

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

FEBRUARY 17, 2010

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, February 17, 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 P. Cotroneo, City Attorney
Sylvia R. Trevino, City Secretary

Mayor Boswell called the meeting to order.

INVOCATION/PLEDGE OF ALLEGIANCE/WELCOME

Mayor Boswell delivered the invocation and the Pledge of Allegiance followed.

BOARD MEMBER RECOGNITIONS – None

PROCLAMATIONS:

Mayor Boswell presented the following proclamations:
First United Methodist Church Day – presented to members of the Church.
I H O P National Pancake Day – presented to Bill Sandell.
Narconon Day – presented to Joseph Saucedo, Executive Director

CITIZEN COMMUNICATION

Jerry Moore, 709 Town Lane, expressed concerns over the rezoning of the property at 7th and Vinson. He stated that the rezoning would diminish property values and he asked that The Commission take a closer look at this request. He stated that he was presently working on a petition to protest the rezoning.

At this time Gabriel Gonzalez introduced Michael Hopping, the new Director of Parks and Recreation.

MINUTES FOR APPROVAL – FEBRUARY 3, 2010

There being no corrections to the minutes of February 3, 2010, Commissioner Galbreath made a motion to approve them. Commissioner Leftwich seconded the motion and it carried unanimously.

DISCUSSION AND ACTION TAKEN TO INSTRUCT THE CITY'S PLANNING AND ZONING COMMISSION TO INSTITUTE A STUDY AND PROPOSAL AND TO MAKE RECOMMENDATIONS AND A REPORT TO THE CITY COMMISSION FOR CONSIDERATION TO AMEND THE CITY OF HARLINGEN ZONING ORDINANCE (ORD. NO. 07-27) RELATED TO THE DOWNTOWN OVERLAY DISTRICT: (1) TO ALLOW AN ESTABLISHMENT TO APPLY FOR AND OBTAIN A LATE HOURS ALCOHOL PERMIT FROM THE CITY OF HARLINGEN; (2) TO REMOVE THE 100-FOOT SPACING

Regular Meeting
2/17/10

REQUIREMENT BETWEEN ANY EXISTING BAR/LOUNGE AND ANY NEW BAR/LOUNGE BEING ESTABLISHED OR RE-ESTABLISHED.

Gabriel Gonzalez stated that the item was placed on the agenda at the request of Commissioners Marra and Prepejchal.

Commissioner Marra made a motion to instruct the City's Planning and Zoning Commission to institute a study and proposal and to make recommendations and a report to the City Commission for consideration to amend the City of Harlingen Zoning Ordinance (No. 07-27) related to the Downtown Overlay District: 1) to allow for an establishment to apply for and obtain a late hours alcohol permit from the City of Harlingen. She was not in agreement of removing the 100-ft. spacing requirement. Commissioner Galbreath seconded the motion.

Commissioner Prepejchal suggested that the study be done on the spacing requirements and without the spacing requirements and see what recommendations come out of this.

Ben Rushing, owner of the Rio Grande Grill at 417 W. Van Buren, stated that he has been there almost 3 years and stated that he has tried to be open in the evening and although there used to be undesirable activity in the area, generally, things have improved and what helped was the early closing of the bars. He asked that the Commission think seriously about this item. He commented that things could get out of control again.

Raymond Reyes/David Rangel, both owners of properties in downtown, commented that it has been an uphill battle and they both have lost money due to the inability to stay open late hours. Mr. Reyes commented that things are changing a lot and more will come but in a positive manner and this particular issue with the late hours does not go with Harlingen's intention to revitalize downtown.

Commissioner Marra explained that the intent is not to go back. The intent is not to bring any undesirable activity but to promote downtown as prospering. There are a lot of big projects coming to downtown—a lot of progressive and positive things. Regarding the 100 ft., she stated that this is something worth compromising on. At this point she would like to instruct the Planning and Zoning to conduct a study and come up with recommendations.

Commissioner Prepejchal agreed with Commissioner Marra and alluded to the fact of possibly having an 'entertainment district' similar to McAllen, especially with the large projects that are coming up.

Roxann Cotroneo, City Attorney, asked that the Commission be more specific in their motion.

Commissioner Marra amended her motion and added the proviso that staff also look at other issues such as the 100 ft. spacing between any existing bar/lounge and any new bar/lounge being established or re-established. Commissioner Galbreath seconded the motion and it carried unanimously.

PRESENTATION OF DETAILED REPORT FROM THE VALLEY INTERNATIONAL AIRPORT COVERING ALL PHASES OF THE OPERATION AND MAINTENANCE OF THE AIRPORT AND SUPPORTING PROPERTIES TO THE CITY COMMISSION

Michael Browning, Director of Aviation, introduced Dr. Bonnie de la Rosa Villarreal, newly appointed Airport Board Chairperson and Jo Wagner, Board member.

Michael Browning referred to the packet that had been provided to the Commission. He went over his report which included stats, staff activities, financials (budget and year-to-date), capital projects in progress and future projects.

Quentin Anderson, auditor, briefly went over the Airport's audit and commented that the audit report reflects favorably on the Airport financials.

Regular Meeting
2/17/10

Mr. Browning continued with this report by informing the Commission on the various projects that are ongoing at the Airport and their status. He also went over the emplanements and deplanements and noted that the Airport has seen a drop in other revenue sources.

Commissioner Leftwich asked about parking Lot B and who utilizes that parking lot. Mr. Browning replied TSA staff, other Managers, Airport employees, board members, and city officials utilize that parking lot.

Commissioner Prepejchal questioned why the Airport did not take the advice of their lawyer regarding the construction of the runway. Mr. Browning replied that it was the general feeling that the runway would not be designated for any specific user. The Airport Board and the attorneys had this discussion and they were in agreement to proceed as long as it was not for Sun Valley Aviation. Commissioner Prepejchal's concern was why build it at a cost of \$27 million for someone who may or may not utilize it. He felt that this amount of money could be used for something else.

Michael Browning pointed out that his recommendation to the Board was not to build it.

Chairman de la Rosa stated that there are still some issues that need to be resolved and pointed out that the motion made at the Airport Board meeting was for the engineering study only. She stated that she had left the meeting and did not cast her vote. Jo Wagner affirmed that the Board had approved a study for both sides of the Airport. The decision was not made based on any one specific business utilizing the runway, but for the overall benefit of the Airport only. It was done as a best plan for the future of the Airport. Again, it was pointed out that the action taken by the Board was for the study only and not for construction.

David Garza, owner of Gulf Aviation, stated that he has operated the FBO for over 30 years. He has 35 individuals trained to answer Airport's demand and proceeded to explain some of the scenarios regarding the Airport's action. He stated that the Airport Board is a good board but they are missing a lot of information and it is almost impossible to talk to any one member.

Mr. Garza referred to the Airport meeting that was held and pointed out that at the meeting the Board changed the use of the runway from Sun Valley to any other business (or prospective customer) and this requires you to inform FAA when you go from specific purpose to a prospective customer. He asked why build a ramp without knowing who is going to use it. He asked that the Commission create some type of oversight on the Airport operations.

Commissioner Leftwich pointed out that Gulf Aviation used to be on the east side of the Airport and now they are on the west side. What occurred? Mr. Garza replied that Gulf Aviation went through some hard times and the Airport needed the ramps utilized by GA to build new facilities for a new business. The Airport went through RFPs and Gulf Aviation was selected but now the facilities are not able to support two FBOs. There is not enough business.

Mr. Garza pointed out that things are pretty bad in the aviation industry. He referred to a report he obtained from a recent conference that he attended. He stated that certain segments of the aviation industry are dead. Everyone is struggling to see how they are going to survive. He also pointed out that he disagrees that we are losing business to Weslaco. He is getting business from Weslaco and also from Brownsville. There are more pilots taking flying lessons and GA is trying to be as proactive as they can but it is not a good future.

Bob Braton, CEO of Avicex (San Antonio) stated that he has 26 years of aviation experience and as an independent consultant he has been witness to the events occurring at the Airport during the last year. He explained that there is a process by which new tenants are allowed to be brought in and criteria has been established for new tenants. Mr. Braton went over the established criteria. All boards make sound and informed decisions and all members of the Board, as an obligation to the public, should be present

Regular Meeting
2/17/10

and public meetings should be held to receive public comments. He stated that if you build it they will come has been a philosophy that has proven to be wrong.

Desi Martinez agreed with the comments made by Mr. Garza and Mr. Braton. He commented that there has to be a plan and he loves competition but we need to get back to what is in the best interest of the City. He pointed out that there is protection under the law for minority owned businesses and commented that we need good judgment and good planning.

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

Pete Sepulveda explained that Rio Valley Switching made changes to the Agreement that impact mostly Rio Valley Switching and Union Pacific. The City is not impacted financially by the changes. RVS removed a provision that "RVSC will use best efforts, consistent with safe and accepted operating practices, to minimize crossing blockages". This deletion does not significantly impact the Agreement since RVS was only stating they would attempt to minimize blockages and not eliminate them.

Mr. Sepulveda stated that the Letter of Authority has been authorized and upon approval of the amendment staff will proceed with the advertising phase to solicit bids and the construction phase should begin around May.

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

PRESENTATION OF DELINQUENT TAX COLLECTION REPORT – JOHN GUEVARA

John Guevara, with Linebarger Goggan Blair & Sampson, LLP, stated that the activity reports on delinquent tax collections covers the last fiscal year, October 2008 through September 2009.

He explained that their collection efforts always start with working with the taxpayer before resorting to litigation. During this reporting period there were nine mailings sent out on behalf of the City of Harlingen. Additional mailings were mailed this past November and December to all delinquent taxpayers.

Mr. Guevara went over the summary of the litigation conducted on behalf of the City during this reporting period. He also reported that \$838,764 was collected in delinquent taxes this last fiscal year.

As for tax sales, Mr. Guevara reported that eight (8) properties were sold and five (5) were struck off to taxing entities. Properties that are struck-off are offered for re-sale at future property tax sales. During this reporting period, one (1) re-sale was conducted. At this sale four (4) properties were sold and added \$3,097 toward city collections. Future sales are scheduled for March, June, and August 2010.

Mr. Guevara continued with the work plan and noted that the firm has targeted thirty-six (36) personal visits to be conducted within the next period. The goal of these visits is to establish personal contact with the taxpayer and to make payment arrangements prior to commencing litigation. Mr. Guevara pointed out that it is important to note that just because of bankruptcy that taxes will be forgiven. This is not true. They will actively monitor and verify bankruptcy accounts for the payment of taxes, penalties, and interest owed to the city.

Mr. Guevara went over the percent collection report and stated that collections are strong and consistent.

Discussion followed on leveraging properties with CDBG funds. Mr. Guevara explained that they do work with the City on this and they might be able to do something with empty lots but the properties have to be offered all to the public. If the bid is accepted then the property is sold, if no bid, then they are off the tax roll. Those properties you can try to get back on the rolls. There was consensus among the Commission that they Mr. Guevara and Tammy DeGannes get together and discuss and come up with a report to the Commission.

CONSENT AGENDA:

- A. REVISIONS TO THE CITY'S REQUEST FOR QUALIFICATIONS PROCESS AND CURRENT FORMAT FOR SELECTING FIRMS FOR PROFESSIONAL SERVICES APPROVED.**
- B. APPROVAL OF THE RENEWAL OF FACILITIES USAGE AGREEMENTS WITH THE CITY OF HARLINGEN AND THE FOLLOWING LEAGUES:**
 - 1. Arroyo Youth Soccer Club – Hgn. Soccer Complex**
 - 2. Gears R/C Car Club, Inc. – Oil Mill Pavilion @ Lon C. Hill Park**
 - 3. Harlingen Hockey Association, Inc. – Oil Mill Pavilion at Lon C. Hill Park**
 - 4. Harlingen Pony/Girls Softball/Harlingen Fast Pitch – Arroyo Park.**
 - 5. Harlingen Texas Bronco/Pony League – Victor & Lon C. Hill Park.**
 - 6. Harlingen Nat'l Bronco League – Youth Sports Complex Park.**
 - 7. Harlingen American Little League – Pendleton & Lon C. Hill Park**
- C. ORDINANCE ADOPTED ON FINAL READING PROHIBITING THE UNAUTHORIZED USE OF THE CITY SEAL AND OTHER CITY INSIGNIA.**
- D. ORDINANCE ADOPTED ON FINAL READING ORDERING THE CITY'S GENERAL ELECTION FOR MAY 8, 2010 FOR THE ELECTION OF ONE (1) MAYOR (AT-LARGE), ONE (1) COMMISSIONER FOR DISTRICT 1 AND ONE (1) COMMISSIONER FOR DISTRICT 2 (ORDENANZA ADOPTADA EN LECTURA FINAL ORDENANDO UNA ELECCION GENERAL DE LA CD. PARA ELIGIR UN ALCALDE (EN GENERAL); UN COMISIONADO PARA DISTRITO 1; Y UN COMISIONADO PARA DISTRITO 2)**

Commissioner Galbreath made a motion to approve the consent agenda items 8a, 8b, b-g, and Item C. Commissioner Marra seconded the motion and it carried unanimously.

Regarding Item 8a (b) a – a motion was made by Commissioner Galbreath to table this item and allow staff to come back with a recommendation regarding the use of the field and the use of electricity. Commissioner Trevino seconded the motion and it carried unanimously.

Regarding Item D, the City Secretary explained that the County had made revisions to their precincts to coincide with the City's district boundaries so as not to split precincts. She indicated that the revised list of precincts and polling locations was incorporated into the final reading of the ordinance.

Commissioner Leftwich made a motion to approve the ordinance on final reading with the amendments as explained by the City Secretary. Commissioner Trevino seconded the motion and it carried unanimously.

PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE REZONING FROM 'NOT DESIGNATED (N)' ZONE TO GENERAL RETAIL (GR)' ZONE FOR BLOCKS 1 AND 3, THE SOUTHERN 2.64 ACRES OUT OF BLOCK 4 AND THE SOUTHERN 2.08 ACRES OUT OF BLOCK 5, HOWARD DIXIELAND HEIGHTS SUBDIVISION NO. 1; REZONING FROM 'NOT DESIGNATED (N)' ZONE TO 'MOBILE HOME (MH)' ZONE FOR BLOCKS 12-14, HOWARDS DIXIELAND HEIGHTS SUBDIVISION NO. 1 (DIXIELAND MANOR MOBILE HOME PARK "A" UNIT NO. 2); AND REZONING FROM 'NOT DESIGNATED (N) ZONE TO 'RESIDENTIAL, MULTI-FAMILY (M-2); ZONE FOR BLOCKS 15 AND 16, HOWARDS DIXIELAND HEIGHTS SUBDIVISION NO. 1, ALL TRACTS GENERALLY LOCATED AT THE

Regular Meeting
2/17/10

**SOUTHWEST CORNER OF LINCOLN AVENUE AND DIXIELAND ROAD.
APPLICANT: JUAN D. VILLARREAL AND CITY OF HARLINGEN**

Joel Olivo, Planning Manager, explained that the City initiated rezoning originated as a result of an applicant requesting to rezone a certain 0.41-acre tract along this area to 'general retail (gr)' zone for a proposed parking lot adjacent to Dixieland Professional Plaza. In an attempt to formulate a recommendation for the rezoning of the requested tract, staff initiated a larger rezoning request for the area. Mr. Olivo stated that the subject properties being proposed for 'general retail' zone are mostly vacant, with the exception of one of the blocks which contains the AEP electrical substation. The property being proposed for 'residential, mobile home (MH)' zone consists of a mobile home park. The property being proposed for 'residential, multi-family' consists of mostly vacant property in agriculture use, with the exception of two residential houses.

Staff recommended approval subject to the ordinance provisions. Mr. Olivo stated that at the public hearing held by the Planning and Zoning Commission, they approved staff recommendation plus one amendment to leave the M-2 out until there is future need or future use for it.

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 REZONING

The City Attorney read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE 07-27) OF THE CITY OF HARLINGEN: REZONING FROM 'NOT DESIGNATED (N)' ZONE TO GENERAL RETAIL (GR)' ZONE FOR BLOCKS 1 AND 3, THE SOUTHERN 2.64 ACRES OUT OF BLOCK 4 AND THE SOUTHERN 2.08 ACRES OUT OF BLOCK 5, HOWARDS DIXIELAND HEIGHTS SUBDIVISION NO. 1; AND REZONE FROM 'NOT DESIGNATED (N)' ZONE TO 'MOBILE HOME (MH)' ZONE FOR BLOCKS 12-14, HOWARDS DIXIELAND HEIGHTS SUBDIVISION NO. 1 (DIXIELAND MANOR MOBILE HOME PARK 'A' UNIT NO. 2); ALL TRACTS GENERALLY LOCATED AT THE SOUTHWEST CORNER OF LINCOLN AVENUE AND DIXIELAND ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Motion to adopt ordinance on first reading: Leftwich

Second: Galbreath

Motion carried unanimously.

**PUBLIC HEARING AND ADOPTION OF ORDINANCE ON FIRST READING
TO REZONE FROM 'NOT DESIGNATED (N)' ZONE TO 'PLANNED
DEVELOPMENT (PD)' ZONE TO ALLOW FOR MULTI-FAMILY USE WITH
REDUCED SIDE SETBACKS AND ADDITIONAL LANDSCAPING FOR A 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: ARMANDO ELIZARDE**

This item was pulled at the request of the applicant.

Motion to table: Leftwich

Second: Galbreath

Regular Meeting
2/17/10

Motion carried unanimously.

PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE GRANTING OF A SPECIFIC USE PERMIT TO ALLOW AN ADULT BUSINESS (LIQUOR STORE) IN A 'GENERAL RETAIL (GR)' ZONE, LOCATED AT 101 NO. STUART PLACE ROAD, SUITE F', BEARING A LEGAL DESCRIPTION OF LOT 2, BLOCK 1, LOS TRES COMPADRES SUBDIVISION

Joel Olivo explained that the subject property consists of a building with five suites. The applicant wishes to operate a liquor store out of a 1,600 sq. ft. suite under the name 'The Cellar'. This establishment will consist of wine/beer and related items. An 'adult business' use in the GR zone requires the approval of an SUP by the City Commission.

Staff recommended approval, as did the Planning and Zoning Commission.

Mayor Boswell declared the public hearing open.

There being no comments by 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 A SPECIFIC USE PERMIT ISSUED TO CODY PHILLIPS TO ALLOW AN ADULT BUSINESS (LIQUOR STORE) IN A 'GENERAL RETAIL (GR)' ZONE LOCATED AT 101 N. STUART PLACE ROAD, SUITE F, BEARING A LEGAL DESCRIPTION OF LOT 2, BLOCK 1, LOS TRES COMPADRES SUBDIVISION; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Motion to adopt ordinance on first reading: Leftwich

Second: Galbreath

Motion carried unanimously.

LICENSE TO ENCROACH APPROVED OF 10 FEET INTO THE CITY 11.5 FEET OF RIGHT-OF-WAY LOCATED AT 1321 NESMITH STREET, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, J.R.S. SUBDIVISION. APPLICANT: W. G. SPILLMAN

Joel Olivo explained that the applicant is requesting a license to encroach to allow a key pad within the City 11.5 ft. of right-of-way to accommodate a 6 ft. iron fence with controlled access along the front and side boundary of the subject property. The subject encroachment has been reviewed as approved by the City Engineer and all the appropriate utility companies. The owner will be required to submit a letter of confirmation that the City of Harlingen may be added as an additional insured to the applicant's general liability and property coverage. This will absolve the City of any liability.

Staff recommended approval.

Motion to approve license to encroach: Leftwich

Second: Prepejchal

Motion carried unanimously.

REPORT PRESENTED BY THE HARLINGEN POLICE DEPARTMENT DETAILING THE RED LIGHT CAMERA SYSTEM PROGRAM PROCEDURE

FOR REVIEWING AND PROCESSING RED LIGHT VIOLATION REJECTIONS

Chief Danny Castillo explained that a statement was made at the Special City Commission meeting of February 10, 2010 by citizen George Merrill who advise that he had learned as a result of a discussion with Capt. Vela that the Police Department officers 'dismissed' approximately 27% of all red light violations. As a result of this statement, he was directed to provide a report to the City Commission detailing HPD processed for handling red light violations detected by the nine RedFlex systems and to explain the 27% figure disclosed by Mr. Merrill.

Chief Castillo pointed out that the key thing to remember is the difference between 'rejections' and 'dismissals'. There are many factors that come into play such as 'controllable' factors and 'uncontrollable' factors and he continued to explain his report. He reported that 97,434 red light violations were detected by the nine (9) photo enforcement systems from May 2007-December 2009. 32.31% were rejected due to 'uncontrollable' factors or 'controllable' factors. RedFlex administrative support staff rejected a total of 19.58% for either obstructions, weather conditions, registration, or camera malfunction factors.

Mayor Boswell stated that he requested this report based on the statement that had been made by Mr. Merrill that tickets were being arbitrarily dismissed. That is not accurate information and he just wanted to give the Harlingen PD the opportunity to respond.

Commissioner Leftwich stated that one of things that had been talked about was that there is no comprehensive plan to do engineering enhancements. He stated that in the guides to using red light cameras, the Federal Highway Administration recommends against them because they do not add to the safety of the intersection. If cameras were safe, there would be a decline in the number of accidents.

Mayor Boswell informed Commissioner Leftwich that his comments would be more apropro for the following item.

ACTION TAKEN TO NOT RENEW THE CONTRACT BETWEEN REDFLEX TRAFFIC SYSTEMS, INC. AND THE CITY OF HARLINGEN FOR PHOTO RED LIGHT ENFORCEMENT PROGRAM

Gabriel Gonzalez explained that the agreement with RedFlex terminates on March 26, 2010. There are currently nine (9) approaches outfitted with red light cameras. At this time there are three options: 1) do nothing and the contract expires on March 26, 2010; 2) extend the contract for a one or two year period as allowed under the current contract; and 3) completely renegotiate the contract. Staff recommended that the Commission consider Option 2 allowing the extension of one year on the contract and not to add any more intersections. This will allow additional time for staff to review the effectiveness of the red light program and make any modifications to existing red light camera intersections that the City Commission may want implemented or allow staff to engineer the intersections inhouse.

Mr. Gonzalez explained that staff obtained a quote from a consulting firm to look at the signal lights within the City. The study would look at redesigning approaches to intersections, lengthening yellow light intervals and traffic light synchronization where appropriate. The study would cost approximately \$160,000. If the additional year is authorized on the contract, staff can review any problem intersections and provide recommendations without having to expend \$160,000 for a study. Staff recommended against hiring a consultant at this time.

Discussion followed on the enforcement of the payment of tickets issued for red light violations. Chief Castillo stated that he had obtained sample interlocal agreements with other agencies that could be utilized to assist with the enforcement of ticket payments.

Commissioner Leftwich pointed out statiscal data and pointed out that the most common type of accident is rear end acceding. He felt that statistically the red light cameras are

Regular Meeting
2/17/10

not preventing this type of accident. He showed pictures of rear end collisions on the screen. He stated that statistically accidents have increased at the monitored intersections. Cameras do not add to the safety of the citizens and felt that it was a disservice to the community.

Mayor Boswell pointed out that the increase was in the last six months, cumulatively the number of accidents is down from the beginning of the program implementation, and the number of violations was down also.

Chief Castillo stated that he was presenting the report as a tool to provide the Commission the best information he could in order that the commission could make informed decisions. There is still data that has not been collected. Right now they are just tracking total accident volume and not the traffic volume. If the red light cameras are truly causing more serious accidents and if this program were to remain, there would still be an evaluation period. He is also wanting to collect accident data but the department still has not collected other pertinent data that would be useful. Ultimately if the program is discontinued, the Harlingen PD will continue to improve on the issues that have been expressed by the Commission.

Mayor Boswell referred to a previous report, stated some statistics that showed through the life of the program the total number of accidents went from 57 to 52 to 24 in 2009. and speaking of rear end collisions they went from 55 in 2007 to 29 in 2009.

Commissioner Leftwich was of the opinion that the effectiveness of the cameras has reached its peak. The cameras do not add to the safety but serve to change drivers' behaviors only. He suggested other ways to provide safety at the intersections such as prohibiting cell phone use, changing the lighting, the timing of the signal lights, the markings. All these could add to the safety at the intersections.

Lorraine Woolam was of the opinion that this program is definitely working and she felt, personally, that every intersection should be monitored with red light cameras.

Commissioner Leftwich pointed out that the Federal Highway Administration has other behavioral aspects that they recommend. The fact is we are giving the public a false sense of security and as a city we should be trying other recommendations for the safety of the citizens.

Mayor Boswell pointed out that with the revenue that comes from the red light cameras, the money could be used to implement some of the suggestions that Commissioner Leftwich is alluding to. Let's do the additional things that can be done but the City needs the revenue to do them.

Commissioner Leftwich pointed out that the city has other revenue sources and we need to capitalize on those areas at the Harlingen PD such as from the outstanding ticket logs.

Gabriel Gonzalez pointed out that one of the things that could be implemented would be to hold everyone at a red light for one second on both Tyler and Harrison Streets.

Commissioner Galbreath expressed concern over the collection of citations but felt that if the red light cameras save one life, then it is a good thing.

Again, Commissioner Leftwich was of the opinion that the red light cameras do not add to the safety of the intersection.

Terri Christy, Trauma Coordinator at Harlingen Medical center, spoke in favor of the red light cameras and pointed out that the City of Harlingen benefits through the regional trauma systems. She is all for using the revenue to make improvements as has been suggested. Other cities that have gotten rid of the cameras now want them back. She asked: "who do you want to get your votes from, the law abiding citizen or from those that run red lights?" She stated that she would like to see the City of Harlingen be the model with this program for other cities.

Regular Meeting
2/17/10

Commissioner Marra spoke in favor of the red light cameras and stated that she would like to see modifications done to the intersections and if the revenue has to be split with the County for the trauma centers then that's a good thing.

Terri Christy commented that it is not the cameras that save lives, but the impact they have on the citizens' behavior modifications and she is all for keeping the red light cameras and adding whatever modifications to traffic safety that might help.

Ron Lozano commented that our same children are being taught in our civic classes the essence of our country. It is not going to do us any good to lose our values to say we are going to totalitarian. In this country there is a presumption of innocence. Everybody knows the history extremely difficult to get a hold of the person in charge of the program but if you have a certain amount of influence, you can get the right results. That is not what our country is about and that is what we are teaching our children, this program fails on engineering points.

Joe Rubio brought up the issue of a traffic safety program and stated that the City has no such program. He pointed out that he was the traffic accident supervisor in 2001 and the City is so behind in DWIs, hits/runs, and auto thefts.

George Merrill, stated for the record, that there is a play on the numbers. 30% of the citations are rejected and while he is compassionate to the trauma centers, he feels bad that they have to wait two years to receive their funds. There are other sources of revenues to replace the funding that is generated by the red light cameras. He stated that he did not intend to mislead the public in his comments regarding the red light tickets but there are over 30% that are rejected.

Commissioner Marra made a motion to extend the contract for one year. Commissioner Galbreath seconded the motion adding that a discussion be held on how tickets are handled and to specify certain modifications to the intersections.

Voting on the motion was:

Aye: Marra, Leftwich
Nay: Leftwich, Prepejchal, Trevino

There was a consensus that the contract be allowed to expire on March 26, 2010.

RESOLUTION APPROVED AUTHORIZING THE SUBMISSION BY THE HARLINGEN POLICE DEPARTMENT FOR GRANT FUNDING TO STATE OF TEXAS CRIMINAL JUSTICE DIVISION (CJD) OF THE GOVERNOR'S OFFICE UNDER THE TEXAS BORDER GANG PREVENTION COORDINATION ASSISTANCE PROGRAM FOR OVERT POLE SURVEILLANCE CAMERAS, LICENSE PLATES READERS, AND TRAINING FUNDS

Commissioner Galbreath made a motion to approve the resolution as recommended by staff. Commissioner Trevino seconded the motion and it carried unanimously.

RESOLUTION TABLED DECLARING A MORATORIUM ON ENFORCING VIOLATIONS OF SECTION 12 OF THE CITY ORDINANCE NO. 07-27 (CITY SIGN ORDINANCE)

Commissioner Galbreath made a motion to table the resolution to allow Planning and Zoning to be involved in some way with this issue. Commissioner Prepejchal seconded the motion.

Under discussion Mayor Boswell alluded to the fact that a decision had been made to appoint a committee to study this section of the ordinance and city staff was directed to do this because he thought there was an urgency to this.

Regular Meeting
2/17/10

Joe Rubio handed to the City Attorney a copy of the regulations of Chapter 216 from the Local Government Code that makes reference to a Municipal Board that shall be established if a municipality requires the relocation, reconstruction or removal of a sign...The board must be composed of two real estate appraisers, one person engaged in the sign business, one employee of the Texas Department of Transportation and one architect or landscape architect licensed by the State. He pointed out the City does not have this board in place and there could be legal issues associated with the moratorium.

Bill Godwin stated that he was of the understanding that moratorium was on the enforcement of the violations of the City's ordinance. If there is no enforcement, why have the law? He stated that there are a whole lot of signs being put up that are illegal and this is one of the biggest problems in town.

Amy Cano stated that her concern is the May 1 deadline and asked when would the ordinance actually go into effect and would she be notified.

Mayor Boswell stated that this issue is confusing. He thought the moratorium was only for Section 12 of the sign ordinance. What was discussed at the last meeting was that we wanted to make this work as a positive thing for the city. McAllen has a more stringent ordinance. Staff was directed to try to come up with some solutions and come back on the agenda before May 1.

Joe Rubio, responding to some comments made by Mr. Godwin regarding the tickets owned by Mr. Rubio to RedFlex explained the issue on his outstanding tickets and stated that it was unfair for Mr. Godwin to have brought up this issue at this time.

The motion carried unanimously.

MORATORIUM DISCUSSED ON IMPACT FEES WITHIN THE CITY OF HARLINGEN WATERWORKS SYSTEM JURISDICTION

Armando Elizarde, President of the Harlingen Area Builders Association asked that the impact fees be temporarily suspended for one year in order to stimulate residential construction, which in turn would increase property taxes and sales taxes to the city. He stated that both the Cities of Midlothian and San Antonio have suspended their impact fees and many other cities are looking to do this to jump-start their residential construction.

Mr. Elizarde stated that HABA had sent out their request to the Water Board earlier in the year and the one response they received was that right now was not the right time to do this and secondly, where was the money going to come from to replace the impact fees?

Mr. Elizarde went over some statistics regarding water meters and the water capability and noted that a total of 2,500 meters were installed in four years. The forecast is for 302 new meters and he was of the opinion that the demand be allowed to catch up to the supply.

Mayor Boswell stated that the impact fees are with regards to residential construction only. At this point, Mr. Elizarde stated that he would like to include multi-family as well. He pointed out that the money from the impact fees is not money that the Waterworks can use to balance their budget.

Commissioner Leftwich felt that the lost revenue would be made up through the ratepayers. The Waterworks is averaging 825 delinquent accounts in 2004 and it has grown to 3,700 now. This coincides specifically with the impact fees. He stated that the arrears are based on multi-year increases in the water rates. If we do away with impact fees, it will put more pressure on the sewer rates but if we do away with the impact fees then there should be relief to the ratepayers as well, specifically on the sewer rates.

Mr. Elizarde stated that they are interested in stimulating the residential construction but also multi-family. ¾" size meters are the standard but he would ask to suspend the impact fees for all size meters. He stated that up to 2008, HABA built 66% of the multi-

Regular Meeting
2/17/10

family in this community. Most of them have tried going to the single meters and are now doing 1" meters but they are not in the business of collecting water but they have no choice because of the impact fees.

Darrell Gunn, General Manager of the Harlingen Waterworks, stated that they would love to stimulate construction, however, impact fees were implemented in 1991, through Chapter 395 and the City of Harlingen implemented the ordinance in 1990. Today, the City of Harlingen has collected \$7.9 million in impact fees and ½ has been spent on growth related issues. He proceeded to explain the size of meters and their relation to residential and commercial development. All is centered on the size of the meter; the land use is not significant.

Mr. Gunn recommended leaving the impact fees as they are and pointed out that there is an equity issue as well.

Mayor Boswell felt that if other cities are temporarily suspending impact fees, why not Harlingen? Mr. Gunn replied that the need does not go away.

Mayor Boswell asked if a moratorium could be implemented on some other type of adjustment to spur the residential growth. Some type of a compromise?

Curtis Bonner, Board member, suggested letting the Economic Development Corporation provide HABA the money. Harlingen Waterworks has big projects coming in that are expensive. The Waterworks has to stand on its own and the City Charter says you can't mix Waterworks money with City money and he urged the Commission not to do anything with impact fees at this time.

Commissioner Prepejchal agreed.

Commissioner Prepejchal questioned Mr. Elizarde why he is bringing up this issue now and not before alluding to Mr. Elizarde's previous item on the agenda. Mr. Elizarde explained because of the economy as it is now and stated that although he is a developer he also represents the Harlingen Are Builders Association.

Darrell Gunn pointed out that impact fees could only be spent on growth related items.

Commissioner Leftwich felt that there should also be a way to help residents and businesses to pay their bills and he asked that the Waterworks give high priority to the rate study.

Commissioner Marra felt that this was a serious situation and Waterworks needs to figure out what the impact fees are and use a good number from both parties to arrive at a solution.

Chris Villarreal, board member, stated that a panel of 10-15 citizens will be working on the rate study and will make a recommendation to the water Board.

After further discussion, there was consensus among the Commission that the Waterworks hold a special workshop with HABA to come with a solution that would work for both entities and allow Gabriel Gonzalez, the Interim City Manager, to participate in the meeting.

ORDINANCE ADOPTED ON FIRST READING ADDING PROVISIONS COMPOSED OF SECTIONS 32.001 THROUGH 32.005 TO CHAPTER 32 OF THE HARLINGEN CITY CODE, AS AMENDED; PROVIDING GENERAL PROVISIONS FOR CITY BOARDS; PROVIDING FOR LIMITATIONS ON BOARD MEMBERSHIP; PROVIDING THAT CITY BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION; PROVIDING THAT CITY BOARDS SHALL COMPLY WITH THE TEXAS OPEN MEETINGS ACT; PROVIDING FOR REMOVAL OF BOARD MEMBERS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Roxann P. Cotroneo, City Attorney, explained that the City currently has 22 city boards. Some are created by ordinance and others by law. Removal on most of the boards is based on absenteeism. She indicated that she researched other cities to see what their removal process is. The purpose of the ordinance is to require all boards to comply with the Texas Open Meetings act; and to immediately remove any member of a city board, commission, committee or advisory group for any of the following reasons: 1) cease to possess any qualification for appointment; 2) conviction of a crime (excluding traffic offenses); 3) conviction of violating the city's ethics ordinance; or 4) failure to pay city property taxes when due. Such removal procedures shall be applicable in addition to any removal procedures outlined in the provisions that pertain to that particular board, commission, committee, or advisory group.

The caption of the ordinance was read.

AN ORDINANCE OF THE CITY OF HARLINGEN: TEXAS, ADDING PROVISIONS COMPOSED OF SECTIONS 32.001 THROUGH 32.005 TO CHAPTER 32 OF THE HARLINGEN CITY CODE, AS AMENDED; PROVIDING GENERAL PROVISIONS FOR CITY BOARDS; PROVIDING FOR LIMITATIONS ON BOARD MEMBERSHIP; PROVIDING THAT CITY BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION; PROVIDING THAT CITY BOARDS SHALL COMPLY WITH TEXAS OPEN MEETINGS ACT; PROVIDING FOR REMOVAL OF BOARD MEMBERS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

Under discussion, Joe Rubio pointed out that the Commission needs to consider those that are presently serving on boards.

Bill DeBrooke expressed concern over the Downtown Board. Ms. Cotroneo stated that the ordinance includes all boards and would still be applicable regardless of what bylaws are in place. Mayor Boswell further clarified that this ordinance is not intended to replace any Board bylaws.

Curtis Bonner asked who would be enforcing that the taxes are paid and any other debts owed to the City. Ms. Cotroneo replied that if the Commission wishes they could elaborate on this.

Gail Moore asked if the City has an ethics ordinance. The reply was yes.

Voting on the motion was unanimous.

ORDINANCE ADOPTED ON FIRST READING AMENDING ORDINANCE NO. 09-35; ESTABLISHING NEW QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD OF DIRECTORS FOR THE CONVENTION AND VISITORS BUREAU; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Gabriel Gonzalez stated that a clause was added to Page 2 that provides that members appointed to the Board must reside within the Harlingen Consolidated Independent School District jurisdictional boundary or *work or operate a business within the corporate city limit of the City of Harlingen, Texas.*

The City Attorney read the caption of the ordinance.

AN ORDINANCE AMENDING ORDINANCE NO. 09-35;
ESTABLISHING NEW QUALIFICATIONS FOR MEMBERSHIP ON
THE BOARD OF DIRECTORS FOR THE CONVENTION AND

Regular Meeting
2/17/10

VISITORS BUREAU; PROVIDING A SAVINGS CLAUSE;
PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN
EFFECTIVE DATE; AND ORDAINING OTHER MATTERS
RELATED TO THE FOREGOING.

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

BOARD APPOINTMENTS

Commissioner Leftwich made a motion to reappoint Norman Rozeff to the Museum Advisory Board.

Commissioner Marra appointed Henry Hamor to the Convention and Visitors Bureau.

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

REPORTS:

A. Racial Profiling Report

There were no questions asked of Chief Castillo regarding this report.

**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 – TABLED**

**ACTION TABLED TO APPROVE OR DENY AN 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**

The above two items were tabled upon a motion by Commissioner Leftwich and a second by Commissioner Marra. The motion carried unanimously.

There being no further business the meeting adjourned at 9:25 p.m.

Chris Boswell, Mayor

Attest:

Sylvia R. Trevino, City Secretary