

SEPTEMBER 27, 2021

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, SEPTEMBER 27, 2021 IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.

CITY COMMISSION PRESENT:

Sam R. Fugate, Mayor
Hector Hinojosa, Commissioner
Norma N. Alvarez, Commissioner
Edna Lopez, Commissioner
Ann Marie Torres, Commissioner

CITY STAFF PRESENT:

Mark McLaughlin, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Kyle Benson, IT Manager
Derek Williams, IT
Uchechukwu Echeozo, Director of Planning & Development Services
Deborah Balli, Finance Director
Susan Ivy, Parks Director
Rudy Mora, Engineer
Bill Donnell, Public Works Director
Ricardo Torres, Police Chief
Diana Gonzales, Director of Human Resources
David Solis, Risk Manager
Emilio Garcia, Health Director
Joseph Ramirez, Engineers Assistant
Janine Reyes, Tourism Director
Alicia Tijerina, Interim Downtown Manager

I. Preliminary Proceedings.

OPEN MEETING

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

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

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

MINUTES OF PREVIOUS MEETING(S)

Regular Meeting - August 23, 2021

Motion made by Commissioner Hinojosa to approve the minutes of August 23, 2021 as presented, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Fugate voting "FOR". Lopez and Torres "ABSTAINED".

Special Meeting – September 7, 2021

Motion made by Commissioner Lopez to approve the minutes of September 7, 2021 as presented, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Alvarez, Lopez, Torres, Hinojosa voting "FOR". Fugate "ABSTAINED".

Regular Meeting - September 13, 2021

Motion made by Commissioner Lopez to approve the minutes of September 13, 2021 as presented, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Lopez, Torres, Hinojosa, Alvarez, Fugate voting "FOR".

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

1. Public Hearing on a request for a special use permit for New or Reconditioned Auto Parts, Indoors use at Andrews 1, Lot South 90' A, also known as 1911 S. Brahma Blvd., Kingsville Texas. Jacob Carmona authorized agent and applicant; Herman Ohlenbusch, owner. (Director of Planning & Development Services).

Mayor Fugate read and opened this public hearing at 5:02 P.M.

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

Mayor Fugate asked the staff if this location is next door to an old convenience store which is now abandoned.

Mr. Uchechukwu Echeozo, Director of Planning & Development Services responded yes.

There being no further comments Mayor Fugate closed this public hearing at 5:07 P.M.

2. Public Hearing on a request to rezone Sims 3, Block 3, Lot 35, 36, also known as 920 E. Ave. D, Kingsville, Texas from C4 (Commercial) to R1 (Single-Family Residential). Ramona Haskins authorized agent and applicant; Regino Chavana, owner. (Director of Planning & Development Services).

Mayor Fugate read and opened this public hearing at 5:07 P.M.

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

Mr. Echeozo stated that is a request for a rezone from the current zoning which is C4 (Commercial) to R1 (Single Family Residential). A review was carried out by staff, and it was revealed that the applicant is seeking to rezone the property to enable them to procure GLO disaster recovery funds that would be used to build a new residential home. He further stated that this location is zoned as a commercial zone which does not allow residential building and would be spot zoning. Mr. Echeozo stated that staff recommended to the Planning & Zoning Commission not to allow it as residential. After the Planning & Zoning reviewed this, they decided to overturn the staff's recommendation.

Mayor Fugate asked that if there was one Board that reviews and makes the recommendation, then they went back and denied it?

Mr. Echeozo stated that staff reviews then make the recommendation.

Mayor Fugate further asked why staff denied this. Mr. Echeozo responded that it would be spot zoning.

Mr. Echeozo displayed a map showing the location that is being requested for rezoning.

Mayor Fugate asked if staff received any complaints from the surrounding neighbors. Mr. Echeozo responded that only one individual voiced some concern that when zoned to residential, it would affect her property.

Commissioner Torres asked that next to the property, from the left to the right of it, what do they have on those properties?

Mr. Echeozo stated that to the left of the property are homes and to the right of the property there is a commercial and vacant property.

Commissioner Hinojosa commented that to the right of the property there is a 922 address that is residential and right next to that is a vacant lot. He further asked if in the past the city had allowed for El Corral to have personal property so that their employees could live there?

Commissioner Lopez commented that the city had allowed this sometime back. It was the property behind El Corral.

Mr. McLaughlin commented that it would probably be best for this type of discussion to take place until the Commission gets to the agenda item.

Mayor Fugate for the Planning & Zoning vote on this item. Mr. Echeozo stated that the vote was 6-0 voting unanimously for the item.

There being no further comments Mayor Fugate closed this public hearing at 5:11 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 Fugate presented a proclamation to the Purple Door declaring the month of October as National Domestic Violence Awareness and Prevention Month.

Mr. Mark McLaughlin, City Manager gave an update on street chip sealing of N. 6th Street. He also gave an update on the Wine Walk Event that occurred this past weekend. Over 100 Passports were sold for the event which was well attended. He further reported on the Butterfly Blitz event that will be occurring on October 2nd and October 3, 2021. The event will take place at Dick Kleberg Park.

Mayor Fugate asked who the non-profit organization was that will be receiving funds from the Wine Walk event?

Ms. Janine Reyes responded that the non-profit organization is the Kingsville Boxing Club.

Ms. Alvarez announced that the next Commission meeting is scheduled for October 12, 2021 with the deadline for staff to submit their agenda items being no later than Wednesday, September 29th. She further announced that city offices will be closed on Monday, October 11th in observance of Columbus Day.

Commissioner Torres asked if there was a way that we can correct the votes that were taken for the minutes of August 23, 2021, and September 13, 2021. She stated that she voted incorrectly by abstaining from the approval of the minutes for August 23rd instead of the September 13th minutes.

Mrs. Mary Valenzuela, City Secretary asked for Ms. Courtney Alvarez, City Attorney to advise if the change could be made since the vote on the minutes had already been taken.

Ms. Alvarez stated that the Commission would need to go back and entertain a corrected motion. If the two Commissioners that made the initial motions to approve the minutes would like to amend their first and their second, then we would be able to take a new vote on the minutes.

Commissioner Hinojosa made a motion to amend the vote for the minutes of August 23, 2021, to correct the vote taken for the approval of such minutes, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Torres, Fugate voting "FOR". Lopez "ABSTAINED".

Commissioner Lopez made a motion to amend the vote for the minutes of September 13, 2021 to correct the vote taken for the approval of such minutes, seconded by Commissioner Alvarez and Commissioner Hinojosa. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Fugate voting "FOR". Torres "ABSTAINED".

Reports from Commission and Staff continued at this point.

Commissioner Alvarez asked what the city's plan is if some of the immigrants come to Kingsville. Does the City have a place to house them?

Mayor Fugate responded that the City of Kingsville will not be in the immigration business. This is a job for the Federal Government, and we will insist that they step in and do their job. Our law enforcement is here to serve and protect our citizens and if there are any violations Chief Torres and his staff will be there to assist. Mayor Fugate further commented that we will not go and open, as we did in the past, a location as we did for Katrina evacuees, this is a different situation. He further commented that the Federal Government needs to stand up and do its job.

IV. Public Comment on Agenda Items.³

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

Christopher Torres, 434 W. Sage Rd, Kingsville, TX commented that he is currently serving as the representative for VFW Post 2375 Kingsville, and they are concerned with the flags on Kleberg Street. He commented that he has been a resident of Kingsville for 2011 after returning from Iraq and has been active with the VFW since then. He stated that he recalls every parade event and one of their responsibilities was to post flags and holders which were permanent fixtures on the sidewalks. He stated that the new sidewalks don't have those fixtures and there has been some miscommunication whether it's their responsibility to put the flags up, which they can't

put on the poles or if it's the city's responsibility. He further commented that as an organization, not only the VFW but the DAV and American Legion, wondering if the city will have the future sidewalk will have the flag holders and if there is a way to retrofit the existing sidewalk, the new one that was put in, and they will continue as they have been for 20 plus years Veteran's Day, Memorial Day, and now Patriot Day should have those flags lining the streets. Mr. Torres further commented that they have no problem, as they have the flags to put them in. Flags can be placed in the morning and taken down in the evening. As an organization, they would like to know what the city's plans are, either to continue the tradition or take it over and place the flags out. He further asked if it was up to them to let the city know when the flags need to be displayed on certain days. He further commented that this is their main concern as all these flags need to be displayed and can the city have the new sidewalk have the flag holders in place, as they were in the old sidewalk.

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)

None.

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

1. Consider introduction of an ordinance amending the zoning ordinance by granting a Special Use Permit for New or Reconditioned Auto Parts, Indoors use in C2 (Retail District) at 1911 S. Brahma Blvd., Kingsville, Texas, also known as Andrews 1, Lot South 90' A. (Director of Planning & Development Services).

Introduction item only.

2. Consider introduction of an ordinance amending the zoning ordinance by changing the zoning map in reference to Sims 3, Block 3, Lot 35, 36, also known as 920 E. Ave. D, Kingsville, Texas from C4 (Commercial District) to R1 (Single-Family Residential District). (Director of Planning & Development Services).

Commissioner Hinojosa commented that he would like for this agenda item to be placed on the next agenda under the regular section of the agenda for staff to give a better explanation on whether spot zoning is legal or not legal.

Ms. Alvarez stated that there is a picture in the agenda packet that shows more topographical than just the zoning that was shown during the public hearing for this item. She stated that it shows that it appears from the topographical that there are residential structures to the east than the two lots to the west of this property also have residences on them. It would also appear that there is at least one lot to the north that is in the C4 that also has a residence on it. Ms. Alvarez further stated that this was a very unique and odd situation, so at some point in history, which nobody knows exactly when this portion of the block was zoned C4 and other portions of the block were zoned R1. She further stated that there are R1 structures on some of the lots that are zoned C4. She also stated that in the city's zoning chart you cannot build a residence in C4. A residence can be built in a C3, C2, and other more restrictive classifications, but in a C4 which is why there is an issue with the zoning for this lot. She further stated that the other properties are considered grandfathered as this property was. Once repairs are being done, 50% or more, you lose your grandfathering, which is why staff made their analysis and made the recommendation the way that they did. Alvarez further stated that spot zoning is the process where you single out a small tract of land and you treat it differently from the surrounding land without showing any justifiable change and condition. Alvarez also stated that if you look at it as an R1 amongst C4, it looks bad. There are a couple of layers of analysis to look at as the Supreme Court did a case in 1981 where they set out a balance test. You look at all the factors then answer the questions. It isn't just looking at the zoning but also looking at the use. Ms. Alvarez

further stated that she can see how the Planning & Zoning Commission got to the decision that they did because if they are showing R1 to the east and R1 to the west they can think as to why this is not a consistent use with the properties adjoining it. Alvarez further stated that it would have been a good position if that property and the ones around it if they have residences on them, be zoned as C2 so that the applicant can still have the R1 use or just do all of them that are currently having houses on them be an R1. Alvarez further stated that she does not know with this individual if their GLO Grant has any restrictions as it would probably take about six weeks for this to be brought to the Commission with different zoning, either the C2 or have all the houses that are there be R1.

Mayor Fugate commented that this is what needs to happen, and it can probably be done later.

Ms. Alvarez stated that because our zoning chart says zero residences in a C4, they couldn't issue a building permit for this property with C4 zoning.

Mayor Fugate commented that the Commission can change the status on this property then come back later and change the status of the other surrounding properties.

Ms. Alvarez responded that this could be done. She further stated that whenever staff analyzes the master plan, you see if the plan and the use is consistent as well as look at the nature and degree and adverse impact from changing the current zoning to the new requested zoning to see if it's compatible with surrounding uses and it would seem to be compatible with the surrounding uses but not necessarily compatible with surrounding zoning. Alvarez further stated that it wouldn't be an issue if it was already zoned C2 or R1 before all the houses got built there. It is hard to say which came first the zoning or the houses.

Commissioner Alvarez asked that the requestor for this rezone is making more than 50% repairs to their property?

Ms. Alvarez responded that it is her understanding from staff that the house is going to be raised and rebuilt with the GLO Grant.

Commissioner Alvarez asked why it would take staff six weeks.

Ms. Alvarez responded that if the Commission doesn't feel comfortable with moving forward with the R1 and want all of it to be rezoned C2. You will then have the transition from C4 to C2 to R1 and you can still build residences in C2. She further stated that there is a process whether its city initiated or public initiated rezone where notice letters need to be mailed and place an advertisement in the newspaper for public hearings for both the Planning & Zoning Commission and City Commission meeting, which takes time.

Commissioner Hinojosa asked if this item would be on the consent or regular agenda for the next meeting. Mayor Fugate responded that the item will be on the regular section of the agenda.

No further action was taken on this item.

Mayor Fugate moved agenda item #23 before agenda #3 due to visitors being in the audience for agenda item #23. No objections were made by the Commission.

3. Consider a resolution approving the City of Kingsville's 2021 Tax Roll as submitted by the Kleberg County Tax Assessor-Collector pursuant to the Texas Property Tax Code, Chapter 26, Section 26.09(e). (Finance Director).

Motion made by Commissioner Hinojosa to approve the resolution approving the City of Kingsville's 2021 Tax Roll as submitted by the Kleberg County Tax Assessor-Collector pursuant to the Texas Property Tax Code, Chapter 26, Section 26.09(e), seconded by Commissioner Alvarez and Commissioner Lopez. The motion was passed and approved by the following vote: Torres, Hinojosa, Alvarez, Lopez, Fugate voting "FOR".

4. Consider a resolution approving and authorizing execution of a Participation Agreement and Trust Instrument for participation in a public funds investment pool, designating the Board of Trustees of the Pool as an agency and instrumentality to supervise the Pool, approving investment policies of the Pool, appointing authorized representatives, and designating investment officers. (Local Government Investment Cooperative-LOGIC). (Finance Director).

Mrs. Deborah Balli, Finance Director stated that this is to enroll the city to be able to make investments into the TexPool as another source for an investment pool.

Motion made by Commissioner Alvarez to approve the resolution approving and authorizing execution of a Participation Agreement and Trust Instrument for participation in a public funds investment pool, designating the Board of Trustees of the Pool as an agency and instrumentality to supervise the Pool, approving investment policies of the Pool, appointing authorized representatives, and designating investment officers. (Local Government Investment Cooperative-LOGIC), seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Torres, Fugate voting "FOR".

5. Consider a resolution authorizing participation in the TxPool Investment Pools and Designating Authorized Representatives. (Finance Director).

Motion made by Commissioner Hinojosa to approve the resolution authorizing participation in the TxPool Investment Pools and Designating Authorized Representatives, seconded by Commissioner Torres. The motion was passed and approved by the following vote: Alvarez, Lopez, Torres, Hinojosa, Fugate voting "FOR".

6. Consider a resolution authorizing the City Manager to enter into an Agreement between the City of Kingsville, Texas and Garver for Professional (engineering) Services for Wastewater Treatment Plant Performance Evaluation. (City Engineer).

Mr. Rudy Mora, City Engineer stated that the purpose of this agenda item is to provide a performance evaluation of the city's Wastewater Treatment Plant and create an asset management program. This will allocate funds for annual reliable and sustainable infrastructure improvements, including growth. On July 12, 2021, the Commission awarded the Request for Qualifications #21-08 to Garver to begin contract negotiations for Professional Engineering Services. The total amount of the contract is \$250,634.00. Garver will provide Preliminary Engineering Performance Evaluation Report and funding sources for the project.

Motion made by Commissioner Hinojosa to approve the resolution authorizing the City Manager to enter into an Agreement between the City of Kingsville, Texas and Garver for Professional (engineering) Services for Wastewater Treatment Plant Performance Evaluation, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Lopez, Torres, Hinojosa, Alvarez, Fugate voting "FOR".

7. Consider City support for events and parades for FY21-22. (Interim Downtown Manager).

Mrs. Alicia Tijerina, Interim Downtown Manager reported that the city has a tradition of granting support for certain parades and events that are held in the downtown area each year. Support that is provided by the city is a waiver of certain fees for temporary closures of streets. It is recommended by staff that street closing fees be waived and the services provided by the city in support of these parades and events be considered in-kind sponsorship.

Commissioner Torres asked if Academy School has its events in the downtown area, as they are not listed on the list provided.

Mrs. Tijerian responded that Academy School does not have its events in the downtown area.

Motion made by Commissioner Alvarez to approve the City's support for events and parades for FY21-22, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Torres, Hinojosa, Alvarez, Lopez, Fugate voting "FOR".

8. Consider accepting donations from Brookshire Foundation and Bright Star Child Development Center for Park recreation programs. (Parks Director).

Motion made by Commissioner Hinojosa to accept the donation from the Brookshire Foundation and Bright Star Child Development Center for Park recreation programs, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Torres, Fugate voting "FOR".

9. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to accept and expend donations from Brookshire Foundation and Bright Star Child Development Center for recreation programs. (Parks Director).

Introduction item.

10. Consider a resolution accepting award of funds for Local Border Security Program FY2022 from the Office of the Governor, Public Safety Office for law enforcement personnel costs, fuel, and equipment; authorizing the Chief of Police to act on the City's behalf with such program. (Police Chief).

Motion made by Commissioner Torres to approve the resolution accepting the award of funds for Local Border Security Program FY2022 from the Office of the Governor, Public Safety Office for law enforcement personnel costs, fuel, and equipment; authorizing the Chief of Police to act on the City's behalf with such program, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alvarez, Lopez, Torres, Hinojosa, Fugate voting "FOR".

11. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to accept and expend funds from the 2022 Local Border Star Security Program for personnel costs. (Police Chief).

Introduction item.

12. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover the bond issuance costs on the four Texas Water Development Board projects with cash match funds transferred in for this purpose. (Finance Director).

Mrs. Balli stated that staff believes that this funding would not be used until FY 21-22, but it was determined that part of these funds would be used in FY 20-21 for closing costs on the bond issue for the loan funding. The budget amendment request is to cover the bond issue cost expenditures incurred in the current fiscal year 2020-2021.

Introduction item.

13. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to accept and expend the reimbursement from TxDOT for the City's share of the US 77 Utilities Relocation Project. (Finance Director).

Mrs. Balli stated that in fiscal year 20-21 the city received reimbursement from TxDOT of \$370,861.07 which needs to be accounted for through a budget amendment.

Introduction item.

14. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover FEMA COVID additional funding for eligible items. (Finance Director).

Mrs. Balli reported that FEMA has made available additional COVID funding for supplies related to COVID which include disinfecting supplies, PPE, and other related items. The Budget Amendment covers the expenditures that have been transferred over to Fund 111 in anticipation that they will meet eligibility guidelines.

Introduction item.

15. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover the 2021 bond refunding transaction. (Finance Director).

Mrs. Balli stated that the City did a 2021 bond refunding which requires a budget amendment to book the transaction as there is not a way to determine during budget adoption that we will be doing a refunding and what the result will be until the transaction has been completed.

Commissioner Alvarez asked which bond was refunded? Mrs. Balli responded that it was for the 2013 CO Series.

Introduction item.

16. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover the final expenditures on Tx. CDBG #7218269. (Finance Director).

Mrs. Balli stated that TX CDBG Grant #7218269 was a project that began in FY 18-19 for the manhole rehabilitation and was completed in FY 20-21. At the end of each fiscal year, Finance must estimate what the payment status will be during the budget process that begins in April of each fiscal year. The budget entered for FY 20-21 was not enough to cover the remaining project expenditures for the current year.

Introduction item.

17. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover negative line items for the Economic Development Fund 098 for

the end of year salary accrual and an additional incentive agreement payment for Marshalls. (Finance Director).

Mrs. Balli stated that the Economic Development fund is a small fund that is used to account for economic development expenditures and is funded through transfers and in-lieu of tax payments. This fund is needing a budget amendment to cover some personnel line items due to end-of-year salary accruals. Last year, the accrual was 4 days and this FY there are 5 days to accrue due to how the pay periods fall. The other item covered with the requested budget amendment pertains to the additional incentive payment for Marshalls. This was the first year of incentive payments and our obligation exceeded our projections.

Introduction item.

18. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover overage on the equipment purchased with grant funds received from the SWB Rural and Tribal Assistance Grant. (Finance Director).

Mrs. Balli stated that The City received a grant from the Southwest Border Rural & Tribal Assistance Grant for \$83,147.88 for equipment. The equipment purchased totaled \$83,221.95 resulting in a negative of \$74.07. This budget amendment will cover the \$74.07 funding shortage.

Commissioner Torres asked what the shortage was on? Mrs. Balli responded that it was for equipment for \$74.07.

Introduction item.

19. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover overage on motor gas and oil for the Solid Waste Management Department. (Finance Director).

Mrs. Balli stated that The Solid Waste Management Department has incurred additional Motor Gas & Oil costs due to the rising cost of fuel for their operations. To finish out the year, the Sanitation Division 1702 will need an additional \$17,000 and the Landfill Division 1703 will need an additional \$10,000. These shortages cannot be covered by other line items.

Introduction item.

20. Consider introduction of an ordinance amending the Fiscal Year 2020-2021 budget to cover the Incentive Agreement payments for Chick-fil-a for April through September. (Finance Director).

Mrs. Balli stated that the city entered into an incentive agreement for Chick-Fil-A which opened in April 2021. The company is required to provide sales tax payment information to the city so that we know how much our obligation is to them. The incentive agreement was approved after the budget was adopted and sales tax information was only recently made available. Now that we have the information needed to fulfill our obligation of this Fiscal Year, a budget amendment is required.

Introduction item.

21. Consider a resolution authorizing the City Manager to enter into a Lease Agreement with Kleberg First National Bank for parking on the north side of the Municipal Building downtown. (City Manager).

Mayor Fugate commented that this is not a property that is owned by the city.

Mr. McLaughlin stated that the property is owned by Kleberg Bank with some of the area leased to the city to be used for parking in exchange for in-kind service by resurfacing the parking lot, which needs to be done soon.

Commissioner Alvarez asked for a cost to resurface the parking lot.

Mr. McLaughlin stated that the estimated cost is around \$6,000 to \$7,000.

Motion made by Commissioner Lopez to approve the resolution authorizing the City Manager to enter into a Lease Agreement with Kleberg First National Bank for parking on the north side of the Municipal Building downtown, seconded by Commissioner Alvarez.

Commissioner Torres asked if city offices would be moving from this area at some point or will Kleberg Bank sell the parking lot to the city?

Mr. McLaughlin responded that the city will still occupy the old Municipal Building. He further stated that he doesn't think the Bank has any intention of selling the property and the city has never asked either.

Commissioner Torres asked if the city would ever consider purchasing the property if the city will be maintaining it?

Mr. McLaughlin responded that the city only has to maintain it every five years. He further stated that you can see where the repairs are most needed, which is around the bank ATM.

Commissioner Alvarez commented that when the restaurant was located across the street from this parking lot, everyone from the restaurant would park there.

Commissioner Hinojosa commented that the city received sales tax from that restaurant.

Commissioner Lopez commented that the parking lot is needed to allow our city employees to park in that area.

Commissioner Torres commented that this is why she is asking if the Bank would sell the parking lot to the city.

Commissioner Lopez commented that the agreement that is currently in place is a good agreement, why try and purchase it.

Commissioner Torres commented that if the city is going to continue to fix it, why not just purchase it instead of leasing it.

Commissioner Hinojosa commented that the city can consider it when it comes up for sale.

Mayor Fugate commented that this lease agreement has been in place since Kleberg Bank moved across the street back in 1971.

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

22. Consider a resolution nominating certain person(s) as candidate(s) for election to the Board of Directors for the Kleberg County Appraisal District. (Commissioner Torres).

Mrs. Alvarez stated that the names of nominees to this Board must be turned in no later than December 15th.

Mayor Fugate commented that there is a Commission meeting scheduled for October 12, 2021, and further commented that his concern on this is that the city has never done this before. The city has always had only one candidate and the city barely having enough votes to have one candidate in place. Fugate further stated that he doesn't want to get into a situation where the city doesn't have any candidates on this ballot. He also stated that the Commission can pursue this but he asked the Commission to take no action and bring back this item on the October 12th agenda. This will give the Commission some time to vote on it and get those candidates on the ballot.

Commissioner Torres commented that she read that the city can have up to five candidates and have spoken with the individuals and they necessarily don't have to vote for whomever they considered, and some may not put anyone on the ballot. The city may even have the option for them to vote for another individual that the city has nominated.

Mayor Fugate commented that it would be great if the city can get two individuals on the Board, but we have never done that before. He further stated that he wants to look at this as he has some concerns. Mayor Fugate commented that if the Commission wants to pursue this tonight that is fine, but he is asking that the item be tabled until October 12th. This will give the Commission time, if the city has an extra candidate, it gives the city time to get it on the ballot by December 15th.

Commissioner Torres asked if the Commission made the nomination tonight, can the Commission still make another nomination on October 12th.

Mayor Fugate commented that once an item is voted on and the item does not pass, that item cannot be brought back to the Commission for consideration for six months, as per city ordinance.

Mrs. Alvarez commented that if the items fail, there is a six-month waiting period before bringing them back for consideration.

Mayor Fugate stated that it is his recommendation to wait on this item and bring it back on October 12th. He further commented that the city has never done this before. The city has always only had one candidate for this ballot as the city has only so many votes to give a candidate.

No action was taken.

23. Discussion on American flags in downtown area. (Commissioner Torres).

Commissioner Torres stated that the discussion about the American Flags originally started with Master Sergeant Torres who was the Chair for their committee that would go out and place the flags which he did for over 25 years. She further commented that there was a certain placeholder on the sidewalk where he would place the flags in. Commissioner Torres further stated that Master Sergeant Torres suffered a heart attack about 3 years ago and therefore had to have two volunteers that assisted with placing the flags out. She stated that when Master Sergeant recovered, he took it over as this was something that he wanted to do. In the new areas, there are no placeholders on there and with the new master plan, there is nothing on there that is going to continue the placeholders on there. She stated that it was discussed that the brackets would go up, which the brackets went up but the flags that were used and look nicer and larger weren't fitting the brackets that were installed plus it requires a lift and the flags that were bought were smaller than the flags that the VFW has. Commissioner Torres stated that on Patriots Day which is 9/11 no flags were displayed. The flags were missed because it was said that nobody told them to display the flags. Commissioner Torres commented that this bothered her. She stated that this was brought up to her attention as she hadn't gone by the area, but once they made her aware of it, she did drive by the area and noticed that flags were not displayed. She further stated that it shouldn't be told, and the issue is that the lift wasn't working anyway so flags couldn't go up and even if other equipment was bought to go out there and place them, which was a suggestion that was made. She stated that she spoke with the veterans', and they came up with if the placeholders are the water tanks, when they go out there who would fill them up with water, and if there was an issue with the lift not working what says that there wouldn't be an issue with someone being able to fill the containers with water for the flags to hold up. She further commented that if anyone had gone downtown, as she went downtown to look for herself, if you are not looking for that hole for the placeholders, you wouldn't know it's there. They are the proper size for the flag poles that they have, and they look nice when they put them out, so she doesn't understand why the placeholder hole can't go back on there.

Mayor Fugate commented that this is a tradition in Kingsville that is about 50 years old and this is a mistake on our part by not getting the holes in the sidewalk, which would make it a lot easier. But with now having a brand-new sidewalk he doesn't think the city would be interested in drilling holes. He further asked Mr. McLaughlin if the other side is the sidewalk going to be done anytime soon?

Mr. McLaughlin responded that between 6th and 7th on the southside no. On both sides between 6th and 7th street, those sidewalks are not done. It's from 7th to 8th Street, both sides are done and will continue down to the east and branch out north to Yoakum., like it is being done on 7th it will have to be done on 8th as these sidewalks are in poor condition.

Mayor Fugate asked if there is any way that from now on so that we don't have this issue, we can get the holes put into the sidewalks.

Mr. McLaughlin responded that there is nothing that is stopping us from putting a hole, it is just that when you put \$400,000 in sidewalks, he would hate to drill a hole in it as in 20 years, the sidewalk will crack. If this is something the Commission wants to do, then it will be done.

Commissioner Torres commented that \$400,000 is pennies in a bucket regarding what all our veterans have done. There is a World War II Veteran, Iraq, Afghanistan, Korean War Veteran who is 93 years old who has been doing this for a long time and we are going to put a price of \$400,000.

Mayor Fugate commented that it is important that the American Flags be displayed downtown and thinks that the Commission feels the same way. He further asked Mr. McLaughlin to look into what he could come up with and provide the Commission with a report.

Commissioner Alvarez asked how many flags are displayed?

Commissioner Torres responded that they had 48 flags. She further stated that there was another suggestion that other in other cities Rotaries placed the flags out and charged. She stated that they went away in charging businesses as they thought it was something important. She further stated that they looked at all their paperwork and that was done away over 25 years ago. This is something that the Veterans organization will not do for downtown. For other businesses, it's something that they say they would possibly do, but not for downtown.

Mayor Fugate asked staff to look into this and see what plan the city can come up with.

Mr. McLaughlin stated that he would look into this but would like a flagpole from the Veterans for hole measurement purposes. He further stated that he also wants a list as to when flags are to be displayed and the holiday that they will be displayed for.

Mayor Fugate commented that he feels that someone from the Veterans organization should be part of the solution for this.

Ms. Janine Reyes, Tourism Director stated that she did speak with Commissioner Torres last week, and what she had recommended was a water base flag holder that cost \$29.95 each. If we were to buy 48 for all the flags the total cost would be around \$1,437.60. She further stated that she didn't like the holders as a lot of them fell which is a concern if they fall and hit someone and does not want to have a man lift out there as it is extra work. She stated that what she recommended was that they can place these in an even location across the street which holds water that makes it 40 pounds which should hold the flags. Ms. Reyes further asked Commissioner Torres if something like this would be able to hold her flags.

Commissioner Torres responded that that was the issue, maintaining the water so it could hold it as the canisters are not made for our windy city.

Ms. Reyes stated that they are 40 pounds, and her staff can place them and fill them with water then coordinate with the VFW to display the flags.

Commissioner Torres responded that this is what they discussed with the Veterans that the issue is if something comes up such as the man lift.

Ms. Reyes commented that a man lift was needed which is why she recommended the water base holders, and her staff could get it done.

Commissioner Torres commented that Ms. Reyes's staff could have had it done on Patriots Day and it wasn't done.

Ms. Reyes stated that nobody had a schedule, and her staff has never displayed the flags before the sidewalks.

Commissioner Torres commented that Patriots Day is 9/11 and 9/11 has been going on for 20 years.

Ms. Reyes responded that she is aware of this but that she did ask Commissioner Torres to coordinate dates with her that she would have liked her staff to put them out there as well as times so that the water flag holders could be placed and the VFW following staff behind to display the flags of if she wanted staff to do it, staff would need possession of those flags.

Commissioner Torres commented that it would be a lot easier just to maintain what we already have. She stated that she went out there and looked and measured.

Ms. Reyes stated that when the sidewalks first got laid down the first thing, they said to them was that there were no holes for the flags poles. She further stated that between now and Veterans Day we need to have a plan together, even if the plan is to order, as we know that the existing sidewalks have holes.

Commissioner Torres asked what would be the temporary solution? Ms. Reyes responded that she wants to make sure that Veterans Day that the flags look appropriate.

Commissioner Alvarez commented that for the sidewalks that have not been redone yet when they are redone can the city have those holes put in place.

Ms. Reyes stated that what she would recommend for the time being and the next holiday, order the water flag holders for the sidewalks that don't have the holes.

Mr. McLaughlin commented that this can be engineered in, but the issue is that when the original sidewalk there were three sidewalks built on top of each other having some of the concrete in certain areas being 18 inches thick of concrete. What it was replaced with was six inches, so punching a hole through it and with the sand below it over time, what will it do underneath the sidewalk. Mr. McLaughlin further commented that he would come up with a plan for this.

Commissioner Torres asked why they weren't in the plan, to begin with? Mr. McLaughlin responded that the flags were not the city's program and it never crossed staff's mind of placing flag holes on the sidewalks.

Mayor Fugate commented that this was an honest mistake, not something that was done intentionally. City staff will look into how to remedy this situation.

Commissioner Torres stated that for the temporary it is okay, but it's the long-term that she is more concerned about.

24. Discussion on Animal Control and days of stay. (Commissioner Torres).

Commissioner Torres asked that reason for this item is to make sure that the city is in compliance with the law regarding days of stay.

Mr. McLaughlin stated that there is no requirement in any Texas Code that says that you can only hold an animal for a certain number of days. He further stated that there is a limit on the minimum that an animal is required to be on hold, which is 72 hours, to allow the proper owner to locate its pet, but after 72 hours the pet becomes the property of the City, and the City can dispose of it as its discretion. He further commented that since he has been City Manager, the city has not euthanized any animals due to overcrowding in the shelter. Mr. McLaughlin stated that the animal shelter has had some dogs for over 100 days, but the city has kept them fed, watered, and sheltered.

Commissioner Alvarez commented that the last report she received shows that there were 46 dogs at the shelter. She further asked if there were enough kennels to house these dogs.

Mr. McLaughlin responded that there is, as there may be a litter of puppies that can be housed in the kennel.

Commissioner Torres commented that she is aware of the State report and asked if the shelter was at 100%.

Mr. McLaughlin stated that you don't receive a percentage score, you get satisfactory. He further stated that in the past you would receive where you can use improvement or get satisfactory with additional comments. He further stated that for two years in a row, the shelter has received a satisfactory with no recommendation comments.

25. Consider a resolution adopting the City of Kingsville Fire Department Charity Care Assistance Policy. (Finance Director/Fire Chief).

Mr. Juan Adame, Fire Chief stated that each year the State allocates funding of federal match funds to assist offset the compensated care cost for persons transported by the Fire Department ambulance services. The individuals that meet certain Federal Poverty Level criteria to possibly be eligible for 100% charitable care discounting of their ambulance bill. This is only provided if they do not have insurance or other financial resources that would pay for such transport. For the city to qualify for this funding, the city would need to have a Charitable Case Assistance Policy in place that has been accepted by the City Commission.

Commissioner Torres asked if this program was for those who are uninsured? Chief Adame responded yes. Commissioner Torre further asked if the individual must apply for this.

Ms. Alvarez responded that the individual would need to apply for it.

Chief Adame stated that the city does not apply, the billing company handles that part of the process. When the Fire Department transports patients, they fill out an electronic reporting form, which is handled by the billing company. The billing company starts the process of applying for the matching funds. As patients are determined that fit into the category of the policy, then the city will qualify for the reimbursement. The city will then accept that reimbursement as payment paid in full.

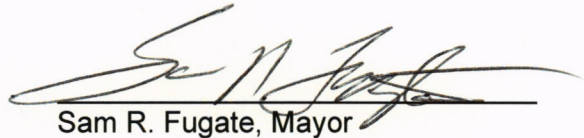
Commissioner Torres asked if the patient had to do anything to apply. Chief Adame responded that he doesn't believe the patient has to do anything to apply.

Mrs. Balli commented that the other part of this is for when we do ambulance runs that get paid by Medicare. Medicare will pay a certain amount and the city cannot bill them for the remaining amount so these funds will offset those costs that we cannot collect.

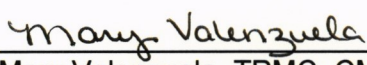
Motion made by Commissioner Lopez to approve a resolution adopting the City of Kingsville Fire Department Charity Care Assistance Policy, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Torres, Fugate voting "FOR".

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:30 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, TRMC, CMC, City Secretary