

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

FEBRUARY 20, 2013

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, February 20, 2013 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Danny Castillo, Commissioner District 1
Mike Mezmar, Commissioner District 3
Basilio "Chino" Sanchez, Commissioner 4
Victor Leal, Commissioner District 5

Absent

Mayor Chris Boswell
Robert Leftwich, Mayor Pro-Tem District 2

Staff Present:

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

In absence of Mayor Chris Boswell and Mayor Pro-Tem Robert Leftwich a motion was made by Commissioner Mezmar and seconded by Commissioner Leal to appoint Commissioner Danny Castillo as presiding officer to preside the meeting. Motion carried unanimously.

Commissioner Castillo called the meeting to order; a quorum was established. A notice of the meeting was duly posted according to State law. The following proceedings were held.

Invocation/ Pastor Mark Molina

Pastor Mark Molina gave the Invocation.

Pledge of Allegiance/Welcome

Commissioner Castillo led the Pledge of Allegiance and welcomed everyone in attendance.

1) Public Announcement of Events

- a) Dolores Watts, Salvation Army Captain invited the Commission and public to attend the "Salvation Army's 85th Anniversary Celebration" scheduled for February 23, 2013 at Gutierrez Park from 11:00 a.m.- 1:00 p.m. Hot dogs, chips, and cake would be served and the Harlingen Consolidated Independent School District and Salvation Army Childrens Home of Matamoros would provide the entertainment.
- b) Pastor Mark Molina invited the City Commission and public to attend the "2nd Annual Mayoral Prayer Breakfast" scheduled for Thursday, March 7, 2013 from 7:00 a.m. to 8:30 a.m. at the Harlingen Community Center. The event was free to the public. St. Anthony's Church Choir and both of the Harlingen High School Choirs and R.O.T.C. members would perform at the event. Keynote speaker would be Joe Perez.
- c) Commissioner Mezmar announced the 3rd Rotary Club of Harlingen and San Benito would host the "19th Annual Shrimp Festival" at Casa De Amistad, Thursday,

February 21, 2013 at 6:00 p.m. A silent and live auction would take place at the event to raise money for various projects and organizations of both communities.

2) Board Recognition

Commissioner Mezmar presented certificate of recognition and expressed his appreciation to them for volunteering their services to the City of Harlingen

Ashley Barker – Parks Advisory Board
Ruthie Ewers - Senior Citizens Advisory Board

3) Approval of Minutes

- a) Special Meeting – August 27, 2012
- b) Special Meeting – December 31, 2012

Motion was made Commissioner Mezmar and seconded by Commissioner Leal to approve the minutes with one change on the December 31, 2012 Special Meeting – to read “A. J. Rosales” instead of “Abel Rosales”. Motion carried unanimously.

CONSENT AGENDA

- 4a) Consider and take action to approve a request from Ashley Barker with the Junior League of Harlingen to close a portion of Fair Park Boulevard on Saturday, March 2, 2013 from 5:30 a.m. to 12:30 p.m. for the City co-sponsored KIDFIT Event.

- b) City of Harlingen Investment Report for the quarter ended December 31, 2012.

Motion was made by Commissioner Leal and second by Commissioner Mezmar to approve the items under the consent agenda. Motion carried unanimously.

- 5) Consider and take action to approve the Municipal Maintenance Agreement with the Texas Department of Transportation (TXDOT) for maintenance of the non- controlled and controlled access highways.

Javier M. Zamora, City Engineer recommended approval to renew the Municipal Maintenance Agreement with Texas Department of Transportation that expired in 2009. The Agreement outlined the State and City’s responsibilities for non-controlled access highways and controlled access highways.

Motion was made by Commissioner Mezmar and seconded by Commissioner Leal to approve the Municipal Maintenance Agreement between the City of Harlingen and Texas Department of Transportation. Motion carried unanimously.

- 6) Consider and take action to approve and adopt a resolution supporting the Municipal Maintenance Agreement between the Texas Department of Transportation (TXDOT) and the City of Harlingen.

Mr. Zamora stated as per the terms of the Municipal Maintenance Agreement between TXDOT and the City of Harlingen a resolution was required to provide support of the agreement. Staff recommended approval of the resolution.

Motion was made by Commissioners Leal and seconded by Commissioner Mezmar to approve and adopt the resolution. Motion carried unanimously.

- 7) Consider and take action to authorize the City Engineer to negotiate/award contracts for RFQ 2012-11 Geotechnical and Construction Materials Testing Services with the top three qualified firms.

Mr. Zamora stated the City Commission had previously tabled the item to allow the staff to review the submittal of the CIQ forms of each of the testing firms. Staff’s recommendation was the same as before for the testing firms for a two-year agreement.

Motion was made by Commissioner Mezmar and seconded by Commissioner Leal to approve the contracts. Motion carried unanimously.

- 8) Consider and take action to grant a variance to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.6 (A) and (B) with regards to the 5 ft. sidewalk required on Expressway 77 Frontage Road and "T" Street on the proposed Grocer's Supply Subdivision, bearing a legal description of 4.6 acres of land out Lot 1, Block1, Gorges/Quick to Fix Foods Subdivision located on the east side of Expressway 77 north of Teege Road. Applicant: Jim Arnold.

Carlos Yerena, City Manager stated the variance was denied by the Planning and Zoning Commission. It would require a 4/5 vote by the City Commission. Staff recommended to pass this item.

Motion was made by Commissioner Leal and seconded by Commissioner Mezmar to pass Item No. 8. Motion carried unanimously.

- 9) Public Hearing to consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow a bar/lounge in a General ("GR") District located at 830 Morgan Boulevard bearing a legal description of Lots 21-26, Rio land Subdivision. Applicant: Elmer Capuchines.

Joel Olivo, Planning and Zoning Manager stated the applicant was requesting a Specific Use Permit to allow a bar/lounge out of an existing 3,080 sq. ft. building located on the Eastside of Morgan Boulevard. The appropriate City Departments reviewed the request. The Police Department provided a report consisting of 110 calls on within a 2-year period. The Planning and Zoning Commission conducted public hearings and one of the concerns was the noise level due to the opening of the establishment doors during hours of operation. The Planning and Zoning recommended another door at the entrance of the bar to minimize the noise levels while the patrons were entering and exiting the establishment. Staff recommended approval of the SUP for one (1) year subject to maintaining the required solid fence in the rear of the property; required off-street parking; provide a licensed security guard during peak hours of operation; a 30-day retention of the video surveillance and proper permits.

Commissioner Castillo announced this was a public hearing and anyone wishing to speak for or against the item could do so.

There being no comments; Commissioner Castillo declared the public hearing closed.

Richard Bilbie, Assistant City Attorney read the caption of the ordinance.

Motion was made by Commissioner Mezmar and seconded by Commissioner Leal to approve the ordinance on first reading. Motion carried unanimously.

- 10) Public Hearing to consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow a bar/lounge in a General Retail "GR" District located at 407 W. Harrison Avenue bearing a legal description of Lots 8-9, Harlingen Original Townsite. Applicant: Joy Pacheco.

Mr. Olivo stated the applicant was requesting to operate a bar/lounge out of an existing 1,400 sq. ft. building at 407 W. Harrison Avenue. The appropriate City departments reviewed the request and had no objections. The Police Department provided a report consisting of thirteen calls from this establishment. The Planning and Zoning Commission conducted the public hearing and no objections were received. The Planning and Zoning Department along with the staff was recommending approval of the request subjected to limiting the permit to one year; obtaining and maintaining the proper state permits; providing sufficient lighting around the building; providing security guard during peak hours of operation; and maintaining proper permits and adherence to city regulations.

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

There being no comments; Commissioner Castillo declared the public hearing closed.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Leal and seconded by Commissioner Sanchez to approve and adopt the ordinance on first reading subject to incorporating the changes as discussed in the ordinance by the second and final reading. Motion carried unanimously.

- 11) Consider and take action to approve and adopt a request from Rafael Martinez for a Certificate of Public Necessity and Convenience to operate a Taxicab Business under the proposed name "All-Star Taxi" in the City of Harlingen as per the City of Harlingen Taxicab Ordinance.

Motion was made by Commissioner Leal and seconded by Commissioner Mezmar to table Item No. 11. Motion carried unanimously.

- 12) Consider and take action to approve and adopt a resolution of the City of Harlingen, Texas to amend Resolution No. R13-27 of the City of Harlingen to designate one (1) additional polling place for District 2 and one (1) additional polling place for District 4 to meet demands and density needs of the voting population in District 2 and 4 for the City General Election to be held Saturday, May 11, 2013; and ordaining other matters related to the forgoing.

Amanda C. Elizondo, City Secretary stated the resolution would allow two additional polling places. Staff did not have the authority to create the polling places. Polling places were designated by the City Commission. The additional polling places for Districts 2 and 4 were necessary due to the central location of the districts within the city. The voting precincts were not split. Most of the population density was located in these areas. The school district had approved a resolution for the two additional polling places on February 12, 2013.

Motion was made by Commissioner Mezmar and seconded by Commissioner Sanchez to approve and adopt the resolution as presented. Motion carried unanimously

- 13) Consider and take action to approve an Inter-Local Agreement between the Harlingen Consolidated Independent School District and the City of Harlingen to share polling places, equipment and election personnel.

Ms. Elizondo stated the City Commission had previously approved a similar contract for past joint elections with the Harlingen Consolidated Independent School District. The City and School would share the cost for election personnel, programming and leasing of the voting equipment on Election Day.

Motion was made by Commissioner Leal and seconded by Commissioner Mezmar to approve the Inter-Local Agreement between the City of Harlingen and the Harlingen Consolidated Independent School District. Motion carried unanimously.

- 14) Consider and take action to approve the City Manager's recommendation on the appointment of part-time presiding municipal court judges.

Carlos Vela, Harlingen Municipal Court Judge stated originally there had been four part-time municipal judges assisting one full-time judge. Due to the loss of two part-time judges he was left with two part-time judges. The two judges that were available were practicing attorneys. Each judge was available seven days each leaving fourteen days without a judge to handle the magistrate and arraignment duties. Mr. Vela recommended returning to the four judge format, which allowed for a greater lead way in handling court matters in a timely manner in case an emergency occurred. Thirteen applicants applied for the positions, two applicants slowed down their practice and would be readily available to handle any of the emergencies. He recommended Arturo Saenz and Albert Garcia for the part-time contracts. Both had practiced as criminal attorneys. Mr. Garcia was a part-time municipal court judge for the City of Harlingen in the past. Mr. Saenz was a City of Harlingen Police Officer before he attended law school. Both would attend additional training sessions and the only thing that would be paid by the city was

the traveled mileage. Both individuals would be available to do search or arrest warrants if needed by the Police Department after hours.

Motion was made by Commissioner Mezmar and seconded by Commissioner Leal to approve the City Manager's recommendation to appoint Arturo Saenz and Albert Garcia as part-time judges for the Harlingen Municipal Court. Motion carried unanimously.

15) Board Appointments

Commissioner Leal

Norma Castillo – Senior Citizens Advisory Board (Re-appointment)
Carlos Cortez – Golf Course Advisory Board
Tim Ryan – Municipal Auditorium Advisory Board

Commissioner Sanchez

David H. Croasmun – Senior Citizens Advisory Board
Gloria Miranda – Senior Citizens Advisory Board

Commissioner Mezmar

Michael Allex – Construction Board of Adjustment (Re-appointment)
Steve Aune – Downtown Improvement District Board.

Motion was made by Commissioner Leal and seconded by Commissioner Sanchez to approve the board appointments. Motion carried unanimously.

16) 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 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 and the amount of debt owed by the Whitewings to the City.

No discussion was held on Item 16 (a).

b) pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code, Section 551.071, consultation with outside legal counsel regarding contract with the City Attorney.

At 6:14 p.m., Commissioner Castillo announced the City Commission would convene into executive session to discuss Item No. 16 (b).

Motion was made by Commissioner Leal and seconded by Commissioner Mezmar to convene into executive session to discuss Item No. 16 (b). Motion carried unanimously.

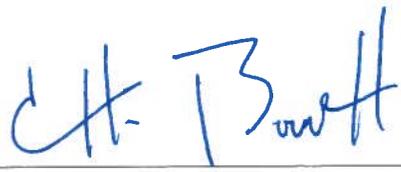
At 6:54 p.m., Commission Castillo announced the City Commission had completed its executive session and declared the meeting open to the public.

17) Citizen Communication

Buck Bickley 125 Arcadia Drive made some comments regarding the Economic Development Corporation (EDC) of Harlingen, Inc. and concluded by stating that who was evaluating the EDC.

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

Regular Mtg
2/20/2013



Chris Boswell, Mayor

ATTEST:



Amanda C. Elizondo, City Secretary