

JANUARY 23, 2006

**A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS, CITY COMMISSION WAS HELD ON MONDAY, JANUARY 23, 2006 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, CITY HALL / 200 EAST KLEBERG AVENUE AT 5:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor  
Al Garcia, Commissioner (workshop only)  
Stanley Laskowski, Commissioner  
Arturo Pecos, Commissioner

**CITY COMMISSION ABSENT:**

Charles E Wilson, Mayor Pro-tem (absent both sessions)  
Al Garcia, Commissioner (absent from regular session)

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
Courtney Alvarez, City Attorney  
Edna S. Lopez, City Secretary  
Frank Garcia, Field Supervisor  
Diana Gonzales, Human Resource Director  
Rick Torres, Police Chief  
Dora Byington, Director of Purchasing  
Stanley Fee, City Engineer  
Jennifer Cantu, Director of Development Service  
Robert Rodriguez, Library Director  
Daniel Almeida, Wastewater Supervisor  
Al Lopez, Fire Chief  
Dianne Leubert, Solid Waste Superintendent  
Joe Casillas, Water Production Supervisor  
A.L. Noyola, Health Director

**I. Preliminary Proceedings.**

**OPEN MEETING**

**Mayor Fugate called the workshop to order at 5:00 pm**

**CONVENE INTO PETITIONS, GRIEVANCES, AND PRESENTATIONS – ITEM III - #1 /WORKSHOP SESSION REGARDING NAVAL AIR STATION-KINGSVILLE RELATED ISSUES.**

Mayor Fugate opened discussion on the workshop. City Manager Yerena stated that the Base Commander requested a moratorium for a designated area around the perimeter of the Naval Base, approximately 2000 linear feet. He stated that at this time the City does not have enough information to talk about the moratorium, but would like to concentrate on the Joint Land Use Study (JLUS). City Manager Yerena stated that Lt. Matt Sklerov, from Naval Air Station-Kingsville could provide more information.

Mayor Fugate asked Lt. Sklerov to do a presentation. Lt Sklerov spoke on encroachment, AICUZ, changing aircraft and long term plans for the City. He stated that Kingsville has been successfully nominated for a JLUS. At this point, there needs to be a formal application for the grant. The Federal Government provides 75% of the monies and the City can do things in-kind. He stated that once that goes forward, the base thought that would help protect things until the issue could be studied. He stated that all the things involved in a JLUS make good plans for the City and both can be responsible partners in this local community.

Commissioner Garcia asked about the grant amount. City Manager Yerena replied that during a phone conference with Office of Economic Adjustment (OEA), they were told the grant amount was between \$60,000 and \$120,000 with a 25% non-federal match which would have to come from the City, cash or in-kind. Staff time would be counted toward the 25% matching. The time frame given for the study is approximately two months to hire the consultant and to get to the point where you can do the study. The study would take about twelve months.

Mayor Fugate asked why this was not done when the Navy asked to expand the AICUZ, and why 2000 ft. Lt Sklerov replied because it was an evolutionary process and NAS-Kingsville is learning as much as the City given the high profile that encroachment has played. He added

that the Navy is trying to make better plans than was made before and the AICUZ was the first step. He stated that the Navy is learning and is looking at new options.

Ms Courtney Alvarez, City Attorney stated that at the initial meeting with the Base while being introduced with the idea of the concept of JLUS, someone at the meeting indicated that various military installations around the country think about why they might want this, but don't do their submittals to request consideration for the JLUS Study until sometime in November. Then someone at the OEA makes the decision as to which of the submittals are going to be given the opportunity to apply for the JLUS until sometime in December or January. She stated that was part of the reason why it did not come up in May because submittals weren't done until November. Finally, she stated they did not find out until recently that this installation would be allowed to apply or to be considered for the JLUS.

Mayor Fugate asked where the 2000 ft came from. Lt. Sklerov replied that came from NAS-Kingsville. Mayor Fugate stated that people are interested in developing properties outside the AICUZ and the history of Kingsville went approximately 25 years without significant development. He stated that the Navy was asked what was needed. He added that everyone wants to support the Navy, but does not want to stipule the development. He stated this is a real dilemma. Mayor Fugate asked if the 2000 ft study could be done with the moratorium. Lt Sklerov replied they could proceed without it because they are not tied together. Mayor Fugate voiced his concern about the 2000 ft.

City Manager Yerena stated that the JLUS study is something that should have been done a long time ago. The issue is the moratorium.

Ms Alvarez stated that the due process requirements would be prepared.

City Manager Yerena stated that Staff is recommending moving forward with the requested development which falls below the 1000 linear feet.

Commissioner Laskowski stated that it is critical to him and the future of the City to get a study that will provide information for many years to come. If the study does not include enough land for a worst case scenario, then it is wasted time. Lt Sklerov stated that the Office of Economic Adjustment will provide information at the meetings.

**The workshop was adjourned at 5:53 P.M.**

**6:00 P.M. – Regular Session of the agenda continues.**

**Mayor Fugate called the regular session to order 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 regular meeting of January 9, 2006. **Commissioner Laskowski made motion to accept the minutes as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".**

Mayor Fugate deviated from the agenda and presented a proclamation, and a retirement plaque.

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

1. Public Hearing for an alcohol variance application for the Party Barn located at 631 W King. (City Secretary).

The Public Hearing was opened at 6:11 PM

Ms Edna S. Lopez, City Secretary stated the applicants have applied for a Wine and Beer Retailer's Off-Premise license for a business known as the Party Barn located at 631 W King. The property is within the 300 feet of the MOPAC football field and the Bus Barn. Fifty-four (54) letters were mailed out to surrounding property owners. Staff did not receive any comments opposing the variance.

Mayor Fugate asked for comments. There were no comments made.

The Public Hearing was closed at 6:13 P.M.

2. Public Hearing for an alcohol variance application for the Taiwan Family Restaurant located at 2215 S Brahma Blvd. (City Secretary).

The Public Hearing was opened at 6:13 P.M.

Ms Lopez stated the applicant has applied for a Wine and Beer Retailer's permit for a restaurant establishment located at 2215 S Brahma Blvd. The property is within 300 feet of H.M. King High School. Thirteen (13) letters were mailed to the surrounding property owners. Staff did not receive any comments opposing the variance.

Mayor Fugate asked for comments. There were no comments made.

The Public Hearing was closed at 6:14 P.M.

3. Public Hearing to rezone 7.14 Acres of property out of K.T.& I. Subdivision, Section 22, Part of Lot 12 from the current AG Agriculture to R-3 Multi Family. (Director of Development Services).

The Public Hearing was opened at 6:14 P.M.

Ms Jennifer Cantu, Director of Development Services stated this is a request to rezone 7.14 acres of property out of K.T.& I. Subdivision, Section 22, part of Lot 12. Currently, this is a large piece of property on South Brahma that is all wooded. The proposed use of this property is for an independent elderly housing complex. She stated that this rezoning request has been brought to the attention of TxDot because South Brahma is in their plans for improvements. TxDot stated that the proposed improvements are scheduled for FY 07 or FY 08, depending on resolution of an easement issue. TxDot had no comments with regard to the rezone. The property immediately north of this area is currently zoned R-3 and is the location of military housing. The property immediately to the east and south of this property is in the process of being rezoned C2 commercial. The Planning and Zoning Commission recommended approval of this rezoning.

Ms Cantu introduced Ms Dianne McIver, President of DMA Development and Janine Sasik, Vice-President. Mayor Fugate asked if there were any questions or comments. Commissioner Pecos asked that Ms McIver make a presentation. Ms McIver, provided information on the new development. She stated the units are cottage units with a private patio. She stated they are applying to the State for housing tax credits which allow affordable rent. Population will be limited to seniors with income qualifications.

Mayor Fugate called for comments. There were no comments made.

The Public Hearing was closed at 6:20 P.M.

4. Public Hearing to rezone 0.714 Acres out of Part of K.T.& I. Subdivision, Section 22, Lot 3 of property fronting General Cavazos Blvd. from AG Agriculture to C-2 Commercial. (Director of Development Services).

The Public Hearing was opened at 6:20 PM

Ms Cantu stated this property is on the south side of General Cavazos, next to the hospital and access road leading to Chili's. The proposed use for this property is for Starbuck Restaurant. This property is the only piece of property on the south side of General Cavazos between S Brahma and US 77 that is not zoned commercial. The property has access to water and sewer. Although the property has 156.43 feet of frontage on General Cavazos, access to the property will not be from General Cavazos. Planning and Zoning Commission recommended approval.

Mayor Fugate asked for questions or comments. There were no comments made.

The Public Hearing was closed at 6:23 P.M

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

1. Workshop/Discussion regarding Naval Air Station-Kingsville related issues. (City Manager).
2. Proclamation designating the week of January 28<sup>th</sup> – February 4<sup>th</sup>, 2006 as "Catholic Schools Week".

Mayor Fugate presented the proclamation to students and principle from St. Gertrude Catholic School.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena presented the Mayor with a certificate from Governor Rick Perry regarding his appreciation for all his hard work during the BRAC process.

Mr. Daniel Almeida, Wastewater Supervisor provided information on the current projects at the Wastewater Department.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on attending the TML Open Government workshop; on needing to swap maps for Agenda Items 10 & 11; and she reported that the Health Board named Ms Yolanda Cadena, Interim Health Director upon Mr. Noyola's retirement from the City.

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

Mayor Fugate called for the City Commission's Report. Mayor Fugate presented Mr. A.L. Noyola, Health Director with a certificate and clock for his retirement. He reported on his visit with the Texas Defense Association in Austin regarding ideas in promoting the Base for future development; and on his visit to Washington, D.C. regarding BRAC issues.

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

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

Mr. Michael J. Abramovich, 2415 East Sta. Gertrudis, Lot 85, spoke about tying in vacant lots and homes with Winter Texans, and provided the Commission with a 2005 RV & Mobile Home Parks in the Rio Grande Valley brochure.

**IV. Consent Agenda**

Mayor Fugate called for consideration of the Consent Agenda (Items 1-6).

**1. Motion to approve out-of-state travel for City Commission members to attend the 2006 Congressional City Conference in Washington, D.C. on March 11-15, 2006. (Commissioner Wilson).**

**2. Motion to approve out-of-state travel for two members of the Task Force to participate in the Applied Technology Partnerships Conference in Hilton Head, South Carolina on January 30 – February 2, 2006. (City Manager).**

**4. Motion to approve out-of-state travel for a member of the Task Force. (City Manager).**

Commissioner Laskowski made a motion to remove from the Consent Agenda (Items 3, 5, & 6), seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".

Commissioner Laskowski made a motion to approve Consent Agenda (Items #1, 2, & 4), seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".

**REGULAR AGENDA**

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

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

**3. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 7, Traffic Calming Devices, providing for a change in travel speed percentile needed for project eligibility requirements. (City Engineer).**

Mr. Stanley Fees, City Engineer stated that at the last meeting there was discussion on the specifics of why the revision was made in response to a request of a neighborhood. In regard to Commissioner Laskowski's question regarding the spacing requirements for speed humps, he stated that it varies between 200 ft. to 600 ft.

Commissioner Laskowski asked if this needed to be part of the ordinance. Mr. Fees replied no, it is in the City's design criteria.

**Commissioner Laskowski made a motion to approve the final passage of an ordinance amending Chapter VII, Article 7, Traffic Calming Devices, seconded by Commissioner Pecos.**

Mayor Fugate called for comments or discussion. Commissioner Pecos voiced his concern about lowering the percentage to 75%, adding that a lot of the streets would meet the criteria. Mr. Fees stated that was a potential, but there has been only six requests for speed humps through petitions. Surveys have been completed and only Ailsie Street qualified at 81%.

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

**5. Motion to remove from the table an ordinance to amend the zoning ordinance by granting a Special Use Permit for Lots 13-16, Block 11, Hoffman Addition for a Daycare Facility. (Director of Development Services).**

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

**6. Motion to approve final passage of an ordinance to amend the zoning ordinance by granting a Special Use Permit for Lots 13-16, Block 11, Hoffman Addition for a Daycare Facility. (Director of Development Services).**

Ms Cantu stated this item was brought to them at the last City Commission meeting with regard to the second reading. At that time, there was a lengthy conversation with regard to the status and maintenance of the alley. Since that time, Staff has contacted the property owner who has agreed to pave the alley the width of her parking lot so that it would be continuous and smooth. She stated that Staff felt that met the concern of the Commission with regard to maintaining the alley.

Mayor Fugate called for questions or comments. Commissioner Laskowski voiced his concern regarding the proposed parking. He stated that he requested from Mr. Fees a sketch of a 50 x 53 parking space map. Using angle parking with a nine foot space, the drawing provided only allows for four parking spaces on one side and four parking spaces on the other side. The applicant has submitted the exit on Eighth Street. He added that a ten foot driveway exiting on Eighth Street, would omit two parking spaces and there leaves only six parking spaces. He stated that with the amount of people there would not be enough parking available.

Mayor Fugate asked if neighbors knew about the proposed size of day care. Ms Cantu replied that the neighbors did not know.

Mr. Juan Cantu, 725 W Henrietta, relative of the applicant asked if he could speak. Mayor Fugate stated this should have been something addressed during Public Comments. He then asked for any objections to hearing Mr. Cantu. There were no objections to allowing Mr. Cantu to speak.

Mr. Cantu explained that his daughter had spoken to all the neighbors, and had received only one negative response from the man directly across the street. He provided information on the parking. Mayor Fugate explained his concerns about putting a business in a residential area.

Mayor Fugate recommended that Ms Cantu send all the neighbors within 200 ft. a letter making them aware of what is coming.

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

**7. Discuss and consider Resolution supporting affordable senior citizens rental housing named Wild Horse Commons in Kingsville, Texas. (Director of Development Services).**

Ms Cantu stated this item was brought before them for the rezoning. As stated at that time, this is a project to provide a proposed seventy-six unit development for affordable senior housing. She added that the span of the requirement is that this property stays elderly, fifty-five years.

Mayor Fugate called for other discussion or comments. **Commissioner Laskowski made a motion to adopt the Resolution supporting affordable senior citizens rental housing named Wild Horse Commons in Kingsville, Texas, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".**

**8. Consider approval of alcohol variance for the Party Barn located at 631 W King. (City Secretary).**

Ms Lopez stated a public hearing was conducted earlier during this meeting and there were no comments made in opposition.

**Commissioner Pecos made a motion to approve the alcohol variance for the Party Barn located at 631 W King, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".**

**9. Consider approval of alcohol variance for the Taiwan Family Restaurant located at 2215 S Brahma Blvd. (City Secretary).**

Ms Lopez stated a public hearing was conducted earlier during this meeting and there were no comments made in opposition.

**Commissioner Laskowski made a motion to approve the alcohol variance for the Taiwan Family Restaurant located at 2215 S Brahma Blvd., seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".**

**10. Consider introduction of an ordinance amending the zoning map in reference to 7.14 Acres of property out of K.T. & I. Subdivision, Section 22, Part of Lot 12 from the current AG Agriculture to R-3 Multi Family. (Director of Development Services).**

Ms Cantu stated this item was brought before them tonight with a public hearing, at that time there were no comments. The Planning and Zoning Commission received no comments for or in opposition, and they recommend approval.

**INTRODUCTION ONLY**

**11. Consider introduction of an ordinance amending the zoning map in reference to 0.714 Acres out of Part of K.T. & I. Subdivision, Section 22, Lot 3 of property fronting General Cavazos Blvd. from AG Agriculture to C-2 Commercial. (Director of Development Services).**

Ms Cantu stated this item was brought before them tonight with a public hearing, at that time there were no comments. This is the only piece of property on the south side of

General Cavazos that is currently not zoned commercial. The Planning and Zoning Commission recommends approval.

#### INTRODUCTION ONLY

#### **12. Consider approval of the final plat for Starbucks Restaurant. (Director of Development Services).**

Ms Cantu stated the final plat was presented to the Planning and Zoning Commission for their review at their January 18<sup>th</sup> meeting. The Planning and Zoning Commission recommends approval. She stated no building permits will be issued until approval of the rezoning by the City Commission.

Mayor Fugate called for questions or comments. Commissioner Laskowski asked the City Manager if the issue on egress and ingress was resolved. City Manager Yerena stated it has been resolved.

**Commissioner Laskowski made a motion to approve the final plat for Starbucks Restaurant, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson, Garcia "ABSENT".**

#### **13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter III, Article 3, Board of Health, Sections 3-3-50 through 3-3-55 providing for changes to the appointment of members, the appointment of a Health Director, the duties of the Health Board, and Board meeting times. (City Attorney).**

City Attorney Alvarez stated that after the last Commission meeting, recommendations for proposed changes by the Health Board with regards to the ordinance were received. Changes deal with the Health Board, the Director, duties of the Board members and election of officers. She stated that the suggested changes are incorporated in the ordinance before them. The County Judge has been contacted to make sure he has received a copy of the memorandum, as he was noted to be one of the recipients. She stated that she contacted the County Judge prior to posting the agenda to make them aware that this item would be presented to the City Commission for introduction. She stated that during her conversation, she asked if there were any concerns in the language or strong oppositions that caused them concerns. No opposition was found.

Commissioner Laskowski asked Mayor Fugate if he thought this was something that they needed to meet with County Commissioners Court. Mayor Fugate replied this is one of those issues that needed a joint meeting. Mayor Fugate suggested each County Commissioner receive a copy.

#### INTRODUCTION ONLY

#### **14. Discuss and consider proposed amendments to the City of Kingsville Charter for inclusion on the May 2006 General Election Ballot. (City Attorney).**

City Attorney Alvarez stated a presentation by Chairman Roy Medina was made at the previous meeting. Copies of the proposals were in the previous Commission packet and are also in tonight's packet. Any changes, exceptions, or rejections should be done at this meeting because proposals have to be sent to the Department of Justice.

Commissioner Laskowski voiced his concerns in reference to page 2, (f) & (h), the number of signatures required. He stated he would like something that makes the language consistent in the paragraphs, so that it will not be opened in to interpretation. Under Section 24, he stated he would like to simplify things on the petition requirements and that the petition comply with the State Election Code. He stated that he would prefer that the recall provision be put in the order of occurrence or sequence of events that would occur. In reference to page 5, Commissioner Laskowski asked if there was a need for a timeline on the City Secretary for certification. He stated he wanted to make sure the City Secretary has sufficient time to go through the process of reviewing the signatures and present it to the Commission. For clarification, Commissioner Laskowski read the section in question and suggested giving the City Secretary ten or fifteen days after petition is submitted to certify the petition.

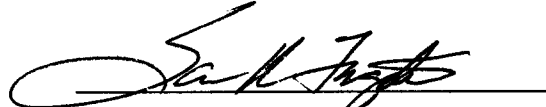
City Attorney Alvarez stated that she would be submitting amendments to DOJ sometime this week. Commissioner Laskowski stated input is needed from all the Commission.

Mayor Fugate stated everyone has had their packets for a while. City Attorney Alvarez stated she did not received any comments after the previous presentation, but she will check with the two City Commissioners who are not present.


Mayor Fugate called for a motion. **Commissioner Pecos made a motion to approve the proposals as amended, seconded Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos voting "FOR". Wilson, Garcia "ABSENT".**

**4. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 7:30 P.M.

  
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Sam R. Fugate, Mayor

ATTEST:

  
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Edna S. Lopez, City Secretary