

**REGULAR MEETING**

**CITY COMMISSION**

**HARLINGEN, TEXAS**

**JANUARY 20, 2010**

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, January 20, 2010 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

**Mayor and City Commission**

Mayor Chris Boswell  
Robert Leftwich, Mayor Pro Tem  
Larry Galbreath, Commissioner District 1  
Kori Marra, Commissioner District 3  
Jerry Prepejchal, Commissioner District 4  
Joey Trevino, Commissioner District 5

**Staff Present:**

Gabriel Gonzalez, Interim City Manager  
Roxann Pais Cotroneo, City Attorney  
Sylvia R. Trevino, City Secretary

Mayor Boswell called the meeting to order and stated that notice of the meeting had been duly posted according to law.

**INVOCATION/PLEDGE OF ALLEGIANCE/WELCOME**

Mayor Boswell delivered the invocation and the Pledge of Allegiance followed. Mayor Boswell welcomed all present to the meeting.

**BOARD MEMBER RECOGNITIONS – NONE**

**CITIZEN COMMUNICATION**

Yolanda Shoffeitt brought to the attention of the Commission that there were members of the audience displaying political on their shirts. She pointed out that they should follow item no. 7 in the rules and regulations of the Rules of Decorum.

**MINUTES FOR APPROVAL – REGULAR MEETING OF JANUARY 6, 2010**

Commissioner Marra made a motion to approve the minutes as presented. Commissioner Leftwich seconded the motion and it carried unanimously.

**CONSENT AGENDA:**

- A. REQUEST FROM VENESSA ORTIZ TO CLOSE GARFIELD STREET BETWEEN ‘J’ STREET AND EYE STREET ON SATURDAY, JANUARY 30, 2010 FROM 4:00 P.M. TO 12 A.M. FOR A 60<sup>TH</sup> BIRTHDAY PARTY FOR ARTURO J. ORTIZ APPROVED.**
- B. RESOLUTION APPROVED AMENDING THE DEVELOPMENT CORPORATION OF HARLINGEN, INC. BUDGET FOR FISCAL YEAR 2009-10.**

Motion to approve consent agenda: Leftwich  
Second: Galbreath  
The motion carried unanimously.

**RESOLUTION APPROVED SUPPORTING THE CREATION OF AN ENERGY CONSERVATION AND SUSTAINABILITY STRATEGY**

Matthew Cohen, with the Leadership Class Harlingen, stated that it is their recommendation to move Harlingen to a ‘green’ program by creating an Energy

Regular Meeting  
01/20/2010

Conservation and Sustainability Strategy for the City. Now is the time for the City to be more fiscally conscious. This resolution will allow the City to lend its support to the Leadership Class in support of creating the Strategy.

Commissioner Galbreath commended the Leadership Class and Commissioner Leftwich for initiating this strategy to go 'green'.

Commissioner Galbreath made a motion to approve the resolution. Commissioner Leftwich seconded the motion and it carried unanimously.

Mayor Boswell also commended the class by taking on this project. He stated it is a great program with a lot of good ideas and a lot of work.

**PRESENTATION OF DETAILED REPORT FROM THE VALLEY INTERNATIONAL AIRPORT COVERING ALL PHASES OF THE OPERATION AND MAINTENANCE OF THE AIRPORT AND SUPPORTING PROPERTY TO THE CITY COMMISSION - TABLED**

Commissioner Galbreath made a motion to table this item. Commissioner Marra seconded the motion and it carried unanimously.

**PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE RENEWAL OF A SPECIFIC USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN A 'GENERAL RETAIL (GR)' ZONE LOCATED AT 1802 S. 77 SUNSHINE STRIP, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, SIMPSON TWINS MOTEL SUBDIVISION. APPLICANT: ROBERT SMITH, C/O RACK DADDY'S**

Joel Olivo, Planning Manager, explained that the applicant is proposing to continue to operate a bar/lounge known as 'Rack Daddy's' from the existing 10,635 sq. ft. building.

Staff and Planning and Zoning recommended approval subject to providing the required number of parking spaces, providing security in the parking lot from 8:00 p.m. to 2:00 a.m. on Thursday thru Saturday, and compliance with the laws administered by the Planning, Fire Prevention, Health and Police Departments.

Mayor Boswell declared the public hearing open.

There being no comments from the public, Mayor Boswell declared the public hearing closed.

**ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE SPECIFIC USE PERMIT**

The City Attorney read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE THE RENEWAL OF A SPECIFIC USE PERMIT TO ROBERT SMITH TO ALLOW A BAR/LOUNGE IN A 'GENERAL RETAIL' (GR) ZONE LOCATED AT 1802 S. 77 SUNSHINE STRIP, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, SIMPSON TWINS MOTEL SUBDIVISION SUBJECT TO: (1) PROVIDING AND MAINTAINING THE REQUIRED NUMBER OF PARKING SPACES IN ACCORDANCE WITH THE CITY OFF-STREET PARKING REGULATIONS, (2) PROVIDING SECURITY IN THE PARKING LOT FROM 8:00 P.M. TO 2:00 A.M. ON THURSDAY THROUGH SATURDAY AND (3) MAINTAINING COMPLIANCE WITH THE LAWS ADMINISTERED BY THE PLANNING, FIRE PREVENTION, HEALTH AND POLICE DEPARTMENT; AND PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Regular Meeting  
01/20/2010

Motion to adopt ordinance on first reading: Leftwich  
Second: Prepejchal  
Motion carried unanimously.

(Mayor Boswell, with the consensus of the Commission, took the following item out of order on the agenda)

**OFFICE SPACE APPROVED FOR CONVENTION AND VISITORS BUREAU**

Gabriel Gonzalez, Interim City Manager, explained that at the last meeting he had been asked by the City Commission to come up with different options to house the CVB. Since then, the Harlingen Area Chamber of Commerce has offered to house the CVB at their current site for \$1 and with no charge for additional services. During the remainder of this fiscal year, this would result in an approximate savings of \$24,000. He stated that this would be the staff's recommendation.

Commissioner Leftwich made a motion to accept staff's recommendation.  
Commissioner Galbreath seconded the motion.

Commissioner Trevino expressed comments of appreciation to both the CVB and the Chamber of Commerce for working together.

Voting on the motion was unanimous.

Diane Moore (Saenz) commented that the CVB has not been recognized as it should be and gave praise to the remarkable staff working at the CVB. There was a round of applause from the audience. She also indicated that she would like to be on the CVB Advisory Board.

Kenneth Benton asked that the Commission look at the hotel/motel budget and see how to better allocate those funds. Those funds should be allocated to some type of venue. He stated that he was not advocating a convention center or that he even had recommendations. He cited some examples and asked that the Commission think 'outside the box'. He commented that we need at minimum metrics for measuring results and if the City is not getting a rate of return on the hotel/motel taxes, then it becomes another expenditure to the City.

**PUBLIC HEARING/ORDINANCE TABLED AMENDING THE CITY OF HARLINGEN ZONING ORDINANCE (NO. 07-27) BY ADDING LANGUAGE PROHIBITING THE SALE OF DRUG PARAPHENALIA, AMENDING THE NOTIFICATION PROCESS FROM A 200 FT. RADIUS TO A 300 FT. RADIUS FOR ADULT BUSINESSES AND BARS, ADDING A 300 FT. DISTANCE REQUIREMENT FOR AN ADULT BUSINESS FROM A CHURCH, SCHOOL, HOSPITAL OR ANOTHER ADULT BUSINESS, REDUCING THE THRESHOLD OF A SEXUAL ORIENTED BUSINESS FROM 'PRIMARY' (I.E. MORE THAN 50% OF GROSS SALES) TO 20.0% OR MORE, AMENDING THE LANDSCAPE REGULATIONS TO INCLUDE A PUBLIC TREE CARE ORDINANCE AND OTHER MINOR ADMINISTRATIVE ITEMS.**

A motion was made by Commissioner Prepejchal to table this item upon staff's request. Commissioner Leftwich seconded the motion and it carried unanimously.

**TAXICAB PERMIT APPLICATION SUBMITTED BY JOSE MANUAL MORALES FOR SOUTH-WEST TAXI CAB TO BE LOCATED AT 513 E. JACKSON, SUITE 212, HARLINGEN APPROVED**

Chief Danny Castillo explained that Mr. Morales' application was favorably reviewed. Mr. Morales will operate out of 513 E. Jackson, Suite #212 and he will operate a 24-hour service with two vehicles. If approved by the City Commission, Mr. Morales will still have to comply with the other requirements of the ordinance.

Regular Meeting  
01/20/2010

Commissioner Leftwich made a motion to approve the taxicab application submitted by Mr. Morales. Commissioner Marra seconded the motion.

Commissioner Galbreath asked how would Mr. Morales be able to provide 24-hour service. Mr. Morales replied that there would be more drivers.

Lupe Gonzalez, owner of Rio Grande Valley Transit and Harlingen Taxi Company, explained that the Commission has not conducted a feasibility study to see if the additional service is warranted. The taxicab business is 100% regulated by the City. It is not a free enterprise. Because of the business being regulated 100% by the City there is no competition, no profit to event sustain the vehicles. Right now is not good for more competition for existing businesses. He asked that the Commission be more fully informed than just approving this new service. At the minimum, Mr. Gonzalez asked that this item be tabled or deny the permit application so the Commission can talk to the other taxicab companies.

Discussion followed on how Mr. Gonzalez pays his drivers. Mr. Gonzalez explained that he contracts his drivers---they rent the vehicles for a certain amount and they pay for their insurance. He explained that since 1994 he had been the only employer of the drivers but the Department of Labor cited him.

Commissioner Leftwich pointed out that he has heard that the elderly can't get service and that they have been told that the taxi drivers can't cover the contract fee. Mr. Gonzalez explained that because there are other companies, you have to call and hope that someone is available to provide the service. Someone stationed at the Airport is not going to leave to go pickup an elderly person. Right now there are four taxi operators and it is impossible that they will operate 24 hours. Mr. Gonzalez stated that, in other words, he couldn't guarantee 24-hour service.

Discussion followed on the rates and the contract fees. Mayor Boswell stated that if the Commission wants that kind of detail, then Mr. Gonzalez could bring back that information.

Mayor Boswell asked Mr. Morales what he would do to provide the 24-hour service if he got sick. Mr. Morales replied he would have more drivers. Right now he has a driver ready to go from 10:00 p.m. to 6:00 a.m. He stated that there is a business out there that warrants 24-hour service.

Commissioner Prepejchal asked who does the background checks for the drivers. Chief Castillo replied that there is a 3-part process: 1) approve the permit for the company; 2) if permitted, the PD inspects the vehicle(s) for compliance; 3) and background check is conducted for the driver(s).

Mr. Gonzalez continued to explain, once again, that the taxicab service is 100% regulated. The City directs how much they can charge for their service. He pointed out that the Airport also regulates the service.

Mayor Boswell stated that the purpose of regulation is so the City can ensure adequate and safe service. Commissioner Galbreath pointed out that if Mr. Morales does not provide good, clean vehicles or good service, customers would not call on him again.

At this time, Commissioner Marra made a motion to approve the permit application submitted by Mr. Morales but that staff come back to see about increasing the rates. Commissioner Trevino seconded the motion.

Gabriel Gonzalez pointed out to Mr. Gonzalez that the information he has is exactly what is regulated by the ordinance. Mr. (Lupe) Gonzalez countered by stating that staff did not contact the existing taxicab businesses.

Voting on the motion was unanimous.

**BID AWARDED FOR CITY UNIFORM RENTAL AND LAUNDRY SERVICES**

Roel Gutierrez, Director of Finance, explained that six companies requested bid packages but only three responded by the bid opening date of December 29, 2009. The term of service would be 36 months. Staff recommended awarding the bid to the lowest bidder, Unifirst Holdings. Mr. Gutierrez indicated that the City currently uses Unifirst and he had no problems with their services.

Commissioner Leftwich made a motion to award the bid as recommended by staff. Commissioner Galbreath seconded the motion and it carried unanimously.

**TREASURE HILLS LATERAL TO THE AMBULATORY SURGERY AND SPECIALTY OUTPATIENT CENTER NAMED**

Gabriel Gonzalez explained that the City, as the developer, is responsible for naming the lateral. He explained that the Commission had asked that staff come up with recommendations. The three suggested names were: Veterans Drive, Veterans Medical Drive, and VA Medical Drive.

Commissioner Leftwich made a motion to name the lateral Veteran's Drive. Commissioner Galbreath seconded the motion and it carried unanimously.

**RESOLUTION APPROVED GRANTING AEP AN EASEMENT FOR A TRANSFORMER ON THE PROPERTY LOCATED ON HARRISON AND FIRST STREET OWNED BY THE CITY OF HARLINGEN WATERWORKS SYSTEM**

Darrell Gunn, Waterworks Manager, explained that AEP approached them with this request and the City Charter requires approval by the City Commission on any real estate transactions by the Harlingen Waterworks System.

Commissioner Galbreath asked if the alley between the property and the hotel would be abandoned. Gabriel Gonzalez replied that staff has not been approached to close or abandon the alley. Meg Jorn affirmed that there are no plans to abandon the alley. The alley will be used for food deliveries.

Minor discussion was held on the size of the transformer and if it could be placed in the easement. It was noted that the easement IS for AEP.

Commissioner Marra made a motion to approve the resolution. Commissioner Leftwich seconded the motion.

Under discussion, Commissioner Prepejchal pointed out at the Waterworks Board meeting, there was a 3 to 2 vote (for it) and asked what that discussion was. Mr. Gunn replied the discussion was about requesting compensation for the easement but since the parking lot was purchased from the utility fund, thus, this action to grant the easement was being offered in order to protect the utility investment.

Commissioner Leftwich stated that basically there is no compensation to the ratepayers. He asked Mr. Gunn if the Harlingen Waterworks was participating as an economic development tool without compensation to the ratepayers. Mr. Gunn replied the easement is to AEP and will be dedicated to AEP.

Commissioner Leftwich commented that nobody denies that we need to move forward with this but he could not see how the Waterworks would compensate its ratepayers.

Voting on the motion was unanimous.

**FUNDS ALLOCATED TO REPLACE THE HARLINGEN ARTS AND HERITAGE MUSEUM BUILDING'S ROOF AT 2425 BOXWOOD, HARLINGEN, TX**

Regular Meeting  
01/20/2010

Joel Humphries, Director of Arts and Entertainment, explained the architectural firm of Megamorphosis was contacted to prepare renderings and cost estimates. Estimated cost to replace the current roofing system with a metal roof is approximately \$60,000. The renderings were presented to the Board and they felt that it was best to stay with the same color scheme. Therefore, their preference was Option 1 (Spanish tile) and option three (standing seam metal roof). These materials are expected to last 40 years.

Mr. Humphries stated that he would like to go out for bids on this project. Gabriel Gonzalez explained ½ of the cost would come from the Museum reserve and the other ½ would come from the City's general fund. All of this could be worked out when staff goes out for bids.

Mayor Boswell explained that this action would be only to identify a funding source and proceed to obtain bids.

Commissioner Galbreath made a motion to approve the funding source as explained by staff and authorize staff to proceed with bids. Commissioner Leftwich seconded the motion and it carried unanimously.

**GOLF COURSE AUTHORIZED TO PURCHASE OFFICE FURNITURE, BANQUET/GRILL TABLES AND CHAIRS, TVS, ICE MACHINE, COUNTERTOP GRIDDLE, AND SECURITY/SURVEILLANCE SYSTEM FROM THE GOLF RESERVE FUND FOR THE NEW TONY BUTLER GOLF CLUBHOUSE**

Isreal Gonzalez, Director of Golf, stated that at the Regular meeting of the Golf Course Advisory Board held on December 18, 2008, the Golf Board approved the purchase of furniture and equipment in the amount of \$34,900 for the new clubhouse. Funds for the purchase of this equipment will come from the Tony Butler Golf Course reserve funds.

Commissioner Galbreath made a motion to authorize the purchases from the Golf Course Reserve Funds. Commissioner Marra seconded the motion and it carried unanimously.

**REPORT**

**A.** Paul Menzies reported that the City's Code Enforcement Division recently discovered that a number of existing signs along E. Tyler Street (Between 6<sup>th</sup> Street and Business 77) were encroaching into the State of Texas' right-of-way. Notices were sent to the property owners of the nine (9) signs that were found to be in such violation; however, the intent was simply to notify the owners of this fact as no further action was to be taken in these matters unless requested by the State. The confusion arose when the City staff inadvertently sent the stand code enforcement 'warning' notices in reference to these signs as opposed to a simple courtesy notice. The staff has since had contact with most of the property owners as to the situation.

He further reported that most of the signs in question either pre-date the City's sign ordinance or the City's permitting requirements. In other words, most of the signs in question did not require City review or permits prior to their placement at the time, even though they still should not have been placed or encroached onto someone else's property. Currently, the City does not issue sign permits nor allow any new signs to be placed on public property without the approval of that public entity.

Mr. Menzies stated that basically staff would not be issuing any more permits for encroaching on State right-of-way unless the State grants them.

**BOARD APPOINTMENTS**

Commissioner Galbreath appointed Diane Moore (Saenz) to the Convention and Visitors Bureau.

Commissioner Leftwich appointed Paula Gonzalez as his representative to the Convention and Visitors Bureau.

Regular Meeting  
01/20/2010

Commissioner Trevino appointed Bridget Tolentino as his representative to the Convention and Visitors Bureau.

Commissioner Marra appointed Larry Kruse to the Golf Advisory Board. She asked for recommendations for her appointment to the Convention and Visitors Bureau who must be a restaurant owner and/or manager.

Commissioner Leftwich made a motion to approve the appointments. Commissioner Galbreath seconded the motion and it carried unanimously.

At this time, Bill Godwin was allowed to speak since he had originally signed up under Citizen Communication.

Mr. Godwin stated that he has been in business since 1947 and he has been fighting since then regarding signage. He stated that the signs are getting bad and there are a lot of signs that are encroaching on right-of-way. He stated that something needs to be done and he also questioned the time limits for political signs.

Mr. Godwin also pointed out that the right-of-way along the streets is right up to the sidewalks and he recommended that when new development occurs that they obtain enough right-of-way to expand, thus making the ROW broader for future expansions. However, his main concern is over the proliferation of signs.

Mayor Boswell agreed that the sign ordinance needs to be revisited.

Commissioner Galbreath made a motion to go into Closed/Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.071) consultation with Attorney regarding legal authority to remove city board members. Commissioner Leftwich seconded the motion and it carried unanimously.

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551,  
SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 551.071)  
CONSULTATION WITH ATTORNEY REGARDING LEGAL AUTHORITY TO  
REMOVE CITY BOARD MEMBERS**

The Executive Session convened at 6:36 p.m. and concluded at 7:02 p.m. with no action taken in closed session.

There being no further business the meeting adjourned at 7:02 p.m.

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Chris Boswell, Mayor

Attest:

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Sylvia R. Trevino, City Secretary