

CITY COMMISSION
AGENDA
September 21, 2011
@ 5:30 P.M.
TOWN HALL, CITY HALL
118 E. Tyler Street
Harlingen, Texas

Notice is hereby given that the above governmental body will hold a Regular Meeting on **Wednesday, September 21, 2011 at 5:30 p.m.** in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas.

City of Harlingen meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary's office at (956) 216-5001 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.

Invocation/City Commissioner, Mayor Pro-Tem Jerry Prepejchaj

Pledge of Allegiance/Welcome

- 1) Citizen Communication
- 2) Approval of Minutes
 - a) Special Meeting of August 11, 2011
 - b) Regular Meeting of August 17, 2011
 - c) Regular Meeting of September 7, 2011

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| | CONSENT AGENDA | |
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The following items are of a routine or administrative nature. The Council has been furnished with background 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. Items withdrawn from the Consent Agenda for individual consideration in their normal sequence will be heard after the remainder of the Consent Agenda has been acted upon.

- 3a) Second and final reading of Ordinance to approve and adopt the City of Harlingen's Budget Fiscal Year 2011-2012. Attachment (***Finance Department***)
- b) Second and final reading of Ordinance to approve and adopt the 2011 ad valorem tax rate for Maintenance and Operation for Fiscal Year 2011-2012. Attachment (***Finance Department***)
- c) Second and final reading of Ordinance to approve and adopt the 2011 ad valorem tax rate for Interest and Sinking for Fiscal Year 2011-2012. Attachment (***Finance Department***)
- d) Consider and take action to approve a refund of property taxes to Pop, Gray, & Hutcheson, LLP C/O Harlingen Board of Realtors Account No. 15-0000-0950-0110-00 in the amount of \$819.80 due to an adjustment for an absolute exemption for the year "2010" as per an agreed judgment. Attachment (***Finance Department***)
- e) Second and final reading to approve an ordinance for the issuance of a Specific Use Permit ("SUP") to allow a Bar/Lounge in the Light Industry ("LI") District, located at 1926 N. 77 Sunshine Strip, bearing a legal description of 0.4379 acres out of Block 143, Harlingen Land and Water Company Subdivision. Applicant: Maria Villagran. Attachment (***Planning and Development***)
- f) Consider and take action to approve the final plat on the proposed Green Meadows Subdivision located approximately 450 ft. south of Briana Circle on the west side of Tucker Road, bearing a legal description of 5.80 acres of land out of Block Seven (7), F.Z. Bishop Subdivision, Survey 39. Applicant: Brown, Leal and Associates, c/o Olga Garza. Attachment (***Planning and Zoning***)
- g) Consider and take action to approve a request from the Immaculate Heart of Mary Catholic Church to close "C" Street between Polk and Tyler Streets beginning 12 noon, Thursday, October 6, 2011 thru midnight, Sunday October 9, 2011 for their 20th Annual Fiesta. Attachment (***Police Department***)
- h) Consider and take action to approve a request from St. Anthony's Church to close East Van Buren Avenue between 10th and 11th Streets on Saturday, November 5, 2011 from 4:00 p.m. to 11:00 p.m. and Sunday November 6, 2011 from 10:00 a.m. to 9:00 p.m. for their Annual Festival. Attachment (***Police Department***)

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- 4) Consider and discuss proposed redistricting plans and possibly create new redistricting plans for the City of Harlingen's single member districts as required by federal law and using the 2010 United Census Data. Attachment **(City Attorney)**
 - a) Public Hearing
 - 5) Consider and take action to adopt a new redistricting plan for the City of Harlingen's single member districts as required by federal law and using the 2010 United States Census Data and to authorize legal counsel to submit the adopted plans to the United States Department of Justice for approval. Attachment **(City Attorney)**
 - 6) Consideration and take action to approve a resolution accepting Valley International Airport's amended mid-year capital improvement budget for Fiscal Year 2010-2011. Attachment **(Mayor)**
 - 7) Consider and take action to support the Veterans' Memorial Project and direct staff to prepare and submit an application for funding from the 4B Development Corporation. **(Mayor)**
 - 8) Consideration and approval of Resolution in support of the Rio South Texas Planning Consortium (RSTPC) 2011 Sustainable Communities Regional Planning Grant Application and commitment/designation of City of Harlingen staff member to serve as voting member. Attachment **(MPO Director)**
 - 9) Consider and take action to approve a substantial amendment to the City of Harlingen's 2008-09 One Year Action Plan in the amount of \$21,900.00; 2009-10 One Year Action Plan in the amount of \$49,226.42; and 2010-11 One Year Action Plan in the amount of \$6,000.00. Attachment **(Community Development)**
 - 10) Consider and take action to approve the Keep Harlingen Beautiful/Harlingen Proud Budget for Fiscal Year 2011-12. Attachment **(Keep Harlingen Beautiful Executive Director)**
 - 11) Consider and take action to grant a variance request to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.6 with regards to the 5 ft. sidewalk required on Vinson Avenue on the proposed Adam's Treasure Subdivision located on the north side of Vinson Avenue east of

7th Street. Applicant: JNH Surveying Company, c/o Armando Elizarde. Attachment (***Planning and Zoning***)

- 12) Consider and take action to grant a variance request to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.3. (K)(2) with regards to the 100 ft. of right-of-way required for a minor arterial street on 7th Street for the proposed Adam's Treasure Subdivision, bearing a legal description of 0.953 acre tract of land situated in and a part of Block 120, Harlingen Land and Water Company Subdivision located on the northeast corner of Vinson Avenue and 7th Street. Applicant: JNH Surveying Company, c/o Armando Elizarde. Attachment (***Planning and Zoning***)
- 13) Consider and take action to grant a variance request to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.3(K) (3) with regards to the 80 ft. of right-of-way required for a major collector street on the proposed Adam's Treasure Subdivision, bearing a legal description of 0.953 acre tract of land situated in and part of Block 120, Harlingen Land and Water Company Subdivision located on the northeast corner of Vinson Avenue and 7th Street. Applicant: JNH Surveying Company, c/o Armando Elizarde. Attachment (***Planning and Zoning***)
- 14) Consider and take action to grant a variance request to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.7 with regards to the street lights required on the proposed Robert C. Vackar Subdivision, bearing a legal description of Blocks 13 and 16, Stuart Place Subdivision Survey 139 located on the south side of Expressway 83 between Altas Palmas Road and Tamm Lane. Applicant: Gilbert Gracia, c/o Robert C. Vackar. Attachment (***Planning and Zoning***)
- 15) Consider and take action to grant a variance request to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.6 with regards to the 5 ft. sidewalk required on Expressway 83 & Frontage Road and on Altas Palmas Road on the proposed Robert C. Vackar Subdivision, bearing a legal description of 30.196 acre tract of land out of Block 13 and 16, Stuart Place Subdivision Survey 139 located on the south side of Expressway 83 between Altas Palmas Road and Tamm Lane. Applicant: Gilbert Gracia, c/o Robert C. Vackar. Attachment (***Planning and Zoning***)
- 16) Consider and take action to grant a variance request to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.8 with regards to the fire hydrant required on the proposed Pearson Subdivision, bearing a legal description of 4.94 acre tract of land out of Blocks 104, 105 and 106

Adams Garden Subdivision B & C located on the southwest corner of McLelland Road and Arroyo Drive. Applicant: David Wolf, c/o CaraLynn Pearson. Attachment (**Planning and Zoning**)

- 17) To consider a request rezone from Light Industry ("LI") District to General Retail (GR) District for Lots 1 and 2, Block 1, Asbury Subdivision: 2.0 acres out of Anderson Subdivision, Lots 187-190, 231, 233A and 233B, Block 1, Lots 132, 133A, 133B, 134A, 134B, 135A, 135B, 183A, 183B, 184, 185, 185B and 186, Block 2, Lots 69, 70, 71A, 71B, 72A, 72B, 129, 130A, 130B, 131, Block 3, Lots 1A, 1B, 2A, 2B, 3A, 3B, 4, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 61A, 61B, 62A, 62B, 63A, 63B, 64A, 64B, 65, 66, 67, 68, Block 4, Avondale Subdivision, 1.726 acres out of Block 61, David and Stevenson Subdivision, Lot 1, Block 1, and Lot 1, Block 2, Hick Subdivision, Blocks 3 and 4, part of Block 5, Blocks 6-9, 12-14, and 29, Highway Addition, Lots 1-7, Resubdivision of Block 11, Highway Addition, 0.57 acres out of Lot 12, and Lots 24-30, Johnson Subdivision, and Lot 1, Block 1, R A Billups Subdivision, all properties generally located on the east side of Business 77, north of Shirley Street to Loop 499. Applicant: City of Harlingen Planning and Zoning Commission. Attachment (**Planning/Zoning**)

a) Public Hearing

b) Consider and take action to approve and adopt the ordinance on first reading for the above mentioned rezone request.

- 18) To consider a Specific Use Permit ("SUP") to allow a performing arts center along with an existing school in a Residential, Multi-Family (M-2) District located at 3205 Wilson Road, bearing a legal description of Lot 1, Block 1, Wilson Road School Subdivision. Applicant: Harlingen CISD, c/o Oscar Tapia. Attachment (**Planning and Zoning**)

a) Public Hearing

b) Consider and take action to approve and adopt an ordinance on first reading for the above mentioned Specific Use Permit.

- 19) To consider a Specific Use Permit ("SUP") to allow a Bar/Lounge in Light Industry ("LI") zoning district located at 1510 N. Commerce Street, bearing a legal description of Lot 1, Block 1, out of Harlingen Casa Blanca Subdivision. Applicant: Juan Zavala. Attachment (**Planning and Zoning**)

a) Public Hearing

- b) Consider and take action to approve and adopt an ordinance on first reading for the above mentioned Specific Use Permit.
- 20) Consider and take action to approve Amendment No. 1 to the Ambulance Service License and Contract for Services with South Texas Emergency Care Foundation, Inc. Attachment (**Assistant City Manager**)
- 21) Consider and take action to approve an **ordinance on first reading** approving a negotiated resolution between the Cities served by the Texas Gas Service ("Cities") and the Texas Gas Service ("TGS") regarding the company's April 28, 2011 cost of service adjustment ("COSA") filing; declaring existing rates unreasonable; adopting tariffs that reflect the rate adjustments consistent with the negotiated settlement; and finding the rates to be set by the attached tariffs to be just and reasonable; providing for the recovery of the Cities' and TGS' reasonable and necessary rate case expenses. Attachment (**City Attorney**)
- 22) Consider and take action to approve a resolution adopting the Development Corporation of Harlingen, Inc. 2011-12 Fiscal Year Budget. Attachment (**Finance Director**)
- 23) Consider and discuss whether or not the City should draft an ordinance that prohibits a driver from reading, writing, or sending a text message, instant message or email message while driving within the city limits of the City of Harlingen, Texas. Attachment (**This item was requested by Mayor Pro-Tem Jerry Prepejchal and Commissioner Gus Ruiz**)
- 24) Presentation and discussion on developing a City of Harlingen land use plan for revitalization and economic renewal to include but not be limited to the downtown Harlingen area and F Street corridor. (**Presentation by Kenneth Benton and Bill DeBrooke**) (**This item was requested by Mayor Pro-Tem Jerry Prepejchal and Commissioner Robert Leftwich**)
- 25) Discuss, consider and possibly take action to approve an ordinance on first reading repealing certain sections or all of Ordinance No. 08-65 approved by the Harlingen City Commission on November 19, 2008. (**This item was requested by City Commissioners: Robert Leftwich and Gus Ruiz**)
- 26) Consider and take action to approve and adopt a resolution to order: (1) a Special Election to be held on December 16, 2011 between the Hours of 7:00 a.m. and 7:00 p.m. Central Standard Time for the purpose of

electing one City Commissioner for the City of Harlingen District 1; (2) appointing the City Secretary as custodian of the records for the District 1 Special Election and Early Voting Clerk; (3) establishment of election precincts; (4) the Special Election Calendar; (5) the creation of the Official Ballot; (6) the use of Voting Machines; (7) a Presiding Judge, Alternate Presiding Judge and Polling Clerks for the Polling Place; (8) Publication and Posting of Notice of the Special Election; (9) early voting dates, times and polling place; (10) Early Voting Ballot Board; and (11) canvassing of votes. Attachment ***(City Secretary)***

27) Board Appointments

Discussion and possible action regarding membership on any of the following listed board/entity:

- a. Airport Board
- b. Animal Shelter Advisory Committee (3)
- c. Audit Committee (3) **(Annual Appointments as per Ordinance 08-38)**
- d. Civil Service Commission (Mayor) (1)
- e. Community Development Advisory Board (2)
- f. Construction Board of Adjustments (8)
- g. Convention & Visitors Bureau (1)
- h. Development Corporation of Harlingen, Inc.
- i. Downtown Improvement District Board (2)
- j. Golf Course Advisory Board
- k. Harlingen Community Improvement Board (3)
- l. Harlingen Housing Authority Board (0)
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board (4)
- o. Library Advisory Board (1)
- p. Municipal Auditorium Advisory Board (2)
- q. Museum Advisory Board (2)
- r. Parks Advisory Board
- s. Planning & Zoning Advisory Board
- t. Senior Citizens Advisory Board (1)
- u. Tax Increment Finance Board (1)
- v. Tennis Advisory Board
- w. Utility Board of Trustees
- x. Veterans Advisory Board (2)
- y. Zoning Board of Adjustments (5)

Specifically, appointment or discussion and possible action to include appointment and/or removal of any position subject to appointment or removal by statute, ordinance, or bylaws.

28) The following items will be discussed in Closed/Executive Session:

- a) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code Section 551.071 consultation with the City Attorney to seek legal advice regarding **City of Harlingen vs. Theatre Council Productions**, Civil Action No. 2009-08-4744-D in the 103rd District Court of Cameron County, Texas. Attachment (***City Attorney***)
- b.) pursuant to Chapter 551, Subchapter D, V.T.C.A., Government Code Section 551.071 consultation with the City Attorney to seek legal advice regarding **Charles E. Lee vs. City of Harlingen**, Civil Action No. B-10-CV-233 in the United States District Court for the Southern District of Texas. Attachment (***City Attorney***)

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. The purchase, exchange, lease, or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
6. Deliberations regarding Economic Development negotiations. Section 551.087 of the Texas Open Meetings Act.

I, the undersigned authority, do hereby certify that the above Notice of Meeting is a true and correct copy of said Notice and that I posted said Notice on the bulletin board in the City Hall of the City of Harlingen, a place convenient and readily accessible to the general public at all times and said Notice was posted on Friday, September 16, 2011 at 5:15 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this 16th day of September, 2011.



Amanda C. Elizondo, City Secretary