

NOVEMBER 14, 2011

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, NOVEMBER 14, 2011 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS CITY HALL, 200 EAST KLEBERG AVENUE AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Charles Wilson, Commissioner  
Stanley Laskowski, Commissioner  
Arturo Pecos, Commissioner  
Al Garcia, Mayor Pro-tem/Commissioner

**CITY COMMISSION ABSENT:**

Sam R. Fugate, Mayor

**STAFF PRESENT:**

Vincent J. Capell, City Manager  
Courtney Alvarez, City Attorney  
Mary Valenzuela, Legal Assistant/Paralegal  
Yolanda Cadena, Health Director  
Bob Trescott, Downtown Manager  
Mike Kellam, Director of Development Services  
Ken Starrs, Assistant Task Force Commander  
Rick Torres, Police Chief  
Mark Rushing, Finance Director  
John Garcia, Risk Manager  
Naim Kahn, Public Works Director/Engineer  
Gary Fuselier, Landfill Supervisor  
Bill Donnell, Assistant Public Works Director  
Diana Gonzalez, Human Resources Director  
Robert Rodriguez, Library Director  
Antonio Verdin, Computer Tech.  
Caron Vela, Accounting Manager  
Luke Stevens, Sanitation Supervisor  
Don Erebria, Fire Captain  
Al Lopez, Fire Chief

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Pro-tem Garcia called the meeting to order in the City Commission Chamber at 6:00 P.M. and announced quorum as present, with Mayor Fugate absent.

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

The invocation was delivered by Mark Rushing, Finance Director followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Mayor Pro-tem Garcia called for consideration of the minutes for the regular meeting held on Monday, October 24, 2011. **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: Pecos, Laskowski, Garcia voting "FOR". Wilson "ABSTAIN" and Mayor Fugate "ABSENT".**

**II. Public Hearing - (Required by Law).<sup>1</sup>**

Public Hearing to discuss whether or not to tax tangible personal property in transit which would otherwise be tax exempt pursuant to newly revised Texas Tax Code, Section 11.253. (Finance Director).

Mayor Pro-tem Garcia opened the public hearing at 6:02 P.M.

Mark Rushing, Finance Director, commented that an ordinance will be presented to the Commission for consideration on the taxation of in-transit goods during this meeting. He stated that back in December, 2007 staff presented a similar ordinance to the Commission for taxation of goods in-transit. He further stated that Commission has been provided with memos from Kingsville Appraisal District Tina Flores, which explains to the Commission about taxation of in-transit goods. He stated that the language has changed relating to the bailment for goods that are in-transit in a public warehouse that can be taxed. He stated that after speaking with a representative of the Kingsville Appraisal District, the City does not have any goods currently in warehouse that fall in this category. If Commission chooses not to approve this ordinance, it could be moved into bailment and into warehouses which could be exempt from taxation. He stated that what was done within the law, was changed to bring it into compliance with the definition of in-transit as it's utilized in the Business and Commerce Code §7.102. He stated that if Commission does not approve this ordinance before January 1, 2012, automatically they would be exempt from taxation.

Commissioner Pecos asked if this was a mandated item.

Courtney Alvarez, City Attorney, stated that the bids will become taxed exempt unless the City Commission takes action. She reminded Commission that a few years back, this similar item was brought to them and they elected to make those types of goods taxable and that is what staff would be recommending with the ordinance that will be presented later within this agenda.

Commissioner Laskowski asked who is responsible for identifying these goods.

Mrs. Alvarez stated that the tax appraisal district is responsible for identifying these goods.

Commissioner Pecos asked how this was going to be identified.

Mayor Pro-tem Garcia stated that normally if one has personal property they would have to render it before or on April 15<sup>th</sup> of every year as per state law. He further stated that if one does have personal property and does not report it, you could be fined.

Commissioner Laskowski asked if this item is different from having personal property, where there would be a distribution warehouse. For example, having a whirlpool warehouse where appliances are brought in and distributed out to the retail outlets, would this be almost the same as to what is being discussed tonight.

Mr. Capell stated that it is his understanding that it could be a temporary location.

Mr. Rushing stated that what was deleted from the language is manufacturing, processing, and fabricating which are deleted from the definition as acceptable activities to qualify for the exemption.

There being no further comments from staff or the public Mayor Pro-tem Garcia closed the public hearing at 6:07 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, presentation of Fair Housing Activity Statement-Texas (FHAAT). No formal action can be taken on these items at this time."*

Mr. Capell stated that a copy of the staff report has been provided to Commission for their review. He further stated that on this agenda there are some items regarding waiver of fees for certain organizations for events that will occur during the months of November and December.

Mrs. Alvarez reminded staff that agenda items for the City Commission meeting to be held on November 28, 2011 will be due Thursday, November 17, 2011 at noon in the Legal Office. She further stated that the City will be observing the Thanksgiving Holiday on November 24-25, 2011.

Mr. Kellam stated that a representative of the Texas General Land Office has requested that all items within communities be tabled until they approve their language. Therefore, this item would have to be moved to a later Commission meeting. He stated that the city is still moving forward with the application process and will hold a public hearing Thursday, November 17, 2011 at 5:00 p.m. regarding the application. He stated that as far as adopting the Fair Housing Activity Statement, he would ask Commission to hold off on making any decision until further direction from the Texas General Land Office. Mr. Kellam stated that a representative of the Texas General Land Office is present at tonight's meeting to answer any questions Commission may have.

Commissioner Laskowski stated that if the representative would like to approach the Commission they may do so, so they would not have to come back since there will be no action taken on this agenda item.

Commissioner Wilson reported on potholes within the City. He stated that potholes are a big issue and would like for staff to repair the problem. He stated that on 8<sup>th</sup> street it looks as if a bomb exploded creating a huge pothole and would like for city crews to look into this problem.

Commissioner Laskowski commented that he is glad that city crews are using the Dura patcher which does a much better job and has a long lasting effect.

Commissioner Pecos briefed staff and the public of his trip to the National League of Cities in Phoenix, AZ. He stated that during this trip he had the opportunity to visit Glendale, AZ, where they were shown the land that had been purchased to allow them to build a stadium that host an array of sports entertainment. He stated that he also had an opportunity to visit a location that once was home to an Air Force Installation. Since then, this location has been converted into an airport. He further stated that they also visited a Biochemical Center which allowed students to have hands on training. He further commented on the issue of effluent water from Arizona. He stated that the water goes through its process and then gets injected back into the aquifer which allows them to preserve their water. He commented on the subject of the windmills that may be coming near NAS Kingsville which could affect our base. He stated that if NAS Kingsville comes to a close, this could cause a big loss to our city since NAS Kingsville brings in \$459,000,000 annually.

Mayor Pro-tem Garcia commented on the Biomedical Center. He stated that if a patient comes in to the Biomedical Center with a skin condition, that patient can be examined by multiple doctors throughout the region through telecommunication technology. The patient can be diagnosed by doctors and specialist examining them through telecommunication technology and can be given a faster diagnosis. This technology was made possible by Homeland Security.

Commissioner Laskowski welcomed the new Solid Waste Supervisor, Mr. Luke Stevens.

#### **IV. Public Comment on Agenda Items <sup>-3</sup>**

1. Comments on all agenda and non-agenda items.

Mayor Pro-tem Garcia called for comments on all agenda and non-agenda items.

Rami, Promotions Manager of KTAI, stated that KTAI was presented with a College Radio Award plaque by President Tallant of Texas A&M University-Kingsville. KTAI is the only radio station in the nation to win the Spirit of College Radio Award for 2011. He thanked the Commission and the community for all their support.

V.

**Consent Agenda**

**Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

Mayor Pro-tem Garcia called for consideration of the items in Consent Agenda, Items 1 through 3. **Commissioner Laskowski made a motion to accept the Consent Agenda items as presented, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Wilson, Pecos, Laskowski, Garcia voting "FOR". Fugate "ABSENT".**

**CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

1. **Motion to approve resolution authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Kingsville Boxing Club. (Police Chief).**
2. **Motion to approve waiving Vendor and Retail Food permit fees for participants of the Second Annual La Posada Holiday Bazaar/Market, Children's Festival and La Posada Parade to be held on December 3<sup>rd</sup> & 4<sup>th</sup>, 2011 and Ranch Hand Breakfast to be held on November 19, 2011. (Downtown Manager).**
3. **Motion to approve waiving all city fees and any fees for services for participants of the All for One Rally & Music Festival to be held on November 19, 2011. (Downtown Manager).**

**REGULAR AGENDA**

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

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

4. **Motion to approve resolution to cast the City of Kingsville's votes to candidate Al Garcia for election to the Board of Directors of the Kleberg County Appraisal District. (City Manager).**

Commissioner Laskowski made a motion to approve resolution casting all 900 votes to Al Garcia, seconded by Commissioner Wilson. The motion passed and approved by the following vote: Wilson, Pecos, Laskowski, Garcia voting "FOR". Fugate "ABSENT".

5. **Consider resolution of the City of Kingsville, Texas adopting the Fair Housing Activity Statement (FHASt) as prepared by the FHASt Work Group and with amendments required by the Texas General Land Office, as the Fair Housing Action Plan. (Director of Development Services).**

Mr. Kellam stated that the Fair Housing activity statement basically just shows that the City is trying to address the issues with Fair Housing that the City of Kingsville may have and keeps us eligible for grants that are available. He further stated that the language of the FFAST may change, but general premise will stay the same.

**NO ACTION TAKEN ON AGENDA ITEM #5.**

**6. Consider accepting donations for Keep Kingsville Beautiful. (Finance Director).**

Mark Rushing stated that the following individuals and businesses made donations to Keep Kingsville Beautiful; Kingsville Chamber of Commerce \$476.00, Amanda Knight \$10.00, Mary Lou F. Pena \$10.00, D'yan Lopez Insurance Agency \$10.00, Rick & Annette Peterson \$20.00, William & Connie Cashen \$10.00, and Kingsville Chamber of Commerce (Fill the Flower Pot) \$2,012.16. He further stated that the Kingsville Convention & Visitors Bureau also made a donation in the amount of \$500.00. The total amount of donations was \$3,048.16.

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

**7. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 General Fund budget for the City of Kingsville to accept donations for Keep Kingsville Beautiful and the Downtown Beautification Tree Project. (Finance Director).**

Mark Rushing stated that this item is an introduction ordinance regarding the donations that Commission has just accepted. He stated that this would be for Keep Kingsville Beautiful for amount of \$2,548.00 and specifically \$500.00 for trees for Keep Kingsville Beautiful, for the sum total of \$3,048.00.

**Introduction item only.**

**8. Consider introduction of an ordinance to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253. (Finance Director).**

Mark Rushing stated that this ordinance was discussed previously relating to taxation of goods in transit.


**Introduction Only**

**VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:40 P.M.

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Al Garcia, Mayor Pro-tem

ATTEST:

  
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Edna S. Lopez, TRMC, CMC  
City Secretary