

MARCH 23, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 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
Dora Byington, Purchasing Director
Bill Donnell, Interim Planning Director/Public Works Director
Frank Garcia, Wastewater Superintendent
Don Erebia, Fire Captain
Eric Adame, Firefighter
Joe Casillas, Water Production Supervisor
Yolanda Cadena, Health Director
Diana Gonzalez, Human Resource Director
Dianne Leubert, Solid Waste Superintendent
Ricardo Torres, Police Chief

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)

Ms Dora Byington delivered the invocation, 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 Monday, March 9th, 2009. **Commissioner Laskowski made a motion to approve 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 for an alcohol variance application for the Sunny Mini Mart located at 1230 E Santa Gertrudis. (City Secretary).

Mayor Fugate opened the public hearing at 6:02 P.M. and announced if anyone wanted to speak on this subject could do so for five minutes which cannot be extended.

Dr. Rudolph Lopez, 510 JayVee Lane, on behalf of the Kingsville Independent School District spoke against the alcohol variance.

Mayor Fugate closed the public hearing at 6:05 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, and Entrust Health Insurance Fund Presentation. No formal action can be taken on these items at this time.”

City Manager Yerena notified the Commission that the positions for City Engineer and Director of Development Services have been filled. He reported on the closing of City Hall on Friday, April 10th, in observance of Good Friday; the next trash-off day, April 18th; and on a debris management course for staff. He further reported on working on getting Mr. John Garcia to be the City's Emergency Management Coordinator.

Ms Alvarez reported a correction on the date for one of the resolutions for consideration. She report on a recent mediation meeting, that the next City Commission meeting is scheduled in three weeks, and on working on the tax abatement guidelines.

Commissioner Wilson requested an update regarding access by the University to the City's right-of-way. Mr. Donnell stated he notified the University and a meeting with University staff will be held to discuss matter. He stated the cuts were done without contacting the City.

Commissioner Pecos briefed the audience on the trip to Washington, DC. He stated meetings were held with Congressman Ortiz and Congressman Cuellar regarding Naval Air Station-Kingsville. Commissioner Garcia added that the issue of streets by using stimulus monies was discussed. Mayor Fugate congratulated the King High Softball team for their rank of #1 in the State.

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.

Ms Melissa Shortsleeve, student Coastal Bend College thanked Commissioner Laskowski for taking time to speak to her class.

Ms Madeline Caraway, 726 W Doddridge, thanked the Commission for the renaming of 2nd Street.

Mayor Fugate presented a "Recycle Kingsville Day" proclamation to Ms Hanna Peterson.

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

V. Consent Agenda

1. ORDINANCE NO. ORD2009-08 Motion to approve final passage of an ordinance establishing a temporary moratorium on the renaming of city streets in the City of Kingsville, Texas, providing for the duration of such moratorium, and providing for an effective date. (Commissioner Wilson).
2. Motion to approve out-of-state travel for Mayor Fugate to Washington, DC on March 29th – 31st, 2009, with regard to issues dealing with Naval Air Station-Kingsville. (Mayor Fugate).
3. RESOLUTION NO. R2009-11 Motion to approve a resolution authorizing the City Manager to enter into a Memorandum of Understanding between the Texas Engineering Extension Service and Texas Task Force One Member and the City of Kingsville, Texas. (Fire Chief).

Commissioner Laskowski explained his reason for removing this item. He stated his concern was that he did not see in the agreement, the right to refuse to release the individual if called out. Ms Alvarez pointed out the section that addressed the issue. Captain Erebia pointed out the section of the agreement that provided information on the individual having the option of accepting or refusing the mission.

Commissioner Laskowski asked about being reimbursed for training. Captain Erebia responded there's no reimbursement for training. Ms Alvarez pointed out the section which explains reimbursement. Captain Erebia stated the pay scale is for unemployed members. Commissioner Laskowski stated that he was given the impression that the employee would be paid under this scale and he wondered how this would tie into Union contract and their compensation.

Commissioner Pecos stated that there is a special form to request reimbursement. Commissioner Laskowski stated he wants to make sure that the employee is compensated in accordance to the Union contract. Captain Erebia explained how hours will be submitted. Commissioner Laskowski stated the maximum time the employee will be away will be 10 days. He asked if the employee will be paid in accordance with Union contract and if City will be reimbursed for whatever his rightful pay will be during the period that he is gone. Commissioner Pecos stated according to the request for reimbursement invoice no monies will be lost. Captain Erebia stated that other participating fire departments have not had any issues. Commissioner Pecos asked if this is the first time that the City has been asked to participate. Captain Erebia responded that they have been asked before but have never participated. He added that the department did not have the staffing to allow six employees to participate.

Mayor Fugate called for further questions or comments.

Mayor Fugate asked the deadline date for the agreement to be submitted. Captain Erebia replied that April 3rd is the deadline. Ms Alvarez stated that if the Commission is interested they can always approve the agreement tonight and that the MOU can be modified or amended with written consent of the parties, and any party upon 30 days written notice can terminate the MOU.

Commissioner Pecos stated his main concern is the reimbursement of overtime for the person replacing the Firefighter that is participating. Commissioner Laskowski replied the City will be reimbursed for any overtime. Commissioner Laskowski stated his concern is with the employee's compensation while he is participating and is it in accordance with the Union contract. Captain Erebia stated that the employee has enough resources that if there are any issues he can address them and can take care of them. He stated if the mission is close to our City, the employee will not be activated because the employee has a duty to the department.

Commissioner Pecos made a motion to approve the resolution authorizing the City Manager to enter into a Memorandum of Understanding between the Texas Engineering Extension Service and Texas Task Force One Member and the City of Kingsville, Texas, seconded by Commissioner Wilson. Mayor Fugate called for further discussion. Commissioner Wilson requested that at the next meeting an action item be placed on the agenda that requires discussion of the elements presented this evening so that if at that time there is no clearer picture than what was received at tonight's meeting, the Commission would have the 30 days to act to nullify. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Wilson, Pecos voting "FOR".

4. RESOLUTION NO. R2009-12 Motion to approve a resolution authorizing participation in Click It or Ticket May 2009 campaign with the Texas Department of Transportation for allowed costs; Authorizing the Chief of Police to act on the City's behalf with such program. (Police Chief).

5. RESOLUTION NO. R2009-13 Motion to approve a resolution establishing the City of Kingsville Excessive Force Policy for nonviolent Civil Rights demonstrations. (City Manager).

REGULAR AGENDA**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:****VI. Items for consideration by Commissioners.⁴****6. Consider approval of alcohol variance for Sunny Mini Mart located at 1230 E Santa Gertrudis. (City Secretary).**

Ms Lopez stated a request for a variance for a wine and beer retailer's off-premise permit for this business. The Engineering Department performed the research and physical inspection and concluded that the property in question falls with the 300 ft boundary of a school, therefore requires a variance according to the City of Kingsville Code of Ordinances. Letters were mailed to residents and no opposition was received. Dr. Lopez representing KISD spoke in opposition for the variance.

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

7. Consider preliminary plat for Paulson Falls Phase III. (Interim Planning Director/Public Works Director).

Mr. Donnell stated Paulson Falls Phase III Subdivision is located at Lot 1, Block 22, KT&I; Grande Valley Homes is the applicant. He stated this property historically has been farm land, Mr. Mark Dizdar is the proposed developer and he is planning on providing infrastructure for sixty-four (64) homes in the subdivision. He stated that the preliminary plat was approved by the Planning and Zoning Board March 12th, 2009.

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

8. Consider final plat for Paulson Falls Phase III. (Interim Planning Director/Public Works Director).

He stated that the final plat was approved by the Planning and Zoning Board on March 12th, 2009. He stated NAS was contacted. Mayor Fugate stated this property is within the military influence area and asked if deed restrictions will be enforced. Mr. Donnell replied that on the MIA2 it specifically states height requirements of any structure that is built and a note was made that this is in the MIA2 base. He added that anything over 150 feet will be reviewed by NAS. Mayor Fugate requested the disclosures that were designated in the JLUS study be included concerning the proximity to NAS-Kingsville. Mr. Donnell stated the area is outside the noise levels and the only portion that is inside is the MIA2.

Commissioner Laskowski stated the City should try to facilitate the Navy and put their request for their restrictions or notification in the final plat. Ms Alvarez stated that the City can add the restrictions. Ms Alvarez stated that the final plat could be approved and to include compliance with the JLUS recommendations as they exist in the JLUS manual.

Commissioner Pecos made a motion to approve the final plat with Paulson Falls Phase III, to include the inclusion of the JLUS and the inclusion of all disclosures stated in the letter from the Lieutenant of the air traffic control facility officer, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Wilson, Pecos voting "FOR".

9. Consider preliminary plat for Santa Gertrudis School. (Interim Planning Director/Public Works Director).

Mr. Donnell stated the new Santa Gertrudis School will be located at the intersection of Santa Rosa & Santa Gertrudis Street. This is a brush ranch land on the west side of Santa Rosa. The land is being cleared and site preparation is in process. The main entrance to the school will be off of Santa Rosa. He stated that the preliminary plat was approved by the Planning and Zoning Board on March 12th, 2009, with a recommendation to have a second entrance off of Santa Gertrudis.

Commissioner Wilson stated he did not see same type of infrastructure as others have had. Mr. Donnell stated requirements for sidewalks were inside the fence and that staff recommended sidewalk be removed. Ms Alvarez provided information on the ordinance provision that addresses sidewalks. Commissioner Laskowski stated this property will remain fenced. Mr. Donnell provided information on a traffic report from PBK. Commissioner Garcia asked if fire hydrants will be located in the property. Mr. Donnell replied there will be fire hydrant in the property. Upon a question from Commissioner Garcia, Ms Alvarez replied school zone lights must be done through an ordinance. Mayor Fugate called for further questions. Commissioner Pecos voiced his concern regarding no sidewalks on Santa Rosa. Mayor Fugate stated there is no where to put them.

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

10. Consider final plat for Santa Gertrudis School. (Interim Planning Director/Public Works Director).

Mayor Fugate asked if there was anything different on this plat. Commissioner Wilson stated technically there is, the final plat is where the road is. Mr. Donnell stated the emergency access road. Mr. Donnell stated that the final plat was approved by the Planning and Zoning Board on March 12th, 2009. This is a 30 acres plat; it is not in the AICUZ, is a minimal flood zone area and they do have retention pond. Staff recommends approval.

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

11. Consider waiving permit and platting fees associated with the construction of the new Santa Gertrudis School. (City Manager).

City Manager Yerena stated that a request was received from SGISD for a waiver of all permitting and platting fees. He stated there are representatives from SGISD are present. The permitting fees are \$5,510.00. City Manager stated that the platting fees have been paid but they are seeking \$2,580 reimbursement for those fees. The total amount to be waived is \$8,090.00.

Mayor Fugate stated the Commission needs to be consistent. He stated that KISD will be coming to the Commission on the new Harvey School, so whatever is done with KISD should be done for SGISD. **Commissioner Garcia made a motion to approve the waiving of fees, for plat fees and other fees, for a total of \$8,090.00, seconded by Commissioner Pecos.** Mayor Fugate called for further comments. Commissioner Laskowski asked for a recommendation from City Staff. City Manager Yerena stated while the City staff does not oppose waiving of fees, Staff would prefer to get the money, but Staff does not oppose waiving the fees.

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

12. Consider entering into a contract for engineering services with LNV Engineering for water well #24. (Interim Planning Director/Public Works Director).

Mr. Donnell stated that Water Well No 24 was initially intended to be an in house engineering project. Due to staffing situations in the Engineering Department the project was referred to the contract engineering firm, LNV Engineering. He stated monies were allocated in the 2005 Certificates of Obligation.

Commissioner Pecos made a motion to enter into the contract, with LNV Engineering seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR".

13. Consider reappointing Planning & Zoning Board members, Mr. Steve Zamora, Mr. Guadalupe Alvarez, Mr. Ramon Perez, Mr. Robert McCreight, Mr. Leo Alarcon, Mr. Bill Aldrich and Mr. John Howe to serve another two year term. (Interim Planning Director/Public Works Director).

Mayor Fugate called for questions or comments. Commissioner Garcia made a motion to reappointment all members, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".

14. Consider appointing two members to the Planning & Zoning Board to serve a two year term. (Mayor Fugate).

Mayor Fugate stated there are two candidates, Mr. Albert Garcia and Mr. Robert Rivera. Commissioner Laskowski asked if Mr. Garcia intended to keep his position on the Zoning Board of Adjustment if appointed to the P&Z Board. City Secretary Lopez responded that Mr. Garcia had stated that he would serve on both boards. Commissioner Laskowski expressed his concern two members from the real estate business serving on the Planning and Zoning board. Commissioner Pecos stated that he also had the same concerns.

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

15. Consider awarding Bid No. 2009-24 for the purchase of (8,000) 95 gallon roll-out residential garbage carts for the Sanitation Department. (Purchasing Director).

Ms Byington stated this item authorizes the purchase of (8,000) 95 gallon roll-out residential garbage cans. Staff is recommending Rehrig-Pacific Company from Dallas, Texas be awarded the purchase. This action will expend \$456,560.00. Funds for this item are in the budget (\$480,000.00) (\$23,440.00) will be saved from budget allocation. Account No. 038-5-170.2-220.00, 1216 carts, \$69,397.12; Account No. 063-5-170.2-220.00, 2,166 carts, \$123,613.62; and Account No. 064-5-170.2-220.00, 4,618 carts, \$263,549.26 for a total of 8,000 carts, for \$456,560.00.

Commissioner Laskowski stated that he did not see where the recommended bidder had submitted any information on the web-based tracking system. He asked if the containers come with the handheld device. Commissioner Wilson stated it was his understanding that the RFID were going to be in the handles so that they would be harder to remove. Ms Leubert stated they are inside the handles so that they will not be damaged. Rehrig-Pacific representative replied the scanner will be provided for the first six months and accompanying the web-based tracking system. Commissioner Garcia asked for information on the warranty. Rehrig-Pacific representative stated the warranty is for ten years for damage to the container, itself, for normal wear-n-tear. Ms Leubert

stated the ordering and delivery will be organized for when the new garbage trucks are received. She stated the company will help her department with the set up.

Commissioner Laskowski made a motion to authorize the purchase of (8,000) 95 gallon roll-out residential garbage carts and award the bid to Rehrig-Pacific Company for a total bid of \$456,560.00, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

16. Consider awarding Bid No. 2009-29 authorizing the purchase of one Terex TL 120 wheel loader for the Brush Crew in the Sanitation Department. (Purchasing Director).

City Manager Yerena stated that Staff requests no action on this item.

17. RESOLUTION R2009-14 Consider a resolution authorizing the City to submit an application to the U.S. Department of Justice for the purpose of requesting grant funding on behalf of the City for the 2009 COPS Hiring Recovery Program (CHRP) Grant for law enforcement personnel for the Kingsville Police Department with an anticipated cash match of \$48,000 in the fourth year. (Police Chief).

Chief Torres stated the COPS hiring recovery program has \$1,000,000,000 for grant funding for hiring new officers involved in community policing. He stated he has been in touch with Superintendent Mary Springs from Santa Gertrudis Independent School District and they are very supportive of helping assist a fund for one position at SGISD. He stated the first 36 months included salaries and benefits are covered in the grant at 100%. He added that there is a twelve month retention period. He stated SGISD Board is supportive to the grant proposal.

Mayor Fugate called for questions or comments. Commissioner Pecos asked if persons hired through the grant will be working specifically with SGISD. Chief Torres replied they will be working within the SGISD. He stated he will be addressing the Kingsville Independent School District Board with the same information. The deadline for the grant submission is April 14th.

Commissioner Laskowski made a motion to authorize this resolution contingent upon Santa Gertrudis Independent School District Board agreeing to fund the \$48,000 cash match for the fourth year for the grant, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting "FOR". Wilson "AGAINST".

Mayor Fugate announced the Executive Session. The Commission convened into Executive Session at 7:47 P.M. and announced a five minute recess.

18. Executive Session: Under Section 551.071 of the Texas Open Meetings Act, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding threatened/contemplated litigation concerning Juan Gonzalez. (City Attorney).

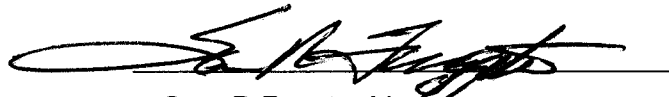
Mayor Fugate called the meeting back to order in regular session.

19. Consider proposed settlement agreement with Juan Gonzalez. (City Attorney).

Commissioner Wilson made a motion to approve proposed settlement agreement from March 18th, 2009 mediation with Juan Gonzalez, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

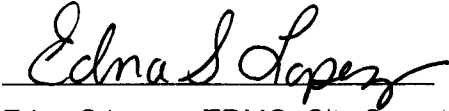
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:56 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, City Secretary