

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JUNE 14, 2021 IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.

CITY COMMISSION PRESENT:

Hector Hinojosa, Commissioner
Norma N. Alvarez, Commissioner
Edna Lopez, Commissioner
Ann Marie Torres, Commissioner

CITY COMMISSION ABSENT:

Sam R. Fugate, Mayor

CITY STAFF PRESENT:

Mark McLaughlin, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Kyle Benson, IT Manager
Derek Williams, IT
Bill Donnell, Public Works Director
Diana Gonzales, Human Resources Director
Rudy Mora, Engineer
Uchechukwu Echeozo, Director of Planning & Development Services
Ricardo Torres, Chief of Police
Susan Ivy, Director of Parks & Recreation

STAFF PRESENT VIA CONFERENCE CALL OR VIDEO STREAM

Debra Balli, Finance Director

I. Preliminary Proceedings.

OPEN MEETING

Mayor Pro-Tem Hinojosa opened the meeting at 5:00 p.m. with four Commission members present. Mayor Sam Fugate being absent.

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

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

MINUTES OF PREVIOUS MEETING(S)

Regular Meeting - May 24, 2021

Motion made by Commissioner Lopez to approve the minutes of May 24, 2021, as presented, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Alvarez, Lopez, Hinojosa voting "FOR". Torres "ABSTAINED".

****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 a request for a Special Use Permit for Light Manufacturing Processes which does not emit detectable dust, odor, fumes, or gas beyond the boundary of the property or noises above the ambient level and is not classified as hazardous use (Recycling Center) at 4th, Block 2, Lot 1-3, also known as 708 South 6th Street, Kingsville, Texas. Saul Figueroa, applicant; Ronald Ripps,

owner. (in C4 Commercial District) (Director of Planning & Development Services).

Mayor Pro-Tem Hinojosa read and opened this public hearing at 5:02 p.m.

Mr. Uchechukwu Echeozo, Director of Planning & Development Services commented that this item has been presented to the Planning & Zoning Commission on June 2, 2021, where they have recommended approval with a 5 to 1 vote. The applicant, Mr. Saul Figueroa would like to apply for a Special Use Permit as the zoning for this property is Zoned as a C4 which does not allow for the type of business Mr. Figueroa will be running at this location.

Commissioner Lopez asked if this was an existing business. Mr. Echeozo responded that it is an existing business, ABC Recycling which had a Special Use Permit but has changed ownership therefore the Special Use Permit no longer being in existence as the change of ownership has taken place, now the new property owner must request a Special Use Permit for their new business.

Mayor Pro-Tem Hinojosa asked if this was due to a change in ownership. Mr. Echeozo responded yes, but also a change of business name.

Commissioner Alvarez commented that it is her understanding that it's the same type of business and further asked how the business can continue without a permit.

Mr. Echeozo responded that the Code Enforcement Department activated this process as certain things were being done at this location that should have not been done.

Commissioner Alvarez further asked if that at the time that Code Enforcement made the discovery, shouldn't the business come to a halt until the proper permits were granted?

Mr. Echeozo commented that it is what is being done now, requesting a Special Use Permit. He further stated that they would like to conclude with the process before continuing with the business. He also stated that there is a fence that needs to be built but is unable to get the permit to build the fence until the Special Use Permit has been granted.

Commissioner Lopez asked for the Planning & Zoning Commission vote on this item.

Mr. Echeozo responded that the Planning & Zoning Commission voted 5-1 in favor of granting a Special Use Permit. He further stated that staff had received a comment from a neighbor next to the business, advising that the business relocated to a bigger location due to its increased activity. The neighbor was not suggesting that the business should not continue to operate, she was merely suggesting that the business relocates to a bigger location.

Commissioner Torres also asked the same question Commissioner Alvarez asked earlier, how was this business allowed to continue to operate without a Special Use Permit? Did the business go from one owner to another and never closed the business?

Mr. Echeozo commented that his understanding is that they changed ownership of the business but never closed the business in the process therefore they continued the business. He further commented that city staff was not aware that the business had changed ownership until staff received a complaint.

Commissioner Torres further asked how the city would regulate what they are recycling?

Mr. Echeozo commented that the previous ordinance granting the Special Use Permit for the old business noted some conditions as to what would be accepted as recycling, which was conditions that were put in place by the Planning & Zoning Commission. The Planning & Zoning Commission has also placed the same type of conditions on the now requested Special Use Permit.

Commissioner Torres commented that certain regulations must be followed when recycling items, as you cannot recycle anything without proper guidance.

Mr. Echeozo commented that the ones that are conditioned are purely on the planning side of it, such as landscaping plan, building a fence, and the appearance of the entrance which are the types of conditions. Things that will not affect a neighbor near the business. Echeozo further commented the hours of business are also set as a condition which is from 9:00 a.m. to 5:00 p.m. Monday through Saturday and closed on Sunday.

Ms. Alvarez commented that in the prior Special Use Permit, which is approved by Ordinance, in the proposed Special Use Permit, Section 2 (1) allowed use, states that it will collect recycling of aluminum cans, scraps, brass, copper, steel, and iron.

Commissioner Torres asked if the items mentioned were the only items that would be allowed to be recycled?

Ms. Alvarez responded yes, and it is consistent with what the previous owner was accepting as recycling.

Commissioner Torres further asked if staff would be doing inspections at the business to make sure that the items noted on the Special Use Permit are the only items being recycled?

Mr. Echeozo commented that if the City Commission would like to include additional conditions or remove some conditions to the Special Use Permit, they may do so. The conditions that are being proposed are not the final condition until the ordinance is approved.

Commissioner Lopez commented that them going into business and doing illegal acts would not happen, as the previous owner did not do that. There were a lot of items that were being recycled, but items that were allowed to be recycled.

Mr. Echeozo commented that this is correct. The impact is on the neighbor that is the issue.

Commissioner Lopez commented that the issue was that due to the change of ownership, the new owner did not apply for a Special Use Permit, but the new owner may not have been aware that they needed to request a Special Use Permit. Lopez further commented that she trusts the owners to do the right thing.

Mayor Pro-Tem Hinojosa commented that he has not seen any items when passing by the business, that should not be allowed for recycling. He further commented that it would not hurt to have staff spot-check the business ever so often.

Ms. Alvarez commented that the prior Special Use Permit was done about 10 years ago, that there is a possible chance that the prior owner forgot to mention to the current owner that a Special Use Permit would be required.

Mr. Saul Figueroa, current towner of Kingsville Recycling commented that when he first submitted his application to open the recycling center, he was told about a Special Use Permit. He was also told that he would have a meeting with the Board members, which he had not done his lease and taken any permits out, as he wanted to make sure that the Commission would approve his request first. He further stated that he received a call from the City of Kingsville, Teresa of the Planning Department stating that he was good to go and did not have to have the meeting. Later, it was determined that the staff member thought it was still ABC Recycling, which is where the confusion came from. He further commented that at that time he opened his business, but a year later city staff stopped by stating that he would need an 8-foot fence and would need to bring his business up to code, which is how all this transpired. Mr. Figueroa commented that they did not open just to open, he thought that his business was incompliant and was not aware that a Special Use Permit would be required. The request for an 8-foot fence was requested by the city on the same day he visited city offices and was told that the fence permit would not be available for purchase until this situation was solved. Mr. Figueroa further commented that he does receive Texas Department of Public Safety State Inspectors that stop by randomly from time to time. Pictures, IDs, vehicle information is taken from the customer that is selling the items to the recycling business, in the event some items are to be reported as stolen.

Mayor Pro-Tem Hinojosa 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.

There being no further comments, Mayor Pro-Tem Hinojosa closed this public hearing at 5:16 p.m.

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."

Mayor Pro-Tem asked if agenda items 11 and 12, can be taken on closer to when the City Manager's contract is up for renewal.

Ms. Alvarez commented that the way the contract reads is that there is a six-month evaluation needed right after the initial period, but it does not say that it is needed on the second year of the contract.

Commissioner Lopez commented that she had received an email from a resident and may have sent it to the City Manager as well regarding flooding in her neighborhood. Lopez requested that the presentation provided by the resident, Ms. Dolores Hernandez, be forwarded to the other Commission members.

Mr. Mark McLaughlin, City Manager commented that two budget reports have been provided to the City Commission for their review. These reports are FY 2020-2021 Second Quarter Investment Report and the other FY 2020-2021 Quarterly Budget Report. He further stated that the Quarterly Report will show that the city's budget is on track and doing very well. The Investment Report, through this fiscal year through March 31st total cash and investments, are up about \$4.5 million over the same period to the prior quarter. It went from \$26,524,000.00 to \$31,028,000.00 in investments. This is all the city's cash and investments calculated cumulatively. He further stated that with this type of cash one would think they would get a better rate of return, but this is where the city is hurting. The banks have too much money and trying to loan it out by lowering their interest to almost nothing, therefore we are making almost nothing. The city is down to about .08%, which is the best the city can do, but it is low. McLaughlin further commented that from October to December 2019 the city's investments were made, on the CD side, making around 2% and the city is below a .10%. He further commented that money will be more expensive to borrow with interest rates increasing. Mr. McLaughlin further updated the Commission on mosquito spraying throughout the city.

Ms. Courtney Alvarez, City Attorney commented that the next scheduled Commission meeting is for June 28th, with a deadline to submit agenda items set for June 18th.

IV. Public Comment on Agenda Items.³

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

Mrs. Barbara Colins, 201 Seale Ave. commented that she would like to make the Commission aware of a situation that is occurring at her residence and has been happening since 2016. She stated that since the Legends Apartments have been developed, directly behind her property, there is a flooding and drainage issue there. It has gotten to the point that her house will be underwater if there is any type of 1 category storm that hits Kingsville. With the last flood event that occurred a few weeks ago, pictures were taken of the flooding on her property and were forwarded to the City Manager for his review. She continued to state that there are only a few feet in her house before it is underwater, and she resides in a no flood zone. In 2016, water was coming across from the Legends Pond which is draining to her property. She also stated that this year the water from the pond still drains onto her property which is blue water as it is in the Legends Pond. Mrs. Colins further commented that she wanted to make the Commission aware of her situation and see how the City can address this issue.

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

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to accept and expend grant funds from Coastal Bend Regional Advisory Council (CBRAC) for Fire Department medical equipment and supplies. (Fire Chief).

2. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to cover the computer and software for the additional engineering staff. (City Engineer).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

3. Consider introduction of an ordinance amending the zoning ordinance by granting a Special Use Permit for Light Manufacturing Processes which does not emit detectable dust, odor, fumes, or gas beyond the boundary of the property or noises above the ambient level and is not classified as hazardous use (Recycling Center) at 4th, Block 2, Lot 1-3, also known as 708 South 6th Street, Kingsville, Texas; amending the comprehensive plan to account for any deviations from the existing comprehensive plan; providing for publication. (in C4 Commercial District) (Director of Planning & Development Services).

Mr. McLaughlin commented that although this item is an introduction, staff does recommend approval of the Special Use Permit.

Introduction item.

4. Consider a resolution authorizing participation in Bulletproof Vest Partnership Program FY2021 with the Office of the Governor, Criminal Justice Division, Justice Assistance Grant (JAG) for bulletproof vests for the Kingsville Police department, authorizing the Chief of Police to act on the City's behalf with such program. (Police Chief).

Mr. Ricardo Torres, Chief of Police stated that the Kingsville Police Department has two years' worth of funding on this grant. Due to COVID there was no one to come and outfit the Officers for the vest. Torres further stated that they will be ordering 9 vests which will take up about \$4,500 from one of the grants. He also stated that the Kingsville Police Department applies for this grant every year as they are aware that the cost will come up annually and try to get all the officers fitted at once. He further stated that they have applied to replace 10 vests for \$10,000, and this grant will match the cost at 50%.

Mayor Pro-Tem Hinojosa asked what the maximum life of a vest is. Chief Torres responded that the maximum life is 5 years.

Motion made by Commissioner Lopez to approve the resolution authorizing participation in Bulletproof Vest Partnership Program FY2021 with the Office of the Governor, Criminal Justice Division, Justice Assistance Grant (JAG) for bulletproof vests for the Kingsville Police department, authorizing the Chief of Police to act on the City's behalf with such program, seconded by Commissioner Torres. The motion was passed and approved by the following vote: Lopez, Torres, Alvarez, Hinojosa voting "FOR".

5. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to expend grant funds from BJA-2021 Southwest Border Rural and Tribal Assistance Program for (2) automated license plate packages and a Rapiscan detection unit. (Police Chief).

Chief Torres stated that the police department is requesting a resolution for application and acceptance of the BJA Southwest Border Rural Law Enforcement Assistance Program. He further stated that the police department applied for this grant last year and requested the highest amount of the grant. Unfortunately, the grant was not approved in the amount requested but was approved for \$83,000 in equipment. This includes the Rapiscan System and the purchase of an ALPR Message Board like what TXDOT currently uses. The annual recurring cost is \$10,065.00 which has been submitted as a supplemental request for the upcoming budget.

Commissioner Torres asked if Chief Torres could explain what a Rapiscan is. Chief Torres responded that the Rapiscan formulates a criminal nexus to different types of narcotics.

Introduction item.

6. Consider a resolution accepting funding from the Texas General Land Office, Community Development Block Grant, Disaster Recovery-Mitigation Program for citywide drainage system improvements. (City Engineer).

Mr. Rudy Mora, City Engineer stated that the city granted a resolution to apply on October 26, 2020. The city was successfully awarded this grant for an amount of \$36,311,929.00 for citywide drainage system improvements with a cash match of 1%.

Motion made by Commissioner Alvarez to approve the resolution accepting funding from the Texas General Land Office, Community Development Block Grant, Disaster Recovery-Mitigation Program for citywide drainage system improvements, seconded by Commissioner Torres. The motion was passed and approved by the following vote: Torres, Alvarez, Lopez, Hinojosa voting "FOR".

7. Consider a resolution accepting funding from the Texas General Land Office, Community Development Block Grant, Disaster Recovery-Mitigation Program for citywide wastewater collection system improvements. (City Engineer).

Mr. Mora stated that the city submitted a grant application on October 26, 2020, for wastewater improvements. The city was awarded the grant for an amount of \$7,293,111.00 with a cash match of 1%.

Motion made by Commissioner Lopez to approve the resolution accepting funding from the Texas General Land Office, Community Development Block Grant, Disaster Recovery-Mitigation Program for citywide wastewater collection system improvements, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Alvarez, Lopez, Torres, Hinojosa voting "FOR".

8. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to transfer cash match funds on the (4) Texas Water Development Board projects and the (2) Texas General Land Office grants for city-wide wastewater collection system & drainage system improvements. (City Engineer).

Introduction item.

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

Mayor Pro-Tem Hinojosa read the executive session and convened the meeting into a closed session at 5:39 p.m.

Mayor Pro-Tem reconvened the meeting into an open session at 5:57 p.m.

10. Consider a resolution authorizing the City Manager to execute the February 2021 Storm Recovery Agreement with Gexa Energy. (City Attorney).

Motion made by Commissioner Torres to approve the resolution authorizing the City Manager to execute the February 2021 Storm Recovery Agreement with Gexa Energy, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alvarez, Lopez, Torres, Hinojosa voting "FOR".

11. Executive Session: Pursuant to Section 551.074, of the Texas Open Meetings Act, the Personnel Exception, the City Commission shall convene in executive session to deliberate the evaluation & duties of the City Manager. (Mayor Fugate).


Executive session not taken.

12. Consider action on City Manager contract compensation sections. (Mayor Fugate).

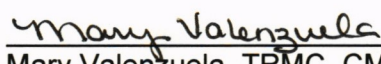
No discussion or action was taken.

VII. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 5:58 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, TRMC, CMC, City Secretary