

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

FEBRUARY 3, 2010

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, February 3, 2010 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

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

BOARD MEMBER RECOGNITIONS

None

PROCLAMATIONS:

“CHILDREN’S DENTAL HEALTH MONTH”

This proclamation was presented to Dr. Juan Villarreal and Gail Thomason from the Harlingen Family Dentistry.

CITIZEN COMMUNICATION

Kathy Preddy, Centennial Committee member, handed out Centennial T-shirts to the members of the City Commission

MINUTES FOR APPROVAL – REGULAR MEETING OF JANUARY 20, 2010

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

Under discussion Commissioner Galbreath noted a couple of corrections to Page 7, Line 18. Referring to Page 9, he pointed out that the minutes need to reflect that he appointed Diane Moore to the Convention and Visitors Bureau.

Commissioner Leftwich amended his motion to approve the minutes with the noted corrections. Commissioner Marra seconded the motion and it carried unanimously.

AGREEMENT BETWEEN CAMERON COUNTY, THE CAMERON COUNTY REGIONAL MOBILITY AUTHORITY, UNION PACIFIC, RIO VALLEY SWITCHING COMPANY AND THE CITY OF HARLINGEN ADDRESSING FREIGHT RAILROAD RELOCATION AND IMPROVEMENT IN HARLINGEN APPROVED

Pete Sepulveda, County Administrator, recommended that the City Commission approve the agreement in the agenda packet. He made special mention of David Garza and Michael Scaif, both members of the Cameron County Regional Mobility Authority, who were present. He indicated that Commissioners Edna Tamayo and David Garza could not be present but that they, too, would recommend the agreement.

Mr. Sepulveda specifically noted that the Rio Valley Switching yard will remain downtown Harlingen and that the CCRMA continues to work with Rio Valley so that the intersections at Commerce and Wilson will not be blocked. He explained that the funding is in place to the tune of \$3.2 million. He stated that additional capacity at Olmito had been designed and engineered. The project will construct 36,442 ft. of yard track in Olmito and 22 turnouts and will include construction of a car repair facility. Union Pacific has agreed to discontinue railcar classification and switching in Harlingen as soon as the Olmito yard improvements are completed.

Mr. Sepulveda stated that the only thing left is to execute the agreement. If the agreement is approved tonight he will send it to Union Pacific then to TxDOT to be followed by a construction order for bidding to let within the next two weeks. The right-of-way is in place and he commented that Mayor Boswell had played an important role in this project. He again stated that he would continue to work with Rio Valley to relocate the switching yard.

Commissioner Leftwich made a motion to approve the agreement addressing the freight railroad relocation. Commissioner Galbreath seconded the motion.

Under discussion, Commissioner Trevino asked about future crossings and if that has been discussed. Mr. Sepulveda replied that discussion will be handled as a separate issue and Gabriel Gonzalez has already started that communication.

It was pointed out that this action was necessary because if the project was not obligated the money would not be available for us. The project needs to be let by May 15 and the anticipated date of completion would be December 2011.

Gabriel Gonzalez thanked Mr. Sepulveda for all of the RMA's work and efforts with this project and everyone that was involved.

The motion carried unanimously.

CONSENT AGENDA:

- A. ORDINANCE ADOPTED ON FINAL READING TO GRANT A SPECIFIC USE PERMIT 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.**
- B. REFUND OF PROPERTY TAXES TO HELEN F. PARCE, ACCOUNT NUMBER 23-9960-0020-0040-00 IN THE AMOUNT OF \$827.78 APPROVED**
- C. FACILITIES USAGE AGREEMENTS WITH THE FOLLOWING LEAGUES APPROVED TABLED:**
 - 1. Arroyo Youth Soccer Club – Hgn. Soccer Complex**
 - 2. Gears R/C Car Club, Inc. – Oil Mill Pavilion at Lon C. Hill Park**
 - 3. Harlingen Hockey Association, Inc. – Oil Mill Pavilion**
 - 4. Harlingen Pony/Girls Softball/Harlingen Fast Pitch – Arroyo Park**
 - 5. Harlingen Texas Bronco/Pony League – Victor & Lon C. Hill Parks**
 - 6. Harlingen Nat'l Bronco League – Youth Sports Complex Park**
 - 7. Harlingen American Little League – Pendleton & Lon C. Hill Parks**
- D. STREET BANNER POLICY TO ESTABLISH REQUIREMENTS FOR THE PLACEMENT AND REMOVAL OF STREET BANNERS WITHIN THE AIRSPACE ABOVE ANY PUBLIC RIGHT-OF-WAY OR PROPERTY APPROVED.**
- E. SPEED HUMP COST-SHARE PROGRAM FOR THE INSTALLATION OF NEW SPEED HUMPS APPROVED.**

Commissioner Leftwich made a motion to table Item C. Commissioner Marra seconded the motion and it carried unanimously.

Commissioner Leftwich made a motion to approve all consent agenda items except for Item E. Commissioner Galbreath seconded the motion and it carried unanimously.

Regarding Item 6E, Dan Serna stated that he bid out the materials for the humps and it would cost \$27,000 to do all ten humps.

Commissioner Galbreath asked if the Commission had opted for Option 4. The response was yes. This had been previously discussed at a meeting where Commissioner Galbreath was absent.

Commissioner Leftwich made a motion to approve consent agenda item E. Commissioner Galbreath seconded the motion and it carried unanimously.

ACTION TAKEN TO OBLIGATE \$1,000 FOR THE MUSICAL GROUP YESSICA AND \$9,000 FOR THE MUSICAL GROUP 'CONTROL' THROUGH DEGO PRODUCTIONS FOR THE CENTENNIAL CELEBRATION FOR APRIL 16, 2010

Gabriel Gonzalez explained that the Centennial Committee had asked Joe Rubio to propose entertainment for the Centennial Celebration and asked that the Commission budget \$1,000 for Yessica and \$9,000 for the musical group "Control" with the understanding that the contracts would follow.

Commissioner Leftwich made a motion to authorize the funds as recommended by staff. Commissioner Trevino seconded the motion and it carried unanimously.

Commissioner Galbreath expressed appreciation to Joe Rubio for negotiating a good price for a free concert that is expected to draw 5,000-8,000 people.

REVISIONS TO THE CITY'S REQUEST FOR QUALIFICATIONS PROCESS AND CURRENT FORMAT FOR SELECTING FIRMS FOR PROFESSIONAL SERVICES DISCUSSED

Ponciano Longoria, City Engineer, stated that at the City Commission meeting on November 23, 2009 staff was directed to contact other cities and gather information related to how municipalities rank and select firms for professional services (engineering and architectural).

The current procurement process requires city staff to request RFQs for professional services for any contract over \$15,000.00. Once RFQs are received staff ranks each response in accordance with the ranking criteria provided in the RFQ packet. Once a ranking committee ranks the firms, the order of ranking is then presented to the City Commission for final approval. Once approved, staff proceeds with negotiations with the highest ranked firm and presents the finalized contract and cost to the City Commission for approval. If staff is unable to negotiate a contract with the highest ranked firms, negotiations cease and the information is presented to the City Commission along with a request to proceed with negotiations with the second highest bidder.

Mr. Longoria continued to explain that in an effort to gather information staff contacted several other cities. He briefly outlined the processes used by other cities such as McAllen, Pharr, Brownsville, San Antonio, and others.

Gabriel Gonzalez stated that staff has come back with the criteria as requested by the City Commission which gives the Commission final approval of the rankings. It was noted that most of the other cities follow the same process that allows the Commission to make the final decision. *The negotiation process will be initiated with the most highly qualified provider selected by the City Commission to design a detailed scope of work and services including a fee proposal along with all cost breakdown for further consideration. If a mutually satisfactory agreement cannot be reached with the selected provider, negotiations will be formally terminated along with all requests to the City Commission requesting authorization to proceed with negotiations with the next most highly qualified provider. This process will be repeated as necessary until a mutually satisfactory agreement is reached. When such an agreement is reached, a recommendation will be made to the City Commission requesting authorization to execute a contract pursuant to the agreement and subject to the availability of funding. The City of Harlingen reserves the right to reject any and all proposals.*

Gabriel Gonzalez stated that staff would come back with a final format for City Commission approval at the next meeting.

BID ACCEPTED AND CONTRACT AWARDED FOR THE REPLACEMENT OF THE TRANSFER STATION SCALE UNDER BID NO. 2010-08

Dan Serna, Director of Public Works, recommended that the bid be awarded to Donald D. Ferguson in the amount of \$122,607.00. He explained that this project would consist of replacing the existing truck scale located inside the transfer station with a new scale and reconstruction of the foundation to allow for maintenance and drainage of the area.

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

ACTION TAKEN TO PARTNER WITH THE VALLEY SYMPHONY ORCHESTRA FOR A PERFORMANCE AT THE HARLINGEN MUNICIPAL AUDITORIUM ON SUNDAY, MARCH 7, 2010

Joel Humphries, Director of Arts and Entertainment, explained that Harlingen A & E had been approached by the Valley Symphony Orchestra to sponsor a presentation in the newly remodeled Harlingen Auditorium. VSO also requested a \$20,000 contract guarantee, but has garnered \$10,000 in sponsorship commitments. They are requesting that the City provide a \$10,000 sponsorship. Additionally, they are requesting the use of the facility at no charge and its ancillary systems.

Mr. Humphries stated that the Symphony is a 501(c)(3) organization out of McAllen. Usually their performances sell 74-76% of the McAllen market. Their performance in Harlingen would be on March 7 and would include a wine and cheese reception.

Mr. Humphries explained that the City's cost including the \$10,000 would come to approximately \$21,800 when you consider the anticipated costs for ticket printing, contract labor, marketing/advertising, hospitality, and equipment rental. The ticket price ranges would be \$25, \$35, and \$45. The gross potential based on ticket sales, excluding comps, would be \$53,825. The city would back out their expenses out of the initial box ticket sales. In order to come out even, the sell out would have to be a minimum of 41% of the house, which are about 621 seats. He noted that this is a new market in Harlingen and pointed out that our own South Texas Chorale has a performance scheduled three weeks from the March 7th date.

Mr. Humphries pointed out that there is a significant amount of risk if the 41% of the ticket sales is not met. This would be a new market for a symphony performance. VSO customarily sells $\frac{3}{4}$ of their house but they have a major university as their market, which Harlingen does not.

Gabriel Gonzalez stated that staff's recommendation would be that we proceed with the performance. We will not charge the symphony for the auditorium up front. However, it will be deducted from the revenues that are generated and we will not advance the Symphony any money until after the performance. This way we know exactly what our revenues are and that way we go into this together. The City should not assume any risk. Mr. Gonzalez pointed out that doing this would minimize the City's loss and would also minimize the revenue to VSO.

Fawn Foudray-Golich, representing the Valley Symphony Orchestra, felt confident that Harlingen would be a sell out. She noted that the musicians come from both Brownsville and McAllen and she informed the Commission that their next performances are on February 7 and February 19 and that their concert held in South Padre Island in November was a sell out as well.

Mayor Boswell affirmed that both McAllen and Edinburg had contributed money to the Symphony and one of the things that Ms. Fawn had indicated was that she was trying to do more venues in Cameron County.

Commissioner Marra commented that for many years there was not an orchestra program in Harlingen and felt very positive about bringing the Symphony to Harlingen but noted that she was not very pleased with the new ticketing system. She asked that the Commission consider

having a meeting with the Auditorium Board to discuss this issue. She stated that she would not want the Symphony to experience a bad situation as a result of the ticketing system. She stated that Harlingen needs to deliver so that the Symphony's first experience in Harlingen is not a bad one and that she would make sure that it was not.

Fawn Foudray-Golich suggested that possibly the School District could film the performance through their TV channel and the Convention and Visitors Bureau and the Economic Development Corporation could use the film to promote the quality of life in Harlingen.

Commissioner Marra made a motion to accept the staff's recommendation. Commissioner Leftwich seconded the motion and it carried unanimously.

RESOLUTION APPROVED AUTHORIZING A GRANT APPLICATION (\$445,000) TO THE STATE OF TEXAS CRIMINAL JUSTICE DIVISION (CJD) OF THE GOVERNOR'S OFFICE FOR AVAILABLE FUNDING UNDER THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (2009 ARRA) FOR THE HARLINGEN VIOLENT CRIME, DRUG AND GANG ERADICATION PROJECT

Chief Danny Castillo stated that the requested funding will go towards overtime funding for special operations to include targeting high crime areas, increase staffing during gang and drug interdiction efforts and public presentations.

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

Under discussion, Commissioner Trevino asked if this money could be used for youth activities.

Chief Castillo replied that these funds are strictly for law enforcement but he had recently signed an agreement with the Juvenile Probation Director to go after additional funding for youth activities.

Commissioner Trevino felt that the gang task force needs to be expanded and he would like to see that more is being done. Chief Castillo explained that those types of grant opportunities come up very frequently. Commissioner Trevino stated that there has to be a way to figure out what type of programs we can expand on besides the enforcement.

Mayor Boswell explained the purpose of the task force and further explained that this grant cannot be directed towards those efforts of the task force. However, he agreed with Commissioner Trevino about the need to expand on it.

Commissioner Trevino asked how the grant funding works and Chief Castillo explained that this grant does not go through the Council of Governments---it goes directly through the State. It is not an entitlement. The Harlingen PD still has to fulfill certain criteria. There are other cities competing for a pool of the money. Chief Castillo stated that with this grant only certain cities qualified and Harlingen was one of those cities.

Chief Castillo stated that we still need to be able to articulate the funding areas and he is hoping to form partnerships with other entities to seek funding.

George Merrill, a citizen in the audience, expressed a comment of congratulation to Chief Castillo. He encouraged that the Commissioners do ride-alongs with the Harlingen police. He stated that having the Juvenile Probation officer at the Harlingen PD has been really effective. But the task force does need expanding and it should not wait for available funding. Mr. Merrill was of the opinion that the City needs to hire a full-time grants writer and not just rely on City staff to go after or to seek their own grants.

Mayor Boswell informed Mr. Merrill that a grant writer is not on the agenda for discussion.

Mr. Merrill encouraged the Commission to approve the resolution.

Voting on the motion carried unanimously.

ORDINANCE ADOPTED ON FIRST READING ORDERING THE CITY'S GENERAL ELECTION FOR MAY 8, 2010 FOR THE ELECTION OF ONE (1) MAYOR, AT-LARGE AND ONE (1) COMMISSIONER, DISTRICT 1 AND ONE (1) COMMISSIONER DISTRICT 2

The City Attorney read the caption of the ordinance.

AN ORDINANCE CALLING A REGULAR ELECTION OF THE CITY OF HARLINGEN TO BE HELD ON SATURDAY, MAY 8, 2010 BETWEEN THE HOURS OF 7 O'CLOCK A.M. AND 7 O'CLOCK P.M FOR THE PURPOSE OF ELECTING ONE (1) MAYOR (AT-LARGE) AND ONE (1) COMMISSIONER, DISTRICT 1, AND ONE (1) COMMISSIONER, DISTRICT 2; ESTABLISHING SATURDAY, FEBRUARY 6, 2010 AS THE FIRST DAY TO FILE FOR A PLACE ON THE BALLOT AND FOR THE DECLARATION OF WRITE-IN CANDIDACY; PROVIDING FOR A FILING DEADLINE OF 5:00 P.M. ON MONDAY, MARCH 8, 2010 AND MARCH 15, 2010 AS THE LAST DAY FOR A WRITE-IN CANDIDATE TO DECLARE CANDIDACY; DESIGNATING THE ELECTION PRECINCTS AND POLLING PLACES; PROVIDING FOR APPOINTMENT OF A PRESIDING JUDGE AND ALTERNATE PRESIDING JUDGE AND CLERKS FOR EACH POLLING PLACE; ADOPTING THE USE OF PAPER BALLOTS FOR ELECTION DAY AND FOR EARLY VOTING BY PERSONAL APPEARANCE BEGINNING MONDAY, APRIL 26, 2010 AND ENDING ON TUESDAY, MAY 4, 2010 (INCLUDING TWO (2) 12-HOUR DAYS OF VOTING AS REQUIRED BY LAW); ADOPTING THE USE OF PAPER BALLOTS FOR EARLY VOTING BY MAIL; ADOPTING A FORM OF BALLOT; PROVIDING FOR CANVASSING OF ELECTION RESULTS; ORDERING PUBLICATION AND POSTING OF NOTICE OF SUCH ELECTION; AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Commissioner Leftwich made a motion to adopt the ordinance on first reading. Commissioner Galbreath seconded the motion and it carried unanimously.

ORDINANCE ADOPTED ON FIRST READING PROHIBITING THE UNAUTHORIZED USE OF THE CITY SEAL AND OTHER CITY INSIGNIA

The City Attorney read the caption of the ordinance.

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS, ADDING SECTION 130.06 TO CHAPTER 130 OF THE HARLINGEN CITY CODE, AS AMENDED; PROHIBITING THE UNAUTHORIZED USE OF CITY SEAL OR OTHER CITY INSIGNIA; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

Commissioner Leftwich made a motion to adopt the ordinance on first reading. Commissioner Galbreath seconded the motion.

Commissioner Trevino asked what if the logo appears in a city picture – is the person going to be arrested?

Gabriel Gonzalez pointed out that it becomes an issue when a for profit event is held and it appears that the City is sponsoring the event when in fact it is not.

Mayor Boswell asked that Commissioner Trevino get with the City Attorney to address his concern.

Voting on the motion carried unanimously.

BOARD APPOINTMENTS

Commissioner Galbreath reappointed Jo Wagner to the Construction Board of Adjustments; reappointed Noe Stillman to the Tennis Advisory Board and appointed Robert Garza to the Zoning Board of Adjustments.

Commissioner Leftwich stated that at the last meeting the appointments that were made to the Convention and Visitors Bureau by him and Commissioner Galbreath were invalid and he asked that the Commission consider amending the ordinance that created the Board to state that Board members should either work or have a business in the City. Staff will bring back an amended ordinance to reflect this.

Commissioner Prepejchal appointed Jesse Villarreal to the Convention and Visitors Bureau representing a sports venue.

Commissioner Leftwich made a motion to approve the appointments made. Commissioner Galbreath 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 CONTEMPLATED LITIGATION REGARDING AGREEMENT WITH WHITEWINGS BASEBALL CLUB.

This Executive Session was not held.

OPTION TO EXTEND THE AGREEMENT WITH THE WHITEWINGS BASEBALL CLUB FOR A TWO-YEAR EXTENSION ON THEIR LEASE BEGINNING MAY 1, 2010 AND ENDING APRIL 30, 2012. – TABLED

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

There being no further business the meeting adjourned at 6:30 p.m.

Chris Boswell, Mayor

Attest:

Sylvia R. Trevino, City Secretary