

SEPTEMBER 14, 2015

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, SEPTEMBER 14, 2015 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

**CITY COMMISSION PRESENT:**

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

**CITY COMMISSION ABSENT:**

Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Courtney Alvarez, Interim City Manager/City Attorney  
Mary Valenzuela, City Secretary  
Emilio Garcia, Health Director  
Diana Gonzales, Human Resources Director  
Susan Ivy, Parks & Recreation Manager  
Charlie Cardenas, Public Works Director/Engineer  
Ricardo Torres, Police Chief  
Robert Rodriguez, Library Director  
Joey Reed, Fire Chief  
Jimmy Saenz, Golf Course Manager  
Leo Alarcon, Tourism Director  
Thelma Trevino, Administrative Assistant  
Melissa Perez, Risk Manager  
Deborah Balli, Finance Director  
Bill Donnell, Assistant Public Works 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 four Commission members present. Commissioner Pecos absent.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

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

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Special Meeting – September 2, 2015

Special Meeting – September 8, 2015

Mayor Fugate called for a motion to approve the minutes of September 2, 2015.

**Motion made by Commissioner Leubert to approve the minutes as presented, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Fugate voting “FOR”. Pena “ABSTAIN”.**

Mayor Fugate called for a motion to approve the minutes of September 8, 2015.

**Motion made by Commissioner Pena to approve the minutes as presented, seconded by Commissioner Leubert and Commission Garcia. The motion was passed and approved by the following vote: Leubert, Pena, Garcia, Fugate voting “FOR”.**

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

1. NONE

**III. Reports from Commission & Staff.<sup>2</sup> (City Manager’s Staff Report Attached).**

*“At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development , Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant*

*Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time.”*

Mrs. Alvarez reported that the City of Kingsville will be hosting Trash Off Day on Saturday, September 19, 2015 from 8:30 a.m. to 12:00 p.m. at 6<sup>th</sup> Street and Ave. B. Volunteers are still needed for this event. There is a Special City Commission meeting scheduled for September 15<sup>th</sup> at 1:00 p.m. to interview City Manager applicants. The regularly scheduled City Commission meeting will be on Monday, September 28<sup>th</sup> with deadlines to submit agenda items and staff report on Wednesday, September 16<sup>th</sup> before 5:00 p.m.

Commission Leubert commented that with the loss of Mr. Miguel Martin, the community has lost a huge presence to our community. Mr. Martin was very involved in this community.

Mayor Fugate presented a proclamation to Mr. Zachary William Rodriguez for his Eagle Scout Award.

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

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

Mr. Leon Alcore, 1610 E. Fordyce, stated that he would like to see something done about his neighbors dumping trash onto his property. He further stated that he has reported this to the Community Appearance Department in the past few months.

#### 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 item as presented.

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

1. **Motion to approve a resolution authorizing participation in Operation Border Star with the Homeland Security Grants Division of the Governor’s Office for local border security to interdict criminal activity. (Chief of Police).**
2. **Motion to approve expending funds from the City of Kingsville Employee Benefit Plan Trust for the City Health Fair (for employees and eligible dependents). (Human Resources Director).**

##### REGULAR AGENDA

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

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

3. **Consider final passage of an ordinance adopting the City Manager’s Budget, as amended, of the City of Kingsville, Texas, and appropriating funds for the fiscal year beginning October 01, 2015 and ending September 30, 2016 in the particulars hereinafter stated. (Director of Finance).**

Mrs. Balli reported that there was a minor change made to the ordinance due to some corrections that were made by staff concerning insurance rate that is used for Life

Insurance and also had to correct some certification pay. Balli further reported that employees have 30 days to make changes to their Health coverage, so staff had a change to one of the health coverages. The total overall increase is \$12,624.00 to the budget, so if the Commission adopts this number it would be \$44,896,987.00.

**Motion made by Commissioner Leubert to approve the budget as presented, seconded by Commissioner Garcia. The motion failed by the following vote: Garcia, Leubert voting "FOR". Pena and Fugate voting "AGAINST".**

Mayor Fugate announced that this item doesn't pass and asked Mrs. Alvarez, City Attorney, what she purposes for the City Commission to do, does the Commission continue with the next agenda item and vote on the Tax Rate.

Mrs. Alvarez responded that the Commission cannot move forward in voting on the Tax Rate Ordinance as the budget is what sets the tax rate, so we would need to have the budget adopted prior to setting the tax rate. Procedurally that's the order in which it flows.

Mayor Fugate opened the item for discussion.

Commissioner Garcia commented that during the last meeting, the Commission had Commissioner Pecos present and the Commission expressed their desires and he assumed, with the direction that was given to staff, to prepare the budget based on the Commission responses. He further stated that he assumed that it was going to go in that direction.

Mayor Fugate commented that everyone that was present at that meeting know how he felt about it. Fugate asked Mrs. Alvarez as the City Attorney, does he have an obligation to vote for this budget that he doesn't feel it's appropriate.

Mrs. Alvarez responded that they have voted on the budget itself, the question now is the time frame within which we would need to schedule another meeting to vote on the budget and get the tax rate adopted, if we can't get one adopted tonight. Alvarez further commented that one option would be recess until at some point tomorrow or another option would be just to finish the meeting tonight and then repost for an emergency meeting at some point in the next day or two. She further commented that she is not aware as to what Commissioner Pecos's travel schedule was and if he plans on being out today and tomorrow.

Commissioner Garcia commented that Commissioner Pecos will be out all week including Friday. He further stated that Commission will also be out attending TML Annual Conference from September 22<sup>nd</sup>-25<sup>th</sup>.

Mayor Fugate asked if it would appropriate to talk about some kind of compromise.

Mrs. Alvarez responded that the item is still open; it's not a positive and that it's been approved.

Mayor Fugate stated that the problem that he has with it is the raises that were not approved that was for the amount of \$56,000 approximately.

Mrs. Balli commented that what staff has taken out of the budget was everything except for the \$10.00 rate which will bring everybody up to \$10.00 and the anniversaries. Staff took out all the smoothing and raises as staff was instructed, so the budget did change from the last meeting. Some type of compromise would need to be done that everyone would be agreement with as the City would have to have the tax rate adopted by no later than Wednesday.

Mayor Fugate asked if she is talking about this upcoming Wednesday. Mrs. Balli responded yes.

Mrs. Alvarez stated that under Section 26.06 of the Texas Tax Code subpart (e) the meeting to vote on the tax increase may not be earlier than the 3<sup>rd</sup> day or later than the 14<sup>th</sup> day after the date of the second public hearing. The City's second public hearing was on Wednesday, September 2<sup>nd</sup>, 2015.

Mayor Fugate asked Commissioner Leubert is she had any thoughts on this issue.

Commissioner Leubert stated that her concern with the City Commission conversation during the last meeting, was the ability to have the employees have a pay that gave them a, not a cost of living, but a living wage. This to her is employees making less than \$50,000. She doesn't think that these employees are getting recognized as they should be, and that was her biggest problem. She further stated that \$10.00 is a fair wage to start for employees that are not making that much money and the raises that they were going to receive were going to be pennies on the dollar. They maybe receive a few hundred dollars per year versus those employees that are making a good living wage and they were going to receive between \$3,000 to \$5,000 raise. Leubert further commented that we also had the situation where for example, the Police Chief was receiving a raise who has quite a few people under him verses somebody that maybe only has a couple. It's not going to be, that you're going to get paid one amount and the other person will get

paid the same because it's a different job. She further commented that her concern is the employees who make \$50,000 and below, those are the employees she's concerned with on making a living wage. She stated that her opinion is that we should allow the new City Manager to come in and evaluate the situation and make those adjustments as they see fit.

Mayor Fugate asked Mrs. Alvarez how long she has been employed with the City of Kingsville.

Mrs. Alvarez responded that she has been with the City for 15 years.

Mayor Fugate further stated that this was Mrs. Alvarez's second go around as Interim City Manager. Mrs. Alvarez responded yes. Fugate further commented that he believes that when she was hired on, Mrs. Alvarez worked directly under the City Manager.

Mrs. Alvarez responded that she was hired as the Assistant City Attorney to the City Attorney.

Mayor Fugate further asked that if she and staff came up with these proposed raises.

Mrs. Alvarez responded yes.

Mayor Fugate further asked if Mrs. Alvarez felt that the proposed raises were justified.

Mrs. Alvarez responded that she thinks they are fair and equitable and aligned with the prior three years of compensation increases in what the plan was with the former City Manager.

Mayor Fugate further asked that in the last two years, the other administrators received raises when some of the proposed now did not.

Mrs. Alvarez response was yes.

Mayor Fugate further asked Mrs. Alvarez that she has heard Commissioner Leubert's argument that it's not fair and equitable to the city as a whole, and asked Mrs. Alvarez if she agreed with Commissioner Leubert's comments. He further stated that he doesn't mean to put Mrs. Alvarez on the spot, as he is aware that Mrs. Alvarez works for Commissioner Leubert, but asked if that was a fair statement.

Mrs. Alvarez responded that Commissioner Leubert is certainly entitled to her opinion.

Commissioner Leubert stated that she would like to clarify that she is not saying and never did say that it wasn't fair and equitable to everybody as some people deserve raises, her concern are the employees that are making \$50,000 and below as a living wage, that is her concern.

Mayor Fugate asked if everyone received a raise in this budget.

Mrs. Alvarez responded that they did in some form. They either had their contractual raises for civil service employees or received a 1% COLA.

Mayor Fugate asked how many raises have the Commission give to the employees.

Mrs. Alvarez responded that she believes that the Commission has approved COLA increases in the last six years.

Mayor Fugate asked when the last time the County received any kind of raises was.

Mrs. Alvarez responded that she doesn't have that information.

Commissioner Pena asked if anyone received a substantial raise last year.

Mrs. Diana Gonzales, Human Resources Director, responded that last year the only raise employees received was the 1 ½% COLA across the board.

Commissioner Pena further asked if there were any individuals who received an increase.

Mrs. Gonzales responded that after reviewing the previous City Manager's Budget Message, it indicates in that budget message that there had been numerous request which were not submitted at that point.

Commissioner Pena stated there were some individuals that did receive raises; those were individuals were from the Task Force.

Mrs. Gonzales responded that the Task Force was separated last year out of the regular employees, and had a separate category. This was Task Force and Senior Task Force. Gonzales further stated that she has to go back and look at the budget messages as she was not prepare to answer questions during tonight meeting.

Commissioner Pena stated that he's just making a point, that there were individuals who received substantial raises last year that were approved by this City Commission.

Mrs. Gonzales responded yes, and further stated that they were substantial the year before there were substantial. It was a complete reclassification of some positions. It was basically revamping of the classifications in FY 12-13.

Commissioner Pena stated that when he ran for City Commissioner he had made it clear in some form that he had no agenda relative as to how he would operate as a Commissioner in city government, and to date he doesn't have an agenda. Pena further stated that he is fortunate as Chief Executive Officer to recommend raises for his staff year after year. Pena stated that he is of the opinion that this Commission that unanimously voted for Mrs. Alvarez to be appointed as Interim City Manager, which he feels that she has done a tremendous job of running this City, with recommendations from the Human Resources that he cannot object to what staff is recommending. Staff is in the best position to evaluate and look at staff and make recommendations that are viable. Pena stated that he doesn't see anything that may be out of proportion and doesn't see how a new City Manager will have an edge on evaluating and looking at these positions that currently exist as they are not new positions. He further stated that he will not sit here and ever attempt to micromanage what the city is doing. After making a list of all the salaries for each individual within the city, he feels that they are all in categories that are ok or need improvement. He further stated that he would hate to castigate any individual that is on the list because they don't feel that the current administration has the capability to make a call on this matter.

Commissioner Garcia stated that he doesn't look at positions or personalities behind the position, what he looks at is money and everything. Major line items within the budget have been hit with extra expenses and that is what he is looking at. Garcia further stated that when the City Commission hired City Manager Vince Capell in March, this time of the year, after being with the city for six months, he was giving raises to individuals that he had been working with for six months, to which he was against. Garcia continue to state that the previous city manager hadn't evaluated these individuals, and because the city had over a million dollars back then, that money has now been depilated as we go. Garcia also stated that salaries are about 80% of a budget and it doesn't go down. The pricing of materials and equipment that is brought into the city for purchase, prices go up.

Commissioner Pena commented that the salaries budget is 47% of the entire budget. Salary budget is \$17,000,000 out of \$44,000,000 and the Commission is talking about \$56,000. Pena stated that when you look at the numbers, it's a municipal number comparison.

Commissioner Garcia responded that it is.

Mayor Fugate stated that Mr. Capell had been here less than six months, but Mrs. Alvarez has been here for fifteen years and has worked with these employees to which she knows this staff and this government and when tells him that this is what the city need to do, he feels that the City Commission needs to follow her recommendation. Fugate continued to say that the City has a great staff and to keep employees, the city has to pay the money, which is what Mrs. Alvarez is trying to do. He stated that he supports Mrs. Alvarez in her recommendation regarding raises and see no reason why not to support it.

Commissioner Pena stated that he read the minutes from the City Commission which he was not present, and he read where Commissioner Garcia mentioned his role with the Appraisal District, and he has followed just about everything going on with the Appraisal District and he sees Commissioner Garcia of staff in the Appraisal District. When some members of the Appraisal District were attempting to contract out and remove staff from Kleberg County, Commissioner Garcia fought that. Every time there is a recommendation for an increase Commissioner Garcia has been there on those issues consistently. Pena stated that he appreciates Garcia bringing up at the previous meeting and in return have the same concerns for city staff.

Commissioner Garcia responded that the Appraisal District operates a little different. It operates on non-profit basis and if the Appraisal District would have gone with replacing staff, the only thing different is the profit motive that a company coming in would have in running the Appraisal District. The employees that are there are not operating on a profit mode and that's why he was opposed to that. Garcia further stated that in order to retain individuals that had all their certification, which there were four individuals that had appraisal certification that this community paid for, and this was one of the reasons he supported it.

Commissioner Pena responded that Commissioner Garcia made the right decision on that because Kleberg County could not afford to lose those employees.

Commissioner Garcia further stated that this was mainly because if the idea of the Appraisal District operates on a non-profit basis and all the monies that are not used in the budget, are returned to the entities.

Mayor Fugate asked if Commissioner Garcia is not insinuating that city staff doesn't acquire certifications and licenses just are there required at the Appraisal District. Fugate further stated that just as Commissioner Pena pointed out, Commission Garcia voted for every pay increase the Appraisal District presented, never turned one down. Fugate

further stated that this is the issue the city has now. Our staff here is just as valuable as that staff there.

Commissioner Garcia stated that he would like to clarify some of this. Garcia stated that he has defended some pay increase but a lot were not approved.

Mayor Fugate and Commissioner Pena responded that this is not the issue. Fugate further commented that this one may not pass either.

Commissioner Garcia responded that this is the issue and he feels that he is being interrogated here and hopes that his position is respected as he doesn't interrogate anyone on this Commission on every single item and feels that there is unfairness here.

Mayor Fugate asked how much of a surplus is built in this budget.

Mrs. Balli reported that as it stands now, we have \$330,000 above minimum requirement.

Commissioner Leubert asked Mrs. Alvarez if this discussion can keep going on and on as the Commission has already made a motion and voted on the item so the Commission can't really call for questions.

Commissioner Garcia responded that the Commission can call for question if  $\frac{3}{4}$  of the members approve the question.

Commissioner Leubert stated that all she is asking for is a yes or no.

Mrs. Alvarez responded that the discussion could go on or we can come to some sort of resolution and take this up at a separate meeting.

Commissioner Garcia stated that he would like to remind the Commission that Commissioner Pecos sentiments are with approving the budget as it is and since he's not here, we are in this situation now.

Mayor Fugate commented that he can appreciate that, but just because Commissioner Pecos is not present at this meeting it doesn't lend itself for him to change his conviction and how he feels on this issue.

Commissioner Garcia stated that he is not asking him to.

Mayor Fugate asked Mrs. Alvarez what is the next step.

Mrs. Alvarez responded that the only thing that is stated in the Tax Code, is that if the Commission the rate adopted by the preferable date then it defaults to the prior year's rate which is actually what the Commission is proposing on adopting anyway.

Mayor Fugate asked if procedurally the Commission just passes on this item and go on to the next item.

Mrs. Alvarez stated that the Commission takes no action on item #4 or #5.

**4. Consider final passage of an ordinance establishing and adopting the ad valorem tax rate for all taxable property within the City of Kingsville, Texas for the Fiscal Year beginning October 01, 2015 and ending September 30, 2016, distributing the tax levy among the various funds, and providing for a lien on real and personal property to secure the payment of taxes assessed. (Director of Finance).**

No action taken.

**5. Consider ratifying the property tax increase reflected in the 2015-2016 Annual Budget of the City of Kingsville. (Director of Finance).**

No action taken.

**6. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies. (Human Resource Director).**

Mrs. Gonzales stated that the ordinance that was prepared was based on the previous meeting as to what the current budget was calculated at which had the 1% for all exempt and non-exempt positions and the schedule associated with that is attached. Gonzales further stated just as a notation that was not included in here, there is usually a plus or minus one cent due to rounding.

Introduction item.

**7. Consider introduction of an ordinance amending the Fiscal Year 2014-2015 Utility Fund budget to cover increased utility costs. (Director of Finance).**

Mrs. Balli stated that this is part of the year end clean up that we do. Staff takes a look at how all the departments are doing with their budget, and it looks like for the utility fund there are several departments that are not going to be able to cover the increase utility

cost and that due to all the rain that was received. It has caused us to pump more at the wastewater plants.

Introduction item.

**8. Consider introduction of an ordinance amending the Fiscal Year 2014-2015 budget for deficit accounts at year end. (Director of Finance).**

Mrs. Balli stated that a couple of the items are because staff is trying to close out some funds and we need to wait until the end of the year to make sure that we knew exactly how much were in those funds used to closeout. She further stated that we are recognizing anticipated revenues expenditures of the Border Star Grant and this is basically year end clean staff is trying to do.

Introduction item.

**9. Consider a resolution abandoning 20 feet of a 40 foot road dedication easement along the West side of Lantana Street within Lot 3, Block 1 of Collegiate Station development while providing for a utility easement. (Director of Planning & Development Services).**

Mr. Cardenas stated that this is more of a formality. There is a 40 foot dedicated easement. The developer is requesting for the city to abandon 20 feet of the 40 feet in the dedication. Cardenas stated that it's really not city land; it's just a dedicated easement. Out of the 20 feet that is being requested to abandon, 10 feet will be retained for utility easement.

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

Mrs. Alvarez stated that for clarification on item #2, while the section 26.06 proposes those states the other section with regards to the tax rate 26.05, indicates that the governing body of each taxing unit should it before the latter of September 30<sup>th</sup> or the 60<sup>th</sup> day after the certified appraisal role is received by the taxing unit adopt the rate. Alvarez stated that the actual drop dead date, assuming that the city received it on July 24<sup>th</sup>, from the Appraisal District, which she believes we did, it would be Tuesday, September 22<sup>nd</sup>. If we did not have a tax rate and a budget adopted prior to that date, it would default to according to subpart C, the lower of the effective rate for this year or the rate adopted last year. The effective rate for this year is slightly lower than last year's tax rate, which we are looking to adopt, which means that staff would have to cutout an additional \$75,871 from the budget it should default to last year's effective rate, instead of the proposed rate.

Mayor Fugate asked that if the Commission doesn't do something by the 22<sup>nd</sup> of this month, and pass the tax rate that is being proposed by staff, we will lose \$75,000.

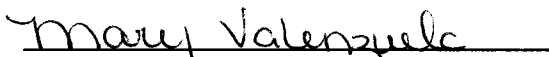
Mrs. Alvarez responded that this is correct.

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:39 p.m.

  
Sam R. Fugate, Mayor

**ATTEST:**

  
Mary Valenzuela, TRMC, City Secretary