

FEBRUARY 24, 2014

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, FEBRUARY 24, 2014 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
Al Garcia, Commissioner
Noel Pena, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Vincent J. Capell, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Deborah Balli, Finance Director
Joey Reed, Fire Chief
Bill Donnell, Asst. Public Works Director
Marco Jimenez, Water Superintendent
Emilio Garcia, Health Director
Charlie Cardenas, Public Works Director/City Engineer
Bob Trescott, Tourism Director
Robert Isassi, Director of Planning & Development Services
Diana Gonzales, Human Resources Director

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 with all five Commission members present.

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

NONE.

Mayor Fugate asked if there is no objection from the Commission or staff, he would like to move Reports from Commission and Staff before beginning the public hearings. No objections were raised by Commission or staff.

Mrs. Courtney Alvarez, City Attorney reported that the next City Commission meeting is scheduled for Monday, March 10, 2014. She further reminded staff that the deadline to submit items for the March 10th meeting is Friday, February 28, 2014. Mrs. Alvarez reported that there is no action needed on Public Hearing #5 and on agenda item #7 due to property owner signing a voluntary demolition condemnation today.

Commissioner Leubert asked for Ms. Diana Gonzales, Human Resources Director to explain the process of evaluation done by Commission. Leubert further stated that she would like to postpone the evaluation scheduled for tonight's meeting until further notice.

Ms. Gonzales stated that Commissioner Leubert has requested the evaluations of the City Manager, City Attorney, and Municipal Court Judge to be initiated. Gonzales further stated that blank evaluations were sent out to Commission, but did give a date for evaluations to be returned. She stated that the actual evaluation form there has a process that each Commissioner and Mayor will complete the evaluation forms sign it and return to the City Secretary by a certain date indicated. Ms. Gonzales further stated that after a conversation with Commissioner Leubert, a due date of March 3rd was set to return evaluations so they could be

Mayor Fugate presented the Because You Care Award to Cecilio Obregon. A proclamation was also presented for National Engineers Week to Charlie Cardenas, Robert Isassi, and Homer Castillo. Mayor Fugate recognized Boys Scouts Troop #385 who was present to observe tonight's meeting.

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

1. Public hearing regarding request for an alcohol variance for a Wine and Beer Retailer's Off-Premise Permit for the establishment known as The Garage located at 1026 E. Lott. St. (Director of Planning & Development Services).

Mayor Fugate announced and opened this public hearing at 6:13 p.m.

Mr. Robert Isassi, Director of Planning & Development Services reported that this is a request for an alcohol variance for a Wine and Beer Retailer's Off-Premise Permit. This address is located within a 1,000ft of a public school. Required notices have been sent to the property owners within 300ft. A public hearing notice was placed in the newspaper on February 9, 2014. No concerns were received from the property owners and or citizens that have been notices.

No further discussion or comments were made on this item. Mayor Fugate closed this public hearing at 6:14 p.m.

2. Public hearing regarding request for an alcohol variance for a Wine and Beer Retailer's Permit for the establishment known as Pizza Hut located at 1330 14th St. (Director of Planning & Development Services).

Mayor Fugate announced and opened this public hearing at 6:14 p.m.

Mr. Isassi reported that this is a request for an alcohol variance for Pizza Hut. This establishment already has a license to serve alcohol. The establishment recently did a check of their licenses and discovered that their current license was for the sale of mix drinks rather than the sale of standard beer and wine. Isassi further stated that when the time came to renew their license it was discovered that their application had been filled out incorrectly. This is basically correcting the issue to sale beer and wine on the premises.

No further discussion or comments were made on this item. Mayor Fugate closed this public hearing at 6:16 p.m.

3. Public hearing regarding condemnation proceeding for structures located at 324 E. Henrietta, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Fugate announced and opened this public hearing at 6:16 p.m.

Mr. Isassi reported that this property has been inspected multiple times since 2012. Notices were mailed out to the property owners since 2012 through 2014. This property has no back taxes owed. Isassi further reported that this structure is of disrepair and has recently learned children are entering and vandalizing the structure. This condemnation is for the removal of the structure located in the back only.

Commissioner Garcia asked if city crews will be accessing the property through the front or through the alley. Mr. Isassi stated that access will be done through the alley to avoid getting on to the property located in the front.

No further discussion or comments were made on this item. Mayor Fugate closed this public hearing at 6:18 p.m.

4. Public hearing regarding condemnation proceeding for structures located at 501 ½ W. Avenue D, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Fugate announced and opened this public hearing at 6:18 p.m.

Mr. Isassi reported that this structure has been on the condemnation list since September 2013. Isassi further stated in September, property owner Mr. Hodge came in and spoke with Isassi regarding this structure. Isassi asked Mr. Hodge to seek the advice of an engineer on how to structurally repair the issues with the housetop being

Mr. Claude Hodge, property owner, stated that he sold this property through owner finance to someone and has just received property back about nine months ago. He further stated that within those nine months, he sold the property a second time. The individual who was to purchase this property was told by a neighbor, who works for the City that the structure was going to be torn down without having any hearings. The buyer then filed in small claims courts which tied up the property and Mr. Hodge was unable to make any improvements to property. Mr. Hodge stated that he has a scope of work and plans on doing the labor work himself.

No further discussion or comments were made on this item. Mayor Fugate closed this public hearing at 6:24 p.m.

5. Public hearing regarding condemnation proceeding for structures located at 629 E. Lee, Kingsville, Texas. (Director of Planning & Development Services).

No action taken by Commission due to property owner signing voluntary demolition papers.

6. Public hearing regarding condemnation proceeding for structures located at 619 W. Warren, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Fugate announced and opened this public hearing at 6:24 p.m.

Mr. Isassi reported that this property has been inspected since November 2013. Notices have been sent to the property owner and followed up with an inspection by the Building Official. The Building Official has determined this building to be unsafe and of serious disrepair.

Commissioner Garcia asked if this property has been rented in the past. Mr. Isassi stated that this property has not been rented in the last four years.

No further discussion or comments were made on this item. Mayor Fugate closed this public hearing at 6:25 p.m.

7. Public hearing regarding condemnation proceeding for structures located at 715 E. Richard, Kingsville, Texas. (Director of Planning & Development Services).

Mayor Fugate announced and opened this public hearing at 6:25 p.m.

Mr. Isassi reported that this property has been inspected since 2012. Notices were mailed to the property owner since May 2012. Isassi stated that this property has severe roof and wall issues. The property owner is behind in property taxes. The structure is unsecured and staff has not received a response from the property owner.

Mayor Fugate stated that staff did receive a response from the property owner sister which stated that they are unable to come up with the funds to begin repairs to this structure.

Mr. Jose Elias Gutierrez, Mathis, TX commented that in 2004, the roof was replaced on this structure. He stated that he has been maintaining the yard and has painted the structure. Gutierrez further stated that in 2012, the City Inspector told him to board up the structure. He further stated that after moving to Mathis, the city had a change in inspectors, which he never heard back from. Mr. Gutierrez stated that he would like the opportunity to repair this property and bring it up to code.

Commissioner Garcia asked Mr. Gutierrez if he is the property owner of this structure. Mr. Gutierrez stated that this property is under a family estate, but he is currently paying the property taxes.

No further discussion or comments were made on this item. Mayor Fugate closed this public hearing at 6:30 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

IV. Public Comment on Agenda Items³

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

Claude Hodge, 315 E. Lee stated that he has spent \$2,400 into the property located at 501 ½ W. Ave. D and is requesting an extension to allow him to bring the property up to code.

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.

Mayor Fugate asked for a motion to approve the consent agenda as presented.

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

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)

1. Motion to approve final passage of an ordinance amending the fiscal year 2013-2014 budget for the General Fund to provide funding for ½ the purchase costs needed for the Kleberg County Veteran's Service Office to acquire a van with ADA specifications. (Finance Director).

2. Motion to approve resolution authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Boy Scouts of America for Drug Abuse Prevention Programs. (Chief of Police).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

3. Consider request for an alcohol variance for a Wine and Beer Retailer's Off-Premise Permit for the establishment known as The Garage located at 1026 E. Lott. St. (Director of Planning & Development Services).

Motion made by Commissioner Pecos to approve this alcohol variance for a Wine and Beer Retailer's Off-Premise Permit, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

4. Consider request for an alcohol variance for a Wine and Beer Retailer's Permit for the establishment known as Pizza Hut located at 1330 14th St. (Director of Planning & Development Services).

Motion made by Commissioner Pena to approve this alcohol variance for a Wine and Beer Retailer's Permit, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".

5. Consider condemnation of structures located at 324 E. Henrietta, Kingsville, Texas. (Director of Planning & Development Services).

Mrs. Alvarez stated that the Commission can decide to involuntarily condemn it tonight but the property owner has the opportunity after it's condemn tear it down himself, if property owner does not comply within the 30 days given, the City will demolish the

6. Consider condemnation of structures located at 501 ½ W. Avenue D, Kingsville, Texas. (Director of Planning & Development Services).

Commissioner Leubert asked the property owner for a timeline to get this property up to code. Mr. Hodge's response was that he needs three months to bring this property up to code. Leubert asked Mr. Isassi what is the normal time frame staff usually gives property owners to do the repairs. Mr. Isassi responded that the normal time frame is three months.

Commissioner Garcia asked if the property owner has sufficient funds to repair the property within the ninety day period. Mr. Hodge responded that he has appropriate fund to put into this property for repairs.

Mayor Fugate stated that property owners don't realize how much work staff puts into with inspections, letters to property owners and taking pictures. Fugate further stated that he doesn't recall the last time that the Commission authorized an extension to a property owner who all along had the funds to repair the property and bring up to code.

Mr. Hodge stated that due to the property being held up in small claims court therefore he was unable to begin any repairs.

Motion made by Commissioner Pecos to allow property owner the additional ninety days to repair this property.

Mayor Fugate suggested that the Commission not take any action on this condemnation.

Commissioner Pecos withdrew his motion.

7. Consider condemnation of structures located at 629 E. Lee, Kingsville, Texas. (Director of Planning & Development Services).

8. Consider condemnation of structures located at 619 W. Warren, Kingsville, Texas. (Director of Planning & Development Services).

Motion made by Commissioner Pecos that findings not able to repair, building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; and declare the building or structure to be a public 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 Garcia and Commissioner Pena. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

9. Consider condemnation of structures located at 715 E. Richard, Kingsville, Texas. (Director of Planning & Development Services).

Mr. Gutierrez stated that he would like an extension from the Commission to allow him to repair and bring up this property to code. Gutierrez further stated that the last time someone lived in this property was in 2004.

Mr. Gutierrez stated there are other properties on this block that also need to be looked into by the city inspector. Gutierrez stated that he is current on the property taxes.

Commissioner Pecos recommended giving Mr. Gutierrez additional time to bring this property up to code.

Mayor Fugate stated that the Commission will allow the property owner ninety days to bring this property up to code. Fugate further stated that if property is not brought up to code within the allowed time, he would like for this property to be brought back to Commission.

No action taken.

10. Consider approval of re-plat of Lot 1, Block 1, Kingsville Plaza, a 7.77 acre plat located at 1814 S. Brahma Blvd. (Director of Planning & Development Services).

Mr. Isassi reported that this is a request for approval of a 7.77-acre plat located at 1814 S. Brahma Blvd. and designated as Kingsville Plaza. The petitioner is requesting plat approval of the Kingsville Plaza replat to create two plats for the purpose of a property sale between the existing owner, Alpha Lake, Ltd. and Coastal Ben College. This plat was reviewed by the Director of Planning and Development Services as well as

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

11. Consider acceptance of KKB funds from fundraising and donations for community beautification projects. (Director of Planning & Development Services).

Mr. Isassi reported that the Keep Kingsville Beautiful held the "Fill the Flower Pot" fundraiser on February 1, 2014. Keep Kingsville Beautiful raised \$396.65 at this event. T-shirts were also sold, which brought in \$26.00 with an additional donation of \$25.00 which was submitted from a local business supporter. The total amount raised was \$446.65 for various beautification projects.

Motion made by Commissioner Leubert to accept the KKB funds from fundraising and donations, seconded by Commissioner Garcia, Commissioner Pecos, and Commissioner Pena. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

12. Consider acceptance of a grant of \$5,000 from the Union Pacific Foundation for community beautification projects. (Director of Planning & Development Services).

Mr. Isassi reported that Keep Kingsville Beautiful was awarded a \$5,000 grant from Union Pacific for beautification projects. Keep Kingsville Beautiful has several projects underway such as a pavilion and playground equipment revitalization at Flato Park, landscaping and/or tree planting near the County's Fire Risk sign on 14th Street and participation with a landscaping project at the Library. These funds will be used for the aforementioned projects.

Motion made by Commissioner Garcia to approve the acceptance of a grant of \$5,000 from Union Pacific Foundation, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".

13. Consider introduction of an ordinance amending the Fiscal Year 2013-2014 Budget for Fund 001 the General Fund to assist with the renovation of the T45 Jet in Dick Kleberg Park in partnership with Kleberg County. (Finance Director).

Mrs. Deborah Balli, Finance Director reported that this is for a project that was budgeted for last fiscal year but was not completed. The amounts was \$564 for materials \$8,400 for labor for a total cost of \$8,964, so half of this cost would be \$4,482 which will require a budget amendment from last year's fund balance.

Mayor Fugate asked Susan Ivy, Parks Director when the work will be done. Ms. Ivy's response was that the prep work has been completed and they're at the point to start the sanding and painting which should begin this week. Ivy further stated that paint is being purchased which approved by the County Commissioners and also discussed with the City Manager. Workers are working with staff at NAS Kingsville for the proper coding for the paint colors for the ensigna's that are on the plane.

Introduction item only.

14. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter IX, General Regulations, Article 7, Sections 9-7-1 through 9-7-6, providing for adoption of the International Property Maintenance Code, additions and amendments to said code, prohibited acts, and administrative fees. (Director of Planning and Development Services).

Mr. Isassi reported that over the past several years, the City of Kingsville has continued to pursue innovative and effective ways to address community appearance and property maintenance needs through fair and consistent enforcement. Throughout this time, the existing nuisance codes were used as a toll to educate and carry out this mission. He further stated that as the environment continues to evolve, the codes are required to evolve as well. Staff, with the assistance of an independent consultant, identified the necessity to adopt the International Property Maintenance Code which is created by the International Code Council.

Introduction item only.

Mr. Isassi stated that this ordinance is adding a warranty period for new subdivision to warranty the trees planted within city right-of-way. After two years that the trees are planted, they are responsible for the maintenance of the tree and/or replacing it if it dies.

Introduction item only.

16. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Land Use, Article 6, adopting Section 26-Home Occupations. (Director of Planning and Development Services).

Mr. Isassi stated that this spells out what you can and cannot do. The rules are for the limitations of performance standards for home occupations. Isassi further stated that there was some discussion of omitting one of the prohibited ones, being the massage services. Isassi stated that this item will be looked at on a case by case basis. He further stated that this will leave the opportunity for someone who is pursuing this, to not make an obstacle for them to do it if they're legitimate. If an issue is foreseen, staff will then get involved.

Introduction item only.

17. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Land Use, Article 6, Section 92, changing rear yard regulations for accessory buildings. (Director of Planning and Development Services).

Mr. Isassi stated that in Section 15-6-92 (B)(4) he is requesting to remove the a portion of the sentence which states, and the rear yard does not abut an alley.

Introduction item only.

18. Consider introduction of an ordinance authorizing the acceptance of three deeds from the Kingsville Independent School District for land near the Old High School building and authorizing the City Manager to execute any documents necessary for this transaction. (City Attorney).

Mayor Fugate stated that this will give the City the property surrounding the proposed new city hall. These properties include the old gym, cottage, and property north which is adjacent to the gym.

Mrs. Alvarez stated that there was an agreement that the Commission approved and entered with the Kingsville Independent School District for the exchange of certain services for the properties. She further stated that the School District has already met their legal compliance issue with regards to the notice and the public hearing and action item on two of the pieces of property that they are considering a donation, and the one piece of property that they're giving as part of the agreement.

Mayor Fugate asked that once this is approved, the transaction will occur. Mrs. Alvarez's response was yes.

Introduction item only.

19. Consider introduction of an ordinance amending the Code of Ordinances of the City of Kingsville, Texas, Chapter VII ("Traffic Code"), to add new Article 9-Wireless Telecommunication Devices that would create restrictions on the use of wireless telecommunication devices while driving; creating an offense. (City Attorney).

Mrs. Alvarez stated that the passage of this ordinance will prohibit the use of any cell phone in a motor vehicle unless a speaker system or a hands free device is used. Alvarez stated that after researching other city ordinances, an ordinance was drafted up to suit our city. The State already has a statute in place that prohibits anyone under the age of 18yrs. to operate a vehicle while using a wireless device.

Mayor Fugate asked for the estimated cost to place signs at every entry to our City. Mr. Bill Donnell, Assistant Public Works Director reported that the estimated cost is \$3,500, worst case scenario.

Mrs. Alvarez stated that the where the ordinance talks about being parked, you have to be physically be parked to be able to use a cell phone. Mrs. Alvarez further stated that if approved by Commission, enforcement would begin on May 1, 2014. This will allow the

21. Consider authorizing the City Manager to enter into letter agreement for drainage pipe at Schubert Property to alleviate BASH hazard, which serves a public purpose. (Director of Planning & Development Services).

Mr. Isassi stated that this is in reference to an existing body of standing water located on a 37.56 acre lot. As iterated to the owner in the past, NAS-Kingsville has requested that the Joint Airport Zoning Board (JAZB), a City/County zoning and enforcement board, address the standing water as it presents an attraction to birds that could potentially come into contact with passing aircraft. After discussion with the property owner's representative, the City has resolved to abate the issue by installing a drainage pipe from the standing water to a nearby ditch that flows to an adjacent creek. Citing no liability by any party, the owner and City have agreed to drain the standing water. The City further agreed to install an 18" high-density polyethylene pipe between the pond and ditch, sloped to drain. The owner will be responsible for allowing the free flow of water pit to the ditch with a long-term plan to fill the pit and keep it dry. Isassi further stated that this proposed solution was heard by the JAZB on February 6, 2014 and agreed upon as a viable solution. The City's Public Works Department has estimated that the City labor, material and equipment to drain the pit will cost \$7,765.23. City Staff is requesting Commission approval to perform this work for the security of the mission of NAS-Kingsville which as doing so serves public purpose by reducing the risk of aircraft accidents due to bird attractants.

Mayor Fugate asked if there would be a need for a budget amendment. Mr. Isassi responded that a budget amendment would be required.

Commissioner Garcia that there was an agreement that he read stating that the property owner was supposed to cover the pit. Mr. Isassi stated that a long term solution would be to work with the property owner, who has already agreed to work with the City on any material that may need to be dumped.

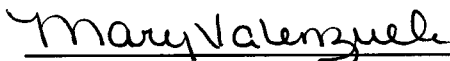
Motion made by Commissioner Pena to authorize the City Manager to enter into the letter agreement for drainage pipe at Schubert property, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, Fugate voting "FOR".

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:16 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, City Secretary