

DECEMBER 10, 2007

A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, DECEMBER 10, 2007 AT THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL / 200 EAST KLEBERG AVENUE AT 4:00 P.M.

CITY COMMISSION PRESENT:

Sam R Fugate, Mayor – arrived at 4:23 P.M.
 Charles E Wilson, Mayor Pro-tem
 Al Garcia, Commissioner
 Stanley Laskowski, Commissioner
 Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
 Edna S Lopez, City Secretary
 Courtney Alvarez, City Attorney
 Dianne Leubert, Solid Waste Superintendent
 Diana Gonzalez, Human Resource Director
 Mark Rushing, Finance Director
 Dora Byington, Purchasing Director
 Bill Donnell, Public Works Director
 Yolanda Cadena, Health Director
 Macario Mayorga, Water Supervisor
 Fidel Gonzalez, Interim Task Force Commander
 Joe Casillas, Water Production Supervisor
 Frank Garcia, Waste Water Supervisor
 Armando Gutierrez, City Engineer
 Jennifer Vela, Code Enforcement Officer
 Al Lopez, Fire Chief
 Ricardo Torres, Police Chief

I. Preliminary Proceedings.

OPEN MEETING

CONVENE INTO PETITIONS, GRIEVANCES, AND PRESENTATIONS – ITEM III - #1/WORKSHOP SESSION REGARDING CITY OF KINGSVILLE SOLID WASTE EVALUATION ASSESSMENT.

Mayor Pro-tem Wilson called the workshop to order at 4:00 P.M.

City Manager Yerena stated the final draft of the Solid Waste review is complete and information will be provided by the consultant Mr. Mike Stringer. He stated that following Mr. Stringer's presentation Staff will present a plan of action to make a transition.

Mr. Stringer thanked Staff for all their help during the study. In summary, he stated that the system is functioning, the equipment is old, and the landfill will need to be addressed in next few years. He stated the study did not include indirect costs and assumptions had to be made based on fiscal year. He provided information on expenses, departmental costs, and debt service. He stated the old equipment impacts the system due to breakdowns. He stated recommendations were made to change over to better compatible type carts, newer side load equipment, and change the routes down. He stated that the commercial operations is working fairly well but is recommending that roll-offs be provided in order to increase revenues. He stated that Staff has been working on improving deficiencies that have been found during the process of the study. He stated that the landfill permit capacity is 5,000,000 tons or 65 years of life. Since his last project, he stated there has been a vast improvement in the landfill. He stated the biggest expense and problem at the landfill is cover material. He also stated there are some closure items that will need to be addressed in the near future. He stated that is basically an overview of what was found. He stated the City is operating at its maximum capacity with the personnel that the City has, and equipment is getting old.

Mayor Pro-tem Wilson called for comments from the City Manager and Solid Waste Superintendent. City Manager Yerena stated staff will present the Commission with a plan of action for a transition. Mayor Pro-tem Wilson called for questions from the Commission. Commissioner Pecos asked what is being done incorrectly with the covering. Mr. Stringer replied the employees need to use the minimum amount of dirt. Commissioner Laskowski posed a question about the allocation of departmental cost. City Manager replied several

positions/departments were utilized and the cost estimate was within industry standards. Regarding the recommendation for residential collections, Commissioner Laskowski asked if the rates would have to be raised by \$4.30. Mr. Stringer replied that depended on how the equipment would be funded.

There was lengthy discussion on cutting the amount of routes, the reduction of workforce, and rate increases.

Based on operation since 2002, Commissioner Laskowski asked if the landfill would last to the year 2012. Mr. Stringer replied he did not think so; and construction should be started before then. Mr. Stringer stated very soon there will be a need to generate plenty of cover material and closing material. He stated purchasing adjoining land is a smart move.

Commissioner Garcia asked about the current cover material available. Mr. Stringer replied he did not have information readily available but had made a recommendation. He stated there isn't enough dirt to do the intermediate cover, the subtitle D cover and to continue with daily operations. Commissioner Garcia stated that knowing the amount of material available is vital. Mr. Stringer stated the use of different mechanisms must be listed on your permit.

Mayor Fugate asked about the procedure of employees clocking out for lunch. Ms Dianne Leubert replied schedules were changed just this week. She explained one of the major problems is the amount of personnel, especially when one person is absent. Mr. Stringer stated a critical change would be to assign one supervisor to the brush crew and to educate the citizens. Ms Leubert stated several things will be done to educate the citizens. If allowed by Bond Counsel, City Manager Yerena stated that he would like to utilize \$432,000 to implement the study and have the equipment ordered and delivered. He explained this is the money that was set aside for the purchase of new garbage trucks. Mayor Fugate stated the biggest concern is brush.

Commissioner Laskowski stated that currently outside companies that pick up trash from within the City of Kingsville are in violation of City ordinance. Ms Leubert stated there are three different companies that are doing business in Kingsville. She provided information on the cost to purchase roll-offs and the revenue that would be generated by renting them out to citizens.

Commissioner Laskowski stated that there is a recommendation to consolidate all operations at the landfill, but the City would have to hire a mechanic to work on equipment at the landfill. He provided information on the cost for having this done. He stated he agrees with the recommendation for staggered hours worked at the Garage.

Mr. Stringer stated emphasis needs to be put on how the new vehicles are going to be maintained and better procedures on documentation for maintenance.

Commissioner Laskowski asked about the new shed's use. Ms Leubert replied that the shed could probably accommodate all equipment except for a few pieces of equipment from the landfill. Commissioner Garcia asked for a recommendation on commercial tipping fees. Mr. Stringer replied anywhere from \$18.00 to \$20.00.

Mayor Fugate called for further questions. Commissioner Pecos stated that it would be unsightly and unsanitary to put brush in the front yards. Mr. Stringer stated that the City of Corpus gives a citation when brush is put out before the time to be picked up. Commissioner Garcia asked about white good pick up in Corpus. Mr. Stringer replied a citation is given if items are placed before the due date for picking up white goods. He also stated the brush has to be clean in order to be picked up.

Mr. Stringer reminded the Commission that it is a good idea to keep some of the brush equipment to be used for special projects.

City Manager Yerena stated that at the next Commission meeting there will be an agenda item for an amendment to an ordinance, and an item for purchasing equipment. He stated that once a month brush pick up will be expedited and an RFP would also be presented.

At 5:30 P.M., the Commission recessed for 30 minutes.

Mayor Fugate called for the Regular Session of the Agenda to continue at 6:00 P.M.

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

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 November 19th, 2007 and City/County joint meeting of December 6th, 2007. **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 to rezone a property from AG Agricultural to R-1 Single Family, 6 acres out of K.T. & I., Farm Lot 10, Section 3, also known as 2306 Young Drive, applicants Brian and Venesa Sabala. (City Engineer).

The public hearing was opened at 6:03 P.M.

Mayor Fugate announced this is the time for citizens to speak on the subject.

City Engineer Armando Gutierrez reported that the property is about six acres is zoned Agriculture, and the Planning & Zoning Commission approved the rezone by unanimous vote. Neighbors have been contacted and no objections were received.

Mayor Fugate called for questions or comments. Commissioner Garcia asked if the property had City services. Mr. Gutierrez replied there were some services in the area and stated he did not know if services are located directly in front of the property. He stated the property did require a septic tank. Mayor Fugate asked if property would be subdivided. Mr. Gutierrez replied it would not be subdivided; one house will be built on six acres.

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

III. Petitions, Grievances, and Presentations.²

1. Workshop regarding City of Kingsville Solid Waste Evaluation Assessment. (City Manager).
2. City Manager's Report. (City Manager).

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on a new program, the Neighborhood Initiative Program that the KICC committee has initiated to address in a unified fashion all violations. Committee members are walking neighborhoods and provide immediate notification to the citizens of any violations. He provided information on businesses addressed. He reported on the restructuring of the Street department with an emphasis on street paving. He provided information on future paving projects. City Manager Yerena stated the County is participating with the City in some of these paving projects. The Commission asked that 2nd Street from King to Franklin Adams be looked at. He reported that several meetings have been held with different departments and staff.

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

Mayor Fugate called for the City Attorney's report. City Attorney Alvarez reported on the research for the federally regulated quiet zones for railroads. She stated safety features calculations are being worked on. She reported on the lien foreclosure process stating the three essential parts. She announced she will be absent on Wednesday for mediation.

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

Mayor Fugate called for the City Commission's reports. Mayor Fugate reported on the wind generated farms in Kenedy County. He stated people employed there will be living in Kingsville. He requested a forum to invite both parties to discuss and present their positions. Commissioner Wilson stated he thought the Chamber should host. Commissioner Laskowski stated the filed litigation has nothing to do with moving forward with the construction. Mayor Fugate stated there are pleadings to stop the construction aspect of the program. Commissioner Pecos agreed with the Mayor to invite the group. Mayor Fugate stated he feels it is a significant impact to the local economy.

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.

Mayor Fugate called for consideration of the Consent Agenda, Items 1-9. **Commissioner Garcia made a motion to remove agenda item #9. Commissioner Wilson made a motion to remove agenda items #4, 5, 6, 8, & 9 from the Consent Agenda, seconded by Commissioner Laskowski. Commissioner Garcia removed his motion. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski, Wilson voting "FOR". Commissioner Laskowski made a motion to approve agenda items #1, 2, 3, & 7 on the Consent Agenda, seconded by Commissioner Pecos and Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

As a point of reference, Commissioner Wilson stated the items he removed from the Consent Agenda are items that he would like to see in the future brought to the regular agenda. He stated those are items that either deal with contracts that have not been seen or they deal with people being appointed to Boards. He continued to say that both need to be publicly stated because the general public does not have access to the documents that are provided to the Commission.

V. Consent Agenda

- 1. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending sections 9-7-2 through 9-7-3, providing for modifications to the Nuisance Notice and Lien sections. (City Attorney).**
- 2. Motion to approve final passage of an ordinance of the City of Kingsville, Texas to Tax Tangible Personal Property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253. (City Manager).**
- 3. Motion to approve final passage of an ordinance abolishing a certain classified service position; creating a certain classified service position; ratifying classifications and prescribing the number of positions in such classifications for the classified service in the Police Department. (Human Resource Director).**
- 4. Motion to approve reappointing all Board members (Ms Ricki Cunningham, Mr. Rudy Galvan, Ms Idolina "Nina" Cortez, Mr. Albert Garcia, and Ms Denise Schreiner) to the Zoning Board of Adjustments to serve another two year term. (City Engineer).**

City Engineer Gutierrez stated all board members have been contacted and no one objected to serving another two year term.

Commissioner Wilson made motion to reappoint Ms Ricki Cunningham, Mr. Rudy Galvan, Ms Idolina "Nina" Cortez, Mr. Albert Garcia, and Ms Denise Schreiner to the Zoning Board of Adjustments for another two year term, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, Wilson voting "FOR".

5. Motion to approve authorizing entering into an Interlocal Agreement with Choice Facility Partners for Job Order Contracts. This voluntary program is offered at no cost to the City of Kingsville. There are no annual fees, no transaction fees, nor any implementation fees, until services are requested. (Purchasing Director).

Ms Byington stated this is a voluntary program like the BuyBoard, another vehicle to have for the construction industry.

Commissioner Wilson made a motion to approve and authorize entering into this local agreement, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

6. Motion to approve authorizing entering into a contract with Garner Environmental Services from Deer Park, Texas for emergency response stand-by products and services in case of a major disaster such as a hurricane. There will be no financial impact to the City at this time, until services are requested. (Purchasing Director).

Ms Byington stated this would help in receiving refunds from FEMA. She provided information on items that are covered under this agreement. Mr. Tim Ware, representative from Garner provided information on their company's services. He stated items their company provides are always FEMA refundable. He stated FEMA will reimburse the City.

Commissioner Laskowski stated there was no contract attached.

Commissioner Laskowski made a motion to authorize the City Manager to develop a contract with Garner for services which should be brought back to the Commission for review, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".

7. Motion to approve settlement agreement with Federico Cano as per November 19th, 2007 mediation. (City Attorney).

8. Motion to approve resolution of the City Commission of the City of Kingsville, Texas authorizing the submission of a contract amendment request for the Community Development Fund Contract between the City of Kingsville and the Office of Rural Community Affairs, Contract Number 726311. (City Manager).

City Manager Yerena stated this resolution authorizing staff to submit a contract amendment. Originally the grant provided funding for what was believed could be done. After the field survey was done it showed there was 6,547 linear feet greater than the 12,000 that is in the contract. He stated in order to fund some streets and water line improvements must be deleted. Commissioner Laskowski asked if the 6,547 linear feet of water lines would need to be replaced. City Manager Yerena replied it was his understanding something needs to be done.

Commissioner Laskowski made a motion to approve the resolution of the City Commission of the City of Kingsville, Texas authorizing the submission of a contract amendment, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

9. Motion to approve Asset Forfeiture Agreements with District Attorney for the Kingsville Police Department and the Kingsville Specialized Crimes and Narcotics Task Force. (City Manager).

City Manager Yerena stated this is a contractual agreement that has been previously in place. The only change is that it allows the City the ability to comply with the new State statues to utilize some forfeiture for non-law enforcement purposes with the new District Attorney of Kleberg County.

Commissioner Pecos made a motion to approve the Asset Forfeiture Agreements with the District Attorney for the Kingsville Police Department and the Kingsville Specialized Crimes and Narcotics Task Force, seconded Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Wilson, Pecos voting "FOR".

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

10. Consider reallocation of Certificates of Obligation 2005 monies for Scada improvements for the Wastewater Treatment facilities, Well #23 and Well #24. (Public Works Director).

Mr. Bill Donnell, Public Works Director stated funds are needed to complete the project of Well #23. He stated bids came in over budget. He stated the plans from LNV Engineering are complete. He stated that the Scada system funds were utilized to get the system working. He stated the rebids for the Scada system came in at \$37,550.

Upon a question from Commissioner Laskowski, Mr. Donnell replied the extra \$5,000 was used to repair the system in 2002. Mr. Donnell stated the amount to be reallocated is \$17,088 and the new budget would be \$42,000 for that line item. City Attorney Alvarez explained that the original budget shown does not show the decrease amount already spent for the computers.

Mayor Fugate called for a motion. Commissioner Garcia made a motion to reallocate these funds, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia voting "FOR". Laskowski voting "AGAINST".

11. Consider reallocation of Certificate of Obligation 2002-2002A Utility monies to purchase a new backhoe for the Water Department. (Public Works Director).

Mr. Donnell, Public Works Director stated that the laying of water lines is a big obstacle. He stated that there are currently three backhoes in the Water department; two (1996 & 1992) are old with one fairly new (2005). He stated he is asking to reallocate 2002 funds out of the water line item, \$100,000 to purchase a backhoe. He stated the 2002 funds have not been touched due to other grant obligations that needed to be fulfilled and utility fund monies was suffice.

Mayor Fugate called for questions or comments. Commissioner Laskowski stated this goes back to the 6,745 feet of water line not getting done on the \$300,000 grant, and now the City is taking \$100,000 worth of money borrowed for water lines to purchase a backhoe. He provided information on equipment that still has a balance. He asked why take money from water line when other funds can be looked at to get money. He further voiced his concern about spending monies from the water lines. Mayor Fugate stated the backhoe is also needed in order to build the water lines. City Manager Yerena stated the City is trying to keep some the unallocated interest. Commissioner Laskowski voiced his concern about the highest priced backhoe being recommended. Mr. Donnell stated the reason for choosing the \$69,000 backhoe was not to specify any one company, but for reallocation purpose only. Mayor Fugate stated if the exact amount of money is reallocated then you don't have any money just lying out there not being used. He stated he did not want to take two-thirds of the monies from water lines for this purchase when he has identified some other resource. He stated he was not opposed to taking some of the water line money but he would like to look at all options.

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

12. Consider awarding Bid No. 28-18 for building pump house for Well #23. (Purchasing Director).

Ms. Byington stated this item authorizes building a pump house for Well #23. The bidder recommended for the award submitted the only bid. This action expends \$232,000.00 for the entire project. Funds for this project will come out from the new bond Capital Projects funds 062-5-600.2-720.10. She stated Staff is recommending the bid be awarded to the sole bidder, Hubert's Construction Company from Kingsville. Commissioner Laskowski asked for the amount of the original bid for the project. Ms Byington responded \$165,000.00.

Commissioner Laskowski made a motion to award Bid No. 28-18 for building pump house for Well #23, seconded by Commissioner Wilson and Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson, Laskowski voting "FOR".

13. Consider removing from the table a resolution approving a correction to Article 7, Section 4 of the 2007-2010 Collective Bargaining Agreement between the City of Kingsville, Texas and the International Association of Firefighters Local 2390. (City Manager).

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".

14. Consider a resolution approving a correction to Article 7, Section 4 of the 2007-2010 Collective Bargaining Agreement between the City of Kingsville, Texas and the International Association of Firefighters Local 2390. (City Manager).

City Attorney Alvarez stated the memo in the packet is self-explanatory, and called for questions.

Commissioner Laskowski made a motion to consider adopting the resolution approving the correction of Article 7, Section 4, seconded by Commissioner Garcia. Mayor Fugate called for further discussion. As a point of order, Commissioner Wilson asked Commissioner Laskowski if his motion stated consider adopting. Commissioner Laskowski stated make a motion adopting a resolution approving correction, seconded by Commissioner Garcia. Mayor Fugate called for a roll-call vote on the agenda item as amended. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Garcia, Laskowski voting "FOR".

15. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending §15-4-2 through §15-4-5 of Chapter XV, Article 4, Flood Damage Prevention, making numerous changes throughout to conform with the most recent flood damage prevention ordinance from the Texas Water Development Board. (City Engineer).

Mr. Gutierrez, City Engineer stated this just updates the current ordinance which lacks definitions.

INTRODUCTION ONLY

16. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to 6 acres out of K.T.& I, Farm Lot 10, Section 3, from AG Agricultural to R-1 Single Family, also known as 2306 Young Drive. (City Engineer).

Mr. Gutierrez, City Engineer stated this is the same property of the public hearing. He stated the applicant would like to build a single family residence.

INTRODUCTION ONLY

17. Consider introduction of an ordinance amending the Fiscal Year 2007-2008 Budget for the City of Kingsville for an ambulance for the Fire Department to come from the Insurance Recovery Funds and a Lease Purchase Agreement for the balance. (Finance Director).

Mayor Fugate stated this has been previously discussed.

INTRODUCTION ONLY

18. Consider introduction of an ordinance amending the Fiscal Year 2007-2008 Budget for the City of Kingsville to repair the Recycling Center roof to come from General Fund and Insurance Proceeds. (Finance Director).

City Manager Yerena stated he recognizes the need to move forward with the roof project. He stated information from TML regarding final closure has not been received; \$50,000 is budgeted for the project. He stated that the lease purchase payment would be reallocated which the City has locked in the financing through the financial contract and payment will not be made until next fiscal year. He stated this money will be freed up for the roof project.

Commissioner Laskowski stated that part of funds is being taken from the Health department employee which was over budgeted. Mr. Mark Rushing, Finance Director stated that initially in the budget process there was an over budget of employees. He stated that the first payment of \$31,728 for the lease agreement will not due until next fiscal year. He stated that \$47,630 is needed to add to the \$50,000 in order to move forward with the roof repair. He stated the wind coverage was rejected, but was told that the roof would be filed under the property coverage. He stated this is a contingent budget amendment in order to have available \$97,630 to repair the roof and to have adequate funding, irregardless of what the insurance actually pays.

Commissioner Laskowski recommended that Staff to get Maltby back out to the Recycling Center to make sure that all things that are wrong are addressed.

INTRODUCTION ONLY

19. Consider awarding bid to Maltby Builders, Inc. from Kingsville for roof and other repairs/modifications to the Recycling Center. (Purchasing Director).

Commissioner Laskowski made a motion to award bid to Maltby Builders for \$97,630, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

20. Consider whether or not to accept offers to donate land to the City for properties located at 707 West Warren; 620 West Huisache & 400 West Huisache; and, 400 East Mesquite. (City Attorney).

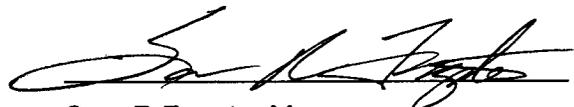
City Attorney Alvarez stated information was received requests from three different property owners to accept donations of land. She stated as noted on the memo the property on Warren has high grass and a house falling apart; the properties on West Huisache the person never lived on the land and property was obtained at a foreclosure sale; the East Mesquite property does not have the taxes current and there might be some environmental issues. She stated there is another property but information is not ready. She stated that the tax attorney for the City advised that the taxing entities have a practice of not accepting donations of land in lieu of taxes. If the City chooses to accept any of the land donations, the property will then be off the tax roll and the City will be required to maintain it.

Commissioner Laskowski suggested accepting the properties as a gift and advertise them for sale. City Attorney Alvarez stated with the exception of the East Mesquite property. Mayor Fugate stated he did not know if the City would have any luck in doing this. City Attorney Alvarez stated if there are no bidders, then the City has to maintain the property and it goes off the tax roll.

Mayor Fugate called for comments or discussion. Commissioner Garcia made a motion to deny these gifts, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia voting "FOR". Pecos, Laskowski voting "AGAINST"

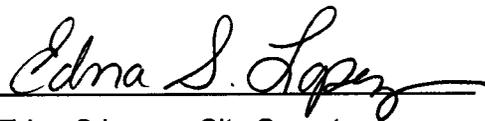
VI. Adjournment.

There being no further business to come before the City Commission the meeting was adjourned at 7:23 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, City Secretary