

NOVEMBER 24, 2014

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, NOVEMBER 24, 2014 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

Dianne Leubert, Commissioner
Noel Pena, Commissioner
Arturo Pecos, Commissioner

CITY COMMISSION ABSENT:

Sam Fugate, Mayor
Al Garcia, Commissioner

CITY STAFF PRESENT:

Vince Capell, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
David Mason, Purchasing/IT Director
Deborah Balli, Finance Director
Tom Ginter, Director of Planning & Development Services
Leo Alarcon, Tourism Director
Emilio Garcia, Health Director
Willie Vera, Task Force Commander
Cynthia Martin, Downtown Manager
Susan Ivy, Parks & Recreation Manager
Charlie Cardenas, Public Works Director/City Engineer
Ricardo Torres, Chief of Police
Bill Donnell, Assistant Public Works Director
Melissa Perez, Risk Manager
Diana Gonzales, Human Resources Director

I. Preliminary Proceedings.

OPEN MEETING

Mayor Pro-tem Leubert called the meeting to order in the Robert H. Alcorn Commission Chamber at 6:00 p.m. and announced quorum with three Commission members present. Mayor Fugate and Commissioner Garcia absent.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

The invocation was delivered by Courtney Alvarez, City Attorney, followed by the Pledge of Allegiance and the Texas Pledge.

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Regular Meeting – November 10, 2014

Motion made by Commissioner Pena to approve the minutes as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Luebert voting “FOR”.

Public Hearing - (Required by Law).¹

1. Public hearing regarding condemnation proceeding for structures located at 521 W. Lott, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Pro-tem Leubert announced and opened this public hearing at 6:02 p.m.

Mr. Tom Ginter, Director of Planning & Development Services, reported that this is the first time this address has been brought to the City Commission for condemnation consideration. Documents have been provided to the Commission by Building Inspector Daniel Ramirez. Ginter further stated that this property has not had any utilities since May, 2005 and as of the last inspection, there have been no improvements to the property.

Mayor Pro-tem Leubert asked if anyone in the audience would like to speak on behalf of this property. There being no comments made from the audience, Mayor Pro-tem Leubert closed this public hearing at 6:04 p.m.

2. Public hearing regarding condemnation proceeding for structures located at 1801-1803 N. 20th, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Pro-tem Leubert announced and opened this public hearing at 6:04 p.m.

Mr. Ginter reported that this is the second time this address has been brought before the City Commission for condemnation consideration. The structure has had no utilities since September, 2006 and there has been no improvements made to the property since the last time presented to the City Commission.

Mayor Pro-tem Leubert asked if anyone in the audience would like to speak on behalf of this property.

Rene Barrera, 1801 N. 20th, reported that when this address was first brought to Commission a couple of months ago, he was told to demolish the structure located on the property. He demolished half of the structure but due to a burglary of his tools he was unable to finish the project.

Mayor Pro-tem Leubert commented that at the first meeting of the Commission, an extension was granted to Mr. Barrera to allow him to demolish the structure. She further asked if Mr. Barrera had been working with City staff regarding this address. Mr. Barrera responded that he has not been in contact with City staff.

Mayor Pro-tem Leubert asked if Mr. Barrera was informing City staff of what was going on with this address and his situation since the Commission last granted him an extension of 60 days.

Mr. Barrera stated that he was able to demolish part of the structure, but due to his tools being stolen he was unable to continue with the demolishing.

Mayor Pro-tem Leubert asked Mr. Barrera how long ago his tools were stolen. Mr. Barrera responded that it happened about a month or two ago. Mayor Pro-tem Leubert asked if he had made contact with City staff that whole month. Mr. Barrera responded that he was not aware that he had to make contact with City staff. Mayor Pro-tem Leubert further commented that Mr. Barrera was to keep in contact with the City because of the extension that was granted at a previous Commission meeting.

Commissioner Pena asked if Mr. Barrera had filed a police report for his stolen items. Mr. Barrera's response was no. Mr. Barrera further commented that he didn't file a police report because he was not aware of who had taken his tools.

Mr. Barrera asked the Commission to allow him more time to demolish the rest of the structure.

Mayor Pro-tem Leubert commented that the Commission had already granted him a 60 day extension during a previous meeting. Mr. Barrera was also told during that meeting that he was to stay in contact with City staff and keep them updated on the progress. Mayor Pro-tem Leubert further asked if the lawn has been mowed. Mr. Barrera's response was that his lawn mower and weedeater were also stolen.

Commissioner Pecos asked how much more additional time Mr. Barrera is requesting. Mr. Barrera responded that he only needs one month.

There being no further comments Mayor Pro-tem Leubert closed this public hearing at 6:07 p.m.

3. Public hearing regarding condemnation proceeding for structures located at 303 W. General Cavazos, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Pro-tem Leubert announced and opened this public hearing at 6:07 p.m.

Mr. Ginter reported that this address has been brought before the Commission at an earlier meeting. Ginter further reported that this property has had no utilities since June 2008 and no changes have been made to the property.

Mayor Pro-tem Leubert asked if the property has contacted City staff. Mr. Ginter responded that Mr. Gonzales contacted him Thursday of last week requesting additional time to allow the legal process to continue with the transfer of ownership to his ex-wife. Mayor Pro-tem Leubert asked if any documents were provided to City staff regarding that issue. Mr. Ginter stated that no backup information has been provided to City staff. Ginter further stated that he requested for the property owner to submit a statement in writing regarding the issue with the property to provide to the City Commission, and as of today he has not received anything.

Commissioner Pecos asked City Attorney, Courtney Alvarez that if the City decided to demolish the property, will the city be liable due to the legality of the ownership.

Mrs. Alvarez responded that all the City is required to do is notice the current property owner and the gentleman who is still the current property owner. Once the action is taken then the city can take the order of condemnation and file it with the County Clerk's office so that it would attach to the property so that any future owners would also have notice that the property has already been condemned. Alvarez further commented that the city can still proceed because the gentleman receiving notices is still the property owner.

Ms. Nancy Vasquez of Linebarger Goggan Blair & Sampson, LLP, commented that she was not aware that two of the properties were up for condemnation at tonight's meeting and would not normally interject but feels that she needs to make the Commission aware of an issue. Ms. Vasquez reported that the first and third condemnation public hearings being considered at tonight's meeting are classified as over 65 deferral. The first property owes over \$10,000 in taxes and the third property owes \$5,000 in taxes. A lawsuit has not been filed on either one of the properties due to the Property Tax Code which prohibits us from filing the suit because they are protected from this and their status is deferral. Ms. Vasquez stated that she's not sure if the City Attorney would need to research this because of the Property Tax Code does not allow foreclosure on the property because they're on deferred status. She further commented that the Health & Public Safety Code would allow the condemnation of these properties because it would be a safety hazard. Ms. Vasquez further commented that she would just like to make sure that, since they are protected by the Tax Code, just to make sure that since they are already under the protective process we may want to do the additional research.

Mr. Capell asked Ms. Vasquez if she was referring to the city's ability to collect. Ms. Vasquez stated that they are two separate and apart items. One being to collect, foreclose and sale. The other one is for the City to condemn, which is something different. Since one is in a protective class she's not sure how one relates to the other. Ms. Vasquez stated that she is only making the Commission aware that these two properties are over 65 and in a deferral status.

Mr. Capell asked that if the City Commission moves forward with it the approval of condemnations, will the city be liable for anything.

Ms. Vasquez commented that for the first property on the agenda, it was reported that the utilities were turned off since May, 2005, so she will be contacting the Appraisal District and have them send a notice and find out what the status is on this property. If no one is residing at this address, this particular exemption should not be noted on this property and would need to be removed. This would allow us to move forward and file the lawsuit. The other property on tonight's agenda, if people are occupying this property, they still remain protected by the Property Tax Code, if they still qualify for the deferral.

Mrs. Alvarez commented that none of the properties are currently habitat and the first property has not had water since 2005 and the second property has no water since 2006.

Ms. Vasquez stated that she would alert the Appraisal District that these properties are labeled with these status and they would need to send another certificate and get it removed so that a suit may be filed.

Commissioner Pecos asked if the City Commission could still move forward with these condemnations. Mrs. Alvarez responded yes as there is nothing in the Health & Safety Code.

Mr. Luis Gonzales stated that he was notified by this ex-wife that there was a notice placed on his property regarding the condemnation. He further commented that he had spoken to Mayor Fugate regarding this property. He stated that he is trying to retain an attorney as all his siblings live out of state and trying to transfer ownership of property to his ex-wife who has agreed to pay for the property taxes and demolish the structure. He stated that with him doing all the preparation for the transfer of ownership, it has been hard since he doesn't live in Kingsville and has a current job. Mr. Gonzales further stated that he is requesting an additional three months to complete the transfer of ownership to his ex-wife.

Mayor Pro-tem Luebert asked if the plan is to demolish the structure. Mr. Gonzales responded that they are planning to demolish the structure regardless. Mayor Pro-tem Leubert further asked if Mr. Gonzales had any documentation stating this matter. Mr. Gonzales responded no. Mayor Pro-tem Leubert further asked if anyone was mowing the property. Mr. Gonzales stated that it was his understanding that his ex-wife's husband was to be maintaining the lawn. Mayor Pro-tem Leubert asked if he would want to live next door to a property that looks this bad. Mr. Gonzales stated that he hasn't seen this property in two years. Mayor Pro-tem Leubert further commented that he is fighting for a house that he hasn't seen in two years. Mr. Gonzales stated that at this time he is only trying to get additional time to allow him to make the transfer of ownership to ex-wife. He further stated that there is some personal items in the structure that he would like to remove and stated that he only wants additional time to change ownership. Mayor Pro-tem Leubert stated that three months is a long time.

Mayor Pro-tem Leubert asked if Mr. Gonzales could remove personal items from the structure and allow the city to demolish the property. Mr. Gonzales responded that due to financial reasons on his part and his family, which is why they are trying to make the change so that his ex-wife and her now husband can pay the taxes on this property and demolish the structure.

Mayor Pro-tem Leubert stated that the last time this property came before the Commission, Mr. Gonzales spoke to the Commission. The Commission made it clear that

he had to stay in contact with City staff and only one phone call has been made to Mr. Ginter in the last 60 days. Mr. Gonzales responded that he was only made aware of this as he resides out of town. Mayor Pro-tem Leubert responded that he was the one who approached the Commission when this property was brought to them at a previous meeting and was aware that he had 60 days to get something done with the property. Mr. Gonzales stated that he was not aware he had 60 days. Mayor Pro-tem Leubert continued to state that Mr. Gonzales was to follow up with the city afterwards and failed to do so.

Commissioner Pecos asked Mr. Gonzales how much more time he needed to allow him to remove his personal items from the structure. Mr. Gonzales responded that he would like to go into the property and view what all is in it, as a lot of items belonged to his parents and have sentimental value to him. Gonzales further stated that he would like an additional two months to allow him to remove personal items from the property and get the change of ownership to his ex-wife.

Mayor Pro-tem Leubert asked if Mr. Gonzales could get all this done in 30 days. Mr. Gonzales responded no as he would need 60 days.

Mr. Capell commented that once the ownership changes over, the City would have to start all over again with the condemnation of the property.

Mr. Gonzales commented that his ex-wife is aware of what is going on with the property.

Mr. Capell continued to comment that with having a different owner, the condemnation process would need to be started from the beginning.

Mayor Pro-tem Leubert stated that her concern is that the owner knows what's going on and they haven't done anything to correct the problem. Mayor Pro-tem Leubert stated that it was made clear at a previous meeting that the property owner had 60 days to get something done and stay in contact with city staff.

Commissioner Pecos asked Mr. Gonzales if 30 days would be enough time to remove his personal items from the property. Mr. Gonzales responded that he can only try.

Commissioner Pena commented that it would be in best interest for the community and Mr. Gonzales to allow the City to demolish the property.

Mayor Pro-tem Leubert stated that her concern was if Mr. Gonzales could remove any personal items within 30 days. Leubert further stated that if the Commission condemns this property tonight, the property owner only has 30 days to remove personal items and demolish the structure on their own. Otherwise the city will perform the services of demolition.

Mayor Pro-tem Leubert asked if anyone else in the audience would like to speak on behalf of this property. There being no further comments from the audience, Mayor Pro-tem Leubert closed this public hearing at 6:22 p.m.

4. Public hearing regarding condemnation proceeding for structures located at 915 E. Yoakum, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Pro-tem Leubert announced and opened this public hearing at 6:21 p.m.

Mr. Ginter reported that this is the first time this address has been brought to the City Commission for condemnation consideration. Ginter further stated that this property has not had any utilities since February, 2014 and as of the last inspection, there have been no improvements to the property.

Mayor Pro-tem Leubert closed this public hearing at 6:22 p.m.

II. 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. Alvarez reported that this Wednesday at 5:00 p.m. is the deadline to submit agenda items for the December 8th City Commission meeting. There are two Special Commission meetings scheduled for December 1st and December 15th.

Commissioner Pecos asked for an update on the pothole situation.

Mr. Charlie Cardenas, Public Works Director/City Engineer commented that city crews are back in full force covering potholes throughout the city.

Mayor Pro-tem Leubert read a thank you letter from Naval Air Station-Kingsville Commanding Officer, Capt. Misner regarding the main water break that occurred a couple of weeks ago affecting NAS-Kingsville.

Mr. Cardenas stated that he would have to give credit to his city staff for all their hard work.

III. Public Comment on Agenda Items.³

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

IV.

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)

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

1. **Motion to approve final passage of an ordinance amending the Fiscal Year 2014-2015 Utility Fund budget to provide additional funding for the new city hall at the historic H.M. King High School. (Director of Finance).**
2. **Motion to approve final passage of an ordinance amending the Fiscal Year 2014-2015 Police Department State Seizure Fund budget for the purchase of automatic license plate readers. (Director of Finance).**
3. **Motion to approve a resolution of the City of Kingsville authorizing the release of Chapter 59 funds of the South Texas Specialized Crimes and Narcotics Task Force for donation to the Kingsville Amateur Boxing Club, Inc. (Task Force Commander).**
4. **Motion to approve a resolution of the City of Kingsville authorizing the release of Chapter 59 funds of the South Texas Specialized Crimes and Narcotics Task Force for donation to the Boys & Girls Club of Kingsville. (Task Force Commander).**

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. **Consider accepting donation from La Posada de Kingsville in the amount of \$4,000.00 for downtown recycling bins and benches. (Parks and Recreation Manager).**

Mrs. Susan Ivy, Parks and Recreation Manager, reported that La Posada de Kingsville Board decided to assist the City of Kingsville's Downtown initiative of installing new recycling trash bins and benches. This project fits perfectly with the theme of the 2014 La Posada de Kingsville celebration, Go Green Christmas and Reduce, Reuse, and Rejoice. It is being asked for the City Commission to accept the donation of \$4,000 from La Posada de Kingsville to the City of Kingsville.

Motion made by Commissioner Pecos to accept the donation from La Posada, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Leubert voting "FOR".

6. Consider authorizing participation with the La Posada de Kingsville Children's Day event at the J.K. Northway on Saturday, December 6, 2014. (Parks and Recreation Manager).

Mrs. Ivy reported that La Posada de Kingsville celebration has hosted a Children's Day for the past 15 years, prior to the transfer of the Parks Department from the County to the City of Kingsville. This event has always been free to the public and includes many children's games, crafts, holiday activities and a toy giveaway of some kind. Annual attendance to this event is approximately 400-500 kids and parents. It is being requested that the City of Kingsville support the Parks & Recreation Department in hosting the event on Saturday, December 6th and include the event in its liability coverage along with the volunteers assisting with the event. This event is funded by La Posada de Kingsville and other sponsors from the community.

Motion made by Commissioner Pena to honor the arrangements that were made prior to transfer of the Parks Department to the City of Kingsville, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pena, Pecos, Leubert voting "FOR".

7. Consider resolution authorizing the City Manager to enter into a contract for the collection of delinquent special assessments between the City of Kingsville and Linebarger Goggan Blair & Sampson, LLP. (City Attorney).

Ms. Nancy Vasquez of Linebarger Goggan Blair & Sampson, LLP, reported on the contract for the collection of delinquent special assessments accounts. This is something that her firm has been in talks with the City for the past year. This is a special assessment if their account is delinquent and remains unpaid for 30 days after the initial invoice. Ms. Vasquez stated that those will be included in the pending tax suit, as they represent the City of Kingsville in the collection delinquent ad valorem taxes. They will represent the City in this capacity as well as make the necessary court appearances, research, investigation, correspondence preparation and drafting of pleadings and all related work that is necessary to properly represent the City of Kingsville in these matters. All liens will be included in this suit and all the way through judgment. Ms. Vasquez further stated that they will represent the city in bankruptcy, filing the claims, and attend hearings and otherwise insuring the city's interest in bankruptcy matters with respect to the delinquency accounts. Vasquez further stated that no claims will be settled without the approval of the City Manager. As far as the law firm fees and expenses, it is the same as the fees in delinquent ad valorem which is 20% and will receive that percentage once they actually are collected and paid. She further stated that just like the delinquent ad valorem, they are paid by the property owner which is cost free to the City. This is a three year contract beginning November 24, 2014, and shall thereafter continue for one year, with three one year renewal periods. The city's responsibilities are outlined within the contract as well as the services performed by the Law Firm those being; Collection of Lien, Include liens in delinquent tax suits, Mass mailings of delinquent bills as requested by city, respond to incoming phone calls to Law Firm regarding delinquent accounts, represent city in bankruptcy court when property owner in bankruptcy, perform telephone collections, prepare deeds for resale, disburse tax sale and resale money, present resale bids to the City Commission, answer correspondence regarding delinquent accounts, and Law Firm will inform City of any forwarding addresses on returned mail received by Law Firm.

Mayor Pro-tem Leubert commented that this will work well for everybody.

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

8. Consider condemnation of structures located at 521 W. Lott, Kingsville, Texas. (Director of Planning & Development Services).

Motion made by Commissioner Pecos finding not able to repair building or structure is unsafe and present condition is a violation of ordinances and cannot be corrected without substantial reconstruction then declare the building or structure to be a nuisance and order its demolition by owner/agent/person in charge within 30 days, city shall abate in any manner it deems necessary and proper, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Leubert voting "FOR".

9. Consider condemnation of structures located at 1801-1803 N. 20th, Kingsville, Texas. (Director of Planning & Development Services).

Motion made by Commissioner Pecos to grant a 30 day extension to Mr. Barrera to remove the structure from the property. Motion failed for the lack of a second.

Motion made by Commissioner Pecos finding not able to repair building or structure is unsafe and present condition is a violation of ordinances and cannot be corrected without substantial reconstruction then declare the building or structure to be a nuisance and order its demolition by owner/agent/person in charge within 30 days, city shall abate in any manner it deems necessary and proper, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Leubert voting "FOR".

10. Consider condemnation of structures located at 303 W. General Cavazos, Kingsville, Texas. (Director of Planning & Development Services).

Motion made by Commissioner Pecos to grant a 30 day extension to Mr. Gonzales to remove personal property from the structure. Motion failed for the lack of a second.

Motion made by Commissioner Pecos finding not able to repair building or structure is unsafe and present condition is a violation of ordinances and cannot be corrected without substantial reconstruction then declare the building or structure to be a nuisance and order its demolition by owner/agent/person in charge within 30 days, city shall abate in any manner it deems necessary and proper, seconded by Commissioner Pena.

Commissioner Leubert commented that if the City Commission approves this condemnation, the property owner has 30 days to remove any personal property from the structure and demolish it.

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

11. Consider condemnation of structures located at 915 E. Yoakum, Kingsville, Texas. (Director of Planning & Development Services).

Motion made by Commissioner Pecos finding not able to repair building or structure is unsafe and present condition is a violation of ordinances and cannot be corrected without substantial reconstruction then declare the building or structure to be a nuisance and order its demolition by owner/agent/person in charge within 30 days, city shall abate in any manner it deems necessary and proper, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Pecos, Pena, Leubert voting "FOR".

12. Consider introduction of an ordinance amending the Fiscal Year 2014-2015 CO Series 2011-Utility Fund 006 Budget for the completion of constructing water well #25 pump house and ground storage tank. (Director of Finance).

Mrs. Deborah Balli, Finance Director reported that this item is for a budget amendment for the amount of \$572,730.00. This is for the pump house and the storage tank for water well #25 projects. This project was originally part of the five year capital improvement project that began in 2011. Currently it has been budgeted for the drilling of the well which was completed this year but staff failed to include the pump house and ground storage tank. Staff recommends proceeding with approval of the proposed budget amendment to take the funds from the CO 2011 Series, which currently has funds.

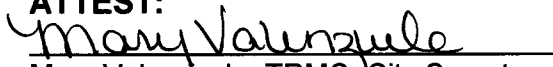
Introduction item.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:47 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, TRMC City Secretary