

JANUARY 11, 2016

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JANUARY 11, 2016 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 5:30 P.M.**

**CITY COMMISSION PRESENT:**

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

**CITY STAFF PRESENT:**

Jesús Garza, City Manager  
 Mary Valenzuela, City Secretary  
 Courtney Alvarez, City Attorney  
 Tom Ginter, Director of Planning & Development Services  
 Deborah Balli, Finance Director  
 Diana Gonzales, Human Resources Director  
 Charlie Cardenas, Public Works Director/Engineer  
 Susan Ivy, Parks Manager  
 Emilio Garcia, Health Director  
 Robert Rodriguez, Library Director  
 David Mason, Purchasing Director  
 Ricardo Torres, Police Chief  
 Willie Vera, Task Force Commander  
 Melissa Perez, Risk Manager  
 Tony Verdin, Systems Specialist  
 Bill Donnell, Assistant Public Works Director  
 Pete Pina, Landfill Supervisor  
 Sharam Santanilla, Engineer's Assistant  
 Leo Alarcon, Tourism Director  
 Frank Garcia, Wastewater Supervisor  
 Cynthia Martin, Downtown Manager

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the Robert H. Alcorn Commission Chamber at 5:30 p.m. and announced quorum with five Commission members present.

**WORKSHOP:** Presentation from LNV Engineering on City's Waste Water Treatment Plants. (City Manager).

Mr. Logan Burton, LNV Vice-President made a presentation to the City Commission regarding the proposed expansion of the 1 MGD South Waste Water Plant.

Mr. Burton reported that the objectives of this presentation are to examine the projected population growth in the southern section of the City of Kingsville; determine the current flow through the City of Kingsville South Waste Water Plant; discuss the potential need to expand the capacity of the City of Kingsville South Waste Water Plant to maintain compliance. Burton showed a PowerPoint presentation graph to the City Commission showing three population projections. The population estimates provided by the Texas Water Development Board were used in their analysis, which represent the most conservative population estimates provided by the City of Kingsville. Population projections growth in Kingsville are current (2013) 26,213; year 2020 will equal to 29,080; year 2030 will equal 31,857; year 2040 will equal 34,505; and year 2050 will equal 37,057. These population projections were provided by the Texas Water Development Board. Daily chart recorders were used for the periods of April to July, 2015 to determine the current flow through the South Waste Water Plant. Average flows from each month were used to obtain an average flow for the period of April to July, 2015. The average daily flow was estimated at 0.78 million gallons per day (MGD) (or 780,000 gallons per day). The plant's capacity is 1,000,000 gallons per day. The current wastewater flow through the South Waste Water Plant is 0.78 MGD. The amount of wastewater produced by each resident is 75 gallons per day. This was determined by the average daily flow of both the North and South Plants, added them up and divided by the population. TCEQ's requirements at the 75% of the plants permit capacity a city must begin planning for a treatment expansion. The Plant Waste Water expansion must meet the needs of projected population growth. The proposed project schedule for Waste Water Treatment Plant expansion is that by starting the process in June, 2016, the construction is estimated to begin in 2018 with the expansion of the South Waste Water Treatment Plant to be completed by 2020.

Mr. Garza commented that the planning process as shown in this presentation has it beginning in June, so one of the things staff will be working on in the next couple of months, is identifying funding for the project which is estimated to cost \$16,000,000.00. There are different options that staff will be looking into as to how to get funding this project.

Commissioner Leubert asked that the designs that staff is looking into, are they supposed to last for 30 years.

Mr. Burton responded yes, but according to the population growth for the City of Kingsville, if a 1.75MGD plant is built, it would not be necessary to plan for another expansion for another 30 years.

Commissioner Leubert asked about improvements for the Plant and is their funding for this project.

Mr. Garza responded that the life of the debt is 25 to 30 years, so we need to make sure that whatever is being built, will last that long. Mr. Garza also stated that this specific project would be backed by the utility fund, which will not impact for us to go out for certificates of obligation in the future.

Commissioner Leubert further asked if one of the options would be to go out and raise rates. Mr. Garza responded that this is part of the analysis that staff will be working on within the next couple of months.

Mr. Robert Viera, LNV commented that part of the preliminary design phase is to include a phased approach, where not everything will be built in the first phase but in later phases. The City needs to think about what maintenance cost need to be included into the upcoming budgets, so that this equipment can be maintained.

Commissioner Garcia asked about the technology in wastewater treatment, how much has it changed in the last 60 years.

Mr. Viera commented that it has changed quite a bit, but not drastically. As for the overall process, there hasn't been much change over the years. It is important to keep up the maintenance on the equipment.

Commissioner Garcia further asked that with regards to TCEQ, if this isn't done, what happens. Mr. Viera responded that the City of Kingsville will receive a fine and this is why it is being presented now in order to take a proactive approach.

Commissioner Garcia asked that in the \$16 million dollar package is this a 30 year projection and what it will cost the city's budget. Garcia commented that his concern is the impact this will take on the city's budget.

Mr. Viera responded that it is a 25-30 year projection.

Mr. Garza responded the city would have to take into consideration the interest rate charged which is something that staff will be looking into in the future.

Mayor Fugate asked staff what the average daily flow at the North Plant is. Mr. Frank Garcia, Wastewater Supervisor responded that the average daily flow is about 50%.

Mr. Viera made a presentation to the City Commission regarding Effluent copper issues at the North 3 MGD Wastewater Treatment Plant. Effluent copper limit became more stringent in 2010 permit. It was reduced to 0.007 mg/L and it is unclear why TCEQ initiated such a stringent limit. Currently operating under permit issued by TCEQ in 2015. Limits required to be carried forward from 2010 permit. Compliance with more stringent copper limit has been challenging. Viera then gave a timeline on Copper issues. In 2005, permit issued with copper limit of 0.05 mg/L; 2010 permit renewed with interim phase copper limit of 0.05 mg/L; 2013 final phase effective on July 1, copper limit of 0.007 mg/L; August 2014, first violation for copper exceedance; 2015, copper exceedances in January, April, and June. TCEQ issued notice of violations in September. TCEQ mailed proposed Agreed Order in October. Copper exceedances in August, September, and October. TCEQ Agreed Order in October 2015: Assessing City an admin penalty of \$39,375 for violations through June 2015. Additional exceedances since June 2015 have been reported to TCEQ. Cause of copper exceedances is unknown. Chemical additives began November 2015 with exceedances still possible.

Mayor Fugate asked if everyone around the State needed to take this action. Mr. Viera responded no and not sure why.

Mr. Viera furthered stated that the recommended steps to obtain compliance; 1) continue use of chemical additive until no longer; 2) negotiate with the TCEQ on proposed agreed order but will need legal representation; 3) perform parallel scientific/engineering studies to: a) identify potential point source dischargers of copper through sampling; b) identify regulatory relief to raise copper effluent limit through permit amendment.

Commissioner Leubert asked if there has been any sampling being done to figure out where the high copper level is coming from.

Mr. Charlie Cardenas, Public Works Director/Engineer responded that there has been some sampling done to see where the source of high copper levels were coming from. Sampling has also been done from outsider haulers which showed some copper levels.

## **REGULAR MEETING RESUMES**

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

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

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

Regular Meeting – December 14, 2015

Mayor Fugate called for a motion to approve the minutes of December 14, 2015.

**Motion made by Commissioner Pena to approve the minutes of December 14, 2015 as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote Garcia, Leubert, Pecos, Pena, Fugate voting “FOR”.**

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

### **1. Public hearing to consider approval of the preliminary plat for The Park at Wildwood Trail Phase II (63 lots) 13.423 acres located at K.T.&I. Co., Block 17, Lot PT2, 3, PT7, also known as Wildwood Trail Subdivision. (Planning & Development Services Director).**

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

Mr. Tom Ginter, Planning & Development Services Director reported that this item tabled in November during the Planning & Zoning Commission meeting due to there not being a document for each plat approval. The item was placed on the Planning & Zoning Commission agenda on December 16<sup>th</sup>. Both plat documents were supplies by Melden and Hunt the Engineer for the project for review by the Planning & Zoning Commission. While there was no issue with the plats, the software of Melden & Hunt, incorrectly calculated the lot lines. Because this is a correctable error and there were no other issues, the Planning & Zoning Commission approved the plats on the condition that the Chair of the Commission Mr. Steve Zamora reviews the corrected documents prior to it being placed on the City Commission agenda. Ginter further stated that it is staff's recommendation to approve the preliminary plat of the park at Wildwood Trail Phase II.

Mayor Fugate announced that this is a public hearing and if anyone would like to speak on behalf of this item may do so with a five minute time limit. Additional time cannot be extended by City Commission.

No comments were made. Mayor Fugate closed this public hearing at 6:14 p.m.

### **2. Public hearing to consider approval of the final plat for The Park at Wildwood Trail Phase II (63 lots) 13.423 acres located at K.T.&I. Co., Block 17, Lot PT2, 3, PT7, also known as Wildwood Trail Subdivision. (Planning & Development Services Director).**

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

Mr. Ginter reported that this item was placed on the Planning & Zoning Commission agenda on December 16<sup>th</sup>. Both plat documents were supplied by Melden and Hunt for review by the Planning and Zoning Commission. There were no issues with the plats and it is staff's recommendation to approve the final plat of the park at Wildwood Trail Phase II.

Mayor Fugate announced that this is a public hearing and if anyone would like to speak on behalf of this item may do so with a five minute time limit. Additional time cannot be extended by City Commission.

No comments were made. Mayor Fugate closed this public hearing at 6:16 p.m.

## **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, Investment Report, 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.”

Mr. Garza commented that during tonight's meeting the final approval of an ordinance that will require the utility companies to come in and get a permit, at no fee, to notify the city when they are cutting into our streets. On another issue, the landscaping letter has been finalized and will be going out to all businesses regarding the landscaping ordinance in place. Mr. Garza reminded the City Commission that for the month of January there will be no staff report as it is being revamped to a Performance Report. The Performance Report will be sent out in the beginning of February.

Mrs. Courtney Alvarez, City Attorney reported that city offices will be closed on Monday, January 18<sup>th</sup> in observance of Martin Luther King Day. She further announced that there was a typo on agenda item #4, it should read two year term instead of three year term. Alvarez further commented that with the New Year, there has been some legislative changes which one of them is HB 1295. HB 1295 requires that if a city is going into a contract, Form 1295 from the Texas Ethics Commission must be filled out prior to going into the contract. Mrs. Alvarez further stated that she recently attended a Texas Coalition of Affordable Power (TCAP) meeting which consist of 15 board members. The Board elected new board members and Mrs. Alvarez was elected Vice-President of TCAP. Alvarez further reminded that the next City Commission meeting is scheduled for January 25<sup>th</sup> with agenda items due on Friday, January 15<sup>th</sup>.

Commissioner Pecos asked for staff to look into placing a sign, in front of City Hall, regarding the Handicap Ramp.

#### IV. Public Comment on Agenda Items

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

No public comments were made.

#### 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)*

**Motion made by Commissioner Pena to approve the consent agenda with the change made to agenda item #4, from a three year term to a two year term, seconded Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting “FOR”.**

**1. Motion to approve final passage of an ordinance amending the Fiscal Year 2015-2016 General Fund budget to accept and expend a donation to the L.E.Ramey Golf Course. (Finance Director).**

**2. Motion to approve final passage of an ordinance amending Chapter VII, Article 8, Traffic Control Devices, providing for the installation of seven stop signs in the Wildwood Trail Subdivision. (City Engineer/Public Works Director).**

3. Motion to approve final passage of an ordinance amending the Chapter V- Public Works, to adopt Article 7- R.O.W. Cuts and Excavations, providing regulations for right-of-way cuts and excavations. (City Engineer/Public Works Director).
4. Motion to approve the appointment of Brian Coufal to the Planning & Zoning Commission for a three-year term. (Planning & Development Services Director).
5. Motion to approve a resolution authorizing the City of Kingsville to continue participation in the Texas Main Street Program, authorizing the Mayor to execute the Texas Main Street Locally Designated Program 2016 Contract, and designating Downtown Manager Cynthia Martin as the Main Street Program Manager for the City of Kingsville to coordinate program activities. (Downtown Manager).
6. Motion to approve resolution authorizing participation in the 13<sup>th</sup> Annual Ride on the Wild Side Charity Bike Ride to be held on April 30, 2016 and authorizing the City Manager to execute an Indemnity Agreement with King Ranch for said event. (City Attorney).

## REGULAR AGENDA

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

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

7. Consider a resolution authorizing the City Manager to enter into a contract for professional services between the City of Kingsville, Texas and LNV, Inc. for Engineering Services for water systems improvements project TxCDBG #7215270, (RFQ 16-03). (Purchasing & Technology Director).

Mr. David Mason, Purchasing & Technology Director stated that this item provides staff recommendation for RFQ 16-03 Engineering Services related to engineering design for the Texas Department of Agriculture Community Development Block Grant. The grant is for replacement of 3,100 linear feet of 8" water line, hydrants, service connections, etc. along Armstrong Street from Kenedy Avenue and Caesar Avenue. The award will expend \$10,000 of the \$60,000 of the matching funds provided by the City of Kingsville for this grant. The other \$50,000 in matching funds will be used for other items during the construction phase. Mason further commented that it is recommended the award of RFQ 16-03 Engineering Services for the TDA CDBG grant be awarded to LNV Engineering. Staff will negotiate a contract for a fair and reasonable price not to exceed the allotted amount.

**Motion made by Commissioner Garcia to approve this resolution authorizing the City Manager to enter into a contract for professional services between the City of Kingsville and LNV Engineering, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".**

8. Consider a resolution authorizing the City Manager to enter into a Grant Administration Services Agreement between the City of Kingsville, Texas and GrantWorks, Inc. (for TXCDBG #7215270), (RFP 16-02). (Purchasing & Technology Director).

Mr. Mason stated that during a City Commission meeting on December 14, 2015, the City Commission approved for staff to negotiate with Grant Works professional services for RFP 16-02. This item does not expend the city's budgeted funds. While the City is providing matching funds of \$60,000 for this grant, the \$33,000 for grant management services will be paid from the awarded grant funds. It is recommended the award for RFP 16-02 Professional Services for management to the TDA CDBG grant be awarded to Grants Works.

Commissioner Pecos asked what the total amount was for this grant. Mr. Mason's response was that the total amount for the grant is \$300,000.

**Motion made by Commissioner Garcia to approve the resolution authorizing the City Manager to enter into a Grant Administration Services Agreement for RFP 16-02, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".**

9. Consider introduction of an ordinance amending the Fiscal Year 2015-2016 Utility Fund budget for chemicals and engineering services to evaluate effluent copper limitations at the north waste water treatment plant. (Finance Director).

Mrs. Deborah Balli, Finance Director reported that this item authorizes funding the purchase of chemicals for copper removal and for engineering services to evaluate effluent copper limitations at the 3MGD Wastewater Treatment Plant in order to obtain long-term compliance with water quality-based effluent limitations for copper in the Wastewater Department. This will reduce Utility Fund balance by \$136,350.00. Increase

chemicals account by \$99,000.00 to purchase specialty chemicals for copper removal during the treatment process. Increase Professional Services by \$37,350.00 for engineering and sampling services for copper investigation.

Introduction item.

**10. Consider a resolution authorizing publication of notice of intention to issue certificates of obligation. (Finance Director).**

Mrs. Balli reported that with the reduction of our debt service and recent assumption changes in our forecast model, the City of Kingsville has debt capacity to issue \$6.33 million in Certificates of Obligation to fund various projects. As debt service is reduced, there is opportunity to issue new debt to fund projects that cannot be funded through normal revenue streams. This opportunity provides the ability to address the following projects: Park Improvements of \$2,250,000; Downtown revitalization of \$1,000,000; New City Hall landscaping & Cottage Building remodel of \$800,000; Public Works projects of \$1,000,000; Police Department emergency communication upgrades \$500,000; Fire Department projects of \$500,000; Golf Course Improvements of \$250,000; Health Department roof and porch improvements of \$25,000; and Library Department to the Maker's Zone and staff breakroom of \$7,500.

The intent to issue this series of debt service is the desire to keep our portion of the tax rate used to pay our current debt service at the same level. In 2016, the tax supported debt service is \$1,450,688. Through 2021, the projected debt service would never exceed the \$1.4 million and in 2024 it would reduce to approximately 50% of the \$1.4 million amount annually, with further reductions beginning in 2029.

Commissioner Garcia asked if any additional items were added to the wish list.

Mr. Garza responded that it went up from the \$5.79 million to \$6.3 million to be used in the Parks and Street Departments.

Mayor Fugate asked Ms. Ann Burger Entreken if the City of Kingsville would have to go back and receive their rating re-evaluated.

Ms. Ann Burger Entreken, Financial Advisor responded that the City of Kingsville would have to go back out to re-evaluate their rating. She further stated that whenever the City is going back out into the capital market the investors look into updated ratings and reviews. The current ratings for the City of Kingsville is an A+ rating, and stated that they have firm expectations that this rating would be reaffirmed.

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

**11. Consider a resolution declaring intention to reimburse ascertain expenditures (with borrowing proceeds). (Finance Director).**

Mrs. Balli stated that in years past when there was a need to move quicker with projects that are included in the CO's, this would give the City the ability to begin those projects before receiving the funding.

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

**12. Consider approval of preliminary plat for The Park at Wildwood Trail Phase II (63 lots) 13.423 acres located at K.T.&I. Co., Block 17, Lot PT2, 3, PT7, also known as Wildwood Trail Subdivision. (Planning & Development Services Director).**

**Motion made by Commissioner Pena to approve the preliminary plat for the Park at Wildwood Trail Phase II, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".**

**13. Consider approval of final plat for The Park at Wildwood Trail Phase II (63 lots) 13.423 acres located at K.T.&I. Co., Block 17, Lot PT2, 3, PT7, also known as Wildwood Trail Subdivision. (Planning & Development Services Director).**

**Motion made by Commissioner Pena to approve the final plat for the Park at Wildwood Trail Phase II, seconded by Commissioner Garcia. The motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos, Fugate voting "FOR".**

**14. Consider a resolution authorizing enforcement of Texas Penal Code Section 46.035(c). (City Attorney).**

Mrs. Alvarez stated that the City already had a policy that states no guns in meetings. With the new change in State law appropriate signs would need to be placed throughout City Hall.

**Motion made by Commissioner Leubert to approve this resolution, seconded by Commissioner Garcia.**

Commissioner Peña asked what areas within a Municipal Building a weapon can be carried into.

Mrs. Alvarez responded that unless State Law otherwise prohibits it, than areas that generally open to the public are allowable places to carry. Alvarez further stated that once this resolution is approved and the appropriate signage is placed, she would anticipate signage will be placed on the Westside doors to City Hall and by the Public Stairway, which will notify individuals that they are coming into an area where the court convenes and where court offices are located.

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

**15. Executive Session pursuant to Section 551.072, Texas Open Meetings Act: The City Commission shall convene in Executive Session to discuss the purchase, exchange, lease, or value of real property as deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. (City Manager).**

Mayor Fugate announced and convened the meeting into Executive Session at 6:42 p.m.

Mayor Fugate reconvened the meeting into open session at 6:58 p.m.

**16. Consider authorizing staff to negotiate potential lease or purchase of real property. (City Manager).**

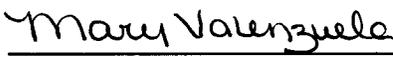
**Motion made by Commissioner Leubert to authorized staff to negotiate potential lease or purchase of real property, seconded by Commissioner Pena. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".**

#### **VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 6:58 p.m.

  
Sam R. Fugate, Mayor

**ATTEST:**

  
Mary Valenzuela, TRMC, City Secretary