

**REGULAR MEETING**

**CITY COMMISSION**

**HARLINGEN, TEXAS**

**MAY 18, 2011**

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, May 18, 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 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

**Absent:**

Mayor Chris Boswell

**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 Pro Tem Trevino called the meeting to order, a quorum was established and stated that notice of the meeting had been duly posted according to law.

**PLEDGE OF ALLEGIANCE/INVOCATION**

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

**BOARD MEMBER RECOGNITIONS**

None.

**SPECIAL RECOGNITION**

Mayor Pro Tem Trevino presented a certificate of special recognition to Cadet Major Monica Pena for outstanding bravery beyond the call of duty. He also presented a \$500 check on behalf of his employer, Half & Associates for a scholarship to any college/university of her choice.

Anita Boswell presented a certificate to Mandy Key, Harlingen Proud Coordinator in appreciation for her years of service to the Harlingen Proud Advisory Board and the City of Harlingen.

Mayor Pro Tem Trevino presented a certificate of recognition to the Harlingen Fire Prevention Team consisting of Fire Marshal Danny Warner; Assistant Fire Marshal, Juan Saucedo; Fire/Arson Investigator, Israel Gonzales; Fire Investigator, Joseph de la Garza; Fire Investigator, Kristopher Armstrong for their outstanding dedication and achievement in the investigation of the crime of arson with the South Texas Arson Response Team (START).

Commissioner Ruiz presented an appreciation certificate to Gail Moore for her outstanding volunteer efforts and participation in the Neighborhood Clean-Sweep.

**PROCLAMATIONS:**

Mayor Pro Tem Trevino presented a proclamation to Melissa Castellano, Daniel Urbina, Leticia Salinas and Rebecca Cantu proclaiming the month of May as Elder Abuse Prevention Month.

## **CITIZEN COMMUNICATION**

Tyler Dial, 5401 Bougainvillea spoke in reference to the proposed ordinance banning plastic bags in the City of Harlingen. He stated 36% of the population in Cameron County lived below the poverty level. Mr. Dial pointed out that according to a 2011 University Study every city, county, and government office that had enacted such an ordinance experienced a weight volume increase of plastics in their landfills. He mentioned that cities that had enacted the ordinance had placed a big burden on the low-income community because now they had to purchase bags for their grocery needs. Mr. Dial requested for the City Commission to consider prohibiting the big retailers of 10,000 square feet or more to charge more than .15¢ per recyclable bag and to require all retailers to offer free recyclable bags to people who were on Federal Assistance.

Dean LaFever, Chairman of the Chamber of Commerce stated the board has been working very closely on the relocation of the Convention and Visitors Bureau (CVB) from the Chamber Building. He stated there were other cities in the Valley that had the CVB located inside the Chamber Building. He requested permission from the Commission to allow Hope Davo, newly appointed Convention & Visitors Director to look into this issue and allow her to make a recommendation on the relocation of the CVB.

Ricardo Barrera, 1314 E. Harrison Street acknowledged Ms. Gloria Canales, Coordinator for the “Cinco de Mayo” Pageant. Mr. Barrera stated Ms. Canales had organized an amazing pageant and important dignitaries had attended. Mr. Barrera thanked Ms. Canales and the sponsors for their hard worked hard in organizing the pageant.

Desi Martinez, 1806 Haverford Blvd., stated the city needed to keep attractions to bring revenues into the city. He mentioned that he supported all activities that were happening in Harlingen and requested the City Commission’s support on private type venues such as the Whitewings Baseball.

## **PRESENTATION ON “EL GRANDE THEATRE”**

Lupita Gutierrez Garza stated El Grande Theatre Committee saw a need to conduct a Feasibility Study on EL Grande Theatre. She added one had been proposed about a year ago. Ms. Garza mentioned this project was funded through the Harlingen 100 Plan. She pointed out that an item was on the agenda in regards to the renovation project and information would be provided to the City Commission on the obstacles that the Committee would be encountering.

Hector Garcia with Mata-Garcia Architect Firm gave a PowerPoint presentation on “El Grande Theatre” Renovation Project.

## **MINUTES FOR APPROVAL – REGULAR MEETING OF MAY 4, 2011.**

Motion was made by Commissioner Prepejchal and seconded by Commission Leftwich to approve the minutes of May 4, 2011. Motion carried unanimously.

## **CONSENT AGENDA:**

- A. APPROVED FINAL PLAT OF THE PROPOSED BLACK BROTHERS 5 ACRES SUBDIVISION CONSISTING OF 5.00± ACRES OF LAND COMPROMISED OF 0.06± ACRES OF LAND OUT OF BLOCK 4, 2.40± ACRES OF LAND OUT OF BLOCK 5, AND 2.54± ACRES OF LAND OUT OF BLOCK 6, BLACK BROTHERS SUBDIVISION, GENERALLY LOCATED ALONG EXPRESSWAY 83 AND APPROXIMATELY 620 FEET EAST OF WHITE RANCH ROAD.**

**B. APPROVED REFUND OF PROPERTY TAXES TO BAC (GUADALUPE ROMERO); ACCOUNT #20-5898-0010-0040-00.**

**C. APPROVED INVESTMENT REPORT FOR QUARTER ENDED MARCH 31, 2011.**

Motion was made by Commissioner Prepejchal and seconded by Commissioner Marra to approve the consent agenda as presented. Motion carried unanimously.

**PRESENTATION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) FOR FISCAL YEAR 2009-10 BY LONG CHILTON, L.L.P.**

Quentin Anderson, with Long Chilton gave a brief overview on the city's financial reports. He informed the City Commission that the city audit was completed. Mr. Anderson stated the city was a recipient of federal and state grants and they had issued some reports on the compliance of the financial reports specifically relating to major federal and state grant programs. He added they had also rendered some unqualified opinions on some compliance matters and the opinions indicated the City complied with all grant requirements. Mr. Anderson stated they had met earlier with the Audit and had included the findings that were discussed with the Audit Committee along with corrective action plans. He mentioned that in the report the City would find an opinion on the financial statements; opinion on compliance with federal grant programs; and an opinion on compliance with state grant programs. He stated these opinions reflected favorably on the city. Mr. Anderson gave a brief re-cap of the city's liabilities and revenues.

**CONTRACT FOR THE OVERLAY OF VARIOUS STREETS WITHIN THE CITY OF HARLINGEN UNDER BID NUMBER 2011-12 AWARDED.**

Tammy DeGannes, Community Development Director stated the City of Harlingen had solicited sealed bids for street improvements project which consisted of 1.5" asphalt, milling materials and manhole adjustments. She added the repairs consisted of surface failures and to extend the life of the streets. Ms. DeGannes pointed out of the nineteen (19) companies that were notified, fifteen (15) companies picked up bid packets; four (4) submitted sealed bids. She recommended acceptance of the bids and award the Overlay of Various Street Contract to G & T Paving in the amount of \$156,491.00.

Commissioner Leftwich made a motion to accept and award the bid to G & T Paving in the amount of \$156,491.00. Commissioner Ruiz seconded the motion and it carried unanimously.

**PRESENTATION AND DISCUSSION HELD RELATED TO THE PROPOSED MEMORIAL TREE PROGRAM.**

Ms. Gail Moore stated the Memorial Tree Program would include the city parks and the Recreation Department would provide needed areas for planting. Ms. Moore, Harlingen Proud Board Member and Program Chairperson gave a short presentation and introduced Adam Weaver the newly appointed Harlingen Proud Coordinator and Mandy Key former Coordinator. She stated this was a public donation tree program that provided an opportunity for the public to plant trees "in honor of" or "in memory of" a loved one or friend. Ms. Moore mentioned that planting season would be from October 1<sup>st</sup> to March 31<sup>st</sup> of each year. She stated the Committee was proposing to refurbish the butterfly garden located across from Casa de Amistad on Fairpark. Ms. Moore indicated that the planting program would be funded through donations and the Harlingen Proud Committee would be administering the program. She stated this project would also help in beautifying the Veterans Memorial at Pendleton Park. Ms. Moore added the Harlingen Proud Committee was present to request permission from the Commission to move forward with this project.

Mandy Key stated there would be no cost to the City for this project.

It was the consensus of the City Commission to grant permission to proceed with the Memorial Tree Program.

**PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE REZONING FROM “NOT DESIGNATED (N)” TO “RESIDENTIAL, SINGLE FAMILY (R1)” ZONING DISTRICT AN APPROXIMATE 2.88-ACRE TRACT OF LAND BEING PART OF THE NORTH 27.57 ACRES OUT OF LOT A, BLOCK 191, SAN BENITO LAND AND WATER COMPANY SUBDIVISION, LOCATED ON THE EAST SIDE OF ED CAREY DRIVE SOUTH OF NIXON ROAD.**

Joel Olivo, Planning Manager, stated the City initiated a rezoning request at the request of the applicant to rezone a certain 1.00-acre tract to R1 zoning district. He pointed out currently, the subject property to the north had a single-family residential structure and the subject property to the south had a single-family residential structure and storage/warehouse. Mr. Olivo stated the surrounding FLU designations were general retail to the north, south and east, low density residential to the west. He added the surrounding properties were zone N to the North, R1 to the south and west and GR within the subject property. Mr. Olivo indicated the surrounding land uses consisted of single-family residence and vacant property. He mentioned the property to the south was zoned from Not Designated (“N”) zoning to residential, single family R1 zoning in 2005 and subdivided for residential single family in 2007. Mr. Olivo stated that to the present, the Planning and Zoning Division had not received any objections from the surrounding property owners for the proposed request. He concluded by stating that the requested rezoning was also consistent with the existing land use on the subject properties and RI zoning to the south and west.

Mayor Pro Tem Trevino declared the public hearing open.

There being no comments from the public, Mayor Pro Tem Trevino declared the public hearing closed.

**ORDINANCE ADOPTED ON FIRST READING ON THE ABOVE REZONING.**

The City Attorney read the caption of the following ordinance.

AN ORDINANCE AMENDING THE REZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: REZONING FROM “NOT DESIGNATED (N)” ZONING DISTRICT TO “RESIDENTIAL, SINGLE FAMILY (R1)” ZONING DISTRICT A 2.88± ACRE TRACT OF LAND BEING PART OF THE NORTH 27.57 ACRES OUT OF LOT A, BLOCK 191, SAN BENITO LAND AND WATER COMPANY SUBDIVISION LOCATED ON THE EAST SIDE OF ED CAREY DRIVE SOUTH OF NIXON ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Motion was made by Commissioner Leftwich and seconded by Commissioner Prepejchal to adopt and approve the ordinance on first reading. Motion carried unanimously.

**PUBLIC HEARING HELD TO HEAR COMMENTS FOR OR AGAINST THE ISSUANCE OF A SPECIFIC USE PERMIT (SUP) TO ALLOW A RECYCLING CENTER, FERROUS IN A LIGHT INDUSTRY (“L1”) ZONING DISTRICT LOCATED AT 1318 N. COMMERCE STREET, BEARING A LEGAL DESCRIPTION OF 3.4042± ACRES OUT OF BLOCK 1, HARLINGEN LAND AND WATER COMPANY SUBDIVISION.**

Joel Olivo, Planning Manager stated the applicant wished to operate a recycling center, ferrous, out of an existing building. He added the establishment was required to comply with off street parking regulations. Mr. Olivo indicated that based on the site plan submitted and an on-site inspection, the parking facility needed to be ADA accessible to the building, parking spaces needed to be re-striped and the proper maneuvering space needed to be provided. Mr. Olivo recommended approval prior to scheduling a final inspection to allow to the applicant to complete the following

:

- a. An 8-foot minimum concrete fence shall be located along the front, sides and rear property line with a 5 foot landscape buffer along the front of the property.
- b. Apply with the Building Inspections Department for the proper permits for the proposed layout and the 8-foot concrete fence.
- c. Obtain the proper permits from the City of Harlingen Chief of Police office.
- d. Obtain the proper permits from Texas Commission on Environmental Quality (TCEQ).
- e. Obtain the proper permits from Cameron County.

Mayor Pro Tem Trevino declared the public hearing open.

There being no comments from the public Mayor Pro Tem Trevino declared the public hearing closed.

**ORDINANCE WAS ADOPTED ON FIRST READING ON THE ABOVE SPECIFIC USE PERMIT**

The City Attorney read the following caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT ("SUP") TO ALLOW A RECYCLING CENTER, FERROUS IN ALIGHT INDUSTRY ("L1") ZONING DISTRICT LOCATED AT 1318 N. COMMERCE STREET, BEARING A LEGAL DESCRIPTION OF 3.4041 ACRES OUT OF BLOCK 1, HARLINGEN LAND AND WATER COMPANY SUBDIVISION, WITH THE FOLLOWING CONDITIONS: (1) PROVIDE AND MAINTAINING THE REQUIRED OFF STREET PARKING SPACES; (2) PROVIDING AN 8-FOOT MINIMUM METAL FENCE ALONG THE FRONT, SIDES AND REAR PROPERTY LINE WITH A 5-FOOT LANDSCAPE BUFFER ALONG THE FRONT OF THE PROPERTY; (3) OBTAINING AND MAINTAINING THE PROPER PERMITS FROM THE CHIEF OF POLICE; (4) OBTAINING AND MAINTAINING THE PROPER PERMITS FROM TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) AND CAMERON COUNTY; AND (5) COMPLY WITH REQUIREMENT ADMINISTERED BY THE PLANNING, BUILDING, FIRE DEPARTMENT, POLICE DEPARTMENT AND ENVIRONMENTAL SERVICES DEPARTMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Motion was made by Commissioner Leftwich and seconded by Commissioner Prepejchal to adopt and approve the ordinance on first reading. Motion carried unanimously.

Commissioner Marra excused herself from the meeting in order to avoid 'an appearance of impropriety' and signed an affidavit, which was presented to the Interim City Secretary.

**BID AWARDED TO IMPROVE THREE (3) CITY-OWNED PARKING LOTS IN THE DOWNTOWN AREA UNDER BID NO. 2011-07.**

Dan Serna, Public Works Director stated staff had advertised for bids to improve three parking lots in the downtown area bearing the following legal descriptions:

- Lots 17, 18 & 19, Block 59, Harlingen Original Townsite (Van Buren Parking Lot)
- Lots 12, 13 & 14 Block 69, Harlingen Original Townsite (HWWS Parking Lot)
- Lots 15, 16, 17 & 18, Block 69, Harlingen Original Townsite (Tolar Garage Property)

He stated the improvements included repairs to the existing base material, overlay with asphalt and re-stripe each of the parking lots. Mr. Serna recommended accepting and awarding the bid to R & R Paving for \$179,800.50. He stated part of the project involved removing the fence along with the palm trees and based on the low bid and square footage cost, the Waterworks cost for their parking lot was about \$37,000.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to award the bid to R & R Paving in the amount of \$179,800.50. Motion carried unanimously.

Commissioner Marra returned to her seat at 6:25 p.m.

**APPROVED FUNDING TO HIRE A QUALIFIED ENGINEERING FIRM TO PERFORM THE NECESSARY ENGINEERING STUDIES THAT WILL ALLOW THE CITY TO APPLY FOR FEDERAL FUNDING FROM THE SAFE ROUTES TO SCHOOL PROGRAM (SRTS).**

Carlos Yerena, City Manager stated the Texas Department of Transportation provided assistance to local communities by means of federal grants to improve pedestrian access to area schools through the Safe Routes to School Program (SRTS). He added the SRTS provided funding for eligible projects that improved pedestrian access and reduced traffic around elementary and middle schools. Mr. Yerena pointed out the program was 100% funded cost-reimbursement by TxDOT. The funds could be used to construct sidewalks or bike routes within a 2 miles radius of campuses and the expected time for the availability of the funds was 2012-2013. He recommended approval of the funding to hire an engineering firm to provide a comprehensive study of the city and prepare a SRTS Plan. Mr. Yerena stated the plan would provide the necessary information to identify projects that met the required criteria and the maximum amount of funding was \$500,000.00 for each project. Mr. Yerena mentioned that the Public Works Director and him met with the Harlingen School District Superintendent, Dr. Flores and Assistant Superintendent, Oscar Tapia to discuss the SRTS Program to request if they would share the cost to hire an engineering consultant to develop the plan. He added that on May 10, 2011 the HCISD Board approved the request to partner with the city and agreed to participate with 50% of the cost to hire the engineering consultant. Mr. Yerena concluded by stating that upon approval from the City Commission, staff would proceed with the advertisement for "Request for Qualifications."

Motion was made by Commissioner Prepejchal and seconded by Commissioner Leftwich to approve the funding to hire a qualified engineering firm. Motion carried unanimously.

**CONSIDER AND TAKE ACTION TO ACCEPT A DONATION OF REAL PROPERTY FROM VALLEY BAPTIST MEDICAL CENTER TO THE CITY OF HARLINGEN FOR CONSTRUCTION OF A NEW PUBLIC ROADWAY CONNECTING TREASURE HILLS BOULEVARD TO FM 509.**

Dan Serna, Public Works Director stated that in April 2010 the City Commission approved a resolution to acquire the necessary right-of-way for the project. He stated a total of 4.292 acres from nine (9) parcels were identified as necessary ROW from the old Sweezy Lane for this project. Mr. Serna mentioned that all parcels totaling 4.292 acres had been purchased by the city. He pointed out that in effort to move this project staff had contacted the Valley Baptist Medical Center who owned the paved road to discuss the proposed a right-of-way for Las Colinas Subdivision and the proposed road project. Mr. Serna indicated that Valley Baptist had offered to donate all of the paved road and right-of-way to allow the city to construct the connection to FM 509. The amount of land being conveyed to the City by Valley Baptist Medical Center is 4.328 acres of land. He recommended that the City accept the donation from Valley Baptist Medical Center and pay all closing cost associated with the transaction.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to accept the donation of 4.328 acres of land from Valley Baptist Medical Center. Motion carried unanimously.

**GOVERNMENT RELATIONS SERVICE AGREEMENT WITH ROSENTHAL PAUERSTEIN SANDOLOSKI AGATHER, LLP APPROVED.**

Gabriel Gonzalez, Assistant City Manager stated the City Commission at their of meeting of May 4, 2001 authorized the City Manager to negotiate a contract with the consulting firm of Rosenthal Pauerstein Sandoloski Agather, LLP (RPSA). He added this agreement was for four (4) months of services as agreed. Mr. Gonzalez indicated that the city's legislative agenda had been made part of the agreement and would be used as a measure of their performance towards meeting their objectives. He pointed out that although the legislative agenda identified the state goals, RPSA should be able to identify federal earmarks/appreciations or assist in authoring legislation that would further the goals identified in the legislative agenda. Mr. Gonzalez stated the agreement called for a payment of 48,000 per month for four months of service and could be terminated by the City with a 30 days notice.

Mayor Pro Tem Trevino stated he had discussed this agreement with Salomon Torres, Legislative Aid to Congressman Hinojosa's Office and Mr. Torres informed him that the Congressman's Office would be able to help the city on an Interim basis until the City works out the budget situation. He recommended tabling the item due to the situation with the city's budget.

A short discussion was held in regards to the Congressman's Office taking care of negotiating all the legislative issues including the traveling to Austin and Washington and the work effectiveness of the previous lobbyist's firm. Mayor Pro Tem Trevino stated if the Congressman's Office assisted with the legislative matters the city would be saving approximately \$10,000 a month.

Commissioner Leftwich requested an explanation on what the new consultants would be working on to bring value to the amount of money that the city was going to pay.

Carlos Yerena, City Manager stated the city was not satisfied with the previous consultant's services and this was the reason the contract was terminated.

Commissioner Prepejchal recommended bringing the item back in three (3) months and to allow the consultants to provide a report to the City Commission on their accomplishments.

Roxann P. Cotroneo, City Attorney stated the agreement called for \$9,000 per month; the term was from June 1, 2011 through September 30, 2011 and it included a "subject to extension" and a "30-day termination" clause.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the Government Relations Service Agreement with Rosenthal Pauerstein Sandoloski Agather. Motion carried unanimously.

**APPROVED A RESOLUTION REQUESTING THAT VALLEY INTERNATIONAL AIRPORT HARLINGEN BE MADE A "DESIGNATED AIRPORT" AS DEFINED BY CUSTOMS AND BORDER PROTECTION.**

Carlos Yerena, City Manager stated the city was requesting to designate Valley International a "Designated Airport" as defined by Customs and Border Protection. He added this designation would allow a 2-hour notification to Customs and Border when International flights from Mexico arrived in Harlingen. Mr. Yerena pointed out it would also allow international cargo carriers to clear U.S. Customs in Harlingen and land and upload at any Mexican airport. He added that the current notification period was a 30-day wait.

David Garza, President of Gulf Aviation spoke in support of the resolution. He stated the drug wars in Mexico had become very difficult for citizens who conducted business in Mexico and aviation had become the No. #1 way to travel. Mr. Garza asked that the City Commission favorably consider the resolution.

Motion was made by Commissioner Leftwich and seconded by Commission Ruiz to approve the resolution. Motion carried unanimously.

**CONSIDERATION TO GIVE DIRECTION TO THE CITY MANAGER ON WHETHER TO RELOCATE THE CONVENTION AND VISITORS BUREAU FROM THEIR CURRENT LOCATION TO THE LON C. HILL BUILDING.**

Carlos Yerena, City Manager introduced and welcomed the newly appointed Convention Visitors Bureau Director, Marilyn Hope Davo.

Mr. Yerena stated staff had been working on the relocation of the Convention Visitors Bureau (CVB) from their current location at the Chamber of Commerce. He pointed out the Chamber had graciously housed the CVB at no cost for several years and requested direction from the City Commission.

A short discussion was held in regards to the relocation and Commissioner Ruiz suggested that Ms. Davo provide a recommendation.

Commissioner Marra recommended tabling the item to allow Ms. Davo to get a feel of the day-to-day transactions.

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to table the item. Motion carried unanimously.

**APPROVED THE CITY MANAGER'S APPOINTMENT OF A CITY SECRETARY.**

Carlos Yerena, City Manager requested approval on the appointment of Amanda C. Elizondo as City Secretary for the City of Harlingen. He stated Ms. Elizondo was previously employed by the City of Weslaco as City Secretary for 27 years. She is certified under the Texas Municipal Clerks Certification Program and had extensive election experience including single-member district elections.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the appointment of Amanda C. Elizondo as City Secretary. Motion carried unanimously.

**APPROVED RESOLUTION THAT (1) AUTHORIZES REVIEW OF TEXAS GAS SERVICE COMPANY'S ("TGS") COST OF SERVICES ADJUSTMENT TARIFF; (2) APPROVES A JOINT REVIEW OF "TGS" APPLICATION ALONG WITH OTHER CITIES SERVED BY TGS; (3) HIRES A LEGAL AND CONSULTING SERVICE TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; AND (4) REQUIRES TGS TO REIMBURSE ALL REASONABLE COSTS ASSOCIATED WITH CITIES' EFFORTS IN THIS RATEMAKING EFFORT.**

Roxann P. Cotroneo, City Attorney briefed the City Commission on the Texas Gas Service Company revenues. She stated the gas company was proposing to increase its company's revenues by at least \$2.5 million. She added there was COSA (Cost of Service Adjustment) filing that Texas Gas Service had to comply with in order to increase their revenues. Ms. Cotroneo mentioned this would mean an increase in gas prices and all valley cities had gotten together to review the COSA. She stated the cities had determined how it would affect the cities gas rates. Ms. Cotroneo pointed out that a residential customer rate average per month would have an increase bill of \$1.09 and a commercial customer would have a monthly average increase of \$22.27. She stated this resolution would accomplish the following four (4) items:

- 1) Authorizes the City of Harlingen to review the COSA filing.
- 2) Authorizes the City to work with other cities in the Valley to review and analyze the cost of service adjustment.
- 3) Authorizes the City to participate in the hiring of a consultant who will review the increases.

- 4) Authorize Texas Gas Service to pay for all associated costs.

A short discussion was held and Ms. Cotroneo stated the City had 90 days to review the proposed annual rate adjustment and if approved the increase of gas prices would become effective on the first billing cycle of August 2011.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the resolution with Items 1, 2, 3, and 4. Motion carried unanimously.

**DISCUSSION HELD ON BANNING ALL PLASTIC BAGS FROM WITHIN THE CITY LIMITS OF THE CITY OF HARLINGEN AND GIVING THE CITY MANAGER DIRECTION TO DRAFT AN ORDINANCE TO ACCOMPLISH THIS.**

Commissioner Prepejchal stated all he wanted was a clean City and the difference between paper and plastic was that paper would deteriorate and plastic would remain in the landfills until it exploded with gas. He recommended that a workshop be scheduled with staff and include retailers in the City.

Commissioner Marra asked if there was a city representative present who could explain what happened in 2009 when the City of Harlingen applied for the storm drainage permits.

Omar Rios, Environmental Specialist for the city stated there was an issue that happened in 2008 with regards to the storm drainage permits. At that time there were several issues that the City had to accomplish, starting with education. He pointed out one issue was commercial littering and the 50/50 demand for plastic bags with retailers. Mr. Rios stated that he had been educating citizens on how to recycle plastic bags by visiting retailers and pointing out the importance of recycling. He also conducts outside inspections and he did see a considerable amount of plastic bags out in the environment. Mr. Rios suggested having a workshop with the community and retailers to discuss the environmental issues with plastic bags. He pointed out that TCEQ had notified the city that the city needed to implement some type of environmental procedures. He mentioned that the city permit with TCEQ was up for renewal in 2013.

Commissioner Marra stated the citizens of Harlingen and Brownsville had been educated on the three "Rs" which were Re-duce, Re-cycle and Re-use.

Commissioner Ruiz stated if the city could not find a balance of interest between the environmentalist and the community, then the city should decide whether to place this issue on the May ballot and have the voters decide.

Commissioner Marra mentioned that the City of Brownsville had a whole year to adapt to the plastic bag ordinance and it was not a lack of common sense on their behalf.

Mayor Pro Tem Trevino explained there was still so much homework to do on this issue. He instructed staff to study the issue and maybe setup a meeting with the community, retailers and staff.

**DISCUSSION HELD ON DRAFTING AN ORDINANCE TO PROHIBIT A DRIVER FROM READING, WRITING, OR SENDING A TEXT MESSAGE, INSTANT MESSAGE OR EMAIL WHILE DRIVING WITHIN THE CITY LIMITS OF HARLINGEN, TEXAS.**

Commissioner Prepejchal stated he was in support of this item even though the city had something setup with cell phones prohibited near school districts. He stated that text messaging while driving was very dangerous and recommended that an ordinance be drafted.

Commissioner Ruiz stated this was also a broad policy and it should be placed on the ballot for the voters to decide.

Roxann P. Cotroneo, City Attorney informed the Commission that there was House Bill No. 243 in the Texas Legislature requiring that individuals be prohibited from using wireless communications while driving. She pointed out the House Bill was under consideration on the Senate side and if this bill passed it would become effective September 1, 2011 with a \$200 fine plus court cost would assessed. She recommended delaying the ordinance until the Senate would act on it.

Commissioner Prepejchal also recommended to waiting on until Senate review the bill.

Mayor Pro Tem Trevino recommended for staff to survey other cities to see what kind of policy they had and staff provide a report to the City Commission in a form of a workshop.

**ACTION APPROVED TO HIRE LEGAL SERVICES TO NEGOTIATE A COLLECTIVE BARGAINING LABOR AGREEMENT WITH THE HARLINGEN PROFESSIONAL FIRE FIGHTERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 3404 AND THE HARLINGEN PROFESSIONAL LAW ENFORCEMENT ASSOCIATION.**

Roxann P. Cotroneo, City Attorney stated that three (3) years ago the City of Harlingen along with its Fire Fighters and Police Officers moved into a collective bargaining status. She stated Chapter 174 of the Texas Local Government Code governed collective bargaining. She mentioned state law indicated that the city had to treat the fire fighters and police officers as comparable as possible to the public sector. Ms. Cotroneo pointed out two law firms had submitted a proposal to provide legal services on collective bargaining. She mentioned one of the firms was Denton, Navarro, Rocha & Bernal, P.C. and their rate was \$180 an hour and the second law firm was Lynn, Pham & Ross, LLP out of Fort Worth with a rate of \$230 an hour.

Motion was made by Commissioner Prepejchal and seconded by Commissioner Marra to hire Navarro, Rocha & Bernal as the legal counsel at \$180 an hour. Motion carried unanimously.

**BOARD APPOINTMENTS**

Mayor Pro Tem Trevino appointed Eugene Allen to the Veterans Advisory Board.

Motion was made by Commissioner Marra and seconded by Commissioner Perpejchal to approve the appointment of Eugene Allen to the Veterans Advisory Board. Motion 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 WICHITA.**

This Executive Session was not held.

Motion was made by Commissioner Prepejchal and seconded by Commissioner Leftwich to table the item. Motion carried unanimously.

**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 HINO V. CITY OF HARLINGEN, CAUSE NO. 2006-10-5045-1.**

The Executive Session convened at 7:30 p.m. and concluded at 7:32 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 551.071) TO CONSULT WITH THE CITY ATTORNEY REGARDING LEASE AGREEMENT BETWEEN THE CITY OF HARLINGEN AND THE CAMERON COUNTY JUVENILE JUSTICE DEPARTMENT FOR USE OF THE OLD POLICE STATION LOCATED AT 1102 SOUTH COMMERCE, HARLINGEN, TEXAS AND THE USE OF THE STRUCTURE.**

The Executive Session convened at 7:33 p.m. and concluded at 8:03 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 551.071) CONSULTATION WITH THE CITY ATTORNEY TO SEEK LEGAL ADVICE REGARDING NEGOTIATING COLLECTIVE BARGAINING LABOR AGREEMENTS BETWEEN THE CITY OF HARLINGEN AND POLICE OFFICERS AND FIREFIGHTERS.**

The Executive Session convened at 8:04 p.m. and concluded at 8:14 p.m. with no action taken in closed session.

**APPROVED ACTION TO RECOGNIZE THE HARLINGEN PROFESSIONAL FIRE FIGHTERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 3404 AS THE BARGAINING AGENT FOR THE CITY OF HARLINGEN FIRE FIGHTERS IN NEGOTIATING THEIR COLLECTIVE BARGAINING LABOR AGREEMENT WITH THE CITY.**

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to recognize the Harlingen Professional Fire Fighters Association, International Association of Fire Fighters Local 3404. The motion carried as follows: Aye: Leftwich, Marra, Ruiz Nay: Prepejchal (The vote carried 3 to 1).

**APPROVED ACTION TO RECOGNIZE A WRITTEN PETITION SUBMITTED BY A MAJORITY OF THE HARLINGEN POLICE OFFICERS THAT REQUEST THE WITHDRAWAL OF THE HARLINGEN POLICE OFFICERS AND LAW ENFORCEMENT ASSOCIATION AS THE EXCLUSIVE BARGAINING AGENT AND RECOGNIZES THE HARLINGEN PROFESSIONAL LAW ENFORCEMENT ASSOCIATION AS THE SOLE AND EXCLUSIVE BARGAINING AGENT FOR ALL ELIGIBLE EMPLOYEES OF THE HARLINGEN POLICE DEPARTMENT IN NEGOTIATING THEIR COLLECTIVE BARGAINING LABOR AGREEMENT WITH THE CITY.**

Motion was made by Commissioner Leftwich and seconded by Perpejchal to accept the written petition submitted to change collective bargaining agents. Motion carried unanimously.

**APPROVED ACTION TO NAME A CITY BARGAINING TEAM TO NEGOTIATE COLLECTIVE BARGAINING LABOR AGREEMENTS WITH THE HARLINGEN PROFESSIONAL FIRE FIGHTERS ASSOCIATION AND THE HARLINGEN PROFESSIONAL LAW ENFORCEMENT ASSOCIATION AND AUTHORIZE CITY STAFF TO PROCEED WITH COLLECTIVE BARGAINING OF THE CITY'S BEHALF.**

Motion was made by Commissioner Leftwich and seconded by Commissioner Perpejchal to designate the Human Resources Director; City Manager; City Attorney; Finance Director and Legal Counsel Rick Navarro as the collective bargaining team. Motion carried unanimously.

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 551.071) CONSULTATION WITH THE CITY ATTORNEY TO SEEK LEGAL ADVICE REGARDING THE LEASE AGREEMENT BETWEEN THE CITY OF**

**HARLINGEN AND THE WHITEWINGS BASEBALL CLUB, LLC FOR THE USE OF THE BASEBALL STADIUM KNOWN AS HARLINGEN FIELD.**

The Closed/Executive Session convened at 8:19 p.m. and concluded at 8:30 p.m. with no action taken in closed session.

**TABLED ACTION TO IMMEDIATELY TERMINATE THE LEASE AGREEMENT BETWEEN THE CITY OF HARLINGEN AND WHITEWINGS BASEBALL CLUB, LLC (“WHITEWINGS”) FOR USE OF THE BASEBALL STADIUM ALSO KNOWN AS THE HARLINGEN FIELD BECAUSE WHITEWINGS FAILED TO COMPLY WITH THE CONTRACT.**

John Bryant, Founder of the Whitewings referred to the agreement termination and stated that they received a letter from the City Attorney in February 17, 2011 notifying them that they were in default and breach of their contract with the city for the use of the Harlingen Field. He mentioned that their first contact with city staff was on March 30, 2011, since then there had been no further contact. Mr. Bryant stated they saw a story in the newspaper where it stated that the Whitewings Contract was going to be terminated and were present tonight to submit some proposals to the City Commission. He pointed out they were hoping the city would work with them to take care of the contract.

Corey Dirkson explained that they were here to bring forward a proposal that they hoped would take care of all the debts with the city. He briefly highlighted the following handout, which outlined their proposals.

Team will take over the electrical billing in regards to stadium for entire year.

- a.) The electricity at the ballpark would be put in the team’s name.
- b.) City would not be responsible for the estimated \$26,000 in electrical charges they are responsible for during the October 1 – May 1 period.
- c.) This means the city will not have to worry about billing team or collecting from team in regards to electricity.

City will not charge team for rent or field maintenance.

- a.) City will no longer have to worry about collecting from team and dealing with late payments.
- b.) Team will be responsible for the \$22,000 in rent and field maintenance associated with stadium.

City will pay team \$100 per event that requires field lights at field.

- a.) City will only be paying for the electricity they use, not for demand charges.
- b.) This should cover the \$4,000 difference in amount saved by city and amount saved by team.

City will split cost of updating the electrical in stadium as dictated in lease.

- a.) Team will be install interval lighting for stadium as mentioned in lease.
- b.) Team will be look into other energy conservation options as allowed by lease with city approval. All improvements will stay with stadium even in event that team does not renew lease.

Motion was made by Commissioner Ruiz and seconded by Commission Leftwich to table the item and have staff review the proposal. Motion carried unanimously.

**DISCUSSION HELD FOR REQUEST FOR PROPOSALS FOR A FRANCHISE OR AN ORGANIZATION TO OPERATE AN INDEPENDENT PROFESSIONAL TEAM IN THE CITY OF HARLINGEN AND TO LEASE THE BASEBALL STADIUM ALSO KNOWN AS HARLINGEN FIELD.**

Commissioner Leftwich asked for a clarification because the agenda item stated a request for proposals.

Mayor Pro Tem Trevino recommended tabling the item and for staff to return with directions on negotiating the contract at the next meeting.

Roxann P. Cotroneo, City Attorney stated the Commission could go back into executive session to instruct the City Attorney on the amount of money the City wanted up front to continue with the lease. Ms. Cotroneo stated the term of the lease was for a two-year term and the first option on the lease expired on April 30, 2012.

Commissioner Leftwich stated the city wanted to continue with the contract and wanted the Whitewings to continue their operations in the city. He added they wished to continue working in good faith.

Roxann P. Cotroneo stated the approximate amount owed to the City was \$68,000.

No action was taken on this item.

**APPROVED ACTION PURSUANT TO HARLINGEN CITY CHARTER ARTICLE IV, SECTION 6 TO ELECT A MAYOR PRO-TEMPORE BY A MAJORITY VOTE OF THE CITY COMMISSIONERS.**

Roxann P. Cotroneo, City Attorney stated that pursuant to City Charter the City Commission at their first meeting following the election date set by Texas Elections Code in May (whether or not there is a city election), one of such City Commissioners shall be elected Mayor Pro Tempore by a majority vote of the City Commissioners.

Commissioner Ruiz made a motion to nominate Robert Leftwich as Mayor Pro Tem. The motion died due to lack of a second.

Commissioner Leftwich made a motion to nominate Jerry Prepejchal as Mayor Pro Tem. The motion died due to lack of a second.

Mr. Cotroneo stated since the votes were not there for a second on the motion. She instructed the Commission to delay the item to the next meeting.

**CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTIONS 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.**

No action was taken.

Executive Session convened at 9:03 p.m. and concluded at 9:08 p.m.

There being no further business the meeting adjourned at 9:08 p.m.

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Joey Trevino, Mayor Pro Tem

Attest:

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Elena Garza, Interim City Secretary