

1 **REGULAR MEETING**

2
3 **CITY COMMISSION**

HARLINGEN, TEXAS

4
5 **JULY 7, 2010**

6
7 A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, July
8 7, 2010 at 5:30 P.M. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas.

9 Those in attendance were:

10
11 **Mayor and City Commission**

- 12 Mayor Chris Boswell
- 13 Joey Trevino, Mayor Pro Tem
- 14 Gus C. Ruiz, Commissioner District 1
- 15 Robert Leftwich, Commissioner District 2
- 16 Jerry Prepejchal, Commissioner District 4

17
18 **Absent:**

- 19 Kori Marra, Commissioner District 3

20
21 **Staff Present:**

- 22 Gabriel Gonzalez, Interim City Manager
- 23 Roxann P. Cotroneo, City Attorney
- 24 Sylvia R. Trevino, City Secretary

25
26 Mayor Boswell called the meeting to order at 5:30 p.m.

27
28 **INVOCATION/PLEDGE OF ALLEGIANCE/WELCOME**

29
30 Commissioner Trevino delivered the invocation and the Pledge of Allegiance followed.

31
32 Mayor Boswell gave special recognition to the entire group of students from TSTC that
33 were in the audience. They were at the Commission meeting as part of a government
34 class assignment.

35
36 At this time Mayor asked to take some agenda items out of order.

37
38 **ORDINANCE ADOPTED AUTHORIZING THE ISSUANCE, SALE AND**
39 **DELIVERY OF ‘CITY OF HARLINGEN, TEXAS COMBINATION TAX AND**
40 **REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010; SECURING THE**
41 **PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD**
42 **VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF**
43 **THE CITY’S TONY BUTLER GOLF COURSE; AND APPROVING AND**
44 **AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR**
45 **AGREEMENT, A PURCHASE CONTRACT, AN OFFICIAL STATEMENT AND**
46 **ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO.**

1 Ann Burger Entrekin, from First Southwest (financial advisor), stated that she would like
2 to brief the Commission on the two items and presented both items as one. First, she
3 introduced Pete Tart and Noel Valdez, also from First Southwest.

4
5 Ms. Entrekin gave a market update on the ‘bond buyers’ index of 20 municipal bonds and
6 their trends. A high rate in October 1987 at 9.17% and a current rate of 4.38% in July
7 2010. From years 2003 through 2010, the high rate was 6.01% in October 2008 and a
8 current low rate at 4.38% in July 2010. She indicated that there has been great volatility
9 over a period of time. She proceeded to go over the AAA insured municipal yield curve
10 from year 1 to year 20.

11
12 Ms. Entrekin explained that historically the ratings have been AA. Of extreme
13 importance, Ms. Entrekin pointed out that this is the first time that bonds are sold solely
14 on the credit of the city and she was very pleased to reaffirm the –AA rating for the City
15 of Harlingen by both Standard & Poors and Fitch. Ms. Entrekin noted the comments that
16 were made by both rating agencies.

17
18 Standard & Poors:

19 *“the rating reflects the city’s increasingly diversified and expanding economy;*
20 *consistently strong financial position; and low overall net debt burden”.*
21 *“Harlingen’s management practices are deemed ‘good’ under Standard & Poor’s*
22 *Financial Management Assessment (FMA)’*

23
24 Fitch:

25 *“Harlingen has a stable financial history, characterized by sizable operating reserves.”*
26 *“Ongoing expansion and diversification of the local economy is evidenced by steady*
27 *employment gains, even during this recessionary period”.*
28 *“To its credit, management noted the decline in revenues during the year and made a*
29 *number of spending adjustments (totaling more than \$850,000, which lessened the*
30 *impact of the revenue dip”.*

31
32 Ms. Entrekin was very complimentary of management for taking a proactive approach to
33 adjusting the sales tax.

34
35 Ms. Entrekin proceeded to explain the refunding/refinancing bonds. The Combination
36 Tax and Revenue Certificates of Obligation, Series 2001 and General Obligation
37 Refunding bonds, Series 2002. The remaining principals will combine to issue
38 \$2,540,000 in General Obligation refunding Bonds, Series 2010 with the coupons being
39 sold at between 2.00%-2.50% with a yield of 1.942% and a gross debt service savings of
40 \$128,526 and a net present value savings of \$125,415.

41
42 The Certificates of Obligation, series 2010 will be issued in the part amount of
43 certificates in the amount of \$3,090,000 with a yield of 3.79%

44
45 Ms. Entrekin pointed out that solely the Tax Increment Reinvestment Zones for a
46 conservative assumption would pay the estimated total debt.

1 Ms. Entrekin stated that the staff had been phenomenal in getting them all the
2 information that they required.

3
4 Ms. Entrekin stated that the underwriters are Estrada Hinojosa and Morgan Keegan.

5
6 Mayor Boswell thanked Ms. Entrekin for the good news on the rates and for putting the
7 financing package together and for their outstanding job. He stated that the site visit
8 produced an increase in the City's rating and this also was very good news.

9
10 The caption of the ordinance was read.

11
12 ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND
13 DELIVERY OF \$3,090,000 IN AGGREGATE PRINCIPAL
14 AMOUNT OF 'CITY OF HARLINGEN, TEXAS
15 COMBINATION TAX AND REVENUE CERTIFICATES OF
16 OBLIGATION, SERIES 2010'; SECURING THE PAYMENT
17 THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL
18 AD VALOREM TAX AND A PLEDGE OF CERTAIN
19 SURPLUS REVENUES OF THE CITY'S TONY BUTLER
20 GOLF COURSE; AND APPROVING AND AUTHORIZING THE
21 EXECUTION OF A PAYING AGENT/REGISTRAR
22 AGREEMENT, A PURCHASE CONTRACT, AN OFFICIAL
23 STATEMENT AND ALL OTHER INSTRUMENTS AND
24 PROCEDURES RELATED THERETO.
25

26 **ORDINANCE ADOPTED AUTHORIZING THE ISSUANCE, SALE AND**
27 **DELIVERY OF 'CITY OF HARLINGEN, TEXAS GENERAL OBLIGATION**
28 **REFUNDING BONDS, SERIES 2010'; SECURING THE PAYMENT THEREOF**
29 **BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX; AND**
30 **APPROVING AND AUTHORIZING A PAYING AGENT/REGISTRAR**
31 **AGREEMENT, AN ESCROW AGREEMENT, A PURCHASE CONTRACT, AN**
32 **OFFICIAL STATEMENT, AND ALL OTHER INSTRUMENTS AND**
33 **PROCEDURES RELATED THERETO.**
34

35 The caption of the ordinance was read.

36
37 AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND
38 DELIVERY OF \$2,540,000 IN AGGREGATE PRINCIPAL AMOUNT
39 OF 'CITY OF HARLINGEN, TEXAS GENERAL OBLIGATION
40 REFUNDING BONDS, SERIES 2010; SECURING THE PAYMENT
41 THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD
42 VALOREM TAX; AND APPROVING AND AUTHORIZING A
43 PAYING AGENT/REGISTRAR AGREEMENT, AN ESCROW
44 AGREEMENT, A PURCHASE CONTRACT, AN OFFICIAL
45 STATEMENT, AND ALL OTHER INSTRUMENTS AND
46 PROCEDURES RELATED THERETO.

1
2 Commissioner Leftwich made a motion to adopt the ordinance on first and final reading.
3 Commissioner Prepejchal seconded the motion and it carried unanimously.
4

5 **PUBLIC HEARING AND CONSIDERATION OF A REQUEST TO APPEAL THE**
6 **DECISION OF THE PLANNING AND ZONING COMMISSION FOR A**
7 **SPECIFIC USE PERMIT (SUP)’ TO ALLOW A BAR/LOUNGE IN A ‘GENERAL**
8 **RETAIL (GR)’ ZONE, LOCATED AT 209 SOUTH ‘C’ STREET, BEARING A**
9 **LEGAL DESCRIPTION OF HARLINGEN ORIGINAL TOWNSITE, LOT 1,**
10 **BLOCK 67. APPLICANT: SELVIN R. GARCIA**

11
12 Mayor Boswell declared the public hearing open.
13

14 Joel Olivo, Planning Manager, explained that the applicant wishes to operate a sports
15 lounge under the name “La Tejana”. Mr. Olivo showed the property on the map and
16 indicated that the subject property complies with the distance requirements. He indicated
17 that the applicant owns and operates another bar located at 535 North Commerce. The
18 subject property is located within the Downtown District Overlay and off-street parking
19 is not required.
20

21 Mr. Olivo indicated that the item was presented before the Downtown Board. A motion
22 was made to approve the request, however, the motion did not carry as the board voted 3
23 (in favor) and six (6) against. No other motion had been made.
24

25 The Planning and Zoning Department received one (1) phone call from the surrounding
26 property owners in objection to the proposed use. The Downtown Board received one (1)
27 letter from surrounding property owner expressing concern to the proposed use. He
28 indicated that the Planning and Zoning Commission denied the request based on past
29 history at that location. It is the same family and the same applicant.
30

31 Yolanda Shoffeitt commented that to penalize these people for incidents that occurred
32 back in 2005 should be against the law and commented that this is a civil rights violation.
33

34 Rick Rodriguez, attorney representing the applicant, Mr. Garcia, stated that the applicant
35 has been in business for 20 years and the applicant wants to comply with all of the
36 requirements and has agreed to provide security. The location is a small place and things
37 are calmer now and the reported disturbances from the past were mostly walk-ins by the
38 Police.
39

40 Maria Lozano reiterated her previous comments and stated that she does not mind new
41 business entrepreneurs but the fact is that La Placita has carried a bad reputation and the
42 police still have to patrol the area. If Mr. Garcia wants to have a business in La Placita, it
43 should be family oriented. The type of business he is proposing is a dishonor to the
44 soldier that Gutierrez Park is named after and it would be a disgrace for that type of
45 activity to continue. She pointed out that eight (8) bars have been removed from La

1 Placita district and she would like to see that area become better and more family
2 oriented. She opposed the issuance of the permit.

3
4 Chief Castillo explained that a lot of things have changed in that area and there are a
5 whole lot less bars now. Harlingen PD submitted a query of incidents to that specific
6 address which revealed a criminal investigation for the sale of cocaine at that location.
7 Two arrests were made in 2006, which prompted the Narcotics Division to recover
8 cocaine. This incident led to closing of the bar at that time.

9
10 Commissioner Trevino pointed out that the Commission had been given incident reports
11 for Mr. Garcia's other location at 535 N. Commerce and he asked why. Mr. Menzies
12 replied that it was information that had been requested by the Planning and Zoning
13 Commission and he wanted the Commission to have the same information.

14
15 Chief Castillo stated that the big concern for them was that the owner was aware of what
16 was going on inside the establishment. Chief Castillo noted that the applicant was not
17 charged in the cocaine incident.

18
19 Commissioner Prepejchal felt that La Tejana was being singled out and made reference to
20 an incident that occurred at Rack Daddy's. He felt there was nothing wrong in giving
21 Mr. Garcia a second change.

22
23 Chief Castillo explained that the HPD takes the same position as TABC. If you establish
24 an association tied to an incident, which in this case the activity that was taking place was
25 in place sight of the applicant. The HPD should have been called when this activity was
26 taking place as a proactive approach.

27
28 Mayor Boswell pointed out that this establishment is in the center of what we all would
29 like to see---a more vibrant area with what is going on such as the Blaschka Tower and
30 the Reese Hotel, the redevelopment of the Grande Theatre and Gutierrez Park. People
31 will be coming to see our downtown. They will not be coming to this type of bar.
32 Planning and Zoning has tried to downsize the number of bars and it has been a long time
33 and it was not an easy thing to do. The Downtown board and the Planning and Zoning
34 Commission turned down the request, what are we trying to accomplish? Granting the
35 permit does not contribute to what we want to accomplish in the downtown area.

36
37 Rick Rodriguez stated that it was not fair to penalize the applicant for something that
38 happened in the past. Without something happening, there will be spillover and people
39 will come and buy these people out for high-end development. Mr. Garcia just wants the
40 change and Mr. Rodriguez commented hat he did not believe there would be a flood of
41 problems just because one more bar opens in La Placita.

42
43 Commissioner Trevino asked if there would be additional requirements imposed by
44 TABC. Mr. Olivo replied yes. Rick Rodriguez added that if the owner had been
45 convicted, he would not get a TABC license. They are going to invest money in the
46 community and they already have their TABC license.

1
2 Commissioner Prepejchal made a motion to affirm the appeal and reverse the decision by
3 Planning and Zoning. He also added a 6-month duration of the specific use permit in
4 order to monitor the activity at the bar.

5
6 Jesse Robles informed the Commission that TABC was there when all the bars were there
7 but they never had the manpower to do what the Harlingen Police did. As violations
8 were occurring the bars were being closed down. He stated that he shares the alley with
9 Mr. Garcia' bar and there were incidents of the use of firearms, battery and assault. He
10 stated that he did not wish to blame the owner but the Commission has an obligation to
11 maintain the safety for the citizens of the community. Mr. Robles referred to a petition
12 that had been presented some time back where 50 property owners were asking the
13 Planning and Zoning Commission to not grant SUPs in the area.

14
15 Ron Lozano pointed out that there were also names on the petition that were not valid
16 signatures.

17
18 Gabriel Gonzalez stated that staff made quite a few recommendations for the issuance of
19 the specific use permit and asked if the motion include compliance with the
20 recommended requirements. The motion was amended to include compliance with the
21 recommended requirements. A second by commissioner Trevino was reaffirmed.

22
23 Commissioner Trevino commented that if they want to succeed they would make good
24 effort to comply with all requirements.

25
26 Voting on the motion was unanimous.

27
28 **DISCUSSION HELD AND ACTION TAKEN TO APPROVE A RESOLUTION**
29 **TO AUTHORIZE (1) MULTI-YEAR INTERLOCAL AGREEMENT WITH**
30 **CAMERON COUNTY AND THE TEXAS DEPARTMENT OF**
31 **TRANSPORTATION IN ACCORDANCE WITH THE TEXAS**
32 **TRANSPORTATION CODE TO DENY REGISTRATION OR RE-**
33 **REGISTRATION OF VEHICLES IF THE REGISTERED OWNER HAS A**
34 **WARRANT FOR DELINQUENT CLASS C MISDEMEANOR TRAFFIC**
35 **OFFENSES FOR FAILURE TO APPEAR OR RESOLVE CASES AS PROVIDED**
36 **IN CHAPTER 702 – REFUSAL TO REGISTER VEHICLE; 92) VEHICLE**
37 **REGISTRATION DENIAL FOR OFFENDERS WHO FAIL TO PAY**
38 **DELINQUENT CIVIL VIOLATIONS AS PROVIDED IN THE**
39 **TRANSPORTATION CODE, CHAPTER 707- ENFORCEMENT; (3) PAYMENT**
40 **TO CAMERON COUNTY AND/OR DEPARTMENT OF TRANSPORTATION**
41 **APPROPRIATE FEE CHARGES TO RECOVER COSTS AS BILLED FOR**
42 **SCOFFLAW REGISTRATION DENIAL SERVICES; AND (4) FUTURE**
43 **AGREEMENTS WITH OTHER TEXAS COUNTIES FOR DENIAL OF**
44 **VEHICLE REGISTRATION FOR ELIGIBLE CLASS C MISDEMEANOR AND**
45 **CIVIL CASES AS AUTHORIZED IN THE TRANSPORTATION CODE.**
46

1 Roxann Cotroneo, City Attorney, reminded the Commission that at a previous meeting
2 she had presented the idea on how to address outstanding warrants. The Scofflaw
3 Program is one of those ideas. The City has to enter into an Interlocal Agreement with
4 TxDOT. The City has 37,000 outstanding warrants and the State will 'red flag' the
5 vehicles when someone tries to renew their vehicle registration.

6
7 Tony Yzaguirre, County Tax Assessor-Collector, informed the Commission that his
8 office has never done this before. The County Commissioners Court will be looking into
9 this program. If approved, he is ready to implement the program in the next 30 days.
10 (Mr. Yzaguirre introduced Jesse Garcia and Tony Menchaca from his office).
11 He explained that the Scofflaw was designed to enforce collections of warrants. The law
12 is very specific. It authorizes his office to refuse to register a motor vehicle if the
13 assessor-collector or the departments receives, under a contract, information from a
14 municipality that the owner of the vehicle has an outstanding warrant. The objective is to
15 increase revenue but this program cannot be done without the assistance of TxDOT. The
16 information gathered will be entered into a state database. The associated costs are
17 \$800.00. The citations all have a license plate number and this information is transferred
18 into the database. The city submits input files to TxDOT listing license plate number of
19 vehicles owned by city residents who have an outstanding warrant for a traffic fine or
20 violation. Mr. Yzaguirre further explained that the County would be required to issue a
21 release form acknowledging payment to his office lifting the denial of the vehicle
22 registration. He further indicated that this program would also include citations from the
23 red light cameras.

24
25 Commissioner Ruiz asked if there is any information that shows how this program works
26 in other cities. Mr. Yzaguirre replied that the program works very well and pointed out
27 the cities and counties that have this program in place.

28
29 Roxann Cotroneo pointed out that until now the Valley has not used this 'tool' but other
30 cities have used it successfully. This is a one-year contract. The contract provides for the
31 cost of the city to be \$23.00 per file submission plus \$.12 for each transaction file, plus an
32 initial deposit of at least \$500.00. This amount will be maintained in a non-interest
33 bearing account for estimated service use. An extra fee can be added of \$20.00 ---\$10.00
34 for the County and \$10.00 for the City. The City revenue will be used solely for
35 administration of the Scofflaw. She further explained that with TxDOT you have two
36 options: you can pay as you go or you can maintain a minimum balance of \$500.00 in a
37 non-bearing interest account and they will withdraw from there. Ms. Cotroneo pointed
38 out that the Interim City Manager wants to go with the 'pay as you go' option.

39
40 It was pointed out that the initial investment is minimal and this is only one of many
41 ideas that will be implemented to address the outstanding warrants in the City.

42
43 Commissioner Leftwich made a motion to approve the resolution as recommended by
44 staff. Commissioner Prepejchal seconded the motion.

45

1 Roxann Cotroneo thanked Judge Guerra for his cooperation with implementing this
2 program in his court.

3
4 The motion carried unanimously.

5
6 **BOARD MEMBER RECOGNITIONS**

7
8 Mayor Boswell presented certificates of special recognition to:

9 Gail Moore – newly appointed member to the Hgn. Auditorium Board and
10 Harlingen Proud.

11 David T. Gonzalez – newly appointed member to the Planning and Zoning
12 Commission.

13 Tony de la Rosa – for past service on the Harlingen Proud Advisory Board.

14
15 **CITIZEN COMMUNICATION**

16
17 Art Cohen was present to give thanks and express appreciation to the Commission for the
18 newly formed Veterans Board.

19
20 Abe and Olga Martinez were present to speak on their fence at 126 E. Flynn that the City
21 is requesting be removed. Mr. Martinez felt that he was being singled out based on one
22 complaint that the City received.

23
24 Mrs. Martinez stated that she had gathered a petition for everyone on Flynn to sign and
25 that the complainant does not even live on Flynn Street. She stated that they have viewed
26 a lot of other fences that are also in violation of city requirements. If the City cannot give
27 them an answer tonight she asked for an appointment. She distributed the petition and
28 distributed pictures as well to members of the Commission.

29
30 Mayor Boswell explained to her how citizen communication works and that the
31 Commission is not able to respond because it is not a posted agenda item.

32
33 Yolanda Shoffeitt spoke on civil rights violations. She stated that she wanted to speak on
34 Item 16 but that citizen communication is for items not on the agenda. She was of the
35 opinion that if you start to target certain individuals, the City will lose citizens if the
36 program is implemented.

37
38 Ron Lozano spoke on the ‘spillway’.

39
40 Kevin Ortiz, representing a non-profit organization spoke on a program he referred to as
41 “Future Design” which could be the answer to the gang problem. He desires to bring this
42 program to interact it with social service agencies, churches and into the school district to
43 mentor students that come from struggling families. He stated that he will be submitting
44 a budget and asked for support from the Commission, also from the churches, schools,
45 citizens. Mr. Ortiz indicated that this program started in Dallas and has had measurable
46 success.

1
2 **MINUTES FOR APPROVAL – SPECIAL JOINT MEETING OF MAY 25, 2010**
3 **AND REGULAR MEETING OF JUNE 16, 2010**
4

5 Commissioner Leftwich made a motion to approve both sets of minutes as presented.
6 Commissioner Prepejchal seconded the motion and it carried unanimously.
7

8 **CONSENT AGENDA:**

- 9 **A. ORDINANCE ADOPTED ON FINAL READING REZONING FROM**
10 **‘NOT DESIGNATED (N)’ ZONE TO ‘RESIDENTIAL, SINGLE FAMILY**
11 **(R-1)’ ZONE FOR LOT 1, BLOCK 1, DEANE SUBDIVISION; LOTS 1-3,**
12 **JUAN CANTU SUBDIVISION; LOTS 1-9 PATWIN SUBDIVISION; LOTS**
13 **1-4, BLOCK 1, SARITA-RICO SUBDIVISION; LOTS 1-16, WESTON**
14 **OAKS SUBDIVISION; 1.561 ACRES OUT OF DALE HULINGS TRACT 1;**
15 **1.561 ACRES OUT OF DALE HULINGS TRACT 2; BLOCKS 1 AND 2;**
16 **5.845 ACRES OUT OF BLOCK 3; 12.513 ACRES OUT OF BLOCK 6; 6.33**
17 **ACRES SOUT OF BLOCK 8; 6.7 ACRES OUT OF BLOCK 9, VALLEY**
18 **GROVES SUBDIVISION; 0.510 ACRES OUT OF THE EAST 10 ACRES**
19 **OF THE NORTHEAST 20 ACRES OF TRACT C., L.L. ADAMS SURVEY**
20 **NO. 140 SUBDIVISION; AND 10.0 ACRES OUT OF THE WEST 10**
21 **ACRES OF THE NORTHEAST 20 ACRES OUT OF L.L. ADAMS**
22 **SURVEY NO. 140 SUBDIVISION; ALL TRACTS GENERALLY**
23 **LOCATED SOUTH OF WILSON ROAD AND WEST OF STUART**
24 **PLACE ROAD. APPLICANT: RIOS SURVEYING COMPANY, C/O**
25 **EDWARD AND EDNA TAMAYO AND THE CITY OF HARLINGEN.**
26 **B. ORDINANCE ADOPTED ON FINAL READING TO DESIGNATE A ‘NO**
27 **PARKING’ ZONE LOCATED AT 910 E. TYLER AVENUE.**
28 **C. ORDINANCE ADOPTED ON FINAL READING TO REDUCE THE**
29 **TRAFFIC LANES FROM THREE LANES TO TWO LANES ON VAN**
30 **BUREN AVENUE FROM COMMERCE STREET TO 1ST STREET.**
31 **D. ORDINANCE ADOPTED ON FINAL READING TO RECONFIGURE ‘A’**
32 **STREET FROM VAN BUREN AVENUE TO MONROE AVENUE FROM**
33 **A TWO-WAY DIRECTIONAL STREET TO A ONE-WAY**
34 **DIRECTIONAL STREET.**
35 **E. ORDINANCE ADOPTED ON FINAL READING CREATING A SENIOR**
36 **CITIZENS ADVISORY BOARD.**
37 **F. REFUND OF PROPERTY TAXES APPROVED:**
38 **1) First American Real Estate, (Kathleen Woolam), acct. no. 22-2800-**
39 **0080-0030-00; \$500.00**
40 **2) First American Real Estate (Emmanuel Formacio), acct. no. 18-4079-**
41 **0040-0050-00; \$**
42

43 Motion to adopt ordinance on first reading: Leftwich
44 Second: Prepejchal
45 Motion carried unanimously.
46

1 **PUBLIC HEARING TO HEAR COMMENTS FOR OR AGAINST AMENDING**
2 **SECTION 15.07 OF THE ZONING ORDINANCE WITH REGARDS TO THE**
3 **100-FOOT SPACING REQUIREMENT BETWEEN BAR/LOUNGES IN**
4 **HARLINGEN'S DOWNTOWN DISTRICT OVERLAY. APPLICANT: CITY**
5 **COMMISSION - TABLED**

6
7 **ORDINANCE TABLED ON FIRST READING ON THE ABOVE AMENDMENT**
8 **TO SECTION 15.07 OF THE ZONING ORDINANCE**

9
10 Commissioner Prepejchal made a motion to table this item for the reason that this issue
11 had to go back to Planning and Zoning. Commissioner Leftwich seconded the motion
12 and it carried unanimously.

13
14 **PUBLIC HEARING TO HEAR COMMENTS FOR OR AGAINST THE**
15 **REZONING FROM 'NOT DESIGNATED (N)' ZONE TO 'RESIDENTIAL,**
16 **MOBILE HOME (MH)' ZONE FOR A 3.28 ACRE TRACT OF LAND OUT OF A**
17 **CERTAIN 5.82 ACRE TRACT OUT OF BLOCK 36, STUART PLACE**
18 **SUBDIVISION SURVEY 139/297/298; AND LOTS 9-70, PINES SUBDIVISION;**
19 **REZONE FROM 'NOT DESIGNATED (N)' ZONE TO 'RESIDENTIAL, SINGLE**
20 **FAMILY (R-1)' ZONE FOR LOTS 1-10, GUTIERREZ ESTATES SUBDIVISION;**
21 **LOTS 1-4 HERITAGE ESTATES SUBDIVISION; 0.628 ACRES OUT OF BLOCK**
22 **4, STUART PLACE SUBDIVISION SURVEY 297; 1.88 ACRES OUT OF BLOCK**
23 **1, STUART PLACE SURVEY 297; 2.506 ACRES OUT OF LOT 4, BLOCK 1,**
24 **STUART PLACE SURVEY 42/297; 0.50 ACRE OUT OF THE NORTH 10.92**
25 **ACRES OF BLOCK 1, STUART PLACE SURVEY 42/297; 1.47 ACRES OUT OF**
26 **LOT 3, BLOCK 1, STUART PLACE SURVEY 42/297; 0.50 ACRE OUT OF LOT**
27 **5, BLOCK 1, STUART PLACE SURVEY 42/297; 1.47 ACRES OUT OF LOT 2,**
28 **BLOCK 1, STUART PLACE SURVEY 42/297; 2.47 ACRES OUT OF PART OF**
29 **THE NORTH 10.92 ACRES OF BLOCK 1; STUART PLACE SURVEY 42/297; 1.0**
30 **ACRE OUT OF THE NORTH 10.92 ACRES OUT OF BLOCK 1, STUART**
31 **PLACE SURVEY 42/297; 15.547 ACRES OUT OF BLOCK 36, STUART PLACE**
32 **SURVEY 139/297/298; THE SOUTHEAST 15.68 ACRES OUT OF BLOCK 36,**
33 **STUART PLACE SURVEY 139/297/298; LOTS 1 AND 2, MATTEI**
34 **SUBDIVISION; AND 4.63 ACRES OUT OF BLOCK 37, STUART PLACE**
35 **SUBDIVISION SURVEY 139/297/298; 2.0 ACRES OUT OF BLOCK 9,**
36 **RESUBDIVISION OF BLOCK 2, STUART PLACE SURVEY 297; 2.95 ACRES**
37 **OUT OF THE NORTHEAST 5.85 ACRES OF BLOCK 36, STUART PLACE**
38 **SURVEY 139/297/298; 5.98 ACRES OUT OF BLOCK 9, STUART PLACE**
39 **SURVEY 297; AND .18 ACRES OUT OF BLOCK 2, STUART PLACE SURVEY**
40 **297, AND REZONE THE FOLLOWING PROPERTIES FROM 'NOT**
41 **DESIGNATED (N)' ZONE TO 'GENERAL RETAIL (GR)' ZONE FOR THE**
42 **NORTH 2.0 ACRES OUT OF LOTS 1 AND 2, STUART PLACE SUBDIVISION**
43 **SURVEY 297; 1.975 ACRES OUT OF BLOCK 9, STUART PLACE SURVEY 297;**
44 **2.54 ACRES OUT OF A CERTAIN 5.82 ACRE TRACT OUT OF BLOCK 36,**
45 **STUART PLACE SURVEY 139/297/298; LOTS 1-8, PINES SUBDIVISION, THE**
46 **NORTH 400 FT. (2.80 ACRES±) OUT OF THE NORTHEAST 5.85 ACRES OUT**

1 **OF BLOCK 36, STUART PLACE SURVEY 139/297/298; THE NORTH 400 FT.**
2 **(7.12 ACRES) OUT OF BLOCK 37, STUART PLACE SURVEY 139/297/298; THE**
3 **NORTH 400 FT. (2.0 ACRES±) OUT OF THE RESUBDIVISION OF BLOCK 2,**
4 **STUART PLACE SURVEY 297; LOT 1, BLOCK 1, CLEO'S SUBDIVISION; THE**
5 **NORTH 400 FT. (1.6± ACRES) OUT OF A 7.58 ACRE TRACT OUT OF BLOCK**
6 **9, STUART PLACE SURVEY 297; 0.41 ACRE OUT OF BLOCK 2, STUART**
7 **PLACE SURVEY 297; AND 0.37 ACRES OUT OF BLOCK 1, STUART PLACE**
8 **SURVEY 297; ALL PROPERTIES GENERALLY LOCATED BETWEEN**
9 **BUSINESS 83 AND GARRETT ROAD FROM STUART PLACE ROAD TO**
10 **BECKHAM ROAD. APPLICANT: GENE MCCULLOUGH, C/O SONJA J.**
11 **STRADER AND THE CITY OF HARLINGEN**

12
13 Joel Olivo, Planning Manager, explained that this City initiated rezoning originated as a
14 result of an applicant requesting to rezone an existing mobile home park on Business 83
15 and Beckham Road. Staff initiated a larger rezoning request for the area in an attempt to
16 formulate a recommendation for the rezoning of the requested tract. The subject
17 properties are part of the 2008 Annexation Plan which came into the city limits as a 'not
18 designated (N)' zone. This rezoning is consistent with the City of Harlingen Vision 2020
19 Comprehensive Plan. The subject properties being proposed for 'residential, single
20 family (R-1) zone consist mostly single-family residential use and vacant properties in
21 agriculture use. The properties proposed for 'general retail (GR)' zone are mostly
22 commercial use and consistent with the 400 ft. GR zone pattern located east of the subject
23 properties. The properties proposed for 'residential, mobile home (MH) zone are existing
24 mobile home parks (Stuart Place MH Park and the Pines).

25
26 Mr. Olivo pointed out that Planning and Zoning approved the staff's recommendation at
27 their meeting with the condition of rezoning Lots 1-4, Pines Subdivision to mobile home
28 instead of general retail zone as shown on the proposed city initiated rezoning map.

29
30 Mr. Olivo further stated that staff received three phone calls in favor of the rezoning and
31 this afternoon he received one phone call from Eileen Mattei who is against the rezoning.

32
33 Staff recommended approval, as did Planning and zoning subject to the 4 lots in the Pines
34 Subdivision being rezoned to MH instead of GR.

35
36 Mayor Boswell declared the public hearing open.

37
38 Eileen Mattei, 902 Halpin Road, protested inclusion of the Mattei Subdivision in the
39 residential rezoning. She asked that it be allowed to remain non-designated or light
40 commercial. She indicated that she and her husband have a metal fabrication business on
41 their subdivision.

42
43 Jerry Moore made reference to the Comprehensive Plan regarding green spaces, Chapter
44 3, land uses, and its violations.

1 Chuck Lee asked why the City was taking so much land when only a portion was
2 requested for rezoning.

3
4 Mr. Olivo replied that all of the properties are in non-designated zoning and staff initiated
5 the request to do the surrounding land according to the Future Land Use and also it is
6 consistent with the Comprehensive Plan.

7
8 Mr. Lee asked if the property owners would be able to farm their agricultural land if
9 rezoned to R-1. Mr. Olivo replied yes.

10
11 There being no further comments Mayor Boswell declared the public hearing closed

12
13 **ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE REZONING**

14
15 The caption of the ordinance was read.

16
17 REZONING FROM 'NOT DESIGNATED (N)' ZONE TO 'RESIDENTIAL,
18 MOBILE HOME (MH)' ZONE FOR A 3.28 ACRE TRACT OF LAND OUT OF
19 A CERTAIN 5.82 ACRE TRACT OUT OF BLOCK 36, STUART PLACE
20 SUBDIVISION SURVEY 139/297/298; AND LOTS 9-70, PINES
21 SUBDIVISION; REZONE FROM 'NOT DESIGNATED (N)' ZONE TO
22 'RESIDENTIAL, SINGLE FAMILY (R-1)' ZONE FOR LOTS 1-10,
23 GUTIERREZ ESTATES SUBDIVISION; LOTS 1-4 HERITAGE ESTATES
24 SUBDIVISION; 0.628 ACRES OUT OF BLOCK 4, STUART PLACE
25 SUBDIVISION SURVEY 297; 1.88 ACRES OUT OF BLOCK 1, STUART
26 PLACE SURVEY 297; 2.506 ACRES OUT OF LOT 4, BLOCK 1, STUART
27 PLACE SURVEY 42/297; 0.50 ACRE OUT OF THE NORTH 10.92 ACRES OF
28 BLOCK 1, STUART PLACE SURVEY 42/297; 1.47 ACRES OUT OF LOT 3,
29 BLOCK 1, STUART PLACE SURVEY 42/297; 0.50 ACRE OUT OF LOT 5,
30 BLOCK 1, STUART PLACE SURVEY 42/297; 1.47 ACRES OUT OF LOT 2,
31 BLOCK 1, STUART PLACE SURVEY 42/297; 2.47 ACRES OUT OF PART
32 OF THE NORTH 10.92 ACRES OF BLOCK 1; STUART PLACE SURVEY
33 42/297; 1.0 ACRE OUT OF THE NORTH 10.92 ACRES OUT OF BLOCK 1,
34 STUART PLACE SURVEY 42/297; 15.547 ACRES OUT OF BLOCK 36,
35 STUART PLACE SURVEY 139/297/298; THE SOUTHEAST 15.68 ACRES
36 OUT OF BLOCK 36, STUART PLACE SURVEY 139/297/298; LOTS 1 AND
37 2, MATTEI SUBDIVISION; AND 4.63 ACRES OUT OF BLOCK 37, STUART
38 PLACE SUBDIVISION SURVEY 139/297/298; 2.0 ACRE OUT OF BLOCK 9,
39 RESUBDIVISION OF BLOCK 2, STUART PLACE SURVEY 297; 2.95
40 ACRES OUT OF THE NORTHEAST 5.85 ACRES OF BLOCK 36, STUART
41 PLACE SURVEY 139/297/298; 5.98 ACRES OUT OF BLOCK 9, STUART
42 PLACE SURVEY 297; AND .18 ACRES OUT OF BLOCK 2, STUART PLACE
43 SURVEY 297, AND REZONE THE FOLLOWING PROPERTIES FROM 'NOT
44 DESIGNATED (N)' ZONE TO 'GENERAL RETAIL (GR)' ZONE FOR THE
45 NORTH 2.0 ACRES OUT OF LOTS 1 AND 2, STUART PLACE
46 SUBDIVISION SURVEY 297; 1.975 ACRES OUT OF BLOCK 9, STUART

1 PLACE SURVEY 297; 2.54 ACRES OUT OF A CERTAIN 5.82 ACRE TRACT
2 OUT OF BLOCK 36, STUART PLACE SURVEY 139/297/298; LOTS 1-8,
3 PINES SUBDIVISION, THE NORTH 400 FT. (2.80 ACRES±) OUT OF THE
4 NORTHEAST 5.85 ACRES OUT OF BLOCK 36, STUART PLACE SURVEY
5 139/297/298; THE NORTH 400 FT. (7.12 ACRES) OUT OF BLOCK 37,
6 STUART PLACE SURVEY 139/297/298; THE NORTH 400 FT. (2.0 ACRES±)
7 OUT OF THE RESUBDIVISION OF BLOCK 2, STUART PLACE SURVEY
8 297; LOT 1, BLOCK 1, CLEO'S SUBDIVISION; THE HORTH 400 FT. (1.6±
9 ACRES) OUT OF A 7.58 ACRE TRACT OUT OF BLOCK 9, STUART PLACE
10 SURVEY 297; 0.41 ACRE OUT OF BLOCK 2, STUART PLACE SURVEY
11 297; AND 0.37 ACRES OUT OF BLOCK 1, STUART PLACE SURVEY 297;
12 ALL PROPERTIES GENERALLY LOCATED BETWEEN BUSINESS 83 AND
13 GARRETT ROAD FROM STUART PLACE ROAD TO BECKHAM ROAD.
14 APPLICANT: GENE MCCULLOUGH, C/O SONJA J. STRADER AND THE
15 CITY OF HARLINGEN

16

17 Motion to adopt ordinance on first reading: Trevino

18 Second: Prepejchal

19

20 A comment was made that excluding the Mattei Subdivision from the rezoning could
21 create a 'spot zoning'.

22

23 Voting on the motion carried unanimously.

24

25 **PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE**
26 **RENEWAL OF A SPECIFIC USE PERMIT TO ALLOW FOR ADDITIONAL**
27 **ACCESSORY SOCIAL TYPE EVENT USE IN ADDITION TO THE PRIMARY**
28 **BED AND BREAKFAST USE IN A 'RESIDENTIAL, SINGLE FAMILY (R-1)**
29 **ZONE LOCATED AT 1101 E. TAYLOR AVENUE, BEARING A LEGAL**
30 **DESCRIPTION OF LOTS 1, 2 AND THE WEST ½ OF LOT 3, BLOCK 4, LA**
31 **QUINTA SUBDIVISION. APPLICANT: CLARISSA G. RAMA**

32

33 Joel Olivo explained that this item was tabled at the Planning and Zoning Commission
34 meeting. A public hearing was conducted at the Planning and Zoning meeting but no
35 action was taken. The applicant is currently out of the country.

36

37 Commissioner Trevino made a motion to table this item. Commissioner Leftwich
38 seconded the motion and it carried unanimously.

39

40 **PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST**
41 **AMENDING THE EXISTING SPECIFIC USE PERMIT (SUP) TO DANIEL**
42 **MENCHACA FOR 610 LEWIS LANE SUITE 'B' TO ALLOW THE EXPANSION**
43 **OF THE BAR/LOUNGE TO INCLUDE SUITE 'A', BEARING A LEGAL**
44 **DESCRIPTION OF 0.96 ACRES OUT OF BLOCK 2, LEWIS SUBDIVISION,**
45 **LOCATED AT 610 LEWIS LANE. APPLICANT: DANIEL MENCHACA**

46

1 Joel Olivo explained that the applicant wishes to expand the existing bar/lounge in to the
2 adjacent suite for a total of 5,400 square feet. The establishment must comply with off
3 street parking regulations.

4
5 Staff and the Planning and Zoning Commission recommended approval subject to the
6 applicant meeting the requirements as outlined in the ordinance.

7
8 Mayor Boswell declared the public hearing open.

9
10 Marvin de la Cruz, speaking on behalf of the applicant, spoke in favor of the permit.

11
12 **ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE**
13 **AMENDMENT TO THE SPECIFIC USE PERMIT**

14
15 The caption of the ordinance was read.

16
17 AN ORDINANCE AMENDING THE ZONING ORDINANCE
18 (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN; TO
19 AMEND THE EXISTING SPECIFIC USE PERMIT (ORDINANCE NO.
20 10-11) ISSUED TO DANIEL MENCHACA FOR 610 LEWIS LANE TO
21 ALLOW THE EXPANSION OF THE BAR/LOUNGE TO INCLUDE
22 SUITE 'A', BEARING A LEGAL DESCRIPTION OF 0.96 ACRES OUT
23 OF BLOCK 2, LEWIS SUBDIVISION, LOCATED AT 610 LEWIS
24 LANE SUBJECT TO: (1) PROVIDING AND MAINTAINING THE
25 REQUIRED OFF-STREET PARKING SPACES; (2) PROVIDING A
26 SECURITY GUARD IN THE PARKING LOT DURING PEAK HOURS
27 OF OPERATION ON THURSDAY, FRIDAY AND SATURDAY
28 FROM 9:00 P.M. TO 2:00 A.M.; (3) PROVIDE AND MAINTAIN
29 ADEQUATE LIGHTING IN THE PARKING AREA; (4) MUST
30 MAINTAIN TABC LICENSE; (5) MUST MAINTAIN CITY ALCOHOL
31 PERMIT (6) COMPLY WITH REQUIREMENTS ADMINISTERED BY
32 THE PLANNING, BUILDING INSPECTION, HEALTH AND FIRE
33 PREVENTION DEPARTMENT; AND (7) ALL REQUIREMENTS
34 MUST BE MET/APPROVED WITHIN 48 HOURS AFTER SUP
35 APPROVAL; AND ORDAINING OTHER MATTERS RELATED TO
36 THE FOREGOING.

37
38 Commissioner Leftwich made a motion to adopt the ordinance on first reading subject to
39 compliance with conditions as stipulated by staff.

40 Second: Prepejchal

41 Motion carried unanimously.

42
43 **PUBLIC HEARING TO HEAR COMMENTS FOR OR AGAINST A SPECIFIC**
44 **USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN A 'GENERAL RETAIL**
45 **(GR)' ZONE, LOCATED AT 703 ED CAREY DRIVE, BEARING A LEGAL**

1 **DESCRIPTION OF HARLINGEN-CLYDE WALLACE SUBDIVISION LOT 1,**
2 **1.0330 ACRES. APPLICANT: HELEN C. PEREZ**

3
4 Joel Olivo explained that Helen C. Perez wishes to operate a nightclub on the subject
5 property. The property is located at 703 Ed Carey Drive and consists of an
6 approximately 6,800 sq. ft. building. The existing building is currently vacant and the
7 proposed use complies with the off-street parking regulations as established in Section 8
8 of the Zoning Ordinance.

9
10 Staff and the Planning and zoning Commission recommended approval with conditions
11 as stipulated in the ordinance.

12
13 Mayor Boswell declared the public hearing open.

14
15 There being no comments from the public Mayor Boswell declared the public hearing
16 closed.

17
18 **ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE SPECIFIC**
19 **USE PERMIT**

20
21 The caption of the ordinance was read.

22
23 AN ORDINANCE AMENDING THE ZONING ORDINANCE
24 (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN; TO ISSUE
25 A SPECIFIC USE PERMIT ('SUP') ISSUED TO HELEN C. PEREZ, TO
26 ALLOW A BAR/LOUNGE IN A 'GENERAL RETAIL (GR)' ZONE
27 LOCATED AT 703 ED CAREY DRIVE, BEARING A LEGAL
28 DESCRIPTION OF HARLINGEN-CLYDE WALLACE SUBDIVISION
29 LOT 1, 1.0330 ACRES, WITH THE FOLLOWING CONDITIONS; THE
30 SUBJECT PROPERTY SHALL PROVIDE AND MAINTAIN A
31 MINIMUM OF 70 PARKING SPACES ON SITE, IN GOOD
32 CONDITION, WHILE IN OPERATION. IN THE EVENT THAT THE
33 PARKING LOT IS EVER FOUND TO BE IN DISREPAIR BY THE
34 PLANNING AND ZONING DIVISION, OR THE NUMBER OF
35 PARKING SPACES IS REDUCED, THE NIGHTCLUB SHALL CEASE
36 TO OPERATE UNTIL SUCH PARKING IS FIXED AND/OR
37 PROVIDED; THE LANDSCAPING SHALL BE TRIMMED AND
38 CLEANED PRIOR TO THE ISSUANCE OF A CERTIFICATE OF
39 OCCUPANCY ('CO') AND MAINTAINED PER SECTION 11.05 OF
40 THE ZONING ORDINANCE, THE SCREENING FENCE
41 SURROUNDING THE A/C UNITS SHALL BE FIXED AND/OR
42 REPLACED PRIOR TO THE ISSUANCE OF A CO. THE APPLICANT
43 SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO OPENING
44 THE NIGHCLUB FOR OPERATION, TO INCLUDE ALL
45 APPLICABLE HEALTH, BUILDING AND REOCCUPANCY
46 PERMITS, AND SECURITY AND APPROPRATE LIGHTING SHALL

1 BE PROVIDED ON PREMISES TO ENSURE THE SAFETY, HEALTH
2 AND WELFARE OF PATRONS, RESIDENTS, AND BUSINESS AND
3 PROPERTY OWNERS OF THE CITY OF HARLINGEN; PROVIDING
4 FOR PUBLICATION AND ORDAINING OTHER MATTERS
5 RELATED TO THE FOREGOING.
6

7 Commissioner Leftwich made a motion to adopt the ordinance on first reading subject to
8 compliance with the conditions as outlined by staff. Commissioner Prepejchal seconded
9 the motion and it carried unanimously.
10

11 **ORDINANCE ADOPTED ON FIRST READING TO AMEND THE CITY'S**
12 **BUDGET FOR FISCAL YEAR 2009-10**
13

14 Roel Gutierrez, Director of Finance, explained that the budget process allows for City
15 staff to periodically review their budgets and request changes based on operational needs
16 and/or economic trends. This amendment is in four sections designated by columns. The
17 first column is 'Budget Requests' where both revenues and expenditures were reviewed
18 and changed to the expected year-end balance. The second is '3% cuts' where
19 departments were asked by the Interim City Manager to cut expenditures in order to
20 offset the decrease in sales tax revenues. The third section is "prior year encumbrances".
21 These are expenses budgeted and started in the prior year but not completed until the
22 current year, so departments are asking to roll those budgets over. The final section'
23 grants' are grants received during the year that were not originally budgeted for either
24 revenues or expenditures.
25

26 Mr. Gutierrez went over the various line items in the departments and the budget
27 adjustments that were made accordingly. He noted that in the General Fund, revenues
28 decreased by a net of \$172,035 due to significant changes in the sales tax and
29 expenditures decreased by a net \$102,266.
30

31 Mr. Gutierrez explained the 3% budget cuts that were made at the request of the Interim
32 City Manager. A total of \$422,572 was produced as a result of the cuts. Gabriel
33 Gonzalez explained that he had requested a 3% budget cut in all department but not all
34 the departments were able to meet the 3%. Commissioner Prepejchal asked why not.
35 Mr. Gonzalez replied because the departments were asked to cut 1% earlier in the year
36 and this was now adding another 3% cut to their budgets. Most expenditures were for
37 personnel and a hiring freeze was implemented.
38

39 Mr. Gutierrez proceeded with the grants that were received and noted that there was a
40 total decrease to expenditures in the amount of \$102,266. The overall total change to the
41 fund balance was (\$69,769) which was pretty good considering the decrease in revenue.
42

43 Gabriel Gonzalez gave comments of appreciation to the Directors for providing the same
44 services through their departments considering the reduction in revenues.
45

1 Mayor Boswell commented that all this paid off well with the rating agencies and it
2 shows how proactive the staff was in addressing the budget.

3
4 Mr. Gutierrez continued with the review of revenue and noted that there was an
5 adjustment in the vehicle & radio rental (Hgn. PD) in the amount of \$432,637. It was a
6 mid-year budget requested for vehicle depreciation. However, he noted that the HPD
7 will not be spending this amount and it will be removed from the budget adjustment
8 totals.

9
10 Commissioner Trevino asked if the expenses related to Chester Park affect these budget
11 adjustments. Mr. Gonzalez replied yes, staff would come up with funds to accommodate
12 that project.

13
14 Continuing with this report, Mr. Gutierrez explained that budget for the Convention and
15 Visitors Bureau. He explained that \$488,000 was budgeted but the CVB brought over
16 \$263,702 they did not use from the first quarter when they were still under the Chamber
17 of Commerce. He noted that the total CVB expenditures were \$263,779.

18
19 Mr. Gutierrez ended his report by going over the stimulus projects and grants.

20
21 Gabriel Gonzalez made reference to the two (2) street sweepers that were purchased,
22 which caused a change to the fund balance for the vehicle replacement fund in the
23 amount of (\$319,000).

24
25 The caption of the ordinance was read.

26
27 AN ORDINANCE AMENDING THE REVENUE AND EXPENDITURE
28 BUDGET FOR THE CITY OF HARLINGEN, TEXAS FOR THE
29 FISCAL YEAR OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2010.
30 TOTAL BUDGET REVENUES WILL INCREASE TO \$68,204,093
31 AND TOTAL BUDGET EXPENDITURES WILL INCREASE TO
32 \$71,691,229 RESPECTIVELY; PROVIDING FOR PUBLICATION OF
33 THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER
34 MATTERS RELATED TO THE FOREGOING.

35
36 Motion to adopt ordinance on first reading: Leftwich

37 Second: Prepejchal

38 Motion carried unanimously.

39
40 **RESOLUTION APPROVED AMENDING THE HARLINGEN DOWNTOWN**
41 **BUDGET FOR FISCAL YEAR 2009-10**

42
43 Roel Gutierrez explained that this is the same process as with the City's budget only that
44 it is done by a resolution. He stated that expenditures increased by a net \$80,349. The
45 increase to revenues was due to previously approved funds that were not budgeted.

1 Commissioner Leftwich made a motion to approve the resolution. Commissioner
2 Trevino seconded the motion and it carried unanimously.

3
4 **BID ACCEPTED AND CONTRACT AWARDED FOR THE PROPOSED**
5 **CHESTER PARK PHASE II BID NUMBER 2010-15**

6
7 Dan Serna, Director of Public Works, explained that on June 22, 2010 staff received and
8 opened a total of three (3) bids for the project. Total commitment was the lowest bidder
9 for a base bid of \$454,394.90 and an alternate bid Number One for an amount of
10 \$437,094.90. The base bid consists of constructing the roadway with lime treated
11 subgrade and the alternate bid to construct the roadway with EN-1 Roadbond.

12
13 Mr. Serna pointed out that Total Commitment did not include a completed Conflict of
14 Interest Questionnaire along with their bids. Staff recommended waiving the bid
15 requirement with the stipulation that the completed form must be submitted to the City
16 prior to signing a construction contract for the project. He indicated that this is the
17 second time the project is bid and he recommended approval of the bid submitted by
18 Total Commitment and to accept alternate bid number one for the low bid amount of
19 \$437,094.90.

20
21 Commissioner Trevino made a motion to accept staff recommendation subject to
22 submission and compliance with the conflict of interest questionnaire. Commissioner
23 Leftwich seconded the motion and it carried unanimously.

24
25 **RANKING OF THE TOP THREE (3) ENGINEERING CONSULTING FIRMS**
26 **FOR FUTURE ROADWAY IMPROVEMENT PROJECTS AND PUBLIC**
27 **WORKS DIRECTOR AUTHORIZED TO NEGOTIATE A CONTRACT WITH**
28 **THE SELECTED FIRM**

29
30 Ponciano Longoria, City Engineer, explained that on June 22, 2010 staff received five (5)
31 responses to the advertised RFQs for engineering and design services for the Dixieland
32 extension north project. The staff review committee which consisted of the Public Works
33 Director, Planning and Development Director, City Engineer, Engineer-in-Training and
34 the finance Director evaluated and rated each of the responses in accordance with the
35 evaluation criteria provided to each of them.

36
37 Staff requested approval of the rankings and authorization to allow the Public works
38 director to negotiate a contract for the Dixieland extension north project with the highest
39 ranked firm.

40
41 Ranking: (1) Cruz Hogan Construction; (2) TEDSI Infrastructure Group, and (3) Brown,
42 Leal & Associates.

43
44 Commissioner Trevino requested that this item be tabled and allow the firms to make
45 presentations to the Commission. Gabriel Gonzalez pointed out that the Commission
46 would also have to rank them.

1
2 Roxann Cotroneo pointed out that the new procedures adopted by the Commission allow
3 the Commission to request additional information or to table the acceptance of the
4 rankings by staff.

5
6 Commissioner Trevino made a motion to request additional information from the firms
7 and to table the staff's recommendation. Commissioner Prepejchal seconded the motion
8 and it carried unanimously.

9
10 There was a consensus that a special meeting be held for the presentations as soon as
11 possible.

12
13 **DATE/TIME SET FOR THE CITY COMMISSION RETREAT**

14
15 Commissioner Prepejchal made a motion to set the date of the commission Retreat for
16 Saturday, August 21, 2010 beginning at 8:00 a.m. Commissioner Trevino seconded the
17 motion and it carried unanimously.

18
19 **RESOLUTION APPROVED APPOINTING A REPRESENTATIVE TO FILL AN**
20 **UNEXPIRED TERM ON THE CAMERON APPRAISAL DISTRICT BOARD OF**
21 **DIRECTORS**

22
23 Mayor Boswell explained that this is a decision that is made by the commission and
24 informed the commission that he had contacted Tony de la Rosa, a local realtor, to serve
25 on the Board and he had indicated he was willing to serve.

26
27 Commissioner Ruiz made a motion to appoint Tony Gutierrez as the city's representative
28 on the Appraisal District board of Directors. Commissioner Leftwich seconded the
29 motion and it carried unanimously.

30
31 Mayor Boswell questioned whether Mr. Gutierrez was a city resident and felt that anyone
32 appointed to a board should be a Harlingen resident.

33
34 **BOARD APPOINTMENTS**

35
36 Commissioner Ruiz appointed Elva de la Rosa Morales to the Museum Advisory board.

37
38 Commissioner Leftwich reappointed Paula Gonzalez to the convention and Visitors
39 bureau; Dorothy Romans to the downtown District Board; Ann Dennison to the Library
40 board; George Merrill to the Parks Board and Bill Holliman to the Construction Board of
41 Adjustments.

42
43 Mayor Boswell reappointed Sharon Cavazos to the Downtown District Board; Betty
44 Farris to the Library Board; Bob Binney to the Parks Advisory Board and D. Michael
45 Forman to the Tennis Advisory board.

1 Commissioner Trevino appointed Danny Villarreal as an alternate member to the
2 Construction Board of adjustments.

3
4 Roxann Cotroneo implored the Commission to make their appointments to the
5 Construction Board of Adjustments because of all of the work that is involved with the
6 preparation of demolitions and the lack of a quorum to have meetings.

7
8 Mayor Boswell pointed out that some of the ordinances that create some of these boards
9 indicate that members will continue to serve until replaced or reappointed officially. Ms.
10 Cotroneo stated that the problem is that there are not enough 'alternates' to make a
11 quorum when the regular members cannot attend a meeting.

12
13 Ms. Cotroneo also pointed out that the Civil Service Commission has only two members
14 serving and three are needed.

15
16 Commissioner Leftwich made a motion to approve all of the appointments that were
17 made. Commissioner Prepejchal seconded the motion and it carried unanimously.

18
19 Commissioner Trevino made a motion to go into Closed/Executive Session pursuant to
20 Chapter 551, Subchapter D., *V.T.C.A Government Code*, (Section 551.071) to discuss
21 contemplated or pending litigation or to seek legal advice from the City Attorney
22 regarding: tracts of land annexed by the City of Harlingen under Ordinance No. 08-65
23 (Item No. 22) and also to go into Closed/Executive Session on (Item No. 23).

24
25 Commissioner Leftwich seconded the motion and it carried unanimously.

26
27 **CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551,**
28 **SUBCHAPTER D., V.T.C.A GOVERNMENT CODE, (SECTION 551.071) TO**
29 **DISCUSS CONTEMPLATED OR PENDING LITIGATION OR TO SEEK**
30 **LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING: TRACTS OF**
31 **LAND ANNEXED BY THE CITY OF HARLINGEN UNDER ORDINANCE NO.**
32 **08-65.**

33
34 The Executive Session convened at 7:46 p.m. and concluded at 8:26 p.m. with no action
35 taken in closed session.

36
37 **CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551,**
38 **SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 551.071) TO**
39 **DISCUSS CONTEMPLATED OR PENDING LITIGATION OR TO SEEK THE**
40 **LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING AN**
41 **ORDINANCE TO REZONE FROM 'NOT DESIGNATED (N)' ZONE TO**
42 **'RESIDENTIAL, MULTI-FAMILY (M-2)' ZONE A 0.953 ACRE TRACT OF**
43 **LAND IN AND PART OF BLOCK 120, HARLINGEN LAND AND WATER**
44 **COMPANY SUBDIVISION LOCATED ON THE NORTHEAST CORNER OF**
45 **VINSON AVENUE AND 7TH STREET. APPLICANT: ARMANDO ELIZARDE**
46

1 The Executive Session convened at 8:26 p.m. and concluded at 8:46 p.m. with no action
2 taken in closed session.

3
4 **ORDINANCE ADOPTED ON FIRST READING TO REZONE FROM ‘NOT**
5 **DESIGNATED (N)’ ZONE TO ‘RESIDENTIAL, SINGLE-FAMILY (M-2)’ ZONE**
6 **A 0.953 ACRE TRACT OF LAND IN AND PART OF BLOCK 120, HARLINGEN**
7 **LAND AND WATER COMPANY SUBDIVISION LOCATED ON THE**
8 **NORTHEAST CORNER OF VINSON AVENUE AND 7TH STREET.**

9
10 Mayor Boswell announced that he would allow citizens’ comments and no more than 15
11 minutes would be allowed for the entire item.

12
13 Dr. Dorothy Nesmith, 729 Tamm Lane, stated that she has previously expressed her
14 concerns about the plans that were initially presented that were inappropriate. The plans
15 allowed for no appropriate drainage, there are concerns with notice, property values are
16 being affected, trash collection. Ms. Nesmith felt that it was most appropriate that the
17 tract be zoned R-1 because this will take care of most of the issues that the residents are
18 concerned about. She felt that it should not be zoned multi-family because as the plans
19 were submitted, Mr. Elizarde has shown that he does not have the judgment in terms of
20 what he wants to place on that small piece of property. It is a very awkward
21 development that does not serve the neighborhood well nor any of the surrounding
22 neighborhoods nor any of the people that will eventually live there. She stated that
23 because we cannot trust him (Elizarde) to come up with a sensible plan that would suit
24 the community, I think that it should be zoned R-1. That way the homes would have a
25 higher probability of being appropriate to the community and the individuals who
26 eventually purchase them.

27
28 Mr. Habib Erkan, 15303 Emma Road in San Antonio, Texas, attorney representing the
29 Moores’ and other property owners who oppose the applicant’s request for rezoning,
30 asked that the property be rezoned R-1. Mr. Erkan stated that it is his understanding that
31 there are questions regarding the legality of the transaction that allowed the property
32 owner to acquire this property and some other procedural questions which he left for
33 another day.

34
35 Mr. Erkan proceeded to state that his clients are here to tell you (the Commission) why
36 either the plan that was initially proposed in 2002 was inaccurate or has changed and that
37 there are issues concerning drainage, traffic and the school next door and the danger of
38 the students that a multi-family development could impact. There are also issues of
39 property values that all need to be considered when the Commission contemplates the
40 permit zoning of the property.

41
42 Mr. Erkan read from the law and stated that the Supreme Court has said that zoning is a
43 legislative function of a municipal government and that courts must give deference to the
44 City’s actions such that if reasonable minds differ on whether particular zoning ordinance
45 says that substantial relationship to the public health, safety morals and general welfare,
46 no clear abusive discretion shown and the ordinance must stand as valid.

1
2 Mr. Erkan made reference to the Todd case vs the City of Deer Park, which is similar to
3 this case. The Supreme Court was asked to decide whether the City had effectively taken
4 a developer's property by refusing to rezone it from single family to multi-family use.

5 The applicant said that the land could not be profitably developed when it's zoned as
6 single family. The Court, however, held that the government was not a guarantor of the
7 profitability of every piece of land subject to its authority and that purchasing and
8 developing carries with it a certain financial risk and it is not the government's duty to
9 underwrite this risk as an extension of obligations under the takings clause.

10
11 Mr. Erkan continued and stated that they have been advised that this property is currently
12 shown in the master plan as medium density. However, he was given a map of the city
13 that shows that most of it is actually in low density according to this map. In respect to
14 that, even if it is in medium density, you (the Commission) have the authority to
15 permanently zone this property R-1. There is ample evidence, that will be given to you
16 and that has been given to you, actually, in the citizens to be heard and by the Dr. and
17 other citizens that are going to come forward. They will give you ample evidence that this
18 property should be zoned R-1. Your constituents are requesting your assistance in
19 protecting the neighborhood. Mr. Erkan reminded the Commission that the discretion is
20 theirs in this matter. Mr. Erkan referred to 16 letters of protest by the neighbors who live
21 around this property or area. He also made reference to a petition of every property owner
22 that is a single-family property owner that has protested this rezoning to multi-family.
23 Mr. Erkan stated that he couldn't find one person who owns a single-family home that
24 supports this zoning. Again, Mr. Erkan informed the Commission that it has the authority
25 to zone this as a single-family.

26
27 Mr. Erkan tendered the petition and the copies of the letters of protest to City Secretary
28 for the record and stated that he would happy to answer any questions.

29
30 Gail Moore, 709 Townlane Drive, addressing her comments to the Commission stated
31 that for them to refuse to listen to hundreds of voters over these last 6 months who have
32 come and protested this rezoning is blatant and conflictory. Referring to the
33 comprehensive plan, Ms. Moore stated that the comprehensive plan was written in 2002.
34 Armando Elizarde helped to write it. He is listed as a Planning and Zoning Commission
35 member. Armando sits on or has sat on pretty much all of the boards Harlingen has from
36 what I can see. It is nothing to brag about---that's conflictory. But the problem you face
37 tonight is this; since the comprehensive plan was written, in part by Armando Elizarde,
38 the land use has changed and some of you have failed to recognize this and your map is
39 inaccurate. We have drainage issues; traffic issues and more homes have been built in the
40 surrounding neighborhoods causing more traffic. There is now a ball park, most of the
41 area around it holds water, it is a mosquito haven, nobody comes to spray for mosquitoes,
42 no parking area, no paved entry, yet more traffic now and runoff and also non-draining
43 water pools in that field which is at 7th and Vinson. The green space in the ballpark area
44 is already zoned R-1, residential low density according to the map we all viewed in this
45 room and was mailed to each one of us and that our attorney showed you. However. The
46 future land use map is inaccurate. Someone forgot to put Windfield on the map and

1 Cactus on the map, and someone forgot to put Matz on the map and Windrift on the map.
2 All four of these streets should have the yellow color code noted on those streets and in
3 truth the only orange residential medium density areas are Windstar and Tumbleweed so
4 in fact almost all of the area on the map should be color coded yellow---R1 single-family
5 residential. That is what is consistent in the area in the corner. Ms. Moore stated that they
6 have already said that to put a lot of buildings on such a small lot with concrete parking
7 would advert a lot of water onto 7th and Vinson, Windstar, Tamm Lane and Keys
8 Academy. Green spaces are needed. Single-family residential would not add hardship to
9 the area if one or two single-family homes were built on the lot leaving green spaces.
10 However, any builder would have to add a lot of dirt also because this lot holds a lot of
11 ponding water for weeks. Christian Fellowship Church has grown; our neighborhood now
12 has families with children who walk to school back and forth. The whole area plus 499
13 has grown. Ms. Moore stated that today she counted between Harlingen High School to
14 the red light at Loop 499 on 7th 5 schools and 5 churches. If you make comparisons, no
15 other street has this many in Harlingen as we have on 7th. She asked that the
16 Commission just to say “no” to M-2 zoning. It should be rezoned R-1, which is what is
17 consistent with the area. Keep in mind the comprehensive plan was written in part by
18 Armando Elizarde over a period of 8 years ago. The area has grown since then; traffic is
19 greater, the population is greater, schools and membership has grown and we still have
20 drainage issues and the comprehensive plan map is inaccurate. Thank you.

21
22 Linda Perez, 790 Nantucket, (the corner of 7th and Nantucket) stated that her concern is
23 basically the same thing everybody has said here tonight: traffic issues; there is a lot of
24 traffic. She indicated that she walks the area every morning and sees the traffic and since
25 they built the new school on the Loop she has seen an increase with the elementary
26 school there and that is one of my main concerns there. Adding more traffic on a busy
27 street would not be good. Ms. Perez also expressed concern over the value of their
28 homes. When she moved there it was all single homes and that’s what was anticipated
29 and hoped it would stay as. Ms. Perez felt that it would be more appropriate to the area.
30 Regarding the drainage, she stated that anyone that goes by there; it looks like a lake out
31 there and it is a problem. I’m not an architect or know anything about that but it doesn’t
32 seem like it would be something where you would want to be building a multi-structure.
33 She asked that the Commission consider leaving this a single-dwelling area. Thank you.

34
35 Jerry Moore, 709 Town Lane Drive thanked the Commission for “hanging with us” on
36 this. Mr. Moore referred to the City’s Comprehensive plan and stated that it is a great
37 plan if all of it is followed not just bits and pieces of it to satisfy one person. He
38 proceeded with a list of the top 10 comprehensive plan reasons not to allow multi family
39 at 7th and Vinson. The request should be denied.

- 40 1. Any addition of multi-family violates the comprehensive plan’s objective of
41 Chapter 3. The green space offers an open space requirement. Mr. Moore stated
42 that he (Mr. Elizarde) cannot possibly satisfy those in a reasonable standard with,
43 14, 18, or 28 units, as possible as high as 3 stories. For that to even be considered
44 is ridiculous.
- 45 2. Traffic congestion is already a big problem, especially during school activities
46 and the new ball field activity; additional apartments will only make this worse.

- 1 3. Speeding police and emergency vehicles down 7th and Vinson area will only
2 increase the likelihood of a serious accident at 7th and Vinson. More development
3 can only contribute to serious safety concerns, especially during school, church
4 and ball field activities.
- 5 4. Then Planning and Zoning Commissioner Armando Elizarde participated in the
6 comprehensive plan rewrite and he personally had a hand in this, changing the
7 density to his choosing and liking. That is where we are today; we are dealing
8 with an 8-year old problem.
- 9 5. Former Mayor, William Card, suggested to me earlier on in this that the lot of
10 multi-family in 14 units was a stupid idea and should not be permitted, in his
11 opinion, and we needed to fight this. I'm taking his advice.
- 12 6. 7th and Vinson had a large number of mesquite trees and other trees, which was
13 housing for numerous kiskadees, finches, and green parrots that we enjoyed
14 watching in the afternoons or in the mornings. All were torn down prior to any
15 P&Z permitting without any authorization. We need to protect and restore these
16 sensitive areas in these green spaces; that should have never been permitted.
- 17 7. The thoroughfare plan calls for the widening of 7th St. from a 2-lane to at least a 4
18 lane. This will only add to an already dangerous situation with traffic and
19 pedestrian flow. The new school that just opened on Loop 499 is increasing traffic
20 now. Due to the widening of Vinson several years ago is routinely used by 18
21 Wheelers bypassing the Loop 499 through our backyard.
- 22 8. Numerous children with or without parents walk to Long Elementary and Keys
23 Academy dodging traffic and being forced to walk into the streets during heavy
24 rains and flooding that occurs since there are no sidewalks and it is only going to
25 create a much bigger problem.
- 26 9. The plan should be denied as it violates any sense of vision as stated in the master
27 plan. This is nothing more than the land grab by the city insider for personal gain
28 and profit, City Manager Gabriel and the Mayor should have stopped this back in
29 2009 when you had a chance.
- 30 10. The former president of the EDC proposed an impact fee waiver in February of
31 this year, which would have denied the City over \$30,000 in fees for his proposed
32 14 town homes. Should this 7th & Vinson plan be denied, for multi-family
33 residential P&Z Board of Adjustment has already rejected this plan once. It needs
34 to be rejected again. Thank you.

35
36 Mayor Boswell stated that he was going to allow some time to people that are in favor of
37 the ordinance.

38
39 Armando Elizarde, the developer of the subdivision, stated that he was not planning on
40 rehashing a lot of this but that he would go through some of this only because, again, like
41 in the past, everything that the Moores and their attorney have said is incorrect and there
42 is no fact to none of that. These are continuous things that have continually been made up
43 and we have continued to throw these things out, none of it is factual. First of all, we
44 talked about, we mentioned 100 voters came in here and so forth. They came in here and
45 said they had 20% of the signatures, Commission; they had 6 not 20%. They may have
46 signatures but what's important is what is within the 200 ft radius not what is on Flynn or

1 anywhere else. Mr. Elizarde stated that has nothing to do with him. He stated that there
2 also talk about mosquitoes, traffic and emergency vehicles which has nothing to do with
3 him. They also talked about flooding---that has continued to come up. Mr. Elizarde
4 informed the Commission that he developed the subdivision where these people are
5 living. It was a field before he developed it. Most properties in Harlingen that are not
6 developed will probably hold water because of how flat they are. Mr. Elizarde stated that
7 Adams Crossing, Adams Landing, Town and Country, he put in the infrastructure for
8 flooding. This subdivision was approved in January and the entire infrastructure was
9 completed by February of this year. The flood and site plan have been approved. Every
10 single entity in this City has approved this subdivision. Mr. Elizarde reminded the
11 Commission that this Commission voted unanimously to sell him the land. We all knew
12 from the beginning what I was going to build there, that has never changed. The minutes
13 will reflect whom you sold it to. It was sold to one of his companies Town and Country
14 Town Homes Inc.-----not Wal-Mart or Dillards. What do you think we were going to put
15 there. The plan has never changed. As far as 14 apartments and all these other things they
16 have mentioned; how would they know that? Mr. Elizarde indicated that the opponents
17 have not seen the plan, because he has not submitted it yet. Whatever he did on P&Z, yes
18 he served his community on P&Z. He stated that he certainly did not own this land then
19 and like many who serve on many boards, they did the best that they could. The petition,
20 which had no facts to it, we talked about green spaces; Mr. Elizarde stated that he has
21 exceeded all requirements of green spaces and parking. Mr. Elizarde encouraged the
22 Commission to trust the City staff and trust their recommendations. If the Commission
23 has any questions please ask them because he has exceeded everything that has been
24 required of him by State law and by Ordinance.

25
26 Mr. Elizarde stated that he never bought the property for R1 zoning. The Commission
27 approved a 2- lot, ½ acre subdivision. How could he possibly put 2 houses on that
28 corner? 80 multi-family Section 8 housing, which is owned by this City, surrounds it; it
29 has always been there before. Mr. Elizarde stated that the attorney talked about drainage,
30 property values, but he is not an appraiser—they are not an appraisers and Mr. Elizarde
31 stated that he would challenge anyone to go and appraise their homes because he sells
32 homes there everyday. There are many apartments there and it has not affected the
33 values. He is not an appraiser and he is certainly not an engineer. The City of Harlingen's
34 2 engineers and mine have approved the drainage plan. We are beyond that point.
35 Sidewalks---Mr. Elizarde stated that he has nothing to do with the park across the street
36 but his development will have a sidewalk. He installed the sidewalk in front of their
37 subdivision, in front of Long Elementary, which will connect to his and he will continue
38 to do that. What's across the street, if kids are walking or not, that has nothing to do with
39 him but feel free to ask the staff, they will require a sidewalk from me. And you are right;
40 one of the most important things of P&Z in this Commission is to consider the safety,
41 health, and well being of this community. Mr. Elizarde stated that he has met all those
42 standards above and beyond. Mr. Elizarde referred to 80 units on 13 acres next to him.
43 And he reminded the Commission that the City was going to build a Fire Dept there (on
44 the property he purchased). That one- acre was the last piece left and that's why it's not
45 multi-family because the City was going to build a Fire Dept and instead the City decided

1 to do it on the Loop. Mr. Elizarde stated that he would be glad to answer any factual
2 questions. Thank you.

3
4 Mayor Boswell asked for a motion on the ordinance.

5
6 Commissioner Ruiz made a motion to amend the ordinance to rezone the property to R-1.
7 Commissioner Prepechal seconded the motion.

8
9 Mr. Elizarde commented that he is not requesting an R1 and that is not what is on the
10 agenda. "Now if you want to deny it and go down that road and get into all those things,
11 that's fine but it's not on the agenda for R1, it's not on the agenda for an R1 and I don't
12 think the staff or anyone else in Planning and Zoning has requested and R1. I just want to
13 remind the Commission.

14
15 Mayor Boswell asked what does it do to the development of the property if it is
16 developed as an R1?

17
18 Mr. Elizarde replied that R1 would allow 2, ½ acre lots. You know what I paid you for it
19 without the development. Each lot will be \$100,000. Who is going to buy a house on a
20 \$100,000 ½ acre lot?

21
22 Mayor Boswell affirmed that what Mr. Elizarde is saying is, if it is designated as R1, in
23 effect the only way for you to come out on a piece of property that we sold you and
24 approved a plan on is to sell (2) \$100,00 acre lots?

25
26 Mr. Elizarde replied that was correct.

27 Who would buy that? Why would anybody do that? In your subdivision, your lots are
28 \$20,000. I don't want R1, I'm not requesting R1, and I'm not going down that road.
29 This would present a hardship for him. All the improvements in drainage, sewer, fire
30 hydrants, everything that you have approved and we have installed is not there for R1.

31
32 Mr. Erkan stated that it is in the commission's purview to designate it as R-1.

33 *****

34 Since it hasn't been zoned and it's within the range of zoning that's been posted.
35 Secondly, Mr. Erkan reminded the Commission that it's a peculiar situation where
36 someone goes and gets all approvals for the development when they don't know they
37 have the zoning, which is in your discretion what zoning you're going to give them. It
38 seems ludicrous to Mr. Erkan that someone would actually pull apart the cart from the
39 horse and get all these approvals and then sell you that you have to zone it this the way
40 because he's got all these approvals. No, he (Mr. Elizarde) wasted on his own ?????
41 (inaudible) because he went and got approval and didn't have the most important
42 approval that any land developer knows. The most essential approval to get first is
43 zoning; why? Because zoning is discretionary and all the other approvals are ministerial.
44 If you do everything the code says, you get the approval but not zoning. Addressing the
45 Commission, Mr. Erkan stated that zoning is in your hands at your discretion and unless
46 you abuse that discretion, he doesn't have a leg to stand on legally to complain about.

1 The top case is very clear about that; you're not responsible for him to make a profit.
2 These people have come to you and are asking you to protect their neighborhood. They
3 presented you several issues; putting these many units that he is asking for on this piece
4 of property just doesn't make sense from a planning perspective. Mr. Erkan implored the
5 Commission to please zone this R-1.

6
7 Mr. Elizarde commented that first of all, we haven't asked for any units, second of all
8 that's incorrect. You know today just by what you did on the last item that the City
9 initiated the rezoning. The rezoning, if you want to rezone an area it has to be initiated by
10 either staff or the owner. No one has initiated that. Just like before me you had where you
11 read off that entire list and more because that was initiated by staff, somebody has to
12 initiate. That is incorrect what he is saying. He can say whatever! The staff is here, we
13 followed the guidelines of what the City gave me, and we didn't go in reverse. If the City
14 would like to change that procedure that's great but we didn't just invent it on our own;
15 there's a checklist if you go to the City and he followed that checklist. We have been
16 working with the staff, for over a year 1/2 on this and no one along the way had a problem
17 with it until now.

18
19 At this time, Mayor Boswell suggested that the Commission go back into executive
20 session but we need a motion and a second to do that. Being no motion for an Executive
21 Session, Mayor Boswell asked for a vote on the motion.

22
23 The vote was unanimous.

24
25 There being no further business the meeting adjourned at 9:20 p.m.

26
27
28
29
30 _____
Chris Boswell, Mayor

31
32 Attest:

33
34
35 _____
36 Sylvia R. Trevino, City Secretary

37
38
39
40
41 _____
42 Chris Boswell, Mayor

43
44 Attest:

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Sylvia R. Trevino, City Secretary