

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

JULY 6, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, July 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 Jerry Prepejchal, District 4

Gustavo C. Ruiz, Commissioner District 1

Robert Leftwich, Commissioner District 2

Kori Marra, Commissioner District 3

Joey Trevino, Commissioner District 5

Staff Present:

Carlos Yerena, City Manager

Roxann P. Cotroneo, City Attorney

Gabriel Gonzalez, Assistant City Manager

Roel Gutierrez, Finance Director

Amanda C. Elizondo, City Secretary

Mayor Boswell called the meeting to order, a quorum was established. He stated a notice of the meeting had been duly posted according to state law and the following proceedings were held.

PLEDGE OF ALLEGIANCE/INVOCATION

Commissioner Ruiz delivered the Invocation and Mayor Boswell led the Pledge of Allegiance.

1) BOARD MEMBER RECOGNITIONS

Mayor Pro-Tem Prepejchal gave special recognition to Desi Martinez, for his re-appointment to the Development Corporation of Harlingen, Inc. and presented a certificate of special recognition to Michael Garza, new appointee to the Zoning Board of Adjustments.

Commissioner Trevino presented a certificate of special recognition to Eugene Allen, new appointee to the Veterans Advisory Board.

Mayor Boswell presented a certificate of special recognition to Juan Salas, new appointee to the Senior Citizens Advisory Board.

2) CITIZEN COMMUNICATION

Desi Martinez, resident of 1806 Haverford and Juan Garcia, resident of 710 W. Filmore spoke in regards to abandoned vehicles and overgrown weedy lots on the west side of the city. He stated the city was not enforcing citizens to clean up. Another issue was street safety on the corner of Buchanan and "M" Street; citizens were not able to see the oncoming traffic when turning to the left side of the street because there were cars parked on the curb. Around March or April of last year, Community Development issued a notice to the neighbors that several projects would be done with CDBG Funds and very little projects had been done. There was a manhole on "F" Street that would backup when it rained and bathrooms in the neighborhood would overflow. Mr. Martinez requested that the city look into these matters.

Jerry Moore, resident of 709 Town Lane Drive stated the Veterans Advisory Board had been struggling to establish a quorum for their meetings. He requested for the City Commission to consider filling any vacancies in the Veterans' Advisory Board. One

of the projects that they established was the website and it was posted on the City of Harlingen's website.

Commissioner Ruiz complimented the staff for their fine work on coordinating the 4<sup>th</sup> of July event. He thanked the City of Harlingen and staff for setting up this great event.

3) MINUTES FOR APPROVAL – REGULAR MEETING OF JUNE 15, 2011.

Motion was made by Commissioner Leftwich and seconded by Commissioner Prepejchal to approve the minutes of June 15, 2011 as presented. Motion carried unanimously.

Mayor Boswell presented a certificate of special recognition to Bonnie de la Rosa Villarreal as outgoing Airport Advisory Board member.

Mayor Boswell changed the order of the agenda and proceeded with Item No. 22, Board appointments.

22) BOARD APPOINTMENTS

Discussion and possible action regarding membership on any of the following listed board/entity:

- a. Airport Board (Mayor)(1)
- b. Animal Shelter Advisory Committee (3)
- c. Audit Committee (6) (**Annual Appointments as per Ordinance 08-38**)
- d. Civil Service Commission (Mayor) (1)
- e. Community Development Advisory Board (1)
- f. Construction Board of Adjustments (7)
- g. Convention & Visitors Bureau (2)
- h. Development Corporation of Harlingen, Inc.
- i. Downtown Improvement District Board (2)
- j. Golf Course Advisory Board
- k. Harlingen Community Improvement Board
- l. Harlingen Housing Authority Board (0)
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board (3)
- o. Library Advisory Board (1)
- p. Municipal Auditorium Advisory Board (2)
- q. Museum Advisory Board (2)
- r. Parks Advisory Board
- s. Planning & Zoning Advisory Board
- t. Senior Citizens Advisory Board
- u. Tax Increment Finance Board
- v. Tennis Advisory Board
- w. Utility Board of Trustees (1)
- x. Veterans Advisory Board (2)
- y. Zoning Board of Adjustments (5)

Specifically, appointment or discussion and possible action to include appointment and/or removal of any position subject to appointment or removal by statute, ordinance, or bylaws.

Commissioner Marra appointed Michael Garza to the Utility Board of Trustees.

Mayor Boswell appointed Tito Resendez to the Airport Advisory Board.

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to approve the board appointments. Motion carried unanimously.

Mayor Boswell returned to the regular order of the agenda and proceeded with the following item.

CONSENT AGENDA

- 4a) ORDINANCE AMENDING THE ZONING ORDINANCE TO ISSUE A SPECIFIC USE PERMIT (“SUP”) TO ALLOW A BAR/LOUNGE IN THE GENERAL RETAIL (“GR”) ZONING DISTRICT LOCATED AT 309 WEST VAN BUREN AVENUE BEARING A LEGAL DESCRIPTION OF LOT 8, BLOCK 67, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION.
- b) ORDINANCE AMENDING THE CITY OF HARLINGEN’S VISION 2020 COMPREHENSIVE PLAN, CHAPTER 3, AND FUTURE LAND USE MAP FOR THE PROPERTIES GENERALLY LOCATED ON THE SOUTH DIXIELAND ROAD EXTENSION TO RANGERVILLE ROAD.
- c) AMENDING THE ZONING ORDINANCE TO REZONE FROM “NOT DESIGNATED (N)” ZONING DISTRICT TO “RESIDENTIAL, PATIO HOME (RPH)” ZONING DISTRICT FOR 14.91 ACRES OUT OF BLOCKS 54 AND 55, HOWARD DIXIELAND HEIGHTS SUBDIVISION LOCATED ON THE EAST SIDE OF DIXIELAND ROAD SOUTH OF GARRETT ROAD.
- d) ORDINANCE AMENDING THE ZONING ORDINANCE TO REZONE FROM “NOT DESIGNATED (N)” ZONING DISTRICT TO “RESIDENTIAL, MULTI-FAMILY (M-2)” ZONING DISTRICT FOR 2.43 ACRES OUT OF BLOCKS 54 AND 55, HOWARD DIXIELAND HEIGHTS SUBDIVISION LOCATED ON THE WEST SIDE OF DIXIELAND ROAD SOUTH OF GARRETT ROAD.
- e) ORDINANCE AMENDING TITLE IX; CHAPTER 93; NUISANCE ORDINANCE NO. 60-22 BY DELETING SECTIONS 93.03 THROUGH 93.08 AND ADDING NEW SECTIONS 93.03 THROUGH 93.081.
- f) ORDINANCE AMENDING ORDINANCE NO. 08-48 AMENDING THE SUMMER GOLF RATES AT TONY BUTLER GOLF COURSE AND ESTABLISHING AN EFFECTIVE RATE.
- g) CONSIDER AND TAKE ACTION TO APPROVE A REQUEST FROM THE HARLINGEN POLICE DEPARTMENT TO CLOSE THE FOLLOWING INTERSECTIONS ON MONDAY, AUGUST 1, 2011 FOR THE PREPARATION OF THE “NATIONAL NIGHT OUT” EVENT FROM 6 P.M. TO 10 P.M. AT FAIR PARK TO PROMOTE ANTI-CRIME AND STRONGER COMMUNITY RELATIONS.
- FAIR PARK & “J” STREET  
FAIR PARK & “L” STREET  
FAIR PARK & TEEGE STREET  
TEEGE & “L” STREET
- h) CONSIDER AND TAKE ACTION TO APPROVE A REQUEST FROM GRACE FELLOWSHIP CHURCH TO CLOSE THE CORNER OF WEST ADAMS AND NORTH “B” STREET TO THE ALLEY OF “B” STREET (1/2 BLOCK) ON SATURDAY, JULY 16, 2011 FROM 6 P.M. TO 9 P.M. FOR COMMUNITY FELLOWSHIP.
- i) CONSIDER AND TAKE ACTION TO APPROVE REFUNDS OF PROPERTY TAXES TO CORELOGIC, ACCOUNT #98-5202-0010-0300-00 IN THE AMOUNT OF \$1,639.32 DUE TO AN OVERPAYMENT AND LACKS VALLEY STORES, ACCOUNT #00-0100-0124-8010-00 IN THE AMOUNT OF \$2,954.36 DUE TO AN ADJUSTMENT FOR A CHANGE OF VALUE FOR YEARS “2007” AND “2009” FOR A TOTAL REFUND OF \$4,593.68.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the consent agenda as presented. Motion carried unanimously.

For the record, the captions of Ordinance Nos. 11-24, 11-25, 11-26, 11-27, 11-28, 11-29 read as follows:

ORDINANCE NO. 11-24

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT (SUP) TO EVON RICE-WALKER, TO ALLOW A BAR/LOUNGE IN A "GENERAL RETAIL (GR)" ZONE, LOCATED AT 309 WEST VAN BUREN, BEARING A LEGAL DESCRIPTION OF LOT 8, BLOCK 67, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION, WITH THE FOLLOWING CONDITIONS: (1) THE APPLICANT SHALL COMPLY WITH THE ALCOHOL REGULATIONS PER SECTION 15.07(7) OF THE ZONING ORDINANCE AS DETERMINED BY THE PLANNING AND ZONING DEPARTMENT PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY (CO); (2) THE BUILDING SHALL COMPLY WITH ALL APPLICABLE BUILDING CODE AND FIRE CODE REGULATIONS AS DETERMINED BY BUILDING INSPECTIONS AND FIRE PREVENTION DEPARTMENTS PRIOR TO THE ISSUANCE OF THE CO: AND (3) THE APPLICANT SHALL APPLY FOR THE RENEWAL OF THIS SUP NO LATER THAN TWO (2) MONTHS PRIOR TO ITS ONE (1) YEAR EXPIRATION DATE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-25

AN ORDINANCE AMENDING THE CITY OF HARLINGEN VISION 2020 COMPREHENSIVE PLAN, CHAPTER 3, FUTURE LAND USE PLAN, BY AMENDING THE FUTURE LAND USES FOR THE TRACTS OF LAND GENERALLY LOCATED ALONG THE SOUTH DIXIELAND ROAD EXTENSION TO RANGERVILLE ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-26

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN; REZONING FROM "NOT DESIGNATED (N)" ZONING DISTRICT TO "RESIDENTIAL, PATIO HOME (RPH)" ZONING DISTRICT FOR 14.91 ACRES OUT OF BLOCKS 54 AND 55, HOWARD DIXIELAND HEIGHTS SUBDIVISION, LOCATED ON THE EAST SIDE OF DIXIELAND ROAD SOUTH OF GARRETT ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-27

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE 07-27) OF THE CITY OF HARLINGEN: REZONING FROM "NOT DESIGNATED (N)" ZONING DISTRICT TO "RESIDENTIAL, MULTI-FAMILY (M-2)" ZONING DISTRICT FOR 2.43 ACRES OUT OF BLOCKS 54 AND 55, HOWARD DIXIELAND HEIGHTS SUBDIVISION, LOCATED ON THE WEST SIDE OF DIXIELAND ROAD SOUTH OF GARRETT ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-28

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS DELETING SECTIONS 93.03, 93.04, 93.05, 93.06, 93.07, AND 93.08 OF CHAPTER 93 OF THE HARLINGEN CITY CODE, AS AMENDED AND ADDING NEW SECTIONS 93.03, 93.04, 93.05, 93.06, 93.07, 93.08, AND 93.081; PROHIBITING WEED GROWTH TO A CERTAIN HEIGHT; DUTY TO PREVENT WEEDS, GRASS, OR VEGETATION FROM BECOMING A NUISANCE OR FIRE HAZARD; PROHIBITING VEGETATION IN ALLEY, STREET, OR SIDEWALK TO GROW TO CERTAIN HEIGHT; CITY REMOVAL OF WEEDS AND VEGETATION UPON FAILURE OF OWNER, OCCUPANT OR PERSON IN CONTROL TO DO SO WITH NOTICE REQUIRED; CHARGES TO BE COLLECTED FROM THE PROPERTY OWNERS; LIEN ON PREMISES FOR FAILURE TO PAY CHARGES; PROVIDING FOR PUBLICATION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

ORDINANCE NO. 11-29

AN ORDINANCE AMENDING ORDINANCE NO. 08-48 AMENDING FEES FOR SUMMER GOLF SPECIALS AT TONY BUTLER MUNICIPAL GOLF COURSE,

SETTING EFFECTIVE DATES AND PROVIDING FOR PUBLICATION AND  
ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading June 15, 2011  
PASSED AND APPROVED on second and final reading July 6, 2011

SIGNED BY: /s/ Chris Boswell, Mayor  
ATTESTED BY: /s/ Amanda C. Elizondo, City Secretary

Mayor Boswell changed the order of the agenda to discuss Item No. 17

17) CONSIDER AND DISCUSS THE RECORDING AN/OR TELEVISIONING OF  
CITY COMMISSION MEETINGS.

Mayor Boswell stated that Joe Rubio, Jr. had recommended to video tape the City Commission meetings and citizens had been expressing the same request. He stated he had placed the item on the agenda for the City Commission to discuss. Previous discussion had been held to use the television station used by the Harlingen School District. He requested input from the audience on other alternatives as to how the city should proceed forward.

Dean LaFever representing the Harlingen Chamber of Commerce stated their Board had suggested assisting the city in recording and posting the City Commission meetings on their chamber website at no cost to the city and with no editing services. The Chamber Board had looked into the cost options and they were prepared to proceed with televising the meetings within the next two weeks or a month. He mentioned he was not at liberty to share the information on the expense because it was being shared with membership fees. If the City Commission wanted the televising to be more sophisticated then there would be a cost.

Mayor Pro-Tem Prepejchal recommended for staff to look into the cost for the school district to televise the meetings on Channel 60.

Ernesto Silva informed the City Commission that some of the Harlingen Community Improvement Board members along with staff would be meeting with KMBH Station on Friday to discuss the televising of their board meetings and posting them on the city's website.

Comments were heard from Gail Moore, resident of 709 Town Lane Drive; Joe Rubio, Jr., resident of 2309 Hacienda Road, Yolanda Schoffeit, and Ron Lozano in regards to idea of televising the meetings.

Dean LaFever informed the City Commission that their approach was very simple and they were only making it accessible to the public to view. The Chamber was not an agent for the city and they were not doing it for a profit.

Commissioner Leftwich recommended that an agreement be executed between the city and chamber to comply with the state law that governed local archives and open meeting regulations.

Mayor Boswell recommended for city staff to meet with the Chamber of Commerce, Development Corporation, KMBH, and the School District and bring options to the City Commission and a cost associated with each option.

15) Consider and take action to confirm the appointment of Ellwood Thomas Whitten  
as Department Director and Chief of Harlingen Police Department.

Mr. Carlos Yerena, City Manager highlighted the qualifications of Mr. Ellwood Thomas Whitten, Jr. and employment experience. He stated currently he was employed by the Carlsbad, New Mexico Police Department and would begin employment with the City of Harlingen within three weeks from the date of appointment.

Comments were heard from Chuck Mattingly, Eloy Cano, Ernesto Silva, Greg Powers, Tito Resendez and Sheriff Omar Lucio, Police Search Committee members and they all spoke of the qualifications and experience that Mr. Whitten was bringing to the city and stated he was the best qualified candidate from all the thirty nine applicants.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Leftwich to approve the recommendation of the City Manager and appoint Mr. Ellwood Thomas Whitten, Jr. as Chief of the Harlingen Police Department. Motion carried unanimously.

16) SPECIAL RECOGNITION TO RECOGNIZE THE DEDICATION AND COMMITMENT OF THE COMMITTEE MEMBERS APPOINTED BY THE CITY MANAGER TO SERVE ON THE 2011 CHIEF OF POLICE SEARCH COMMITTEE.

Mayor Boswell presented certificates of special recognition to members of the Police Search Committee and thanked them on behalf of the City Commission.

Carlos Yerena, City Manager thanked the committee members for their commitment and dedication during the selection process.

18) CONSIDER AND TAKE ACTION TO ADOPT AN ORDINANCE ON FIRST READING TO AMEND CHAPTER 157, SECTION 157.17 OF THE HARLINGEN CITY CODE TO:

- (1) PROVIDE THAT ALL HUMAN RESOURCE SERVICES EXCEPT FOR PAYROLL AND RISK MANAGEMENT BE PROVIDED BY THE CITY OF HARLINGEN HUMAN RESOURCES DEPARTMENT OR THEIR DESIGNATED REPRESENTATIVE; AND
- (2) PROVIDE THAT ALL LEGAL SERVICES BE PROVIDED BY THE CITY ATTORNEY OR HER DESIGNATED REPRESENTATIVE.

Mayor Pro-Tem Prepejchal stated the City's Human Resources (HR) Director was currently certified to administer HR Department. This would help prevent any kind of liability from the airport. The Risk Management Division would remain in the airport. The purpose for this change was due to a cost benefit and this would be the same for the legal department. The airport would be spending close to \$285,000 - \$300,000 before the year was over and the city could do a better job if these services were consolidated with city's HR and Legal Departments.

Commissioner Leftwich stated the airport did not have a certified Human Resources Specialist. By consolidating these services it would provide better protection for taxpayers and certification to oversee the HR Department at the airport. They had seen an increase in legal costs and it would be best to proceed with this change to take progressive efforts to manage any future costs. The city needed to make sure that the Airport Board was spending money in promoting the airport and not in legal services. The city needed to make sure that they not only protected the city's assets, but also protected the city as the sponsor of the airport. Currently the airport was outsourcing for legal services and the city could create a full legal department to service the legal needs of the airport.

Mayor Pro-Tem Prepejchal stated the city should also consider consolidating other departments such as the Water Works and joining the 4B Board with the 4A Corporation.

Mayor Boswell asked if anyone at the staff level or the City Commission members discussed this issue with the Airport Board to determine whether or not this was something that they wished to pursue. The Harlingen City Charter specially dictated that the city could have an airport provided that the operation and maintenance and supporting properties were under the supervision of the Airport Board.

Mayor Pro-Tem Prepejchal responded the change could be done through an ordinance.

Comments were heard from the following people:

Jo Wagner, resident of 3010 Pinehurst Street, member of the Harlingen Airport Board stated the Harlingen Airport Board was strictly against the action of the City Commission. She pointed out this was against the city charter and was not in the best interest of the taxpayers and the City of Harlingen.

David Alex, a resident and taxpayer of the City of Harlingen for 49 years, stated the airport was the jewel of the community. He stated if the city was going to compete with other cities, the airport was one of the most valuable asset the city had. Mr. Alex gave a brief history of how the airport was developed. He strongly felt the city needed to have very dedicated people who had the knowledge and expertise in aviation that could make sound decisions today, tomorrow and in the future.

Tutor Ulhorn, resident of 402 Woodland Drive, requested that the City Attorney make a determination as to whether or not Commissioner Leftwich abstained himself from any discussions or voting on any matters that came before the Harlingen City Commission that dealt with Valley International Airport. He stated Commissioner Leftwich was employed by United Launch Alliance. United Launch Alliance and its predecessors to Lockheed Key Martin Aero Dynamics and others, were a tenant of the Valley International Airport for more than twenty years. United Launch Alliance was a recipient of grant funds from the Development Corporation of Harlingen, Inc. It appears that there was a potential violation of the City Commissioner Leftwich to discuss and vote on any matter pertaining to the Valley International Airport.

Gayle Moore, resident of 709 Town Lane Drive, stated there were people in the meeting room who many times should have left the meeting room because of a conflict of interest including those that were on the Airport Board. She stated new fresh and fair ideas needed to come to the board. Currently new ideas could not come to the board because of some chosen ones that ran things to their satisfaction.

Mr. Frank Boggus, resident of Harlingen, stated this was another attempt to control the Airport Board which was probably the best run board in the City of Harlingen. It was the only board that paid for itself and did not cost the city any money. This was just another political attempt of one or two members of this commission.

Yolanda Schoffeitt, resident of 284 Altas Palmas Road, stated she attended the Airport Board Meetings. She mentioned the Airport Board and Water Works needed to be under the city.

Jerry Moore 709 Town Lane reported on the FAA website. The website had information on the preparation of master plans for airports and was intended primary for the use of aviation members who were responsible for preparing master plans and other information related to the airport activities.

Ron Lozano, resident of Harlingen, stated there were many budget changes and amendments to the municipal budget. No matter how things were done the responsibility fell on the City Commission.

Bonnie de la Rosa stated there was definitely a separation of powers between the Airport Board and the City of Harlingen. The whole judicial system was very important, but having so much power in one unit was not necessary the best thing.

Mayor Boswell stated that as Mayor he had the ability to place items on the agenda. Normally he would check the agenda regularly as it was being developed. When he saw the draft of the agenda on Friday before noon, Item 18 was not on the agenda or in any of the drafts that he had seen last week. The agenda was eventually posted at 5:20 p.m. on Friday without any warning to anyone about Item No. 18. He and a lot of people did not see the item until Tuesday because of the long holiday weekend. He asked how

many people knew what Chapter 157 of the Harlingen City Code was. Only one person knew what it meant and also knew that it referred to the airport or aviation. Mayor Boswell stated the item had been posted wrong and on the eleventh hour before a long weekend. An opportunity was not given to the appropriate people to discuss it or even as a discussion item to determine if the majority of the City Commission had talked to the City Attorney about drafting an ordinance. An ordinance was being presented before the City Commission on first reading with very short notice of it. The public did not have adequate notice because the item was not properly described. The city should have engaged the Airport Board before trying to place the item on the agenda. He hoped that they would meet to discuss the item. Two commissioners getting together behind closed doors away from this commission's chamber trying to sway a third commissioner before the meeting was not the way to conduct city business. He hoped that they would ignore this item and not proceed with it because it was contrary to every interpretation of open government.

Commissioner Ruiz stated he had no information on this topic. He requested an explanation from the City Attorney from a legal standpoint as to how this change would affect the airport and from the City Manager on a functional standpoint. Some of the airport members were saying it would take away the power.

Commissioner Trevino agreed to have a discussion to determine the budgetary constraints and the effect that this change would have in the future. A master plan was necessary to guide the city as to what direction it should take. This was an item of discussion among the Airport Board and the City Commission.

Commissioner Marra stated she was in favor of tabling the item because she was concerned with the wording of the agenda item. She referred to Item No. 2 and stated the city attorney was not prepared to handle additional work and would probably be outsourcing the additional legal work just the same as the Airport Board. There were very high legal fees and the City Commission needed to accept responsibility for a lot of those fees. The city had almost spent \$275,000.00 when they could have taken care of it by writing a check and gotten past all of this. If the city attorney was given authority to appoint someone else as her designated representative, they needed to know exactly who she would be appointing, how the process would be done, what was the individual's experience, it needed to be a professional person with legal expertise and current with the city's ethics ordinance. She stated this was probably the same thing with the selection of the employees and it was not right for the City Commission to have all the control. Too much control for five people who rotated every three years was not in the best interest of the community; they were policy makers and were not a human resources dept. The City Commission has somewhat wanting to control everything within the last two years. The manner in which the item was worded could create some serious issues and they needed to make sure that they knew what they were doing.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to table the item. Motion carried unanimously.

Commissioner Leftwich stated this item was blown out of proportion. The city was trying to be progressive in terms of consolidating departments. There was nothing wrong with having a certified HR Specialist to make sure the airport did not get sued. It was a benefit to the city to have the most certified and professional learned individuals. He respected what the people wanted to do and if they wanted to take it slowly it was fine. He supported the idea of having a workshop to discuss these issues.

Mayor Boswell returned to the regular order of the agenda and proceeded with the following item.

- 5) CONSIDER AND TAKE ACTION TO APPROVE A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF HARLINGEN AND THE SOUTH TEXAS CHAPTER OF THE AMERICAN RED CROSS TO PROVIDE DISASTER RELIEF SERVICES AS OUTLINED IN THE MOU.

Mr. Michael J. Rinaldi, Fire Chief highlighted the Memorandum of Understanding (MOU) between the City of Harlingen and South Texas Chapter of the American Red Cross. He stated that in the event of any natural or manmade cause requiring emergency action, the American Red Cross would activate and operate temporary shelters and feeding facilities and provide other services as dictated by the MOU. The city agreed to provide advance warning, security, safety measures and information to those shelters and/or mass care facilities as outlined in the MOU. The MOU would be in effect for one year from the date of the initial agreement with subsequent terms being implemented as agreed upon by all parties.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to approve the MOU as recommended by the Fire Chief. Motion carried unanimously.

- 6) CONSIDER AND TAKE ACTION TO APPROVE A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF HARLINGEN, TO REQUEST FOR GRANT FUNDING MADE AVAILABLE THROUGH THE U.S. DEPARTMENT OF JUSTICE UNDER THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM – FY 2011 LOCAL SOLICITATION TO PURCHASE OFFICE EQUIPMENT TO IMPROVE INFORMATION SHARING WITH OTHER LOCAL, STATE AND FEDERAL LAW ENFORCEMENT AGENCIES.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to approve the item as presented. Motion carried unanimously.

- 7) CONSIDER AND TAKE ACTION TO AWARD ONE (1) COMMUNITY DEVELOPMENT BLOCK GRANT HOUSING RECONSTRUCTION LOAN TO RICKY DEL VALLE AND LORENA CEPEDA LOCATED AT 410 ONA STREET IN THE AMOUNT OF \$56,400.00 FOR RECONSTRUCTION OF THEIR HOME BY S&L LONE STAR CONSTRUCTION, LOWEST RESPONSIBLE BIDDER.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to approve the item as presented. Motion carried unanimously

- 8) AN ORDINANCE AMENDING THE CITY OF HARLINGEN SUBDIVISION ORDINANCE NO. 07-28, SECTION 4.6.7 PERTAINING TO THE STANDARDS AND SPECIFICATIONS OF FIRE HYDRANTS APPLICANT: CITY OF HARLINGEN.

Joel Olivo, Planning and Zoning Manager stated staff was recommending amending the Subdivision Ordinance to eliminate the requirement from a fire hydrant in the City's ETJ and not within the Harlingen Water Works CCN area. This allowed for the construction of a single family residence in a one lot subdivision of 1 to 9.99 acres in size without the requirement of a fire hydrant. This was only permitted in the ETJ and not within the Harlingen Water Works CCN area. The property owner must sign a notarized affidavit indemnifying the City of Harlingen of any liability that might occur to the subject property due to a fire or any other incident.

- a) PUBLIC HEARING

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

- b) TAKE ACTION TO APPROVE AN ORDINANCE ON FIRST READING AMENDING THE CITY OF HARLINGEN SUBDIVISION ORDINANCE NO. 07-28, SECTION 4.6.7 PERTAINING TO THE STANDARDS AND SPECIFICATIONS OF FIRE HYDRANTS.

Motion was made by Commissioner Trevino and seconded by Mayor Pro-Tem Prepejchal to approve and adopt the ordinance on first reading. Motion carried unanimously.

- 9) CONSIDER AND TAKE ACTION TO APPROVE A RESOLUTION AUTHORIZING THE SALE OF SURPLUS PROPERTY BY PUBLIC AUCTION TO BE HELD ON JULY 30, 2011.

Roel Gutierrez, Finance Director stated every year the city held an auction to dispose of city surplus such as materials, vehicles, and heavy equipment and any confiscated items submitted by the Police Department. If the resolution was approved, staff would hold the auction on Saturday, July 30<sup>th</sup> and would be conducted by Bond & Bond auctioneers and Realty. The Harlingen Water Works, Valley International Airport and Housing Authority were included in the city's auction. The proceeds collected would be deposited in the respective funds.

Motion was made by Commissioner Trevino and seconded by Mayor Pro-Tem Prepejchal to approve and adopt the resolution as presented. Motion carried unanimously.

- 10) CONSIDER AND TAKE ACTION TO ADOPT AN ORDINANCE TO DESIGNATE A "NO PARKING ZONE" ALONG THE WEST SIDE OF TENNESSEE ROAD.

Javier Zamora, City Engineer stated a concern had been addressed to the staff regarding parking by the structure located on Tennessee Road which serviced the Veterans' Clinic. Staff verified these concerns by conducting an onsite inspection of the area and determined the need to place a "No Parking Zone" along the parking structure. The proposed "No Parking Zone" would extend 530 ft. on the west side of Tennessee Avenue.

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

- 11) CONSIDER AND TAKE ACTION TO APPROVE AN ORDINANCE TO DESIGNATE A "NO PARKING LOADING/UNLOADING ZONE" TO BE ESTABLISHED ON THE WEST SIDE OF FIRST STREET, 61.50 FEET TO THE SOUTH FROM THE SOUTHWEST CORNER OF THE INTERSECTION OF VAN BUREN AND FIRST STREET CONSISTING OF A TOTAL OF 40 FEET.

Mr. Zamora stated a concern had been addressed to the staff relating to the loading and unloading of passengers in front of the restaurant "Colletti's. Staff verified the concern by conducting an onsite inspection of the area and determined the need to place a "No Parking Loading/Unloading Zone." The proposed zone would be located 61.50 ft. to the south from the southwest corner of the intersection of Van Buren Avenue and First Street consisting of 40 ft.

Motion was made by Commissioner Trevino and seconded by Mayor Pro-Tem Prepejchal to approve and adopt the ordinance as presented on first reading. Motion carried unanimously.

- 12) CONSIDER AND TAKE ACTION TO APPROVE A RESOLUTION TO APPOINT A REPRESENTATIVE TO FILL AN UNEXPIRED TERM ON THE CAMERON COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS.

Roxann Pais Cotroneo, City Attorney stated that on June 15, 2011, the City of Harlingen received notice that Tony Gutierrez resigned his unexpired term on the Cameron County Appraisal District Board of Directors. His term was for two years starting on January 1, 2011 to December 31, 2012. The City Commission needed to

appoint another person to serve the unexpired term. The new appointee would serve until December 31, 2012.

Motion was made by Commissioner Ruiz and seconded by Commissioner Marra to appoint Commissioner Joey Trevino to serve the unexpired term of Tony Gutierrez. Motion carried unanimously.

- 13) CONSIDER AND DISCUSS PROGRESS OF SCOFFLAW PROGRAM, WHICH IS A MULTI-YEAR INTERLOCAL AGREEMENT WITH CAMERON COUNTY AND THE TEXAS DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH THE TEXAS TRANSPORTATION CODE TO DENY REGISTRATION OR RE-REGISTRATION OF VEHICLES IF THE REGISTERED OWNER HAS A WARRANT FOR DELINQUENT CLASS C MISDEMEANOR TRAFFIC OFFENSES FOR FAILURE TO APPEAR OR RESOLVE CASES AS PROVIDED IN CHAPTER 702 – REFUSAL TO REGISTER VEHICLE.

Ms. Cotroneo reported on the Scofflaw Program, multi-year Interlocal Agreement with Cameron County and the Texas Department of Transportation. She made a slide presentation of the activities that had taken place and the money that had been collected.

No action was taken.

- 14) CONSIDER AND TAKE ACTION TO AWARD A CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES TO ASSIST IN RESEARCHING, DEVELOPING AND IMPLEMENTING AN EMPLOYEE SELF/FULLY-FUNDED HEALTH INSURANCE, LIFE AD&D, EAP, CAFETERIA PLAN AND PRODUCTS, VISION, DENTAL PROGRAMS FOR FISCAL YEAR 2011-2012.

Motion was made by Commissioner Marra and seconded by Leftwich to award the Professional Consultant Services to Valley Risks Consulting Services. Motion carried unanimously.

Motion was made by Commissioner Trevino and seconded by Commissioner Marra to go into executive session. Motion carried unanimously.

At 7:25 p.m. on July 6, 2011, Mayor Boswell announced the City Commission would convene in Executive Session to discuss the following items.

- 19) 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 DIXIELAND RAILROAD CROSSING AT MILE POST MP 1.7 AT THE MISSION SUBDIVISION.
- 20) CONSIDER AND TAKE ACTION TO APPROVE A POSSESSION AND USE AGREEMENT BETWEEN THE CITY OF HARLINGEN, UNION PACIFIC RAILROADS COMPANY, AND RIO VALLEY SWITCHING COMPANY FOR THE PURPOSE OF CONSTRUCTING AND OPERATING A PUBLIC CROSSING OVER A RIGHT-OF-WAY AND RAIL LINE OWNED BY UNION PACIFIC AND LEASED TO RIO VALLEY SWITCHING AT MILE POST 1.7 ON THE MISSION SUBDIVISION ALSO KNOWN AS “DIXIELAND CROSSING.”
- 21) CONSIDER AND TAKE ACTION TO APPROVE A PUBLIC GRADE CROSSING AGREEMENT BETWEEN THE CITY OF HARLINGEN, UNION PACIFIC RAILROADS COMPANY, AND RIO VALLEY SWITCHING COMPANY FOR THE USE OF A PUBLIC CROSSING OVER A RIGHT-OF-WAY AND RAIL LINE OWNED BY UNION PACIFIC AND LEASED TO RIO VALLEY SWITCHING AT MILE POST 1.7 ON THE MISSION SUBDIVISION ALSO KNOWN AS “DIXIELAND CROSSING.”

At 7:45 p.m., on July 6, 2011, Mayor Boswell announced that City Commission had completed its executive session on Items 19, 20, and 21 and declared the meeting opened to the public.

Motion was made by Commissioner Trevino and seconded by Mayor Pro-Tem Prepejchal to approve Items Nos. 20 and 21 subject to the City Manager negotiating the contract amounts with Union Pacific Railroads Company and Rio Valley Switching Company. Motion carried unanimously.

Motion was made by Commissioner Marra and seconded by Mayor Pro-Tem Prepejchal to go into executive session. Motion carried unanimously.

At 7:47 p.m., on July 6, 2011, Mayor Boswell announced the City Commission would convene in Executive Session to discuss Item No. 23.

- 23) CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D, V.T.C.A. GOVERNMENT CODE, SECTION 551.071 TO DISCUSS CONTEMPLATED OR PENDING LITIGATION AND TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY, VALLEY INTERNATIONAL AIRPORT ATTORNEY AND OUTSIDE LEGAL COUNSEL REGARDING THE FEDERAL AVIATION ADMINISTRATION COMPLAINTS FILED BY SUN VALLEY AVIATION, INC. AND GULF AVIATION AGAINST THE CITY OF HARLINGEN, VALLEY INTERNATIONAL AIRPORT.

At 8:20 p.m., on July 6, 2011, Mayor Boswell announced that City Commission had completed its executive session on Item No. 23 and declared the meeting opened to the public.

No action was taken

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to go into executive session to discuss Item No. 24. Motion carried unanimously.

At 8:22 p.m., on July 6, 2011, Mayor Boswell announced the City Commission would convene in Executive Session to discuss the following item.

- 24) CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D, V.T.C.A. GOVERNMENT CODE, SECTION 551.071 CONSULTATION WITH ATTORNEYS TO SEEK LEGAL ADVICE REGARDING COLLECTIVE BARGAINING WITH THE HARLINGEN PROFESSIONAL LAW ENFORCEMENT ASSOCIATION AND THE HARLINGEN PROFESSIONAL FIRE FIGHTERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 3404. (CITY ATTORNEY)

At 8:23 p.m., Mayor Pro-Tem Prepejchal excused himself from the meeting.

At 8:49 p.m., on July 6, 2011, Mayor Boswell announced that the City Commission had completed its executive session on Item No. 24 and declared the meeting opened to the public.

No action was taken

At 8:51 p.m., on July 6, 2011, Mayor Boswell announced the City Commission would convene in Executive Session to discuss Item Nos. 25, 26, and 27. The last three items were discussed in the following order

At 9:00 p.m., on July 6, 2011, Mayor Boswell announced that the City Commission had completed its executive session and declared the meeting opened to the public.

- 27) 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.

No action was taken

- 26) 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 T AND TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.

No action was taken

- 25) 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

There being no further business to discuss, Mayor Boswell adjourned the meeting.

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Chris Boswell, Mayor

Attest:

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Amanda C. Elizondo, City Secretary