

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

DECEMBER 19, 2012

A Regular Meeting of The Harlingen Elective Commission was held on Wednesday December 19, 2012 at 5:30 p.m. at the Harlingen Community Center, 201 E. Madison, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell

Mayor Pro-Tem Robert Leftwich, District 2

Danny Castillo, Commissioner District 1

Mike Mezmar, Commissioner District 3

Basilio "Chino" Sanchez, Commissioner District 4

Joey Trevino, Commissioner District 5

Staff Present:

Carlos Yerena, City Manager

Amanda C. Elizondo, City Secretary

Richard Bilbie, Assistant City Attorney

Gabriel Gonzalez, Assistant City Manager

Elvia Trevino, Interim Finance Director

Mayor Boswell called the meeting to order; a quorum was established. He stated a notice of the meeting had been duly posted according to state law and 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.

- 17) Consider and take action to approve and adopt a resolution of the City of Harlingen, Texas consenting to the execution of a collateral assignment and agreement between Reyna Development, LTD. and the Sam's Real Estate Business Trust; authorizing the Mayor to execute and the City Secretary to attest to any documents related to such consent; containing various findings and provisions related to the subject.

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

For the record, Commissioner Joey Trevino filed a "Conflict of Interest" Form with the City Secretary and abstained from Item No. 17.

- 18) Consider and take action to approve a Collateral Assignment and Agreement by REYNA FAMILY DEVELOPMENT, LTD., a Texas limited partnership ("Developer") to SAM'S REAL ESTATE BUSINESS TRUST, a Delaware statutory trust ("Sam's") for the purpose of completing the construction of the Phase I Public Project Improvement in accordance with the terms of the Economic Development Agreement with the City of Harlingen, Texas.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve a Collateral Assignment and Agreement between REYNA FAMILY DEVELOPMENT, LTD. and SAM'S REAL ESTATE BUSINESS TRUST. Motion carried unanimously.

For the record, Commissioner Joey Trevino filed a "Conflict of Interest" Form with the City Secretary and abstained from Item No 18.

Mayor Boswell thanked Mr. Bill Roundtree for his advice and assistance and changed the order of the agenda to discuss Item No. 16 (a) and (b).

16) 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 City Attorney and/or outside legal counsel to seek legal advice regarding The City of Harlingen, Texas v. Union Pacific Railroad Company and Rio Grande Valley Switching Company, Cause No. 2011-CCL-00115 in County Court at Law No.2 of Cameron County and to discuss possible settlement negotiation.
- 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 Charles E. Lee vs. City of Harlingen, Texas Cause No. 13-12-00213-CV in the Court of Appeals for the 13<sup>th</sup> Judicial District and to discuss possible settlement negotiations.

At 5:35 p.m., Mayor Boswell announced the City Commission would convene in to executive session to discuss Item No. 16 (a) and (b).

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Leftwich to convene into executive session to discuss Item No. 16 (a) and (b). Motion carried unanimously.

At 6:24 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting opened to the public.

19) Consider and take action to authorize the City Attorney and/or Assigned Counsel to pursue settlement negotiations in regards to Charles E. Lee vs. City of Harlingen, Texas Cause No. 13-12-00213-CV in the Courts of Appeals for the 13<sup>th</sup> Judicial District.

Motion was made by Mayor Pro-Tem Leftwich to approve the item. Motion died due to a lack of a second.

Mayor Boswell wished everyone in attendance a "Merry Christmas." The Employee Banquet was scheduled for Friday, December 14<sup>th</sup> to honor city employees for their many years of service.

1) Public Announcement of Events

Commissioner Joey Trevino announced the Run-Off Election would be held on Friday December 21, 2012.

2) Approval of Minutes - Regular Meeting of October 17, 2012

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

CONSENT AGENDA

3) Consider and take action to approve a request from the Farmer's Market Downtown Harlingen to close "A" Street from Jackson Avenue to Monroe Avenue to be held every Saturday of Calendar Year 2013 from 3:00 p.m. to 5:00 p.m.

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

- 4) Public hearing to consider an ordinance on first reading to amend the City of Harlingen Subdivision Ordinance No. 07-28, Section 3, Plat Submittal and Review Procedures by creating a section which addresses lot splits.

Joel Olivo, Planning and Zoning Manager stated the amendment would address cases where property owners were proposing to develop a one lot and part of an adjacent lot. Under the current regulations, the property owner would be required to develop in one lot. The proposed amendment would exempt the property from re-platting. A public hearing was conducted by the Planning and Zoning Commission. Staff recommended approval of amending the ordinance.

- 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 amending the City of Harlingen Subdivision Ordinance No. 07-28, Section 3, Plat Submittal and Review Procedures by creating a section which addresses lot splits.

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

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

- 5) Public Hearing to consider an ordinance on first reading for a Specific Use Permit (SUP) requested to allow a Bar/Lounge in a General Retail (GR) District located at 1105 South Tamm Lane bearing a legal description of 3.4740 acres out of Block 33, Stuart Place Survey, 139/297/298.

Mr. Olivo stated the applicant was requesting a Specific Use Permit to operate a bar/lounge in a 2,958 sq. ft. building located on Tamm Lane north of Business 83. Hours of operation would be Wednesday through Sunday From 8:00 p.m. to 3:00 a.m. The building had been previously used as a bar/lounge and prior to that as a bar and grill restaurant known as "Cactus Jack's" and prior to that "Homer's Backyard Bar-B-Q." The respective departments had reviewed the request and had no objections. Staff recommended that the applicant comply with the following requirements: adequate lighting, licensed security guard and installation of a video surveillance as well as the applicant meeting with the Police Department on a monthly basis to address any issues that arose. The Planning and Zoning Commission conducted a public hearing. Staff recommended approval of the permit subject to the following conditions: 1.) the Specific Use Permit would be limited to a year and the applicant would be required to apply for a renewal; 2.) must maintain the required off street parking spaces; 3.) must obtain the proper State and TABC permits; 4.) must provide and maintain video surveillance on all entrances, exits and maintain a 30 day retention period of the video; 5.) must provide adequate lighting on the premises; 6.) must provide a licensed security guard; and 7.) comply with the requirements administered by the Planning, Building Inspection, Health, Fire and Police Departments prior to the issuance of the certificate of occupancy.

Commissioner Mezmar questioned if the applicant had to meet all the recommendations before they submitted an application to TABC or vice versa?

Mr. Olivo responded they could apply to TABC at the same time a SUP was being considered; however, the Specific Use Permit must be approved by the City Commission before the TABC approval.

Commissioner Castillo asked if the Police Department had provided a report to the Planning and Zoning Commission prior to them making a decision. Several incidents had occurred with the previous owner. One incident dealt when an officer was trying to conduct an onsite inspection while patrons were inside the building and the officer was locked out for a period of time. He was not allowed to enter the building to conduct the inspection. Several patrons were cited for consuming alcohol after hours. Another incident was selling alcohol to minors. He surrendered his license to the TABC and did not take the measures to address these concerns with the Police Department relating to his previous establishment.

Mr. Olivo answered the information had been provided to the Planning and Zoning.

Mayor Pro-Tem Leftwich asked if City had revoked the permit from the previous establishment for not complying with the requirements from the Police Department.

Mr. Olivo responded he was not aware and according to his knowledge the property was sold.

Commissioner Castillo stated staff was recommending the permit for one year. He recommended that the permit be for a lesser time in order to be reviewed for further consideration in the future

a) Public Hearing

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

Yolanda Shoffeit, 258 Atlas Palmas stated that people made mistakes and the applicant should be given another opportunity. All businesses should be treated the same.

There being no other 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. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Trevino and seconded by Mayor Pro-Tem Leftwich to approve the ordinance on first reading with the provision that the permit be for six months instead of a year and waive the renewal fee. Motion carried unanimously.

6) Consider and take action to approve and adopt a resolution authorizing the Mayor to seek grant funding in the amount of \$82, 675.00 or to accept any funding award from the Texas Department of Public Safety-Texas Ranger Division to the City of Harlingen Police Department to allocate additional law enforcement staff on an overtime basis to deter crime and improve border security within the City of Harlingen.

Tom Whitten, Chief of Police stated this would enable the Harlingen Police Department law enforcement personnel to work on an overtime basis from January 1, 2013 to August 31, 2013 and concentrate on crime prevention efforts.

Motion was made by Mayor Pro- Tem Leftwich and seconded by Commissioner Castillo to approve the resolution authorizing the Mayor to seek grant funding in the amount of \$82,675 from the Texas Department of Public Safety-Texas Rangers Division. Motion carried unanimously.

7) Consider and take action to approve an Interlocal Cooperation Agreement between Rio Grande Valley Communications Group (RGVCG) and the City of

Harlingen for the use of the RGVCG's MHz radio system for government functions.

Michael J. Rinaldi, Fire Chief stated the agreement would allow the City of Harlingen Digital Radio System to connect to the Regional Digital Switch. This would allow nine other valley radio systems to communicate together between South Padre Island and Rio Grande City. There was no cost to the City.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Mezmar to approve an Interlocal Agreement between the City of Harlingen and Rio Grande Valley Communications Group (RGVCG). Motion carried unanimously.

- 8) Consider and take action to approve a contract between the Development Corporation of Harlingen, Inc and RGV Lead for \$37,500.00 for Fiscal Year 2012-2013.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the contract between the Harlingen Economic Development Corporation of Harlingen, Inc. and RGV Lead for \$37,500. Motion carried unanimously.

- 9) Consider and take action to authorize staff to proceed with two demonstration projects to install artificial grass at the traffic island located along Commerce Street where it intersects with Taft Street (directly in front of the H.E.B. Grocery Store on Commerce Street) and the playground area located at the Soccer Complex.

Dan Serna, Assistant City Manager stated SynLawn a company out of Houston, Texas had offered to use their product (artificial turf) for two demonstration projects. The first project would be at the traffic medium located across from H.E.B. at the intersection of Commerce and Taft Street. The seconded project would be in a playground area at the Soccer Complex. The product met ADA safety requirements. Most of the products used in the projects would cost approximately \$40,000. The City's portion would be approximately \$10,500 to prepare the traffic media and purchase brick pavers. Drenching improvements needed to be done for the playground area to place artificial turf. Staff recommended approval of both demonstration projects.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Mezmar to approve the projects demonstration as recommended by staff. Motion carried unanimously.

- 10) Consider and take action to approve and adopt an ordinance on first reading designating a "No Parking Zone" along both sides of the rear access road and easement at Parkview Terrace Subdivision.

Javier M. Zamora, City Engineer stated the request was reviewed by staff due to concerns with the accessibility of the properties for emergency and service vehicles, and residents which reside in the immediate area. Staff conducted an inspection for the need of the "No Parking Zone." Notices were mailed to the adjacent property owners and no objections were received. He recommended approval of the ordinance.

Mr. Bilbie read the caption of the ordinance.

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

- 11) Consider and take action to accept or reject bids for General Fund Street Overlay Project under Bid 2013-13 and reward contract to overlay Lincoln Avenue from Dixieland Road to Palm Court.

Mr. Zamora stated this project consisted of placing caliches and reapplying asphalt on Lincoln Avenue from Dixieland Road to Palm Court Drive. Staff received and

opened a total of six bids for the proposed project. R&R Paving submitted the lowest bid for \$374,444.44. He recommended accepting the lowest bid submitted by R&R Paving.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commission Trevino to approve and accept the bid submitted by R&R Paving for \$374,444.44. Motion carried unanimously.

- 12) Consider and take action to approve and adopt an ordinance on first reading to amend Chapter 95 Streets and Sidewalks, Speed Hump Program to: (1) exempt all elementary and middle school speed zones located in residential areas from having to comply with eligibility requirements; and (2) provide that a majority vote and approval by the Harlingen City Commission may request a speed hump at a particular location without having to comply with the ordinance petition requirements.

Mayor Pro-Tem Leftwich recommended the adopting the ordinance because it would be easier to install speed humps. There were incidents in the school zone areas that were not just speed related, but also distracted drivers. After conducting a street survey and research, it was determined that changes were needed for better protection in the school zone areas. Better protection was needed in the elementary school zones due to less tentative school children who were walked to and from school. Both of the high schools had speed humps in the parking lots.

Mayor Pro- Tem Leftwich made a motion to include speed humps at all school zones.

Commissioner Castillo asked if there was any feedback from the school district on the proposed speed humps.

Mr. Serna stated school officials were not aware of the proposed speed humps at this time and hoped that the school would participate with the City on the cost of the speed humps.

Mayor Pro-Tem Leftwich stated he done the petition process at the Bonham Elementary School and the school had sign the petition in support of the speed humps.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the ordinance on first reading with the amendment to include the high schools. Motion carried unanimously.

- 13) Consider and take action to approve a Memorandum of Agreement with the Texas Homeless Network relating to the provision of personnel for an Onsite Homeless Management Information System Technical Support Staff.

Tammy De Gannes highlighted the Memorandum of Agreement with the Texas Homeless Network and recommended approval.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Mezmar to approve a Memorandum of Agreement between the City of Harlingen and the Texas Homeless Network. Motion carried unanimously.

- 14) Consider and take action to approve and adopt a resolution of the City of Harlingen, Texas endorsing certain legislative action in the regular session of the 83<sup>rd</sup> Texas Legislature to enhance the competitive electric market and system reliability and to protect the traditional role of the cities in the regulatory process.

Mr. Yerena stated the resolution was in support of the Legislative agenda prepared by TCAP Board of Directors that favored laws that promoted affordable electricity and opposed laws that eroded the local authority and consumer protection.

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

15) Board Appointments

Commissioner Sanchez

Re-appointed Connie Salas to the Community Development Advisory Board.

Motion was made by Commissioner Castillo and seconded by Mayor Pro-Tem Leftwich to approve the appointment of Mrs. Salas. Motion carried unanimously.

16) Closed/Executive Session of the following items:

- d) 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 White wings Baseball Club, LLC for the use of the baseball stadium know as Harlingen Field and the amount of dept owed by the Whitewings to the City.

At 7:06 p.m., Mayor Boswell announced the City Commissioner would convene into executive session to discuss Item No. 16 (d).

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

At 7:28 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

20) Citizens Communication

None

There being no further business to discuss the meeting adjourned at 7:29 p.m.

City of Harlingen

  
Chris Boswell, Mayor

ATTEST:

  
Amanda C. Elizondo, City Secretary