

AUGUST 28, 2006

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS, CITY COMMISSION WAS HELD ON MONDAY, AUGUST 28, 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 Yerena, City Manager
Courtney Alvarez, City Attorney
Edna S Lopez, City Secretary
Frank Garcia, Interim Wastewater Supervisor
Robert Rodriguez, Library Director
Bill Donnell, Interim Street Supt
Yolanda Cadena, Health Director
Dianne Leubert, Solid Waste Superintendent
Jennifer Cantu, Director of Development Services
Al Lopez, Fire Chief
Mark Rushing, Finance Director
Diana Gonzales, Human Resource Director
Macario Mayorga, Water Supervisor
John Garcia, Garage Superintendent
Ricardo Torres, Police Chief

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the Commission Chambers at 6:00 P.M., and announced quorum is present.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by City Manager Yerena, 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 August 14, 2006. **Commissioner Wilson provided some corrections, and made a motion to accept the minutes as amended, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".**

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

None

III. Petitions, Grievances, and Presentations.²

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

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the closing of City Hall for the Labor Day Holiday; and reported that the Bi-National Organization meeting has been set for October 6th at the Caesar Kleberg Wildlife Center.

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

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on the schedule for the budget workshops; on a Special City Commission meeting scheduled for Tuesday, September 5th for the public hearing on the tax rate; and reported that she will be attending mediation in Corpus Christi, Texas.

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

Mayor Fugate called for the City Commission's reports. Commissioner Garcia reported on receiving a complaint in reference to an 18-wheeler parked in a residential area. He reported that he had done a tour of the City and had found four other 18-wheelers parked in a residential area. Commissioner Wilson reported he had the occasion to do the same thing with the same complaint. He stated that currently there is no ordinance that protects the citizens from 18-wheelers parking in such a fashion because it originally was a part of the ordinance but that it was not codified and had slipped into the night. Ms Alvarez provided current ordinance information. Mayor Fugate requested to revisit this ordinance; and announced the start of football season.

IV. Public Comment on Agenda Items³

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 made.

Mayor Fugate called for consideration of the Consent Agenda Items (1-8).

V. Consent Agenda

1. Motion to approve final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 7.25 acres out of K.T. & I. Subdivision, Block 19, Lot 24 from AG Agriculture to C-2 Commercial District. (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 37.75 acres from AG Agriculture to R-1 Single Family Residential; property located at K.T. & I. Block 19, Lot 24 and Block 19, Part of Lot 13. (Director of Development Services).

3. Motion to approve a Memorandum of Understanding agreement between the City of Kingsville and Learning for Life, a District of Columbia non profit corporation ("Learning for Life") regarding the Exploring Program. (Police Chief).

4. Motion to approve awarding Annual Contract Bid No. 27-01, to two companies, Morrison Supply Co. and National Water Works for supplying utility supplies for the Water and Wastewater Departments. Each bidder recommended for an award submitted the lowest, qualified bid. This action does not directly expend any funds. Rather, the contract specifies unit prices and enables these items to be acquired as needed during the time of the contract. (Purchasing Director).

5. Motion to approve awarding Annual Contract Bid No. 27-02, to the lowest bidder, Southern Tire Mart from San Antonio, Texas for approximately \$36,000.00 to purchase tires and tubes for all departments except Police and Task Force. (Purchasing Director).

6. Motion to approve awarding Annual Contract Bid No. 27-04, to the lowest bidder, O'Reilly Auto Parts from Kingsville for automotive batteries for an approximate annual cost of less than \$5,000.00. (Purchasing Director).

7. Motion to approve awarding Annual Contract Bid No. 27-08, to the lowest bidder, Fleetpride from Corpus Christi for automotive filters for an annual cost of approximately \$6,600.00. (Purchasing Director).

8. Motion to approve awarding Annual Contract Bid No. 27-11, to the sole bidder Kingsville C & A Tire Company for approximately \$18,000.00 for tires and services for the Police and Task Force. (Purchasing Director).

Commissioner Laskowski made a motion to accept the Consent Agenda items (I1-8) as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

9. Consider removing from table Commission appointments to the City's Capital Improvement Committee. (TABLED 8/14/06) (Commissioner Laskowski).

Mayor Fugate called for a motion to remove agenda item # 9 from the table. Commissioner Laskowski made a motion to remove item from the table, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

10. Consider Commission appointments to the City's Capital Improvement Committee. (Commissioner Laskowski).

Commissioner Laskowski stated that during the Commissions' planning session, it was discussed that the City needed to establish a committee to review the facilities and come up with a plan for improvement. He thanked the City Manager for putting this item back on the agenda and announced he had a nomination to the committee.

Mayor Fugate called for each Commissioner's appointee. The nominations are: Commissioner Laskowski nominated Roy Medina; Commissioner Wilson nominated Annette Peterson; Mayor Fugate nominated Rudy Galvan; Commissioner Garcia nominated Noel Pena; and Commissioner Pecos nominated Horacio Castillo.

Mayor Fugate called for a motion. Commissioner Wilson made a motion to approve the five nominated individuals to the Capital Improvement Committee, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

11. Consider removing from the table to discuss and consider approving policy inclusions in the City of Kingsville's Administrative Policies and Procedures Manual. (TABLED 8/14/06) (Human Resource Director).

Mayor Fugate called for motion to remove agenda item #11 from the table. Commissioner Wilson made a motion to remove agenda item #11 from the table, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

12. Discuss and consider approving policy inclusions in the City of Kingsville's Administrative Policies and Procedures Manual. (Human Resource Director).

Ms Diana Gonzales stated that the changes were in front of the packet. She provided information on the previous versions and proposed new versions of the manual.

She stated that in Policy No 200.01 there had been a question regarding the wording under the Reclassification section. She stated everything had been put into three steps, clarification has been made to show how the process occurs regarding the reclassification, adding or deleting of city positions. Policy 340.00, Professional Search and Recruitment, she stated clarification was made as to who is responsible for fees incurred if a department is requesting to do a search or recruitment for the City. Under Policy 430.03, Medical Examinations, for clarification, she stated this section was divided up between new hire and a current city employee. Under Policy 430.04, Drug/Alcohol Testing, the same occurred, for clarification only. In Policy 500.01, Orientation Period, she stated this is a proposed version showing increases for exempt employees. Under Policy 620.00, General Compensation Policy and Pay Issues, she stated

that comments have been made as to when an employee can move from one position to another, so the last sentence was stricken, so there is no restriction. Under Policy 640.01, Safety Incentive Program, she stated this is a clarification as to the type of incidents. Policy 780.08, Military Leave, she stated this was not discussed but there was a change in the group health insurance time limit as approved by the Department of Veterans Affairs. The Code of Ethics Policy is deleted and replaced with the current City of Kingsville Code of Ethics Ordinance approved by the City Commission. Regarding the Take Home Vehicle Policy 890.09, Ms Gonzales stated provided information on the revisions.

There was lengthy discussion in reference to the Take Home Vehicle Policy. Commissioner Garcia voiced his concern about Police department vehicles taken outside the City limits. City Manager Yerena stated that minimizing the amount of vehicles being taken home could be done internally. Ms Alvarez explained the language in the Police contract that addresses take home vehicles. Commissioner Wilson suggested inserting a period at the end of collective bargaining contract. Mayor Fugate asked for comments to Commissioner Wilson's suggestion. Commissioner Laskowski stated this section also addresses the Health department taking vehicles home. He suggested striking out the part that includes the Health Department. Commissioner Wilson stated he did not have a problem with striking the language, except if for some reason there is a change in supervisor, the other director might not implement the same policy that is now in place and there would not be anything in place to correct that. City Manager Yerena provided information regarding the intent of the policy.

Ms Gonzales stated the Policy 880.00, Driving Policy, General Disciplinary Guidelines for Preventable Accidents, should read for "Avoidable Accidents". She stated that a definition was added concerning avoidable accidents; still leaving discretion up to the supervisor as to what type of disciplinary action would take place. Finally, she stated the final change was adding or deleting words as per Commissioner Laskowski's request.

Commissioner Laskowski pointed out several concerns he had regarding Policy No. 620.00, General Compensation Policy and Pay Issues. He requested the following changed: from approved by the City Manager to approved by the City Commission; Policy 640, Preventable Incident, he requested for clarification of a preventable accident and an avoidable accident; Policy No 780.08, Military Leave, he asked about a sentence that was below the boxed area which had nothing to do with the subject of military leave; Policy No. 801.00, Code of Ethics, he stated that the adopted Code of Ethics only applies to the City Commission, Department Heads, down to the Executive Secretary levels; and asked for clarification to the heading change - General Disciplinary Guidelines for Preventable Accidents to Avoidable Accidents. With regards to the words "may/shall" Commissioner Laskowski asked the City Commissions' recollection of prior discussion. Mayor Fugate asked for Staff's recommendation. City Manager Yerena stated Staff recommends the word "may".

Mayor Fugate called for other comments. Commissioner Laskowski stated that he was disappointed because there is no copy of the letter of welcome from the City Manager.

Mayor Fugate provided different scenarios to voting on the manual. Commissioner Laskowski suggested voting on each chapter individually.

Mayor Fugate called for a motion. **Commissioner Pecos made a motion to approve the Manual in its entirety with the exception of Chapter 8 - Policy No. 880.00, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR"**

Mayor Fugate called for a motion to approve Policy No. 880.00. **Commissioner Garcia made a motion to approve Policy 880.00 as recommended by Staff, seconded by Commissioner Pecos.** Mayor Fugate called for discussion. Commissioner Wilson asked Commissioner Laskowski if he had any discussion. Commissioner Laskowski stated he had a concern with the use of the word "may" which gives Staff the ability to pick and choose who is disciplined. He stated he totally disagrees with that. He stated what is good for the goose is good for the gander and should be applied equally across the board without any difference from employee to employee. Regarding Commissioner Laskowski's concern, Mayor Fugate stated he understands, however, it comes to the point that you have to trust your Administration to do the right thing. Commissioner Laskowski stated that this Commission would be the only people that will have to deal with a lawsuit. Commissioner Wilson stated his input is that management needs that flexibility, but he is hoping that it does not open the door for litigation.

With regard to preventable accidents, Commissioner Laskowski asked Ms Gonzales if the City currently has a driving policy that lays out the disciplinary action. Ms Gonzales replied this is the City's only policy. Commissioner Laskowski stated that is correct.

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

13. Consider removing from the table the Executive Session: Pursuant to Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation of the City Manager, the City Attorney, and the Municipal Court Judge. (TABLED 8/14/06) (Mayor Fugate).

Mayor Fugate called for motion to remove agenda item #13 from the table. **Commissioner Wilson made a motion to remove this item from the table, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".**

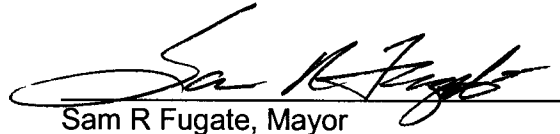
At 6:55 P.M. Mayor Fugate announced that the City Commission would be taking a five (5) minute recess before going into Executive Session: Pursuant to Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation of the City Manager, the City Attorney, and the Municipal Court Judge.

14. Executive Session: Pursuant to Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation of the City Manager, the City Attorney, and the Municipal Court Judge. (Mayor Fugate).

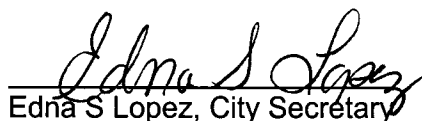
The City Commission reconvened into regular session at 8:00 P.M.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 8:00 P.M.


Sam R Fugate, Mayor

ATTEST:


Edna S Lopez, City Secretary