

MARCH 14, 2016

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 14, 2016 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
Arturo Pecos, Commissioner

CITY COMMISSION ABSENT:

Al Garcia, Commissioner
Noel Pena, 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
Charlie Cardenas, Public Works Director/Engineer
Susan Ivy, Parks Manager
Emilio Garcia, Health Director
Ricardo Torres, Police Chief
Willie Vera, Task Force Commander
Leo Alarcon, Tourism Director
Bill Donnell, Assistant Public Works Director
Carol Rogers, Risk Managers
Charlie Sosa, Street Supervisor
Cynthia Martin, Downtown Manager
Diana Gonzales, Human Resources Director
Jennifer Bernal, Community Appearance Supervisor
Kyle Benson, Help Desk Coordinator

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 three Commission members present. Commissioner's Garcia and Pena absent.

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)

Regular Meeting – February 22, 2016

Mayor Fugate called for a motion to approve the minutes of February 22, 2016 as presented.

Motion made by Commissioner Pecos to approve the minutes of February 22, 2016 as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Leubert, Pecos, Fugate voting "FOR".

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

1. NONE.

III. Reports from Commission & Staff.²

"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, Quarterly Budget 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. Jesús Garza, City Manager, presented a certificate of Employee of the Month to Ms. Teresa Orr, Health Department. Ms. Orr has been employed with the City of Kingsville for 8 years and has shown great dedication and hard work within her department.

Mrs. Susan Ivy, Parks Manager, announced Spring Break Events hosted by the Parks Department.

Mrs. Courtney Alvarez, City Attorney, announced that the next City Commission meeting is scheduled for March 28, 2016 with agenda items due Friday, March 18, 2016. Most City offices will be closed on Friday, March 25, 2016 for Good Friday.

IV. Public Comment on Agenda Items.³

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

Mr. Larry Lee, 342 Anthony Lane, commented that he is here tonight to represent and speak on behalf of the Golfing Community. Mr. Lee stated that the Golfing Community was very pleased when the City of Kingsville hired a professional golfer, Mr. Jimmy Saenz as the Golf Course Manager. He further stated that Mr. Saenz has made some tremendous improvements and has trained his employees on how to do a better job at the Golf Course. Mr. Saenz has great plans for the Golf Course but has very limited funds to work with. The vision Mr. Saenz has for the Golf Course is different from that of City Staff. Mr. Lee further stated that the Golfing Association has met with Mr. Garza, City Manager, to hear what the City's vision was for the Golf Course. He further stated that members of the Golf Association have informed the City Manager about the conditions that the bridge is in within the Golf Course which calls for concern, as someone may end up getting hurt. Mr. Lee further commented that they appreciate the money that is being allotted for the Golf Course, but it is not enough. He further stated that he is disappointed that Mr. Saenz is not receiving the support that is needed by City Staff to make this a better Golf Course and regrets that Mr. Saenz has submitted his resignation.

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

1. **Motion to approve final passage of an ordinance amending the Fiscal Year 2015-2016 Budget to use remaining funds in CO Series 1998 and CO Series 2011 for street maintenance funding. (Finance Director).**
2. **Motion to approve final passage of an ordinance amending the Fiscal Year 2015-2016 Budget for the retainage portion of the Water Well #25 drilling contract. (Finance Director).**
3. **Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 8, Section 3- Traffic Control Devices, providing for the authority to replace yield sign with stop sign on Armstrong Ave. at Caesar Ave. (City Engineer/Public Works Director).**
4. **Motion to approve the Historical Development Board decision on an application for a building permit for remodeling at 429 E. Kenedy Ave., which was approved by the board. (Downtown Manager).**

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. Consider a resolution appointing Election Judges and the Early Voting Ballot Board Judge for the City of Kingsville General Election on May 7, 2016. (City Secretary).

(CONSIDERE UNA RESOLUCIÓN QUE NOMBRA JUECES ELECTORALES Y EL JUEZ DE LA JUNTA DE VOTACIÓN ANTICIPADA PARA LAS ELECCIONES GENERALES DE LA CIUDAD DE KINGSVILLE, QUE SE LLEVARÁN A CABO EL 7 DE MAYO DE 2016.) (SECRETARIA MUNICIPAL).

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

6. Consider a resolution authorizing the Mayor to enter into a revised agreement with the Texas Department of Transportation to contribute right-of-way funds (fixed price) for improvements to US 77 for right-of-way acquisition and the relocation and adjustment of utilities from General Cavazos Blvd. to the Southern city limits along US 77. (City Attorney).

Mrs. Alvarez stated that on November 9, 2015, the City Commission approved a resolution and agreement with TXDOT to contribute Right-of-Way Funds for improvements to US 77 for ROW acquisition and the relocation and adjustment of utilities from General Cavazos Blvd. to the southern city limits along US 77. That agreement proposed the City contribute 5% of the project costs, which was equal to \$176,348.32 that was to be paid over six annual installment payments. The City Commission approved an ordinance for a budget amendment for the first payment under that agreement of \$29,392. TXDOT recently notified the City that the new proposed contribution amount from the City is being lowered to 2.3% which equals \$80,075.90. This amount will also be paid out over six annual installment payments. TXDOT is waiting for the City to approve the new scheduled payment amounts prior to sending the revised agreement for our execution. The total project cost for the City will go from \$176,348.32 to \$80,075.90 resulting in a savings of \$96,272.42 for the City. Alvarez further stated that the County has approved their portion.

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

7. Consider a resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement between the City of Kingsville and Texas A&M University-Kingsville relating to Street Services. (City Engineer/Public Works Director).

Mr. Charlie Cardenas, City Engineer/Public Works Director, stated that the Engineering Department received several request in November and December, 2015 from Texas A&M University-Kingsville (TAMUK) to provide street sweeping services and pothole repairs on the University Campus if the University would pay for the services. The property at TAMUK is not within the City's capacity to maintain. However, a cost estimate was given to the University for review considering the University a zone so that disruption to the city's daily needs are not affected. It was determined that the City may enter into an agreement to provide these services through the City Commission approval. The financial impact to the City of Kingsville is \$8,034.66 per cycle for a total of \$96,415.92 per year in revenue.

Commissioner Leubert asked what if the University is to ask for other street repairs, would they be considered on a case by case basis and not be included within this agreement.

Mr. Cardenas responded that they would be reviewed on a case by case basis.

Mayor Fugate commented that the City and the University are great partners and we need to assist in these types of request.

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

8. Consider out-of-state travel for City Commission and staff to attend the ICSC RECon 2016 Exhibition and Conference in Las Vegas, Nevada on May 22-25, 2016. (City Manager).

Mr. Garza commented that this item authorizes out of state travel for staff and Mayor/Commission to attend the 2016 ICSC Conference in Las Vegas, Nevada from May 22-25, 2016. ICSC RECon is the global convention of the shopping center industry and provides networking, deal making and educational opportunities. Attendees of the conference include representatives from hundreds of retail stores, restaurants, and developers. In coordination with The Retail Coach who is conducting data analysis for the EDC, the City along with the EDC will meet restaurants and retail stores in an attempt to bring that specific restaurant and retail store to Kingsville. Garza further commented that elected officials from Kleberg County will also be attending this conference.

Commissioner Leubert commented that this is not a vacation trip for staff or anyone else that will be attending this conference. This is an important conference for staff to be able to network with representatives of restaurants and retail stores in order to show them what Kingsville has to offer.

Motion made by Commissioner Leubert to approve the out of state travel, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Leubert, Pecos, Fugate voting "FOR".

9. Consider out-of-state travel for Task Force Commander and Agent Tamez to attend the 2016 National Interdiction Conference (NIC) in Reno, Nevada on March 15-17, 2016. (Task Force Commander).

Willie Vera, Task Force Commander, commented that this item requests out of state travel for himself and Agent Mike Tamez to attend the 2016 National Interdiction Conference in Reno, Nevada from March 15th – 17th, 2016. Agent Tamez will be the recipient of the 2015 Interdiction Officer of the Year award during the annual awards banquet. This National Award is for Agent Tamez's Criminal Interdiction efforts especially during 2015.

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

10. Consider accepting donation/fundraiser money from Keep Kingsville Beautiful "Fill the Flower Pot" fund drive. (Planning & Development Services Director).

Mrs. Balli stated that the Keep Kingsville Beautiful had a Donation/Fundraiser where they collected proceeds totaling \$1,466.17 from the "Fill the Flower Pot" fundraiser. Money will be deposited into the Pooled Cash account and booked as a liability to Keep Kingsville Beautiful. The funds will be issued upon request with appropriate support documentation.

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

11. Consider the Historical Development Board decision on an application for a building permit for a sidewalk renovation at 200 E. Yoakum, which was approved by the board. (Downtown Manager).

Mayor Fugate asked that items 11 & 12 be removed from the agenda as the Commission does not have a proper quorum to vote on these items. These items will be up for consideration at a Special Meeting on March 21st.

12. Consider the Historical Development Board decision on an application for a sign permit at 200 E. Yoakum, which was approved by the board. (Downtown Manager).

13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by adopting Chapter XV, Land Use, Article 11, Vacant Buildings and Property; establishing definitions, applicability, and location. (Planning & Development Services Director).

Mr. Tom Ginter, Planning & Development Services Director, stated that the Main Street Advisory Board has asked the Planning & Development staff to develop an ordinance so the City can enforce the appearance of vacant buildings downtown. Staff has met with the

Main Street Advisory Board on this issue and they were in favor of this ordinance being presented to Commission tonight. This ordinance will do the following; prohibit the boarding of windows, only if repairs have to be made and only for 30 days; if this ordinance is passed with the current language those buildings that have boarded up windows now would be in violation and have to take the boards off the windows; the exterior of the properties shall be maintained in good condition. This ordinance could provide an impetus for property owners to invest in their building or choose another option. This ordinance will be effective immediately and no grandfathering will be accepted.

Mayor Fugate asked if staff has communicated this with those that are within the downtown/Historical District.

Mr. Ginter commented that this is an introduction item and if approved by the City Commission at its next meeting, staff will notify those individuals and allow them time to make necessary repairs.

Mr. Garza commented stated that from this time and until the next Commission meeting, staff will send letters to all property owners within this district, letting them know about this item being considered at the next meeting. Garza further recommended to the City Commission about having a Public Hearing on this item to allow those within the district to attend and voice their opinion. Garza also stated that the implementation aspect of this, once these goes into effect, sending letters to those that maybe in violation and allowing them 90 days to make any changes that need to be made to fall with in acceptance of the vacant building ordinance. The intent of the ordinance is about the community appearance of the downtown area.

Commissioner Leubert commented that this is something that needed to be done for a long time now.

Mayor Fugate stated that the Courthouse is within the location that the ordinance will take effect.

Mr. Garza commented that some of these projects will not be able to be completed within 90 days. The intent is for there to be an established plan and to address these issues. Staff is exploring different avenues to try and assist those that can't afford the replacement of all the windows.

Commissioner Leubert commented that this ordinance is making the property owner responsible for their properties.

Introduction item.

14. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Land Use, Article 6, Zoning, amending Section 15-6-21 definitions to add dwelling above business and work/live units and revising the definition of mixed use; adopting sections 15-6-29 work/live units and 15-6-30 dwelling above business; and amending Appendix A-Land Use Categories to add dwelling/ above business and work/live units. (Planning & Development Services Director).

Mr. Ginter stated that this is also a part of the downtown revitalization which is becoming common within downtowns. This would allow business owners to reside in the back of their business. It is also common to build lofts above businesses in the downtown area. This ordinance was taken to the Main Street Advisory Board, and they recommend approval. This item was presented to the Planning & Zoning Commission and was approved unanimously in favor of the ordinance.

Mr. Garza commented that he plans on having a workshop at the next City Commission meeting to discuss downtown revitalization efforts.

Introduction item.

15. Consider introduction of an ordinance amending the Fiscal Year 2015-2016 Budget for Fund 033 Co Series 2016 for project and debt issuance costs. (Finance Director).

Introduction item.

16. Consider introduction of an ordinance amending the Fiscal Year 2015-2016 Budget for Street Maintenance Projects funded by the street maintenance fee. (Finance Director).

Introduction item.

17. Consider introduction of an ordinance amending the Fiscal Year 2015-2016 Budget to include a TXDOT refund in CO Series 2011 to be used for City Hall complex improvements. (Finance Director).

Mrs. Balli stated that the City has received a refund in the amount of \$49,791.92, from the Caesar Drainage Project which was part of the Certificate of Obligations Series 2011. These funds are needed to assist in the completion of the City Hall Complex Project.

Introduction item.

18. Consider introduction of an ordinance amending the Fiscal Year 2015-2016 Utility Fund Budget for expenditures for the Texas Department of Agriculture Community Development Block Grant (TXCDBG #7215270) for water system improvements. (Finance Director).

Mrs. Balli stated that this was an error made by staff when preparing the budget for Fund 051. When the City receives a grant, the entire amount that is received for revenues has to be budgeted and have to budget the entire amount for the expenditure project, making the difference the city's match. Staff booked the total revenue, but only booked the city's match and the expenditures making the budget short by \$240,000.00.

Commissioner Leubert asked if this item is just a housekeeping item. Mrs. Balli responded yes. Balli further stated that when staff calculated the fund balance reserves, the city is still at 35.61% in the fund balance.

Introduction item.

19. Consider introduction of an ordinance amending the Fiscal Year 2015-2016 General Fund Budget to transfer the Risk Management Department under the Personnel (Human Resources) Department. (City Manager).

Mr. Garza stated that with the recent transition that has occurred in the Risk Management position, was a good time to access the placement of the position within our organizational structure. The consolidation of the individual budgets into one department budget under Human Resources allows for more effective and efficient financial administration of the department. This is a fairly common place to have Risk Management within an organization due to the correlation between injuries and claims insurance, etc. No additional funds required to incorporate the current Risk Management budget into the Human Resources Department budget.

Mayor Fugate asked about the responsibilities of Emergency Management.

Mr. Garza responded that the Emergency Management duties will be assigned to the Fire Chief. These duties have been included in the job description of the Fire Chief.

Mayor Fugate further asked what the long term solution is for these responsibilities.

Mr. Garza commented that the long term solution is that the permanent Fire Chief takes on the Emergency Management Operation. When the Fire Chief position was posted, these duties were included in the responsibilities.

Commissioner Leubert commented that the Risk Manager will now have fewer duties with the Emergency Management duties being assigned to the Fire Chief.

Mr. Garza responded that Risk Manager will have different duties. There are some areas within the Human Resources Department that there will be some minor addition to some duties related to insurance claims. There are also some components of staff development and training that he would like the Human Resources Department be more involved with leadership management training and professional development for the employees.

Introduction item.

20. Consider request for waiver of ZBA fee for 412 W. Henrietta. (Planning & Development Services Director).

Mr. Ginter stated that staff has incorrectly issued a permit to the resident at 412 W. Henrietta for a driveway. Staff has corrected this mistake but the mistake is now causing the resident to apply for a variance. This request should have gone for approval to the Historical Board prior to the issuance of the permit.

Mr. Garza commented that the mistake was not that, the mistake was that even if the driveway wasn't within the Historical District, the driveway location within the property doesn't fit the guidance of the five foot setback from the property line. The mistake was that the permit was issued without that due diligence to insure the placement of the driveway within the property. Because it is in a Historical District it would go towards that and this is why the resident is now pursuing the option of going through a variance, because of the driveway location not being within the five feet setback. Since the permit was issued without that, the resident has already incurred some resources and putting the driveway where they want to put it, so staff feels that it would be the right thing to waive the fee due to staff's mistake.

Commissioner Leubert commented that this is basically a, I'm sorry that we made a mistake therefore we apologize.

Mr. Garza responded yes, because obviously the outcome now is that it's going to have to go through the process which the outcome is unknown. If the Historical Board, for some reason or the other, does not approve the variance, the property owner has already had some resources spent in tearing up the concrete and framing the driveway, that shouldn't have happened at all, if the process would have been done correctly.

Mayor Fugate commented that the problem he has with the item is that the property owner would still have to pay for the variance. Fugate further stated that if staff makes that type of mistake, why the tax payers have to pay for their mistake. He further commented that he does not understand why staff doesn't make the property owner pay the variance fee, because they would have had to pay from the beginning. Fugate asked staff if the property owner has been told that the variance fee would be waived.

Mr. Garza responded that he believes the property owner knew it was up for consideration, but he doesn't believe they were told it would be waived.

Motion made by Commissioner Pecos to waive the fee, seconded by Commissioner Leubert.

Commissioner Leubert commented that she can understand why that in this particular case, staff is making this recommendation, but staff really needs to pay closer attention to what staff is doing.

Mayor Fugate commented that this is basic, five foot setback and to miss that is a mistake on staff's part.

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

21. Executive Session: Pursuant to Section 551.072, Texas Government Code, Deliberations regarding Real Property Exception, 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 6:50 p.m.

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

22. Consider resolution authorizing the City Manager to execute a property contract for the acquisition of real property for a new Tourism/Visitors Center site. (Purchasing & Technology Director).

Motion made by Commissioner Leubert to authorize the City Manager to execute a property contract for the acquisition of real property for a new Tourism/Visitors Center site, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Leubert, Fugate voting "FOR".


23. Executive Session: Pursuant to Section 551.071, Texas Government Code, Consultation with Attorney Exception, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter. (City Attorney).

Mayor Fugate announced and convened the meeting into Executive Session at 7:00 p.m.

Mayor Fugate reconvened the meeting into open session at 7:35 p.m.

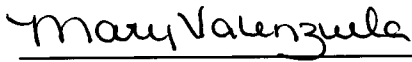
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 7:35 p.m.



Sam R. Fugate, Mayor

ATTEST:



Mary Valenzuela, TRMC, City Secretary