

**AUGUST 25, 2008**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, AUGUST 25, 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  
Al Garcia, Mayor Pro-tem  
Charles E Wilson, Commissioner  
Arturo Pecos, Commissioner  
Stanley Laskowski, Commissioner

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
Edna S Lopez, City Secretary  
Courtney Alvarez, City Attorney  
Mark Rushing, Finance Director  
Rudy Najera, System Technician  
Armando Gutierrez, City Engineer  
Dora Byington, Purchasing Director  
Yolanda Cadena, Health Director  
Ricardo Torres, Police Chief  
Bill Donnell, Public Works Director  
Eddie Cruz, Task Force Agent  
Al Lopez, Fire Chief  
Diana Gonzalez, Human Resource Director  
Dianne Leubert, Solid Waste Superintendent  
Grace Garcia, Task Force Asst. Commander  
Tamera Blackstock, Sergeant  
Joe Casillas, Sergeant

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the 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 August 11<sup>th</sup>, 2008. Commissioner Pecos made a motion to approve, seconded by Commissioner Laskowski. The motion was approved by the following vote: Wilson, Laskowski, Pecos voting "FOR". Fugate, Garcia "ABSTAINED".

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

Mayor Fugate announced there were no public hearings.

**III. Reports from Commission & Staff.<sup>2</sup>**

*"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. No formal action can be taken on these items at this time."*

City Manager Yerena provided some on information regarding a STAP meeting; and on a trip to San Antonio, Texas to discuss JLUS issues. He asked Fire Chief Lopez to brief the Commission on the Fire Department's Explorer program. Chief Lopez addressed the Commission and stated that the Fire Department started the Explorer program in November 2007. He stated there are eighteen members in the program. He announced that the department has just hired the first Explorer, Mr. Augustine Moreno to become a firefighter. Upon a question from Mayor Fugate, Chief Lopez stated the ladder truck will be delivered in September. City Manager Yerena asked that Mr. Eddie Cruz, Task Force Agent provided information on the proposed Explorer program. Mr. Cruz stated the Task Force would like to start an Explorer program so that they may promote their department to the community. He stated that the Explorer program would help the youth in our community.

City Manager Yerena reported on the closing of City Hall on Monday, September 1<sup>st</sup> in observance of Labor Day; on the schedule for the 4<sup>th</sup> Annual Family Day Picnic; on the schedule for open enrollment for Dental insurance, and on the Staff working on budget.

Mr. Hal Ham, Director Conner Museum addressed the Commission. Mr. Ham provided information on a major event that is happening at the Museum. He stated that the Chancellor of the A&M University System has mandated a huge remodeling effort at the University. They will be demolishing many building and among these buildings will be Baugh Hall. He stated the Baugh Hall houses most of the artifact collection of the Museum as well as the Hall of Horns exhibit. Demolition is scheduled for April 1, 2009. He stated that due to all the activities going on, the Museum will not hold the Ranching Heritage event. Mr. Ham stated that part of the monies from the hotel/motel tax will used to remodel the east gallery to move the Hall of Horns. He stated that the projected budget for the previous year was estimated at \$41,000. Actual income totaled \$55,203.08. This difference of \$14,203 was an unexpected boost to the account that will be utilized in the coming year to assist with the costs associated with the moving and remodeling expenses.

Ms Alvarez reported on having to comply with budget legislative changes that occurred last year. She stated there will be two public hearings for the tax rate on September 8<sup>th</sup> and 15<sup>th</sup>, in the Alcorn Commission Chambers at 6:00 P.M., and a meeting to vote on the tax rate on September 22<sup>nd</sup>. She stated that there will be several introductions of ordinances at the next meeting of September 8<sup>th</sup>. She stated the ordinances for the tax rate and budget will be included at that meeting.

Commissioner Garcia thanked Staff for the flowers and prayers during the loss of his father. He reported that he attended a presentation by Mr. Wong which was presented to KISD personnel. He appealed to the parents of the community to get involved in their child's education. He stated this is important because of the recent population shift within the city; the school district is losing about 100 students per year. He stated these children are our future. Mayor Fugate stated he also attended the same meeting and that he concurs with Commissioner Garcia that the program being looked at by the District is a good one. Mayor Fugate commended the Police Department on solving a murder case and a robbery within the last week. He stated he is concerned about the appearance of the City's sidewalks, high grass, and junked cars. He stated everyone has to be engaged in this effort, and the Police Department will help.

#### **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.

**Mayor Fugate called for consideration of the Items in the Consent Agenda Items 1-3. Commissioner Wilson made a motion to adopt the Consent Agenda, as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

#### **V. Consent Agenda Notice to the Public**

1. Motion authorizing 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, 2008. (City Manager).
2. Motion authorizing 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, 2008. (City Manager).
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. (Task Force Commander).

## REGULAR AGENDA

### CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

#### VI. Items for consideration by Commissioners.<sup>4</sup>

4. Consider removing from the table approval of modification to City Manager's compensation. (Mayor Fugate).

Mayor Fugate called for a motion to remove Item #4 from the table. Commissioner Pecos 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, Wilson, Laskowski, Garcia, Pecos voting "FOR".

5. Consider approval of modification to City Manager's compensation. (Mayor Fugate).

Mayor Fugate stated that he asked that this item be placed on the agenda because the City Manager's compensation has gotten really close to the City Attorney and City Engineer earn. City Manager Yerena stated there is only a couple of hundred of dollars difference from what the City Attorney is being compensated. He stated that the Finance Director has agreed that there are enough monies to absorb the additional cost for the remainder of the year. Ms Gonzalez stated that current City Manager's salary is \$85,696, and the current rate for the City Attorney is \$84,468.87. Upon a question from Mayor Fugate, Ms Gonzales replied that the City Attorney received \$7,200 raise, which is \$100 above the City Engineer's salary. Ms Gonzalez stated that the proposed additional salary for the City Manager was \$7,300 per year increase. City Manager Yerena stated the amount needed to finish the year would be approximately \$1,500. Upon a question from Mayor Fugate, City Manager Yerena replied the City Attorney was given a \$7,200 raise which was prorated. Commissioner Pecos stated that at the last meeting it was discussed to give the City Manager a raise of \$7,300 which would be prorated.

Mayor Fugate called for questions or comments.

Commissioner Pecos made a motion to approve the modification to the City Manager's compensation of \$7,300 increase in salary annually, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia voting "FOR". Wilson, Laskowski voting "AGAINST".

6. Consider removing from the table approving the final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies, providing for the fiscal year 2007-2008 employee compensation plan. (Human Resource Director).

Mayor Fugate called for a motion to remove Item #6 from the table. Commissioner Wilson made a motion to remove item from the table, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

**7. ORDINANCE ORD2008-23 Consider approving the final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies, providing for the fiscal year 2007-2008 employee compensation plan. (Human Resource Director).**

Ms Gonzalez stated that due to changes approved, the City Attorney's salary cap is \$85,000, and the new cap for the City Manager Yerena is now \$93,550 this ordinance will bring their salary between \$500 to \$550 from their current rate and the cap.

**Commissioner Wilson made a motion to approve the final passage of the Ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies providing for the fiscal year 2007-2008 employee compensation plan, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

**8. Consider awarding bid for annual contracts to three companies for road materials. (Purchasing Director).**

Ms Byington stated this item authorizes awarding annual contracts to three firms for road materials, Vulcan Materials, R. Loera Trucking, and Bay, LTD. Each bidder recommended for the award submitted the only bid for that particular product. This action will cost approximately \$344,000.00 and will come from account 001-5-305.0521.00.

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

**9. Discuss and consider amendment to Article V of the Contract between the City of Kingsville and Kleberg County relating to the jail. (City Attorney).**

Ms Alvarez stated this contract amendment was rescinded by the Commission on May 19<sup>th</sup>, 2008. The contract amendment has been on the table since October 8<sup>th</sup>, 2007. She stated that this week the City received a copy of the jail contract amendment that the County had approved at their last meeting. She stated this amended contract is a lot closer in things that had been presented to them in October 2007. She stated that the space is still set at 10 beds available daily, the dollar amount proposed has increased from \$35.00 to \$45.00 per day per bed. She stated this contract is different in the sense that if the City goes over 10 prisoners each day the City will be charged \$45.00 per day per bed rate for each additional prisoners over the 10 guaranteed. She stated that the contract also states that the billing will be retroactive to October 1<sup>st</sup>, 2007. She stated a clarification issue was presented. She stated that the monies that were originally budgeted for the beds at the beginning of the budget year were \$45.00. She stated she is not sure if monies are still available. Mayor Fugate stated this year has passed. Commissioner Garcia voiced his concern that the contract does not have provisions for credit if beds are not used. Ms Alvarez stated that was a term that the City locked itself in to, but can be negotiated when the contract comes up for renewable. Mayor Fugate stated that with the change of charging for additional beds that contract is being modified.

Commissioner Wilson stated this Commission acted prudently and in a timely manner to make sure the County had opportunity to take advantage of an increased fee for the City's daily bed use and they chose not to take advantage of that. He stated that he does not know why the City should be penalized for their inaction. He added that he would hope that the City not consider retroactive action to this contract. Mayor Fugate stated this could not be done anyway, because the way the language is written. Commissioner Wilson stated that it is inappropriate for the County to act in such a fashion to ask for that, especially since this Commission acted with promptness and due diligence at every opportunity. He stated that he would entertain the \$45.00 per bed per day for 10 beds because this is contractually the way the City can amend the contract.

**Commissioner Wilson made a motion not to accept the contract amendments provided by County, seconded by Commissioner Garcia.**

Upon a question from Commissioner Laskowski, Ms Alvarez provided information on what the Commission can do if the City and County do not come to an agreement on this proposal.

Commissioner Wilson called for the question to stop discussion. Mayor Fugate called for roll-call vote. **The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, Wilson voting "FOR".**

**Commissioner Wilson made a motion to strike last two sentences "Ten (10) bed space will be available daily and if that number exceeds ten (10) beds, an additional charge will be added to the monthly fee; and Payment of \$45.00 per bed per day for housing said prisoners shall be retroactive to October 1<sup>st</sup>, 2007; and add effective today, August 25<sup>th</sup> 2008, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".**

**10. Discuss and consider South Texas Water Authority letter to City regarding storage and pump facilities at Sage Road and related matters. (City Attorney).**

Ms Alvarez stated that a letter was received requesting the City's intention with regard to a 5 million gallon storage tank. She stated that the Commission took action to keep that size tank, and since the time of the Commission's response the Authority received a final report from their engineers, HDR Engineers. She stated that their Engineers have suggested downsizing the tank even further than originally suggested. She stated that they are also suggesting that the three pumps located at the Sage Road facility be downsized. Ms Alvarez stated that the Board president advised the City of the changes being considered. She stated that the Authority would like to renew the contract, discuss amendments to existing contract, and to meet to discuss the future of the 5 million gallon storage tank. She stated that since the last discussion on this subject the downsizing has gone down even more. She stated on the Authority's part there appears to be some interest to talk about some things that they might need to potentially have renegotiated under the current contract. Ms Alvarez stated this has lead to item #11 which is to appoint a negotiating team. She stated that Staff is not in a position to negotiate or give recommendations on the tank and pump sizing.

Mayor Fugate called for questions or comments. Commissioner Laskowski stated there is some sense of urgency on their part to determine what is going to happen because they want to resolve the issue with regard to capacity and they need to refurbish or tear it down. Ms Alvarez stated that Staff should be ready to respond in September. Commissioner Laskowski stated the City is at a disadvantage because the Authority hired someone to do an analysis of what they believe the City needs as far as water goes.

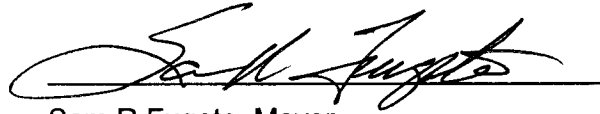
He added that the City needs to get someone from outside to look at the City's needs. Mayor Fugate stated that Staff has direction to get someone to look at this from the City's perspective. He added that the City has two years for a contract, a contract is in place and it does not need to be amended.

**11. Consider appointing members to the negotiating team for South Texas Water Authority (STWA) water supply contract. (City Attorney).**

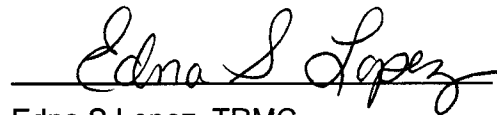
Mayor Fugate stated there is plenty of time for this and does not want to send false signal that the City is ready to negotiate.

**VI. Adjournment.**

There being no further business to come before the City Commission the meeting was adjourned at 7:18 P.M.

  
Sam R Fugate, Mayor

ATTEST:

  
Edna S Lopez, TRMC  
City Secretary