

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

AUGUST 17, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, August 17, 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

Robert Leftwich, Commissioner District 2

Joey Trevino, Commissioner District 5

Absent

Kori Marra, Commissioner District 3

Staff Present:

Carlos Yerena, City Manager

Amanda C. Elizondo, City Secretary

Roxann P. Cotroneo, City Attorney

Gabriel Gonzalez, Assistant City Manager

Roel Gutierrez, Finance Director

Mayor Boswell called the meeting to order, a quorum was established. Commissioner Kori Marra 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 certificates of appreciation to Jacob Aguilar, Greg Alanis, Angel Basaldua, James Brisbin, Jose Escalante, Frankie Flores, Hector Garay, Adan Garza, Miguel Gonzalez, Oscar Gonzalez, Ramiro Guerrero, Jose Rangel, Jody Rodriguez and Dayvet Serata with the La Esperanza Home for Boys and to the Little Code Rangers: Joe Angel Flores, Joseph Cruz, Nathaniel Cruz and Benjamin Cruz for their dedication and commitment to the Neighborhood Clean Sweep Program.

2) Board Member Recognitions

Mayor Boswell presented a certification of appreciation to Tito Resendez for his dedication, commitment and service to the Airport Advisory Board.

3) Veteran's Memorial Committee Presentation.

Fred Rendon, 1749 Apple Court, Chairman of the Veteran's Memorial introduced Roberto Ruiz, Architect for the Veterans' Memorial Project.

Mr. Ruiz gave a brief PowerPoint presentation on the construction project, cost and completion of the memorial. He highlighted the design of project and information on the pavers.

Mayor Boswell thanked the Mr. Rendon and Mr. Ruiz for their presentation and stated he was interested in seeing a true cost estimate on project.

Mr. Ruiz stated the completion date was based on the funding. He added they only had \$15,000 available and the committee needed to visit with the City Manager and to decide what areas of the design they could start implementing to hopefully start the project this year. They were still very far from targeting the amount required of \$600,000 to fully complete the project.

Commissioner Ruiz asked if a section of the park could be completed by November 11, 2011.

Mr. Rendon stated they would love to complete it by November, but currently they were at a standstill with the Harlingen Community Improvement Board (4B). They needed to go before the 4B Board and request a specific amount.

Commissioner Prepejchal asked if the committee had received a support letter from the City.

Mr. Rendon stated the letter would certainly assist the committee in soliciting funds.

#### 4) Proclamations

Mayor Boswell read and presented proclamations to the following individuals for the following events. He thanked the individuals for dedication and commitments in educating the public about these worthwhile events.

- a. "MDA" Fill the Boot Day presented to Harlingen Fire Chief Mike Rinaldi and Fellow Fire Fighters and Jennifer Molina, Fundraising Coordinator for MDA.
- b. Save Your Eyes Now proclamation presented to Maria Tripovich, Director for State Public Health and Government Affairs.
- c. Moses Alex Westbrook Memorial Day proclamation presented to Dean Hall, Executive Director of Valley Aids Council.

#### 5) Citizen Communication

Bernie Saenz, Manager of Community Outreach with Project VIDA located at 1715 E. Pike Blvd., Weslaco stated Project VIDA was a 501(C)(3) Community Base Non-Profit organization that assisted the underserved adult population to obtain an associates, bachelors or marketable skills certificates. He provided a progress report of all the participants that were assisted by the funds utilized by the Harlingen Economic Development Corporation.

Martha Powell, resident of Queen Sago Drive spoke in regards to debris on her property. She requested for the City Code Enforcement Department to look into this issue due to potential health problems.

Yolanda Shoffeit, resident of 258 Altas Palmas spoke in reference to the waterworks items. She stated she would not continue her two minutes talk until the item was discussed.

Brenda Heredia with the Family Crisis Center presented a poster to the City Commission regarding their annual fundraiser to be held on September 24, 2011 at the "Reese Penthouse". She stated a table had been reserved for the City Commission subject to them purchasing two tickets each. Mrs. Heredia stated they had completed 30 years of service in the northern Cameron and Willacy County area.

Commissioner Ruiz spoke in regards to the "911" anniversary. He stated city staff was working with the Police and Fire Departments and the Veterans Advisory Board

to organize a ceremony for next month. He invited the community to this event and looked forward to seeing everyone there.

6) Approval of Minutes – Regular Meeting of August 3, 2011.

Motion was made by Commissioner Leftwich and seconded by Commissioner Prepejchal to approve the minutes for August 3, 2011 as presented. Motion carried unanimously.

7) Consent Agenda

a) Consider and take action to approve a request by the City of Harlingen Code Enforcement Department to close West Grant Street between “B” Street and “C” street and also a portion of “B” Street (down to the first driveway from Grant Street), Wednesday, August 31, 2011 from 7 a.m. to 12 noon for a Media day Event to announce the demolition of unsafe structures within the city and conduct an actual demolition on site (1202 South “B” Street).

b) Consider and take action to approve a request from the Harlingen Cardinals Quarterback Club to close Jefferson Street from 13<sup>th</sup> Street to 77 Sunshine Strip on the following dates: September 3<sup>rd</sup>, 9<sup>th</sup> and October 14<sup>th</sup> and 28<sup>th</sup>, 2011 from 5:00 p.m. to 7:30 p.m. in an effort to initiate a new tradition of “Walk of Champions” before every home game.

c) Consider and take action to approve a request from the Harlingen High School student Council to close the streets around the Harlingen High School Campus starting at the North Parking Lot along 7<sup>th</sup> Street and 13<sup>th</sup> Street down to Marshall Street on Thursday, October 13<sup>th</sup>, 2011 from 6:00 p.m. to 7:00 p.m. for their Annual Homecoming Parade.

d) Consider and take action to approve refund of property taxes to the Pep Boys c/o Joan Nagle, Account #25-4310-0010-0010-00 in the amount of \$2,003.61 due to an adjustment for a change of value for the years “2007, 2009 and 2010” as per an agreed judgment.

e) Consider and take action to approve the Investment Report for quarter ended June 30, 2011.

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

8) Consider and discuss the City’s Internal and External Auditors investigative report on the financial transactions of the Utility Board of Trustees also known as the Harlingen Waterworks Board and the acts and conduct of any official and employee regarding:

- (1) Whether or not the Waterworks Board got their budget amendments approved by the Harlingen City Commission prior to spending city utility funds in FY06-07, FY07-08, FY08-09, FY09-10 and FY10-11 to present.
- (2) The number of budget amendments made by the Waterworks Board without seeking approval by the Harlingen City Commission prior to spending city utility funds in FY06-07, FY07-08, FY08-09, FY09-10 and FY10-11 to present.
- (3) The dollar value of each budget amendment approved by the Waterworks Board that did not get approved by the Harlingen City Commission prior to spending city utility funds in FY06-07, FY07-08, FY08-09, FY09-10 and FY10-11 to present.
- (4) Any other information that the City’s internal and External Auditors deem relevant to investigate regarding the above-listed issues.

Mayor Boswell stated he had received a request to table Item No. 8 to allow the Waterworks Board to review the audit. The Waterworks Office did not have sufficient time to post their agenda, since the City Commission agenda item was placed late Friday.

Commissioner Trevino asked if they would have a joint meeting with the City Commission.

Mayor Boswell replied it could be a joint meeting or they could post their agenda with the Commission item, so they could be present at the City Commission meeting.

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

(9) Presentation on the National Guard Demolition Program.

Carlos Yerena, City Manager report on Operation Crackdown Program with the Texas National Guard regarding unsafe structures. He stated the Texas National Guard provided labor and equipment and the city did the hauling and paid the tipping fees for the demolishment of structures. The city benefitted from the amount of structures to be demolished with the allocated amount in the budget. This was being done at no cost to the property owner. This partnership program with the National Guard targeted unsafe structures. They were proposing to demolish thirty eight unsafe structures that had a direct link to drug and criminal activities. A Memorandum of Understanding had been signed between the City of Harlingen and the National Guard. They would be coming to town August 29 through September 8, 2011. "Media Day" had been scheduled for August 31<sup>st</sup> from 9:00 a.m. to 11:00 a.m. at 1202 South "B" Street. Some key points were: property owner had to participate and provide a waiver of liability and the city had to obtain clearance from the Texas Historical Commission. The city savings was approximately \$50,000 for twenty structures. This program would allow staff to concentrate on other issues. The overall goal was to have a cleaner and safer community for the citizens and make this project an annual event.

Mayor Boswell stated he was very excited about this event coming to the city and to have the assistance of the Texas National Guard to demolish these unsafe structures.

(10) Issuance of a Specific Use Permit ("SUP") to allow an adult business (tobacco store) in a General Retail ("GR") District located at 1514 S. "F" Street, Suite A, bearing a legal description of Lots 6-9, Block 4, E&H Subdivision. Applicant: Ricardo Rodriguez, Jr.

Joel Olivo, Planning and Zoning Manager stated the applicant was to operate an adult business out of an existing suite located at 1514 S. "F" Street. The area to be occupied was approximately 610 sq. ft. under the name of Eight Eighty Eight. The establishment had to comply with the off street parking regulations. The request was reviewed by the Building Inspections, Health and Fire Departments and approved the request. The affected property owners within the 200 ft. radius were also notified. To the present, the Planning and Zoning Department has not received any objections to the request from the surrounding property owners. Staff received letter in favor of the request from local businesses. Staff recommended approval subject to complying with the following conditions:

- Must maintain the required off street parking spaces.
- Must obtain and maintain the proper State permits.
- Comply with requirements administered by the Planning, Building Inspections, Health and Fire Departments prior to the issuance of the Certificate of Occupancy.

a) Public Hearing

Mayor Boswell declared the hearing opened to the public.

Yolanda Shoffeit stated her only concern was the distance if any, from the church and school.

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

For the record, the City Attorney read the caption of the following proposed ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN TO ISSUE A SPECIFIC USE PERMIT TO RICARDO RODRIQUEZ, JR. TO ALLOW AN ADULT BUSINESS (TABACCO STORE) IN A GENERAL RETAIL ("GR") DISTRICT LOCATED AT 1514 S. "F" STREET, SUITE "A", BEARING A LEGAL SUBDIVISION, SUBJECT TO: (1) MAINTAINING THE REQUIRED OFF STREET PARKING SPACES; (2) OBTAINING AND MAINTAINING THE PROPER PERMITS FROM THE STATE AND (3) COMPLY WITH REQUIREMENTS ADMINISTERED BY THE PLANNING, BUILDING INSPECTIONS AND FIRE PREVENTION DEPARTMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

- b) Consider and take action to approve an ordinance on first reading on the above mentioned specific use permit.

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

- 11) Issuance of a Specific Use Permit ("SUP") to allow a Bar/Lounge in the General Retail ("GR") District, located at 415 W. Van Buren, bearing a legal description of Lot 5, Block 66, Harlingen Original Townsite Subdivision. Applicant: Roel Martinez

Joel Olivo, Planning and Zoning Manager stated the applicant was requesting a Specific Use Permit to allow a bar/lounge out of an existing 1,357 sq. ft. building located at 415 West Van Buren Avenue out of the La Placita District. The SUP application request was reviewed by Building Inspections, Health and Fire Departments and had no objections to the proposed request. The Planning and Zoning Department received no objections from the surrounding property owners. Staff and the Planning and Zoning Commission were recommending approval subject to the applicant complying with the Alcohol Regulations as per Section 15.07(7) of the Zoning Ordinance which consisted of video surveillance, licensed security personnel and adequate lighting. The building shall comply with the applicable building and fire code regulations as determined by the Building Inspections and Fire Prevention Departments prior to the issuance of the Certificate of Occupancy; and the applicant shall apply for the renewal of this SUP, once approved, no later than two (2) months prior to its one (1) year expiration date.

- a) Public Hearing

Mayor Boswell declared the hearing opened to the public.

Kenneth Benton, resident of 402 W. Taylor stated he was not against the Specific Use Permit. His only concern was how the city proposing to continue revitalizing "F" Street corner. In the future, instead of making Ad Hoc decisions about land usage, it would be proper to establish some standard the types of land usages, not necessary this item but for future items.

Yolanda Shoffeit stated she was not against businesses coming to Harlingen. However, her concern was that there might be a church in that area.

Mr. Olivo responded there was not a church within the area.

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

For the record, the City Attorney read the caption of the following proposed ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT ("SUP") TO ROEL MARTINEZ TO ALLOW A BAR/LOUNGE IN A "GENERAL RETAIL (GR)" DISTRICT, LOCATED AT 415 WEST VAN BUREN, BEARING A LEGAL DESCRIPTION OF LOT 5, BLOCK 66, 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.

- b) Consider and take action to approve an ordinance on first reading on the above mentioned specific use permit.

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

- 12) Consider an ordinance on first reading to rezone from Not Designated ("N") District to Residential, Mobile Home ("MH") District for the East part of Lot 109 and all of Lot 110, Palm Vista Estates Unit 3, located at 15919 Queen Sago. Applicant: Jose A. Muniz.

Joel Olivo, Planning and Zoning Manager stated the property owner was requesting to rezone the property from Not Designated ("N") District to Residential, Mobile Home ("MH") District to allow a mobile home on the property. The property was annexed in November 2008 with a Not Designated ("N") District zone. The property currently had an existing mobile home on the eastern part of the lot and the owner was proposing to remove it to replace it with a new mobile home. The surrounding land uses consist of mostly mobile homes and some single family homes. The request was consistent with the Future Land Use Plan and the surrounding land use. A public hearing was conducted by the Planning and Zoning Commission and no objections were raised at the meeting. Staff and Planning & Zoning Commission were recommending approval of the request.

- a) Public Hearing

Mayor Boswell declared the hearing opened to the public; there being none, he declared the hearing closed.

For the record, the City Attorney read the caption of the following proposed ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: REZONING FROM NOT DESIGNATED (N) DISTRICT TO RESIDENTIAL, MOBILE HOME (MH) DISTRICT FOR THE EAST PART OF LOT 109 AND ALL OF LOT 110, PALM VISTA ESTATES UNIT 3, LOCATED AT 15919 QUEEN SAGO; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

- a) Consider and take action to approve an ordinance on first reading for the above mentioned rezone request.

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

- 13) Consider an ordinance on first reading to rezone from Light Industry (LI) District to General Retail (“GR”) District for Block 8, Highway Addition located at 2602 N. 77 Sunshine Strip. Applicant: Candido Saldivar

Joel Olivo, Planning and Zoning Manager stated the owner was requesting to rezone the property from Light Industry (“L1”) District to General Retail (“GR”) District to allow a two unit apartment on the property. The property consisted of a mixed use of commercial and multi-family use. There was a vacant convenience store and a beauty salon on the western part of the property and four triplex apartments on the eastern part of the property. The request was consistent with the Future Land Use Plan, it was not consistent with the light industry zoning pattern on the east side of North 77 Sunshine Strip. The Planning and Zoning Department did not receive any objections from the surrounding property owners. At the direction of the Planning and Zoning Commission Board on August 10, 2011, staff was been directed to rezone the area north and south of 602 N. 77 Sunshine Strip from Light Industry (LI) to general retail (GR) in accordance with the Future Land Use Plan.

a) Public Hearing

Mayor Boswell declared the public hearing open to the public; there being none, he closed the hearing.

For the record, the City Attorney read the caption of the following proposed ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: REZONING FROM LIGHT INDUSTRY (L1) DISTRICT TO GENERAL RETAIL (GR) DISTRICT FOR BLOCK 8, HIGHWAY ADDITION, LOCATED AT 2602 N. 77 SUNSHINE STRIP; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

- a) Consider and take action to approve an ordinance on first reading for the above mentioned rezone request.

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

- 14) Consider and take action to approve the final plat of the proposed Harlingen Public Works Subdivision consisting of two (2) lots on 24.74±, out of Block 54, Palmetal Subdivision, generally located on the southwest side of FM 106 and 54<sup>th</sup> Street. Applicant: JNH Surveying Co., LLC, c/o the City of Harlingen.

Joel Olivo, Planning and Zoning Manager stated the proposed subdivision consisted of two (2) lots. The property was zoned “light industry (L1)”. All items on the final plat checklist had been addressed. Staff recommended approval of the subdivision plat.

Motion was made by Commissioner Leftwich and seconded by Commissioner Prepejchal to approve the final plat of Harlingen Public Works Subdivision. Motion carried unanimously.

- 15) Consider and take action to approve amendment number 1 to the Advance Funding Agreement for the 25<sup>th</sup> Street Pedestrian and Bicycle Trail to the Texas Department of Transportation.

Commissioner Trevino excused himself from the meeting at 6:35 p.m. in order to avoid "an appearance of impropriety" and signed an affidavit, which was presented to the City Secretary.

Gabriel Gonzalez, Assistant City Manager stated the city had received Amendment #1 to the Advance Funding Agreement. The amendment deleted the original Attachment C and replaced it with Attachment C-1. Attachment C-1 made the following change. "Payment of the Local's share of TxDOT's ADM Cost and bid item cost for construction to be incurred was \$442,717." The original AFA had the incorrect amount stated in this section and the amendment corrected the flaw. Funds were allocated to pay the entire amount required.

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

At 6:37 p.m., Commissioner Trevino returned to the meeting.

- 16) Consider and approve a Resolution nominating TIRE RECYCLING & PROCESSING, LLC, as a Designated Enterprise Project in the City of Harlingen, Texas.

Bill Martin, EDC Executive Director was asking the city to approve a Resolution nominating Tire Recycling & Processing, LLC, as a Designated Enterprise Project in the City of Harlingen. Designation as an Enterprise Project would allow the company to receive state tax incentives. Tire Recycling & Processing (TRP) was purchasing the former Gibb's facility in the Harlingen Industrial Park. They would be investing around \$3 million dollars in new equipment and renovation of the facility. The project would employ 25 jobs at the beginning and 25 more when they go into a second shift. They would be recycling the used tires and turning them into granules that would then be resold as raw materials for other products. Later as they add additional line equipment they would be able to recycle tires and turn them into a product called carbon black, commonly used in paint. There were no emissions from this project and all the manufacturing process would be done in-house.

Martha Martinez, Environmental Engineer stated she had been doing the recycling process for 25 years. She stated tires were a worldwide problem and there were only five (5) recycling centers in the whole nation. Harlingen would be number six (6). Recycle means process, makes black carbon, zero waste and zero emissions. They had purchased seven (7) recycling machines with an investment of \$5 million. She had studied this project for many years and just returned from meeting with EPA, OSHA, and TCEQ representatives in San Diego, California. Annually, Texas generates 32 million tires per year and there was no recycling center in Texas. This would make the City of Harlingen the first center in the State.

Commissioner Leftwich asked if TCEQ and EPA required any types of permits involving this project.

Ms. Martinez replied they were working on the permits and an inspection had been done on the facility and was approved. Their first step was to complete all the required compliances and get certified. Waste stream on the tires was zero. She stated no tires would be kept in or out of the facility. The machines would be able to grind one (1) tire every seven (7) seconds with the capacity to grind up to 80 thousand tires per day. After the grinding process they would be able to produce the "black carbon."

Commissioner Leftwich asked if any other cities had been approached about this facility. What was their resistance to the project?

Ms. Martinez replied zero and they were very excited.

Mr. Martin stated the EDC felt confident that the logistics of receiving the tires and processing them through the equipment would keep the site clean and thought it was a good project.

Dorothy Neisman, 729 Town Lane asked if any toxic solvents would be used that would need to be disposed and if so, where would the solvents be disposed. How about the noise level and who would be exposed to the noise?

Ms. Martinez stated the tires were non-regulated products and they were considered Class 2 non-toxic products. Rubber was a thermal set resin when melted it did not produce emissions, odors, toxics or noise.

Yolanda Shoffeitt suggested for the city to tour other existing facilities to see what precautions were being taken to protect the employees.

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

- 17) Consider and take action to approve a payment to the Development Corporation of Harlingen, Inc. on an outstanding loan in the amount of \$196,132.15 in connection with the Washington Avenue Improvements Project.

Roel Gutierrez, Finance Director stated the Development Corporation of Harlingen was requesting a payment of \$196,132.15 on an outstanding loan from the City of Harlingen. In 1994 the Development Corporation loaned the city \$365,000 for improvements to Washington Avenue. The last payment made by the city was \$25,000 in June of 2001 and reduced the loan balance to \$196,132.15. The amount was in the Petition Paving Fund as a liability and was available.

Motion was made by Commissioner Leftwich and seconded by Commission Prepejchal to approve payment to the Economic Development Corporation for the amount of \$196,132.15. Motion carried unanimously.

- 18) Public hearing to hear comments for or against the proposed City budget for fiscal year 2011-12.

Roel Gutierrez, Finance Director highlighted the following information for budget year 2011-12:

Beginning Revenues vs. Expenditures	\$(3,687,495)
<u>Expenditures Reductions</u>	
TMRS	\$ 404,097
EMS (reduction in subsidy)	423,000
Parks (Playground Modular Equipment-potential 4B Project)	75,000
Position Eliminated (5.5 FTE's)	205,000
Salary Savings	324,659
TCAP Energy Savings (1 cent rate reduction)	120,658
Vehicle Replacement	1,532,105
Transfer to Street Improvement Fund	(131,963)
Various Department Reductions	92,635
Total Expenditure Reductions	\$3,045,191
Adjusted Revenues vs. Expenditures	\$ (642,304)
Revenue Increases	
Transfer from Free Trade Bridge	\$ 62,743
Transfer from EDC (Parking Lot)	270,000
Waterworks reimbursement for Parking Lot	45,885
MPO Office Rental and Indirect costs	36,176
Property Tax Increase (Final Certified Roll)	227,500

Mayor Boswell declared the hearing open to the public.

Joe Rubio, 2309 Hacienda Road asked if the budget information was available for public inspection; if the budget was complete and if it included the health insurance figures and the economic development figures; if the Mayor was being allocated \$100,000 for the Harlingen 100 Plan and if the Convention and Visitors Bureau Budget was changed.

Mr. Gutierrez responded the budget was posted on the city website. The budget was completed and it included the health insurance figures and the Economic Development figures. It was estimated budget and there was no money allocated on the budget for the Harlingen 100 Plan. Funds were not allocated for the Mayor. All went towards city projects.

Yolanda Shoffeitt stated that in her opinion it was not fair to the citizens and voters to approve the city budget.

Cecilia Rangel, 1901 W. Acadia stated all they were asking for was a balanced budget and what was good for the Harlingen citizens.

There being no further comments, Mayor Boswell closed the public hearing.

- 19) (1<sup>st</sup>) Public Hearing to hear comments for or against the proposed tax rate of \$0.588827 for fiscal year 2011-12.

Roel Gutierrez, Finance Director stated this was the first public hearing of two hearings. The proposed tax rate was \$0.588827, same rate for the past two years. The tax rate had been factored into the proposed 2011-2012 budget, as presented to the commission. Tax Code Section 26.05(d) required taxing units to hold two public hearings to adopt a tax rate that exceeds the effective rate. After the public hearings, an ordinance adopting a tax rate would be prepared for the City Commission to vote on and it required two readings. These readings were scheduled for the regular Commission meetings of September 7<sup>th</sup> and 21<sup>st</sup>, 2011.

Mayor Boswell opened the hearing to the public.

Yolanda Shoffeitt stated everyone paid taxes in the City of Harlingen and would like for the Internal Revenue Service to investigate farmers that were tax-exempt. She stated she was against the proposed tax rate.

Joe Rubio, Jr., 2309 Hacienda Road spoke in favor of the tax rate. His concern was the wording regarding "property tax rate history." He would like to see the City address the issue of property taxes and tax everyone equally and at the same level. This would probably bring in more revenue.

Cecilia Rangel, 1901 W. Acadia for the City Commission to approve the tax rate and move forward.

With no further comments, Mayor Boswell closed the public hearing.

- 20) Consider and discuss: (1) the impact of substandard structures in our City; (2) the number of substandard, dilapidated structures that have been demolished or repaired by the property owners, lien holders, mortgagees or the City through the legal process established by the City Attorney's Office; and (3) creating another legal process to address a higher number of substandard structure cases.

Roxann Pais Cotroneo, City Attorney presented a PowerPoint presentation on the total number of substandard structures that had been demolished or repaired within the past 12 months through the legal process created by the City Attorney's Office. She provided a breakdown on the number of structures demolished and repaired in each city district. She wanted the citizens to be aware that the demolishing of structures has a cost of about \$3,000 to \$5,000 per structure. This would reflect how much the Texas National Guard would be valued once they took on the project. In 2009, the city was

instrumental in getting 40 structures demolished. This past year they had been able to demolish a total (including the National Guard numbers) of 152 structures. For the past two years the city had demolished a total of 192 structures. One hundred and two structures had been processed through the Construction Board Adjustments; 40 were going to be demolished by the National Guard. She gave a breakdown of the structures demolished by district: District No. 1 – eight; District No. 2 - 28; District No. 3 - 6; District No. 4 - 65; and District No. 5 - 5. Out of the one hundred and two processed through the Construction Board of Adjustments, 89% of the owners resolved the properties themselves and 11% were demolished by the city.

21) 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
- 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
- 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 (1)
- 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.

Mayor Boswell re-appointed Jesse Robles to the Harlingen Community Improvement Board. Re-appointed Sue DeBrooke and Sally Smith to the Harlingen Proud Advisory Board

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

22) Presentation on the State of the General Aviation Industry including aircraft manufacturing and FBO trends, the effect on Valley area airports, and FAA guidance on general aviation apron development.

At 7:24 p.m., Commissioner Trevino excused himself from the meeting in order to avoid “an appearance of impropriety” and signed an affidavit, which was presented to the City Secretary. He reported he would not be returning for the remainder of the meeting.

Jeff A. Kohlman, representative of Aviation Management Consulting Group stated that he had previously made a presentation in 2007 to the City Commission providing factual airport and aviation industry FBO information to assist the Commission in exercising their fiduciary responsibility in spending airport monies. The FAA was shut down for two weeks and caused a \$400 million loss in FAA money. He presented a PowerPoint presentation regarding statistics on Airport/FBOs; General Aviation Industry Trends; Airport/FBO Trends; and Apron Requirements on Airports around the United States with a chart comparison of figures ranging from 2007 to present. Mr. Kohlman stated that all the information that was being presented were all facts. There was 6.7 acres of Apron area that Gulf Aviation used of which was adjacent to their primary lease. There was a new apron area that was recently added by the airport. It had been stated that Gulf Aviation acquired more apron area and that was not the case. These were safety areas that protected the taxiway.

Commissioner Prepejchal stated the city had begun negotiations with the other company that wanting to come into the Airport. They were requesting for the city to build the apron for them, yet the city had lost 85% to 90% of the air cargo plane which went to Brownsville and McAllen.

Mayor Boswell responded this was incorrect statement because the majority of the air cargo existed at Harlingen International Airport.

Commissioner Leftwich stated Valley International Airport currently had a mixed use in terms of general aviation dealing with apron space.

Mr. Kohlman stated there were additional apron areas outside the 6.7 acres.

Commissioner Leftwich responded then it was not the basic of three times what the apron requirement recommendation by the FAA. It was more than that; the city had lowered the minimum standards at the airport. If this was true, than the general aviation was a mixture of commercial.

Mr. Kohlman explained the airport aprons were being utilized by transient aviation aircrafts.

Commissioner Leftwich stated that was a very conservative number and that puts the airport based on the FFA recommendation at three times the apron capacity that the city needed for the current transient and FBO aircrafts that visited the Valley International Airport.

Mayor Boswell stated the lease could not be exclusive for FBO services. The letter that was addressed to Mr. Browning and read stated the City had to negotiate in good faith. Currently the airport had two hangers that were leased by Gulf Aviation. He stated if Mr. Garza would not give up or compromise part of his space, the city could not give him exclusive rights. We had to negotiate in good faith with them because where would the city place the new company. They were building their own building with their own money even though the City provided apron and taxiway for Gulf Aviation.

Commissioner Prepejchal stated the City Commission had a responsibility to the taxpayers of Harlingen to use their money wisely.

Mayor Boswell stated all of them had a responsibility to the airport. The future of the airport depended upon the city's relationship with the FAA to obtain continued funding. The issue whether or not there has been a market study the need for a second FBO was irrelevant. The FAA had informed us of these two issues. They had indicated that if a second FBO wanted to come in that was an indication of a need. The pending complaint against the city cited that the city had not bargained in "good faith" with the second FBO. If the FAA fines that the city has not bargained in good faith, then the city could be subjected to violating the city's grant assurances and risk losing future grant funding.

After a lengthy discussion, Mayor Boswell asked Mr. Garza if he was willing to compromise and lease part of his apron.

David Garza, representative of Gulf Aviation stated he had told the Airport Board that he was willing to meet with them to discuss some type of resolution to get past these issues. There were quite a few other problems that needed to be clarified. He asked Mayor Boswell if he was willing to admit that the FAA was not going to fine the city in regards to any violations if the aprons were not built. The fact was that the FAA could not force the city to built aprons.

Commissioner Leftwich referred to the FAA letter of November 10, 2010, they stated the city does not have to incubate an FBO; the city's responsibility was to only negotiate in good faith. The proposed FBO was considered to be a start-up operation. The FBO was a clear declaration that the city did not have to fund anything that was considered taxpayer risk to facilitate the lease arrangements.

Mr. Browning stated the operation would be funded by the airport.

Commissioner Leftwich stated the fact was that if the business did not succeed and it had a long term operation then there was a risk to maintain the apron. The city was already maintaining other aprons that were at the airport.

Mr. Browning stated there was maintenance costs involved.

Commissioner Leftwich stated if the city was playing chicken with the FAA on the aprons, this was not the same as the FAA complaint that had been filed. He stated the ramifications for violating grant assurances were different from one complaint to the other. Basically, if the two complaints were not balanced then the city was at the risk of losing grant assurances.

Mr. Browning stated he disagreed with those actions. They were completed two different cases.

Mayor Boswell explained the second was a "monopoly" complaint file by Mr. Garza, and that was not a violation of the grant assurances.

Commissioner Ruiz asked was the city involved in any FAA violation complaint.

Mr. Browning responded as of today no.

Commissioner Ruiz recommended for all parties involved to try to come up with some sort of an agreement so they could all move forward for the best interest of the Harlingen citizens.

Mayor Boswell stated everyone needed to come together and reach some type of compromise. There was one Commissioner who was out and the other excused himself from the item. He was proposing that the Commission pass on the next two items and bring them back at a next meeting.

Dorothy Neisman, 729 Town Lane spoke in reference to the good faith statement. She stated if the original FBO standards were different from the new standards, she would like clarification on these standards for the public. She asked if that information could be made available to the public next time they met.

Jo Wagner, 3010 Pinehurst, Airport Board Co-Chair stated the city sometimes wondered why developers did not like coming to the City of Harlingen. This issue discussed tonight was a "developer's issue." They were investing their money to make money for the city and they should be allowed to come in and build.

David Garza, Gulf Aviation stated he started his business from the ground up and never asked for any favors. This company was coming in and asking the city to take

taxpayer's money to build the FBO when the city was not required to do so. He would like to see where it stated that the FAA was forcing the city to build.

Mayor Boswell asked Mr. Garza to contact the FAA and invite them to the next meeting to provide some guidance.

Mayor Boswell announced Items Item 23 (a) and Item 24 would be postponed to the next meeting. Only Item 23 (b) would be discussed in executive session.

- 23) The following items will be discussed in Closed/Executive Session:
- a) 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 Complaint filed by Sun Valley Aviation, Inc. against the City of Harlingen, Valley International Airport
- 24) Consider and take action to approve a resolution accepting Valley International Airport's amended mid-year capital expense and capital improvement budget for Fiscal Year 2010-2011.

On August 17, 2011 at 8:41 p.m. Mayor Boswell announced the Harlingen City Commission would convene in closed session to discuss the following item.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to convene in executive session to discuss Item 23. Motion carried unanimously.

At 9:52 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.

- 23(b) 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.

No action was taken.

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



Chris Boswell, Mayor

Attest:   
Amanda C. Elizondo, City Secretary