

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

MARCH 20, 2013

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

Mayor and Commissioners

Mayor Chris Boswell
Robert Leftwich, Mayor Pro-Tem District 2
Danny Castillo, Commissioner District 1
Mike Mezmar, Commissioner District 3
Basilio "Chino" Sanchez, Commissioner District 4
Victor Leal, Commissioner District 5

Staff Present

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

Mayor Boswell 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/ Mayor Chris Boswell

Mayor Boswell gave the Invocation

Pledge of Allegiance/Welcome

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

1) Public Announcement of Events

Paul Menzies, Parks and Recreation Director announced the following events:

- a) Easter Egg Drop hosted by the City of Harlingen and Valley Praise, Saturday, March 23, 2013, Softball Complex, Wilson Road;
- b) Legends of Rock Private Concert sponsored by Joe Garza at Lon C. Hill Park, Saturday, April 13, 2013;
- c) 2nd Annual Cinco De Mayo Celebration, Gutierrez Park, Saturday, May 4, 2013;
- d) Blues on the Hills Concert Series would continue through out the summer months at Mckelvey and Fair Park. Leading bands, Dallas Cowboys Tour, and a firework display on July 4th Celebration. Further details of these events would be announced at future meetings.

- a) Presentation by Omar I. Rodriguez, Manager of Communication and Advocacy Food Bank of the Rio Grande Valley on the Fight Hunger and Feed Hope Program.

Terri Drefke, Chief Executive Officer of the RGV Food Bank stated their newly renovated facility was the 5th largest in Texas and RGV food Bank ranked 29th out of 200 facilities in the state. They served 230 partner agencies in three southern Texas counties. The food bank served nine partner agencies in Harlingen and served close to 6,000 clients per month. Deliveries were made to the agencies twice weekly depending on the requests. Their challenge was to reach out to diversify their resources in seeking financial assistance. She asked that the City Commission consider their request in the incoming budget years.

Omar I. Rodriguez, Manager of Communication and Advocacy stated his job was to speak for those that could not speak for themselves. He traveled to Austin and Washington D.C. to lobby for support for safety net programs including WIC and SNAP. Due to all the government cuts around the country they were trying to find ways to make sure the food bank could meet the needs now and in the future should natural disasters occur for the people of Harlingen and the Valley.

2) Proclamation – Proclaiming the Month of March as “ Red Cross Month”

Mayor Boswell read and presented a Proclamation to representatives of the American Red Cross proclaiming the month of March as “Red Cross Month”.

3) Approval of Minutes

- a) Regular Meeting of February 6, 2013
- b) Regular Meeting of February 20, 2013

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Leal to approve the minutes as presented. Motion carried unanimously.

4) CONSENT AGENDA

- a) Consider and take action to approve a request from the City of Harlingen to close W. Van Buren Avenue from S. “D” Street on Saturday, May 4, 2013 from 12 noon to 9:00 p.m. for an upcoming “Cinco de Mayo Festival.”
- b) Consider and take action to approve a request from Rev. Msgr. Luis Javier Garcia with the Immaculate Heart of Mary Catholic Church to close “C” Street, between Tyler Avenue and the alleyway before Polk Avenue on Good Friday, March 29, 2013 from 12 noon to 5:00 p.m. for their Annual Play of “The Passion of Christ.”

Motion was made by Commissioner Leal and seconded by Mayor Pro-Tem Leftwich to approve the items under the consent agenda.

5) Public hearing to consider an ordinance on first reading for a request to rezone from Not Designated (N) District to General Retail (GR) District for 4.20 acres out of 6.20 acres of Lot C, Block 190 and 1.824 acres out of 6.20 acres of Block 190, Tract 3, San Benito Land & Water Company located at 29115 South Ed Carey Drive.

Joel Olivo, Planning and Zoning Manager stated the property owner was requesting to rezone the subject property from Non Designated District to a General Retail District to allow for construction of an office building on the existing business. Currently, the business operated as a farm sales facility. The surrounding properties were zoned Not Designated, General Retail and Residential Single Family. The surrounding land uses consisted of commercial and single family homes. Harlingen’s Vision 2020 Comprehensive Plan showed the area as General Retail. The request was consistent with the Future Land Use Plan. The Planning and Zoning Commission received no objections and staff recommended approval of the request.

a) Public Hearing

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

Gail Moore, 709 Town Lane stated this project would be to the racetrack.

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

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

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

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

- 6) Public hearing to consider an ordinance on first reading to rezone from Not Designated (N) District to Residential, Mobile Home (MH) District for Lot 254, Palm Vista Estates Unit 5, located at 15824 Date Drive.

Mr. Olivo stated the owner was requesting to rezone the property from Not Designated to Residential, Mobile Home District to construct a carport on the property. The property was part of the Palm Vista Estates. As per the City's Vision 2020 Comprehensive Plan it indicated that this area would be high density residential. The Planning and Zoning Commission conducted a public hearing and no objections were received. Staff recommended approval of the request.

- a) Public Hearing

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

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

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

Ms. Cotroneo read the caption of the ordinance.

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

Mayor Pro-Tem Leftwich inquired if this request should have been addressed before the Zoning Board of Adjustment.

Mr. Olivo responded the applicant was not requesting a variance. The applicant complied with the setbacks requirements since the property was not zoned until the applicant got a building permit.

Motion carried unanimously.

- 7) Public hearing to consider an ordinance on first reading on an amendment to the City Of Harlingen Manufactured Home Ordinance, Section 19.47 to allow an accessory structure on a recreational vehicle lot.

Mr. Olivo stated the applicant was requesting an amendment to the City's Mobile Home Ordinance to allow a recreational vehicle on the lot for a period of three (3) months in a calendar year. If the ordinance was approved, the ordinance would be applicable to any applicant proposing to add an accessory building on a recreational vehicle lot in the City of Harlingen. Staff recommended approval of the ordinance.

- a) Public Hearing

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

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

- b) Consider and take action to approve and adopt an ordinance on first reading amending the City of Harlingen Home Ordinance, Section 19.47.

Ms. Cotroneo read the caption of the ordinance.

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

- 8) Public hearing to consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow an adult business (electronic cigarette store) in a General Retail ("GR") District located at 1106 South 77 Sunshine Strip, bearing a legal description of Lot 1, Block 1, Gallagher's Subdivision.

Mr. Olivo stated the applicant was requesting a specific use permit to operate an electronic store out of an approximate 972 sq. ft. suite shopping area located at 1106 S. 77 Sunshine Strip. Staff had reviewed the request and had no objections. The Planning and Zoning Commission along with the staff recommended approval of the request subject to staff recommendations.

Commissioner Castillo stated for purposes of clarification, the establishment would strictly sell accessories for electric cigarettes devices.

- a) Public Hearing

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

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

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

Ms. Cotroneo 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.

- 9) 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 of Lot 1, Block 1, Gorges/Quick-To-Fix Foods Subdivision located on the east side of the Expressway 77 north of Teege Road.

Mr. Olivo stated the applicant was requesting a variance to the 5ft. sidewalk that was required along Expressway 77 Frontage Road for a proposed one-lot subdivision used for a warehouse distribution center. There were no sidewalks located along the frontage road and the surrounding area was developed as industrial use. Staff recommended approval of the variance to construct the sidewalk to be located on the frontage road.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Leal to approve the variance request. Motion carried unanimously.

- 10) Consider and take action to approve the preliminary ranking of the Planning Consulting Firms for the Professional Consulting Planning Services for a new Comprehensive Plan and authorize staff to negotiate a contract with the highest ranking firm.

Ken Clark, Planning and Development Director stated staff received four (4) responses to the Request for Qualifications for the City's Comprehensive Plan. Staff along with the Comprehensive Plan Advisory Committee members heard the presentations from all four consultants. The committee consisted of Jesse Robles, Tre Peacock, Jerry Prepejchal, Lupita Gutierrez-Garza, Connie Salas, and Kevin Campbell. They evaluated and rated each of the responses in accordance with the rating criteria provided to each firm. Staff and the committee members recommended authorizing staff to enter into negotiations with Halff & Associates to prepare the comprehensive plan. If a successful plan was not submitted, staff was recommending moving forward with the second firm. He highlighted the criteria that was used to select a firm base on their experience of their staff that would take part on the project, preparation of a plan for other municipalities similar to the City of Harlingen; knowledge of the rules and regulations of state laws pertaining to the preparation of comprehensive plans; and meetings with committee members before the presentations were held to explain the process in the selection of a firm.

Motion was made by Commissioner Castillo and seconded by Mayor Pro-Tem Leftwich to authorize staff to enter into negotiations with Halff & Associates to prepare the City of Harlingen's Comprehensive Plan.

Mayor Pro Tem Leftwich asked about the time frame to complete the plan.

Mr. Clark responded it would take approximately 9 to 12 months.

Mayor Boswell stated this was an important project to guide the staff in preparing for the City's future development. He thanked everyone who participated in this project. Motion carried unanimously.

- 11) Consider and take action to approve the 2011 Grant Adjustment Notice from the Governor's Division of Emergency Management for the State Homeland Security Grant Program - September 1, 2011 to August 31, 2013 performance period.

Michael Rinaldi, Fire Chief stated the City of Harlingen's Fire Department spent \$17,723.24 of the \$17,724.41 awarded by the Governor's Division of Emergency Management Security Grant Program for purchase on HAZ-MAT equipment. 56 cents remained unspent and would be obligated by DPS as uncommitted/unexpended funds. Staff recommended the approval of the 2011 Homeland Security Grant Adjustment Notice in the amount of \$17,723.85.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the item. Motion carried unanimously.

- 12) Consider and take action to approve the renewal for the 2013 season of a contract between the City of Harlingen and Harlingen National Bronco Baseball League for the use of the ball fields at the Tom Wilson Youth Sports Park at the Sports Complex on Wilson Road.

Paul Menzies, Parks and Recreation Director, stated Item No's. 12 through 17 were related to the renewal of existing use-lease contracts between non-profit youth leagues and the City for various public sites.

Mayor Pro-Tem Leftwich stated that it seemed like there were pending issues with some of the leagues regarding the integrity of some directors. The leagues needed to make sure that they submitted the 501 (c) (3) form and that they are up to date. This would benefit the kids and not make money off the youth organizations for themselves. He said a full commitment through due diligence efforts on behalf of each league to submit the appropriate certificates claiming their non-profit status. He recommended instituting stricter oversight of the boards that control the non-profit sport leagues. The City would have to have more diligence when dealing with the upright organizations and holding them accountable in making sure they did not take advantage of the citizens.

Mr. Menzies stated audit reports from the organizations would be submitted to the City Commission for their review before the next year.

Mayor Pro-Tem Leftwich stated the organizations were required to submit the 501 (c) (3) Form to show accountability before the contract was approved.

Commissioner Mezmar questioned if the embezzlement allegations had been reported to the police department.

Mayor Pro-Tem Leftwich stated the investigation is ongoing.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the contract agreement between the City of Harlingen and Harlingen National Bronco Baseball League with the amended motion to include the most recent applicable 9-90 IRS Form and Certificate of Good Standing from the Comptroller's Office. Motion carried unanimously.

- 13) Consider and take action to approve the renewal for the 2013 season of a contract between the City of Harlingen and Harlingen American Little League for the use of designated fields at Pendleton Park and Lon C. Hill Park

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the contract between the City of Harlingen and Harlingen Little League Baseball with the same contingencies stated in Item No. 12. Motion carried unanimously.

- 14) Consider and take action to approve the renewal for the 2013 season of a contract between the City of Harlingen and Harlingen Pony Girls Softball League for the use of the fields at Arroyo Park.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Leftwich to approve the contract between the City of Harlingen and Harlingen Pony Girls Softball League with the same contingencies stated in Item No. 12. Motion carried unanimously.

- 15) Consider and take action to approve the renewal of a contract between the City of Harlingen and the Harlingen Texas Bronco/Pony League for the use of designated fields at Victor Park for the 2013 season.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Mezmar to approve the contract between the City of Harlingen and Harlingen Texas Bronco/ Pony League upon validation of the submission of 501(c) (3) form to staff and with the same contingencies stated in Item No. 12. Motion carried unanimously.

- 16) Consider and take action to approve the renewal for the 2013 season of a contract between the City of Harlingen and Arroyo Youth Soccer Club for the use of the Harlingen Soccer Complex.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the contract between the City of Harlingen and Arroyo Soccer Club with the same contingencies stated in Item No. 12. Motion carried unanimously.

- 17) Consider and take action to approve a request for the renewal of a Facilities Use Agreement between the City of Harlingen and Texas Youth Football Association (TYFA) Harlingen Hawks for the use of the soccer fields at the Sports Complex on Wilson Road.

Elizabeth Kellogg, President of the TYFA stated their organization was present for the renewal of the contract for the use of the practice field only; no games were played on the fields. The organization was not associated with the school district. The organization had submitted bank statements and a 9-90 Form to the staff proclaiming them as a non-profit organization.

Motion was made by Commissioner Sanchez and seconded by Commissioner Castillo to approve the Facilities Usage Agreement between the City of Harlingen and Texas Youth Football Association. Motion carried unanimously.

- 18) Consider and take action to allow the City Manager to enter into an agreement with Cameron County and H2O Partners for the development of the Hazard Mitigation Action Plan Update.

Javier M. Zamora, City Engineer stated the purpose of hazard mitigation was to reduce or eliminate the risk of life or property hazards caused by hurricanes, floods, tornados, wild fires, droughts, hailstorms, severe winter storms and earthquakes. In 2008, the City of Harlingen adopted a Regional Hazard Mitigation Plan that was scheduled to expire in September 2013. By having a FEMA approved Mitigation Plan, the City would remain eligible to receive funds from the program. In 2012, the Department of Public Safety made the funds available to apply for grants program consisting of a 75/25 cost share. The City and Cameron County selected H2O Partners as the firm to develop the Hazard Mitigation Action Plan at a project cost of \$43,750. The City's share of the cost would be \$1,250. He recommended approval of the agreement.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the contract agreement between the City of Harlingen and Cameron County and H2O Partners subject to the City Attorney's review and approval. Motion carried unanimously.

19) Consideration and possible action to amend Ordinance No.10-40 regarding mobile food vendors.

Ramiro Gonzalez, Health Director, stated the proposed amended ordinance would allow mobile food vendors to operate within the City's general retail zone. Two types of mobile units would operate around the City. Cold trucks would sell pre-packaged food items and hot trucks would sell prepared food items. All food trucks would report to a commissary for restocking, cleaning and discharge of its wastewater. No food vendors would be allowed to operate on city streets during festivals, special events, and City sponsored events-provided that the street closures were approved by the City Commission. He recommended approval of the amended ordinance.

Carlos Yerena, City Manager stated the word "guidance" under Section C of the amended ordinance needed to be changed to "requirements".

Commissioner Leal pointed out a change also needed to be made under Section C, Item No. 9. The word "neighbors" should be changed to "neighborhoods".

Commissioner Mezmar questioned if the sale of whole/fresh produce were included in the proposed amended ordinance?

Mr. Gonzalez responded that the Health Department did not regulate whole fresh produce that was not sliced and placed in to containers or cups for resale.

Commissioner Castillo questioned the determination of the 300 ft. distance from an existing restaurant.

Mr. Gonzalez responded it was from the property line.

Mayor Pro-Tem Leftwich questioned if stationary snow cone stands were required to have their own electric and water meters?

Mr. Gonzalez stated the ordinance was amended 3 ½ years ago to require them to have water and wastewater for disposal. Other requirement included restroom facilities for employees.

Ms. Cotroneo read the caption of the ordinance.

Motion was made by Commissioner Castillo and seconded by Commissioner Mezmar to adopt the ordinance on first reading with the various proposed changes to be incorporated in the seconded reading. Motion carried unanimously.

20) Discussion and possible action of entering into a lease purchase agreement for the City of Harlingen's P-25 radio migration to provide for an update of the existing radio system at the dispatch center from analog to an 800 MHz Digital.

Michael Rinaldi, Fire Chief recommended the 10-year lease agreement to make the least impact on the city budget. The first year payment would be deferred and the Harlingen Police Department Seizure Funds would pay the second year's payment. The annual cost was \$1,483,892.00.

Discussion was held in regarding to the appropriation of funds, the installation and aspects of the equipment and the schedule time to convert the system from analog to an 800 MHz digital system.

Tom Whitten, Police Chief stated there was approximately \$300,000 in the confiscated funds.

Mayor Pro-Tem Leftwich stated that at some point the City would be expected to meet the digital requirements.

Chief Rinaldi stated the Motorola P25 System would allow the city's first responders to also communicate from agency to agency across the Country.

Mayor Pro-Tem Leftwich stated this was a public safety enhancement for the community.

Mr. Yerena stated part of the delay in seeking a contract was due staff trying to obtain grants from federal agencies.

Mayor Pro-Tem Leftwich asked if it would be possible to make future payments from other grant funding opportunities.

Chief Rinaldi stated they were always looking for grants. FEMA informed them that they would be reducing next year's numbers by a big amount. The City would own the system after all the payments were made. Motorola would provide future upgrades to the system. All the cities within the three county areas with the exception of two were on a Motorola System. The reason the item was placed on the agenda at the last minute was to take advantages of the cost savings estimated at \$410,000.

Commissioner Leal questioned if the Motorola Company would allow 2 weeks for the Commission and Staff to review the agreement.

Motorola representative stated the document was in place for many months. Many discounts and savings had already been in place to meet the March 30, 2013 deadline. He reiterated there would be discount losses if a decision on the agreement were not met.

Commissioner Castillo questioned if the Migration Program would inhibit the department in the continuation of inscription levels.

Chief Rinaldi stated he believed the inscription process was included in the Harlingen Police Department Programming.

Motorola representative stated it would clearly establish the AES inscription level for the dispatch center.

Mayor Boswell recommended scheduling this item for a special meeting in order to allow for them to review the documentation.

Motion was made by Commissioner Leal and seconded by Commissioner Castillo to table Item No. 20 for the March 27, 2013 Special Meeting. Motion carried unanimously.

21) Board Appointments

Mayor Boswell

Sal Carmona – Veteran Advisory Board

Commissioner Mezmar

Lupita Gutierrez-Garza – Economic Development Corporation

Commissioner Leal

Pablo Bazan – Veterans Advisory Board (Re-appointment)

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

22) Closed/ Executive Session 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.

At 7:12 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 22.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Leftwich to convene into executive session to discuss Item No. 22. Motion carried unanimously.

At 7:25 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

- 23) Consider and take action to approve a new agreement or amendments to the existing agreement between the City of Harlingen and Whitewings Baseball Club, LLC for the use of the baseball stadium known as Harlingen Field.

No action was taken on Item No. 23.

- 24) Citizen Communication

Buck Brickley, 125 Arcadia Drive stated he had requested an audit/evaluation of the Comprehensive Plan in regards to the Economic Development Corporation of Harlingen, Inc. He had calculated the numbers in regards to Bass Pro Shop (BPS) and felt there were some bad judgments and decisions made. He had collected data from the newspaper that reported a loan of \$32 million at 5.89% interest rate which meant the gross sales of BPS would have to be \$53 million per year to cover the 3 ½%. The decision making process was terrible. His purpose was to gather historic data so this would not happen again. BPS needed to make \$47 million or more in gross sales tax to cover the short coming. Mr. Brickley asked if there was someone he could speak to about this matter and would be willing to listen.

For the record, Gail Moore relinquished her time to Mr. Brickley

There being no further business to discuss the meeting adjourned at 7:31 p.m.

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Amanda C. Elizondo, City Secretary