

**SPECIAL MEETING**

**CITY COMMISSION**

**HARLINGEN, TEXAS**

**DECEMBER 20, 2010**

A Special Meeting of the Harlingen Elective Commission was held on Monday, December 20, 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  
Gustavo C. Ruiz, Commissioner Place 1  
Robert Leftwich, Commissioner Place 2  
Kori Marra, Commissioner Place 3  
Jerry Prepejchal, Commissioner Place 4  
Joey Trevino, Commissioner Place 5

**Staff Present:**

Carlos Yerena, City Manager  
Gabriel Gonzalez, Assistant City Manager  
Roxann P. Cotroneo, City Attorney  
Elena Garza, Assistant City Secretary

Mayor Boswell called the meeting to order and asked for a motion to go into Executive Session.

Commissioner Leftwich made a motion to go into Closed/Executive Session pursuant to Chapter 551, Subchapter D., *V.T.C.A. Government Code*, (Section 551.087 and 551.071) regarding commercial and financial information from a business prospect with which the City Commission is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives with the business prospect known as Project Green and to seek legal advice from the City Attorney regarding this subject.

Commissioner Prepejchal seconded the motion and it carried unanimously.

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE, (SECTION 551.087 AND 551.071) REGARDING COMMERCIAL AND FINANCIAL INFORMATION FROM A BUSINESS PROSPECT WITH WHICH THE CITY COMMISSION IS CONDUCTING ECONOMIC DEVELOPMENT NEGOTIATIONS AND/OR TO DISCUSS OR DELIBERATE FINANCIAL OR OTHER INCENTIVES WITH THE BUSINESS PROSPECT KNOWN AS PROJECT GREEN AND TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.**

The Executive Session convened at 5:32 p.m. and concluded at 5:54 p.m. with no action taken in closed session. Those present in Executive Session were: Mayor Boswell, G. Ruiz, R. Leftwich, K. Marra, J. Prepejchal, J. Trevino, C. Yerena; G. Gonzalez; R. Cotroneo; R. Gutierrez; E. Garza.

**CONDITIONAL AND NON-BINDING LETTER OF INTENT FOR FINANCIAL AND OTHER INCENTIVES TO A BUSINESS PROSPECT KNOWN AS PROJECT GREEN TABLED.**

Commissioner Leftwich made a motion to table Letter of Intent for financial and other incentives to a business prospect known as Project Green. Commissioner Prepejchal seconded the motion and it carried unanimously.

Mayor Boswell asked that staff re-post this item for next Tuesday, December 28, 2010 at 5:30 p.m.

**INVESTIGATION INTO THE FINANCIAL TRANSACTIONS OF HARLINGEN WATERWORKS SYSTEM REGARDING ANY UNAUTHORIZED EXISTING SEWER DISCOUNT RATES THAT ARE NOT IN COMPLIANCE WITH THE HARLINGEN CITY CODE, AS AMENDED, AUTHORIZED.**

Commissioner Leftwich stated that there are some unauthorized sewer discounts that were allowed to some individual businesses. He would like the Commission to direct the Internal Auditor to investigate this specific issue. It seems there is a fundamental material weakness in the oversight of city utilities. He would like to get a more specific understanding of how this oversight occurred. This will also determine what changes need to be made with this respect so it will not re-occur.

Mayor Boswell asked Commissioner Leftwich if what he wanted was for the Internal Auditor to find out when this occurred, who authorized the discount and what was the reason behind it. Commissioner Leftwich replied yes.

Commissioner Leftwich made a motion to authorize the Internal Auditor to investigate the financial transactions of the Harlingen Waterworks System regarding any unauthorized existing sewer discount rates. Commissioner Prepejchal seconded the motion.

Under discussion, Commissioner Marra asked who is the Commission going to investigate? She stated she attended the last Waterworks meeting and there was a lengthy discussion in regards to unauthorized discounts. She asked that the Waterworks Board be consulted in regards to what was discussed at their meeting so there is communication between the Board and Darrell Gunn.

Commissioner Leftwich stated Mr. Gunn will be the individual that will be involved in the discussions with the Internal Auditor. The Internal Auditor will then report to the Commission. It will be the Commission's fiduciary responsibility to utilize and investigate the financial transactions that occurred at the Harlingen Waterworks office.

Commissioner Marra commented the Waterworks Board had voted and previously submitted a recommendation to the Commission with regards to the unauthorized discounts. Although, she would be very interested to see the Internal Auditor findings.

Commissioners Prepejchal questioned who were the primary principals involved in the rate discount.

Mr. Gunn stated back in 1981 it was Marine Military Academy. The other customer was Valley Baptist Medical.

Mr. Gunn gave a brief overview on the water sewer chillers.

Commissioner Leftwich stated it was determined that this discounts were not in compliance with City Commission approved rate ordinance. The only customer with a provision in the ordinance was the school district. Harlingen Waterworks was charging the school district for their sewer instead of granting them a discount as stated under the rate ordinance. The school district is now receiving money for overcharges on their sewer usage.

Mr. Gunn explained that this discount issue was brought forward when another hospital verbally inquired about the discount that Valley Baptist was receiving.

Again, Commissioner Leftwich reiterated the Waterworks attorney has rendered an opinion stating that this is in violation of the City Commission rate ordinance. Only school districts are allowed a specific provision under State guidelines. Although, the school district is not receiving any discounts.

Discussion followed on water chillers throughout the community and the impact of allowing citizens to use irrigation meters for their chillers.

Commissioner Marra pointed out that there is an investigation that is going to be conducted by the Internal Auditor. It does not necessarily mean that the Internal Auditor will find something wrong. The school district could have asked and received the discount also. The Harlingen Waterworks has been struggling with this issue for the past two meetings. As a self-governing Board they decided not to give this credit to everyone who asked because it would get out of control. The Board agreed to follow the procedure that is granted to homeowners. That is to have a separate sprinkler for the water and a separate sprinkler for the home. This way the only charge is what the homeowner uses which is the same process for the chillers. It was discussed at the Waterworks meeting that individuals will be allowed to complete an application for a separate meter. But, with the understanding that procedures will need to be followed in regards to the run-off of water in the sewer system. There is no conspiracy that the Harlingen Waterworks has been hiding all this information. They have done a very good job in handling this situation.

The motion 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 551.074) personnel matters, to deliberate the evaluation, duties, and performance of the City Attorney from December 1, 2009 – December 1, 2010.

Commissioner Prepejchal seconded the motion and it carried unanimously.

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551,  
SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE, (SECTION 551.074)  
PERSONNEL MATTERS, TO DELIBERATE THE EVALUATION, DUTIES,  
AND PERFORMANCE OF THE CITY ATTORNEY FROM DECEMBER 1, 2009  
– DECEMBER 1, 2010.**

The Executive Session convened at 6:15 p.m. and concluded at 6:37 p.m. with no action taken in closed session. Those present in Executive Session were: Mayor Boswell, G. Ruiz, R. Leftwich, K. Marra, J. Prepejchal, J. Trevino.

**CITY OF HARLINGEN EMPLOYMENT CONTRACT FOR THE CITY  
ATTORNEY POSITION APPROVED.**

Commissioner Marra made a motion to approve the City Attorney's employment contract. Commissioner Trevino seconded the motion and it carried unanimously.

Mayor Boswell explained that he had filed a conflict of interest and is requesting he be excused from participating in the discussion in the following executive session. He abstained from Items 3, 4, 5, 6, 7 and 8 and left the meeting at this time.

Commissioner Trevino also abstained on Items 3, 4, 5, 6, 7 and 8 and left the meeting at this time.

The City Attorney requested that a Mayor Pro Tem be appointed to preside over Items 3, 4, 5, 6, 7 and 8.

Commissioner Leftwich made a motion to appoint Commissioner Marra as Mayor Pro Tem for the remainder of the agenda items. Commissioner Prepejchal 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 551.072 and 551.071) to deliberate the purchase, exchange, lease, or value of real property because deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person to seek legal advice from the City Attorney regarding this subject.

Commissioner Prepejchal seconded the motion and it carried unanimously.

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE, (SECTION 551.072 AND 551.071) TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY BECAUSE DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE GOVERNMENTAL BODY IN NEGOTIATIONS WITH A THIRD PERSON AND TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.**

The Executive Session convened at 6:41 p.m. and concluded at 7:23 p.m. with no action taken in closed session. Those present in Executive Session were: G. Ruiz, R. Leftwich, Mayor Pro Tem Marra, J. Prepejchal, C. Yerena; G. Gonzalez; R. Cotroneo; E. Garza.

**AUTHORIZATION APPROVED TO PURCHASE REAL PROPERTY LOCATED AS LOTS 19-24, BLOCK 70, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS TOGETHER WITH IMPROVEMENTS TO THE LAND.**

Commissioner Leftwich made a motion to approve the purchase of property located as Lots 19-24, Block 70, Original Townsite of Harlingen. Commissioner Prepejchal seconded the motion and it carried unanimously.

**AUTHORIZATION APPROVED TO PURCHASE REAL PROPERTY LOCATED AS LOTS 15-18, BLOCK 69, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS TOGETHER WITH IMPROVEMENTS TO THE LAND.**

Commissioner Leftwich made a motion to approve the purchase of property located as Lots 15-18, Block 69, Original Townsite together with improvements to the land. Commissioner Prepejchal seconded the motion and it carried unanimously.

**CITY MANAGER AUTHORIZED TO DEMOLISH THE STRUCTURE LOCATED ON LOTS 15-18, BLOCK 69, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS ALSO KNOWN AS THE TOLER GARAGE AND REDEVELOP THE LAND INTO A PARKING LOTS.**

Commissioner Leftwich made a motion to authorize the City Manager to demolish the structure located on Lots 15-18, Block 69, Original Townsite of Harlingen also known as the Toler Garage and redevelop the land into a parking lot. Commissioner Prepejchal seconded the motion and it carried unanimously.

**CITY MANAGER AUTHORIZED TO TRANSFER TITLE TO THE REAL PROPERTY LOCATED AT LOTS 19-24, BLOCK 70, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS TOGETHER WITH IMPROVEMENTS TO THE LAND TO THE CITY OF HARLINGEN WATERWORKS SYSTEM, A DEPARTMENT OF THE CITY OF HARLINGEN, A MUNICIPAL CORPORATION IN EXCHANGE FOR THE REAL PROPERTY LOCATED AT LOT 12, 13 & 14, BLOCK 69, .25 ACRES, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS TOGETHER WITH IMPROVEMENTS TO THE LAND TABLED.**

Commissioner Leftwich made a motion to table Item #7 and bring back at the next City Commission meeting. Commissioner Prepejchal seconded the motion and it carried unanimously.

**ORDINANCE APPROVED ON FIRST READING TO AMEND 2010-11 FISCAL YEAR BUDGET TO PURCHASE REAL PROPERTY, DEMOLISH A STRUCTURE AND CONSTRUCT A PARKING LOT FOR USE IN THE DOWNTOWN AREA.**

Special Meeting  
12/20/10

The caption of the ordinance was read.

AN ORDINANCE AMENDING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR THE FISCAL YEAR OCT. 1, 2010 THROUGH SEPT. 30, 2011. TOTAL BUDGET REVENUES WILL REMAIN AS \$63,553,628 AND TOTAL BUDGET EXPENDITURES WILL INCREASE TO \$66,387,484 RESPECTIVELY; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

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

There being no further business the meeting adjourned at 7:25 p.m.

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Chris Boswell, Mayor

Attest:

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Elena Garza, Assistant City Secretary