

City of Kingsville, Texas

AGENDA CITY COMMISSION

**MONDAY, DECEMBER 15, 2014
SPECIAL MEETING**

**HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS
CITY HALL/200 EAST KLEBERG AVENUE
4:00 P.M**

I. Preliminary Proceedings.

OPEN MEETING

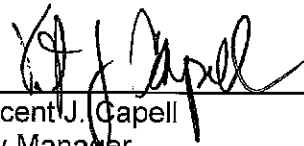
INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

MINUTES OF PREVIOUS MEETING(S) – Required by Law
Regular Meeting – December 8, 2014

Public Hearing - (Required by Law).¹

1. NONE.

APPROVED BY:



Vincent J. Capell
City Manager

II. Reports from Commission & Staff.² (City Manager's Staff Report Attached).

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal 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. No formal action can be taken on these items at this time."

III. Public Comment on Agenda Items.³

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

IV.

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being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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)

1. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 15-1-172, providing for collection of attorney's fees and court costs with lien foreclosure suits. (City Attorney).
2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 9-7-5, providing for collection of attorney's fees and court costs with lien foreclosure suits. (City Attorney).
3. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 3-10-37, providing for collection of attorney's fees and court costs with lien foreclosure suits and updating who receives payments. (City Attorney).
4. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by adopting Section 3-10-60, providing for collection fees on delinquent debts to City, including attorney's fees and court costs. (City Attorney).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. Consider a resolution authorizing the Mayor to execute a Consent to Sublease Agreement between the City of Kingsville, Texas, the Kleberg County Heritage Foundation, and Union Pacific Railroad Company for the land at the Kingsville railroad passenger depot. (City Attorney).
6. Consider participation with the 2015 Kleberg-Kenedy County Junior Livestock Show series of events at the J.K. Northway Expo Center. (Parks and Recreation Manager).
7. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 15-6-130, providing for revisions to the electronic variable messaging sign ordinance. (Director of Planning and Development Services).
8. Consider approval of new City seal/logo. (Director of Tourism).
9. Workshop to discuss streets and street funding sources. (City Engineer/Public Works Director).

VII. Adjournment.

1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.

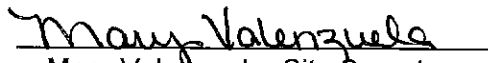
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizens comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

NOTICE

This City of Kingsville and Commission Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail mvalenzuela@cityofkingsville.com for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board in the City Hall, 200 East Kleberg, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

December 12, 2014 at 10:00 A.M. and remained so posted continuously for at least 72 hours proceeding the schedule time of said meeting.


Mary Valenzuela, City Secretary
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: _____

By: _____
City Secretary's Office
City of Kingsville, Texas

MINUTES OF PREVIOUS MEETING(S)

DECEMBER 8, 2014

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, DECEMBER 8, 2014 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.

CITY COMMISSION PRESENT:

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

CITY STAFF PRESENT:

Vince Capell, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Deborah Balli, Finance Director
Tom Ginter, Director of Planning & Development Services
Leo Alarcon, Tourism Director
Emilio Garcia, Health Director
Susan Ivy, Parks & Recreation Manager
Charlie Cardenas, Public Works Director/City Engineer
Ricardo Torres, Chief of Police
Bill Donnell, Assistant Public Works Director
Willie Vera, Task Force Commander
Cynthia Martin, Downtown Manager
Rose Morrow, Municipal Court Manager

I. Preliminary Proceedings.

OPEN MEETING

Mayor Fugate called the meeting to order in the Robert H. Alcorn Commission Chamber at 6:00 p.m. and announced quorum with all five Commission members present.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

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

MINUTES OF PREVIOUS MEETING(S) – Required by Law

Special Meeting – December 1, 2014

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

Public Hearing - (Required by Law).¹

1. NONE.

II. Reports from Commission & Staff.² (City Manager’s Staff Report Attached).

“At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of

Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal 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. No formal action can be taken on these items at this time.”

Mr. Vince Capell, City Manager, thanked the City Commission for attending the Employee Recognition & Safety Banquet on December 5th. He further thanked all those who participated in making this banquet a big success. Capell further congratulated those individuals and departments who received awards during the banquet.

Mrs. Courtney Alvarez, City Attorney, reported that the next regular Commission meeting is scheduled for Monday, January 12, 2015. Agenda items for this meeting are due Friday, January 2, 2015.

A brief discussion took place regarding vacation and sick leave accruals for employees in the Parks and Golf Course Department.

Commissioner Leubert commented that the La Posada parade was well attended and thanked all those involved for putting this parade together. Commissioner Leubert further commented that she is concerned with approving agenda item #7 during tonight's meeting . She further stated that request were made by the Commission at a previous meeting that have not been met. She would like to hold off on taking action on this item at this time.

Commissioner Pena thanked the citizens for attending the La Posada parade.

III. Public Comment on Agenda Items.³

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

IV.

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: Leubert, Pecos, Pena, Garcia, Fugate voting "FOR".

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2014-2015 General Fund Budget for membership into the Texas Mayors of Military Communities. (Director of Finance).
2. Motion to approve final passage of an ordinance amending the Fiscal Year 2014-2015 Municipal Court Technology Fund Budget for technology purchases in FY 14-15. (Director of Finance).
3. Motion to approve a resolution authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Kingsville Amateur Boxing Club, Inc. for a drug and alcohol prevention program. (Chief of Police).
4. Motion to approve a resolution authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Communities in Schools for a drug and alcohol prevention program. (Chief of Police).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. Consider a resolution authorizing the City Manager to enter into a Golf Course Effluent Water Agreement between the City of Kingsville and Kleberg County. (City Attorney).

Mrs. Alvarez reported that the City of Kingsville and Kleberg County previously entered into a Golf Course Effluent Water Agreement with the prior golf course managers. Since a change in golf course managers has occurred a necessitation of a new agreement is required. Mrs. Alvarez further commented that she attended the Kleberg County Commissioners meeting today where they have approved this agreement unanimously.

Motion made by Commissioner Pena to authorize the City Manager to enter into a Golf Course Effluent Water Agreement between the City of Kingsville and Kleberg County, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert, Fugate voting "FOR".

6. Consider a resolution authorizing the Mayor to enter into an Interlocal Cooperation Agreement between the City of Kingsville- Kingsville Specialized Crimes and Narcotics Task Force and the Cameron County Sheriff's Office for Law Enforcement Services. (Task Force Commander).

Mr. Willie Vera, Task Force Commander, reported that this is a request from the Cameron County Sheriff's Office to enter into an Interlocal Cooperation Agreement for the purpose of sharing intelligence and asset sharing. This will enable both agencies to form a mutual interlocal agency agreement to assist in criminal and narcotic investigations and law enforcement. This agreement will also enhance the opportunity for both entities to increase the forfeiture of contraband traveling through both jurisdictions. Vera stated that asset sharing is another critical avenue for the Kingsville Task Force to continue fulfilling their mission and future financial sustainability.

Commissioner Garcia asked at what percentage is the sharing. Commander Vera responded that it will be shared equally.

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

7. Consider approval of new City seal/logo. (Director of Tourism).

Mr. Leo Alarcon, Tourism Director, reported that when he was asked to incorporate the proposed new city hall into the new city logo, he thought about implementing the dome tower into the logo. He further reported that he made the changes that were requested by the City Commission at a previous meeting, but didn't think the changes fit nicely. Mr. Alarcon further discussed handouts that were passed out to the City Commission during this meeting.

Commissioner Leubert commented that she would still like to see a sample of the logo with a prickly pear cactus which has not been provided to the City Commission. Leubert feels that she is not ready to take action on this item today. Leubert further requested to see a sample picture of the city logo with prickly pear cactus on of the logo.

Mayor Fugate stated that it would best if this item was to be placed on the agenda for final approval on Monday, December 15, 2014. This would allow time for staff to make the requested changes and provide the Commission with copies for their review.

No action taken.

8. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 15-1-172, providing for collection of attorney's fees and court costs with lien foreclosure suits. (City Attorney).

Mrs. Alvarez reported that agenda items 8 through 11 have the same language included. The language added reads "Should the City file suit to foreclosure on any liens to recover unpaid expenditures, fees, interest, and expenses it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court cost and fees allowable under the law".

Introduction item.

9. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 9-7-5, providing for collection of attorney's fees and court costs with lien foreclosure suits. (City Attorney).

Introduction item.

10. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 3-10-37, providing for collection of attorney's fees and court costs with lien foreclosure suits and updating who receives payments. (City Attorney).

Mrs. Alvarez reported that this was a pre-62 reference where the City Secretary receives payments. Staff recommends that be changed to Director of Finance.

Introduction item.

11. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances by adopting Section 3-10-60, providing for collection fees on delinquent debts to City, including attorney's fees and court costs. (City Attorney).

Introduction item.

Mayor Fugate further commented that if any of the City Commissioners have any questions with regards to the ordinances being introduced at tonight's meeting, they should direct them to city staff.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:45 P.M.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, TRMC, City Secretary

PUBLIC HEARING(S)

CONSENT AGENDA

AGENDA ITEM #1

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTION 15-1-172, PROVIDING FOR COLLECTION OF ATTORNEY'S FEES AND COURT COSTS WITH LIEN FORECLOSURE SUITS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City is updating the language on lien foreclosure collections and desires to clarify the fees and costs to be covered should a foreclosure proceeding or lawsuit occur, to make it more consistent with other sections of the code; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 15-1-172 of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

§ 15-1-172. COLLECTION OF COST TO ABATE NUISANCE; LIEN.

Cost incurred by the city in abating public nuisances under the procedures as set forth in this subarticle may be collected in the following manner:

(A) The City Commission shall authorize the City Manager to file a statement of expenses incurred to abate the nuisance, giving the amount of such expenses, the date on which such work was done, and a description of the premises upon which such work was done with the County Clerk. The city shall have privilege lien on such lot or real estate upon which such work was done to secure the expenditures so made in accordance with the laws of the State of Texas which lien shall be second only to tax liens for street improvements, and such amount shall bear interest at the rate of 10% per annum from the date the statement was filed. For any such expenditures and interest as aforesaid, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city and the statement of expenses so made as aforesaid or a certified copy thereof shall be prima facie proof to the amount expended for such work or improvements. Should the City file suit to foreclose on

any liens to recover unpaid expenditures, fees, interest and expenses, it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.

(B) The owner of the building or structure may pay to the city the cost incurred for such work or improvements in cash, or upon such terms as may be agreeable to the city, and may waive all notices required herein.

(1962 Code, § 4-6-9)

...

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 8th day of December, 2014.

PASSED AND APPROVED on this the 15th day of December, 2014.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #2

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTION 9-7-5, PROVIDING FOR COLLECTION OF ATTORNEY'S FEES AND COURT COSTS WITH LIEN FORECLOSURE SUITS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City is updating the language on lien foreclosure collections and desires to clarify the fees and costs to be covered should a foreclosure proceeding or lawsuit occur, to make it more consistent with other sections of the code; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 9-7-5 of Article 7: Nuisances of Chapter IX, General Regulations, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

§ 9-7-5 CORRECTION BY CITY; LIEN.

(A) That the provisions of this section shall be cumulative of any criminal penalties or civil remedies provided for herein.

(B) Upon a determination that noxious matter exists upon a premises, the owner of the premises shall be given notice to abate such noxious matter within seven days after the receipt of such notice. Should the owner of the premises fail to comply with such notice of abatement within seven days, the city may:

- (1) Do the work or make the improvements required; and
- (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.

(C) The city in the notice of violation may inform the owner:

- (1) By mail and a posting on the property; or
- (2) By personally delivering the notice that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owners expense and assess the expense against the premises.

(D) After the work has been completed and paid for by the city, a statement of expenses incurred by the city to abate such conditions and administrative fees as prescribed by separate ordinance shall be mailed to the owner of the property. The owner of the property shall pay for work and administrative fees within 30 days of the date of mailing thereof.

(E) In the event that the amount shown on the said statement for the work and administrative fees has not been paid within 30 days of mailing, the city shall assess expenses incurred under this section as follows:

(1) The Mayor or City Manager shall file a statement of such expenses and administrative fees incurred, giving the amount of such expenses, date on which the work was done or improvements made, state the name of the owner (if known) and the legal description of the property. The statement shall be filed with the County Clerk, and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of Tex. Health & Safety Code § 342.006 et seq. This lien shall be second only to tax liens and liens for street improvements; and the amount shall bear 10% interest per annum on the amount due from the date of payment by the city.

(2) It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city, and the statement of expenses and administrative fees so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. Should the City file suit to foreclose on any liens to recover unpaid expenditures, fees, interest, and expenses, it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.

(F) The remedy provided by the assessment and foreclosure of lien is in addition to any criminal penalties or other civil remedies provided for herein.

(G) The city may foreclose a lien on property established herein in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, as amended or hereinafter amended.

...

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 8th day of December, 2014.

PASSED AND APPROVED on this the 15th day of December, 2014.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #3

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTION 3-10-37, PROVIDING FOR COLLECTION OF ATTORNEY'S FEES AND COURT COSTS WITH LIEN FORECLOSURE SUITS AND UPDATING WHO RECEIVES PAYMENTS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City is updating the language on lien foreclosure collections and desires to clarify the fees and costs to be covered should a foreclosure proceeding or lawsuit occur, to make it more consistent with other sections of the code; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 3-10-37 of Article 10: Revenue and Finance of Chapter III, Administration, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

§ 3-10-37 PAYMENTS TO FINANCE DIRECTOR SECRETARY; RECEIPT; COLLECTION OF LIEN.

(A) The ordinance making such assessment shall provide that all installments of principal and interest thereof shall be payable at the office of the Finance Director Secretary and the Finance Director or their designee Secretary is hereby authorized and directed to receive such payments when so tendered to him in the full amount due and payable to the date of such payment, and shall upon any such payment being made issue to the person paying same his official written receipt for the amount received which shall be evidence of such payment or any demand for the same.

(B) The Finance Director or their designee Secretary shall prepare each such receipt in duplicate, preserving a stub, such receipts and stub to show, among other things, the date of the payment, the name of the person making such payment, the description of the property against which the assessment was made, the nature of the improvement for which it was made, the name of the original payee or contractor, the date of the assessment certificate and its number, if any, and the Finance Director or their designee Secretary shall preserve as a permanent record in his office the stub of each receipt issued by

him or under his authority. The Finance Director or their designee Secretary shall immediately or at regular intervals as prescribed for other collections, deposit with the Treasurer all sums paid in on such assessments since the last previous deposit, accompanied by one copy of the duplicate receipts as issued for each payment so deposited. Thereafter upon the presentation to the Treasurer of any coupon of any such assessment certificate duly issued by the city representing any installment of principal and interest, and upon the surrender to the Treasurer of such coupon, with a receipt for the payment to be made properly endorsed thereon and signed by the person presenting same or in cases of the maturity of the fifth installment upon the presentation and surrender of the assessment certificate, receipt and release as hereinafter provided, the Treasurer shall pay over to the bearer of each such coupon or certificate the amount so paid into the Treasury, on account of such installment of principal and interest represented by such coupon or certificate. The coupons being intended for surrender and delivery to the property owner or person paying the amounts due thereon to the Finance Director or their designee Secretary, the bearer, person or bank presenting such coupon or certificate for payment shall also execute to the Treasurer a separate receipt to be preserved in the files of the city evidencing the payment of same by the city and describing each coupon or certificate so presented and paid and stating the name and address of the person, or bank transmitting same for collection. Such separate receipts so to be taken by the Treasurer may be endorsed or stamped or signed on the back of the respective duplicate receipts prepared for the Treasurer by the Finance Director or their designee Secretary as hereinbefore required, and all such receipts shall be carefully preserved by the Treasurer.

(C) Upon the full and final payment of all sums due by the terms of any such certificate the original payee or holder of such certificate shall thereupon immediately surrender to the owner of the premises described herein, or to the Treasurer for them, such assessment certificate together with all coupons not theretofore paid and surrendered, and also a good and sufficient quittance and release in writing, duly acknowledged, evidencing the satisfaction of such indebtedness and the full release of the lien securing same; and such written release and surrender of the assessment certificate by the holder thereof shall in all cases operate to release also the lien securing any voluntary contract taken for the same improvement in connection with such assessment certificate.

(D) In case of default in the payment of any installment of principal or interest due on any certificate, and upon the maturity thereof as evidenced by its terms or by the written declaration of the holder thereof, it is hereby also made the duty of the Finance Director or their designee Secretary, on the written demand of the holder of such certificate, to advertise and sell the premises and property subject to the lien securing such certificate for the purpose of realizing any sum remaining unpaid thereon, together with interest and costs, the sale

and the conveyance of the property thereupon to be made in the manner provided by law for the sale of property for ad valorem taxes; or in case of such default and on the written demand of the holder of any such certificate, the city shall exercise its charter powers and the powers conferred by such Street Improvement Law, and shall institute and prosecute a proper suit to foreclose or enforce such lien and to collect such assessment certificate, together with all interest and costs in the name of the city but for the benefit of the holder thereof; provided, that each such holder shall in advance deliver such assessment certificate and other necessary evidence to the Finance Director or their designee Secretary and to the satisfaction of the Commission provided for and indemnify the city against any claims for damages and all costs or expenses which might be incurred in any such proceedings or suit, and provided further, that neither the city nor any official of the city shall be or become obligated or liable for any error or omission in the matter or computing the amounts payable upon such certificates or in the matter of identifying the holders of such certificates; and should the city or any official thereof, for any reason whatever fail to enforce, or not proceed with effect in the enforcement of any such certificate or claim, the city shall not thereby incur any financial loss or liability, nor shall any official of the city thereby in any manner incur any personal liability; and provided further, that nothing herein contained shall be deemed to deprive the holder of any such certificate of his personal right to use any lawful means of collecting such certificate, including the right at his own cost and expense to bring and conduct suit thereon in his own name in any court of competent jurisdiction. Should the City file suit to foreclose on any liens to recover unpaid assessments, expenditures, fees, interest, and expenses, it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.

(1962 Code, § 9-7-19)

...

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph,

subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 8th day of December, 2014.

PASSED AND APPROVED on this the 15th day of December, 2014.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #4

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY ADOPTING SECTION 3-10-60, PROVIDING FOR COLLECTION FEE ON DELINQUENT DEBTS TO CITY, INCLUDING ATTORNEY'S FEES AND COURT COSTS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City is updating the language on lien foreclosure collections and desires to clarify the fees and costs to be covered should a foreclosure proceeding or lawsuit occur, to make it more consistent with other sections of the code; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 3-10-60 of Article 10: Revenue and Finance of Chapter III, Administration, of the Code of Ordinances of the City of Kingsville, Texas, shall be adopted to read as follows:

...

§ 3-10-60 COLLECTION FEE.

Should the City file suit to collect on any past due debts or to foreclose on any liens to recover unpaid assessments, expenditures, fees, interest, and expenses, it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.

...

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it

is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 8th day of December, 2014.

PASSED AND APPROVED on this the 15th day of December, 2014.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

REGULAR AGENDA

AGENDA ITEM #5

RESOLUTION # 2014-_____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONSENT TO SUBLEASE AGREEMENT BETWEEN THE CITY OF KINGSVILLE, TEXAS, THE KLEBERG COUNTY HERITAGE FOUNDATION, AND UNION PACIFIC RAILROAD COMPANY FOR THE LAND AT THE KINGSVILLE RAILROAD PASSENGER DEPOT; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Kingsville previously worked with the Kleberg County Heritage Foundation ("Heritage Foundation") for the restoration of the Railroad Depot and has had a lease agreement with the Heritage Foundation for use of the Railroad Depot as a visitors center and museum for years;

WHEREAS, the prior ten-year lease agreement expired and a new lease agreement was approved by the City Commission via Resolution #2014-42 on July 28, 2014;

WHEREAS, the Union Pacific Railroad Company is now requesting a consent to sublease agreement be executed between the City of Kingsville, the Kleberg County Heritage Foundation ("Heritage Foundation"), and Union Pacific Railroad Company for the land at the Railroad Depot, which previously existed between the parties and is in need of renewal;

WHEREAS, it is mutually agreeable and beneficial for the parties to this agreement to enter into same;

BE IT RESOLVED by the City Commission of the City of Kingsville, Texas:

I.

THAT the Mayor is authorized and directed as an act of the City of Kingsville, Texas to enter into a Consent to Sublease Agreement between the City of Kingsville, Texas, the Kleberg County Heritage Foundation, and Union Pacific Railroad Company for the land at the Kingsville Railroad Passenger Depot in accordance with Exhibit A hereto attached and made a part hereof.

II.

THAT all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

THAT this Resolution shall be and become effective on and after adoption.

PASSED AND APPROVED by a majority vote of the City Commission on the
____ 15th day of December, 2014.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

Audit: 155388
Folder: 1143-08

CONSENT TO SUBLEASE

THIS AGREEMENT is made and entered into as of the _____ day of _____, 2013, by and between **UNION PACIFIC RAILROAD COMPANY** (hereinafter the "Lessor") and **KLEBERG COUNTY HERITAGE FOUNDATION**, a non-profit organization, to be addressed at P.O. Box 5311, Kingsville, Texas 78364 (hereinafter the "Lessee") and **CITY OF KINGSVILLE**, a municipal corporation, to be addressed at P.O. Box 1458, Kingsville, TX 78364-1458 (hereinafter the "Sublessee").

RECITALS:

July 25, 2013
By lease dated ~~September 2, 2003~~, identified in the records of the Lessor as Agreement Audit No. 155388 (hereinafter the "Basic Lease"), the Lessor is leasing to the Lessee certain premises of the Lessor at Kingsville, Texas, as shown on a plat attached to the Basic Lease being used by the Lessee for the purposes described in the Basic Lease.

The Lessee desires to sublease to the Sublessee all or a portion of the premises covered by the Basic Lease, and the Lessee and the Sublessee desire the Lessor's consent to such subleasing. The Lessor is willing to give such consent on the following terms and conditions.

AGREEMENT:

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

Article 1. TERM, PURPOSE, OBLIGATIONS OF LESSEE AND SUBLESSEE.

In consideration of the covenants and agreements herein contained and subject to the terms and conditions hereinafter set out, the Lessor hereby consents to the leasing by the Lessee to the Sublessee of all or any portion of the premises of the Lessor covered by the Basic Lease for all or any part of the period commencing August 1, 2013, and extending for a term concurrent with the term of the Basic Lease to be used by the Sublessee for a downtown visitors welcome center, this consent being made subject to the following terms and conditions:

A. All of the covenants, terms and conditions of the Basic Lease shall continue, be and remain in full force and effect, and the Sublessee, with respect thereto, covenants and agrees with the Lessee and the Lessor jointly and severally to keep and perform the obligations of the Basic Lease on the part of the Lessee to be kept and performed and to be bound in the same manner as the Lessee by the provisions contained in the Basic Lease, but nothing herein contained shall be deemed to release the Lessee from keeping and performing all the terms, covenants, and conditions by the Lessee to be kept and performed under the Basic Lease or to release the Lessee from any of the Lessee's liabilities or obligations thereunder.

Article 2. INSURANCE.

A. Throughout the entire term of this Lease, Lessee shall maintain the insurance coverage required under **Exhibit C** hereto attached and made a part hereof.

B. Not more frequently than once every two years, Lessor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

C. Upon request of Lessor, Lessee shall provide to Lessor a certificate issued by its insurance carrier evidencing the insurance coverage required under **Exhibit C**.

D. All insurance correspondence shall be directed to: Real Estate Department, 1400 Douglas Street STOP 1690, Omaha, Nebraska 68179-1690, Folder No. 1143-08.

Article 3. NO FURTHER SUBLETTING OR ASSIGNMENT.

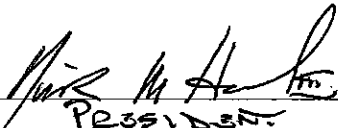
The parties hereto agree that nothing herein contained shall be deemed or construed to authorize the Lessee or the Sublessee further to let or sublet the leased premises, or further to transfer or assign any interest in the Basic Lease or sublease without the written consent of the Lessor first had and obtained.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in triplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____
Senior Manager – Real Estate

KLEBERG COUNTY HERITAGE FOUNDATION

By: 
Title: PRESIDENT

CITY OF KINGSVILLE

By: _____
Title: _____

EXHIBIT C
Union Pacific Railroad
Contract Insurance Requirements

Lease of Land

Lessee shall, at its sole cost and expense, procure and maintain during the life of this Lease (except as otherwise provided in this Lease) the following insurance coverage:

A. Commercial General Liability insurance. Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage). The policy must also contain the following endorsement, which must be stated on the certificate of insurance: Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Premises" as the Designated Job Site.

B. Business Automobile Coverage insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Premises" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

C. Workers Compensation and Employers Liability insurance. Coverage must include but not be limited to:

Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.

Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Lessee is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

In any and all Claims against Lessor by any employee of Lessee, Lessee's indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under any workers compensation acts, disability benefits acts or other employee benefits acts.

D. Pollution Liability insurance. If permitted use as defined in this Lease includes any generation, handling, enrichment, storage, manufacture, or production of hazardous materials pollution liability insurance is required. Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 04 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If hazardous materials are disposed of from the Premises, Lessee must furnish to Lessor evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the

insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

E. Umbrella or Excess insurance. If Lessee utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

F. All policy(ies) required above must include Lessor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 11 (or a substitute form providing equivalent coverage). The coverage provided to Lessor as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 11, provide coverage for Lessor's negligence whether sole or partial, active or passive, and shall not be limited by Lessee's liability under the indemnity provisions of this Lease.

G. Lessee waives all rights against Lessor and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers' liability or commercial umbrella or excess liability insurance obtained by Lessee required by this agreement.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Lease, or (b) all punitive damages are prohibited by all states in which the Premises are located.

I. All insurance policies must be written by a reputable insurance company acceptable to Lessor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the Premises are located.

J. The fact that insurance is obtained by Lessee, or by Lessor on behalf of Lessee, will not be deemed to release or diminish the liability of Lessee, including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by Lessor from Lessee or any third party will not be limited by the amount of the required insurance coverage.

AGENDA ITEM #6

Parks & Recreation

Inter-office Memo



To: Vince Capell, City Manager,

CC: Courtney Alvarez, City Attorney

From: Susan Ivy, Parks Manager

Date: 12/3/2014

Re: Kleberg Kenedy County Junior Livestock Show

Historically, the Parks & Recreation Department, as a Kleberg County Department was responsible for hosting the Kleberg Kenedy County Junior Livestock Show events at J.K. Northway Expo Center. Originally the show was a week long with animals moving in on Tuesday and the show running Wednesday through Saturday. The Show is designed to teach kids the process and responsibility of raising animals and agriculture and homemaking related projects. It is also designed to establish scholarships by raising funds through the sale of the Show animals, Ag and homemaking projects and additional events that have been added to the Show Schedule. This show, as well as many other County Shows throughout the State have grown into very popular events with additional activities scheduled to increase the scholarship fundraising efforts of the Show. I have attached a copy of the Schedule for the 2015 KKJLS Show.

The "Show" was coordinated through the Kleberg Kenedy County Extension office for many years and during that period of time a fee of \$1200 was paid to Kleberg County for the use of the building to assist with expenses. When the Kleberg Kenedy County Junior Livestock Show Association was established an agreement with the County was made to waive the fees for the use of the building for the Show. At that time the Parks Employees were doing all set up and all tear down and cleanup. A few years later it was agreed that the "Association" would do all set up and tear down and that Parks would assist with equipment and operator when possible and cleanup. The Association would also provide assistance with Capital Improvements at the JK Northway that were prioritized by Kleberg County.

After the Parks transitioned from a County to City Department in October, 2014 I contacted the City Manager to inform him that the Association was in the process of planning the 2015 Show and that if any changes to the contract were to be addressed we needed to address it at that time. After discussion with Mr. Capell we agreed that due to the short amount of time left before the 2015 Show it would be best to honor the agreement that Kleberg County had with the Show and to address any changes to the agreement for future shows after the 2015 Show is over.

As employee overtime was considered comp time with the County and it is paid overtime with the City we will have additional cash expense this year. I am meeting with the Livestock Show Board, Kleberg County Dept heads and possibly Kenedy County reps to coordinate some assistance if possible to minimize the amount of overtime that will be required by Parks Staff.

I would ask that the City Commission authorize the agreement between the City of Kingsville and the Kleberg Kenedy County Junior Livestock Show Association for the 2015 Show Series of events. I would also recommend that City Officials and Department heads spend time at this year's show to familiarize themselves with the extensive efforts by all to accomplish this series of events. We will be revisiting the agreement after this year to determine what, if any changes are necessary.

KLEBERG-KENEDY COUNTY JUNIOR LIVESTOCK SHOW ASSOCIATION, INC.

2015 SCHEDULE OF EVENTS (TENTATIVE)

SATURDAY, JANUARY 10, 2015

9:00 a.m. Check-in and Registration for Horse Show
 10:00 a.m. Horse Show, J. K. Northway Coliseum / Indoor Arena

SUNDAY, JANUARY 11, 2015

11:00 a.m. Cowboy Church
 2:00 p.m. Parade, Kleberg Park
 following parade Kids Ranch Rodeo, J. K. Northway Coliseum / Indoor Arena

FRIDAY, JANUARY 16, 2015

6:00 p.m. Doors open to Public
 8:00 p.m. Artist to be announced / Concert, J. K. Northway Coliseum

FRIDAY, JANUARY 23, 2015

5:00 p.m. Check-In for Cook Off Entries, J. K. Northway Coliseum / Outdoor Area
 8:00 p.m. Judging of Jack Pot Cook Off entries

SATURDAY, JANUARY 24, 2015

8:00 a.m. Cook's Meeting, J. K. Northway Coliseum
 9:30 a.m. Check-In of Pee Wee Pigs
 10:00 a.m. Pee Wee Pig Show
 11:30-4:00 p.m. Cook Off Judging / Cook Off Awards Presentation following completion of judging
 12:00 noon Carnival Open to the Public
 12:00 noon Check-In of Pee Wee Rabbits
 12:30 p.m. Pee Wee Rabbit Show
 1:00 - 4:00 p.m. Check-in of Gilt Show Pigs
 2:00 p.m. Check-In of Pee Wee Goats
 2:30 p.m. Pee Wee Goat Show
 7:00 p.m. Queen's Contest, Jones Auditorium, Texas A&M University-Kingsville

MONDAY, JANUARY 26, 2015

6:00-8:00 p.m. Youth and Adult Homemaking Entries Check-In

TUESDAY, JANUARY 27, 2015

9:00 a.m. Judging of Youth Homemaking Division
 9:00 a.m. Judging of Adult Homemaking Division
 5:00-7:00 p.m. Farm Shop Exhibits Check-In
 7:00 p.m. Carnival Open to the Public

WEDNESDAY, JANUARY 28, 2015

8:00 a.m. Commercial Exhibits and Concession Start Setting Up
 10:00 a.m. Barn opens for Swine arrival
 3:00-6:00 p.m. Weighing In and Sifting of all Cattle, Swine, Lambs, Goats, Poultry, Stock Horses, and Rabbits
 5:00-9:00 p.m. Commercial Exhibits open to Public
 6:00 p.m. Adult Homemaking Exhibits Open to Public with Awards Displayed
 6:00 p.m. Youth Homemaking Exhibits Open to Public with Awards Displayed
 6:00 p.m. All Livestock, Poultry & Rabbit Exhibits must be in place
 7:00 p.m. Broiler Judging

THURSDAY, JANUARY 29, 2015

8:00 a.m. Judging of Farm Shop Exhibits
 9:00 a.m. Judging of Market Lambs followed by Lamb Showmanship
 10:00 a.m.-9:00 p.m. Commercial Exhibits open to public
 1:00 p.m. Judging of Market Goats followed by Goat Showmanship
 5:30 p.m. Judging of Breeding Rabbits and Market Rabbits followed by Rabbit Showmanship
 7:00 p.m. Silent Auction of Youth Homemaking Rosette Winners

FRIDAY, JANUARY 30, 2015

9:00 a.m. Judging of Stock Horse Futurity
 10:00 a.m.-9:00 p.m. Commercial Exhibits open to Public
 Noon Judging of Breeding Cattle and Market Steers followed by Beef Cattle Showmanship
 4:30 p.m. Judging of Market Swine followed by Swine Showmanship
 5:00 p.m. Youth and Adult Homemaking exhibit closes
 6:00-7:00 p.m. Youth and Adult Homemaking Entries must be picked up

SATURDAY, JANUARY 31, 2015

8:00-8:30 a.m. Registration for Livestock Judging Contest
 9:00 a.m. Livestock Judging Starts
 10:00 a.m.-9:00 p.m. Commercial Exhibits open to Public
 1:30 p.m. Presentation of Awards
 2:00 P.M. AUCTION SALE OF STOCK HORSE FUTURITY YEARLINGS, YOUTH HOMEMAKING, SWINE, BROILERS, RABBITS, GOATS, LAMBS, and STEERS

ALL EXHIBITS AND CARNIVAL OPEN TO PUBLIC ALL DAY

AGENDA ITEM #7

To: Vince Capell, City Manager

From: Tom Ginter, Director of Planning and Development Services



Date: December 11, 2014

Subject: Agenda Item – Amendment to Code of Ordinances by amending Section 15-6-130, Changing Electronic Variable Message Signs

Prior to my arrival Electronic Variable Message Signs were prohibited in the City of Kingsville. A number of variances for this type of sign have been submitted to the Zoning Board of Adjustment and approved by that body. Because of that and what probably would be an ongoing thing it was determined by the Planning and Zoning Board to consider an amendment to the ordinances to allow them with restrictions.

Staff along with Mike Kellum did the research and provided information to the Planning and Zoning Board on language concerning changing variable message signs. In the amendment, paragraph A states the purpose and intent of the change. It recognizes that this technology is preferred by many businesses but pose risks. A new paragraph C is introduced as Permitted Uses. This paragraph goes into more detail as to where they can be located and how they are to be operated after installation.

Attached are copies of the City of Amarillo's and the City of Rockport's ordinances pertaining to this subject. Both cities allow them; it is just a question of how much regulation you want to have over them. From the review of the examples, Amarillo goes into detail by using a number for the brightness while Rockport is very general just states that the intensity of the electric illumination shall be lessened. After some discussion the Board determined that they wanted to be specific with the brightness so the motion was made to recommend approval of the amendment as written. The board voted unanimously to recommend approval of the amendment to Section 15-6-130.

To: Planning and Zoning commission Members

From: Tom Ginter, Director of Planning and Development Services

4/2

Date: December 4, 2014

Subject: Agenda Information – Changeable Electronic Variable Message (CEVMS)

At the last meeting the Commission recommended that staff research what other cities are doing pertaining to this issue. Since then I have also had the opportunity to talk to Mark Kellum who started the research when Cynthia Martin was the Interim Director, I also have a call into the Macareno Sign Company but have not heard from him as to the writing of this memo. I will continue to research this topic to find out any more answers if necessary. The decision to amend the sign ordinance started when the variances were being requested by entities to have a CEVMS. Up to this point I believe they were not allowed. The important issues are the aesthetics to the environment and safety. The aesthetics would be from Las Vegas to very limited which obviously can be a wide range. The other is safety which is an important function to be concerned with. Those concerns are being addressed in Section C Permitted Uses. I have also attached parts of two city ordinances which allow CEVMS. One is from the City of Amarillo and the other is from the City of Rockport.

They both allow CEVMS in their communities. I have tried to point out that clearly the City of Amarillo has taken the stance that is closest to our suggested language which puts a specific limit on the brightness of the sign. The City of Rockport just states that the intensity of the electric illumination shall be lessened. There is no number attached to it. So it is fair to say that while they are allowable it depends upon the community how far you want to go in regulating the operation.

At this point staff recommendation would be to approve the amendment as recommended.

master plan.

C. Required submittals. In order to obtain a sign master plan, the owner(s) of the property located within the proposed sign master plan area must sign and submit an application to the City's Planning Department, on a form provided, which application must be accompanied by the following:

- 1) A site plan showing the proposed boundaries of the master sign plan area.
- 2) A site plan showing the location of all existing or proposed freestanding signs.
- 3) A table showing the type, square footage and heights of each sign indicated on the site plan.
- 4) All signs and sign structures, both existing and new, and parts thereof, within a Sign Master Plan shall be maintained in proper operating condition in accordance with the original design and in a safe, hazard-free condition. The owner or the owner's designated agent shall be responsible for the maintenance of the signs and sign structures.
- 5) The application fee established by the City for the processing of such applications.

D. When effective. A sign master plan shall not become effective until all owners of the property within the sign master plan have signed an agreement which indicate the property owners' agreement that:

- 1) The sign master plan can be amended only by the written consent of all parties or their successors, and the City.
- 2) The agreement is binding on all successors in interest to the property within the sign master plan area.
- 3) Each party waives any right to apply for or install any sign inconsistent with the provisions of the sign master plan, even though such sign might otherwise be allowed under this Chapter.

E. Single premises. Once approved by the City, the area described in the sign master plan will be deemed to be a single premises for the purpose of determining whether a

sign is an on-premises sign. A sign which advertises a use on a lot within the sign master plan area which is not a use which occurs on that lot shall be termed a sign master plan ("SMP") sign. The use advertised on an SMP sign shall be defined as an SMP use.

F. City review of signs. All freestanding signs included within a sign master plan area shall be individually subject to review and approval of placement, size and height, as approved by the City of Amarillo.

Sec. 4-2-9 Sign standards.

In addition to all permit requirements and other regulations contained in this Chapter, the following regulations shall be applicable to all permanent signs.

A. Illumination.

1) Light from any exterior source intended to illuminate a sign:

- ☒ a. Shall be shaded, shielded, or directed in such a way so that the light intensity or brightness shall not adversely affect the vision of pedestrian or vehicle operators on public or private streets, driveways, or parking areas, or operators of aircraft in the approach path to any airport runway;
- ☒ b. Shall not contain a light source which produces a pulsating strobe-like effect.

2) Illumination from any sign:

- ☒ a. Shall not interfere with the effectiveness of any official traffic sign, signal or device.
- ☒ b. Shall not contain a light source which produces a pulsating strobe-like effect.
- ☒ c. Shall not exceed 5,000 nits (candelas per square meter) during daylight hours or 500 nits between dusk and dawn, as measured from the closest property line.

3) Electronic message displays must have an electronic control to produce the required illumination change required in subparagraph 2.

- ☒ 4) No lighted sign shall be erected within 150 feet of a residential development unless the sign is oriented in such a manner as to not be directly viewable from the residential use.

B. Maintenance and removal.

1) The Building Official shall have the authority to inspect any outdoor sign as to determine its structural integrity.

2) All signs and sign structures, both existing and new, and parts thereof, must be maintained in a safe, readable, and proper operating condition. Signs, which are determined by the Building Official to be in a dilapidated or otherwise unsafe condition, shall not be allowed to remain on any premises.

3) For any sign so designated as dilapidated or otherwise unsafe, written notice shall be given to remove the sign or bring the sign into compliance with this ordinance subject to procedures outlined in Chapter 4-3, Article I, Section 4-3-3.

4) Any sign which is determined by the Building Official to be abandoned, after receiving written notification as described in subparagraph 3 above, the property owner, lessee, or person responsible for the sign shall have 60 working days in which the message portion of the sign must be replaced to identify a bona fide business on the property, be painted over, replaced with an opaque face, modified, or removed so that the remaining sign is left visually unobtrusive, presents a solid façade, and does not appear to be in disrepair or dismantled.

5) Where an Electric Sign is erected or constructed, an inspection by the Electrical Inspector shall be made and such Electric Sign shall comply with City ordinances.

6) Any person occupying any location with a Sign shall be subject to the same duties and responsibilities as the owner of the location on which the Sign is located, with respect to keeping the site clean, sanitary, inoffensive, and clear of all debris, trash, junk or other noxious substances.

C. Locations, sign height clearances.

1) Any Sign projecting over the Public Right-of-way, where permissible under this chapter, shall have a clearance from the bottom face of the Sign to the Sidewalk or finish grade as follows:

- a. A Sign projecting not more than one-third the distance from the property line to the back of the Curb shall have a minimum clearance of eight (8) feet.
- b. A Sign projecting more than one-third the distance from the property line to the Curb shall have a minimum clearance of twelve (12) feet.
- c. Any Sign which projects over a street or alley or areas of egress and ingress for vehicular traffic on private property, shall have a minimum clearance of sixteen (16) feet, six (6) inches.
- d. Any Sign which does not project over a street or alley or other areas of egress or ingress used for vehicular traffic on private property and which are located not less than eight (8) feet from any area of egress and ingress, shall have a minimum clearance of four (4) feet below the face of the Sign; if such Sign is located on a corner lot such Sign shall comply with the sight restriction limitations specified by Chapter 16-3.
- e. No Sign shall be placed upon public property except Signs used by the City, the State, the County of Potter, the County of Randall or the United States, for instructive and directive purposes for controls involving life and safety of the public, and except Signs where the City Commission has granted franchise rights.

f. No Sign shall block the egress or ingress of any Structure and shall have a minimum of five (5) feet perpendicular clearance from any place of egress or ingress.

g. No Temporary Sign constructed of material other than paper, cloth, canvas or vinyl, shall project over or across or be placed upon a Public Right-of-way. All such Signs shall have a minimum clearance of sixteen (16) feet, six (6) inches above the Public Right-of-way.

D. Identification requirements.

1) All outdoor signs for which a permit is required shall be plainly marked with the name of the person, firm or corporation erecting such sign and shall have affixed on the front thereof the permit number issued for said sign or other identification approved by the Building Official.

E. Sign construction.

- 1) All Signs shall be designed to withstand the design wind pressure as required in the City Building Code.
- 2) All braces, guy wires and supports shall be designed to withstand all dead load and wind load stresses.
- 3) Any Sign with more than a forty-foot height shall have the plans sealed by an architect or engineer licensed to practice in the State.

City of Rockport

That Section 6-100 "Changeable copy signs", Chapter 6, City of Rockport Code of Ordinances, is hereby amended to read as follows:

Section 6-100. Changeable copy signs.

- a) Only one changeable copy sign shall be allowed for movie theaters in addition to a freestanding sign permitted under Section 6-84. Maximum sign size and height shall be in accordance with required regulations applicable under Section 6-84.
- b) Only one changeable copy sign shall be allowed as part of a freestanding sign permitted under Section 6-84.
- +c) Electronic changeable copy signs may be permitted as addressed in subsections (a) & (b) above, provided the electronic message shall appear and remain static for a period of no less than 60 seconds (time and temperature signs being the exception), whereas such message shall immediately be replaced by another message or symbol. Such message or symbol shall meet the criteria as addressed in Sections 6-42 and 6-44 of this article. The intensity of electronic illumination shall be lessened during the night time hours of operation in accordance with the City's Light Nuisance Ordinance. This provision does not apply to any traffic signalization device or highway information sign regulated by local, state or federal law.
- d) A changeable copy sign or electronic message board sign shall not be allowed as a wall sign.

SECTION 6. REPEALER.

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this Ordinance, are all hereby repealed.

SECTION 7. SEVERABILITY.

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon adoption by second and final reading.

To: Vince Capel, City Manager

From: Tom Ginter, Director of Planning and Development Services

Date: November 14, 2014

Subject: Public Hearing and Action Item

The Planning and Zoning at the recommendation of the Planning Department will be reviewing the sign language ordinance especially pertaining to Section 15-6-130 pertaining to Changeable Electronic Variable Message Signs at their November 19th meeting. It is my understanding that a public hearing is required by the City commission prior to possible approval. The amendment was prompted by the business owners who were expressing a desire to have the ordinance changed to allow their use. The amended language that is being recommended does the following to the current ordinance:

1. It creates a new paragraph A which states the purpose and intent of the change. It is recognized that this technology is preferred by many businesses but pose risks, It is important for the City to work with businesses on these advancements but to ensure that the public is protected pertaining to property values and traffic hazards.
2. The previous paragraph A becomes B, with no changes
3. A new paragraph C is introduced as Permitted Uses. This paragraph goes into more detail as to where they can be located and how they are to be operated after installation.
4. The previous paragraph B becomes D with the elimination of section 2.
5. The paragraph C becomes E with the addition of as is after remain.

Mike Kellam put together this amendment to the sign ordinance. Staff recommends approval.

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTION 15-6-130, PROVIDING FOR REVISIONS TO THE ELECTRONIC VARIABLE MESSAGING SIGN ORDINANCE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville;

WHEREAS, the City has determined that the sign ordinance is in need of substantial revision for the ease of users, benefit of the public to add clarity and for public health and safety;

WHEREAS, the City of Kingsville Planning and Zoning Commission has reviewed this ordinance at a meeting on December 10, 2014 and voted 6-0 to recommend its approval;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, Sections 15-6-115 through 15-6-131 shall be amended to read as follows:

...

Sec. 15-6-130. Changeable electronic variable message signs.

(A) Purpose and Intent. More businesses desire to utilize advancements in technology which permit signs to change copy electronically (e.g., utilizing a Changeable Electronic Variable Message (CEVMS) or a Light Emitting Diode (LED) type of sign). These newer technologies pose additional risks of impacting adjacent areas and adversely affecting the environment in which they operate unless regulated in a reasonable fashion. The intent of this section is to establish operating standards and regulations for signs which utilize these newer technologies in order to minimize the secondary effects that often accompany the unregulated display of digital signs, preserve the character of adjacent areas (with a principal focus on residential neighborhoods), protect property values, and reduce traffic hazards caused by undue distractions.

(AB) Definitions.

Changeable electronic variable message sign (CEVMS) shall mean a sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED or digital sign, and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

Off-premises sign shall mean any sign, commonly known as a billboard, that advertises a business, person, activity, goods, products or services not located on the premises where the sign is installed and maintained, or that directs persons to a location other than the premises where the sign is installed and maintained.

On-premises sign shall mean any sign identifying or advertising the business, person, activity, goods, products or services sold or offered for sale on the premises where the sign is installed and maintained when such premises is used for business purposes.

Sign code application area shall mean the corporate limits of the city and the area of its extraterritorial jurisdiction as defined by Tex. Local Gov't Code § 42.021.

(C) Permitted uses

Lighted CEVMS shall be permitted within all non-residential zoning districts of the Sign Code Application Area (excluding Ag Districts), provided information can be shown indicating they meet the below criteria prior to permitting and are maintained to perform as such after installation:

- (1) Comply with the size and placement criteria as prescribed within Section 15-6-115 through 15-6-120.
- (2) The luminance/brightness shall be limited to 5,000 NIT's during daylight and 250 NIT's from dusk to dawn.
- (3) The luminance/brightness of the sign shall be controlled by an ambient light monitor which shall automatically adjust the brightness levels based on ambient light levels.
- (4) The sign display shall remain static for a minimum of five seconds, and shall require instantaneous change of the display.
- (5) No animation or video shall be allowed utilizing the CEVMS.
- (6) The CEVMS display shall be programmed to go dark in the instance of a malfunction.

(BD) Prohibitions.

- (4) Prohibition of new off-premises sign. From and after the effective date, no new construction permit shall be issued for the erection of an off-premises

sign including, but not limited to, billboards, new off-premises CEVMS or the conversion of an existing non-CEVMS off-premises sign to a CEVMS, within the Sign Code Application Area.

~~(2) Prohibition of changeable electronic variable message signs. From and after the effective date, no new CEVMS shall be allowed within the Sign Code Application Area.~~

(CE) *Grandfather clause.* CEVMS signs already in existence on the passage of this ordinance are allowed to remain as is; however, in the event of repair and/or replacement, other than routine maintenance, such signs must comply with this section.

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 15thth day of December, 2014.

PASSED AND APPROVED on this the 12th day of January, 2015.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #8

AGENDA ITEM #9