

OCTOBER 23, 2006

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, OCTOBER 23, 2006 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
Al Garcia, Commissioner
Stanley Laskowski, Commissioner
Arturo Pecos, Commissioner

CITY COMMISSION ABSENT:

Charles E Wilson, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Courtney Alvarez, City Attorney
Edna S Lopez, City Secretary
Dianne Leubert, Solid Waste Superintendent
Jennifer Cantu, Director of Development Services
Diana Gonzales, Human Resource Director
Mark Rushing, Finance Director
Yolanda Cadena, Health Director
Dora Byington, Purchasing Director
Bill Donnell, Interim Street Superintendent
Bob Daehn, Building Official
Ricardo Torres, Police Chief
Art Alvarez, Risk Manager
John Garcia, Garage Superintendent
Caron Vela, Accounting Manager
Joe Casillas, Water Production Supervisor

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the City Commission Chambers 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 consideration of the minutes of the special meeting of Monday, October 16, 2006. **Commissioner Laskowski made a motion to accept the minutes as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting “FOR”.**

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

1. Public Hearing to rezone 2.42 Acres located at 221 West Sage Road from “AG” Agriculture to “R-1” Single Family Residential, applicant Ludivinia Benavides. (Director of Development Services).

The public hearing was opened at 6:04 P.M.

Ms Jennifer Cantu, Director of Development Services stated this item was brought at the previous Commission meeting. She stated there was a typo; Ms Benavides owns two lots, for a total of 2.42 acres. This correction is for the property located in Serenity Estates Subdivision, Phase I, which was platted in 1997. At that time, the property ought to have been rezoned from Agriculture to Single Family Residential.

Mayor Fugate announced any one wanting to speak could do so at this time. Mayor Fugate called for questions or comments from the Commission.

The public hearing was closed at 6:05 P.M.

2. Public Hearing to rezone .2583 Acres out of Lund Addition, Block 7, Lots 5-7, from "R-2" Multi-family to "C-2" Commercial, applicant Ricardo Alvarez. (Director of Development Services).

The public hearing was opened at 6:05 P.M.

Ms Cantu stated this rezoning request went before the Planning and Zoning Commission on Wednesday. This is to rezone a total of three lots in the Lund Addition, Block 7, Lots 5-7 from R-2 Multi-family to C-2 Commercial. There is an existing multi-family structure in the rear of this property with access totally from the alley. This multi-family structure is allowed in the requested rezoning. King Ave is an area of transition within Kingsville in addition to being a gateway into the community. This property will comply with all existing landscaping requirements. This block is predominately residential, but it is surrounded by mixed commercial uses. Staff received five phone calls from property owners within the 200 feet radius; all calls were in support of this proposed use. The Planning and Zoning Commission with one abstention recommended approval of this request.

Mayor Fugate announced any one wanting to speak could do so at this time.

Mayor Fugate called for comments or questions from the Commission. Commissioner Laskowski asked if this property met the setback requirements. Ms Cantu replied information from the Building Official stated it did meet requirements. Commissioner Laskowski referred his question to Mr. Bob Daehn, Building Official. Mr. Daehn stated that it did meet requirements for C-2. Commissioner Laskowski asked if this building already exists. Ms Cantu replied not on this lot.

The public hearing was closed at 6:08 P.M.

3. Public Hearing to rezone 0.1722 Acres out of Lund Addition, Block 7, Lots 8 & 9, from "R-2" Multi-family to "C-2" Commercial, applicant Guadalupe Alvarez. (Director of Development Services).

The public hearing was opened at 6:08 P.M.

Ms Cantu stated this property is immediately adjacent to the property just heard. The property owner is requesting the C-2 zoning to place a used car lot on the site for a total of five city lots. This property has a small structure on it, currently existing. This rezoning request is in conjunction with the rezoning request at 1121 E King. Five calls received were in support of the proposed request.

Mayor Fugate announced any one wanting to speak could do so at this time. Commissioner Laskowski asked how this building was put on this property without it being rezoned. Ms Cantu replied there was a long standing structure on the property, the current property owner brought plans to the City Engineer sometime back to have the structure redone as a commercial structure. She added the owner had plans done by an Engineer and signed off at that time by the current City Engineer. Commissioner Laskowski asked if this property met the set back requirements. Mr. Daehn replied it did meet the set back requirements.

Mayor Fugate called for further questions or comments.

The public hearing was closed at 6:10 P.M.

4. Public Hearing to rezone Vista Alegre Addition, Block 1, Lots 18 & 19, from "R-1" Single Family Residential to "R-2" Multi-Family Residential, applicant Manuel Esquivel, Jr. (Director of Development Services).

The public hearing was opened at 6:10 P.M.

Ms Cantu pointed out that the address is 1318 not 1314. She stated that in May 2005, a permit was issued by the City of Kingsville to allow a structure to be moved from 1318 E Yoakum and allow another structure to be moved onto the lot. When a structure is moved, a Pre-Move application is completed by the applicant and reviewed by the Permit Department staff. The Pre-move application was not available for this address at this time. Staff should not have allowed this structure to be moved to this lot. The structure is a two unit (duplex) structure and is not in compliance with the zoning ordinance for that particular area. The neighborhood is an established single family area. Staff has received four phone calls from residents within the 200 foot radius of this property stating their opposition to this rezoning request. She stated that the applicant has stated he followed all requirements for the moving and for getting his permits. Ms Cantu stated that this was found out when a sewer issue came up. She stated the applicant has stated to P&Z this is a completed project. The Planning and Zoning Commission recommend approval of this request.

Mayor Fugate announced any one wanting to address this subject could do so at this time.

Manuel Esquivel Jr., property owner addressed the Commission and stated he requested all permits, was never told of any problems until the sewer tap, and that he did follow procedures.

Mayor Fugate called for comments or questions. Commissioner Laskowski voiced his concern about three items before the Commission tonight in the form of public hearings and all of them have done something before the rezoning has occurred. He continued to say that if he lived in that neighborhood where a single-family dwelling got moved out and a multi-family dwelling was moved on to the property, he would not be happy. He stated that this Commission has bailed out Staff numerous times for them not doing their job and he asked the City Manager to find out where the problem lies and to address why the Commission is continually being forced to address these situations and resolve the issues. Commissioner Laskowski commented on the Commission being forced to make decisions on allowing or disallowing the rezones.

Mayor Fugate stated that for the last three to four months there have been issues like this on the agenda. He stated that this Commission needs to take a stand and let Staff deal with the problems. He voiced his concern about citizens doing what they are supposed to do, and some that don't have a choice. He stated he had a concern with houses built on agriculture properties. He added that something is not right. City Manager Yerena stated that this is not a new event which was recently discovered. He stated that a transition has been made from the Planning department to the Engineering department. City Manager Yerena stated that several steps have been taken to identify problems and he has met with members from the Planning department. Commissioner Laskowski brought up some other areas not meeting the City's requirements. Commissioner Pecos stated there is a process of coming to City Hall, and the inspectors need to go out and do an inspection.

The public hearing was closed at 6:24 P.M.

5. Public Hearing regarding condemnation proceedings for structures located at 511 W. Huisache, 430 S. 2nd, 607 E. Nettie, 705 W. Doddridge, and 710 E. Yoakum. (Building Official).

The public hearing was opened at 6:24 P.M.

Mr. Bob Daehn, Building Official stated the properties in question have been reviewed and found to be substandard, and he recommends they be condemned.

Mayor Fugate announced this is a public hearing and anyone wishing to speak could do so at this time. Mayor Fugate called for questions or comments.

Commissioner Pecos asked if there was money allocated for demolition of these houses. City Manager Yerena replied there is money budgeted, but the City will be using the KWOP program.

Commissioner Laskowski asked who is monitoring the ninety (90) day period. Mr. Daehn replied he was.

The public hearing was closed at 6:26 P.M.

III. Petitions, Grievances, and Presentations.²

1. Proclamation designating October 2006 as "National Domestic Violence Awareness Month".

Mayor Fugate read the proclamation and presented it to Ms Zaida Gonzalez, Women's Shelter representative.

2. Proclamation designating the week of November 4th – 11th, 2006 as "Scouting for Food Week".

Mayor Fugate read the proclamation and presented it to a group of Cub Scouts and Boy Scouts.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the TML Conference beginning in Austin, Texas, on a presentation to the International Relations & Trade Committee at the State Capital, on the 2006 Health Fair on October 25th, and on the High School Homecoming parade on Wednesday, November 1st.

City Manager Yerena called for Ms Yolanda Cadena, Health Director and Mr. Daehn to give an update on the trailer parks. Ms Cadena provided information on the violations found at each trailer park. Commissioner Pecos voiced his concern about the Health Department not picking up dead animals after hours.

Mr. Daehn provided information on the violations that his department found at each trailer park. He stated that letters have been sent to the property owners.

Commissioner Laskowski asked what the options for enforcement are. Mr. Daehn replied their license can be pulled. Commissioner Garcia asked if a permit is required to move a trailer. Mr. Daehn replied there is a permit requirement. He stated that his department will go out and look at each trailer. Commissioner Garcia then asked about the process for moving a mobile home.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported that the next City Commission meeting will be in three weeks, the City has a holiday on Nov. 10th – Veterans Day, and that she would be recusing herself from agenda items 18 & 19.

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

Mayor Fugate called for the City Commission's reports. Commissioner Garcia thanked staff for inspecting the mobile home parks.

IV. Public Comment on Agenda Items ³

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

Mayor Fugate called for comments on all agenda and non-agenda items. There were no comments.

Mayor Fugate called for consideration of the Consent Agenda Items (1-15).

V. Consent Agenda

1. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 31.55 Acres out of K.T. & I. Subdivision, Section 7, Part of Lots 3 and 4 from "AG" Agriculture to "R-1" Single Family Residential, applicant M.A. Schoech. (Director of Development Services).

2. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 19.25 Acres out of K.T. & I. Subdivision, Section 2, South Half of Farm Lot 12, From "AG" Agriculture to "R-1" Single Family Residential, applicant M. A. Schoech. (Director of Development Services).

3. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 103 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant M.A. Schoech. (Director of Development Services).

4. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 105 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant Armando Alvear. (Director of Development Services).

5. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 113 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant Jason Bray. (Director of Development Services).

6. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 205 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant M. A. Schoech. (Director of Development Services).

7. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 213 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant Frank Mendoza. (Director of Development Services).

8. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 313 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicants Atilano and Noelia Chapa. (Director of Development Services).

9. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 321 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicants John and Jackie Guerrero. (Director of Development Services).

10. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 405 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicants Carlos and Elda Guerrero. (Director of Development Services).

11. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.21 Acres located at 413 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant M. A. Schoech. (Director of Development Services).

12. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 11.30 Acres out of K.T. & I. Subdivision, Block 17, Part of Lot 6, from "AG" Agriculture to "R-1" Single Family Residential, applicant David Cummings. (Director of Development Services).

13. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter IX, Article 10, Streets and Sidewalks, providing for the removal of certain regulations of signs and awnings in this section of the code book. (Director of Development Services).

14. Motion to approve final passage on of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 6, Zoning; providing for temporary sandwich board signs within the Historic District and regulations pertaining thereto. (Director of Development Services).

Commissioner Laskowski made a motion to approve Consent Agenda Items 1-14 and to remove Item #15 to the regular agenda, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski voting "FOR". Wilson "ABSENT".

15. Motion to approve final plat for Carriage Park III. (Director of Development Services).

Ms Cantu stated this is the final plat, she provided a description of the location. She stated that a drainage study was provided in each of their packets. She provided information with regard to the drainage and stated that the Engineer was present. She stated that the drainage easement was part of the property and wasn't just adjacent to it. She stated that the drainage ditch is very significant to the area.

Mayor Fugate called for questions. Commissioner Laskowski asked if there were any plans for the storm drainage. Mr. Homer Castillo, Engineer replied there will be an underground drainage system and the water will drain into the southeast corner of the property. He provided information on a drainage easement.

Commissioner Laskowski commented that he wanted to make sure the final plat had the correct labeling. He asked about a concrete liner in the ditch. Mr. Bill Donnell, Interim Street Superintendent replied there would a concrete liner installed. Commissioner Laskowski stated that TXDOT has advised that drainage needs to be the number one question as the City moves on with development.

Mayor Fugate called for further questions or comments. Commissioner Garcia made a motion to approve the final plat, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia voting "FOR". Wilson "ABSENT".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

16. Consider (re)appointments to the Health Board. (Director of Health).

Ms Yolanda Cadena, Health Director stated that three members term will expire in November 2006, Mr. Leo Ramos, Mr. Cesar Garcia, and Dr. Jimmy Suarez. She stated they have agreed to serve if re-appointed.

Commissioner Pecos made a motion to reappoint the current board members, Mr. Leo Ramos, Mr. Cesar Garcia, and Dr. Jimmy Suarez to the Health Board, seconded by Commissioner Garcia. Commissioner Laskowski asked if they were aware there were three

other candidates interested in being on the board. Commissioner Pecos replied he was not aware.

Mayor Fugate called for a roll call vote. The motion failed by the following vote: Garcia, Pecos voting "FOR". Laskowski, Fugate voting "AGAINST". Wilson "ABSENT".

Commissioner Laskowski made a motion to appoint Mr. Frank Ureno, Ms Joni Harrel, and Mr. Otis Myers to the Health Board, seconded by Mayor Fugate. Mayor Fugate called for comments or questions.

Commissioner Pecos asked for the attendance record for the current members. Commissioner Garcia asked for a reason not to appoint the current members. Mayor Fugate replied he had a difficult time appointing the current members because of past history when appointing the current director. Commissioner Laskowski echoed the Mayor's comments.

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

17. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 2.42 Acres located at 221 West Sage Road from "AG" Agriculture to "R-1" Single Family Residential, applicant Ludivinia Benavides. (Director of Development Services).

Ms Cantu stated this item was brought to them earlier in a public hearing, there were no comments made with regard to this request.

INTRODUCTION ONLY

18. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to .2583 Acres out of Lund Addition, Block 7, Lots 5-7, from "R-2" Multi-family to "C-2" Commercial, applicant Ricardo Alvarez. (Director of Development Services).

Ms Cantu stated this item was brought to them earlier in a public hearing, there were no comments made. The Planning and Zoning Commission recommended approval of this request.

INTRODUCTION ONLY

19. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 0.1722 Acres out of Lund Addition, Block 7, Lots 8 & 9, from "R-2" Multi-family to "C-2" Commercial, applicant Guadalupe Alvarez. (Director of Development Services).

Ms Cantu stated this item was brought before in a public hearing, no opposition was received. The Planning and Zoning Commission recommended approval.

INTRODUCTION ONLY

20. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map for Vista Alegre Addition, Block 1, Lots 18 & 19, from "R-1" Single Family Residential to "R-2" Multi-Family Residential, applicant Manuel Esquivel, Jr. (Director of Development Services).

Ms Cantu stated this item was brought to them in a public hearing, this is a request to allow an existing structure to remain, no comments in opposition were received at this hearing, but phone calls were received in opposition. The Planning and Zoning Commission recommend approval of this request.

INTRODUCTION ONLY

21. Consider condemnation of structure located at 511 W. Huisache. (Building Official).

Mayor Fugate called for comments or a motion. **Commissioner Laskowski made a motion to find the building is not able to repair, the building or structure is unsafe, and present condition is a violation of city ordinances, and can not be corrected without substantial reconstruction and declare that the building or structure to be a public nuisance and order its demolition by the owner/agent/ or person in charge within 90 days and the City reserves the right and shall abate in any manner it deems necessary or proper, seconded by Commissioner Pecos.**

Mayor Fugate called for comments. Commissioner Pecos asked if the next items 22 through 25 could be looked at together. Ms Alvarez replied as long as the individual addresses are stated in the motion.

Mayor Fugate called for a roll-call vote. **The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting "FOR". Wilson "ABSENT".**

Mayor Fugate announced that Items 22 – 25 would be taken together.

Commissioner Laskowski made a motion to find the following structures not able to repair: 430 S 2nd, 607 E Nettie, 705 W Doddridge and 710 E Yoakum, that the structures are unsafe, and present and present condition is a violation of city ordinances, and can not be corrected without substantial reconstruction and declare that the building or structure to be a public nuisance and order its demolition by the owner/agent/ or person in charge within 90 days and the City shall abate in any manner it deems necessary or proper, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting "FOR". Wilson "ABSENT".

22. Consider condemnation of structure located at 430 S. 2nd. (Building Official).

23. Consider condemnation of structure located at 607 E. Nettie. (Building Official).

24. Consider condemnation of structure located at 705 W. Doddridge. (Building Official).

25. Consider condemnation of structure located at 710 E. Yoakum. (Building Official).

26. Consider approval of a contract for cleaning of Firefighters' uniforms. (Purchasing Director).

Ms Byington stated this item authorizes a twenty-four month contract to provide cleaning of uniforms for the Fire Department. This contract will included pants and shirts only. The Fire Chief is recommending the local company, Kingsville Cleaners because the one day service which is more convenient for the Firefighters.

Lieutenant Mando Sandoval, stated he was there to reiterate the department's choice, Kingsville Cleaners. He stated they only get three uniforms, one is kept of special occasions, and the other two are used daily. He stated that at times they will have to change clothes if blood gets on them.

Commissioner Garcia made a motion to approve the contract, seconded by Commissioner Pecos. Commissioner Laskowski asked with which company. Commissioner Pecos stated with Staff recommendation. Commissioner Laskowski stated there were two Staff

recommendations. Commissioner Pecos removed his second. Commissioner Garcia stated his motion was for the Purchasing Director's recommendation, the lowest bidder, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia voting "FOR". Wilson "ABSENT".

27. Consider reallocation of Series 2002-2002A Certificates of Obligation funding for the Garage Department. (Garage Superintendent).

Commissioner Laskowski asked if a hydraulic lift was previously purchased with the money that was borrowed. He stated the importance of having this lift. City Manager Yerena replied it was not purchased.

Commissioner Laskowski made a motion to table this item, seconded by Commissioner Pecos. The motion was denied by the following vote: Laskowski, Pecos voting "FOR". Garcia, Fugate voting "AGAINST". Wilson "ABSENT".

There was lengthy discussion regarding the purchase of a lift.

Commissioner Laskowski asked if a request for a tire lift was presented to staff during the budget. City Manager Yerena replied he did not think it was.

Commissioner Pecos made a motion to reallocate to the Series 2002-2002A Certificates of Obligation funding for the Garage Department to be able to buy from Northern tools in the amount of \$2,600.00 for a tire changer, seconded by Mayor Fugate. The motion failed by the following vote: Fugate, Pecos voting "FOR". Garcia, Laskowski voting "AGAINST". Wilson "ABSENT".

28. Consider introduction of an ordinance amending the Fiscal Year 2006-2007 Budget for the City of Kingsville for Public Works mold remediation to come from CO 2002-2002A General Fund Unallocated Balance. (City Manager).

City Manager Yerena stated this would help fund the mold remediation at Public Works. He stated it is anticipated that \$27,106.00 would be expended.

Commissioner Laskowski commented on the estimate of the cost by Mr. John Garcia. He then asked if a contractor was called. Mr. Art Alvarez, Risk Manager replied no because the City has to determine how far the mold has spread on the sheet rock. Commissioner Laskowski voiced his concern about only getting the things done that need to get done. Mr. Alvarez stated there is a protocol set in place.

INTRODUCTION ONLY

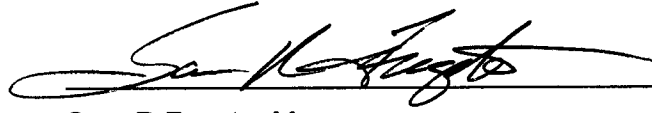
29. Consider final passage of an ordinance amending the Fiscal Year 2006-2007 Budget for the City of Kingsville for the Management Level positions of the City. (City Manager).

City Manager Yerena stated this basically reflects the items approved at the last commission meeting to include executive management level raises and this would be the budget amendment that would do that.

Commissioner Laskowski made a motion to adopt the final passage of an ordinance amending the Fiscal Year 2006-2007 Budget for the City of Kingsville for the Management Level positions of the City, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski voting "FOR". Pecos "AGAINST". Wilson "ABSENT"

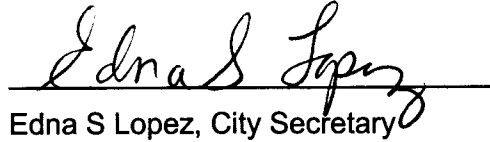
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:35 P.M.



Sam R Fugate, Mayor

ATTEST:


Edna S Lopez, City Secretary