

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

JULY 20, 2011

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, July 20, 2011 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas.

Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell
Jerry Prepejchal, Mayor Pro-Tem, District 4
Gustavo C. Ruiz, Commissioner District 1
Kori Marra, Commissioner District 3

Staff Present:

Carlos Yerena, City Manager
Roxann P. Cotroneo, City Attorney
Gabriel Gonzalez, Assistant City Manager
Roel Gutierrez, Finance Director
Amanda C. Elizondo, City Secretary

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

Invocation/City Commissioner, Robert Leftwich

Mayor Boswell gave the invocation in the absence of Commissioner Leftwich.

Pledge of Allegiance/Welcome

Mayor Boswell led the Pledge of Allegiance.

1) Board Member Recognitions

Mayor Boswell announced there were no board recognitions and changed the order of the agenda to discuss Item Nos. 20 and 21.

20) Closed/Executive Session pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Section 551.071 to discuss contemplated or pending litigation and to seek legal advice from the City Attorney, Valley International Airport Attorney and outside legal counsel regarding the Federal Aviation Administration Complaint filed by Sun Valley Aviation, Inc. against the City of Harlingen, Valley International Airport. (City Attorney)

Commissioner Ruiz recommended to table the item under a full commission was present.

Motion was made by Commissioner Ruiz and seconded by Mayor Pro-Tem Prepejchal to table the item. The motion carried as follows: FOR: Commissioner Ruiz and Mayor Pro-Tem Prepejchal. AGAINST: Commissioner Marra. Vote carried (2-1).

21) Consider and take action to approve a resolution accepting Valley International Airport's amended mid-year capital expense and capital improvement budget for Fiscal Year 2010-2011. Attachment (Airport)

Commissioner Ruiz recommended the same for Item No. 21.

Motion was made by Commissioner Ruiz and seconded by Mayor Pro-Tem Prepejchal to table the item. The motion carried as follows: FOR: Commissioner Ruiz and Mayor Pro-Tem Prepejchal. AGAINST: Commissioner Marra. Vote carried (2-1).

3) Approval of Minutes – Regular Meeting of July 6, 2011

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Ruiz to approve the minutes of July 6, 2011 as presented. Motion carried unanimously.

CONSENT AGENDA

- 4a) An Ordinance amending the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.6.7 pertaining to the standards and specifications of fire hydrants on second and final reading. Applicant: City of Harlingen. (Planning and Development)
- b) An ordinance to designate a “No Parking Zone” along the west side of Tennessee Road on second and final reading. (City Engineer)
- c) An ordinance to designate a “No Parking Loading/Unloading Zone” to be established on the west side of First Street, 61.50 feet to the south from the southwest corner of the intersection of Van Buren and First Street consisting of a total of 40 feet. (City Engineer)
- 5) Consider and take action to approve a refund of property taxes to Orlando Flores c/o Harlingen Medical Center Account #00-0100-0100-6590-03 in the amount of \$5,930.60 due to a change of value adjustment for the Year 2010 as per an agreed judgment. (Finance Department)

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

For the record, the captions of Ordinance Nos. 11-30, 11-31, 11-32 read as follows:

ORDINANCE NO. 11-30

AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE (ORDINANCE NO. 07-28) SECTION 4.6.7 OF THE CITY OF HARLINGEN BY ADDING LANGUAGE WHICH ALLOWS THE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE WITHOUT A FIRE HYDRANT IN THE CITY ETJ IN A ONE LOT SUBDIVISION OF 1 TO 9.99 ACRES IN SIZE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-31

AN ORDINANCE TO ESTABLISH A “NO PARKING ZONE” LOCATED ON THE WEST SIDE OF TENNESSEE ROAD; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID “NO PARKING ZONE”; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 11-32

AN ORDINANCE TO ESTABLISH A “NO PARKING LOADING/UNLOADING ZONE” ON THE WEST SIDE OF FIRST STREET 61.50 FEET TO THE SOUTH FROM THE SOUTHWEST CORNER OF THE INTERSECTION OF VAN BUREN AND FIRST STREET CONSISTING OF A TOTAL OF 40 FEET; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID “NO PARKING LOADING/UNLOADING ZONE”; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading July 6, 2011

PASSED AND APPROVED on second and final reading on July 20, 2011.

SIGNED BY: /s/ Chris Boswell, Mayor
ATTESTED BY: /s/ Amanda C. Elizondo, City Secretary

6) Consider and take action to extend the current rental agreement with Lifeline Heart of Worship through January 31, 2012. (Arts and Entertainment)

Joel Humphries, Director of Arts and Entertainment stated Lifeline Heart of Worship (LHW); a local nonprofit organization was requesting an extension of their current rental agreement with the Harlingen Municipal Auditorium. The LHW received an additional 10% discount on top of the 25% extended to local nonprofits based on the number of times they rented the auditorium. LHW was prepared to contract for an additional 23 rental dates between July 31, 2011 and January, 2012.

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

7) Consider an ordinance on first reading to rezone from “not designated (N)” zoning district to “residential, mobile home (MH)” zoning district for Lot 82, Palm Vista Estates Unit 2 located at 15983 Palm Vista Drive. Applicant: Samuel Medrano. (Planning and Development)

Joel Olivo, Planning and Zoning Manager stated Mr. Samuel Medrano was requesting to rezone his property from a “Not designated (“N”) zoning district to “Residential Mobile Home (MH)” zoning district for Lot 82, Palma Vista Estates Unit 2 located at 15983 Palm Vista Drive to allow a mobile home on the property. The property was annexed into the city on November 2008 with a “Not Designated (“N”) zoning district. A mobile home had been placed on the property prior to being annexed and since the annexation the property was vacant. The owner placed a new mobile home without a permit from the city. One of the requirements was that the property would have to be rezoned to allow the mobile home to be placed on the property. He stated the surrounding areas were mostly residential and mobile homes. The request was consistent with the Future Land Use Plan. The Planning and Zoning Commission did not receive any objections from the surrounding property owners. Staff recommended approval of the request.

a) Public Hearing

Mayor Boswell declared the public hearing opened to the public.

Jerry Moore, resident of 709 Town Lane Drive, stated the property was under litigation.

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

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

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

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

8) Issuance of a Specific Use Permit (“SUP”) to allow a bar/lounge in a “general retail (GR)” zone located at 1105 S. Tamm Lane, bearing a legal description of 3.474 acres out of Block 33, Stuart Place Survey 139/297/298. Applicant Rosemary Cantu Guerra. (Planning and Development)

Mr. Olivo stated Ms. Rosemary Cantu Guerra was requesting a specific use permit to allow a bar/lounge in a “General Retail (GR)” zone located at 1105 S. Tamm Lane, bearing a legal description of 3.474 acres out of Block 33, Stuart Place Survey

139/207/298. Ms. Guerra was proposing to operate a bar/lounge out of an existing 30,000 square foot building. The previous use of the property consisted of a grill and bar under the name of Cactus Jacks. The establishment must comply with the off street parking regulations. Based on the seating arrangement and the square footage of the building, 60 parking spaces were required and 62 were being provided. Hours of operations would be from 9:00 p.m. to 2:00 a.m. and Wednesday through Sunday - 12:00 noon p.m. to 12 a.m. on Sunday. DJ music would be provided during the hours of operation. The applicant was currently processing a mix beverage license with the Texas Alcoholic Beverage Commission. Security cameras would be provided at the place of business. The City's Health and Fire Departments had done the necessary inspections as required by the city. Mr. Olivo recommended approval of the request subject to the applicant meeting all the conditions imposed by the city codes.

a) Public Hearing

Mayor Boswell declared the public hearing opened to the public.

Mr. Joe Rubio, 2309 Hacienda Road, stated he was in favor of the city issuing a permit and his only concern was that security officers be licensed.

Yolanda Schoffheit stated her concern was evacuating the premises in case of an emergency, if the establishment did not have licensed security officers to handle the emergency.

Gayle Moore, 709 Town Lane Drive stated her concern dealt with the fire hydrants.

Fire Chief, Mike Rinaldi stated if the fire hydrant was going to be located along the entrance of the business it was okay unless the capacity of the occupancy changed.

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

b) Consider and take action to approve an ordinance on first reading on the above mentioned specific use permit.

Ms. Cotroneo read the caption of the ordinance.

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

9) Consider and take action to accept or reject bids and award contract for the Van Buren Parking Canopy Project under Bid 2011-19 as part of the Downtown Public Parking Lot Improvements Project. (City Engineer)

Dan Serna, Public Works Director recommended to table the item for further review.

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

10) Consider and take action to accept or reject bids and award contract for the Harlingen Municipal Golf Course Drainage Improvements under Bid 2011-16 to remediate an erosion problem at the golf course caused by runoff from heavy rainfall. (City Engineer)

Mr. Serna stated staff had received a total of seven (7) bids for the Harlingen Municipal Golf Course Drainage Improvements. These improvements were to remediate an erosion problem at the golf course caused by runoff from heavy rainfalls. Zimmerman Construction Co., Inc. was the lowest bidder in the amount of \$86,615.12. He recommended awarding the project to Zimmerman Construction Co., Inc.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to accept staff recommendation. Motion carried unanimously.

- 11) Consider and take action to approve a resolution authorizing the City Manager to request e-Grant access through the Texas Department of Emergency Management (TDEM) to apply for the Fiscal Year 2012 Pre-Disaster Mitigation (PDM) and Repetitive Flood Claims (RFC) grant programs for the State of Texas. (City Engineer)

Mr. Serna stated the Texas Department of Emergency Management (TDEM) has announced the guidance and deadlines for FY 2012, Pre-Disaster Mitigation (PDM) and Repetitive Flood Claims (RFC) grant programs for the State of Texas. This grant provided FEMA funds for the implementation of mitigation projects pertaining to natural hazards or local mitigation plans. The RFC Grant provided funds for the reduction or elimination of long term risk flood damage to structures having one or more claim payment filed through the National Flood Insurance Program. The first step of the application process was to request access to e-Grants, a federal web-based system. The state would review the applications for eligibility, feasibility, cost-effectiveness and completeness. Once they completed the review process it was passed to FEMA for final review and approval. Mr. Serna recommended approval of the resolution.

Motion was made by Mayor Pro Tem Prepejchal and seconded by Commissioner Ruiz to approve and adopt the resolution as presented. Motion carried unanimously.

- 12) Consider and take action to approve the preliminary ranking of the Engineering Consulting Firms for the Safe Routes to School Projects/Applications and authorize the Public Works Director to negotiate a contract with the highest ranked firm. (City Engineer)

Mr. Serna stated the Safe Routes to School Program was offered by the Texas Department of Transportation. It was designed to educate and encourage children to walk and bicycle to school making it safer and more appealing and was another form of transportation. This program would improve safety and reduce traffic, fuel consumption and air pollution in the vicinity of the schools. Staff advertised for request for qualifications from engineering firms to complete the studies, funding applications, prepare plans, specifications, estimates and construction management. Three proposals were received. The committee consisting of the Public Works Director, Planning and Development Director, City Engineer, Finance Director and the Assistant City Engineer evaluated and rated each of the proposals in accordance to a rating criteria provided to each of the firms. Staff was requesting authorization to allow the Public Works Director to negotiate a contract for the Safe Routes to School/Projects/Applications with the highest ranked firm and proceed to the seconded highest rank firm should the negotiations with the first firm failed.

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

- 13) Consider and take action to adopt a resolution approving the One Year Action Plan (Budget) for Fiscal Year 2011-2012 (Year 37) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2011-2012 (Year 17) of the Home Investment Partnerships Program (Home). (Community Development)

For the record, Roxann Pais Cotroneo, City Attorney stated Commissioner Marra had relinquished her chair and excused herself from the meeting room in order to avoid an appearance of impropriety and signed an affidavit, which was presented to the City Secretary. She announced that because of a lack of a quorum the item could not be discussed.

It was consensus of the City Commission to place the item on the Special Meeting agenda for July 26, 2011.

No action was taken.

- 14) Consider and take action to approve bid selected by the Development Corporation of Harlingen, Inc. for construction of landscaping improvements at the Bass Pro Shops Site. (Development Corporation)

Mr. Bill Martin, Executive Director for the Development Corporation of Harlingen, Inc. stated the corporation had solicited bids for landscaping improvements at Bass Pro Shops. A pre-bid conference was held on July 13, 2011 and the Development Corporation held a special meeting on July 19th at 5:30 p.m and recommended award of the bid to Green Thumb Landscaping, L.L.C. in the amount of \$200,905.13.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to accept the recommendation of the Development Corporation of Harlingen, Inc. Motion carried unanimously.

- 15) Consider and take action to: (1) adopt a resolution to reconstitute the Rio Grande Valley Health Facilities Development Corporation, and appoint seven directors to said corporation; and (2) approve the defease of the Series 1992 bonds issued to Valley Baptist Medical Center Project, if approved by a majority vote of the Rio Grande Valley Health Facilities Development Corporation. (City Attorney)

Roxann Pais Cotroneo, City Attorney stated pursuant to Chapter 221 of the Texas Health and Safety Code, a municipality may create a health facilities development corporation with the power to provide, expand and improve health facilities that needed to improve the adequacy, cost and accessibility of health care, research and education. The purpose of the corporation was to issue bonds to finance the cost of a health facility. The city did not lend its credit or granted public money or any other thing of value to the corporation. The City Commission needed to appoint a minimum of three (3) directors. Directors must be residents of the City of Harlingen and be at least 18 years of age; serve for a two (2) year term or until there successors were appointed. All actions performed by the corporation must also be approved the City Commission. On June 1984, the City of Harlingen created the Rio Grande Valley Health Facilities Development Corporation (RGVHFDC) also known as ("the Issuer") the following seven (7) directors were appointed to the corporation: Sam Tisdale, Frank Boggus, M.H. Connelly, Jack Barfield, Gustav Braun, Albert Galvan and Martin Ferrero. On June 19, 1992, RGVHFDC with approval from the City Commission issued \$59, 805,000 in hospital revenue bonds to the Valley Baptist Medical Center Project. On August 29, 2007, RGVHFDC was involuntarily dissolved by the Texas Secretary of State because it failed to file a periodic report as required by the Texas Non-Profit Corporation Act. As of today, approximately \$35 million in bonds remained outstanding and needed to be paid by Valley Baptist Health System by the year 2015. Valley Baptist Health System wished to defease (i.e. pay) the remaining outstanding bonds by July 29, 2011. However, to pay these bonds, the bond documents required that the issuer (i.e. RGVHFDC) seek final approval from the Harlingen City Commission to pay-off the remainder of the bonds. Since RGVHFDC has been dissolved, the City Commission needed to reconstitute the corporation and appoint seven (7) new directors to hold the required meeting.

Motion was made by Commissioner Marra and seconded by Commissioner Ruiz to approve the resolution appointing the following seven members: Linda Burke, Rick Ledesma, Nolan Perez, Greg Powers, Rick Rodriguez, Felix Sanchez and Ernest Silva. Motion carried unanimously.

- 16) Consider and take action to ratify Halff Associates as the top firm according to the Ad-Hoc 25th Street Pedestrian and Bicycle Trail Ranking Committee and to authorize the City Manager to negotiate and execute a contract for associated architectural and engineering services pursuant to the City's request for qualifications under RFQ #2011-14. Applicant: City of Harlingen. (Parks & Recreation)

Paul Menzies, Parks & Recreation Director stated the 25th Street Pedestrian and Bicycle Trail was a \$2.6 million project that included 4.1 miles of hike and bike trails

generally from Ramsey Nature Park north to TSTC, with an associated spur from 25th Street west along Monroe Street to the middle school/Boggus Stadium area. Funding for the project included a \$2.1 million federal grant with an approved match of \$525,000 from the City's Community Improvement Board. The purpose of this item was to select Halff & Associates Engineering Firm as the top firm to design and engineer the project and to authorize the City Manager to negotiate and execute the contract. Once a contract was executed, the firm would have approximately eight (8) months to complete the project design and engineering and submit the final design packet to TxDOT. They would do the solicitation of bids, award the construction contract and oversee the construction. TxDOT anticipated in bidding out the project on January 2013, allowing enough lead time for environmental clearance once the design and engineering work was completed. Mr. Menzies recommended to ratify Halff & Associates as the top firm according to the Ad-Hoc 25th Street Pedestrian and Bicycle Trail Ranking Committee.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Marra to ratify Halff Associates as the top firm. Motion carried unanimously.

- 17) Consider and take action to approve a payment to the Development Corporation of Harlingen, Inc. on an outstanding loan in the amount of \$196,132.15 in connection with the Washington Avenue Improvements Project. (Finance Department)

Roel Gutierrez, Finance Director stated the Development Corporation of Harlingen, Inc. was requesting a payment of \$196,132.15 on an outstanding loan from the City of Harlingen. In 1994 the Development Corporation loaned the City \$365,000 for improvements to Washington Avenue. The last payment made by the City was \$25,000 in June of 2011 and brought the loan balance down to \$196,132.15. This amount was in the petition paving fund as a liability and the funds were available.

A brief discussion was held and Carlos Yerena, City Manager informed the Commission there were some street construction overages on the Bass Pro Shop that could be utilized if the Commission wished to utilize these funds.

Mayor Boswell instructed staff to meet with the development corporation staff to further discuss this item.

- 18) Consider and take action to approve an ordinance on first reading to amend 2010-11 Fiscal Year Budget. (Finance Department)

Roel Gutierrez, Finance Director highlighted the budget amendment and stated this was the fourth budget amendment to the 2010-2011 City of Harlingen Budget.

General Fund – Revenues increase by \$564,551
Expenditures increase by \$485,957

Hotel/Motel Fund – Expenditures increase by \$45,805

Communication Center Fund – Revenues increase by \$122,580

Neighborhood Stabilization Grant – Revenues increase by \$797,255
Expenditures increase by \$797,255

TDRA Northwest Area Drainage Fund – Revenues increase by \$2,190,385
Expenditures increase by \$2,189,224

Harlingen Community Improvement Board – Expenditures change with net effect of \$0.

Ms. Cotroneo read the caption of the ordinance.

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

19) Board Appointments

Discussion and possible action regarding membership on any of the following listed board/entity:

- a. Airport Board
- b. Animal Shelter Advisory Committee (3)
- c. Audit Committee (6) (Annual Appointments as per Ordinance 08-38)
- d. Civil Service Commission (Mayor) (1)
- e. Community Development Advisory Board (1)
- f. Construction Board of Adjustments (7)
- g. Convention & Visitors Bureau (2)
- h. Development Corporation of Harlingen, Inc.
- i. Downtown Improvement District Board (2)
- j. Golf Course Advisory Board
- k. Harlingen Community Improvement Board
- l. Harlingen Housing Authority Board (0)
- m. Harlingen Finance Corporation
- n. Harlingen Proud Advisory Board (3)
- o. Library Advisory Board (1)
- p. Municipal Auditorium Advisory Board (2)
- q. Museum Advisory Board (2)
- r. Parks Advisory Board
- s. Planning & Zoning Advisory Board
- t. Senior Citizens Advisory Board
- u. Tax Increment Finance Board
- v. Tennis Advisory Board
- w. Utility Board of Trustees
- x. Veterans Advisory Board (2)
- y. Zoning Board of Adjustments (5)

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

Commissioner Ruiz appointed Jack Freehamel to the Convention and Visitors Bureau.

Motion was made by Commissioner Marra and seconded by Mayor Pro-Tem Prepejchal to approve the appointment of Mr. Freehamel. Motion carried unanimously.

2) Citizen Communication

Raul Rodriguez, business owner stated he was present to say good-bye and thank everyone for the business he received while he was in operation in the City of Harlingen.

Sam Lozano spoke with regards to the airport issue and stated the remarks that were made by the board members were unnecessary and felt no additional money should be spent to construct additional aprons.

Art Cohen spoke on behalf of the Veterans Memorial Committee. He stated the Committee was trying to move forward with the construction of the Memorial Project. Their committee understood they could not get any commitments from the city and the Harlingen Development Corporation for any type of funding. The Committee hoped to complete the project before the end of this calendar year. They would request special recognition through a form of a resolution from the City when the project was completed.

Jeff Kohlman spoke in regards to the airport issue and questioned why the airport was requesting the same request that was turned down by the city several months ago. What has changed at the airport from the time they received FAA guidance requesting fund for aprons. The Harlingen Airport is not capable of supporting two FBO(s).

Juan Ortega voiced his concerns regarding the amount of money that would be allocated the construction of these aprons. He stated Gulf Aviation has been doing well on its own for quite a long time. Mr. Ortega stated he did not understand someone else would want to recruit financial help from the City instead of using their own funds.

Luis Perez spoke in regards to the airport aprons and stated why was the city spending money on something that was not needed when there is an economic situation. Only 40% of the aprons were being used. This city can only maintain one (1) apron and companies interested in building should utilize their own money and not the city funds.

David Garza spoke in regards to the airport issue and stated he did not understand why the Airport Board was not communicating with the city.

At this time, the City Attorney stated the Mayor had left the City Commission meeting room and there was no quorum for the moment.

Mr. Garza stated he had a contract with the City of Harlingen and heard numerous discussions between the airport and the city. The FAA had made it very clear these negotiations should all be made in good faith. These instructions have not been followed. Discussion should be held in the open session for everyone to attend and participate. These are the type of issues that are destroying the City.

Fred Rendon, 1749 Apple Court requested transportation assistance to transport a veteran to Dallas for a doctor's appointment.

Joe Rubio, Jr., 2309 Hacienda Road stated he provided a check for \$170 to the City Secretary. He had been accused of profiting from a video recording he had conducted for the City Attorney. Mr. Rubio pointed out the minutes did not reflect some issues that transpired during the meeting. He also pointed out an issue during one of the executive sessions from the last meeting. Mr. Rubio would be filing a formal complaint to the Cameron County District's Office regarding the open meetings violation.

Motion was made by Commissioner Marra and seconded by Mayor Pro Tem Prepejchal to go into Executive Session to discuss Item 24, 25, and 26. Motion carried unanimously.

At 6:15 p.m. on July 20, 2011, Mayor Boswell announced the City Commission would convene in Executive Session to discuss Items 24, 25, and 26.

At 6:44 p.m., Mayor Boswell announced that the City Commission had completed its executive session on Item 24, 25, and 26 and declared the meeting opened to the public.

- 24) Executive Session pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Sections 551.071 and 551.072 to consult with the City Attorney to seek legal advice regarding the Dixieland Railroad Crossing at Mile Post MP 1.7 at the Mission Subdivision and to deliberate the purchase, exchange, lease or value of real property because deliberations in an open meeting would have detrimental effect on the City's position in negotiations with a third person. (City Attorney)

No action

- 25) Consider and take action to approve a possession and use agreement between the City of Harlingen, Union Pacific Railroads Company, and Rio Valley Switching Company for the purpose of constructing and operating a public crossing over a right-of-way and rail line owned by Union Pacific and leased to Rio Valley Switching at Mile Post 1.7 on the Mission Subdivision also known as "Dixieland Crossing." (City Attorney)

Motion was made by Mayor Pro Tem Prepejchal and seconded by Commissioner Ruiz to approve the possession and use agreement between the City of Harlingen and

Union Pacific Railroad Company and Rio Valley Switching Company. Motion carried unanimously.

- 26) Consider and take action to approve a public grade crossing agreement between the City of Harlingen, Union Pacific Railroads Company and Rio Valley Switching Company for the use of a public crossing over a right-of-way and rail line owned by Union Pacific and leased to Rio Valley Switching at Mile Post 1.7 on the Mission Subdivision also know as “Dixieland Crossing.” (City Attorney)

Motion was made by Mayor Pro Tem Prepejchal and seconded by Commissioner Ruiz to approve the public grade crossing agreement between the City of Harlingen and Union Pacific Railroad Company and Rio Valley Switching Company. Motion carried unanimously.

- 22) Closed/Executive Session 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 and deliberate financial or other incentives with the business prospect known as Project Green to seek legal advice from the City Attorney regarding this subject. (City Manager)

No Action.

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

No Action.

There being no further business to discuss, Mayor Boswell adjourned the meeting at 6:57 p.m.

Chris Boswell, Mayor

Attest:

Amanda C. Elizondo, City Secretary