

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

OCTOBER 5, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, October 5, 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

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, Finance Director

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.

Invocation/Commissioner Marra

Commissioner Marra gave the invocation.

Pledge of Allegiance/Welcome

1) Special Recognition

- a) City of Harlingen Neighborhood Clean Sweep Program recognition to DHL Express for their volunteer efforts during the month of September, 2011.

Special recognition was given to DHL Express employees for their participation in the Clean Sweep Program. Those attending were Eduardo Perez, Antonio Flores, Andres Flores, Ashley Avalos, Bianca Hernandez, Mari Aguirre, Juan Avalos, Cristina Castro, Letty Cortez, Jasmine Cortez, Rosie Sierra, Enrique Prieto, Felipe Quezada, Luis Vondubren, Mario Pena, Jessica Pena and Christian Cortez.

2) Citizen Communication

Timothy Guerrero, airport employee and resident of 9437 Ivory Circle spoke with regards to the recent change in the employees' health plan from Valley Health Plans to Blue Cross Blue Shield of Texas. Mr. Guerrero stated he was very disappointed on how this change had occurred. It was his understanding that the City Commission opened bids in August; the change took place on September 29, 2011. Due to mismanagement on the transfer of insurance plans, he was denied medical treatment and prescription drug benefits. He mentioned he was a Stage 4 Terminal Cancer patient who required cancer radiation treatments every two weeks. His medical oncologist could not verify insurance coverage and was denied treatment until the insurance coverage was verified. He was able to get his chemo, even though it was a bit late. The pharmacy benefits could not be verified, so he was not able to get the prescriptions filled. Mr. Guerrero stated he wanted the City Commission to know of his incident so this would not happen again.

Mayor Boswell apologized and stated he agreed with Mr. Guerrero's comments on failure to make a seamless transition. Mayor Boswell also apologized to all the city employees on behalf of himself and the City Commission. They value each and every city employee and they had let everyone down by not making the right decision in the transition and were very sorry.

Mr. Guerrero accepted the apology from the Mayor and City Commissioners.

Bryan Winn, city employee and resident of 16602 W. Barger Court also spoke with regards to the health insurance. He also accepted the apology from the Mayor and City Commissioners for admitting their mistake on not allowing enough time for the insurance transition.

Fred Rendon, 1749 Apple Court stated that he had viewed some documents whereby two Commissioners had text each other in regards to the annexation stating it was not a good deal for the city to annex this area. Mr. Rendon stated nothing had happened since the time the properties were annexed. There were too many opinions stating that the annexation was done incorrectly. Mr. Rendon requested a letter from the city to present to the Harlingen Community Improvement (4B) Board on behalf of the Veterans Memorial to request funding for the Veteran Memorial Project.

Mayor Boswell informed Mr. Rendon that the City Commission voted at the previous meeting to direct staff to develop a project plan to present to the 4B Board for funding in the amount of \$500,000.

3) Approval of Minutes

Commissioner Ruiz requested that the following sentences be added to the minutes "what was the total of police officers in the department and how many were on patrol on any given night on the area of the annexation. The Chief's responded it was the same amount." He stated this statement had been directed to Chief Whitten.

Roxann Pais Cotroneo, City Attorney stated that she would like to add the following statements to the minutes: (1) Once the petition was filed the city may or refuse to de-annex the area within 60 days as per the filing of the petition. (2) The city should choose not to de-annex. (3) The city filed a motion for summary judgment and it was basically a motion stating that the other side has no evidence. (4) Ms. Cotroneo wanted to make it clear that under state law if the court ordered de-annexation for failure to provide services the city could not annex the area for another 10 years. If the City voluntarily de-annexed the area, the city could annex the area again in 5 years.

On Page 4, Line 26, the minutes should read "The City Commission and the City Attorney at the time (Brendan Hall) made a decision to move forward with the annexation." Page 5, Line 20 the word "mute" should be "moot"

Carlos Yerena, City Manager requested that the following sentence be added to the minutes on Page 5, Line 32, to read as follows: "The known cost incurred by the city up to September 21, 2011 City Commission meeting was \$571,870.73."

Motion was made by Commissioner Marra and seconded by Commissioner Trevino to approve the minutes with the noted additions and correction. Motion carried unanimously.

Consent Agenda

Mayor Boswell stated that Item 4(a) would be taken out of the Consent Agenda.

- 4b) Second and final reading to approve and adopt ordinance for a rezone from Light Industry ("LI") District to General Retail ("GR") District for Lots 1 and 2, block 1, Asbury Subdivision; Asbury Subdivision; 2.0 acres out of Anderson Subdivision; Lots 187-190, 231, 233A and 233B, Block 1, Lots 132, 133A, 133B, 134A, 134B, 135A, 135B, 183A, 183B, 184, 185, 185B and 186, Block 2, Lots

69, 70, 71A, 71B, 72A, 72B, 129, 130A, 130B, 131, Block 3, Lots 1A, 1B, 2A, 2B, 3A, 3B, 4, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 61A, 61B, 62A, 62B, 63A, 63B, 64A, 64B, 65, 66, 67, 68, Block 4, Avondale Subdivision; 1.726 acres out of Block 61, David and Stevenson Subdivision; Lot 1, Block 1, and Lot 1, Block 2, Hick Subdivision; Blocks 3 and 4, part of Block 5, Blocks 6-9, 12-14, and 29, Highway Addition; Lots 1-7, Resubdivision of Block 11, Highway Addition; 0.57 acres out of Lot 12, and Lots 24-30, Johnson Subdivision; and Lot 1, Block 1, R A Billups Subdivision; all properties generally located on the east side of Business 77, North of Shirley Street to Loop 499; providing for publication and ordaining other matters related to the foregoing.

- 4c) Second and final reading to approve and adopt ordinance for a Specific Use Permit (“SUP”) to allow a Bar/Lounge in Light Industry (“LI”) zoning district located at 1510 N. Commerce Street, bearing a legal description of Lot 1, Block 1, out of Harlingen Casa Blanca Subdivision.
- 4d) Second and final reading to approve and adopt ordinance for a negotiated resolution between the Cities served by the Texas Gas Service (“Cities”) and the Texas Gas Service (“TGS”) regarding the company’s April 28, 2011 cost of service adjustment (“COSA”) filing; declaring existing rates unreasonable; adopting tariffs that reflect the rate adjustments consistent with the negotiated settlement; and find the rates to be set by the attached tariffs to be just and reasonable; providing for the recovery of the Cities’ and TGS’ reasonable and necessary rate case expenses.
- 4e) Consider and take action to approve a request from the Harlingen Area Chamber of Commerce to close Fair Park Boulevard between North “L” Street and North “J” Street, a portion of “L” Street and a portion of the side street between Casa de Amistad and parking lot from 9:00 a.m. to 12 noon on Thursday, October 13, 2011 for their 9th Annual Education and Career EXPO.
- 4f) Consider and take action to approve refund of property taxes to Popp, Gray, Hutcheson, LLP c/o IA Orchards Hotels Account #16-3510-0010-00 in the amount of \$1,553.22 due to an adjustment for a change of value for the year “2009” as per an agreed judgment.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the Consent Agenda - Items 4(b), (c), (d), (e), and (f) with the exception of Item 4(a). Motion carried unanimously.

For the record, the captions of Ordinance Nos. 11-45, 11-46 and 11-47 read as follows:

ORDINANCE NO. 11-45

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: REZONING FROM LIGHT INDUSTRY (“LI”) DISTRICT TO GENERAL RETAIL (“GR”) DISTRICT FOR LOTS 1 AND 2, BLOCK 1, ASBURY SUBDIVISION; 2.0 ACRES OUT OF ANDERSON SUBDIVISION; LOTS 187-190, 231, 233A AND 233B, BLOCK 1, LOTS 132, 133A, 133B, 134A, 134B, 135A, 135B, 183A, 183B, 184, 185, 185B AND 186, BLOCK 2, LOTS 69, 70, 71A, 71B, 72A, 72B, 129, 130A, 130B, 131, BLOCK 3, LOTS 1A, 1B, 2A, 2B, 3A, 3B, 4, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 61A, 61B, 62A, 62B, 63A, 63B, 64A, 64B, 65, 66, 67, 68, BLOCK 4, AVONDALE SUBDIVISION; 1.726 ACRES OUT OF BLOCK 61, DAVID AND STEVENSON SUBDIVISION; LOT 1, BLOCK 1, AND LOT 1, BLOCK 2, HICK SUBDIVISION; BLOCKS 3 AND 4, PART OF BLOCK 5, BLOCKS 6-9, 12-14, AND 29, HIGHWAY ADDITION; LOTS 1-7, RE-SUBDIVISION OF BLOCK 11, HIGHWAY ADDITION; 0.57 ACRES OUT OF LOT 12, AND LOTS 24-30, JOHNSON SUBDIVISION; AND LOT 1, BLOCK 1, R A BILLUPS SUBDIVISION; ALL PROPERTIES GENERALLY LOCATED ON THE EAST SIDE OF BUSINESS 77, NORTH OF SHIRLEY STREET TO LOOP 499; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-46

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT (“SUP”) TO ALLOW A BAR/LOUNGE IN LIGHT INDUSTRY (“LI”) ZONING DISTRICT LOCATED AT 1510 N. COMMERCE STREET, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, OUT OF HARLINGEN CASA BLANCA SUBDIVISION, WITH THE FOLLOWING CONDITIONS: (1) THE SUBJECT PROPERTY SHALL PROVIDE AND MAINTAIN A MINIMUM OF 13 PARKING SPACES ON SITE, TO INCLUDE ONE (1) HANDICAP PARKING SPACE, IN GOOD CONDITION, WHILE IN OPERATION. IN THE EVENT THAT THE PARKING LOT IS EVER FOUND TO BE IN DISREPAIR BY THE PLANNING AND ZONING DEPARTMENT, THE NUMBER OF PARKING SPACES IS REDUCED, OR THE NUMBER OF SEATS IS INCREASED, THE BAR/LOUNGE SHALL CEASE TO OPERATE UNTIL SUCH PARKING IS FIXED AND/OR PROVIDED. FAILURE TO PROVIDE AND MAINTAIN THE MINIMUM NUMBER OF PARKING SPACES REQUIRED ON SITE SHALL RESULT IN THE AUTOMATIC REPEAL OF THIS SUP ORDINANCE; (2) THE APPLICANT SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO OPENING THE BAR/LOUNGE FOR OPERATION, TO INCLUDE ALL APPLICABLE HEALTH, BUILDING AND/OR RE-OCCUPANCY PERMITS; (3) A LICENSED SECURITY GUARD DURING PEAK HOURS OF OPERATION (THURSDAY-SATURDAY 9:00 PM TO 2:00 AM) AND APPROPRIATE LIGHTING ON ALL BUILDING ENTRANCES/EXITS, AND ON-SITE PARKING AREAS SHALL BE PROVIDED ON PREMISES TO ENSURE THE SAFETY, HEALTH AND WELFARE OF PATRONS, RESIDENTS, AND BUSINESS AND PROPERTY OWNERS OF THE CITY OF HARLINGEN; AND (4) PROVIDE VIDEO SURVEILLANCE OF ALL ENTRANCES/EXITS AND PARKING LOTS. A SPECIFIC USE PERMIT (“SUP”) FOR THE LOCATION STATED ABOVE WILL BE ISSUED FOR THE DURATION OF ONE (1) YEAR, AT WHICH TIME THE SPECIFIC USE PERMIT (“SUP”) WILL BE REEVALUATED BY THE PLANNING AND ZONING COMMISSION AND THE CITY COMMISSION TO ENSURE COMPLIANCE. PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-47

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE CITIES SERVED BY THE TEXAS GAS SERVICE (“CITIES”) AND THE TEXAS GAS SERVICE (“TGS”) REGARDING THE COMPANY’S APRIL 28, 2011 COST OF SERVICE ADJUSTMENT (“COSA”) FILING; DECLARING EXISTING RATES UNREASONABLE; ADOPTING TARIFFS THAT REFLECT THE RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; PROVIDING FOR THE RECOVERY OF THE CITIES’ AND TGS’ REASONABLE AND NECESSARY RATE CASE EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; REPEALING ANY PRIOR ORDINANCES INCONSISTENT WITH THIS ORDINANCE AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND CITIES’ LEGAL COUNSEL.

PASSED AND APPROVED on first reading September 21, 2011.

PASSED AND APPROVED on second and final reading October 5, 2011.

SIGNED BY: /s/ Chris Boswell, Mayor

ATTESTED BY: /s/ Amanda C. Elizondo, City Secretary

- 4a) Consider and take action to adopt an ordinance on second 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:

Said Ordinance to become effective December 1, 2011.

Motion was made by Commissioner Leftwich and seconded by Mayor by Pro Tem Prepejchal to approve Item 4(a) as presented.

Gail Moore, 709 Town Lane Drive stated she loved to drive fast, but she was brought up not to drive 60 mph zone when it was a 30 mph zone. There were always consequences when breaking the law. In this annexation matter there were some laws that were broken, some rules were ignored and many voices were eliminated. She asked the City Commission to vote for de-annexation, taxation without representation was a battle fought long ago and again today.

Jerry Moore, 709 Town Lane Drive spoke for the de-annexation and asked the City Commission to let this individuals go and de-annex their area. These citizens did not have the money to spend on this issue and why drag this issue any longer. Especially, when the city advertised being "Winter Texan Haven" and a "Friendly Place" to live.

Bruce Miller, 26641 South Altas Palmas Road spoke with regards to the city budgets and stated if the city did not balance the budget, all they had to do was annex some properties. Mr. Miller mentioned he had a budget that he lived on for about 20 years and when he could not meet his budget he had no one to ask for assistance, except his bank savings. Mr. Miller stated he lived at this address for many years and every time the city adopted an ordinance to annex procedures always changed. He requested to be de-annexed.

Ron Lozano stated the City of Harlingen did not go south to annex into San Benito they decided to go west. He requested that the city not ponder on the taxpayers residing in this particular area because they did not want to be annexed.

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Lorraine Woolam, 3014 Cypress Gardens requested for the Commissioners to vote not to de-annex the area west of Harlingen. She stated Commissioner Ruiz was planning a future in politics and this was not the right way to start with all this controversy against him. Ms. Woolam referred to Commissioner Leftwich and stated they would all love to have Michelle back in the City of Harlingen. She referred to Commissioner Marra and Commissioner Trevino and thanked them for voting to keep the area west of Harlingen in the city limits. Ms. Woolam referred to Commissioner Prepejchal and stated he belonged to the most under served area in the city. His district needed him to vote for the annex area to continue the growth for Harlingen. All five of the Commissioners represented the city and the citizens needed all of them to stay together and vote to keep this area inside the City.

Antonio Carmona, 15893 Date Drive stated the city had implemented streetlights, street signs, fire hydrants and the infrastructure was coming along great. The city needed to go west. The city did not need another Veterans Memorial; one was located at Gutierrez Park.

Betty Imel, 15765 Palm Vista Drive thanked the Police and Fire Departments for their fast response in a fire that occurred across the street from where she lives. She was not in favor of the de-annexation and since her property was annexed into the city three years ago they had not experienced any problems with any type of city services. They were there for the future and they would continue to pay their property taxes. She requested for the City Commission not to de-annex the area.

Thora Hausler, 15739 Washington Palm Drive stated as President of the Homeowners Association of Palm Vista Estates she had spoken to many of the residents about the annexation. About 95% of the residents had agreed that de-annexation was the best thing that could be done. She was appreciative of the Code Enforcement Department for their assistance in cleaning up junked vehicles, tall grass and street repair, especially for the trash and brush pickup. She spoke to Cameron County about the services that they provided and was informed that the charge for trash pickup was \$28.00 per month for one pick up. The city charged \$18.00 per month for two pickups. The county picked up brush and large items once a month with a limit on large items and the city would pick up everything. Ms. Hausler stated she was one of the five-members of the annexation committee. Two members of the annexation committee were for the annexation and two

members were against the annexation. The vote was 2 to 2. During these meetings one of the members, David Jordan after listening and seeing all views of the annexation decided to vote for the annexation. The other member decided to vote against the annexation after realizing that the committee was going to be part of the "Open Records Act" and did not want for the neighbors to find out that she was going to vote for the annexation and decided to vote against it. The vote was "3 to 1".

Dora Humerbert, 15738 Palm Vista Drive stated when the topic of annexation was being discussed they were not very happy because they did not want to be part of the city. It has been three years since they were annexed and they were very happy with the services the city provided. Ms. Humerbert was not in favor of the de-annexation.

Rev. Richard Duhamel, Altas Palmas Road thanked Commissioners Ruiz, Leftwich and Mayor Pro-Tem Prepejchal for doing the right thing in trying to correct what was wrong. He asked Mayor Boswell, Commissioners Marra and Trevino why they were so determined in annexing the west side of town. The citizens were what made the city good and prosperous not the size of the city.

Sherwood Hamilton, 26034 Halpin Road stated he has been attending the meetings and listening to all the comments made on the annexation. One issue that was discussed was how much tax money was spent on the annexed area. It was mentioned that the city spent around \$500,000 and gained only \$240,000 in property taxes. A week later an article in the newspaper stated the city would have to refund \$500,000 to the annexed residents. Mr. Hamilton stated he had not heard anything about this during the annexation hearings that were held three years ago. The first time he heard about the annexation was when he received his notice on the property tax from the city. He urged the City Commission to vote for the de-annexation.

Chuck Lee, 15834 Palm Vista Drive stated there were a few controversial comments made on the annexation. Forty percent of the tax dollars were taken from the taxpayers and placed into the annexed area and apparently 60% was still in the city's treasury. The city raised about \$1.2 million in property taxes and spent around \$500,000 in the annexed area. The city made about \$750,000 in profit from the two annexation tracts. Another comment that was made was that the City Attorney and his attorney had spent \$100,000 on lawyer's fees. The city had an insurance policy through the Texas Municipal League that paid the city's attorney. This November 2008 annexation was a bad idea from the very beginning and should be overturned. He requested that the City Commission vote yes to de-annex the properties.

David Gomez, 2814 Gomez Road stated that he was annexed around 25 years ago. To date they still did not have the street curb and gutter. The only service they had from the city was water. The water had been there before the annexation and had electricity with Magic Valley Electric. There had been no other changes within the 25 years and they continued to pay city taxes.

Juan Ortega, 2401 Ailani Circle stated if Commissioner Leftwich truly believed everything that he said in his Power Point presentation; he should stick to his line of reasoning. He stated the City Commission had already approved a budget and now Commissioner Leftwich was counter voting what had already been approved.

Mayor Boswell recognized Commissioner Marra to speak under citizen communication.

Commissioner Marra stated these past couple of weeks had been difficult; talking about city budget, elimination of employee positions, not replacing them and other employees within the department taking over the duties. Statistics were stating that cities were going to be two years behind due to the recession in the entire United States. Two years from when the recession started the city was going to experience what has been happening in the rest of the world. That meant that the City of Harlingen would not be hiring employees and probably laying-off employees. The city went out for bids on employee benefits to reduce the amount that was being spent on benefits. Commissioner Marra stated she was disgusted with the Commission that she currently sat with. She

stated she was speaking as a citizen who resides at 2405 Treasure Hills Court and had the rights as any citizen that was present at the meeting. There were citizens who were over 65 and who did not want their property taxes to increase. One person was present who was under investigation for impersonation online and who was suing the city. These were the people that the City Commission was worrying about, paying their legal fees and they are suing the citizens of Harlingen. Commission Marra stated she had enough and would be a Commissioner until May 9th, 2012. She was proud of having served District 3 and would probably be re-elected if she seek re-election. There was an individual who spoke that resided in District 3 complaining when this individual lived with his parents. Commissioner Marra asked the citizens residing in District 3 who were for de-annexation what would happen to their district if this de-annexation happened. Water breaks happened in every district in Harlingen not just in one district. The Commission was not thinking. She stated she was for all for the poor people in Harlingen. Their property taxes were going to increase, while the people in her district would be subsidizing the rest. She was tired of how this Commission was treating the rest of the citizens of Harlingen. Ever since the city went into Single Member District it was all about taxpayer dollars. Property taxes were going to increase for everyone including herself. The City Commission did not care as long as they had their three (3) votes to de-annex. Part of the City Commission was not thinking of the citizens of Harlingen. She concluded by stating that as a citizen who resides at 2405 Treasure Hills Court, she was available if anyone wanted to call her or come by and visit with her.

Commissioner Prepejchal stated District 4 was the Original Townsite and it basically started the City of Harlingen.

Commissioner Leftwich made a clarification on a statement made by Commissioner Marra. He stated if it had not been for the rest of the City Commission the downtown property tax would have increased to 50 cents for downtown assessments. The City Commission kept the assessments at 15 cents. He did not understand what Commissioner Marra was referring when she said the city was raising the downtown taxes. The City Commission prevented her from having \$1.09 in downtown assessment taxes. The extra-territorial jurisdiction protected the city from La Feria in encroaching into the City of Harlingen's area. Commissioner Leftwich did a Power Point presentation on Fire Protection Concerns for Harlingen's annexed areas. He talked about the ISO's Public Protection Classification Program. The ISO collected information on municipal fire protection in communities throughout the United States. The ISO analyzed the data using the city's Fire Suppression Rating Schedule to establish a comprehensive study for all the surrounded area around the community. The city had a split rating class of 3/10. The City of Houston had a one (1) rating which was a superior rating; a more complex city than Harlingen. The city had a big task to increase public safety up to standards in terms of fire protection. ISO's Rating Schedule showed that the west side area's fire suppression program did not meet minimum recognition criteria including some of the areas that were annexed within the last ten years. Commissioner Leftwich stated the city's rating was a split class 3/10 due to the lack of hydrants not installed within 1,000 feet of the properties and no Fire Station within 5 miles on the west side. The city did not have the means to take care of the improvements according to state law. He stated the fire that entirely destroyed a residence on Beckham Road was 1,600 feet from the nearest fire hydrant. Another fire on Pines Mobile Home Park was 2,500 feet away from a fire hydrant. The service plan provided for 23 fire hydrants to be placed in the annexed area, but within the past three years since the annexation only two fire hydrants had been installed. The City had a \$1.5 million dollar commitment for fire hydrants. The Waterworks Department refused to pay for the installation of the remaining fire hydrants. The agreement with the citizens was to have these fire hydrants installed by 2019 which totaled to approximate annual cost of \$143,750 over the remaining eight (8) years. On credit for distribution Harlingen's score was at 2.15 out of a 4.0, which was basically a failing GPA. This was a portion of the ISO Report which set the city's rating close to the necessary fire hydrants and trucks. For maximum credit in the Schedule, all sections of the city with hydrant protection should be within 1½ miles of a fully-equipment engine company and 2½ miles of a fully-equipment ladder, service, or engine-service company. The city has six (6) fire stations and they were conveniently covering the city. If the city moved west they had to be certain that they were meeting the state requirements. One citizen's life was not worth the politics involved. They needed to take care of each citizen

of the city. We have citizens and children attending Rodriguez Elementary School an area that has a Class 10 rating because of its distance from the Dixieland Fire Station. In July of 2005, the city paid a consulting firm to assist the city with the Fire Suppression capabilities so the city could receive the three (3) rating. Commissioner Leftwich briefly highlighted an overview of the water supply for fire hydrants that were utilized by the Fire Department. He stated even before the city applied for the ISO rating the consultant's report recommended the relocation of the Dixieland Fire Station or build a 7th station. The report further indicated that for future annexations the city construct two (2) additional stations to provide the necessary services. This was not about ratings; this was about public safety for the citizens. The State of Texas Local Government Code stated "the city may not annex if it causes a degradation of services to current residents." Under the Local Government Code, Judicial Remedies, it stated if the municipality failed to annex the area for full purposes as required by Section 43.127(a), any affected person may petition the district court to compel the annexation of the area for full purposes or the disannexation of the area. A lawsuit did not have to be done through the District Attorney's Office; that was false information; any person could file a lawsuit. If the governing body failed or refused to de-annex the area within 60 days after the date of the receipt of the petition, any one or more of the signers of the petition may bring a cause of action in a district court of the county in which the area was principally located to request that the area be de-annexed. There were other cases in which other cities had lost in court and forced by court order to de-annex. A court ordered de-annexation carries a 10-year penalty before a city could attempt to re-annex, opposed to a 5 year if the city initiated it.

Mayor Boswell stated this has been a very troublesome issue and agreed with Commissioner Leftwich on removing the politics on this issue. The Commission had to decide what would be the best interest for the city. Anyone could bring a lawsuit by complaining that services were not provided and they would have to provide the facts. The City Attorney and TML Attorney had stated they had a strong position with regards to the lawsuit. There have been enough services provided to defend against the provision that Commissioner Leftwich was referring to. The provision related to the issue whether the appointed committee after or before the annexation was a technical defect. There were many cases that clearly stated to hold aside an annexation based on a technical violation. The ISO report that Commissioner Leftwich referred to was from four years ago. The city was not going to address the ISO ratings if the folks in this subject area were going to be de-annexed. The city has a tax base of \$2.6 billion; 1 cent on the tax rate equaled approximately \$260,000. It would take annual cost of approximately \$8.2 dollars to keep a new fire station operating 24/7. It was going to take \$0.14 to \$0.15 for everyone inside the city to subsidy this fire protection. The reality was that taxpayers in District 1 should not be subsidizing fire protection for folks in Nueces Park. Taxpayers in District 4 could at least afford to subsidy paying a \$0.15 rate; when taxpayers in Nueces Park lived in \$350,000 and \$750,000 homes were paying \$0.10 for the same 24/7 fire protection that District 4 was receiving. Mayor Boswell stated this did not seem fair to him and to the District 4 constituents. They as the leadership of the community needed to work together to extend the water lines to install the fire hydrants and move the fire station to improve the Fire Department's response time.

In 1981, Stan Starrett who developed Stewart Place County Club Subdivision Retirement Community and Golf Course came to the Harlingen City Commission and requested his area to be annexed. In September 1981, Mr. Starrett came to talk about the same issues that were being discussed tonight. The city made a mistake by not annexing the Palm Valley Country Club because the Commission then believed the city could not afford to annex when a new shopping center was developing in that area. What happened was Palm Valley developed and grew. The question tonight was did the City Commission want the city to grow? Growth happens whether they wanted it or not. The current property value in Palm Valley was at \$114,368,370 and today at a \$0.59 tax rate it would produce \$674,523 in property taxes annually. The city was going to let history repeat itself if the de-annexation occurred. After 27 years, the city finally annexed the country club in 2008. If the de-annexation was approved it would put the country club outside the city. If the city was not ready to annex the country club today the city would never be able to annex it. Standard & Poors had upgraded the city's rating to an AA- and the city was in good financial condition and growing. Property tax values had doubled in the city. When the City Commission and staff worked on the budget this summer certain

revenues assumptions were made. Those assumptions were if the city would generate the revenue from this area to continue the revenues that it currently had. There would be a problem with this year's budget because the Commission did not talk about the de-annexation during the budget process. The city was going to have to fix and correct the budget if this area got de-annex. This annexation was voted on in November 2008 and on first reading the vote was unanimous to annex the area, which included Commissioner Leftwich on the vote. On the second reading he voted against the annexation. This issue had been discussed in three different City Commission meetings one on March 2010 under executive session; the second on June 2010 and the third on July 2010. The facts were all the same since those three meetings. Then in September there was a rush to de-annex the area not allowing the lawsuit to go forward. During the executive session discussion not one of the Commissioners came out and said I want to take some different action on this issue. The City Commission agreed to let the item sit and see how the lawsuit played out. They had agreed to leave the annexation in place. This month there was a rush to de-annex without knowing all of the facts. The city was going to lose in franchise and retail sales taxes. There was a loss of \$380,000 a year on property taxes. Do not let history repeat itself which had been the same debate. He asked the City Commission not to vote to de-annex the area. Let's keep the annexation as it was, at the very least tabled the item until the Commission understood what the numbers were.

Commissioner Leftwich referred to his vote of 2008, when he voted in favor of the annexation. He stated on the first public hearing of the annexation he had concerns about public safety and he asked staff to provide a report on public safety services for the area. State law dictated the city had to have a consistent level of police, fire and EMS services within 10 days. Mayor Boswell was stating the city had broken state law without respecting the law of the land by moving forward. He supported annexation when it was not done properly according to due process. This has been three years and the city had not yet considered the level of infrastructure that was required under the service plan or state law. City history did not indicate that the city had allocated money or reinvested as much money to the annexed area. The city would need to borrow money if they intended to build a fire station in that area. The fact was this annexed area had a ten (10) rating. The city thought that they were subsidizing other neighborhoods in this annexation area, when in fact those citizens received county services, a Class 10 rating, but were paying for a Class 3 rating. The city was not committed to the infrastructure, since it was not budgeted. The citizens in the annexed areas had to receive the same level of police and fire protection as the rest of the citizens. They were paying the same tax rate as everyone else.

Commissioner Marra questioned how the city violated state Law in 30 days if Commissioner Leftwich was the one deciding that the city broke the law in the past two weeks. She stated in the past two days she had received 4 to 6 emails and phone calls from citizens asking her what was happening with the annexation. She could not provide an answer because she did not understand how this happened in the last two weeks. All she had heard was that it dealt with public safety of the citizens, when in fact that was not true.

Commissioner Leftwich stated the answer here was why the Mayor did not bring the petition that was submitted by the 750 citizens of this area. What was he trying to hide? What was the delay?

Commissioner Marra referred the questions to the City Attorney.

Commissioner Leftwich stated the question that everyone in the city should be concerned about was when they as leaders kept 750 citizens from taking action when they petitioned to file a lawsuit and all the city did was say "sue the city" if you don't like it.

Mayor Boswell referred to Commissioner Leftwich's question and stated the City Attorney had brought the petition to the Commission at an Executive Session. The Commission considered and accepted the petition. After coming out of executive session no one took any action. Instead the Commission decided not to act on the petition and allow the lawsuit to be filed. This happened a year ago. Fifteen months later Commissioner Leftwich placed the petition on the agenda, by placing it as a de-

annexation. Commissioner Marra's question was why they waited so long when there was a full Commission in June, 2010. No one took action on the petition.

Commissioner Leftwich stated anyone who understood the Open Meetings Law should know that votes were not taken in executive session. For the Mayor to say that a consensus was taken in executive session was clearly a violation of the Open Meetings Law.

Commissioner Marra stated the petition could have been placed on the agenda back then.

Commissioner Leftwich stated the City Attorney at the time was directed by the Mayor not to place the petition on the agenda.

Mayor Boswell replied that was not true.

Commissioner Leftwich pointed out the Local Government Code specifically indicates that the Mayor or City Secretary has to bring the petition to the City Council. The City Commission could place the petition on the agenda.

Chuck Lee, 15834 Palm Vista Drive stated there was a difference between involuntary and voluntary annexations. The area by the school on Wilson School was a voluntary annexation. They came to the City Commission with the majority of the citizens requesting to be annexed. In-voluntary annexation was when the city came and took away the land, whether the citizens wanted to be annexed or not. Texas was one of the few states that still practiced in-voluntary annexations. There were several hundred citizens on the west side complaining they never received any of the services.

Commissioner Ruiz pointed out that he supported annexation and agreed with the Mayor that the city had to budget properly. He would like for the city to bring back the area within the five years by following state law. Commissioner Ruiz asked the City Manager to address the audience and state whether or not the annexation would affect the city's budget.

Carlos Yerena, City Manager stated the city would not have to pay back any monies into the de-annexed area based on the information available at the present time. He did have some information that he would like to provide to the Mayor and Commission during the executive session item.

Commissioner Marra asked if the information would provide an answer to Commissioner Ruiz's question because he was basically asking if it was going to cost the city to pay Mr. Lee's legal bills. This was also her question.

Mr. Yerena replied his question was in reference to the city's budget.

Commissioner Marra asked if the city's budget would pay off Mr. Lee's or Mr. Dunkin's legal fees.

Mr. Yerena responded that with the information that had been gathered the city did not have to pay back any fees.

Roxann Pais Cotroneo stated Commissioner Ruiz was asking about paying back property taxes and Commissioner Marra was asking about paying back legal fees. She stated paying back legal fees had to have a territory judgment and had to be issued and decided by the court. Those fees would have to come out of the General Fund. The numbers that the City Manager had available were not final only answers that the city had available up to today.

Mayor Boswell stated the Commission was making a decision tonight based upon incomplete information when the Commission made their first vote. Staff was telling them that the information was still not complete, since this was an on-going process. He asked that the Commission to table item until the process was complete.

Roxann Pais Cotroneo, City Attorney referred to Chapter 43 of the Texas Government Code that gave the cities the legal procedures by which to annex and de-annex. The chapter was very confusing because some sections talked about how home rule municipalities needed to annex or de-annex and other sections talked about how general law municipalities had to annex or de-annex. It was very important when reading the chapter that the header were read to determine whether or not that section applied to a general law municipality or to a home rule municipality. The City of Harlingen was a home rule municipality.

Motion was made by Commissioner Trevino and seconded by Commissioner Marra to convene in executive session. Motion carried as follows: FOR: Trevino, Marra. AGAINST: Mayor Pro-Tem Prepejchal and Commissioners: Ruiz and Leftwich. (Vote 3-2)

Mayor Boswell called for the question and the motion carried as followed: FOR: Mayor Pro-Tem Prepejchal and Commissioners: Ruiz and Leftwich. AGAINST: Commissioners Trevino and Marra. (Vote 3-2)

- 5) Presentation and discussion on the Texas Municipal Retirement System's recent State legislative changes, benefits, and rates for municipalities and its employees.
- 6) Consider and take action to:
 - 1) Authorize the City Manager to withdraw all eligible city employees that were hired on or after October 1, 2007 from the City of Harlingen 401(a) Plan with TCG Advisors and enroll them in the Texas Municipal Retirement System effective January 1, 2012; and
 - 2) Approve an ordinance on first reading to participate in the Texas Municipal Retirement System and the Supplemental Death Benefits Funds by the City of Harlingen, Texas and to make a current service and prior service contributions to the City's account in the municipal accumulation fund of the Texas Municipal Retirement System at the actuarially determined rate of total employee compensation.

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

Motion was made by Commissioner Ruiz and seconded by Commissioner Trevino to table Items 5 and 6. Motion carried unanimously.

Mayor Boswell instructed staff to schedule a workshop to discuss these items.

Commissioner Leftwich returned to his chair.

- 7) Consider and take action to approve a resolution to: (1) adopt a new redistricting plan known in City public hearings as **Plan B** for the City of Harlingen's single member districts as required by federal law and using the 2010 United States Census Data; (2) authorize redistricting legal counsel to make minor modifications to the adopted plan should the State Legislative redistricting process require such modification and subject to approval by the Elective Commission of the City of Harlingen; (3) authorize redistricting legal counsel to submit the adopted **Plan B** to the United States Department of Justice for approval.

Roxann Pais Cotroneo, City Attorney stated the City Commission held an open meeting on September 7, 2011 to discuss 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 legal counsel on the process to be use for adopting new redistricting plan. At this meeting, Rolando Rios, Redistricting Legal Counsel presented three redistricting maps to the City Commission based on input from the Mayor and several City Commissioners. These

redistricting maps were labeled Plan A, Plan B, and Plan C. These maps met federal guidelines using the 2010 United States Census Data. At the September 7th meeting, citizens were allowed to ask questions of legal counsel and make comments about the proposed maps to the City Commission. On September 6, 2011, Plan A, B, and C maps were posted on the city's internet for public viewing. The poster maps were also available for public viewing at the September 7, 2011 City Commission meeting. On September 8, 2011, the same poster maps were placed in the 1st Floor of the City Hall Lobby for public viewing and remained in the lobby until they were removed on September 21, 2011 at 4:30 p.m. to the Town Hall Room located on the 2nd Floor at City Hall for the City Commission's public meeting. A copy of the Modified Plan A map was also posted on the city's web site and placed in the City Hall lobby on September 21, 2011 for public viewing. On September 21, 2011, the City Commission held a public hearing for citizens to comment on the proposed Plan A-C and Modified Plan A Maps. At the September 21st meeting, citizens were allowed to ask questions of legal counsel and make comments about the proposed maps to the City Commission. After public discussion, the City Commission approved and adopted Plan B as the new redistricting plan for the City of Harlingen's single member districts as required by federal law and using the 2010 United States Census Data and to authorize redistricting legal counsel to submit the adopted plan to the United States Department of Justice for their approval.

Motion was made by Commissioner Marra and seconded by Commissioner Trevino to approve the resolution as presented.

Joe Rubio, Jr., 2309 Hacienda Road stated when the single member districts were first implemented one of the ideas was to provide presentation for the citizens to have an opportunity to voice their comments and concerns. There was an area that was being considered in District 3 that consisted of a poor low-income neighborhood and a letter would be sent to the Department of Justice stating the plan was the same as last time. This area did not have a chance of having someone come and file for a City Commissioner seat. Commissioner Marra stated that the Treasure Hills taxes subsidized the City of Harlingen and they should have a greater voice. A sign could be made stating the Treasure Hills' people ruled what happened in Harlingen. Mr. Rios requested that the item be tabled to reconsider the re-districting lines because La Estrellita, Oregon and Massachusetts areas did not belong in District 3.

Mayor Boswell stated Commissioner Marra did not intend to say what Mr. Rubio had interpreted.

Commissioner Marra stated she was not all about what neighborhood she lived in. She did not consider herself special because she lived in Treasure Hills. She was stating the tax base of a \$500,000 home compared to a \$390,000 home was different, but there was nothing special about living in Treasure Hills because of the higher tax rate. She was willing to pay for those other children or anyone else who lived in the other districts. She considered herself just like any other citizen whether they lived on "F" Street or wherever.

Motion carried unanimously.

At this time, Mayor Boswell skipped Item 8 and proceeded with Item 9.

- 9) Consider and take action to authorize the City Manager to enter into an Interlocal Agreement with the Texas Department of Transportation (TxDOT) for maintenance of the landscaped areas along US 77/83 Interchange, Expressway 77 and Spur 54.

Dan Serna, Public Works Director highlighted the Interlocal Agreement with the Texas Department of Transportation (TxDOT) for maintenance of the landscaping around the Expressway Interchange near the Tourist Center, along Expressway 77 and Spur 54. He stated the maintenance contract would include monthly mowing and twice a month litter pick-up on Spur 54 due to the Bass Pro Shops coming into the city. The cost for these services was \$73,806.97 and the amount was allocated in this year's budget. He recommended approval of the agreement.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to authorize the City Manager to enter into an Interlocal Agreement with TxDOT for the cost of \$73,806.97. Motion carried unanimously.

- 10) Consider and take action to approve the list of Street Overlay Projects from Dixieland Road from the Expressway frontage south to Garrett Road and Lincoln Avenue from the Expressway frontage west to Palm Court Drive for Fiscal Year 2011-2012 to repair streets with asphalt on top of the existing roadway to address surface failures and extend the life of the streets.

Mr. Serna stated the city on an annual basis would select certain streets to do overlay repairs. Repairs were typically made in the form of 1.5" inch layer of asphalt on top of the existing streets to address surface failures to extend the life of the street. Funding for the 2011/12 overlay projects would come from the Street Improvement Fund and the selected streets were as follows: Dixieland Road from the Expressway frontage south to Garrett Road and Lincoln Avenue from the Expressway frontage west to Palm Court Drive.

Motion was made by Commissioner Trevino and seconded by Commissioner Leftwich to approve the Street Overlay Projects from Dixieland Road from the Expressway frontage south to Garrett Road and Lincoln Avenue from the Expressway frontage west to Palm Court Drive for Fiscal Year 2011-2012. Motion carried unanimously.

- 11) Presentation and discussion on a Proposed Tire Ordinance for the City of Harlingen pertaining to the state requirements of generators of scrap and used tires and Texas Commission Environmental Quality (TCEQ) requirements of all tire transporters and discussion of a proposed tire ordinance for the City of Harlingen.

Ken Clark, Planning and Development Director briefly highlighted the proposed tire ordinance for the City of Harlingen. He stated the city did not have an ordinance to enforce any type of regulations regarding tires. TCEQ had prepared a sample ordinance and the legal department had reviewed it. This ordinance would require all tire shops within the city limits to solicit a permit for a cost. The ordinance would require for the city to monitor the tire locations to control the number of tires that were stored by a business. The tire shops must be able to show evidence of manifest that showed they had licensed carriers to come and remove the tires. Mr. Clark recommended approval of the ordinance to allow staff to regulate the tire shops and to be in compliance with TCEQ. The Environmental Specialist from Pharr, Texas would be present at the next meeting to answer any questions the Commission might have. Omar Rios, Environmental Specialist for the City of Harlingen would be visiting the tire shops to hand out flyers informing them of a six-month grace period. He informed the Commission that there was a new company that was coming to the City that would grind tires and send them off to be recycled. The expected date time for the company to be in operation was approximately three months. They were waiting for final approval from TCEQ.

No action was taken.

- 12) Consider and take action to adopt and approve an ordinance on first reading designating a "No Parking Zone" be established on both sides of McCarver Avenue from the intersection of Ball Street; 120 feet alley located to the east of Ball Street.

Javier Zamora, City Engineer recommended approval of the ordinance due to some concerns from the nearby residents. Staff verified the concern with an onsite inspection of the area and determined the need to place a "No Parking Zone" on the above mentioned location was necessary.

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

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

- 13) Consider and take action to accept (or reject) bids and award the contract for the Treasure Hills Extension Roadway Project under Bid 2011-18 for the construction of a two lane urban roadway facility extending from Treasure Hills Boulevard to FM 509.

Javier Zamora, City Engineer stated the Treasure Hills Extension Roadway Project consisted of constructing a two lane urban roadway facility extending from Treasure Hills Boulevard to FM 509. The project would consist of grading, drainage structures, lime treated sub grade, flexible base, hot mix, curb and gutter, signing, striping, and a flashing beacon. The bid packet also requested an alternate bid price for polymer coated steel pipe in place of the reinforced concrete pipe.

On September 15, 2011, staff received and opened a total of thirteen bids for the roadway project. All of the bids met the requirements. Mr. Zamora recommended using the reinforced concrete pipe listed in the base bid instead of the alternate polymer coated steel pipe. H2O Construction had submitted the lowest base bid in the amount of \$802,864.44, had voluntarily withdrawn their bid in writing due to an error in pricing for the proposed work. He recommended awarding the bid to the next lowest bidder, G & T Paving with the base bid amount of \$948,057.13.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to accept the lowest bid by G & T Paving in the amount of \$948,057.13. Motion carried unanimously.

- 14) Consider and take action to adopt an ordinance on first reading to:
1. Prohibit the use of a hand-held wireless communication device to view, read, write, or send a text-based communication while operating a motor vehicle within the city limits of the City of Harlingen;
 2. Provide for definitions;
 3. Provide for affirmative defenses;
 4. Provide a penalty not to exceed \$200.00 per violations;
 5. Provide a violation of this ordinance to be a strict liability offense; and
 6. Provide an effective date of January 1, 2012.

Roxann Pais Cotroneo, City Attorney asked Commissioner Ruiz if she wanted her to proceed with her presentation given the fact that Mayor Pro Tem Prepejchal was not in attendance.

Commissioner Ruiz stated they had both requested this item on the agenda regarding public safety concerns. They wanted the City of Harlingen to be proactive in preventing any accidents and fatalities.

Mayor Boswell recommended approving the ordinance on first reading.

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

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

- 15) Consider and take action to approve on first reading, an amendment to Ordinance Number 10-29 Section 32.173, Election Officers; Establishment of Rules and Regulations, be amended to create the position of Vice Chairperson for the Senior Citizens Advisory Board.

Gabriel Gonzalez, Assistant City Manager stated the Senior Advisory Board currently had a chairperson position and they felt it would be in the best interest of the board to create a vice chair. This position would preside the meeting in the event the chairperson was unable to attend. The vice chair would also attend any functions on behalf of the chair.

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

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

- 16) Consider and take action to approve a contract for services between the City of Harlingen and the Rio Grande Valley Birding Festival for use of Hotel/Motel tax funds in the amount of \$33,000 to promote tourism and the convention and hotel industry within the City of Harlingen by promoting and operating the annual Birding Festival as per the contract.

Roel Gutierrez, Finance Director stated the City Commission budgeted \$33,000 from the Hotel/Motel funds for the Rio Grande Valley Birding Festival Board. These funds were used to promote tourism and convention and hotel industry within the city by promoting and operating the Annual Birding Festival, as provided in the contract. The \$33,000 is reflected in the approved budget for Fiscal Year 2011-12.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to approve the contract for the Birding Festival for. Motion carried unanimously.

- 17) Consider and take action to approve a contract for services between the City of Harlingen and the Harlingen Performing Arts Theatre Board of Directors for the use of Hotel/Motel tax funds in the amount of \$27,000 for the Harlingen Performing Arts Theatre to promote tourism and the convention and hotel industry within the City of Harlingen by promoting performances and activities held at the performing arts theatre facility, as provided in the contract.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to approve the contract for the Harlingen Performing Arts Theatre for \$27,000. Motion carried unanimously.

- 18) Consider and take action to rename Sweezy Lane.

Gabriel Gonzalez, Assistant Finance Director stated staff would begin construction of Sweezy Lane from FM 509 to the newly extended Treasure Hills Boulevard. The new street would be a 48-ft. back-to-back roadway with a proposed 80 ft. right-of-way. It would have curb and gutter on both sides and underground drainage structures that would outfall to a drainage ditch owned by the Cameron County Drainage District Number 3. It would have two 12 ft. travel lanes and two 10 ft. shoulders. The length of the proposed roadway was 2,500 linear ft. or 0.47 miles. Staff wished to rename the street since Kent Sweezy no longer owned any of the adjacent property and was vacant and undeveloped. There was an opportunity to rename the street and staff was looking for direction from the City Commission to rename the street. Mr. Gonzalez stated Mayor Pro-Tem Prepejchal suggested the name of Darrell Wayne Shipp Boulevard in honor of the veteran that was killed in action. The city needed at least three weeks' notice to have the street name ordered. He asked the Commission if they would like to submit any names for consideration.

Commissioner Ruiz stated he had spoken with Ms. Shipp (mother) and she preferred that the street where she lives be name after her deceased son.

Commissioner Trevino asked if there were any procedures established in re-naming streets.

Mr. Gonzalez replied there are no procedures for re-naming streets.

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

19) 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 (3) (Annual Appointments as per Ordinance 08-38)
- d. Civil Service Commission (Mayor) (1)
- e. Community Development Advisory Board (2)
- 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 (3)
- l. Harlingen Housing Authority Board
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board (4)
- 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)78
- 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 Trevino appointed Ernesto Silva to the Tax Increment Finance Board.

Motion was made by Commissioner Trevino and seconded by Commissioner Leftwich to approve the appointment of Mr. Silva. Motion carried unanimously.

8) Second and final reading to approve and adopt ordinance for a Specific Use Permit ("SUP") to allow a performing arts center along with an existing school in a Residential, Multi-Family (M-2) District located at 3205 Wilson road, bearing a legal description of Lot 1, Block 1, Wilson Road School Subdivision.

Mayor Boswell announced Item No. 8 would be postponed to the next meeting due to a lack of a quorum if he excused himself from the discussion.

On October 5, 2011 at 8:01 p.m. Mayor Boswell announced the Harlingen City Commission would convene in closed session to discuss the following items.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to convene in executive session to discuss the following items under executive session. Motion carried unanimously.

20) Closed/Executive Session to discuss the following items:

- a) pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code, Sections 51.087 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.
- b) 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 City of Harlingen v. Theatre Council Production, Civil Action No. 2009-08-4744-D in the 103rd District Court of Cameron County, Texas.
- c) pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code, Sections 551.72 and 551.071 regarding the purchase, lease or value of real property because of deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations and to seek legal advice from the City Attorney regarding the acquisition of a right-of-way of property located at 16458 U.S. Highway 83 on the southwest corner of Stuart Place Road and Business Highway 83, Harlingen, Texas with a legal description of Stuart Place Survey 297, 2.0 acres of Lots 1 & 2, Cameron County, Texas.

At 9:15 p.m. Mayor Boswell announced the Harlingen City Commission had concluded its executive session and declared the meeting opened to the public.

No action was taken on the above mentioned items.

There being no further business the meeting adjourned.

Chris Boswell, Mayor

Attest:

Amanda C. Elizondo, City Secretary