

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

OCTOBER 19, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, October 19, 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 and 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 Ruiz

Commissioner Ruiz gave the invocation.

Pledge of Allegiance/Welcome

Mayor Boswell welcomed everyone in attendance; especially the students from TSTC.

- 1) Presentation regarding "A Spooktacular Halloween in the Park" scheduled for Saturday, October 29, 2011 from 6:00 p.m. to 9:00 p.m. at Rangerville Park located at 1101 Rangerville Road. (City Manager)

Carlos Yerena, City Manger stated the 2nd Annual Spookacular Halloween would be held Saturday October 29, 2011 from 6 p.m. to 9:00 p.m. at Rangerville Park. Mr. Yerena stated there was participation from mostly all the city departments. Numerous activities were planned for the young kids. The city was soliciting volunteers to make it a safe Halloween for the kids and any individuals interested in volunteering could call the city for additional details.

- 2) Citizen Communication

Richard Uribe, citizen stated he was speaking on behalf of his mother, Ms. Uribe, who was part of the Water Aerobics Class hosted by the Parks & Recreation Department. Apparently, an individual was leasing the pool from the city and there was a conflict in the scheduling with the senior citizens that used the pool. The gentleman leasing the pool had been very disrespectful to the people who were in the pool and spitted in the pool. Mr. Uribe stated he had gone to the Parks & Recreation Board Meeting to address this issue to the board, but their meeting was canceled and decided to come before the City Commission in case no report was filed. He stated the City Commission had the discretion to do business with whomever they wanted, but there should be an apology from the gentleman to his mother and the elderly.

Raul Rodriguez, citizen stated he had heard on the news that there was a possibility of Costcos coming to the valley and wished for the City Commission to do something about bringing this store to Harlingen before Brownsville or another city took the opportunity of

bringing it to their cities. This was a great store it would bring more people to Harlingen and create more jobs.

Raymond Reyes, citizen stated there was some pending issues with one of his business and was trying to get hold of a certain city representative, but this individual did not returned his calls. He was trying to avoid some potential problems relating to some financial loss. Mr. Reyes did not agree on how the city was being run in respect to certain issues that affected businesses and residents that made Harlingen their home. He suggested the formation of citizen oversight committees to review city issues and concerns and report to the City Commission. He was a businessman and did not like to drag his issues with political nonsense and hoped to get the issues resolved as quickly as possible so he could attend to his business. He was from San Antonio and was glad to live in Harlingen.

Jose Rubio Jr., stated he would be speaking in Spanish in regards to Hispanic Heritage Month. He stated Emiliano Zapata had a famous quotation which read as follows: "Es mejor morir de pie que vivir de rodillas" In English, "It was best to die standing than to live by the knees." The Hispanics at that time were controlled by money offered by the Americans. The education that could set the Hispanics free and bring opportunities was used against them. This was the control that affected the Hispanics. The Americans knew the hives that existed in the Hispanics and laughed about them. Poorest example was in regards to a conspiracy of individuals in power who grouped to do great damage to a person who contributed in doing the best for the company. Instead of giving the person the best prize that the person deserved. The people in power in cooperation with the city did permanent damage to the person. Like Christians, I cannot understand the people that did this could live with such a conscious. Apparently, there was fear in this city about speaking the truth of things that happened and it was evident in the manner in which the city employees were treated. This same reality was seen in money that could be contributed for the Hispanics to seek business opportunities. The inheritance that was being left to our children was that there were no opportunities for them or any other individuals. The Mayor and City Commissioners as administrators and with the ability to change what was most difficult kept a silent voice. This was the reason that he reminded them of the most famous quotation of Emiliano Zapata. The apparent silence of no action on their behalf indicates they were living at their knees.

Mr. Bill Godwin, with Godwin Signs asked if it was proper for comments to be made in Spanish and if the comments that were made could be translated in English.

Mayor Boswell stated the comments were made under citizen Communication and he would allow it.

3) Approval of Minutes

a) Regular Meeting of October 5, 2011

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the minutes of October 5, 2011 as presented. Motion carried unanimously.

4a) Consider and take action to adopt and approve an ordinance on second and final reading designating a "No Parking Zone" to be established on both sides of McCarver Avenue from the intersection of Ball Street, 120 feet to the alley located to the east of Ball Street. (City Engineer)

b) Consider and take action to approve an Ordinance on second and final reading amending Ordinance Number 10-29 Section 32.173, Election Officers; Establishment of Rules and Regulations to create the position of vice chairperson for the Senior Citizens Advisory Board. (Assistant City Manager)

c) Consider and take action to approve a request from the Humane Society of Harlingen to close Monroe, Jackson Streets and Van Buren Avenue from "A" Street to 6th Street on Saturday, October 29, 2011 from 8:30 a.m. to 10:00 a.m. for a "Pedals for Puppies" Kids Bike Parade Event. (Police Department)

- d) Consider and take action to approve a request from St. Alban's Episcopal Church and School to close a portion of High Street between Bowie Avenue and Austin Avenue from 2:00 p.m. to 7:00 p.m. on Sunday, October 30, 2011 for their Annual Church Fall Festival "BOOFEST". (Police Department)
- e) Consider and take action to approve a request from enCORE Cultural Source to close Jackson Street between First and Commerce and "A" Street between Van Buren Avenue and Monroe Street from 5:00 p.m. to 11:00 p.m. on Saturday, November 5, 2011 for a "Fiesta de los Muertos/Dead Fest". Attachment (Police Department)
- f) Consider and take action to approve a request from the RGV Jaycees to close the following streets in conjunction to their Annual Jaycees Christmas Parade on Friday, December 2, 2011 from 5:00 p.m. to 9:00 p.m.:
1. "E" Street from W. Monroe to W. Van Buren Avenue
 2. "D" Street from W. Monroe to W. Van Buren Avenue
 3. "C" Street from W. Monroe to W. Van Buren Avenue
 4. Commerce Street from W. Monroe to W. Van Buren Avenue
 5. "A" Street from W. Monroe to W. Van Buren Avenue
 6. 1st Street from W. Monroe to W. Van Buren Avenue
 7. 2nd Street from W. Monroe to W. Van Buren Avenue
 8. 3rd Street from W. Monroe to W. Van Buren Avenue
 9. 4th Street from W. Monroe to W. Van Buren Avenue
 10. 5th Street from W. Monroe to W. Van Buren Avenue
 11. 6th Street from W. Monroe to W. Van Buren Avenue
 12. 7th Street from W. Monroe to W. Van Buren Avenue
- (Police Department)*

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

- 5) Presentation by Linda Castro, Secretary of Down by the Border regarding their organization's Annual Fall Festival on October 24, 2011 at no cost to the public to provide public awareness for children with special needs and their families. Attachment

Dolores G. Zarate, President and Co-Founder of Down by the Border located in Brownsville stated they were reaching out to the neighboring cities to invite them to their fall festival on October 29, 2011 at the Brownsville Sports Park from 9:00 a.m. to 1:00 p.m. The purpose was to bring public awareness to all their elementary children to educate them of their peers who had special needs. Ms. Zarate highlighted some of the activities and programs that would be held and presented posters to the city to post in the city departments. She stated the festival was free to the public.

Mayor Boswell thanked Ms. Zarate for their participation, support and assistance to children with special needs. No action was taken.

- 6) Consider and take action to approve a resolution recognizing Amadeo Saenz, who retired as executive director of the Texas Department of Transportation after thirty (30) years of exemplary services to the State of Texas. (City Manager).

Mr. Yerena stated Mr. Amadeo Saenz had retired as executive director of the Texas Department of Transportation (TXDOT) and the Rio Grande Valley Partnership was seeking resolutions from the cities acknowledging Mr. Saenz's accomplishments.

Motion was made by Commissioner Trevino and Mayor Pro-Tem Prepejchal to approve the resolution recognizing Amadeo Saenz for his accomplishments. Motion carried unanimously.

- 7) Consider and take action to approve the City of Harlingen Senior Citizen Yard Clean-Up Program as recommended by the Senior Citizens Advisory Board. (City Manager)

Mr. Yerena made a brief presentation on a new program that the city was initiating regarding a Senior Citizen Yard Clean-Up Program. The city would assist senior citizens to clean their yards. The requirements were: senior citizens had to be at least 65 years of age, Harlingen residents, disable or physically impaired of performing lawn maintenance, fixed income and home residents without immediate family assistance. The benefits would be: a one-time clean-up, removal of trash and minor tree trimmings and the ultimate goal would be to beautify the neighborhoods. The city was hoping to join with other entities and organizations such as the churches, schools and neighborhood associations to have a successful program. There was an application process and the Code Enforcement Department would be assisting potential applicants. For more information, senior citizens could call the Code Enforcement Department for more details. The Senior Advisory Committee considered this item at their last meeting and recommended approval of the program.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the City of Harlingen Senior Citizen Yard Clean-Up Program. Motion carried unanimously.

Commissioner Leftwich asked if the senior citizens had to be residing in the property for the one time clean-up or going in transition to a nursing home. The reason for asking was that there were some properties in his district that needed to be cleaned, but the senior citizens were no longer residing at their property because they were in a nursing home.

Mr. Yerena stated as long as the senior citizens were the primary property owners they would qualify.

Commissioner Trevino recommended for other outreached programs to assist the senior citizens through the year on a continuance basis instead of one time only. He suggested that his recommendation be made part of the program criteria.

Roxann Cotroneo, City Attorney stated they could direct community court defendants to assist in this program. This was being done with Harlingen Proud.

- 8) Consider and take action to approve the proposed signage revisions and upgrades as submitted by the Texas Department of Transportation (TXDOT) along Expressway 77 and Expressway 83 directing motorists into the City of Harlingen. (Public Works)

Dan Serna, Public Works Director stated city staff had an opportunity to meet with the Texas Department of Transportation (TXDOT) to discuss the need to improve some of the signage along Expressway 83 and 77 to guide people into Harlingen. He presented a power point presentation on the recommendations made by the TXDOT and staff and highlighted each of the signs and locations to all entries to Harlingen. Mr. Serna indicated TXDOT had ordered the signs and would be installed by November 9th before the Bass Pro Shops Opening Ceremony. He recommended approval of the item and stated there would be no cost to the city.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the proposed signage revisions and upgrades as submitted by TxDOT along Expressway 83 and 77. Motion carried unanimously.

- 9) Consider and take action to approve the renewal of the contract between the City of Harlingen and Don Van Ramshorst, Jr. for the City of Harlingen's Tennis Pro for Fiscal Year 2012. (Parks & Recreation)

Paul Menzies, Parks and Recreation Director stated that historically the city had hired a Tennis Pro to operate the H.E.B. Tennis Center and highlighted an over shot of Pendleton Park. The current contract was executed in 2008 which was approved by the City Commission for a one year term with a four – one year option renewals. The contract could possibly be extended to next fiscal year. Under the provisions of the contract the tennis pro would be paid \$2,000 per month plus 75% of all court and membership fees. He recommended approval of the contract.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to approve the contract between the City of Harlingen and Mr. Don Van Ramshorst, Jr. as recommended by staff. Motion carried unanimously.

- 10) Consider and take action to approve the renewal of a one year contract between the City of Harlingen and Harlingen Youth Football League for the use of the Athletic Fields at Victor Park. Applicant: City of Harlingen and Mario Montez. (Parks & Recreation)

Mr. Menzies highlighted an over shot of the Victor Park facilities and stated all the required insurance and non-profit status documentations were on file. He recommended approval of the contract.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the renewal of a one year contract between the City of Harlingen and Harlingen Youth Football League for the use of the athletic fields at Victor Park as recommended by staff.

Discussion was held in regards to making additional improvements at Victor Park and Mr. Menzies responded there were no funds for improvements in the current budget. He stated they had discussed some long term improvements with the Harlingen Youth Football League (HYFL).

Commissioner Leftwich stated the city had some concerns regarding some improvements done on behalf of the HYFL.

Commissioner Trevino stated the City Commission had discussed the issue of making improvements at the parks when the renewal of the HYFL Contract was presented to them for approval. It was decided that approval would be obtained first from the City Commission. They were not complying with some of the amenities at the park.

Mr. Menzies stated there were some concerns regarding the location and color of the storage facility done by the HYFL. This was the reason that the City Commission wanted to approve any kind of improvement at the parks. These concerns had been included in all of the contracts over the last year and a half.

Mayor Boswell asked if the appearance of the park could be improved.

Commissioner Leftwich asked if 4B money could be used for improvements and maybe the staff could assist HYFL to correct these issues.

Mr. Menzies responded 4B money was not available.

Mr. Yerena stated 4B money had been used before.

Commissioner Ruiz asked if this location would be for a long term use and what other options had been given to HYFL. He stated he and Commissioner Marra had discussed the possibility of constructing a football complex.

Mr. Menzies responded there were no plans for the HYFL to move out.

Mayor Boswell stated the idea of the football complex was a long term project and his concern was the improvements on the appearance of the community starting with city properties and parks. This was a matter of cosmetics.

Commissioner Trevino recommended starting the discussions with the Park & Recreation Board to plan for short and long term planning by asking them what was needed in regards to the league.

Mayor Pro-Tem Prepejchal recommended looking at some minimum standards.

Commissioner Leftwich stated the city should get away from the grandfathered clause and try to help them from the city respective to bring them up to minimum standards. The city had assisted with 4B money in the past to improve issues at the park.

Ms. Cotroneo stated there were some Harlingen police officers who were certified in crime prevention through environmental design. This was actual training on cleaning up an areas or use of certain colors, lighting and landscaping that could be useful to the city. This was another option for the city.

Motion carried unanimously.

- 11) Consider and take action to approve the renewal of a one (1) year contract between the City of Harlingen and Harlingen Hockey Association for the use of the Oil Mill Athletic Pavilion at Lon C. Hill Park. Applicant: City of Harlingen and William Kimball. (Parks & Recreation)

Mr. Menzies stated this was the same contract for the Harlingen Hockey Association for the use of the Oil Mill Athletic Pavilion at the Lon C. Park. They had been in Harlingen for a number of years for the Roller Hockey League. They were a 501c nonprofit organization. All the required documents on their nonprofit status and insurance were on filed. He recommended approval of the contract.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the contract between the City of Harlingen and the Harlingen Hockey Association as presented. Motion carried unanimously.

- 12) Consider and action take to approve the renewal of a one (1) year contract between the City of Harlingen and RGV Amateur- Adult Soccer Association for the use of the Soccer Fields at Vestal Park. Applicant: City of Harlingen and Manuel Cardona. Parks and Recreation)

Mr. Menzies highlighted the contract between the RGV Amateur – Adult Soccer Association and presented an over shot of the soccer fields at Vestal Park. He stated they were a 501c nonprofit organization. All the required documents on their nonprofit status and insurance were on filed and recommended approval of the contract.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the contract between the City of Harlingen and RGV Amateur – Adult Association as presented.

Discussion was held regarding security at the park due to some fights and Mr. Menzies stated there were really no problems with any fights. However, there had been some vandalism to the restroom facilities, but the Parks Department had closed the restrooms facilities and would open them only for the soccer league.

Motion carried unanimously.

- 13) Consider and take action to authorize four (4) part-time positions and the purchase of certain supplies and equipment for the specific purpose of maintenance and operation of the City's Soccer Complex. Applicant: City of Harlingen. (Parks & Recreation)

Mr. Menzies stated the soccer complex had opened on 2008 and since the opening of the park the city had contracted the maintenance of the facility. He added the Parks & Recreation Department was asked to analyze a plan for city staff to take over the maintenance of the complex. The proposed plan would save approximately \$20,000 annually compared to the current contract. The city had a contract with D-Bar Contractor for the maintenance of the facility for \$146,700 and the city had allocated \$150,000. The city was proposing to hire four part-time employees plus purchasing the appropriate supplies and equipment in this year's budget for a total amount of \$127,819. There was a one-time start-up cost for the big mowers and utility trailers for an approximate cost of \$62,000. The total start-up cost for one year would be about \$190,000 an access of \$40,000. If the City Commission approved the item, the City Manager would have to find the additional funding and present it to the City Commission for final approval.

Commissioner Leftwich stated he was not in favor of purchasing the big mowers because the grass did not grow in that particular area. He recommended purchasing the equipment in phases as the grass got greener.

Mr. Menzies stated the reason the grass was not growing in that area was due to no top soil, it was all clay. He stated he had met with Mr. Yerena and the plan was to do one field at a time with top soil for the next few years. Mr. Menzies stated they would irrigate the fields and used approximately ten million gallons of water per month. One of the improvements was the installation of a liquid fertilizer system and under the contract with D-Bar Contractors. They would only fertilize twice a year.

Mayor Pro-Tem Prepejchal stated he was in favor of purchasing one mower for start-up time.

Commissioner Leftwich stated another benefit of having the people on staff was that they could be redirected to do right-of-ways and other mowing tasks when staff was not needed at the soccer complex and the expense of the salaries could be spread out through the city.

Discussion was held regarding the clean-up of the park facilities and Mr. Menzies stated the leagues would clean-up. Staff would continue cleaning the restrooms facilities and remove the trash that was collected by the leagues.

Mr. Yerena stated with the deletion of the mowers, only \$9,000 would be required for the current year and after that the city would be saving \$20,000.

Discussion was held regarding the inventory of existing equipment and Mayor Pro-Tem Prepejchal suggested that the old mowers be converted into a spraying unit to spray for mosquitoes.

Motion was made y Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to authorize the City Manager to hire four part-time positions for the management of the soccer complex. Motion carried unanimously.

- 14) 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. Applicant: Harlingen CISD, c/o Oscar Tapia. (Planning and Zoning)

Mayor Boswell 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.

Mayor Pro-Tem Prepejchal read the item and directed the City Attorney to read the caption of the ordinance.

For the record, the caption of the ordinance read as follows:

ORDINANCE NO. 11-50

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO HARLINGEN CISD TO ALLOW A PERFORMING ARTS CENTER ALONG WITH AN EXISTING SCHOOL IN A MULTI-FAMILY (M-2) DISTRICT LOCATED AT 3205 WILSON ROAD, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, WILSON ROAD SCHOOL SUBDIVISION, SUBJECT TO: (1) OBTAINING THE REQUIRED BUILDING PERMITS FROM THE BUILDING INSPECTIONS DEPARTMENT PRIOR TO CONSTRUCTION AND (2) COMPLYING WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR ACCESS MANAGEMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the ordinance on second and final reading as presented. Motion carried unanimously.

Mayor Boswell returned to the room and presided over the meeting.

15) Consider and take action to adopt an ordinance on second 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
(Requested by Mayor Pro-Tem Jerry Prepejchal and Commissioner Gustavo Ruiz.)

Ms. Cotroneo stated this item had been placed on the agenda at the request of Commissioner Ruiz and Mayor Pro-Tem Prepejchal. At the last meeting the City Commission had requested for her to prepare the necessary ordinance to prohibit a driver from reading, writing, or sending a text message, instant message or email while driving within the city limits of Harlingen. Ms. Cotroneo gave a quick overview of the ordinance and gave a brief power point presentation to ban texting while driving. She stated she had done some research in banning texting and found that Virginia Tech Transportation Institute indicated that while a person was texting and driving there was 23 times more likely of being involved in a car accident and while texting a person actually took five seconds off the road. There were some states that had ban texting while driving in some valley cities such as Brownsville, McAllen and Mission. The 82nd Texas Legislature considered House Bill No. 242 prohibiting texting while driving in the State of Texas. House Bill No. 242 was passed by the House of Representatives with 80 votes (Yeas) and 61 votes (Nays) and on June 17, 2011 the Governor vetoed the bill and was left up to the cities. She briefly explained the ordinance particularly the definitions and stated there were seven affirmative defenses in the ordinance. The ordinance did not apply to emergency vehicles. The South Texas Emergency Care Foundation that operated the franchise ambulance center in Harlingen asked to revise the language. Their main concern with the first reading of the ordinance was that it did not cover the private and non-profit ambulance and requested more general language to cover them. With the new ordinance there was a \$200.00 violation and allowed the Harlingen Police Department to enter into an inter-agreement with other agencies if the city wanted the agencies to enforce the ordinance. The effective date of the ordinance would be January to allow the city to inform the public of the ordinance. There would be no signs alerting the public unless the City Commission instructed staff to put up signs. The Harlingen Police Department/Policing Community Officers develop some ideas to inform neighborhoods watch.

Mayor Pro-Tem Prepejchal recommended that the city televise the ordinance.

City Attorney read the caption of the ordinance.

For the record the caption of the ordinance read as follows:

ORDINANCE NO. 11-51

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS AMENDING TITLE VII, TRAFFIC CODE, CHAPTER 70: TRAFFIC REGULATIONS OF THE HARLINGEN CITY CODE, AS AMENDED, BY ADDING SECTION 70.05; PROHIBITING THE USE OF A HAND-HELD WIRELESS COMMUNICATION DEVICE TO VIEW, READ, WRITE OR SEND A TEXT-BASED COMMUNICATION WHILE OPERATING A MOTOR VEHICLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR AFFIRMATIVE DEFENSES; PROVIDING A PENALTY NOT TO EXCEED \$200.00 PER VIOLATION; PROVIDING A VIOLATION OF THIS ORDINANCE TO BE A STRICT LIABILITY OFFENSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE OF JANUARY 1, 2012; AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

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

- 16) Consider and take action to authorize the City Engineer to hire an Engineering Firm to perform a traffic study on "L" Street to determine if it is feasible to reconfigure the section of road from North "L" Street to Fair Park Blvd. from a two-way directional street to a one-way directional street. (City Engineer

Javier Zamora, City Engineer stated staff was requesting permission to conduct an engineering study to re-conform "L" Street between North "L" Street and Fair Park Boulevard from a two-way street to a one-way due to the Water Park within the Fair Park area. If authorized by the Commission, staff will move forward and hire an Engineering Firm to conduct a study of the roadway and provide staff with options to reconfigure "L" Street into a one-way street with additional parking. The cost to perform the study is \$5,900.00. The results of the study will presented to the Mayor and City Commission for consideration and final approval before any changes are made.

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

- 17) Consider and take action to approve the renewal of the Fire Protection Contract between the City of Harlingen and Cameron County Emergency Services District No. 1 for Fiscal Year 2011-2012 in the amount of \$155,436.11 to be paid in quarterly installments of \$38,859.03 on or about the following dates: December 31, 2011, March 31st, June 30th and September 30th, 2012.

Mike Rinaldi, Fire Chief highlighted the Fire Protection Contract between the City of Harlingen and Cameron County ESD No. 1 for Fiscal Year 2012. The amount of the contract was \$155,436.11 to be paid in quarterly installments of \$38,859.03 on the following months: December 31, 2011, March 31st, June 30th and September 30th, 2011. The amount was decreased by approximately \$60,000 compared to last year's amount.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the renewal of the Fire Protection Contract as presented. Motion carried unanimously.

- 18) Consider and take action to approve or reject the Fire Protection Service Contracts with the cities of Combes, Primera and Palm Valley.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Leftwich to approve the Fire Protection Contracts and service costs with the following cities: Combes - \$62,987.00, Primera - \$81,292.00 and Palm Valley - \$110,344.00. Motion carried unanimously.

- 19) Recommendation from the Library Advisory board to appoint Allison Rebello as the Student Representative and Elizabeth Diaz as the Alternate Student Representative for Harlingen High School for School Year 2011-2012.

Ruben Rendon, Library Director stated Ordinance 96-27 dictated the composition of the Library Board and required the appointment of two students from each of the high schools. The board members were appointed by the Mayor and Commission. The Library Board at their meeting of October 3rd recommended appointing Allison Rebello and Elizabeth Diaz. The Harlingen High School South had not yet submitted any nominations.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the appointment of Allison Rebello and Elizabeth Diaz to the Library. Motion carried unanimously.

- 20) Consider and take action to approve lease agreement between the City of Harlingen and Cameron County to lease election equipment to hold the December 16, 2011 Special Election to fill the unexpired term of City Commissioner for District 1.

Amanda C. Elizondo, City Secretary stated the purpose of the contract was to lease the election equipment from Cameron County for the December 16th Special Election. The cost to

lease the machine was \$2,530.00 for two (2) AutoMarks and two (2) Model M100 Scanners. The contract was for a short term beginning November 29th to December 27th, 2011. The city would be required to pick up the machines and return them to the county. If the equipment was not delivered within the period stipulated in the agreement there would be an added cost.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to approve the lease agreement as presented \$2,530.00. Motion carried unanimously.

- 21) Consider and take action to authorize the City Manager to submit a letter to the Comptroller of Public Accounts detailing the City's legal authority to exercise their power of eminent domain as required under a new state law.

Roxann Pais Cotroneo, City Attorney highlighted Senate Bill 18 enacted by the 82nd Texas Legislature. The bill required all public and private entities authorized to exercise the power of eminent domain in Texas to submit a letter to the Comptroller of Public Accounts detailing their legal authority to exercise this power. The city must complete the Texas Comptroller form, required documentation of eminent domain authority in Texas and return certified mail to the address provided on the form by December 31, 2012. If an entity failed to submit the form by December 31, 2012, then the city's eminent domain authority would expire on September 1, 2013.

Motion was made by Commissioner Marra and seconded by Commissioner Leftwich to authorize the City Manager to submit a letter to the Comptroller of Public Accounts. Motion carried unanimously.

- 22) Consider and discuss progress of Scofflaw Program, and take action to approve an amended multi-year Interlocal Agreement with Cameron County in accordance with the Texas Transportation Code to deny registration or re-registration of vehicles if the registered owner has an outstanding warrant for a failure to appear or failure to pay a fine on a traffic law violation as defined and authorized by Chapter 702 of the Texas Transportation Code.

Ms. Cotroneo stated on July 9, 2010, the city entered into an interlocal agreement with Cameron County to deny registration or re-registration of vehicles if the registered owners had an outstanding warrant for delinquent Class C misdemeanor traffic offenses or for failure to appear in court. She quoted the provisions the Texas Transportation Code and stated a person wanting to register their vehicle needed to clear up their outstanding warrants before they could register their vehicle. As per the existing interlocal agreement, the city collected an extra \$20 per vehicle record presented by a person wanting to clear a traffic violation. She stated for each \$20 fee, the city kept \$10 and remitted the other \$10 to the Tax Assessor Collector for the county's program administrative costs. The \$20 fee provision in the interlocal agreement needed to be amended pursuant to recent state law. Senate Bill 1386 became effective on September 1, 2011 and if the county had a contract with a city to implement a Scofflaw Program, then the county may collect the additional \$20 fee from the person wanting to register the vehicle. If the city chose to collect the fee instead of the county collecting the fee, then the city had to remit the \$20 to the county and city would keep nothing.

Ms. Cotroneo stated that from April 1st to September 30, 2011, the Scofflaw Program had generated an additional \$79,526 in outstanding traffic ticket collections, which did not include the \$20 administrative fee per vehicle record. Almost every month collections have increased and the city's prosecutor was recommending for the city to continue the program and approve the amended interlocal agreement to comply with state law.

Motion was made by Commissioner Leftwich and seconded by Commissioner Marra to approve the amended interlocal agreement as presented and recommended by City Attorney. Motion carried unanimously.

- 23) Consider and discuss the legal authority of a municipality to name or rename a public street; and consider and take action on whether to draft an ordinance that establishes a process to name or rename a public street.

Ms. Cotroneo stated at the last City Commission discussion was held in regards to re-naming Sweezy Lane. There were questions asked about policies and regulations in place and the city has no policies or regulations to consider naming or renaming streets. Ms. Cotroneo gave a brief overview of how other cities in the State of Texas went about re-naming street. She stated it was a municipal legislative function that should be done by ordinance, not just a motion. The City of Harlingen should draft an ordinance stating policies on how to name or re-name a street. There were two (2) types of ordinances: the ordinance to establish the process; and the actual ordinance to name the street. Ms. Cotroneo outlined the procedures on establishing the ordinance.

Motion was made by Commissioner Marra and seconded by Mayor Pro-Tem Prepejchal to authorize the City Attorney to draft an ordinance establishing procedures on naming and renaming public streets. Motion carried unanimously.

- 24) Consider, discuss and take action to authorize staff to initiate the process to research costs and associated items for funding of a new fire station on the west side of the city as recommended by the 2005 Mike Pietsch ISO consultant report.

Commissioner Leftwich gave a Power Point presentation on the costs for a new fire station. He stated at the last City Commission meeting during the annexation item one of the issues that came up was the lack of a fire station to support the west side area. The City's ISO rating was a Class 3/10, three (3) is a fairly good rating, but a Class 10 was not something the city would not like to be under. He stated the consultant's report read that consideration of Fire Station No. 7 located on Dixieland Road could be relocated, then building a seventh station in the vicinity of Business Highway 83 and Dilworth Road. The new station should house all the necessary apparatus and manpower. When this west side area was annexed the recommendation was to consider two more fire stations to cover that area. There was a new fire station that was built on Glasscock, but that was not built where it should have been built. So the city did not follow what the consultant recommended to do. This would have helped the ISO rating and maybe gotten the city out of the 10 rating. The city did benefit based on the fact that the latter truck was added to the station. In his opinion, the city has to build an additional Fire Station on the west side for the protection of our citizens.

Mayor Boswell stated the city just went through a disannexation and they could not afford the reoccurring cost of \$38,000 for a new fire station, plus the start up cost of \$3 million for a fire station. The relocation cost of the Dixieland Fire Station would be \$1.2 million.

Commissioner Leftwich recommended adding a latter truck and that would give the city a 2½ miles response to the area.

Mayor Boswell asked if the instructions for staff was to initiate the process to research the costs to relocate the Dixieland Fire Station.

Commissioner Leftwich answered that he would like for staff to consider the relocation of the Dixieland Fire Station, in addition to adding a latter truck just like the one that was added to the Glasscock Fire Station. That would be cheaper than building two fire stations.

Mayor Boswell stated he was in support of the relocation of the Dixieland Fire Station. At this time he asked for a motion to authorize staff to initiate the process to research costs and associated items for relocating the Dixieland Fire Station and adding a latter truck.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to direct staff to research into the cost of relocation the Dixieland Fire Station to the west side and adding a latter truck

Discussion was held regarding the relocation of the fire station and Commissioner Leftwich pointed out there was also a Grimes Station that overlapped in the same area which provided redundancy. At the Grimes Station there was already an apparatus truck. The ISO report stated the city would not get any credit by relocating the Glasscock Station. The reason the city got credit was because of the expansion and the latter truck. The specifics were spelled out by the consultant and the city took a hit on the ISO rating because the consultant's report was not followed. That was why the city had one of the worst ratings in the ISO Report.

Mayor Boswell clarified that most of the City of Harlingen had a three (3) rating and that was at the top of 3 ½ percent of all cities in terms of the ISO ratings. They certainly did not want to give the majority of the community the false sense that they did not have a good rating. The truth was the majority of the community had a very high rating of three (3) rating. He agreed with Commissioner Marra that it was important to renovate that very old fire station and provide latter truck capability that was not available at the Sam Houston location. That was not just any area of our community that was our hospital district and the hospital district was the heart and soul of the economic engine that drives the City of Harlingen.

Commissioner Leftwich stated the consultant had recommended to the city in 2005, that a fire station was necessary and a latter truck for the west side.

Motion carried unanimously.

25) 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
- d. Civil Service Commission (Mayor) (1)
- e. Community Development Advisory Board (2)
- 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 (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 (1)
- s. Planning & Zoning Advisory Board
- t. Senior Citizens Advisory Board (1)
- u. Tax Increment Finance Board
- 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 appointed Philip Oxford to the Parks Advisory Board. Commissioner Leftwich re-appointed Paul Durant to the Harlingen Community Improvement Board. Commissioner Marra appointed Josh Field to the Utility Board of Trustees. Commissioner Trevino appointed Karam Boulos to the Harlingen Community Improvement Board.

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

On October 19, 2011 at 7:10 p.m. Mayor Boswell announced the Harlingen City Commission would convene in closed session to discuss the following items.

Motion was made by Commissioner Marra and seconded by Mayor Pro Tem Prepejchal to go into Executive Session. Motion carried unanimously.

- 26) Closed/Executive Session to discuss the following items:
- a) 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 Productions, Civil Action No. 2009-08-4744-D in the 103rd District Court of Cameron County, Texas.
 - 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 Hino Electric Holding Company, L.P. d/b/a Hino Electric Power Company v. City of Harlingen Cause No. 2006-10-5045-E.
 - c) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Sections 551.087 and 551.071 regarding commercial and financial information from a business prospect with which the City Commission is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives with the business prospect known as Project Green and to seek legal advice from the City Attorney regarding this subject.

At 7:53 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.

- 27) Consider and take action to approve an addendum to the Waste Disposal Agreement dated December 2, 2010 between the City of Harlingen and the City of Edinburg.

No action taken.

- 28) Consider and take action to adopt a resolution that authorizes the creation of a Chapter 380 economic development program and negotiation and execution of a Chapter 380 economic development agreement between the City of Harlingen and Synergy Renewables Harlingen, LLC.

No action taken.

There being no further business the meeting was adjourned.

CITY OF HARLINGEN

Chris Boswell, Mayor

Attest:

Amanda C. Elizondo, City Secretary