

MAY 14, 2007

**A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS CITY COMMISSION WAS HELD ON MONDAY, MAY 14, 2007 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  
Mark Rushing, Finance Director  
Al Lopez, Fire Chief  
Bill Donnell, Public Works Director  
Dora Byington, Purchasing Director  
Jennifer Vela, Litter Abatement Officer  
Frank Garcia, Wastewater Supervisor  
Ron Pray, Firefighter  
Diana Gonzales, Human Resource Director  
Anita Stewart, Task Force Secretary  
Richard Kirkpatrick, Task Force Agent  
Ricardo Torres, Police Chief

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chambers at 6:04 P.M.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Ms Dora Byington, followed by the Pledge of Allegiance and Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Mayor Fugate called for consideration of the minutes of the regular meeting of Monday, April 23, 2007. **Commissioner Wilson made a motion to adopt the minutes, as corrected, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

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

1. Public Hearing for an alcohol variance application for the Kwik Pantry at 730 W Corral. (City Secretary).

The public hearing was opened at 6:07 P.M.

City Secretary Edna S Lopez stated that the applicant has applied to the City of Kingsville for a Wine and Beer Retailer's Off-Premise license for a business located at 730 W Corral. The property is within 300 feet of a church which violates City ordinance. Letters were mailed out to the surrounding property owners, and Staff did not receive any comments opposing the variance.

Mayor Fugate announced this was the time to speak on this subject. There were no comments made.

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

2. Public Hearing regarding condemnation proceedings for structures located at 409 W Kenedy & 606 W Johnston. (Litter Abatement Officer).

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

Ms Jennifer Vela, Litter Abatement Officer stated that the former City Engineer had found these structures were unsafe for human occupation. She added that there were no responses to the letters that were sent.

Mayor Fugate announced this was the time to speak on this subject. There were no comments made.

The public hearing was closed at 6:09 P.M.

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

1. Proclamation recognizing and honoring Eagle Scout Darrel Z. Munoz, Jr.

Mayor Fugate presented a proclamation to Eagle Scout Darrel Z Munoz, Jr.

2. Presentation on the City of Kingsville's debt structure and status by Ms Ann Burger Entrekin, Managing Director, First Southwest Company. (City Manager).

Ms Ann Burger Entrekin, Managing Director, First Southwest Company provided an update from a debt perspective. She explained the information from the Market Update and Financial Analysis. She provided information on the Bond Buyer's Municipal bonds, AAA Insured Municipal Yield Curve, Interest Rate History, and Historical Financial Overview. She stated there has been a modest fund balance growth within the last five years. She stated the City is in a very comfortable position. She stated the City's rating with Moody's is an A3. Finally, she stated this was an update as to where the City's debt is and how the City is rated against other Cities.

3. Comprehensive Annual Financial Report of the City of Kingsville by Mr. Luke Womack of John Womack & Co., P.C. (City Manager).

Mr. Patrick Moore, Independent Auditor went over the independent auditor's opinion. He highlighted various areas of analysis of the City's financial statement. He stated the City had a very good year, the net assets exceeded its liabilities by \$17,000,000. The general fund increased from \$5.6 million up to \$7,000,000, a 24% increase, the General Funds undesignated/unreserved fund balance increased from \$2.7 million to \$3.4 million, an increase of \$750,000, the total assets were \$50,000,000 and total liabilities were \$33,000,000. He provided percentages of increases. He provided information on a detailed comparison in 2006 to 2005 of the statement of revenues and expenditures. He provided information on the governmental activities expenses. He stated that taxes contributed about 71% of the revenues and public safety countered for over half of the governmental activities expenses and public works accounted for about 20%. The utility system comprised about 71% of the business type activities in the landfill, Solid Waste accounting dealt with the 29%. He stated that the general fund revenues are about \$1,000,000 above the final budget. He noted the general fund expenditures were \$34,000 above the final budget which exceed what the budget was. He added the \$34,000 for such a large budget is pretty close to zero. He stated that the City Manager and Finance Director did a great job of controlling cost. In summary the long term debt has declined by about \$1,000,000, the landfill closure debt increased by 10%, and the compensated absence increased by 15%. He stated the certificates of obligation and revenue bonds have declined. He stated that as part the audit of financial statements the internal controls are reviewed for compliance, he stated he noted no particular material weaknesses in the internal control, but there were a couple of things incompliance. He called attention to three items; total expenditures exceeded what was budgeted, unsecured deposit at depository bank

and cash management of a homeland security grant which failed to expend monies in a timely manner.

Commissioner Wilson asked for a more detailed explanation on the finding of the unsecured deposit. Mr. Moore replied ultimately it is the City's responsibility to see that the depository bank pledges the unsecured deposit. He stated it would be helpful that the bank have more than enough securities pledged to the City's deposits. Commissioner Wilson stated his concern and stated there were two failures in place the City and bank.

Mr. Luke Womack, Public Accountant, John Womack & Co., stated he would like to go over some internal control procedures. In reference to the management letter, Mr. Womack explained the situation that occurred. He stated this is a common finding. In reference to fixed assets, he stated the system is not designed for the items the City now has. He stated that the landfill needs to be looked at, software was added for permits and records, seizure accounts were not readily identified, and bidding information is not at one concise location. He stated this is an outstanding audit report. He commended the Commission and Staff for a job well done.

Mayor Fugate commended the City Manager and his staff.

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

Mayor Fugate called for the City Manager's report. City Manager Yerena thanked Mr. Moore and Mr. Womack. He thanked the Finance department and City Staff for working hard. He reported that May 24<sup>th</sup> is Kingsville Community Night at Aviator's Stadium and on the JLUS meeting to be held on June 7<sup>th</sup> and 8<sup>th</sup>. He reported there are a couple of Boards that need members replaced. City Manager asked that item #3 be removed from the Consent Agenda because the Task Force members will not be traveling.

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

Mayor Fugate called for the City Attorney's report. City Attorney Alvarez encouraged citizens to attend the JLUS meeting on Thursday, June 7<sup>th</sup>. She reminded them that the next City Commission meeting will be on Tuesday, May 29<sup>th</sup>, since Monday is a holiday. She reported on the start of negotiating with the Fire and Police Unions. She provided information on the new rates for certified mail.

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

Mayor Fugate called for the City Commission's reports. Commissioner Wilson congratulated the Lady Brahma Soccer Team, the Javelina Baseball team, and the Javelina Softball team for a successful season. He also congratulated all graduating H.M. King High Seniors. Mayor Fugate congratulated the Brahma Softball team for making the play-offs. Commissioner Pecos announced that the Catholic War Veterans will host the Memorial Day ceremonies at the Chamberlain cemetery.

### IV. Public Comment on Agenda Items<sup>3</sup>

#### 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 1-5.

V. Consent Agenda

1. Motion to approve resolution accepting funding from the Office of National Drug Control Policy HIDTA Program for Law Enforcement Personnel overtime, services, and supplies; authorizing the Chief of Police to act on the City's behalf with such grant. (Police Chief).
2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending the Classification Plan Management Level Salary Plan FY2006-2007 in Chapter III, Article 7, Personnel Policies. (City Manager).
3. Motion to approve out-of-state travel on May 15<sup>th</sup> - 17<sup>th</sup>, 2007 for Task Force member(s) to Tennessee for equipment demonstration. Travel expenses will be reimbursed by the company. (City Manager)
4. Motion to approve final plat for Hinojosa Estates III. (Interim Director of Development Services).
5. Motion to accept Comprehensive Annual Financial Report of the City of Kingsville for Fiscal Year 2005-06. (City Manager).

Commissioner Laskowski made a motion to approve Consent Agenda Items #1, 2, 4, & 5, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

Commissioner Laskowski made a motion to Table Consent Agenda Item #3, 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.<sup>4</sup>

6. Consider approval of alcohol variance for the Kwik Pantry located at 730 W Corral. (City Secretary).

Mayor Fugate called for further discussion. Commissioner Wilson made a motion to approve the alcohol variance for the Kwik Pantry located at 730 W Corral, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".

7. Consider authorizing the City Manager to extend the Financial Advisory Service contract with First Southwest Company for an additional year. (City Manager).

City Manager Yerena stated this would allow for the City to extend the Financial Advisory Service contract with First Southwest Company for an additional year.

Mayor Fugate called for questions or comments. Commissioner Laskowski made a motion to approve the extension of First Southwest contract for another year, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

8. Consider utilizing alternative debt instruments for the purchase of personal property equipment. (City Manager).

City Manager Yerena stated Ms Burger would explain the alternatives for the purchase of personal property equipment. Ms Burger provided information on a Public Property Finance Contractual Obligation which does not require voter authorization but can only be used for the acquisition of personal property. She stated that when looking at this the average life of the equipment should be considered. She stated this should be secured by full-faith and credit of the tax base and that the City should make sure their borrowing monies for a period that matches the average life of the asset. Ms Burger stated that interest rates are similar as to

general obligation or certificate of obligations. She provided information on terms and interest rates. She stated the City is in a situation of earning 5% on current investments. She added that interest rates for borrowing money on a ten year term would be 4.35. She stated a present value analysis was prepared. She stressed that leaving the money in the bank is a better option. She stated the monies needed for purchasing the truck is a perfect situation for banks.

Commissioner Laskowski asked for the amount for the issuance cost. Ms Burger replied \$20,800.00 - \$21,700.00 is an estimate. She provided information of administrative fees.

Mayor Fugate called for the City Manager's recommendation. City Manager Yerena stated the City wanted a third party confirmation and the City has a comfort level with Ms Burger. He stated that Staff's recommendation would be to move forward with authorizing staff to work with Ms Burger for the financing portion of the equipment.

Mayor Fugate asked how particular the language for the motion had to be. City Attorney Alvarez replied something general would work. Commissioner Garcia asked if the motion would include a term proposal. Mayor Fugate replied it is his understanding that they don't have to be that specific. Ms Burger stated that governing bodies have stated exactly what they want and some have waited to decide.

Mayor Fugate called for further comments. Commissioner Laskowski stated that over the last 42 months a lot of monies have been spent on garbage trucks. He stated that the City needs to get started on getting new equipment if the City is staying in the business. Mayor Fugate stated this is an important issue but what is at hand is a safety issue, even though Sanitation is also important, the City has been without a ladder truck for the last ten years. He stated this problem was inherited by the Fire Chief, his staff and this Commission. He stated he is not prepared to put this issue off any longer. Commissioner Pecos clarified Commissioner Laskowski's previous comments. Commissioner Wilson stated that because it is so advantageous to borrow the monies for less then it is going to cost the City maybe there is an opportunity to add a garbage truck or some other piece of property. City Manager Yerena provided information on two RFP's being considered for ambulance service and sanitation. He stated he was not ready to make a recommendation on Sanitation.

Ms Burger stated that the useful life of a garbage truck is different then a ladder truck. She stated is a mismatch. Commissioner Garcia stated that the presentation to the banks change when combining the two vehicles. Ms Burger commented that was an excellent question. She then explained a previous process used with the City of Kingsville.

There was discussion on adding more monies for garbage trucks.

For open meeting preference, Mayor Fugate asked about the wording of the agenda item. City Attorney Alvarez replied it was okay because of the wording with regard to personal property equipment. Mayor Fugate asked the City Manager about moving in this direction. City Manager Yerena stated staff does not have the comfort level to provide information of what they plan to do. He stated the RFP process was very time consuming.

Commissioner Wilson asked if the proposal could be in a two tier fashion. Ms Burger replied that local banks are very receptive and will respond to multiple scenarios. She stated there was a reimbursement resolution, which would allocate the amount to pay for the ladder truck and reimburse the general fund. Mayor Fugate stated the problem with that is that the City staff will not be ready to make a recommendation on Sanitation.

**Commissioner Wilson made a motion to authorize the City Manager to work with First Southwest Company on alternative debt instruments to purchase personal property to include the purchase of public safety equipment and other such vehicles or personal property that may be needed not to exceed \$1.2 million, seconded by Commissioner Pecos.** Mayor Fugate asked for clarification on the motion. Commissioner Wilson provided clarification, he stated he has formed the motion in such a fashion that the City has the capacity to purchase public safety equipment and such other personal property that would fit the criteria, garbage trucks, landfill equipment and other vehicles that the City may need. Mayor Fugate

stated he wanted to make sure the City is not obligating the City to the \$1.2 million. Ms Burger stated she will do a two tier bid, one for \$750,000 and the other for \$1.2 million, with information brought to them at the meeting on June 11<sup>th</sup>. Ms Burger stated it would be helpful to have a single term and asked for the term to be incorporated into the motion.

Commissioner Laskowski stated his recommendation would be not to exceed ten years for everything. Commissioner Wilson withdrew his motion, as did Commissioner Pecos. **Commissioner Wilson made a motion to authorize the City Manager to work with First Southwest Company in utilizing alternative debt instruments for the purchasing of personal property in a two tier, ten year system proposal, the first tier being \$770,000 and the second tier being \$1.2 million, seconded by Commissioner Pecos.** Mayor Fugate called for further discussion. Ms Burger suggested that this be done at \$770,000 or \$1.2 million and it is the expected intention of the Commission to except one or the other although the Commission reserves the right to reject both. **Commissioner Wilson amended his motion to include that language, seconded by Commissioner Pecos.** Mayor Fugate called for a roll-call vote. **The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

**9. Consider awarding bid for the purchase of one (1) fully equipped 100 foot ladder platform fire truck, contingent on obtaining financing. (Purchasing Director/Fire Chief).**

Ms Byington stated this item authorized the purchase of a fully equipped 100 foot ladder platform fire truck. This action will expend \$740,718.68. The purchase of this vehicle is contingent upon the city being able to obtain the necessary funding. It is recommended the lowest bidder be awarded this bid, Webb Apparatus of Texas, LLC. She added the Fire Chief and Fire Captain in charge of the fire suppression units have reviewed and are making this recommendation.

Mayor Fugate called for questions or comments. **Commissioner Wilson made a motion to accept Staff's recommendation, seconded by Commissioner Garcia and Commissioner Pecos.**

Mayor Fugate called for comments. Commissioner Laskowski asked about guarantees on the truck. Chief Lopez replied that the Webb Apparatus warranty on the body is for ten years and the waterways and seals warranty is also ten years. A Webb Apparatus representative provided information on the warranty, on Smeal truck the warranty is ten years, body is ten year, paint and warranty is seven years, and structure warranty is twenty years. He added that recommended service life is twenty years total. Commissioner Laskowski asked if the aerial was guaranteed for twenty years. The representative replied that was correct. Commissioner Garcia asked what structure meant. The representative replied the structure of the aerial apparatus is the complete ladder and platform.

City Attorney Alvarez clarified the motion stating that they were approving staff's recommendation contingent on the City obtaining the financing. **Commissioner Wilson stated he would amend the motion to include that language. Commissioner Garcia and Commissioner Pecos amended their seconds.**

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

**10. Consider authorizing the Fire Department to adopt the "Smoke Alarms in Every Home" program. (Fire Chief).**

Fire Chief Lopez stated this is a program sponsored by the Law Firm Wayne Wright. He stated 500 smoke alarms will be provided and the Fire Department will install them. The law firm will keep the fire department stocked. He stated there are no cost to the City and no contract.

Mayor Fugate called for questions or comments. Commissioner Laskowski asked about the City's liability. Fire Chief Lopez replied there is a release form that is signed by the citizen.

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

**11. Discuss and consider amendment to Article VII of the Interlocal Agreement between the City of Kingsville and Kleberg County relating to Parks and Recreation Department. (Commissioner Laskowski).**

Commissioner Laskowski stated that during a meeting with the County, there was discussion on helping the Parks department. It was discussed that the Park department is over using water and an additional \$16,000 would be allowed. The County at their meeting earlier today made a motion to table their agenda item on this subject because Ms Ivy, Park Director wants language inserted in this agreement that would give her some lateral movement as to where this equipment would be placed based on pre-approval. He added that Ms Ivy has come before this Commission to ask to use some of these monies at non-City parks. He stated that she would like this agreement to reflect that she could use the \$30,000 on pre-approved projects at any parks that needed it. He stated he did have a concerned with that, and that she had also brought up another item to Commissioner's Court and to him. He stated that under Exhibit 3 from the original agreement she would like to quit maintaining some of the sites that are listed on this Exhibit. He added this is Commission needs to come up with some type of direction as to what the intent is on this local agreement, whether the intent is to adopt with the proposed change in the language granting the \$16,000 of additional water and leaving every thing else as is. He added then they could tell Commissioner's Court this is what we decided and now it was up to them as to what they wanted to do.

Mayor Fugate called for questions or comments. Upon a question from Commissioner Pecos, Commissioner Laskowski provided an explanation of the areas that Ms Ivy would like to stop maintaining. Mayor Fugate stated that one reason in working with the County is not to duplicate the services. He stated the City might as well take the City's parks and the City's money back.

Commissioner Garcia asked for clarification on the amendment. Commissioner Laskowski stated all we are doing is amending Section IV.

**Commissioner Wilson made a motion to amend the Interlocal Agreement to increase the credit to the amount of \$46,000 as provided by staff, seconded by Commissioner Pecos.**

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

**12. Consider condemnation of structure located at 409 W Kenedy. (Litter Abatement Officer).**

There was discussion on the time to expedite this procedure.

Mayor Fugate called for a comments or questions. **Commissioner Laskowski made a motion to find that this property is unable to be repaired, the building or structure is unsafe, the present condition is a violation of ordinances and cannot be corrected with out substantial reconstruction and declare the building or structure to be a public nuisance and order it's demolition by the owner, agent or person in charge within 45 days, and if not the City shall abate it in any manner it deems necessary and proper, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".**

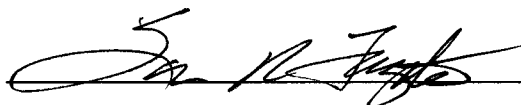
**13. Consider condemnation of structure located at 606 W Johnston. (Litter Abatement Officer).**

City Attorney Alvarez stated that the initial notice, the green card for the public hearing has not been returned. She stated that the City knows the party exists and that the City might wait until another meeting date. Mayor Fugate stated he has seen the house, and asked why the City wanted to wait. City Attorney Alvarez replied that the City wanted to make sure before proceeding that there is some indication that they have notice before the condemnation proceeds. Commissioner Pecos asked that this item come back to the Commission at the next meeting.

**Commissioner Wilson made a motion to table this item, until the May 29<sup>th</sup> meeting, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

**VI. Adjournment.**

There being no further business to come before the City Commission the meeting was adjourned at 8:12 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, City Secretary