

## REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

APRIL 6, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, April 6, 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, Interim City Secretary

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

### PLEDGE OF ALLEGIANCE/INVOCATION

Commissioner Trevino delivered the Invocation and the Pledge of Allegiance followed.

### BOARD MEMBER RECOGNITIONS

Commissioner Ruiz presented a certificate of special recognition to Arnolando Robledo, incoming board member to the Senior Citizens Advisory Board and to Corina Penuelas, incoming board member to the Harlingen Proud Advisory Board.

### SPECIAL PRESENTATION TO GEORGINA MATZ OF FLAGS FLOWN OVER CITY HALL IN HONOR AND MEMORIAM OF FORMER CITY COMMISSIONER JAMES MATZ.

Mayor Boswell presented Georgina Matz with a flag of the State of Texas that was flown over City Hall, Harlingen Texas in honor and memory of former City Commissioner James Matz and in tribute to his many years of public service and leadership to our great City, County, State and Nation. He was a great leader in all of Cameron County and was always willing to help in keeping our City clean and beautiful.

### PROCLAMATIONS:

- a. Fair Housing Month
- b. Community Development Block Grant Week

Mayor Boswell read the "Fair Housing Month" proclamation and presented it to Cheryl Bailey with the Harlingen Community Development Corporation.

He also presented the "Community Development Block Grant Week" proclamation to the Community Development Advisory Board members Joe Cantu, Sonia Casas, Connie Salas and Tina Puente.

### CITIZEN COMMUNICATION

Ron Lozano, 2410 Riverside Drive stated that a department supervisor has discretions on how purchases are made in volume and scope. The EDC is trying to get loans for the next fiscal year. The Reese has received monies from the City despite assertions and they seek more.

George Dawi, 26871 Bass Blvd., spoke in reference to the parking lot located next to his property at 115 E. Harrison which is listed on the agenda for this evening. He would like for the Mayor to excuse himself from this item. Mr. Dawi stated he has an agreement with Harlingen National Bank (Texas State Bank) (Compass Bank) to use this parking lot for the past 22 years. He is excited that the City of Harlingen is making this public parking. He is not against the Reese building and he stated that this is one of the best things that has ever happened in Harlingen. But, his concern is Harlingen Waterworks owning all the properties around his business. The Waterworks should not be involved in the parking lot business; It should be a City parking for everyone to use.

Joe Rubio, 2309 Hacienda Road, spoke on behalf of a public information request that was submitted by Yolanda Schoffeitt. It seems that the Building Permit department was not aware that there is an MMA Airwing at the Airport. This department has no system setup where permits can be traced when no address is provided.

Richard de los Santos, 2625 Lotus spoke in reference to the Specific Use Permit located at 703 Ed Carey Drive. The owner is being granted the SUP, even though they are receiving two revenue sources on the same property. As a parking lot from the school next door and from the bar/lounge itself. The SUP shouldn't be granted for multiple uses for the same property. He doesn't understand how this was approved by the Planning Department and further stated that a bar doesn't have to maintain its own parking lot is not stated on the city ordinance.

#### **MINUTES FOR APPROVAL – REGULAR MEETING OF MARCH 16, 2011.**

Commissioner Leftwich made a motion to approve the minutes of the Regular meeting of March 16, 2011. Commissioner Prepejchal seconded the motion and it carried unanimously.

#### **CONSENT AGENDA:**

- A. APPROVED ORDINANCE ON FINAL READING TO REZONE FROM “NOT DESIGNATED (N)” ZONING DISTRICT TO “LIGHT INDUSTRY (L1)” ZONING DISTRICT FOR 24.74± ACRES OF LAND OUT OF BLOCK 54, PALMETAL SUBDIVISION, LOCATED ON FM 106 AND 54<sup>TH</sup> STREET.**
- B. APPROVED ORDINANCE OF FINAL READING ON A SPECIFIC USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN A “GENERAL RETAIL (GR)” ZONING LOCATED AT 6779 W. EXPRESSWAY 83, BEARING A LEGAL DESCRIPTION OF 3.597 ACRES OUT OF THE SOUTH 10 ACRES OF THE SOUTH ½ OF BLOCK 15, STUART PLACE SUBDIVISION SURVEY 138.**
- C. APPROVED RENEWAL OF CONTRACT BETWEEN THE CITY OF HARLINGEN AND HARLINGEN TEXAS BRONCO/PONY LEAGUE FOR THE USE OF DESIGNATED FIELDS AT VICTOR PARK FOR THE 2011 SEASON.**
- D. APPROVED RENEWAL OF CONTRACT BETWEEN THE CITY OF HARLINGEN AND GEARS RADIO CONTROLLED CAR CLUB FOR THE USE OF THE DESIGNATED AREA ON THE NORTH SIDE OF THE OIL MILL PAVILION AT LON C. HILL PARK.**
- E. APPROVED REQUEST FROM IGLESIA EL DIVINO REDENTOR TO CLOSE “G” STREET BETWEEN CURTIS AND THE ALLEY GOING TO FILMORE STREET ON SATURDAY, APRIL 30, 2011 FROM 8:00 A.M. TO 1:30 P.M. FOR A HEALTH FAIR SPONSORED BY VALLEY BAPTIST MEDICAL CENTER.**
- F. APPROVED REFUND OF PROPERTY TAXES TO FIRST NATIONAL BANK (JOSE GONZALES, JR.) ACCOUNT #19-8070-0030-0120-00.**

Commissioner Leftwich made a motion to approve the consent agenda with the exception of Item 6(C). Commissioner Prepejchal seconded the motion and it carried unanimously.

**APPROVED ORDINANCE ON FINAL READING TO RENEW THE SPECIFIC USE PERMIT (SUP) TO ALLOW A BAR/LOUNGE IN A “GENERAL RETAIL (GR)” ZONE, LOCATED AT 703 ED CAREY DRIVE, BEARING A LEGAL DESCRIPTION OF HARLINGEN-CLYDE WALLACE SUBDIVISION LOT 1, 1.0330 ACRES.**

Commissioner Leftwich made a motion to approve Item 6(C) on final reading. Commissioner Prepejchal seconded the motion.

Under discussion, Commissioner Leftwich asked for clarification from staff on the questions brought up during public comment.

Joel Olivo, Planning and Zoning Manager stated the parking at 703 Ed Carey Drive meets the requirements for a Specific Use Permit. The SUP is for the bar/lounge it is up to the property owner if he wants to lease the parking for a different use. It has been a practice of the City to allow this not only to this location, but other bar/lounge within the City. There are no conflicts with the parking requirements for that SUP use.

Richard de los Santos stated the property owner is receiving two revenues on one piece of property. The City is stating it's a specific use permit, but is this a bar/lounge or a parking lot? The City Code states certain school parking requirements and for bar/lounge there are completely different parking requirements. His question is, which parking requirements will be applied on this location? Liability is another issue. The school should be compelled to buy a property or have the property owner of this location subdivide. The school should buy their own parking and the bar should maintain their own parking.

Mr. Olivo stated that the owner of the location coordinated with the school for the use of the parking while the bar is not in operation. The hours of operation for the bar are 9:00 p.m. until 2:00 a.m.; at that point the school is closed so parking is not affected. He stated the “SUP” is for the bar and they meet the requirements per the ordinance as far as the parking.

Commissioner Trevino indicated staff get with the property owners and get written consent for the use of the parking lot. He sees no problem with approval of the “SUP.”

The motion carried unanimously.

**ACTION APPROVED TO ENDORSE THE ESTABLISHMENT OF AN EB-5 REGIONAL CENTER IN HARLINGEN.**

David Starr gave a PowerPoint presentation on the concepts of the EB-5 Regional Center. He stated this is a Federal Law under the Immigration Act, which is also governed by Homeland Security. It has been in existence for over 20 years, until recently citizens have not been informed of its financial mechanism. With the Governor's office approval, they would like to establish an EB-5 Regional Center within the City. VISA's are established in countries throughout the world. Individuals who want to apply for a temporary VISA to the United States are allowed to invest (at risk) in new retail or industry for the City. When those industries get created, jobs will get created and the individuals who invested will be able to get a permanent VISA in the United States. This VISA's give the City the flexibility to develop a hotel to come to the City and they don't have CDBG funds to provide infrastructure support. The EB-5 Regional Center will allow the City to raise the money for the hotel and then make that loan to the Developer as an inducement for them to build in the City of Harlingen. This is an additional source of money that the City can leverage for them to compete with other municipalities and bring businesses to the City. This program takes around nine months to get the Regional Loan Center approved by the Government. An application has to be completed through Immigration and then Homeland Security. The money that the foreign investors invest has to be approved by Homeland Security just to make sure that

the money being supplied is not illegal funds or tied to any terrorism act. That money stays in escrow until the capital for the specific project is raised. Then the City can close escrow and use those funds to support the project being developed. This is a tool that the City will have, to bring industry into the community and build up the City's tax base.

Mr. Starr stated an economic study has to be conducted by an Economist and the study has to be approved by Washington. He stated for every half a million dollars raised by the City they will create a total of ten permanent full time jobs.

Mayor pointed out this would be another economic development tool that would be available to the City.

Commissioner Trevino questioned when does the City step up and help.

Mr. Starr replied the City doesn't have to do anything, the City just benefits from this program. It would be good for the City to be involved because it helps them market themselves by having a Regional Loan Center in Harlingen. He stated in order to establish this program you would have to license; you need to have a project and the project has to create the job. The City can't use the money until it has been approved by Homeland Security.

Mayor Boswell indicated all the Commission has to accomplish tonight is endorsing the development of the EB-5 Regional Loan Center in Harlingen. It is his understanding the City is not obligated to pay any money or even raise any property taxes. Once, the center has obtained the certification and license to operate, then investors who come into the City's Economic Development Corporation and ask for assistance can be referred to the Loan Center. Mr. Starr replied that is correct.

Commissioner Leftwich made a motion to endorse the establishment of an EB-5 Regional Center. Commissioner Prepejchal seconded the motion and it carried unanimously.

**APPROVED RESOLUTION ACCEPTING VALLEY INTERNATIONAL AIRPORT'S AMENDED MID-YEAR BUDGET FOR FISCAL YEAR 2010-2011.**

Michael Browning, Director of Aviation reported on the amended mid-year budget for Fiscal Year 2010-2011 showing operating revenues expecting to exceed the original budget by \$176,000 for a total of \$6,627,900 operating expenses are anticipated to increase by \$138,000 for a total of \$5,774,501 for a total of \$5,774,501 with the net income expecting to be \$852,399 an increase of \$38,000 with the capital expenses and capital improvements budget increasing by \$130,000 to \$2,323,000 due to an additional \$95,000 for the installation of four jet bridge air conditioning units and \$20,000 for replacing the 20-year old carpet on the third floor of the terminal.

Commissioner Leftwich made a motion to approve the resolution accepting the Airport's amended mid-year budget. Commissioner Trevino seconded the motion and it carried unanimously.

**PUBLIC HEARING HELD TO HEAR COMMENTS TO APPEAL THE DECISION OF THE PLANNING AND ZONING ("P&Z") COMMISSION FOR A SPECIFIC USE PERMIT ("SUP") TO ALLOW A RETAIL STORE (DRIVE-THROUGH CONVENIENCE STORE) IN THE NEIGHBORHOOD SERVICES ("NS") ZONING DISTRICT, LOCATED AT 1321 WEST FILMORE STREET, BEARING A LEGAL DESCRIPTION OF LOT 2, BLOCK 8, SOUTHWEST HARLINGEN SUBDIVISION.**

Joel Olivo, Planning and Zoning Manager stated the owner wishes to operate a Drive-through Convenience Store that will offer a full line of groceries. The property is located at the southeast corner of West Filmore Street and South M Street (1321) West Filmore Street), which is currently vacant. The surrounding land uses include vacant to the north and south, single-family residential to the east, and the Harlingen Multi-Service Center and Housing Authority to the west.

The Code of Ordinances states no person or other entity shall sell any alcoholic beverage or operate a business for the sale of any alcoholic beverage within 300 feet of any church, public school, or public hospital. There are no public schools or hospitals within 300 feet of the subject property. The nearest church is located at 1314 West Filmore Street, approximately 333 feet from the front door of the church to the drive-through exit, and 414 feet to the drive-through entrance.

Mr. Olivo stated that staff recommended approval of the request; however the Planning and Zoning Board denied the request by a 5 to 1 vote.

On March 7, 2011, the Planning and Zoning Department received a signed petition from ten (10) residents from the surrounding properties. Of the ten signatures, eight (8) are property owners per the Cameron Appraisal District Office, and seven (7) are within the 200-foot radius (17.89 percent). In addition, one of the petitioners contacted the Planning and Zoning Department to express their concerns. Per the property owner, the major concern was in regards to the traffic on "M" Street.

The SUP complies with applicable zoning standards; staff recommends approval with conditions of the request, with the following condition:

- Prior to final inspection, two (2) convex traffic safety mirrors shall be placed on each side of the exit point of drive-through lane to avoid traffic collisions when vehicles exit the building.

Commissioner Leftwich stated the property is zoned appropriately and meets all parking requirements.

Mayor Boswell declared the public hearing open.

Ruben de la Rosa, 713 South "M" Street spoke against the specific use permit. He has lived at this address since the 1960's. There is heavy traffic and numerous pedestrians from the housing projects adjacent to the subject property. There was a three-vehicle accident on March 15<sup>th</sup> at this location. There were numerous children that were even involved in bike accidents, but not to the extend of fatalities. He is not against new businesses, but this type of business belongs in the commercial zone.

Commissioner Ruiz addressed Mr. de la Rosa and stated it seems his concern is about safety in the subject area. How can the City address your concern and still grant the SUP?

Mr. de la Rosa stated his concern is that the subject area is small and all the traffic will be diverted to his and his neighbors parking area and block their driveways.

Minerva Hernandez and Rick Chapa, owners of the subject property stated their request was denied by the Planning & Zoning Board on March 9, 2011. A resident stated there had been several accidents at that intersection. After checking with the Police Department, she stated there had only been four accidents within a one (1) year period. They have met all the city and ordinance requirements for a drive-through convenience store. They are only asking the Commission to allow them to serve the citizens of Harlingen by giving them the convenience of having a full-service drive-through.

Yolanda Schoffeitt, 1284 South Altas Palmas Road stated she had gone out to the subject property and it is a very small lot. The residents in the area have spoken and they don't want the business at that location. There are only two (2) parking spaces and it is a congested area and they have an H.E.B. close to the area. The residents don't want it and she is also very much against the business location.

Gail Moore, 709 Town Lane Drive stated that four accidents in one year at the same location is high.

Jerry Moore, 709 Town Lane Drive spoke against the drive-through facility. He stated the subject area is small and he would definitely oppose it if he a neighbor.

Connie Salas, 613 South "M" Street stated she lives three (3) houses away from the subject property. She stated that is a small area and the neighborhood doesn't need that type of business in that small area. She is against the drive-through store.

Tina Puente stated she was born in that area and approving the convenience store at that location is not the right procedure to follow. There are quite a few children and heavy traffic in that area. She is against the drive-through store.

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

Commissioner Prepejchal made a motion to deny the appeal for the specific use permit. Commissioner Ruiz seconded the motion and it carried unanimously.

**APPROVED RESOLUTION AUTHORIZING THE MAYOR TO APPROVE THE SUBMITTAL OF A TWO (2) YEAR GRANT TO THE OFFICE OF THE STATE OF TEXAS ATTORNEY GENERAL FOR THE CONTINUATION OF REIMBURSEMENT FUNDS TO THE CITY OF HARLINGEN POLICE DEPARTMENT REGARDING THE CRIME VICTIM LIAISON POSITION.**

Mike Kester, Interim Chief of Police stated that the Victim's Coordinator and Liaison Grant is for a two-year period effective September 1, 2011 and ends August 31, 2013. As part of the special conditions, a resolution must be signed providing that the City of Harlingen will abide by all grant requirements stipulated under the grant conditions. The signing of the resolution will allow the Harlingen Police Department to request 100% reimbursement of wages, fringe benefits, office supplies, training and other direct operating expenses approved for the Crime Victim Liaison. If the grant is approved, this will be the ninth continuous year that the City of Harlingen has received 100% funding reimbursement from the Attorney General. The Crime Victim Liaison assists the Police Department's Criminal Investigators in identifying and assisting crime victims through the Crime Victims Compensation Act as required by state law.

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

**ACCEPTED BID FOR THE SALE OF THE CITY OWNED BUILDING LOCATED AT 210 S. "F" STREET.**

Dan Serna, Public Works Director stated that on March 2011 staff advertised for sealed bids for the sale of the City owned building located at 210 S. "F" Street bearing a legal description of Lockhart Subdivision, Lot 3, Block 2, Cameron County, Texas. On March 22, 2011 staff received and opened one (1) sealed bid totaling \$75,500.50 for the property. The property was appraised for \$108,000.00 by an independent appraiser in February 2011.

Staff recommends that the City accept the sole bid submitted by Jaime M. Cantu (CanMar Properties) in the amount of \$75,500.50 with the stipulation that the City is allowed 90 days to vacate the premises after closing and that the buyer is responsible for all closing costs associated with the transaction.

Commissioner Leftwich made a motion to accept the bid submitted by Jaime M. Cantu for \$75,500.50. Commissioner Prepejchal seconded the motion and it carried unanimously.

**RESOLUTION APPROVED SUPPORTING A VALLEY METRO JOB ACCESS AND REVERSE COMMUTE (JARC) PROJECT.**

Gabriel Gonzalez, Assistant City Manager stated the Lower Rio Grande Valley Development Council is requesting the City's endorsement of their application to secure federal funding for expansion of the Valley Metro Bus Route. The current route in Hidalgo County ends at Mercedes and the LRGVDC would like to extend the route into

Harlingen. The LRGVDC will bear the cost and will not require any matching funds from the City.

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

**DISCUSSION ON THE PROGRESS OF THE 2011 GREAT TEXAS WARRANT ROUND UP AND THE CITY OF HARLINGEN'S PARTICIPATION IN THE PROGRAM TABLED.**

Commissioner Leftwich made a motion to table item. Commissioner Marra seconded the motion and it carried unanimously.

**ACTION APPROVED TO JOIN CAMERON COUNTY IN A LAWSUIT AGAINST THE U.S. CENSUS BUREAU TO CONTEST THE CENSUS FIGURES IN CAMERON COUNTY.**

Carlos Yerena, City Manager stated a request was received by the County Judge to join their lawsuit with regards to challenging the census numbers. The cost of taking this action would be approximately \$90,000 and the recommended proposal is to split this cost amongst the participating cities in Cameron County on a pro-rata basis based on each cities population. The City of Harlingen's portion would be \$14,400. This challenge is being handled by the City's re-districting consultant, Rolando Rios. He stated staff believes the City of Harlingen is under counted on the census.

Commissioner Leftwich made a motion to take action to join the Cameron County lawsuit against the U.S. Census Bureau. Commissioner Marra seconded the motion and it carried unanimously.

**BOARD APPOINTMENTS**

Mayor Boswell appointed Juan Salas to the Senior Citizens Advisory Board and Dr. Ruben Torres to the Airport Advisory Board.

Commissioner Trevino appointed Emilio Torres to the Community Development Block Grant Advisory Board.

Commissioner Leftwich made a motion to approve the board 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 551.087 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 ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.**

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 552.072 and 551.071) TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY LOCATED AT:**

- A. LOT 12, 13, AND 14, BLOCK 69, .25 ACRES, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS;**
- B. LOTS 15-18, BLOCK 69, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS;**
- C. LOTS 19-24, BLOCK 70, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS; AND**

**D. LOTS 17-19, BLOCK 59, ORIGINAL TOWNSITE OF HARLINGEN,  
CAMERON COUNTY, TEXAS.**

**DISCUSSION IN EXECUTIVE SESSION IS NECESSARY 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.**

Commissioner Ruiz seconded the motion and it carried unanimously.

At this time Commissioner Trevino excused himself from the meeting in order to avoid 'an appearance of impropriety' and signed an affidavit, which was presented to the Interim City Secretary.

The Executive Session convened at 6:42 p.m. and concluded at 6:58 p.m. with no action taken in closed session.

**ACTION TAKEN ON WHETHER OR NOT TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE THE PURCHASE OR LEASE OF REAL PROPERTY LOCATED AT LOTS 12, 13, AND 14, BLOCK 69, .25 ACRES, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS OWNED BY CITY OF HARLINGEN WATERWORKS. PURCHASE PRICE OR LEASE AGREEMENT TERMS MUST BE APPROVED BY THE HARLINGEN CITY COMMISSION AT A SUBSEQUENT MEETING.**

Mayor Boswell explained the items to all stockholders that were present and to make comments on what is feasible to everyone involved.

Roxann Cotroneo, City Attorney informed the public the items being discussed are Lots 12, 13, and 14, which are currently owned by Harlingen Waterworks.

Darrell Gunn, Harlingen Waterworks General Manager stated the Utility Board of Trustees met at a special meeting last Friday and adopted a resolution with a proposal on alternatives. On the day of the meeting the City Commission agenda had already been posted, so there was no formal packet that was submitted to the Commission for review. Years back as per City Codes their building was required to have 96 parking spaces. Then in 2007, Lot 5 was requested by the City in exchange for the development of Centennial Park, which was executed and accomplished. Since, the exchange the Harlingen Waterworks has not been in compliance with parking code requirements from the original development. Through discussions the Board of Trustees came up with a concept in order to meet those requirements. He pointed out two (2) of the Lots that total to 97 parking spaces. It was with that the Utility Board of Trustees approved a resolution contingent upon the exchange of Lots 12, 13, and 14 and that the Harlingen Waterworks would reimburse the City for the other three lots at the purchase price.

Roxann Cotroneo, City Attorney stated the Harlingen Waterworks building is now located within the Downtown Improvement District, so they don't have to meet any parking requirements.

Commissioner Leftwich stated his concern is that the Commission has been told to consider a rate increase due to the Waterworks Department running in the red. If the Waterworks Department has money to purchase parking lots, then they should have money to install appropriate water lines in some of the neighborhoods. He doesn't understand where this additional revenue, that is going to be spent in parking lots, is coming from. The citizens of Harlingen are the ones that are going to suffer if rates increase.

Mr. Gunn stated that was one of the action items at last Friday's meeting to amend the capital improvements budget.

Kevin Campbell, Chairman of the Utility Board of Trustees stated their obligation on the 3,800 sq. ft. building was to protect the asset of the building. He stated buying the

parking lot next to the Harlingen Waterworks building will enhance the value of the building.

Commissioner Leftwich stated it is not next to the building and there is a stipulation that the parking lot remained public parking.

Mr. Campbell stated the lots touch and they are next to the Waterworks building. The Board of Trustees is trying to protect the asset and market ability for the future. There is an exchange and the City will receive some of the money back and it will remain public parking. With an unanimous vote from their board it was agreed to enter into negotiations with the City and offer to purchase and exchange those lots.

Commissioner Ruiz stated if there was a possibility that there would be an increase in water rates.

Mr. Gunn replied the water rates are set by the City Commission. The Capital Improvement budget adopted in 2008 is comprised of 49 million of capital needs. The purchase amount of \$135,000 is not a significant impact to the capital improvement needs of the water system.

Roxann Cotroneo, City Attorney wanted to clarify that the City of Harlingen Charter states that the City of Harlingen Waterworks and Sanitary System shall take title to any property it acquires as a department; They are agents to the City. So both the City Commission and the Utility Board should operate in the best interest of the City. But, the Harlingen City Commission prevails on what should be done with the property.

Mayor Boswell informed the Commission to maybe establish a resolution where there is a clean-up on Lot 2 and Lot 3 and then turn into public parking. The City is not contemplating in purchasing Lots 12, 13 and 14.

Item #22 is the item that was approved last week and that would be to swap Lot 12, 13, and 14 for Lots 22, 23, and 24 and then purchase Lot 19, 20, and 21. On Item #23 the City will agree to sell those lots.

Commissioner Leftwich commented there are 21,000 waterworks accounts and all of these accounts got a letter informing them that based on the latest winter average assessments 55% of the accounts are going to see an increase in their water rates. He stated this is poor judgment of the Waterworks Board to even think of spending money when they are raising rates.

Mayor Boswell asked the Commission on their consensus on swapping Lot 12, 13, and 14 for Lots 22, 23, and 24.

Commissioner Ruiz advocated approving what the Utility Board of Trustees unanimously approved.

Commissioner Prepejchal made a motion to not authorize City Manager to purchase Lots 12, 13, and 14. Commissioner Leftwich seconded the motion and it carried unanimously.

**TAKE ACTION ON WHETHER OR NOT TO AUTHORIZE THE CITY MANAGER TO EXCHANGE REAL PROPERTY LOCATED AT LOTS 19-24, BLOCK 70, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS OWNED BY THE CITY OF HARLINGEN FOR LOTS 12, 13, AND 14, BLOCK 69, .25 ACRES, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS OWNED BY CITY OF HARLINGEN WATERWORKS CONDITIONED UPON APPROVAL BY THE ECONOMIC DEVELOPMENT CORPORATION AND THE HARLINGEN WATERWORKS.**

Commissioner Ruiz made a motion to exchange property located at Lots 19-24, Block 70, Original Townsite.

Mayor Boswell stated the motion is for swap and then to sell.

Motion failed for lack of a second.

Commissioner Leftwich made an amended motion to exchange and not sell Lots 12, 13, and 14, Block 69 with Lots 22, 23, and 24 Block 70 and not purchase Lots 19, 20, and 21.

Roxann Cotroneo, City Attorney indicated that the Economic Development Corporation provided funding for the purchase of parking lot No. 4 conditioned that it remained public parking. If the Commission decides to swap this property it will be on condition that the property is returned back to the EDC for approval.

Commissioner Leftwich stated the taxpayers of Harlingen own the Waterworks lot. We need to focus on who is going to improve those lots. The Waterworks can go and clean up there own lots and still continue to provide the six reserve parking spots for their tenants and maintain the same parking the City is going to provide with Lot 2.

Commissioner Marra stated that months ago the City was going to purchase Lot 3 from the HWWS after they conducted an appraisal. What happened?

Mayor Boswell replied staff recommendation was not to purchase Lot 3 because there would be extra cost to improve the lot.

Carlos Yerena, City Manager stated the developer had agreed to accept less then the 50 covered spaces, which are indicated in Lot 1.

Kevin Campbell stated the HWWS Board went out to get an appraisal so they could enhance the value of the building. But, they were later informed that the purchasing of the property was no longer an offer. So that is why the HWWS Board is here tonight.

Commissioner Leftwich again reinstated his motion to exchange and not sell Lots 12, 13, and 14, Block 69 with Lots 22, 23, and 24 Block 70 and not purchase Lots 19, 20, and 21. Commissioner Prepejchal seconded the motion.

Mayor Boswell asked Commissioner Ruiz if this motioned is defeated would he tender/reinstate his original motion?

Under discussion, Roxann Cotroneo, City Attorney stated contingent with Economic Development Corporation approval to remain public parking. If it approved tonight, it will not be final until it is approved by EDC.

Jo Wagner, 3010 Pinehurst stated the Reese Development, LLC came before the City Commission in 2009 and asked if the City would provide parking adjacent to the Reese building along with covered parking to go along with the 40-year lease condos. It was agreed at the time. She has heard that Harlingen Waterworks is trying to work this out with a win, win situation for everyone. She asked the Commission to please make this action work.

Voting on the motion was as follows:

Aye: Leftwich, Prepejchal

Nay: Ruiz, Marra

Mayor broke the tie motion by voting Nay.

Motioned failed

The motion carried 3 to 2.

Commissioner Ruiz made a motion to authorize the City Manager to exchange property located at Lots 19, 20, and 21 for Lots 12, 13, and 14 and improve these lots. Commissioner Marra seconded the motion.

Voting on the motion was as follows:

Aye: Ruiz, Marra  
Nay: Leftwich, Prepejchal

Mayor Boswell broke the tie and voted Aye.

The motion carried 3 to 2.

**ACTION TAKEN ON WHETHER OR NOT TO AUTHORIZE THE CITY MANAGER TO EXCHANGE REAL PROPERTY LOCATED AT LOTS 17 - 19, BLOCK 59, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS OWNED BY THE CITY OF HARLINGEN WATERWORKS CONDITIONED UPON APPROVAL BY THE HARLINGEN WATERWORKS.**

Commissioner Ruiz made a motion not to authorize the City Manager to exchange real property located at Lots 17-19, Block 59, Original Townsite of Harlingen. Commissioner Marra seconded the motion and it carried unanimously.

**ACTION TAKEN ON WHETHER OR NOT TO LEASE LOTS 17 - 19, BLOCK 59, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS FOR PURPOSES OF A PRIVATE PARKING LOT TO REESE PLAZA DEVELOPMENT LLC FOR A CERTAIN PERIOD OF TIME.**

Roxann Cotroneo, City Attorney presented three (3) legal options for drafting a 380 agreement.

Option No.1

The City is only authorized to sell municipal property by auction or bid.

Option No. 2

Offer a lease on the property, but State Law provides close perimeters on what a lease means. They don't allow Cities to offer a 40-year lease. The maximum amount of time a City may lease property would be ten (10) years with a ten (10) year option to lease.

Option No. 3

Under State Law municipalities may establish Chapter 380 Agreements that include loans and grants and also provide personal and services to provide local economic development.

Commissioner Leftwich made a motion to table item to have City Attorney draft a 380 agreement. Commissioner Prepejchal seconded the motion and it carried unanimously.

At this time Commissioner Ruiz excused himself from the meeting in order to avoid 'an appearance of impropriety' and signed an affidavit, which was presented to the Interim City Secretary.

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 CONSULT WITH THE CITY ATTORNEY REGARDING: CHARLES E. LEE V. CITY OF HARLINGEN, CAUSE NO. B-10-CV-233.** Commissioner Marra seconded the motion and it carried unanimously.

The Executive Session convened at 8:35 p.m. and concluded at 8:40 p.m. with no action taken in closed session.

**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 T TO SEEK ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.**

Commissioner Trevino made a motion to table this item. Commissioner Leftwich 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 TROPICAL AND TO SEEK ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.**

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

There being no further business the meeting adjourned at 8:55 p.m.

---

Chris Boswell, Mayor

Attest:

---

Elena Garza, Interim City Secretary