

SPECIAL MEETING

CITY COMMISSION

HARLINGEN, TEXAS

SEPTEMBER 26, 2011

A Special Meeting of the Harlingen Elective Commission was held on Monday, September 26, 2011 at 5:00 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

Kori Marra, Commissioner, District 3

Joey Trevino, Commissioner, District 5

Staff Present

Carlos Yerena, City Manager

Amanda C. Elizondo, City Secretary

Roxann P. Cotroneo, City Attorney

Gabriel Gonzalez, Assistant City Manager

Roel Gutierrez, Director of Finance

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.

- 1) Proclamation proclaiming October 5, 2011 as "International Walk to School Day".

Mayor Boswell presented a proclamation to Officer Oscar Tapia, Representative with the Harlingen Independent School District proclaiming "International Walk to School Day".

- 2) Consider and take action to rescind the vote taken by the Elective Commission on September 21, 2011 to approve on first reading repealing certain sections or all of Ordinance No. 08-65 which was approved by the Harlingen City Commission on November 19, 2008.

Motion was made by Commissioner Marra to rescind the vote taken by the City Commission on September 21, 2011.

Roxann Pais Cotroneo, City Attorney stated at the September 21, 2011 the City Commission voted by a 3-2 vote to repeal Ordinance No. 08-65. Ms. Cotroneo pointed out that state law stipulated that a home rule municipality could disannex an area. The City of Harlingen was a home rule municipality and according to the rules in the City of Harlingen Charter. The city could disannex as long as this procedure was not inconsistent with any procedures that were established under state law, Chapter 43 of the Texas Local Government Code. She mentioned Article II, Section 2, of the Harlingen City Charter, stated the City Commission shall have the power by ordinance to fix boundary limits and annex additional territory adjacent to the city. Also, under Article II, Section 2 as per the City Charter the City Commission had the power to disannex by ordinance territory previously annexed upon the initiative of the City of Harlingen or through a petition by the residents of said area. If there was a petition of the residents the city's action was not based on the petition for legal reasons, but on the city's initiative. The power to disannex had to be by ordinance.

At the September 21, 2011 meeting the agenda item language did not fairly apprise the public of the item to be discussed. To avoid any legal challenges, Ms. Cotroneo advised the City Commission to rescind its prior vote repealing Ordinance 08-65 and instead vote on first reading to approve or disapprove an ordinance to disannex. If this ordinance passed on first reading, then it would require a second reading.

Commissioner Leftwich questioned whether or not the City of Harlingen had ever performed a disannexation.

Ms. Cotroneo replied that in September 1998 the city disannexed a 41.56 acre tract near San Benito, Texas and public hearings were held. Pursuant to Chapter 43 of the Texas Local Government Code there were no procedural rules that required the city to follow on voluntary disannexation. However, there were substantial rules for the city to follow when they were annexing territory.

Mayor Boswell asked for the City Commission's consent on whether or not to rescind the action taken at the last meeting of September 21, 2011.

Motion was seconded by Commissioner Ruiz and it carried unanimously.

- 3) Consider and take action to adopt an ordinance on first reading to disannex all of the territory previously annexed under City of Harlingen Ordinance No. 08-65 approved on November 19, 2008, consisting of a parcel of land described as 1.039+ acres comprised of these two tracts of land:

Tract 1: A tract containing 392+ acres of land generally bounded on the North by Drury Lane and Brennaman Road, on the East of Stuart Place Road, on the South by Garrett Road and on the West by Baker Potts Road; and

Tract 2: A tract of land containing 647+ acres of land generally bounded on the North by Wilson Road, on the West by Altas Palmas Road, on the South by Orange Drive and Queen Sago Drive and on the East by Stuart Place Road.

Ms. Cotroneo read the caption of the ordinance.

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

Mayor Boswell questioned the lack of transparency on the entire disannexation issue. It was unfortunate that this item was initially posted and now the City Commission was rescinding the item because the word "disannexation" was not mentioned or the property being disannexed was not "described." Commissioners Ruiz and Leftwich placed it on the agenda at the last minute and the whole issue had not been handled with the kind of transparency and public involvement that it should have been.

Commissioner Leftwich stated the City Commission had stayed until 10:30 p.m. at the previous meeting. The meeting had been scheduled thirty minutes earlier so the public could participate in the discussion that was surely a consideration on behalf of the City Commission. The public hearing that was held at the last City Commission meeting was one of the largest that he had seen since 2007. He asked if the Mayor wished to recess this agenda item until 5:30 p.m., he would make a motion.

Mayor Boswell entertained comments from the public.

Henry Roberts, 801 Pine Valley stated he had been very troubled the past three to four years on how a few bullies had out bullied the City Commission. He worked alone and did not represent anyone. Mr. Roberts stated he was speaking out of concern and as an independent individual of the City of Harlingen. It was only a few individuals that were taking Harlingen down the wrong road.

Rev. Richard Duhamal stated the Mayor's home was broken in and the individual who broke into his house thought it was funny. He felt that the City Commission was doing the same thing to the residents by annexing them into the city when they did not want to be annexed. The city did not have the funding to provide police protection to the annexed area. It would cost approximately one million dollars in addition to the cost for equipment and personnel. He did not agree for the city to spend over \$44,000 on improvements for the annexed area. Mr. Duhamal mentioned he could very easily find discrepancies on the city's expense report. Talking about

property taxes was like opening up a can of worms and he wanted to exercise his right to choose whether or not to be in the city limits. He stated he answer was “no”.

Tutor Ulhorn, 402 Woodland Drive directed his comments to the City Attorney. He asked that disannexing 49 acres could have been a technical correction such as the FM 509 Corridor with the City of San Benito. It seemed like the two disannexations mentioned earlier were technical corrections.

Roxann Pais Cotroneo directed Mr. Ulhorn’s comments to the Assistant City Manager Gabriel Gonzalez.

Mr. Gonzalez stated the reason FM 509 Corridor was disannexed was due to the annexed area violated in the agreement that the City of Harlingen had with the City of San Benito. The City of Brownsville was getting to close to Los Indios area, so City of Harlingen annexed a strip into San Benito. The City of San Benito in turn threatened litigation, so the City of Harlingen eventually disannexed that area.

Mr. Ulhorn pointed out that the agreement with the City of San Benito had to do with the re-routing of FM 509 and Los Indios Bridge. Those were the technical corrections that were made for future planning, there was no giving or taking of land.

Mayor Boswell stated at that time Harlingen Mayor William Card and the Commissioners made an agreement with the City of San Benito to avoid having Brownsville encroaching territory at Los Indios Bridge.

Lorrain Woolam, 3014 Cypress Gardens stated she was against the disannexation. The City Commission needed to continue working for the City of Harlingen. The City was growing and asked for them not to separate something that had been done together three years ago. Ms. Woolman asked the City Commission to consider voting against disannexation.

John Franco, Queen Sago Drive stated at the last meeting of September 21, 2011 when the City Commission discussed this issue, a mobile home across the street from his residence burned to the ground. The Fire Department could not find the fire hydrants. This issue was not about annexation or disannexation; it was about the city not being able to provide the needed services for the annexed area.

Mayor Boswell told Mr. Franco that if the area was disannexed, the same Fire Department would not be serving that area. The service was not going to change. The number of fire hydrants in his area would be improved if he remained annexed.

Yolanda Shoffeitt, 258 Altas Palmas, for security purposes P.O. Box 697, spoke in favor of disannexing. They were not currently receiving any services. The City of Harlingen was growing very slow. The single member district was alive and doing a fantastic job. She stated “knowledge” was making the city stronger and keeping it together.

Debbie Devlon, 1604 Orange Drive spoke in reference to her neighbor whose property was being auction at the Courthouse to the highest bidder for delinquent property taxes. She pointed out her neighbor had no money and wanted the City Commission to be aware that there were poor people in that area.

Sherwood Hamilton, 26034 Halpin Road stated there were many residents in his area that were on fixed income and Medicare and to pay additional property taxes was not the right way to proceed.

Mayor Boswell stated in 1982 the Town of Palm Valley came before the City Commission requesting to be annexed into the City of Harlingen. The City of Harlingen decided not to annex them, so Palm Valley incorporated on its own. They have grown and improved and currently had a high tax base. If the city had annexed that area thirty years ago the City would have that tax base along with all that growth. In 2007, he had advocated to pass an ordinance to annexed the Juarez and Las Palmas Subdivisions even though it would be a big expense for the city because he felt it was the right thing to do. This City Commission decided after the first

reading to deny it at the second reading, but he had not been selective as to which areas to annex. The City Commission made a mistake thirty years ago and were making the same mistake today.

Gail Moore, 709 Town Lane Drive stated she did reside in the disannex territory, but she and her husband assisted in the document mailings. They spoke with many Winter Texans while going door to door and their question was "Where is Chuck?" All they wanted to do was thank him for helping them with the disannexation. There were only four individuals in the area they covered that were for the annexation, the remaining were against it since the majority of them were on fixed income. She was happy that the disannexation was going to occur.

Ron Lozano stated that as of today the Town of Palm Valley did not and had not gotten jurisdiction of Las Palmas Subdivision. This was false statement.

Joe Rubio, 2309 Hacienda Road stated he was a city employee in the capacity of a Police Officer when FM 509 was annexed into the City of Harlingen. He conducted a study on police officers and it was determined that the city was short of police officers then. The City Charter allowed for this disannexation and individuals had the right to petition. Mr. Lee followed the rules and filed a petition, they had the right to be disannexed.

Juan Ortega, Alani Circle asked the City Commission to reconsider and vote to keep the annexation. The citizens affected should allow the City of Harlingen to provide them the services that they needed to let the city grow. The city would provide police protection just like what the city residents received. He asked the City Commission to consider keeping the area annexed.

Commissioner Leftwich made a Power Point presentation with regards to state rules and regulations as per the Texas Local Government Code on annexation. He highlighted the revenues and expenditures of the November 2008 Annexation through September 11, 2011.

Commissioner Ruiz referred to the Texas Local Government Code and asked Ms. Cotroneo if Cameron County Commissioners Court had selected five representatives to negotiate with the city about the provisions to provide the services to the area after annexation.

Ms. Cotroneo replied no, the County did not select the five representatives to negotiate with the City.

Commissioner Ruiz asked if the city had violated state law. Ms. Cotroneo replied it was not the city or county's fault.

Mayor Boswell stated the issue on the appointment of the committee was addressed at the last meeting and that was not a basis to deannex. At the last meeting, there were a total of nine persons who spoke against the disannexation. When the attorney and other individuals were left out only six individuals spoke against the disannexation. At tonight's meeting there were only four that spoke in favor of the disannexation, there were only four that spoke against the disannexation and three individuals had spoken at the last meeting. This was a total of seven individuals that spoke in favor of the disannexation and this was not a majority representation of the group.

Commissioner Leftwich stated a petition of 750 signatures had been submitted to the city and continued to be ignored.

Commissioner Ruiz wanted the audience to understand that he favored annexations, since it was one of the mechanisms for the city to grow. He stated when property was annexed the city had to follow the state law and in 2008 state law was not followed.

Commissioner Marra stated Ms. Cotroneo had instructed them to follow legal advice. It is disappointing that this Commission is not following that advice. The city was not in it to make any profits.

Commissioner Leftwich called for the question and the motion was seconded by Mayor Pro-Tem Prepejchal.

Special City Commission Meeting
9/26/11

Motion carried as follows: FOR: Mayor Pro-Tem Jerry Prepejchal and Commissioners:
Leftwich and Ruiz; AGAINST: Commissioners: Marra and Trevino. (Vote 3-2)



Chris Boswell, Mayor

Attest:



Amanda C. Elizondo, City Secretary