

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

MARCH 6, 2013

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, March 6, 2013 at 5:30 p.m. in City Hall, Town Hall, 2nd Floor, and Harlingen, Texas. Those in attendance were.

Mayor and City Commission

Chris Boswell, Mayor
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
Richard Bilbie, Assistant City Attorney
Dan Serna, Assistant City Manager
Gabriel Gonzalez, Assistant City Manager
Elvia Trevino, Interim Finance Director

Mayor Boswell called the meeting to order; a quorum was established. He stated notice of the meeting was duly posted according to state law and the following proceedings were held.

Invocation/ Mayor Pro-Tem Robert Leftwich

Mayor Pro-Tem Leftwich gave the invocation.

Pledge of Allegiance/Welcome

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

1) Public Announcement of Events

- a) Pastor Craig with First Baptist Church announced the "15th Annual Champs Camp" was scheduled for March 11- 15, 2013;
- b) The "Easter Egg Hunt" sponsored by Valley Praise was scheduled for March 23, 2013 at the Soccer Complex;
- c) "Legend's of Rock Concert" would take place April 13, 2013;
- d) The "Cinco de Mayo Celebration" was scheduled for May 4, 2013 at Gutierrez Park;
- e) "Blues on the Hill Concert Series" would take place on Saturday, May 11, 2013, at McKelvey Park.

Mayor Boswell announced the Senate Education Committee in Austin held hearings on the New University Medical School Bill. The Committee voted in favor of the bill. The bill was scheduled to go before the House Committee for approval. This process moved the University/Medical School a step closer in coming to the Rio Grande Valley.

2) Neighborhood Clean Sweep, March 2, 2013, Massachusetts Street from Frontage Road to Lamb Street 8:00 a.m. to 12 noon, District 3.

Carlos Yerena, City Manager reported 9.68 tons of debris and 153 tires were collected. He thanked the members of the Marine Military Academy for their participation and Elida Mendoza and staff from the Code Enforcement Department and Commissioner Mike Mezmar for participating in this event.

Mayor Boswell and Commissioner Mezmar presented Certificate of Appreciation to representatives of Mr. Gatti's Pizza for their contribution in the Neighborhood Clean Sweep Program.

Mr. Yerena announced the next Neighborhood Clean Sweep was scheduled for April 6, 2013 in District 4.

3) Presentation regarding the Adopt-A-Spot Program.

Mr. Yerena stated staff was aggressively pursuing to beautify the community. The Adopt-A-Spot Program would beautify designated areas throughout the community. The goal was to encourage businesses and citizens to participate in the beautification of the City. The Code Enforcement Department has been promoting this initiative since the start of year. Mr. Yerena stated United Healthcare, Cameron County Juvenile Justice Department, Southwest Key Program, Tito Resendez – State Farm Insurance, Texas Juvenile Justice Department, Marine Military Academy Key Club, St. Anthony's Green Team and Alvarez Home Repair were participating partners.

Mayor Boswell extended his appreciation to representatives of United Health Care and St. Anthony's Green Team for their participation in the Adopt-A-Spot Program.

4) Approval of Minutes

- a) Special Meeting of November 19, 2012
- b) Regular Meeting of December 19, 2012

Motion was made by Commissioner Mezmar and seconded by Commissioner Castillo to approve the minutes as presented. Motion carried unanimously.

5) CONSENT AGENDA

- a) Consider and take action to approve a request from the Downtown District to close Jackson Street from Commerce to 4th Street and crossroads "A", 1st, 2nd, and 3rd Streets from alleyway to alleyway crossing Jackson Street for the 6th Annual Jackson Street Classic Car Show to be held on Saturday, April 13, 2013 from 7:00 a.m. to 3:00 p.m.
- b) Consider and take action to approve a request from Reverend Horacio Chavarria, Pastor, of the Our Lady of the Assumption Church and San Felipe Neri Mission to close Lincoln Street between "M" and "L" Streets on Friday, May 3rd and Saturday, May 4th from 5:00 p.m. to 11:00 p.m. for their Annual Fall Festival.
- c) Second and final reading to approve and adopt an ordinance for a Specific Use Permit ("SUP") to allow a bar/lounge in a General Retail ("GR") District located at 830 Morgan Boulevard bearing a legal description of Lots 21-26, Rio Land Subdivision.
- d) Second and final reading to approve and adopt an ordinance 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.
- e) Consider and take action to approve a refund of property taxes in the amount of \$12,273.48 to EAN Holdings, LLC Account No. 00-0100-2010-1662-00 due to a change of value for Year 2012.

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

For the record, the captions of Ordinance No. 13-5 and No. 13-6 read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO ELMER CAPUCHINES TO ALLOW A BAR/LOUNGE IN A GENERAL RETAIL (GR) DISTRICT LOCATED AT 803 MORGAN BOULEVARD, BEARING A LEGAL DESCRIPTION OF LOTS 21-26 RIO LAND SUBDIVISION, SUBJECT TO: (1) THE SPECIFIC USE PERMIT SHALL BE LIMITED TO ONE YEAR AND THE APPLICANT WOULD BE REQUIRED TO APPLY FOR RENEWAL; (2) MAINTAINING THE REQUIRED OFF STREET PARKING SPACES; (3) OBTAINING AND MAINTAIN THE PROPER PERMITS FROM THE STATE; (4) PROVIDING AND MAINTAINING VIDEO SURVEILLANCE ON ALL ENTRANCES AND EXITS, AND MAINTAIN A 30 DAY RETENTION OF THE VIDEO; (5) PROVIDE ADEQUATE LIGHTING ON THE PREMISES; (6) PROVIDE A LICENSED SECURITY GUARD DURING PEAK HOURS OF OPERATION FROM THURSDAY THROUGH SATURDAY FROM 9:00 P.M. TO 2:00 A.M.; (7) MAINTAINING THE PROPERTY; (8) CONSTRUCTING AN ENTRY VESTIBULE WITH PLANS APPROVED BY THE BUILDING INSPECTIONS, FIRE PREVENTION, AND PLANNING AND ZONING DEPARTMENTS; AND (9) COMPLY WITH REQUIREMENTS ADMINISTERED BY THE BUILDING INSPECTIONS, FIRE PREVENTION, HEALTH, PLANNING AND ZONING, AND POLICE DEPARTMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 13-6

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO JOY PACHECO TO ALLOW A BAR/LOUNGE IN A "GENERAL RETAIL (GR)" ZONE LOCATED AT 407 W. HARRISON AVENUE BEARING A LEGAL DESCRIPTION OF LOTS 8-9, HARLINGEN ORIGINAL TOWNSITE, SUBJECT TO: (1) THE SPECIFIC USE PERMIT SHALL BE LIMITED TO ONE YEAR AND THE APPLICANT WOULD BE REQUIRED TO APPLY FOR RENEWAL; (2) MUST OBTAIN AND MAINTAIN THE PROPER STATE PERMITS; (3) PROVIDING A LICENSED SECURITY GUARD DURING PEAK HOURS OF OPERATION, THURSDAY THROUGH SATURDAY FROM 9:00 P.M. – 2:00 A.M.; (4) PROVIDING VIDEO SURVEILLANCE AND MAINTAINING A THIRTY DAY RETENTION OF THE VIDEO; (5) PROVIDING SUFFICIENT LIGHTING INSIDE AND OUTSIDE THE BUILDING; AND (6) COMPLY WITH REQUIREMENTS ADMINISTERED BY THE BUILDING INSPECTION, PLANNING AND ZONING, HEALTH, FIRE PREVENTION AND POLICE DEPARTMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading February 20, 2013.

PASSED AND APPROVED on second and final reading on March 6, 2013.

SIGNED: /s/ Chris Boswell, Mayor

ATTESTED BY: /s/ Amanda C. Elizondo, City Secretary

- 6) Consider and discuss the permanent closure of "A" Street between Jefferson and Adams Avenue as part of the Federal Rail Road Program with Union Pacific railroad Company and the Texas Department of Transportation (TXDOT).

Javier M. Zamora, City Engineer stated TXDOT was requesting for the City to consider permanent closure of "A" Street between Jefferson and Adams Avenue as part of the Federal Railroad Program with Union Pacific Railroad Company and the Texas Department of Transportation (TXDOT). In return of the street closure, TXDOT would provide funding to the City for use of safety improvements within the city. Additional funding could also be available from the Union Pacific Railroad Company for the street closure. If the City chose to close the street Union Pacific Railroad Company would remove the crossing surface and the roadway within their right-of-way. If the City decides to keep the street open then traffic signals and gates would be installed at the crossing. Business owners were opposing the closure of the street. Fire Chief Rinaldi, was recommending for the street to remain open. He recommended against the closure of the street.

Mayor Boswell recommended passing the item due to other issues.

For the record, Richard Bilbie, Assistant City Attorney stated Commissioner Leal had filed a "Conflict of Interest" form in regards to Item No. 7 with the City Secretary. He relinquished his chair and excused himself from the meeting room in order to avoid "an appearance of impropriety."

- 7) Public Hearing to obtain comments on the proposed substantial amendments to 2009-10, 2011-12, and 2012-13 One Year Action Plans

Brandy Garza, Compliance Coordinator stated the City of Harlingen was an Entitlement City under the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. Public Notice and public hearings were required to do substantial amendments to the One Year Action Plan. A substantial amendment was required to change the use of CDBG Funds from one activity to another totaling \$50,000 or more or to include an activity not originally described in the One Year Action Plan. The Community Development Advisory Board held a public hearing on February 21, 2013. No objections were received. Staff recommended the following.

For the record, the substantial amendments read as follows:

- a) Program Year 35 (2009-2010) – Reprogram unexpended balances in the Clearance and Demolition of Unsafe Structures (\$140,969.20) and Target Area Neighborhood Investment Program (estimated \$23,984.42) activities to add a new activity.
- b) Program Year 37 (2011-2012) – Reprogram \$80,000.00 from the Housing Rehabilitation/Reconstruction Loan Program to increase the funding to existing activity, the Buchanan, Hays, W. Johnson, and M Street Drainage Improvements Project.
- c) Program Year 38 (2012-2013) – Reprogram \$38,000.00 from the Housing Rehabilitation/Reconstruction Loan Program to fund a new activity, the Clearance and Demolition of Unsafe Structures (04) in low income census tracts.
- d) Program Year 38 (2012-2013) – Reprogram \$32,000.00 from the Housing Rehabilitation/Reconstruction Loan Program to add a new activity, Code Enforcement (15) in low income census tracts.
- e) Program Year 38 (2012-2013) – To eliminate activity, Loaves and Fishes of the Rio Grande Valley, in the amount of \$8,000.00 and reallocate said funding to three existing public service activities as follows: 1) Boy's and Girl's Club of Harlingen (05D-Youth) in the amount of \$3,000, CASA of Cameron and Willacy Counties (05N-Abused/Neglected Children) in the amount of \$2,500 and Senior Community Outreach Services (05A-Seniors) in the amount of \$2,500 in the approved Year 38 Action Plan.

a) Public Hearing

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

Desi Martinez, 1806 Haverford Blvd. stated Loaves and Fishes served as an intrigue part in serving the poor. He asked why was this agency not receiving additional funding and how could they appeal this decision?

Ms. Garza responded that if a public service activity was not meeting a certain level of service within the last 12 months they would not be eligible for the funding. This was a HUD compliance statute.

Yolanda Shoffiet 285 Atlas Palmas Road stated previously the City had awarded \$10,000 to Loaves & Fishes for electricity/utilities for the operation of the shelter.

Gail Moore, 709 Town Lane, stated she assisted in feeding the homeless of the community out of her own pocket. One concern was that the homeless individuals had no transportation to get to the agency.

Mayor Boswell stated the homeless could make arrangements with the LRGV Transit System. The transportation system provided a route that traveled on Harrison Street and returned back on Tyler Street.

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

b) Consider and take action to approve a substantial amendment to the City of Harlingen's 2009-10, One Year Action Plan in the amount of \$164,953.62; 2011-12, One Year Action Plan in the amount of \$80,000; and 2012-13, One Year Action Plan in the amount of \$78,000.

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

Commissioner Leal returned to the meeting room.

8) Consider and take action to approve a second amendment of the agreement between the Development Corporation of Harlingen and United Healthcare Services, Inc.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Mezmar to approve the amendment to the existing agreement between the Economic Development Corporation of Harlingen, Inc. and United Healthcare Services, Inc. Motion carried unanimously.

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

Amanda C. Elizondo, City Secretary stated this item was tabled at the previous meeting due to pending information from the Department of Public Safety (DPS). Mr. Martinez was requesting a Public Necessity and Convenience Permit to operate a taxicab business in the City. Staff received the information from the DPS and was forwarded to the Police Department for their review. The Police Department reviewed Mr. Martinez application and recommended approval of the permit. Mr. Martinez was working with City Cab under Mr. Augustine Esquivel; however, Mr. Esquivel passed away in February and his permit was not transferable. If the request for Mr. Martinez is approved the number of taxi-cab businesses would remain the same.

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

10) Board Appointments

Commissioner Castillo

Dr. Gilbert Leal – Economic Development Corporation of Harlingen, Inc. (Re-appointment)

Mayor Pro-Tem Leftwich

Rick Ledesma - Economic Development Corporation of Harlingen, Inc. (Re-appointment)

Michael Alex – Zoning Board of Adjustments (Re-appointment)

Commissioner Leal

David Argabright – Convention & Visitors Bureau

Michael Lamon – Economic Development Corporation of Harlingen, Inc.

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

11) Closed/Executive session on the following items:

a) pursuant to Section 551.072, Texas Government Code regarding the sale and value of property legally described as: a 20.498 acre tract out of Block 8, Stuart Place Subdivision of Survey 41, City of Harlingen, Cameron County, Texas as recorded in Volume 5, Page 6 of Map Records of Cameron County, Texas; SAVE & EXCEPT a 0.38 acre tract conveyed to the City of Harlingen by deed recorded

in Volume 8164, Page 193 Official Records of Cameron County, less additional 0.38 acre tract in the Palm Court Drive right-of-way.

- b) pursuant to Chapter 551, D., V.T.C.A. Government Code, Section 551.071 consultation with the City Attorney to seek advice regarding *Charles E. Lee vs. City of Harlingen, Texas* Cause No. 2010-DCL-4849 on the 103rd Cameron County District Court.
- c) pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code, section 551.087 regarding commercial and financial information from a business prospect with which the City Commission is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives with the business prospect know as **Project Tropical** and to seek legal advise from the City Attorney regarding this subject.

At 6:02 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 11 (a), (b), and (c).

Motion was made by Commissioner Castillo and seconded by Mayor Pro-Tem Leftwich to convene into executive session to discuss Item No. 11 (a), (b), and (c). Motion carried unanimously.

At 7:19 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting opened to the public.

- 12) Consider and take action to approve the first amendment to Commercial Contract – Unimproved Property between the City of Harlingen and AAF-Vantage At Harlingen, Inc. regarding the sale and value of real property legally described as: a 20.498 acre tract, out of Block 8, Stuart Place Subdivision of Survey 41, City of Harlingen, Cameron County, Texas as recorded in Volume 5, Page 6 of the Map Records of Cameron County, Texas; SAVE & EXCEPT a 0.38 acre tract conveyed to the City of Harlingen by deed recorded in Volume 8164, Page 193 Official records of Cameron County, less an additional 0.38 acre tract in Palm Court Drive right-of-way.

Motion was made by Mayor Pro-Tem Leftwich and seconded by Commissioner Castillo to approve the amendment to the Commercial Contract – Unimproved Property between the City of Harlingen and AAF-Vantage At Harlingen, Inc. for the above mentioned described property. Motion carried unanimously.

- 13) Citizens Communication

None

There being no further business to discuss, the meeting adjourned at 7:20 p.m.

CITY OF HARLINGEN

Chris Boswell

ATTEST:

Amanda C. Elizondo, City Secretary