

SEPTEMBER 5, 2012

A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON TUESDAY, SEPTEMBER 5, 2012 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

Sam R. Fugate, Mayor
Al Garcia, Commissioner
Dianne Leubert, Commissioner
Noel Pena, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Vincent J. Capell, City Manager
Courtney Alvarez, City Attorney
Mary Valenzuela, Legal Assistant/Paralegal
Mark Rushing, Finance Director
David Mason, Purchasing Director
Diana Gonzalez, Personnel Director
Yolanda Cadena, Health Director
Roel Carrion, Interim Fire Chief
Jennifer Bernal, Community Appearance Supervisor
Ricardo Torres, Police Chief
Willie Vera, Task Force Commander
Mike Kellam, Director of Development Services
Diana Medina, Collections Manager
Rose Morrow, Municipal Court Supervisor
Naim Kahn, Engineer/Public Works Director
Bill Donnell, Asst. Public Works Director
Bob Trescott, Tourism Services Director
Terry Vasquez, Interim Accounting Manager

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.

Mayor Fugate asked if there was any objection from staff or public to waive the preliminary proceedings as he would like to go directly into the meeting. No objection was made by staff or the public.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Mayor Fugate called for consideration of the minutes for the regular meeting on Monday, August 27, 2012. **Commissioner Pecos made a motion to accept the minutes, as presented, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting “FOR”.**

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

1. Public Hearing on a proposed tax rate increase from \$.84220 to \$.88218 for Fiscal Year 2012-2013. (Finance Director).

Courtney Alvarez, City Attorney read the following required statement:

The vote to adopt the City of Kingsville 2012-2013 Fiscal Year tax rate will take place on Monday, September 17, 2012 at a City Commission meeting at 6:00 P.M. in the Alcorn Commission Chambers located at City Hall, 200 E. Kleberg, Kingsville, TX.

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

Mayor Fugate read the tax rate public hearing statement. No comment was made from the public or staff regarding this public hearing.

Mayor Fugate asked a question to Mrs. Courtney Alvarez, City Attorney. Is there any time required by law to keep this public hearing open. Mrs. Alvarez stated, the statute just requires us to post for the notice in the local newspaper and post for the meeting in which we have met statutory requirements for the posting. All that is left to do is conduct the hearing and there is no specific time that this public hearing should stay open.

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

2. Public Hearing on proposed Fiscal Year 2012-2013 budget. (Finance Director).

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

No comment was made from the public or staff regarding this public hearing.

Mayor Fugate asked a question to Mrs. Courtney Alvarez, City Attorney. Is there any time required by law to keep this public hearing open. Mrs. Alvarez stated, the statute just requires us to post for the notice in the local newspaper and post for the meeting in which we have met statutory requirements for the posting. All that is left to do is conduct the hearing and there is no specific time that this public hearing should stay open.

Mayor Fugate closed the public hearing at 6:07 P.M.

III. Reports from Commission & Staff.² (City Manager's Staff Report Attached).

"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. No formal action can be taken on these items at this time."

Vincent Capell, City Manager had nothing to report at this time being that this is a special meeting. There will be a staff report at the next regular scheduled meeting.

Courtney Alvarez, City Attorney stated that she would like to notify the Commission that in re-reviewing the Water Ordinance that is under consent agenda for tonight's meeting, it looks like there were a couple of things that were strikethrough that shouldn't have, that being on page 2 the strike out of gallons of water 35,000 and 60,000 which was done unintentional. The Commission has been given a corrected copy for their review. Mrs. Alvarez reminded staff of the next scheduled regular Commission meetings for Monday, September 10, 2012 and a special meeting on Monday, September 17, 2012 followed by a regular meeting on Monday, September 24, 2012.

Mayor Fugate proposed a question to Mrs. Alvarez, asking if procedurally does the water ordinance need to be taken out or can it be left in with the understanding that there is a correction to the ordinance.

Mrs. Alvarez stated that it was only a typographical error and could be left alone as is as but will be corrected.

Commissioner Garcia expressed some concern regarding the water usage compare to last year.

Mr. Capell stated that last fiscal year the water usage was one billion two hundred ninety thousand gallons. He is not aware as to how this compares to prior year. He stated that South Texas Water Authority had issued a letter encouraging the conservation of water. He further stated that he wasn't sure how that impacted the City of Kingsville and asked for Mr. Naim Khan, Public Works Director/Engineer to comment on how it has impacted the City of Kingsville.

Mr. Khan stated that all seven water wells are working fine. We are using our water from South Texas Water Authority up to \$350,000. Currently we are not using any at this time but a couple of months when the City had some problems, it was being used.

Mr. Capell stated that in a memo dated July 2012 from the Executive Director of South Texas Water Authority, they indicated that the reservoirs had dropped to less than 50% combined capacity, therefore it becoming a serious matter for those relying on that water source. He further stated 1.3 billion gallons of water were billed in the last fiscal year.

Commissioner Garcia asked for the usage of water for this current fiscal year.

Mr. Kahn stated that the daily consumption during the summer months is 4 to 4.5 MGD (million gallons per day) and during the winter month's 3.2 to 3.3MGD. The City buys about 167,000 million gallons from South Texas Water Authority.

Commissioner Garcia asked if this fiscal year's consumption is around the same as last fiscal year.

Mayor Fugate stated that the City is selling more water this fiscal year and will be selling more once the base is hooked up. Mayor Fugate asked Mr. Kahn for a status on the drilling of the new well.

Mr. Kahn stated that at this time after discussing the issue with Mr. Capell and decided that before spending close to \$2,000,000.00 for the water well and the elevated storage tank, they would like to do a water model. Once the water model is done, they will know an exact location for drilling.

Commissioner Garcia stated that one of his other concerns was the Aquifer. With the lack of rain and recharge the aquifer, will this affect the city?

Mr. Kahn stated that he is unable to answer this question at this time, but will do some research and get back to Commission with more information at a later time.

IV. Public Comment on Agenda Items^{.3}

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

Mayor Fugate called for comments on agenda and non-agenda items.

No comments were made.

Commissioner Leubert asked for agenda items #1 and 2 be pulled from the consent agenda. **Commissioner Garcia made a motion to approve the consent agenda as amended with only voting for item #3, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".**

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.

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 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).

Commissioner Leubert asked how many water rate increases the city has had in the last six years.

Mark Rushing, Finance Director stated that in 2005, because it wasn't raised through time, it was like 20% increase. A study was done in 2006 which was the first year and did a five year plan, skipped a year and then went into a new model which we are on the third year of the new model.

Commissioner Leubert stated that the city has had more than three increases on the new model.

Mr. Rushing stated that the goal has been to increase 2% in the water and 3-4% in the wastewater to keep pace with infrastructure built into the model.

Commissioner Leubert asked for a total percentage that the city is going to increase the water rate.

Mr. Rushing stated that almost 10% in water and around 15% in wastewater, over a five year time period. He further stated that the goal is to avoid the sticker shock whenever you don't increase through time and have to play catch up.

Commissioner Leubert asked what is it that the city is trying to catch up on.

Mr. Rushing stated that fund 54 is the cash funded portion, there are items that were purchased with CO funds, in which we are paying that debt to maintain the capital projects that are required through the maintenance throughout five years.

Commissioner Leubert asked if these increases are helping to pay off the debt.

Mr. Rushing answered that this is part of the overall economic model.

Commissioner Leubert asked if this was in comparison to cities in our region, cities of our size, same economic background.

Mr. Rushing commented that yes all that is factored into the economic model.

Mayor Fugate commented that we are pretty much in the middle, with many cities our size, there rates are higher and there are probably many cities that are lower than our city.

Commissioner Leubert stated that she would like to review the model as she is concerned whenever the city has to increase rates/taxes because it adds up to our tax payers.

Mr. Rushing stated that he would review the model with both new commissioners at a later time. He further stated that Grady will be available at the next commission meeting if the commission would like a presentation during that time.

Commissioner Leubert stated that before she votes for an increase on anything, she would like to understand to the point that the public can understand it as well.

Mayor Fugate encouraged the Commission that if they have an issue like this in the future, notify staff in advance so they may be prepared to answer questions.

Mr. Capell stated that by paying these currently and not having to catch up, like the city did a few years ago of 20%, would keep this obligation from transferring

to future generations. So one of the things the city is achieving by regular increases is that the city is not transferring that debt to future generations.

Mayor Fugate stated that the next item may incur the same concerns, and asked for items 1 & 2 to be placed on the next agenda.

No action was taken on agenda items 1 & 2.

2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 2, Sewer, Providing for an increase in sewer rates. (Finance Director).

3. Motion to approve final passage of an ordinance granting a subdivision variance from the minimum lot grading requirements for Jalisco Ranch subdivision on property located in the 1600 block of Carlos Truan Blvd. (Director of Development Services).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

4. Review, discuss, and receive direction from the Commission as to City Manager's proposed fiscal year 2012-2013 budget for departments of the City of Kingsville. (City Manager).

Mr. Capell stated that the City Commission will be asked to adopt the final budget in the next few days. Tonight is an opportunity to review the changes and corrections that have been encountered and to discuss any other concerns the City Commission may have regarding the 2012-2013 budget. He asked the Commission if they had any questions in certain areas, to give staff the opportunity to do some research so that they may come back with more information at the next meeting. He further stated that if Commission was ready to move forward on certain topics they may do that as well. This is one more opportunity in addition to budget meetings the Commission has already had to discuss any final budget issues.

Mr. Rushing stated that they used the same tool that was used last year and there wasn't any correction with exception to \$25,000 for water trade, there would be a reduction of water revenue under utility column. If that adjustment was posted it would bring the total with revised revenues overall to \$31,781,395. Under the column that says utility funds for 2012-2013 showing \$10,007,504, it would be reduced by \$25,000. In the expenditures there were a few corrections one being Community Appearance which there was an adjustment in fund 001 moving it from department 160.3 to 160.1 was a duplication so \$3,000 was removed from there. There were demolition expenditures that were moved to 001 Fund which is where it should reside for the \$10,000, general housekeeping. In the Engineering Department, the Tech position for \$21,000, if noted there are two line items one is for \$21,318 under the General Fund and the other half is \$21,318 for utility fund. Next would be the Pro-Patch that is being utilized which was originally budgeted in surplus for \$80,000 but came in at \$70,000 which came in a revised quote, even with the installation would be a sub-total of \$70,000. An adjustment was made in accordance to what was instructed previously as well as adjusting the parking lot. The Librarian Tech there was an error in the excel that was calculated which was initially set up as a half person with the County contributing half of those funds. The question is, if it a half person budgeted and the County contribute half the funds it would be a quarter net effect to the City, but there was an error in the spreadsheet which was corrected. There is \$30,000 on a supplemental vehicle for the Task Force. There are two line items that relate to the donations that were originally taken out of the budget but were reinstated, Kingsville Police Department for \$25,000 and Task force \$30,000 which was donated in the 2012 fiscal year for various organizations. Another item that was not included in the fiscal year 2013 in the budget for fund 54 was left off, also was \$200,000 in the Well House that was excluded. These are the items that were scheduled to be paid from cash funded not debt funded for fiscal year 2013.

Mr. Capell stated while these items were excluded from the budget, they were planned expenditures.

Mr. Rushing stated that the only other item that may have been left off from this recap is \$20,000 for BRAC.

Mr. Capell stated that he couldn't recall if Commission would like to put it in at this point or leave it off until later.

Commissioner Pecos stated that it was the consensus of the Commission to do it at a later time.

Mr. Capell stated that his understanding was that the additional water forgiveness is in lieu of the \$25,000 contribution for the lighting at Dick Kleberg Park. He asked the Commission if his understanding was to do the water forgiveness instead of a direct contribution of \$25,000.

Mayor Fugate directed staff to get something in writing regarding the water forgiveness of \$25,000.

Mr. Capell stated that if the water is being increased annually, it would be an annual ongoing expense opposed to a onetime expense.

Mayor Fugate stated that he would like to see infrastructure showing improvements by the Parks Department for the water contribution from the City.

Mr. Capell stated this wouldn't necessarily be an automatic \$25,000 per year unless comply it with some infrastructure.

Mayor Fugate asked City Attorney, Courtney Alvarez how difficult it would be to do this. Mrs. Alvarez responded that previously when it was increased it was for one fiscal year period and so we want to make sure that everyone is on the same page. She further asked if the Commission is contemplating to increase it for this fiscal year 2012-2013 or is the Commission attempting to do something else.

Mayor Fugate responded 2012-2013, one year and it's the Commission's understanding that this will be city's match for the soccer field lighting.

Mr. Capell stated that it will consider future request that they would have to apply to some infrastructure improvement.

Commissioner Garcia asked if there was any consideration for an increase to the City Attorney salary.

Mr. Capell asked for direction from the Commission regarding the City Attorney's salary.

Mr. Rushing stated that under the operating general fund, it leaves \$53,434 surplus.

Mayor Fugate stated that after a discussion with the City Manager and the City Attorney, he is asking the City Manager to put in \$7,000 into his budget for the City Attorney's salary increase which would place the position back to where it should be in the pay chart.

Commissioner Leubert stated that she agrees with Mayor Fugate with regards to the increase. She further stated that she does have some concerns with some of the other compensation increases that are being proposed.

Mr. Capell asked for any questions and/or direction from the Commission that they may have with regards to the compensation plan.

Commissioner Garcia stated that he would like to discuss the Chapter 59 contribution of donations that are distributed to various organizations. He stated that he was approached by the Kleberg Counseling Services which is a non-profit organization that counsels individual with drug problems. They have asked if they could be included in donation process.

Mayor Fugate stated that they would have to apply for the donation.

Commissioner Garcia stated that after speaking to Commander Vera and Chief Torres, there could be a dollar reduction so other organizations may be included.

Mr. Willie Vera, Task Force Commander stated that if it is for drug abuse prevention, it could be used for that purpose. He further stated that on his list for

the last two years only four entities received donations. He did add two other organizations as they have approached him for donations this year. The Douglas Center approached him two months ago therefore they were added to the list. Palmer Drug Abuse Program (PDAP) has received donations from the Task Force in the past but they had not made a request last year but were placed on the list this year. He stated that Chief Torres and the Task Force have agreed to give lesser amounts to allow them to double the number of agencies they could assist with the same amount of money or they may choose one group one year and another group the following year instead of the same group receiving donations every year. He stated that there is options the Commission may consider as the governing board to help them break those monies up to allow them to assist as many entities as possible.

Commissioner Pecos asked if there is a deadline to apply for these funds.

Commander Vera stated that there is a deadline and most organizations submit their applications during the fiscal year but they are all different depending on their needs. Some come at the start of the fiscal year and some in the middle and at the end. Depending on their request submittal, it would go through the proper channel being through the City Manager than the Task Force or KPD, than the donation is made.

Commissioner Pecos stated that for this agency to come so late in the fiscal year while the city is in the middle of current fiscal year budget, would mean that they are not meeting the deadline.

Chief Torres stated that there isn't a deadline in place at this moment. Organizations ask for these donations over the course of the year. There is a 30 day limit that says, organizations must apply for a donation 30 days before hand. For the City to be fiscally responsible, it would need to set a limit. Limit it to a certain amount and allow entities to apply and have the City choose which entities will receive donations.

No other discussion took place regarding donations.

Mayor Fugate stated that he has had some discussion with the City Manager regarding the new budget. He feels it's awfully bold and not how he would have done it, but there has to be trust and believe that this budget is correct and will help move the City forward which he believes it will.

Mrs. Alvarez stated that the Commission will approve the new budget on September 17, 2012, but the Finance Director would need a solid budget number after tonight's meeting so that the information may be forwarded to the Tax Assessor Collector's office. This would allot them to plug in those numbers into their computer to give us a print out of all the stuff that is required.

Commissioner Leubert stated that she still has some concerns with the compensation plan.

Mr. Capell stated that the compensation system and the budget in general is designed to achieve the City Commissions goals and move the city forward in all sorts of ways. He feels that the City has been too conservative in the way they've used their budget in prior years. The City had massive surpluses when it didn't appear that the City knew it had surpluses. He stated that the Commission was not being provided with information in the way that they are being provided with now. The City had a \$2.5 million dollar surplus before paying the TMRS Settlement. After this settlement was paid, it left the City with roughly \$1.4 million surplus which half of it came from additional taxes and revenues and the other half came from savings. The difference is that now we are estimating those and have asked the Directors what their expense and revenues will be, so that we know before the end of this fiscal year what are current savings will be. The reason this is important is to know what you're operating surplus is for the current year, it frees you up to use your budget that will allow you to achieve more things in the upcoming fiscal year. He stated that he is aware that his budget is an aggressive one but we are a city with needs and we should use our budget to solve and provide for those needs for our citizens of our city. He further stated that the compensation system in place now has not been adjusted compare to other cities. He feels that it needs to be adjusted and kept current to reduce the amounts of employee turnovers our city could have. We can move our city

forward by having a compensation system that is progressive enough to help our employees and keep moving forward.

Commissioner Leubert stated that she agrees with everything just said but believes some of the compensations being proposed are passed equitable, and that is her concern. When the compensation is being raised for the hourly employees that are working outside during the hot and cold months and only raising it by \$.36 an hour and others who are working just as hard in a different manner are receiving a larger compensation. She stated that she understands some of those being proposed but some are very large.

Mayor Fugate stated that he agrees with Commissioner Leubert but you have to start somewhere. He further stated that you have to look at the position and not the person because the position is what raises the pay. If the employee is not performing their duties, the Commission will then look to the City Manager to remedy the problem.

5. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 1.99 acres out of KT&I Co., Block 22, Part of Lot 6 known as in the 1600 Block of East Trant Road from AG Agricultural District to C4 Commercial District; Amending the comprehensive plan to account for any deviation from the existing comprehensive plan; and providing publication. (Director of Development Services).

Mayor Fugate stated that this item has gone before the Planning & Zoning Commission and was denied by a 5-0 vote.

Mr. Mike Kellam, Director of Development Services, stated that this rezone is not compatible with the land use plan. He further stated that staffs opinion in the Planning & Zoning Commission was that it would stop the residential growth of the area which is the highest and best use of this area and the logical location for any future single family or two family residential developments.

Mayor Fugate asked City Attorney, Courtney Alvarez if the Commission didn't vote on this item, would it die for a lack of a motion or is there a vote required.

Mrs. Alvarez stated that it may be preferable to go ahead and do what the Planning & Zoning Commission did and take a vote for the denial. If the Commission would want to change its mind and want to approve the rezoning after the denial, then it would need a four-fifths vote of the Commission to overwrite the Planning & Zoning denial.

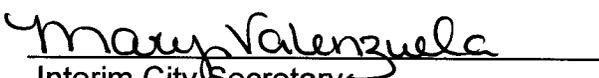
Commissioner Garcia made a motion to uphold the Planning & Zoning Commission decision to deny the rezone, seconded by Commissioner Pecos. The motion was passed and approved by the following vote; Garcia, Leubert, Pecos, Pena, Fugate voting "FOR"

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:08 P.M.


Sam R. Fugate, Mayor

ATTEST:


Interim City Secretary