

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

MAY 19, 2010

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, May 19, 2010 in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell
Gus Ruiz, Commissioner District 1
Robert Leftwich, Commissioner District 2
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
Elena Garza, Assistant City Secretary

Mayor Boswell called the meeting to order.

INVOCATION/PLEDGE OF ALLEGIANCE/WELCOME

Chaplain Joe Perez delivered the invocation and the Pledge of Allegiance followed.

APPOINTMENT OF CANVASS COMMITTEE TO CANVASS THE ELECTION RESULTS FROM MAY 8, 2010 CITY GENERAL ELECTION FOR ONE (1) MAYOR, AT-LARGE, ONE (1) COMMISSIONER DISTRICT 1 AND ONE (1) COMMISSIONER DISTRICT 2

Mayor Boswell appointed Commissioner Marra and Commissioner Trevino to serve as the Canvass Committee along with the City Secretary. All three convened in the Conference Room to canvass the results.

(At this time, Assistant City Secretary Elena Garza, proceeded with recording the minutes in the absence of the City Secretary).

PROCLAMATIONS:

Mayor Boswell presented the following proclamations:

Elder Abuse Prevention Month – presented to Melissa Castellano and Lety Salinas.
Mental Health Awareness Month – presented to Ellie Santa Ana and Tom Segal.
National Home Ownership Month – presented to Fred Huerta, Olga Gonzalez and Connie Salas.

CITIZEN COMMUNICATION

George McShan spoke on the subject of freezing property taxes for Senior Citizens 65 years of age and disabled citizens in the City of Harlingen. In this country we take care of our children through our public education system. There is another group in this country and they are the elderly/senior citizens, which also have certain entitlements. He commented that the City of Harlingen has been designated as a “Certified Retirement Community”. Other cities and towns that have frozen property taxes for senior citizens include Brownsville, Town of Bayview, City of Combes, City of La Feria, City of Los Fresnos, City of Laguna Vista, City of Port Isabel. The Cities of South Padre Island and Rio Hondo have also been designated as “Certified Retirement Communities.” He asked that the City Commission consider freezing the appraised value at age 65 effective

December 31, 2009. By freezing property taxes it sends out a positive message to seniors that they are welcomed and appreciated.

Maria Gonzalez spoke in reference to a problem that she and her neighbors are experiencing in their neighborhood. She resides on Carroll Street, which is located right in front of Harlingen High School. Every morning it is the same usual scenario, teens are in the alley behind her property spray-painting the trash bins. These teens have absolutely no respect for property and the owners. Her neighborhood is not safe and she is worried for the citizens in this neighborhood. Ms. Gonzalez asked that the City Commission take action to form a "Neighborhood Watch" in that area. This is not just her problem, but also the City's problem.

Irma Sanchez Pena, Secretary for Sunshine Haven spoke on behalf of the organization. She stated that Sunshine Haven is a place that provides care and comfort for the terminally ill in a peaceful setting. She stated that Sunshine Haven submitted a proposal for funding to the Community Development Block Grant (CDBG) and the proposal was denied. She is here to ask that the Commission reconsider the proposal. Ms. Pena indicated that the population seen at the facility over the last 8 to 10 years is over 502 individuals and 22% of these individuals come from Harlingen.

Linda Perez spoke in reference to the 7th and Vinson project. She resides on the corner of 7th and Nantucket Street. She was out of the state and recently returned only to be informed of the rezoning of the 7th & Vinson property and stated that she is against the rezoning. She asked that the City Commission keep the area zoned as "single-family dwelling."

Elaine Flores, 821 E. Jackson spoke in reference to the recent City election. It was a very unique experience, one that she will never forget.

Ms. Flores proceeded to congratulate the newly elected Commissioner for District 1 and newly re-elected Mayor Boswell. She also provided a little word of advice to the other three Commissioners. She asked the Commission search more options for a more dependable and effective method to assist the City Secretary/Elections Administrator in conducting a fast and accurate count of election ballots, a method that would avoid additional unexpected cost to the citizens and to the candidates.

Gail Moore, 709 Town Lake Drive spoke in regards to the 7th & Vinson Project. She asked the City Commission for a "do-over" to take back all the retractions that have been said and ethics violations that have been broken. Let us all "do-over" the 7th and Vinson proposal. "Community service does not mean "self-service."

Desi Martinez spoke in reference to the Centennial concert (Grupo Control and Yessica) that had been previously canceled and is now being rescheduled for next week. He asked that the City promote this event on the television and radio. He also suggested using the street instead of holding the concert on the grass area. He encouraged everyone to attend to make it an event to remember for the Centennial celebration.

CONSENT AGENDA:

- A. QUARTERLY INVESTMENT REPORT FOR QUARTER ENDED MARCH 31, 2010 ACCEPTED.**
- B. REQUEST BY THE PARKS AND RECREATION DEPARTMENT APPROVED TO TEMPORARILY CLOSE FAIR PARK BOULEVARD FROM WICHITA STREET TO "L" STREET AND THE INTERSECTION OF ADAMS STREET "L" STREET FOR HARLINGEN'S CENTENNIAL CELEBRATION TO BE HELD ON FRIDAY, MAY 28, 2010.**
- C. QUITCLAIM DEED FROM THE CITY OF HARLINGEN TO THE UNIVERSITY OF TEXAS SYSTEM APPROVED FOR A .685 ACRE TRACT OF LAND DESCRIBED AS 1.102 ACRE TRACT OF LAND SITUATED IN AND PART OF BLOCK 179 OF THE SAN BENITO LAND AND WATER COMPANY SUBDIVISION, HARLINGEN, CAMERON COUNTY, TEXAS MAP RECORDS, SAID 1.102 ACRES**

BEING THE NORTH 120 FT. OF AN 8.965 ACRE TRACT OF LAND AS DESCRIBED BY DEED OF RECORD IN VOLUME 1016, PAGE 185 OF THE CAMERON COUNTY, TEXAS DEED RECORDS.

Motion to approve consent agenda: Leftwich
Second: Prepejchal
Motion carried unanimously.

RESOLUTION APPROVED ANNOUNCING RESULTS OF THE CANVASS OF THE CITY GENERAL ELECTION OF MAY 8, 2010 FOR ONE (1) MAYOR, AT-LARGE, ONE (1) COMMISSIONER DISTRICT 1, AND ONE (1) COMMISSIONER DISTRICT 2

Commissioner Leftwich made a motion to approve the resolution canvassing the results of the election that reflected the following:

For Mayor at-large	
Chris Boswell	2,229
Joe Rubio	405
Jose Eliazar Flores	164
George Merrill	1,124
For Commissioner, District 1	
Larry Galbreath	500
Basilio "Chino" Sanchez	54
Gustavo C. Ruiz	574
For Commissioner, District 2	
Elaine L. Flores	356
Robert A. Leftwich	369

Commissioner Marra seconded the motion and it carried unanimously.

(At this time, Commissioner Galbreath thanked the audience for their support and left the meeting).

SWEARING IN AND OATHS OF OFFICE ADMINISTERED TO NEWLY ELECTED OFFICIALS

Judge David Sanchez administered the Oath of Office to newly elected Commissioner, District 1, Gus Ruiz.

Commissioner Ruiz gave comments of thanks and appreciation and also to his boss, Armando Villalobos and stated that the true victors of this election are the people of District 1 and stated that this is the start of bigger and better things for Harlingen.

Judge David Sanchez administered the Oath of Office to incumbent, Commissioner Robert Leftwich, District 2.

Commissioner Leftwich thanked his wife, his family and his supporters of District 2 who came out and participated in holding people accountable. He commented that the public will see a unified front in the future and that he will continue to do great things for Harlingen.

Judge Migdalia Lopez administered the Oath of Office to Mayor Boswell.

Mayor Boswell thanked his wife and his Mom. He commented that it is a special occasion as we begin the end of the City's "Centennial" and to start to think about the City's future. There are a lot of things going on: Bass Pro Shops, downtown development, Veterans Clinic, the medical school and he hoped that this will leave a legacy for many years to come. Mayor Boswell stated that all of this would not happen

unless everyone works hard and together. He commented to the public 'thank you for joining us to move Harlingen forward'.

MINUTES FOR APPROVAL – REGULAR MEETING OF APRIL 21, 2010

The City Secretary noted a correction to Page 6, Line 31. She asked to delete the line, as the contents of that sentence did not occur at the April 21st meeting.

Noting the correction, Commissioner Leftwich made a motion to approve the minutes. Commissioner Prepejchal seconded the motion.

Under discussion, Commissioner Ruiz stated that he also had a correction to make.

Commissioner Leftwich reconsidered his motion of approval. Commissioner Prepejchal seconded the motion.

Commissioner Ruiz indicated that on Page 6, Line 29, he was the person who spoke out and asked that the name of Ms. Moore be replaced with his name.

Commissioner Leftwich made a motion to approve the minutes with the noted corrections. Commissioner Prepejchal seconded the motion and it carried unanimously.

PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE ISSUANCE OF A SPECIFIC USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN A 'LIGHT INDUSTRY' (LI) ZONE LOCATED AT 1510 N. COMMERCE BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, CASA BLANCA SUBDIVISION. APPLICANT HECTOR M. SANCHEZ

Joel Olivo, Planning and Zoning Manager, explained that the subject property consists of a 2,500 sq. ft. building and has been occupied in the past as a bar/lounge under the name Davila's Club. The applicant is proposing to continue the bar/lounge use under the same name.

Staff recommended approval subject to certain requirements such as providing and maintaining the required parking spaces; and other requirements administered by the Planning, Health, Building Inspection, and Fire Departments. Mr. Olivo indicated that the Planning and Zoning Commission also recommended approval.

Mayor Boswell declared the public hearing open.

Joe Rubio spoke in regards to security and asked if anyone is actually enforcing this and checking up to see if the security requirements are being met.

Yolanda Shoffeitt commented that it takes a lot of courage to bring business to Harlingen and it was great the the applicant chose to come to Harlingen.

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

Commissioner Prepejchal asked how much time is given to the applicants to meet the requirements that are imposed on them. Mr. Olivo replied that it is up to the Commission to decide how much time they want to give them. Commissioner Trevino pointed out that the applicant would not be able to obtain a certificate of occupancy permit without meeting the requirements.

ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE SPECIFIC USE PERMIT

The caption of the ordinance was read.

AN ORDINANCE AMENDING THE ZONING ORDINANCE
(ORDINANCE 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A
SPECIFIC USE PERMIT TO HECTOR SANCHEZ TO ALLOW A

BAR/LOUNGE IN A 'LIGHT INDUSTRY (LI)' ZONE LOCATED AT 1510 N. COMMERCE STREET, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, CASA BLANCA SUBDIVISION, SUBJECT TO (1) PROVIDING AND MAINTAINING THE REQUIRED OFF-STREET PARKING SPACES; (2) MUST OBTAIN AND MAINTAIN TABC LICENSE; (3) PROVIDING SECURITY IN THE PARKING LOT FROM 9:00 P.M. TO 2:00 A.M. ON THURSDAY THROUGH SATURDAY; (4) PROVIDING ADEQUATE LIGHTING IN THE PARKING LOT; AND (5) COMPLYING WITH THE REQUIREMENTS ADMINISTERED BY THE PLANNING, HEALTH AND FIRE PREVENTION DEPARTMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

PUBLIC HEARING TO HEAR COMMENTS FOR OR AGAINST THE ISSUANCE OF A SPECIFIC USE PERMIT (SUP) TO ALLOW AN ADULT BUSINESS (RETAIL LIQUOR STORE) IN A 'GENERAL RETAIL (GR)' ZONE, LOCATED AT 621 S. 77 SUNSHINE STRIP, BEARING A LEGAL DESCRIPTION OF M-L SUNSHINE STRIP SUBDIVISION, LOT 1, BLOCK 1. APPLICANT: STATEWIDE BEVERAGE, LLC

Joel Olivo explained that an adult business is defined as a business whose product or service sales are restricted to adults over the age of 18 including, but not limited to, tattoo parlors and head shops. The 'adult business' use in the GR zoning district requires the approval of a SUP by the City Commission. The approximately 0.73 acre property is located at 621 S. 77 Sunshine Strip and consists of an approximately 7,000 sq. ft. building. The existing building is currently vacant and was previously used as a commercial building (Advance Auto Parks).

Mr. Olivo pointed out that there were concerns expressed at the Planning and Zoning Commission over the fence but the applicant has since fixed the fence.

Mayor Boswell declared the public hearing open.

Jamie Barnett, representing Feldman's Liquor Stores, commented that they are very excited to provide a better location for their store and proud to be utilizing an abandoned building and putting it to good use.

Yolanda Shoffeitt, again, stated that the applicant has chosen to remain in Harlingen as they have been here for many years.

There being no further comments 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 (SUP) ISSUED TO STATEWIDE BEVERAGES, LLC TO ALLOW AN ADULT BUSINESS (RETAIL LIQUOR STORE) IN A 'GENERAL RETAIL (GR)' ZONE LOCATED AT 621 SOUTH 77 SUNSHINE STRIP, BEARING A LEGAL DESCRIPTION OF M-L SUNSHINE STRIP SUBDIVISION, LOT 1, BLOCK 1, WITH THE FOLLOWING CONDITIONS; THE FENCE ALONG THE EAST PROPERTY LINE SHALL BE FIXED/REPLACED PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY (CO), MISSING TREE(S) SHALL BE REPLACED/PLANTED AS

SHOWN IN THE ATTACHED SITE PLAN PRIOR TO THE ISSUANCE OF A CO, ALL NEW AND EXISTING LANDSCAPE MATERIAL SHALL COMPLY WITH SECTION 11.04(3) OF THE ZONING ORDINANCE, AND THE APPLICANT SHALL COMPLY WITH CITY ORDINANCE CHAPTER 111; FOOD AND FOOD ESTABLISHMENTS, SECTION 111.02 PERMIT REQUIRED; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

A motion was made by Commissioner Leftwich to adopt the ordinance on first reading. Commissioner Marra seconded the motion.

Under discussion, Commissioner Trevino asked if this store would be similar to the one in McAllen. Ms. Barnett replied no because there is not enough space for a gourmet kitchen but the store will be expanded, thereby, removing a less slightly store.

The motion carried unanimously.

(With the consensus of the Commission, Mayor Boswell proceeded with Item 23 at this time)

APPROVAL AND CONSENT GIVEN TO THE CITY MANAGER'S APPOINTMENT OF THE MUNICIPAL COURT JUDGE TO A TWO-YEAR TERM

Gabriel Gonzalez explained that the position of the full time Municipal Court Judge was advertised statewide using TML, Bar Associations, direct mailings, and local newspapers. Five applicants were interviewed for the position. The Interview Panel consisted of the Interim City Manager, the City Attorney, and the Human Resources Director. The top applicant, Robert Luis Guerra, was selected and is being submitted for the City Commission's approval and consent.

Commissioner Leftwich made a motion to approve the selection of Robert Luis Guerra as Municipal Court Judge for a two-year term. Commissioner Prepejchal seconded the motion.

Under discussion, Commissioner Ruiz asked if this item could be tabled until such time that the City Manager position is stabilized and he made a motion as such. There was no second to his motion.

The original motion made by Commissioner Leftwich and seconded by Commissioner Prepejchal to approve the appointment of Robert Luis Guerra carried by the following vote:

Aye: Leftwich, Prepejchal, Marra, Trevino

Nay: Ruiz

The motion carried 4 to 1.

Mr. Guerra thanked the Commission for the opportunity to serve the citizens of Harlingen.

PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST AMENDING THE CITY OF HARLINGEN ZONING ORDINANCE SECTION 12 (SIGN REGULATIONS) WITH REGARDS TO PORTABLE SIGNS, BANNER SIGNS, THE MAXIMUM AVAILABLE SIGNAGE ON A PROPERTY, THE CITY'S SIGN PERMITTING REQUIREMENTS, AND OTHER MINOR ADMINISTRATIVE AMENDMENTS. APPLICANT: CITY OF HARLINGEN

Paul Menzies, Director of Planning and Development, explained that in February 2010, the City Commission directed the Planning and Zoning Commission and an ad-hoc committee to make recommendations to amend the City's sign regulations with regards to

portable signs, banners, and the calculation of maximum sign area on a property. The recommendations were made and presented to the Planning and Zoning Commission at their meeting of March 10, 2010. The ad-hoc committee conducted three meetings and P & Z conducted a public hearing on May 12, 2010.

Mr. Menzies went over a power point presentation starting with portable signs. The existing law provided for no new signs and existing signs to be removed by May 1. This, however, was not enforced pending the outcome of these revisions.

The proposed amendments by the Ad-hoc committee were to eliminate the May 1 removal provision and allow signs 'city-wide' subject to: City permits, anchoring, proper electrical connections and that the signs remain in good physical/aesthetic condition. Also, to allow 'sandwich board' signs in the DID without any permits, no larger than 6 sq. ft. per side, the ADA sidewalk width remains and that they be removed at the end of each business day. Mr. Menzies stated that Planning and Zoning recommended approval by a vote of 3-2.

Commissioner Ruiz asked who determines what is the 'aesthetic condition'. Mr. Menzies replied city staff and code enforcement does.

Mayor Boswell affirmed that these are recommendations from the Ad Hoc Committee with respect to portable signs.

Mr. Menzies continued with the banner signs and showed pictures of existing signs. He explained that the existing law requires city sign permits prior to placement, that a licensed contractor is required for installation of such signs and that banners be included in maximum available sign calculation. Mr. Menzies stated that currently the licensed contractor requirement is not being enforced. Last week Planning and Zoning voted unanimously to eliminate the licensed contractor for the installation of banners.

The last issue addressed by Mr. Menzies was how the calculations are done for the maximum available signage. The proposed amendment was to keep the 'times 3' calculation but allow a minimum of 100 sq. ft. For multi-tenant complexes, a minimum of 32 sq. ft. of wall signage for each existing tenant space, regardless of total permitted sign area for complex and for an anchor tenant (if applicable) allow a one time increase of up to 30% from that of the previous anchor tenant. He explained that there were some issues with multi-tenant centers. He explained that the Planning and Zoning Commission unanimously recommended only the minimum of 32 sq. ft. of wall signage for each existing tenant space, regardless of total permitted in area for the complex.

Mr. Menzies stated that the ordinance before the Commission represents every single amendment that was made by the Sign Committee.

Mayor Boswell declared the public hearing open.

Yolanda Shoffeitt commented that the banner business will go down and asked if any of the existing business would be grandfathered. The franchises will all leave Harlingen and she stated these restrictions are wrong and Harlingen will lose business.

Carlos (last name not provided) stated that he paid \$350 for a small sign that he was told he could not have. This sign has really worked well for him and his business. He commented that the City has too many ordinances and he would just like to keep his sign.

Bill Godwin, a member of the Ad Hoc Committee, explained that this was the best that the Committee came up with considering the time they were given. These amendments will work for a while and until we find that they don't work, then they can be changed and the Committee will continue to work with the sign ordinance. The removal of signs is either based on staff's interpretation or on ordinances. He asked that these amendments be allowed to work until such time that they need more defining.

Ms. Moore, 709 Town Lane, spoke in favor of the proposed amendments and asked if the ordinance includes provisions for which signs should be stored during a hurricane.

Joe Rubio pointed out that the ordinance requires a permit for inside signs, however, the City does not have a database that tracks whether the signs are in compliance or not. He suggested addressing the issue with the old signs first and those whose signs are not up to date. Mr. Rubio referred to his previous complaint on street benches that are on right-of-way, which is a violation. He also pointed out that there is an appeals process, which is through the Construction Board of Adjustments.

Amy Cano, member of the Ad Hoc Committee, thanked the Commission for working with the Committee and stated that there is a need for the type of signs that her business provides and asked that the Commission vote on this item and not table it as it has already affected her business. She encouraged the Commission to adopt the amendments.

Yolanda Shoffeitt referred to dual taxation when you have a business that is already being taxed and now you have to pay for a sign permit.

Bill DeBrooke stated that Harlingen is the only city to allow the portable signs. All other cities have prohibited them. As for the banners on 13th Street, they look good and are in full compliance until such time that they placed the wind flags. He commented that the banners need to be kept in the sign calculation.

Ron Lozano spoke about the sandwich boards in downtown Harlingen and stated that Harlingen does not have the pedestrian traffic, therefore, it would be bad policy to segregate an area of town.

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

ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE

AN ORDINANCE AMENDING THE CITY OF HARLINGEN ZONING ORDINANCE BY DELETING THE PROVISION THAT EXISTING PORTABLE SIGNS MUST BE REMOVED BY MAY 1, 2010, ALLOWING PORTABLE SIGNS ON A PERMANENT BASIS, ALLOWING FOR MINIMUM OF 100 SQUARE FEET OF SIGNAGE AREA IN GENERAL RETAIL (GR) ZONES; ALLOWING ADDITIONAL SIGNAGE IN SHOPPING/RETAIL CENTERS UNDER CERTAIN CONDITIONS; EXEMPTING BANNERS FROM CITY PERMITS AND REGULATIONS UNDER CERTAIN CONDITIONS AND OTHER MINOR ADMINISTRATIVE AMENDMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Commissioner Prepejchal made a motion to adopt the ordinance on first reading as presented. Commissioner Leftwich seconded the motion.

Under discussion, Commissioner Leftwich talked about the calculation with the banners and stated that it would lend itself to excessive amounts of banner and suggested placing a cap on it but he indicated he supported the rest of the amendments.

Commissioner Trevino's concern was with the inside signs and asked if staff was enforcing these types of signs. Mr. Menzies replied no.

There was a consensus among the Commission to revisit the issue on the banner calculations before the final reading of the ordinance.

Commissioner Marra asked about the banners as well and how long are they allowed to stay up. Mr. Menzies replied that they can stay up for one year or until such time that they deteriorate. Commissioner Marra stated that to leave them up would not be very professional and would be tacky for the City and this is not one of the Harlingen 100 goals.

Azael Gomez, member of the Planning and Zoning Commission, stated that he was one of the two that wanted to keep exactly what the Commission is talking about. A lot of time was spent on these amendments and to go back would be to go backward. The whole goal of the committee was to get to where they could be able to address the aesthetics of the City, thus, lending itself to new businesses.

Mayor Boswell stated that there is a motion and a second on the floor. There was agreement that the issue with the banners would be revisited and Commissioner Trevino stated that he would like to see the provisions regarding inside signs eliminated.

Mayor Boswell commented that the ordinance could always be changed. This proposed ordinance is a compromise and it is what has been proposed. A decision has to be made.

Voting on the motion was unanimous.

PUBLIC HEARING TO CONSIDER AND TAKE ACTION TO APPROVE THE PROPOSED RIO GRANDE VALLEY ENTITLEMENT COMMUNITIES (RGVE) CONSOLIDATED PLAN AND STRATEGY FOR FY 2010-2013 AND ONE YEAR ACTION PLAN (BUDGET) FOR FISCAL YEAR 2010-2011 (YEAR 36) OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM AND FISCAL YEAR 2010-2011 (YEAR 16) OF THE HOME INVESTMENT PARTNERSHIP PROGRAM (HOME)

Tammy DeGannes, CDBG Coordinator, explained that several public hearings were held to gather citizen participation on the funding.

Ms. DeGannes went over all of the allocations, line by line and went over the proposed projects and funding allocations for each.

She indicated that several Board members were present to answer any questions by the Commission.

Mayor Boswell declared the public hearing open.

Joe Rubio stated that the City Attorney had requested funding from CDBG for a community court and was not approved and he asked that the Commission find a way to fund the community court through the upcoming budget and to fund and assign a police officer to this task.

Yolanda Shoffeitt also asked that the Commission consider funding a community court.

Irma Pena, who sits on the Board of Directors for Sunshine Haven, asked that the Commission consider funding Sunshine Haven and to look at the proposal that they submitted. She explained that 22% of the people served at Sunshine Haven are from Harlingen and it would be good for the City to support this organization. She indicated that the Ronald McDonald house was not considered for funding either.

Commissioner Ruiz, addressing Ms. Pena, asked how long does a person stay at Sunshine Haven. Ms. Pena replied that that the longest anyone has stayed has been three months and the center is located in Olmito. They get their referrals through hospice and pointed out that they don't receive Medicare or Medicaid. They operate mostly on donations and private grants. The majority of those they serve are from throughout the County.

Ms. Gail Moore also spoke in favor of the community court and asked that the Commission consider funding this project.

Desi Martinez, 1806 Haverford, was of the opinion that drainage and streets projects should come from bond money to free up CDBG money to serve the low-income families. The drainage project on Buchanan should have come from grant money and not from stimulus funds from Hurricane Dolly.

Tammy DeGannes pointed out that it is statutory that social service agencies cannot be funded more than 15% of the allocation. The allocation as presented for social service agencies is 11%.

Commissioner Ruiz asked if this is passed tonight, how soon is the money allocated. Ms. DeGannes replied October 1. CDB is a reimbursement program.

Yvette Cano, 2817 Mariposa, a CDBG Board member explained to the Commission, that as for the drainage, if the drainage is not funded, as an obligation, then it becomes more expensive. As for Sunshine Haven, she explained that the organization did not have an established record and serves people outside of Harlingen. The funds had to be divided among the children and the elderly. As for the Ronald McDonald House, they will be funded through other sources, which allows CDBG to fund other agencies. The Community court was not funded because it was a 'either all or nothing'—that is why they opted out from funding the community court.

Ms. Cano continued to explain how the board allocated the money to the social service agencies. Some of the tools they used were past and present history, service, they looked at whether there was duplication of services, etc. Ms. DeGannes pointed out that the funding has to go to serve low-income residents.

Commissioner Trevino questioned the 20% allocation for administration. He asked that staff provide him a detailed breakdown of the administration budget.

Mayor Boswell explained that the last several years the CDBG funding levels have not been what they were in the past. The CDBG Board looked at every application that was submitted. The Commission appoints the Board and they are faced with very difficult decisions and they have the benefit of reviewing every single application that is presented to them. As for bond money, there is no existing bond money to replace CDBG funding. If you want to adjust the allocation, you will have to take it from somewhere else.

Yolanda Shoffeitt, again, asked that the Sunshine Haven be funded since they do serve 22% that are from Harlingen.

Alicia Cardenas, representing CASA, explained that the agency serves abused children and the money from CDBG will go towards the salary of a caseworker. These children are already labeled low income. She stated that the funds would go directly to serve Harlingen children by paying for a Harlingen caseworker.

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

A motion was made by Commissioner Marra to approve the funding as submitted. Commissioner Leftwich seconded the motion.

Commissioner Leftwich questioned whether there was redundancy with CASA and the Cameron County Child Advocacy Center. Ms. DeGannes explained the difference.

Commissioner Leftwich noted the drop in funding for Boys and Girls Club, however, the funding for the Girls Scouts was increased.

Voting on the motion was as follows:

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

Further discussion followed and Commissioner Trevino asked that the funding for general administration be reevaluated and asked that the city find some other ways to address the drainage and streets projects.

As for the funding for the social service agencies, he pointed out that the total is not up to 15%. Ms. DeGannes explained that there is an analysis on this and the City could have

gone up to \$152,190. The 'barrier' must be addressed in Harlingen regarding the drainage and streets.

Commissioner Ruiz proposed an allocation to Sunshine Haven as well. Ms. Cano pointed out, again, that you would have to pull money from other projects to give to Sunshine Haven and if you don't fund the drainage and streets projects, it will just get more expensive.

Ms. Cano, addressing the Commission, stated that the Commission appointed all of the Board members and they have the responsibility to spend the money in the wisest way that they can and by listening to their constituents---it is the absolute hardest job to do but if the Commission wants them to reallocate the funding then they will.

Mayor Boswell summarized the discussion into two issues: general administration budget is too high and some on the Commission want to fund Sunshine Haven. He asked that the Commission figure out where they want to cut.

Elaine Flores, a board member, also stated that the Board spent considerable time working with many tools to arrive at the division of the funding. If you cut from one agency, the Commission better be prepared to answer to the other agencies whose funding will be cut. The Board tried to arrive at the best value for the buck. The Commission entrusted the Board to give them the best choice and the best deal for the federal dollars and every year it is less and asked that the Commission trust the Board members that they themselves appointed.

Roxann Cotroneo, City Attorney, commented that CDBG monies are one of the most direct ways where the Commission has control. As for the community court, there are some grants that are coming out and she understands that there is not much CDBG money that comes to the city. She stated that she would not take away funding from other but would seek other funding sources for the community court.

Further discussion continued and a new motion was made by Commissioner Trevino to fund \$8,000 from the drainage or streets allocation to fund Shine Haven. Commissioner Leftwich seconded the motion. Voting on the motion carried unanimously.

RESOLUTION NOMINATING TYCO VALVES & CONTROLS LP AS A DESIGNATED ENTERPRISE PROJECT IN THE CITY OF HARLINGEN APPROVED

Bill Martin, EDC Director, explained that the City of Harlingen is nominating Tyco Valves' expansion as a designated enterprise project under Section 2303 of the Texas Enterprise Zone Act, Texas Government Code. A funding agreement between the HEDC and Tyco Vales was executed on March 12, 2010. Designation as an Enterprise Project will allow Tyco to receive State tax incentives. Tyco currently has 120 existing jobs and the expansion will create up to 65 new jobs.

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

ORDINANCE ADOPTED ON FIRST READING TO DESIGNATE A 'NO PARKING' ZONE ON THE EAST AND WEST SIDE OF 6TH STREET BETWEEN HARRISON AVENUE AND TYLER AVENUE

The caption of the ordinance was read.

AN ORDINANCE TO ESTABLISH A 'NO PARKING' ZONE ON THE EAST AND WEST SIDE OF 6TH STREET BETWEEN HARRISON AVENUE AND TYLER AVENUE; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID 'NO PARKING' ZONE; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE;

PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

ORDINANCE ADOPTED ON FIRST READING TO DESIGNATE A 'NO PARKING' ZONE ON THE EAST AND WEST SIDE OF 5TH STREET BETWEEN TYLER AVENUE AND POLK AVENUE AND 40 FT. OF THE SOUTHWEST CORNER OF TYLER AVENUE

The City Attorney read the caption of the ordinance.

AN ORDINANCE TO ESTABLISH A 'NO PARKING' ZONE ON THE EAST AND WEST SIDE OF 5TH STREET BETWEEN TYLER AVENUE AND POLK AVENUE AND 40 FT. WEST OF THE SOUTHWEST CORNER OF TYLER AVENUE; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID 'NO PARKING' ZONE; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

ORDINANCE ADOPTED ON FIRST READING TO DESIGNATE A 'NO PARKING' ZONE ON THE NORTHWEST CORNER OF 3RD STREET AND MONROE AVENUE

The caption of the ordinance was read.

AN ORDINANCE TO ESTABLISH A 'NO PARKING' ZONE; LOCATED ON THE NORTHWEST CORNER OF 3RD STREET AND MONROE AVENUE; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID 'NO PARKING' ZONE; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

ORDINANCE ADOPTED ON FIRST READING TO DESIGNATE A 'NO PARKING' ZONE ON THE NORTH SIDE OF PEASE STREET FROM ED CAREY DRIVE TO TREASURE HILLS BOULEVARD AND THE SOUTH SIDE OF PEASE STREET FROM ED CAREY DRIVE TO SOUTH CAROLINA AVENUE

The caption of the ordinance was read.

AN ORDINANCE TO ESTABLISH A 'NO PARKING' ZONE LOCATED ON THE NORTH SIDE OF PEASE STREET FROM ED CAREY DRIVE TO TREASURE HILLS BOULEVARD AND ON THE SOUTH SIDE OF PEASE STREET FROM ED CAREY DRIVE TO SOUTH CAROLINA AVENUE; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID 'NO PARKING' ZONE; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

ORDINANCE ADOPTED ON FIRST READING TO REPEAL ORDINANCE NO. 99-15 REMOVING A SCHOOL ZONE LOCATED AT 514 E. STREET

Ponciano Longoria, City Engineer, stated that this request was presented to staff due to citizen concerns on a designated school zone area where a school is no longer in operation. Staff verified the concern with an onsite inspection of the area and determined the need to remove the school zone as outlined in the agenda packet.

The caption of the ordinance was read.

AN ORDINANCE TO REPEAL ORDINANCE NO. 99-15 TO REMOVE A SCHOOL ZONE LOCATED ON 514 E.STREET; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

RESOLUTION APPROVED ESTABLISHING THE LOCATIONS OF THE BUS SHELTERS WITHIN THE TEXAS DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY

Ponciano Longoria explained that the LRGV Development Council is in the process of installing bus shelters within the City of Harlingen and Texas Department of Transportation right-of-way. A resolution is required to enter into a multiple use agreement with TxDOT for the construction, maintenance, and operation of public shelters on state right-of-way. Staff recommended approval of the resolution.

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

ALL BIDS REJECTED AND CHESTER PARK PHASE II PROJECT RE-BID

Paul Hemphill, representing G & T Paving, referred to a letter he distributed stating their position on the bid submitted by G & T Paving. Mr. Hemphill indicated that G & T was the best-qualified low bidder. In addition G & T was also substantially lower than the budgeted amount for the project. The slightly lower bid that was submitted, whether it was late or not, should have been immediately disqualified because it was late. Mr. Hemphill indicated that it would not be in the best interest of the City to rebid the project.

Roxann Cotroneo, City Attorney, requested an Executive Session under the attorney/client privilege legal advice.

Commissioner Prepejchal made a motion to go into **Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.071) contemplated or pending litigation, or matters where legal advice is requested of the City Attorney.** Commissioner Leftwich seconded the motion and it carried unanimously.

The Executive Session convened at 8:15 p.m. and concluded at 8:22 p.m. Present at the Executive Session were Mayor Boswell and Commissioners Ruiz, Leftwich, Marra, Prepejchal and Trevino.

Back in open session, Commissioner Leftwich made a motion to reject all bids and re-advertise the project for new bids. Commissioner Prepejchal seconded the motion and it carried unanimously.

PUBLIC WORKS DIRECTOR AUTHORIZED TO UTILIZE FUNDS FROM THE VEHICLE REPLACEMENT FUND TO PURCHASE TWO (2) NEW STREET

SWEEPERS TO REPLACE TWO (2) EXISTING UNITS THAT ARE IN CONSTANT NEED OF REPAIR.

Dan Serna, Director of Public Works, explained that the two older sweepers have been out of use due to mechanical failures for a combined 37 weeks. This down time has translated into a reduction in the number of streets being swept compared to previous years. A total of \$31,750 has been spent in maintenance costs since October 1, 2009 due to the continuous mechanical failures of the two older sweepers.

Mr. Serna explained that both of these sweepers are due for replacement in FY 2010/11. He has reviewed the depreciated account to determine if there are enough funds to cover the cost to replace both of the sweepers. The estimated cost to replace both sweepers is \$363,010.00 if we wait to purchase them until October 1, 2010. Unfortunately, there is only a total of \$279,870.00 available by October 1 to purchase both sweepers. Mr. Serna explained that the vendor, Tyco Sweepers, informed staff that if the sweepers were purchased right away he would give us a price of \$318,940 leaving a negative balance of \$39,070.00. Purchasing them now as proposed to October 1, 2010 will result in a savings of over \$44,000.00.

Mr. Serna further explained that if the purchase were made right now he would need to continue depreciating the old units through September 31, 2010 in order to have the entire \$279,870.00 as currently budgeted. The difference of \$39,070 could be made up by increasing the annual depreciated amount of each unit beginning on October 1, 2010 to cover the entire cost. If we wait until October 1, 2010 to order the units we will have to come up with a difference of \$83,140.00 or keep one of the existing units with the ongoing maintenance costs.

Commissioner Leftwich made a motion to authorize the Public Works director to utilize funds from the Vehicle Replacement Fund to purchase two new streets sweepers now to replace two existing units as has been explained and recommended by Mr. Serna. Commissioner Prepejchal seconded the motion and it carried unanimously.

CONTRACT FOR THE MAINTENANCE OF HARLINGEN FIELD APPROVED

Michael Hopping, Director of Parks and Recreation, stated that the P & R Department received four price quotes: D-Bar Contractors, \$38,520; Best Lawn Care, \$47,931.26; Total Lawn Care, \$49,371.81 and Omar Benavides, \$23,000.

Staff recommended approval for the contract with Omar Benavides for the maintenance of Harlingen Field.

Commissioner Marra made a motion to accept staff recommendation and award the contract to Omar Benavides. Commissioner Leftwich seconded the motion.

Under discussion, Commissioner Leftwich stated that there had been previous discussion about doing this in house. Mr. Hopping explained that in house staff would not be able to do it for the price that Mr. Benavides has offered and Mr. Benavides does a very good job and he has received no complaints on his work.

The motion carried unanimously.

MEMBER TO THE AMIGOS DEL VALLE BOARD OF DIRECTORS APPOINTED

Commissioner Prepejchal made a motion to appoint Commissioner Trevino as the City's representative to the Amigos del Valle Board of Directors. Commissioner Leftwich seconded the motion and it carried unanimously.

CITY COMMISSION MEMBER APPOINTED TO THE TIF ZONES 1, 2 AND 3

Commissioner Prepejchal made a motion to appoint Commissioner Leftwich as the City's representative to the TIF Zones 1, 2 and 3. Commissioner Trevino seconded the motion and it carried unanimously.

BOARD APPOINTMENTS

Commissioner Leftwich made the following appointments:

- Reappointed Tina Puente to the Community Development Advisory board.
- Reappointed Claudia Menchaca to the Community Development Advisory board.
- Appointed Dan Araiza to the Golf Advisory Board.
- Reappointed Rudy Cantu to the Planning and Zoning Board.
- Reappointed Frank Hale to the Downtown Improvement Board
- Reappointed Rod Snell to the Tennis Advisory Board
- Reappointed Shannon Harvill to the Animal Control board.

Commissioner Prepejchal appointed Bobby Arias to the Convention and Visitors Bureau representing a sports venue. He also appointed Arlene Garza to Harlingen Proud.

Mayor Boswell appointed General Steve Cheney to the Airport Board (replacing Bryan Duffy) and appointed Manny Vela to the Airport Board also.

Mayor Boswell made the following appointments also:

Reappointed Nestor Martinez to the Construction Board of Adjustments; reappointed Bill DeBrooke to the Downtown Development District; reappointed Dianne Brumley to the Municipal Auditorium Advisory Board; appointed Meg Jorn to the Planning and Zoning Commission (replace George Merrill); and reappointed Nic Consiglio to the Planning and Zoning Commission.

A motion was made by Commissioner Marra to approve all the Board appointments as made. Commissioner Leftwich seconded the motion.

Voting on the motion was as follows:

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

The motion carried 4 to 1.

BOARD REMOVALS

Commissioner Prepejchal removed Scott Alex from the Development Corporation of Harlingen, Inc.

Commissioner Ruiz removed Armando Elizarde from the Development Corporation of Harlingen, Inc.

Commissioner Prepejchal made a motion to approve the removal of the Board members as noted above. Commissioner Ruiz seconded the motion.

Voting on the motion was as follows:

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

The motion carried 4 to 1.

Commissioner Prepejchal appointed Desi Martinez to replace Scott Alex on the Development Corporation of Harlingen, Inc. to fill the unexpired term by Alex.

Commissioner Prepejchal made a motion to approve the appointment as noted above. Commissioner Ruiz seconded the motion.

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Voting on the motion was as follows:

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

Commissioner Marra commented that a huge mistake had just been made especially with the Board members that were removed who are experienced and have been involved with big projects that have come in and are still coming in.

There being no further business the meeting adjourned at 8:35 p.m.

Chris Boswell, Mayor

Attest:

Sylvia R. Trevino, City Secretary