

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

APRIL 17, 2013

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, April 17, 2013 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and City Commissioners

Mayor Chris Boswell
Robert Leftwich, Mayor Pro-Tem District 2
Danny Castillo, Commissioner District 1
Basilio "Chino" Sanchez, District 4
Victor Leal, Commissioner District 5

Absent

Mike Mezmar, Commissioner District 3

Staff Present

Carlos Yerena, City Manager
Amanda C. Elizondo, City Secretary
Roxann P. Cotroneo, City Attorney
Dan Serna, Assistant, City Manager
Gabriel Gonzalez, Assistant City Manager
Elvia Trevino, Interim Finance Director

Mayor Boswell called the meeting to order; a quorum was established. A notice of the meeting had been duly posted according to state law. The following proceedings were held.

Invocation/Pastor Sonny Garcia

Pastor Sonny Garcia gave the invocation.

Pledge of Allegiance/Welcome

Mayor Boswell led the Pledge of Allegiance and welcomed everyone in attendance.

1) Public Announcement of Events

Courtney Junkin, staff member of the Convention Visitors Bureau announced the following events:

- a) Cinco De Mayo Celebration, Saturday, May 4, 2013 - Gutierrez Park from 3:00 p.m. – 8:00 p.m.;
- b) Viva la Vida 5K Run hosted by Valley AIDS Council, Saturday, May 4, 2013 - Wilson Road Sports Complex - 7:00 a.m. to 1:00 p.m.;
- c) Blues on the Hills Concert Series, May 11, 2013 - McKelvey Park - 7:00 p.m. to 11:00 p.m.;
- d) 1st Annual Harlingen/San Benito 5 Mile Bike Ride, May 2, 2013 - 6:00 p.m.

Yolanda Shoffiet, 258 Altas Palmas, stated she would be hosting a drug test on May 11, 2013 at City Hall to challenge city officials to do a drug test for a drug free city.

2) Board Recognition

Mayor Boswell presented certificates of recognition to the following individuals and expressed his appreciation on behalf of the City Commission for volunteering their services to the City of Harlingen boards and committees.

Michael Lamon – Development Corporation of Harlingen

Sgt. Major Ford Kinsley – Harlingen Proud Advisory Board
Timothy Ryan – Municipal Auditorium Advisory Board
Salvador Carmona, Jr., - Veterans Advisory Board
Minerva Simpson – Zoning Board of Adjustment

3) Presentation recognizing the volunteers from Cameron County J.J.D. and Texas J.J.D.-Tamayo Home for Boys for assisting in the Elderly Assistance Program.

Carlos Yerena, City Manager stated the above mentioned organizations were being recognized for their volunteer services to the city. They assisted with the clean-up in the Elderly Assistance Program in several areas of the city located in District 1, 2, and 4 in the months of January, February and March, 2013. Mr. Yerena thanked the City staff and volunteers for their participation.

Mayor Boswell presented certificates of recognition and thanked the members of the Tamayo House and Cameron County Juvenile Justice Department.

4) Presentation to recognize members of the Rising Leaders Group.

Mayor Boswell recognized the members of the Rising Leader Group. He stated the Harlingen Area Chamber of Commerce sponsored this program. They hosted trainings for the participants to meet with business leaders to learn about the business sectors.

Ms. Sara Trolinger, Representative of the Harlingen Chamber of Commerce stated throughout the years, students from both Harlingen High Schools and KEYS Academy, participated in a series of seminars, panel discussion and activities to become familiar with community needs, services and resources. These experiences helped to increase their awareness of current community concerns and opportunities by interacting with community leaders.

5) Presentation of Proclamations:

Mayor Boswell read and presented the following proclamations.

a) National Public Works Week – May 19-25

Mayor Boswell read and presented a proclamation to Dan Serna, Assistant City Manager and several Public Work employees proclaiming the week of May 19-25, 2013 as “National Public Works Week”.

b) Moises Vela Jr. Day

Proclaimed April 17, 2013 as “Moises Vela Jr. Day”.

Mayor Pro-Tem Leftwich requested that Citizens Communication be considered at this time for those wishing to express their first amendment right.

Mayor Boswell changed the order of the agenda and proceeded with the following item.

20) Citizen Communication

Robert Leftwich, 2326 E. Adams, spoke in regards to the lack of polling places for the forth coming city general election for the west side of the city. He stated he worked diligently to get three additional polling places for the general election. Mr. Leftwich referred to a quotation made by Mayor Boswell in the newspaper that “he had no involvement with respect to moving the election date from November to May.” He stated he had submitted documents to the U.S. Department of Justice indicating that an illegal meeting was held with no legal basis for what occurred. Last summer, Mayor Boswell placed an item on the agenda to rescind the ordinance under the authority of the City Charter. After the election was held, there were 14,000 registered voters who participated in the November Election, a total of almost 50% of the total registered voters. In the May Election approximated 10% registered voters participated. Mayor Boswell again placed the item on the December 31, 2012 agenda to rescind the ordinance.

There had never been less than ten polling places in a city wide election within the last decade. Prior to any consultation with the City Secretary five polling stations were recommended without the City Commission's consideration. It was quoted in the Valley Morning Star Newspaper by Mayor Boswell that the "Commission had voted for the five polling places and nothing was mentioned when the polling places were approved including Commissioner Leftwich." Two additional polling places were added in a subsequence meeting with no direction at the prior meeting by the City Commission to authorize the City Secretary to add the polling places. Who instructed the City Secretary to add the two additional polling places? Mayor Boswell placed two items on the agenda to avoid a higher voter turnout. Mr. Leftwich stated the civil rights of the citizens of Harlingen needed to be moved into the 21st Century.

Ron Lozano, citizen, spoke in regards to the lack of polling places on the west side; Mayor Boswell was incorrect about the citizen forums in the valley; admitted about an ill employee and had been the one to paper the suggestion; and was an Eagle Scout and believed in democracy, but yet practiced otherwise.

Gail Moore, 709 Town Lane stated she was quite aware of the Mayor's actions, taking away polling places when elderly had no access for transportation and would not be able to vote. In her opinion, the phrase "Momentum, Momentum" was a steamroller that ran over people and their rights.

6) Approval of Minutes – Regular Meeting of March 20, 2013

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Leal to approve the minutes as presented with the noted change on Page 11, line 43 to change "Mayor Pro-Tem Leal to Commissioner Leal." Motion carried unanimously.

7) Consent Agenda

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve Items (b), (c), (d), and (e) under the consent agenda.

For the record, Mayor Boswell filed a conflict of interest form in regards to Item 7 (a) with the City Secretary prior to the meeting. He relinquished his chair and excused himself from the meeting room. Mayor Pro-Tem Leftwich presided the meeting.

Motion was made by Commissioner Leal and seconded by Commissioner Castillo to approve Item 7 (a) under the consent agenda. Motion carried unanimously.

Mayor Boswell returned to the meeting room and presided the meeting.

8) Presentation of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2011-2012, By Long Chilton, LLP.

Quentin Anderson gave a presentation of the City of Harlingen's Comprehensive Annual Financial Report for 2012. The report highlighted the City's Assets, Liabilities and Net Assets- Primary Government; Revenue Comparison-Primary Government: Revenue Analysis-Governmental Activities and Business-type Activities; Expenditures Analysis-Governmental Activities; Expense Analysis-Business-type Activities; and General Fund Balance Comparison.

Discussion was held in regards to the audit and Mayor Boswell congratulated the Finance staff and Mr. Anderson and his staff for an outstanding report. The report showed that the City had a good financial year.

9) Public hearing to consider an ordinance on first reading amending the City of Harlingen Vision 2020 Comprehensive Plan, Chapter 4, Long Range Thoroughfare Plan by upgrading the designation of the locations described in the Executive Summary Form prepared by the Planning and Zoning Department.

Joel Olivo, Planning and Zoning Manager stated staff worked with Aldana Engineering on updating the Long Range Thoroughfare Plan. The city had worked on the plan for nine

months. The original Thoroughfare Plan was adopted in 2003; since then there were minor adoptions to the plan.

Mr. Aldana with Aldana Engineering gave a presentation of the new updates and recommendations made. He stated the plan included the classifications and priority of the roads around the community.

Commissioner Castillo inquired if consideration had been made for future growth around or near the new middle school due to the unfinished road on 21st Street should the need arise to extended it to Vincent Road.

Mr. Aldana responded yes, this particular road was classified as a major collector and consideration was taken into account for future expansion of the road.

Mayor Pro-Tem Leftwich stated there were concerns in regards to the new 9th Grade Academy and inquired if consideration had been given on the re-evaluation of North Commerce Street and the railroad crossing.

Mr. Aldana responded yes, the planning was based upon the travel and not the delays of traffic that traveled across the crossings of Fair Park Blvd. and Wilson Rd.

a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against this item could do so.

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

b) Consider and take action to approve and adopt an ordinance on first reading amending the City of Harlingen Vision 2020 Comprehensive Plan, Chapter 4, Long Range Thoroughfare Plan by upgrading the designation of the locations described in the Executive Summary Form prepared by the Planning and Zoning Department.

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

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Leal to adopt and approve the ordinance on first reading with corrections on 2nd reading. Motion carried unanimously.

10) Public hearing to consider an ordinance on first reading for a Specific Use Permit (“SUP”) to allow an adult business (tattoo shop) in a General Retail (“GR”) District located at 1242 Morgan Blvd., bearing a legal description of Lots 36-39, Block 1, Delmar Subdivision Unit 2. Applicant: Jamie B. Rodriguez.

Mr. Olivo stated the applicant was requesting a Specific Use Permit to allow a tattoo studio to be located at 1242 Morgan Blvd. The studio would operate from 12 noon to 12 a.m., 7 days a week. All the appropriate departments reviewed the request and had no objections. Staff recommended approval subject to complying with the following conditions: 1) must maintain the required off street parking spaces; 2) must obtain and maintain the proper State permits; and 3) comply with the requirements administered by the Planning, Building Inspection, Health, Fire Prevention and Police Departments prior to the issuance of the Certificate of Occupancy.

a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against this item could do so.

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

b) Consider and take action to approve and adopt an ordinance on first reading for the above mentioned Specific Use Permit.

Mrs. Cotroneo read the caption of the ordinance.

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

- 11) Consider and take action to accept/reject bids and award contract for Phase III of the Buchanan, Hays, and M Street Drainage Improvements Project under Bid No. 2013-05.

Javier E. Zamora, City Engineer stated this was Phase III of the Drainage Improvement Project and recommended to award the bid to GP7 Construction, lowest bidder, in the amount of \$ 399,726.10.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Sanchez to approve the contract between the City of Harlingen and GP7 Construction for Phase III of the Drainage Improvement Project. Motion carried unanimously.

- 12) Consider and take action to approve the Economic Development Corporation of Harlingen, Inc.'s Manager and Chief Executive Officer's amended employment contract increasing his annual salary.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Leal to approve the contract increase for Raudel Garza, Chief Executive Officer of the Economic Development Corporation of Harlingen, Inc. Motion carried unanimously.

- 13) Consider and take action to approve the third amendment to the Agreement between Reyna Family Development, Ltd. and the Economic Development Corporation of Harlingen, Inc.

No discussion was held on Item 13.

- 14) Consider and take action to approve and consent to the City Manager's appointment of Elvia Trevino as City of Harlingen's Finance Director.

Carlos Yerena, City Manager stated Ms. Elvia Trevino has been employed by the City for 37 years in various capacities with the Finance Department. She served as Interim Finance Director on six different occasions for a total of 36 months; Assistant Finance Director for 23 years; and Municipal Court Supervisor for 8 Years. Mr. Yerena recommended the appointment of Ms. Trevino for the position of Finance Director with a salary of \$91,519.88 with a car allowance.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the City Manager's recommendation to appoint Ms. Trevino as the City of Harlingen's Finance Director. Motion carried unanimously.

- 15) Consider and take action to affirm or rescind the March 20, 2013 approvals by the City Commission of Youth League Contracts between the City of Harlingen and Harlingen Pony Girls Softball League for the use of the fields at Arroyo Park; City of Harlingen and Harlingen Texas Bronco/Pony League for the designated fields at Victor Park; and the City of Harlingen and Harlingen American Little League for the use of designated fields at Pendleton Park and Lon C. Hill Park. Applicant City of Harlingen.

Paul Menzies, Parks and Recreation Director stated the City Commission had previously approved the above mentioned contracts at their meeting of March 20, 2013 with conditions. One of the conditions included verifying each league to determine whether or not they were current with their non-profit status and submittal of its latest IRS Form 990. At that time, three leagues had complied with the two requirements and the contracts were submitted to the City Manager's Office for signature. Harlingen Pony Girls Softball League and Harlingen American Little League have now submitted both items as required by the City and the contracts would be forwarded to the City Manager's Office for signature. Harlingen Texas Bronco League submitted an extension request to the IRS requesting six months to file their tax return. A copy of the extension was provided to the City.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Leal to affirm the contracts between the City of Harlingen and Harlingen Pony Girls Softball League and Harlingen American Little League; and exclude Harlingen Texas Bronco League until proper documents were produced with the contingency that the league provided proof of actual tax return was submitted and evaluated within 30-45 days. Motion carried unanimously.

16) Board Appointments

Commissioner Castillo

Robert Garza – Zoning Board of Adjustment (Re- appointment)

Commissioner Sanchez

Humberto Zamora – Convention & Visitors Bureau
Humberto Zamora – Downtown Improvement Board
Marry Torres – Library Advisory Board
David Gray - Municipal Advisory Board

Commissioner Leal

Carly Thomas – Harlingen Proud Advisory Board
Hector Lopez – Planning and Zoning Commission Board (Re-appointment)

Motion was made by Mayor Pro-tem Leftwich and seconded by Commissioner Castillo to approve the board appointments. Motion carried unanimously.

17) Closed/Executive Session of 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 Charles E. Lee vs. City of Harlingen, Texas, Cause No. 2010-DCL-4849 in the 103rd District Court in Cameron County, Texas and to discuss possible settlement negotiations.
- 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 lease agreement between the City of Harlingen and the Whitewings Baseball Club, LLC for the use of the baseball stadium known as Harlingen Field.

At 7:16 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 17 (a) and (b).

Motion was made by Commissioner Leal and seconded by Mayor Pro-Tem Leftwich to convene into executive session to discuss Item No. 17 (a) and (b). Motion carried unanimously.

At 7:38 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

18) Consider and take possible action to enter into legal settlement negotiations regarding Charles E. Lee vs. City of Harlingen, Texas, Cause No. 2010-DCL-4849 in the 103rd District Court in Cameron County, Texas.

There was no action on Item No. 18.

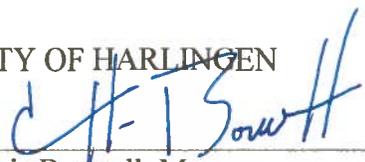
19) Consider and take action to approve a new lease agreement between the City of Harlingen and Harlingen Professional Baseball Club, LLC also known as Whitewings Baseball Club, LLC for the use of the baseball stadium known as the Harlingen Field.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Sanchez to approve the new lease agreement between the City of Harlingen and Whitewings Baseball Club, LLC with the change related to the city's daily use of the park and to establish a utility cost for the park to be paid to the Whitewings Organization by all non-Whitewings

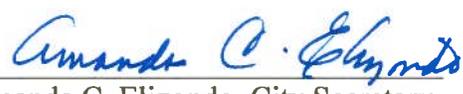
related organizations for use of the facility; and minor technical wording changes that staff recommended. Motion carried unanimously.

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

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Amanda C. Elizondo, City Secretary