

FEBRUARY 23, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, FEBRUARY 23, 2009 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
Yolanda Cadena, Health Director
Frank Garcia, Wastewater Supervisor
Dora Byington, Purchasing Director
Jennifer Vela, Code Enforcement Officer
Al Lopez, Fire Chief
Dianne Luebert, Solid Waste Superintendent
Mark Rushing, Finance Director
Bill Donnell, Int. Planning Director/Public Works Director
Diana Gonzales, Human Resource Director
Ricardo Torres, Police Chief
Joe Casillas, Water Production Supervisor
John Garcia, Int. Risk Manager/Garage Superintendent

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 February 9th, 2009. **Commissioner Pecos made a motion to approve the minutes, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR".**

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

1. Public Hearing for an alcohol variance application for the PAZ Lounge located at 806 N Armstrong. (City Secretary).

Mayor Fugate opened the public hearing at 6:02 P.M., and announced that anyone wishing to speak on this subject could do so by approaching the podium and speaking for five minutes.

Mr. Paul Treptow, 724 W Nettie, spoke in opposition of a lounge in that area.

Ms Dianne Leubert, 715 W Nettie, spoke in opposition of a lounge in that area.

Ms Michelle Cervantes, 4401 Masters Drive, representing her husband, Mr. Mike Cervantes director of the Baptist Ministry, spoke in opposition of a bar in that location.

Mr. David Standish, 1726 Santa Cecilia, spoke in opposition of a bar at that location.

Mr. Steve Kauf, 708 Aurora, Bishop, Texas, spoke in opposition of granting a liquor license to a business across the street from the University.

Mr. Robert Hatfield, 228 E Fordyce, spoke in opposition of a bar at that location.

Mr. Raul Medina, 715 W Nettie, presented a petition in opposition of variance.

Mr. Michael Pendleton, 312 N Pasadena, variance applicant, explained the location use, not proposing establishment for college students but for more responsible business people. He further explained the concept. He submitted a petition with signatures in favor.

Mr. Frank Williams, Ricardo, Texas, member of University Baptist Church, spoke in opposition of variance for lounge.

Ms Karen Galenzoga, 1122 E Ailsie, spoke in favor of the PAZ Lounge.

Mr. Eli Delacruz, 1209 W Santa Gertrudis, spoke against the idea of allowing parking at the university.

Mr. John Salazar, 622 E Ella, spoke in opposition of the variance.

Mr. Johnny Cantu, 725 W Henrietta, spoke in favor stating this will be something nice for Kingsville.

The public hearing was closed at 6:21 P.M.

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, Wastewater I & I Study, Presentation by Texas A&M University-Kingsville Department of Agronomics on a proposed beautification project at 6th and Yoakum Street. No formal action can be taken on these items at this time."

City Manager Yerena made a presentation to Commissioner Garcia and Commissioner Pecos for participating in Habitat in Humanity in New Orleans in 2007. Commissioner Garcia explained the photo was taken in the 9th Ward, a place that was devastated by Hurricane Katrina.

Mayor Fugate presented retired employee, Ms Yolanda Vasquez with a watch and plaque for her 44 years of service to the City; and a plaque was presented to the National Guard members for their great service to the City during the KWOP program. He also announced that Media Day will be held tomorrow which will highlight the demolition of the National Guard's 1000 structure.

City Manager Yerena provided an update on the demolished structures. He called for the City's Consulting Engineer Juan Pimentel to address the Commission. Mr. Pimentel provided a brief update on the I & I Study and on Water Well #24.

Commissioner Laskowski announced that Ms Kate Simpson would address the City Commission. Ms Simpson stated a beautification grant was received and competition held in her class at Texas A&M University-Kingsville. She announced the student winner was Ms Kayla Box. Ms Box addressed the Commission and explained the design stating it is a star shape design; she stated concrete from old detective station and brick from old police station will be used in the project and provided information on the type of flowers/plants that will be used.

Mayor Fugate called for questions. Commissioner Pecos asked if benches will be made available. Ms Box replied not at this time, but another class will be working on that project.

City Manager Yerena reported that the Women's Club has requested to get some bricks from the old Police Department. He announced that the Fire Chief would provide information on the fire that occurred on East Nettie. Fire Chief Lopez addressed the Commission and explained that it is important for the Commission and City Manager to understand how the fire department operates during a fire. He stated the fire attack on Nettie Street went just as how they are set up. He stated mutual aid was received from the County and NAS. Upon arrival, three structures were burning, natural gas was involved which was fueling the fire. He stated in his opinion the department did a good job. The ladder truck was utilized and operated by the on

scene personnel. Eleven paid fire fighters, 3 volunteer fire fighters, 4 NAS members, and 4 County members were at the scene. He stated he was very proud of his fire fighters. Commissioner Pecos asked for the cause of the fire. Chief Lopez replied it is still under investigation by the Fire Marshal and would rather not comment until the report is finalized which should be in about 3-5 days. Chief Lopez said that the first caller stated that it was a power line burning.

Commissioner Laskowski expressed gratitude to all Firefighters for a job well done.

Ms Alvarez reported on working with the University on the signage interlocal agreement; on working with Ricardo Water Supply; and working on several items with Staff and Health Director on animal control issues.

Commissioner Pecos thanked the City Manager and Staff for cleaning the creek on Sage Road. Commissioner Garcia thanked the City Manager and City Crew for their prompt response to the issue at Tranquitas Creek.

IV. Public Comment on Agenda Items³

1. Comments on all agenda and non-agenda items.

Mayor Fugate called for comments on all agenda and non-agenda items. There were no comments made.

Mayor Fugate announced there were no items in the Consent Agenda.

V. Consent Agenda

NONE

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. Consider approval of alcohol variance for PAZ Lounge located at 806 N Armstrong. (City Secretary).

City Secretary Lopez stated this establishment is requesting a variance for a Mixed Beverage and Mixed Beverage Late Hours Permit. She stated that letters were mailed out and one letter noting strong objection and eight comments sheets noting opposition of an approval for a variance was received. Ms Lopez stated that at the public hearing ten people spoke in opposition, and three in favor of the variance. There were also two petitions presented, one in opposition and one in favor.

Commissioner Garcia commented that there are several stores that sale beer within the same area. He stated that it is hypocritical that the University holds a beer license and sales beer on campus. He stated that businesses are needed in the City and that he hates to hamper entrepreneurship because he is one, himself. He stated he was only voicing his opinion. Mayor Fugate stated that he is concerned about the lack of parking in the area. Dr. Pendleton approached the podium at the Mayor's request. He stated that he has not approached the owner of a vacant lot to lease for parking. He stated that one person will be employed to address any problems or concerns from citizens. Dr. Pendleton stated that they are very vigilant about the parking and will talk to the University about leasing some property for parking. He stated that this will be a private club, where you must purchase a membership

Mayor Fugate asked about the parking requirements. Ms Alvarez stated Chapter 15 regulates the parking for the different types of business. She explained the formula for the parking requirements. Ms Alvarez stated the handicap parking would have to be on site and the sixteen spaces adjacent to the facility. Commissioner Garcia asked what

the requirements for the former tenant were. Ms Alvarez stated without the sixteen parking spaces they can't give them a Certificate of Occupancy. Chief Lopez explained the procedure for the issuance of the CO for his department.

Mayor Fugate called for further questions or comments. **Commissioner Garcia made a motion to consider the approval of the variance for 806 N Armstrong pending parking requirements, seconded by Commissioner Pecos. The motion failed by the following vote: Garcia, Pecos voting "FOR". Fugate, Laskowski voting "AGAINST". Wilson "ABSTAINED".**

2. Consider reappointing Ms Carol Ann Anderson to the Historical Development Board. (Interim Planning Director/Public Works Director).

Mr. Donnell stated that currently two board members are needed, at this time if approved, Ms Anderson will be reappointed for the remainder of the unexpired term. Ms Anderson's term expired in September 2007 and has been holding over. He asked that Ms Anderson be reappointed to the Board, and that her term would extend until October 2010.

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

3. RESOLUTION R 2009-05 Consider resolution authorizing the City Manager to enter into an Interlocal Agreement between the City of Kingsville and Texas A&M University-Kingsville relating to signage in right-of-way at Santa Rosa Drive and at Richard Avenue and right-of-way islands on Santa Gertrudis Avenue. (City Attorney).

Ms Alvarez stated that in the Summer 2008, the City and the University starting working on the beautification plan. She stated that an interlocal for beautification along the right-of-way island and changing out light fixtures on University Blvd was the beginning of the project. In October 2008, another interlocal was signed adding a sign at the corner of University Blvd and King and to do some beautifications along the islands on Santa Gertrudis. She stated this interlocal deals with three additional signs to be installed around the university area and city right-of-ways which will not interfere or impede traffic. Ms Alvarez stated the signs are still subject to the Engineering Department's approval permitting process.

Mayor Fugate called for questions or comments. **Commissioner Garcia made a motion to enter into Interlocal Agreement, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Wilson voting "FOR". Wilson "ABSTAINED".**

4. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinance by amending Chapter VII, Article 6, Schedule II, Providing for parking on the northernmost side of Santa Gertrudis Avenue lying anywhere between its intersection with University Blvd and its intersection with Santa Monica Street. (City Attorney).

Ms Alvarez stated that at recent discussions in February with the University, a request was submitted for parking restrictions to be lifted. She stated this would be in the section described above. She added this was due to the change in the parking on the University, currently, and due to the reduced speed limit. Ms Alvarez stated vehicles would be allowed to park on the north side of Santa Gertrudis Street.

INTRODUCTION ONLY

5. Consider resolution authorizing the City Manager to enter into a Joint Use Agreement between the City of Kingsville and the Ricardo Water Supply Corporation, and authorizing the Ricardo Water Supply Corporation to use certain rights-of-way and easements for a water transmission pipeline and improvements. (Interim Planning Director/Public Works Director).

Mr. Donnell stated a request was received to obtain an easement to acquire an easement from two property owners. He stated the City has an existing easement and Ricardo Water Supply is asking for 1300 ft along the Camarillo and Hubert properties. He stated there are a 30 ft utility easement for the electrical and a 30 ft utility easement for a current waterline.

Mayor Fugate stated that Mr. Mayorga, Water Supervisor had a concern about a future rupture. Commissioner Laskowski stated that the direct quote from Mr. Mayorga was "that if our water line in that easement were to rupture, that it would make a hole the size of this council chambers". Commissioner Laskowski stated this caused some concern for him. He stated he wants to work with our neighbors but needs to know the size of the pipe. Mr. Donnell stated they are laying a 12 inch pipe and they were requesting 15 ft of the City's utility easement, but it has been narrowed down to 7 ½ so this would take them further away from the City's water line. He stated that in the agreement, if their line was to damage any part of the City's they would be responsible. He added that in the meantime, when that call comes in, the City will have to deal with it. Commissioner Laskowski stated that our 20 inch line services the NAS. Mr. Donnell stated the lines would run parallel, 10 feet away from each other. Mayor Fugate stated everyone wants to be a good neighbor but he does have a concern. Mr. Donnell stated the property owners are reluctant to give up that easement. Mr. Camarillo would have to relocate his business and Mr. Hubert doesn't want some trees knocked down because of privacy issue with his neighbors. Mayor Fugate stated this has no advantages to the Citizens of Kingsville and he stated he feels for the Ricardo residents but he does not represent them.

Mayor Fugate called for a motion. No motion was made.

Item died for lack of motion.

6. Discuss and consider approval of the proposed beautification project at 6th and Yoakum Street. (Commissioner Laskowski).

Commissioner Garcia made a motion to approve this beautification project, seconded by Commissioner Pecos. Commissioner Laskowski explained the irrigation plan. He stated that four groups from the University will do an Adopt-A-Spot agreement with the City on that property. Each organization will be responsible for working at the site once a month.

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

7. Discuss and consider maintenance of landscaping in the right-of-ways along US 77 at Corral and Santa Gertrudis. (City Manager).

City Manager Yerena stated he met with Mr. Chris Caron, from TXDOT and at that meeting, Mr. Caron asked if the City would like to keep the trees and to maintain the right-of-ways along the US 77 at Corral and Santa Gertrudis. If the City decides not to keep the trees or plant, then TXDOT can just mow the area. Commissioner Laskowski stated that some people from Keep Kingsville Beautiful were interested in doing an Adopt-a-Spot at the intersection of Corral and 77. He stated that he contacted Mr. Caron, and was told that was a Zero Escape project and that they were going to hire professionals to take care of that property. He stated all the trees have died. City Manager Yerena stated that it was mentioned that there was a two year agreement with

TAMUK and that agreement had lapsed so they did not want to maintain those trees. City Manager Yerena stated the City would have to maintain the trees and mowing the grass. He stated that the City does not have the expertise or the manpower. Mayor Fugate stated it would be a good idea for the City to have someone on Staff with that expertise. City Manager Yerena complimented the Street Crew for their job. He stated this would be out of the ordinary for the crews to do. Commissioner Laskowski asked if other Cities are asked to maintain the right-of-ways. City Manager Yerena replied typically it is TXDOT that does the work. Commissioner Laskowski stated the City has enough on it plates inside the City Limits.

Mayor Fugate suggested passing this item until further notice.

POSTPONED

8. ORDINANCE ORD2009-04 Consider final passage of an ordinance renaming Second Street as Second Street/Martin Luther King Jr. Street. (Mayor Fugate).

Mayor Fugate stated Commissioner Laskowski suggested not renaming but adding the name, Martin Luther King, Jr. Commissioner Pecos stated the name of Second Street should be omitted at a later date. Mayor Fugate stated by doing this it takes the argument out, because people were objecting because of cost for changing documents. Commissioner Wilson explained that citizens will receive mail using either name.

Upon request from Commissioner Garcia, Mr. Woodrow stated a request was presented from several people. He stated that they feel that this should be a temporary fix and later Second Street should be removed.

Commissioner Wilson stated the City is obligated to notify all residents and businesses on Second Street that this will take place and assign a date. Residents and businesses will be allowed to use both names and will receive mail under both names.

Commissioner Wilson made a motion to name the public streets and highways formerly known as Second Street from South of Lemonwood Street to its intersection with Corral Avenue and name it Second Street/Martin Luther King, Jr. Street, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, Wilson voting "FOR".

9. RESOLUTION R2009-06 Consider resolution of the City of Kingsville City Commission in opposition to a Mechanical Engineering Program at Texas A&M University-Corpus Christi. (Mayor Fugate).

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

10. RESOLUTION R2009-07 Consider resolution of the City of Kingsville authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Palmer Drug Abuse Program (PDAP). (Police Chief).

Mayor Fugate announced Items #10 & 11 would be taken together.

Police Chief Torres provided a handout with recap information on the Federal Drug Fund. He stated that the Palmer Drug Abuse Program is a tax exempt organization totally dependent upon support from individuals, corporations, and private foundations of our community. They do a great job and asked for the release of \$5,000.00 from each entity.

Commissioner Laskowski made a motion to authorize the resolution releasing \$5,000.00 of Chapter 59 money from the Kingsville Police Department and the Kingsville Specialized Crimes and Narcotics Task Force for the Palmer Drug Abuse Program, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

11. RESOLUTION R2009-08 Consider resolution of the City of Kingsville authorizing the release of Chapter 59 Funds of the Kingsville Specialized Crimes and Narcotics Task Force for donation to the Palmer Drug Abuse Program (PDAP). (Task Force Commander).

12. ORDINANCE ORD2009-05 Consider final passage of an ordinance abandoning an undeveloped street right of way on certain portions of West Kenedy Avenue and West Henrietta Avenue, while retaining the North 20 feet as a utility easement on West Kenedy, in Block 9 of the Kleberg Town and Improvement Company (KT&I) Subdivision. (Interim Planning Director/Public Works Director).

Mr. Donnell stated that during the introduction West Johnston was included, but after meeting with the surveyor, West Johnston does not extent through Lots 12 & 13. The request would be the west portion of Henrietta and west portion of Kenedy Street, and to retain 20 ft easement on north side of Kenedy Street for the overhead power lines and phone line that currently run through there.

Mayor Fugate called for questions or comments. Commissioner Wilson asked for an explanation. Mayor Fugate provided an explanation stating this property is on the Armstrong Ranch. He stated that the fourth and fifth generation children of the ranch are having problems finding places to stay on the ranch. He stated it is his understanding that, potentially Mr. Armstrong will develop a subdivision which will give the City some tax base. Mayor Fugate stated that they own both sides of the right-of-ways and if they choose not develop them, the City will not be able to utilize them. Ms Alvarez stated a representative contacted the City with regard to having this action taken. She stated that if they do develop the land, it will only be sold to family members.

Commissioner Garcia called for further clarification. Mr. Donnell stated the current right-of-way is 60 ft. Mayor Fugate stated this affects Lots 5 & 12 of the two lots, Kenedy and Henrietta. He stated no drainage or easements will be given up.

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

13. Consider awarding bid No.2009-21 for four residential garbage trucks and two commercial garbage trucks. (Purchasing Director).

Ms Byington stated this item authorizes the purchase of four residential garbage trucks and two commercial garbage trucks, one with a grab arm to also handle 95-96 garbage carts. Staff recommends awarding bid to Corpus Christi Freightliner, for \$1,140,648.00. Delivery will be made within 150 days of receipt of purchase order.

Commissioner Laskowski made a motion to approve these purchases, and thanked the City Manager and Staff for all their hard work and saving the taxpayers \$99,000.00, seconded by Commissioner Wilson. Mayor Fugate called for a roll-call vote. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

14. Consider introduction of an ordinance amending the Fiscal Year 2008-2009 Budget for the City of Kingsville to allocate an increase in revenues from Sales

**Tax for expenditures in the Code Enforcement Department in the General Fund.
(Finance Director).**

Mr. Rushing stated this budget amendment increases the estimated sales tax by \$13,610, and also increases the appropriation of the Code Enforcement for the debris hauling services line item by \$13,160.

INTRODUCTION ONLY

15. Consider awarding bid No. 2009-25 authorizing approval of a contract to haul debris from demolished houses located throughout the City. (Purchasing Director).

Ms Byington stated this item authorizes approval of contract to haul debris from demolished house located throughout the City. This contract will be effective March 1, 2009 and ends on February 28, 2010. Action will cost approximately \$115,200.00 for a twelve month period. However, it is estimated that only 380 loads will be needed during this fiscal year for a total of \$45,600.00. It is recommended the bid be awarded to Munoz Trucking Company from Kingsville, Texas.

Commissioner Laskowski made a motion to authorize the contract to be awarded to Munoz Trucking for \$120.00 per load, seconded by Commissioner Garcia and Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Wilson, Garcia, Laskowski voting "FOR".

16. Consider awarding RFP No. 2009-23 for Consultant Services to Matrix Design Group, Inc. to implement the Joint Land Use Study (JLUS). (City Manager).

City Manager Yerena stated this would allow the City to obtain services for a Consulting Firm to implement the recommendations of the Joint Land Use study. He stated there was a lot of interest, but only two proposals were submitted. He stated that Staff's recommendation is to hire Matrix Design Group, Inc., the group that also did the prior JLUS study. City Manager Yerena stated that the City received funding from the Office of Economic Adjustment for the study and this will be covered by the grant.

Commissioner Wilson made a motion to award RFP No. 2009-23 to Matrix Design Group, Inc, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Laskowski, Garcia, 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, TRMC, City Secretary