

2011
APRIL 13, 2020

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 13, 2020 IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.

CITY COMMISSION PRESENT:

Sam R. Fugate, Mayor
Edna Lopez, Commissioner
Hector Hinojosa, Commissioner
Dianne Leubert, Commissioner
Arturo Pecos, Commissioner

CITY STAFF PRESENT:

Mark McLaughlin, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Derek Williams, IT
Janine Reyes, Tourism Director
Ricardo Torres, Police Chief

STAFF PRESENT VIA CONFERENCE CALL OR VIDEOSTREAM

Bill Donnell, Public Works Director
Ron Lee, Interim Fire Chief
Uchechukwu Echeozo, Director of Planning & Development Services
Diana Gonzales, Human Resources Director
David Solis, Risk Manager
Deborah Balli, Finance Director
Susan Ivy, Director of Parks and Recreation
Cynthia Martin, Downtown Manager
Rudy Mora, Engineer
Robert Rodriguez, Library Director

**Conference Line call: 1 (408) 418-9388 and
when prompted type access code: 620805471#**

OR

Live Videostream: <http://www.cityofkingsville.com/webex>

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate opened the meeting at 5:00 p.m. with all five Commission members present.

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- March 23, 2020

Special Meeting- April 2, 2020

Motion made by Commissioner Lopez to approve the minutes of March 23, 2020 and April 2, 2020 as presented, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Lopez, Hinojosa, Leubert, Pecos, Fugate voting "FOR".

****AUDIENCE AND PRESENTER SOCIAL DISTANCING AND PUBLIC TESTIMONY AND PUBLIC HEARING INPUT AT PUBLIC MEETINGS OF THE CITY COMMISSION.**

To reduce the chance of COVID-19 transmission, public meetings will be held in a manner intended to separate, to the maximum practical extent, audience and presenters from personal contact with members of Community, City Staff, and City Commission. Public testimony and public hearing input for Public Comment and all items on the agenda at public meetings of the City Commission shall be provided in written format and presented to the City Secretary and/or designee prior to the start of each meeting of the City Commission. This testimony and/or public input shall be in accordance with the City Secretary's instructions, which shall be posted on the City Secretary's outdoor public bulletin board at City Hall and on the City website and allow for electronic submission. The written public testimony shall be provided to members of the City Commission prior to voting on measures for that meeting. Written testimony shall be limited in accordance with the City Secretary requirements and shall be placed into the record of each meeting. This written testimony shall serve as the required public testimony pursuant to Texas Government Code section 551.007 and shall constitute a public hearing for purposes of any public hearing requirement under law. The meeting may be held telephonically or via videoconference; and, if so conducted, the public may participate remotely by following

the instructions of the City Secretary which would be posted on the City Secretary's outdoor public bulletin at City Hall and on the City website.

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

1. **Public Hearing on request for an alcohol variance for a Wine and Beer Retailer's Off-Premise License (BQ) for the establishment known as Vasquez Food Mart located at 1230 E. Santa Gertrudis, Kingsville, Texas. (Director of Planning and Development Services).**

Mayor Fugate announced and opened this public hearing at 5:05 p.m.

Mrs. Courtney Alvarez stated that this location used to be Roys Stop & Shop and has always been a convenience store. As it is located across from school property, a variance was required. The permit is for sale of alcohol off-premise.

There being no further discussion or comments, Mayor Fugate closed this public hearing at 5:07 p.m.

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

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, Condemnation Update, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports, Utilities Billing Update; Police & Fire Department – Grant Update, Police & Fire Reports; Streets Update; Public Works; Landfill Update, Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Emergency Management, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Health Department, Hotel Occupancy Report, Quiet Zone, SEP, Legislative Update, Proclamations, Employee Recognition, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Wastewater Treatment Plant, Water And Wastewater Rate Study Presentation, Golf Course, Library Summer Programs, Grants Update. No formal action can be taken on these items at this time."

Mr. Mark McLaughlin, City Manager reported on his City Manager's Report. The first item has some compilation on hazardous duty pay, as there have been some questions about hazardous duty pay. He stated that nothing is not a provision in our ordinance regarding hazardous duty pay. If anything is to be done with hazardous duty pay, an ordinance would need to be changed and a budget amendment would be needed. With two departments having civil service employees, collective bargaining agreements would need to be modified. McLaughlin further commented that the plan now, is not to change anything and he is not proposing anything for the future, unless the Commission recommends for staff to bring something back to them at a future meeting.

Mayor Fugate commented that he feels that the reason this came up is because the County is paying time and a half for their officers and first responders, although the County is no longer doing this.

Mr. McLaughlin further commented that the City does have a plan in place for those citizens struggling with utility bills. To date, there are seven individuals that have signed up for the plan and expect more as word gets out to all the citizens. There are two plans, payment plan or deferment plan that are in place for utility bills. The citizen would need to contact the Collections Department for their request for a payment or deferment plan and they will be looked at on a case by case basis. Mr. McLaughlin thanked the Fire and Police Department for their assistance during this crisis.

Mrs. Alvarez reported that the next City Commission meeting is scheduled for April 27, 2020 with a deadline for staff to submit agenda items no later than April 17, 2020. She also thanked the citizens for following the orders that have been in place during COVID-19.

Commissioner Lopez commented that she would like for City Manager to ease up on the hazardous pay and she is aware that is has been in discussion for them to create a bill, therefore there might be some change coming up and the city will need to be ready for

that. She further commented that she feels that it is the right thing to do for the first responders and essential employees as they are working with the public. She commented that she is in favor for it and asked staff to keep an eye out as the city may need to do some budget amendments.

Mr. McLaughlin commented that he will stay informed as to what the State decides to do.

IV. ****Public Comment on Agenda Items.**³

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

Mrs. Mary Valenzuela, City Secretary read four public comments that were received via email.

First comment received on April 7, 2020 from Hemang Bhakta, Motel 6 Kingsville. The comment read as followed: Hi, my comment is in this hard time if City of Kingsville can help to reduce water bill, hotel occupancy city tax.

Second comment received on April 8, 2020 from Sunil Patel of Economy Inn. The comment read as followed: My name is Sunil Patel from Economy Inn. My comments is that the current COVID-19 virus. There are not that many customers traveling who are staying in the hotel/motel. It is very hardship to manage to pay the outstanding bills. I am looking to see if the City of Kingsville can help us in some way towards the city tax, utility tax and property tax.

Third comment received on April 10, 2020 from Economy Inn. The comment read as followed: My comments is due to the current COVID-19 virus. There are not many travelers staying in the hotel/motel. It is very difficult and hardship to manage the money to paying bills. I am looking t see if the City of Kingsville can help us in some way towards like the city occupancy taxes, utilities and property taxes.

Fourth comment received on April 10, 2020 from Neil Bhakt, 2402 E. King Ave. The comment read as followed: No penalties and deferred payment up to six months and tax paid by hotels inflation any.

Mrs. Valenzuela commented that there were no further comments received.

Mr. Derek Williams, IT stated that there was no one needing to make a comment through Webex or conference call.

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

1. **Motion to approve a resolution authorizing the release of Chapter 59 funds of the Kingsville Police Department for donation to the Boy Scouts of America Venado District. (Police Chief).**

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

2. **Consider a resolution ordering the extension of the Local State of Disaster and Order to stay home/work safe until April 30, 2020. (Mayor Fugate).**

Motion made by Commissioner Leubert to approve the resolution ordering the extension of the Local State of Disaster and Order to stay home/work safe until April 30, 2020, seconded by Commissioner Pecos.

Mayor Fugate commented that his order is pretty much mandated by the Governor.

Mrs. Alvarez commented that the current order from the Governor expires on April 30th, so this was written to be consistent with his order.

Commissioner Lopez commented that the Governor has extended his order until May 13th.

Mrs. Alvarez commented that at the April 27th Commission meeting if the Commission chooses to extend until May 13th, they can do so.

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

3. **Consider a resolution extending the Declaration of Local State of Disaster and Order limiting the number of persons from one family in an exempted business at one time until April 30, 2020. (Mayor Fugate).**

Motion made by Commissioner Leubert to approve the resolution extending the Declaration of Local State of Disaster and Order limiting the number of persons from one family in an exempted business at one time until April 30, 2020, seconded by Commissioner Pecos and Commissioner Lopez.

Mayor Fugate commented that this order came about from a request made by the managers of H.E.B. and Walmart. He stated that is a good idea to have this order in place to assist the big box stores.

Commissioner Leubert commented that Lowe's had markings that were 6ft apart to assist their customers as to where they needed to stand between other customers.

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

4. **Consider an alcohol variance for a Wine and Beer Retailer's Off-Premise License (BQ) for the establishment known as Vasquez Food Mart located at 1230 E. Santa Gertrudis, Kingsville, Texas (due to a change in ownership of the convenience store). (Director of Planning and Development Services).**

Motion made by Commissioner Pecos to approve the alcohol variance for a Wine and Beer Retailer's Off-Premise License (BQ) for the establishment known as Vasquez Food Mart located at 1230 E. Santa Gertrudis, Kingsville, Texas (due to a change in ownership of the convenience store), seconded by Commissioner Lopez.

Commissioner Lopez asked if staff received any calls from those citizens that received a letter opposing this variance.

Mrs. Alvarez commented that according to the memo from the Planning Department, there was no citizen feedback received.

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

5. **Consider the temporary cessation of contributions to the Façade Grant Program and the John E. Conner Museum until the financial impact to the HOT Fund from cancellation of tourism events and hotel bookings due to COVID-19 is better known to ensure contractual and legal compliance. (Tourism Director).**

Mayor Fugate commented that this is something that needs to be done.

Motion made by Commissioner Pecos to temporarily cessation of contributions to the Façade Grant Program and the John E. Conner Museum until the financial impact to the HOT Fund from cancellation of tourism events and hotel bookings due to COVID-19 is better known to ensure contractual and legal compliance, seconded by Commissioner Lopez and Commissioner Leubert. Motion was passed and approved by the following vote: Hinojosa, Leubert, Pecos, Lopez, Fugate voting "FOR".

6. **Consider authorizing staff to move forward with a temporary hotel occupancy tax payment deferral plan, as outlined in the memo, due to the COVID-19 pandemic. (Tourism Director).**

Motion made by Commissioner Leubert to authorize staff to move forward with a temporary hotel occupancy tax payment deferral plan, as outlined in the memo, due to the COVID-19 pandemic seconded by Commissioner Pecos.

Commissioner Hinojosa asked that what the city is allowing them to do, there is no penalties. We are allowing them to have a 25% and 90 days, but there is no penalty if this agreement is not met? He stated that this is money that is collected, and it should be placed in a separate bank account, so that taxes can be paid and not used for operations.

Ms. Janine Reyes, Tourism Director stated that the plan was to waive the late fee so long as they complete their payment within 90 days, and that's if qualify. She further commented that this is all new and there is a lot of other cities that are trying to do this for their hotels as well, for the very real fear of those hotels closing permanently if there is not some kind of assistance provided. Reyes stated that this program is being created based on what the State is doing for taxpayers in this situation. She further commented that the Texas Hotel Lodging Association had put out some information on Friday saying that 8 of 10 hotel rooms are empty right now which means there is no money coming in. With them having mortgage, utilities, cable and staff to pay, we were trying to find a way to assist them through this time. Mrs. Reyes stated that for the month of February, all but two of the properties have paid. One property did indicate to her that he always pays at the Municipal Building but due to it being closed to the public he was unable to pay. The other property did tell her that he had held the funds not knowing the future, he would be able to keep the doors open and keep his staff paid. Ms. Reyes stated that this plan asks for them to pay 25% down and still report their HOT Taxes then the remaining 75% would be on a recurring payment plan. She also stated that right now 25% of almost nothing is still almost nothing. She stated that what she is getting from them as far as occupancy, we are not floating a lot of money, cause we're not giving a lot of money.

Commissioner Hinojosa asked for clarification, that on the information that was given to them for February, they already paid February.

Ms. Reyes responded that all but two have paid. She further commented that all hotel occupancy taxes are due the 20th day of the following month, so there is a lag on those coming in.

Commissioner Hinojosa asked if they had paid February.

Ms. Reyes responded all but two properties have paid. She further stated that this plan requires them come clear with February before working out a plan for the month of March. She is not recommending waiving this one, however there are late fees that will be due for February and stated that the Finance Department has done some research on the two properties that haven't paid and show that the two properties have never been delinquent and this is clearly a result of this situation we are in at this time. She recommends to the Commission to waive the late fees and get them in compliant.

Commissioner Leubert commented that this is only a deferral and not waiving fees in order to assist them in this situation as well.

Ms. Reyes commented that this is correct, but the only thing that would be waived are the late fees, but that would only be if they come current within 90 days.

Mr. McLaughlin commented that if this is approved, they must request this. They must pay on time unless they come and speak with staff about it.

Motion was passed and approved by the following vote: Leubert, Pecos, Lopez, Hinojosa, Fugate voting "FOR".

7. **Consider a resolution finding AEP Texas Inc.'s application to Amend its distribution cost recovery factors to increase distribution rates within the City should be denied; authorizing participation with the cities served by AEP Texas; authorizing hiring of legal counsel; finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel. (City Attorney).**

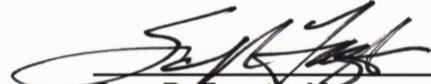
Mrs. Alvarez commented that last year AEP filed for a full-blown rate case because the PUC was requiring them to so. She stated that we joined the coalition with other cities and paused the institution of the rate that they were wanting to do in order to have the proposal be examined by consultants with no cost to any of its cities that participated. That matter was resolved through a settlement between the parties and the PUC approved that the last week in February. The rate increases due to the settlement are lower than what they were initially requested in the filing because the cities through their ability to have original jurisdiction were able to get it reviewed by consultants and negotiate a little bit for a fair rate for the consumers. She further stated that those new rates will be going into effect shortly, but she stated it will be smaller than what was originally proposed. She also commented that this is a similar sort of thing and it will also cost each utility customers electric bill to go up a little, but it called a different thing.

It is not a full-blown rate case, this one is called a distribution recovery factor to increase filing, to increase the distribution rates. She stated that there is another type of filing that they can do that if the utilities effectively lobby the legislature to remove a cities original jurisdiction from contesting. She stated that this is not one of those, the cities still have it original jurisdiction to put pause on the rate increase until we can have consultants to review it and see the necessity. She further commented that aside from the rate increase, the consumer will be seeing shortly because of the rate change that they requested last year, this would be a secondary rate increase. She further stated that it would be recommended to put on a pause on this until consultants are able to review.

Motion made by Commissioner Pecos to approve resolution finding AEP Texas Inc.'s application to Amend its distribution cost recovery factors to increase distribution rates within the City should be denied; authorizing participation with the cities served by AEP Texas; authorizing hiring of legal counsel; finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Pecos, Lopez, Hinojosa, Leubert, Fugate voting "FOR".

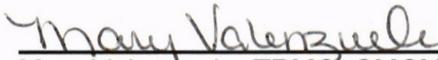
VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 5:26 P.M.



 Sam R. Fugate, Mayor

ATTEST:



 Mary Valenzuela, TRMC, CMCM, City Secretary