



- e) Consider and take action to approve a request from Maria Cardenas, 822 W. Arthur to close the 1400 Block of "H" Street between W. Arthur and Garfield Avenue on December 31, 2015 from 2 p.m. to 2 a.m. to celebrate a family reunion.
- f) Consider and take action to approve the preliminary plat of the proposed Oak Ranch Estates Subdivision consisting of a 37.270+ acre tract of land out of Stuart Place Subdivision Survey 42 and 297; located on Garrett Road, northeast of Dilworth Road. Applicant: Dustin Moore of Brown, Leal & Associates c/o Rick Lupient.
- g) Consider and take action to approve the final plat of the proposed H&M Subdivision, consisting of a 2.00 acre tract of land out of Block 38, Stuart Place Subdivision Survey 295; located on Doane Road, southwest of Garrett Road. Applicant: JNH Surveying c/o Hector Rodriguez.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Mezmar to approve Items No. 2(a) through (g) under the consent agenda. Motion carried unanimously.

For the record, the caption of the ordinances reads as follows:

**ORDINANCE NO. 15-43**

**AN ORDINANCE AMENDING ORDINANCE 02-93 ESTABLISHING NEW RENTAL RATES AND SUPPLEMENT FEES CHARGED BY THE CITY OF HARLINGEN PUBLIC LIBRARY FOR USE OF THE MEETING ROOM FACILITES; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

**ORDINANCE NO. 15-44**

**AN ORDINANCE TO ESTABLISH A "NO PARKING ZONE" ON THE WEST SIDE OF NORTH B STREET BEGINNING AT ITS INTERSECTION WITH AUSTIN AVENUE EXTENDING NORTH, FOR A DISTANCE OF APPROXIMATELY 405 LINEAR FEET IN LENGTH; TO AUTHORIZE THE TOWING OF VEHICLES PARKED IN SAID "NO PARKING ZONE"; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

**ORDINANCE NO. 15-45**

**AN ORDINANCE AUTHORIZING THE PLACEMENT OF THREE STOP SIGNS ON P STREET AT ITS INTERSECTION WITH THE ENTRANCE INTO H.E.B. AND THE CENTRAL PARK SHOPPING CENTER CREATING A 3-WAY STOP; ESTABLISHING A FINE NOT TO EXCEED \$200.00 DOLLARS FOR THE DRIVER OF ANY VEHICLE WHO FAILS TO STOP AND YIELD THE RIGHT OF WAY IN OBEDIENCE TO THE STOP SIGN HEREIN AUTHORIZED; AMENDING OR REPEALING CONFLICTING ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

PASSED AND APPROVED on first reading this 2<sup>nd</sup> day of December, 2015.

PASSED AND APPROVED on second reading on this 16<sup>th</sup> day of December, 2015.

/s/Chris Boswell  
Mayor

ATTEST:  
/s/ Amanda C. Elizondo, City Secretary

- 3) Consider and take action to approve an ordinance for a Specific Use Permit ("SUP") to allow a bar/lounge in a Light Industry ("LI") District located at 422 North L Street bearing a legal description of Lots 8-10, Block 2, Hasselmeier Addition 2. Applicant: David Martinez. (This item was tabled at the last regular meeting of December 2, 2015).

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to remove Item No. 3 from the table. Motion carried unanimously.

Joel Olivo, Planning and Zoning Manager stated staff was instructed to meet with the affected property owner and Mr. David Martinez, applicant to discuss the concerns. Staff contacted the affected property owner and he indicated that he had spoken to Mr. Martinez and was not opposed to the SUP subject to Mr. Martinez providing a perimeter fence around the front patio located at the front of the property and no late hours permit. That another meeting was not necessary, since then, staff was contacted by the affected property owner objecting to the late hours permit to televise pay-for-view and special events.

Commissioner Uhlhorn stated his concern was the proposed bar/lounge would be in a residential neighborhood. He met with the previous manager of Papa Joe's Burgers and he had no problems with the neighbors other than some minor issues which had been worked out. The previous business owner did not have the after hour permit, but had decided to close early because of the lack of business between 12 midnight and 2:00 a.m. The fact that it was a residential neighborhood was bothersome to him.

Joel Mata, David's brother-in-law, stated the initial intention was to open a restaurant to serve bar-b-que. During the application process he was advised by the Planning and Zoning Department to fill out the form and decide whether or not the hours of operation would be until 2:00 a.m. Their intention was not to stay open until 2:00 a.m. every night because of the lack of business. They were proposing to stay open until 2:00 a.m. only during special events. They would have live entertainment at the acoustic level or karaoke. Mr. Martinez stated he had passed some letters to the neighbors informing them of his intentions to open the proposed bar/lounge. His intention was to keep the business open until 2:00 a.m. if the business was good.

Discussion was held in regards to the late hours, loud music and possibility of opening a bar-b-que restaurant in the near future. Discussion was also held regarding the possibility of granting the permit provided that the applicant would agree to have late hours on Saturday only until 2 a.m. and allow a 12 months permit. At the end of the twelve month, Mr. Martinez could request a permit to continue the operation and City would waive the fee.

Mr. Martinez stated he agreed to terms as discussed.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve the ordinance on first reading subject to late hours only on Saturday until 2 a.m., renew the permit after 12 months and waive the City permit fee. Motion carried unanimously.

- 4) Consider and take action to grant a variance with regards to the 5 ft. sidewalk required on Expressway 83 Frontage Road on the proposed Harlingen Cuevas Subdivision, bearing a legal description of 9.466 acre tract out of Block 13, Stuart Place Subdivision of Survey 138, located on the south side of Expressway 83 on the east corner of Beckham Road and Frontage Road. Applicant: Eduardo H. Mejia of Mejia & Rose Engineering, Inc. % Donicio Cuevas.

Mr. Olivo stated Eduardo H. Mejia of Mejia & Rose Engineering, Inc. on behalf of Donicio Cuevas was requesting not to place a 5ft. sidewalk required along the right-of-way of Expressway 83 Frontage Road. The proposed subdivision consists of three commercial lots. The subject property has 1,257.19 feet of frontage on Expressway 83 and 139.05 feet of frontage on Beckham Road. There were no sidewalks located on Expressway 83 Frontage Road from the City limits line at Bass Blvd. to Spurs 54 approximately 3.5 miles along the frontage road. The Engineering Department reviewed the variance request and recommended approval of the request. The Planning and Zoning (P/Z) Commission recommended denial of the variance request because they felt the City should continue promoting the installation of sidewalks in that area for any future commercial construction. Mr. Olivo stated there were existing businesses along the road and no sidewalks on the west side of the car dealership.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Uhlhorn to overturn the recommendation of the P/Z Commission and approve the variance request. Motion carried as follows: FOR: Mayor Pro-Tem Leal, Commissioners: Castillo and Uhlhorn. AGAINST: Commissioner Mezmar.

- 5) Public hearing to consider an ordinance on first reading to renew a Specific Use Permit "SUP" to allow the continuance of a bar/lounge in a General Retail "GR" District located at 304 South "D" Street, bearing a legal description of Lot 12, Block 85, Harlingen Original Townsite.

Mr. Olivo stated Robert E. Rangel was requesting the renewal of the Specific Use Permit to continue operation of the Bar/lounge known as "Robztown" located at 304 S. "D" Street. The hours of operation would remain the same from Sunday thru Saturday 2:00 p.m. to 2:00 a.m. The purpose of the request was to add a patio for smoking purposes. The request was reviewed by the Building Inspections, Health, and Fire Prevention and they had no objections to the request. The P/Z Commission held a public hearing and there were no comments from the public. The P/Z Commission along with the staff recommended approval of the request subject to the following conditions: 1) provide and maintain video surveillance, with a 30 day retention of the video; 2) security personnel must be provided during peak hours of operation (Thursday to Saturday, 9:00 p.m. to 2:00 a.m.); 3) adequate lighting must be provided around all building entrances/exits; 4) must obtain and maintain all proper state and TABC permits; 5) comply with the requirements administered by the Planning & Zoning, Building Inspections, Environmental Health, Fire Prevention, and Police 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.

Ron Lozano, 410 Riverside Drive, stated there should be consistency when reviewing the specific use permit requests.

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 ("SUP") to allow a bar/lounge at the above mentioned described property.

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

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Leal to approve the ordinance on first reading to renew a Specific Use Permit "SUP" for the continuance of a bar/lounge in a General Retail "GR" District located at 304 South "D" Street, bearing a legal description of Lot 12, Block 85, Harlingen Original Townsite. Motion carried unanimously.

- 6) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to General Retail ("GR") District for 0.1371 acre out of Lot 5, 0.146 acre out of Lot 6, 0.28 acre out of Lot 7, and all of Lot 8, Block 29, Finwood Heights Subdivision; and 0.03 acre out of Block 2, Hall and Porter Subdivision, all properties generally located on the south side Taft Avenue east of Expressway 77/83. Applicant: Joe Rodriguez.

Mr. Olivo stated Joe Rodriguez, applicant was requesting to rezone the subject properties from Residential, Single Family to General Retail ("GR") District for commercial use on an irregular shaped lot. The property owners of Lots 5, 6, and 7, (subject properties in the rezoning request) wished to maintain a pattern of General Retail ("GR") District for possible commercial use, but did not have immediate plans to change the existing land use of their properties. The property has 50 feet of frontage on Taft Avenue and 140 feet of frontage on Frontage Road of 77/83. The other three lots included in the rezoning request were currently occupied with single family residential. The P/Z Department held a public hearing and no comments were received from the public. Staff recommended approval of the rezoning request. Notices of the rezone request were mailed to the property owners residing within 200 ft. radius and staff did not receive any comments in regards to the request. The P/Z Commission along with staff recommended approval of the rezone 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.

Ron Lozano, 410 Riverside Drive stated there were some concerns with the neighbors and stated they were against the retail district.

Yolanda Shoffiet, 285 Altas Palmas stated she was against the rezone because it was "Spot Zoning."

Michelle Abbott, representative of the property owner stated the applicant bought the property as an investment to turn it into a business. She said the property owners located on Lot 5, 6 and 7 were in agreement to the rezone request.

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 rezone request 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 Castillo to approve an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to General Retail ("GR") District for 0.1371 acre out of Lot 5, 0.146 acre out of Lot 6, 0.28 acre out of Lot 7, and all of Lot 8, Block 29, Finwood Heights Subdivision; and 0.03 acre out of Block 2, Hall and Porter Subdivision, all properties generally located on the south side Taft Avenue east of Expressway 77/83. Motion carried unanimously.

- 7) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for Lots 1-3, Block 103, Harlingen Original Townsite, located at 101 E. Taylor Avenue. Applicant: Maricela Hashem.

Mr. Olivo stated Marcela Hashem, applicant was requesting to rezone the subject property from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District to construct two office suites located at 101 E. Taylor Avenue. The subject property was vacant, but for many years a water tower was located in the property. The Neighborhood Services Zoning District is designated to serve the domestic needs of the immediate neighborhood. The Future Land Use Plan shows the area as General Retail which was consistent with the plan. A public hearing was conducted by the P/Z Commission with and no concerns were raised. Notices of the rezone request were mailed to the property owners residing within 200 ft. radius and no concerns were received. The P/Z Commission along with the staff recommended approval of the ordinance.

- 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 at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Mezmar to approve an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for Lots 1-3, Block 103, Harlingen Original Townsite located at 101 E. Taylor Avenue. Motion carried unanimously.

- 8) Public hearing to consider an ordinance on first reading for a Specific Use Permit (“SUP”) issued to Justin Kemmerling to allow a bar/lounge in a General Retail (“GR”) District located at 640 N. Ed Carey Drive bearing a legal description of Lot 4, Block 1, South Point Subdivision No. 2. Applicant: Justin Kemmerling.

Mr. Olivo stated Justin Kemmerling, applicant wished to renew his 6 months specific use permit that was approved by the City Commission on April 15, 2015 to continue the operation of a bar/lounge located at 640 Ed Carey Drive known as “Hot Shots.” The hours of operation would remain the same. The Building Inspections, Health and Fire Prevention Departments reviewed the application and had no objections to the request. One change to the request was that Mr. Kemmerling was required to submit a designed plan for the addition of an outdoor patio

that was under construction. Notices of the request were mailed to the property owners residing within 200 ft. radius of the proposed property and no concerns were received. The Harlingen Police Department submitted incident reports for the past six months and had no concerns with the rezone request. The P/Z Commission along with the staff recommended approval of the request subject to complying with the following conditions: 1) maintain the existing off street parking spaces; 2) maintain the proper State permits; 3) maintain video surveillance on all entrances and exits, maintain a 30 day retention of the video; 4) continue to provide adequate lighting on the premises; 5) continue to provide a licensed security guard during peak hours of operation on Thursday, Friday, and Saturday from 9:00 p.m. to 2:00 a.m.; and 6) continue to comply with the requirements administered by the Planning, Building Inspections, Health and Fire Departments prior to the issuance of the certificate of occupancy.

Mayor Pro-Tem Leal asked if the applicant was renewing the permit after the six month grace period.

Mr. Olivo responded yes.

- a) Public hearing

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

Ron Lozano, 410 Riverside Drive, stated once again there should be consistency when considering applications for a specific use permit.

Yolanda Shoffiet, 285 Altas Palmas stated it was a double standard rule for each applicant.

There being no further business to discuss, 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 the operation of the bar/lounge at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Leal to approve an ordinance on first reading for a Specific Use Permit (“SUP”) issued to Justin Kemmerling to allow a bar/lounge in a General Retail (“GR”) District located at 640 N. Ed Carey Drive bearing a legal description of Lot 4, Block 1, South Point Subdivision No. 2. Motion carried unanimously.

- 9) Public hearing to consider an ordinance on first reading for a Specific Use Permit (“SUP”) to allow a bar/lounge in a General Retail (“GR”) District located at 3811 W. Business Highway 83 bearing a legal description of 1.922 acres out of Block 16, Stuart Place Subdivision Survey 42/297. Applicant: Juan Ramirez.

Mr. Olivo stated Juan Ramirez, applicant wished to operate a bar/lounge at 3811 W. Business Highway 83 out of an existing 6,840 sq. ft. building formally known as “Wild Bills.”

The applicant would be required to improve the interior to meet current building and fire safety codes. The hours of operation would be Tuesday through Saturday from 5 p.m. to 2:00 a.m. The request was reviewed by the Building Inspections, Fire, Health and Engineering staff and they had no objections to the request. A public hearing was conducted before the P/Z Commission and no comments were raised. The P/Z Commission and staff recommend approval of the request subject to complying with the following conditions: 1) must improve and maintain the existing off street parking spaces in accordance with city regulations; 2) must obtain the proper State & TABC permits; 3) must provide and maintain surveillance on all entrances and exits and maintain a 30 day retention of the video; 4) must provide lighting on the premises; 5) must provide a licensed security guard during the peak hours of operation on Thursday, Friday and Saturday from 9:00 p.m. to 2:00 a.m. and 6) comply with requirements administered by the Planning, Building Inspections, Health, Police and Fire Prevention Departments prior to the issuance of the Certificate of Occupancy.

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 Shoffiet, 285 Altas Palmas stated the property has always been a bar/lounge and there had been many problems in the past. Consideration should be given to safety and health issues relating to the building rather than to the landscaping.

Ron Lozano, 418 W. Tyler stated in the past there had been many aggravated assaults and felt there should be a spirit of compromise when considering bar/lounge applications.

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 ("SUP") to allow a bar/lounge at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve the ordinance on first reading for a Specific Use Permit ("SUP") to allow a bar/lounge in a General Retail ("GR") District located at 3811 W. Business Highway 83 bearing a legal description of 1.922 acres out of Block 16, Stuart Place Subdivision Survey 42/297. Motion carried unanimously.

10) Public hearing to consider an ordinance on first reading for a Specific Use Permit ("SUP") to allow up to ten storage buildings in a General Retail ("GR") and Light Industrial (LI) District located at 101 Bass Pro Drive, and bearing legal description of Lot 1, Block 1, Cameron Crossing Phase 1 Subdivision. Applicant: Jesse Garcia % Bass Pro Shops.

Mr. Olivo stated Jesse Garcia on behalf of Bass Pro Shop was requesting a specific use permit to allow 10 storage buildings on the property of Bass Pro Shop. The purpose would be to store holiday decorations. Currently there were three storage buildings located on their site and two in the boat storage area. Staff was recommending for Bass Pro Shop to move the container to a less conspicuous place. Mr. Garcia had indicated that it would not be feasible due to the size of the parking area, but did indicate that they could move the storage buildings near the boat storage area which was fenced and landscaped. A public hearing was conducted by the P/Z Commission and no concerns were raised. The P/Z Commission agreed to the suggestions made by Mr. Garcia. The P/Z and staff recommend approval of the request subject to complying with the following conditions: 1) providing and maintaining the required parking in accordance with city regulations; 2) providing and maintaining the required landscaping; 3) moving the units to a less conspicuous location; and 4) comply with the requirements administered by the Planning, Building Inspections, and Fire 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.

Ron Lozano, 2410 Riverside Drive asked if there was a fence and landscaping around the proposed area.

Mr. Olivo responded there was a fence and landscaping all around the proposed area.

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

- a) Consider and take action to approve an ordinance on first reading for a Specific Use Permit to allow ten storage buildings at the above described property.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Leal to approve the ordinance on first reading for a Specific Use Permit ("SUP") to allow up to ten storage buildings in a General Retail ("GR") and Light Industrial ("LI") District located at 101 Bass Pro Drive, bearing a legal description of Lot 1, Block 1, Cameron Crossing Phase 1 Subdivision. Motion carried unanimously.

- 11) Public hearing to consider an ordinance on first reading for a Specific Use Permit "SUP" to allow two storage buildings in a Light Industrial ("LI") District located at 110 Bass Pro Drive, and bearing a legal description of Lot 1, Block 1, Cameron Crossing Phase 4 Subdivision. Applicant: Edgar Perales on behalf of Cracker Barrel Restaurant.

Mr. Olivo stated Edgar Perales on behalf of Cracker Barrel Restaurant was requesting a SUP to allow up to two storage containers on the restaurant property. Several concerns were raised during the P/Z Commission public hearing and it was recommended that the units be allowed for only 60 days. Mr. Perales was informed of the recommendation and indicated he would remove the storage building at the end of January, 2016. The P/Z Commission and staff recommended approval of the request subject to complying with the following conditions: 1) providing and maintaining the required parking in accordance with city regulations; 2) providing and maintaining the required landscaping to limit the visual impact along the parking lot and 77/83 Interchange areas; and 4) comply with the requirements administered by Planning and Zoning, Building Inspections, 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.

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 Specific Use Permit ("SUP") to allow two storage buildings at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

Commissioner Uhlhorn clarified that the units would be allowed only for 60 days and once the time was up the units would be remove and would not be place again.

Mr. Olivo responded that was correct.

Motion was made by Commissioner Mezmar and seconded by Commissioner Uhlhorn to approve the ordinance on first reading for a Specific Use Permit "SUP" to allow two storage buildings in a Light Industrial ("LI") District located at 110 Bass Pro Drive bearing a legal description of Lot 1, Block 1, Cameron Crossing Phase 4 Subdivision. Motion carried unanimously.

- 12) Consider and take action to approve a resolution to amend the City of Harlingen Personnel Policy Manual Sections 200, 201, 206, 207, 210, 211, 213, and 221.

Efren Fernandez, Human Resource Director stated the purpose of the resolution was to amend certain sections of the Personnel Policy Manual. He briefly highlighted some of the changes and to include language on the handgun law.

Motion was made by Commissioner Castillo and seconded by Mayor Pro-Tem Leal to approve the resolution amending the City of Harlingen Personnel Policy Manual, Sections 200, 201, 206, 207, 210, 211, 213, and 221. Motion carried unanimously.

- 13) Board Appointments

Commissioner Uhlhorn

William T. Allen – Harlingen Proud Advisory Board

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Castillo to approve the board appointment of William T. Allen to the Harlingen Proud Advisory Board. Motion carried unanimously.

Mayor Boswell announced he would change the order of the agenda and proceeded with the following item.

- 15) Citizen Communication

None

- 14) Executive/Closed Session pursuant to Chapter 551, Subchapter D, V.T.C.A., Texas Government Code Sections 551.087 and 551.071 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 known as *Project Polar* and to possibly seek legal advice from the City Attorney regarding this matter.

At 6:43 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 14.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Uhlhorn to go into executive session to discuss Item No. 14. Motion carried unanimously.

At 6:56 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

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

CITY OF HARLINGEN

  
Chris Boswell, Mayor

ATTEST:

  
Amanda C. Elizondo, City Secretary