

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

MAY 4, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, May 4, 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 Ruiz delivered the Invocation and the Pledge of Allegiance followed.

BOARD MEMBER RECOGNITIONS

None.

PROCLAMATIONS:

Mayor Boswell presented the following proclamations:
Motorcycle Safety & Awareness Month – presented to Robert Keen and group.
Dallas Cowboy Weekend – presented to Norwood Fedie, Rene Capistran and Joaquin Arch

CITIZEN COMMUNICATION

Mike Daily, 614 S. 16th Street, addressed the Commission with regards to the non-existing dog park. He acquired the facility use agreement on the Soccer Complex through the Freedom of Information Act. He stated the Soccer Complex is a 50 – 60 acre park and dog owners are not allowed to take their pets to that park. There is a fenced two-acre piece of land that is not being utilized and he noticed that dog owners were using the area. Then days later he noticed that the Parks Department had posted signs that “No Dogs” were allowed. He doesn’t understand why dogs are not allowed to roam if the field is not being used.

**MINUTES FOR APPROVAL – SPECIAL MEETING OF APRIL 14, 2011;
REGULAR MEETING OF APRIL 20, 2011.**

Commissioner Leftwich made a motion to approve all the minutes as presented. Commissioner Trevino seconded the motion and it carried unanimously.

CONSENT AGENDA:

- A. APPROVED ORDINANCE ON FIRST READING TO GRANT A SPECIFIC USE PERMIT TO ALLOW A BAR/LOUNGE IN A “GENERAL RETAIL (GR)” ZONING DISTRICT LOCATED AT 115 E. HARRISON AVENUE, BEARING A LEGAL DESCRIPTION OF LOTS 17 AND 18, BLOCK 70, HARLINGEN ORIGINAL TOWNSITE.**
- B. APPROVED ORDINANCE ON FIRST READING TO APPROVE A REZONING FROM “RESIDENTIAL, DUPLEX (R-2)” ZONE TO “RESIDENTIAL, TRIPLEX AND QUADRUPLEX (M-1)” FOR LOTS 1-4, J&S SUBDIVISION, LOCATED ALONG THE WEST SIDE OF BECKHAM ROAD NORTH OF DRURY LANE.**
- C. APPROVED THE RENEWAL OF A CONTRACT BETWEEN THE CITY OF HARLINGEN AND ARROYO YOUTH SOCCER CLUB FOR THE USE OF DESIGNATED FIELDS AT THE HARLINGEN SOCCER COMPLEX.**
- D. APPROVED THE RENEWAL OF A CONTRACT BETWEEN THE CITY OF HARLINGEN AND HARLINGEN DYNAMO JR. AND RIO VALLEY YOUTH SOCCER ASSOCIATION-SCORPIONS FOR THE USE OF DESIGNATED FIELDS AT THE HARLINGEN SOCCER COMPLEX.**
- E. APPROVED REFUND OF PROPERTY TAXES FOR THE FOLLOWING ACCOUNTS:**
 - a. Stoneleigh Harlingen Apts., and Fidelity National Title
Account #18-4040-0770-0040-00**

Commissioner Leftwich made a motion to approve the consent agenda. Commissioner Trevino seconded the motion and it carried unanimously.

ACTION TAKEN TO AUTHORIZE THE CITY ENGINEER TO NEGOTIATE A CONTRACT WITH THE AMBIOTEC CIVIL ENGINEERING FOR SURVEYING SERVICES FOR A TWO YEAR PERIOD.

Tammy DeGannes, Community Development Director stated a notice of Request for Qualifications was published on April 2nd and April 9th. The notice was also posted on the front page of the City’s web site and on the Community Development Departments web page. Six (6) firms picked up the information packet however, only two (2) firms responded. The evaluation committee consisted of Dan Serna, Javier Zamora, Tammy DeGannes and Ken Clark.

Staff is recommending the Commission authorize the City Engineer to negotiate with Ambiotec Civil Engineering for the Buchanan, Hays, and “M” Street Drainage Project. Staff will also follow the City’s purchasing policy.

Commissioner Trevino stated the agenda item reads to award a two-year contract to Ambiotec.

Ms DeGannes stated the agenda item is incorrect; the executive summary has the correct wording.

Commissioner Trevino made a motion to table this item until such time the wording on the agenda is corrected.

Carlos Yerena, City Manager recommended having the Commission reject all bids and have staff follow the City’s purchasing policy and come back with new bids.

Commissioner Prepejchal made a motion to reject all bids and follow the City’s purchasing policy.

At this time Commissioner Trevino rescind his motion to table item.

Commissioner Leftwich seconded the amended motion to reject all bids and it carried unanimously.

ACTION APPROVED TO RATIFY THE CHANGE ORDER APPROVED BY THE DEVELOPMENT CORPORATION OF HARLINGEN, INC. TO THE CONTRACT WITH MF SITE CONSTRUCTION, INC. FOR PERMANENT SITE IMPROVEMENTS AT THE BASS PRO OUTDOOR WORLD SITE.

Bill Martin, Economic Development Executive Director stated due to a miscalculation by the Engineering firm, the contract with MF Site Construction, Inc. did not include sufficient materials, labor and other costs to complete the construction of the 1,000 space parking lot at the Bass Pro Outdoor World Site. A change order is needed to complete the work.

Commissioner Prepejchal made a motion to approve the change order that was approved by the Development Corporation of Harlingen for \$1,018,804.25. Commissioner Marra seconded the motion.

Under discussion, Commissioner Leftwich stated how is this change order that is being modified going to accommodate the \$1.1 million of additional cost to the Bass Pro parking lot and affect the completion schedule?

Bill Martin, EDC Executive Director stated even if the change order is modified the completion deadline of August 24 will still be met as stated on the lease.

Commissioner Leftwich questioned if the change order included the contractor's overtime.

Mr. Martin stated the change order includes \$76,000 of additional labor and fuel cost. The EDC has asked the Bass Pro Shop if the EDC completes the two entry roads; the paving around the building; the roughly 156 parking spaces and loading docks by August 24; would they be willing to extend the completion of the entire parking lot until September 24. If Bass Pro approves the extension, then the Contractor will remove the \$76,000 in labor cost.

Commissioner Leftwich asked if the EDC had approached Bass Pro with the September 24, extension.

Mr. Martin replied, 'yes' but, the EDC has not received a response.

Commissioner Leftwich stated if the EDC doesn't get relief on the completion date, who is going to compensate the Economic Development Corporation for the extra expense.

Mr. Martin answered the EDC Board voted to amend the contract for the full amount of \$1,019,000 which includes the additional labor and cost.

Commissioner Ruiz suggested the Executive Director give a brief synopsis to the audience on the change order.

Bill Martin, Executive Director explained there was a miscalculation in the full quantity of materials needed to complete the parking lot.

Commissioner Ruiz then asked who had committed the miscalculation.

Mr. Martin replied the engineers on the project who are Brown, Leal and Associates.

Carlos Yerena, City Manager stated the intention presented tonight is to approve the change order with the premium amount of \$1,018,804.25.

The motion carried unanimously.

APPROVED THE FINAL PLAT AND LETTER FROM HARLINGEN CISD IN LIEU OF THE LETTER OF CREDIT FOR THE PROPOSED HCISD MIDDLE SCHOOL NO. 5 SUBDIVISION CONSISTING OF 2 LOTS ON 59.997+ ACRES,

OUT OF BLOCK 94 AND 95, GENERALLY LOCATED ON THE NORTH SIDE OF RIO HONDO ROAD WEST OF 25TH STREET.

Joel Olivo, Planning and Zoning Manager stated the proposed subdivision consists of two lots which will be used by the Harlingen CISD. One of the lots is for a proposed middle school. The proposed subdivision is zoned “residential, single family (R-1)”. The applicant has obtained a Specific Use Permit (“SUP”) which allows for a school. The proposed subdivision plat development conforms with the current zoning.

Staff recommends approval.

Commissioner Leftwich made a motion to approve the final plat and letter from Harlingen CISD. Commissioner Trevino seconded the motion and it carried unanimously.

APPROVED AGREEMENT TO LEASE 209 W. JACKSON FOR THE HARLINGEN DOWNTOWN OFFICE.

Cheryl LaBerge, Downtown Manager stated the new owner of 209 W. Jackson, where the downtown office was located from 2000-2008, is willing to lease the downstairs office suite for \$500/month plus utilities. The Downtown Board approved the lease at a Special meeting held on April 18, 2011.

Commissioner Leftwich made a motion to approve the lease agreement contingent upon the repairs on the existing building. Commissioner Prepejchal seconded the motion and it carried unanimously.

APPROVED AUTHORIZATION OF STAFF TO WORK JOINTLY WITH THE HARLINGEN CONSOLIDATED INDEPENDENT SCHOOL DISTRICT (HCISD) TO CONSTRUCT A NEW SIDEWALK ALONG DIXIELAND ROAD FROM GARRETT ROAD SOUTH TO THE NEW SOFTBALL FIELDS.

Javier Zamora, City Engineer stated the Harlingen CISD has approached the City about the need to construct a new sidewalk along Dixieland Road from Garrett Road south to their new softball fields. The HCISD has agreed to pay for all material cost for the project if the City would provide the in-house labor to construct the ADA compliant sidewalk. The project will take approximately two weeks to complete using city crews.

Roxann P. Cotroneo, City Attorney wanted noted there was no written agreement attached to the agreement between the two entities. The City has no means of enforcing the school to pay the \$25,000 on the building materials.

Carlos Yerena, City Manager pointed out the school will be purchasing the material and the City is not getting reimbursed.

Dan Serna, Public Works Director stated the City is only providing the labor. The school is purchasing the materials and the City will not move forward with construction until the materials have been purchased.

Commissioner Trevino made a motion to authorize staff to work jointly with the Harlingen CISD contingent upon the purchase of the materials. Commissioner Leftwich seconded the motion and it carried unanimously.

At this time, Mayor Boswell excused himself from the meeting and filed proper documents from abstention with the Interim City Secretary.

Mayor Pro Tem Trevino presided over the next item.

DISCUSSION ONLY ON THE INTERLOCAL AGREEMENT BETWEEN THE LOWER RIO GRANDE VALLEY DEVELOPMENT COUNCIL AND THE CITY OF HARLINGEN FOR CONSTRUCTION AND ONGOING MAINTENANCE OF

**A PUBLIC TRANSIT VEHICLE STORAGE FACILITY FUNDED BY
AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS.**

Gabriel Gonzalez, Assistant City Manager stated as the City of Harlingen's Metropolitan Planning Organization has been allocated \$500,000 for the construction of a vehicle storage facility funded by American Recovery and Investment Act (ARRA) funds. The funds cannot be used to purchase land so the City would need to either purchase land for the project or allow the long term use of existing property for the construction of the facility. The "bus barn" would be used solely for the storage and maintenance of the busses being utilized for the Harlignen Express bus system including busses being used for the San Benito route and the Primera, Combes, and La Feria routes. The property being considered is the property located behind the Fire Station on Glasscock Road. Staff is seeking direction from the Commission regarding the match required for this grant.

Roxann P. Cotroneo, City Attorney informed the Commission that Tom Logan with the LRGVDC was in the audience to answer any questions.

Commissioner Leftwich asked if the LRGVD Council has scouted any other properties for this storage facility.

Mr. Logan replied no, they have been focused on this property.

Ms. Cotroneo explained there is a \$500,000 grant allocated to build this storage facility and if the City can't decide whether to built or not, the City will lose the grant money.

Carlos Yerena suggested the item be placed at the next City Commission meeting.

Ms. Cotroneo agreed to draft a Memorandum of Understanding (MOU) between the City and the Lower Rio Grande Valley Development Council for the next meeting scheduled for May 18, 2011.

Mayor Boswell returned back to the meeting.

**APPROVED TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AN
AGREEMENT FOR SERVICES WITH THE HIGHEST RANKED FIRM FOR
CONSULTING/LOBBYING SERVICES.**

Gabriel Gonzalez, Assistant City Manager stated the City advertised for Request for Qualifications for professional federal, consulting/lobbying services which were due on Friday, April 22, 2011. Two firms submitted qualifications. Locke Lord Strategies LP; and Tuggey Rosenthal Pauerstein Sandoloski Agather, LLP. The RFQ's were ranked by staff and staff recommends the firm of Tuggey Rosenthal.

Commissioner Trevino questioned whether there was funding allocated for this lobbyist services.

Carlos Yerena, City Manager replied there are Economic Development Corporation funds available.

Commissioner Trevino asked if there are special projects that these lobbyists are going to work on once they come aboard.

Mr. Gonzalez stated there is the Legislative agenda which lists all the priorities within the City.

Commissioner Trevino stated the City pays a lot of money for lobbyist services, so he would like to see more specific projects brought before the City Commission from which ever lobbyist is selected.

Mr. Gonzalez stated the item that is being brought before you today is only to authorize to negotiate an agreement. Staff can insert specific goals and measurable objectives into

the agreement so when the City Manager starts negotiating; these goals are already established in the agreement. Staff will negotiate whatever the Commission chooses to present to the lobbyists.

Commissioner Leftwich made a motion to authorize the City Manager to negotiate the agreement for services and come back and approve on final form with a list of priority items with the highest ranked firm of Tuggy Rosenthal. Commissioner Prepejchal seconded the motion.

Under discussion, Commissioner Ruiz suggested adding to the agreement to provide a quarterly report on their successes or failures on their goals.

The motion carried unanimously.

Mayor Boswell introduced two representatives from the firm of Tuggey Rosenthal that were in the audience.

HARLINGEN YOUTH COMMUNITY COURT INTERVIEW WITH CENTER FOR COURT INNOVATION DISCUSSION ONLY.

Roxann P. Cotroneo, City Attorney stated the Youth Community Court is six month old and she will bring performance measures and successes of the court. There are no funds allocated to this community court, it operates solely on their own resources. She stated there is a non-profit organization called "Center for Court Innovation" that is funded by the U.S. Department of Justice. They provide technical assistance to many courts all around the country. They have different types of items they consider innovated in our justice system. Their number one innovated item is Community Court and have established an interview with Mr. Cotroneo on their website recognizing the creation of Harlingen Youth Community Center. It won't be long before the Harlingen Youth Community Court will be ranked the top community court in the nation. The Youth Court will soon get national recognition through an award.

DISCUSSION HELD ON AMENDING HIGH WEEDS ORDINANCE TO ALLOW FOR ANNUAL NOTICE OF A HIGH WEEDS VIOLATION AND ASSESS EXPENSES TO ABATE THE HIGH WEEDS BY PLACING LIEN ON PROPERTY.

Roxann P. Cotroneo, City Attorney explained the tall and ugly weeds that cause many problems with our citizens. There are two types of high weeds; one is twelve (12) inches high and the other is more than forty eight (48) inches. The City ordinance states the property owner has ten (10) days to abate a violation. Code Enforcement will go out after the ten (10) days to see if the violation still exists. If the violation exists they will in turn notify the mowing contractor to go out there and mow. According to the mowers contractors he has two (2) days to pickup that order and has five (5) days to complete the service. It actually takes a total of twenty three (23) days to actually mow the property. There is a law that became effective in 2001 that allows City's to abate the violation in seven (7) days. Our City ordinance needs to be amended to reflect that law.

Another State Law that is not on our City ordinance is something called "annual notice" When there is a property owner who has violated the ordinance you issue that owner one notice. The twelve (12) inch weed annual notice will state that he has seven (7) days to correct the problem. If he violates the law again the City does not have to provide him with any notice. The City can immediately abate.

Ms. Cotroneo continued with the higher than forty eight (48) inch weeds. Under State Law the City can immediately abate those forty eight (48) inch weeds without a notice to the property owner. After the City abates, it must notify the property owner within ten (10) days then the City will place a lien for the cost of services. She suggested amending the current City ordinance at the next City Commission meeting.

Currently, the City only has one mowing contractor whose contract expires July 28, 2011. The City should consider having multiple contracts in different areas around the City.

They City could be divided in half and have two (2) vendors; divided in quarters and have four (4) vendors; divided by single member districts with five (5) vendors; or even by Code Inspector districts. The City ordinance needs to be updated by noting the “notice of violation” moved from ten (10) days to seven (7) days to abate and allowing the City to provide annual notice so citizens don’t have to wait such a long period.

Commissioner Leftwich suggested that instead of budgeting to pay vendors to go out and cut these weeds. Maybe, use the budget to provide a Community Court Supervisor to utilize community court individuals to do community service.

She stated the City has \$350,000 worth of mowing liens on properties. She considers this a low amount; which indicates that the City is not moving fast enough on the properties that need mowing.

Commissioner Leftwich stated the reason the amount is low is because the process takes days to actually happen.

Commissioner Ruiz commented on the age group of the violators. He doesn’t want the elderly being targeted because they don’t have the resources to pay these violations.

Commissioner Leftwich suggested having these issues spelled out on the ordinance along with the proposed amendments presented by the City Attorney.

Ms. Cotroneo stated she would draft the ordinance with the ‘annual notice’ included and if the City Commission chooses to remove it on first reading it will be removed.

Gail Moore, 709 Town Lane spoke in reference to tall weeds located on Vinson and Mark. She stated the property owner lives at the location and doesn’t maintain his property. Is there an ordinance that can make them cut their lawn?

Mayor Boswell instructed her to make contact with Code Enforcement to report any violations on that property.

With no further discussion, Mayor Boswell instructed the City Attorney to amend the ordinance by adding the time requirements to enforce the high weeds and bring back to the next City Commission meeting.

BOARD APPOINTMENTS

Commissioner Leftwich re-appointed Richard Uribe to the Utility Board of Trustees.

Commissioner Prepejchal re-appointed Alfonso Gonzalez and Buddy Hawkins to the Construction Board of Adjustments; re-appointed Desi Martinez to the Development Corporation of Harlingen; appointed Ramiro Posada to the Municipal Auditorium Advisory Board; appointed Gloria Miranda to the Senior Citizens Advisory Board; and Mike Garza to the Zoning Board of Adjustments.

Commissioner Leftwich made a motion to approve the appointments. Commission Prepejchal second the motion and it carried unanimously.

CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 551.087) 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. NOT HELD.

Commissioner Trevino 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 AND SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THE REGULATION OF EIGHT-LINER MACHINES WITHIN THE CITY LIMITS OF THE CITY OF HARLINGEN, TEXAS AND ITS EXTRA-TERRITORIAL JURISDICTION. Commissioner Prepejchal seconded the motion and it carried unanimously.

The Executive Session convened at 6:45 p.m. and concluded at 7:08 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 551.087 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.** Commissioner Trevino seconded the motion and it carried unanimously

The Executive Session convened at 7:10 p.m. and concluded at 7:26 p.m. with no action taken in closed session.

DISCUSSION HELD ON DRAFTING AN ORDINANCE TO PROHIBIT A BUSINESS OR ANY OTHER ORGANIZATION FROM OPERATING AN EIGHT-LINER MACHINE WITHIN THE CITY LIMITS OF THE CITY OF HARLINGEN, TEXAS.

Mayor Boswell instructed City Attorney to draft an ordinance and come back at the next City Commission meeting.

There being no further business the meeting adjourned at 7:30 p.m.

Chris Boswell, Mayor

Attest:

Elena Garza, Interim City Secretary