

REGULAR MEETING

CITY COMMISSON

HARLINGEN, TEXAS

JUNE 19, 2013

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, June 19, 2013 in Town Hall, City Hall, 118 E. Tyler Street, Harlingen Texas. Those in attendance were:

Mayor and City Commissioners

Mayor Chris Boswell
Danny Castillo, Mayor Pro-Tem, District 1
Tudor Uhlhorn, Commissioner District 2
Michael Mezmar, Commissioner District 3
Basilio Sanchez, Commissioner, District 4
Victor Leal, Commissioner District 5

Staff Present

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

Absent

Richard Bilbie, Interim City Attorney

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

Eduardo Figueroa, Convention Visitors Bureau Director announced the following events:

- a) A Day at the Park, Lon. C. Hill Park, Thursday, June 27, 2013 hosted by United Way of Northern Cameron County, 8:00 a.m. – 2:00 p.m.; and
- b) Youth & Adult Table Tennis Tournament, Harlingen Community Center, Saturday June 29, 2013, 8:00 a.m. – 5:00 p.m.; and
- c) City of Harlingen Freedom Festival, Lon C. Hill Park, Thursday, July 4th & Friday, July 5th, 2013, 5:00 p.m. - 11:00 p.m.

2) Proclamation – proclaiming the Months of June and July as “Fire Fighter/MDA Months.”

Mayor Boswell read and presented the proclamation to the following individuals.

Jennifer Molina, Area Director of the Muscular Dystrophy Association of the Rio Grande Valley and several Harlingen fire fighters were present to receive the proclamation.

3) Neighborhood Clean Sweep, conducted on June 8, 2013 - W. Beck Street to W. Matz Street from 1st Street to Breedlove, District 1.

Carlos Yerena, City Manager reported on the Neighborhood Clean Sweep Program and stated 2.10 tons of debris and 74 tires were collected. The next clean-up was scheduled for July 6, 2013 from East Van Buren to East Jefferson to Hwy 77 to 21st Street, District 2. He also mentioned that staff had executed an agreement with the Tire Recycling Plant to recycle the tires.

Mayor Boswell presented certificates of recognition to the President of Tamayo House to give to the volunteers for their assistance in the Neighborhood Clean Sweep Program.

4) Approval of Minutes

- a) Regular Meeting of May 1, 2013
- b) Special Meeting of May 16, 2013

Motion was made by Commissioner Leal and seconded by Commissioner Sanchez to accept the minutes as presented with a correction to the May 1st meeting - Page 7, Line 29 from Martin to Maru. Motion carried unanimously.

5) CONSENT AGENDA

- a) Second and final reading to approve and adopt an ordinance to repeal Section 32.006 "Certain Board Meeting Times" of the Harlingen Code of Ordinances.
- b) Consider and take action to approve an amendment to the City of Harlingen Comprehensive Fireworks Ordinance No. 09-31, Section III, Sub-Section 1 by amending the location where a portable building may be used to sell fireworks with an approved specific use permit from 24218 FM 3195 to 24206 FM 3195, Stuart Place Road.

ORDINANCE NO. 13-19

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS REPEALING SECTION 32.006, "CERTAIN BOARD MEETING TIMES" OF CHAPTER 32 OF THE HARLINGEN CITY CODE, AS AMENDED; TO ALLOW FOR GREATER PARTICIPATION BY THE PUBLIC AND BOARD MEMBER VOLUNTEERS BY HAVING FLEXIBLE MEETING TIMES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

ORDINANCE NO. 13-20

AN ORDINANCE AMENDING THE COMPREHENSIVE FIREWORKS ORDINANCE OF THE CITY OF HARLINGEN (NO. 09-31) SECTION III, SUBSECTION 1, BY AMENDING THE LOCATION WHERE A PORTABLE BUILDING MAY BE USED TO SELL FIREWORKS WITH AN APPROVED SPECIFIC USE PERMIT, FROM 24218 FM 3195, STUART PLACE ROAD TO 24206 FM 3195, STUART PLACE ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 5th day of June, 2013.

PASSED AND APPROVED on second and final reading this the 19th day of June 2013.

CITY OF HARLINGEN
/s/ Chris Boswell, Mayor

ATTEST: /s/ Amanda C. Elizondo, City Secretary

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

- 6) Consider and take action to approve a resolution by the Board of Directors of the Harlingen Waterworks System to increase the General Manager's salary to \$150,000.00 per year to be effective on the date of approval of the resolution by the City Commission.

Motion was made by Commissioner Sanchez and seconded by Commissioner Uhlhorn to approve the resolution. Motion carried unanimously.

Mayors Boswell thanked the Harlingen Waterworks Board members for supporting the resolution and the work they did for the Harlingen citizens.

Mayor Boswell recognized Chris Villarreal, out-going board member for his services to the Harlingen Waterworks Board.

- 7) Public Hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to residential, Multi Family ("M-2") District for 11.199± acres of Block 143, Harlingen Land and Water Company Subdivision located between Matz Avenue and N. 77 Sunshine Strip west of "G" Street. Applicant: Brown Leal and Associates, c/o Emilio Garza, c/o Emigar, Inc.

Joel Olivo, Planning and Zoning Manager stated the applicant was requesting to rezone the subject property from Residential, Single Family District to Multi Family District to allow for multi-family lots. The proposed rezone would be a continuation of the multi-family lots located on the west side of "G" Street. The subject property was currently vacant. The Future Land Use Plan showed the area high density residential and the request was consistent with the plan. A public hearing was conducted by the Planning and Zoning Commission and there were no objections. He recommended approval of the rezone 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.

Alan Ozuna, Assigned Counsel read the caption of the ordinance.

Motion was made by Commissioner Mezmar and seconded by Commissioner Uhlhorn 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 (smoke shop) in a General Retail ("GR") District located at 1046 N. 77 Sunshine Strip bearing a legal description of Lot 15, Block 4, Crown Heights Subdivision. Applicant: Ricardo Rodriguez, Jr.

Mr. Olivo stated the applicant was requesting a Specific Use Permit to allow an adult business (smoke shop) on an existing 535 sq. ft. suite known as Encantada Square Plaza Strip Center located at 1046 Sunshine Strip. The commercial strip center contained five other business suites. A public hearing was conducted by the Planning and Zoning Commission and there were no objections. The proposed business would be opened from Monday through Saturday, 10:00 a.m. to 8:00 p.m. The application was reviewed by the Building Inspection, Fire, Health and Police Departments and there were no objections. The Planning and Zoning Commission along with staff recommended approval of the request with the following conditions: 1) provide and maintain the required parking spaces in accordance with city regulations; 2) provide and maintain video surveillance; 3) comply with City Ordinances, Chapter 130.07, Unlawful Substances; and 4) comply with the requirements administered by the Planning and Zoning Commission, Building Inspection, Fire and Police Departments.

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 other comments, Mayor Boswell declared the public hearing closed.

- b) Consider and take action to consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow an adult business (smoke shop) in a General Retail ("GR") district located at 1046 N. 77 Sunshine Strip bearing a legal description of Lot 15, Block 4, Crown Heights Subdivision.

Mr. Ozuna read the caption of the ordinance.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Sanchez to approve and adopt the ordinance on first reading. Motion carried unanimously.

- 9) Public Hearing to consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow an Open-Air Business (Garden Nursery) in a General retail ("SUP") District located at 313 W. Van Buren bearing the legal description of Lots 5-6, Block 67, Harlingen Original Townsite. Applicant: Dora Vela

Mr. Olivo stated the applicant was requesting a Specific Use Permit to operate an Open Air Business (Garden Nursery) from a lot located at the south side of Van Buren Avenue. The applicant currently owned a restaurant to the east of the proposed property. The request was reviewed by the appropriate city departments and had no objections. Hours of operation would be from 9 a.m. to 3 p.m., Monday through Saturday. Staff was recommending the approval of the request subject to the applicant complying with the following conditions: 1) comply with requirements administered by the Planning, Building Inspection, Health and 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 the item could do so.

Joe Rubio Jr., 2309 Hacienda Road stated he was in favor of the request and welcomed Ms. Dora Vela to the city. Improvements in that particular area were a good thing for the community.

There being no further 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.

Mr. Ozuna read the caption of the ordinance.

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

- 10) Public hearing to consider an ordinance on first reading to rezone from Not Designated (N) to Residential, Single Family ("R-1") District for 2.00 acres out of Block 23, Leland Subdivision located at 15852 Drury Lane. Applicant: John T. Sullivan

Mr. Olivo stated the applicant was requesting to rezone the subject property from Not Designated Zoning District to Residential, Single Family District to apply for a building permit to construct a home on his property. There was an existing mobile home on the property which the owner planned to remove after the construction of the new home. The Future Land Use Plan showed the area as residential low density and the proposed rezone request would be consistent with the plan. The Planning and Zoning Commission conducted a public hearing and there were no objections. The Planning and Zoning Commission along with 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 this 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.

Mr. Ozuna read the caption of the ordinance.

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

- 11) Consider and take action to authorize the Mayor on behalf of the City of Harlingen to submit a grant application to the U.S. Department of Justice under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program for FY 2013 in the amount of \$26,236.00.

Tom Whitten, Police Chief stated permission was required from the City Commission to authorize the Mayor on behalf of the City to submit a grant application to the Department of Justice in the amount of 26,236.00. If funding was approved, it would be used to upgrade the cameras and computers. The grant was fully funded by the Department of Justice.

Motion was made by Mayor Pro-Tem Castillo and seconded by Commissioner Uhlhorn to authorize the Mayor on behalf of the City of Harlingen to submit a grant application to the Department of Justice. Motion carried unanimously.

For the record, Mayor Pro-Tem Castillo filed a conflict of interest form in regards to Item No. 12 with the City Secretary prior to the meeting. He relinquished his chair and excused himself from the meeting room.

- 12) Consider and take action to approve the preliminary ranking of the Insurance Consulting Firms for Professional Consultant Services for insurances to assist in researching, developing and implementing an employee self/fully-funded Health Insurance, Life, AD&D, Employee Assistance Program, Vision/Dental Insurance, and Cafeteria Plan and Products, and authorize the City Manager to negotiate a contract with the highest ranked firm.

Efren Fernandez, Human Resources Director stated the City had requested proposals for Professional Consultant Services. Six proposals were received and staff had ranked them. McGriff, Seibels & Williams of Texas, Inc. was ranked the highest and recommended that the City Manger be authorized to negotiate an agreement.

Commissioner Mezmar questioned if it would be normal procedure to hire an outside consultant.

Mayor Boswell stated it would be a standard procedure with no risks.

Commissioner Leal questioned who was the previous consultant?

Mr. Fernandez stated Valley Risk Consultants had been used before and McGriff, Seibels & Williams of Texas, Inc. had been used prior to that. The agreement would be only through October 1, 2013.

Carlos Yerena, City Manager stated the consulting services would customize a plan that would incorporate a self-funded plan and many of the health insurance conditions had changed due to the Obama Care initiatives.

Mayor Boswell stated the consulting firm would have to work quickly and have the insurance in full implementation before the federal deadlines.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Mezmar to approve staff recommendation and authorized staff to negotiate an agreement between the City of Harlingen and McGriff, Seibel & Williams of Texas, Inc. for consulting services. Motion carried unanimously.

Mayor Pro-Tem Castillo returned to the meeting room.

- 13) Board Appointments

Mayor Pro-Tem Danny Castillo

Aaron G. Saenz - Community Development Advisory Board (Re-appointment)

Sara Aguilar – Harlingen Proud Advisory Board (Re-appointment)
Ida Vargas Stillman – Municipal Auditorium Advisory Board (Re-appointment)
David Aguilar – Parks Advisory Board (Re-appointment)
Hector Cruz – Veterans Advisory Board (Re-appointment)
Regina Shipp – Veterans Advisory Board (Re-appointment)

Commissioner Sanchez stated he continued to seek for an individual to appoint to the Construction Board of Adjustments.

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

Mayor Boswell proceeded to Item No. 16

16) Citizen Communication

Joe Rubio, 2309 Hacienda Road, stated there were over 132 officers that would swear under oath of an incident that happened at the Harlingen Police Department in the rear parking lot which involved Squad Car #367 and had damaged to the left front side. The report stated the vehicle was assigned to Lt. Anderson. He stated one of the assumed facts was that there were no reports that Police Car #367 was damaged to the left front corner. He filed a public information request regarding this incident and the response was that there was no incident on file. This was a lie and a deception within the Harlingen Police Department.

Yolanda Shoffeit, 258 Altas Palmas stated she also had requested the same information and was told the incident did not happen. She attended the meeting of the Airport Board and Ricky Leal was appointed to the board. He worked at 1st Community Bank and his wife's maiden name was Simmons. The Mayor's wife maiden name was also Simmons which she found to close to comfort.

For the record, Mayor Boswell filed a conflict of interest form in regards to Item No. 14 and 15 with the City Secretary prior to the meeting. He relinquished his chair and excused himself from the meeting room. Mayor Pro-Tem Castillo presided the meeting.

14) Closed/Executive Session – Attorney consultation pursuant to Section 551.071 (2), Texas Government Code to provide legal advice and counsel in connection with the City's rights, duties, privilege and obligations related to Harlingen CISD'S request for Specific Use Permit for a school in a Residential, Single Family ("R-1") District located at the corner of Rio Hondo Road and 21st Street bearing a legal description of Lot1, Block 2, HCISD Middle School No. 5 Subdivision.

At 6:13 p.m., Mayor Pro-Tem Castillo announced the City Commission would convene into executive session to discuss Item No. 14.

Motion was made by Commissioner Leal and seconded by Commissioner Mezmar to convene into executive session to discuss Item No. 14. Motion carried unanimously.

At 6:32 p.m., Mayor Pro-Tem Castillo announced the City Commission had completed its executive session and declared the meeting open to the public.

15) Consider and take action to approve and adopt an ordinance on second and final reading for a Specific Use Permit ("SUP") to allow a school in a Residential Single Family ("R-1") District located at the corner of Rio Hondo Road and 21st Street bearing a legal description of Lot 1, Block 2, HCISD Middle School No. 5 Subdivision, and authorization for any necessary interlocal agreements as a condition upon the Specific Use Permit.

Mr. Ozuna read the caption of the ordinance.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Leal to approve the Specific Use Permit subject to the City and School District entering into an interlocal agreement to expand the east west drive on the north of the school, with 37 feet of right of way, with half the cost reimbursed by the City, to keep the roads open to the public, and

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for the dedication of that roadway to the City by the end of 2014, and that they authorize the City Manager to enter into that agreement. 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