

JULY 8, 2013

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JULY 8, 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:

Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
David Mason, Purchasing/IT Director
Ken Starrs, Assistant Task Force Commander
Mark Rushing, Finance Director
Emilio Garcia, Health Director
Ricardo Torres, Chief of Police
Bill Donnell, Assistant Public Works Director
Robert Isassi, Director of Planning & Development Services
Bob Trescott, Downtown Director
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
Regular Meeting – June 24, 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 Pena. The motion was passed and approved by the following vote: Leubert, Pecos, Pena and Fugate voting: "FOR".**

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

1. Public Hearing for an ordinance amending the zoning ordinance by granting a special use permit at 1601 S. Hwy 77, Suite P (Kingsville industrial Park 2, Lot 14.84 AC Tract) for a sports bar/club; amending the comprehensive plan to account for any deviations from the existing comprehensive plan; providing for publication. (Director of Planning and Development Services).

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

Amanda Fiegel, stated that she has been a resident of Kingsville for 5 years and her concerns with this club relocating to the Wild Horse Mall is that the establishment is too close to a movie theatre where children of all ages hang out. Her main concern is that families might be hassled by intoxicated individuals from the club.

Mark Cortez, 511 W. Ave. A, stated that he is a minority partner with Mr. Leon Garcia in his business venture of relocating the Silver Spur to the Wild Horse Mall. He has had the opportunity to work for Mr. Garcia for the last 5 ½ year at the Silver Spur at its current location. This new location offers the community a higher-end scale location where adults can gather to enjoy a relaxing evening with some drinks and entertainment. The current location has hampered services due to its small floor plan. As with any establishment whether alcohol is served or not, there can be issues with adults not acting responsibly. He further stated that according to the City's Master Plan, Kingsville wants to continue growth within the City, and he is here to contribute to this cause. He further asks the Commission to approve the special use permit to relocate the Silver Spur to the Wild Horse Mall. He stated that he understands that there is a conjunction with the movie theatre, however location wise, the door to the Silver Spur will be located to the east side and with the movie theatre being 30 yards back with their entrances on the north and south side of the building, traffic to the Silver Spur will not be coming in

through the mall area. The Spur will have its own separate entrance. The Silver Spur will have strict security at its entrance with a 21 year of age an older establishment. Currently the Silver Spur has had a clean record at its current location and hopes to continue it that way.

Patrick Garza, 1717 Linda, stated that he is not only speaking as a parent but also as a teacher of King's Way Leadership School located across the street from the Wild Horse Mall. His concern is regarding the alcohol being served and disorderly conduct by patrons of the establishment. His main concern is the "what if". He further stated that he understands that every precaution will be taken but what happens if a tragedy happens if someone is intoxicated and drives off and runs over an individual. He further stated that he wants to see Kingsville grow and prosper, but he is concerned about the "what if".

Monica Lowey, 1204 E. Lott, stated that anywhere you go here in town you will always have the "what if". Whether you are walking across the street from Pizza Hut to Sherwin Williams, whether you are walking across from H.M. King to the Mall, it doesn't matter what you do or where you go, you will always have the "what if". She further stated that the Silver Spur is not an establishment where there are problems. The Spur is more of a social gathering establishment where individuals go to relax and have a few drinks. She further stated that she understands others concerns, but the "what if" will always be there.

Gary Reyes, 715 W. Lee, stated that he has been a patron of the Silver Spur for about 10 years and has not experience any problems with anyone at this establishment.

Mayor Fugate closed this public hearing at 6:12 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, 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."

Mrs. Courtney Alvarez, City Attorney, announced that the next Commission meeting is scheduled for Monday, July 22, 2013. She further reminded staff that agenda items, payroll sheets and staff reports are due Friday, July 12, 2013.

Commissioner Pena commented on the progress at the old H.M. King/new City Hall, windows have been installed on the east side of the building.

Mayor Fugate stated that all windows to the new City Hall should be installed by next Wednesday.

IV. Public Comment on Agenda Items³

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

Mr. Leon Garcia, 1533 Lewis, owner of the Silver Spur. He has been in business for 30 years and has been a part of this establishment for 10 years. He further stated that this establishment has had no problems in the past. He further stated that he appreciates all those who have come out to support him in this matter.

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 Pena. The motion was passed and approved by the following vote: Pecos, Pena, Leubert, Fugate voting "FOR".

1. **Consider approving final passage 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).**
2. **Consider approving final passage 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).**
3. **Consider approving final passage of an ordinance amending the fiscal year 2012-2013 budget of the General Fund for Legal Department Professional Services. (Director of Finance).**
4. **Consider appointing John Garza, III to the City Zoning Board of Adjustment to fill a vacancy for a 2 year term. (Director of Planning and Development Services).**

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. **Items for consideration by Commissioners.⁴**

5. **Consider introduction of an ordinance amending the zoning ordinance by granting a special use permit at 1601 S. Hwy 77, Suite P (Kingsville industrial Park 2, Lot 14.84 AC Tract) for a sports bar/club; amending the comprehensive plan to account for any deviations from the existing comprehensive plan; providing for publication. (Director of Planning and Development Services).**

Commissioner Leubert stated that the Commission has heard some concerns during the public hearing regarding this item, but she would like some questions answered. One is being security on the outside of the establishment and will someone be hired at this location daily, nightly, weekly or as necessary to make sure the parking lot is kept clean. She further stated that having security on the outside of this establishment would probably help with some of the concerns voiced today.

Mayor Fugate stated that this will be an on premise establishment which will not allow any alcohol outside the premise.

Mr. Robert Isassi, Director of Planning and Development Services stated that Code Enforcement will be out monitoring the area for any trash.

Mrs. Alvarez stated that there is no ordinance in place that requires any security for the outside of any establishments.

Commissioner Pecos asked if this establishment meets all distance requirements.

Mrs. Alvarez stated that the Alcohol Beverage Code specifies how the measurement is done which is from the entrance of the establishment to the entrance of the church or school. The distance for this establishment meets all statutory requirements.

Mr. Isassi stated that the Planning and Zoning Commission reviewed and approved the special use permit by a 4-3 vote on June 26, 2013. There were some concerns on its proximity to the movie theatre, church and a charter school. Their concerns were similar to those voiced during tonight's public hearing.

Introduction item only.

6. **Consider preliminary subdivision plat for Lake View Villas, containing 24 lots, located in the 1900 block and 2000 block of East General Cavazos Blvd with conditions, as per staff recommendation. (Director of Planning and Development Services).**

Mr. Isassi stated that this is a request for approval of a major preliminary subdivision plat containing 24 lots on 3.78 acres. The subdivision is located on the 1900 and 2000 block of East General Cavazos Boulevard. The preliminary plat has been reviewed meets all requirements according to City Ordinance 15-3-1. The preliminary plat has been reviewed and approved by the Planning & Zoning Commission on June 26, 2013. Staff

recommends the approval of the plat based on its benefit to the community with its generally safe location and its adherence to the Ordinance regulations.

Commissioner Leubert asked if there will ever be a lake view.

Mr. Fred Kurth, Meldon & Hunt, Inc. responded that this actual layout shrinks out the north side. He further stated that he has spoken to the city about building a well and possible effluent water if it became available as they would like to have a lake view.

Commissioner Pecos stated that effluent water is available.

Mr. Isassi stated that one of the concerns that were brought up during the Planning & Zoning Commission meeting was the lack of fencing of the backyards facing General Cavazos. He further stated that he will be talking to the developer regarding installing a consistence fence on the back end.

Motion made by Commissioner Pena to accept the preliminary plat, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Pena, Leubert, Pecos, Fugate voting "FOR".

7. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Sections 15-6-115 through 15-6-131, providing for substantial revisions to the sign ordinance. (Director of Planning and Development Services).

Mr. Isassi stated that this is an introduction item to amend Chapter XV, Land Usage, Article 6, Sign Regulations, Section 15-6-115 through 15-6-131. These sections are being updated to meet the City's currently adopted 2008 Master Plan in which it was recommended the signing ordinance be amended to require monument signing in lieu of pole signing, and to clarify exempt and prohibited sign usage. The Planning & Zoning Commission has reviewed this ordinance and has approved the changes during a meeting on June 26, 2013.

Commissioner Pena asked if this would address the issues with memorial sites on the side of the roads. He further stated that he has received an email regarding the memorial sites on the side of roads within the City limits.

Mrs. Alvarez stated that this ordinance does not address this particular issue.

Mr. Isassi stated that he can speak with the City Manager and see if this is something he would like to include in this ordinance or it can be addressed as a separate issue.

Mayor Fugate stated that it would probably be best if Mr. Isassi would address the issue with the City Manager and then bring back the item for approval sometime in August.

Introduction item only.

8. Consider resolution abandoning an easement within Farm Lot 15, Section 17 of the KT&I Co. Subdivision. (Director of Planning and Development Services).

Mr. Isassi stated that this is a request from Ms. Alana Logue who represents the owner of the property located along East General Cavazos Boulevard between US 77 and Golf Course Road. They are requesting that a blanket City easement, referenced in a 1905 deed be released. The Engineering Department has researched the deed history and discovered a 2007 deed for the property which does not mention any such easement. It is the City's belief that this easement was either previously released or abandoned in the time between 1905 and 2007 without any documentation. The owner is requesting a full release of this easement based on engineering drainage improvements done along East General Cavazos Boulevard and Golf Course Road which does not require additional drainage running through an arbitrary location within the property. The owner will still have to get with King Ranch to approve their water line easement.

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

9. Consider resolution authorizing participation in the Community-Oriented Connectivity Broadband Grant sponsored by the U.S. Department of Agriculture (USDA) Rural Utilities Service (RUS); authorizing City Staff and the Director of Telecommunications at Texas A&M University in College Station to act on the City's behalf with such Program. (Director of Purchasing/IT).

Mayor Fugate stated that it was his understanding that agenda item #9, the City of Kingsville is not eligible for this grant. Therefore Commission will not take any action on this item.

10. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 budget of the General Fund Information Technology Department for G.I.S. Server Hosting Services. (Director of Finance).

Mr. Mark Rushing, Finance Director, stated that the financing of \$14,980 will be expended from unassigned fund balance. The term unassigned balance is a new term which used to be undesignated and restricted fund balance. The accounting requirements under GASB 54 it required a new term to be utilized which is called unassigned fund balance. This is a fund balance that does not have contingencies on it or assignment to it. There is fund balance that occurred that is still unexpended or undesignated in fiscal year 2012 that occurred last year.

Mayor Fugate asked how much is left in this account.

Mr. Rushing stated that the amount left is about \$100,000 which is where this cost is will be coming from.

Introduction item only.

11. Consider authorizing staff to negotiate contract for GIS hosting services with Timmons Group, as per staff recommendation. (RFP 13-11) (Director of Purchasing & IT).

Mayor Fugate asked if anyone had any objection in addressing item #11 before item #10. No objections were made from Commission or staff.

Mr. Mason stated that this item is to approve the negotiation of a contract for GIS hosting services with Timmons Group. The proposal was advertised on April 24, 2013 and May 1, 2013, as well as posting the information on the City of Kingsville website. Four potential vendors submitted by opening time on May 14, 2013. RFP review committee members met several times and after careful consideration and ranking, Timmons Group emerged on top. It is recommended that staff negotiate a contract with Timmons Group, 1001 Boulders Parkway, Richmond, VA 23225. The initial cost will be \$13,180 with a monthly hosting cost of \$600 for three months for a total FY 2013 impact of \$14,980. He further stated that the purpose of hosting a GIS program is to make it available online to other departments and other out in the public, with special permissions. There will be a link on the city website that will allow you to see GIS Service. The initial cost will be \$13,180, its \$600 per month to host. With three more months left in this fiscal year, so the total Fiscal Year 2013 impact is \$14,980.

Commissioner Leubert asked what the length of contract will be.

Mr. Mason stated that once the data is there, we only pay the hosting fee of \$600 per month.

Commissioner Leubert asked how often other departments need this mapping.

Mr. Mason stated that every day for Planning, Community Appearance and Permits.

Mr. Isassi stated that when departments need copies of maps they call or email Engineering staff and request the maps needed which could take some time to receive due to other duties the Engineering staff may have.

Commissioner Leubert asked how many people in the Engineering department have the capability to print maps.

Mr. Tony Verdin, Information Systems Technician, stated that there are two individuals that are able to make maps. He further stated that what engineering is currently doing is collecting the maps and only making them on certain days when they know that the part-time employees will be available. However, the response time is not a quick response as some people may need.

Mayor Fugate asked Mr. Kurth if most cities in the Valley area have this capability.

Mr. Kurth stated that this is the direction most cities are heading that way.

Commissioner Pecos stated that the usage is beyond just making maps. Other information can be gathered through this service.

Motion made by Commissioner Pena to authorize staff to negotiate contract for GIS hosting services with Timmons Group, as per staff recommendation, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Leubert, Fugate voting "FOR".

12. Consider awarding bid (#13-13) for concrete paving improvements Phase 3 to E-Tech Construction, as per staff recommendation. (Director of Purchasing & IT).

Mr. Mason reported that this item authorize the award of a contract for the repair of ten intersections within the City of Kingsville. Staff advertised for sealed bids on June 5, 2013 and June 12, 2013 and proposals were accepted until 1:30 p.m. on June 25, 2013. Two potential vendors attended the mandatory pre-bid meeting and site visitation on June 11, 2013. One bid was submitted by E-Tech Construction in the amount of \$149,700. It is recommended the contract be awarded to E-Tech Construction, 11115 Cedar Park, San Antonio, TX 78249 in the amount of \$149,700 with an alternate on one of the projects of \$10,736 bringing the total to \$160,436. E-Tech Construction has

successfully completed several projects for the City of Kingsville including the Cavazos water line extension and is in good standing with the City of Kingsville. This action will expend \$160,436 from the Certificate of Obligation 2013, street projects fund.

Commissioner Pecos asked if the money had been allocated for this particular project.

Mr. Mason's response was that money has been allocated.

Motion made by Commissioner Leubert to award bid #13-13 for concrete paving improvements Phase 3 to E-Tech Construction as per staff recommendation, seconded by Commissioner Pecos.

Mayor Fugate asked if staff was comfortable working with this company considering that staff has only received one bid. Mayor Fugate stated that Phase 2 worked out pretty well and was a bit cheaper than Phase 1.

Mr. Mason stated that with Phase 2, only one bid was submitted as well. Although three individuals came in and walked the construction site but only received one bid from the three individuals.

The motion was passed and approved by the following vote: Pena, Leubert, Pecos, Fugate voting "FOR".

13. Consider resolution authorizing the City Manager to execute an easement with Kleberg County for construction and maintenance of a fence near the Kingsville Law Enforcement Center. (Chief of Police).

Mr. Ricardo Torres, Police Chief, stated that as with the beautification projects with the City, staff would like to install a fence to secure vehicles that have been seized which are located behind the Kingsville Police Department. He further stated that he is requesting to add a 15 foot easement for construction and maintenance of a security fence at Lot one of the Law Enforcement Center and head 15 west onto the Kleberg county Jail property then head north for 550 feet and then head east for 15 feet where it will meet with the north west corner of lot one of the Law Enforcement Center and finally head south for 550 feet where it will end at the starting point at the south west corner of lot one of the Law Enforcement Center of the City of Kingsville. Chief Torres further stated that he has spoken with Kleberg County Judge Juan Escobar, who has agreed to present the item to Commissioners Court to grant permission for addition of the easement needed to construct the fence.

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

14. Consider resolution authorizing the City Manager to execute an easement agreement (for a water line) with the Board of Regents of the Texas A&M University System for construction and maintenance of a water line. (City Engineer/Public Works Director).

Mr. Bill Donnell, Assistant Public Works Director, stated that this is an easement along Seale Street from Ave B to Corral which will assist the City in improving water pressure, volume and chlorine residual to the North West part of the City and will assist Texas A&M University-Kingsville with its future needs. The University has worked diligently with the City in presenting the easement agreement to the Board of Regents of the Texas A&M University System. This easement will benefit the growth of the City's water distribution system.

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

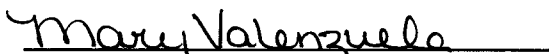
Mayor Fugate recognized Boy Scouts from Troop #144.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:05 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, City Secretary