the language on Section 8 J on page 8 to read: "For the purpose of determination of a water rate that the entities invoice shall be divided by the total gallon received and that the quotient shall be equal to or exceed the uniform purchased water rate", and do not to strike Sections K or L as requested by Mr. Willet. He added that Mr. Willet had said that the City could pick up a copy, but that they should provide the City a copy of their audit within 30 days and a board packet within 72 hours of posting. Leave the language on section 14, page 9, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Laskowski voting "FOR".

Mayor Fugate asked if there was any other business.

Commissioner Wilson made a motion to instruct staff to pay the bill currently due to the South Texas Water Authority under protest and that the City subsequently sends them a letter asking to correct the billing and refund all over payments based on the water rate calculated using the 5 year average, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting "FOR".

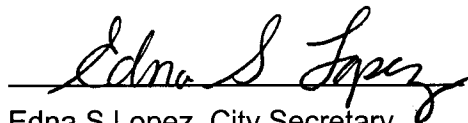
VI. Adjournment.

There being no further business to come before the City Commission, Mayor Fugate adjourned the meeting at 9:23 P.M. on Monday, March 14, 2005.



Sam R. Fugate, Mayor

ATTEST:



Edna S Lopez, City Secretary