

AUGUST 24, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, AUGUST 24, 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
Diana Gonzalez, Human Resource Director
Frank Garcia, Wastewater Supervisor
Al Lopez, Fire Chief
Ken Clark, Director of Development Service
Naim Khan, City Engineer
Joe Casillas, Water Production Supervisor
Bill Donnell, Public Works Director
Mark Rushing, Finance Director
Dora Byington, Purchasing Director
Al Lopez, Fire Chief
Ricardo Torres, Police Chief
Yolanda Cadena, Health Director
John Garcia, 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 special meeting of Monday, August 17th, 2009. **Commissioner Laskowski made a motion to accept the minutes with corrections, 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. A Public Hearing on a proposed tax rate increase from \$.80187 to \$.81057. (Finance Director).

Mayor Fugate opened the public hearing at 6:03 P.M., announced the public hearing and asked for comments. Ms Alvarez announced that the Commission will meet at the Alcorn Commission Chambers located at 200 E Kleberg on Monday, September 21st, 2009 at 6:00 P.M. in order to take the final vote on the budget and the tax rate. She stated this was published in Wednesday paper. She reminded the citizens that they do have the opportunity to speak at a second public hearing which will be held at a special meeting on Tuesday, September 8th, at 6:00 P.M. in the Alcorn Commission Chambers. She stated it was duly posted and published in the newspaper.

Mayor Fugate closed the public hearing at 6:07 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, Tax Increment Zone Presentation, Budget Workshop. No formal action can be taken on these items at this time."

City Manager Yerena reported on the JLUS Implementation kick-off meeting to be held on Wednesday, August 26th, 2009 at 2:30 P.M. at the Chamber of Commerce at 635 East King; on a special City Commission budget workshop on Thursday, and possibly another special meeting on Friday, August 28th. He announced that he will be travelling with Mr. Ken Clark to San Antonio, Texas to attend a JLUS Summit meeting with two other communities that are working on implementing the JLUS Study, the City of Del Rio and San Antonio. He reported on receiving the two new sweepers.

Ms Alvarez reported on having problems with her email, and reported on a meeting that the Fire Chief and she will attend a meeting in Corpus Christi tomorrow. She reported that Agenda Item #9, Sanitation and Sewer Control ordinance will be presented for a second reading at the special meeting on Thursday.

Commissioner Laskowski presented a "Because You Care Award" to Mr. Rahman Moes, Manager, Lowes and Staff for their beautification project in front of the Chamber of Commerce.

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.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1 & 2. **Commissioner Laskowski made a motion to accept the Consent Agenda, as presented, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".**

V. Consent Agenda

1. Motion to approve Bid No. 10-05 authorizing the execution of an annual contract for liquid ammonium sulfate to Altivia Corporation as per staff recommendation. (Purchasing Director).
2. Motion to approve Bid No. 10-06 authorizing electrical repairs to be performed as needed to the lift stations and Wastewater Treatment Plants to Rabalais Constructors as per staff recommendation. (Purchasing Director).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

3. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 5, Traffic Schedules; providing for a new school zone for the Santa Gertrudis Independent School District Academy High School and the new Elementary and Intermediate school and the installation of school zone signs. (City Engineer).

Mr. Naim Khan stated he is proposing two new school zone signs, one for Academy High School and the other for the new Santa Gertrudis Elementary and Intermediate School. He explained the zone locations of the proposed signs. The Santa Gertrudis ISD will pay for the flashing light with a solar panel and this will be placed at its location sometime in December. As for the Academy School, the City is not recommending a flashing light and the City will put up the signs. City Manager Yerena stated Staff's recommendation is for Santa Gertrudis ISD to pay for the sign since monies was not budgeted for this project.

Commissioner Wilson stated that he has walked the neighborhood and taken a survey of the area. After the receiving this information, residents have a concern that that no part of Santa Gertrudis Street where traffic is potentially going to travel down is included. The residents fear is that drivers will not recognize the start of the school zone as it will be placed. He stated that some residents on the artery streets know that these streets will be used and they would like for the City to entertain the option of backing a school zone in each of those arteries. He added these would not require the flashing lights but basically the sign when the school zone starts.

For clarification, Mr. Khan asked if this included all the streets coming out to Santa Rosa. Commissioner Wilson stated he believes that some type of traffic control is needed on Santa Gertrudis. He asked for some type of traffic control mechanism from the Police Department because someone is going to get severely hurt. Mr. Clark stated that the University is requesting to hold a meeting to discuss speed control and speed bumps on Santa Gertrudis.

Mr. Khan stated that the City will pay for the all school zone signs without lights.

INTRODUCTION ONLY

4. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 8, Traffic Control Devices; providing for the installation of No U-Turn signs on Richard Avenue at Alice Avenue for East and West bound traffic and on Richard Avenue for West bound traffic. (City Engineer).

Mr. Khan stated this request came from Academy School; there is a lot of congestion due to drivers making u-turns. Santa Gertrudis ISD will pay for the three signs that will be installed by the City.

INTRODUCTION ONLY

5. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter VII, Article 6, Schedule II, providing for No Parking on the southernmost side of Corral Avenue lying anywhere between its intersection with University Boulevard and its intersection with Armstrong Street. (City Engineer).

Mr. Khan stated this request came from the University. He stated the area is very congested and the request is for the eastbound side.

INTRODUCTION ONLY

6. RESOLUTION NO. R2009-44 Consider resolution of the City of Kingsville approving two reserve officers to the City of Kingsville Police Reserve force as recommended by the City of Kingsville Chief of Police. (Police Chief).

Chief Torres stated he is asking to bring on board two police officers, Mr. Alexander Perez and Mr. Darrin Slover. He explained their qualifications and stated both officers are in good standing with TECLOSE. Upon a question from Commissioner Wilson, Chief Torres replied Mr. Slover has worked with the department and he will be on call for the department. He stated he has three other reserves on board. Regarding requirements of administering a physical, Chief Torres stated it is not required. Commissioner Laskowski stated the City Manager should decide if these reserves should be required to take a medical physical and drug screen. Chief Torres agreed with Commissioner Laskowski's statement. Ms Alvarez explained the procedure for random drug testing.

Commissioner Laskowski made a motion to approve the resolution, with the understanding that the two Officers take a physical and a drug screen, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

7. RESOLUTION NO. R2009-45 Consider resolution of the City of Kingsville approving the addition of efficiency reports to the Civil Service Rules and Regulations for Police and Fire Departments as recommended by the City of Kingsville Civil Service Commission. (Human Resource Director).

Ms Diana Gonzalez stated the Civil Service commission met on August 18th, 2009 and voted to approve the addition of Efficiency Report to the Civil Service Rules and Regulations and to use the existing City of Kingsville Report of Performance Evaluation forms until such time that rank specific evaluation forms are developed for both the Fire and Police Departments. She stated that reports will be done twice a year and turn in at the end of January and July of each year. The Officers have the opportunity to dispute anything on the evaluations according to the rules of the Local Government Code.

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

8. Consider starting potential annexation process for Farm Lot 9 in Section 22 of Kleberg Town & Improvement Company Subdivision and directing the Planning Department to prepare a service plan for such area. (Director of Development Services).

Mr. Ken Clark stated that the City Manager has requested starting the process for annexing Hawks Landing. He asked the Commission give Staff the okay to start the process and added the first thing is to prepare a service plan which basically explains what are the service out there now and what services would the City be able to provide which are required by law. Upon a question from Commissioner Pecos, Mr. Clark explained that the City wants to annex Hawks Landing because it has an interesting history which the City Secretary and the City Attorney pulled up the last annexation done by the City. He stated that for whatever the reasons were Hawks Landing was excluded out of that process at that time. He stated that this area is receiving all the services from the City and not receiving anything for this. Mr. Clark stated he has confirmed with the Fire Chief that fire and EMS services are being provided by the City. He stated it is very logical to annex this area. Commissioner Laskowski stated they were not supposed to be annexed for a period of five years, which expired several years ago and should have come on the tax rolls about 2005 or 2006. Commissioner Laskowski commended Staff for starting the process. Mayor Fugate stated Hawks Landing was a private/public partnership between the Navy and a private entity, which one of the first such projects in the United States and has been ripe since about 2002.

Commissioner Laskowski made a motion to start potential annexation process for Farm Lot 9 in Section 22 of Kleberg Town & Improvement Company Subdivision

and directing the Planning Department to prepare a service plan for such area, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski "FOR".

9. Consider introduction of an ordinance of the City of Kingsville, Texas adopting Chapter V, Article 5, Sanitation and Sewer Controls Near Public Water Wells, providing for regulations regarding sanitation and pollution control of the areas in proximity to the City's public water supply wells and for penalties, repealing all ordinances in conflict herewith and providing for an effective date and publication. (City Attorney).

Ms Alvarez stated that in doing some work with TML, Staff came across a little known and used process that would not require any the City to obtain sanitary sewer easements from property owners within 150 feet of wells that the City either currently have or would propose to build in the future so long as they are in the City limits. This is the ordinance that would allow the City to do that, it basically reiterates the thing in 30 Texas Administrative Code Section 290.41 that are prohibited to be within various distances of public water wells. It provides for definitions and allows the City or authorized representatives that have proper credentials and identification to enter upon property to inspect and make sure no prohibited activities are occurring. There is also a penalty clause and she further explained several sections of the proposed ordinance. Ms Alvarez stated that if the Legislature decides to amend the tack at some future point and time, and they enact a more restrictive prohibited conduct than that would control over this particular portion that was more lax.

INTRODUCTION ONLY

Mayor Fugate announced the Executive Session. The Commission convened into Executive Session at 6:53 P.M.

10. Executive Session: Pursuant to Section 551.074 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 anticipatory breach of jail contract by Kleberg County and refusal of warrant prisoners. (City Attorney).

The Commission reconvened into regular session at 7:10 P.M.

11. Consider retention of outside counsel for matters related to the jail. (City Attorney).

Mayor Fugate called for motion.

Commissioner Laskowski made a motion to executive the dispute resolution section of the contract and that all parties named in that section get together to try to resolve this issue, if the issue is resolved by that committee and the Sheriff refuses to comply with the contract that the City take, hire an attorney, Jim McKibben Firm, if needed, to seek complete resolution to this problem, seconded by Commissioner Garcia. Upon a question from Mayor Fugate regarding implementing this, Ms Alvarez replied contact will be made with the County officials so that the meeting will be set when everyone is available. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

Mayor Fugate announced the Executive Session. The Commission convened into Executive Session at 7:14 P.M.

12. Executive Session: Pursuant to Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in executive session to deliberate the evaluation of the City Manager and the City Attorney. (Mayor Fugate).

The Commission reconvened into regular session at 7:48 P.M.

13. Consider evaluation of the City Manager. (Mayor Fugate).

Mayor Fugate stated that no decisions or votes were taken during executive session. He read both items # 13 & 14, and requested that the City Secretary send out to all Commissioners the performance evaluation forms for the City Manager and City Attorney. He further stated that these two items be put on the first meeting, next week.

14. Consider evaluation of the City Attorney. (Mayor Fugate).

VI. Adjournment.

There being no further business to come before the City Commission was meeting was adjourned at 7:50 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, City Secretary