

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

MARCH 2, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, March 2, 2011 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:

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

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

INVOCATION - Delivered by Commissioner Marra.

BOARD MEMBER RECOGNITIONS

None.

REDISTRICTING LEGAL SERVICES THAT PROVIDE REDISTRICTING PLANS FOR THE CITY OF HARLINGEN IN ACCORDANCE WITH THE 2010 U.S. CENSUS AND THE FEDERAL VOTING RIGHTS ACT FOR APPROVAL BY THE U.S. DEPARTMENT OF JUSTICE.

Rolando Rios, Voting Rights Attorney from San Antonio stated that every ten (ten) years when the U.S. Census is performed the federal law requires that each single member district that elects an official must be reviewed using the latest census to make sure there is equal population. This fourteen amendment to the constitution has been interpreted by the Supreme Court protection clause that requires that each election district have approximately the same number of persons. The 2010 Census just released its figures and every City, School Board and every Legislature has to go through this process. He has done over 200 redistricting plans in over thirty (30) years, which includes small and large districts. This election cycle he will be doing redistricting plans for Cameron, Hidalgo, City of Brownsville, City of McAllen and other areas around the valley. His analysis on the City of Harlingen single member districts, based on the population on each district shows District 3 is over populated and District 4 is the least populated. Federal Law requires that the deviation from the ideal be less than 10%, in this districts it shows a 21% deviation. By law, the City of Harlingen will have to re-draw the single member district lines. Mr. Rios stated he would work with the City in developing a plan and once a plan is developed the City shall then adopt the plan. He will then send that plan to the Department of Justice. The DOJ will review the plan to make sure there is no discrimination. Once approved, he will distribute the plans to the different State and Local authorities. The City can't conduct elections until they have gone through this redistricting process.

Mayor Boswell asked how long will the process take. Mr. Rios replied by April or May.

Mayor stated the City's goal is to have the districts re-drawn by the 2012 election. The City received a proposal from the same firm (Bickerstaff) that prepared the re-districting a couple of years ago. At this time he asked for the consensus from the Commission if they should also consider reviewing Bickerstaff's proposal.

Commissioner Trevino stated since Mr. Rios is already involved with the County he feels that Mr. Rios would be able to coordinate the City's voting precincts with the County. He feels very comfortable with Mr. Rios's redistricting services.

Commissioner Ruiz concurred with Commissioner Trevino.

Commissioner Marra explained that at the last election there were quite a few questions on the redistricting boundaries. She feels that bringing in a different company might just make the citizens feel more comfortable about the redistricting and also less confused.

Roxann Pais Cotroneo, City Attorney stated that she recognizes that redistricting and voting rights laws are a very highly unique area of the law. She looks forward in working with the Commission on any redistricting issues.

Mayors asked Mr. Rios to explain the fees for the redistricting plan.

Mr. Rios stated it was the same fee that they are charging the City of Brownsville and the City of McAllen. Which is a total of \$24,000.00. to be paid in three \$8,000.00 payments.

Commissioner Trevino made a motion to accept the contract for \$24,000 for redistricting services. Commissioner Prepejchal seconded the motion and it carried unanimously.

VETERANS ADVISORY BOARD MEMBERS RECOGNIZED.

Mayor Boswell called out the names of the Veterans Board members and asked that they come up to the front for special recognition. (Big round of applause.) He thanked all the members for taking the time to serve on this Board. He stated that staff will be organizing a meeting and they will be notified with all the details.

Carlos Yerena stated the City wanted to recognize the members for their effort to serve on this Board and thanked them for coming.

Gabriel Gonzalez, Assistant City Manager stated that a meeting had been scheduled in February, but it was canceled due to a lack of quorum.

CITIZEN COMMUNICATION

Manuel Barrera, 22652 New Combes Hwy, stated he has been a resident of the City for over 25 years. Around 3:30 p.m. he requested that inspectors that take care of the beautifying the streets come to his residence. One of the Code Enforcement Officers came by and informed Mr. Barrera that was not his section, but informed him that the Code Enforcement Officer that handles that area would be dispatched. Mr. Barrera explained that it didn't matter to him who came; he just wanted to speak to the inspector. He informed the CEO that if no one came by he was going to take his concern to the Mayor and that is why he is here tonight. He makes his living by cutting yards. He just wants Code Enforcement to go by his residence view the mess that was done by one of the neighbors.

PRESENTATION BY SCHNEIDER ELECTRIC ON LIGHTING AT HARLINGEN FIELD

Dan Serna, Public Works Director informed the Commission that at the last meeting staff was requested to ask that a Professional Engineer go out and view the lights at the Whitewing Field to get options on reducing the electricity at the location. They asked Schneider Electric to look into the matter and they are here tonight to give a brief overview.

Before going into the presentation, Commissioner Leftwich asked Mr. Serna when the Solar project was to be started.

Ms. Chavez replied towards the beginning of March or beginning of April. The completion date is the month of June.

Denise Chavez, Energy Solutions Specialist for Schneider Electric, proceeded to introduce the two gentlemen that accompanied her Jaime Jimenez and Mark Fisher.

Ms. Chavez proceeded by stating that they have been clients of the City of Harlingen for a number of years. One of the duties that the company does is advise the City on any energy efficiency related options that will bring savings. We are here to present solutions on the Harlingen Field lighting. They discovered that the field's annual bill is 435,758 and the kW charges are quite high. Which means the usage itself is not necessarily high, but it may appear that it is by the kW charges. Even when the lights are not being turned on the City still experiences high charges from the utility company. One of the concerns that Schneider Electric has identified is that AEP has the City under a 'Demand Ratchet' charge, which means it is a pass through charge that AEP passes to their clients for being able and ready to be provided with the highest load through out the year. So when the City hits a certain peak for that year that peak actually puts the City at a higher rate. AEP will continue to charge you at that higher rate whether your lights are 'on' or 'off'. As a client of AEP the City has the right to ask AEP to drop the "Ratchet", but they might not be that flexible in dropping the rate. Another solution is to request a time-of-use or alternative billing rate. This may require modifications in your meters, but will not be available until next year. She stated the City also has the alternative of routing power from the ball field to another local site that pays less for demand charges. They took a closer look for another site and the Municipal Auditorium was the closest site, but the auditorium might also be in the same demand charge as the ball field. There is also new lightning system that offers the City about 1/3 of savings, but the initial investment is quite high. It ranges from \$150,000 - \$200,000 and the City could save about \$10,000 per year for a 15-20 year simple payback. She doesn't recommend this lighting system.

Commissioner Leftwich asked whether this lighting system would qualify for available grant money.

Ms. Chavez stated no funding source has been found for this type of lighting system.

Ms. Chavez recommendation to the City is to explore opportunities to negotiate with AEP either as a City or through a representative. Explore opportunity to revamp system to reduce energy and to examine cost-benefit of handling through internal modification.

Commissioner Prepejchal stated looking at other providers besides AEP.

Mark Fisher replied the City has choices on retail providers but the line transformers have to be with AEP since they handle this territory.

Mayor suggested staff contact Frank Espinoza with AEP to start with rate negotiations.

MINUTES FOR APPROVAL – REGULAR MEETING OF FEBRUARY 16, 2011

Mayor Boswell pointed out Page 2, Line 44 and 45 to add more comments that were mentioned at the meeting that were not included on the minutes with regards to Sylvia, City Secretary (she will be missed, job well done, and also the standing ovation.)

Also on Page 11, Line 26 it should read 'in order to avoid' instead of 'due to.' Line 36 should be stricken from the minutes, both Mayor and Commissioner Trevino didn't return to the meeting.

Commissioner Prepejchal made a motion to approve the minutes with corrections. Commissioner Leftwich seconded the motion and it carried unanimously.

CONSENT AGENDA:

- A. APPROVED ORDINANCE ON FINAL READING TO GRANT A SPECIFIC USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN THE GENERAL RETAIL (GR)' ZONING DISTRICT, LOCATED AT 309 WEST VAN BUREN, BEARING A LEGAL DESCRIPTION OF LOT 8, BLOCK 67, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION.**
- B. APPROVED ORDINANCE OF FINAL READING TO GRANT A SPECIFIC USE PERMIT (SUP) TO ALLOW A SCHOOL IN A 'RESIDENTIAL, SINGLE FAMILY (R-1)' ZONING DISTRICT LOCATED ON THE NORTH SIDE OF RIO HONDO ROAD WEST OF 25TH STREET, BEARING A LEGAL DESCRIPTION OF A 34.058± ACRE TRACT OF LAND OUT OF BLOCK 95, HARLINGEN LAND AND WATER COMPANY SUBDIVISION.**
- C. APPROVED ORDINANCE ON FINAL READING TO REZONE FROM 'NOT DESIGNATED (N)' TO LIGHT INDUSTRY (LI)' ZONING DISTRICT AN APPROXIMATE 12.494-ACRE TRACT OF LAND BEING ALL OF LOTS 6, 7 AND 8, BLOCK 1, HARLINGEN INDUSTRIAL PARK SUBDIVISION NUMBER 4, LOCATED AT 5820 MILLENNIUM DRIVE.**
- D. APPROVED ORDINANCE ON FINAL READING TO REZONE FROM NOT DESIGNATED (N) TO RESIDENTIAL, TRIPLEX AND QUADRUPLEX (MI) ZONING DISTRICT AN APPROXIMATE 1.456 ACRE TRACT OF LAND OUT OF BLOCK 20, STUART PLACE SUBDIVISION, SURVEY 298, LOCATED AT 26358 BECKHAM ROAD.**
- E. APPROVED REQUEST BY THE DOWNTOWN IMPROVEMENT DISTRICT TO CLOSE JACKSON STREET FROM COMMERCE TO 4TH STREET AND CROSSROADS "A", 1ST, 2ND, AND 3RD STREETS FROM ALLEYWAY TO ALLEYWAY CROSSING JACKSON STREET, FOR THE 4TH ANNUAL JACKSON STREET CLASSIC CAR SHOW TO BE HELD ON SATURDAY, APRIL 9, 2011 FROM 7:00 A.M. TO 3:00 P.M.**
- F. APPROVED REFUND ON PROPERTY TAXES TO VALLEY BAPTIST MEDICAL FOUNDATION ACCOUNT #24-5649-0060-0010-00 AND ELEANOR TRIPP & TRIPP FAMILY TRUST ACCOUNT #21-3990-0020-0050-00.**

Commissioner Marra made a motion to approve the consent agenda. Commissioner Prepejchal seconded the motion and it carried unanimously.

PUBLIC HEARING HELD TO HEAR COMMENTS TO REZONE FROM OFFICE ("O") TO GENERAL RETAIL ("GR") ZONING DISTRICT IN A 1.966± ACRE TRACT OF LAND, BLOCK 179, SAN BENITO LAND AND WATER COMPANY SUBDIVISION, LOCATED AT 1705 VERMONT AVENUE.

Joel Olivo, Planning Manager, explained that the applicant is requesting to rezone the subject property from Office ("O") to general retail ("GR") zoning district to construct a 100 ft. radio communications tower. This tower will provide essential voice, data and backup communications to the new emergency medical services station which will be located at 702 N Loop 499, Harlingen, Texas. Surrounding properties are zoned "GR", "N" and "M2". Surrounding businesses include South Texas Emergency Care, The Affordable Self Storage and Home Health Care Services. The propose location of the 100 ft. radio communication tower will be located approximately 560 ft. to the nearest residential zoning district. The approximately 1.966-acre subject property has approximately 856.30 feet of frontage on Vermont Avenue. In 2006, 0.1377 acres of this land was granted to the City of Harlingen as Right of Way Deed. Most of the proposed GR rezoning is compatible with the current Future Land Use Designation; however a quarter (1/4) of the north portion of the current Future Land Use designation is Residential Low Density. The request is also consistent with the general retail zoning pattern to the east and south of the subject property. The Planning and Zoning Division has not received any objections from the surrounding property owners for the proposed request.

Staff recommends approval.

Mayor Boswell declared the public hearing open.

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

ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE REZONING.

The City Attorney read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: REZONING FROM "OFFICE (O)" ZONING DISTRICT TO "GENERAL RETAIL (GR)" ZONING DISTRICT A 1.966+ ACRE TRACT OF LAND, BLOCK 179 SAN BENITO LAND AND WATER COMPANY SUBDIVISION, LOCATED AT 1705 VERMONT AVENUE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ACCEPT BIDS FOR THE CONSTRUCTION OF THE DIXIELAND NORTH ROAD IMPROVEMENT PROJECT UNDER BID NO. 2011-06.

Dan Serna, Public Works Director stated that on March 1st bids for the City of Harlingen, Bid No. 2011-06, North Dixieland Road Extension were received by the City's purchasing department and out of six (6) bids submitted, the apparent low bidder for the Project was "McAllen Construction Inc." After review of the bid, and the Contractor's past project performance history, it is the recommendation of Brown, Leal & Associates Consulting Engineers to Cameron County that the project be awarded to McAllen Construction, Inc. in the amount of \$2,763,010.75.

Commissioner Marra made a motion to award the bid to McAllen Construction, Inc. in the amount of \$2,763,010.75. Commissioner Prepejchal seconded the motion and it carried unanimously.

ACCEPT BIDS FOR THE CONSTRUCTION OF THE JEFFERSON DRAINAGE DITCH IMPROVEMENTS UNDER BID NO. 2011-03.

Dan Serna, Public Works Director stated that in August of 2010 the City was awarded a \$2.3 million dollar grant from FEMA to construct improvements to the Jefferson Street Drainage Ditch. The grant will provide approximately 75% of the project construction cost. The City will receive an estimated \$1,725,000.00 from FEMA with the remaining \$575,000.00 being funded by the City. In January 2011 staff advertised a request for sealed bids for construction of the drainage ditch improvements. A total of 12 bids were received and opened on February 17, 2011. Three of the twelve bidders failed to submit complete bid packets. Staff reviewed the bids as submitted and noted that some of the bidders included the alternate bid as a total instead of submitting a separate cost.

On February 18, 2011 staff met with the contractor that submitted the lowest combined base and alternate bid and evaluated their proposal. The Contractor, Leal Construction is confident they can construct the improvements with the bid they have submitted.

Staff recommends that the City accept the Base Bid and Alternate Bid #1 submitted by Leal Construction for the final combined bid amount of \$1,919,575.00.

Commissioner Prepejchal made a motion to award the bid to Leal Construction in the amount of \$1,919,575.00. Commissioner Leftwich seconded the motion and it carried unanimously.

APPROVE ORDINANCE ON FIRST READING TO AMEND 2010-11 FISCAL YEAR BUDGET.

Roel Gutierrez, Finance Director stated this budget effect four funds which are the General Fund with \$25,907 from revenues that came in from the centennial book sales. The expenditures show an increase of \$40,000. On the EEC Block Grant there is a revenues carryover from last year of \$645,100. The TxDOT 25th St Trail Grant is a new fund which shows revenue and expenditure increases of \$2,624,049. On the Harlingen Community Improvement Fund is a \$700,000 carryover to equip the Articulation Center at TSTC. Mr. Gutierrez is asking the Commission to amend the budget to include \$173,000 from the Street Improvement Fund, \$100,000 from the Petition Paving Fund and \$27,000 from the Free Trade Bridge Fund to transfer into the Construction Account to extend the Dixieland North Road Project. He will bring the amended ordinance on second reading.

Roxann Cotroneo stated amending the ordinance language on first reading tonight.

ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE AMENDMENT.

The City Attorney read the caption of the ordinance.

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 INCREASE TO \$66,848,684 AND TOTAL BUDGET EXPENDITURES WILL INCREASE TO \$70,146,633 RESPECTIVELY; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Commissioner Leftwich made a motion to adopt ordinance on first reading with the amendments for the Dixieland North Road Extension. Commissioner Prepejchal seconded the motion and it carried unanimously.

BOARD APPOINTMENTS

Commissioner Ruiz appointed Arnold Robledo to the Senior Citizens Advisory Board.

Mayor Boswell re-appointed Manny Vela to the Airport Advisory Board. Appointed Brian Emory to the Veterans Advisory Board.

Commissioner Prepejchal made a motion to approve the appointments as presented. Commissioner Trevino seconded the motion and it carried unanimously.

Commissioner Marra 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 SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THE CITY'S WASTE DISPOSAL AGREEMENT WITH THE CITY OF EDINBURG, TEXAS.**

Commissioner Ruiz seconded the motion and it carried unanimously.

The Executive Session convened at 6:25 p.m. and concluded at 7:04 p.m. with no action taken in closed 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 551.071) CONSULTATION WITH CITY ATTORNEY REGARDING CITY OF HARLINGEN V. THEATRE COUNCIL PRODUCTIONS, LTD, CAUSE NO. 2008-4744-D**

Commissioner Marra seconded the motion and it carried unanimously.

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The Executive Session convened at 7:05 p.m. and concluded at 7:13 p.m. with no action taken in closed session.

There being no further business the meeting adjourned at 7:26 p.m.

Chris Boswell, Mayor

Attest:

Elena Garza, Assistant City Secretary