

MARCH 11, 2013

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 11, 2013 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam Fugate, Mayor  
Dianne Leubert, Commissioner  
Noel Pena, Commissioner

**CITY COMMISSION ABSENT:**

Al Garcia, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Vincent J. Capell, City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Tony Verdin, Information Systems Technician  
Mark Rushing, Finance Director  
James Bryson, Accounting Manager  
Mike Kellam, Director of Planning & Development Services  
David Mason, Purchasing/IT Director  
Willie Vera, Task Force Commander  
Bill Donnell, Asst. Public Works Director  
Emilio Garcia, Health Director  
Naim Kahn, Public Works Director/City Engineer  
Ruthie Valdez, Interim Library Director  
Hector Vela, Technical Services Assistant  
Rose Morrow, Municipal Court Manager  
Bob Trescott, Tourism Director  
Cynthia Martin, Downtown and Volunteer Manager  
Melissa Perez, Risk Manager  
Joey Reed, Fire Chief  
Diana Medina, Collections Manager

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:02 P.M. and announced that three members of the Commission are present with Commissioner Garcia and Commissioner Pecos absent due to their attendance at National League of Cities in Washington, DC.

**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 Fugate called for consideration of the minutes for regular meeting held on Monday, February 25, 2013. **Commissioner Leubert made a motion to accept the minutes as presented, seconded by Commissioner Pena. The motion was passed and approved by the following vote, Leubert, Pena and Fugate voting “FOR”.**

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

**1. Public Hearing for an alcohol variance application for Sunny Mini Mart located at 1230 E. Santa Gertrudis. (Director of Planning & Development Services).**

Mayor Fugate opened the public hearing at 6:04 p.m.

Mr. Mike Kellam, Director of Planning and Development Services stated that the above mentioned location is requesting an alcohol variance for Wine and Beer

Retailer's Off-Premise Permit. All required notices have been sent to the property owners within 300ft. and a public hearing notice was placed in the newspaper on February 17, 2013. No negative feedback was received from property owners or citizens that have been notified.

Mayor Fugate asked if any comments were received from the Kingsville Independent School District. Mr. Kellam stated that no comments were made by Kingsville Independent School District.

Ms. Andrea Villagran, 800 General Cavazos Apt. 303, stated that she was in attendance at this meeting just to introduce herself to the Commission as well as to the public and to let the Commission know that she is the owner of Sunny Mini Mart.

Mayor Fugate closed this hearing at 6:06 p.m.

### **III. Reports from Commission & Staff.<sup>2</sup> (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, Tourism, 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."*

Mr. Capell, City Manager reported that this will be the last Commission meeting Mr. Naim Kahn, Public Works Director/City Engineer will be in attendance. He further stated that Mr. Kahn has been a big asset to the City of Kingsville and thanked him for his services for the past four years to our City.

Mayor Fugate thanked Mr. Kahn for all his hard work for the past four years.

Commissioner Pena thanked Mr. Kahn for his hard work and wished him luck in his new endeavor.

Mrs. Courtney Alvarez, City Attorney reminded staff that March 15<sup>th</sup> is the deadline to submit agenda items for the March 25<sup>th</sup> City Commission meeting.

Commissioner Leubert thanked the Kingsville Police Department for their undercover operation of the sale of liquor to minors. Several arrests were made during this operation.

Mr. Capell stated that the Kingsville Police Department is working on a press release regarding their undercover operation.

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

None

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

### **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)*

Mayor Fugate asked for a motion to approve the consent agenda items as presented. Commissioner Pena made a motion to approve the consent agenda as presented, second by Commissioner Leubert. The motion was passed and approved by the following vote: Pena, Leubert and Fugate voting "FOR".

1. **Motion to approve final passage an ordinance amending the fiscal year 2012-2013 budget for the Community Appearance Department to purchase one (1) John Deere 318D skid steer loader base with GT72 grapple and one (1) John Deere Z970R ZTrak commercial mower as well as the trade in of the 2009 John Deere 5065M and accessories. (Finance Director).**
2. **Motion to approve final passage an ordinance amending the fiscal year 2012-2013 budget for the Police Department to purchase body armor and protective equipment. (Finance Director).**
3. **Motion to approve the reappointments of Dr. Judith Cox, and Mrs. Janice Becker to the Library Board for another three (3) year term each. (Interim Library Director).**
4. **Motion to approve a resolution authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Boys Scouts of America Venado District. (Police Chief).**

**REGULAR AGENDA**

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

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

5. **Consider approval of an alcohol variance for Sunny Mini Mart located at 1230 E. Santa Gertrudis, due to a change in ownership. (Director of Planning & Development Services).**

Motion made by Commission Leubert to approve the alcohol variance for the Sunny Mini Mart located at 1230 E. Santa Gertrudis, second by Commission Pena. The motion was passed and approved by the following vote: Leubert, Pena and Fugate voting "FOR".

6. **Consider reappointment of Maggie Salinas, Susana Killion, and Lisa Munoz to the Historical Development Board for a one (1) year term each. (Downtown Manager).**

Cynthia Martin, Downtown and Volunteer Manager stated that a letter from Ms. Maggie Salinas recommending Mr. Mario Delgado to the Historical Board was inadvertently included in the Commission agenda packet. She further stated that this item is for reappointments of the above mentioned individuals to the Historical Development Board for a term of one year.

Mayor Fugate asked if these individuals were aware that they were only being reappointed for a one year term.

Mrs. Martin stated that the terms and staggering terms were discussed at their last Historical Development Board meeting and all were in agreement. She further stated that are eligible to reapply after their one year appointment if they wish to do a three year appointment. She stated that over the years, they seem to have moved away from staggered terms and would like to set those staggered terms again.

Commissioner Pena asked what terms were approved for the last group.

Mrs. Martin stated that three years is what the ordinance states.

Mayor Fugate asked Mrs. Alvarez if she has had the opportunity to look at the ordinance regarding the terms for the Historical Development Board.

Mrs. Alvarez responded that all that was submitted to her was the memo for the reappointments for the one year term. It has not been brought to her attention of the possibility of changing the ordinance regarding its terms.

Mayor Fugate asked if the ordinance states that appointments to the Historical Development Board are for three years, can a one year term be approved without changing the ordinance first.

Mrs. Alvarez responded that the ordinance should be amended first before approving a different term not stated in the ordinance.

Commissioner Pena asked who the chair person for the Historical Development Board was. Mrs. Martin stated that Ms. Maggie Salinas holds that seat.

Mayor Fugate suggested Commission take no action on this item to allow staff to make changes to the ordinance and present it to Commission in the next meeting. Mayor Fugate asked Mrs. Alvarez if it would be a problem to amend the appointment term from one year to three years as stated in the ordinance.

Mrs. Alvarez stated as long as the individuals proposed to fill these positions are aware of the longer term, it would not be a problem for Commission to amend it from one year to three year terms.

Mayor Fugate stated that if the individual decides not to do a three year term, they can always resign after fulfilling a one year term.

Commissioner Leubert asked if Mrs. Martin was trying to get the board back to staggered terms. Mrs. Martin stated yes, she would like to go back to staggered terms.

**Motion made by Commissioner Pena reappointment Maggie Salinas, Susana Killion and Lisa Munoz to the Historical Development Board for a three (3) year term, second by Commissioner Leubert. The motion was passed and approved by the following vote, Pena, Leubert and Fugate voting "FOR".**

**7. Consider authorizing staff to negotiate a contract with Linebarger Grogan Blair & Sampson, LLP for Municipal Court Collection Services (RFP #13-07) as per staff recommendation. (Director of Purchasing & IT).**

Mr. David Mason, Purchasing/IT Director stated that this proposal was advertised on January 16<sup>th</sup> and January 23<sup>rd</sup> as well as posting the information on the City of Kingsville website. Information was sent to five requestors and three potential vendors submitted proposals which were opened on February 12, 2013. All three vendors are equally qualified. Therefore staff is recommending Linebarger Grogan Blair and Sampson, LLP.

**Commissioner Leubert made a motion to authorize staff to negotiate a contract with Linebarger Grogan Blair and Sampson, LLP for Municipal Court Collection Services, second by Commissioner Pena. The motion was passed and approved by the following vote, Leubert, Pena and Fugate voting "FOR".**

**8. Consider authorizing the purchase of four pickups through BuyBoard for Public Works Departments as per staff recommendation. (Director of Purchasing & IT).**

Mr. Mason stated that this item authorizes the purchase of four (4) pickup trucks through BuyBoard. These trucks are a budgeted capital outlay as shown in 054 Utility Fund Capital Projects. The truck prices are locked in by a BuyBoard quote through Philpott Motors. The existing vehicles, one will be turned over to a city department and the others will be sent to auction.

Commissioner Leubert asked what vehicles are being replaced what are the ages of the vehicles.

Mr. Bill Donnell, Assistant Public Works Director stated that two vehicles are 2003 year, one is 2004 year and one is a 2006 which has 126,000 miles.

**Motion made by Commissioner Leubert to authorize the purchase of four pickups through Buyboard, second Commissioner Pena. The motion was passed and approved by the following vote, Leubert, Pena and Fugate voting "FOR".**

**9. Consider authorizing the construction of a new pump house for Water Well #19 (RFP-#13-08) by Rusty Van Fleet Construction as per staff recommendation. (Director of Purchasing & IT).**

Mayor Fugate asked if the City was planning on fixing the old pump house. Mr. Capell stated that he would like for Commission to not take action on this item as not enough information was submitted. He stated that the original plan was to build a new pump station on the existing site and take the current well #19 and take out all the equipment and turn it into a facility where the Volunteer Fire Department can park their vehicles. Judge Krueger has donated a facility where the Volunteer Fire Department can house their fire equipment.

**No action taken on this item.**

**10. Consider authorizing the purchase and installation of trees in the medians on West Santa Gertrudis between Seale Street and Hwy. 141 by Border Link, LLC as per staff recommendation. (Director of Purchasing & IT).**

Mayor Fugate stated that due to the drought Kingsville is in today, trees that have been planted in the last 2 years are struggling to survive. He further stated that these smaller trees being planted need to be watered more often.

Commissioner Leubert stated that new trees should be watered around the crown of the tree to help them begin to grow.

Mr. Capell stated that watering these trees everyday will help them survive.

Mr. Kellam stated that based on a research done, Cedar Elm trees which a hardy tree and is drought tolerant do not require a whole lot of watering.

Commissioner Pena stated that this entire boulevard has been at a standstill and something needs to be done.

Mr. Kellam stated that mulch will be placed around the base of the tree to hold water.

Commissioner Leubert stated that her concern was that citizens will ask why the City did not plant native trees.

Mr. Capell opposed a question to Mr. Kellam as to why an oak tree was not selected. Mr. Kellam stated that the reason oak trees were not selected is due to a well-disease in the oak trees which is effecting San Antonio and is expected to effect this area in which it wipes out every oak tree it effects.

Mayor Fugate stated that he recommends for Mr. Kellam to meet with Commissioner Pena and see about other options if possible.

**No action taken on this item.**

**11. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget for Community Appearance to fund the purchase and installation of trees for the West Santa Gertrudis corridor landscaping project. (Finance Director).**

**No action taken on this item.**

**12. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget for Fund 054 Utility Fund Capital Projects Fund and Solid Waste Capital Projects Fund 087 to utilize Fiscal Year 2011-2012 unexpended funds. (Finance Director).**

Mr. Mark Rushing, Finance Director stated that agenda items 12 and 13 budgeted in Fiscal Year 2012 but were not able to be expended by end of the fiscal year. Some additional funds are needed to complete these projects in FY2013. Fund 054 is the cash funded portion that is in the Wastewater module. There are some bar screen in the North Plant in the amount of \$5,964 and \$118,301 for the South Plant for a total of \$124,265 for this budget year.

Mr. Capell stated that this is important to bring this item to Commission at this time since Mr. Kahn's last day nearing, staff wants to be sure these projects get done.

**Introduction Item Only.**

**Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget for Certificate of Obligation Capital Project Fund Budgets for various Public Works Departments to utilize Fiscal Year 2011-2012 unexpended funds. (Finance Director).**

Mr. Rushing stated that \$68,773 for the drainage project that needs to be expended this fiscal year. He further stated that \$49,527 for Street Department equipment in FY2013. In 2009 Series capital projects, fund 064 \$14,100 for land expansion permit. CO 2005 fund 062 Utility Fund Projects \$56,200 which consist of the blower building repair for \$18,200, \$10,200 for both North and South Treatment Plant fence repairs, \$8,000 for replacing North Plant roof on collection office and storage shed and \$20,000 to replace 36" influent bypass valve. On the Utility Fund 066, need an additional \$50,000 for the water well land and \$331,980 for the South WW Plant Clarifier.

**Introduction Item Only.**

**13. Consider final passage of an ordinance amending the zoning ordinance by granting a Special Use Permit for 1727 S. 7<sup>th</sup> Street (Lots 20-21, Southmore AC) for a lawn service and tree trimming business, amending the comprehensive plan to account for any deviations from the existing comprehensive plan, providing for publication. (Director of Planning & Economic Development).**

Mr. Kellam stated that this item had been brought to the Commission in the past. There was some existing noxious matter on the property that needed to be cleaned up. The property owner has complied with all necessary requirements and a re-inspection has been done by city staff and passed. This item is now being brought forward to Commission for final approval.

**Motion made by Commissioner Pena to approve this ordinance, second by Commissioner Leubert. The motion was passed and approved by the following vote, Pena, Leubert and Fugate voting "FOR".**

**14. Consider authorizing the extension of the waiver of interest on outstanding paving liens for one year. (Finance Director).**

Mr. Rushing stated that this program is diminishing in its results. In October 1, 2010 to September 30, 2011 \$40,160.76 was collected in principal payment. October 1, 2011 to March 7, 2012 \$11,570.78 was collected and in March 8, 2012 to February 28, 2013 \$5,622.66 was collected in principal payment for a subtotal of \$57,354.20. The current outstanding amount of paving lien principal balance is \$74,113.32 principal plus interest of \$803,010.26 for a total of \$877,123.58 as of February 28, 2013. He further stated that Commission can approve another year or just end the waiver of interest program.

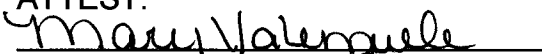
Mayor Fugate asked Mrs. Alvarez if this would affect the litigation that is pending regarding some of these liens. Mrs. Alvarez stated that it shouldn't affect the pending litigation.

**Motion made by Commissioner Leubert to approve the extension of the waiver of interest on outstanding paving liens for one year, second by Commissioner Pena. The motion was passed and approved by the following vote, Leubert, Pena and Fugate voting "FOR".**

**VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:58 P.M.

  
Sam R. Fugate, Mayor

ATTEST:  
  
Mary Valenzuela, City Secretary