

JUNE 10, 2024

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JUNE 10, 2024, IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.

CITY COMMISSION PRESENT:

Sam R. Fugate, Mayor
Edna Lopez, Commissioner
Norma N. Alvarez, Commissioner
Hector Hinojosa, Commissioner
Leo Alarcon, Commissioner

CITY STAFF PRESENT:

Mark McLaughlin, City Manager
Mary Valenzuela, City Secretary
Courtney Alvarez, City Attorney
Kyle Benson, Director of Information & Technology
Derek Williams, IT
Emilio Garcia, Health Director
John Blair, Chief of Police
Diana Gonzalez, Human Resources Director
Erik Spitzer, Director of Planning & Development Services
Leticia Salinas, Accounting Manager
Deborah Balli, Finance Director
Susan Ivy, Park Director
Bill Donnell, Public Works Director
Rudy Mora, City Engineer
Charlie Sosa, Purchasing Manager
Manny Salazar, Economic Development Director
Juan J. Adame, Fire Chief
Richard Denton, Acting Lt. Officer
Kwabena Agyekum, Senior Planner/HPO

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 Ms. Courtney Alvarez, City Attorney, followed by the Pledge of Allegiance and the Texas Pledge.

MINUTES OF PREVIOUS MEETING(S)

Regular Meeting – May 13, 2024

Special Meeting – May 16, 2024

Motion made by Commissioner Lopez to approve the minutes of May 13, 2024, and May 16, 2024, as presented seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Fugate voting "FOR". Alacorn "ABSTAINED".

Regular Meeting – May 28, 2024

Motion made by Commissioner Lopez to approve the minutes of May 28, 2024 as presented, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez voting "FOR". Fugate "ABSTAINED".

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

1. Public Hearing to consider the advisability of the creation of Reinvestment Zone Number Two, City of Kingsville, Texas for Tax Increment Financing Purposes pursuant to Chapter 311, Texas Tax Code. (Economic Development Director).

Mayor Fugate read and opened this public hearing at 5:04 p.m. Mayor Fugate further announced that this is a public hearing. If anyone would like to speak on behalf of this item they may do so now with a five-minute limit. Additional time cannot be extended by the City Commission.

Mr. Manny Salazar, Economic Development Director stated that this is in reference to the Flato Projects, The King's Plaza. A TIRZ is the most logical way to move this project forward and reinvigorate this area in town. This area has lagged behind in some developments and with this it will be a way to incentivize developers to improve infrastructure.

Ms. Natalie Moore from David Pettit Economic Development, gave a presentation on the proposed Tax Increment Reinvestment Zone #2. She stated that a tax increment financing is a tool that incentivizes economic development within a Tax Increment Reinvestment Zone (TIRZ) which is governed by Tax Code, Chapter 311. Hundreds of TIRZ have been created in the State of Texas. Cities alone or in partnership with other taxing units can use this tool to pay for improvements in a zone so it will attract new development, facilitate investment, and bring the excitement of energy to a designated area. Ms. Moore stated that a TIRZ is a private development activity expected to occur within a designated area. It provides a funding source without impacting the current amount of general fund revenues for each participating taxing entity. The ability to leverage revenues from taxable property within the TIRZ to generate a larger increment. A TIRZ attracts potential developers and investment into an area that may not otherwise occur. A TIRZ can pay for infrastructure, public improvements, economic development programs, or other projects benefiting the zone. The TIRZ creation process is as follows: Chapter 311 outlines the various procedures for creating and amending a TIRZ. There are two main documents in this, a creation of an ordinance and TIRZ project and a financing plan. Another is the creation of an ordinance that establishes five key elements: 1) boundary, 2) term, 3) TIRZ Board, 4) city participation, and 5) preliminary project and financing plan. The final project and financing plan is after TIRZ creation the final project and financing plan is recommended by the TIRZ Board and approved by the City Commission by a separate ordinance. The overview of the proposed TIRZ #2, goal is to encourage private development that will yield additional tax revenue to all taxing jurisdictions. The area consists of approximately 39 acres and the base value would be as of January 1, 2024. This is a 30-year term with December 31, 2054, being the final year's tax to be collected by September 30, 2055. There is a potential for Kleberg County to participate, subject to a yet-to-be-negotiated interlocal agreement. The land within the zone is well-positioned for future development and redevelopment. David Pettit Economic Development projects that retail and multifamily development could occur during the life of the TIRZ, based on market trends, known planned development, and input from city staff. Ms. Moore stated that the next step is this meeting now, June 10, 2024, where the city will create an ordinance. Then on June 24, 2024, the second reading and consideration will take place. The creation of the ordinance establishes five key elements: boundary, term, TIRZ Board, city participation, and preliminary project and financing plan. In the Summer/Fall of 2024, upon TIRZ's creation, the final project and financing plans are approved by the TIRZ Board and then the City Commission by separate ordinance.

Commissioner Hinojosa asked if a different fund would be needed for the TIRZ. Ms. Moore responded yes. Commissioner Hinojosa further asked if the Commission establishes who can be on the TIRZ Board. Ms. Moore responded yes, and they recommended that it be the City Commission and any additional participating taxing entity would get one to two, but if it was just the city participating then it would only be the Mayor and Commissioners, but it is at the discretion of the city commission.

There being no further discussion, Mayor Fugate closed this public hearing at 5:22 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, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."

Mr. Mark McLaughlin, City Manager reported that city staff is tracking the tropics as there may be a storm coming to the area. He further reported that the distributor has arrived and crews will begin working on the second half of 11th Street. Mr. McLaughlin reported that city offices will be closed on Wednesday, June 19, 2024 for the Juneteenth Holiday. Mr. McLaughlin further introduced the new K9 Luca, a Dutch Shepard that has joined the Kingsville Police Department. Luca is 2 ½ years old and is assigned to Acting Lt. Richard Denton.

Ms. Courtney Alvarez, City Attorney reported that the next city commission meeting is scheduled for June 24, 2024. The deadline for staff to submit agenda items for the upcoming meeting is June 14th. Ms. Alvarez further reported that the commission had

approved a resolution for BASF to do a half-enterprise project through the Texas Enterprise Zone Fund which will not cost the city any money, this helps them to get some funding for a period of time for job creation or job retention. She further commented that the city has received notice that the application has been approved by the State.

Commissioner Hinojosa commented that he met with both Mr. McLaughlin and Ms. Alvarez regarding the \$537,000 check that was released. He stated that he was disappointed that it was paid before the city received all the money. He also stated that had it been done correctly it would be paid on a pay as you go system, as they receive the money, we should have been paid, but we never did tell the administration to go ahead and get that money back. He further stated that in all fairness it should have been paid as they file the report then they receive the money and then they report the amount they receive, then at that time the city can pay it. He further stated that he still feels that they have not finished the project and he has heard from reliable sources that they needed the city's money so that they can continue finishing the project. He stated that he was provided a document that states that this is what was filed which was a document as of 331. He further stated that he still feels uncomfortable and has expressed his displeasure with Mr. McLaughlin and Ms. Alvarez, but staff accepted it but he would not have accepted it.

IV. Public Comment on Agenda Items.³

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

No public comments made.

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

- 1. Motion to approve final passage of an ordinance amending the zoning ordinance granting a Special Use Permit to South Texas Stash, LLC for a Take 5 Oil Change Store in C2-Retail at Erard Est #3, Lot 1, (Verizon) (Property ID #33088), also known as 1401 E. General Cavazos Blvd., Kingsville, Texas. (Director of Planning and Development Services).**
- 2. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate additional funding for Tyler Utility Billing Software increases. (Finance Director).**
- 3. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to accept and expend donation from the Brookshire Foundation for pool equipment and recreation programs for the Parks Department. (Parks Director).**
- 4. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for the Golf Course Hydroseeding Project. (Parks Director).**
- 5. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for emergency repair to Police Department AC unit. (Purchasing Manager).**
- 6. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for the Chamberlain Park bathroom roof. (Purchasing Manager).**
- 7. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for Street Department vehicle repairs. (Public Works Director).**

8. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for waterline repairs. (Public Works Director).

9. Motion to approve final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to reallocate UF ARP funding for water line repairs. (18-inch water line repairs). (Public Works Director).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

10. Consider appointing Krystal Emery to the Planning & Zoning Commission for a two-year term. (City Manager).

Motion made by Commissioner Hinojosa to approve the appointment of Krystal Emery to the Planning & Zoning Commission for a two-year term, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".

11. Consider introduction of an ordinance of the City Commission of the City of Kingsville, Texas, pursuant to Chapter 311 of the Texas Tax Code, creating Tax Increment Financing Reinvestment Zone Number Two, City of Kingsville, Texas. (Economic Development Director).

Mayor Fugate thanked Mr. Manny Salazar, Economic Development Director, for his work on this project. This is long overdue and much needed.

Introduction item.

12. Consider a resolution authorizing the Chief of Police to enter into a Memorandum of Understanding between the City of Kingsville Police Department and the National Insurance Crime Bureau for Law Enforcement ISO ClaimSearch Access. (Police Chief).

Mr. John Blair, Chief of Police stated the police department seeks approval to enter into a Memorandum of Understanding (MOU) with the National Insurance Crime Bureau (NICB). This partnership is critical for enhancing the department's capabilities in various complex criminal investigations. The proposed collaboration between the Kingsville Police Department (KPD) and NICB is designed to significantly strengthen the investigative reach and efficiency. This MOU will enable the KPD to leverage NICB's extensive databases, case preparation assistance, and participate in Regional Task Forces operating nationwide. These tools will facilitate seamless information sharing, fostering greater cooperation and synergy between law enforcement entities. By integrating NICB's resources into our operations, we enhance the ability to proactively address emerging threats and ensure the safety and security of our community. There is no financial impact to the city.

Motion made by Commissioner Lopez to approve the resolution authorizing the Chief of Police to enter into a Memorandum of Understanding between the City of Kingsville Police Department and the National Insurance Crime Bureau for Law Enforcement ISO ClaimSearch Access, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Alarcon, Lopez, Alvarez, Hinojosa, Fugate voting "FOR".

13. Consider a resolution authorizing the Chief of Police to enter into a Memorandum of Understanding between the City of Kingsville Police Department and the Texas Comptroller of Public Accounts. (Police Chief).

Chief Blair stated that this is an MOU with the Texas Comptroller of Public Accounts (CPA). This partnership is crucial for augmenting the department's capabilities in addressing various complex criminal investigations. By leveraging the CPA's extensive databases and authoritative capabilities, KPD will be better equipped to address emerging threats, thereby ensuring the safety and security of the community. There is no financial impact to the city.

Motion made by Commissioner Lopez to approve the resolution authorizing the Chief of Police to enter into a Memorandum of Understanding between the City of Kingsville Police Department and the Texas Comptroller of Public Accounts, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

14. Consider a resolution authorizing the Police Chief to enter into an Asset Disposition Services Agreement between the City of Kingsville Police Department and PropertyRoom.com, Inc. (Police Chief).

Chief Blair stated that an agreement with Asset Disposition Services Agreement with PropertyRoom.com, Inc. to ensure compliance with industry standards for disposing of or selling found or recovered property. The proposed collaboration aims to enhance the efficiency and standards of the department in handling seized, found, and unclaimed property. Some key benefits for KPD are chain of custody tracking, item pickup and management, comprehensive auction management, revenue generation, and security. This service agreement aligns KPD with industry best practices, ensuring transparency and efficiency in the disposal of found or recovered property. There is no financial impact to the city.

Motion made by Commissioner Lopez to approve the resolution authorizing the Police Chief to enter into an Asset Disposition Services Agreement between the City of Kingsville Police Department and PropertyRoom.com, Inc., seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".

15. Consider approval to use ARP Funds for the removal of four trees in the downtown area. (Purchasing Manager).

Mr. Charlie Sosa, Purchasing Manager that city staff is seeking approval of ARP funding for the removal of 4 oak trees located at Kleberg Ave. and Seventh St. The mature oak trees are posing a threat to drainage clogging with the leaves and acorns. The roots are lifting the new concrete sidewalks and acorns are a trip hazard to vendors and customers. Staff is requesting the amount of \$16,000 from ARP funding for the removal of said oak trees.

Motion made by Commissioner Hinojosa to approve the use of ARP Funds for the removal of four trees in the downtown area, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Lopez, Alvarez, Alarcon, Fugate voting "FOR".

16. Consider a resolution authorizing the City Manager to execute a Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad Company. (City Manager).

Mr. McLaughlin stated that as the city is experiencing growth on the south side of town, primarily of residential nature on the south side of town, and is interested in having a railroad crossing installed at West Escondido Road near South 6th Street. The Union Pacific Railroad Company (UPRR) controls the railroad tracks and right of way around its track through the county and state. The UPRR has indicated that at least two existing railroad crossings would need to be closed prior to allowing a new railroad crossing to be built. The city has proposed a plan for closing the crossing at West Kenedy and West Alice in order to open one at West Escondido. In order to consider the plan, the two parties must approve a Reimbursement Agreement for Preliminary Engineering Services which will allow UPRR engineers to perform a preliminary engineering study of the proposed project to determine the work and expense involved, which would be performed at the city's expense. This project will improve citizen safety in the affected areas.

Commissioner Alvarez asked if city staff had received any complaints pertaining to the closure of the railroad crossing. Mr. McLaughlin responded no.

Mayor Fugate commented that Zarsky's Lumber is okay with the closure of the crossing.

Commissioner Lopez commented that her concern is for emergency crews. Mr. McLaughlin stated that emergency crews don't often use this crossing.

Motion made by Commissioner Alarcon to approve the resolution authorizing the City Manager to execute a Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad Company, seconded by Commissioner Lopez and Commissioner Hinojosa. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

17. Consider introduction of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for the Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad Company for the Escondido Rail Crossing Project. (City Manager).

Introduction item.

18. Consider a resolution of the City of Kingsville, Texas finding that AEP Texas Inc.'s requested increase to its electric transmission and distribution rates and charges within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel. (City Attorney).

Motion made by Commissioner Hinojosa to approve the resolution of the City of Kingsville, Texas finding that AEP Texas Inc.'s requested increase to its electric transmission and distribution rates and charges within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarco, Lopez, Fugate voting "FOR".

19. Consider final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for Shift 4 credit card processing fees for Tourism. (Tourism Director).

Ms. Janine Reyes, Tourism Director stated that this item was presented at the previous commission meeting by Mrs. Alicia Tijerina, Downtown Manager, Tourism among other departments have recently taken on this new point of sale system and they have faced about 25 times higher fees then they have budgeted in years past to take in this credit card processing and additionally track inventory. Due to the increase staff is now having to ask for this budget amendment. She further stated that they do have a substantial amount in fund balance to cover the \$3,000 that is being requested and is working with Finance to see if they can get a handle on the fees they are facing right now, so that they don't experience this next year.

Commissioner Hinojosa asked when it was decided to go with this contract and was it in 2019. Ms. Reyes responded that she did not negotiate this contract. Commissioner Hinojosa further asked who negotiated the contract.

Mrs. Deborah Balli, Finance Director, commented that all the outlying departments such as Parks, Tourism and Health Department, staff had to find a way in order to take credit cards and control the inventory. The service fees that the Tourism Department was paying was just, prior to that was just the processing of credit cards. She further stated that staff never had a way to maintain and manage their inventory and Tourism has \$23,000 of inventory and so the city has to have a way to manage that, along with other departments.

Motion made by Commissioner Alarcon to approve the final passage of an ordinance amending the Fiscal Year 2023-2024 Budget to appropriate funding for Shift 4 credit card processing fees for Tourism, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".

20. Discuss and consider Commission seating arrangements. (Commissioner Hinojosa).

Motion made by Commissioner Hinojosa to have the seating arrangements for the City Commission by place number, Place #1, Place #2, Mayor seat, Place #3, and Place #4, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Alarcon, Lopez, Alvarez, Hinojosa, Fugate voting "FOR".

21. Consider a resolution appointing a commission member to the City of Kingsville Finance/Audit Committee. (City Attorney).

Motion made by Commissioner Alvarez to nominate Commissioner Hector Hinojosa to the Finance/Audit Committee, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

22. Consider a resolution appointing a commission member to the City of Kingsville Investment Committee. (City Attorney).

Motion made by Commissioner Hinojosa to reappoint Commissioner Norma Nelda Alvarez to the Investment Committee, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".

23. Consider a resolution appointing two representatives and two alternate representatives to the Coast Bend Council of Governments. (City Manager).

Mayor Fugate asked Mr. McLaughlin if he would like to serve on the Coastal Bend Council of Governments. Mr. McLaughlin responded yes, as a voting member.

Motion made by Commissioner Hinojosa to appoint Commissioner Norma Nelda Alvarez and Commissioner Leo Alarcon as voting members with alternate members being Mark McLaughlin and Hector Hinojosa, seconded by Commissioner Alvarez.

Commissioner Alarcon commented that after reading the notes, he noticed that previous Commissioner Torres replaced Mr. McLaughlin as a voting member of the Coastal Bend Council of Governments (COG). He further asked why this was done.

Mr. McLaughlin stated that it was he and Commissioner Alvarez who swapped positions. He further stated that traditionally the City Manager has been a voting member. Previous Commissioner Torres and Commissioner Alvarez wanted to be on some executive level board that the COG has but you must be an elected official in order to serve on that board. He further stated that from the City Manager's point of view and with the things that the City Manager is involved with, not only the COG but also with the South Texas Military Task Force he sees more of that stuff than anybody else that would be on the COG, which is why he feels that he needs to be placed back on the COG as a voting member.

Commissioner Hinojosa commented to Commissioner Alarcon, that he could decline the nomination if he wishes to do so.

Commissioner Alarcon commented that he will take the nomination but wasn't sure for the reasoning for the last time when the swap took place.

Mr. McLaughlin responded that it was to fill a position on the board that required it to be an elected official.

Commissioner Alvarez commented that as for the alternate, as she used to be the alternate, she attended all the meetings and placing Mr. McLaughlin as the alternate, he could also attend all the meetings.

Mr. McLaughlin commented that he could, but alternates are not given the opportunity to speak at the meetings. The alternate is only there to fill in the spot if a voting member is not able to attend that particular meeting.

Mayor Fugate commented that the City Manager is asking to be appointed as a voting member of the COG and he can understand why the City Manager needs to be appointed as a voting member.

City Secretary, Mary Valenzuela asked for clarification on the motion and asked if the motion was to appoint Commissioner Norma Nelda Alvarez and Commissioner Leo Alarcon as voting members to the COG with Commissioner Hinojosa and City Manager, Mr. McLaughlin as alternate members.

Commissioner Alarcon asked if he could make an amendment to the motion to allow Mr. McLaughlin to be appointed the voting member and he gets appointed as an alternate member.

Commissioner Hinojosa commented that he does not have an issue with the amendment that Commissioner Alarcon would like to make.

Ms. Alvarez commented that it would be best that Commissioner Hinojosa withdraw his motion.

Commissioner Hinojosa commented that he would like to withdraw his initial motion. Commissioner Hinojosa then made a new motion.

Motion made by Commissioner Hinojosa to appoint Commissioner Norma Nelda Alvarez and Mr. Mark McLaughlin, City Manager as voting members to the Coastal Bend Council of Governments and appoint Commissioner Hector Hinojosa and Commissioner Leo Alarcon as alternate members, seconded by Commissioner Alvarez.

Commissioner Alvarez commented that this is a great learning experience and further stated that Commissioner Alarcon can attend all the meetings if he chooses to attend.

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

24. Consider a resolution appointing a Mayor Pro Tempore. (Mayor Fugate).

Mayor Fugate stated that both he and Commissioner Hinojosa have looked at the City Charter amendment and he would like to use the phrase, "it's as clear as Mathis Lake", on how the Commission should proceed on this. He further stated that there are a couple of things that are very clear, everyone on the commission is equal. The Mayor's vote is the same as the other commissioners with the exception of the Mayor conducting the meetings and it is clear that the Mayor appoints a person to substitute in when the Mayor is absent,

which is the Mayor Pro Tem. He further commented that the Mayor is the person to appoint that position and its subject to argument but he will concede that it is subject to approval by the commission. Mayor Fugate stated that he has designated Commissioner Lopez as his substitute to take when he is not available to conduct the business of the city in all regards. This has been done in writing according to the City Charter. He further stated that the reason he has done this is because Commissioner Lopez was the top vote-getter and is the senior commissioner on this commission. Mayor Fugate stated that for these two reasons, he supports Commissioner Lopez. He also commented that if any other commissioner was the top vote-getter, that would have been his decision. He would have appointed that particular individual. He further stated that this is the one thing that he gets to do and he asks for the Commission to support him on his decision.

Commissioner Hinojosa commented that he and Mayor Fugate have had this discussion and the Mayor interprets it one way and he interprets it a different way. Hinojosa stated that he does not interpret it the way Mayor Fugate does and feels that the Mayor needs to get approval from the Commission. Commissioner Hinojosa further stated that the commission received an email from the City Attorney, Ms. Alvarez, stating that it was up to the commission to give consent. It was up to the commission to vote on this matter. Commissioner Hinojosa stated that he respects Mayor Fugate's views.

Commissioner Alarcon stated that he received the agenda packet Thursday evening and has read the resolution and the email sent by Ms. Alvarez. He stated that there was an election in 2020 to change the terms of office for the city commission from a two-year term to four-year term. In 2023 there was another election held to create Places. He stated that when this happened the voters approved the creation of places. Commissioner Alarcon stated that when you are running at-large everyone is in one column and the top four vote-getters are the winners for that election, but this time, everyone was separate and did not have the same people running against each other. He stated that looking at all twelve candidates that filed for this past election, he noticed that out of those twelve candidates, eleven candidates had been on other ballots before. The only candidate that had not been on a ballot before was Rose Marie Damron. When it is said, on the resolution, that it will be repealed, you can't take the fact that a person received the highest votes as he used to get, at one election or another, he used to get the top votes all the time with zero perks. Commissioner Alarcon continued to state that this is all new and with respect to Mayor Fugate, he received the Mayor's note after the fact, after he had received his agenda packet. Commissioner Alarcon commented that he knows everyone on the dais, he and Commissioner Lopez share the same relatives, he carried Commissioner Alvarez's mom casket, went to high school with Mayor Fugate and worked with Commissioner Hinojosa while employed with Kleberg County. He stated that he knows all the Commission very well. He stated that he feels that the commission should start from scratch. He has done his research and this is Commissioner Lopez's fourth term and was Mayor Pro Tem twice. He further asked Commissioner Hinojosa if this was his third term and was Mayor Pro Tem one-time. He then asked Commissioner Alvarez if this was her second term and never has served as Mayor Pro Tem. Commissioner Alarcon stated that he feels that the commission needs to do something different. The commission is supposed to set the precedence and that is if things are changing as we have propositions all the time.

Commissioner Alarcon then tried to make a motion, but was told by Mayor Fugate that he could not make a motion and asked for Ms. Alvarez to assist him. He stated that what the commission votes on is whether or not the commission accept his recommendation, and that is all. Mayor Fugate stated that there is nowhere in the Charter that this commission can appoint the Mayor Pro Tem.

Commissioner Alvarez commented that the letter Mayor Fugate wrote was not part of the agenda packet.

Ms. Alvarez commented that in the City Charter, Article 5, Section 11, which is only two sentences, for the first sentence has two shall's in it. The first shall, the Mayor and Commission shall exercise equal power and authority in the transaction of business. This is mandatory and a given, but there is only one exception to that, which is where the second shall comes in. The second shall states, the Mayor shall act as the presiding officer of the commission and in his absence a Mayor Pro Tem may be chosen. This is not mandatory but it is there as permissive. Ms. Alvarez further commented that there are two shalls in the first sentence, everyone on the commission are equal and that the Mayor is the presiding officer and in his absence a Mayor Pro Tem can be chosen. She further stated that then you look at the second sentence and there are also two shalls, which states that the Mayor or his representative as may be annually designated by the Mayor in writing. She stated that looking at the first phrase before you finish the sentence it says the Mayor designates his representative annually in writing if he chooses, he may, it's not mandatory. But once he does that, the Mayor or his representative has two mandatory obligations, they shall sign all official documents for the city upon the consent and proper instruction from the commission and they shall perform all duties proposed upon the Mayoral position by the

Charter and Ordinances or upon order by the Commission. Ms. Alvarez stated that these are the mandatories and the permissive. There is no where else in the Charter or city ordinance that has any contradictory language or any additional language with regard to that. She stated that there is in one other city ordinance a section that discusses what you say here. This is in Section 3-1-13 under Rules of Decorum which state that the Mayor and Commissioners exercise equal power under Subpart M and the Mayor and Commissioners shall exercise equal power and authority in all transactions of the business of the city except that the Mayor in his absence then the Mayor Pro Tem shall act as the presiding officer of commission. Ms. Alvarez stated that the only other time in any official city document that you have the Mayor Pro Tem discussed. It also states that the Mayor shall perform all duties imposed on him by the Charter and the ordinances of the city or upon the order of the commission. She further stated that the ordinance section restates, without providing any additional clarifying language, what is in the charter, because the charter would control over an ordinance.

Mayor Fugate asked how the commission should tend to this procedurally.

Ms. Alvarez responded that as she had not seen it but has been told that, at the end of the second sentence the Mayor has designated someone and has exercised his discretion to designate someone, in writing, to be the Mayor Pro Tem in his absence. Once that designation is made, the Commission votes on that and approves that, which is questionable as to whether or not it is actually necessary but going with as it has been a past practice with the commission to pass a resolution to that affect, then it would be approving or disapproving the Mayor's designation. Ms. Alvarez further stated that there is a city ordinance that was amended a few years ago, 3-1-10, Subpart 5, which states that after an item has been considered by the city commission and fails to be approved, the item shall not be considered on the agenda again for 60 days, unless waiting the 60 days would impact the city financially, in which case the item can be considered in the next available meeting.

Mayor Fugate asked Ms. Alvarez that what is being said to the Commission is that all they vote on is if whether they accept his recommendation or not. He further commented that the commission does not have the authority to select their own Mayor Pro Tem.

Ms. Alvarez responded that under the charter if the Mayor is absent then the Mayor can designate his fill-in.

Commissioner Alvarez asked that the resolution that is before them tonight, which is a blank resolution, what for what reason?

Ms. Alvarez responded that there was no designation made at the time the agenda packet went out.

Commissioner Alvarez further commented that there was nothing in writing when the agenda packet went out. Ms. Alvarez responded that this was correct.

Mayor Fugate commented that there is something in writing now.

Commissioner Alvarez commented that it was not part of the agenda packet.

Commissioner Hinojosa commented that it doesn't say which agenda item.

Mayor Fugate stated that if this was the case, then there is no Mayor Pro Tem.

Commissioner Hinojosa asked that if there is no Mayor Pro Tem, he was the last Mayor Pro Tem that was designated does this mean that he continues the designation for the next 60 days?

Ms. Alvarez responded that not according to the Charter, because the Charter gives the Mayor the prerogative, discretionary right, to select somebody in his absence.

Mayor Fugate commented that he does not intend to nominate another person from this commission. The commission will either approve Commissioner Lopez or the commission will go without a Mayor Pro Tem, as the Charter says they can do so.

Commissioner Alvarez stated that the confusing part is where it states that upon the order of the said commission.

Ms. Alvarez stated that when you go back and break down the sentence structurally, and the sentence that Commissioner Alvarez is referring to states "and signs all official documents for the city upon the consent and proper instruction from the commission",

meaning that the Mayor does not have the authority to sign contracts, resolutions, or ordinances without the Commission approving those items.

Commissioner Hinojosa asked if the Mayor's designation letter is an official document? Ms. Alvarez responded that it is a document that the Charter authorizes him to approve under the exception.

At this time Commissioner Hinojosa asked for a call for the vote.

Mayor Fugate commented that there is no second to this, as it is his decision.

Mrs. Valenzuela asked Ms. Alvarez for clarification, that a call for a vote can only be made if there is a motion with a second. Ms. Alvarez responded that the Mayor has designated Commissioner Lopez in writing so the resolution would include, although it was known at the time it was published, it would include Commissioner Lopez's name on the resolution, but there would need to be a motion with a second. Mrs. Valenzuela commented that at this time, there is no motion with a second that would call for a vote.

Motion made by Mayor Fugate to approve his nomination of Commissioner Lopez for Mayor Pro Tem, seconded by Commissioner Lopez. The motion failed by a 3-2 vote with Alarcon, Alvarez, Hinojosa voting "AGAINST". Lopez and Fugate voting "FOR".

25. Executive Session: Pursuant to Section 551.072, Texas Government Code, Deliberations regarding Real Property Exception, the City Commission shall convene in Executive Session to discuss the purchase, exchange, lease, or value of real property as deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. (City Manager).

Mayor Fugate read the executive session agenda item and convened the meeting into closed session at 6:15 p.m.

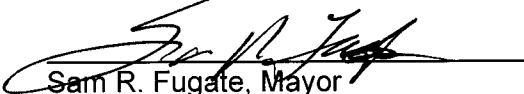
Mayor Fugate reconvened the meeting into open session at 6:33 p.m.

26. Consider a resolution authorizing staff to move forward with the sale of the City's real property known as Kenedy Park located off 14th Street and East Kenedy Street (5th Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13th St.) in Kingsville, Texas. (Purchasing Manager).

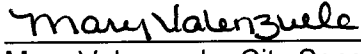
Motion made by Commissioner Lopez and Commissioner Hinojosa to approve the resolution authorizing staff to move forward with the sale of the City's real property known as Kenedy Park located off 14th Street and East Kenedy Street (5th Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13th St.) in Kingsville, Texas, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".

VI. Adjournment.

There being no further business to come before the City Commission, the meeting was adjourned at 6:34 p.m.


Sam R. Fugate, Mayor

ATTEST:


Mary Valenzuela, City Secretary