What follows is a summary of the statutes and notices pertaining to the proposed real property tax rate increase by the City of Marfa for 2006 - 2007. All sections refer to the 2006 Texas Property Tax Code. Copies of the three applicable sections of the Property Tax Code are attached as are copies of the notices published in The Big Bend Sentinel. I have attempted to correlate the following paragraphs to the appropriate code sections and notices.

SECTION 26.05
TAX RATE

1. The City shall adopt a tax rate for the current tax year before September 30 or the 60th day after the date the certified appraisal roll is received by the City, whichever date is later. Sec. 26.05 (a)

a. The City received the certified appraisal roll on July 26, 2006.

(1) 60 days from July 26, 2006 is September 25, 2006, so,

b. The City must adopt a tax rate <u>before</u> September 30, 2006.

2. The City may not impose property taxes in any year until the City Council has adopted a tax rate for that year and the annual tax rate must be set by ordinance. Sec. 26.05(b).

3. If the City does not adopt a tax rate before Sept. 30, the tax rate is automatically the lower of the effective tax rate or the adopted tax rate for the preceding tax year. This tax is treated as the adopted tax rate. Sec. 26.05(c)

4. The City Council may not adopt a tax rate that exceeds the <u>**lower**</u> of the rollback tax rate (.672729 for this year) or the effective tax rate (.586710 for this year) until the City has had two public hearings and has otherwise complied with Sec. 26.06 and Sec. 26.065 (the TV notice). In other words, if the City wants to raise the tax rate, it must have two hearings. Sec. 26.05(d).

SECTION 26.06
NOTICE, HEARING, AND VOTE ON TAX INCREASE

5. The first public hearing required in paragraph 4 above may not be held before the seventh day after the date the notice of the public hearing was given. The second hearing may not be held earlier than the third day after the date of the first hearing. (Notices were published in the Big Bend Sentinel.) Sec. 26.06(a).

6. The public hearing notice must include information regarding comparison of residence homestead values and a comparison of residence homestead taxes for the preceding and current tax years. Sec. 26.06 (F), (G), (H) and (I).

7. At the public hearings the City Council shall announce the date , time and place of the meeting at which it will vote on the proposed tax rate. After each hearing, the City shall also give notice in The Big Bend Sentinel. Sec. 26.06(d).

8. If the City has free access to a television channel, the City shall request that the station carry a 60-second notice of the public hearing at least five times a day between the hours of 7 a.m. and 9 p.m. for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate. Sec. 26.065(c).

PENALTIES

9. As mentioned in paragraph 4 above, if the City does not comply with Sections 26.06 and 26.065, the City may not adopt a tax rate that exceeds the **lower** of the rollback tax rate (.672729) or the effective tax rate (.586710). Sec. 26.05(d)

10. Any person with taxable property in Marfa is entitled to an injunction restraining the collection of property taxes by the City if the City has not complied with the requirements of Section 26.05 and Section 26.06 and failure was not in good faith. Sec. 26.05(e).

PROBLEMS WITH MARFA'S PROPOSED TAX RATE INCREASE

11. The City of Marfa has not had the two meetings required under Sec. 26.05(d). The first meeting, which attempted to comply with statutory requirements, was held on September 18, 2006. However, since the notice of this meeting was only published on September 14, 2006, the meeting was held before the seventh day after the notice and as such cannot count as a valid public hearing under Sec. 26.06(a)

12. The Notice of Public Hearing on Tax Increase published in the Big Bend Sentinel on September 7, 2006 is defective because:

a. The notice is too small. Sec. 26.06(b) states that the notice may not be smaller than one-quarter page of a standard-size or tabloid size-paper.

b. The headline is also too small. Sec. 26.06(b) says the headline must be in 24-point or larger type.

c. There are missing figures for total appraised value of new property for the preceding tax year and total taxable value of new property for the preceding tax year. The tax statutes do not allow for "N/A" or blanks.

d. There is no Page Two of the notice as required by Sec. 26.06 (F), (G), (H) and (I). This is crucial, because when the City does publish this page on September 21, 2006, one finds out that the average tax bill is going up by 32.4%

13. The Notice of Public Hearing on Tax Increase published in the Big Bend Sentinel on September 14, 2006 is defective because:

a. It calls for a meeting on September 18, 2006 which is just four days from the notice date. The statute, Sec. 26.06(a) says the hearing can be held no sooner than seven days from the date of the notice.

b. Three of the figures (those for total appraised value of all property for the preceding year and the current year and for total taxable value of all property for preceding tax year) do not match previous figures on the September 7, 2006 notice and there's no indication as to which figures are correct.

c. The percentage increase in the proposed tax rate and the adopted tax rate for the preceding year is carried at 3.88% when in the previous notice of September 7 it was carried at 8.0% and there is no indication as to which figure is correct.

d. Again there is no Page Two of the notice as required by Sec. 26.06 (F), (G), (H) and (I). As noted above this is crucial information.

14. There was no announcement made at the meeting on September 18, 2006 as to the date, time and place of the meeting at which there would be a vote on the proposed tax rate. This is required by Sec. 26.06(d).

15. There was utter failure to advertise on the local cable channel as required by Sec. 26.065(b). I called the cable company. They have previously and would now if asked, carry notices such as this for free.

16. The Notice of Public Hearing on Tax Increase published in the Big Bend Sentinel as of today, September 21, 2006, carries a figure for total taxable value of all property for the preceding year which is different from either of the two previous notices. There is no indication as to which figure is correct.

17. The September 21 notice has a second page attached. In the information on this page, one discovers that the average residence tax bill is increasing from $202.31 to $267.78 or by $65.47. As previously stated, this is a 32.4% increase in the average residence tax bill.

CONCLUSION

The process of establishing a new and increased property tax rate for Marfa for the year of 2006 - 2007 has been nothing short of a disaster. It is very deeply flawed. There are at least fifteen violations of the state Property Tax Code. Some minor, some major. Individually they may not constitute "bad faith" and it is my opinion that in totality, they do. There simply is not enough time to back up and start the process again and have it complete by September 30, 2006. If the City does not recognize its predicament and adopt a tax rate equal to the effective tax rate of .586710 then it is subject to an injunction to halt the collection of all City property taxes.