

OCTOBER 27, 2008

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, OCTOBER 27, 2008 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, Commissioner
Arturo Pecos, Commissioner
Stanley Laskowski, Commissioner

CITY COMMISSION ABSENT:

Al Garcia, Mayor Pro-tem

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Dora Byington, Purchasing Director
Diana Gonzalez, Human Resource Director
Bill Donnell, Public Works Director
Yolanda Cadena, Health Director
Al Lopez, Fire Chief
Armando Gutierrez, City Engineer
Caron Vela, Accounts Manager
Susan Ivy, Parks Director
Rudy Najera, Systems Technician
James Creek, Firefighter
Dianne Leubert, Solid Waste Superintendent
Joe Casillas, Water Production Supervisor
John Garcia, Interim Risk Manager/Garage Superintendent
Ricardo Torres, Police Chief
Chris Sanchez, Equipment Operator III
Hector Polanco, Equipment Operator

I. Preliminary Proceedings.

OPEN MEETING

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

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 October 13, 2008. **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, Pecos, Wilson, Laskowski voting "FOR". Garcia "ABSENT".**

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

Mayor Fugate announced there were no public hearings.

III. Reports from Commission & Staff.²

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Convention and Visitor's Bureau, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment

Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration – Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Entrust Health Insurance Fund Presentation, Texas A&M University-Kingsville on improvement project. No formal action can be taken on these items at this time.”

City Manager Yerena reported on a successful “Trash-Off Day” and thanked all the volunteers. He announced the 6th Annual Haunted House and several events sponsored by the City on Halloween night. He announced the closure of City Hall on Tuesday, November 11th for Veterans Day holiday. He reported that Staff and the City Commission will be attending TML in San Antonio. He reported that the next Commission meeting will be held on Monday, November 24th due to the lack of quorum because several members of the Commission and Staff will be attending NLC in Orlando, Florida. He called for Mr. Gutierrez, City Engineer to update the Commission on several projects. Mr. Gutierrez touched on the Carriage Park project; he stated that the bid packages are being worked on and that the scope of the project has changed to installing the pipe underground. He stated that this will allow an extension of the pipe to Ailsie Street. He stated that the most significant factor causing the flooding in Carriage Park was the water of off Shelly Street. He further explained the pipe extensions and added that the project will come within budget. Regarding the street lights on University Blvd, Mr. Gutierrez stated all the foundations and piers have been set. He stated all lights should be turned on by the end of November. Mr. Gutierrez informed the Commission of a meeting with TXDOT regarding installing a blinking light at Caesar and Franklin Adams. Upon a question from Commissioner Laskowski, Mr. Gutierrez replied a traffic engineer will study the area.

City Manager Yerena called for Mr. Rick Medrano, Entrust Representative presentation. Mr. Medrano provided information of the plan year, plan analysis October 2007 through September 2008. The handout provided information on Aggregate Report, Paid Claims by Type, PPO Savings by Claim Type, PPO Utilization, paid claims by member type, Top 10 Providers, Year-End Plan Analysis Historical Review, Aggregate Claim Loss Ratio, Aggregate Claim History, Claim Utilization Trends, and PPO Savings Trends.

Commissioner Laskowski asked Mr. Medrano if in the future he foresaw raising contributions to cover losses based on trends. Mr. Medrano replied the City is trending well below expected. City Manager Yerena stated that this year the City had to absorb some of the cost.

Mayor Fugate presented a proclamation for “National Domestic Violence Awareness”.

Ms Alvarez, City Attorney reminded everyone this week is “Red Ribbon” week and that daylight savings starts this weekend.

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, Item #1. **Commissioner Laskowski made a motion to accept the Consent Agenda, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting “FOR”. Garcia “ABSENT”.**

V. Consent Agenda

1. Motion to approve awarding annual contract Bid No. 2009-11 for automotive parts to O’Reilly Auto Parts and AutoZone from Kingsville. The contract will expend approximately \$36,000.00. (Purchasing Director).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

2. ORDINANCE ORD2008-34 Consider final passage of an ordinance amending the Fiscal Year 2008-2009 Budget for the City of Kingsville to set up a General Fund Capital Projects Fund to come from Unrestricted General Fund Balance to be used on Capital Outlay and the Maintenance on Capital Outlay, to allocate funds from additional Municipal Court Fines for an alternate Municipal Court Judge, to accept a donation for Keep Kingsville Beautiful, and to budget the Tourism Fund. (Finance Director).

City Manager Yerena stated this is the final reading for this budget amendment. This ordinance provides for a transfer from the general fund to purchase a Sanitation vehicle, monies for the Fire Department, and money for Street and Bridge. This is also an amendment to the budget for court fines and donations.

Ms Vela provided information on a correction on the spread sheet stating that the sanitation vehicle is \$215,000, not \$240,000.

Mayor Fugate called for further comments or questions. **Commissioner Laskowski made a motion to adopt the final passage of this ordinance amending the Fiscal Year 2008-2009 Budget for the City of Kingsville to set up a General Fund Capital Projects Fund to come from Unrestricted General Fund Balance, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting "FOR". Garcia "ABSENT".**

3. Consider final plat of Replat of Lot 4 Wal-Mart Stores Subdivision, Kingsville Corners, LLC is the applicant. (City Engineer).

Mr. Gutierrez stated this property is located at the corner of South Brahma and General Cavazos. The owner subdivided the lots, and Planning and Zoning have reviewed the preliminary and final plat. He stated that Staff recommends approval.

Commissioner Laskowski questioned how AT&T received a Certificate of Occupancy with out providing landscaping. Mr. Gutierrez replied this will be addressed but they do have drainage problems.

Mayor Fugate called for enforcing the ordinance. Ms Alvarez stated this building could be made to comply. Commissioner Wilson stated this is a high profile corner that should be made to comply. Commissioner Laskowski expressed his concern and stated that the ordinances must be followed. Mr. Gutierrez stated a condition will be put on the second permit to make sure they comply with the ordinance. Mayor Fugate stated a Certificate of Occupancy should not be issued until they comply. Ms Alvarez stated a letter of compliance can be sent to AT&T.

Mayor Fugate called for questions or comments. **Commissioner Laskowski made a motion to approve the final plat and recommended that AT&T be made aware to comply with the City ordinance and that they be sent a letter notifying them of the ordinance.** Mayor Fugate questioned if the motion was outside the scope. Ms Alvarez replied these were two separate issues but Staff will get it done. **The motion was seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski voting "FOR". Wilson "AGAINST". Garcia "ABSENT".**

4. Discuss and consider Parks Department water trade fund balance, expenditures, and future plans. (Parks Director).

Ms. Susan Ivy, Parks Director reported on expenditures and projects. She stated that the landscaping at Kenedy Park was completed. She stated they have invested in sand for playgrounds pits, pentapost for Flato Park and landscaping timbers for Flato, Flores

and Thompson Parks. She stated a trailer for City park employees and a chainsaw have been purchased. Ms Ivy stated that bleachers for all three basketball courts have been purchased. She added that \$4,145.87 out of \$5,250 will be credited to the \$20,000 per year commitment from the City. She further provided information on 2008/2009 Projects. There was lengthy discussion on the future project at the baseball fields.

5. Discuss and consider request to lease purchase a ford truck and mower for the Parks Department to be used at the parks within the City limits. (Parks Director).

Ms. Susan Ivy, Parks Director asked to table this item for reconsideration a later time. She stated the funds available are not sufficient to do this at this time and added that all monies from the water trade would be expended if this was approved. Mayor Fugate suggested Ms Ivy look around for a better deal on a truck. Commissioner Pecos suggested asking the Task Force for a vehicle to be used at the Park department. Mayor Fugate stated the Sheriff's Department might be able to provide a vehicle. Commissioner Laskowski suggested adding this equipment to the new debt instrument being considered in a later agenda item. He stated that there is \$100,000 in the Unrestrictive Reserves which could be used and refund after monies are received. He stated that if for any reason at any time that the County and City split that operation the equipment remains the property of the City.

No Action Taken

6. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV; providing for amendment to Section 15-3-50 pertaining to the type and height of curbs. (City Engineer).

Mr. Gutierrez stated presently the City ordinance calls for a curb that is 4 inches high and a vehicle can easily go over it. He stated that a standard curb is 2 inches higher. He stated that the rollover curb encourages vehicles to drive up on a property. He stated that lately the emphasis is to prevent vehicles on yards and this would coincide with what Staff has been asking. Commissioner Laskowski commented that those types of curbs have a tendency to have an impact on your tires if you park too close. Mr. Gutierrez stated he has been requiring the 6 inch curb which is required all over the State.

INTRODUCTION ONLY

7. RESOLUTION R2008-25 Consider resolution providing for the adoption of a revised travel policy 2.1 for the City of Kingsville, providing for an increase in the per diem for meals. (City Manager).

City Manager Yerena stated that looking back; changes have not been made since 1992. Employees would be provided with an adequate per diem. He stated this is in line with what some of the other communities are allowing. He stated that the base rate is \$39.00, if the GSA uses a higher per diem than that rate will be used. Staff will be required to print off a copy of the GSA listing showing the higher rate for the city they will be traveling to and submit that print off with their travel request.

Commissioner Pecos made a motion to approve an increase in the per diem for meals, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Laskowski, Wilson, Pecos voting "FOR". Garcia "ABSENT".

8. Discuss and consider joining the Electric Reliability Council of Texas ("ERCOT") for 2009. (City Attorney).

Ms Alvarez stated the law firm that represents the City in all electric utility matters sent out a memorandum discussing some pending litigation that the deadline to join the Electric Reliability Council of Texas ("ERCOT") is November 7th, 2008. She stated that she had discussed this with the City Manager. She stated that the firm recommends this because the more Cities that have a voice in ("ERCOT") the more opportunity they have to have a voice in policy making boards. Ms Alvarez stated that the membership fee is \$100.00.

Commissioner Laskowski made a motion to approve joining the Electric Reliability Council of Texas ("ERCOT") for 2009, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting "FOR". Garcia "ABSENT".

9. Consider re-allocation of the monies remaining from the 2007 PPFCO for Sanitation Department equipment. (Public Works Director).

Mr. Donnell provided information on the proposed product to be purchased, the side loader. He stated several pieces of equipment will be replaced, a welder, a grapple, brush tractor, forklift, scraper, and dozer. Mr. Donnell provided extensive information on the roll-off truck and side loader truck. Mr. John Davis, Heil of Texas explained the design of the Sanitation truck. Mr. Donnell stated this truck will increase productivity will cut down on man hours, and some of the items will be revenue generators.

City Manager Yerena stated it is the City's intent to move forward with the purchase of the vehicles. Commissioner Laskowski stated he would not suggest what equipment is needed, but if it doesn't work, it is not his fault. He stated he has put out as much as he can to see if Staff has done their due diligence and that the City is getting the best for the taxpayers' dollars that will service for a long time. He added that just because a couple of weeks ago he demanded that something be done, the City is not in that much of a hurry and that a couple of more weeks could be taken to make phone calls to talk to some folks to see how some of the equipment works. Ms Alvarez stated that on the handout there is roughly seven items earmarked for this agenda item.

Mayor Fugate called for questions or comments. Commissioner Laskowski stated there is only three items listed under the PPFCO 2007. There was lengthy discussion on purchasing both a grapppler and brush tractor.

Mayor Fugate called for further questions or comments. Commissioner Pecos made a motion to consider reallocation of the monies remaining from the 2007 PPFCO for Sanitation Department equipment which will include the roll-out containers, the brush tractor, and the side loader truck, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos voting "FOR". Laskowski "AGAINST". Garcia "ABSENT".

10. RESOLUTION R2008-26 Consider resolution declaring intention to reimburse certain expenditures with borrowing proceeds. (Finance Director).

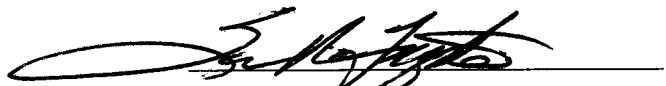
Ms Ann Burger Entrekin, First Southwest Company addressed the Commission and provided a quick market update, information on the Fall 2008 Financial Crisis, the "Bond Buyer's" index of 20 Municipal bonds, the AAA Municipal Yield Curve, and the BBI, Fed Funds, and SIFMA. She explained the reimbursement resolution that fulfills the IRS requirement. She stated the City is in need for funds for the landfill enhancements, development of a new cell at the landfill, equipment for the Solid Waste Department, and other general needs equipment. She added that Certificates of Obligation are usually not sold in October, November, or December. She added that some recommendations are to put this in place, and look in the first quarter of 2009 to reimburse. She added that the City does not have to reimburse them selves. She provided information on two different scenarios, Level Debt Service and Deferred Debt Service. Commissioner Laskowski stated this is assuming all debts will be reimbursed with tax. He voiced his

concern about continuing to issue debt that is subject to repayment with tax revenues. He added that this puts the City in a spot because garbage rates need to be raised to pay for some of this. He added that he doesn't know how some of this can be structured to show that part paid from the tax rate and the balance is paid for from revenue from the Solid Waste division. Finally, Commissioner Laskowski stated that this needs to pay for itself or the City needs to get out of the business. Ms Entrekin stated that was an excellent point. She stated that the rating agency like to see to the extent possible that the enterprise fund self supporting. She stated that to the extent that they can work with Staff to identify if there are surplus Solid Waste dollars that can be diverted to use to pay this debt service. She added this will show a corresponding reduction on the tax rate. Mayor Fugate stated that was a good point. Mayor Fugate called for further comments.

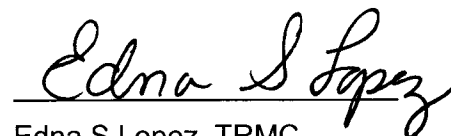
Commissioner Laskowski a motion to adopt the resolution declaring intention to reimburse certain expenditures with borrowing proceeds, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Laskowski voting "FOR". Garcia "ABSENT".

VI. Adjournment.

There being no further business to come before the City Commission the meeting was adjourned at 8:19 PM.


Sam R Fugate, Mayor

ATTEST:


Edna S Lopez, TRMC
City Secretary