

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

AUGUST 18, 2010

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, August 18, 2010 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

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

Staff Present:

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

Mayor Boswell called the meeting to order and noted 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.

CITIZEN COMMUNICATION

Yolanda Shoffeitt was present to speak on the subject of the assistant police chief demotion. She alluded to retaliation because of an investigation on a member of the Commission. She felt that Luciano Rubio has a right to know what he did wrong.

Alvaro Garcia, 902 S. Houston, also spoke regarding the expense of creating an additional captain position in the Harlingen Police Department. He stated that there are other options that could be considered from a fiduciary standpoint. The addition of a Captain will cost more money in the future.

Joe Rubio spoke about the HPD evidence room and challenged the Commission to go and view the evidence room that is a mess. He stated that he would be asking for an inventory of the contents of the evidence room and probably would not receive it because there is no such document.

Jerry Moore, 709 Town Lane, spoke in regards to the 7th and Vinson zoning issue. He stated that there are issues and errors that need to be corrected with the ordinance. He questioned the acreage of 5 acres to 1 acre and stated that no one had the courtesy to explain to him why this was done. This was an issue that should have been cleared up through Planning and Zoning. He also spoke about the trees on the property that were cleared without a permit even though the property was not yet zoned. He also spoke on buffers and congestion of housing in such a tiny area. Mr. Moore all these issues should be corrected as an effort to help others.

Ron Lozano, District 3, complimented the Commission on a 'beautiful new day'. He spoke about journalists being treated disparily from those that are here tonight. He stated that the present ordinance is out line with current law.

**MINUTES FOR APPROVAL – REGULAR MEETING OF AUGUST 4, 2010,
SPECIAL MEETING OF AUGUST 10, 2010 AND SPECIAL MEETING OF
AUGUST 11, 2010**

All sets of minutes were approved, as presented, upon a motion by Commissioner Leftwich and second by Commissioner Marra. The motion carried unanimously.

PRESENTATION BY THE CAMERON COUNTY JUVENILE JUSTICE DEPARTMENT AND THE HARLINGEN POLICE DEPARTMENT ON THE CCJJD/HPD BORDER GANG TASK FORCE

Rose Gomez with the Cameron County Juvenile Justice Department gave a power point presentation on the Border Gang Task Force—a partnership between the Harlingen PD and CCJJD that was started in 2009. This partnership was formed as an effort to increase the level of accountability of juvenile offenders in Harlingen. In 2010, as a result of a state grant, the two entities entered negotiations regarding an official partnership under the moniker of the border Gang Task Force.

Ms. Gomez reminded the Commission that the City of Harlingen implemented a curfew ordinance, created a gang task force, and created a gang eradication team, all as efforts towards the gang problem.

She explained that funding for this partnership was secured from the office of the Governor's Criminal Justice Division recognizing existing partnerships along the Texas border to patrol, monitor and control the city streets and to improve the quality of life in the community and our youth.

Ms. Gomez stated that CCJJD and Harlingen PD will follow the Department of Justice's Gang Intervention Modal as an evidenced based approach that will include community mobilization, opportunities provision, social intervention and suppression—close supervision and monitoring of gang youth by agencies of the criminal justice system and also by community based agencies, schools and grass roots groups. As an example, Ms. Gomez informed the Commission that Faith Pleases God Church is sponsoring "A Night Out as a Way Out" event on September 11, 2010.

Ms. Gomez pointed out that through a Memorandum of Understanding between the CCJJD and the Harlingen PD two JPOs and 1 Resource Coordinator would work directly with HPD Gang Eradication Team and the City of Harlingen; would promote community awareness through presentations by the JPO and HPD police officer; would office two JPOs at the Harlingen Police Department in an effort to foster relationships and promote clear lines of communication plus other provisions.

Ms. Gomez stated that community resources would be offered to individuals seeking to alter life paths and distance themselves form a life of organized crime.

Ms. Gomez explained that, in the past, officers assigned to the Gang Eradication Team took it upon themselves to clean up graffiti but now with the help of the CCJJD juveniles found guilty of crimes involving graffiti are utilized in the efforts of graffiti cleanup.

Concluding her power point presentation, Ms. Gomez stated that no single agency could solve the gang problem alone but with a multi-faceted approach and the commitment of the CCJJD and the Harlingen Police Department, we are one step ahead.

Tommy Ramirez with the Juvenile Probation Office explained that those that are involved in gangs have the ability to step out of the box. These young adults will stay here but we need to make them productive citizens. Through the Youth Build program, these young adults are building houses every three months in Brownsville. Mr. Ramirez indicated he would like to be able to do the same here in Harlingen.

The idea Mr. Ramirez presented to the Commission was to utilize the former Harlingen Police Station. He would like to take this building and make it a community outreach center. He has met with Youth Build to expand the program into Harlingen to bring these young adults, enroll them and get them involved in job training and meet with the Texas Workforce. Get them housed there at the center and include the families as well. Mr.

Ramirez indicated that he has the support of businesses that will help contribute towards the \$150,000 that will be needed to renovate the old police station.

He asked if the Commission would be receptive to a written agreement that would allow them to keep the building as long as they continued to provide the services and that the City would pay for the utilities. This would have a big impact on recovering young people that we are losing to gangs.

Mayor Boswell thanked Mr. Ramirez and for partnering with the City on this very important effort. The gang task force was created because the community recognized the issue with gangs and there was a need to do something about it so the gang eradication team was also created. What Mr. Ramirez is proposing that we move forward to do more and Mayor Boswell asked that an item be placed on the next agenda to talk about moving forward with this effort.

CONSENT AGENDA:

- A. ORDINANCE ADOPTED ON FINAL READING TO NOMINATE DISH NETWORK L.L. AS A DESIGNATED ENTERPRISE PROJECT IN THE CITY OF HARLINGEN, TEXAS.
- B. QUARTERLY INVESTMENT REPORT ENDED JUNE 30, 2010 ACCEPTED.
- C. REQUEST TO CLOSE 'A' STREET BETWEEN JACKSON STREET AND THE ALLEY FOR UPCOMING MARKET DAYS FARMERS MARKET EVENTS FROM OCTOBER 2, 2010 THROUGH DECEMBER 31, 2011 APPROVED.
- D. ORDINANCE ADOPTED ON FINAL READING AMENDING THE CITY BUDGET FOR THE FISCAL YEAR OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2010 TO ADD A CAPTAIN POSITION IN THE HARLINGEN POLICE DEPARTMENT, WHICH INCREASES THE NUMBER OF CAPTAIN POSITIONS TO FOUR WITH NO IMPACT TO THE BUDGET.

Motion to approve consent agenda: Marra

Second: Leftwich

The motion carried unanimously.

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

Joel Olivo, Planning Manager, explained that the applicant is proposing to continue the same operation of a bed and breakfast with social events of not more than forty (40) persons as an accessory use, out of the existing two-story house located at 1101 E. Taylor Avenue. The existing use complies with off-street parking requirements in accordance with the City Zoning Ordinance. Twenty-six (26) off-street parking spaces are required and 20 of those parking spaces will be provided through a parking lease agreement with St. Anthony Catholic Church for the use of parking lot located on the northwest corner of Harrison Avenue and 10th Street.

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

Mayor Boswell declared the public hearing open.

Darrell Gunn, General Manager of the Harlingen Waterworks System, pointed out that this is a commercial kitchen and does not have the required grease trap and the applicant has been informed of this.

Yolanda Shoffeitt questioned whether all of the permits and inspections were in place because she wants to make sure there is safety for the neighbors with this type of use.

Clarissa Rama, the applicant, stated she has been on notice regarding the grease trap and one is on order, it is on its' way. The property is well maintained and it won't be long before she and her husband retire and give Casa Rama up. She thanked the Commission for the opportunity to do social events for the people of Harlingen and she indicated that she rarely uses the parking lot at the Church because she always tries to keep her events small.

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

ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE RENEWAL OF A SPECIFIC USE PERMIT

The caption of the ordinance was read.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HARLINGEN: TO ISSUE THE RENEWAL OF THE SPECIFIC USE PERMIT (SUP) TO CLARISSA G. RAMA TO ALLOW FOR ADDITIONAL ACCESSORY SOCIAL TYPE EVENT USE IN ADDITION TO THE PRIMARY BED AND BREAKFAST USE IN A 'RESIDENTIAL, SINGLE FAMILY (R-1)' ZONE LOCATED AT 1101 E. TAYLOR AVENUE, BEARING A LEGAL DESCRIPTION OF LOTS 1, 2 AND THE WEST ½ OF LOT 3, BLOCK 4, LA QUINTA SUBDIVISION, SUBJECT TO (1) MAINTAINING AND UTILIZING THE REQUIRED OFF-STREET PARKING IN ACCORDANCE WITH CITY ORIDNANCE; (2) SOCIAL EVENTS SHALL NOT EXCEED FORTY (40) ATTENDEES; (3) COMPLIANCE WITH FIRE CODE REQUIREMENTS OF INSTALLING EXISTING FIRE EXTINGUISHER INTO WALL BRACKET; INSTALLING FIRE EXTINGUISHER IN UPSTAIRS AREA OF BED AND BREAKFAST AREA PER NFPA 10 REGULATIONS; PROVIDING 36-INCH CLEARANCE ON ALL ELECTRICAL PANELS WITHIN 30 DAYS FROM THE DATE OF THE FINAL ORDINANCE READING OF THE SPECIFIC USE PERMIT BY THE CITY COMMISSION; AND (4) MAINTAINING COMPLIANCE WITH THE LAWS ADMINISTERED BY THE PLANNING AND ZONING DEPARTMENT AND BUILDING INSPECTIONS DEPARTMENT, HEALTH DEPARTMENT AND BUILDING INSPECTIONS DEPARTMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Motion to adopt ordinance on first reading: Leftwich

Second: Marra

Motion carried unanimously.

Mayor Boswell commented that Casa Rama has always been a good business in the community; they have always cooperated with the City and have always been respectful of their neighbors.

LICENSE TO ENCROACH OF 7 FT. WIDE X 13 FT. LONG AND 4. FT. 9 INCHES DEEP INTO THE CITY 20 FT. ALLEY RIGHT-OF-WAY LOCATED ON THE SOUTH SIDE OF THE EXISTING BUILDING LOCATED AT 202 SOUTH FIRST STREET, BEARING A LEGAL DESCRIPTION OF LOTS 5-11, BLOCK 69, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION GRANTED

Joel Olivo explained that the applicant is requesting a license to encroach to allow a subsurface grease trap in the City 20 ft. alley right-of-way for a proposed restaurant in the original Reese Wilmond Hotel. The existing paved alley is 20 ft. wide and approximately 180 ft. in length, located between Van Buren Avenue and Harrison Avenue with access from Commerce Street and 1st Street.

Staff recommended approval.

A motion was made by Commissioner Leftwich to grant the license to encroach as recommended by staff. Commissioner Marra seconded the motion. The motion carried unanimously (by those present). (*Note: Commissioner Trevino stepped out and was not present during the motion or the vote.*)

INVESTMENT POLICY FOR THE CITY OF HARLINGEN DISCUSSED

Roel Gutierrez, Director of Finance, stated that the investment policy remains the same. Staff is not recommending any changes be made.

The Commission did not have any questions regarding the Investment Policy.

PROPOSED CITY BUDGET FOR FISCAL YEAR 2010-11 DISCUSSED

Roel Gutierrez explained that at the initial presentation of the budget through workshops and meetings there was a large deficit in the budget of approximately \$3 million. The staff is now able to present a balance budget with a 'zero' deficit. The Appraisal District values brought in \$103,000 more than what was predicted, although the property tax rate remained the same.

He stated that the discussion tonight is on the supplementals. The list totals \$2.2 million. Gabriel Gonzalez pointed out that the only supplementals that would be funded would be the addition of a fire inspector along with benefits and a vehicle, which would be a 'hybrid'.

The IPADs for the Commissioners and the scanner are already budgeted. Mr. Gonzalez indicated that the City needs to come up with \$575,000 as its' match for the FEMA grant that the City received in the amount of \$1.7 million. He recommended taking this amount from the net of the general fund reserve. The expenses associated with the additional fire inspector will come from the additional \$103,000 from values.

Commissioner Prepejchal asked if there was any funding for additional code enforcement officers. Mr. Gonzalez replied no, but staff is looking to review permit fees and possibly increase them and see if at that time these positions can be funded. He stated that the reason these positions were not recommended for funding is because two code enforcement officers were added to the budget last year.

Mr. Gonzalez pointed out that some of the Commissioners had expressed their need for a phone allowance. \$75/month will be allocated for phone allowances for the Commission.

Commissioner Prepejchal asked about the additional lighting and sidewalks. Mr. Gonzalez replied that that the CDBG could be reconsidered for a budget adjustment.

Mayor Boswell commented that the good news is that staff found a way to balance the proposed budget and commended the staff for doing this.

Roel Gutierrez explained that anything pulled for funding from the supplementals would increase the expenditures over revenues.

Mayor Boswell suggested that no more supplementals be funded and leave the budget as is.

PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE PROPOSED CITY BUDGET FOR FISCAL YEAR 2010-11

Mayor Boswell declared the public hearing open.

Joe Rubio stated that he was against the budget. First, Mr. Rubio was of the opinion that the figures for the budget should have been available for the public's view. Secondly, he informed the Commission that once they get the IPADS and the phone allowance, their records would be subject to public scrutiny through public information requests.

Mr. Rubio asked Mr. Gutierrez how he was able to close the deficit. Mr. Rubio pointed out that he has been asking for three more patrol officers for all shifts 'by virtue of necessity'. This issue needs to be addressed. He has been asking for this since 1996 for patrol supervision and yet the City is adding another fire inspector.

Gabriel Gonzalez explained to Mr. Rubio that staff was able to close the budget deficit through salary savings; from pulling from the Street Improvement Fund, the Motor Vehicle depreciation fund, the Free Trade Bridge fund, the petition paving and from Public Works street materials.

Mr. Rubio questioned if taking \$500,000 from the police seizure funds was legal. Mr. Gonzalez replied yes, the money was being used to replace vehicles in the Police Department only but the money was not being used to balance any part of the budget deficit.

Yolanda Shoffeitt talked about the lobbyists that are hired and referred to some \$250,000 that is missing. It was her opinion that the money was being paid to a lobbyist who is no longer living and stated that this money should be given to the Fire and Police Departments.

Jerry Moore, 709 Town Lane, commented that the Commissioners need to ensure access on the city's website to show that there is transparency. The website is not being used to its full intent. It is time to bring this forward to show that the Commission is doing its job and is building a better Harlingen by showing the public what they should know.

Gabriel Gonzalez commented that the City of Harlingen received an award for financial transparency by the State Comptrollers office.

George Merrill stated that he would like to see a grants writer in the budget. He commented that grant funding is crucial to this community and it would be worth trying again to get a grants writer for the city.

ORDINANCE ADOPTED ON FIRST READING TO AMEND ORDINANCE NO.S 02-48, 04-85, 06-49 AND 08-19 AND TITLE XI, BUSINESS REGULATIONS CHAPTER 111 FOOD AND FOOD ESTABLISHMENTS, SECTION 111.02, 111.03, 111.04, 111.06, 111.08, 111.09, 111.11, 111.14, 111.15, 111.16 AND 111.17 OF CHAPTER 111 OF THE HARLINGEN CITY CODE; REQUIRING A PERMIT FOR A TEMPORARY FOOD VENDOR; PROVIDING FOR A MAXIMUM NUMBER OF TEMPORARY FOOD VENDORS PERMITS TO BE ISSUED DURING A CALENDAR YEAR PER TEMPORARY VENDOR AND PER TEMPORARY LOCATION; PROVIDING FOR COMPLIANCE WITH LAWS PRIOR TO ISSUANCE OF TEMPORARY FOOD VENDOR PERMIT; PROVIDING FOR POSTING OF TEMPORARY FOOD VENDOR PERMITS; PROVIDING FOR PUBLICATION; PROVIDING A SEVERABILITY CLAUSE AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

Ramiro Gonzales, Director of Health and Environmental Services, explained that the main concern expressed through complaints that have been received by the Health Department is that restaurant owners are losing their business due to the temporary vendors and the ordinance is being recommended in an attempt to address this issue.

These amendments will not apply to the Boys Scouts of America and the Girls Scouts of America when selling pre-packaged items for the benefit of their organizations.

A temporary vendor permit shall be limited to a maximum of four single event permits during the calendar year or one permit for four events during the calendar year and a property owner who sponsors a temporary food vendor shall not have more than four (4) events during the calendar year upon the same property. The vendor permits will cost \$50.00 for four events with each event not being more than 48 hours.

The caption of the ordinance was read.

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS AMENDING SECTIONS 111.02, 111.03, 111.04, 111.06, 111.08, 111.09, 111.11, 111.14, 111.15, 111.16, 111.17 OF CHAPTER 111 OF THE HARLINGEN CITY CODE, AS AMENDED; REQUIRING A PERMIT FOR A TEMPORARY FOOD VENDOR; PROVIDING FOR A MAXIMUM NUMBER OF TEMPORARY FOOD VENDORS PERMITS TO BE ISSUED DURING A CALENDAR YEAR PER TEMPORARY VENDOR AND PER TEMPORARY VENDOR LOCATION; PROVIDING FOR COMPLIANCE WITH LAWS PRIOR TO ISSUANCE OF TEMPORARY FOOD VENDOR PERMIT; PROVIDING FOR PERMIT FEES FOR FOOD HANDLER AND TEMPORARY FOOD VENDOR PERMITS; PROVIDING FOR POSTING OF TEMPORARY FOOD VENDOR PERMITS; PROVIDING FOR PUBLICATION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

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

Under discussion, Commissioner Leftwich asked for clarification of whether the exception for the Boys and Girls Scouts would be per troop or per organization and asked if the groups could ask for a citywide application. Mr. Gonzales replied yes as long as they specify the dates of their events and the regulations would be applicable per organization.

Roxann Cotroneo, City Attorney, pointed out that any (non-profit) organization could come before the City Commission and ask for an exemption.

Commissioner Trevino commented he did not want anyone being arrested for selling barbecue tickets or having car washes. Mr. Gonzalez indicated that the Health Department does not regulate car washes.

ACTION TAKEN TO APPROVE AND CONSENT TO INTERIM CITY MANAGER'S AND PRESIDING MUNICIPAL COURT JUDGE'S RECOMMENDATION TO APPOINT RICARDO M. ADOBATTI AND JAVIER GONZALEZ AS ALTERNATE MUNICIPAL COURT JUDGES; AND (2) APPROVE EACH OF THEIR CONTRACTS FOR PROFESSIONAL JUDICIAL SERVICES.

Gabriel Gonzalez stated that he was recommending the appointment of Ricardo M. Adobatti and Javier Gonzalez as Alternate Municipal Court Judges. He explained that the City Attorney, the Municipal Court Judge, Roberto Guerra and the Human Resources Director, Efren Fernandez had conducted the interviews.

Judge Guerra explained that that there were a total of eight (8) applicants that were interviewed and decided on the two recommendations being made by the City Manager. He stated that additional applications are being considered in order to have all four (4) positions filled.

Commissioner Leftwich made a motion to approve the appointments as recommended by the Interim City Manager. Commissioner Ruiz seconded the motion and it carried unanimously.

CITY OF HARLINGEN'S AUGUST 2010 AMNESTY PROGRAM PROGRESS DISCUSSED

Roxann P. Cotroneo, City Attorney, gave an update on the 2010 Amnesty Program. She started by explaining (through a power point presentation) that there are two types of warrants: failure to appear and failure to pay/capias pro fine. Notice of the amnesty program was advertised in all of the Valley newspapers, by email blasts, through the employees, through attorneys and through business organizations. She informed the public that they can log onto the City's website to find out if their names in the list of

outstanding warrants. The amnesty program can save an offender as much as up to \$201.50.

Ms. Cotroneo pointed out that there are 37,540 outstanding citations and warrants with outstanding fines of \$10,136,779. Warrants make up 29% of the 37,540 and citations make up 71%. Thus far, 222 warrants have been dismissed and 1,382 cases have been processed. Ms. Cotroneo compared collections from 2009 to 2010 and stated that there has been a total increase in collections of 37% during the first three weeks of the amnesty program. She also pointed out that total collections, thus far, total \$102,336 of which \$64,347 goes to the State and \$37,989 stays with the City.

Ms. Cotroneo stated that the amnesty program is costing the city only \$1,400 in overtime costs for the court clerk and bailiff.

Lastly, Ms. Cotroneo informed the Commission that from Monday through Tuesday of this week almost \$45,000 had been collected.

She thanked Judge Guerra for his cooperation with the amnesty program in his court.

REPRESENTATIVE AND ALTERNATE REPRESENTATIVE APPOINTED TO THE AMIGOS DEL VALLE BOARD OF DIRECTORS FOR A FULL ONE-YEAR TERM

Commissioner Leftwich reappointed Commissioner Trevino to a full term on the Amigos del Valle Board. Commissioner Marra seconded the motion and it carried unanimously.

Commissioner Leftwich appointed Commissioner Prepejchal to serve as an alternate on the Board. Commissioner Marra seconded the motion and it carried unanimously.

BOARD APPOINTMENTS

Commissioner Ruiz appointed Dan Araiza to the Harlingen Community Improvement Board (4B).

Commissioner Marra appointed Brad Fechner to the Veterans Advisory Board.

Mayor Boswell reappointed Dean LaFever to the Harlingen Community Improvement Board (4B) and announced the names of the student representatives to the Library Board: Alixer Cano and Danielle Hernandez representing Harlingen High School and Rachel Anderson and Faith Castillo representing Harlingen High School South.

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

There being no further business the meeting adjourned at 7:10 p.m.

Chris Boswell, Mayor

Attest:

Sylvia R. Trevino, City Secretary