

OCTOBER 12, 2021

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON TUESDAY, OCTOBER 12, 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
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
Mike Mora, Capital Improvements Manager
Janine Reyes, Tourism Director

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 – September 27, 2021

Motion made by Commissioner Lopez and Commissioner Torres to approve the minutes of September 27, 2021 as presented, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Torres, Fugate voting "FOR".

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

1. **Public Hearing on request for an alcohol variance for a Wine and Malt Beverage Retailer's Off-Premise Permit (BQ) for the establishment known as Javelina Mart located at 1202 N. Armstrong St., Kingsville, Texas. (Director of Planning and Development Services).**

Mayor Fugate read and opened this public hearing at 5:05 P.M.

Mayor Fugate commented that this location has been selling alcohol for many years. Due to a change of ownership, the applicant must reapply for the alcohol license.

Ms. Kate Hilliard, 1324 N. Armstrong, University Baptist Church, commented that she is protesting the hard liquor license. She further stated that much of this is due to spiritual support for the community that the city already has a lot of people drinking themselves to sickness and death. She further stated that there is currently a lot of domestic abuse that is aggravated by alcohol and drugs. She also stated that there is a lot of college activity with alcohol so rates on planned pregnancy, as she was a volunteer with the Pregnancy Center for a few years, and the number one thing that leads to unwanted pregnancies is liquor. Ms. Hilliard further commented that being so close to the campus, allowing for more underage drinking, illegal purchase of alcohol for those under the age of 21 is already occurring. This will only create more access exasperating the problems that do occur in our community. She further stated that there is quite a bit of litter when it comes to beer cans and glass bottles with other places that sell hard liquor.

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.

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

Mr. Mark McLaughlin, City Manager reported that staff attended the TML Annual Conference in Houston last week. He further thanked Mrs. Tanya Colin, Administrative Assistant to the Engineering Department for decorating around City Hall for Domestic Violence Awareness month. Mr. McLaughlin further reported that sales tax figures for October were released today with city at \$43,000 higher than what was projected and having the coming in at \$466,000 which keeps us on pace with this fiscal year with all accrued at about \$5.7 million with us budgeting \$5.1 million. Mr. McLaughlin further reported that he is working with Mr. Uche Echeozo, Director of Planning & Development Services, and looking at a couple of issues with 8th Street and Kleberg Avenue. The plan is to remove the two Oak Trees located near the Texas Theatre and the other across the street. Both planters are broken due to the size of the trees, and both are located halfway out to the street. He further stated that on 8th Street and Kleberg there are two new planters on the east side towards the KA Childs building, but on the west side, the two that are located down the street will be removed and get the Oak Trees out and rebuild the round planters to make them symmetric on all four corners and have Keep Kingsville Beautiful to look into placing something there to where it will not lift the concrete over time.

Mayor Fugate commented that the project on 7th Street is moving very slow and would like for staff to look into it and see if the project can be moved along.

Commissioner Torres commented that today marks the 21st Anniversary of the bombing of the U.S.S. Cole caused the passing of Mr. Ronchester M. Santiago, US Navy who is a Kingsville native.

Ms. Courtney Alvarez, City Attorney reported that the next City Commission meeting is scheduled for Monday, October 25th. The deadline for staff to submit their agenda items for this meeting by Friday, October 15, 2021.

IV. Public Comment on Agenda Items.³

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

Mr. Al Garcia, 1125 W. Henrietta, Kingsville, TX commented that he would like to comment about agenda item 22, flags being displayed in the downtown area. He commented that it is very important to have it continued. He further stated that it is his understanding that the VFW use to do this years ago and have more than 40 flags that are in 4x6 size with poles to go along with them. They used to display them along the sidewalk along the downtown area but then got away from that. He further stated that we need to do this again and be patriotic and need the community to support them in this effort. Mr. Garcia further commented that it is beautiful to see a row of flags with red, white & blue and think that if the Commission allows the project to continue and go along with that, it would be a great asset for the city especially during the holiday such as Veteran's Day and 4th of July and any other event that might warrant the displaying of the flags.

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

1. Motion to approve final passage 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).

2. Motion to approve final passage 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).

3. Motion to approve final passage 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).

4. Motion to approve final passage 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).

5. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to cover FEMA COVID additional funding for eligible items. (Finance Director).

6. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to cover the 2021 bond refunding transaction. (Finance Director).

7. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to cover the final expenditures on Tx. CDBG #7218269. (Finance Director).

8. Motion to approve final passage 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).

9. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to cover coverage on the equipment purchased with grant funds received from the SWB Rural and Tribal Assistance Grant. (Finance Director).

10. Motion to approve final passage of an ordinance amending the Fiscal Year 2020-2021 budget to cover coverage on motor gas and oil for the Solid Waste Management Department. (Finance Director).

11. Motion to approve final passage 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).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

12. Consider an alcohol variance for a Wine and Malt Beverage Retailer's Off-Premise Permit (BQ) for the establishment known as Javelina Mart located at 1202 N. Armstrong St., Kingsville, Texas. (Director of Planning and Development Services).

Commissioner Alvarez asked if this was a hard liquor license?

Mayor Fugate responded that it's only for beer. He further stated that he appreciates the comments but there are so many other places in Kingsville that you can purchase alcoholic beverages and penalize this applicant would be onerous.

Motion made by Commission Hinojosa to approve the alcohol variance for a Wine and Malt Beverage Retailer's Off-Premise Permit (BQ) for the establishment known as Javelina Mart located at 1202 N. Armstrong St., Kingsville, Texas, seconded by Commissioner Lopez.

Commissioner Torres commented that both stores at the end of Armstrong sell beer as well.

Mayor Fugate stated that there is one on Corral and Armstrong, Armstrong and King Street, as well as the Country Lua and other locations near the University and around the city that all sell alcoholic beverages. Fugate further stated that to not approve this alcohol variance with all the other stores that sell alcohol, would be considered signaling them out. He further stated that he understands that there is a problem with domestic violence but doesn't think it is fair to blame this establishment.

Commissioner Alvarez commented that this establishment has been there for years and has sold alcoholic beverages for years.

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

13. Consider final passage 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).

Mayor Fugate stated that this is not the corner store but the building right next to it on Brahma Blvd. and Ailsie.

Ms. Alvarez commented that the reason this item was pulled from the consent agenda was that initially, the applicant had not intended to do any type of installations as per what the Planning Director stated to her. Even though the applicant did not want to say no, he didn't know it was available, so the Planning & Zoning Commission took it upon themselves to say no maintenance on sight. Since the applicant has taken possession of the property, he found out that there was a bay where he could do some of the installation of the items he will be selling. One of the special conditions that are included in this ordinance indicates that only sales may occur on sight and not installations or repairs. The applicant would now like to be able to do the installation of the items that he will be selling on sight since becoming aware that there is a bay that would allow him to do installations.

Mr. McLaughlin commented that as we don't allow mechanic work to be done outdoors, it would need to be done indoors. Now that the applicant is aware that he has an indoor space he would like to do installation of the items he will be selling.

Mayor Fugate commented that he remembers that bay area being used for a tire store back in the days.

Ms. Alvarez commented that the Commission would need to agree so that staff can remove the condition from the special condition section of the ordinance if the Commission was going to allow the applicant to use the bay for that purpose.

Motion made by Commissioner Alvarez to approve the final passage 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 and removing the condition under Section 2 Subpart 4 of the ordinance which read "Only sales may occur on sight and not installation or repairs", seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Torres, Hinojosa, Alvarez, Lopez, Fugate voting "FOR".

14. Consider final passage 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 Alvarez asked if the Commission votes on this item would it be considered spot zoning?

Ms. Alvarez responded that for the spot zoning it wouldn't have to be that the use is not compatible with the surrounding uses. The applicant has a residential use, and the surrounding uses are also residential, none of them are zoned for residential use, they are all zoned C4. Alvarez further stated that it is likely that the houses were built either knowing that they were C4 or built subsequently zoned C4. She further stated that the issue this applicant has is that the applicant has this grant to raze their house and rebuild it and they can't get a permit to do that because the current zoning of C4 which

doesn't allow for residences, which is why the applicant is requesting a rezone. Ms. Alvarez further commented that at the last Commission meeting, it was recommended to staff to look at the surrounding properties as they are in a similar predicament and if something were to happen and they needed to do anything like this, they would be encountering the same problem. She further stated that it is better to rezone the properties consistent with their uses.

Commissioner Alvarez asked if this is something that needs to be placed on the agenda or is it being done automatically?

Ms. Alvarez responded that staff could begin the process of doing a rezone to make those uses compatible with the zoning.

Commissioner Torres asked if this is to be done, how long will it take where the city will keep the citizen from utilizing the grant. She further commented that she is aware that they only have a certain amount of time to use the grant.

Ms. Alvarez responded that she is not aware of the specifics of their grant, but the Commission can move forward on this rezone then come back at a later time and do the ones that surround this property.

Motion made by Commissioner Torres and Commissioner Lopez to approve final passage 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), seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Torres, Fugate voting "FOR".

15. Consider a resolution authorizing the City to submit an application to the State Defense Economic Adjustment Assistance Grant Program for the purpose of requesting grant funding for the fire rescue truck facility at NAS Kingsville. (City Manager).

Mr. McLaughlin stated that this is a DEAGG and these grants need to be applied for by the City to build resilience with a military installation. He further stated that the Texas Military Preparedness Commission uses about \$15 million and distributes it out based on the applications they receive. They are looking for an amount of 50/50 match from the city and Navy or whatever the entity may be. McLaughlin further stated that the city has been successful in receiving DEAGG's on property procurement to protect the clear zones around the installation but not so successful in buildings. He further stated that this agenda item and the one to follow addresses two building issues at the installation, first is for NAS Kingsville Fire Department where they have Aircraft Rescue Firefighting Vehicles (ARFF) that are on hold due to the inability to store them safely on the installation. This project improves the overall facility for NAS Kingsville which also has a mutual aid agreement with the city. Mr. McLaughlin further stated that what is being proposed is \$50,000 or more paid for from the DEAGG Fund (Fund 84) as there is \$970,000 in this fund. The Navy will provide \$100,000 of in-kind services and the DEAGG Grant application is requesting the remaining \$3.4 million in the form of a grant. The total project cost is \$3.5 million.

Mayor Fugate asked what the cost was for the total project?

Mr. McLaughlin responded that the total project cost is \$3,550,000. He further stated that there have been projects that TMPC has awarded that did not meet the 50/50 match if they felt it was important for the installation. Mr. McLaughlin stated that this item and the next agenda item are two important projects that the Navy came up with for this grant.

Mayor Fugate asked Mr. McLaughlin how much more can the city spend on this project?

Mr. McLaughlin responded that he would recommend going from \$50,000 to \$250,000 for each project.

Mayor Fugate asked where this money would be coming from? Mr. McLaughlin responded that there is \$970,000 in the DEAGG grant at this time, in a fund set up just for DEAGG.

Commissioner Alvarez asked if this money was designated for other projects? Mr. McLaughlin stated that the fund is DEAGG and Wastewater which can be used for

several things. He further stated that one of the project ideas was to use it for Wastewater Study which will be done by Garver which can be paid with ARPA money.

Ms. Alvarez commented that if the Commission wants to go with the new recommendation, a motion can be made to approve the resolution with the city's contribution of \$250,000.

Commissioner Hinojosa asked if there is a time limit that the city would need to spend the \$900,000. Both Mr. McLaughlin and Ms. Alvarez stated that there is no time limit.

Motion made by Commissioner Lopez to approve the resolution authorizing the city to submit an application to the State Defense Economic Adjustment Assistance Grant Program for the purpose of requesting grant funding for the fire rescue truck facility at NAS Kingsville with staff's recommendation of a cash match from the city of \$250,000.00, seconded by Commissioner Hinojosa.

Commissioner Torres asked when was the last time the truck facility had been updated or maintained?

Mr. Glenn Jones, NAS Kingsville Liaison stated that he does not have that information at this time but can look into it and get back to the Commission or staff with that information.

Mr. McLaughlin stated that they had updated it when he was the Commander of NAS Kingsville which was all interior work that was done. He further stated that the building was from the 1960's and needs updating.

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

16. Consider a resolution authorizing the City to submit an application to the State Defense Economic Adjustment Assistance Grant Program for the purpose of requesting grant funding for a new Pass and Tag Facility at NAS Kingsville. (City Manager).

Mr. McLaughlin stated that this is for the relocation of the Pass and Tag Office from their current location inside the installation to the entry control point of the installation. Moving the Pass and Tag functions to the main front gate will alleviate the need to escort persons from the entry control point to the Pass and Tag Office. This will also promote Kingsville citizen participation and usage of the NAS Kingsville Bowling Center as it is now open to the public. The public would still need to have a background check by the Navy and purchase an MWR Card for a fee of \$25 annually.

Ms. Alvarez commented that both projects would enhance the sustainability of the base as it has always been a primary goal of the city, to maintain its success and to try and avoid BRAC Closure or similar type assessments.

Motion made by Commissioner Torres to approve the resolution authorizing the City to submit an application to the State Defense Economic Adjustment Assistance Grant Program for the purpose of requesting grant funding for a new Pass and Tag Facility at NAS Kingsville with staff's recommendation of a cash match from the city of \$250,000.00, seconded by Commissioner Lopez.

17. Consider a resolution authorizing application to and acceptance of FEMA-DR-4586 (Texas Winter Storm) for infrastructure improvements; authorizing the City Manager to act on the City's behalf with such program. (City Engineer).

Mr. Rudy Mora, City Engineer stated that the purpose of submitting the eight grant applications is to receive 75% federal assistance from FEMA regarding the Texas Winter Storm. He further stated that the application deadline is November 5, 2021. Basic program information, 75% federal and 25% local match, project cap \$241,860, competitive statewide, and priority given to areas under a disaster declaration. The following are capital improvement projects for water, groundwater production, wastewater, and drainage improvements. Most of the projects are part of the city's Capital Improvements Plan for fiscal year 21-23. Mr. Mora stated that this is a great opportunity to receive federal funding on a few of the city's pending infrastructure improvements. The projects will be funded by the following funds: Fund 068 CO Series 2013 for \$120,105 and Fund 051 Utility Fund for \$364,930. Mr. Mora stated that it is staff's recommendation to submit grant applications for all eight projects.

Commissioner Hinojosa asked if the city has the money for this? Mrs. Deborah Balli responded yes.

Commissioner Alvarez asked if this covers water meters? Ms. Alvarez responded yes, but not covered by the grant.

Motion made by Commissioner Lopez to approve the resolution authorizing application to and acceptance of FEMA-DR-4586 (Texas Winter Storm) for infrastructure improvements; authorizing the City Manager to act on the City's behalf with such program, seconded by Commissioner Alvarez and Commissioner Hinojosa. The motion was passed and approved by the following vote: Torres, Hinojosa, Alvarez, Lopez, Fugate voting "FOR".

18. Consider a resolution authorizing the Mayor to execute the Standard Form Agreements between the City and Etech Construction Inc. for Phase I and Phase II of City-Wide Misc. Concrete and Drainage System Improvements. (Bid #21-11). (City Engineer).

Mr. Mora stated that this project was awarded on August 23, 2021, to Etech Construction, Inc. Having the total project in one contract makes the total project cost exceed the Contractor's bonding capacity. He further stated that he is proposing to have the project broken up into two phases with a contract for each phase. Phase I and II equals \$597,808.70 which is what was previously awarded. Phase II will be initiated once the contractor has successfully completed Phase I. The same work will be done for the same total price as awarded in August under the same terms and conditions for each of the two phases of work. Etech has completed several projects in the city and the city looks forward to working with them on another project.

Ms. Alvarez commented that the Commission had previously awarded the bid to them, but initially, staff looked into putting everything into one contract with this being the same contract terminology and contract price. She further stated that it will be broken up into two phases with the first phase being done and completed then the second phase/contract would be initiated.

Motion made by Commissioner Torres to approve the resolution authorizing the Mayor to execute the Standard Form Agreements between the City and Etech Construction Inc. for Phase I and Phase II of City-Wide Misc. Concrete and Drainage System Improvements, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Hinojosa, Alvarez, Lopez, Torres, Fugate voting "FOR".

19. Consider a resolution amending the City of Kingsville Travel Policy. (Finance Director).

Mrs. Deborah Balli, Finance Director stated that this is an update to the city's current travel policy.

Ms. Alvarez stated that she recommends, for clarification, that additional wording be added to page 9, paragraph 4 to read as followed, If the traveler does not submit a travel advance and does not submit meal receipts, the traveler will not receive any meal reimbursement.

Motion made by Commissioner Hinojosa to approve the resolution amending the City of Kingsville Travel Policy and as amended to include additional wording to page 9, paragraph 4 of the travel policy to read "If the traveler does not submit a travel advance and does not submit meal receipts, the traveler will not receive any meal reimbursement" as recommended by staff, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alvarez, Lopez, Torres, Hinojosa, Fugate voting "FOR".

20. Consider a resolution amending the City of Kingsville Administrative Policy No.731-Flex Leave to provide for additional hours during an employee's birth month. (Human Resources).

Ms. Alvarez stated that the version of the Flex Leave Policy that was brought to the Commission back in September 2021 granting 4 hours of flex leave time to full-time employees and 2 hours of flex leave time to part-time employees for their birthday did not include certain language stating when employees would receive these hours. New language added to the policy now reads that the employee will receive flex leave hours during their birthday month.

Motion made by Commissioner Alvarez to approve the resolution amending the City of Kingsville Administrative Policy No.731-Flex Leave to provide for additional hours during an employee's birth month, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Lopez, Torres, Hinojosa, Alvarez, Fugate voting "FOR".

21. 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).

Motion made by Commissioner Torres to nominate City Commissioner Norma Alvarez to the Kleberg County Appraisal District...

Mayor Fugate asked for a second to Commission Torres's motion.

Commissioner Alvarez commented that this is just for the ballot and asked if this was just to have her name placed on the ballot.

Commissioner Torres responded yes and further commented consider the resolution nominating Norma Alvarez as a candidate for the election to the Board of Directors for the Kleberg County Appraisal District.

Mayor Fugate called for a second to Commissioner Torres's motion.

Commissioner Alvarez asked if she could second the motion?

Ms. Alvarez responded that there isn't anything that necessarily prohibits that as it is not a compensated position or anything that would necessarily have a conflict of interest.

The motion was seconded by Commissioner Alvarez.

Mayor Fugate commented that this is something that he has struggled with back and forth for quite some time. He further commented that he has never seen the city have two people on the, even though you can, we never do it as the city barely has enough votes to one person on there. Mayor Fugate further stated that he is not sure how this is going to work, and he doesn't want to jeopardize the city's opportunity to have somebody representing the city. He also stated that whether you like it or not it is something that he has looked at long and hard and his vote tonight will be what he believes is in the best interest of the city.

Commissioner Torres commented that she has read up on this and looked upon it and asked questions about this because she thought, not to take away but from what she understands, other entities can also give the city or give the vote to a particular person if they see that name on the ballot and agree with it. She also stated that there is a chance that even having one person on the ballot, that person may not get chosen either. She further stated that she can't see why the city wouldn't be able to nominate a second person, we are still taking a chance, and either way, it will be up for grabs.

Commissioner Alvarez commented that the person that the Commission put on there first, the Commission still has the right when it comes to voting, the Commission can still vote for that person the three other Commissioners.

Commissioner Hinojosa commented that we don't know if the other entities will give the city any of their votes. He further commented that he would rather have one candidate.

Mayor Fugate commented that he is trying to understand the reasoning and the rationale for this. He is having a hard time, what's in the best interest of the city? We have one candidate that was already approved, and he doesn't want to jeopardize his ability to get on this Board. Mayor Fugate further stated that he would like to touch on this lightly, as Mayor, he has seen this last year's problems with the Appraisal Board/District and the average citizens, people that own property in this town/community see the problems we have. He further stated that he knows that by law we can't address any of the people that work there, but that doesn't deprive us of the opportunity of putting somebody on there that is going to make these people accountable, which is what he is interested in. Mayor Fugate further stated that he can give so many different examples of property that was just appraised out and made absolutely no sense. Fugate further stated that there are issues in that agency that need to be addressed. Fugate also stated that as Mayor and a member of this Commission, he sees that there is a problem there that needs to be addressed.

Commissioner Alvarez asked if what the mayor was saying was that this other person, will address it, he/she or whoever.

Mayor Fugate responded that he doesn't know if that person will address or not as he has not talked to him or had any communication with him, but he knows that we probably have a better chance. He further stated that this is near and dear to every

citizen, any of the taxpayers in this community. He further stated that he could give some examples if needed.

Commissioner Torres commented that she feels that Commissioner Alvarez would speak up also if she was sitting on that Board and make sure that what's coming before her is for the betterment of our citizens, just as she is sitting as City Commissioner. Torres further commented that the reason for that is that she believes that she can make sure that she voices the citizen's concerns, not only on this level but also regarding our taxes.

Mayor Fugate commented that he can appreciate that, and Commissioner Alvarez does good work for the City of Kingsville and is his friend, but one of the things that hold him back is that he has appointed a lot of different people to different boards through the years and have been involved with people being appointed to boards. He further commented that he has never seen so much interest in this and it bothers him.

Motion made failed by a 2-3 vote with Alvarez and Torres voting "FOR". Lopez, Hinojosa, Fugate voting "AGAINST".

Commissioner Hinojosa asked if a vote is needed? Ms. Alvarez responded that the prior resolution would still stand. She further stated that the ballot should be completed by the end of this week and within the next few weeks all the taxing entities should be receiving a new packet with the names of all the nominees, then each entity can decide how they would like to cast their allotted votes for the individuals on the ballot.

22. Discussion on flags downtown. (Commissioner Torres).

Mr. McLaughlin stated that at the last Commission meeting he was asked to bring back a report on the flags for downtown. He stated that the memorandum given to the Commission explains the options he would like to mention regarding flags displayed downtown. After some discussion with staff, what we have at this time between 6th and 7th Street on both sides of Kleberg are 22 holes drilled in the cement. These holes are not uniformed in size with some filled in concrete and others are mounded over. He further stated that after looking closer at the sidewalks in the downtown area he became more alarmed about the condition of the sidewalk as well as all the holes and what would be the liability of drilling more holes and more sidewalk between 7th and 8th Street. He further stated that the other thing that impressed him is, as he is against the drilling of holes, when you look at where some of the holes are located on the sidewalk, you can see where the drainage is getting underneath and where it has collapsed some of the sidewalks. He further stated that the options were to drill new holes and clean out the existing ones between 6th Street and 7th Street then have to do it all over again when the city has to build new sidewalks or another option, option 2 would be to get with flag holders.

Mr. McLaughlin went over some pictures of the holes located on the sidewalk of downtown showing how distorted and uneven these holes are. He further stated that most of the holes the VFW was trying to use for the flags are spaced about every 12 paces, but not being consistent. Mr. McLaughlin stated that after a discussion with the City Attorney, the best decision, since it's the city right-of-way and easement, we should reduce the trip hazards and not increase them and go with a steel flag holder that filled with sand would weigh about 130 pounds. If it is filled with water the flag holders will be around 100 pounds each so they will not get blown over. Mr. McLaughlin stated that he also liked the heavyweight style and look nice, and no one will be able to pick them up and take them.

Mayor Fugate commented that if this is what the city is going to do, we need to place them out early and pick them up late.

Mr. McLaughlin stated that it is his recommendation is to go with the flag holders.

Commissioner Torres asked who would be placing the flagpole holders with the water and the sand and who would pick them up?

Mr. McLaughlin responded that city crews would be placing them down.

Mayor Fugate commented that these individuals have been doing this for years. He further stated that city crews can place the flagpole holders.

Mr. McLaughlin responded that this was what he was saying, city crews would place the holders only. Since they are the city's flagpole holders and on city right-of-way, city crews will place them down to reduce the number of trip hazards and have them evenly spaced out.

Mayor Fugate asked if the Veteran's would put their flags out?

Mr. McLaughlin responded yes. He also stated that a defined schedule would need to be worked out as some of the holidays fall on the weekend. Mr. McLaughlin further stated that this is his recommendation. It will cost the city about \$10,000 to get the flagpole holders.

Commissioner Torres asked if this is a temporary issue and once the sidewalks are rebuilt, the city will put holes on the new sidewalk.

Mr. McLaughlin responded no and has no intentions of putting any holes on any sidewalk.

Commissioner Torres asked if the pole stands, how tall can the flag be and stated that she has a reason for this.

Mr. McLaughlin stated that the website for the flag holders they don't define excessive winds. They say to reduce the flag height to less than 15 feet, which he thinks that these flag holders are designed to hold flags taller than 15 feet. He further stated that some of the buildings located downtown have awnings so he would not place these on the street. He further stated that the issue also is that the flagpole holders are 10 inches tall and 24 inches around on the base.

Commissioner Torres stated that the flags they have are 9 ½ feet by 1 ¼. She further stated that when they put the flags out in the ground, they use a thick type of iron cast pole that holds it into the ground, and even with that they have to be careful with the wind as there have been times where the wind pulls the whole thing off. She further stated that they never had the problem when placed in the holes that are in the sidewalks. Torres further stated that one of the other things is that this would cause a problem as she has seen so many of these things that she doesn't even feel comfortable utilizing any of these items. She further stated that what they had before, which she still doesn't understand, because the city has the cost at \$4,000 for labor and materials for punching the holes.

Mr. McLaughlin commented that it is assuming that they have the metal pole bases. He further stated that the city would need to drill holes in the current sidewalk...

Commissioner Torres commented than \$10,000 for option 2.

Mr. McLaughlin responded yes, which doesn't include drilling holes in the new sidewalks.

Commissioner Torres commented that it is cheaper for the city to maintain and put the holes on the sidewalks than it is to do option 2 with the stands. She further commented that if cost is the issue, that is the part she doesn't understand.

Mayor Fugate commented that what staff is missing is that these holes are dangerous to someone getting a shoe heal stuck in a hole or someone trip on one.

Commissioner Torres asked how many times has the city had an accident in the past 25 years regarding the holes?

Mr. McLaughlin responded that he had no idea. He further stated that whether we do or not, if we allow that it will put the city in a riskier position. He further stated that the flag holders were a good compromise, and they are of good quality.

Commissioner Alvarez asked if staff could order one flag holder so that it can be tried out with the VFW Flag before ordering all of them?

Mr. McLaughlin responded yes, but the risk is that if the city likes it, how will it get done for Veteran's Day on November 11th.

Commissioner Torres asked that if option 2 is done, is the risk still going to be there with the holes in the sidewalk?

Mr. McLaughlin responded no because as soon as these are removed, there is no trip hazard as he plans on filling in all the holes on the sidewalks.

Commissioner Torres then referred to the pictures that were handed out with the options being offered. She further stated that the holes will be filled but there will still be a trip hazard around it.

Mr. McLaughlin responded that there is only so much he can do until he gets new sidewalks. He is trying to remove as much of the liability and limit it as much as he can. He further stated that besides the holes, the entire sidewalk is in bad condition. It's not the holes alone that present the problem, it's the whole sidewalk that has some issues.

Mayor Fugate commented that there is something that tells you what you can and can't do with sidewalks and whether you can place a hole in one. There has to be some industry standard on that. Fugate commented that this can't be a problem of first impression, there have to be others that have had this problem and he would like to know how they handled it.

Commissioner Torres commented that with the pole stands, depending on how and where they are placed, someone can bump into it and break their toe or break a leg from it, it would still be a liability.

Ms. Alvarez commented that this is a much more obvious and you look to contributory towards negligence, how obvious was the hazard, and did you have an awareness or ability to avoid it. She further commented that you would be more likely to see something that is large and high rather than something lower to the ground and blends in.

Commissioner Hinojosa asked if it was up to the City Manager to do what is best for the city? Let the City Manager decide what is best for the city and allow him to move forward.

Commissioner Torres asked if the Commission also votes for what the City Manager can and cannot do? Does he make any decision he wants and that's that?

Ms. Alvarez commented that we approve ordinances, resolutions, policies, contracts, and award bids. Under the City Charter, the day-to-day operations would be left up to the City Manager. If the City Commission has expressed an interest in maintaining a policy-making part of the city's easement available for flags in the downtown area on designated holidays, the City Manager is working on solutions to make that happen.

Mayor Fugate asked what is going to be done for Veteran's Day. He further commented that it is important to get something up for November 11th.

Commissioner Alvarez asked if staff has looked into placing them on the walls of the businesses in the downtown area.

Ms. Alvarez responded that it's not city property and could bring other issues and the need for releases before the city could drill and attach anything to someone else's property.

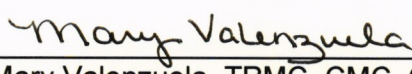
Commissioner Hinojosa commented that something needs to be done and it should be left to the City Manager to do what's best for the city.

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:15 P.M.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, TRMC, CMC, City Secretary