

SEPTEMBER 13, 2010

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, SEPTEMBER 13, 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, Commissioner
Charles E Wilson, Commissioner
Stanley Laskowski, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Carlos Yerena, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Naim Khan, City Engineer
Ken Clark, Director of Development Services
Yolanda Cadena, Health Director
Frank Garcia, Wastewater Supervisor
Ricardo Torres, Police Chief
Diana Medina, Collections Supervisor
Dora Byington, Purchasing Director
Diana Gonzales, Human Resource Director
John Garcia, Risk Manager
Al Lopez, Fire Chief
Gary Fuselier, Landfill Supervisor
Bill Donnell, Public Works Director
Joe Casillas, Water Production Supervisor
Arturo Perez, Garage 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 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 Tuesday, September 7th, 2010. **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

NONE

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, Keep Kingsville Beautiful, 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, Main Street Downtown, Chapter 59 project. No formal action can be taken on these items at this time."

City Manager Yerena provided an update on the Street department projects. He stated the Trash-off site is opened for residents to dump any brush from the storm. He called for Chief Torres to provide report on Federal State Funds budget Fiscal Year 2010-2011. Mayor Fugate stated the report was self-explanatory. Chief Torres provided information on a correction, monies for the sirens software. City Manager Yerena thanked the Commission for allowing him to have worked here and stated the Harlingen position is an opportunity for him to advance. He thanked Staff for all their hard work. Mayor Fugate thanked the City Manager Yerena for all his hard work.

Mayor Fugate called for Commission comments/reports. Commissioner Laskowski requested that every street be swept by the Street sweeper.

Ms Alvarez stated there is a special meeting next Monday to adopt the budget and tax rate, a regular meeting the following Monday, and that the meeting with the Fire Union has been rescheduled. She reported on the meeting that was attended this afternoon with the County. She stated there will be an item to consider the golf course at a later meeting.

Commissioner Garcia personally thanked the City Manager Yerena for his service to the City and wished him and his family well.

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 1-6. **Commissioner Laskowski made a motion to accept the items in the Consent Agenda, seconded by Commissioner Wilson and Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".**

V. Consent Agenda

1. **ORDINANCE NO. ORD2010-29 Motion to approve final passage of an ordinance amending Chapter XI: Business Regulations, Article 14 Vendor Solicitations of the Code of Ordinances of the City of Kingsville; providing for modification of the days for charitable solicitations in the streets or right of ways. (City Attorney).**
2. **Motion to approve awarding Bid No. 11-07 authorizing a one-year contract for janitorial maintenance services at City Hall, including janitorial supplies awarded to Jacinto Macias Cleaning Services from Kingsville. (Purchasing Director).**
3. **Motion to approve awarding Bid No. 11-02 authorizing the purchase of tires for all City departments, except Police and Task Force, to Southern Tire Mart from Dallas, Texas. (Purchasing Director).**
4. **Motion to approve awarding Bid No. 11-05 authorizing the execution of a twelve month contract for diesel fuel to Oil Patch Petroleum from Bishop, Texas. (Purchasing Director).**
5. **Motion to approve awarding Bid No. 11-06 authorizing the execution of a twelve month contract for gasoline, deliveries to warehouse by Petroleum Traders and deliveries to landfill by Oil Patch Petroleum. (Purchasing Director).**
6. **Motion to approve expending funds from the City of Kingsville Employee Benefit Plan Trust for the City Health Fair. (Human Resource Director).**

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

7. Consider reallocation of CO 2009 funds for methane gas remediation at the Landfill. (Finance Director).

Mr. Rushing stated he listed residual balances, total balance \$545,899.32. He stated if this is done all resources will be pulled leaving \$14,000.00 balance. Balance after reallocation is \$411,839.32.

Upon a question from Commissioner Laskowski, Mr. Rushing replied he did not have with him the recap of the CO 2001 monies. Commissioner Laskowski stated CO 2001 was exclusively for landfill.

Commissioner Pecos made a motion to consider reallocation of CO 2009 funds for methane gas remediation at the Landfill, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Laskowski, Pecos voting "FOR".

8. Consider awarding Bid No. 10-34 authorizing the purchase and installation of three sirens with software package. (Purchasing Director).

Mr. Garcia stated this money is for the sirens and the Police Department is providing monies for the software. He provided information on the type of system. The three (3) sirens will be located in the same positions. The software package is self-contained. The system uses GL level software which collects data from different places which will pick up tornados. With regard to the different siren tones, the media will be utilized to educate the citizens.

Commissioner Laskowski made a motion to authorize the purchase and installation of three sirens with software package, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Laskowski voting "FOR".

Mayor Fugate deviated from the agenda in order for Commissioner Wilson to present a St Jude Children's Research Hospital proclamation.

9. Consider awarding Bid No. 10-43 authorizing the purchase and installation of gas vent wells for the Landfill Department. (Purchasing Director).

Ms Byington stated this item authorizes the purchase and installation of gas vent wells. It is recommended that the bid be awarded to the sole bidder, Shaw Environmental & Infrastructure, Inc. from Baton Rouge, Louisiana. This action will expend \$95,870.00 by using PVC pipe. Funds for this project will be allocated from 170.3-314.00.

Commissioner Laskowski made a motion to award the bid to Shaw Environmental & Infrastructure, Inc., seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

10. Consider awarding Bid No. 11-04 authorizing a one-year contract with two different companies to supply water and wastewater utility supplies. (Purchasing Director).

Ms Byington stated this item authorizes a one-year contract with two different companies, Ferguson Enterprises, Inc from Corpus Christi, Texas and Morrison Supply Co. from San Antonio, Texas to supply water and wastewater utility supplies. Each bidder recommended for an award submitted the lowest, qualified bid.

Commissioner Laskowski made a motion to accept Staff's recommendation on Bid No. 11-04 and award the contracts to the various companies based on their low bids, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

11. Consider removing from the table resolution authorizing the Mayor to enter into an extension of the Water Pass Through Contract with the South

Texas Water Authority which is set to expire on December 31, 2010. (City Manager).

Mayor Fugate called for consideration of removing this item from the table.

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

12. Consider resolution authorizing the Mayor to enter into an extension of the Water Pass Through Contract with the South Texas Water Authority which is set to expire on December 31, 2010. (City Manager).

Commissioner Laskowski asked that they pass on the item because Staff has not had enough time to review the actual cost for providing that service and would like to give Staff a little more time.

13. Consider removing from the table request to waive some or all interest on paving lien from February 27, 1961 for Lots 19-23, Block 18, Tranquitas Addition. (Mayor Fugate).

Mayor Fugate called for consideration of removing this item from the table.

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

14. Consider request to waive some or all interest on paving lien from February 27, 1961 for Lots 19-23, Block 18, Tranquitas Addition. (Mayor Fugate).

Mayor Fugate stated that Staff was supposed to come up with some type of a formula. Mr. Rushing stated he had planned that if citizens to come in that fall within this category and pay between now and end of next fiscal year that the City would relieve them of any accrued interest prior to October 1st, 2000. He stated case in point the people that are requesting this waiver. He stated an example was provided and it would be as if the lien was enacted October 1, 2000, the City would calculate interest coming forward. In that case for those that voluntarily come in and pay for the liens and interest in this manner the City would relieve them of that interest. He stated there is a clause that there is 120 days that is tacked on after the notification. He further explained that City Staff will convert the manual file to a mechanical file between now and December 31, 2010. A massive campaign will be done in January or February to try to contact the owners of properties and try to make effective notices to them as to how much the balance is. He stated if someone is connected in August 2011, this would allow the City to go 120 days from that point with the end point in December 31st, 2011. He stated that in the future an individual can bring to the Commission for their consideration. He stated this is patterned after the same process as Municipal court. Commissioner Laskowski asked if during a warrant roundup people are told if they come in and pay they will get their fines lowered. Mr. Rushing stated that is not the way it is done, this is just a similar manner, he added this may not be the best analogy.

Upon a question from Commissioner Laskowski, Mr. Rushing replied there may be somewhere in the \$286,000 to \$305,000 range of accrued interest prior to October 1st, 2000. He stated this plan is only addresses street assessment liens.

Upon a question from Commissioner Wilson, Mr. Rushing replied the weed lien bill is template that the Collections Manager had. Commissioner Wilson stated that any direction that the City goes short of saying completely no, will set a precedence that people in the future who owe the City money are going to use this as a foundation to have relief of what they owe the City, regardless of what it is. He stated this needs to be understood and the City is treading on real thin ice of even thinking about it. He commented that for him what would be fairer instead of having a calculation that has to be applied; maybe the City should go back to

when the original lien was instituted and go twenty (20) years from there. He provided an example. Mr. Rushing stated he had thought about that type of calculation but you can run into a problem as to when was the lien actually was incurred. He stated his method of calculation is an easier mechanism to consistently apply. Commissioner Wilson responded he liked the explanation, except if it is not twenty (20) years old, it won't be considered forgivable.

Upon a question from Commissioner Garcia, Mr. Rushing replied the intent is to communicate with the owners of the properties that have liens.

Mayor Fugate stated under the plan the notices will go out at the end of 2011 and after 2011, each account will be brought to the Commission on an individual basis. Mr. Rushing stated there are 246 accounts that fall within this category. Commissioner Garcia voiced his concern regarding to large balances and citizens not being able to pay. Mr. Rushing stated these accounts will be presented to the Commission for consideration. Upon a question from Commissioner Laskowski, Mr. Rushing replied his plan only addresses street assessments category. Upon a question from Mayor Fugate, Ms Alvarez stated this was an ordinance that the City enacted which is different from property taxes so the City does have the discretion especially since it was fifty (50) years ago and it is time to decide what is reasonable to try and collect on.

Commissioner Laskowski made a motion to forgive all interest accrued after February 27th, 1982, seconded by Commissioner Wilson. As point of order, Commissioner Wilson withdrew his second for clarification. Mr. Rushing stated to clarify, forgive all interest accrued since 1982 to this point and time or forever in the future. Commissioner Laskowski explained if they were to pay within the guidelines that Mr. Rushing is recommending within the calendar year then the recommendation will be followed. Commissioner Laskowski further explained his recommendation is that rather than stopping at 2000 that the City go from 1962 to 1982. Mr. Rushing stated he was talking about peeling off the front end and Commissioner Laskowski is talking about peeling it off the back end given the criteria frame work that he has set up before them. For clarification, Commissioner Wilson asked if this was for paving liens only. Commissioner Laskowski replied that was correct. **Commissioner Wilson seconded the motion.** Mayor Fugate stated there is a motion to waive any interest accrued after 1982, February 27th. Commissioner Laskowski stated the property in question lots 20—23, for the sake of discussion, if they pay the City \$1,306.78 that lien will be paid, and the other property would be \$981.00. Commissioner Laskowski stated he was going to assume most of the paving liens were recorded on the same date. Mr. Rushing replied there's a variety of dates. **Commissioner Laskowski then withdrew his motion and restated his motion, Commissioner Wilson withdrew his second.**

Commissioner Laskowski made a motion to follow Mr. Rushing's recommendation with regard to implementation and that the City offer the persons that owe the City paving liens a grace that if they pay the City for twenty (20) years of interest beginning on whatever the date the lien was filed, then the City will forgive the balance. He gave an example: if the lien was filed on February 27th, 1962 the person would owe interest for twenty (20) years the balance would be twenty (20) years going through the anniversary of the actual lien. Mayor Fugate stated he didn't understand and it seemed neither did Mr. Rushing. Mr. Rushing stated if a date is used it would easy for the education of the public as well as to administer it. Commissioner Laskowski stated that the date is going to vary from lien to lien so if the original recording date, whatever it may be in twenty (20) years from that anniversary date of the lien, accrued for that twenty (20) year period. Mr. Rushing stated that since October 1st, 1982 would be forgiven. Commissioner Laskowski stated if it is done from the date recorded, 20 years to the anniversary date of the date the lien was filed, seconded by Commissioner Wilson. Mayor Fugate stated that essentially what he understands is that this is going from the front and asking for 20 years of interest and Mr. Rushing's idea was to go from the back and go back to the year 2000. The motion is to take it off the back end instead of the front end. Commissioner Laskowski stated Mr. Rushing is proposing to take off ten (10) years and he is proposing twenty (20). Mr. Rushing explained there is a residual balance after twenty (20) years worth of interest and will hold constant with no interest accrued. Commissioner Wilson stated that initially what is being said is

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that for paving liens there's a twenty (20) year cap. Mr. Rushing stated it could be done either way, but he felt more comfortable doing it the other way.

Mayor Fugate called for other questions. Commissioner Pecos asked in which plan the citizen would pay more money. Mr. Rushing replied the citizen would pay more money in Commissioner Laskowski's plan because it doubled from ten (10) years to twenty (20) years. Commissioner Wilson stated that is not really the only difference, that's the principal difference. Commissioner Pecos stated people have to have an incentive for paying. Commissioner Wilson stated that in the case of this couple, the City is forgiving almost \$19,000; he added that personally he thinks that's a good incentive. Commissioner Laskowski stated this is thirty (30) years of interest. Commissioner Pecos stated that Mr. Rushing's plan is very equitable and fair to the citizens.

As a point of order, Mayor Fugate asked if this motion is not voted on if they could come back with their own motion. Commissioner Laskowski replied all that has to be done is to vote the motion down. Mayor Fugate called for the question. Mayor Fugate called for a roll-call vote.

The motion failed by the following vote: Wilson, Laskowski voting "FOR". Fugate, Pecos, Garcia voting "AGAINST".

Mayor Fugate called for a motion. **Commissioner Pecos made a motion to approve the plan recommended by Staff that the interest prior to October 1st 2000 be waived in regard to any paving liens that the citizens might have, seconded by Commissioner Garcia for discussion.** Upon a question from Commissioner Garcia, Ms Medina stated some people did pay up until 1994. Mr. Rushing stated there may have been a campaign to pay at that time. Upon a question from Mayor Fugate, Mr. Rushing stated he had spoken to the outside auditor about this plan. Mr. Rushing provided information on status of limitations that would preclude the City on collecting on this.

Commissioner Laskowski commented this is unfair to the people that paid on that lien going back to 1995 and then quitting, he added that in this case they never paid at all. The people that had that lien and made their annual payments for thirty some year, it is not fair to them. Mayor Fugate stated he was assuming these people never got notice. Commissioner Laskowski stated this is part of the original ordinance and Mr. Francisco Garza was listed on the ordinance for his assessment of \$260.00. Commissioner Wilson called for the question.

Mayor Fugate called for a roll-call vote. **The motion was passed and approved by the following vote: Fugate, Garcia, Pecos voting "FOR". Wilson, Laskowski voting "AGAINST".**

15. ORDINANCE NO. ORD2010-30 Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 3, Water, providing for an increase in water rates. (Finance Director).

Mr. Rushing stated this is the ordinance that mirrors the calculations and the rate study model that was prepared by HDR which was shared with the Commission during the budget process.

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

16. ORDINANCE NO. ORD2010-31 Consider final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 2, Sewers, providing for an increase in sewer rates. (Finance Director).

Mr. Rushing stated this is the Wastewater portion of the HDR rate study model.

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

17. Consider introduction of an ordinance adopting the annual budget of the City of Kingsville, Texas and appropriating funds for the fiscal year beginning October 01, 2010 and ending September 20, 2011. (City Manager).

Mr. Rushing stated this is the ordinance presented for the first reading. In the budget process, they were presented with the net receipts revenue over disbursements equal to the expenditures. The general fund is at \$24,015 in the black. He stated that the City is still negotiating with the Fire Union, the Police Union contract has been settled tentatively. He added that the additional cost for the Police Union is \$1,000 if approved by the Commission.

Upon a question from Commissioner Pecos, Mayor Fugate called for a legal opinion on discussion of a personnel issue. Ms Alvarez stated it is her understanding that Staff made the recommendations for efficiency purposes and the restructuring of the departments. Commissioner Pecos asked that funds be made available to cover the employee's salary until December. City Manager Yerena stated it is restructuring without the position in the new fiscal year. Commissioner Laskowski stated this bring the fund balance down to revenues over expenditures to approximately, \$16,000.

INTRODUCTION ONLY

18. Consider introduction of an ordinance establishing and adopting the ad valorem tax rate for all taxable property within the City of Kingsville, Texas for the fiscal year beginning October 1, 2010 and ending September 01, 2011, distributing the tax levy among the various funds, and providing for a lien on real and personal property to secure the payment of taxes assessed. (City Manager).

Mayor Fugate called for questions or comments.

INTRODUCTION ONLY

19. Consider potential modifications to the job description for the position of City Manager and matter related thereto. (Mayor Fugate)

Mayor Fugate stated this was put on to make sure if there were any modifications the Commission could have input. Commissioner Laskowski suggested adding to the job description that the City Manager's residence be in the City of Kingsville.

Mayor Fugate announced the item on Executives Session. Commission took a short break at 7:28 P.M. The Commission convened into Executive Session at 7:32 P.M. Ms Alvarez entered Executive Session at 7:50 P.M.

20. Executive Session: Pursuant to Section 551.074, Texas Open Meetings Act, the City Commission shall convene in Executive Session to deliberate the appointment/employment of an Interim City Manager. (Mayor Fugate).

The Commission reconvened into regular session to consider agenda item #21 at 7:55 P.M. Mayor Fugate announced all members are present and no votes were taken.

21. Consider appointment of Interim City Manager and matters related thereto. (Mayor Fugate).

Mayor Fugate called for a motion. Commissioner Laskowski made a motion to offer the position to Ms Courtney Alvarez and stated the terms of compensation, to give her an extra \$5,000 per month, will receive a \$500 per month car allowance, and one week paid vacation after her term is finished as interim City Manager, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

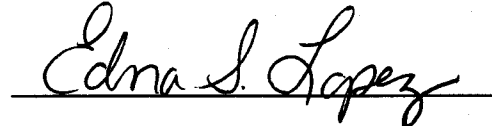
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:57 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary