

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

MARCH 7, 2012

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, March 7, 2012 at 5:30 p.m. at the Cultural Arts Center 576 '76 Drive, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell  
Jerry Prepejchal, Mayor Pro-Tem, District 4  
Danny Castillo, 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, Finance Director

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

Invocation/ Commissioner Danny Castillo

Mayor Boswell announced Commissioner Castillo suggested that clergy members, leaders and citizens of the community should lead the invocation periodically and invited Mr. David Aguilar to lead the invocation.

Invocation

David Aguilar led the invocation.

Pledge of Allegiance

Mayor Boswell led the Pledge of Allegiance.

1.) Board Member Recognitions

Mayor Boswell presented certificates of recognition to the following individuals and thanked them for taking time away from their busy schedule to volunteer their services in the different city boards/committees.

Jose Garza	Museum Advisory Board
Larry Kiem	Harlingen Proud Advisory Board
Sara Aguilar	Harlingen Proud Advisory Board
Joshua Fields	Utility Board of Trustees Board
Dora T. Ellis	Community Development Advisory Board
David Aguilar	Parks and Recreation Board
David Gray	Municipal Auditorium Advisory Board
Norma Castillo	Senior Citizens Advisory Board

2. Proclamation – Proclaiming the month of March as “Declaring 2012 as the Year of the Girl and Celebrating 100 Years of Girls Scouting.”

Mayor Boswell read and presented a proclamation to Danielle Altenburg, Marketing Director with South Texas Girls Scouts Council and local members of the Girls Scout Troops proclaiming “Declaring 2012 as the Year of the Girl” and Celebrating 100 Years of Girl

Scouting. This recognition was sought to all the members for the following reasons: 1) for being involved in a great organization; 2) they did great things for the community; 3) for all their great efforts in accomplishing service projects in the City of Harlingen; 4) thanked the parents for supporting such an organization that taught values of character and leadership; and 5) thanked all the adult volunteer leaders of all the troops in the community.

3. Recognition to the City of Harlingen Code Enforcement Department, recipient of a Statewide Award for implementation of new initiatives.

Carlos Yerena, City Manager stated the Code Enforcement Department was awarded a statewide award for implementing several programs to beautify parts of the city known as "Operation Crackdown". Through the efforts of the Code Enforcement Department and the Neighborhood Clean-Up Campaign twenty-four structures had been demolished in twenty-one locations of the community. Mr. Yerena reported the "Operation Crackdown" would take place once again in July or August. The Texas National Guard was part of "Operation Crackdown" they would provide most of the labor and equipment at a no cost to the city. The "Clean-Sweep" Project was done through the efforts of volunteers. They collected 108 tons of debris from the different areas within the community and approximately 1,000 tires. From January to March of 2012, 12.18 tons of debris and 150 tires were collected. Another program that had been initiated in November, 2011 was the "Elderly Clean-up". Five homes had been cleaned to date and thanked all the individuals who assisted in the development of this program. The state award recognition had come about through the efforts of many volunteers and the Code Enforcement Department.

Mayor Boswell read the letter from the State informing the City of Harlingen of the award and also thanked the volunteers and staff members for all the great work that they had accomplished for the City of Harlingen.

4.) Citizens Communication

Yolanda Shoffiet, P.O. Box 697, stated she had attended the previous EDC meeting whereby the EDC had table Item No. 12 of their agenda relating to \$3 million. She had acquired some information in regards to the \$3 million and stated these funds had been misappropriated. The EDC was due these funds to help bring more business to the city. Without this amount of money the EDC could not move forward on future projects. All of the information that she acquired would be forwarded it to the proper authorities. Those involved were innocent until proven guilty. A copy of the check for this transaction was sent to the FBI, Texas Rangers, and every appropriate agency, so that justice could be served.

Joe Rubio, 2309 Hacienda Rd., stated his topic was in regards to the Mayor's Prayer Breakfast. This event was to teach one to be cohesive and nice to one another. He asked how many members of the commission would be attending the Prayer Breakfast in support of the Mayor. In doing so, it would show respect and imply that the members of the board were united community leaders. There was no unity in the community because of the separation of opinions and city facts. Some topics were not discussed because of the controversy and complexity of the issues. A commission leader had told him that he was consumed with anger and hate because of some city issues. His response was that a community leader should not judge him and that he did not judge others. Not all were treated equally and it was apparent within the community because some business leaders were not treated equally. When the City Commission went into executive session he felt that the Mayor would take advantage of his authority. The Mayor may or may not chastise a city member, but felt no one deserved this. Mr. Rubio addressed Mr. Yerena and told him to take charge; speak out on the matters of the city and voiced current matters.

Juan Ortega, 2401 Ailani Circle, stated he was speaking in regards to Agenda Item No. 20(d) pertaining to an employee's evaluation. This issue was in violation of the City Charter/Ordinance and had been discussed before. Mr. Ortega asked the City Commission to treat the employee in question fairly.

Doug Robinson spoke in regards to a project initiated by the "Tornado Drive Club." A tornado had caused a great devastation near his hometown and the community was in need of assistance. Jose Luis Garcia, one of his employees, had taken charge to initiate the Tornado

Drive. He asked the city and the whole community to help by donating, water, baby items, canned food, toiletries and cleaning supplies.

Mayor Boswell recommended that a staff member contact Mr. Robinson to see how the city could assist in the Tornado Drive.

5.) Approval of Minutes

- Regular Meeting of February 1, 2012

Motion made by Commissioner Leftwich and seconded by Commissioner Castillo to approve the minutes for February 1, 2012. Motion carries unanimously.

Consent Agenda

- 6a) Second and final reading to adopt and approve an ordinance amending the City of Harlingen Zoning Ordinance No. 07-27 to allow a Farmer's Market in a Residential, Single Family District (R-1) with an approved Specific Use Permit on a tract of land that is not less than five acres in size. Applicant: Saul and Diana Padilla. (Planning and Zoning)
- b) Second and final reading to adopt and approve an ordinance amending Chapter 37 of the Harlingen City Code of Ordinance to add Section 37.04 establishing a residence homestead tax limitation for individuals who are disabled or sixty-five (65) years of age or older; and establishing an effective date for tax limitation eligibility. (Requested by Commissioners: Robert Leftwich and Danny Castillo)
- c) Second and final reading to adopt and approve an ordinance amending Section 37.01 of Chapter 37 of the Harlingen City Code of Ordinances establishing a residence homestead tax exemption for an individual who is disabled or sixty-five (65) years of age or older; and establishing an effective date for tax exemption eligibility. (Requested by Commissioners: Danny Castillo and Robert Leftwich)
- d) Second and final reading to adopt and approve an ordinance on first reading to amend Chapter 95, Section 95.57 to allow for speed humps in school zone areas. (Requested by Mayor Pro-Tem Jerry Prepejchal and Commissioner Robert Leftwich)
- e) Second and final reading to adopt and approve an ordinance to abandon a 60 ft. road right-of-way located at the west end of Bowie Avenue, bearing a legal description of a .33 acre tract of land of Bowie Avenue, being adjacent to the north boundary of Lots 1-5, Branch Addition, recorded in Volume 6, Page 64, Map records of Cameron County, Texas. Applicant: Ferris and Flinn, LLC, c/o Cactus Land Partners, LP. (Planning and Zoning)
- f) Second and final reading to adopt and approve an ordinance amending the City of Harlingen Comprehensive Plan "Vision 2020" Long Range Thoroughfare Plan by eliminating the proposed extension of "O" Street north of Teege Road. Applicant: Harlingen CISD c/o Oscar Tapia. (Planning and Zoning)
- g) Second and final reading to adopt and approve an ordinance to rezone from Light Industry (LI) District to General Retail (GR) District for a 17.53+ acre tract of land, 9.5311 acres out of the north 10 acres, out of Block 7, Harlingen Land & Water Company "B" and 7.8194 acres out of the south 10 acres of the north 20 acres, out of Block 7, Harlingen Land & Water Company "B", located on Chester Park Road and Palm Court Drive. Applicant: Ray Gonzalez. (Planning and Zoning)
- h) Second and final reading to adopt and approve an ordinance amending the City of Harlingen Zoning Ordinance No. 07-27, Section 12, Sign Regulations pertaining to permit requirements, banner signs and the height clearance of an on-premise sign in the Downtown District. Applicant: City of Harlingen. (Planning and Zoning)
- i) Second and final reading to adopt and approve an ordinance of the City of Harlingen, Texas amending Sections 32.127 and 32.130 of Chapter 32 of the Harlingen City Code,

as amended; providing for the composition, appointment and absences of the Community Development Advisory Board Members; providing a savings clause; providing a severability clause; and ordaining other matters pertaining to the foregoing. (Community Development)

- j) Consider and take action to approve a request from Our Lady of the Assumption Church to close Lincoln Street beginning at "L" Street and ending at "M" Street on Friday, May 11<sup>th</sup> and Saturday, May 12<sup>th</sup>, 2012 from 5:00 p.m. to 11:00 p.m. for their Annual Spring Festival. (Police Department)
- k) Consider and take action to approve a request from the Downtown Improvement District to close Jackson Street and Crossroads A, 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Streets from alleyway to alleyway crossing Jackson Street for the 5<sup>th</sup> Annual Jackson Street Classic Car Show to be held on Saturday, April 14, 2012 from 7:00 a.m. to 3:00 p.m. (Police Department)

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

- 7.) Consider and take to adopt resolution approving the various bids received for each of tax following tax resale properties:

Roxann Pais Cotroneo, City Attorney stated the properties mentioned on the agenda were taken to tax sale and the minimum opening bid did not meet the cost at the time the taxes were due or the property appraised value. This meant the properties were now removed from the tax roll and became part of three entities, City Of Harlingen, Harlingen Independent School District and Cameron County. These three entities were now responsible to place the properties back into the tax roll.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the resolutions for the listed properties as presented and with the amounts identified per each resolution. Motion carried unanimously.

- 8.) Consider and take action to accept or reject bids for the construction of the Veterans Memorial Project under Bid No. 2012-08.

Dan Serna, Publics Works Director stated the city received three bids for the Veterans Memorial Project. Staff was recommending Cubco Construction, Inc., lowest bidder with inclusion of Alternate Bid #1 and #3. These bids were within the budget and the expected date to complete the project was August, 2012.

Motion was made by Commissioner Leftwich and seconded by Commissioner Castillo to approve staff's recommendation. Motion carried unanimously.

- 9.) Consider and take action to approve the submission of a grant application to the Economic Development Administration (EDA) in the amount of \$2,415,491.46 for infrastructure improvement to Brazil Street and Teege located on Tax Increment Reinvestment Zone #3.

For record, Commissioner Trevino relinquished his chair and excused himself from the meeting room in order to avoid "an appearance of impropriety" and signed an affidavit. The affidavit was presented to the City Secretary.

Mr. Yerena recommended submitting an application to the Economic Development Administration (EDA) for \$2,415,491.46 for possible funding for infrastructure improvements to Brazil and Teege Streets located in Tax Increment Reinvestment Zone #3. One of the requirements was that the city would be required to participate with a 20% match totaling \$483,098.30.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro- Tem Prepejchal to approve the submission of the grant application to the EDA for \$2,415,491.46. Motion carried unanimously.

For the record, Mayor Boswell announced this was a project that needed to be done for future development.

- 10.) Discuss and take action to approve the submission of an Economic Development Grant in the amount of \$1,020,000 with a local match of \$101,789.60 for a Regional Comprehensive Plan to improve transportation routes, international trade and economic development in the region.

Mr. Yerena stated the City of Harlingen had taken the lead in the creation of the Mid-Valley Alliance which included the Cities of Donna, Weslaco, and Mercedes. This group had been meeting for the past two months to discuss opportunities for the mid-valley area. He requested authorization to submit a grant application to the EDA for possible funding of a mid-valley corridor regional comprehension plan for \$1,020,000. The City would be required to participate with a 25% local match totaling \$101,789.60. Each community would have their own comprehensive plan specifically designed for their needs.

Motion was made by Commissioner Leftwich and seconded by Commissioner Castillo to approve the submission of the EDA Application Grant in the amount of \$1,020,000 for a Regional Comprehensive Plan.

Commission Leftwich requested a detailed structure of the enterprise or organization and asked who would be the lead group on this project.

Mr. Yerena responded the organization was an unofficial one, but Harlingen would be the lead on submitting the application and the Lower Rio Grande Valley Council of Government would administer the grant.

Motion carried unanimously.

Mayor Boswell congratulated the staff for taking the initiative to submit the grants and hoped that the EDA would favorably consider funding the grants.

Commissioner Trevino returned to his seat.

- 11.) Consider and take action to approve a consulting agreement between the Harlingen Economic Development and HVS consulting and valuation to complete a market study with Facility recommendation and Feasibility Analysis for a proposed Hotel & Conference Center in Harlingen, Texas.

Mr. Yerena stated there was no one present from the EDC to present the item. The EDC approved an agreement with HVS Consulting and Valuation to prepare a market study to provide facility recommendations and feasibility analysis for a proposed hotel and conference center in Harlingen. The proposed center would be located half a mile off Spur 54. There were several potential developers that were looking into this area. The cost of Phase I, II, and III was approximately \$13,000 and the revenues would be derived from the EDC.

Motion was made by Commissioner Leftwich and seconded by Mayor- Pro Tem Prepejchal to approve the Consulting Agreement between the Harlingen Economic Development Corporation Inc., and HVS Consulting. Motion carried unanimously.

- 12.) Discuss and take possible action to approve the rules and regulations for the Veterans Advisory Board.

Ramiro Gonzalez, Harlingen Environmental Health Director reported the Veterans Advisory Board approved some rules and regulations for the operation of the board at their meeting of February 9, 2012. The rules and regulations were now being presented to the City Commission for their review and approval.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the rules and regulations as presented. Motion carried unanimously.

Commissioner Leftwich and Mayor Boswell commended the Veterans Advisory Board members for their service and the work that they were doing.

- 13.) Consider and take action to approve a demonstration project from D & A Technology & Development, LLC from San Antonio, Texas for the placement of a surface sealer on a city street.

Javier M. Zamora, City Engineer stated D&A Technologies & Development of San Antonio were willing to do a demonstration of their product on a local street at no cost to the city. The product consisted of a sealant used on asphalt concrete pavement to seal cracks with no apparent UV degradation, water intrusion and no glare finish. This was one way of preventive maintenance and would expand the life of the road by 3-5 years. City staff witnessed a demonstration in San Antonio and inspected the sealant and it showed great results. Mr. Zamora recommended approval of the free demonstration project to be done on South Eye Street from Filmore to Wright Streets.

Mr. Serna stated this process would help the city save money on the overlaying of streets and was a great investment for the city.

Cody Clark, Representative of D&A Technologies stated TXDOT had been using this sealant for about five years. The Cities of San Antonio and Austin had been on this program for the past three years.

A brief discussion was held and Mr. Clark stated that the value of the streets would be approximately \$2,000.00-\$3,000.00 which averaged out to ten cents per square ft. It would take about six months to evaluate the process.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Leftwich to approve the pre-demonstration on Eye Street from Filmore to Wright Street. Motion carried unanimously.

At this time, Mayor Boswell presented a board recognition certificate to Dora T. Ellis and thanked her for her services in the Community Development Board.

- 14.) Consider and take action to allow the City Manager to submit a grant application to the Texas Commission on Environment Quality Chapter 319 Clean Water Act Non Points Source Grant Program to reconstruct the City Hall Parking Lot with permeable pavers as a demonstration project and to utilize permeable pavers from Oldcastle for the project.

Javier M. Zamora, City Engineer recommended approval for City Manager to submit a grant application to the Texas Commission of Environment Quality in regards to the Clean Water Act. If the grant application was approved the funding would be utilized to reconstruct half of the City Hall Parking Lot with permeable pavers. This was a 40/60 grant and the city's match would be approximately \$185,149.38 of the estimated \$462,873.44 grant funding. The City of Harlingen would be partnering on the grant application with Texas A&M University-Kingsville and the Lower Rio Grande Texas Pollutant Discharge Eliminating Systems, Storm Water Task Force.

A brief discussion was held and Mr. Zamora stated this project had been in the works for the past two years.

Commissioner Leftwich asked if the Texas A&M demonstration project would have funding left over to contribute to the portion being contributed by the City Commission.

Mr. Serna stated he was part of the task force and there were several cities that were part of it. There might be funds left over that could be utilized in the current city project.

Commissioner Leftwich inquired if this project could have a better impact on another part of the city due to the amount of investment being sought. The parking lot next to City Hall was at a point that needed an overlay and felt this would be the best value for this location.

Motion was made by Commissioner Leftwich and seconded by Commissioner Trevino to submit the grant application to the Texas Commission on Environment Quality. Motion carried unanimously.

- 15.) Consider and take action to adopt and approve an ordinance on the first reading designating a “ No Parking Zone” and “ No Parking/Loading/Unloading Zone” be established on the west side of South Chester Park Road from Expressway 83 eastbound Frontage Road south to Highway 83.

Mr. Zamora stated a request was presented to staff due to some concerns with the vehicles exiting off Expressway 83 and recommended approval of the item due to safety hazards.

City Attorney reads the caption.

Motion made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the item as presented by the City Engineer. Motion carried unanimously.

- 16.) Consider and take action to authorize the City Manager to execute a Railroad Crossing License and Force Account Agreement with Union Pacific Railroad (UPRR) and Rio Valley Switching Company (RVSC) to proceed forward with the construction of the Stuart Place Road Improvement Project.

Mr. Serna stated the Stuart Place Road Project has been in the progress since 2003 and TXDOT had been working on a crossing agreement with Union Pacific Railroad. Staff was recommending that Mr. Yerena be authorized to execute the new crossing agreement. This was the last portion of the project and TXDOT had scheduled June 5, 2012 as the date to solicit bids for this project.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to authorize the City Manager to execute a railroad-crossing license and force agreement with Union Pacific Railroad and Rio Valley Switching Company to proceed with the construction of Stuart Place Road Improvements Project. Motion carried unanimously.

- 17.) Announce that the United States Department of Justice has granted preclearance to the City of Harlingen for the March 16, 2012 special vacancy election, including the designation of the polling place and candidate qualification procedures for City Commission District 3.

Ms. Cotroneo announced the city received approval from the United States Department of Justice on the March 16, 2012 Special Election including the designation of the polling place and candidate qualification procedures for City Commissioner District 3.

- 18.) Consider and take action to adopt and approve a resolution establishing rental rates for the Water Splash Park and its associated gazebos at the Lon C. Hill Park located at 605 N. “L” Street.

Mr. Yerena reported the City of Harlingen would be hosting a Grand Opening ceremony to inaugurate the Water Splash Park on March 12, 2012. The resolution established the rental rates for the use of the Water Splash Park and gazebos.

It was suggested that the rental rates be applied after the spring break and only to open the water park during the weekend until the school year was over. Several schools around the water park had expressed interest in renting the entire facility. This was a matter that the staff would have to work on.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Leftwich to the charge the proposed fees starting on April 1, 2012. Motion carried unanimously.

- 19.) Board Appointments

The following individuals were appointed to the following boards.

James T. Skaggs,  
Ida Vargas Stillman,  
Dr. Gilbert Leal,  
Frank Garcia,  
Norma Castillo,

Library Board  
Municipal Auditorium Board  
Economic Development Corporation of Harlingen, Inc.  
Planning and Zoning Board – Reappointment  
Museum Advisory Board

Motion was made by Commissioner Leftwich and second by Mayor Pro-Tem Prepejchal to approve the board appointments. Motion carried unanimously.

At 6:45 p.m., Mayor Boswell announced the City Commission would convene in executive session to discuss the following items.

Motion was made by Commissioner Castillo and second by Commissioner Leftwich to go into Executive Session to discuss Item Nos. 20 (a), (b), (c), and (d). Motion carried unanimously.

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

- a) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, 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. (City Attorney)
- 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 the Development Corporation of Harlingen, Inc.'s (a/k/a Economic Development Corporation) pending request for reimbursement from the Tax Increment Financing Reimbursement Zone No. 3 Fund for costs related to Harlingen Ventures No. Two, L.P. (City Manager)
- c) 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 Project Blue and to seek legal advice from the City Attorney regarding the subject. (City Manager)
- d) Personnel matters - pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.074 personnel matter to deliberate the evaluation, duties, and performance of the City Attorney. (Mayor)

At 8:05 p.m., Mayor Boswell announced the City Commission had concluded its executive session and stated no action was taken on the above mentioned items.

There being no further business to discuss the meeting was adjourned.

City of Harlingen  
  
Chris Boswell, Mayor

ATTEST:

  
Amanda C. Elizondo, City Secretary