

**NOTICE OF REGULAR MEETING
MISSION CITY COUNCIL
NOVEMBER 14, 2011 4:30 P.M.
MISSION CITY HALL**

PRESENT:

Norberto Salinas, Mayor
Maria Elena Ramirez, Councilwoman
Ruben D. Plata, Councilman
Norie Gonzalez Garza, Councilwoman
Leo Olivarez, Mayor Pro Tem
David Guerra, City Attorney
Anna Carrillo, City Secretary
Julio Cerda, City Manager

ABSENT:

ALSO PRESENT:

Kathy Olivarez, Progress Times
Richard Hernandez
Arturo Casanova
Maxilou Link
Shaine Mata
Fred Kurth
Richard Perez
Alex Meade

STAFF PRESENT:

Nelia Hernandez, Asst. City Secretary
Aida Lerma, Deputy City Manager
Sonia Carnes, Deputy City Manager
Guillermo Seguin, Deputy City Manager
Sergio Zavala, Planning Director
Bobby Salinas, Planning Dept.
Roberto Salinas, Public Works Director
Paul Schaefer, Golf Course Director
Joanne Longoria, CDBG Director
Rick Saldana, Fire Chief
Eduardo Belmarez, Purchasing Director
Martin Garza, Asst. Chief of Police
Janie Flores, Finance Director
Randy Perez, Accountant
Julian Gonzalez, Parks & Rec. Director
Juan C. Avila, B & G Club Director
Noemi Munguia, HR Director
Robert Hinojosa, Risk Manager
Jesse Lerma, Civil Service Director
Roland Rodriguez, I. T. Director
Jonathan Wehrmeister, Judge
Cassandra Karl, Museum Director
Mayra Rocha, Library Director

1. Call to order

With a quorum being present, Mayor Norberto Salinas called the meeting to order at 4:41 p.m.

2. Pledge Allegiance and Invocation

Mayor Salinas led the meeting with the pledge of allegiance and City Manager Julio Cerda gave the invocation.

3. Tomas Tijerina - Thanksgiving Table at Renee's

Tomas Tijerina requested assistance from the City to participate in the 6th Annual Thanksgiving Table at Renee's. He requested assistance from the Police, Fire and Parks & Recreation Department.

4. Departmental Reports

Councilwoman Maria Elena Ramirez moved to approve the departmental reports as presented. Motion was seconded by Mayor Pro Tem Leo Olivarez and approved unanimously 3-0.

5. Citizens Participation

None

1.0 Public Hearing

1.1 Planning & Zoning Recommendations

A. Rezoning: Lot 1, Block 1, Gulf Breeze Addition & the 15' strip of abandoned ROW lying west and adjoining Lot 1, Block 1, Gulf Breeze Addition, C-1 to C-2, Ana M. Salinas

The 90' x 120' site was located on the NE corner of Conway Avenue and Sunrise Lane. The surrounding zones included: Single Family Residential (R-1) to the north, east, and south, and Mobile & Modular Home District to the west. The existing land uses included: Single Family Homes to the north, east, and south, and Mobile Home Subdivision to the west. The subject site was open acreage.

The Future Land Use Map reflected a Low Density (LD) designation; however, staff anticipated most of the corridor along Conway Avenue to slowly transition into commercial uses due to:

- 1) The subject property adjoined Conway Avenue, a seven lane major thoroughfare (mandated a minimum 150' ROW).
- 2) The traffic produced along Conway Avenue was more conducive for a non-residential use, rather than having R-1 homes along such congestive traffic patterns.
- 3) Due to the limited size of the lot, it would only allow for a limited amount of commercialism where a large percentage of the property would be used for parking and landscaping (thus the commercial traffic impact was anticipated to be minimal).
- 4) C-2 allowed for more commercial uses than C-1, however its allowable uses were still minimal and were geared to serve the immediate neighborhood communities.
- 5) The City approved a C-3 zone at Moorefield and Oleander Drive; being a (minor/arterial street intersection). This site was at the minor street/major thoroughfare intersection.

There was some public opposition during P&Z's hearing where a neighbor wanted the property to remain 'as is' (though it was later explained that the site already had a C-1 zone). P&Z unanimously recommended approval.

Staff and City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against the rezoning request.

There were no comments.

Mayor Pro Tem Olivarez moved to approve the Rezoning: Lot 1, Block 1, Gulf Breeze Addition & the 15' strip of abandoned ROW lying west and adjoining Lot 1, Block 1, Gulf Breeze Addition, C-1 to C-2. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

B. Conditional Use Permit: Daycare in a Residential Zone, 2012 N. Inspiration Rd., a 1 acre tract of land out of Lot 24-1, West Addition to Sharyland Subd., R-1, Life of Use, Arturo & Norma Casanova

The subject site was approximately ¼ mile south of Griffin Parkway along the east side of Inspiration Road. This 2,500 sq. ft. daycare had been in operation since June 2001. It was originally a CUP for a home occupation and was most recently approved by P&Z on 10-15-08 and by City Council on 10-29-08 for a period of 3 years. Since the applicant did not reside at the home, Section 1.56-1g of the Zoning Code required the owner to obtain 90% signatures of approval from the surrounding property owners within a 200' radius. The owner was able to obtain signatures of approval of 93% of the surrounding property owners within the 200' radius, thus compliant to code.

- Hours of Operation: Monday – Friday from 6:30 a.m. to 7:30 p.m. and Saturday from 8:00 a.m. to 5:00 p.m.
- Staff: 10 employees
- Parking: the 2,500 sq. ft. building required a minimum of 9 parking spaces. There were a total of 10 existing parking spaces, thus compliant to code.
- All DHS and City requirements had been complied with.

There was no public opposition during 10/26/11 P&Z's hearing. P&Z unanimously recommended approval as per staff's recommendation.

Staff Recommendation: Approval subject to: a 3 year re-evaluation and continued compliance to DHS and City requirements.

City Manager recommended CUP approval.

Mayor Salinas asked if there were any comments for or against the CUP request.

There were no comments.

Councilwoman Ramirez moved to approve the Conditional Use Permit: Daycare in a Residential Zone, 2012 N. Inspiration Rd., a 1 acre tract of land out of Lot 24-1, West Addition to Sharyland Subd., R-1. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

C. Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Smokin' Aces, 2518 E. Business Highway 83, Lot 14, J.E. Leslie Subd., C-3, Michael Aguilar

The subject site was located approximately 300' west of Taylor Road along the south side of Business Highway 83. Smokin' Aces bar began its operation after the City Council approved it in January 2007 over-riding the denial from the Planning and Zoning Commission. In their approval, the City Council imposed 7 encumbrances. Some of the City's primary conditions included annual re-evaluations of the operation, and having "professional security on-site during Friday-Saturday-Sunday's evening hours of operation specified as 7 p.m. until ½ hour past closing".

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Staff had an opportunity to review the Police Department reports for this establishment from October 2010 thru early October 2011. Below please find those results.

Date	Day/Time	14 Service Calls/Incidents
October 7, 2010	Thurs./2:19 a.m.	Driver left location after hit & run
October 25, 2010	Mon./8:57 p.m.	Drug related
November 14, 2010	Sun./9:22 p.m.	Assault
December 12, 2010	Sun./2:26 a.m.	Female vs. male; Disturbance; 2 units assigned (included male throwing bottle inside bar)
December 16, 2010	Thur./9:45 p.m.	Fight; 2 units assigned; calmed by the time of arrival
February 4, 2011	Fri./7:15 a.m.	Loud Music coming from Smokin' Aces (live band or DJ?)
April 1, 2011	Fri./1:45 a.m.	Disturbance; 3 units assigned.
May 15, 2011	Sun./1:59 a.m.	DWI; female; white Grand Prix 4D
May 21, 2011	Sat./2:07 a.m.	Disturbance in parking lot
June 27, 2011	Mon./2:16 a.m.	Unwanted subject called-in by bus.; 2 units assigned
August 24, 2011	Wed./8:59 p.m.	Cash register limited seizure
August 27, 2011	Sat./1:40 a.m.	Mom took child to bar; relative came & pick up child; 2 units assigned
September 11, 2011	Sun./1:55 a.m.	Unwanted Subject; 2 units assigned
October 2, 2011	Sun./12:17 a.m.	Fight by 20 subjects; breaking items & windows inside & outside the bar; 4 units assigned.
Date	Day/Time	7 Offense Reports/Incidents
October 2, 2010	Sat./2:02 a.m.	Assault by Threat; intimidation; argument
November 12, 2010	Fri./1:11 a.m.	Assault; bodily injury caused ; 3 units assigned
November 24, 2010	Wed./2:07 a.m.	Hit & Run; parking lot issue
February 2, 2011	Wed./11:13 a.m.	Assault reported; caused 2 days earlier
April 22, 2011	Fri./11:51 p.m.	Theft by keys (called-in by bouncer)
May 21, 2011	Sat./3:44 a.m.	Disturbance; .22 ounces of green leafy substance
June 9, 2011	Thurs./11:29 p.m.	Public Intoxication; drunkenness.

In conferring with an Asst. Police Chief on the 21 incidents above, he concluded that the above were either directly or indirectly attributed to alcohol consumption. There was public opposition by letter during the hearing process. P&Z unanimously recommended approval for 3 months with Smokin' Aces providing a copy of a contract for professional security to be at the site.

Staff Recommendation: Approval subject to: a 3-month re-evaluation to assess the safety and security of the operation which included providing staff a copy of the contract that Smokin' Aces has with a uniformed professional security agency.

City Manager recommended CUP approval.

Mayor Salinas asked if there were any comments for or against the CUP request.

There were no comments.

Mayor Pro Tem Olivarez moved to approve the Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Smokin' Aces, 2518 E. Business Highway 83, Lot 14, J.E. Leslie Subd., C-3 subject to a 3 month re-evaluation as recommended by staff. Motion was seconded by Mayor Salinas and approved 2-1 with Councilwoman Ramirez dissenting.

D. Conditional Use Permit: Drive-Thru Service Window with 2 lanes for CVS Pharmacy, 2406 E. Expressway 83, Lot 1, J.G. Ortegon Subdivision No. 4, C-3, Life of Use, Matt Holleb

The site was located on the SW corner of Shary Road and Expressway 83. There was an existing gasoline station (AZIZ) located on the site which would be replaced with a new CVS Pharmacy with a double drive thru service window. Access to the site would be provided from a 41' driveway off of Shary Road, two 37' driveways off of an existing access from Expressway 83, and a N-S lane onto McDonald's traffic lane. CVS would be closing 3 existing driveways to the site, to better regulate traffic to safely enter and exit the site. The building measured 95.3' x 143' for a total of 13,225 square feet. The number of parking spaces required for this size building was 36. The applicant was providing 53 leaving a surplus of 17 spaces. The double drive thru service lanes would be located on the rear of the building, providing stacking for approximately 9 vehicles. The dumpster would be obscured with gated doors.

- Days/Hours of Operation: Every day from 7 a.m. to 10 p.m.
- Staff: 5 employees per shift; 2 shifts per day
- Must comply with landscaping code
- City Engineer to ensure that the property drainage calculations were being met as per the plat
- Must comply with the City's Sign Ordinance (changeable copy sign, etc.)
- A business license was required prior to occupancy

There was no public opposition during the 10/26/11 P&Z's hearing. P&Z unanimously recommended approval as per staff's recommendation.

Staff Recommendation: Approval subject to: 1) Must comply with landscaping and sign codes; 2) trash dumpster; must have gates; 3) Acquire a business license; 4) CUP not transferable to others; 5) 1 year re-evaluation to assess the traffic flows; and 6) installing a 'pork chop median' on the Shary exit to impede inhibit traffic from making a (northbound) left turn.

City Manager recommended CUP approval with life of use.

Mayor Salinas asked if there were any comments for or against the CUP request.

There were no comments.

Councilwoman Ramirez moved to approve the Conditional Use Permit: Drive-Thru Service Window with 2 lanes for CVS Pharmacy, 2406 E. Expressway 83, Lot 1, J.G. Ortegon Subdivision No. 4, C-3 with Life of Use as recommended by City Manager and expunging the installation of a "pork chop median" on the Shary exit. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

E. Adoption of Ordinance # 3708 Amending Section 86-41 of the Sign Code – Definition of 'Changeable Copy Sign'; and amending 'Appendix A – Zoning' to only require a Conditional Use Permit for Changeable Copy Signs if along the Expwy. Corridor

Induced from a request for a changeable copy sign (by La Fogata), staff and P & Z researched Mission's changeable copy sign regulations & found some areas that needed refinement. The following amendments should be helpful to the business community & transient public:

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- delete the 1000' separation to other changeable copy signs;
- delete CUP reg for changeable copy signs except along the Expressway;
- establish the maximum brightness that such signs should be during the daytime & evening hrs;
- establish certain colors to not produce glare or other lighting nuisances;
- establish min. timing measures for signs so that messages would not flash or burst to the traveling public.

Since the Sign Code's 'Changeable Copy Sign' was a conditional use in the Zoning Code's commercial & industrial districts, this proposed ordinance would lift the 'conditional' status except for changeable copy signs proposed along the Expressway Corridor. Thus, the existing code should be amended to read; 'Changeable copy signs along the Expressway corridor'.

The P & Z held 2 public hearings on the amendment(s) wherein there was no public input. P & Z unanimously recommended approval.

Staff and City Manager recommended ordinance approval.

Mayor Salinas asked if there were any comments for or against the ordinance request.

There were no comments.

Mayor Pro Tem Olivarez moved to approve adoption of Ordinance No. 3708 Amending Section 86-41 of the Sign Code – Definition of 'Changeable Copy Sign'; and amending 'Appendix A – Zoning' to only require a Conditional Use Permit for Changeable Copy Signs if along the Expwy. Corridor. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

ORDINANCE NO. 3708

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS, AMENDING (A) THE CHANGEABLE COPY SIGN DEFINITION FOUND IN SECTION 86-41 OF ITS CODE OF ORDINANCES, AND (B) SECTIONS 86-153 (2)c AND 86-154(2)c OF ITS CODE OF ORDINANCES, PRESCRIBING REGULATIONS FOR CHANGEABLE COPY SIGNS; AND AMENDING SUBSECTIONS 2 AND 3 OF SECTION 1.41 THROUGH 1.46, INCLUSIVE, OF "APPENDIX A-ZONING" OF THE CODE OF ORDINANCES TO PROVIDE THAT CHANGEABLE COPY SIGNS NOT ALONG THE EXPRESSWAY CORRIDOR ARE PERMITTED USES, AND TO PROVIDE THAT CHANGEABLE COPY SIGNS ALONG THE EXPRESSWAY CORRIDOR ARE CONDITIONAL USES; PROVIDING A CODIFICATION CLAUSE; AND PROVIDING A PUBLICATION DATE

- F. Adoption of Ordinance # 3709 to Amend Future Land Use Map within the Boundaries of Lots 6-10, 7-10, 8-10, 9-10, 10-10, 11-10, 12-10, 6-11, 7-11, 8-11, 9-11, 10-11, 11-11, 12-11, 6-12, 7-12, 8-12, 9-12, West Addition to Sharyland; and Lots 61, 71, and 81, John H. Shary Subd.**

With Anzalduas Highway firmly established & continuing to be improved, the areas along this major thoroughfare showed a designation of PUD (Planned Unit Development).

The PUD suffices for most properties that may be residential, but for what was considered to be ideal future commercial properties along the Anzalduas corridor, staff and the P & Z recommended that the FLUM's hatch-marked enclosure be re-designated as future General Commercial (GC).

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There was no public input at P & Z's 10/26/11 hearing.

The Planning & Zoning Commission voted unanimously to approve the amendments as recommended by staff.

Staff and City Manager recommended ordinance approval.

Mayor Salinas asked if there were any comments for or against the ordinance request.

Mr. Ricardo Perez of 403 Stacie Ln. spoke in favor of the ordinance request.

Councilwoman Ramirez moved to approve adoption of Ordinance No. 3709 to Amend Future Land Use Map within the Boundaries of Lots 6-10, 7-10, 8-10, 9-10, 10-10, 11-10, 12-10, 6-11, 7-11, 8-11, 9-11, 10-11, 11-11, 12-11, 6-12, 7-12, 8-12, 9-12, West Addition to Sharyland; and Lots 61, 71, and 81, John H. Shary Subd.. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

ORDINANCE NO. 3709

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF MISSION, TEXAS AS IT AFFECTS LOTS 6-10, 7-10, 8-10, 9-10, 10-10, 11-10, 12-10, 6-11, 7-11, 8-11, 9-11, 10-11, 11-11, 12-11, 6-12, 7-12, 8-12, 9-12, WEST ADDITION TO SHARYLAND; AND LOTS 61, 71, AND 81, JOHN H. SHARY SUBD.

G. Public Hearing as required by section 11.253 of the Texas Property Tax Code regarding the taxing or exempting from taxes of those items considered "Goods-in-Transit"

During the 2011 special legislative session, the Texas Legislature amended section 11.253 of The Texas Property Tax Code. These sections authorized what was commonly referred to as the "Goods-in-Transit" exemption and required taxing units hold a Public Hearing and take "official action" on whether to tax these goods or exempt the prior to January 2012.

In December 2007 the City Council passed Ordinance number 3325 authorizing the taxing of these "Goods-in-Transit. Due to the amending of section 11.253 of the Texas Property Tax Code the City must hold a public hearing and take official action by order, ordinance or resolution after October 1, 2011 but before December 31, 2011. Failure to take this official action will automatically exempt these goods from taxation.

Staff and City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against this public hearing.

There were no comments.

This was a public hearing item only, no action was taken.

At 5:06 p.m., Mayor Salinas recommended to take action on item 4.12 of the agenda.

2.0 Disposition of Minutes

**2.1 City Council Meeting – October 24, 2011
and Special City Council Meeting – November 4, 2011**

Councilwoman Ramirez moved to approve the minutes as presented. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

3.0 Acknowledge Receipt of Minutes

**3.1 Mission Economic Development Corporation - September 20, 2011
Mission Redevelopment Authority –September 27, 2011
Mission Tax Increment Reinvestment Zone – September 27, 2011
Mission Civil Service Commission – October 7, 2011
Planning & Zoning Commission – October 12, 2011**

Mayor Pro Tem Olivarez moved to acknowledge the receipt of minutes as presented. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

4.0 Approvals and Authorizations

4.1 Adoption of Ordinance # 3711 for Rezoning Lot 1, Block 1, Gulf Breeze Addition & the 15' strip of abandoned ROW lying west and adjoining Lot 1, Block 1, Gulf Breeze Addition, C-1 to C-2

Staff and City Manager recommended ordinance approval.

Mayor Pro Tem Olivarez moved to adopt Ordinance No. 3711 for Rezoning Lot 1, Block 1, Gulf Breeze Addition & the 15' strip of abandoned ROW lying west and adjoining Lot 1, Block 1, Gulf Breeze Addition, C-1 to C-2. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

ORDINANCE NO. 3711

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A REZONING LOT 1, BLOCK 1, GULF BREEZE ADDITION & THE 15' STRIP OF ABANDONED ROW LYING WEST AND ADJOINING LOT 1, BLOCK 1, GULF BREEZE ADDITION

4.2 Adoption of Ordinance # 3712 for CUP for a Daycare in a Residential Zone, 2012 N. Inspiration Rd., a 1 acre tract of land out of Lot 24-1, W.A.S. Subd.

Staff and City Manager recommended ordinance approval.

Councilwoman Ramirez moved to adopt Ordinance No. 3712 for CUP for a Daycare in a Residential Zone, 2012 N. Inspiration Rd., a 1 acre tract of land out of Lot 24-1, W.A.S. Subd. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

ORDINANCE NO. 3712

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR A DAYCARE IN A RESIDENTIAL ZONE, 2012 N. INSPIRATION ROAD, A 1 ACRE TRACT OF LAND OUT OF LOT 24-1, WEST ADDITION TO SHARYLAND SUBDIVISION

4.3 Adoption of Ordinance # 3713 for CUP for the Sale & On-Site Consumption of Alcoholic Beverages – Smokin’ Aces, 2518 E. Business Hwy. 83, Lot 14, J.E. Leslie Subd.

Staff and City Manager recommended ordinance approval.

Mayor Pro Tem Olivarez moved to adopt Ordinance No. 3713 for CUP for the Sale & On-Site Consumption of Alcoholic Beverages – Smokin’ Aces, 2518 E. Business Hwy. 83, Lot 14, J.E. Leslie Subd. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

ORDINANCE NO. 3713

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS
GRANTING A CONDITIONAL USE PERMIT FOR THE SALE & ON-SITE
CONSUMPTION OF ALCOHOLIC BEVERAGES – SMOKIN’ ACES, 2518 E. BUSINESS
HIGHWAY 83, LOT 14, J.E. LESLIE SUBDIVISION

4.4 Adoption of Ordinance # 3714 for Conditional Use Permit for a Drive-Thru Service Window with 2 lanes for CVS Pharmacy, 2406 E. Expwy. 83, Lot 1, J.G. Ortegon Subd. No. 4

Staff recommended ordinance approval.

City Manager recommended ordinance approval subject to expunging the installation of a ‘pork chop median’ on the Shary Rd. exit.

Mayor Pro Tem Olivarez moved to adopt Ordinance No. 3714 for Conditional Use Permit for a Drive-Thru Service Window with 2 lanes for CVS Pharmacy, 2406 E. Expwy. 83, Lot 1, J.G. Ortegon Subd. No. 4; subject to expunging the installation of a ‘pork chop median’ on Shary Rd. exit as recommended by the City Manager. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

ORDINANCE NO. 3714

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS
GRANTING A CONDITIONAL USE PERMIT FOR A DRIVE-THRU SERVICE WINDOW
WITH 2 LANES FOR CVS PHARMACY, 2406 E. EXPRESSWAY 83, LOT 1, J.G.
ORTEGON SUBDIVISION NO. 4

4.5 Request for Garage Sale Permit by El Divino Redentor 1020 N. Los Ebanos Rd., for November 19, 2011

Ordinance No. 3653 included the requirements for a church to first secure the City Council’s approval prior to the issuance of a garage sale permit.

El Divino Redentor was located at 1020 N. Los Ebanos Road. They desire to have a garage sale on their parking lot on Saturday, November 19th from 8 am until 2 pm. They would not be using the church building except for needed restroom use.

Their intent was to cover costs for their Youth Convention to be held in Corpus Christi.

Staff and City Manager recommended approval.

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Councilwoman Ramirez moved to approve the request for Garage Sale Permit by El Divino Redentor 1020 N. Los Ebanos Rd., for November 19, 2011. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

4.6 Cancel 2nd December regular City Council meeting scheduled for December 26, 2011 and reschedule December 12, 2011 meeting to December 19, 2011

City Manager was requesting the cancellation of the second regular City Council meeting scheduled for December 26, 2011 due to City Hall being closed for the Christmas Holiday and to reschedule the December 12, 2011 meeting to be held on Monday, December 19, 2011.

A special meeting would be held if the need arises.

Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to approve to cancel 2nd December regular City Council meeting scheduled for December 26, 2011 and reschedule December 12, 2011 meeting to December 19, 2011. Motion was seconded by Councilwoman Ramirez and approved unanimously 3-0.

4.7 Approval of Interlocal Agreement between City of Mission and County of Hidalgo Head Start Program

The Interlocal Agreement was to cover from January 1, 2012 thru December 31, 2013. The rent amount of the lease was \$500.00 per month for a total of \$6,000 per year. Lessee was responsible to maintain the building roof, air conditioner and heating system before and during the lease and would provide all major repairs at its own expense. The Hidalgo County Head Start Program was located at 115 South Mayberry Rd.

Staff and City Manager recommended approval.

Mayor Salinas recommended renovations be done to the building.

Councilwoman Ramirez moved to approve Interlocal Agreement between City of Mission and County of Hidalgo Head Start Program. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 3-0.

At 5:11 p.m., Councilwoman Norie Gonzalez Garza joined the meeting.

4.8 Approval of Resolution # 1300 distributing 135 authorized votes for the election of Appraisal District Board of Directors for 2012-2013

The Hidalgo County Appraisal District was requesting the distribution of 135 authorized votes for Board of Directors for 2012 -2013. At the September 12, 2011 council meeting Mr. Amador Requenez was nominated by the city council. Mayor Salinas was recommending the distribution of 135 authorized votes for Amador Requenez for council consideration.

Staff and City Manager recommended resolution approval.

Councilwoman Ramirez moved to approve Resolution No. 1300 distributing 135 authorized votes for Amador Requenez for the election of Appraisal District Board of Directors for 2012-2013 as recommended by Mayor Salinas. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 4-0.

RESOLUTION NO. 1300

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS
DISTRIBUTING 130 AUTHORIZED VOTES FOR THE ELECTION OF APPRAISAL
DISTRICT BOARD OF DIRECTORS FOR 2012-2013**

4.9 Board Appointment – Civil Service Commission

This appointment was to replace the position vacated by Dina Acevedo who has moved from the city.

Mayor Salinas was recommending the appointment of Ruben Femat who resided at 220 Thornwood. Term of appointment was through December 31, 2013.

Staff and City Manager recommended appointment approval as recommended by Mayor Salinas.

Councilwoman Garza moved to approve board appointment of Ruben Femat – Civil Service Commission as recommended by Mayor Salinas. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 4-0.

4.10 Renewal of contract with PG Professional Golf and Shary Municipal Golf Course for retrieval of golf balls in the course lakes

On February 28, 2011 city council approved the contract with PG Professional Golf (PGSI) for the retrieval of golf balls at Shary Municipal Golf Course lakes. Staff was requesting to renew the contract with PGSI, Shary Municipal Golf Course would receive 250 dozen new range balls which resulted in a savings of \$1,200 a year that the course would not have to pay for range balls. Period of the contract would be from January 1, 2012 to December 31, 2012.

City Attorney had reviewed contract and liability insurance from PGSI.

Staff and City Manager recommended contract approval.

Councilwoman Ramirez moved to approve renewal of contract with PG Professional Golf and Shary Municipal Golf Course for retrieval of golf balls in the course lakes. Motion was seconded by Councilwoman Garza and approved unanimously 4-0.

4.11 Write-off uncollectable utility accounts receivable

Back on September 27th, 2010, the city council authorized the write-off of 20+ years worth of utility accounts that were deemed uncollectable. As part of that write-off, these accounts were to be sent to a Preston, Powers, and Stone, LLC, the contracted collection agent, in an attempt to try and collect on some of these amounts. As mentioned at that time, the plan was to bring to the city council accounts, over one year old, to be written off and submitted to Preston, powers, and Stone, LLC beginning. These accounts were for the three (3) month period of July 2010 through September 2010.

Staff and City Manager recommended approval.

Councilwoman Garza moved to approve write-off uncollectable utility accounts receivable. Motion was seconded by Councilwoman Ramirez and approved unanimously 4-0.

4.12 Approval of Ordinance # 3710 of the City Council of the City of Mission to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253

Staff and City Manager recommended ordinance approval.

Mayor Pro Tem Olivarez moved to approve Ordinance No. 3710 of the City Council of the City of Mission to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253. Motion was seconded by Councilwoman Ramirez and approved unanimously 4-0.

ORDINANCE NO. 3710

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE, SECTION 11.253

At 5:07 p.m., council continued with item 2.1 of the agenda.

4.13 Approval of the Certified 2011 Tax Roll Totals

Approval of the Certified 2011 Tax Roll for the City of Mission as per Section 26.09 (e) of the Texas Property Tax Code. Total Taxable Value: \$3,320,390,575.

2011 Total Tax Levy \$17,789,527.34

Distribution of Levy:

M & O	\$13,936,450.43
I & S	<u>\$ 3,853,076.91</u>
TOTAL TAX LEVY	\$17,789,527.34

Note: Of the Total Levy TIRZ would receive \$1,872,662.00

Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to approve Certified 2011 Tax Roll Totals. Motion was seconded by Councilwoman Ramirez and approved unanimously 4-0.

At 5:24 p.m., Councilman Plata joined the meeting.

4.14 Budget Amendments: Capital Projects Fund, Utility Fund, Designated Purpose Fund, General Fund, PD Federal Sharing Fund, PD State Sharing Fund, CDBG, Park Dedication Fund, and Cemetery Fund

Finance Director Janie Flores presented the budget amendments BA-2012-3 thru BA-2012-10 to the City Council for approval.

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Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to approve budget amendments BA-2012-3 thru BA-2012-10. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.15 Tax Collections Report – September, 2011

Mrs. Flores presented the Tax Collections Report for September, 2011 for approval.

Staff and City Manager recommended approval.

Councilwoman Garza moved to approve the Tax Collections Report for September, 2011. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.16 Authorization to enter into a Interlocal Cooperation Agreement between City of Mission, Texas and the County of Hidalgo for Operation Stonegarden 2010

The City of Mission Police Department was requesting authorization to enter into an Interlocal Cooperation Agreement between the City of Mission, Texas and the County of Hidalgo for operation Stonegarden 2010. The Mission Police Department had been awarded a total of \$140,630.72. It was the staff's intent to utilize the grant funds to purchase two (2) fully outfitted patrol vehicles and to fund overtime to work police operations throughout the City of Mission as required by grant guidelines. The Mission Police Department was respectfully requesting your occurrence on engaging in this Interlocal Agreement with the County of Hidalgo.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to enter into an Interlocal Cooperation Agreement between City of Mission, Texas and the County of Hidalgo for Operation Stonegarden 2010. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.17 Authorization to continue with New World System Records Management for software and software upgrades

The City of Mission Police Department was requesting to continue with New World Systems Records Management for software and software upgrades. New World Systems had been the software provider for all their records management systems to include computer aided dispatch, jail, mug shots, bar coding, field reporting, etc. since 1991. New World Systems provided for services to any of their modules and included any upgrades to the current operating system. The total amount of the agreement was \$91,758.00.

Staff and City Manager recommended approval.

Councilwoman Garza moved to authorize to continue with New World System Records Management for software and software upgrades. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.18 Approval of Resolution # 1301 adopting the Lower Rio Grande Valley Regional Interoperability Communications Plan / Standard Operating Procedures

The City of Mission Police Department was requesting approval of a resolution for the purpose of adopting the Lower Rio Grande Valley Regional Interoperability Communications Plan /

Standard Operating Procedures. The Mission Police Department had coordinated with LRGVDC for constructing and coordinating the communications plan and had integrated it in their radio system to provide radio interoperability with all other emergency responders in the tri-county area (Cameron, Willacy and Hidalgo Counties). Their coordination with LRGVDC had been approved by the Office of the Governor. Staff was seeking approval of the resolution No. in support and adoption of the LRGVDC Regional Interoperability Communications Plan / Standard Operating Procedures.

Staff and City Manager recommended resolution approval.

Mayor Pro Tem Olivarez moved to approve Resolution No. 1301 adopting the Lower Rio Grande Valley Regional Interoperability Communications Plan / Standard Operating Procedures. Motion was seconded by Councilman Plata and approved unanimously 5-0.

RESOLUTION NO. 1301

A RESOLUTION ADOPTING THE LOWER RIO GRANDE VALLEY REGIONAL INTEROPERABILITY COMMUNICATION/PLAN STANDARD OPERATING PROCEDURES

4.19 Authorization to apply for membership with “TEXAS 811” Services, Texas Excavation Safety System, Inc.

The City of Mission was seeking authorization to become members of Texas 811 Services. Texas 811 was a Member-Directed, Non-Profit One Call notification center which facilitated utility damage prevention. Operating characteristics included messaging system via phone call, phone text & email notifications for water & sewer locate for emergency and regular construction. Services were billed on a “per use” basis at \$0.95 per Notification.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to apply for membership with “TEXAS 811” Services, Texas Excavation Safety System, Inc. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 5-0.

4.20 Water Treatment Plant Expansion Change Order No. 4

Change Order No. 4 entailed additional improvements to the North Water Plant and South Water Plant to include items as specified on Change Order No. 4 would increase current contract amount from \$7,588,780 to \$7,743,350 (\$154,570 increase). To date change orders were under the 25% limit (at 24.8%) from the original contract cost set by the Texas Governmental Code. In addition, contract time would increase 24 calendar days.

Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to approve Water Treatment Plant Expansion Change Order No. 4. Motion was seconded by Councilwoman Garza and approved unanimously 5-0.

4.21 Military Parkway Project Change Order No. 2

Change Order No. 2 entailed the removal of Alternative Bid Item #1 from awarded contract. At this time, ROW had not been acquired to begin Outfall Channel Work. Alternative Bid Item #1

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would be release for bids once required ROW was acquired. Change Order No. 2 would decrease a total amount of \$213,778.20 from the contract amount of \$1,031,014.20 for a final contract amount of \$817,236.00.

Staff and City Manager recommended approval.

After discussion from the council, Councilwoman Garza moved to table the item. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.22 Authorization to enter into Interlocal Cooperation Agreement with the Lower Rio Grande Valley Development Council for Automated External Defibrillators

The Mission Fire Department was seeking authorization for an Interlocal Cooperation Agreement between Lower Rio Grande Valley Development Council and the City of Mission for 2009 MMRS Grant for five (5) Automated External Defibrillators for the Mission Fire Department. By the City entering in this Interlocal Cooperation Agreement Mission Fire Department would replace five (5) older and non-serviceable AED's currently in service with five (5) new current state of the art AED's.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to enter into Interlocal Cooperation Agreement with the Lower Rio Grande Valley Development Council for Automated External Defibrillators. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.23 Authorization to allow the Broncs Swim Team usage of the North Side Pool for practice

Dean Lizzotte, Swim Coach for the Broncs Swim Team, approached the Parks and Recreation Department requesting the use of the North Side Pool from 6-8 a.m. during the months of May – September 2012. The swim team would only be using 4 lanes to practice and the pool would still be available to the public during those hours. The swim club would be charged accordingly and provide their own liability insurance.

Staff and City Manager recommended approval.

Councilwoman Garza moved authorize the Broncs Swim Team usage of the North Side Pool for practice. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.24 Authorization to reject and rebid for the Kika de la Garza building expansion

City Council authorized the solicitation of bids for the Kika de la Garza facility located at 921 East 12th Street (leased to the Upper Valley Art League) on July 25, 2011. After reviewing all bids, Rudy Gomez Architect was recommending to reject the current bids and rebid the project with the additions as a separate building.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to reject and rebid for the Kika de la Garza building expansion. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.25 Authorization to solicit bids or purchase via State Approved Contract for Capital Outlay equipment for Golf Course Department

Staff was seeking authorization to solicit bids or purchase via State Approved Contract for the Lease to Purchase one (1) Diesel Triplex Greens Mower and ten (10) Golf Carts for the Golf Course. The estimated cost for the equipment was as follows:

Maintenance Division: Diesel Triplex Greens Mower: Estimate \$29,000.00
Account: 03-417-848-00

Club House Division: Golf Carts \$40,000
Account-03-417-848-00

Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to authorize to solicit bids or purchase via State Approved Contract for Capital Outlay equipment for Golf Course Department. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.26 Authorization to solicit bids for the purchase of Ready Mix Concrete for Streets and Parks & Recreation Departments

Staff was seeking authorization to solicit bids for the purchase of Ready Mix Concrete for Streets, and Parks & Recreations Departments. Ready Mix Concrete would be used for daily operations to include the placement of sidewalks, curb, gutters, inlets, and manholes located throughout various locations within the City. This would be done due to the internal cost estimate exceeding the ten thousand dollar threshold and our current vendor Spence Concrete increasing their prices on the current contract.

Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to authorize to solicit bids for the purchase of Ready Mix Concrete for Streets and Parks & Recreation Departments. Motion was seconded by Councilwoman Garza and approved unanimously 5-0.

4.27 Authorization to solicit bids or purchase via State Approved Contract for equipment for Public Works Department

Staff was seeking authorization to solicit bids or purchase via State Approved Contract for Capital Outlay Equipment for Water Distribution, Water Treatment Plants and Street Department.

Staff and City Manager recommended approval.

Mayor Pro Tem Olivarez moved to authorize to solicit bids or purchase via State Approved Contract for equipment for Public Works Department. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.28 Bid for “Housing Assistance Program – Housing Rehabilitation Phase 10-III” at 508 Glasscock

On October 24, 2011 City Council instructed staff to conduct an evaluation of historical performance on prior Rehabilitation homes that J.D. Villarreal Construction had worked on.

Staff interviewed six of the most recent applicants. Five out of the six had no complaints about J.D. Villarreal Construction. One out of the six expressed dissatisfaction with the workmanship of J.D. Villarreal Construction but only in comparison with other homes built by the program. The dissatisfied applicant also complained about the lack of professionalism of Mr. J.D. Villarreal. The Purchasing and CDBG Departments held a meeting with Mr. J.D. Villarreal on October 27, 2011, in regard to the complaint of the one applicant. Mr. Villarreal represented that he takes pride in the quality of the workmanship of all the homes he has worked on and that he fully understands the importance of courtesy and professionalism in dealing with his customers.

J.D. Villarreal Construction - \$16,800
508 Glasscock. - \$16,800

Staff Recommendation: Staff recommended awarding the bid to J.D. Villarreal Construction for The rehabilitation of the home at 508 Glasscock.

City Manager recommended approval.

Mayor Salinas addressed Purchasing Director Eduardo Belmarez and told him that council had already talked about not allowing Mr. Villarreal to bid anymore.

Mr. Belmarez’s response to Mayor Salinas was that he had been instructed by the council to go out and meet with the home owners and do an assessment of Mr. Villarreal’s workmanship, which was what he did.

Mayor Salinas told Mr. Belmarez not to award anymore business to Mr. Villarreal and repeated that this was what the council had decided as a commission on the previous meeting.

City Attorney David Guerra addressed the council and mentioned to Mayor Salinas that council instructed staff to inquire about the complaint issues of Mr. Villarreal, which was what staff did and came back with their recommendation. Mr. Guerra informed Mayor Salinas that the alternatives where to either award to it or if he didn’t think that Mr. Villarreal was a responsible bidder, he could propose to awarded to the next lowest bidder at the next meeting, but give Mr. Villarreal the opportunity to come forward and show evidence of responsibility.

Mayor Salinas clarified that Mr. Belmarez was told by the council not to do anymore business with Mr. Villarreal. Instead for him to go out and find out what Mr. Villarreal had said because the complaints were coming from somewhere else, and not for Mr. Belmarez to go out and make a decision and bring it back to the council and tell them who needed to have the job.

Mayor Salinas recommended that council go into executive session prior to considering this item in open session pursuant to V.T.C.A. Gov. Code Sec. 551.071, Consultation with Attorney. Council did and thereafter returned to this item in open session.

At 4:50 p.m., Councilman Plata moved to convene into executive session for item 4.28 and all the items listed under executive session of the agenda. Motion was seconded by Councilwoman Garza and approved unanimously 5-0.

Councilman Plata moved to propose to award the bid for “Housing Assistance Program – Housing Rehabilitation Phase 10-III” at 508 Glasscock to the 2nd lowest bidder GMG Construction for \$19,300.00 and set November 28 at 4:30 p.m. at City Hall Council Chambers for a hearing so J.D. Villarreal Construction can come forward and show his responsibility. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 5-0.

5.0 Unfinished Business

None

6.0 Routine Matters

6.1 City Manager’s Comments

None

6.2 Mayor’s Comments

None

7.0 Executive Session pursuant to V.T.C.A. Gov. Code Sec. 551.001

7.1 Consultation with Attorney Sec. 551.071

- A. **Jaime Garza et al vs City of Mission et al**
- B. **Lease Agreement between the City of Mission and Mission Skeet & Trap Club, Inc.**
- C. **Claim of Florencio I. and Florencio A. Guerra**
- D. **Claim regarding 3903 Beatty Street**
- E. **Claim regarding 2018 Giselle St.**
- F. **Claim of Ana Saldivar**

7.2 Deliberation regarding real property Sec 551.072

- A. **Acquisition of approximately 2 Acres of land out of, Lot 17-9, West Addition to Sharyland Subd., Hidalgo County, Texas**

7.3 Personnel matters Sec. 551.074

- A. **City Manager – Planning Department**

7.4 The City Council will reconvene in open session to take any actions necessary

At 6:51 p.m., Councilwoman Garza moved to reconvene in open session. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

On item 7.1-A, Councilwoman Ramirez moved to accept the compromise settlement and indemnity agreement and to execute dismissal papers in regards to the Jaime Garza et al vs City of Mission et al lawsuit, a copy of which agreement is on file at City Secretary’s. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 5-0.

On item 7.1-B, Councilwoman Garza moved to authorize the execution of the lease agreement between the City of Mission and Mission Skeet & Trap Club, Inc. via Resolution No. 1302, A Resolution Of The City Council Of The City Of Mission, Texas, Approving That Certain Lease Agreement Between The City Of Mission, Texas, And Mission Skeet & Trap Club, Inc., And Authorizing The Mayor To Execute Said Lease On Behalf Of The City Of Mission of which a copy of the lease agreement is on file at City Secretary’s. Motion was seconded by Mayor Pro Tem Olivarez and approved unanimously 5-0.

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On item 7.1-C, Mayor Pro Tem Olivarez moved to deny the claim of Florencio I. and Florencio A. Guerra. Motion was seconded by Councilwoman Garza and denied unanimously 5-0.

On item 7.1-D, Councilwoman Ramirez moved to deny the claim regarding 3903 Beatty Street. Motion was seconded by Mayor Pro Tem Olivarez and denied unanimously 5-0.

On item 7.1-E, Councilman Plata moved to authorize the City Manager to settle the claim regarding 2018 Giselle St. for \$1,061.45. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

On item 7.1-F, no action was taken.

On item 7.2-A, no action was taken.

On item 7.3-A, no action was taken.

8.0 Adjournment

At 6:58 p.m., Councilman Plata moved for adjournment. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

Norberto Salinas, Mayor

ATTEST:

Anna Carrillo, City Secretary