

JANUARY 11, 2010

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JANUARY 11, 2010 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
Courtney Alvarez, City Attorney
Ken Clark, Director of Development Services
Naim Khan, City Engineer
Dora Byington, Purchasing Director
Mark Rushing, Finance Director
Bill Donnell, Public Works Director
Al Lopez, Fire Chief
Yolanda Cadena, Health Director
Ricardo Torres, Police Chief
Dianne Leubert, Solid Waste Superintendent

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, December 21st, 2009. **Commissioner Laskowski made a motion to accept the minutes, as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski voting "FOR". Wilson "ABSTAINED".**

Mayor Fugate presented a Proclamation recognizing the Kingsville Independent School Board.

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

1. Public Hearing to rezone 11.2886 Acres out of Lowes Home Center Kingsville, Part of Lot 6, from "R-1" Single Family District to "R-2" Two-Family District. (Director of Development Services).

Mayor Fugate opened the public hearing at 6:08 P.M., announced anyone that wants to address or speak about this subject may come to the podium.

Mayor Fugate called for Staff's comments. City Manager Yerena stated to the Commission that Staff had a previous workshop and a memo has been presented to them for their review.

Mr. Dick Messberger, 341 Brenda Lane, spoke in favor of the rezoning.

Mr. David Cummings, owner of property in question, spoke in favor of rezoning and provided background of the area.

Mr. Joe Henkel, 618 Pippin Lane, expressed support for the project.

Ms Bobby Nix, 629 W Alice, spoke in favor of the rezone and stated she would like to spend the rest of her day here, in Kingsville.

Ms Michele Rivers, 926 W Kleberg, spoke in favor of the project.

Mr. Rudy Galvan, Jr., 1400 Kelly, spoke against the rezoning, stating this project is in his front yard, he and his neighbors have spoken to Mr. Cummings and ask if they can be trusted since now they are asking for tax abatements.

Mr. Juan Lozano, 1405 Palm, spoke against the project, prices too steep for citizens to live there.

Mr. Daniel Morales, 1309 Palm, reminded the Commission he spoke to them on December 14th and was opposed to the project and he is still opposed to the project.

Mr. Travis Beyers, 1308 Palm, spoke on not being opposed to the project, just concerned if the project does not succeed.

Mr. Jeff Dyer, Rancher/Businessman in Falfurrias, spoke in favor of the project due to his parents living in Kingsville and eventually needing a place like this.

Ms Velma Veliz, 1400 Palm, spoke in opposition of the project.

Mr. Joe Hickey, 1205 Palm, advised he was not opposed to the project but not in his back yard.

Mayor Fugate closed the public hearing at 6:42 P.M.

III. Reports from Commission & Staff²

"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, Health Plan Update, Tax Increment Zone Presentation, Pan American School infrastructure presentation. No formal action can be taken on these items at this time."

City Manager Yerena introduced newly hired Staff members: Mr. Robert Trescott, Downtown Manager and Mr. Gary Fussler, Landfill Supervisor; he announced that City offices will be closed on Monday, January 18th, in observance of Martin Luther King holiday.

Commissioner Laskowski called for an update on the two water wells and on cell phone signs being placed on all school zone signs. City Manager Yerena stated TCEQ approval for Water Well #23 has been received. Mr. Juan Piamental, LNV Engineering, addressed the Commission and explained that Water Well #23 has an interim approval. As for Water Well #24, there are a couple of items that Rambro Contractor needs to address, but it is on line. He stated both water wells are on line. City Manager Yerena stated he would look into the matter of the cell phone signs.

Commissioner Garcia asked about the water systems status after the freezing weather. City Manager Yerena stated there was a leak on one of the older lines on the west side of town.

Commissioner Pecos advised the McRoberts School zone light on the eastside is not working and that this happens constantly.

Ms Alvarez reported on the next JLUS Implementation Committee meeting on Wednesday, January 13, 2010 at the Chamber of Commerce. She reported on working with the Consultant and the County on a resolution for the Joint Airport Zoning Board or for the creation. She added that the County would be taking the initiative of creating and appointing two positions. She asked the Commission to begin thinking of two people whom they would like to appoint to that board. Ms Alvarez reported on the KCVB Bike Ride on April 17th, 2010. She reported that the

City Secretary received two petitions: for election to amend the Charter which is under review with final decisions made tomorrow; and another petition regarding sidewalks in Paulson Falls which Staff is also reviewing.

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. Rudy Galvan, 1400 Palm, presented an updated petition signed by the residences in Carriage Park who are against the project of the rezone.

Mr. David Cummings, property owner, explained the project will be done on a first class matter and is at a loss. He stated elderly care is an ongoing and thriving business.

Ms Valerie Henessy, 1906 Margaret Lane, spoke on behalf of the Paulson Falls petition that was presented to the City Secretary prior to the meeting. The petition objects to sidewalks in the Paulson Falls Phase III area.

Mr. Donald English, 1903 Margaret Lane, spoke on why the requirements of sidewalks in Phase III and not in Phase I & II in the Paulson Falls subdivision.

Mr. Chris Nigus, 1706 Brook Lane, spoke on street conditions in the Paulson Falls subdivision.

Ms Amy McDonald, 2107 Margaret Lane, spoke in opposition of sidewalks in Phase III, Paulson Falls subdivision and in favor of a playground in the subdivision.

Mr. Daniel Morales, 1309 Palm, spoke on subject of 3rd Party report stating he doubted that the firm did it based on this location.

Mr. Al Lewis, 800 General Cavazos, spoke on the activities during the month of January honoring Dr. Martin Luther King.

Mayor Fugate called for consideration of the items in the Consent Agenda, Items 1-5. **Commissioner Laskowski made a motion to accept the consent agenda as presented, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Laskowski, Wilson, Pecos, Garcia voting "FOR".**

V. Consent Agenda

1. ORDIINANCE NO. ORD2010-01 Motion to approve final passage of an ordinance amending the Fiscal Year 2009-2010 Budget for the City of Kingsville to accept donations for Keep Kingsville Beautiful. (Finance Director).
2. RESOLUTION NO. R2010-01 Motion to approve a resolution authorizing the submission of an application to the Coastal Bend Council of Governments for the purpose of requesting grant funding for a trailer mounted sandbagger. (Risk Manager).
3. RESOLUTION NO. R2010-02 Motion to approve a resolution authorizing the submission of an application to the Coastal Bend Council of Governments for the purpose of requesting grant funding for an EOC generator package. (Risk Manager).
4. Motion to approve out-of-state travel for Director of Development Services Ken Clark to attend the American Planning Association's 2010 National Planning Conference in New Orleans, Louisiana on April 10th – 13th, 2010. (City Manager).
5. Motion to approve the City's participation in sponsorship of the Annual Ride on the Wild Side charity bike tour on the King Ranch on April 17, 2010 in conjunction with the Kingsville Convention and Visitors Bureau and the Kingsville Noon Lions Club; and other matters related thereto. (City Attorney).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

Mayor Fugate called for agenda item #7.

VI. Items for consideration by Commissioners.⁴

6. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 11.2886 acres out of Lowes Home Center Kingsville, Part of Lot 6, from "R-1", single family district to "R-2", two-family district. (Director of Development Services).

Mr. Clark stated this item was introduced at the Commission meeting on December 14th, 2009, and minutes from the Planning and Zoning Commission meeting were forwarded to them. Mayor Fugate called for questions or comments and asked for Staff's recommendation. Mr. Clark stated Staff along with the developer looked at infrastructure; P& Z looked at land use and from Planning standpoint it is all there. He stated that P&Z decided to rezone to R2 instead of requesting R3 after receiving concerns about a dense apartment project being developed there, R2 would not allow this type of property development. He stated this property has been zoned an R1 for a long time, the need for residential housing is there, unfortunately the financing as the Bank President stated is not there. Mayor Fugate asked how many developers have approached the City with wanting to put in a project such as this. Mr. Clark replied this is the first developer wanting to do this and there is no single-family housing projects coming forward. Mayor Fugate called for questions or comments.

Commissioner Garcia made a motion to consider the item on the agenda, item #6 as presented by Staff, seconded by Commissioner Pecos. Mayor Fugate called for further comments. Commissioner Garcia clarified his position stating that in the past residents on Palm Street have complained about rodents in their homes due to the vacant field. He stated there was opposition when the dealerships were being built and has not heard of complaints since they were built. He stated that the baby boomers are aging and there will be a continuing need for assistance living and in the medical field and if the City does not jump on this opportunity the City will fall behind. He added that the City will benefit from the taxes and the tax issue will be tackled when it comes up. He stated this project will provide jobs for the residents in the community. Commissioner Garcia stated he understands the concerns of the citizens in that neighborhood but they should be welcoming the project. Commissioner Wilson stated this is kind of a throw back for those involved some years back in the annexation issue of the community. He stated emotions most of the time ran high at the meetings. He stated there are simple issues at play, the citizens living at Carriage Park want to know why there, reason is the person who owns the land wants to get rid of the land and he finds this as a viable alternative to turn that land into money, nothing wrong with that. He stated the landowners have an objection because it is in their backyard and they are afraid if this goes south something will be built there or that land will languish in an unkept state and their property will face the brunt of the affect of that. He added this boils down to two simple things: does the Commission allow the developer to come into town and turn his land to something that he believes is good, viable and admirable and probably very attractive; or do they rely on the citizens who live, work and pay taxes here to use their judgment. He stated this is not an easy issue because both sides in their own way are absolutely correct, but it is up to the five Commissioners to decide what is best for the community, not for the neighborhood and not for the developer. He stated he has spoken to Mr. David Cummings before today's meeting. Commissioner Wilson stated that it is scary for an elected body to turn down a developer because there is nothing that ripples through that kind of world more than they are not helpful. Commissioner Pecos stated it is hard for the Commission to confront its citizens, but on issues like this he looks into it and makes decision based on what is best for the City. He stated this project will bring jobs. Mayor Fugate stated this is a difficult decision because friends are opposed to the project. He stated the City does not have developers tripping over themselves and don't have a lot of opportunities here due to being a secondary market. He gave an example of Paulson Falls, Phase III. He stated the property in question is a buffer zone between Lowe's and this neighborhood. He stated if this is not approved then the property could get another R1 project which would be totally unacceptable. Mayor Fugate stated that the City would gain approximately \$140,000 in ad valorem taxes, a payroll of over \$1 million per year, and a project that is needed. He stated the developer will put in a nice project and he would not object if this went into his neighborhood. Bottom line, this is needed in Kingsville; this is in the City's Master Plan. Mayor Fugate called for roll-call vote. During the roll-call vote Mayor Fugate questioned if a Commissioner could abstain from a vote. Ms Alvarez replied he could if the Commissioner feels he might have some type of conflict that is not an economically substantial interest in the development which would require him to file the form the City has under the Local Government Code and in the City's Code of Ethics. Mayor Fugate asked Commissioner Laskowski if he was abstaining due to a conflict. Commissioner Laskowski replied "Yes" because he lives in the subdivision and he prefers to abstain.

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

7. Consider authorizing repairs for Water Well #22 to Friedel Drilling Company to be paid from Utility Fund Capital Projects, Fund 054. (City Manager)

City Manager Yerena stated that previously Staff informed the Commission with the need to move forward with improvements to Water Well #22. The City Engineer put together the plans and specs and has received informal bids. Staff and the City Engineer recommend awarding the bid of \$71,480 to Friedel Drilling Company and allow the opportunity to award the bid pending TCEQ approval.

Commissioner Laskowski made a motion to accept Staff's recommendation and award the contract to Friedel, seconded by Commission Garcia. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson, Laskowski voting "FOR".

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:30 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, City Secretary