

APRIL 13, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 13, 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
Mark Rushing, Finance Director
Robert Rodriguez, Library Director
Diana Gonzalez, Human Resource Director
Yolanda Cadena, Health Director
Ricardo Torres, Police Chief
Al Lopez, Fire Chief
John Garcia, Int. Risk Manager/Garage Superintendent
Grace Garcia, Asst Task Force Commander
Dianne Leubert, Solid Waste Superintendent
Y I Hinojosa, Street Field Supervisor
Md Naim Khan, City Engineer
Ken Clark, Director of Development Services

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 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 March 23rd, 2009. **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, Garcia, Pecos, Wilson, Laskowski voting “FOR”.**

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

Mayor Fugate announced there were no public hearings to be heard.

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 and

First Southwest Company presentation. No formal action can be taken on these items at this time."

City Manager Yerena introduced the City's two newest employees, Mr. Md Naim Khan, City Engineer and Mr. Ken Clark, Director of Development Services. He announced the date for the next Trash-Off, on Saturday, April 18th; and that the Police Department is 100% staffed with Police Officers.

A presentation by Ms Ann Burger Enktrein, representative for First Southwest Company provided information on the market update and refunding analysis. She explained there are two opportunities for refinancing the debt of the City. She congratulated Staff for timing the market well for the selling of the bonds. She provided information on the AAA Municipal Yield Curve, the affects of the Fed Funds, and information relative to bond issues that are outstanding and are refinancing candidates. She stated this is not an action item, but would like some guidance as to proceed.

City Manager Yerena stated Staff will be working with the financial advisor. Ms Entrekin asked that they be allowed to proceed as quickly as possible.

Ms Alvarez announced the KCVB Ride on the Wild Side, on the 23rd she will be attending mediation, and Friday, 24th is the Relay for Life.

Commissioner Wilson asked for an update of the interaction with the City and the University regarding the Corral Street project. He requested that the Santa Gertrudis School project be informed that the culvert needs to be cleaned. He asked about the butchering of the SGISD property by the City. City Manager Yerena replied a citizen had complained and the City was in the area. He requested clarification on surveyor stakes for a proposed tap into the City's sewer line. He requested help from Police Department about truck traffic on Santa Rosa. He asked that someone discuss with the construction company the procedure being used to fill their water truck which blocks traffic on Santa Fe and Santa Rosa. He stated that the City did a poor job of communication with that neighborhood because the residents believe that the City is installing stop signs at the end of Santa Monica. He stated that the newly installed street light at Shelly and General Cavazos is not working properly. He requested a document of what was actually installed at that intersection.

Commissioner Laskowski called for volunteers for Trash-off Day. He asked if the University had submitted a set of plans for the development. City Manager Yerena replied they did not.

Mayor Fugate reported on his trip to Austin to attend the TML Board of Directors meeting, his meeting with the Governor's office discussing issues dealing with encroachment, money for BRAC, engineering program and on the Vocational Technology program for the University. He discussed his trip to Washington, D.C. visiting with Acting Secretary of the Navy and the Vice Chief of Naval Operations to discuss getting the F35 jets here in Kingsville. He explained that these jets are very loud. He provided information on the future of the McMullen bombing range and the Corpus Christi Naval Air Station. He stated that during base closures you do not want to be an air base without an outlying field. Mayor Fugate presented a picture of the Governor's Mansion before it was destroyed by a fire.

There were two proclamations presented, "Sexual Assault Awareness and Prevention Month" and "Public Safety Telecommunicators Week".

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.

Mr. Jack Curtis, President of Industrial Disposal Supply, 13226 Hunter Spring, San Antonio, Texas, voiced his concern for the procedure by Staff for Agenda Item #6, he requested removing the item from the agenda.

Mr. Brian Grable 8342 Pineywood Run, San Antonio, Texas, representative Elgin Company, commented on his company being the lowest bid for the sweeper.

V. Consent Agenda

Notice to the Public

NONE

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. Discuss and consider Memorandum of Understanding between the Texas Engineering Extension Service and Texas Task Force One Member and the City of Kingsville, Texas. (Fire Chief).

Fire Chief Lopez stated he had a summary on the items in question. The member can only respond after department gives okay; all pay will be paid by City to include regular and overtime pay which will be reimbursed 100%, which includes overtime incurred in replacing the member that is participating at 100%; and the included pay scale is for individuals that are not employed. He stated that the training is not reimbursable, the individual while training will be put on administrative leave, but any costs associated are the responsibility of the individual. He stated this type of highly skilled training is very advantageous for department and for individual in the area of hazmat. He further stated that while member is activated and if workers' compensation including death is required, the State is responsible. Chief Lopez stated that the City may terminate the agreement at any time.

There was lengthy discussion on a non-FLSA employee and a FLSA exempt employee. The firefighter would be covered under FLSA exempt employee. Chief Lopez explained that according to the Union contract, he is allowed to assign a firefighter to any shift or special assignment. Commissioner Laskowski commented that his question has been that the member will not be getting overtime. Chief Lopez explained the member will be paid according to whatever the City has outlined for the employee. Ms Alvarez stated that certain employees do not get overtime, an example is the Fire Chief, but hourly employees will receive overtime.

Commissioner Wilson stated the Commissions' concern is that the employee gets everything that he is supposed to get paid under their contract. Commissioner Laskowski stated that the Human Resource Director should have reviewed the contract to make sure it complies with the Union Contract. Ms Alvarez provided information regarding several sections of the agreement that addressed the Commissions' concerns. She stated whatever we pay them on pay stub is what the City will be reimbursed. Fire Chief stated FLSA clearly defines their method of pay.

Commissioner Laskowski stated he does not disagree with the importance of sending this gentleman out there, it is an excellent opportunity for him to get this additional training, but he just wants to make sure that when the City makes this commitment the City does not have to come in and subsidize the State, thinking that the City is going to get reimbursed 100%.

As a point of order, Commissioner Wilson explained this item is an action item because the Commission could have voted out of the contract. Mayor Fugate suggested taking no action on this item.

ITEM WAS PASSED

2. Consider authorizing City Staff to negotiate a contract with HDR Engineering for water/sewer rate study, pass through STWA costs, and an impact fee study. (City Manager).

City Manager Yerena stated the portion of the old water rate study was implemented earlier this year and Staff is recommending approval of this item due to the fact that the water rate study would provide the City a forecast of adequate water rate fees.

Commissioner Wilson made a motion to authorize City Staff to negotiate a contract with HDR Engineering, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

3. RESOLUTION NO. R2009-15 Consider approval of a resolution authorizing the release of Chapter 59 funds of the Kingsville Police Department for donation to Project R.A.G.E. program. (Police Chief).

Chief Torres stated that the PD assisted with Project R.A.G.E. and that he was contacted by a Principal to assist in purchasing some of Ms Janice Higgins books.

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

4. RESOLUTION NO. R 2009-16 Consider approval of a resolution establishing the City of Kingsville Local Opportunity Plan. (City Manager).

City Manager Yerena stated this is one of the requirements for the Office of Rural Community Affairs grant programs.

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

5. RESOLUTION NO. R2009-17 Consider approval of a resolution authorizing the City Manager to execute an Approval and Consent document to amend an Operating Agreement so that Tractor Supply, Co. of Texas, L.P. can lease a portion of the property in Kingsville to which the City is a party to the Operating Agreement due to land it owns in the area. (City Manager).

City Manager Yerena stated since the City is part owners of property in that area, the City's signature is required to amend the restricted covenant of the lease.

Mayor Fugate explained that the City owns property at the mall, the Call Center and the parking lot, so the City is required to approve any modifications. He stated that this company will be on the opposite side and will not affect the City's property.

Mayor Fugate called for further discussion. Commissioner Wilson stated the documents reveal some interesting items. He stated that Mr. Donnell's letter of January 6th spells out to the proposed tenant what they could and could not do. The color rendition specifies what the company is going to do, but they are in conflict. He stated he is puzzled as to how they will move forward. He stated that as a fellow tenant he would not have a problem with the covenant change, but as a City official this seems to be in contradiction to the current zoning. In specific, he stated that the out door display of merchandise between the parking lot and the street in this zoning district is not permitted. Mayor Fugate asked if this was a question for this issue. He stated that tonight's information is on deed restrictions and covenants. Ms Alvarez replied that assuming that the Commission approves the approval and consent, waiving the deed restriction so that somebody other than Walmart can occupy the location and use a portion of the parking lot to display things would have to go through the City permitting department.

Commissioner Wilson stated it is clear that the company would be in violation of zoning. He stated he does not have a problem on acting on this issue, but wants to make sure City staff knows that due diligence will have to be done in bringing information back because it is clearly in conflict with that zone. He went on record stating that this better come back to the Commission.

Ms Alvarez stated that only landowners are required to sign.

Commissioner Pecos made a motion to authorize the City Manager to execute the approval and consent document, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Garcia, Pecos voting "FOR".

6. Consider approving the purchase of two street sweepers from Elgin Company through BuyBoard . (Purchasing Director).

City Manager Yerena stated this item authorizes the purchase of two Street sweepers through BuyBoard. The total price of package is \$302,272.00. Mr. Hinojosa, Street Supervisor explained how the choice was made. He stated there were two demos and the Elgins performance was better as was the price. He stated he is recommending the purchase of the Elgin sweeper. Street employee, Mr. Calixtro Pena addressed the Commission, stating that he is the operator of the sweeper and the Elgin was a better machine. He stated this machine is faster and spreads less dust.

Commissioner Pecos asked about the warranty, Ms Alvarez replied that this item is not a bid item, all bids were rejected. She stated the Commission must approve the expenditure of the funds for the purchase of the two Elgin street sweepers through the BuyBoard. City Manager Yerena stated that the warranty for the Elgin is twelve months.

Commissioner Laskowski stated that the compilation sheet shows the warranty of the Elgin was 24 months, which is contrary to the information received today. Ms Alvarez explained the purchase will be through the BuyBoard and the Commission directed Staff that all items to be purchased with 2009 Certificate of Obligations should be bid out. Commissioner Laskowski stated that the bid specified what the warranty was, and Elgin misstated the warranty amount of months on their formal bid. The Elgin representative stated twelve months covers the sweeper portion, and the hopper liner is lifetime. Discussion followed on the length of time for the warranty.

Commissioner Pecos made a motion to approve Staff's recommendation, seconded by Commissioner Garcia. Mayor Fugate called for further discussion. Commissioner Laskowski asked if other machines were looked at when going through BuyBoard and if this was the lowest price of the street sweeper through BuyBoard. Mayor Fugate stated Staff was allowed the pick the trash containers and they were not the lowest bid. Commissioner Wilson asked if the motion was for a 2008 or 2009 chassis. Commissioner Pecos replied the motion is for the 2009 chassis. **The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Wilson, Laskowski voting "AGAINST".**

7. Consider awarding Bid No. 2009-20 for a tractor/slope mower for the Street Department. (Purchasing Director).

Ms Byington stated recommendation is to authorize Staff to purchase mower from H & V Equipment Company from Corpus Christi. This item will expend \$114,833.00 for a John Deere 7130 tractor and an Alamo Industrial 30 foot Maverick boom cutter with 60 inch rotary cutting head.

Commissioner Garcia made a motion to award the bid for the slope mower tractor to H & V Equipment Company from Corpus Christi in the amount of \$114,833.00, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Laskowski, Pecos, Garcia voting "FOR".

Commissioner Wilson requested taking Agenda Items #8, 9, 10, & 11 together. City Manager Yerena stated that Staff is not recommending approval for Agenda Items 10 & 11.

8. Consider approval of a request to install a street light at Las Palmas and Loop 428. (City Manager).

Mayor Fugate called for Items #8 & 9.

City Manager Yerena there is no street light at both of these intersections and street light is warranted. Estimate cost is \$2,003.00 for Las Palmas and Loop 428 location and \$553.13 for the Birchwood & Franklin Adams location. Staff is recommending approval and funding will come from within the Street department's budget.

Mayor Fugate called for questions or comments. **Commissioner Pecos made a motion to approve both requests, seconded by Commissioner Garcia. The motion**

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

9. Consider approval of a request to install a street light at Birchwood and Franklin Adams. (City Manager).

10. Consider approval of a request to install a street light at 316 E General Cavazos. (City Manager).

City Manager Yerena stated no street light exists at this location so this would be a new installation. This light would be located inside a private property and Staff recommends the City accepts monthly utility cost provided the applicant pay the installation cost and that the new light is a 250-watt high pressure sodium vapor light. The estimate cost is \$310.66

Commissioner Pecos asked if the applicant has been notified about the cost. City Manager Yerena replied he did not think they had been notified. Commissioner Laskowski suggested notifying the applicant if there is a cost involved so if they are not interested then the Commission does not have to go through the process

Commissioner Laskowski made a motion to approve the request, contingent upon them paying for the installation cost, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski voting "FOR". Wilson "AGAINST".

11. Consider approval of a request to install a street light at 310 S 25th. (City Manager).

City Manager Yerena stated this light would be in the middle of the block, currently no light exists. The fiscal requirement estimate is \$1,168.66. Staff does not recommend approval of this street light.

For clarification, Commissioner Laskowski stated the location is between Kenedy and Lott Street, and there are no street lights at the Kenedy intersection or at the Lott intersection. Commissioner Garcia asked if the area was surveyed. City Manager Yerena responded that the area was surveyed by the engineering technician.

Mr. Khan, City Engineer stated the block is not long and there is a light on Kenedy Street. City Manager Yerena stated there is an application process for requesting a street light. Commissioner Garcia asked about accidents or crime in that area. Chief Torres replied there has been several burglaries in that area within the last week.

Commissioner Laskowski requested passing this item so that he can check out the area.

Commissioner Garcia asked that burglary reports be included for their review. Mayor Fugate asked if citizens are notified when their request will be heard by the Commission. City Manager Yerena responded the interim Director of Development Services was involved in the process and will get information from him.

Item was Passed

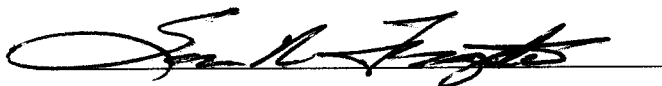
12. RESOLUTION NO. R2009-18 Consider approval of a resolution authorizing the City to submit an application to the U.S. Department of Justice for the purpose of requesting grant funding on behalf of the City for the 2009 COPS Hiring Recovery Program (CHRP) Grant for Law Enforcement personnel for the Kingsville Police Department with an anticipated cash match of \$51,000 in the fourth year. (Police Chief).

Chief Torres stated the Kingsville School Board will be meeting tomorrow and they seemed interested in one position. He stated this position is free for three years, in the fourth year the entity must fund the position. He stated that the Santa Gertrudis Independent School District is interested and will be funding the cash match in the fourth year. The anticipated cost in the fourth year is \$51,000.00. These positions will cost the City in the fifth year. Grant is for all positions being requested. The resolution is re-written to include both independent school districts.

Commissioner Laskowski made a motion to approve the resolution, contingent upon prior to hiring anyone, to have an agreement with whatever school district and that they agree to pay \$17,000 per fiscal year for every position that they ask for, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos, Laskowski voting "FOR".

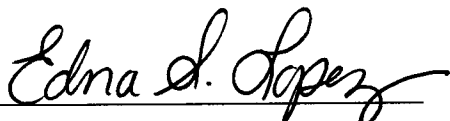
VI. Adjournment.

There being no further business coming before the City Commission, the meeting was adjourned at 8:08 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, City Secretary