REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

January 15, 2014

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, January 15, 2014 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street Harlingen, Texas. Those in attendance were:

Mayor and Commission

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

Staff Present

Carlos Yerena, City Manager Elena Garza, Assistant 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/ Mayor Chris Boswell

Mayor Chris Boswell gave the invocation.

Pledge of Allegiance/Welcome

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

1) Public Announcement of Events

David Ralph, Public Information Officer announced the following events.

- a) Economic Vitality Forum TSTC Culinary Arts Building Saturday, January 18, 2014, 8:30 a.m. 2:00 p.m.;
- b) 10th Annul Winter Texas Appreciation Fiesta Casa De Amistad Monday, January 20, 2014, 11 a.m. 2:00 p.m.;
- c) South Texas Sizzler 5k/10k Run Harlingen Soccer Complex Saturday, January 25, 2014;
- d) Congenital Heart Awareness Festival Lon C. Hill Park- Saturday, February 8, 2014, times to be announced;
- e) 24th Annual Jalapeño 100 Bike Tour Lon C. Hill Park Saturday, February 22, 2014, 11:00 a.m. 8:00 p.m.; and
- f) 2nd Annual Ms. South Texas Senior Pageant Harlingen Municipal Auditorium Sunday, February 23, 2014, 2:00 5:30 p.m.

2) Neighborhood Clean Sweep held January 11, 2014, Hickory Subdivision off of Bass Blvd., District 5.

Carlos Yerena, City Manager reported the Neighborhood Clean Sweep was held January 11, 2014 in District 5; 3.89 tons of debris and 67 tires were collected. The Cameron County Juvenile Justice Department and Tamayo Home for Boys assisted in the clean-up. He thanked the Code Enforcement Staff and all the volunteers that participated and announced the next Clean Sweep would be in District 4, W. Grant and W. Garfield Streets.

3) Recognition to local area businesses who assisted "Operation Crackdown 2013"

Mr. Yerena stated Operation Crackdown was a partnership between the City of Harlingen and The Texas National Guard. He thanked the businesses that had provided the meals for the participants during the two weeks program.

Mayor Boswell thanked and presented Certificate of Recognition to the businesses who contributed food and services to Operation Crackdown 2013 participants. The businesses were: Anthony & Paula Martin, Panchito's Restaurant, Mr. Gattis Pizza, Sonic Drive-Inn, New York Deli, Bass Pro Shop, Platio's Restaurant, Whataburger, Colletti's Italian Restaurant, Peacock Construction, Burger King, Longhorn Steak House, Dairy Queen, Pizza Hut and Chick-Fil-A.

4) Approval of Minutes

- a) December 9, 2013 Special Meeting
- b) December 18, 2013 Regular Meeting

Motion was made by Commissioner Mezmar and seconded by Commissioner Leal to approve the minutes of December 9, 2013 as presented. Motion carried unanimously.

Motion was made by Commissioner Leal and seconded by Commissioner Uhlhorn to approve the minutes of December 18, 2013 with a correction to change the word "cent" to "percent" on Page 3, Line 32. Motion carried unanimously.

Consent Agenda

- Second and final reading of an ordinance to abandon, accept the bid, and authorize the Mayor to issue a quit claim deed on a 60 ft. right-of-way being a 0.14 acre tract out of a 60 ft. right-of-way dedicated to the City of Harlingen by the recorded plat of Harlindale Heights Subdivision No. 2, located on the north side of East Harrison Avenue between 21st and 25th Streets. Applicant: Maria I. Kazan.
- b) Consider and take action to approve a request from the Harlingen Convention & Visitors Bureau to close a portion of Fair Park Boulevard (from Wichita Avenue to "L" Street) and a portion of "L" Street (from West Adams Avenue to Fair Park Boulevard) on Monday, January 20, 2014 from 8:00 a.m. to 2:00 p.m. for their 10th Annual Winter Texan Appreciation Fiesta.
- c) Consider and take action to approve a refund of property taxes in the amount of \$1,331.50 to BAC Tax Services Corporation (Bueford & Jacqueline Moody), Account No. 15-6201-0000-0010-00 due to duplicate payment for Year 2012.

For the record, Ordinance No. 14-1 read as follows:

ORDINANCE NO. 14-1

AN ORDINANCE ABANDONING AND AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED ON A SIXTY (60) FEET WIDE RIGHT-OF-WAY DESCRIBED AS A 0.14 ACRE TRACT OUT OF A 60 FT. RIGHT-OF-WAY DEDICATED TO THE CITY OF HARLINGEN BY THE RECORDED PLAT OF HARLINDALE HEIGHTS SUBDIVISION NO. 2, LOCATED ON THE NORTH SIDE OF EAST HARRISON AVENUE BETWEEN 21ST AND 25TH STREETS, SUBJECT TO THE APPLICANT PURCHASING THE RIGHT-OF-WAY AT THE APPROVED BID AND DEDICATING A 20 FT. WATER LINE AND ELECTRICAL EASEMENT ON THE WEST SIDE OF THE PROPERTY.

PASSED AND APPROVED on first reading this the 18th day of December, 2013.

PASSED AND APPROVED on second and final reading this the 15th day of January, 2014.

CITY OF HARLINGEN /s/ Chris Boswell, Mayor

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

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

- 6) <u>Discussion regarding the bid(s) received on the following properties removed from Cameron County and other taxing jurisdictions due to a tax resale conducted on November 5, 2013.</u>
 - a) <u>Legal Description</u>: <u>Tract 2: Lot 9, Wallace Subdivision, an addition to the City of Harlingen, Cameron County, Texas, according to the map or plat thereof, recorded in Volume 13, Page 7, Map Records of Cameron County, Texas. (Acct. No. 25-2530-0000-0090-00);</u>
 - b) Legal Description: Lot 12, Block 2, Barton Addition, an addition to the City of Harlingen, Cameron County, Texas, according to the map or plat thereof, recorded in Volume 5, Page 59, Map Records of Cameron County, Texas; (Acct. No. 15-5320-0020-0120-00)
 - c) <u>Legal Description</u>: A portion of Lot 8, R. A. Pittman Subdivision, an addition to Cameron County, Texas, as described in Volume 1374, Page 486, Deed Records of Cameron County, Texas (Acct. No. 22-4370-0080-0010-00);
 - d) <u>Legal Description: Tract 1: Lot 4, Block 26, Harrison Manor No. 2 Addition, City of Harlingen, Cameron County, Texas, according to the Map or Plat thereof, recorded in Volume 6, Page 75, Map Records of Cameron County, Texas. (Acct. No. 18-4300-0260-0040-00);</u>
 - e) <u>Legal Description: Lot 68, Homeland Addition, Cameron County, Texas, as described in Volume 1222, Page 191 Deed Records of Cameron County, Texas.</u> (Acct. No. 18-8020-0000-0680-00);
 - f) <u>Legal Description</u>: <u>Lots 16 and 17, Block 3, Harlingen Addition, an addition to the City of Harlingen, Cameron County, Texas, as described in Volume 583, Page 483, deed records of Cameron County, Texas (Acct. No. 25-3580-0030-0160-00);</u>
 - g) Legal Description: 0.606 acre, more or less, situated in Block 6, Harlingen Land and Water Co. Subdivision "C" Cameron County, Texas, as described in deed dated June 7, 1988, from E.G. Hall, Substitute Trustee to Albert K. Polis, in Volume 468, Page 181, Deed Records of Cameron County, Texas (Acct. No. 22-4100-0060-0400-00)
 - h) <u>Legal Description</u>: Lot 10, Block 31, Original Townsite, City of Harlingen, Cameron County, Texas, as described in Volume 929, Page 858, Deed Records of Cameron County, Texas (Acct. #15-0000-0310-0100-00).

John Guevara, Attorney with Linebarger, Goggan Blair & Sampson, LLP stated the above described properties were delinquent in property taxes. They were placed for sale multiple times, but no bids were received. The properties were placed for resale and bids were received and accepted subject to City Commission, School District and County's approval. If the properties were sold, they would be placed on the tax rolls.

7) Consider and take action to adopt the resolutions approving the bid(s) received on the tax resale conducted on November 5th, 2013 for the above mentioned properties.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Leal to approve the resolutions approving the tax resale bids for the above described properties, Item No. 6. Motion carried unanimously.

Mayor Boswell changed the order of the agenda and proceeded with the following item.

9) Public hearing to consider an ordinance on first reading to rezone from a Residential, Single Family ("R-1") District to a Neighborhood Services ("NS") District for Lots 8 & 9, Block 4, Nicholson Place Subdivision No. 3 located at 1213 and 1217 E. Jackson Street. Applicant: Greg Mar.

Joel Olivo, Planning and Zoning Manager stated Greg Mar, applicant was requesting to rezone the property from Single Residential Family ("R-1") to a Neighborhood Services ("NS") to convert an existing apartment garage to a duplex. The building permit was pending subject to approval of the rezone request. The Planning and Zoning Commission conducted a public hearing and the surrounding property owners were notified of the public hearing. No objections were received. The request was consistent with the existing land use of the area. 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 the item could do so.

Yolanda Shoffeitt, 284 Altas Palmas stated it seemed that the duplex was built without a permit which would be in violation of the law. She asked if this would be an opportunity for the surrounding residents to do the same and break the law. The application should be denied.

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 rezone request.

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

Motion was made by Commissioner Leal and seconded by Commissioner Uhlhorn to adopt and approve the ordinance on first reading to rezone the above mentioned property. Motion carried unanimously.

Public hearing to consider an ordinance on first reading to amend the City of Harlingen Zoning Ordinance No. 07-27, Section 5, Use Chart to allow a call center in an Office ("O") District with an approved specific use permit. Applicant: Robert Gandy IV.

Mr. Olivo stated Robert Gandy IV, applicant was requesting a text amendment to the City's Zoning Ordinance Manual Chart to allow a call center in an Office ("O") District with an approved Specific Use Permit. An office district was defined as an area designed primarily for use as administrative and professional offices. If the text amendment was approved, the applicant would be required to apply for a Specific Use Permit subject to the City Commission's approval. The Planning and Zoning Commission conducted a public hearing and no objections were received. The Planning and Zoning Commission along with staff recommended approval of the text amendment.

Mayor Boswell stated this was a great project and caution needed to be taken in regards to the parking issues.

a) Public Hearing

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

Jerry Moore, 709 Towne Lane stated he was concerned about the call center because they would be erecting a cellular phone tower that would emit radiation in the atmosphere to nearby communities. He requested for city departments to further look into this matter to see how it would affect the health concerns near the area.

Yolanda Shoffeitt stated she did not understand why permission would be granted before the issuance of a Specific Use Permit.

Raudel Garza, Executive Director of the Economic Development Corporation of Harlingen, Inc. stated Mr. Gandy was addressing the potential use of his building including attracting a call center facility such as United Healthcare, ACT and Dish Network. As a potential large employer the EDC welcomed the addition of the text amendment. The amendment to the zoning ordinance would allow jobs in an indoor setting and would not attract customers from outside. The only parking requirements were for employees. Most call centers use underground fiber optics not cellular towers.

Mr. Moore informed the City Commission and staff of key scientific evidence on public health policies and recommendations concerning RF radiation in and around building structures through the use of fiber optic, modem or microwave operation.

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 amending the City of Harlingen Zoning Ordinance to allow a call center with an approved specific use permit.

Mr. Bilbie read the caption of the ordinance.

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

Commission Mezmar stated the proposed facility was the former Valley Diagnostics Clinic and there was plenty of parking.

Public hearing to consider an ordinance on first reading to amend the Planned Development ("PD") Site Plan from Residential, Mobile Home to Residential, Single Family (20 ft. front, 5 ft. east side and 10 ft. on west side and rear setbacks) for Lot 4, Block 5, Cottonwood Creek Subdivision No. 1 located at 1314 Cottonwood Boulevard. Applicant: Orland and Julia Wren.

Mr. Olivo stated Orland and Julia Wren, applicants were requesting to amend the Planned Development ("PD") Site from a Residential, Mobile Home to Residential, Single Family to allow for the construction of a home. Currently, there was a garage and concrete slab on the property. The request was consistent with the Future Land Use Plan Component of the Harlingen's Vision 2020 Comprehensive Plan. It showed the area as low density residential and consistent with the surrounding land use. The Planning and Zoning Commission conducted a public hearing and no objections were received. 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 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 to amend the Planned Development ("PD") Site Plan for the above mentioned described property.

Mr. Bilbie 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 as presented. Motion carried unanimously.

Ordinance No. 07-28, Section 3.4.3. (K) and 4.1.8. with regards to a fire hydrant required on the private access easement on the proposed Replat of Wal-Mart Subdivision, Lot 1, Block 1, bearing a legal description of Wal-Mart Subdivision, Lot 1, Block 1 located at

706 Dixieland Road. Applicant: Victor Bañuelos of Centerline Surveying c/o Clearview Harlingen, LP.

Mr. Olivo stated Mr. Victor Bañuelos, applicant was requesting a variance to the fire hydrant requirements along the private access easement entrance. The property consisted of one (1) commercial lot with two businesses known as the Conn's Building and the Goodwill Store. A Popeye's Restaurant was being proposed at this same location. There was an existing 12" waterline along the frontage of the proposed subdivision on Dixieland Road. There was no waterline on the private access easement and two (2) fire hydrants were required for the proposed subdivision. The developer was proposing one (1) fire hydrant along Dixieland Road and the Fire Marshal reviewed the request and had no objections. The Planning and Zoning Commission along with staff recommended approval of the variance request subject to: 1) compliance with the findings of Section 7.1 of the Subdivision Ordinance; 2) the existing fire hydrants and the proposed hydrant provided by the developer offered sufficient coverage; and 3) subject to the recommendation of the Fire Marshal.

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

Ordinance No. 07-28, Section 4.1.3. (K)1 with regards to the 120 ft. of right-of-way required for a major arterial street on the proposed Replat of Lot 1, Block 1, Wal-Mart Subdivision bearing a legal description of Lot 1, Block 1, Wal-Mart Subdivision located on the west side of Dixieland Road between Frontage Road 83 and Lincoln Avenue. Applicant: Victor Bañuelos of Centerline Surveying c/o Clearview Investments, L.P.

Mr. Olivo stated this was the same subdivision and Mr. Bañuelos was requesting a variance of the right-of-way requirement for subdivisions. Dixieland Road was designated as a major arterial street which required 120 ft. of right-of-way. Currently, there was 80 ft. of right-of-way and the street was paved 61 ft. back to back. The Planning and Zoning Commission and staff recommended approval of the variance request.

Motion was made by Commissioner Leal and seconded by Commissioner Uhlhorn to approve the variance as recommended by staff. Motion carried unanimously.

Consider and take action to approve an Interlocal Agreement between Tropical Texas Behavioral Health (TTBH) and the Harlingen Police Department (HPD) for three (3) Mental Health Officers.

Steve Mayer, Interim Police Chief stated the proposed agreement would allow the Harlingen Police Department and Texas Tropical Health to assign (3) three mental health officers to the facility to respond to all Section 26 related calls and mental health transfers. Salaries and benefits for the three positions would be paid through a federal grant received by Texas Tropical Behavioral Health for a term of three years. He recommended approval of the interlocal agreement.

Commissioner Mezmar asked if this was a new program.

Chief Mayer responded the program was new to the Valley and the Harlingen Police Department would be first to participate in Cameron County. Selected officers of the police force would be trained by Texas Tropical Behavioral Health. Three additional officers would be hired to replace the selected officers to continue patrolling the streets of the community.

Holly Borell, Associate CEO for Texas Tropical Behavior Health stated the program was funded by a federal grant from the Center of Medicaid and Medicare Services. A former officer of the Department of Public Safety would head the program; trained correctional officers would be part of the program and certification in mental health needed to be achieved.

Chief Mayer stated a notice would be send to the officers within the organization to fill the positions for the new program. There were three (3) officers in the police force that were certified in mental health issues.

Mayor Boswell stated this program was great due to all the violent crimes with mental health issues around the nation. The idea of merging law enforcement and mental health professionals for the new program would be beneficial to the community. He congratulated the Harlingen Police Department for being the first to initiate the program in the county.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Castillo to approve the interlocal agreement between the Harlingen Police Department and Texas Tropical Behavior Health. Motion carried unanimously.

15) Consider and take action to accept (or reject) bids and award the contract for the 2013-2014 General Fund Overlay Project under Bid 2014-03.

Javier M. Zamora, City Engineer stated the project consisted of rehabilitation and overlay of existing roadways by removing the existing asphalt pavement, adding and reworking the cliché base. The re-pavement would consist of pavement markings and manhole adjustments. Staff received eight bids for the projects and recommended approval of the lowest bid submitted by FJM Construction for \$542,603.50.

Motion was made by Commissioner Sanchez and seconded by Mayor Pro-Tem Castillo to approve the lowest bid submitted by FJW Construction for \$542,603.50. Motion carried unanimously.

16) Consider and take action to approve the renewal of a one year contract between the City of Harlingen and RGV Amateur-Adult Soccer Association for the use of the Soccer Fields at Vestal Park. Applicant: City of Harlingen and Manual Cardona.

Paul Menzies, Parks and Recreation Director stated Vestal Park had three full size soccer fields adjacent to Zavala Elementary. The RGV Amateur - Adult Soccer Association had used the fields for ten years. There was an excess of 200 adult players that participated in this activity every Sunday. Irrigation systems were installed and the restroom facilities were completed. The terms of the agreement were the same as the one before with the exception of the additional language "to cap" the gate fee for attendees. This league has not charge a fee for attendees. All required documents from the league pursuant to the contract were up to date and filed with the City. He recommended approval to renew the contract for one year.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Castillo to approve the renewal of contract between the City of Harlingen and RGV Amateur – Adult Soccer Association. Motion carried unanimously.

17) Consider and take action to approve an agreement with N.I.N.O.S. Head Start for the use of the Community Center/Casa de Sol as a temporary emergency holding center.

Dan Serna, Assistant City Manager stated N.I.N.O.S. Head Start was requesting an agreement to use the Community Center/Casa De Sol in the event of unforeseen circumstances or emergency. The proposed agreement would allow them to use the facilities for four hours as a temporary pick up site. The pro-rated fees for any use of the facility would be \$240 for up to four (4) hours. He recommended approval of the agreement.

Commissioner Mezmar asked what constituted an emergency.

Mr. Serna responded events such as water leaks, roof problems, etc. This would allow the students to be picked up by their parents at the proposed facilities until the situation was resolved. Both the organization and staff agreed on the fee to recuperate operational expenses.

Mayor Pro-Tem Castillo suggested that since the organization would not be utilizing the facility on a regular basis maybe staff could assign a credit or waive the fee of 8 hours for the use of the facilities.

Mayor Boswell suggested leaving the agreement as it was and giving the organization the first eight hours free in a one year calendar time frame.

Motion was made by Commissioner Sanchez and seconded by Mayor Pro-Tem Castillo to approve the agreement with the noted changes. Motion carried unanimously.

18) Board Appointments

Commissioner Mezmar

David Batot – Appointed to the Construction Board of Adjustments Nan Spears – Appointed to the Senior Citizens Advisory Board

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

19) Citizen Communication

Raymond Reyes, 706 Nantucket Drive stated he favored the idea of Interim Police Chief Steve Mayer becoming the City's Police Chief. He was concerned with the lack of improvements in the Downtown Improvement District. Three businesses had opened for business, but shortly closed. Repetitive business practice would not be good for the City of Harlingen nor the Downtown Improvement District. There was favoritism and the City was far behind the Cities of Weslaco and Mercedes.

Mayor Boswell proceeded with Item No. 8.

8) Executive Session

Consider and take action to approve an ordinance on first reading amending Chapter 51 of the Harlingen Code of Ordinances to establish a maximum annual increase rate for the use of Reclaimed Water (effluent) and/or approve a draft Water Supply Agreement with La Paloma Energy Center, LLC.

At 6:40 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 8.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Leal to convene into executive session to discuss Item No. 8. Motion carried unanimously.

At 6:59 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting opened to the public

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Sanchez to approve the agreement between the Harlingen Waterworks System and La Paloma Energy Center, LLC with the rate of five cents per thousand gallons of reclaimed water (effluent) with an addition of a 2% rate increase per year cap. Motion carried unanimously.

There being no further business to discuss, the meeting adjourned at 7:03 p.m.

(1-1)

Chris Boswell, Mayor

ATTEST:

Elena Garza, Assistant City Secretary