

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

JULY 17, 2013

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

Mayor and Commissioners

Mayor Chris Boswell
Danny Castillo, Mayor Pro-Tem, District 1
Tudor Uhlhorn, Commissioner District 2
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
Richard Bilbie, Interim City Attorney
Dan Serna, Assistant City Manager
Gabriel Gonzalez, Assistant City Manager
Elvia Trevino, 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/Commissioner Mike Mezmar

Commissioner Mezmar gave the invocation.

Pledge of Allegiance/Welcome

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

1) Public Announcement of Events

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

- a) Movies at the Park, Saturday, July 20, 2013, 7:00 to 10:30 p.m., Corner of "A" Street and Jackson Street, Downtown Harlingen;
- b) National Night Out, Monday, August 5, 2013, 6:00 to 10:30 p.m., Lon C. Hill Park;
- c) Blues on the Hill, Saturday, August 10, 2013, 7:00 to 11:00 P.M., McKelvey Park, Headliner: John Nemeth;
- d) Zoe Fest, Saturday, August 17, 2013, Lon. C. Hill Park, (Time- Pending).

2) Presentation of proclamations proclaiming the following:

a) SSG George Anthony Cano Day

Mayor Boswell read and presented a proclamation to SSG George Anthony Cano and extended his appreciation and to the family for their support.

b) Harlingen Medical Center Day

Mayor Boswell read and presented a proclamation to Debra Meeks, Chief Nursing Officer with the Harlingen Medical Center proclaiming "Harlingen Medical Center Day." She stated Harlingen Medical Center was proud to receive the highest "Three (3) Star Rating" which represented excellence in health care.

- 3) Neighborhood Clean Sweep conducted July 6, 2013, E. Van Buren to E. Jefferson from Business 77 to 21st Street, District 2.

Carlos Yerena, City Manager reported on the Neighborhood Clean Sweep held on Saturday, July 6, 2013, District 2. He stated 3.56 tons of debris and 44 tires were collected. The next Neighborhood Clean Sweep was scheduled for August 3, 2013 in District 3 close to Haines Drive to 25th Street from Clifford to Treasure Hills Blvd.

Mayor Boswell presented Certificates of Appreciation to Rebecca Gomez, Probation Officer to distribute to the volunteers of the Cameron County Juvenile Justice Department for their assistance in the Neighborhood Clean Sweep.

Mayor Boswell proceeded with Item No. 18.

- 18) Board Appointments

Mayor Boswell

Danny Villarreal – Harlingen Community Improvement Board – (New Appointment)

Commissioner Castillo

Carlos Perez Sr. – Downtown Improvement District Board (Re-appointment)

Commissioner Uhlhorn

John Grimes – Veterans Advisory Board – (New Appointment)

Fernando Jaimes – Veterans Advisory Board (New Appointment)

Elizabeth Jennings – Senior Citizens Advisory Board (New Appointment)

Bill Holloman - Construction Board of Adjustments (Re-appointment)

Frank Hale - Downtown Improvement Board (Re-appointment)

Robert Salmeron – Senior Citizens Advisory Board (Re-appointment)

Rod Snell – Tennis Advisory Board (Re-appointment)

Michael Allex – Zoning Board of Adjustments and Appeals (Re-appointment)

Commissioner Sanchez

Alonzo Cavazos – Veterans Advisory Board (New Appointment)

John J. MacLead, Jr. – Veterans Advisory Board (New Appointment)

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

Mayor Boswell returned to the regular order of the agenda and proceeded with Item No. 4

- 4) Approval of Minutes of May 15, 2013 – Regular Meeting

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

CONSENT AGENDA

- 5a) Second and final reading to approve and adopt an ordinance to rezone from Residential, Single Family (“R-1”) District to “Residential, Multi-Family (“M-2”) District for 11.199+ acres out 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.

- b) Second and final reading to approve and adopt an ordinance for a Specific Use Permit (“SUP”) to allow an adult business (smoke shop) in a General Use Retail (“GR”) District located at 1046 N. 77 Sunshine Strip, Suite 5 bearing a legal description of Lot 15, Block 4, Crown Heights Subdivision. Applicant: Ricardo Rodriguez, Jr.

- c) Second and final reading to approve and adopt an ordinance for a Specific Use Permit (“SUP”) to allow an Open-Air Business (Garden Nursery) in a General Retail (“GR”) District located at 313 W. Van Buren, bearing a legal description of Lots 5-6, Block 67, Harlingen Original Townsite. Applicant: Dora Vela.
- d) Second and final reading to approve and adopt an ordinance to rezone from Not Designated (N) District to Residential, Single Family (“R-1”) District for 2.0 acres out of Block 23, Leland Subdivision located at 15852 Drury Lane. Applicant: John T. Sullivan.
- e) Consider and take action to approve refund of property taxes to Corelogic (Daniel Salinas), Account No. 97-3798-0070-0140-00 in the amount of \$815.44 due to homestead and disabled veteran exemption for Year 2012.
- f) Consider and take action to approve the final plat of West Cantu Country Estates Subdivision consisting of 15 residential lots on 14.95 acres, out of Block 2, Cameron County Development Company Subdivision Cameron County, Texas, located on the northeast corner of Tio Cano Road and FM 2556 (W. Cantu Road). Applicant: Innovative Civil Engineering Services, Ltd., c/o Howard E. Kappler.

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

For the record, the captions of the ordinances read as follows:

ORDINANCE NO. 13-22

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HARLINGEN: REZONING 11.199± ACRES OUT OF BLOCK 143, HARLINGEN LAND AND WATER COMPANY SUBDIVISION, LOCATED BETWEEN MATZ AVENUE AND NORTH 77 SUNSHINE STRIP WEST OF “G” STREET, FROM “RESIDENTIAL, SINGLE FAMILY (“R-1”) DISTRICT TO “RESIDENTIAL, MULTI-FAMILY (“M”) DISTRICT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 13-23

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO RICARDO RODRIGUEZ, JR., TO ALLOW AN ADULT BUSINESS IN A GENERAL RETAIL (“GR”) DISTRICT LOCATED AT 1046 N. 77 SUNSHINE STRIP, SUITE 5, BEARING A LEGAL DESCRIPTION OF LOT 15, BLOCK 4, CROWN HEIGHTS SUBDIVISION, SUBJECT TO: (1) PROVIDING AND MAINTAINING THE REQUIRED PARKING IN ACCORDANCE WITH CITY REGULATIONS; (2) PROVIDE AND MAINTAIN VIDEO SURVEILLANCE WITH A THIRTY DAY RETENTION OF THE VIDEO (3) COMPLY WITH CODE OF ORDINANCE, CHAPTER 137.01, UNLAWFUL SUBSTANCES; AND (4) COMPLY WITH THE REQUIREMENTS ADMINISTERED BY PLANNING AND ZONING DEPARTMENT, BUILDING INSPECTIONS DEPARTMENT, FIRE PREVENTION DEPARTMENT AND POLICE DEPARTMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 13-24

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO DORA VELA TO ALLOW AN OPEN-AIR BUSINESS (GARDEN NURSERY) IN A “GENERAL RETAIL (“GR”) DISTRICT LOCATED AT 313 W. VAN BUREN, BEARING A LEGAL DESCRIPTION OF LOTS 5-6, BLOCK 67, HARLINGEN ORIGINAL TOWNSITE, SUBJECT TO COMPLIANCE WITH REQUIREMENTS ADMINISTERED BY THE PLANNING, HEALTH, FIRE PREVENTION, AND POLICE DEPARTMENT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 13-25

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HARLINGEN: REZONING 2.0 ACRES OUT OF BLOCK 23, LELAND SUBDIVISION, LOCATED AT 15852 DRURY LANE, FROM NOT DESIGNATED (N) DISTRICT TO RESIDENTIAL, SINGLE FAMILY (R1) DISTRICT; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 19th day of June, 2013.
PASSED AND APPROVED on second and final reading this the 17th day of July, 2013.

CITY OF HARLINGEN
/s/ Chris Boswell, Mayor

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

- 6) Consider and take action to accept (or reject) bids and award a contract to replace the existing DV 100 incinerator for the disposal of carcass with a new incinerator to be located at 504 54th Street.

Ramiro Gonzales, Environmental Health Director stated on June 5, 2013 staff received five bids for an incinerator for the disposal of carcasses to replace the existing one. He recommended approval of B&L Cremation Systems Bid for \$70,314.00.

Motion was made by Mayor Pro-Tem Castillo and seconded by Commissioner Uhlhorn to approve the bid submitted by B&L Cremation Systems for the amount of \$70,341.00. Motion carried unanimously.

- 7) Consider and take action to approve and adopt a resolution approving the One Year Action Plan (Budget) for Fiscal Year 2013-2014 (Year 39) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2013-2014 (Year19) of the Home Investment Partnerships Program.

Tammy DeGannes, Community Development Director recommended approval of the resolution to comply with HUD regulation. The resolution referred to the adoption of the budgets that were voted and approved on June 5, 2013. A public hearing was held on June 20, 2013 before the Community Development Advisory Board. Upon approval of the resolution, the One Year Plan would be submitted to HUD for their review for authorization of the funding which commence October 1, 2013.

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

- 8) Consider and take action to approve a substantial amendment to allow for a one year extension to the City's 3-5 Consolidated Plan for the period of 2010-2013.

Ms. DeGannes stated the City of Harlingen was an Entitlement City in the U.S. Department of Housing and Development (HUD) Community Development Block Grant (CDBG) Program. Public notices and public hearings were required for substantial amendments to the City's Consolidated Plan and/or One year Action Plan. The Existing plan was dated from 2010 to 2013. The proposed amendment would extend to 2014. All entitlement communities in Cameron County were extending the date. The Community Development Advisory Board held a public hearing on June 28, 2013 and recommended approval of the substantial amendment.

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

- 9) Consider and take action to approve and adopt an ordinance on first reading amending Ordinance No 90-96, Section 22-23 Rules and Regulations of the City of Harlingen-Tony Butler Municipal Golf Course.

Item No. 9 was not discussed.

- 10) Consider and take action to approve the final plat of New Hope Phase II Subdivision consisting of nine-multi-family residential lots on 11.199 + Acres out of Block 143, Harlingen Land and Water Company Subdivision located between Matz Avenue and N.77 Sunshine Strip west of "G" Street. Applicants: Brown, Leal & Associates, c/o Emilio Garza, c/o Emigar, Inc.

Joel Olivo, Planning and Zoning Manager stated the applicant was requesting the final plat approval for New Hope Phase II Subdivision consisting of nine (9) multi-family residential lots located between Matz Street and N. 77 Sunshine Strip west of "G" Street. Harlingen Waterworks System would provide the water and wastewater services. All the items specified on the final plat checklist were addressed and recommended approval of the final plat.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Mezmar to approve the final plat of New Hope Phase II Subdivision. Motion carried unanimously.

- 11) Consider and take action to grant a variance to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.8 and 4.2.7 with regards to a fire hydrant required on Mallory Street on the proposed J.R. Palacios Subdivision bearing legal description of 2.3 acres of land out of Block 6, Black Brothers Subdivision located on the corner of Expressway 83 Frontage Road and Mallory Street.

Item No. 11 was tabled.

- 12) Consider and take action to approve the preliminary plat of Vantage at Harlingen Subdivision consisting of two commercial lots on 20.118 acres, out of an part of Block 8, Stuart Place Subdivision, Survey 41, located on the west side of Palm Court Drive, near West Lincoln Street.

Mr. Olivo stated the proposed subdivision consisted of two commercial lots located on the west side of Palm Court Drive near West Lincoln Avenue. The property was currently zoned General Retail (GR). Harlingen Waterworks System would provide the water and wastewater disposal services. All items on the preliminary plat checklist were addressed and recommended approval of the final plat subject to amending the size and layout of the water mains as deemed adequate by a RME (Responsible Managing Employee) or a Professional Engineer with NICET III certification or higher.

Motion was made by Commissioner Mezmar and seconded by Commissioner Sanchez to approve the preliminary plat of Vantage at Harlingen Subdivision. Motion carried unanimously.

- 13) Consider and take action to approve and adopt an ordinance on first reading amending Ordinance No. 98-58 to establish "School Zones" along Teege Avenue and Lozano Avenue for the Ninth Grade Academy.

Javier M. Zamora, City Engineer stated Harlingen Consolidated Independent School District would open the new Ninth Grade Academy for School Year 2013-2014. A speed limit of 20 miles per hour was necessary at the new school zone area during the school hours. He recommended approval of the school zone.

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

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Leal to approve and adopt the ordinance on first reading establishing a school zone along Teege Avenue and Lozano Avenue for the Ninth Academy School. Motion carried unanimously.

- 14) Consider and take action to declare the itemized list of non-real estate personal property as surplus person property, as recommended by staff, and authorize city personnel to conduct a public action of said property on July 27, 2013.

Gabe Gonzalez, Assistant City Manager stated every year the City would present a list of the items to the City Commission to declare as surplus property. After approval was granted

from the City Commission an auction would be conducted to disposal the surplus property. The auction was scheduled for July 27, 2013.

Motion was made by Mayor Pro-Tem Castillo and seconded by Commissioner Leal to approve the list of surplus property by public auction. Motion carried unanimously.

- 15) Consider and take action to approve and adopt a resolution approving cooperation with the steering committee of cities served by AEPTCC to review AEP Texas Central Company's requested approval of an adjustment to its energy efficiency cost recovery factor; hiring legal and consulting services to negotiate with the company and direct any necessary litigation and appeals; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to legal counsel.

Mr. Gonzalez stated AEP was requesting an adjustment to its energy efficiency cost recovery factor. Staff was requesting authorization to join a steering committee to hire the Law Firm of Lloyd Gosselink to properly analyze the request and present their findings to the cities. There was no expense to the cities until the case was settled. The City of McAllen had taken the lead on this case and recommended approval of the resolution.

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

- 16) Consider and take action to approve the renewal of a one-year contract between the City of Harlingen and Harlingen Youth Football League for the use of the athletic field at Victor Park.

Paul Menzies, Parks and Recreation Director stated the proposed agreement would commence on August 1, 2013 through July 31, 2014 which included the maintenance and cleaning of the restrooms during the league events. The maximum admission (gate) fee would be: eleven years and under - \$1.00 per day; twelve years and up - \$2.00 per day; participants/coaches - no charge. The visiting team bleachers were moved to the home side of the playing field for the season. Discussion was held between the league and park officials that the restrooms would be fully maintain and stocked during and after each event.

Commissioner Leal asked if basic contracts between the sport leagues and the City were the same. If so, did any other organizations charge an admission fee?

Mr. Menzies responded the individual leagues charge a fee and this issue would be addressed when their contracts were up for renewal. The new contract would include a provision for the leagues to take a count of the individuals that enter and exited the park during the leagues scheduled games. All compliance documents required by the leagues were current and filed with the City.

Mayor Boswell stated the contract could be approved subject to the City Attorney's review.

League official stated a stamp tag would be used for the one time charged admission fee for the entire day.

Mayor Boswell stated he was not in favor of the containers that were located near the playing field. He requested for staff and the league to take certain measures to camouflage them or remove it.

Mr. Yerena stated several changes were made to the agreement based on certain concerns made by the citizens and members of the City Commission. Any other contracts that were for renewal would be reviewed by staff.

Motion was made by Mayor Pro-Tem Castillo and seconded by Commissioner Mezmar to approve the contract subject to Mr. Bilbie confirming staff's recommendation and that the requirements of the contract were fulfilled. Motion carried unanimously.

- 17) Consider and take action to approve the City of Harlingen as a sponsor of the Su Clinica Health Fair on August 10, 2013 by providing the City's portable stage at no cost.

Motion was made by Commissioner Mezmar and seconded by Commissioner Uhlhorn to approve the request from Su Clinica Familiar.

Commissioner Mezmar stated that Su Clinica Familiar did a great job for the community and surrounding areas and expressed his appreciation for all their efforts.

Motion carried unanimously.

- 11) Closed/Executive session to discuss the following item.

Consider and take action to grant a variance to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.8 and 4.2.7 with regards to a fire hydrant required on Mallory Street on the proposed J.R. Palacios Subdivision bearing legal description of 2.3 acres of land out of Block 6, Black Brothers Subdivision located on the corner of Expressway 83 Frontage Road and Mallory Street.

At 6:20 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 11.

Motion was made by Mayor Pro-Tem Castillo and seconded by Commissioner Leal to convene into executive session to discuss Item No. 11. Motion carried unanimously.

At 6:38 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

Motion was made by Commissioner Leal and seconded by Mayor Pro-Tem Castillo to table Item No. 11 to allow staff to continue working on this issue. Motion carried unanimously.

- 19) Closed/Executive Session on the following items:

- a) pursuant to Chapter 551, Subchapter D, V.T.C.A., Government Code, Section 551.071 consultation with the Interim City Attorney and/or outside legal counsel to seek legal advice regarding The City of Harlingen, Texas v. Union Pacific Railroad Company and Rio Valley Switching Company, Cause No. 2011-CCL-00115 in County Court at Law No. 2 of Cameron County and to discuss possible settlement negotiations.
- b) pursuant to Section 551.071, Texas Government's Code, "Attorney Consultation" for advice and counsel in connection with the City's rights, privileges, immunities, and obligations arising out of the request for reopener submitted by firefighter's bargaining agent and the notice of intent to bargain submitted by the police officer's bargaining agent, and related matters.
- c) pursuant to Chapter 551, Subchapter D., V.T.C.A., Government Code Section 551.087 regarding commercial and financial information from business prospects with which the Economic Development Corporation of Harlingen, Inc. is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives to a business prospect know as **Project Toddler**.

At 6:40 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No 19 (a), (b) and (c).

Motion was made by Mayor Pro-Tem Castillo and seconded by Commissioner Leal to convene into executive session to discuss Item No. 19 (a), (b) and (c). Motion carried unanimously.

At 7:40 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

20) Consider and take action on the proposed incentive package for Project Toddler.

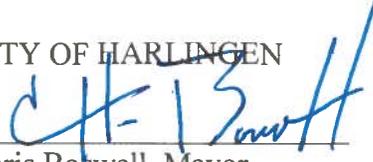
Motion was made by Commissioner Uhlhorn and seconded by Commissioner Leal to approve the incentive package for Project Toddler. Motion carried unanimously.

21) Citizen Communication

There was no citizen communication.

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

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Amanda C. Elizondo, City Secretary