

MARCH 8, 2012

A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON THURSDAY, MARCH 8, 2012 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 Capell, City Manager
Edna S Lopez, City Secretary
Courtney Alvarez, City Attorney
Yolanda Cadena, Health Director
Carol Ann Anderson, Tourism Director
Gary Fuselier, Landfill Supervisor
Roel Carrion, Interim Fire Chief
David Mason, Purchasing Director
Tony Verdin, Information System Technician
Mark Rushing, Finance Director
Naim Khan, City Engineer/Public Works Director
Ricardo Torres, Police Chief
Mike Kellam, Director of Development Services
Willie Vera, Task Force Commander
Bob Trescott, Downtown Manager
Bill Donnell, Asst Public Works Director
Caron Vela, Accounting Manager
Diana Medina, Collections Supervisor
Joe Casillas, Water Production Supervisor

I. Preliminary Proceedings.

OPEN MEETING

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

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by Finance Director Mark 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, February 27, 2012. **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, Financial Advisor presentation on arbitrage. No formal action can be taken on these items at this time.”

City Manager Capell announced there were many guests in the audience that have traveled from Dallas. He stated he would like to discuss the arbitrage information. Mr. Rushing introduced the guests, representatives from First Southwest, Mr. Bill Johnson and Mr. Kevin Stief. Mr. Rushing stated they had assisted with the arbitrage presentation. City Manager Capell stated that the tabulation sheet for agenda item #17 was left off the packet.

City Attorney Courtney Alvarez announced next regular meeting is on Monday, March 26th, agenda item deadline is Friday, March 16th, and Thursday, the 15th there will be Municipal Court. She announced Spring break is scheduled next week. Ms Alvarez congratulated Mr. Gary Fuselier, Landfill Supervisor and his Staff for a wonderful review from TCEQ on a recent inspection done in February.

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 consideration of the items in the Consent Agenda, Items #1 – 10. 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, Garcia, Pecos, Wilson, Laskowski voting “FOR”.

V.

Consent Agenda

1. ORDINANCE NO. 2012-07 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 5, Historical Districts and Landmarks, Sections 15-5-15, 15-5-16 & 15-5-19, Providing for clarification of duties of the Board and a method of appeal of Board decisions. (Downtown Manager).
2. ORDINANCE NO. 2012-08 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 15-1-56, Adopting the 2005 Edition of the National Electric Code. (Director of Development Services).
3. ORDINANCE NO. 2012-09 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 1, Building Regulations, Adopting the 2009 Version of the International Energy Conservation Code. (Director of Development Services).
4. ORDINANCE NO. 2012-10 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 1, Building Regulations, Adopting the 2009 Version of the International Existing Building Code. (Director of Development Services).
5. ORDINANCE NO. 2012-11 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 1, Building Regulations, Adopting the 2009 Version of the International Gas Code. (Director of Development Services).
6. ORDINANCE NO. 2012-12 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 1, Building Regulations, Adopting the 2009 Version of the International Mechanical Code. (Director of Development Services).
7. ORDINANCE NO. 2012-13 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 1, Building Regulations, Adopting the 2009 Version of the International Plumbing Code. (Director of Development Services).
8. ORDINANCE NO. 2012-14 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV,

Article 1, Building Regulations, Adopting the 2009 Version of the International Residential Code for One-and-Two Family Dwellings, Mechanical Code, Gas Code, and Plumbing Code and Increasing the Contractor's License Fee. (Director of Development Services).

9. ORDINANCE NO. 2012-15 Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Sections 9-1-10 through 9-1-18, Providing for additional definitions and ensuring compliance with State Laws with the regulation of Junked Motor Vehicles. (Director of Development Services).

10. Motion to approve out-of-state travel for Downtown/Special Projects Manager Bob Trescott to attend the National Main Street Conference in Baltimore, Maryland from March 31st – April 4th, 2012. (City Manager).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

11. RESOLUTION NO. 2012- 07 Consider resolution authorizing the City Manager to enter into an agreement with the Internal Revenue Service relating to arbitrage (Explanation of Failure to Pay Arbitrage Rebate on Time). (Finance Director).

Mr. Rushing stated this would allow City Manager to enter into agreement in relation with the IRS, in relation to the arbitrage that has been calculated and presented. This language is standard as they enter into agreement between cities and the IRS in relation to arbitrage. He stated he has provided them with some history on the calculation of arbitrage and liability. In times past, the city did set up enough contingent liability for arbitrage to cover the \$20,000 fee that's paid to First Southwest for the calculation of arbitrage plus the liability as calculated, at \$37,565.78 which will go to the IRS. He then referred to an excel spreadsheet. He explained this shows a calculation and how much has already been set up in the contingent liability previously in prior years which has been expended out. This was earmarked for that purpose. This would allow under the General Fund to free up \$3,857.37 to be restored to fund balance. If the IRS agrees to this agreement and the City pays the liability and pays the fees to First Southwest, then the money can be restored to fund balance. With regard to the Utility fund, this would free up approximately \$99,364.87 that could be restored to the fund balance for the Utility fund. He added if the Commission chose those could be appropriated for additional projects respectively through the General fund and the Utility fund.

Commissioner Laskowski asked the amount of money that will now be made available for expenditure on projects from the issuance of 1998-2007. Mr. Rushing responded he did not have the exact figure. City Manager Capell stated the money was held and the City was reluctant at spending on projects because the City did not know how much would be made available. Mayor Fugate stated everyone is pleasantly surprised at how little the City is having to pay. City Manager Capell stated the City thought it would be paying in the hundreds of thousands, but was presently surprised it was \$37,000. The other benefit is that now the City can get the other projects done using the money that has been set aside, which is \$1.2 million.

Mayor Fugate thanked the representatives from First Southwest for being at the meeting and stated the City was worried about this for a long time and really didn't know where the City stood with the Internal Revenue Service. He added this has really come out well.

Mayor Fugate called for questions or comments. **Commissioner Wilson made a motion to approve the resolution, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Wilson, Pecos, Wilson voting "FOR".**

12. Consider approving budget amendment for five items from the Kingsville Convention & Visitors Bureau Budget for fiscal year 2011-2012. (Tourism Director).

Tourism Director Carol Ann Anderson stated for the first time ever they are asking to amend the budget. The amendment includes: \$4,500 to pay for interactive mobile website; \$1,200 print new Historic Downtown Walking Tour brochures; \$10,000 for Historic Downtown Mural of the history of Kingsville, \$5,500 for Blue Angel advertising, and \$6,250 for Historical survey – CLB Matching Grant for a total of \$27,450.

Mayor Fugate called for comments or questions. **Commissioner Wilson made a motion to approve the budget amendments, as presented, seconded by**

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

13. Consider accepting contribution of \$6,250 from Kingsville Convention & Visitors Bureau Budget Amendment for matching funds contribution for the CLG Historic Commission Grant. (Tourism Director).

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

14. ORDINANCE NO. 2012-16 Consider final passage of an ordinance amending the Fiscal Year 2011-2012 budget for the General Fund Capital Projects Fund for various departments to utilize Fiscal Year 2010-2011 Surplus Funds. (Finance Director).

Mr. Rushing stated is the 2nd final reading and noted a change to account for Intergovernmental revenues for \$1,750 which is half of the \$3,500 for scag mower for the Health Department, and to adjust, in the Health Department \$10,710 to \$3,500 in Health Department.

Commissioner Laskowski asked if the City was actually only spending \$1,750 of the City's own money from the excess revenue. Mr. Rushing replied that was correct and that was the City's half. City Manager Capell stated he called the County Judge and asked about providing half of the money. The County Judge told him he would introduce this to the County Commission at a meeting to be held tomorrow so the documents will be delivered to him for presentation. City Manager Capell stated that the Judge had called back and mentioned the County had enough money in the budget to go ahead with it.

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

15. Consider authorizing the purchase of a new deck for the Scag mower for the City-County Health Department from AC Lawn & Garden of Kingsville for \$3,500.00 with funding from FY2010-2011 Surplus Funds as per staff recommendation. (Purchasing Director).

Commissioner Wilson made a motion to authorize the purchase, seconded by Commissioner Pecos. Mayor Fugate called for further discussion. Commissioner Wilson stated that he hopes that in the future Staff will continue to look at reasonable repair options over brand new because the City just saved a lot of money. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".

16. Consider authorizing expenditure of \$10,000 for landscaping partnering project along south side of Yoakum abutting City Hall parking lot with funding from Fiscal Year 2010-2011 Surplus Funds as per staff recommendation. (Director of Development Services).

Director of Development Services Mike Kellam stated this is partnership with KKB in their efforts to supply the City with a beautification project.

Commissioner Laskowski stated they received three proposals and this a beautification project for the flower beds between the curb and the sidewalk from 6th Street to 7th Street on Yoakum. There's a landscaping plan for each bed and specifies plants for each of the beds and includes a grip system installed. After the work, the area will be self maintainable and will have a lot of gravel and rock. This will be a great improvement to the area. Several businesses and organizations were contacted to donate money. He stated he did not know if the full amount of \$10,000 would be needed but stated he would like to have that amount of money to work with because the projects needs to be started.

Commissioner Wilson made a motion to authorize the expenditure up to \$10,000, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Fugate, Laskowski, Pecos, Garcia, Wilson voting "FOR".

17. Consider awarding bid for contract work on Santa Rosa and Corral Street drainage project at a cost of \$217,666.15 as per staff recommendation. (Purchasing Director).

Mr. Mason stated bids were received but contractor was unable to provide the necessary bond so this project was rebid. There were total of six (6) bidders, the lowest bidder is Elite General contractors from Corpus Christi Texas at \$217,666.15. To clarify, everyone has looked at utilities and an additional email was sent to each contractor asking if they had taken utility relocation in to their bid and all replied, yes they had.

Commissioner Laskowski asked if references were provided since this is the first time this contractor works for the City. Mr. Khan stated this company worked on 19th Street and Henrietta & Wells. They did a good job.

Upon a question from Commissioner Garcia, Mr. Khan explained the finished product of the drainage will be an open channel ditch which will start from the Santa Gertrudis School with a couple of culverts being replaced. Right now, the main problem is the existing down elevation in that area is lower than the downstream so water cannot flow. When finished then you will see on the Corral area the ditch will be at least 4 ½ to 5 ft deep, he added it has very little slope but that is the depth needed.

Upon a question from Mayor Fugate, Mr. Khan stated this will not help the situation with new dorm but will help the entire system at the University.

Commissioner Laskowski made a motion to award the bid to Elite General Contractors for \$217,666.15, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

18. Consider awarding bid for contract work on Dumpster Enclosure Pilot Project at a cost of \$24,850.00 as per staff recommendation. (Purchasing Director).

Mr. Mason stated the quotes are included in the packet, Alamo Construction is the lowest quote at which ranges from \$24,850 to on the high, Maltby provided variables at \$35,700 to \$36,900 depending on the quantity whether it was a single or double. The contractors each stated they will follow specifications in the type of lumber to be used. Staff recommends that Alamo Construction of Kingsville be awarded the contract of \$24,850.

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

19. Consider introduction of an ordinance amending the Fiscal Year 2011-2012 Budget for the General Fund Capital Projects Fund for beautification projects for various departments to utilize Fiscal Year 2010-2011 Surplus Funds.(Finance Director).

Mr. Rushing stated this budget amendment would be utilizing the projected surplus generated in FY 2011 for agenda items 16 & 18.

INTRODUCTION ONLY

20. RESOLUTION NO. 2012-08 Consider resolution authorizing the City to submit an application to the Edward Byrne Memorial Justice Assistance Grant Program (JAG) for the State of Texas requesting grant funding for law enforcement equipment on behalf of the Kingsville Police Department with no anticipated cash match. (Chief of Police).

Chief Ricardo Torres stated grant, if awarded would outfit the Technical Response Team. The anticipated cost is roughly \$37,089. The grant was submitted in a timely manner but COG doesn't know how money has been awarded to the area COG. If there is a cash match he is prepared to make that match from Chapter 59 funds.

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

21. RESOLUTION NO. 2012-09 Consider resolution of the City of Kingsville appointing Early Voting Clerk. (City Secretary).

(CONSIDERE UNA RESOLUCIÓN QUE NOMBRA A LA SECRETARIA ENCARGADA DE LA VOTACIÓN ANTICIPADA) (SECRETARIA MUNICIPAL).

City Secretary Edna Lopez read the agenda item in Spanish. Commissioner Wilson provided information on typo(s) in the resolution presented in English/Spanish.

Commissioner Wilson made a motion to approve the resolution with the corrections provided, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".

22. Consider waiver of interest on paving liens so that only principal will be due with said waiver program to last from March 1, 2012 to March 1, 2013. (Finance Director).

Mr. Rushing stated this would extend the authorized waiving of the interest. Over the past year this has been successful. Initially there were 211 liens, and 61 liens have been paid for \$42,000. There's a remaining balance of \$80,000 on principle only. If this is not extended this would jump from \$80,000 to another million in accrued interest.

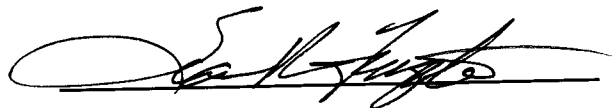
Upon a question from Commissioner Laskowski, Ms Alvarez responded it was a day after this item was approved that the declaratory judgment action was filed and so none of the letters went out, the only notice the person received was what was in the newspaper. She added that they have spoken to counsel about that and he has agreed to help send out the letters, which might along with the improved economy bring it additional revenues and get more of these liens resolved.

Mayor Fugate asked that sometime in the future, he would like this subject put on executive session.

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

VI. Adjournment.

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



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, TRMC, CMC

City Secretary