

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

AUGUST 4, 2010

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, August 4, 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

Joey Trevino, Mayor Pro Tem
Gustavo C. Ruiz, Commissioner District 1
Robert Leftwich, Commissioner District 2
Kori Marra, Commissioner District 3
Jerry Prepejchal, Commissioner District 4

Absent:

Mayor Chris Boswell

Staff Present:

Gabriel Gonzalez, Interim City Manager
Roxann P. Cotroneo, City Attorney
Sylvia R. Trevino, City Secretary

Mayor Pro Tem Trevino called the meeting to order and stated that notice of the meeting had been duly posted according to law.

INVOCATION/PLEDGE OF ALLEGIANCE/WELCOME

Mayor Pro Tem Trevino delivered the Invocation and the Pledge of Allegiance followed.

Mayor Pro Tem Trevino gave special recognition to the TSTC students that were present at the meeting.

BOARD MEMBER RECOGNITIONS – NONE

SPECIAL RECOGNITION – HARLINGEN NATIONAL BRONCO SHETLAND BLUE TEAM

Mayor Pro Tem Trevino read a letter of commendation to all of the players of the team who were given special recognition along with the coaches. The Harlingen National Bronco Shetland Blue Team was given special recognition for having a State Tournament record of six wins and one loss and was, ultimately, crowned the 2010 PONY State Shetland Champion and the best tee-ball team in the State of Texas.

CITIZEN COMMUNICATION

Maria del Socorro Gallegos, 309 E. Monroe (#2), (speaking in Spanish) indicated to the Commission that she was seeking justice for her son, Reynaldo Gonzalez, who was recently killed and stated that she feels that no justice will be given by the Harlingen Police Department. She stated that her son was not drunk at the time. He had just left a dance at the Casa del Sol and what the Police Department is doing about this case is not just.

Joe Rubio, 2309 Hacienda Road, was present and stated that he is representing Mrs. Gallegos with this incident. Attorney Jerry Trevino and Mrs. Gallegos hired Mr. Rubio as a private investigator into the death of her son. He relayed to the Commission that Reynaldo Gonzalez was run over by Spur 54 by a female suspect on July 18. He was last seen at 11:30 p.m. at the Casa Del Sol at a Quinciniera. He only lives one block away. Once he got to Spur 54, one way, or another this young man was run over by a vehicle. Mr. Rubio indicated that while at the Casa del Sol, Mr. Gonzalez was assaulted by 7

individuals who had a knife. He was scared and somewhere along the line, got run over by a female suspect who has been arrested. Mr. Rubio stated that bottom line is that the Police Department chose to mitigate those circumstances in the morning hours and drop the intoxicated manslaughter, which is a second-degree felony to a Class B misdemeanor. The fact that the Harlingen Police Department is going to use the Cameron County D.A.'s office for indictment purposes, once the toxicology report comes back, is wrong. The responding Police Officer Benito Bravo specifically stated in his report that this person was intoxicated. The law by statute says that if this person is operating a motor vehicle, is intoxicated and by actual mistake this person causes a death of an individual that person will be charged with intoxicated manslaughter. Mr. Rubio stated that these people are asking for justice. They are just asking for what everyone else is entitled to. Mr. Rubio commented that the suspect is related to a police officer in the Police Department. Mr. Rubio stated that he addressed a letter to Mr. Gonzalez and stated that he wants this cleared. Mr. Rubio pointed out that this Commission has tried to get the bars regulated. He indicated that he asked for videos but in this case there was no requirement by this Commission for video cameras when Butt Wild got approved---so there is no video. Now the actual protocol, the reconstruction team did not arrive until Monday. This action happened on Sunday at 2 am. On Monday morning the reconstruction team was at the scene trying to do their job, not on Sunday when they are supposed to be doing it. The vehicle was towed but this is a key piece of evidence. What happened next was that the vehicle got released to the female and the vehicle was not insured. The vehicle got released to the female before a ticket was issued. Whether or not the vehicle should have even been released, it is still a key piece of evidence. You don't release a key piece of evidence before you examine it, before DPS or anyone else is going to be part of forensics team is going to examine this. Mr. Rubio stated that he had asked to photograph the vehicle but was told by Captain Vela that the vehicle was released two days later. Going past his allotted time, Mr. Rubio continued and stated that on July 26 there was an amended report for no insurance and failure to control speed. On failure to control speed that was a charge that was newly added. Failure to control speed those are speeds applicable to the conditions. 6 days after the death, Detective Ramiro Rodriguez made contact with the victim, 6 days he waits, and the only reason he made contact with the victims was because he asked him to show up. There are a lot of details about this investigation but in the end the Chief is saying that there are no special favors. He asked the Commission, on behalf of the family, to at least consider an investigation into this matter and quit playing games on investigations like this. Mr. Rubio then asked the family of the deceased to stand up so the Commission would know who they are and to know that they want justice done.

MINUTES FOR APPROVAL – SPECIAL MEETING OF JULY 9, 2010, SPECIAL MEETING OF JULY 20, 2010, SPECIAL MEETING OF JULY 21, 2010 AND REGULAR MEETING OF JULY 21, 2010

There being no corrections, all four sets of minutes were approved upon a motion by Commissioner Leftwich and seconded by Commissioner Prepejchal. The motion carried unanimously.

CONSENT AGENDA;

- A. ORDINANCE ADOPTED ON FINAL READING TO AMEND SECTION 15.07 OF THE ZONING ORDINANCE WITH REGARDS TO THE 100-FOOT SPACING REQUIREMENTS BETWEEN BAR/LOUNGES IN HARLINGEN'S DOWNTOWN DISTRICT OVERLAY.
- B. ORDINANCE ADOPTED ON FINAL READING TO ISSUE A SPECIFIC USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN A 'GENERAL RETAIL (GR)' ZONE, LOCATED AT 209 SOUTH 'C' STREET, BEARING A LEGAL DESCRIPTION OF HARLINGEN ORIGINAL TOWNSITE, LOT 1, BLOCK 67.
- C. RESOLUTION ADOPTED AUTHORIZING THE HARLINGEN POLICE DEPARTMENT TO SUBMIT A GRANT APPLICATION TO THE DEPARTMENT OF JUSTICE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) AVAILABLE THROUGH THE OFFICE OF THE GOVERNOR CRIMINAL JUSTICE DIVISION FOR THE HARLINGEN VIOLENT CRIME, DRUG AND GANG ERADICATION PROJECT FOR

ADDITIONAL PERSONNEL STAFFING FOR THE GANG ERADICATION UNIT AND TO ENHANCE THE POLICE DEPARTMENT'S EFFORTS TO PREVENT AND REDUCE CRIMINAL ACTIVITY.

- D. REQUEST BY THE PARKS AND RECREATION DEPARTMENT TO TEMPORARILY CLOSE FAIR PARK BOULEVARD FROM WICHITA STREET TO 'L' STREET AND THE INTERSECTION OF ADAMS STREET AND 'L' STREET FOR 'BLUES ON THE HILL' TO BE HELD ON SATURDAY, AUGUST 14, 2010 APPROVED.

Motion to approve consent agenda: Leftwich
Second: Prepejchal

Commissioner Marra voted 'nay'. When asked if she was voting 'nay' on all of the items, she indicated it was for Item A. At this time, Commissioner Marra made a motion to pull Item A from the Consent Agenda for a separate vote. There was no second to her motion therefore, the motion died.

Voting on the original motion to approve all of the items in the Consent Agenda was as follows:

Aye: Leftwich, Prepejchal, Ruiz
Nay: Marra

MAYOR AUTHORIZED TO EXECUTE AN INTER-LOCAL AGREEMENT WITH THE HARLINGEN CONSOLIDATED INDEPENDENT SCHOOL DISTRICT (HCISD) TO ASSIGN TWO FULL-TIME UNIFORMED HARLINGEN POLICE OFFICERS TO WORK AT THE TWO HIGH SCHOOL CAMPUSES AS HIGH SCHOOL RESOURCE OFFICERS DURING THE 2010-2011 SCHOOL CALENDAR

Chief Castillo stated that this is a continuation of an ongoing yearly renewable contract with the School District to have one school resource officer assigned to each of the two high schools. The School District has the ability to hire Harlingen police officers on an overtime basis to help assist with those services at the two campuses.

Commissioner Prepejchal questioned if the School District has any plans to establish their own police force in the future.

Chief Castillo replied that he has not received any indication from the School District that they have any immediate plans of creating their own police force.

Gabriel Gonzalez volunteered to make contact with the School Superintendent to ask what plans they have with regards to their own police force.

Commissioner Prepejchal pointed out that Rio Hondo and Weslaco school districts have their own police force and Harlingen's police force is short staffed as it is. He stated that he would like to see some of plan for the future by the School District.

Commissioner Ruiz questioned what would happen if the two resource officers were pulled from the School District. Chief Castillo replied that they would be enrolled back into the resources for police in the City. Commissioner Ruiz asked who decides which two particular officers are assigned to the School District. Chief Castillo replied that it is joint selection by Police Administration and the School District.

Commissioner Leftwich commented that basically these two full time police officers are the extent of professional law enforcement that the school district provides for the safety of (our) school children.

Chief Castillo affirmed the statement by Commissioner Leftwich and stated that the School District also has additional staffing that they hire on an overtime basis and they hire a contingent of private security as well to augment those services. Out of the 28 or so campuses, only two of them have professional police officers.

Chief Castillo explained that over the last several years because more officers are needed out in the streets, the officers in the campuses were scaled down. The question is will the City continue to have staffing at the campuses and this was a topic that came up through discussions with the juvenile task force. Chief Castillo stated that he tries to minimize the impact on the available staffing for the City. However, there are some benefits from having officers on campus such as coordinating a lot of the crime stoppers programs on campus and gathering intelligence and information that assist with the officers' jobs.

Commissioner Leftwich stated that obviously the combination of juvenile crimes develops in elementary through Jr. high. So, if they had those programs that were mentioned earlier (such as SAVE and DARE) in the informative years for the children that would benefit the City in terms of reduction and gang association and gang participation.

Chief Castillo agreed and stated that there was no specific strategy on how to achieve getting those resources but he will be glad to approach the school district again to foster further discussions on how we want to proceed as a city.

Commissioner Leftwich pointed out that basically the same staffing that was in place prior to placing emphasis on gang eradication throughout the city is still the same and the school district has not really shifted gears in terms of addressing gang participation within the schools and within the school district.

Chief Castillo reiterated that they have asked for more resources but the question is where will they come from. One of the short-term strategies is what is in place right now. The school district wants additional police presence and they are supplied on an overtime basis where it does not impact the department's available resources for frontline resources or assignments out in the streets.

Commissioner Leftwich asked the Chief if he has looked at incident reports prior to the renewal of the contract to see if there is a trend that would require applying more resources in a particular area and asked if the Chief could speak to that information today.

Chief Castillo replied that the school district keeps a lot of stats and a lot of things they handle administratively through the district to address some of the issues they have whether they are behavioral issues or other kinds of issues. Occasionally, they do call the Police Department to conduct investigations or to take enforcement actions from a police standpoint. He indicated he did not know just how much statistical information the School District would share since they have guidelines that they follow. However, Chief Castillo stated that he would inquire on this.

Commissioner Leftwich explained that his questioning was to try to determine how much the City is helping the School District with police matters.

Chief Castillo stated that his assistance is to try to encourage a positive environment to the School District. The police officers serve as liaisons between school functions and what occurs at the campuses. In other occasions, the liaison officer assists the school district with referrals of individuals that they might have issues with.

Mayor Pro Tem Trevino commented that the task force committee has been working with Chief Ramirez from the Juvenile office and he is going to be meeting with the Interim City Manager for a collaborative effort to tackle some of these issues. With grant money that is coming in there might be some ideas of what's coming up so everyone can work together and hire some instructors and teachers to help with these type of issues. This is forthcoming in the next few months.

Chief Castillo stated that in coordination with the Juvenile Probation Department, he would be putting together a presentation at the next Commission meeting to address some of these initiatives that they are doing jointly.

Commissioner Leftwich commented that to note of special attention is the fact that the School District has not increased the number of police presence at the campus since

greater emphasis has been placed, city wide, on gang eradication. They have just maintained the status quo and are budget driven to hire only two officers. Talking about stats, he asked about adding a category to the detailed gang information report that would show some significant gang reduction activity in the school district.

Commissioner Leftwich made a motion to approve the interlocal agreement with the Harlingen CISD. Commissioner Prepejchal seconded the motion and it carried unanimously.

PUBLIC HEARING AND ACTION TAKEN TO ADOPT AN ORDINANCE ON FIRST READING TO NOMINATE DISH NETWORK L.L.C. AS A DESIGNATED ENTERPRISE PROJECT IN THE CITY OF HARLINGEN, TEXAS

Bill Martin, EDC CEO, explained that Dish Network is considering investing \$5 million on capital improvement projects to increase their overall customer satisfaction. They are requesting the designation of a Texas Enterprise Project nomination for job retention benefits from the City of Harlingen. This designation will allow them to receive a refund of State sales taxes based on the amount of their investment. They currently have 915 employees and they are asking for State funds, not local funds.

Mayor Pro Tem Trevino declared the public hearing open.

Ron Lozano pointed out that no clues were conveyed to the public (through the agenda item) of the \$5 million and that no local money was to be given. Bill Martin stated that the contract with Dish Network goes back to 2002 and if approved by the State, Dish Network would be eligible for roughly \$2,500 in state tax refunds per job saved.

Yolanda Shoffeitt commented that it appears that the decision was already made so why have a public hearing?

Joe Rubio asked for clarification if Dish was asking for state sales exemption to improve services to Harlingen instead of paying. However, if Dish is asking for the State portion of the sales tax to be refunded and not the City portion he was for this designation.

The caption of the ordinance was read.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS ORDAINING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING THE DISH NETWORK, L.L.C. TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS AN ENTERPRISE PROJECT (PROJECT).

Commissioner Leftwich made a motion to adopt the ordinance, as presented, on first reading. Commissioner Marra seconded the motion and it carried unanimously.

DISCUSSION HELD ON THE LEGAL PROCESS TO AMEND THE HARLINGEN CITY CHARTER

Roxann Cotroneo, City Attorney, outlined the process by which a Charter amendment election can be held through a power point presentation. She explained that Harlingen voters must approve each charter amendment by majority vote. A charter amendment election can be initiated by the City Commission's own motion and the City Commission can create a Charter Review Committee, not to be confused with a Charter Commission.

An election for charter amendments must be held when requested by a petition signed by 5% of qualified voters or 20,000 whichever is smaller. In this case, 5% would be smaller and 1,500 signatures would be required.

Ms. Cotroneo proceeded to inform the Commission on the proposed timeline for an election that, at the earliest, could not be held until May 14, 2011. State law is very specific to an election date.

Ms. Cotroneo continued to explained how a Charter Commission works. A ballot is sent to the voters of the community to see if they want to create a Charter Commission and the City Commission cannot change any amendments that are proposed by the Charter Commission. Basically, this process involves two elections.

Yolanda Shoffeitt commented that the Commission would have to appoint members to the Charter Committee from different areas of town; otherwise, it would be 'red lining'. Ms. Cotroneo stated that there are no statutory guidelines for the appointment of the committee members.

BOARD APPOINTMENTS

Commissioner Ruiz appointed Yolanda Garcia and Samantha Darrell to the Community Development Advisory Board; Cesar Morales to the Senior Advisory Board; Regina Shipp to the Veterans Advisory Board.

Commissioner Leftwich appointed Bruce Burgamy to the Senior Citizens Advisory Board.

The members to the Audit Committee were ratified: Mayor Boswell, Commissioner Leftwich, Michael Lamon, Jo Wagner (representing the Airport Board) and Cris Villarreal (representing the Harlingen Waterworks).

Commissioner Trevino appointed Marlene McCoy to the Senior Citizens Advisory Board and Pablo Bazan to the Veterans Advisory Board.

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

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

- Lupita Turner v. City of Harlingen, Cause No. 2009-CCL-64-A
- Criminal charges filed against former city employee for theft of city resources.

Commissioner Marra seconded the motion and it carried unanimously.

CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE, (SECTION 551.071), TO DISCUSS CONTEMPLATED OR PENDING LITIGATION TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING:

- **LUPITA TURNER V. CITY OF HARLINGEN, CAUSE NO. 2009-CCL-64-A**
- **CRIMINAL CHARGES FILED AGAINST FORMER CITY EMPLOYEE FOR THEFT OF CITY RESOURCES.**

The Executive Session convened at 6:19 p.m. and concluded at 6:30 p.m. No action was taken in closed session.

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

Regular Meeting
08/04/2010

Joey Trevino, Mayor Pro Tem

Attest:

Sylvia R. Trevino, City Secretary