

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

AUGUST 3, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, August 3, 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
Jerry Prepejchal, Mayor Pro-Tem, District 4
Gustavo C. Ruiz, Commissioner District 1
Kori Marra, Commissioner District 3

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. Commissioner Jerry Prepejchal was absent. He stated a notice of the meeting had been duly posted according to state law and the following proceedings were held.

Invocation/City Commissioner, Robert Leftwich

Commissioner Leftwich gave the invocation.

Pledge of Allegiance/Welcome

Mayor Boswell led the Pledge of Allegiance.

1) SPECIAL RECOGNITION

Mayor Boswell presented a certificate of appreciation to Alvaro Arizpe, Jr. and Emmanuel Arizpe for their dedication and commitment to the Proud Neighborhood Clean-Up Sweep Program. Mayor Boswell stated the clean-up had been done at Filmore Street from "F" Street to "M" Street.

2) Board Member Recognitions

Mayor Boswell presented a certification of appreciation to Commissioner Robert Leftwich for his dedication, commitment service to the Tax Increment Financing Reinvestment Zone Board.

3) Citizen Communication

Luis Perez, 2805 Ted Circle, spoke in regards to an article that appeared in the CNN Newspaper about the elimination of the FAA funding for airport construction projects. He stated the construction jobs could be jeopardized and asked the Commission to think about the proposal on the airport apron. Mr. Perez stated the city should not be spending any money that belonged to the taxpayers of Harlingen.

Juan Ortega, 2401 Ailani Circle, also spoke in regards to spending money on the airport. He stated the city did not have money to be spending and any money spend the city should be prepared to justified it.

Joe Rubio, Jr., 2309 Hacienda Road stated it had been five years that a City retiree had not received a cost of living. His neighbor, a City of Harlingen Police Officer was

suspended for one day for voicing a concern to the police department about a certain report. He feels responsible since he had asked him to look into it and he is now sponsoring a benefit BBQ to assist him for wages lost on that day.

At this time Mayor Boswell introduced the new Chief of Police, Thomas Whitten followed with a big round of applause.

Ron Lozano, 314 Riverside Road spoke in regards to the 72-hour posting on open meetings as required by State Law,

4) Approval of Minutes – Regular Meeting of July 20, 2011

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to approve the minutes for July 20, 2011 as presented. Motion carried unanimously.

5) CONSENT AGENDA

a) Approval of ordinance on second and final reading to rezone from not designated (“N”) zoning district to residential, mobile home (“MH”) zoning district for Lot 82, Palm Vista Estates, Unit 2 located at 15983 Palm Vista Drive. Applicant: Samuel Medrano.

b) Approval of ordinance on second and final reading for the Issuance of a Specific Use Permit (“SUP”) to allow a bar/lounge in a general retail (“GR”) zone located at 1105 S. Tamm Lane, bearing a legal description of 3.474 acres out of Block 33, Stuart Place Survey 139/297/298. Applicant: Rosemary Cantu Guerra.

c) Approval of ordinance on second and final reading amending the 2010-11 Fiscal Year Budget.

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

For the record, the captions of Ordinance No. 11-33, 11-34, 11-35 read as follows:

ORDINANCE NO.11-33

REZONING FROM “NOT DESIGNATED (N)” ZONING DISTRICT TO “RESIDENTIAL, MOBILE HOME (MH)” ZONING DISTRICT FOR LOT 82, PALM VISTA ESTATES UNIT 2, LOCATED AT 15983 PALM VISTA DRIVE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-34

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO ROSEMARY CANTU GUERRA TO ALLOW A BAR/LOUNGE IN A “GENERAL RETAIL (GR)” ZONE LOCATED AT 1105 S. TAMM LANE, BEARING A LEGAL DESCRIPTION OF 3.474 ACRES, OUT OF BLOCK 33, STUART PLACE SURVEY 139/297/298, SUBJECT TO: (1) MAINTAIN THE REQUIRED OFF STREET PARKING SPACES; (2) PROVIDING A LICENSED SECURITY GUARD IN THE PARKING LOT DURING PEAK HOURS OF OPERATION ON THURSDAY, FRIDAY AND SATURDAY FROM 9:00 P.M. TO 2:00 A.M.; (3) MUST PROVIDE ADEQUATE LIGHTING IN THE PARKING AREA; (4) PROVIDE AND MAINTAIN THE SURVEILLANCE VIDEO ON THE PROPERTY AND (5) APPLICANT MUST OBTAIN AND MAINTAIN TABC LICENSE; AND (6) COMPLY WITH REQUIREMENTS ADMINISTERED BY THE PLANNING, BUILDING INSPECTIONS, HEALTH AND FIRE DEPARTMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-35

AN ORDINANCE AMENDING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR THE FISCAL YEAR OCT. 1, 2010 THROUGH SEPT. 30, 2011. TOTAL BUDGET REVENUES WILL INCREASE TO \$70,523,218 AND TOTAL BUDGET EXPENDITURES WILL INCREASE TO \$73,964,636 RESPECTIVELY; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading July 20, 2011
PASSED AND APPROVED on second and final reading on August 3, 2011.

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

- 6) Consider and take action to accept (or reject) bids and award contract for the Van Buren, (bearing a legal description of Lots 17, 18, & 19, Block 59, Harlingen Original Townsite) Parking Canopy Project under Bid 2011-19.

Commissioner Trevino relinquished his chair and excused himself from the meeting room in order to avoid “an appearance of impropriety” and signed an affidavit, which was presented to the City Secretary.

Javier Zamora, City Engineer stated on July 5, 2011 staff received six bids for the construction of canopies over the parking spaces at the parking lot located at the 100 Block of West Van Buren Avenue bearing a legal description of Lots 17, 18, & 19, Block 59, Harlingen Original Townsite. Staff would be coordinating this project with the overlay asphalt work on the same parking lot through a separate contract. Mr. Zamora recommended awarding the bid to Sean Andrews Construction for \$71,000.00.

Motion was made by Commissioner Ruiz and seconded by Commissioner Leftwich to approve staff’s recommendation. Motion carried unanimously.

- 8) Consider and take action to approve the 2010 Assistance to Firefighters Grant Fire Prevention and safety Grant Program award from the Federal Emergency Management Agency (FEMA) and the U.S. Department of Homeland Security (DHS).

Michael Rinaldi, Fire Chief stated the City of Harlingen had been awarded a \$42,608.00 grant by the Federal Emergency Management (FEMA) and the U.S. Department of Homeland Security (DHS). This was a supplement to a \$53,260.00 Fire Prevention and Safety Project: Code Enforcement/Awareness & Computer-based fire inspections. The city’s cost to implement the project would be \$10,652.00 and the grant funds would be used to purchase a specialized computer with specialized software for use by the Fire Inspector in the field. With this fire inspections would be done more efficient and in less time. With this same funding the city would be allowed to purchase and install 300 smoke detectors for low-income families and the hard of hearing and deaf residents.

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to approve the item as presented. Motion carried unanimously.

- 10) Consider and discuss: (1) the 2011 redistricting process; (2) existing Harlingen City Commission election districts and potential changes to the election district lines; (3) redistricting criteria; and (4) provide direction to redistricting counsel on process to be used for adopting new redistricting plan.

Roxann Pais Cotroneo, City Attorney stated Mr. Rolando Rios, Redistricting Attorney had informed her that Cameron County would be finalizing their voting precincts within the next two to three weeks. Mr. Rios had indicated that he would not be present tonight and recommended that the City Commission not discuss the redistricting plan until after the county had voted on their plan. Mr. Rios was scheduled to make a presentation to the City Commission on September 7th regular meeting. Mr. Rios had indicated that if the City Commission had any question or concerns to call him. Ms. Cotroneo stated she had Mr. Rios’ cell and work number if the Commission wished to call him.

No action was taken.

- 11) Consider and take action to adopt a resolution approving the One Year Action Plan (Budget) for Fiscal Year 2011-2012 (Year 37) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2011-2012 (Year 17) of the Home Investment Partnerships Program (Home).

Commissioner Marra relinquished her chair and excused herself from the meeting room in order to avoid “an appearance of impropriety” and signed an affidavit, which was presented to the City Secretary.

Tammy DeGannes, Community Development Director stated in accordance with HUD regulations, the Commission had approved the proposed budget for the One Year Action Plan as part of the 2nd year of the Rio Grande Valley Regional Consolidated Plan on June 1, 2011. During the 30 day comment period, a regular public hearing was held on July 18, 2011 before the Community Development Advisory Board at which time they were available to listen to the various comments related to the One Year Action Plan. Upon approval of the Resolution, the One Year Action Plan would be forwarded to the Department of Housing and Urban Development, at which time they would review the One Year Action Plan and if acceptable, HUD would authorize the expenditure of funding on October 1, 2011

Motion was made by Commissioner Trevino and seconded by Commissioner Leftwich to approve the item as presented. Motion carried unanimously.

- 12) Consider and take action to approve the renewal of a contract between the AARP Foundation Senior Community Service Employment Agency and the City of Harlingen to request the services of participants from the AARP Foundation Senior Community Service Employment Agency at no cost to the City of Harlingen.

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to approve the contract between the City of Harlingen and the Foundation Senior Community Service Employment Agency at no cost to the city. Motion carried unanimously.

- 13) Discuss an ordinance establishing the protection of Green Parakeets and Red-Crowned Parrots by preventing the capture, preventing the killing or injuring of these birds within the corporate city limits of Harlingen, preventing the willful destruction of their native habitat on government property or public right of ways and prohibiting the taking of nestlings or un-hatched eggs.

13) Discuss an ordinance establishing the protection of Green Parakeets and Red-Crowned Parrots by preventing the capture, preventing the killing or injuring of these birds within the corporate city limits of Harlingen, preventing the willful destruction of their native habitat on government property or public right of ways and prohibiting the taking of nestlings or un-hatched eggs.

Gabriel Gonzalez, Assistant City Manager stated that members of the Birding Festival had approached him about having the City create an ordinance that would protect the Green Parakeets and Red-crowned Parrots in Harlingen. He presented a draft ordinance and stated the City Attorney would be making the necessary revisions.

Danny Hoehne, with the Birding Festival stated there was a population of approximately 150 of the Red-crowned Parrots and a smaller population of the Green Parakeets in Harlingen. Visitors from all over the United States would come to the Birding Festival to see these birds.

Mr. Gonzalez stated the proposed ordinance would prevent their capture, killing or injuring or from being captured within the corporate city limits of Harlingen. It would prohibit to deliberately destroy any roosting trees or nesting sites located on any government property or public right-of-ways within the corporate city limits of Harlingen. However, if the tree was determined to be a hazard or a threat to the safety of

the general public, it could be removed if approval was granted by the City of Harlingen Parks and Recreation Director. Violation of this ordinance shall be considered a “Class C Misdemeanor” punishable by a fine not to exceed \$500.

Commissioner Leftwich recommended that the ordinance be drafted to include other birds that needed to be protected. He understood the ordinance would focus on these particular birds, but there were other birds such as the owls.

Mr. Hoehne replied owls were protected federally and statewide.

Mayor Boswell instructed staff to continue working on the ordinance and present a recommendation at the next meeting.

14) Board Appointments

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

- a. Airport Board
- 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 (8)
- g. Convention & Visitors Bureau (1)
- h. Development Corporation of Harlingen, Inc.
- i. Downtown Improvement District Board (2)
- j. Golf Course Advisory Board
- k. Harlingen Community Improvement Board (4)
- l. Harlingen Housing Authority Board (0)
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board (6)
- 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 (1)
- u. Tax Increment Finance Board (1)
- v. Tennis Advisory Board
- w. Utility Board of Trustees
- 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.

Motion was made by Commissioner Marra and seconded by Commissioner Trevino to appoint Nick Chandra to the Convention Visitor Bureau. Motion carried unanimously.

7) Consider and take action to approve an Interlocal Cooperation Agreement between the Lower Rio Grande Valley Development Council (LRGVDC) and City of Harlingen and to accept the transfer of equipment acquired by the expenditure of grant funds awarded by the Governor’s Division of Emergency Management FY 2010 MMRS Grant.

Mayor Boswell relinquished his chair and excused himself from the meeting room in order to avoid “an appearance of impropriety” and signed an affidavit, which was presented to the City Secretary.

Fire Chief, Michael Rinaldi stated the LRGVD received a grant funding from the Metropolitan Medical Response System (MMRS) through FY 2010 Homeland Security Program (SHSP). The LRGVD desired to transfer the equipment (8-Pulse Oximeters) to the City of Harlingen as a permanent loan asset according to LRGVDC and Federal guidelines. The Property Transfer Record Agreement was for the equipment.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the Interlocal Cooperation Agreement for the acceptance of the transfer for the equipment. Motion carried unanimously.

- 9) Consider and take action to authorize the Mayor to execute an Interlocal Agreement with the Harlingen Consolidated Independent School District (HCISD) to assign two full-time uniformed Harlingen Police Officers to work at the two high school campuses as High School Resource Officers during the 2011-2012 school calendar year. (HCISD) may elect to hire additional police officers on overtime should the need arise.)

Mayor Boswell relinquished his chair and excused himself from the meeting room in order to avoid “an appearance of impropriety” and signed an affidavit, which was presented to the City Secretary.

Thomas Whitten, Chief of Police stated two police officers would be assigned to the high school to manage the Campus Crime Stoppers Program. The officers would make presentation, assist security and work with the schools’ population to encourage and maintain a positive behavior. The Harlingen Consolidated Independent School District would reimburse the city at a rate of \$37 per hour for any additional officers assigned for overtime duties as stipulated in the interlocal agreement.

Discussion was held in regards to the amount of protection that would be provided to the district because of the increased population at the schools. Commissioner Leftwich stated he was concerned with only two officers and felt that additional protection should be provided due to gang violence. He was in favor of giving more authority to the Police Chief to send more officers if necessary and to maintain an great image of more policing.

Commissioner Marra stated she was concerned that the public would fall short of being protected as well as the officers. She suggested that they meet with the school to work out a plan that was beneficial to both the city and school.

Commissioner Ruiz asked if the school had the means of providing their own police force.

Comments were heard from Yolanda Shoffeitt, she stated the city needed to hire at least two more officers; Joe Rubio stated two police officers were not enough and asked who would be supervising them and hoped that the city would consider an alternate option; Gail Moore stated juveniles could not be treated like adults.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the interlocal agreement between the city and HCISD subject to adding a provision in the agreement to give the Chief of Police additional authority to add additional security if the need arose. Motion carried unanimously.

On August 3, 2011 at 6:21 p.m. Mayor Boswell announced the Harlingen City Commission would convene in closed session to discuss the following item.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to convene in executive session to discuss the item. Motion carried unanimously.

At 6:41 p.m., Mayor Boswell announced the Harlingen City Commission had concluded its executive session on the following item and declared the meeting opened to the public.

- 15) 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 and deliberate financial or other incentives with the business prospect known as **Project Green** to seek legal advice from the City Attorney regarding this subject.
- 16) Consider and take action to approve an addendum to the Waste Disposal Agreement dated December 2, 2010 between the City of Harlingen and the City Edinburg.

No action taken.

On August 3, 2011 at 6:42 p.m. Mayor Boswell announced the Harlingen City Commission would convene in closed session to discuss the following item.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to convene in executive session to discuss the following item. Motion carried unanimously.

At 6:43 p.m., Mayor Boswell announced the Harlingen City Commission had concluded its executive session and reconvened the meeting opened to the public. No action was taken.

- 17) 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.
- 18) Consider and take action to approve a letter of intent to be issued to a business prospect known as **Project T**.

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to approve the letter of intent. Motion carried unanimously.

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

Chris Boswell, Mayor

Attest:

Amanda C. Elizondo, City Secretary