

JUNE 22, 2009

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JUNE 22, 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  
Mark Rushing, Finance Director  
Dora Byington, Purchasing Director  
Al Lopez, Fire Chief  
Ricardo Torres, Police Chief  
Frank Garcia, Wastewater Supervisor  
Bill Donnell, Public Works Director  
Diana Gonzalez, Human Resource Director  
Joe Casillas, Water Production Supervisor  
Yolanda Cadena, Health Director  
Ken Clark, Director of Development Services  
Naim Khan, City Engineer  
John Garcia, Interim Risk Manager

**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 Monday, June 8<sup>th</sup>, 2009. **Commissioner Pecos made a motion to approve the minutes, as presented, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Garcia, Wilson, Laskowski, Pecos voting “FOR”. Fugate “ABSTAIN”.**

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

1. Public Hearing regarding condemnation proceeding for structures located at 707 W Warren, 150 W Ave C, & 512 E Alice. (Building Official).

Mayor Fugate opened the public hearing at 6:02 P.M., and announced the locations being considered for condemnation and that this was the time to speak on these items.

Mr. Ken Clark, Director of Development Services stated the Building Official has been working on this for quite awhile and the process needs to be complete. Ms Alvarez announced a letter was received from the one of the property owner's of 512 E Alice. Mr. Clark stated this location has multiple property owners. Ms Alvarez stated files for each property were included in the packet and each file shows the Building Official's report for each property, inspections done, notices mailed and the dilapidation of each property. She stated that the Building Official has deemed these properties to be a public health and safety nuisances.

The public hearing was closed at 6:07 P.M.

### 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, Tax Increment Zone Presentation. No formal action can be taken on these items at this time."*

City Manager Yerena reported on staff working on a prescription discount program that offers savings on prescription drugs to residents of Kingsville through the National League of Cities at no cost to the City. He reported that the Fire Department having a ceremony to recognize Firefighter Augustine Moreno for becoming a certified Firefighter with the Department because of the Explorer Program.

Ms Alvarez reported on attending a conference, working on personnel issues and discovery on cases. She announced the Kingsville Symphony Orchestra concert which will be held on July 4<sup>th</sup>, 2009 at Jones Auditorium, the next City holiday, July 3<sup>rd</sup>, 2009, and the next regular City Commission meeting will be on Monday, July 13<sup>th</sup>, 2009.

Commissioner Pecos reported that businesses are discarding of cardboard boxes which are recyclable and suggested contacting the business about the City's recycling program.

Mayor Fugate and Commissioner Laskowski made a "Because you Care Award" presentation to Ms Kate Simpson for their efforts of the project at 6<sup>th</sup> & Yoakum.

Mayor Fugate reported on his trip to El Paso to attend a TML Board of Directors Budget Committee meeting. He provided information on some legislative updates and on a meeting with the Mayor from Alice.

### 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.

Ms Marty Ontiveros, 401 E Ave C, asked for clarification on Agenda Item # 8.

Mr. Juan Torres, 512 E Alice, spoke in favor of Agenda item #6.

Mr. Tomas Sanchez, 2009 Rettye Dr., spoke in reference to Agenda Item #16 and provided information on starting an Emergency Management office.

Mayor Fugate called for consideration of the Consent Agenda Items #1-3. **Commissioner Laskowski made a motion to remove Agenda item #1 and to adopt Consent Agenda items 2 & 3 from the Consent Agenda, 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. RESOLUTION NO. R2009-33 Motion to approve resolution authorizing the submission of an application to the U.S. Department of Justice for the purpose of requesting funding for bullet proof vests through the Bulletproof Vest Program Grant. (Police Chief).

Commissioner Laskowski stated he asked that this item be removed from the Consent Agenda because he had one question. He asked for clarification of the cash match which is 50%. He asked if the cash match would be funded from this year's budget, from the upcoming budget, or would the match be paid from the Forfeiture fund. Police Chief Torres replied it is up to a 50% cash match. He explained last year's procedure and stated that historically the Police Department has paid for every piece of body armor through Chapter 59 Funds.

Commissioner Laskowski made a motion to approve the resolution authorizing the submission of an application to the U.S. Department of Justice for the purpose of requesting funding for bullet proof vests, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

2. ORDINANCE NO. ORD2009-16 Motion to approve final passage of an ordinance adopting the annexation plan for the City of Kingsville. (Director of Development Services).

3. ORDINANCE NO. ORD2009-17 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter III, Article 12, City Policies, providing for a detailed process for changing the name of a city street. (City Attorney).

Mayor Fugate called for Agenda items # 4, 5, & 6 to be taken together

### REGULAR AGENDA

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

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

4. Consider condemnation of structure located at 707 W Warren. (Building Official).

5. Consider condemnation of structure located at 150 W Ave C. (Building Official).

6. Consider condemnation of structure located at 512 E Alice. (Building Official).

Mayor Fugate called for questions or comments. Commissioner Laskowski commented that the forms have a lot of blank spaces which need to be filled in order for him to feel comfortable that the people were given their due process. Mr. Clark stated he had already spoken to the Building Official about this. Upon a question from Mayor Fugate, Ms Alvarez replied that the City will bear the burden of the expense for demolition.

Commissioner Wilson made a motion that the building or structure at 707 W Warren, 150 W Ave C and 512 E Alice to be unsafe, it presents a condition that is in violation of our ordinances, and cannot be correct without substantial reconstruction, and declare the building or structures at those previously stated addresses to be a public nuisance, and order the demolition by the owner/agent or persons in charge within 45 days, seconded by Commissioner Garcia and Laskowski. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Laskowski, Wilson voting "FOR".

7. Consider introduction of an ordinance by amending Chapter XV, Article 6, Zoning, providing for seven Board members and no alternates. (Director of Development Services).

Mr. Ken Clark stated there have been problems with having to cancel Zoning Adjustment Board meetings because not all the members are able to attend. The code requires four out of the five members to participate in the vote on variance requests. If two or more members are unable to attend then meetings have to be cancelled. This creates an inconvenience for applicants and incurs additional costs for re-advertising public hearing notices. A simple solution is to increase the size of the board to make sure that there will always be at least four members at each meeting. Recommendation is to increase the size of the Zoning Adjustment Board from five members to seven members.

#### **INTRODUCTION ONLY**

**8. RESOLUTION NO. R2009-34 Consider a resolution authorizing the City Manager to enter into an Interlocal Agreement between the City of Kingsville and Kleberg County for the provision of sanitation services (septic tank inspections). (Health Director).**

Ms Yolanda Cadena stated that through a TCEQ audit and administrative review it was noted that there is no interlocal agreement between the two entities and there must be one. She stated that Kleberg County is the authorized agent who implements and enforces the health and safety codes, Chapter 366. This local agreement would allow the inspections of septic tanks in the City of Kingsville.

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

**9. Consider awarding Bid No. 2009-34 authorizing the purchase of a dozer for the Landfill. (Purchasing Director).**

Mr. Donnell stated bid specifications were put together to allow all companies the opportunity to bid. There is one dozer that exceeds minimum bid specifications, the CAT D6T dozer, but the lowest bid is the Komatsu. References associated with the bid were contacted. The John Deere is referred to as a good machine. The CAT D6T is the standard for the industry at the bid of \$306,729.00 with 36 months unlimited hours full machine warranty available with full machine extended warranties of 36 months at \$5,838.00. He stated that the CAT D6T exceeds both dozers qualities in horsepower, air handling and overall performance including life expectancy from the industry references.

Mayor Fugate called for comments or questions. Commissioner Laskowski asked how the dozer was used. Mr. Donnell replied mainly for pushing dirt and at times in the trash. Commissioner Laskowski commented on not having to use the dozer as much after the City gets the new cell at the landfill and on the difference in price. Mr. Donnell stated this machine is standard proven of the three. Commissioner Laskowski stated of the three machines this one has the least warranty. Mr. Donnell stated it has unlimited hours full machine warranty. The extra warranty will cost \$5,838.00. Commissioner Laskowski commented that for future reference the City may want to consider a lease because these are high dollars items and it may be more advantageous to lease and repairs are costly.

**Commissioner Pecos made a motion to approve Staff recommendation to purchase the CAT D6T, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Wilson, Laskowski voting "AGAINST".**

**10. Consider reallocation of 2001 Certificate of Obligation funds for the purchase of the dozer. (Finance Director).**

Mr. Rushing stated that on March 23<sup>rd</sup> the purchase for carts was authorized, subtotal of purchase \$69,396.12. This reallocation will shift down to purchase the caterpillar that was recommended in the previous item. He added that this would fund the additional

funds to purchase the dozer from the 2001. He added that this information relates to agenda items, #10 & 11. Upon a question from Commissioner Pecos, Mr. Rushing replied that the City is expended out on the 2001.

**Commissioner Garcia made a motion to reallocate the 2001 Certificate of Obligation funds for the purchase of the dozer, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia voting "FOR". Laskowski "AGAINST".**

**11. Consider reallocation of 2009 Certificate of Obligation funds for 96 gallon garbage carts. (Finance Director).**

**Commissioner Pecos made a motion to reallocate the 2009 Certificate of Obligation funds for 96 gallon garbage carts, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Garcia, Pecos voting "FOR". Laskowski "AGAINST".**

**12. RESOLUTION NO. R2009-35 Consider a resolution authorizing the submission of an application to the Justice Assistance Grant Program for the purpose of requesting funding for a broad range of activities to prevent and control crime and to improve the Criminal Justice System. (Police Chief).**

Chief Torres stated this is an annual JAG Grant for an amount of \$26,524 which will be split 50% with the County. This grant is built specifically around a directed program attacking the City's gang and burglary problem. There is no cash match. Upon a question from Commissioner Pecos, Chief Torres replied the monies awarded to the County will be used through the County's jurisdiction.

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

**13. Consider introduction of an ordinance amending the Fiscal Year 2008-2009 Budget for the City of Kingsville to accept donations for Keep Kingsville Beautiful. (Finance Director).**

Mr. Mark Rushing stated this is the first reading of an ordinance to accept the donations of \$1,500 for the corresponding appropriation for Keep Kingsville Beautiful for donations that were received in May and June. Commissioner Laskowski thanked members of the community that helped offset the cost of the installation for the irrigation system at the park on 6<sup>th</sup> & Yoakum, total cost was \$2,200. The University through a grant contributed \$500, four or five individuals contributed \$1,150, and Keep Kingsville Beautiful contributed \$550. He added that this project will flourish due to the irrigation system.

**INTRODUCTION ONLY**

**14. Consider reallocation of 1998 Certificate of Obligation funds for the purchase of a half-ton pick up and an all wheel drive vehicle. (Public Works Director).**

Mr. Rushing stated this is a reallocation of the 1998 Certificate of Obligation funds for the purchase of a \$21,000 half ton truck and \$26,000 for a half ton four door pick up. He added that the recap information ties to the information that was previously sent out in relation to the 1998 allocation.

Commissioner Laskowski voiced his concern about replacing a Ford Taurus with a 4 door pick up, stating that municipalities are watching out for what is bought by going green. Commissioner Wilson stated that there are notations within the document explaining the purchase. Mr. Casillas addressed the Commission, stating that the

vehicle is for his department, and explained his responsibilities to the water system and the need for a new vehicle, preferably an SUV to carry all his equipment to take care of the water system. Commissioner Laskowski stated that an SUV could be purchased for the \$26,000 instead of a pick up which would require more accessories. Mr. Casillas stated his preference is an SUV. Commissioner Laskowski stated he was looking for an economical vehicle.

City Manager Yerena stated Staff has no problem with purchasing the SUV. Mayor Fugate called for Staff's recommendation. City Manager Yerena stated recommendation is to purchase a truck but an SUV would do. Commissioner Pecos commented that a truck is a better vehicle.

**Commissioner Garcia made a motion to consider reallocation of 1998 Certificate of Obligation funds for the purchase of a half-ton pick up and a half-ton four door pick up, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Wilson, Laskowski "AGAINST".**

**15. Consider reallocation of 2002-2002A Certificates of Obligation funds for the purchase of a backhoe and a half-ton pick up for the Water Department. (Public Works Director).**

Mr. Rushing explained this item relates to the 2002-2002A Certificates of Obligation reallocation. He stated that \$100,000 had been earmarked for a water line in the utility fund; and \$72,000 for the backhoe and \$21,000 for a half-ton truck for a total of \$93,000.

Commissioner Laskowski asked for Mr. Rushing's recommendation. Mr. Rushing replied recommendations will be made to reallocate and to utilize the rest of the 2002-2002A. He added that in this case it would be for Water Production. Commissioner Laskowski suggested using the \$11,000 which is all in Water Production. Mr. Rushing agreed with Commissioner Laskowski's suggestion. Commissioner Laskowski commented that it bothers him when monies are borrowed to replace water lines and seven years later we are using it to purchase pick up trucks and backhoes. Mayor Fugate stated this Staff has done a good job in using the monies as proposed.

**Commissioner Laskowski made a motion to approve the reallocation of the Certificates of Obligation 2002-2002A and to utilize the \$9,858.16 and the \$1,376.48 and take balance from the \$100,000 line item, water line, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

**16. Discuss and consider Emergency Management Services for the City of Kingsville. (City Manager).**

City Manager Yerena stated that the City has been approached by the County on two different matters, the Emergency Management Services and the 911 Ambulance Services, so the City can provide them a proposal. He stated what is being brought to the Commission is to initiate discussion as to what the Commission would like to pursue. He stated that Mr. John Garcia is serving as Interim Risk Manager and is serving as the Liaison with the County for Emergency Services.

Commissioner Pecos asked for City Manager Yerena's recommendation. City Manager Yerena stated that Mr. Garcia has done an excellent job, and the City is ready to do either/or. Commissioner Laskowski asked about the money information. City Manager Yerena explained this information provides rough figures, but essentially the amount would decrease. The County is asking the City to take over Emergency Management Services. Commissioner Laskowski stated the services are already combined, but the City would be combining with a different person. City Manager Yerena stated the services would still be located at the County. Upon a question from Commissioner Laskowski, City Manager Yerena replied that Mr. Garcia will only be the Risk Manager which includes assisting the City with Emergency Management operations. Mayor

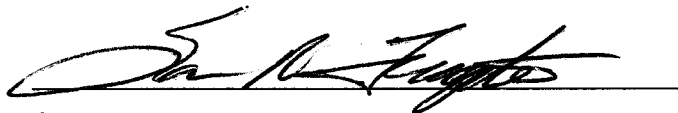
Fugate stated you can't put a price on safety. He stated he initiated this process and is very concerned about the citizens. He stated that the MOU with the County provides that the Mayor and Judge make the decision as to who serves in this capacity. Ms Alvarez stated that was a correct reflection of the Ordinance and Resolution.

Mayor Fugate called for further questions. Upon a question from Commissioner Garcia, City Manager Yerena replied the City's portion is \$19,000; the full funding is \$39,000. He stated the numbers reflect a small savings of \$5,000. Upon a question from Commissioner Laskowski, City Manager Yerena replied that Mr. Garcia has NIMS training and Homeland Security Professional Develop Series for Emergency Management training.

Upon a question from Commissioner Laskowski, City Manager Yerena replied that he would contact FEMA to see what the requirements are for that grant funding and to see if monies are forfeited if person is not qualified. Upon a question from Commissioner Garcia, Commissioner Wilson replied that by federal law the Mayor and County Judge are in charge of hiring someone jointly to operate the center.

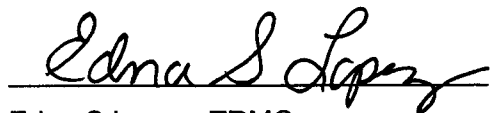
#### VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:38 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC  
City Secretary