

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

JANUARY 05, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, January 05, 2011 at 5:30 p.m. in Town Hall, City Hall, and 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell
Gustavo C. Ruiz, Commissioner District 1
Robert Leftwich, Commissioner District 2
Kori Marra, Commissioner District 3
Jerry Prepejchal, Commissioner District 4
Joey Trevino, Commissioner District 5

Staff Present:

Carlos Yerena, City Manager
Roxann P. Cotroneo, City Attorney
Sylvia R. Trevino, City Secretary

Mayor Boswell called the meeting to order and stated that notice of the meeting had been duly posted.

INVOCATION – Commissioner Ruiz delivered the invocation and the Pledge of Allegiance followed. Mayor Boswell welcomed all present to the meeting.

BOARD MEMBER RECOGNITIONS

Commissioner Trevino presented certificates of special recognition to June Ramirez, reappointed to the Downtown District, and to Sarah Brandi, newly appointed member to the Senior Citizens Advisory Board.

CITIZEN COMMUNICATION

Mayor Boswell indicated that citizen communication would be allotted two minutes only.

Desi Martinez, spoke in reference to Item 6 and Executive Session #22. *(At this time Mayor Boswell stepped out of the meeting due to conflict of interest on Item #22).*

Item No. 6 - Mr. Martinez asked that everyone support the YouthBuild application that is being sent to Washington and that the Commission contact the consultants in Washington to encourage passage of the application.

Item No. 22 - He also asked that the Commission consider doing what the VA did regarding parking at their clinic. He alluded to a multi-level parking for the public's use in downtown.

(At this time Mayor Boswell stepped back in)

Ron Lozano spoke about 'complicity' and not following the dictates of the law and spoke about when arrogance intercepts with the complicity. He mentioned the EDC bylaws and the City's general fund not at risk--a concept declared false.

Yolanda Shoffeitt announced that she was forfeiting her time to give her two minutes to Joe Rubio.

Joe Rubio questioned why it has taken 15 months for the evidence room at the PD to come into accountability; why has it taken 15 months for a jail policy to be implemented for the movement of prisoners. He referred to the accident of last year where an individual died. That individual's Mom was present at the City Commission and the

detective in charge of the case has only contacted her once and the detective does not respond to her calls. The Crime Victim Liaison has not contacted her either. Mr. Rubio stated that he has requested a log of sick calls at the PD and the Commission will see that it is 'atrocious'. He commented that no other department has such an atrocious record of sick leave calls. Mr. Rubio recalled that in 1988-92 there was a probability factor of solving crime that if it ranked lower than 6 there would be no further assignment to a detective on the crime. He commented that implementing the CALEA standard would bring the Police Department up to date.

MINUTES FOR APPROVAL: Special Joint Meeting of December 10, 2010; Special Joint Meeting of December 11, 2010; Special Joint Meeting of December 15, 2010 and Special Meeting of December 15, 2010.

Commissioner Leftwich made a motion to approve all sets of minutes as presented. Commissioner Prepejchal seconded the motion and it carried unanimously.

CONSENT AGENDA:

- A. ORDINANCE ADOPTED ON FINAL READING TO REZONE FROM 'NOT DESIGNATED (N)' ZONE TO 'GENERAL RETAIL (GR)' ZONE FOR A 2.54± ACRE TRACT OF LAND OUT OF BLOCK 54, DAVID AND STEPHENSON LOCATED ON THE NORTH SIDE OF LOOP 499 WEST OF BRIGGS COLEMAN ROAD. APPLICANT: JOHN W. DRENNAN/CITY OF HARLINGEN.**
- B. ORDINANCE ADOPTED ON FINAL READING A PROPOSED ANNEXATION AND THE INITIAL ZONING TO 'GENERAL RETAIL (GR)' FOR A 0.425± ACRE TRACT OF LAND OUT OF BLOCK 54, DAVID AND STEPHENSON SUBDIVISION, LOCATED ON THE NORTH SIDE OF LOOP WEST OF BRIGGS COLEMAN ROAD. APPLICANT: JOHN W. DRENNAN**
- C. ORDINANCE ADOPTED ON FINAL READING TO REZONE FROM 'NOT DESIGNATED (N)' ZONE TO 'RESIDENTIAL, SINGLE FAMILY (R-1) ZONE FOR A 29.6± ACRE TRACT OF LAND OUT OF BLOCK 95, HARLINGEN LAND AND WATER COMPANY SUBDIVISION, LOCATED ON THE NORTH SIDE OF RIO HONDO ROAD WEST OF MORGAN BOULEVARD. APPLICANT: HARLINGEN CISD, C/O OSCAR TAPIA.**
- D. ORDINANCE ADOPTED ON FINAL READING TO AMEND THE CITY'S 2010-11 FISCAL YEAR BUDGET (FROM DECEMBER 15, 2010 REGULAR MEETING).**
- E. ORDINANCE ADOPTED ON FINAL READING TO AMEND THE CITY'S 2010-11 FISCAL YEAR BUDGET TO PURCHASE REAL PROPERTY, DEMOLISH A STRUCTURE AND CONSTRUCT A PARKING LOT FOR USE IN THE DOWNTOWN AREA.**
- F. REFUND OF PROPERTY TAXES APPROVED TO GRIMSELL SEED COMPANY AND CAROL G. MAYFIELD (ACCOUNT NO. 15-0000-0450-1000-00 /\$2,707.28)**

Motion to approve consent agenda (Items A through F, excluding Item E) Leftwich:
Second: Prepejchal
Motion carried unanimously.

LEASE AGREEMENT APPROVED BETWEEN THE HARLINGEN BOYS AND GIRLS CLUB AND THE CITY OF HARLINGEN FOR THE LEASE OF THE CITY PARKING LOT LOCATED AT 701 NORTH 'L' STREET BEARING A LEGAL DESCRIPTION OF 16.43 ACRES OUT OF BLOCK 12, PAUL HILL SUBDIVISION. APPLICANT: HARLINGEN BOYS AND GIRLS CLUB, C/O GERALD GATHRIGHT

Gabriel Gonzalez, Assistant City Manager, explained that the Boys and Girls Club is requesting to lease the parking facility located a 701 N. "L" Street to comply with the required off-street parking spaces. The subject parking facility compensates for the loss

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of parking spaces on the south corner of the Boys and Girls Club property used for an outdoor storage area. This would be for the rental of 31 spaces.

Staff recommended approval.

Commissioner Leftwich made a motion to approve the leasing of 31 parking spaces to the Boys and Girls Club. Commissioner Marra seconded the motion and it carried unanimously.

CONTRIBUTION OF UP TO \$50,000 TO HELP REFURBISH THE OLD POLICE STATION (FACILITY) LOCATED AT 1102 S. COMMERCE TO HELP WITH THE COMMUNITY JUVENILE JUSTICE CENTER APPROVED

Carlos Yerena stated that he had asked Tommy Ramirez to be present tonight. He indicated that Mr. Ramirez has been out doing fundraising activities and the City's contribution will help with the remodeling of the entire building.

Tommy Ramirez, with Cameron County Juvenile Justice Department, stated that their fundraising efforts are going well. Thus far, they have raised about \$56,000. This amount is an accumulation of a lot of 'little checks', which means different people are contributing. The renovations are underway at the facility and a lot of students were utilized during the holidays to help with the renovations. He stated that they are 65% complete with the painting of the building. He anticipates the building will be ready by March. There will be a lot of services that will be provided from that building. Mr. Ramirez went on to explain that there would be a wall of honor on the foyer of the building. He stated that he is asking for the \$50,000 as a one-time commitment/investment from the City. Most of the programs will be self-sustaining. He also stated that they applied for a Youth Build grant and he is hopeful that they will be the recipient of those monies.

Commissioner Trevino asked if the School District was participating in any way. Mr. Ramirez replied that they have provided a computer and an instructor. This is a new component that was not there before.

Mayor Boswell stated that the contribution by the City of about \$40,000 will come from the sale of the Centennial books and will be for the roof for the entire building.

Mr. Ramirez stated that a \$40,000 investment is going to produce a building that has a whole lot more worth.

Commissioner Trevino made a motion to approve the contribution of up to \$50,000 to be applied towards the roof. Commissioner Leftwich seconded the motion and it carried unanimously.

EXTENSION OF THE CONTRACT BETWEEN THE DEVELOPMENT CORPORATION OF HARLINGEN, INC. AND TECH PREP OF THE RIO GRANDE VALLEY (DECEMBER 2, 2010 TO NOVEMBER 30, 2011) APPROVED

(At this time Commissioner Leftwich stepped out of the meeting due to a conflict of interest).

Bill Martin, EDC Director, stated that the EDC Board voted to extend this very successful program. He noted that last year there was an almost 300% increase in participation of students in this program.

Commissioner Prepejchal made a motion to extend the contract as recommended by the EDC. Commissioner Trevino seconded the motion.

Jerry Moore, 709 Town Lane, stated that he is a product of this training and stated that Tech Prep can assist when juveniles are in the justice system. However, he stated that these jobs through Tech Prep are not for the Harlingen area. He asked that the City

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Manager do a review to see what is going on and to encourage more employment in Harlingen.

Commissioner Prepejchal commended Bill Martin for his efforts with this program.

Voting on the motion carried unanimously by those present.

(At this time Commissioner Leftwich stepped back in).

CITY MANAGER AUTHORIZED TO SUBMIT FOUR (4) HAZARD MITIGATION GRANT PROGRAM APPLICATIONS TO THE TEXAS DEPARTMENT OF PUBLIC SAFETY TO CONSTRUCT IMPROVEMENTS TO FOUR (4) DRAINAGE DITCHES WITHIN THE CITY OF HARLINGEN

Martha Viada, EIT, explained that four (4) Notice of Interests forms were submitted to the Texas Department of Public Safety stating that the City of Harlingen was interested in requesting funds through their Hurricane Alex HGMP grant program to construct improvements to four (4) of the City's drainage ditches: 13th Street drainage ditch; 3rd Street drainage ditch; Dixieland drainage ditch; Lipscomb drainage ditch.

Ms. Viada stated that the estimated construction costs for all four ditches is approximately \$1,765,00.00. The City's 25% cost share would be approximately \$450,000 for all four projects and does not include the cost of engineering design or testing services. The testing services would cost an additional \$25,000 (approximately). She explained that the engineering design and development of bid specs would be done in-house in order to save on the cost.

Staff recommended moving forward and submit the formal applications for Hurricane Alex funds to construct the improvements to the four drainage ditches. Ms. Viada noted that the application deadline is January 21, 2010.

Commissioner Prepejchal made a motion to approve staff recommendation. Commissioner Leftwich seconded the motion and it carried unanimously.

CITY MANAGER AUTHORIZED TO EXECUTIVE A PIPELINE CROSSING AGREEMENT WITH THE UNION PACIFIC RAILROAD (UPRR) FOR THE INSTALLATION OF DRAINAGE IMPROVEMENTS TO THE JEFFERSON STREET DRAINAGE DITCH

Martha Viada stated that funding for this \$2.3 million project would come from a grant received from FEMA with a 25% match from the City of Harlingen. The City's 25% (\$575,000) has been budgeted out of fund balance to construct the drainage improvements.

Ms. Viada added that staff has been working with Union Pacific Railroad to gain access to the railroad right-of-way to improve the existing drainage structures that cross the tracks. In order to make improvements to the crossings and working the railroad right-of-way the City needs to execute a "Pipeline Crossing Agreement" and pay all related costs. Construction of the drainage improvements will not occur without executing the agreement with UPRR.

The City's cost to execute the agreement is \$5,400. The agreement spells out the UPRR requirements for working within their right-of-way and how the work is to be carried out to improve the drainage crossing, under their tracks, related to the Jefferson Street drainage improvement project.

Staff recommended moving forward to execute the Pipeline Crossing agreement with Union Pacific Railroad and pay the necessary fees.

Commissioner Marra made a motion to approve staff's recommendation. Commissioner Prepejchal seconded the motion and it carried unanimously.

10 FT. UTILITY EASEMENT ON THE SOUTH PART OF THE EAST ONE HALF OF LOT 7 AND ALL OF LOT 8, BLOCK 6, PARKWOOD ADDITION, LOCATED AT 2214 S. PARKWOOD AVENUE ABANDONED AND VACATED. APPLICANT: GLENDA GARZA

Joel Olivo, Planning Manager, explained that the applicant is requesting that the existing 10 ft. utility easement located along the south part of the east ½ of Lot 7 and all of Lot 8 be abandoned and vacated to allow for remodeling and expansion of the existing house on the property. The subject easement interferes with the owner's planned use of the property. Mr. Olivo stated that the subject easement is not in use and staff recommended approval.

Commissioner Trevino asked Mr. Olivo if he knew whether other residents would be coming forth asking for the same.

Mr. Olivo replied that in this case Ms. Garza is requesting the easement be abandoned in order to remodel and all the utilities are located along the front of the property.

Commissioner Marra made a motion to approve staff recommendation. Commissioner Prepejchal seconded the motion and it carried unanimously.

RESOLUTION APPROVED AMENDING THE BYLAWS OF THE DEVELOPMENT CORPORATION OF HARLINGEN, INC. REGARDING PURCHASING AND CONTRACTS

Bill Martin, EDC Director, explained that the EDC approved three contracts last week and questions arose whether the action taken by the EDC was valid.

Mr. Martin explained the provisions of the Articles of Incorporation and the Bylaws and talked about the AG opinions. He referred to Sections #252 and #271 of the Local Government Code and explained that these sections do not apply to development corporations. Section 6.07 of the Bylaws is inconsistent with the opinions issued by the Attorney General. He further explained that the Development Corporation Act of 1979 provides that 4A and 4B development corporations are not political entities. He then referred to the new language amendment proposed for Section 6.07 of the Bylaws. He explained that the EDC Board has talked about reviewing the Bylaws and making any necessary changes. Mr. Martin stated that the EDC Board voted 4 to 0 to amend the Bylaws, Section 6.07 to read: "*All purchases made and contracts executed by the Corporation shall be made in accordance with the requirements of the Texas Constitution and Statutes of the State of Texas.*"

Commissioner Prepejchal made a motion to approve amending the Bylaws of the Development Corporation as presented by Mr. Martin. Commissioner Marra seconded the motion.

Under discussion, Commissioner Leftwich expressed concern over the amendment and indicated that doing this eliminates protection to the taxpayers. It limits not having to go out for bids. The bottom line is that competitive bidding is to get the best value for your dollar.

Commissioner Prepejchal commented that he felt sure that the EDC would be watching their budget and would be responsible to pick the right bid. However, what they need is to have policies and procedures in place so everyone is on the same level.

Mr. Martin explained that such an item will be on the next EDC agenda and stated he has offered sales tax training as well.

Commissioner Marra stated that there is no intent to cover anyone's eyes. This was something that had to be done in an expedient matter.

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Commissioner Leftwich asked if the EDC had ever complied according to the Bylaws. He stated that the fact is if you know ahead of time you will prepare yourself to meet the requirements ((of the bidding process) so you can get the best for your money. He commented that the fact is there are other similar situations and we need to learn fast as we are going through with Bass.

Mr. Martin commented that you (the Commission) were all involved in discussions regarding Bass. It was not until over a month ago that he found out that the City/EDC would be the developer. The four sealed bids that came in were below engineers' estimates.

Mayor Boswell stated that there is no reason why the EDC cannot go out for competitive bidding but in this particular situation there was not enough time to advertise. The roles switched at the last minute and he pointed out that the City still saved money but he stated that he understood the message to the EDC is to continue to do competitive bidding.

Commissioner Leftwich stated that the fact is he had previously asked for a timeline (for Bass) so we would know of deadlines to meet and he commented that as the project gets closer, he would be asking more and more questions.

Mayor Boswell again reiterated that EDC did not know they had a deadline until December 7 and felt that Commissioner Leftwich's criticism was unwarranted.

Commissioner Leftwich commented if we are violating the Bylaws we should not be involved in this.

Commissioner Prepejchal stated that because of the situation it was either amend the Bylaws or pay the consequences later.

Gail Moore, 709 Town Lane, suggested that the language in the meeting notice that refers to the 'above governmental body' be changed to 'above non-profit organization' as the EDC has been declared to be.

Yolanda Shoffeitt commented that the city and the citizens are being held hostage because Bill Martin failed to provide a timeline.

Jerry Moore referred to reinforcing the topic of 'transparency' and stated that the City could be at risk.

Voting on the motion carried unanimously.

ORDINANCE ADOPTED ON FIRST READING TO AMEND ORDINANCE NO. 10-55 TO CORRECT THE LEGAL DESCRIPTION ASSOCIATED WITH THE ABANDONMENT OF CERTAIN PUBLIC EASEMENTS AND ROAD DEDICATIONS ON AND AROUND THE BASS PRO SHOPS PROJECT SITE.

The City Attorney read the caption of the ordinance.

AN ORDINANCE AMENDING ORDINANCE NO. 10-55
ABANDONING PUBLIC UTILITY EASEMENTS FOR ALLEYS AND
UTILITIES AND ABANDONING A PUBLIC ROAD DEDICATION
ON A 59.741 ACRE TRACT OF LAND OUT OF MOTEL PARK
SUBDIVISION AND TRAVELODGE MOTEL SUBDIVISION, BY
CORRECTING THE LEGAL DESCRIPTIONS OF THE TEN (10)
FOOT UTILITY EASEMENT AND THE THIRTY (30 FOOT ROAD
DEDICATION) AND WAIVING THE FAIR MARKET VALUE
PURCHASE PRICE FOR PURPOSES OF ECONOMIC
DEVELOPMENT SUBJECT TO CONSTRUCTION OF A BASS PRO
SHOP AND SHOPPING CENTER ON THE 59.741 ACRE TRCT.

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Commissioner Prepejchal made a motion to adopt the ordinance on first reading and Commissioner Marra seconded the motion. The motion carried unanimously.

CONTRACT APPROVED FOR ENGINEERING SERVICES AND WORK AUTHORIZATION NO. 1 BETWEEN THE DEVELOPMENT CORPORATION OF HARLINGEN, INC. AND BROWN, LEAL AND ASSOCIATES

Commissioner Leftwich made a motion to approve the contract for engineering services and work authorization No. 1 between the Development Corporation of Harlingen, Inc. and Brown, Leal and Associates. Commissioner Prepejchal seconded the motion and it carried unanimously.

ACTION TAKEN TO RATIFY A CONTRACT WITH TERRACON FOR GEOTECHNICAL SERVICES REGARDING LIGHT STANDARDS AT THE BASS PRO SITE

Commissioner Prepejchal made a motion to ratify the contract with Terracon for geotechnical services regarding light standards at the Bass Pro Site.

Commissioner Leftwich seconded the motion and it carried unanimously.

ACTION TAKEN TO AUTHORIZE THE DEVELOPMENT CORPORATION OF HARLINGEN, INC. TO EXECUTE A CONTRACT WITH EBERLE MATERIALS FOR PREPARATION OF THE PAD, RING ROAD, TEMPORARY UTILITIES, AND OTHER ITEMS AT THE BASS PRO SITE.

Commissioner Prepejchal made a motion to authorize the Development Corporation of Harlingen, Inc. to execute a contract with Eberle Materials for preparation of the pad, ring road, temporary utilities, and other items at the Bass Pro site.

Commissioner Leftwich seconded the motion and it carried unanimously.

BOARD APPOINTMENTS

None

Commissioner Leftwich made a motion to go into **CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 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.**

Commissioner Prepejchal seconded the motion and it carried unanimously.

The Executive Session convened at 6:20 p.m. and concluded at 6:56 p.m. with no action taken in closed session.

CONDITIONAL AND NON-BINDING LETTER OF INTENT FOR FINANCIAL AND OTHER INCENTIVES TO A BUSINESS PROSPECT KNOWN AS PROJECT GREEN AUTHORIZED

Commissioner Leftwich made a motion to approve the conditional and non-binding Letter of Intent to Project Green with modifications as discussed in Executive Session.

Commissioner Marra seconded the motion and it carried unanimously.

Commissioner Leftwich made a motion to go into **CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT**

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CODE (SECTION 551.071) TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING A BUDGET AMENDMENT TO THE AUDITORIUM FY 2011 BUDGET FOR KATT WILLIAMS 'STILL BLINGING' TOUR TICKET HOLDERS AND TO OPTION A SECOND PERFORMANCE BASED ON TICKET SALES

Commissioner Prepejchal seconded the motion and it carried unanimously.

The Executive Session convened at 7:00 p.m. and concluded at 7:13 p.m. with no action taken in closed session.

AUDITORIUM BUDGET FOR FISCAL 2011 AMENDED TO INCLUDE ONE PRESENTATION OF COMEDIAN MIKE EPPS AS A REPLACEMENT PERFORMANCE FOR KATT WILLIAMS 'STILL BLINGING' TOUR TICKET

Commissioner Marra made a motion to amend the Auditorium budget for fiscal year 2011 by an increase of \$25,000 for one presentation of comedian Mike Epps as a replacement performance for Katt Williams 'Still Blinging' Tour Ticket

Commissioner Leftwich seconded the motion and it carried unanimously.

Commissioner Marra made a motion to go into CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 551.074) PERSONNEL MATTERS, TO DELIBERATE THE EVALUATION, DUTIES, AND PERFORMANCE OF THE CITY'S INTERNAL AUDITOR FROM DECEMBER 1, 2009 – DECEMBER 1, 2010.

Commissioner Ruiz seconded the motion and it carried unanimously.

The Executive Session convened at 7:15 p.m. and concluded at 7:51 p.m. with no action taken in closed session.

Present in the Executive Session were: Commissioners Ruiz, Leftwich, Marra, Prepejchal, Trevino, Sandra Gonzalez, Carlos Yerena and Efen Fernandez.

(Mayor Boswell left the meeting at this time).

CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTION 551.071) CONSULTATION WITH ATTORNEY CONCERNING MATTERS RELATED TO THE LOWER RIO GRANDE VALLEY DEVELOPMENT COUNCIL – NOT HELD

Commissioner Leftwich made a motion to table this Executive Session. Commissioner Prepejchal seconded the motion and it carried unanimously.

Returning to the Consent Agenda, Item E *Mayor Pro Tem Trevino recused himself.* With no Mayor and Mayor Pro Tem present, Commissioner Marra made a motion to appoint Commissioner Leftwich as presiding Mayor Pro Tem. Commissioner Prepejchal seconded the motion and it carried unanimously.

ORDINANCE ADOPTED ON FINAL READING TO AMEND THE CITY'S 2010-11 FISCAL YEAR BUDGET TO PURCHASE REAL PROPERTY, DEMOLISH A STRUCTURE AND CONSTRUCT A PARKING LOT FOR USE IN THE DOWNTOWN AREA.

Commissioner Marra made a motion to adopt the ordinance on final reading. Commissioner Prepejchal seconded the motion and it carried unanimously.

The City Attorney clarified to the public that the property being referred to is outside the downtown district. Commissioner Leftwich added that the properties are the two corner lots that were discussed at the last meeting.

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Chuck Lee stated that in the appraisal on the Toler property reflects possible contamination and that the property owner did not provide the environmental assessment. He stated that there are three (3) monitoring wells on the property. Mention was made that the underground tanks have been sealed.

Mr. Lee commented that the EA report was not given to the appraiser and the client is being urged to hire an environmental investigator. It was noted that should such contamination be found the appraiser could re-evaluate the property.

Gabriel Gonzalez explained that Compass Bank did provide an environmental report and as long as they don't do a water well the property is OK. He further explained that the tanks have been buried according to TCEQ regulations. He also added that TNRCC also knows that the tanks are buried and some of the reports have been submitted to EPA.

Joe Rubio reminded the Commission that Sonny Villarreal, the owner of a local seafood restaurant, was ordered to remove the tanks that were on his property. Mr. Rubio was not in agreement to amending the budget for a \$4 million project and he asked where the money for the purchase of the property was coming from.

Roel Gutierrez, Director of Finance, replied that \$500,000 was coming from the general fund balance and \$250,000 from EDC.

Roxann Cotroneo explained that the purchase of the property was for downtown use and not specifically for use by the Reese project. If it were for a specific project, a lease agreement would need to be drawn up.

Commissioner Marra made a motion to go into **CLOSED/EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D., V.T.C.A. GOVERNMENT CODE (SECTIONS 551.072 AND 551.071) TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY LOCATED ON LOT 12, 13 AND 14, BLOCK 69, .25 ACRES, ORIGINAL TOWNSITE OF HARLINGEN, CAMERON COUNTY, TEXAS BECAUSE DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE GOVERNMENTAL BODY IN NEGOTIATIONS WITH A THIRD PERSON AND TO SEEK LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THIS SUBJECT.**

Commissioner Prepejchal seconded the motion and it carried unanimously.

The Executive Session convened at 8:05 p.m. and concluded at 8:15 p.m. with no action taken in closed session.

Present in Executive Session were: Commissioner Ruiz, (appointed) Mayor Pro Tem Leftwich, Commissioners Marra, Prepejchal, Carlos Yerena, Gabriel Gonzalez, Roxann Cotroneo, Roel Gutierrez *Absent: Mayor Boswell, Commissioner Trevino.*

There being no further business the meeting adjourned at 8:15 p.m.

Chris Boswell, Mayor

Attest:

Sylvia R. Trevino, City Secretary