

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

DECEMBER 7, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, December 7, 2011 at 5:30 p.m. at the Harlingen Community Center located at 201 E. Madison, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell

Jerry Prepejchal, Mayor Pro-Tem, District 4

Gustavo C. Ruiz, Commissioner, District 1

Robert Leftwich, Commissioner District 2

Joey Trevino, Commissioner District 5

Staff Present:

Carlos Yerena, City Manager

Amanda C. Elizondo, City Secretary

Roxann P. Cotroneo, City Attorney

Gabriel Gonzalez, Assistant City Manager

Roel Gutierrez, Director of Finance

Mayor Boswell called the meeting to order, a quorum was established. He stated a notice of the meeting had been duly posted according to state law and the following proceedings were held.

Invocation/Mayor Chris Boswell

Mayor Boswell gave the invocation.

Pledge of Allegiance/Welcome

Mayor Chris Boswell led the pledge of allegiance and welcomed everyone in attendance. He informed the audience that the meeting had been changed due to early voting being held at Town Hall Meeting Room.

Mayor Boswell and Carlos Yerena, City Manager presented a proclamation of recognition to Rogelio Agrasanchez Linage for his many accomplishments in the Mexican Movie Industry.

1) Citizen Communication

Mayor Boswell stated the City Commission would hear comments from the individuals who had signed up for citizen communication that were not related to an agenda item.

Kori Marra, 2405 Treasure Hills Court publicly stated to the audience in attendance of how and when she first became a City Commissioner for District 3 and how she ended her career as a City Commissioner. She thanked her constituents for their support. Commissioner Marra read a letter and stated it took a lot of commitment, dedication, positive leadership in order to produce positive results and the city employees were the focus of the city.

2) Approval of Minutes – Regular Meeting of November 21, 2011

Motion was made by Commissioner Trevino and seconded by Mayor Pro Tem Prepejchal to approve the minutes of November 21, 2011 as presented. Motion carried unanimously.

3a) Second and final reading of ordinance approving an ordinance authorizing the issuance of City of Harlingen, Texas General Obligation Refunding Bonds, Series 2011, approving

and authorizing the execution of an escrow agreement, a paying agent/registrar agreement, a purchase contract and other instruments and procedures related thereto, delegating authority to Mayor or the City Manager to select outstanding bonds to be refunded and approve all final terms of the bonds, approving an official statement, and calling certain bonds for redemption.

- b) Second and final reading of ordinance amending the City of Harlingen's Budget for Fiscal Year 2011-12.
- c) Consider and take action to approve refunds of property taxes to Harlingen Venture No. Two, LP c/o Law Office of Michael R. Boling, Account #18-4093-0010-0040-00 and Account #18-4093-0010-0060-00 in the amounts of \$1,672.21 and \$1,287.90 for a total adjustment of \$2,960.11 due to a change of value for the Year 2010 as per agreed judgment.

Motion was made by Commissioner Trevino and seconded by Mayor Pro-Tem Prepejchal to approve all the items under consent agenda. Motion carried unanimously.

For the record, the captions of Ordinance No. 11-56 and 11-57 read as follows:

ORDINANCE NO. 11-56

AN ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF HARLINGEN, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011, APPROVING AND AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO, DELEGATING AUTHORITY TO THE MAYOR OR THE CITY MANAGER TO SELECT OUTSTANDING BONDS TO BE REFUNDED AND APPROVE ALL FINAL TERMS OF THE BONDS, APPROVING AN OFFICIAL STATEMENT, AND CALLING CERTAIN BONDS FOR REDEMPTION.

ORDINANCE NO. 11-57

AN ORDINANCE AMENDING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR THE FISCAL YEAR OCT. 1, 2011 THROUGH SEPT. 30, 2012. TOTAL BUDGET REVENUES WILL REMAIN AT \$62,100,376 AND TOTAL BUDGET EXPENDITURES WILL INCREASE TO \$65,245,666 RESPECTIVELY, PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading November 21, 2011.

PASSED AND APPROVED on second and final reading on December 7, 2011.

SIGNED: /s/ Chris Boswell, Mayor

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

- 17) Consider and take action to approve or deny a one-year contract between the City of Harlingen and Harlingen Aquatic Team (HAT) for the use of Pendleton Pool and Victor Pool.

Paul Menzies, Parks & Recreation Director stated at the last City Commission meeting no action was taken on the HAT Contract which expired August 31, 2011. The City Commission voted 3 to 1 to require that HAT submit proof of liability insurance and certificate of an application of non-profit status. Staff received both documents and was proposing to continue with HAT and accommodate them at the Pendleton Pool via a separate contract. The contract would be similar to the one renewed by the city for the various non-profit organizations that operated the sports leagues at the city's park facilities. Staff recommended approval of the contract subject to the following terms:

- HAT will be allowed to use the Pool between 5:30 p.m. and 7:00 p.m. Monday-Friday;

- HAT will share the Pool with a City Program (usually water aerobics) on Mondays, Wednesdays, and Fridays between 6:30 p.m. and 7:00 p.m.;
- HAT will have access to the Pool for one Saturday per month for up to three hours;
- HAT will have access to Victor Pool during the Summer between 6:30 a.m. and 8:30 a.m. Monday through Friday;
- HAT will pay the City monthly fee of \$500 to cover the costs of providing lifeguards and the general operations of the pools; and
- The City will maintain the pools and their associated facilities in the same or similar condition as it does for HCISD's competitive swim programs, to the maximum extent practical.

Comments were heard from Trolene Loya, 20420 Perry Drive, Diane Nichols, 309 W. Alice Street, Margaret England and another gentleman stated they were in favor of keeping the swimming lessons. They felt that they were being singled out and the swimming classes were a good exercise for the kids.

Discussion was held in regards to the fees and profits derived from the swimming lessons and Mr. John Tucker, Representative for the Harlingen Aquatics Team stated he had presented a letter to the city explaining the program requirements, fees and profit percentages.

Mayor Boswell stated there was no change with the soccer and football lease agreements and they only paid one dollar. He asked what justification was there for the use of the pool.

Mr. Menzies stated the pool was managed by city employees, city equipment and the fees were to recover the lifeguard's salaries which totaled to \$86,000 annually.

Mr. Ken Pruneali with the Aerobics Class stated there was only one complaint when the kids were in the pool and there were no other complaints.

Comments were heard from an individual who spoke in regards to the Aerobics Class and stated the city would schedule the time of the aerobics class and collect the monies.

Mr. Tucker stated the lifeguards were hired by the city from 9 a.m. to 6 p.m. There were no problems with the Aerobics Class at 5:30 to 6:30 p.m. The adults needed the shallow part of the pool and they could allow the pool program an additional fifteen minutes.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to table the item to further evaluate a reasonable dollar amount and the additional issue of the lifeguards. Motion carried unanimously.

- 4) Acknowledgement of: (1) Verdict of Guilty-Punishment by Court/Jail, a conviction of a conflict of interest offense in State of Texas v. Kori J. Marra, Cause No. 11-CCR-1602-C, Cameron County Court at Law No. 3; and (2) Harlingen City Charter Article IV, Subsection 2, which mandates that a City commissioner (Kori J. Marra) shall immediately forfeit their office upon conviction of a conflict of interest statute under Texas Local Government Subsection 171.001-171.008, as amended.

Roxann Pais Cotroneo, City Attorney reported on the acknowledgement of Commissioner Marra's verdict of guilty-punishment by court/jail, a conviction of a conflict of interest offense as stipulated by the State of Texas and Harlingen City Charter which required immediate forfeit of office.

Ms. Eileen Leeds, representing Mr. Charles Willette, Attorney reported on the Kori J. Marra Case – Cause No. 11-CCR-1602 and stated that on November 8 the case was called for trial and November 10, 2011 Ms. Marra was determined to be guilty of the offense of Conflict of Interest/Fail to File Affidavit as found by the jury. Ms. Marra was punished by a fine set at \$500.00 plus court cost and confinement in the Cameron County Jail for a period of 30 days. The judgment was ordered and signed by the Honorable J. Manuel Banales, Senior Judge of County Court at Law No. 3.

- 5) Public hearing and presentation regarding the Draft FY 10-11 Consolidated Annual Performance and Evaluation Report (CAPER).

Mayor Boswell stated at the request of Ms. Tammy DeGannes, CDBG Director the City Commission would pass on the item and no discussion was required.

- 6) Consider an ordinance on first reading to amend the Specific Use Permit issued under Ordinance No. 90-74 for a wrecking and salvage yard from 8.67 acres to 6.41+/- acres out of Block 7, F.Z. Bishop Campbell Lands Subdivision and allow a salvage yard in a "LI" District located on Roosevelt Road west of Expressway 77, bearing a legal description of 1.0 acres out of Block 8, and 2.263+/- acres out of an 8.94 acre tract out of Block 7, F.Z. Bishop Campbell Lands Subdivision.

Joel Olivo, Planning Manager stated Craig Miller, owner wished to open a wrecking, salvage yard and recycling center (ferrous metals) at the proposed property located on Roosevelt Road west of Expressway 77. The applicant had not applied for the applicable permits because approval for said permits was contingent upon approval from the city. He highlighted the existing use of the proposed property and surrounding areas and stated that on the north side of the proposed property was an existing wrecking and salvage yard. Based on the site plan submitted and the use of the property, seven parking spaces were required and they complied with the parking requirements. The City of Harlingen Environmental Services, Fire Prevention and Engineering Departments reviewed the SUP Application. They had no objections subject to the applicant submitting the required plans and obtaining the required permits. As per the Fire Department, the applicant had to comply with some fire code requirements prior to the issuance of the Certificate of Occupancy (CO). Pursuant to Chapter 122 of the City Code of Ordinances, an applicant who held a metal recycling business license had to apply with the Police Department. As of today, the Planning and Zoning Department had not received any objections from the surrounding property owners. In accordance with the Zoning Ordinance, the City Commission could impose additional requirements/conditions as necessary to ensure that a use for a SUP was compatible and complementary to adjacent properties. He stated the request complied with the applicable zoning standards and staff recommended approval of the request with the following conditions:

- 1) The building shall comply with all applicable Fire Code regulations as determined by the Fire Department prior to the issuance of the CO";
- 2) The applicant shall comply with all Environmental Services Department standards and must obtain all applicable state permits prior to the issuance of the "CO";
- 3) The applicant shall obtain the proper permits from the Chief of Police and Cameron County prior to issuance of "CO";
- 4) The applicant shall provide and maintain the required parking in accordance with city regulations.
- 5) Obtain the required permits from the Building Inspections Department to provide an 8-foot solid fence and a 5-foot landscape buffer along with the perimeter of the property; and
- 6) Comply with the requirements administered by the Planning, Building Inspections, Fire Department, Police Department and Environmental Services Department prior to the issuance of a Certificate of Occupancy.

a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against the item could do so.

Comments were heard from J. B. Card and Craig Miller stated this business would consist of a collection center, they would take parts of vehicles and all parts would be processed in Brownsville.

Mr. Craig Miller stated they were investing one million dollars on the first section and two million dollars on the second section. The business operation would consist of six days with a staff of five and the area would be kept very clean and green.

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

Ms. Cotroneo read the caption of the ordinance.

- b) Consider and take action to approve an ordinance on first reading for the above mentioned Specific Use Permit.

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

- 7) Consider an ordinance on first reading to abandon a 60 ft. road right-of-way described as a 01.27 acre tract of land more or less, being 60 ft. wide road-of-way dedicated on the Caldwell Subdivision located on the west side of Idaho Street south of Expressway 77.

Mr. Olivo stated the applicant was requesting the abandonment of a 60 ft. road right-of-way located between Blocks 1 and 2, Caldwell Subdivision for a proposed resubdivision of seven multi-family lots. The proposed road right-of-way abandonment has been reviewed and approved by the City Engineer and all appropriate utility companies. The appraised value of the property as determined by Scroggins Appraisal Services was \$13,000. Staff was recommending approval of the abandonment subject to the applicant purchasing the property at market value as determined by the appraisal.

- a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against the item could do so.

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

Ms. Cotroneo read the caption of the ordinance.

- b) Consider and take action to approve an ordinance on first reading for the above mentioned 60 ft. road right-of-way abandonment.

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

- 8) Consider an ordinance on first reading to rezone from Residential, Single Family (R-1) District to Residential, Duplex (R-2) District for Lot 12, Block 2, Colonia Guadalupe Subdivision located at 921 N. B Street.

Mr. Olivo stated Armando Trevino, owner was requesting to rezone the proposed property from Residential, Single Family (R-1) District to Residential, Duplex (R-2) District to allow a duplex on the proposed property. The property was currently vacant. The lot had 50 feet of frontage on Ona Street and 140 feet of frontage on "B" Street. He highlighted the location and uses of the surrounding properties and stated the properties consisted mostly of single family residential with the exception of a fourplex located on the western end of Ona Street and North of Ona Street was Zavala Elementary School. The Future Land Use Plan (FLUP) component of the City of Harlingen's Vision 2020 Comprehensive Plan showed this area as high density residential. The request was consistent with the Future Land Use Plan; however, not consistent with the surrounding land use. As of to date, the Planning and Zoning Department had not received any objections from the surrounding property owners. Staff recommended approval for the property to remain as a Residential, Single Family District.

- a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against the item could do so.

A resident of 306 Orange Street stated this type of request normally created a lot of crime activities such as cars driving at all hours of the night, drugs, loud noises and constantly there were problems and the police officers would be called. He stated he was against the rezone request.

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

Ms. Cotroneo read the caption of the ordinance.

Mayor Boswell stated the development would improve the area and bring in more population. The City Commission could approve the first reading and staff could bring additional information for review by the City Commission.

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

Motion was made by Mayor Pro Tem Prepejchal to adopt and approve the first reading of the ordinance.

Motion died due to a lack of a second.

- 9) Consider an ordinance on first reading to amend the City of Harlingen Zoning Ordinance, Section 11, Landscaping Regulations, and Section 12, Sign Regulations.

Ken Clark, Planning and Zoning Director stated staff held a public meeting to solicit input from vendors, contractors, and citizens in regards to enhancing the department's customer service.

Mr. Olivo highlighted the changes of the Zoning Ordinance No. 07-27, Section 11, Landscaping Regulations and Section 12, Sign regulations proposed for amendment. The proposed amendments have been drafted after receiving input and or direction from a community input meeting, P&Z Commission and City Commission. All proposed changes were in **RED**, with the additions **underlined** and the deletions **stricken**.

The two proposed amendments to the Landscape Regulations were as followed:

- 1) Change the threshold from 50% to 60% (of the replacement cost of the structure) when determining a nonconforming lot needs to be brought in compliance with the current landscaping requirement.
 - Page 11-2, Section 11.02 – The threshold when determining whether a property needs to be brought in compliance with landscaping is when the reconstruction or enlargement of structure exceeds 50 reasonable replacement cost of structure. This section would change the threshold from 50% to 60%.
- 2) Require a two (2) inch minimum caliper for a tree.
 - Page 11-5, Section 11.04(3)(b)(e) – This section would replace the current subsection “e” and establish a minimum caliper for a tree to two (2) inches.
 - Section 11.09 (3)(b)(f) – This was previous subsection “e” and would now become subsections (f).

The proposed amendments to the Sign Regulations consist of five (5) major changes:

- 1) Allow an access easement as an option to count as street frontage for allowable signage; however, both cannot be counted.
 - Page 12-6, Section 12.03(b) – this section would allow the option of an access easement to count as street frontage when determining the allowable signage. Currently, the allowable signage is based on linear ft. of buildings facing a street.
- 2) Allowable signage for commercial use in a LI District would change to the 3.0 square feet allowed in a GR district.

- Page 12-7, Table 12-2 – A new provision on Table 12-2 would be added to allow a commercial use in LI District would be permitted to use the same 3.0 square ft per linear ft of building allowed in GR district.
- 3) Allow the maintenance of a non-conforming on-premise pole sign with an approved engineering report verifying that subject sign is not structurally safe.
- Page 12-15, Section 12.07(3) – This section includes a provision which allows maintenance work on any existing on-premise pole sign with the submission of an approved Engineering Report.
- 4) Increase the number of days allowed for an inflatable sign from 14 days, 4 times per year to 30 days 4 times per year.
- Page 12-14, Section 12.06(H)(9) – This section reflects the changes to allow inflatable signs to be thirty (30) days, four (4) times per year.
- 5) Allow directional signs no larger than 20 square feet as off-premise signs for lots which are fronting a collector or arterial street, and not erected within one half mile of another off-premise directional sign.
- Page 12-9, Section 12.03(D)(10) – This section would allow an off-premise directional sign no larger than 20 square feet, and not within the Neighborhood Revitalization Area, so long as the sign is not erected within one half mile of another off-premise directional sign.

Staff recommended approval subject to the approval of the ordinance.

a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against the item could do so.

Joe Rubio, 2309 Hacienda Road stated that without the printed the information it was hard to understand what was being said.

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

Ms. Cotroneo read the caption of the ordinance.

b) Consider and take action to approve an ordinance on first reading amending Section 11, Landscaping Regulations, and Section 12, Sign Regulations.

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

- 10) Consider and take action to approve the 2011 Sub-Recipient Agreement/Homeland Security Grant Program from the Governor's Division of Emergency Management for the September 1, 2011 to August 31, 2013 performance period.

Mike Rinaldi, Fire Chief stated the City of Harlingen had been nominated by the Governor's Division of Emergency Management for the State Homeland Security Grant Program to receive a total award amount of \$17,724.41. Receipt of this funding was contingent upon approval of the Sub-Recipient Agreement and final approval from the Office for Domestic Preparedness, U.S. Department of Homeland Security. The funds have been awarded for the Fire Department Confine Space Rescue Equipment. There were no matching funds needed for acceptance of this grant.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to approve the Sub-Recipient Agreement for 2011 Homeland Security Grant Program. Motion carried unanimously.

- 11) Consider and take action to approve a resolution adopting the Lower Rio Grande Valley Regional Interoperability Communication Plan/Standard Operating Procedures (SOP).

Mike Rinaldi, Fire Chief reported the Lower Rio Grande Valley Development Council (LRGVDC) Homeland Security Advisory Committee (HSAC) which was comprised of local Police, Fire and EMC representatives had worked cooperatively to develop the attached Lower Rio Grande Valley Regional Interoperability Systems-Standard Operating Procedures (SOP) and Regional Interoperable Communications Plan (RICP) document for all cities within the counties of Cameron, Hidalgo and Willacy to adopt and practice. The purpose of this SOP and RICP was to delineate the authority, roles, and procedures for city and county agency supervisory personnel to use the inter-jurisdictional Texas Interoperability Channel Plan. This new SOP and RIOCP were not meant to replace or supersede any existing policies and procedures currently in place.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to adopt and approve the resolution adopting the Lower Rio Grande Valley Regional Interoperability Communication Plan/Standard Operating Procedures (SOP). Motion carried unanimously.

- 12) Announcement and discussion on approval by the United States Department of Justice of the City's 2011 redistricting plan and procedures for conducting the December 16, 2011, special vacancy election, including the designation of a polling place and candidate qualifying procedures.

Roxann Pais Cotroneo, City Attorney announced the city had received approval from the United States Department of Justice for the above mentioned issues. No action was taken.

- 13) Consider and take action to approve and adopt a resolution to order: (1) a Special Election to be held on March 16, 2012 between the hours of 7:00 a.m. and 7:00 p.m., Central Standard Time for the purpose of electing one City Commissioner for the City of Harlingen District 3; (2) appointing the City Secretary as custodian of the records for the District 3 Special Election and Early Voting Clerk; (3) establishment of election precincts; (4) the Special Election Calendar; (5) the creation of the Official Ballot; (6) the use of voting Machines; (7) a Presiding Judge, Alternate Presiding Judge and Polling Clerks for the Polling Place; (8) Publication and Posting Notice of the Special Election; (9) early voting dates, times and polling place; (10) Early Voting Ballot Board; and (11) Canvassing of votes.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to adopt and approve the resolution calling and ordering the Special Election for March 16, 2012 to fill the unexpired term of City Commission District 3. Motion carried unanimously.

- 14) Discuss and take action to contract for redistricting legal services to provide new redistricting plans for the City of Harlingen that eliminate the area annexed by the City on December 1, 2011 under Ordinance No. 11-44 and to be in accordance with 2010 U.S. Census and Federal Voting Rights Act for approval by the Department of Justice.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to approve the contract for redistricting legal services to provide new redistricting plans for the City of Harlingen that eliminated the area deannexed by the City on December 1, 2011 under Ordinance No. 11-44 and to be in accordance with the 2010 U.S. Census and Federal Voting Rights Act for approval by U.S. Department of Justice. Motion carried unanimously.

- 15) Consider and take action to approve an amendment to the Ordinance (Chapter 51) to establish a rate for the use of Reclaimed Water (effluent) and a rate for Return Water (Reclaimed Water) returned to the Waterworks, meeting or exceeding the definition of Reclaimed Water.

Darrell Gunn, P.E. and General Manager of Harlingen Waterworks System highlighted the proposed changes to the ordinance and stated Waterworks was seeking to establish a rate for reclaimed water (effluent) which was water normally discharged into the Arroyo Colorado, pursuant to the Waterworks' discharge permit. The rate was \$0.05 per 1,000 gallons. Waterworks was also seeking to establish a rate for return water, which was reclaimed water returned to the Waterworks that met or exceeded the requirements for water discharged into the Arroyo Colorado. The rate that was being requested was \$0.25 per 1,000 gallons. Mr. Gunn stated the commodity rate for reclaimed water did not apply to water offered to the city for irrigation of city-owned parks and golf courses. The reclaimed water offered to the City for irrigation was subordinate to any contractual priority.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro Tem Prepejchal to approve the amendment to the Ordinance (Chapter 51) establishing a rate for the use of reclaimed water (effluent) as recommended by Mr. Gunn. Motion carried unanimously.

- 16) Consider and take action to approve a Law Enforcement Accreditation Agreement between the Harlingen Police Department and the Commission on Accreditation of Law Enforcement Agencies, IMC. (CALEA) with the purpose to establish the relationships between, and set the responsibilities of, the parties of the agreement (a) by the Commissions' assessing the agencies' compliance with applicable standards established by the Commission in order for the Commission to determine if the agency is eligible for designation as accredited, and (b) by the agencies maintaining compliance with those standards by which they were accredited.

Tom Whitten, Chief of Police highlighted the purpose and terms of the agreement CALEA's main purpose was to improve the delivery of public safety services, primarily by maintaining standards developed by public safety practitioners, covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process; and recognizing professional excellence. In conjunction with the Accreditation Agreement, the Harlingen Police Department would strive to do the following: 1) strengthen crime prevention and control capabilities; 2) formalize essential management procedures; 3) established fair and nondiscriminatory personnel practices; 4) improve service delivery; 5) solidify interagency cooperation and coordination; and 6) increase community and staff confidence in the agency. The Harlingen Police Department was authorized for 175 full time employees including sworn officers and civilians. CALEA's cost was based on the number of authorized full time employees with an initial fee of \$10,480. If agreement was approved by the City Commission, the Police Department would submit a payment of \$5,240 as the initial payment due at enrollment and the second payment would be due by the end of the thirteen month from the effective date of the agreement with an annual fee of \$4,065 to continue the program. The deadline to execute the agreement was December 31, 2011. Chief Whitten stated funds had not been allocated in this year's budget for this program; however, the Police Department had allocated \$25,000 in Professional Services and recommended to use funds from this account. The City of Harlingen would be the first to approve this item in the Valley.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the Law Enforcement Accreditation Agreement as recommended by the Chief of Police. Motion carried unanimously.

- 18) Consider and take action approve an ordinance on first reading to amend the City of Harlingen's Budget for Fiscal year 2011-12 to authorize the funding for the Harlingen Community Improvement Board's recently approved project for the Veteran's Memorial Project at the Pendleton Park.

Roel Gutierrez, Finance Director stated this was the second amendment to this year's budget. This amendment would authorize the funding for the Veterans' Memorial Project at Pendleton Park and carry over funds for the TDRA Northwest Area for Drainage and Street Improvement Funds. Mr. Gutierrez stated Exhibit "A" reflected the total revenues, expenditure and estimated fund balances by fund after amendment. Exhibit "B" reflected the details of each amendment. The Harlingen Community Improvement Board's expenditures changes reflected a net effect of \$593,989; TDRA Northwest Area Drainage Fund reflected an increase in revenues of \$992,681 and expenditure increase by \$992,681; and Street Improvement Fund reflected an increase in revenues by \$131,963 and an increase in expenditures by \$450,000.

Roxann Pais Cotroneo, City Attorney read the caption of the ordinance.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to adopt and approve the ordinance amending the City of Harlingen's Budget for Fiscal Year 2011-12. Motion carried unanimously.

- 19) Consider and take action to approve a Tire Ordinance for the City of Harlingen on first reading pertaining to the state requirements of generators, scrap and used tires and to conform with the Texas Commission Environmental Quality (TCEQ) requirements of all tire transporters.

Ken Clark, Planning and Zoning Development Director highlighted the following sections of the proposed ordinance: Section 5 of the City's Storm Water Permit TXR040000 covered the following Sections: Section 5.3.4 General Ordinances required the City to develop ordinances using TCEQ and EPA guidance and model ordinances for hazardous material control, commercial litter prevention; Section 5.3.6 Illicit Discharge Inspections – The City would develop an ordinance(s)/checklist for vehicle repair shops, auto body shops, restaurants and other similar business. This ordinance along with other ordinances needed to developed and adopted by the end of Year 5 (August 11, 2012) as per the City's Storm Water Permit issued on August 11, 2008.

City Attorney read the caption of the ordinance.

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

- 20) Consider and take action to direct City staff to create a policy that requires only Harlingen Police Officers be hired for mandated security events conducted on city property.

Tom Whitten, Police Chief stated the Harlingen Police Officers were already doing the security on events held on city property. However, if the City Commission wished to adopt an ordinance or direct City staff to create a policy that would be appropriate too.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to direct staff to create a policy requiring only Harlingen Police Officers to be hired for mandated security events conducted on city property. Motion carried unanimously.

- 21) Consider, discuss and take action to:

- a) 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(K) Plan with TCG Advisors and enroll them in the Texas Municipal Retirement System effective January 1, 2012; and
- b) 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 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 room in order to avoid "an appearance of impropriety" and signed an affidavit, which was presented to the City Secretary.

Roel Gutierrez, Finance Director briefly began to explain the details of the Texas Municipal Retirement System vs. the City of Harlingen 401(a) Plan with TCG Advisors. Shortly during the presentation Commissioner Trevino relinquished his chair and excused himself from the meeting.

Roxann Pais Cotroneo, City Attorney announced that the City Commission had lost a quorum and advise the City Commission that they could no longer continue with the meeting. Therefore the discussion on Item 21 ceased.

- 22) Consider and take action to approve the ordinance on first reading for the renaming of Alice Street to Darrell Wayne Shipp Street.

City Attorney read the caption of the ordinance.

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

- 23) Discuss and take action to direct staff to revise the City's Logo and Mission Statement to represent an environmentally "greener" community.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro Tem Prepejchal to revise the City's Logo and Mission Statement to represent an environmentally "greener" community. Motion carried unanimously.

- 24) To consider taking action to order that goods-in-transit personal property, as defined and exempted by the Texas Tax Code Section 11.253 shall be subject to taxation by the City of Harlingen for tax year 2012 and all subsequent years; providing for new state law amended definitions of good-in-transit, bailee, warehouse, and public warehouse operator.

Roxann Pais Cotroneo, City Attorney made a Power Point presentation on Goods-in-Transit Taxation.

Fernando Dominguez, Appraisal District Representative briefly reported on the above mentioned item and the free port exemption became effective in 1990 and was amended in Year 2008. If entities decided to keep the tax they could include almost anything with the exception of airplane parts, etc.

- a) Public Hearing

Mayor Boswell opened the public hearing and asked anyone wishing to speak on the item could do so.

Gail Moore, 709 Town Lane named some of the companies that could be affected by this ordinance.

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

City Attorney read the caption of the ordinance.

- b) Consider and take action to approve and adopt an ordinance on first reading on providing that goods-in-transit personal property, as defined.

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

- 25) Consider and take action to cancel the Wednesday, December 21, 2011 Harlingen City Commission regular meeting and reschedule it for a special meeting on December 27, 2011.

Motion was made by Commissioner Leftwich and seconded by Commissioner Ruiz to reschedule the regular meeting of December 21, 2011 to December 27, 2011. Motion carried unanimously.

26) 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) (2)
- 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 (2)
- l. Harlingen Housing Authority Board
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board
- o. Library Advisory Board (1)
- p. Municipal Auditorium Advisory Board (2)
- q. Museum Advisory Board (3)
- r. Parks Advisory Board
- s. Planning & Zoning Advisory Board
- t. Senior Citizens Advisory Board (1)
- u. Tax Increment Finance Board (1)
- v. Tennis Advisory Board
- w. Utility Board of Trustees
- x. Veterans Advisory Board (2)
- y. Zoning Board of Adjustments (5)

Specifically, appointment or discussion and possible action to include appointment and/or removal of any position subject to appointment or removal by statute, ordinance or bylaws.

There were no board appointments.

At 7:58 p.m., Mayor Boswell announced the City Commission would convene in executive session to discuss the following items:

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Ruiz to convene in executive session to discuss the following items:

27) 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 Charles E. Lee v. City of Harlingen, Civil Action No. B-10-CV-233 in the United States District Court for the Southern District of Texas.

The City Commission was briefed on the status of the case and no action was taken.

- 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.

Ms. Cotroneo briefed the City Commission on the status of the case and no action was taken.

- c. 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 the lease agreement between the City of Harlingen and the Whitewings Baseball club, LLC for the use of the baseball stadium known as Harlingen Field.

No action was taken.

- d. 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 Project Green also known as Project Green also known as Synergy Renewables Harlingen, LLC and to seek legal advice from the City Attorney regarding this subject.

The City Manager and City Attorney briefed the Commission on the status of Project Green and no action was required at this time.

- e. pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.074 personnel matters, to deliberate the annual evaluation, duties and performance of the City Attorney from December 1, 2010 to December 1, 2011.

This was not discussed in executive session due to a lack of a quorum.

- f. pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.074 personnel matters, to deliberate the annual evaluation duties and performance of the Presiding Municipal Court Judge from May 26, 2010 to May 26, 2011.

This item was not discussed in executive session due to a lack of a quorum.

On December 7, 2011 at 8:35 p.m., Mayor Pro-Tem Prepejchal announced the City Commission ceased the discussion on Items 27(d) and (e) due to a lack of a quorum. He also announced that the following item would not be discussed due to the same reason.

- 28) Consider and take action to amend and approve the City of Harlingen employment contract for the City Attorney position.
- 29) Consider and take action to approve an amendment to the Chapter 380 Economic Development Agreement between the City of Harlingen and Synergy Renewables Harlingen, LLC, for the development, construction and operation of a waste-to-energy facility.
- 30) Consider and take action to authorize the City Manager to enter into a Waste Supply Agreement between the City of Harlingen and Synergy Renewables Harlingen, LLC.

Mayor Pro-Tem Prepejchal declared the meeting adjourned.

City of Harlingen



Chris Boswell, Mayor

Regular Meeting
12/7/2011

Attest:


Amanda C. Elizondo, City Secretary