

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

January 20, 2016

A Regular Meeting of the Harlingen Elective Commission was held on January 20, 2016 at 5:30 p.m., City Hall, Town Hall Meeting Room, 2nd Floor, 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, District 1
Tudor Uhlhorn, District 2
Michael Mezmar, District 3
Ruben De La Rosa, District 4

Staff Present

Dan Serna, City Manager
Richard Bilbie, City Attorney
Elena Garza, Assistant City Secretary

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 Tudor Uhlhorn gave the invocation.

Pledge of Allegiance/Welcome

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

- 1) Recognition to the City of Harlingen Vital Statistics Department, Recipient of the 5 Star Service Award.

Mayor Boswell stated the City of Harlingen/Vital Statistics Division was one of the recipients who received the 5 Star Service Award. He congratulated Ms. Diana Vargas, Local Registrar, Elisa Domanski, Noemi De La Fuente, Deputy Clerks for their great work and it was an honor and privilege to present them with this award.

- 2) Neighborhood Clean-Sweep held Saturday, January 9, 2016 from W. Filmore and W. Lincoln and S. "J" Street and S. "M" Street, District 4.

Juan Leal, Code Enforcement Manager reported on the Neighborhood Clean-Sweep held January 9, 2016 from West Filmore and West Lincoln and South "J" and South "M" Streets. He stated 2.53 tons of debris and 51 tires were collected by the volunteers. The next clean-up was scheduled for February 13, 2016 between Kelly and Findley Streets starting on Pittman, Mendez and Lozano Streets, District 2. Mr. Leal thanked all the volunteers who participated in this clean-up.

Mayor Boswell presented certificates to the Delua, De La Rosa and Carmona Families and thanked them for their continued services to the community.

- 3) Approval of Minutes - Regular Meeting of December 16, 2015

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to approve the minutes of December 16, 2015. Motion carried unanimously.

CONSENT AGENDA

- 4a) Consider and take action to approve a request from the Rotary Shrimp Fest of South Texas, Inc. to close Fair Park Blvd. between "J" Street and North "L" Street from

1:00 p.m. to 9:00 p.m., Friday, February 19, 2016 for their Annual Rotary Shrimp Fest Fund Raiser Event.

- b) Second and final reading to approve an ordinance adopting and enacting a new Code of Ordinances for the City of Harlingen, Texas.
- c) Investment Report for the City of Harlingen for quarter ended September 30, 2015.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Castillo to approved Items 4(a) thru (c) under the consent agenda. Motion carried unanimously.

For the record the caption of the ordinance read as follows:

ORDINANCE NO. 16-8

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF HARLINGEN, TEXAS; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

CITY OF HARLINGEN
/s/ Chris Boswell, Mayor

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

- 5) Consider and take action to approve the first amendment to the Economic Development Agreement with Strategic Behavioral Health, the developer of a psychiatric hospital in Harlingen.

Raudel Garza, Economic Development Director stated Strategic Behavioral Health (SBH) was in the process of building a psychiatric hospital in the City of Harlingen to meet the needs of the residents for psychiatric services. Due to delays in weather and change in designs, they were behind schedule and were asking for an extension of time. The completion date in the agreement would change from January 31, 2016 to October, 2016.

Dan Serna, City Manager stated the City entered into a 380 Agreement with the developer in June 2014. Some of the terms in the agreement stipulated an incentive package of \$200,000.00 subject to certain conditions. Some of the conditions were the investment of twelve million dollars and the completion date of January 31, 2016 which would not be met. Mr. Garza was requesting an extension date of October 1, 2016 and an increase in their investment to thirteen million dollars.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner de la Rosa to approve the first amendment to the Economic Development Agreement with Strategic Behavioral Health, the developer of a psychiatric hospital in Harlingen. Motion carried unanimously.

- 6) Public hearing to consider an ordinance on first reading to amend the Specific Use Permit ("SUP") issued to William Vance Durham to allow an expansion of the adult business (gun shop) in a General Retail ("GR") District to include Suite 1, located at 117 E. Porte Court, bearing a legal description of Lot 5, Block 1 of East Porte Center Subdivision. Applicant: William Vance Durham.

Joel Olivo, Manager of Planning and Zoning stated William Vance Durham, applicant was issued a specific use permit in May, 2014 to operate a gun shop business at 117 E. Port Court Drive, Suite #2. Mr. Durham is requesting an amendment to the permit to include Suite No. 1 to provide for additional space, approximately 1100 sq. ft. for more storage and workshop area. The days and hours of operation would remain the same, Monday through Friday 10 a.m. to 5 p.m. The request was reviewed and approved by the appropriate departments and a public hearing was conducted by the Planning and Zoning (P&Z) Commission and no concerns were raised at the public hearing. The P&Z Commission along with staff were recommending approval of the specific use permit, subject to the applicant providing and maintaining the required parking and landscaping, obtaining required permits and complying with the appropriate city regulations.

- a) Public hearing

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

Ms. Yolanda Schoffeit, 284 Altas Palmas asked if the appraisal district would inventory the amount of guns in the shop. The Dairy Queen was located behind the gun shop and if they had voiced any concerns.

Mr. Olivo responded notices were mailed to all the property owners residing within a 200 ft. radius. Staff received no objections to the request for the proposed amendment.

- b) Consider and take action to approve an ordinance on first reading to amend the Specific Use Permit issued to William Vance Durham to allow an expansion of the adult business (gun shop) at the above mentioned described property.

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

Motion was made by Mayor Pro-Tem Leal, seconded by Commissioner Castillo to approve the ordinance on first reading to amend the Specific Use Permit ("SUP") issued to William Vance Durham to allow an expansion of the adult business (gun shop) in a General Retail ("GR") District to include Suite 1, located at 117 E. Porte Court, bearing a legal description of Lot 5, Block 1 of East Porte Center Subdivision. Motion carried unanimously.

- 7) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Light Industry ("LI") District for 15.992 acres out of Block 2, F.Z. Bishop Subdivision of the L.W. and W.T. Campbell Lands, located on the north side of Roosevelt Road west of Interstate 69 E. Applicant: Raudel Garza, c/o Plains Capital Bank.

Mr. Olivo stated Raudel Garza, applicant was requesting a rezone from Residential, Single Family District to Light Industry District for 992 acres out of Block 2, F.Z. Bishop Subdivision of L.W. and W.T. Campbell Lands located on the north side of Roosevelt Road west of Interstate 69E. Approximately 15 acres of the business park would include the proposed property, plus two tracts to the east property which were in the Light Industry Zone. The proposed business park was five (5) lots and the western seven (7) acres would be used as a retention pond with walking trails. It would also provide a buffer from the industrial park to the residential district and would require the property to be subdivided. Staff notified the property owners residing within the 200 ft. radius. Staff received two (2) calls from property owners, one was opposed to any development on the property and the other caller was pleased to learn about the retention pond with the walking trails. The P&Z Commission conducted a public hearing and no concerns were raised at the public hearing. The P&Z 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 closed the public hearing.

- b) Consider and take action to approve an ordinance on first reading for a rezone request at the above mentioned described property.

Bilbie read the caption of the ordinance.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Mezmar to approve the ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Light Industry ("LI") District for 15.992 acres out of Block 2, F.Z. Bishop Subdivision of the L.W. and W.T. Campbell Lands located on the north side of Roosevelt Road west of Interstate 69E. Motion carried unanimously.

- 8) Public hearing to consider an ordinance on first reading for a Specific Use Permit "SUP" to allow fifty-five storage buildings in a General Retail ("GR") District located at 1801 W. Lincoln, bearing a legal description of Lot 1-A, of the Amended Map of Lot 1-A, 6 & 7, Wal-Mart Subdivision No. 2. Applicant: Paul Estrada c/o Wal-Mart Store #0595.

Mr. Olivo stated Paul Estrada, applicant was requesting a Specific Use Permit to allow fifty-five storage building containers in a General Retail District located at 180 W. Lincoln. The request was reviewed by the appropriate City departments. No concerns were received from the departments; subject to complying with the City regulations. The property owners residing within 200 ft. radius of the proposed area were notified of the request and staff received one complaint from a property owner. Mr. Olivo stated staff was recommending approval of the request subject to complying with the following conditions: 1.) the specific use permit would be limited to sixty (60) days; 2.) maintain the existing parking and landscaping in accordance with city regulations; and 3.) comply with the requirements administered by Planning and Zoning, Building Inspections, and Fire Prevention Departments.

Mayor Boswell mentioned he read the minutes from the P&Z Commission and understood that the permit would only be for sixty (60) days, but it seemed like they would return to petition within the sixty (60) days.

Mr. Olivo responded the permit was only for sixty (60) days and if they decide in the future to make the same request they would have to reapply for a new specific use permit.

A short discussion was held in regards to the sixty (60) day term limit, the amount of containers and if the area located between the proposed site was a right of way.

Mr. Olivo responded yes, it was an irrigation district right of way.

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 closed the public hearing.

b) Consider and take action to approve an ordinance on first reading for a Specific Use Permit "SUP" to allow fifty-five storage buildings at the above mentioned described property.

Mr. Bilbie read the caption of the ordinance.

Commissioner Uhlhorn asked who would monitor the sixty (60) days term limit. Would this be done by the City inspectors or would it be done through the specific use permit?

Mayor Pro-Tem Leal asked if the City could eliminate the ordinance for the permit.

Mr. Olivo stated the issuance of the ordinance was standard procedure.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Castillo to approve the ordinance on first reading for a Specific Use Permit "SUP" to allow fifty-five storage buildings in a General Retail ("GR") District located at 1801 W. Lincoln, bearing a legal description of Lot 1-A, of the Amended Map of Lot 1-A, 6 & 7, Wal-Mart Subdivision No. 2. for a term limit of sixty (60) days. Motion carried unanimously.

9) Consider and take action to grant a variance to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.2 (D), aka Code of Ordinances Chapter 156.041(B) (4) with regards to the lot size on the proposed Lazy Palms Subdivision Phase 1-B Re-plat of Block 5, consisting of 0.90 acres of land being all of Lots 24-30, Block 5, Lazy Palms Subdivision Phase 1-B; located on North Bamboo Palm Drive. Applicant: Kevin Campbell % Plains Capital Bank.

Mr. Olivo stated Kevin Campbell; representing Plains Capital Bank was requesting a variance to the minimum required lot size for Single Family Residential lots in Lazy Palms Subdivision Phase 1-B. The variance would be comprise of seven (7) lots and were part of an original subdivision at North Bamboo Palm Circle. When the property was plotted in 2001 there was a fence encroachment that was not addressed. The adjacent property owner has a fence that is encroaching 10 ft. into his property and is claiming the land under adverse possession. When these lots were platted they were 50 by 120 sq. ft. and are now 50 by 110 sq. ft. which provides for a residential house. The P/Z Commission considered the request and recommended approval of the variance. The hardship in this case was that there was a case history and one had been granted. Adverse possession affects these properties from being sold, developed and obtaining a clear title.

Commissioner Uhlhorn inquired on the status of the adverse possession or was the adjacent owner just threatening to go to court.

Mr. Olivo replied the adjacent owner's attorney had advised him that the property owner had a good case to retain the property

Motion was made by Commissioner Uhlhorn and seconded by Mayor Pro-Tem Leal to grant a variance to the City of Harlingen Subdivision Ordinance No. 07-28, Section 4.1.2 (D), aka Code of Ordinances Chapter 156.041(B) (4) with regards to the lot size on the proposed Lazy Palms Subdivision Phase 1-B Re-plat of Block 5, consisting of 0.90 acres of land being all of Lots 24-30, Block 5, Lazy Palms Subdivision Phase 1-B; located on North Bamboo Palm Drive. Motion carried unanimously.

- 10) Consider and take action to approve an ordinance on first reading to grant Texas Gas Service Company the right, privilege and franchise to use the streets, alleys, thoroughfares and other public right-of-ways in the City of Harlingen, Cameron County, Texas to operate and maintain a natural gas distribution system.

Mr. Bilbie stated the City had a franchise ordinance with Texas Gas Service Company that expired and Texas Gas Service Company was requesting to renew the ordinance. The ordinance was a fairly standard ordinance and would remain in full force for 25 years. Through the franchise ordinance the City would be paid the highest rate that Texas Gas Service Company paid to other entities which was approximately 5%. He recommended approval of the ordinance.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Mezmar and seconded by Commissioner Castillo to approve the ordinance on first reading to grant Texas Gas Service Company the right, privilege and franchise to use the streets, alleys, thoroughfares and other public right-of-ways in the City of Harlingen, Cameron County, Texas to operate and maintain a natural gas distribution system. Motion carried unanimously.

- 11) Consider and take action to approve an ordinance on first reading amending Title IX General Regulations, Chapter 90 Animals, of the City of Harlingen Code of Ordinances by creating Sections 90.27(A) Animal defecation prohibited in certain areas and 90.57, Micro Chipping of Cats and Dogs; and by amending Section 90.10 Definitions; Section 90.11 Keeping of Livestock and Fowl Restricted; Section 90.25 Definitions; Section 90.26 Vaccination for Rabies; Section 90.27 Running-at-Large Prohibited; Section 90.32 Procedure for Impoundment; Section 90.33 Interference with Enforcement Prohibited; and Section 90.40 Humane Treatment of Animals.

Gabriel Gonzalez, Assistant City Manager stated a copy of the ordinance was included in the package with the existing Chapter 90 that included all the amendments and deletions that staff proposed. A committee was formed consisting of Mayor Pro-Tem Leal, Commissioner Uhlhorn, Ramiro Gonzalez, Health Director, Shannon Harvil, Animal Control Officer and members from the Humane Society, including Pat Turman-White and him. They reviewed the ordinance and compared it with five similar ordinances from across the state. Mr. Gonzalez presented a power point presentation and highlighted the proposed changes in the animal ordinance including definitions. The City would require a veterinarian when issuing rabies shots to issue a certificate which contained the animal microchip number, species, age or date of birth, sex, breed, and color of animal, date of immunization and name and address of owner. This provision was optional this year; however, this provision would be a requirement in 2017. The City would be requiring metal tags with veterinarians' addresses and year of vaccination. The owner must affix tag to animal, and the schedule of charges would be as follow: for Altered Dog/Cat, the 1st citation - \$0, 2nd - citation \$116.00, 3rd - citation \$166.00; citations for Unaltered Dog/Cat, 1st - \$266.00, 2nd - \$316.00, 3rd - \$366.00. The animal shelter did neutered/spade and microchip. It would be unlawful for an owner to allow an animal to defecate on public property or improved private property. In addition, it would be unlawful for a person to interfere with, obstruct, or resist animal control officer/person/vehicle authorized to enforce the ordinance while apprehending an animal. All dogs/cats not currently micro-chipped living with its owner must be micro-chipped by January 2017. Mr. Gonzalez recommended approval of the ordinance.

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 amending Title IX General Regulations, Chapter 90 Animals, of the City of Harlingen Code of Ordinances by creating Sections 90.27(A) Animal defecation prohibited in certain areas and 90.57, Micro Chipping of Cats and Dogs; and by amending Section 90.10 Definitions; Section 90.11 Keeping of Livestock and Fowl Restricted; Section 90.25 Definitions; Section 90.26 Vaccination for Rabies; Section 90.27 Running-at-Large Prohibited; Section 90.32 Procedure for Impoundment; Section 90.33 Interference with Enforcement Prohibited; and Section 90.40 Humane Treatment of Animals. Motion carried unanimously.

Mayor Boswell thanked Mayor Pro-Tem Leal and Commissioner Uhlhorn for taking the lead in this project and making sure it got done. He thanked the Humane Society Staff for their participation.

12) Consider and take action to approve a resolution amending the Harlingen Downtown Improvement District 2015-2016 Fiscal Year Budget.

Sergio Villasana, Assistant Finance Director stated the proposed resolution was to amend the Harlingen Downtown Improvement District for Fiscal Year Budget 2015-2016 to increase budget expenditures of \$4,467.00 that were not covered in FY 2015. This expenditure would be paid with funding from the 2016 Budget. He recommended approval of the resolution.

Motion was made by Commissioner Castillo and seconded by Mayor Pro-Tem Leal to approve the resolution amending the Harlingen Downtown Improvement District 2015-2016 Fiscal Year Budget. Motion carried unanimously.

13) Consider and take action to accept (or reject) bids and award the contract for the Harlingen Fire Station #2 under Bid No. 2016-01. (This item was tabled at the last Regular Meeting of January 6, 2016).

Javier M. Zamora, P.E., City Engineer stated this item was in regards to the construction of the new fire station on the southwest corner of Stuart Place Road and Brenneman Road. The item was tabled at the previous City Commission meeting of January 6, 2016 due to Pietra Construction, lowest bidder withdrawing their bid. The second lowest bidder was Couric Enterprises, LLC, for a total bid amount of \$1,518,000 to be completed within 270 calendar days.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Uhlhorn to remove the item from the table. Motion carried unanimously.

Dan Serna, City Manager stated the \$1,518,000 bid was inclusive of all the alternate bids. He met with Elvia Trevino, Finance Director and discovered there were additional funds left over from the bond project that could be utilized for this project. Staff was recommended to award the bid to Couric Enterprises, LLC for \$1,518,000.

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Uhlhorn to accept the bid and award the contract to Couric Enterprises, LLC for \$1,518,000 for the construction of the Harlingen Fire Station #2 under Bid No. 2016-01. Motion carried unanimously.

14) Consider and take action to approve an ordinance on first reading to amend the City of Harlingen Budget for Fiscal Year 2015-2016.

Mr. Villasana stated staff was requesting to amend the budget for Fiscal Year 2015-2016 to allocate fund for capital expenditures not included in the current approved budget and to approve budgeted encumbrances and project balances from FY 2014-2015 not spent at the end of the year. Exhibit "A" displayed total revenues, expenditures and estimated fund balances by fund after the amendment. He noted that on Exhibit "A" and "B" as well as in the ordinance, budget expenditures would be reduced by \$10,768.00 from the General Fund; Revised Total Expenditures would be \$71,990,608.00.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Castillo and seconded by Commissioner Mezmar to approve the ordinance on first reading amending the City of Harlingen Budget for Fiscal Year 2015-2016. Motion carried unanimously.

15) Board Appointments

Commissioner Mezmar

Lisa Graves - Harlingen Proud Advisory Board (New Appt.)
Adele Clinton Solis - Parks Advisory Board (New Appt.)

Commissioner de la Rosa

Ramiro Gonzalez - Animal Shelter Advisory Committee (Re-appointment)
David Wise - Planning and Zoning Board of Adjustment (Re-appointment)
Linda Shelline - Tennis Advisory Board (New Appt.)
Eva Chipps - Senior Citizen Advisory Board (New Appt.)

Motion was made by Mayor Pro-Tem Leal and seconded by Commissioner Castillo to approve the board appointments of the above mentioned individuals. Motion carried unanimously.

16) Citizen Communication

Ms. Pat Turman-White gave a report on the Humane Society Annual Report for Year 2015. She stated there was 1,024 animals less this year than the prior year; 2,993 public animals were spade neutered not counting the adopted animals; and the rabies clinic saw 5,696 animals and microchip 3,550. The spade neutered program was working.

There being no further business to discuss, Mayor Boswell adjourned the meeting at 6:30 p.m.

CITY OF HARLINGEN


Chris Boswell, Mayor

ATTEST:


Elena Garza, Assistant City Secretary