

MARCH 28, 2005

**A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, MARCH 28, 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 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  
Dora Byington, Purchasing Director  
Jennifer Cantu, Director of Development Services  
Joe Casillas, Water Production Supervisor  
Al Lopez, Interim Fire Chief  
Ricardo Torres, Police Chief  
Rick Salinas, Police Officer  
Arnold Valadez, Warehouse Clerk  
Dianne Leubert, Solid Waste Superintendent

**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 March 14, 2005. **Commissioner Laskowski made a motion to approve the minutes as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".**

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

1. Public Hearing to rezone 3.783 acres out of Farm Lot 1, Section 22, K.T.&I Subdivision from "R-1" Residential District to "R-2" Two Family Residential District. (Director of Development Services).

The Public Hearing was opened at 6:02 P.M.

Ms Jennifer Cantu, Director of Development Services explained the property in question was part of the original Paulson Falls planned unit development which, upon completion, will consist of commercial property, single family residential, and multi-family residential. She said the proposed rezoning is bounded on the north by General Cavazos Blvd., on the east by proposed commercial property; the south boundary is the pond, and the west boundary is Paulson Falls Blvd. The original plan for this property was multi-family, with a mixture of town homes and garden homes. The developer is proposing a total of 37 units. The closest water line is on the south side of General Cavazos and the closest sewer line is south of this property in Paulson Falls, Phase I (Margaret and Alice Lanes). Ms

Cantu said that the Planning and Zoning Commission recommended unanimous approval of R-2 Zoning.

The Public Hearing was closed at 6:05 P.M.

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

- 1. Presentation to recognize Ms Melissa Shortsleeve for service to the City. (Chief of Police).

Chief Torres provided information on the incident and presented Ms Shortsleeve with a letter and certificate.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on a Legislative Update received from Senator Lucio.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on meeting with the developer for the Holiday Inn Express and informed the Commission that prior to the start of this meeting, Mr. Messberger advised her that Items 10, 11, & 12 would need no action taken as the people needed additional time to review agreements.

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

Mayor Fugate called for the City Commission's report. Commissioner Wilson reported on representing the City of Kingsville by reading a proclamation at HEB for their 100<sup>th</sup> Birthday.

Commissioner Pecos reported on attending the Texas Military Preparedness Board meeting in Austin, Texas. He provided information on the Texas Military revolving loan fund, Educational benefits, Economic Adjustment grant, and the date of the next meeting (May 26, 2005).

Commissioner Laskowski instructed staff to prepare necessary documents to deal with the Cap 98, 2000, 2002 & 2002A Certificates of Obligation. He added that any funds reprogrammed must come before the Commission for approval.

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

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

NONE

**V. Consent Agenda**

NONE

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

## VI. Items for consideration by Commissioners.<sup>4</sup>

### **1. Discuss and consider authorizing the Mayor to enter into a professional engineering services contract with HDR Engineering, Inc. (Director of Purchasing).**

Ms Byington provided information on the contract that resulted from negotiations. The approximate amount for services is \$44,823, City might have an option of drafting the rate ordinance which would save money, and \$2,500 is needed for Incode to prepare a file for the rate study. She advised \$25,000 was budgeted and in a memo, the Finance Director states that money could be derived from the 98 CO's. Recommendation is to approve the contract with HDR Engineering.

City Manager Yerena stated that in conversations with Mr. Casillas, Water Production Supervisor, Mr. Casillas anticipated \$100,000 will be used for items related to water, with \$50,000 available.

Commissioner Laskowski asked what money was earmarked for. City Manager Yerena responded originally money was allocated for repairs to water tanks, but had to utilize funding for rehabilitation of various water wells.

Commissioner Wilson stated if original funds are available and used for the purpose of water and wastewater project, the \$25,000 budgeted would be freed to use for other water and wastewater purposes.

Ms Alvarez stated the ordinance option is not necessary since the City already has a rate ordinance in place which could be modified.

Mr. Carl Crull, P.E., Vice President for HDR Engineering, provided information on the components of the rate study.

**Commissioner Laskowski made a motion to award the contract to HDR for basic services, Task 1-7 and the additional optional services Task O-1 and O-2 for a total of \$42,727, with \$25,000 coming from budget line item and \$17,727 from Cap 98 Certificate of Obligation, seconded by Commissioner Pecos.**

Mayor Fugate asked for discussion. Regarding the \$2,500 for Incode, Commissioner Wilson asked how that would be funded. Ms Byington commented the amount is within the City Manager's authority.

Commissioner Garcia voiced his concern about propriety information being made available for sharing with other customers or clients.

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

Mr. Crull briefly went over a PowerPoint presentation depicting the development of water and wastewater impact fees.

### **2. Consider introduction of an ordinance amending the zoning Ordinance by changing the zoning map in reference to 3.783 Acres out of Farm Lot 1, Section 22, K.T.&I Subdivision from "R-1" Residential District to "R-2" Two Family Residential District. (Director of Development Services).**

Ms Cantu stated that a public hearing was held at the beginning of the meeting. She said the original plan for this property was multi-family, with a mixture of

town homes and garden homes. Planning and Zoning Commission's recommendation is unanimous approval.

#### INTRODUCTION ONLY

**3. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinance by deleting Chapter XI, Article 12, Landscape Policy, and adopting Chapter XV, Article 8, Landscape Policy providing for indigenous plants in place of a preferred plant list. (Director of Development Services).**

Ms Cantu stated that this was mainly a housekeeping item, recommendation is to take ordinance out of Chapter XI: Business Regulations and putting it into Chapter XV: Land Usage. Staff's recommendation is that Exhibit A, the Preferred Plant List, be deleted and the phrase "indigenous plants" be inserted. Planning and Zoning Commission's recommendation is unanimous approval.

Mayor Fugate made comment regarding the definition of indigenous plants, and suggested to keep the Preferred Plant List.

#### INTRODUCTION ONLY

**4. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 3, Subdivision Regulations, Providing for approval of plats to be valid for 12 months. (Director of Development Services).**

Ms Cantu provided information on the history, current status and recommendation. She said that the Planning and Zoning Commission members feel that the current six month requirement is not sufficient time to build infrastructure. Extending this time frame to twelve months is more realistic and developer friendly. Planning and Zoning Commission's recommendation is unanimous approval.

#### INTRODUCTION ONLY

**5. Consider an appointment to the Electrical Board. (Director of Development Services).**

Ms Cantu stated the Electrical Board included five members appointed by the City Commission to serve a two year term. Two members must be electricians and the remaining three members must be citizens with knowledge of electricity. Staff has advertised in the local newspaper, but received no response.

**Commissioner Laskowski nominated Julian Vest, former Kingtex employee, seconded by Commissioner Wilson.**

Commissioner Garcia asked about resume requirement. Ms Alvarez responded it is not required.

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

**6. Consider the appointment of Mr. Phil Boyum to the Historical Board. (Director of Development Services).**

Ms Cantu provided information on the Historical Board. The board is comprised of nine members, which include representatives from history, business, attractions, economic development, architecture, engineering, education, etc. Terms are for three years. Staff advertised in the local newspaper, there was one response from Mr. Phil Boyum.

Mayor Fugate commented that he would like to have Ms Bryant serve on the board.

Mr. Boyum addressed the Commission and provided information on his personal background and stated he would take the time to serve on two boards.

**Commissioner Wilson made a motion to appoint Mr. Phil Boyum to the Historical Board, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, Wilson voting "FOR".**

**7. Discuss and consider removing Mr. Faustino Erebia from the Planning and Zoning Board. (Director of Development Services).**

Ms Cantu provided information on the topic of attendance provisions for departments, boards, and commissions. She stated Mr. Erebia has not attended a meeting for the months of January, February, and March 2005. The Planning Administrator has made every effort to contact him. On Wednesday, March 23<sup>rd</sup>, Ms Cantu received a call from Mr. Erebia expressing an interest to continue to serve. Staff advertised in the local newspaper, one citizen has submitted a letter of interest.

**Commissioner Garcia made a motion to remove Faustino Erebia from the Planning and Zoning Commission, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Wilson, Garcia voting "FOR".**

**8. Consider the appointment of Mr. Phil Boyum to the Planning and Zoning Board. (Director of Development Services).**

Ms Cantu advised that only one person responded to the ad, Mr. Boyum. There is no conflict for someone to serve on two boards.

**Commissioner Garcia made a motion to approve the appointment of Mr. Boyum to the Planning and Zoning board, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Wilson, Garcia voting "FOR".**

**Commissioner Wilson made a motion to remove Items 10, 11, & 12 from the agenda, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Garcia, Pecos, Wilson voting "FOR".**

The City Commission took a five minute break at 7:20 P.M., than convened into Executive Session.

**9. 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).**

**10. 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. (Mayor Fugate).**

**11. Consider authorizing the Mayor to enter into an Economic Incentive Agreement with Capgemini and other matters related thereto. (Mayor Fugate).**

**12. Consider authorizing the Mayor to enter into a Lease Agreement with Capgemini and other matters related thereto. (Mayor Fugate).**

The City Commission reconvened into Regular Session at 8:02 P.M.

**13. 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 Attorney).**

Ms Alvarez stated there is a proposed contract with the Water Authority, and since the last meeting, additional clarifications which are beneficial are being brought back for Commission approval. Ms Alvarez explained that clarifications were in sections 8 (A) (1); 10 (J); 10 (M), and a work sheet has been added. She said a modification on page 9, Section 13, might be warranted since it was the Commissions' original intent to have a 5 year contract.

Commissioner Laskowski suggested the effective date be changed to May 1, 2005.

Commissioner Laskowski made a motion to send the Water Authority a contract with the changes: effective date April 1, 2005 to May 1, 2005, and the expiration on page 9 be changed to September 30, 2010, and that a letter be drafted for the Mayor's signature making a demand for a refund, past over charges based on the calculation in accordance with Sections 3(A) & 3(A) (1) of the current water supply contract, and the letter should include the City Commission will not give up their right to sign a mutual release for the contract, seconded by Commissioner Pecos and Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

**VII. Adjournment.**

There being no further business to come before the City Commission the meeting was adjourned at 8:06 P.M. on Monday, March 28, 2005.

  
Sam R. Fugate, Mayor

ATTEST:

  
Edna S. Lopez, City Secretary