

JULY 25, 2011

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JULY 25, 2011 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 Wilson, Commissioner  
Stanley Laskowski, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Vincent J Capell, City Manager  
Edna S Lopez, City Secretary  
Mark Rushing, Finance Director  
Naim Khan, Public Works Director/City Engineer  
Yolanda Cadena, Health Director  
Gary Fuselier, Landfill Supervisor  
Willie Vera, Task Force Commander  
David Mason, Purchasing Director  
Frank Garcia, Wastewater Supervisor  
Bob Trescott, Downtown Manager  
Al Lopez, Fire Chief  
Diana Gonzales, Human Resource Director  
John Garcia, Risk Manager  
Rick Torres, Police Chief

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:00 P.M. and announced quorum as present.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Mr. Rushing, 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, July 11<sup>th</sup>, 2011 and the special meeting of Monday, July 18<sup>th</sup>, 2011. **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).<sup>1</sup>**

1. Public Hearing for an alcohol variance application for JC3 Mart, LLC located at 606 E King Ave. (City Secretary).

Mayor Fugate opened the public hearing at 6:02 P.M.

Ms Lopez stated the applicant is asking for a wine and beer retailer's off-premise permit for the business establishment known as JC3 Mart, LLC, located at 606 East King. This is the same location of the Shamrock Service Station. After the research and physical inspection, the Engineering Department concluded that there is a day care, Smart Planet with the 300 ft boundary. Letters were mailed residents within the 300 ft boundary and there was no opposition. Mayor Fugate called for comments.

Mayor Fugate closed the public hearing at 6:04 P.M.

2. Public Hearing for ordinance amending the zoning ordinance by granting a special use permit to place an RV Park on a 10.04 acre out of KT&I Co., Block 32 on Lot PT 4,5,8,9, acres 59.01, property is located adjacent to the Westside of HWY 77 and North of South Creek Addition, amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (Interim Director of Development Services).

Mayor Fugate opened the public hearing at 6:05 P.M.

Mr. Fred Bigelow, 916 South Creek, stated since the rezone was approved he was not here to oppose the special use permit. The rezone has left the possibility to different businesses being adjacent to Kleberg Park; therefore he asks that they do support a special use permit for Mr. Ralph Ambrose, Landowner. He asked that the permit provide proper security for Kleberg Park and to protect the South Creek Subdivision quality of life from impact of noise, lights, security, and so forth and insure a quality buffer and landscaping between South Creek and the RV Park. Mr. Bigelow stated if the special use permit is prepared for their signature which is provided by Staff in their packet it seems very vague. He posed the question, what happens if the permit is every rescinded. He commented that there are no wall requirements and requested the fence height requirements be a minimum of twelve feet. He made several suggestions to eliminate several statements from the document. He stated the site plan presented tonight is slightly different than the one that was presented to the Commission on February 28<sup>th</sup>. It looks now like the plan that was originally published in the newspaper back in the beginning which shows that there is a lane by the buffer wall and it now has an opening but it doesn't say for future phases.

Mr. Lance Hamm, 912 South Creek, stated that he delivered a letter to the Commissioners and the Mayor on Friday afternoon. He stated he could not talk about eight pages in three minutes, but a lot of the document talks about mitigating certain things, highway safety, neighborhood issues and Dick Kleberg park issues. He stated he was going to talk about the ordinance, the rezoning; adding that it is a moving target. He stated that the Army Corp of Engineer has an ongoing investigation. The fence on the south side is no longer a straight line. He asked if there is going to be an amendment to the 10.04 acres that are rezoned. He asked if there's going to be other land or dirt that needs to be removed based on a citizen complaint that he issued to the City on referring to City Code, Section 15-4-1: Flood Damage Prevention. He spoke about risk management, the petitions that were signed by 560 resident and 110 businesses. He stated they were hoping to avoid the risks associated at this location which is no longer the case since the location was voted in, so now the discussion is how to mitigate those risks at that location. He asked the Commission if in the future there is a fatality on US 77 because of the RV Park development, if they would be willing to resign their City Commission seats. He stated he didn't think they should have to resign because they should be able to look every Kingsville resident in the eye and say that they did everything possible to promote safety of that intersection, the South Creek intersection, and at the intersection of Mr. Saul's property. Likewise, he stated they should be able to say that they fought just as hard for South Creek neighborhood values and Dick Kleberg Park safety issues. Finally, he stated the question remains will they fight as hard as they say and will the people believe them.

Mayor Fugate called for further comments.

Mayor Fugate closed the public hearing at 6:12 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, 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, Financial Advisor presentation. No formal action can be taken on these items at this time."*

City Manager Capell reported the Staff Report is in their packet, the new Director of Development Services is in town today and will begin work on Monday, and the next budget workshop and wrap-up session is scheduled for tomorrow at 4:00 P.M., and also included in their information tonight is the June Financial Reports. The report includes some charts and graphs.

### **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. There were no comments.

Mayor Fugate announced he was asking the Commission to take Item #2 out of the Consent Agenda. He called for a motion. Commissioner Laskowski made a motion to approve Items #1 & 3 on 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. Motion to approve out of state travel request for Special Agent Richard Kirkpatrick to attend the Drug Interdiction Assistance Program (DIAP)'s 21<sup>st</sup> Annual Motor Vehicle Criminal Interdiction Training, Networking, and Intelligence Sharing Conference from August 15-19, 2011 in Glendale, Arizona. (Task Force Commander).

2. RESOLUTION NO. R2011-44 Motion to approve a resolution authorizing the City Manager to execute a contract extension with Kleberg First National Bank on Kingsville for the Bank Depository Contract with the City of Kingsville for one year under the same terms. (Finance Director).

Mayor Fugate explained the reason he asked to remove this item from the Consent Agenda was because he has in the past and is still representing Kleberg Bank in some matters. Mayor Fugate called for other questions or comments. Commissioner Laskowski made a motion to accept Staff's recommendation and approve the resolution authorizing the City Manager to execute the contract, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Wilson, Pecos, Garcia, Laskowski voting "FOR". Mayor Fugate "ABSTAINED".

3. Motion to approve the purchase of a Hyundai wheeled front end loader from NPE in the amount of \$110,877.00 from Fund 054 for the Wastewater Construction Department (Bid #11-29). (Purchasing Director).

#### REGULAR AGENDA

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

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

4. Consider approval of an alcohol variance for JC3 Mart, LLC located at 606 E. King Ave. (City Secretary).

Mayor Fugate called for further discussion.

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

5. RESOLUTION NO. 2011-45 Consider a resolution authorizing the City Manager to execute a contract extension with Entrust, Inc. for the third party administration service of the City of Kingsville Employee Benefit Plan Trust. (Finance Director).

Mr. Rushing stated there is a recommendation to consider extending this contract with Entrust. They utilized the extension back in 2007-2008 and Entrust has been providing the City with good information and has served as the City's third party administrators for several years. The projections on expected claims is good, the utilization through the PPA of discounts have proven to be a savings to the City. Their increases are moderate. Entrust has been very consistent and probably would be to the City's best economic consideration to move on this. This is a one year extension.

Commissioner Laskowski made a motion to extend the contract with Entrust for another year, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Wilson, Pecos, Garcia, Laskowski voting "FOR".

6. RESOLUTION NO. 2011-46 Consider a resolution authorizing the City Manager to enter into a contract for professional services between the City of Kingsville and HDR Engineering, Inc. for stormwater feasibility and rate study and implementation support. (Purchasing Director).

Mr. Mason stated Staff has been working on the bidding for the Engineering. As previously mentioned by the City Attorney, there was a minor correction on page 10, the estimated study fee, the base total fee of \$76,773, they have provided two additional options, Task 1 is for development of impervious cover data for tax-exempt properties and Task 2 is for development of tiered-residential rate. Staff recommends entering into

this contract at the Commissions' recommendation as the policy decision, and probably going with the optional task as well. He stated this is Certificates of Obligation (CO) money which has \$80,000 budgeted and the base fee comes in under that. Commissioner Laskowski stated there is \$80,000 in funding and asked if they have identified where the balance would come from. Mr. Mason replied not at this time. Commissioner Laskowski stated he would hate to approve a contract where the money will be spent but we don't know where the additional \$4,700 will come from because the recommendation is to do the two additional tasks.

City Manager Capell stated it is Ms Alvarez's position that there are savings in other CO funds but she is not here to speak to that. Commissioner Laskowski stated he believes it is important to go ahead and look at all the tax exempt properties because they do have a lot of area, parking lots, roof tops and they are going to be receiving benefit of any improvements made to the storm drainage so they need to be a part of the solution. He added if we don't know what that is, and what their properties are valued at and have a mechanism to assess them for their businesses, then they are being remise if they are going this far and another \$4,700 is a small drop in the bucket. He stated hopefully they can come up with the savings in the rest of the CO's. City Manager Capell stated that before he signs the contract he will communicate to the Commission where he thinks the rest of the money will come from.

**Commissioner Laskowski made a motion to authorize the City Manager to enter into a contract with HDR for storm water feasibility and rate study, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

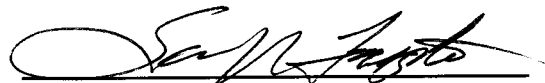
**7. Consider introduction of an ordinance amending the zoning ordinance by granting a special use permit to place an RV Park on a 10.04 acre out of KT&I Co., Block 32 on Lot PT 4,5,8,9, acres 59.01, property is located adjacent to the Westside of HWY 77 and North of South Creek Addition, amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (Interim Director of Development Services).**

Mayor Fugate announced this was an introduction which required two readings so it won't be voted on tonight. Mr. Khan stated this was presented to the Planning & Zoning Commission on July 5<sup>th</sup> and was approved 5-0, with one member absent. Commissioner Laskowski asked if there were no recommendations from P&Z for any restrictions to the special use permit. Mr. Khan stated he could not remember. Commissioner Laskowski stated he heard reference that there were certain things that were required by P&Z and that it was in the Commissions' packet but he does not have that in his packet. He stated if there were recommendations made with regard to anything other than allowing Mr. Ambrose to build this RV Park; he would like to have it before the next meeting. Based on what he sees there were no restrictions and the site plan was approved and it has to be built in accordance to the site plan. Commissioner Wilson stated he concurs with Commissioner Laskowski, his understanding was that it came out of P&Z with no caveats. That wherever the engineering plan was going to be that was the way it was going to be built. Commissioner Garcia asked if the restrictions needed to be added to the site plan. City Manager Capell stated the City Commission has the right to add or impose things on the final special use permit. Commissioner Laskowski stated they could do that but it takes a super majority vote to change the recommendations of P&Z. Mayor Fugate stated there are some legitimate concerns that needed to be addressed. Commissioner Wilson stated he would like to see Staff visit with Mr. Ambrose before the next meeting to see if they can't decide on some issues that can mitigate those circumstances and issues.

**INTRODUCTION ONLY**

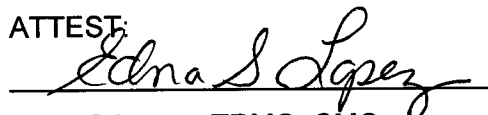
**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:27 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary