

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

April 16, 2014

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, April 16, 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 1

Tudor Uhlhorn, Commissioner District 2

Chino "Basilio" Sanchez, Commissioner District 4

Victor Leal, Commissioner District 5

Absent

Mike Mezmar, Commissioner District 3

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

Invocation/ Mayor Chris Boswell

Mayor 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 Public Announcements

David Ralph, Public Information Officer announced the following events.

- a) Spring Electronic Recycling Day sponsored by Keep Harlingen Beautiful – Harlingen Recycling Center, Saturday, April 19, 2014;
- b) Egg Drop hosted by Valley Praise – Harlingen Sports & Soccer Fields on Wilson Road, April 19, 2014 from 11:00 a.m. to 2:00 p.m.; and
- c) Cinco de Mayo Celebration – Lt. George Gutierrez La Placita Park, Saturday, May 3, 2014 from 2:00 p.m. - 7:00 p.m.

2) Presentation of proclamations proclaiming the following:

Mayor Boswell read and presented the following proclamations to the following individuals that were present to receive the proclamation.

- a) May, 2014 as "Motorcycle Safety and Awareness"

Robert Warmbier and other motorists, proclaiming the month of May, 2014 as "Motorcycle Safety and Awareness Month."

- b) May 4-10, 2014 as "Drink Water Week"

Rick De Los Santos and Nilda Sanchez, proclaiming May 4-10, 2014 as "Drinking Water Week."

Mr. De los Santos thanked the Citizens of Harlingen, Darrel Gunn, HWWS Director and WWS employees for the hard work and services that they provided to the community.

3) Board Recognition

Mayor Boswell presented certificate of recognition to the following individuals on behalf of the City Commission and expressed his appreciation to the incoming members for dedicating their time to serve on the following boards. To the outgoing members, he thanked them for sharing their time to the serve the community.

Incoming Members

Kyle Orgera – Tax Increment Financing Reinvestment Zone Board (TIF)
Eric J. Ziehe – Tax Increment Financing Reinvestment Zone Board (TIF)
Shane L. Allen – Community Development Advisory Board

Outgoing Members

Frank Puente – Tax Increment Financing Reinvestment Zone Board (TIF)
Fred Rendon – Zoning Board of Adjustments
Robert Leftwich – Tax Increment Financing Reinvestment Zone Board (TIF) and
Harlingen Housing Finance Corporation

4) Neighborhood Clean Sweep held April 12, 2014 from North 26th to North 27th Street from E. Harrison to include Wheeling Park, District 2.

Carlos Yerena, City Manager reported on the Neighborhood Clean Sweep held April 12, 2014 in District 2 and stated 3.44 tons of debris and 61 tires were collected. He thanked Commissioner Uhlhorn, Code Enforcement Staff, Marine Military Academy members, and other volunteers that participated in the Neighborhood Clean Sweep. The next event was scheduled for May 10, 2014 from E. Matz to E. Vinson between Rose Street and 1st Street in District 1.

Commissioner Uhlhorn and Mr. Yerena presented certificates of appreciation to Sgt. Major Kinsley to give to the cadets. Any time the City hosts these events the Marine Military Cadets were always present to help clean the city. This was very important to the community and it taught them the importance of helping and being a part of the community. The City owed them a great deal of gratitude.

5) Approval of Minutes

a) April 2, 20104 – Regular Meeting

Motion was made by Commissioner Leal and seconded by Commissioner Uhlhorn to approve the minutes with corrections on Page 6, Line 41 to change the word “engineering to architecture” and Page 8, Line 37 to read “20% each year.” Motion carried unanimously.

CONSENT AGENDA

6a) Second and final reading to approve and adopt an ordinance to rezone from Not Designated (“N”) District to General Retail (“GR”) District for 0.156 acres out of Block 11, 3.97 acres out of Block 12, 5.0 acres out of Block 13, and 1.64 acres out of Block 14, Stuart Place Subdivision Survey 298 located on the south side of Business 83 between Altas Palmas Road and Baker Potts Road.

b) Consider and take action to approve a request from St. Anthony’s Catholic Church School to close Van Buren Avenue between 10th and 11th Streets and if needed depending traffic congestion Harrison Avenue between 10th and 11th Streets from 8:30 a.m. to 1:00 p.m. on Friday, April 25, 2014 for their Annual Walk-A-Thon.

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

For the record, the caption of Ordinance No. 14-15 read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HARLINGEN: REZONING FROM NOT DESIGNATED (“N”) DISTRICT TO GENERAL RETAIL (“GR”) DISTRICT FOR 0.156 ACRES OUT OF BLOCK 11, 3.97 ACRES OUT OF BLOCK 12, 5.0 ACRES OUT OF BLOCK 13, AND 1.64 ACRES OUT OF BLOCK 14, STUART PLACE SUBDIVISION SURVEY 298, LOCATED ON THE SOUTH SIDE OF BUISNESS 83 BETWEEN ALTAS PALMAS ROAD AND BAKER POTTS ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FORGOING.

PASSED AND APPROVED on first reading this the 2nd day of April, 2014.
PASSED AND APPROVED on second and final reading this the 16th day of April, 2014.

CITY OF HARLINGEN
/s/Chris Boswell, Mayor

Attest:

/s/Amanda C. Elizondo, City Secretary

7) Presentation of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2012-2013, Long Chilton, LLP.

Quentin Anderson with Long Chilton, LLP, gave a presentation of the City of Harlingen’s Comprehensive Annual Financial Report for Year 2013. The report highlighted the City’s Asset, Liabilities, Net Assets, Primary Government, Revenue Comparison, and Primary Government - Revenue Analysis. Government and Business-Type Activities, Expenditures Analysis, Governmental and Expense Analysis-Business-Type Activities; and General Fund Balance Comparison.

Mayor Boswell stated he was excited to report the unaudited numbers provided by Elvia Trevino, Finance Director at the State of the City Address. These numbers were comparable to the audit. He thanked the City Manager and Finance Staff for their work to make sure the City was financially sound.

Commissioner Uhlhorn stated it was important to recognize Harlingen Finance Director Elvia Trevino and her staff for receiving the Certificate of Achievement Award for Excellence in financial reporting not only last year, but for the past 20 years in a row.

Mr. Anderson stated the firm took pride in devoting their time and attention to prepare a document that investors and bond holders could request to evaluate the City’s financial condition.

8) Public Hearing to consider an ordinance on first reading to rezone from Not Designated (N) District to General Retail (“GR”) District for 41.21 ± acres of land out of the South Portion of Block 142, San Benito Land and Water Company Subdivision located on the north side of Hale Avenue east of Camelot Drive.

Mayor Boswell announced Item No 8 would be postponed for a future meeting and changed the order of the agenda.

11) Consider and take action to approve an ordinance on first reading amending sections of Chapter 92 concerning smoking regulations of the Harlingen City Code; providing a saving clause; providing a severability clause; and ordaining other matters to the foregoing.

Ramiro Gonzalez, Environmental Health Director stated the amendment would implement a 100% smoke-free environment that would guarantee the right of non-smokers to breathe smoke-free air. The purpose was to protect citizens from second hand smoke. The current ordinance did not guarantee a 100% smoke free environment. Staff recommended approval of the amendment.

Mayor Boswell stated most of the people that signed up for citizen communication dealt with the amendment to the Non-Smoking Ordinance. The City Commission would hear comments from both groups. First they would hear from the citizens that were in favor of the amendment and the same would be for citizens opposing the amendment.

Ruthie Ewers, citizen stated eight years ago the Harlingen City Commission made history for the health of its citizens by being the first to pass a non-smoking ordinance in the Rio Grande Valley. The times had changed in regards to inhaling second hand smoke. She would attend therapy sessions with a close friend who has cancer due to the ill effects of second smoke. She was present to represent the rights and choices of those who work in bars and restaurants that were affected by second hand smoke and was in favor of the amendments to the proposed ordinance.

Comments were also heard from Dr. Michael Evans, M.D., Rachel Gomez, Victoria Podrada, Carmen Villegas, Kristine Donatello, Christina Ortiz, Belinda Reininger, Michael Garza, Joel Romo, Mindy Taylor and other citizens that favored the proposed amendment to the Non-Smoking Ordinance for a smoke free environment in the community. They expressed concerns regarding health issues. They spoke about how smoking had affected their family members and some had passed away, the effects that the second hand smoke would have on individuals that worked or lived in a smoking environment.

Comments were heard from Yolanda Shoffeitt, Steven Fujan, Albert Cavazos, Jimmie Traylor, Scott Thomas, Joe Rubio, Charles Law, Ron Lozano and other citizens opposing the amendment to the Non-Smoking Ordinance. Their concerns were that it would hurt businesses in the community, this was a form of dictatorship, they had the choice whether or not to smoke, employees exposed to smoking had the choice to decide to remain in a smoking work environment or not, requested that the provision on E-Cigarette be remove from the ordinance, and smoke shops be allow to provide samples of cigar products.

There being no additional comments, Mayor Boswell asked that the caption of the ordinance be read.

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

Mayor Pro-Tem Castillo inquired in regards to private clubs with a membership and how would this be regulated if they had staff that volunteered their services.

Mayor Boswell responded probably the intent was to limit second hand smoke practically for workers who may or may not have a choice because of the need of a job.

Commissioner Leal stated he was part of the discussion that the City's Health Department had with the City of Brownsville officials. He reviewed a copy of the Brownsville Non-Smoking Ordinance to compare with the changes that were being proposed for the City of Harlingen Non-Smoking Ordinance. The City of Brownsville was in the process of releasing an eighteen month report that showed business operations were not diminished by the ordinance. In regards to private and public clubs such as, the Elks Lounge, participants had to obtain a membership. There were public areas that hosted bingo and they had done some research on other lounges to obtain information on how this issue was handled throughout the United States. Some businesses had a public area designated for special guests as a smoking area. He received calls from the local hotels voicing their concerns. The manner in which the ordinance was written and if voted at this meeting every hotel would be 100% smoke-free. The City of Brownsville allowed hotels to designate 20% of the rooms as smoking rooms with stipulations. City of Brownsville allowed E-Cigarettes and tobacco shops to have a designated area to sample cigars. The proposed amendment would not allow smoking in these establishments. He was in favor of voting for the amendment, but not until additional research was done due to the manner that the amendment was being presented.

Commissioner Sanchez agreed with Commissioner Leal's comments.

Commissioner Uhlhorn stated the motivating factor would be about the employees. He agreed with allowing the smoke shops to sample the tobacco products. Commissioner Uhlhorn stated he would be proud to count Harlingen among other cities that had ban smoking. Studies revealed smoking contributed to health issues.

Mayor Pro-Tem Castillo stated overall he was in favor of the ordinance. Language needed to be incorporated into the ordinance to protect the rights of the people that did not wish to be exposed to second hand smoke without infringing on the rights of somebody else.

Mayor Boswell recommended for staff to review all concerns and options prior to enacting an ordinance including those issues pertaining to the hotels, E-Cigarette establishments and private clubs and report to the City Commission at a later date.

Motion was made Commissioner Leal and seconded by Mayor Pro-Tem Castillo to adopt the ordinance on first reading with the stipulation that staff research and evaluate all concerns and options mentioned in the discussion prior to the second and final reading of the ordinance. Motion carried unanimously.

Mayor Boswell returned to the regular order of the agenda and proceeded with Item No. 9.

- 9) Public hearing to consider an ordinance on first reading to name a new street “Lodestar Avenue” located adjacent to Sun Valley Aviation Facility and generally located north of Woodall Avenue and West of Bob Youker Street.

Joel Olivo, Planning and Zoning Manager stated the Sun Valley Aviation Parking Lot Project included the construction of a new private street to provide access to future development in the northeast area of the airport. The street was approximately 639 ft. in length and was located north of Woodall Avenue and West of Bob Youker Street. The Airport Board approved the street name of “Lodestar Avenue” at their regular meeting of March 17, 2014. The Planning and Zoning Department did not receive any objections to the request from the surrounding property owners and recommended approval.

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 had no idea what “Lodestar” meant and a wiser name should have been chosen.

Yolanda Shoffeitt, P.O. Box 697, stated she had attended the Airport Board Meeting and suggested a more prominent name.

Michael T. Browning, Valley International Airport Director stated the name of Lodestar was a type of airplane manufactured by Lockheed, when this plane was built the name of the company was “Lockheed” during World War II that was used at the Harlingen Air Base. The street was less than 500 ft. long and it would not be used as a major thoroughfare.

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

- b) Consider and take action to approve an ordinance on first reading to name a new street.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Leal to approve the ordinance as presented on first reading. The motion carried as follows: FOR: Mayor Pro-Tem Castillo, Commissioners: Uhlhorn, Mezmar and Leal. AGAINST: Commissioner Sanchez.

- 10) Public hearing to consider an ordinance on first reading for a Specific Use Permit (“SUP”) to allow an adult business (gun shop) in a General Retail (“GR”) District located at 117 E. Porte Court, Suite 2, bearing a legal description of Lot 5, Block 1 of East Porte Center Subdivision.

Mr. Olivo stated William Vance Durham, applicant was requesting a Specific Use Permit to allow a gun shop from an existing suite approximate 1,200 sq. ft. located at 117 E. Porte Court, Suite No. 2. The applicant was proposing to operate the shop from Monday to Thursday, 10 a.m. to 9 p.m., Friday and Saturday from 10 a.m. to 10 p.m., and Sunday 1 p.m. to 5 p.m. The request was reviewed by the appropriate city departments and no objections were received. A public hearing was conducted by the Planning and Zoning (P/Z) Commission and no comments were received. The P/Z Commission along with staff recommended approval of the request subject to the following conditions: 1) providing and maintaining the required off-street parking in accordance with City

regulations; 2) obtaining and maintaining all required state/federal permits for gun sales and repair; and 3) compliance with the requirements, administered by Planning and Zoning, Building Inspections, Environmental Health, Fire Prevention and Police Departments.

a) Public Hearing

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

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

Commissioner Sanchez questioned if there would be a shooting range at the establishment.

Mr. Olivo responded no.

b) Consider and take action to approve an ordinance on first reading for a specific use permit at the above described property.

Mr. Bilbie read the caption of the ordinance.

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

12) Consider and take action to approve an academic initiative between the City of Harlingen and the University of Texas-Pan American to provide certain online degree programs at preferred tuition rates for City employees.

Gabriel Gonzalez, Assistant City Manager stated The University of Texas-Pan American offered to provide online degree programs to city employees. Programs offered would be Masters of Public Administration and Masters of Business Administration. The benefits offered to employees were completely online and at a reduced tuition rate. The program was at no cost to the City and recommended approval.

Motion was made by Commissioner Sanchez and seconded by Commissioner Uhlhorn to approve the academic initiatives between the City of Harlingen and The University of Texas- Pan American. Motion carried unanimously.

13) Consider and take action to appoint three (3) representatives to the Bi-Ned Zone Steering Committee to serve with representatives from Brownsville, Texas and Matamoros, Tamaulipas.

Mayor Boswell announced Item No. 13 would be postponed for a later time.

14) Board Appointments

There were no board appointments

15) Executive/Closed session on the following:

a) attorney consultation pursuant to Chapter 551.071(2) regarding City Commission's rights, duties, privileges, and obligations in connection with the grant or denial of a Specific Use Permit ("SUP") to allow a recycling center (ferrous metal).

b) pursuant to Chapter 551, Subchapter D, V.T.C.A., Government Code, Sections 551.087 and 551.071 regarding commercial and financial information from a business prospect with which the City is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives with the business prospect known as Project Blue and to seek legal advice from the City Attorney regarding subject.

c) pursuant to Chapter 551, Subchapter D, V.T.C.A., Government Code, Sections 551.087 and 551.071 regarding commercial and financial information from a business prospect with which the City is conducting economic development and/or to discuss or deliberate

financial or other incentives with the business prospect known as Project DPC and to seek legal advice from the City Attorney regarding subject.

At 7:09 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 15. 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. 15 a, b, and c. Motion carried unanimously.

At 8:00 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

- 16) Consider and take action to approve an ordinance on first reading for a Specific Use Permit ("SUP") to allow a recycling center (ferrous metal) in a Light Industry ("LI") District located at 5001 E. Harrison Avenue bearing a legal description of Lot 1, Block 1, Funk Seed Subdivision.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Sanchez to approve the ordinance. Motion died due to the lack of a second.

- 17) Consider and take action to confirm and approve the recommendation of the Harlingen Community Improvement Board to employ a consultant to assist the City in evaluating proposals for a public/private partnership on a hotel and conference center including an evaluation of the appropriate and optimal size for a conference center/meeting facility and authorize the City Manager to negotiate a contract.

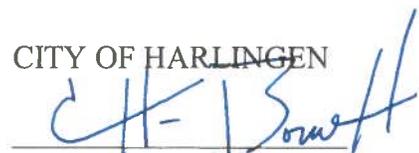
Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Castillo to approve the recommendation of the Harlingen Community Improvement Board to authorize the City Manager to negotiate a contract between the City of Harlingen and the HVS Convention, Sports & Entertainment Facilities for consulting services. Motion carried unanimously.

- 18) Citizens Communication

For the record, all the citizens that signed up for citizen communication spoke in regards to the Non Smoking Ordinance, Item No. 11.

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

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Amanda C. Elizondo, City Secretary