

CITY COMMISSION

REGULAR MEETING

HARLINGEN, TEXAS

April 6, 2016

A Regular Meeting of the Harlingen Elective Commission was held on April 6, 2016 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
Tudor Uhlhorn, City Commissioner, District 2
Michael Mezmar, City Commissioner District 3
Ruben De La Rosa, City Commissioner District 4

Absent

Danny Castillo, City Commissioner District 1

Staff Present

Dan Serna, 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

Commissioner Tudor Uhlhorn gave the invocation on behalf of Commissioner Danny Castillo.

Pledge of Allegiance/Welcome

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

1) Board Recognition

Mayor Boswell presented certificates of recognition to the following incoming board members and expressed his appreciation for their services to the community.

Carlos Muniz - Harlingen Housing Authority Board
Elizandro Munoz - Harlingen Advisory Board
Richard Newton - Veterans Advisory Board
Jackie E. Norden - Veterans Advisory Board
Martin Borjas - Veterans Advisory Board
Judy R. Kroll - Veterans Advisory Board

2) Presentation of Proclamation

Mayor Boswell read and presented a proclamation, proclaiming April 10th through 16th, 2016 as "National Library Week." He thanked the Library Board members and supporters for their services.

3) Presentation by Veronica Whitacre, McAllen City Commissioner, District 6 regarding the Run Ride Share Awareness Program to raise safety awareness among drivers, runners, pedestrians and cyclists to decrease the risk involved with outdoors activities.

Ms. Veronica Whitacre briefly highlighted the Run Ride Share Awareness Program and stated the program began on April, 2014 with 16 members to help reduce the amount of fatalities. The program was done through sponsorships. The Cities of McAllen, Edinburg, Mission, Weslaco, and Pharr joined the program. On April 29th, 2016, she would be with state

leaders to inform them of the cities participation. The Ride of Silence Event was scheduled for the third Wednesday of May at 7 p.m. to honor everyone who was participating in the program. She extended an invitation to the City of Harlingen to become a part of the program.

Mayor Boswell thanked Ms. Whitacre for the presentation.

4) Approval of Minutes

a) Regular Meeting of March 2, 2016

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Mezmar to approve the minutes of March 2, 2016. Motion carried unanimously.

CONSENT AGENDA

- 5a) Second and final reading to approve and adopt an ordinance for a Specific Use Permit to allow an adult business (e-cigarette shop) in a General Retail (“GR”) District located at 801 N. 77 Sunshine Strip, bearing a legal description of Block 2, Coronado Acres Subdivision No. 5; and Lot 3, Block 1, Coronado Acres Subdivision Unit No. 9. Applicant: Rick Galvan.
- b) Second and final reading to approve and adopt an ordinance to amend the Planned Development (“PD”) site plan for Lots 44-49, Block 1, Cottonwood Creek Subdivision No. 1, located on the 100 Block of Willow Circle, to reconfigure the lots from a forty-five degree angle to a 90 degree angle. Applicant: Victor Banuelos of Centerline Surveying Company, c/o Plains Capital Bank.
- c) Second and final reading to approve and adopt an ordinance for a Specific Use Permit (“SUP”) to allow a Bar/Lounge in a Light Industry (“LI”) District located at 1714 N. Commerce, bearing a legal description of Blocks 2-4, Orange Heights Subdivision. Applicant: David Martinez.
- d) Consider and take action to approve a request from New York Life, Parents Supporting Parents, School of Medicine UT Health Science Center, Valley Baptist and Stephanie Sokolosky, Sponsors to hold the 4th Annual Harlingen Area Autism Awareness Day to close the area of Fair Park between L & J Street from 9:00 a.m. – 12:00 p.m., April 9, 2016.
- e) Consider and take action to approve a request from the Harlingen South Student Council to close Dixieland Road (south) towards Arroyo Bridge for a 5K Color Run to start at the Parking Lot by Mini-Stadium and end at Harlingen South Parking Lot to benefit Autism, Saturday, April 23rd, 2016 from 7:45 am – 11:00 am.
- f) Consider and take action to approve a request from Our Lady of Assumption Church to close W. Lincoln Street between “M” and “L” Street to hold their Annual Spring Festival, Friday, April 29, 2016 and Saturday, April 30, 2016 from 5:00 p.m. to 11:00 p.m.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner De La Rosa to approved Items 5(a) thru (f) under the consent agenda. Motion carried unanimously.

For the record, the Captions of Ordinances Nos. 16-21; 16-22; 16-23 read as follows:

ORDINANCE NO. 16-21

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT (“SUP”) TO RICK GALVAN TO ALLOW AN ADULT BUSINESS (E-CIGARETTE SHOP) IN A GENERAL RETAIL (GR) DISTRICT LOCATED AT 801 N. 77 SUNSHINE STRIP, BEARING A LEGAL DESCRIPTION OF BLOCK 2, CORONADO ACRES SUBDIVISION UNIT NO. 5; AND LOT 3, BLOCK 1, CORONADO ACRES SUBDIVISION UNIT NO. 9, SUBJECT TO: (1) MAINTAINING THE REQUIRED OFF-STREET PARKING SPACES; (2) OBTAINING AND MAINTAINING THE REQUIRED STATE PERMITS; (3) COMPLY

WITH HARLINGEN CODE OF ORDINANCES CHAPTER 130.07, UNLAWFUL SUBSTANCES; AND (4) COMPLY WITH THE REQUIREMENTS ADMINISTERED BY THE PLANNING AND ZONING, BUILDING INSPECTIONS, ENVIRONMENTAL HEALTH, FIRE PREVENTION, AND POLICE DEPARTMENTS. PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 16-22

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HARLINGEN: AMENDING THE PLANNED DEVELOPMENT (PD) SITE PLAN FOR LOTS 44-49, BLOCK 1, COTTONWOOD CREEK SUBDIVISION NO. 1 LOCATED ON THE 100 BLOCK OF WILLOW CIRCLE TO RECONFIGURE THE LOTS FROM A FORTY-FIVE DEGREE ANGLE TO A NINETY DEGREE ANGLE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 16-23

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO DAVID MARTINEZ TO ALLOW A BAR/LOUNGE IN A "LIGHT INDUSTRY (LI)" DISTRICT LOCATED AT 1714 N COMMERCE, BEARING A LEGAL DESCRIPTION OF BLOCKS 2-4, ORANGE HEIGHTS SUBDIVISION, SUBJECT TO: (1) PROVIDING THE REQUIRED OFF STREET PARKING SPACES; (2) OBTAINING THE PROPER STATE AND TABC PERMITS.; (3) PROVIDING VIDEO SURVEILLANCE ON ALL ENTRANCES AND EXITS, AND MAINTAINING A 30 DAY RETENTION OF THE VIDEO; (4) PROVIDING ADEQUATE LIGHTING ON THE PREMISES (5) PROVIDING A LICENSED SECURITY GUARD IN THE PARKING LOT DURING PEAK HOURS OF OPERATION ON THURSDAY, FRIDAY, AND SATURDAY FROM 9:00 PM TO 2:00 AM; (6) COMPLY WITH REQUIREMENTS ADMINISTERED BY THE PLANNING, BUILDING, HEALTH, FIRE AND POLICE DEPARTMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on the first reading this 16th day of March, 2016.
PASSED AND APPROVED on the second reading this 6th day of April, 2016.

CITY OF HARLINGEN
/s/ Chris Boswell
Mayor

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

- 6) Consider and take action to approve a resolution adopting the new City of Harlingen Comprehensive Plan, One Vision, One Harlingen. Applicant: City of Harlingen.

Mr. Gabriel Gonzalez, Assistant City Manager highlighted the project timeline for the Comprehensive Plan. The only changes from the initial report were the chapters, corrected some clerical errors, photographs, and enlarged the maps. The appropriate staff reviewed the plan before presenting it to the Planning & Zoning Commission. Mr. Rodrigo Davila, Planning & Development Director was present for any questions. He recommended approval of the resolution to adopt the new Comprehensive Plan.

Mr. Dan Serna, City Manager congratulated and thanked Mr. Gonzalez, Mr. Davila, the staff and Jesse Robles, Chairman of the Harlingen Community Improvement Board for putting the plan together.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner De La Rosa to approve the resolution adopting the City of Harlingen Comprehensive Plan, One Vision, One Harlingen. Motion carried unanimously.

Mayor Boswell thanked the City Commission and everyone else who participated in the workshops, planning meetings, staff, and Mr. Robles for his leadership in this project. This was a long term plan for the community and it addressed many future needs and concerns of the community. The City Commission would review the objectives and determine how they would accomplish the projects in the plan. Within the next sixty days the City Commission should have a workshop and identify some of the priorities in the plan to achieve some of the goals and objectives.

- 7) Consider and take action to allow the Texas Commission on Environmental Quality (TCEQ) to access the City Parking Lot located on the corner of Harrison and First Street to install an additional monitoring well on the property.

Mr. Javier M. Zamora, City Engineer stated the Texas Commission of Environmental Quality (TCEQ) was requesting access to the City Parking Lot on Harrison and First Street to install a monitoring well. The well was located on the property. The request would allow for a TECQ's consultant to continue assessing the groundwater contaminant plume located underneath the property. TCEQ was requesting to enter into an access agreement with the City and State of Texas to allow the consultant to perform the necessary activities. He staff recommends approval of the item.

Motion was made by Commissioner Mezmar and seconded by Commissioner De La Rosa to allow the Texas Commission on Environmental Quality (TCEQ) to access the City Parking Lot located on the corner of Harrison and First Street to install an additional monitoring well on the property. Motion carried unanimously.

- 8) Consider and take action to accept (or reject) bids and award the contract for the 2015-2016 General Fund Street Improvement Project under Bid 2016-06.

Mr. Javier M. Zamora, P.E. stated the project consisted of several street improvements in various streets throughout the City. On Tuesday, March 29, 2015 staff received eight (8) bids for the proposed project. All of the bids met the bid requirements and the lowest bid was from Clore Construction for \$1,265,240.30. He recommended to award the bid to Clore Construction for \$1,265,240.30 and Mr. Francisco Chavez was present for any questions.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner de la Rosa to award the bid to Clore Construction, lowest bidder for \$1,265,240.30 for the 2015-2016 General Fund Street Improvement Project under Bid 2016-06 to the lowest bidder, Clore Construction for \$1,265,240.30. Motion carried unanimously.

- 9) Consider and take action to adopt an ordinance to designate a "No Parking Zone" along the north and south side of Kimble Avenue.

Mr. Zamora stated staff was presented with a request in regards to parking along Kimble Avenue from Bonito Road west to the end of the roadway. Staff verified the concern and inspected the area to determine if a "No Parking Zone" was necessary on the north side and south side of Kimble Avenue beginning at the intersection of Bonito Road extending west, for a distance of approximately 185 linear feet in length. He recommended approval of the "No Parking Zone."

Commissioner Uhlhorn asked what was the reason for the "No Parking Zone" and if the businesses had spaces to park.

Mr. Zamora responded it was due to several businesses and not sufficient spaces. Parking was also available in front of the loop.

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

Motion was made by Commissioner Uhlhorn and seconded by Commissioner de la Rosa to approve the ordinance on first reading to designate a "No Parking Zone" along the north and south side of Kimble Avenue. Motion carried unanimously.

- 10) Consider and take action to approve an overdue fine amnesty at the library in honor of National Library Week on April 11th - 17th, 2016.

Ms. Dauna Campbell, Library Director stated the week of April 11th thru 17th, 2016 would be National Library Week and an amnesty will be held during this week. Patrons will bring in their long overdue material in good condition with barcodes to the circulation desk and staff will check them in and waive the late fees. Damaged items do not qualify for the amnesty. This program was offered last year and the Library recovered 89 items that were long overdue and waived \$216 in fines in one day. She recommended approval of this program.

Motion was made by Mayor Pro-Tem Lead and seconded by Commissioner Uhlhorn to approve an overdue fine amnesty at the library in honor of National Library Week on April 11th - 17th, 2016. Motion carried unanimously.

- 11) Consider and take action to approve a contract between the City of Harlingen and RGV Robotics, Inc. to operate a Summer Lego Robotics Camp for the enjoyment of the youth from Harlingen and surrounding areas and authorize the City Manager to sign the agreement.

Javier Mendez, Director of Parks and Recreation stated the Lego Robotics Program last year was half days for a week. This year the program would be for almost full days. They are proposing two weeks from 9:30 a.m. to 2:30 p.m. The difference on the contract from the previous one was the 80/20 split with the contractor. The Parks Advisory Board met on March 15, 2016 and recommend approval of the contract. This program was a success.

Commissioner Uhlhorn asked if there were three parties to this contract, since they were using Gutierrez Middle School and if it was standard procedure for a principal to sign the contract.

Mr. Bilbie stated this was done the last year.

Mr. Serna recommended changing the name in the signature line to reflect Dr. Art Cavazos instead of the principal.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Uhlhorn to approve the contract between the City of Harlingen and RGV Robotics, Inc. to operate a Summer Lego Robotics Camp for the enjoyment of the youth from Harlingen and surrounding areas; authorize the City Manager to sign the agreement and with the noted change on the signature line to Dr. Cavazos, Superintendent. Motion carried unanimously.

- 12) Consider and take action to approve the Conservation Adjustment Clause Tariff for the Energy Efficiency Program for Texas Gas Service.

Mr. Gabriel Gonzalez, Assistant City Manager stated Texas Gas Service would be implementing a conservation adjustment clause tariff for its users within the Rio Grande Valley service area. The program will provide rebates for certain natural gas rangers, water heaters, dryers and other natural gas equipment with the average rebate of approximately \$200. This program is available to both residents and commercial Texas Gas Service customers. The monthly average increase for residential customers would be \$0.28 and \$0.724 for commercial customers. The increase would take effect April 27, 2016. No action was required by the City Commission to implement the proposed tariff; however, if approved, it would show that the City Commission would be in support of the Texas Gas Service efforts. If the City Commission chose to oppose the tariff then an ordinance would be required to reject the City's participation in the tariff program. Staff recommends approval of the item.

Commissioner Uhlhorn inquired if this program was state wide and if the amount collected had to equal the amount rebated and the funds collected would go toward that rebate?

Ms. Julie Hatfield, Energy Efficiency Program Manager stated this was only for the Rio Grande Valley Region. The program would apply to each city in the Rio Grande Valley. Once the amount comes into the fund then they would do the payouts. The rebates would stay in the valley. This program was very well received in other areas for many years.

Motion was made by Commissioner Mezmar and seconded by Commissioner Uhlhorn to approve the Conservation Adjustment Clause Tariff for the Energy Efficiency Program for Texas Gas Service. Motion carried unanimously.

- 13) Consider and take action to approve the Joint Election Contract with Cameron County Elections Department, Harlingen Consolidated Independent School District and City of Harlingen for leasing of the voting equipment for the May 7, 2016 General Election.

Amanda C. Elizondo, City Secretary stated that this was a standard contract from the Cameron County Elections Department. The City's share is \$4,535 and the school is \$6,565 totaling \$11,100. The City's cost was for eight M-100(s) to use on Election Day; one M-100 for early voting and eight auto-mark(s).

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Mezmar to approve the Joint Election Contract with Cameron County Elections Department, Harlingen Consolidated Independent School District and City of Harlingen for leasing of the voting equipment for the May 7, 2016 General Election. Motion carried unanimously.

- 14) Executive/Closed Session to discuss the following items:

- a) 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 Thor* and to possibly seek legal advice from the City Attorney regarding this matter.
- b) pursuant to Chapter 551, Subchapter D, V.T.C.A., Texas Government Code Section 551.072 regarding the purchase, exchange, lease, or value of real property.

At 6:05 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 14 (a) and (b).

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner de la Rosa to convene into executive session to discuss Item No. 14 a) and b). Motion carried unanimously.

At 6:22 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

- 15) Consider and take action to approve the action of the Development Corporation of Harlingen, Inc., in entering in to the Economic Development and Chapter 380 Agreement with a business prospect known as *Project Thor*.

Mr. Raudel Garza, EDC stated Project There was a building materials and construction contractor supplier for forty (41) years in Brownsville, Texas. They provide services to the entire valley from one Brownsville location, but want to expand to another site to reach more customers. They were in the process of obtaining permits to renovate building and the warehouse and add a rail spur into the property to bring lumber into their site. They are proposing to invest approximately \$250,000 for the renovations; \$141,000 for the rail spur and hire up to 14 full-time employees over the next three years. The rail spur is an extension of the Rio Valley Switching line that goes behind the building on to the north side of the building that will go into the property. There is a lot of work that needs to be done to bring the rail spur in due to the current conditions. El Clavo is requesting financial assistance from the City for the extension of the rail spur of approximately \$141,000 and use of a city-owned street located on the south side of the building that has never been built, but was a dedicated street. El Clavo would pay for all cost associated with the site improvement. El Clavo Company was requesting to get back a portion of the sales tax generated by their sales so they could be reimburse their cost of the infrastructure and allow them to use a portion of the City Right-of-Way on the Southside and only move a fence into the property for additional storage. Based on staff's projections over the next three years the City would generate \$300,000 on a two

percent sales tax. He highlighted a chart consisting of the different fund and explained the projected sales tax. Fifty percent grant of the 1% General Fund and seventy-five percent of the EDC fund would be returned to El Clavo for a period of up to 5 years. If they generate the sales tax then they could be reimburse the \$141,000. If the sales tax was not generated the EDC and City were not liable. It would be up to them to generate enough sales tax to pay for the railroad spur. Mr. Garza recommended approval of a 380 Agreement between El Clavo, City of Harlingen and Development Corporation of Harlingen, Inc.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve the action of the Development Corporation of Harlingen, Inc., to enter into an Economic Development and Chapter 380 Agreement. Motion carried unanimously.

- 16) Consider and take action to approve the Economic Development and Chapter 380 Agreement between the City of Harlingen, the Development Corporation of Harlingen, Inc., and a business prospect known as Project Thor and authorize the Mayor to execute the Agreement.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve the Economic Development and Chapter 380 Agreement between the City of Harlingen, the Development Corporation of Harlingen, Inc., and El Clavo Sales Company Inc. and authorize the Mayor to execute the agreement. Motion carried unanimously.

- 17) Consider and take action to conditionally grant a revocable license to encroach to a business prospect known as Project Thor and authorize the Mayor to execute the License to Encroach Agreement.

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to conditionally grant a revocable license to encroach to El Clavo Sales Company, Inc. and authorize the Mayor to execute the License to Encroach Agreement. Motion carried unanimously.

Mayor Boswell said that this project will go into an area of our community closer to our downtown that needs to revitalized. This project will generate some sales tax. The company will improve the property by putting the rail spur in. The rail spur makes it more valuable and it is a great project.

- 18) Board Appointments

Commissioner Mezmar

Lupita Gutierrez-Garza - Development Corporation of Harlingen, Inc. (Re-Appt.)

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner de la Rosa to approve the re-appointment of Mrs. Lupita Gutierrez to the Development Corporation of Harlingen, Inc. Motion carried unanimously.

- 19) Citizen Communication

Yolanda Shoffiet, 280 Altas Palmas, presented a picture to the City Commission and Mr. Serna of a Mayor Boswell's campaign sign. She stated Mr. Serna was in charge of enforcing the rules and regulations.

Mr. Ken Preneau, 2510 E. Mark Circle, stated his concern was regarding a traffic sign off Lincoln Street and turning right into Dixieland Road. There is a left turn arrow to turn into the Luby's area, but when exiting out to Dixieland Road there is no left turn arrow. Another concern was street repair across from McKelvy Park, the pavement was dropped and rough before the bridge over the Arroyo Colorado.

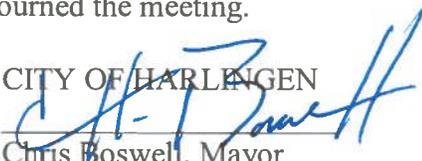
Mr. Jaime Rodriguez, 217 West Harding Avenue, spoke in regards to the ongoing issue with AEP. He stated the tree limbs had not been trimmed yet. He requested for the City

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Commission to please uphold their positions as City leaders and stand up to AEP on his behalf regarding the issue.

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

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Amanda C. Elizondo, City Secretary