

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

JUNE 2, 2010

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, June 2, 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
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

Mayor Boswell called the meeting to order at 5:30 p.m.

INVOCATION/PLEDGE OF ALLEGIANCE/WELCOME

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

With the Commission's consensus, Mayor Boswell proceeded with Items 7, 8 and 9 at this time.

RESOLUTION APPROVED DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010

Anne Burger Entrekin, with First Southwest (financial advisors) explained that this is a follow-up to the workshop that was held last week. The cost of issuance will be 'not to exceed' \$3,250,000 and will be the actual cost only. The Certificates of Obligation are for offsite infrastructure and will be paid from the increase in property taxes derived from the Bass Pro Shops. Two publications are required. The first publication is Saturday, June 5 and the second publication is June 12.

Commissioner Marra made a motion to approve the resolution directing publication of notice of intention to issue combination tax and revenue certificates of obligation not to exceed \$3,250,000. Commissioner Leftwich seconded the motion and it carried unanimously.

RESOLUTION APPROVED AUTHORIZING THE CITY OF HARLINGEN'S FINANCIAL ADVISOR AND BOND COUNSEL TO PROCEED WITH THE DEVELOPMENT OF A PLAN FOR THE ISSUANCE OF THE CITY'S COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010, AND GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010.

Anne Burger Entrekin explained that First Southwest identified some refunding opportunities---the Certificates of Obligation from 2001 and the General Obligation bonds from 2002. Based on the prevailing market interest rates of last week it would provide a net present value basis of \$102,000, which represents 3.96% of the par amount. in other words, a savings of \$102,000 in interest. She stated that by approving this action, it would give them the opportunity to proceed on the two transactions simultaneously.

Commissioner Trevino made a motion to approve the resolution. Commissioner Prepejchal seconded the motion and it carried unanimously.

RESOLUTION APPROVED EXPRESSING OFFICIAL INTENT TO REIMBURSE COSTS OF CITY IMPROVEMENTS FOR CITY STREETS AND OTHER IMPROVEMENTS

Ms. Entrekin stated that this item ties back to Item No. 7, again, not to exceed \$3,250,000.

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

CITIZEN COMMUNICATION

Roy Maggard, a Veterans advocate, asked that the Commission vote unanimously to adopt the ordinance creating a Veterans Advisory Board and suggested that the Board be composed of veterans from each war so that all veterans are equally represented. Mr. Maggard indicated that he would like to serve on the Board.

David Garza, Gulf Aviation, speaking in reference to Item No. 11, asked that the Commission consider making a change to the Airport budget. That is to consider adding the expansion of the GA Apron South. He asked for an expansion, not a rehab. He stated that he did not see a priority with the removal of Taxiway Echo when there is a need for more ramp space.

Mayor Boswell explained that under Citizen Communication the Commission may not respond.

Fred Rendon thanked the Commission for what they do in light of the fact that they are under a lot of scrutiny by the public and he just wanted the Commission to know that he has a lot of respect for them.

Maria Lozano, 225 E. Beck, a retired citizen, referred to a notice she received from the Planning and Zoning department regarding a specific use permit for a bar nearby property that she owns in La Placita. She stated that it has taken many years to take care of her property by having to pick up beer bottles, trash, etc. She is trying to beautify this area and make it a family-like place to come to. She asked that the Commission consider trying to beautify the area without having to worry about 'other' kinds of activities. Having a bar in the area is not conducive to a 'family' type of atmosphere. Ms. Lozano asked that the Commission consider denying the specific use permit.

Kenneth Preneau, 2510 E. Mark Circle, spoke briefly on vandalism incidents that have occurred in Knightwood Estates and about the activity across from the Library that hinders the traffic flow. He asked that someone get back to him on his concern.

MINUTES FOR APPROVAL – SPECIAL MEETING OF MAY 10, 2010, REGULAR MEETING OF MAY 19, 2010 AND SPECIAL JOINT MEETING OF MAY 25, 2010

All three sets of minutes were approved upon a motion made by Commissioner Prepejchal and seconded by Commissioner Leftwich. The motion carried unanimously.

CONSENT AGENDA:

- A. ORDINANCE ADOPTED ON FINAL READING TO GRANT 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
- B. ORDINANCE ADOPTED ON FINAL READING 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
- C. ORDINANCE ADOPTED ON FINAL READING TO DESIGNATE A 'NO PARKING' ZONE ON THE EAST AND WEST SIDE OF 6TH STREET BETWEEN HARRISON AVENUE AND TYLER AVENUE.
 - D. ORDINANCE ADOPTED ON FINAL READING TO DESIGNATE A 'NO PARKING' ZONE ON THE EAST AND WEST SIDE OF 5TH STREET BETWEEN TYLER AVENUE AND POLK AVENUE AND 40 FEET OF THE SOUTHWEST CORNER OF TYLER AVENUE.
 - E. ORDINANCE ADOPTED ON FINAL READING TO DESIGNATE A 'NO PARKING' ZONE ON THE NORTHWEST CORNER OF 3RD STREET AND MONROE AVENUE.
 - F. ORDINANCE ADOPTED ON FINAL 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.
 - G. ORDINANCE ADOPTED ON FINAL READING TO REPEAL ORDINANCE NO. 99-15, REMOVING A SCHOOL ZONE LOCATED AT 514 'E' STREET.

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

ORDINANCE ADOPTED ON FINAL READING 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.

Paul Menzies, Director of Planning, explained that the Commission approved the ordinance on first reading at the last meeting but there were two issues that were expressed at that time: the banner signs on buildings and regulation signs that are placed inside buildings.

Mr. Menzies explained that these two items have been addressed in the ordinance for approval tonight. The added proposed language for final reading limits the area of banner signs on buildings to be more than 20% of the area of the wall on which the banner is attached. Individual banner signs on buildings would remain exempt from permitting so long as they do not exceed 80 sq. ft.

Mr. Menzies stated that language had also been added to exempt from regulation signs that are placed inside buildings and signs that do not have a primary purpose of being legible from the public street or another property.

Staff recommended approval.

Mayor Boswell referred to an email he received from Bill Godwin regarding the amendment that limits the number of banners.

Mr. Godwin stated that it was his understanding that you could cover an entire building without any sq. ft. requirements and he was of the opinion that the banners should be included in the square footage allotment. As far as unlimited banners, he stated it is wrong and would cheapen the area.

Gabriel Gonzalez pointed out that the revised ordinance does require a limitation.

Mayor Boswell affirmed that the ordinance limits the area of banners on buildings to no more than 20% of the area of the wall plus 80sq. ft.

Minor discussion followed on the sq. footage.

Commissioner Trevino made a motion to go with staff recommendation and accept the changes as presented. Commissioner Marra seconded the motion and it carried unanimously.

Mayor Boswell thanked all who served on the sign committee.

ACTION/DISCUSSION TO CONTINUE OR DISCONTINUE THE 2008-11 ANNEXATION PLAN CONSISTING OF 2,535 ± ACRES OF LAND GENERALLY BOUNDED ON THE NORTH BY BUSINESS 83 AND GARRETT ROAD, ON THE WEST BY BASS BOULEVARD, ON THE SOUTH BY REGINA LANE AND EAST OF REGINA LANE TO INCLUDE ALL PROPERTIES ABUTTING THE WEST RIGHT-OF-WAY LINE OF DILWORTH ROAD TO THE ARROYO COLORADO, AND BOUNDED ON THE EAST BY THE ARROYO COLORADO. APPLICANT: CITY OF HARLINGEN

Paul Menzies explained that State law (Ch. 43, Local Government Code) requires a three-year process in order for municipalities to annex land containing 100 or more developed residential tracts. The subject annexation process is in accordance with that law.

Mr. Menzies referred to the 2007 Legislature that amended Chapter 43 requiring that the City offer development agreements (effective ‘non-annexation’) agreements to each property within the proposed 3-year plan with an agricultural or wildlife management tax exemption. Mr. Menzies showed on the map all the areas that are agricultural. Mr. Menzies further explained that each proposed agreement, if accepted by the owners of the individual properties, would not allow the City to annex the individual property for at least fifteen (15) years, unless said property fails to retain the agricultural or wildlife management tax exemption status. He stated that 123 of the 683 total properties (-18%) have agricultural exemptions. The ag exemptions equate to 1/3 of the land. Mr. Menzies felt that it is likely that a large majority of the affected property owners would accept a non-annexation agreement if offered. It would then be difficult to annex the remaining properties in a contiguous and logistical fashion that would allow for effective service delivery.

Staff recommended the discontinuation of this annexation process.

Mayor Boswell pointed out Brownsville’s annexation plan that annexed up to San Benito and Bayview. Mr. Menzies pointed out that this was before 2007 and they don’t fall into the 3-year requirement.

Mayor Boswell commented, as an observation, that past experience has demonstrated that it is more difficult to annex once the area becomes populated and developed. While he understands staff’s concerns, the fact that we would have to give all those property owners 15-year agreements, it really causes problems for areas like ours that should eventually be annexed. Mayor Boswell commented ‘we then lose the ability to grow the city if we don’t annex.’

Gabriel Gonzalez pointed out that there are alternatives to place properties on a 3-year plan, although not as aggressive. The City can still manage to grow but not in large volumes.

Commissioner Trevino requested that staff come back with a new 3-year plan for ‘smart growth’ instead of just land grabbing.

Commissioner Trevino made a motion to accept staff’s recommendation to discontinue the annexation process for these tracts of land. Commissioner Leftwich seconded the motion and it carried unanimously.

ORDINANCE ADOPTED ON FIRST READING AUTHORIZING THE SALE OF SURPLUS PROPERTY BY PUBLIC AUCTION

Roel Gutierrez, Director of Finance, explained that the ordinance designates the items that are being considered as surplus. If the ordinance is approved these items will be sold

at a public auction scheduled for July 24. The City will advertise the public auction three times in the newspaper

Staff recommended approval of the ordinance on first reading.

The caption of the ordinance was read.

AN ORDINANCE DESIGNATING SURPLUS PERSONAL PROPERTY OF THE CITY AND AUTHORIZING THE SALE OF SUCH SURPLUS PERSONAL PROPERTY BY PUBLIC AUCTION TO BE HELD ON JULY 24, 2010; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

RESOLUTION APPROVED AMENDING THE VALLEY INTERNATIONAL AIRPORT BUDGET FOR FISCAL YEAR 2009-10

Michael Browning, Director of Aviation, stated that in summary, the operating revenues are expected to exceed the original budget by \$2,140 for a total of \$6,430,200 in revenues for the year. The operating expenses are anticipated to increase by \$15,900 for a total of \$5,594,378. The net income (before depreciation) is expected to be \$835,822, a decrease of \$13,760. The capital expenses and capital improvements budget will decrease by \$700,156 to \$9,357,894. Of that total, FAA grant monies are anticipated to total \$4,999,910, PFC funds are allocated at \$3,865,000 and airport reserve funds will contribute \$672,984, a decrease of \$37,316 from the original budget.

Referring to Mr. Garza's comments (from citizen communication) on the ramp expansion, Mr. Browning noted that the description on the budget for capital improvements (#15) should read 'rehab and expansion' of the GA apron. He added that there would be 73,000 sq. ft. of parking space which is more than before. The bid for this project came in higher than budget but FAA will pay 95% of it and the Airport will pay for the remaining 5%.

Commissioner Ruiz asked Mr. Browning to elaborate on the priority to remove Taxiway E.

Mr. Browning explained that this was originally constructed as a runway and the pavement is crumbling and deteriorating due to age. This is more of a safety issue and there is the possibility of confusion by the pilots since it does look like a runway. The structure is creating problems due to loose rocks that could damage the propellers. He noted that FAA is in support of removing this taxiway and they actually encourage it.

Commissioner Ruiz asked if this money could be allocated for some other project. Mr. Browning reiterated the need to remove this taxiway due to safety concerns and issues.

Commissioner Prepejchal asked about the 'middle one'. Mr. Browning replied that even if they did not do the Taxiway E, there still would not be enough money for the one that Commissioner Prepejchal was talking about.

Commissioner Marra made a motion to approve the resolution amending the Airport budget. Commissioner Trevino seconded the motion and it carried unanimously.

ORDINANCE ADOPTED ON FIRST READING CREATING A CITY OF HARLINGEN VETERANS ADVISORY BOARD

Commissioner Leftwich explained that he and Commissioner Ruiz discussed the potential of benefiting the veterans and how the City of Harlingen could be more proactive than being in touch with the Veterans of the area. They felt that an Advisory Committee could be formally formed to advise the elected body on veterans' affairs throughout the

community would be a good way to go and, therefore, they proposed a basic fundamental advisory board that could expand into the future. Obviously, tonight the entire Commission could talk about any changes that any other Commissioners would want to propose for consideration to incorporate as well into the advisory committee.

Commissioner Marra commented that Commissioner Leftwich is bringing the ordinance to the Commission right now and asking that if the Commission wants to make changes, he wants them to be done right now and he wants a vote on it right now.

Commissioner Leftwich replied that this is only the first reading of the ordinance and any additions can be done and considered by the second reading.

Commissioner Marra reminded the Commission of the previous discussion that was held regarding having too many boards. She stated that it is not that veterans are not important but the discussion has been about downsizing the amount of boards. Referring to the agenda, she noted that the Board appointments start with A all the way through W. There has been talk about less boards, no more boards and now an additional board is being added and asked Commissioner Leftwich if he had any discussion in regards to that.

Commissioner Ruiz commented 'we owe it to our Veterans to create this Board.'

Commissioner Marra reiterated the issue of having too many boards and stated that she has a brother who is a lifetime career veteran and everyone in her family has been a veteran. It is not that she is against a Veterans Advisory Board---'that is not true at all'. It is just that there are too many boards and there has been discussion through an email about creating a senior citizens board. Commissioner Marra just felt that this is something that needs to be discussed. She indicated that she did not see a problem with the ordinance and she certainly would look it over and commended Commissioner Leftwich for creating the ordinance but she reminded the Commission that there has been discussion about having too many boards in the City of Harlingen and here is another board being created.

Commissioner Leftwich stated that obviously there are some boards that need to be reviewed. There is a Tennis Advisory Board and in terms of priorities maybe the Commission ought to elevate the veterans affairs in Harlingen to a higher stature than to some of the other less important boards. This affords the opportunity to review this ordinance and the fact is that there is a second reading, two weeks away, to make recommendations at the final reading.

Commissioner Marra made a motion that the Commission go ahead and approve the ordinance this evening and stated that she would definitely like to discuss the fact that Commissioner Leftwich thinks that the Tennis Board is less important than the Veterans Board.

Commissioner Leftwich seconded the motion.

Mayor Boswell asked that the caption of the ordinance be read.

The City Attorney read the caption of the ordinance.

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS ADDING SECTIONS 32.160, 32.161, 32.162, 32.163, 32.1643 AND 32.165 OF CHAPTER 32 OF THE HARLINGEN CITY CODE, AS AMENDED; CREATING A CITY OF HARLINGEN VETERANS ADVISORY BOARD; ESTABLISHING MEMBERSHIP REQUIREMENTS; ESTABLISHING DUTY TO ADVISE ELECTIVE COMMISSION; PROVIDING FOR POWERS AND DUTIES OF THE BOARD; PROVIDING FOR ELECTION OF OFFICERS; ESTABLISHING RULES AND REGULATIONS FOR THE BOARD; ESTABLISHING RESPONSIBILITY OF BOARD TO REPORT AND MAKE RECOMMENDATIONS TO THE ELECTIVE COMMISSION;

PROVIDING FOR NO SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

Commissioner Leftwich made a motion to adopt the ordinance. Commissioner Prepejchal seconded the motion.

It was pointed out that a motion was already on the floor, previously made by Commissioner Marra and seconded by Commissioner Leftwich.

Commissioner Marra pointed out that she made the original motion to adopt the ordinance on first reading.

Voting on the motion carried unanimously.

Mayor Boswell commented that there would be opportunity to 'tweak' the ordinance before its final reading.

DISCUSSION HELD ON A COMMISSION RETREAT TO REVIEW CITY MANAGER-COMMISSION FORM OF GOVERNMENT, OPEN MEETINGS AND OPEN RECORDS ORIENTATION AND COMMISSION GOAL SETTING

Mayor Boswell explained that this was placed on the agenda to obtain input from the Commission on a retreat to be able to have the opportunity to see what the goals are of this Commission, to have a Commission orientation and discuss open records and open meetings.

There was direction to staff to provide some possible dates for this retreat.

BOARD MEMBERS TO THE AUDIT COMMITTEE APPOINTED

Mayor Boswell stated that he would continue to serve as a member and appointed Michael Lamon, as a citizen representative, to also serve as the Chairman. Commissioner Prepejchal recommended that Commissioner Leftwich continue to serve on the Board.

Commissioner Trevino made a motion to approve the appointment of Board members to the Audit Committee. Commissioner Prepejchal seconded the motion and it carried unanimously.

BOARD APPOINTMENTS

Commissioner Ruiz made the following appointments:

Laura Garcia	Animal Shelter Advisory Group
Manny Vela	Development Corporation of Harlingen, Inc.
Kevin Saenz	Golf Course Advisory Board
Corina Penuelas	Harlingen Proud
Gail Moore	Municipal Auditorium Board
Dennis Zamarron	Parks Advisory Board
David Gonzalez	Planning and Zoning Commission
Arturo Teniente	Tennis Advisory Board
Rick de los Santos	Utility Board of Trustees

Commissioner Prepejchal made the following appointment:

Gail Moore	Harlingen Proud
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Commissioner Trevino made the following appointment:

Danny Hoehne	Harlingen Proud
Ida Lozano	Downtown District Board

Mayor Boswell reappointed George McShan to the Community Development Advisory Board.

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

A motion was made by Commissioner Marra to go into **Closed/Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.071) to discuss contemplated or pending litigation or to seek legal advice from the City Attorney regarding:**

-Lupita Turner v. City of Harlingen, Cause No. 2009-CCL-664-A
-Dalia G. Banos v. City of Harlingen, Cause No. 2009-CCL-957-C
-Diego Rivas Soto v. City of Harlingen, Cause No. 2009-02-1325-E
-tracts of land annexed by the City of Harlingen under Ordinance Nos. 96-26, 96-45 and 97-13 -tracts of land annexed by the City of Harlingen under Ordinance No. 08-65

Commissioner Prepejchal seconded the motion and it carried unanimously.

The Executive Session convened at 6:20 p.m. and concluded at 7:15 p.m. (Commissioner Prepejchal stepped out momentarily and returned at approximately 6:30 p.m.). Present at the Executive Session were Mayor Boswell, Commissioners Ruiz, Leftwich, Marra, Prepejchal, Trevino, City Attorney Roxann Cotroneo and City Secretary Sylvia Trevino, Paul Menzies, Director of Planning and Development, Roger Hughes, and Rick Bilbie, Assistant City Attorney, Police Chief Danny Castillo, Interim City Manager, Gabriel Gonzalez. During the discussion on Lupita Turner v. City of Harlingen, Cause No. 2009-CCL-664-A, Commissioner Ruiz recused himself from the Executive Session and signed an affidavit due to appearance of impropriety on the subject matter. Commissioner Ruiz returned back into Executive Session after this discussion on Turner was held.

Also during part of the discussion on the Turner case, both the City Secretary and the Chief of Police left the Executive Session temporarily.

The Executive Session concluded at 7:15 p.m.

Returning back into open session, Commissioner Leftwich made a motion to go into **Closed/Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.074): personnel matters to deliberate the appointment**, employment, duties and evaluation of applicants for the position of City Manager. Commissioner Trevino seconded the motion and it carried unanimously.

The Executive Session convened at 7:15 p.m. Present at the Executive Session were Mayor Boswell, Commissioners Ruiz, Leftwich, Marra, Prepejchal and Trevino, City Attorney, City Secretary and Efren Fernandez, Director of Human Resources.

The Executive Session convened at 7:20 p.m.

DISCUSSION/ACTION TO INSTRUCT CITY STAFF ON HOW TO PROCEED WITH THE HIRING PROCESS TO SELECT THE CITY MANAGER

Commissioner Trevino asked that the position be opened up again for another two weeks and then try to narrow the list to the top 5 applicants.

Commissioner Ruiz asked that a timeline be established for the selection of the City Manager.

Mayor Boswell suggested advertising the position through June 18 for additional applicants to apply and then hold in executive session discussion to secure the finalists and within 30 days from that date conduct interviews and be able to make a decision by August 15. Mayor Boswell indicated that he would be out of town the last two weeks in July.

Efren Fernandez indicated that the advertising of the position could be done again in the Texas Municipal League website and the professional City Managers Association.

Regular Meeting
6/2/10

Commissioner Leftwich made a motion to open up the application process for another two weeks and to follow the timeline as proposed by Mayor Boswell. Commissioner Prepejchal seconded the motion and it carried unanimously.

There being no further business the meeting adjourned at 7:30 p.m.

Chris Boswell, Mayor

Attest:

Sylvia R. Trevino, City Secretary