

JUNE 24, 2013

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JUNE 24, 2013 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

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

CITY COMMISSION ABSENT:

Al Garcia, Commissioner

CITY STAFF PRESENT:

Vincent Capell, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
David Mason, Purchasing/IT Director
Willie Vera, Task Force Commander
James Bryson, Accounting Manager
Mark Rushing, Finance Director
Emilio Garcia, Health Director
Ruthie Valdez, Interim Library Director
Charlie Cardenas, Public Works Director/City Engineer
Jennifer Bernal, Community Appearance Supervisor
Diana Medina, Collection Manager
Cynthia Martin, Downtown and Volunteer Manager
Ricardo Torres, Chief of Police
Melissa Perez, Risk Manager
Bill Donnell, Assistant Public Works Director
Joey Reed, Fire Chief
Robert Isassi, Director of Planning & Development Services
Bob Trescott, Downtown Director
Robert Bennett, Landfill Supervisor
Diana Gonzales, Human Resources Director
Tony Verdin, Information Systems Technician

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the Robert H. Alcorn Commission Chamber at 6:00 p.m. and announced quorum as present. Commissioner Garcia 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

Special Meeting – June 4, 2013

Regular Meeting – June 10, 2013

Mayor Fugate asked for a motion from the Commission to approve the minutes as presented. **Commissioner Pecos made a motion to approve the minutes as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Leubert, Pecos, Pena and Fugate voting: “FOR”.**

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

None.

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, 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. Vince Capell, City Manager, reported that he was informed by Dick Messbarger, Director of Economic Development, that Kleberg County has approved the EDA Agreement with Zarsky Development Company, LLC. and the Interlocal Agreement with the City of Kingsville for the Wildwood Trails Development during a Commissioners Court meeting on June 24, 2013.

Mrs. Courtney Alvarez, City Attorney, reported that the next City Commission meeting is scheduled for Monday, July 8, 2013. Mrs. Alvarez reminded staff that the deadline to submit items for this agenda is Thursday, June 27, 2013 due to staff scheduling. She further stated that she will be out of the office on vacation July 1-2, 2013.

Mr. Glenn Jones, Community Plans Liaison Office Mission Sustainment NAS Kingsville, introduced the 34th Commanding Officer of Naval Air Station Kingsville, Captain Christopher “Chet” Misner.

Captain Misner, Commanding Officer of Naval Air Station Kingsville, stated that he and his family are very excited to command Naval Air Station Kingsville and ready to be a part of our community. He looks forward to working with the City of Kingsville in upcoming endeavors.

Sugar Cox, 215 S. 4th Street, spoke to the Commission regarding the Junior Firefighters Explorer Program. He stated that he looked into the program when he was 9 years old just to find out that you had to be 14 years of age. He is now 13 years old and is one month shy from turning 14. He recently visited Fire Station to gather information he would need to join the Junior Firefighters Explorer Program. He was told that the program is no longer in existence due to lack of participation. He is asking the Commission to look into reinstating the program so those who would like to be a part of it can join. He feels that the program would help young teenagers stay focused and out of trouble and would teach them all about becoming a firefighter.

Mayor Fugate asked Mr. Cox what grade he was in. Mr. Cox stated that he was in the 7th grade.

Commissioner Leubert asked when he would be turning 14 years old and asked if he had friends that would be interested in this program. Mr. Cox stated that his birthday is July 27th. further stated that he has a few friends that are interested in the program.

Mayor Fugate asked Mr. Cox to get with Vince Capell, City Manager and Joey Reed, Fire Chief regarding possibly reinstating the program. Mayor Fugate read a proclamation for Pauline Gonzales Munoz who turned 100 years old.

IV. Public Comment on Agenda Items ³

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

Mr. Jon Everest of 610 S. 18th Street has lived in Kingsville since 2010 and is a student of Texas A&M University-Kingsville. He stated that he would like to speak with regards to the canopy located on 6th Street. He stated that he has seen the proposal for conduit and electricity to be installed at the canopy for a cost of \$2,500. He further stated that he would like to see a counter proposal for solar panels or wind turbine to be installed on the canopy. He further stated that the purpose of the canopy is to become an activity area which can become appealing to college students as well as the community.

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 as presented.

Motion made by Commissioner Pecos to approve the consent agenda items as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Pecos, Pena, Leubert, Fugate voting "FOR".

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 Budget of the State Forfeiture Fund and Kingsville Law Enforcement Fund for the purchase of vehicles and equipment for the Police Department. (Director of Finance.)

2. Motion to approve resolution authorizing collection fee in the amount of 30% of debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid by a municipal court serving the city, and amounts in cases in which the accused has failed to appear: 1) as promised under subchapter A, Chapter 543, Transportation Code, or other law; 2) in compliance with a lawful written notice to appear issued under Article 14.06(b), Texas Code of Criminal Procedure, or other law; 3) in compliance with a lawful summons issued under Article 15.03(b), Texas Code of Criminal Procedure; 4) in compliance with a lawful order of a court serving the city; or 5) as specified in a citation, summons, or other notice authorized by section 682.002, Transportation Code, that charges the accused with a parking or stopping offense, when such debts, accounts receivable and amounts are more than 60 days past due and have been referred to an attorney or other vendor for collection; repealing all conflicting resolutions and providing for an effective date. (City Attorney).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

3. Consider resolution establishing a Kingsville Main Street Downtown Plan for the City of Kingsville, Texas. (Tourism Director).

Bob Trescott, Tourism Director, stated that this is a downtown work plan which is produced yearly since 2011. This plan was brought before the City Commission in July, 2012 and was updated and discussed at the Commission Goal Setting Retreat in May, 2013. He further stated that the city desires to preserve, redevelop and revitalize the Kingsville Historic Downtown District. The City has adopted a Master Plan in 2008 that endorses such preservation, redevelopment and revitalization. The Kingsville Main Street Program and Kingsville Historic Downtown Association are partnering with each other and with City departments and boards on projects and programs that advance downtown district preservation, redevelopment and revitalization. After comprehensive research and studies of existing physical and market conditions and possible future trends, a comprehensive Downtown Plan has been prepared. This plan was developed with the purpose of reviewing the background, enumerating guiding principles, providing a strategic framework and listing projects and programs that advance downtown district preservation, redevelopment and revitalization. Staff is requesting that the Kingsville Main Street Downtown Plan be accepted and approved by the City Commission.

Commissioner Leubert stated that this plan is a well put together plan which has great ideas, but if Commission authorize and establish this downtown plan, does this mean that the City is definitely doing every item listed on this plan or can it be changed.

Mr. Trescott stated that this plan is a work in progress plan that will change from time to time.

Commissioner Leubert stated that there are things listed in the plan that Commission may not feel that they are ready for or may not want it done at all. She further stated that the plan as a whole is a good plan but would recommend some changes.

Mr. Capell stated that any item listed on the plan, would require Commission approval before work could be done.

Commissioner Leubert stated that she would like to see timelines for some of these projects. Mayor Fugate stated that he agrees with Commissioner Leubert with regards to timelines.

Motion made by Commissioner Pecos to approve the resolution establishing a Kingsville Main Street Downtown Plan for the City of Kingsville, second by Commissioner Leubert. The motion was passed and approved by the following vote: Pena, Leubert, Pecos, Fugate voting "FOR".

4. Consider resolution authorizing City Manager to enter into an Interlocal Agreement for Cooperative Purchasing of Goods, Products and/or Services between the City of Kingsville and the City of Bedford, Texas. (Director of Purchasing and IT).

Mr. David Mason, Purchasing/IT Director, stated that this item authorizes an interlocal agreement for cooperative purchasing with the City of Bedford. Chapter 271.1002 Subchapter F of the Local Government Code, and the Interlocal Cooperation Act, 791.001 allow cities to enter into agreements with each other to purchase goods and services. Chief Reed is interested in purchasing nomex shirts and pants through GST Public Safety. A substantial discount can be obtained by using the purchasing contract in place from the City of Bedford. The City of Bedford is in agreement with the City of Kingsville using their contract and has provided us with an interlocal agreement. There is no specific financial impact of the interlocal agreement itself.

Commissioner Pecos asked if this would allow us to be a part of the Coop.

Mr. Mason stated that it would and it's operated by the City of Bedford and have around fifty cities involved in this.

Commissioner Leubert commended Mr. Mason and Chief Reed for their work.

Motion made by Commissioner Leubert to approve resolution as presented, second by Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Fugate voting "FOR".

5. Consider authorizing staff to move forward with improvements for Phase 1 of the Downtown Pavilion Improvement Project. (Director of Purchasing and IT).

Mr. Mason stated that the Tourism staff started developing estimates in quote for some work at the pavilion. Staff is providing estimates of work to include grading, clearing, and a concrete slab; power washing, prep and touch up painting to the structure, electrical and construction of a dumpster enclosure. He further stated that we will work with local contractors to ensure maximum value for the dollar expenditures for this project. Its value to the community far outweighs the dollar expenditures. Along with the basic estimate amount of \$47,985.75, there are several vendors requesting payment from the original project totaling \$2,105 bringing the subtotal to \$50,063.75. He further stated that a ten percent contingency fee of \$5,006.38, total project is estimated to be \$55,070.13. These monies will be provided through a budget amendment.

Commissioner Leubert stated that she would like for staff to look into the cost for solar panels for the canopy.

Mr. Capell stated that the pavilion is a small piece of this project that staff is working on at this time. He further stated that he has asked staff to create a team that would assist in making decisions on this particular project.

Commissioner Leubert asked if a motion is made to approve this item, does this mean the City is required to do the items listed or can they be changed.

Mayor Fugate stated that staff would need Commission approval prior to any project being done.

Mr. Capell stated that there is a budget amendment and once Commission approves this budget amendment, staff is not required to get further approval from the Commission.

Motion made by Commissioner Pena to authorize staff to move forward with improvements for Phase 1 of the Downtown Pavilion Improvement Project, second by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Leubert, Fugate voting "FOR".

6. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget of the General Fund for improvements to the City of Kingsville Downtown Pavilion. (Director of Finance).

Mr. Mark Rushing, Finance Director, stated that this item is an introduction item amending the Fiscal Year 2012-2013 budget of the general fund for improvements to the downtown pavilion.

Mayor Fugate stated that there is a surplus of \$140,000 left from last year that staff may want to use on certain projects.

Introduction item only.

7. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies, Section 1 Classification and Compensation Plan to add the position of Accounting Supervisor and Landfill Foreman to the Compensation and Classification Plan for Fiscal Year 2012-2013. (Director of Human Resources).

Ms. Diana Gonzales, Human Resources Director, stated that the item before them is an introduction item to amend the current City of Kingsville Classification and Compensation Plan for Fiscal year 2012-2013 by adding a position title of Accounting Supervisor to the Finance Department. With the current vacancy of one of the Accountant II positions, it is proposed to create an Accounting Supervisor instead of filling the existing titled vacancy. The financial impact for the Accounting Supervisor position for an estimated 7 pay periods in current fiscal year is \$5,721.28 in wages plus benefits of \$2,365.44 for a total of \$8,086.72. The cost will be absorbed by the current department budget. The change would also add a position title of Landfill Foreman to the position allotted to the Public Works Department. With the current vacancy of the Equipment Operator III position, it is proposed to create a Landfill Foremen instead of filling the existing titled vacancy. The financial impact for the Landfill Foreman position for an estimated 7 pay periods in current fiscal year of \$1,355.80 in base wages plus benefits of \$815.58 for a total of \$2,171.38. The cost will be absorbed by the current department budget.

Commissioner Pecos asked if there was an increase with the two positions being created.

Ms. Gonzales stated that for this fiscal year it would be absorbed but next year there will be an increase in the budget.

Commissioner Pena asked if the Accounting Supervisor position was a new position.

Ms. Gonzales stated that by not filling the Accounting II position, they are able to create the Accounting Supervisor position.

Mayor Fugate asked why staff is choosing to do this at this time.

Mr. Capell responded that with the turnover in the Finance Department, it is a challenge to get qualified personnel that will stay with the City of Kingsville for a longer period of time.

Introduction item only.

8. Consider resolution approving cooperation with the Steering Committee of Cities served by AEP TCC to review AEP Texas Central Company's requested approval of an adjustment to its energy efficiency cost recovery factor; hiring legal and consulting services to negotiate with the company and direct any necessary litigation and appeals (with all costs paid by the utility); finding that the meeting at which this resolution is passed is open to the public as required by law; requiring legal notice of this resolution to legal counsel. (City Attorney).

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

Mayor Fugate asked if there was no objection from Commission and staff, he would like to discuss agenda item #12 prior to going into agenda item #9. No objections were made by Commission or staff.

12. Consider condemnation order for 1229 E. Avenue B, Kingsville, Texas. (Director of Planning & Development Services).

Mr. Robert Isassi, Director of Planning and Development Services, stated that with reference to property owners Mr. & Mrs. Francisco Resendez, request for rescinding a building condemnation order for their building located at 1229 E. Ave. B. The property was approved for condemnation during a Commission meeting May 28, 2013. Since this ruling, Mr. & Mrs. Resendez are appealing the condemnation based on their belief that the building is able to be repaired. They have further assured the City of their commitment to address all of the deficiencies found in the City Official's Property Condition Report. The City Official has since re-evaluated the building and found it to remain out of compliance and agrees that the building is able to be repaired. The City Official has listed building's exterior and interior deficiencies in further detail below. In meeting with Mr. & Mrs. Resendez on June 18th, 2013, they have assured the City that they will address all of the building's exterior deficiencies to meet the City's requirements within 60 days. The exterior deficiencies and City's Code requirements are as follows, yard condition is fair. City requires mow, trim and weeds the yard. The exterior wall is in poor condition with parts of insulation and interior drywall exposed. City requires new siding on all sides of the exterior wall. The roof is structurally sound but a section of the roof is missing and shingles need to be replaced. City requires new

roof covering. The building does not have any window or door trim, soffit panels, or fascia boards. City requires installation following completion of the siding. Following the exterior work, Mr. & Mrs. Resendez have assured the City that they will address the interior deficiencies before the expiration of the building permit. The permit will be immediately applied for if the Commission agrees to rescind the condemnation. The interior deficiencies with the City's requirements are as follows, interior walls and ceiling are open with no drywall. City requires new drywall and electrical outlets on interior walls to meet City Codes. Plumbing missing, city requires the installation of working plumbing. At this time, no utilities are currently connected, city requires installation of electricity and water services before a Certificate of Occupancy can be granted. Following the Commission's meeting, if rescinded, Mr. Resend will then reapply for the building permit with aforementioned timetable assurances. Furthermore, if the Commission agrees to rescind Mr. Resendez building condemnation, our Public Works Department will need to return to the property to reconnect the sewer and water taps. It is staff's recommendation that we afford Mr. Resendez the opportunity to address these issues based on his assurances that he will deliver the exterior repairs within sixty (60) days from the issuance of a building permit. If the exterior is not addressed within sixty (60) day limit, the City and Mr. & Mrs. Resendez have agreed that we can begin the condemnation process and revoke the existing permit.

Commissioner Leubert thanked staff for working together with property owner in trying to salvage this property.

Mayor Fugate state that citizens also need to keep up with their property,

Mr. Frank Resendez stated that the City has not cleaned up his property.

Mayor Fugate responded that neither did the property owner of this location. He further commented to Mr. Resendez that he was speaking out of order. Mr. Resendez had the opportunity to speak on behalf of this item during public comments and chose not to.

Mr. Resendez stated that he thought he was going to have the opportunity to speak while the item was presented.

Mayor Fugate again commented to Mr. Resendez that he was out of order and therefore not to speak any further.

Motion made by Commissioner Pecos to rescind the condemnation order for 1229 E. Avenue B, second by Commissioner Leubert. The motion was passed and approved by the following vote, Pecos, Pena, Leubert, Fugate voting "FOR".

9. Executive Session: Executive Session pursuant to Section 551.071, Texas Government Code, Consultation with Attorney Exception, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional conduct of the State Bar of Texas clearly conflicts with this chapter. (City Attorney).

Mayor Fugate announced the Executive Session and convened into Executive Session at 6:52 p.m.

The Commission reconvened into regular session at 7:25 p.m.

10. Consider possible action in Mendoza v. City of Kingsville case. (City Attorney).

No discussion or action taken.

11. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget of the General Fund for Legal Department Professional Services. (Director of Finance).

Mr. Rushing stated that this is an introduction item only. The request for additional funds for two matters are being handled by outside counsel.


Introduction item only.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:27 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, City Secretary