

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

July 15, 2015

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, July 15, 2015 at 5:30 p.m., City Hall, Town Hall Meeting Room, 118 E. Tyler Street Harlingen, Texas. Those in attendance were:

Mayor and Commissioners

Mayor Chris Boswell
Mayor Pro-Tem Victor Leal, District 5
Danny Castillo, Commissioner District 1
Tudor Uhlhorn, Commissioner District 2
Michael Mezmar, Commissioner District 3
Ruben De La Rosa, Commissioner District 4

Staff Present

Carlos Yerena, City Manager
Amanda C. Elizondo, City Secretary
Richard Bilbie, City Attorney

Mayor Boswell called the meeting to order and stated the meeting was duly posted according to State law. The following proceedings were held.

Invocation/Commissioner Danny Castillo

Pastor Raymond Vela of Breathe Life Church gave the invocation on behalf of Commissioner Castillo.

Pledge of Allegiance/Welcome

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

1) Approval of Minutes

a) Regular Meeting of June 17, 2015

Motion was made by Commissioner Castillo and seconded by Mayor Pro-Tem Leal to approve the minutes with a change on Page 3, Line 46 to reflect that Commissioner Mezmar had filed a Conflict of Interest form in regards to the following Item.

3a) Consolidated Plan and Strategy for FY 2015-2019 and One Year Action Plan (Budget) for Fiscal Year 2015-2016 (Year 41) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2015-2019 (Year 21) of the Home Investment Partnership Program (HOME).

Motion carried unanimously.

2) Neighborhood Clean Sweep held July 11, 2015 from E. Van Buren to E. Jackson between 7th and 13th Streets, District 2.

Carlos Yerena, City Manager gave a report on the Neighborhood Clean Sweep held on July 11, 2015, District 2. He reported 3.24 of debris and 37 tires were collected. Mr. Yerena thanked the Code Enforcement Staff and volunteers from United Launch Alliance, The Delua Family and Tamayo Home for Boys for their participation. The next Neighborhood Clean Sweep was scheduled for August 8, 2015, E. Buchanan to E. Filmore between 8th and 13th Streets, District 3.

Mayor Boswell and Commissioner Uhlhorn presented Certificates of Recognition to Officer Reynaldo Delua, Adacelli and Katherine Delua for volunteering in the Neighborhood Clean Sweep.

Mayor Boswell removed Item 3a from the Consent Agenda.

CONSENT AGENDA

- 3a) Consider and take action to adopt a resolution approving the Consolidated Plan and Strategy for FY 2015-2019 and One Year Action Plan (Budget) for Fiscal Year 2015-2016 (Year 41) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2015-2019 (Year 21) of the Home Investment Partnership Program (HOME).

For the record, Commissioners Mezmar and De la Rosa filed a Conflict of Interest form with Amanda C. Elizondo, City Secretary in regards to Item 3a. Commissioners Mezmar and De La Rosa relinquished their chairs and excused themselves from the meeting room to avoid an appearance of impropriety.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve Item 3a under the consent agenda. Motion carried unanimously.

Commissioner Mezmar and Commissioner De La Rosa returned to the meeting room.

- b) Consider and take action to authorize the sale of surplus property by public auction.
- c) Consider and take action to approve the final plat of Adam's Manor Subdivision bearing a legal description of 1.997 acres out of Block 102, Harlingen Land and Water Company Subdivision, generally located at the southwest corner of Vinson Avenue and 21st Street.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Castillo to approve Items 3b and c under the consent agenda. Motion carried unanimously.

- 4) Consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow a fire station in a Not Designated ("N") District located at the southwest corner of Brennaman Road and Stuart Place Road, bearing a legal description of 6.09 acres out of Block 4, Stuart Place, a Re-subdivision of the South Part of Section 137 and the North Part of Section 297. Applicant: City of Harlingen.

Joel Olivo, Planning and Zoning Manager stated the proposed Specific Use Permit (SUP) was for the construction of a 7,000 Sq. ft. fire station at the southwest corner of Brennaman Road and Stuart Place Road. The request was reviewed by Building Inspection, Health and Fire Prevention Departments and there were no objections to the request subject to complying with the City's Code of Ordinances and procedures administered by each department. A public hearing was conducted by the Planning and Zoning (P&Z) Commission and several objections were received from surrounding property owners via telephone, a written letter and a petition that was submitted to staff at the June 10th, 2015 P&Z meeting. The item was tabled at the June 10th P&Z Commission meeting. Staff verified the signatures on the petition. The petition contained more than 20% of the signatures from the property owners residing within the 200 ft. radius of the subject property. A 4/5 vote was required by the City Commission to approve the Specific Use Permit. Staff along with the P&Z Commission recommended approval of the request subject to complying with the following conditions: 1) providing and maintaining the required parking spaces in accordance with city regulations; 2) providing and maintaining the required landscaping; and 3) complying with the requirements administered by the P&Z Commission, Building Inspection, Environmental, Health, and Fire Prevention Departments.

- a) Public Hearing

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

Jack Chapman, 905 Stuart Place Road, read a letter stating his opposition to the SUP for the construction of the fire station. He opposed the SUP because the fire station would directly face his home; the unwanted noise, commercialism, retail and light and heavy industry. Mr. Chapman stated that the adjoining property owners not welcome the addition of the new fire station. There were other properties that were available along the expressway, and commercial zones north of the expressway on Stuart Road and Wilson Road. The construction of the fire

station would have an impact on the property values. He indicated he had not received notices of the meetings and was concerned that the city staff was not following the zoning regulations as per state law.

Yolanda Shoffiet, 285 Altas Palmas stated this was spot zoning and was against the law.

John E. Yeupell, 921 S. Stuart Place Road, agreed with Mr. Chapman's comments. There were many residents on Stuart Place Road that were in opposition of the fire station. He enjoyed the tranquility of the neighbors. He asked why did the City purchased six acres when only 1½ acres was sufficient to build the station.

Mr. Chapman stated it was noted on the first hearing that there was no opposition to the construction of the new fire station when in fact there was. He had not been allowed to speak at the first public hearing and felt that his rights had been violated.

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

- b) Consider and take action to approve an ordinance on first reading for a Specific Use Permit to allow a fire station at the above mentioned described property.

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

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

- 5) Consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow four storage buildings in a General Retail ("GR") District located at 1702 N. 77 Sunshine Strip and bearing a legal description of Part of Blocks 14 & 15, East City View Heights Subdivision. Applicant: Enrique Abundiz.

Mr. Olivo stated Enrique Abundiz, applicant was requesting a Specific Use Permit to install four metal storage containers at his tire shop located at 1702 N. 77 Sunshine Strip. The containers were 8 ft. wide by 40 ft. long and 19 ft. in height. The containers would be painted white. A notice of the proposed SUP was advertised in the newspaper and letters were mailed to the property owners residing within the 200 ft. radius. None of the surrounding property owners objected to the request. The Planning and Zoning Department recommended a landscaping buffer around the containers to improve the appearance of the land use. The Building Inspection, Environmental, Health, and Fire Prevention Departments reviewed the SUP Application and had no objections to the request. He recommended approval of the request subject to the following conditions: 1) providing and maintaining the required parking in accordance with city regulations; 2) providing and maintaining the required landscaping including a buffer surrounding each storage container; and 3) comply with the requirements administered by Planning and Zoning, Building Inspection, Environmental, Health, and Fire Prevention Departments.

Commissioner Castillo asked if the containers would be use for storing, selling or disposing tires.

Mr. Olivo responded the containers could be for storing or selling tires.

Commissioner Mezmar inquired if there was a tire shop currently on the property and what were the risks of storing tires in a sealed container that reached high temperatures.

Mr. Olivo responded yes, currently there was a tire shop on the property.

Roy Rubio, Fire Chief stated it depended on the high temperatures and the products that would make it combustible.

Mayor Pro-Tem Leal asked if Chief Rubio's objection was resolved at the Planning and Zoning Commission Meeting.

Mr. Olivo responded the concern was resolved after the applicant submitted the appropriate plans.

A brief discussion was held in regards to the use and location of the containers and Mr. Olivo stated Mr. Abundiz would be storing the used tires for sale in the containers rather than inside his business.

Commissioner Castillo asked if the Fire Chief was familiar with the situation that occurred at the tire recycling plant on Grimes Avenue.

Chief Rubio responded yes, those type of establishments were required to have a permit from the Texas Commission on Environmental Quality for the burning of shredded tires.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Castillo to table the item to allow Mr. Abundiz to be present to answer some of the concerns from the City Commission. Motion carried unanimously.

- 6) Consider an ordinance on first reading to rezone from Multi-Family Residential (“M-2”) District to Office (“O”) District for the West Part of Block 8, Brown Subdivision located at 605 E. Carrol Avenue. Applicant: Juan Vargas.

Mr. Olivo stated Juan Vargas, applicant was requesting to rezone the subject from a Multi-Family Residential (“M2”) District to an Office (“O”) District to apply for a building permit to extend the roof of his home for a carport. The single family home was constructed prior to the adoption of the Zoning Ordinance. The request for an SUP to extend the roof for a carport did not comply with the required setbacks. Therefore, it was considered a non conforming structure and this could be achieved by rezoning the property to an Office District. The existing home was 12½ ft. from the property line, 4½ ft. from the west point line and 8½ ft. from the east property line. A public hearing was conducted by the P/Z Commission; all the surrounding property owners residing within 200 ft. radius were notified of the request 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 an ordinance on first reading for a rezone request from Multi-Family Residential (“M-2”) to Office (“O”) District at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

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

- 7) Consider an ordinance on first reading to rezone from a Residential, Single Family (“R-1”) District to a General Retail (“GR”) District for Lots 7-9, Block 3, Benoist Subdivision and Lots 11-16, RW Nelson Amended Subdivision located on the 800 Block of Hanson Street. Applicant: Cody Witzel.

Mr. Olivo stated Cody Witzel, applicant was requesting to rezone the subject properties from a Residential, Single Family (“R-1”) District to a General District to allow a new/used car dealership on the subject property located at 800 Block of Hanson Street. A public hearing was conducted by the P/Z Commission and the property owners residing within 200 ft. were notified of the request. Staff received no objections. The P/Z Commission along with the staff recommended approval of the rezone request.

Commissioner Uhlhorn asked why the building at the corner of Eye and Hanson Streets was designated for R-1 use and was used for businesses in the past.

Mr. Olivo stated this was a non-confirming building and in the past there were two other buildings that were used as non- conforming use.

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 further comments, Mayor Boswell closed the public hearing.

b) Consider and take action to approve an ordinance on first reading for a rezone request from a Residential, Single Family ("R-1") District to a General retail ("GR") District at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner De la Rosa to approve the ordinance on first reading as presented. Motion carried unanimously.

8) Consider, discuss and give staff direction on Humane Society of Harlingen's Proposal to enact mandatory spay ordinance.

Mayor Boswell stated the item was placed on the agenda and tabled at the last Commission meeting to allow staff to do research and a presentation at a future meeting with alternatives for a proposed ordinance.

Commissioner Uhlhorn recommended for the City to work with the Humane Society on the fines/fees structure and the number of animals that were euthanized.

Commissioner Castillo agreed with Commissioner Uhlhorn and stated the ordinance would have to be geared more towards the violators rather than the responsible pet owners.

Mayor Boswell asked what would be a reasonable timeline for staff to present the information for them to consider.

Gabriel Gonzalez, Asst. City Manager stated 30 days would be sufficient.

Mayor Boswell stated he would like to see information from other cities where similar types of ordinance have been enacted and had an impact on the situation of bringing the amount of animals that were being put down. The presentation was scheduled for the second meeting in August.

No action was taken.

9) Consider and take action to approve a resolution amending the Development Corporation of Harlingen, Inc.'s 2014-2015 Fiscal Year Budget.

Raudel Garza, CEO of the Development Corporation of Harlingen, Inc. summarized the amended budget and stated the budget was increased by \$22,000 over last year from a \$5 million budget. The amendment was to shuffle money to do some corrections to the budget.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve the resolution as presented amending the Development Corporation of Harlingen, Inc. Budget for FY 2014-2015. Motion carried unanimously.

10) Board Appointments

None

11) Executive Session pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code, Sections 551.072, 551.087 and 551.071 regarding the purchase, lease or value of real estate; 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 Wilson** and to seek legal advice from the City Attorney regarding the subject matter.

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 Commissioner Uhlhorn and seconded by Commissioner Castillo to convene into executive session to discuss Item No. 11. Motion carried unanimously.

At 6:31 p.m. Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

- 12) Consider and take action to approve the Development Corporation's Project Wilson Contract and resulting expenditures as discussed in executive session.

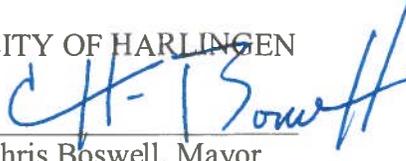
Motion was made by Commissioner Uhlhorn and seconded by Commissioner Castillo to approve the Development Corporation's Project Wilson Contract, and resulting expenditures as discussed in executive session. Motion carried unanimously.

- 13) Citizen Communication

Yolanda Shoffiet 285 Altas Palmas spoke about the lawsuits filed by former City Commissioner Kori Marra and former City Attorney Roxann Cotroneo. She also spoke on the United Launch Alliance press conference.

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

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Amanda C. Elizondo, City Secretary