

OCTOBER 26, 2009

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, OCTOBER 26, 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
Ken Clark, Director of Development Services
Naim Khan, City Engineer
Mark Rushing, Finance Director
Dora Byington, Purchasing Director
Diana Gonzalez, Human Resource Director
Jennifer Vela, Code Enforcement Officer
Yolanda Cadena, Health Director
Susan Ivy, Parks Director
Bill Donnell, Public Works Director
Ricardo Torres, Police Chief
Joe Casillas, Water Production Supervisor
Dianne Leubert, Solid Waste Superintendent
Grace Garcia, Interim Task Force Commander
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 regular meeting of Monday, October 12th, 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

1. A Public Hearing on enterprise zone regarding local incentives available and nomination of a project from Celanese Corporation for enterprise project designation. (City Manager).

Mayor Fugate opened the Public Hearing at 6:04 PM and announced the subject of the public hearing.

Mr. Mark Garner, on behalf of Celanese, explained their request and their intentions for this request. Upon a question from Commissioner Garcia, Mr. Garner stated the company will retain the current amount of jobs.

Mayor Fugate called for comments or questions. Upon a question from Commissioner Wilson, City Manager Yerena responded that Staff's recommendation is to proceed with this request. Ms Alvarez explained that Staff is recommending this because the benefits

to be received that they are looking for are coming from the State. She explained that they can't get the benefits from the State without the City's sponsorship. She stated one requirement of the statute is that since the business seeking project nomination lies outside of the City limits than there is a higher percentage of individuals that they must employ or retain within that five year period. She added that since the City has a larger population it is more likely that they will get positions filled through the City of Kingsville's surrounding City residents than they would be able to fill that percentage perhaps if the City of Bishop were to nominate them. She stated the incentives available are listed in the City ordinance under Section 2, A through G.

Commissioner Laskowski asked about the rebate of their sales tax and how it would impact the City's sales tax receipts. City Manager Yerena replied it would not affect the city's sales tax only the state portion. Mayor Fugate stated this is not affecting any of the City's neighbors' sales tax.

Mayor Fugate called for further questions or comments. Mayor Fugate closed the Public Hearing at 6:12 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, Pan American School infrastructure presentation. No formal action can be taken on these items at this time."

City Manager Yerena called for Mr. Donnell to update the Commission on the new roll-out containers. Mr. Donnell addressed the Commission and stated that the new cans will be out by November 2nd, and are requesting that the customers leave out their old cans in order to have them replaced. He provided information on the new zone collection map.

City Manager Yerena reported that a ceremony will be held on Wednesday at the Public Works department dedicating Mr. Nerio C Garza's picture, the start of Red Ribbon Week, the kick-off for Toys for Tots, on a successful Trash-off Day, and on the City's events for Halloween. He introduced Mr. Brad Womack, Kingsville's Next Generation (KNG) representative. Mr. Womack spoke about the newly formed organization and on their participation in the community. City Manager Yerena reported on the status for street paving and the street sweepers.

City Manager Yerena introduced Mr. James Mathews, President of Pan American School and Mr. Nixon Welch, of Bass & Welch Engineers. Mr. Wells explained the proposed infrastructure improvements that will be made at the school.

Mayor Fugate presented several certificates of appreciation for participation in Trash-Off Day.

Ms Alvarez reported on attending County Commissioners' Court, receiving the sanitary sewer draft proposal, and on the date of the next Commission meeting.

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 Dianne Leubert, 715 W Nettie, spoke with regard to Agenda Item #6.

Mr. Roy Medina, 715 W Nettie, spoke about not being able to place his roll-out in front of his house due to TAMUK students parking there.

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. RESOLUTION NO. R2009-58 Motion to approve resolution supporting Statewide Proposition 1 to amend the Texas Constitution to authorize the Legislature to allow a Municipality or a County to issue bonds and note to Finance the purchase of buffer areas or open spaces adjacent to military installations. (City Manager).
2. RESOLUTION NO. R2009-59 Motion to approve resolution authorizing the City Manager to execute an interlocal agreement for E9-1-1 Public Safety Answering Point Services with the Coastal Bend Council of Governments. (City Manager).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

3. Consider introduction of an ordinance ordaining the City's participation in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code (Act), providing tax incentives, designating a liaison for communication with interested parties, and nominating Celanese Corporation to the Office of the Governor Economic Development & Tourism (EDT) through the Economic Development Bank (Bank) as an Enterprise Project (Project). (Director of Development Services).

Mr. Ken Clark stated there was a public hearing for this item and this is the introduction and the adoption will be on the agenda in November. Commissioner Wilson questioned the information on Section 2. He stated that the City has laid out the ground work to allow abating taxes and asked if there was a particular reason why that was laid out. Ms Alvarez replied that it hasn't been discussed with Celanese for this particular project, but the way that the statute is, once a public hearing is done and an ordinance is in place if another business or project would come to town and would ask the City to be nominated that next project could be done through a resolution so long as the City would consider offering or making available the same things that are set out in the ordinance. She added if the ordinance is more restrictive than the City has to go back to the process of doing the public hearing and a new ordinance versus simply passing a resolution. She explained this language is recommended by the state which on the sample ordinance. Commissioner Wilson asked if all the items (A-G) on Section 2 are recommended by the state to be in the ordinance. Ms Alvarez replied it is suggested. Commissioner Garcia questioned Section 5(a) regarding an earlier statement about job retention. Mr. Garner explained this is a job retention project but when people leave that is when the 35% becomes applicable to the project on whether or not the company receives any benefits.

INTRODUCTION ONLY

4. Consider modification or rejection of price increase on an annual contract for chlorine with Acetylene Oxygen Company (A.O.C.). (Purchasing Director).

Ms Byington stated this company is already charging the price increase of \$15.00, but this is the best solution. Commissioner Laskowski stated the company did not even honor the contract for one month, but the City has to have the product. He stated the City should rethink its philosophy and go on a month to month basis and to have the product delivered to only one location. City Manager Yerena stated he agrees with keeping it on

a month to month basis. Commissioner Laskowski offered some proposed language that could be included on bid specifications for future reference.

There was discussion on disqualifying the company, on moving forward or to go out for new bids.

Commissioner Pecos made a motion to accept the modification with the understanding that this will be rebid to see if the City can get a better price, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos voting "FOR". Laskowski "AGAINST".

5. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV; Providing for adoption of Article 10, Irrigation Systems and Regulations pertaining thereto in order to establish the minimum standards for installation of irrigation systems within the corporate limits of the City and the extraterritorial jurisdiction; and providing for a criminal penalty, Class C Misdemeanor not to exceed two thousand dollars (\$2,000.00) for violation of the code. (Director of Development Services).

Mr. Ken Clark stated this basically is an ordinance that is needed due to State Legislation. He stated the city doesn't have very many contractors with irrigation projects and they will have to submit plans for residential irrigation. Commissioner Laskowski stated that all requirements for the irrigation systems apply to all residents that currently have an irrigation system regardless of its age. Commissioner Garcia suggested a system be set up for notifying customers of compliance with their systems.

INTRODUCTION ONLY

6. ORDINANCE ORD2009-33 Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Sections 9-3-25 through 9-3-45 and adopting Sections 9-3-46 through 9-3-64; providing for a rewrite of the provisions regarding dogs and cats. (Health Director).

Ms Cadena stated this ordinance has much needed revisions, and that the majority of the Health Board voted to keep the number of dogs and cats the same as in the introduction. Commissioner Wilson stated his initial comment would be that he appreciates the Boards diligence and effort to craft a tightly woven ordinance, but unfortunately he can't follow the same path the entire way. He stated as a person who loves animals he would not want to live next door to a person with ten animals. He stated he did not think there are enough safeguards that currently exist the way it is written to give those who live in the neighborhood enough redress to get out of it. Commissioner Wilson and Commissioner Laskowski voiced their concerns about the definition of "animal" in the ordinance. Mayor Fugate stated that State Law will supersede this ordinance. Ms Alvarez commented that there still exists unchanged, Sections 9-3-1 to 9-3-24 which includes prohibited animals. Commissioner Wilson stated there is a problem with not being able to read this ordinance as a stand-alone. He stated this ordinance should describe an animal as, a cat or dog.

Ms Judy Anthony, Health Board member explained that if a neighbor wants more than four animals, the other neighbor would have to agree. She stated that limiting families to four animals would open a can of worms. Commissioner Laskowski voiced his concern about people moving and not having to get another permit.

Mr. Roy Medina, Health Board member asked for the solution to the problem. Commissioner Wilson stated he is asking for a reasonable amount of dogs and cats and he is trying to protect those that are honest people. Mayor Fugate stated that they have to trust the Health Director. Mr. Medina stated the situation is the problem with the lady on Nancy Street.

Mayor Fugate stated discussion could continue but this is the recommendation of the Health Board, and asked Ms Cadena if this was a reasonable document to work from and

if she felt comfortable. Ms Cadena responded yes to both questions. Commissioner Laskowski stated he brought up a couple of issues that the Health Board agrees needed to be addressed and that he would like to send this back to the Health Board and let them address those changes and let me bring a final ordinance to the Commission. Mr. Medina requested the Commission take a closer look at all the ordinances combined and provide the Board with more input. Commissioner Wilson stated he would like to address this one and then figure out what can be done with the others. Commissioner Laskowski stated he preferred leaving the number with a maximum of six animals with the two additional animals being spayed and neutered and no additional animals above the six. Ms Anthony asked if people with seven or eight animals will be grand-fathered. Commissioner Wilson stated his opinion would be yes, you have to grandfather them. Ms Anthony requested that Commissioner Laskowski provide information in writing for discussion by the Health Board.

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

7. Consider introduction of an ordinance amending the Fiscal Year 2009-2010 Budget for the City of Kingsville to remodel City Hall conference room. (Finance Director).

Mr. Rushing stated this is the first reading of the budget amendment for the remodeling of the conference room which would be \$11,000, financed from the miscellaneous revenue increasing the projected revenues. The bid is for \$7,800 for the remodeling and a balance of \$3,200 for the equipment for the conference room.

INTRODUCTION ONLY

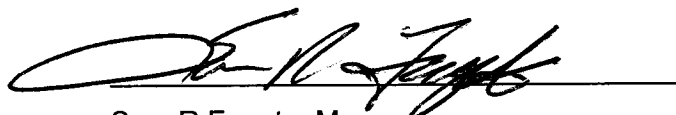
8. Consider waiver of about \$14,000 in water bills for Kleberg County Parks Department. (Parks Director).

Mayor Fugate stated there have been major water leaks that were metered. Ms Ivy stated that meters will be changed in order to keep close tabs at certain locations along this loop at the park. City Manager Yerena stated this is justifiable since they did not use the water.

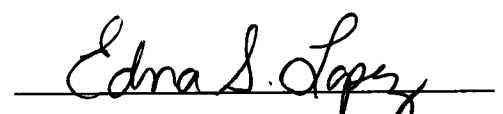
Commissioner Wilson made a motion to approve waiver of the agreed amount as per Staff's recommendation, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:28 P.M.


Sam R Fugate, Mayor

ATTEST:


Edna S Lopez, TRMC, City Secretary