

MARCH 27, 2006

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS, CITY COMMISSION WAS HELD ON MONDAY, MARCH 27, 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
Charles E Wilson, Mayor Pro-tem
Al Garcia, Commissioner
Stanley Laskowski, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Carlos Yarena, City Manager
Courtney Alvarez, City Attorney
Edna S Lopez, City Secretary
Dianne Leubert, Solid Waste Superintendent
Diana Gonzalez, Human Resource Director
Frank Garcia, Interim Wastewater Supervisor
Joe Casillas, Water Production Supervisor
Jennifer Cantu, Director of Development Services
Dora Byington, Purchasing Director
Stanley Fees, City Engineer
Bill Donnell, Engineering Technician
Ricardo Torres, Police Chief
Al Lopez, Fire Chief
Yolanda Cadena, Health Director

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 held on March 6, 2006. **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, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

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

1. Public Hearing for an alcohol variance application for the CMSI #265 located at 730 W. Corral. (City Secretary).

Mayor Fugate opened the public hearing at 6:01 P.M.

Ms Edna Lopez stated the applicant, CMSI #265 has applied to the City of Kingsville for a Wine and Beer Retailer's off premise permit located at 730 W Corral. The property is within the 300 feet of Texas A&M University-Kingsville. Thirteen (13) letters were mailed to surrounding property owners. Staff did not receive any comments opposing the variance.

Mayor Fugate called for questions or comments from the public and Commission.

Mayor Fugate closed the public hearing at 6:03 P.M.

2. Public Hearing for an alcohol variance application for the Javelina Mart located at 1202 N. Armstrong. (City Secretary).

Mayor Fugate opened the public hearing at 6:03 P.M.

Ms Edna Lopez stated the applicant Javelina Mart has applied to the City of Kingsville for a Wine and Beer Retailer's off premise permit located at 1202 N. Armstrong. The property is within the 300 feet of Texas A&M University-Kingsville. Seventeen (17) letters were mailed to surrounding property owners. Staff did not receive any comments opposing the variance.

Mayor Fugate called for questions or comments from the public and Commission.

Mayor Fugate closed the public hearing at 6:05 P.M.

3. Public Hearing to rezone 5.46 Acres out of K.T. & I Subdivision, Part of Lot 11, Block 6 from R-1 Single Family to R-3 Multi-Family. (Director of Development Services).

Mayor Fugate opened the public hearing at 6:05 P.M.

Ms Jennifer Cantu stated this is a request to rezone 5.46 acres out of K.T.& I subdivision, this property is adjacent to the existing Kings Crossing Phase 2. This is a 72 unit development for low-to-moderate housing. The property is not in the existing AICUZ, but Staff sent a location map of the proposed rezoning to the Navy prior to the Planning and Zoning Commission meeting. No response was received. Twenty-five letters were sent to adjacent property owners, and no comments were received. The Planning and Zoning Commission voted unanimously to approve this rezone.

Mayor Fugate called for questions or comments from the public and Commission.

Mayor Fugate closed the public hearing at 6:07 P.M.

III. Petitions, Grievances, and Presentations.²

1. Proclamation honoring Niki Arevalo.
2. Proclamation honoring Jonathon Arevalo.
3. Proclamation honoring Marcel Hugo Flores.

Mayor Fugate presented the proclamations to Niki and Jonathon Arevalo.

Mayor Fugate presented Mr. Stanley Fees, City Engineer/Street Superintendent a Certificate of Appreciation.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the hiring date for the new Finance Director, Mr. Mark Rushing, and reported that the Policy and Procedures manual was ready for their review.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on the City having internal meetings regarding cleanup and as a result agenda item

#16 is a part of those meetings. She reported that several staff members, including her, are attending the Chamber of Commerce Image Kingsville meetings; on the Department of Justice verbally approving the Charter Amendments and Voting Machines; and on the Air Show happening this Saturday and Sunday.

Mayor Fugate commented on being excited about the clean up campaign. Thanked staff for taking up issues.

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

Mayor Fugate called for the City Commission's report. Commissioner Pecos reported on his and Commissioners Garcia and Wilson's trip to Washington; and on speaking with Congressman Salomon Ortiz. Mayor Fugate reported on Reynosa delegates coming to the Blue Angels Show.

IV. Public Comment on Agenda Items³

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

Ms Carolyn Fees, 1506 Santa Cecilia, spoke on educating the public in regards to the Charter amendments.

V. Consent Agenda

1. Motion to approve a 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. (Police Chief).
2. Motion to approve out-of-state travel for Mayor Fugate to Washington, D.C. from April 4-6, 2006 for BRAC related issues. (Mayor Fugate).
3. Motion to approve the Police Chief to submit an application to ADZone Research, Inc. to acquire licensing for the Online Predator Profiling System (OPPS). (Police Chief).
4. Motion to authorize the City Manager to enter into a memorandum of understanding with John Womack & Co., P.C. to perform all pre and post audit procedures for the year ended September 30, 2006. (City Manager).
5. Motion to authorize the City Manager to enter into a memorandum of understanding with Patrick L. Moore, CPA to audit the financial statements for the year ended September 30, 2006. (City Manager).
6. Motion to approve resolution changing a polling place location for the City General Election on May 13, 2006, from St. Joseph's Catholic Church Hall, 1430 Brookshire to Gillett Intermediate School, 1007 North 17th. (City Secretary).
7. Motion to approve vacating plat for Lakeview Villas Subdivision by new property owner, Kash Morrow. (Director of Development Services).

Mayor Fugate called for consideration of the consent agenda items 1-7. Commissioner Wilson made a motion to adopt the consent agenda, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

8. Consider approval for an alcohol variance for the CMSI #265 located at 730 W Corral. (City Secretary).

Mayor Fugate asked Ms Lopez if there were any other comments on the subject. Ms Lopez replied there was nothing else.

A motion was made by Commissioner Wilson to approve the alcohol variance for CMSI #265, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

9. Consider approval for an alcohol variance for the Javelina Mart located at 1202 N. Armstrong. (City Secretary).

Mayor Fugate asked Ms Lopez if there were any other comments on the subject. Ms Lopez replied there was nothing else.

A motion was made by Commissioner Wilson to approve the alcohol variance for Javelina Mart, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

10. Discuss and consider approval of a letter of support for the purpose of collaborating with the At Risk Underage Drinking Behavioral Management Program sponsored by the Institute of Rural Development, Inc. (Commissioner Laskowski).

Commissioner Laskowski stated that when he was asked for a letter of support, he told Mr. Ben Figueroa that he did not have the authority and that this item would be put on the agenda for discussion.

Mr. Ruben Soliz, Institute of Rural Development representative, provided information on the program and stated that he hopes the city will support this grant.

In reviewing the grant information, it appears that there will be 120 grants available at \$100,000 each, Commissioner Laskowski asked where the \$100,000 cash match would be coming from. Mr. Soliz replied that Mr. Figueroa stated the he would find a way to match that amount and that it would not cost the City anything. He added that he is not totally sure. Commissioner Laskowski stated that Mr. Figueroa would have to find cash match funding for ten years. Mr. Soliz stated that was correct. Commissioner Laskowski asked what liabilities would be incurred by being a part of this project. Mr. Soliz replied they would collaborate with the Police Department as to their schedule.

Mayor Fugate stated this is a noble endeavor, but the Commission is concerned whether the City is obligating itself financially. He added that he has no objections to signing a letter of support.

Ms Alvarez stated she reviewed the material that was in the agenda packet, and at about 4:00 P.M. she had skimmed through the forty page document. She asked if the City was being asked to be a coalition member as defined in the grant. Mayor Fugate replied he did not know, but the language in the support letter is to collaborate. Mayor Fugate asked Ms Alvarez if she thought this would commit the City. Ms Alvarez replied that the letter of support in itself does not commit the City financially to any monetary donation other than the time of staff persons participating. She suggested modifying the letter of support to say that this would not obligate the City to any financial contributions.

Commissioner Pecos asked if this grant would require in-kind matching or cash match. Commissioner Laskowski replied there was a provision for in-kind.

Mayor Fugate asked for any suggestions to support the grant and not obligate the City. Ms Alvarez stated that a line could be added to the affect that the City would not commit itself through this letter of support to any financial contributions or obligations.

Commissioner Wilson stated that the letter appeared to be written in such a fashion to invoke a certain response from the group whom the grant is being applied to. The specific language of not being monetarily tied to the grant was left out for that same reason. He added that he was not sure if language was included that it would send the message to the grantor that they support it but are not going to fund it. The language would work for the City, but in the long run it will send the same message that is needed in a letter of support.

There was lengthy discussion on suggestions to the wording of the letter.

Mayor Fugate suggested this item be tabled, but due to the deadline of April 10th, this could not be done. Mayor Fugate called for a motion.

Ms Alvarez voiced her concerns with the wording of the letter. Commissioner Wilson stated he did not have a comfort level, the objective being that the City supports this but at this juncture the City can't be tied to this in any fashion other than to say this is a great thing for you to be doing. He added that the City can't commit in-kind services or financial obligation.

Commissioner Wilson suggested for the wording not send the message of financial support in any way. He added that the letter of support be worded to get the response that is needed to continue the grant process.

Mayor Fugate called for a motion. **Commissioner Wilson made a motion that the last line of the letter of support would read: this letter of support is for the purposes of collaborating with, but does not obligate the City of Kingsville to any in-kind or direct cash contribution, with the At-Risk Underage Drinking Behavioral Management Program sponsored by the Institute of Rural Development, Inc., seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

11. Discuss and consider approval for issuing Certificate of Public Convenience and Necessity and a license for Celina M. Vasquez to operate a taxicab service within the City. (City Secretary).

Ms Edna Lopez stated that an application was received for a taxicab service within the City. The applicant, Ms Celina M. Vasquez will be the sole operator. Ms Lopez provided information regarding the hours of operation, the vehicle to be used and vehicle insurance.

Chief Torres handed out some information to the Commission regarding this item.

At the Mayor's request, Ms Vasquez addressed the Commission. There was discussion on insurance coverage. Upon a question from Commissioner Wilson, Ms Vasquez stated that she has advertised for another driver.

Commissioner Garcia voiced his concern regarding no medical insurance for passengers. She stated the insurance quote is the minimum state requirement.

Ms Alvarez stated that if the applicant finds someone else to help her drive the taxicab, they must pass a background check.

Mayor Fugate called for a motion. **Commissioner Pecos made a motion to approve issuing a Certificate of Public Convenience and Necessity and a license for Celina M. Vasquez to operate a taxicab service within the City, seconded by Mayor Fugate. The motion failed by the following vote: Fugate, Pecos voting "FOR". Wilson, Garcia, Laskowski voting "AGAINST".**

12. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 5.46 Acres out of K.T. & I Subdivision, Part of Lot 11, Block 6 from R-1 Single Family to R-3 Multi-Family. (Director of Development Services).

Ms Cantu stated this item was brought earlier in a form of a public hearing and no comments were made. Planning and Zoning has approved this unanimously. There has been no response from the Navy. This is a 72 unit development for low-to-moderate housing.

Mayor Fugate asked if anyone was contacted by the Navy. Ms Alvarez replied she had received a phone call from the JAGG Officer, Lt Sklerov, who mentioned they intended to submit a letter by the end of the week, but it was not received. Mayor Fugate asked if the Navy had attended the Planning and Zoning meeting. Ms Cantu replied they had not.

At Commissioner Laskowski's request, Ms Ino Alvarez, representing the Kingsville Affordable Housing addressed the Commission. Commissioner Laskowski asked Ms Ino Alvarez if this project had the intent of an egress into Brookshire Street. Ms Ino Alvarez replied she did not have that information but would provide that information.

INTRODUCTION ONLY

13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 3, Subdivisions, Amending Sections 15-3-31; Prohibiting alleys in new residential subdivisions. (Director of Development Services).

Ms Cantu stated this is a proposed revision to the Code of Ordinances to clarify that alley are no longer permitted in new residential developments. The Planning and Zoning Commission unanimously recommended approval of the changes.

Mayor Fugate stated he was in agreement because the alleys are one of the biggest problems.

As part of the ongoing issues, City Manager Yerena stated that Staff is planning to take this further, by analyzing what infrastructure is located in the alleys to see where the City can work with property owners to give them back the alley. This would be done only to where it does not pose a threat for emergency vehicles or utility placement.

INTRODUCTION ONLY

14. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Section 15-8-9, 15-8-15 and 15-8-16 of Chapter XV, Article 8, Landscape Policy, providing for screening requirements within the buffer section and screening standards. (Director of Development Services).

Ms Cantu stated this is a proposed revision to the buffer and screening sections of the Landscaping ordinance. These revisions were unanimously approved by the Planning and Zoning Commission. She provided information on the major changes to the ordinance.

Commissioner Wilson asked if this item will be enforced by the Code Enforcement Officer and would the Legal Department take those that do not comply with task. Ms Cantu replied this will be enforced by the Building Official. The pre-existing would be grandfathered. Ms Cantu stated that there are existing requirements and as businesses let things slide, when it is brought to their attention they are made to comply with the code that is in place at that time.

At the next meeting before approval of this ordinance, Ms Alvarez stated that she would provide information to see if they are grandfathered.

Commissioner Wilson voiced his concern of screening devices between commercial and residential which have not been resolved.

Commissioner Laskowski voiced his concern regarding a facility with an existing structure putting lesser that does not satisfy people. He also voiced his concern regarding Section 15-8-9, which seems that there, needs to be buffering between all multi-family. Ms Cantu stated the word "and" would be added between multi-family and commercial. Ms Alvarez suggested putting in parenthesis (R-3 and above) behind multi-family.

Upon a question from Commissioner Garcia, Ms Cantu stated that in order to clarify the sentence, for Commercial/Industrial fencing only would be added.

INTRODUCTION ONLY

15. **Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances, Section 15-1-166 through 15-1-171 of Chapter XV, Article 1, Building Regulations, providing that the Building Official replace the Fire Chief in the condemnation process. (Director of Development Services).**

Ms Cantu stated this ordinance was changed to reflect that the Building Official is in charge of the demolition process, not the Fire Chief. The procedures were not changed. This was presented to the Planning and Zoning Commission and they unanimously supported the changes.

INTRODUCTION ONLY

16. **Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Sections 9-1-1 through 9-1-18, providing for definitions and ensuring compliance with state laws with the regulation of abandoned and junked motor vehicles. (Director of Development Services).**

Ms Alvarez stated that during the process of the cleanup meetings a check list was created for processing these types of complaints. She stated that definitions in the transportation code could be beneficial or helpful in improving the ordinance that is in place. There were some things that the City was obligating themselves to do under the junked motor vehicle section that were not required under state law. Also, the state law has changed and is requiring the City to do other things. Ms Alvarez stated that the City ordinance and the state law have been tied in together in an effort to make it easier.

INTRODUCTION ONLY

17. **Consider introduction of an ordinance amending the Fiscal Year 2005-2006 Budget for the City of Kingsville for City Hall roof repairs to come from CO 2002-2002A General Fund Unallocated Balance. (City Manager).**

City Manager Yerena stated this basically reallocates \$28,500 from the Un-allocated Interest Earned Revenue from the 2002-2002A Certificates of Obligations Fund 039 to be used for a new roof at City Hall.

Commissioner Garcia asked if City Hall was considered a historical building. Ms Cantu replied it was, but there would be no visual changes.

Commissioner Laskowski asked about the amount being charged and the amount that is being transferred. City Manager Yerena replied this was being done just in case of change orders.

INTRODUCTION ONLY

18. **Consider awarding bid to South Texas Urethane, Inc. from McAllen, Texas for roof repairs at City Hall. (Director of Purchasing).**

Ms Dora Byington stated this item authorizes entering into a contract for a total of \$27,967.00 with South Texas Urethane, Inc. from McAllen, Texas, a roofing company for polythane spray foam services to be sprayed on City Hall's roof.

Bid were advertised on March 5 and March 12, 2006, and opened on March 21st, two bids were received. This will be completed in 45 days, and the project is guaranteed for 10 years. Staff's recommendation is that the bid be awarded to South Texas Urethane, Inc. from McAllen, Texas.

Mayor Fugate called for questions or comments. Mayor Fugate called for a motion. **Commissioner Laskowski made a motion to award the bid to South Texas Urethane, Inc. from McAllen, Texas for \$27,967.00, contingent on upon the funding, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

19. Consider introduction of an ordinance amending the Fiscal Year 2005-2006 Budget for the City of Kingsville for City Engineer/Public Works Director salary/benefits to come from Utility Fund Unallocated Current Fund Balance. (City Manager).

City Manager Yerena stated Staff is recommending to reorganize/reclassify the position to City Engineer/Public Works Director. Based on the fact the person would be doing work relating to the Utility Fund that would allow the ability to fund it through the use of the Utility Fund. This budget amendment would allocate funding from the Utility fund for half of the salary.

Commissioner Laskowski commented on reclassifying the position and increasing the job responsibilities, and on a new Finance Director being hired. He added that he would like to see the new Finance Director and the Human Resource department to develop a strategy that is financially responsible that treats management employees on the same level as hourly employees to keep people long term.

Mayor Fugate suggested a professional study. City Manager Yerena stated the City has done an RFP on a reclassification system but unfortunately the City did not have the funding this fiscal year.

INTRODUCTION ONLY

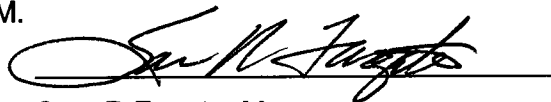
20. Consider a resolution renaming and reclassifying the position of City Engineer/Street Superintendent, a Management Level position. (City Manager).

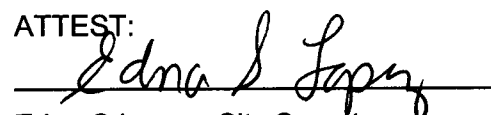
City Manager Yerena allow staff the reclassify the City Engineer position to a City Engineer/Public Works Director from a Level 3 to Level 2, this would increase the salary and responsibilities. City Manager Yerena stated the job description would emphasize that the applicant have relevant training in street construction and reconstruction, as well as the supervision of the Public Works department, a minimum of five years in municipal or county work.

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

VI. Adjournment.

There being no further business to come before the City Commission the meeting was adjourned at 7:53 P.M.


Sam R Fugate, Mayor

ATTEST:

Edna S Lopez, City Secretary