

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

FEBRUARY 1, 2012

A Regular Meeting of the Harlingen Elective Commission was held on Wednesday, February 1, 2012 at 5:30 p.m. in Town Hall, City Hall, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and City Commission

Mayor Chris Boswell

Jerry Prepejchal, Mayor Pro-Tem, District 4

Danny Castillo, Commissioner District 1

Robert Leftwich, Commissioner District 2

Joey Trevino, Commissioner District 5

Staff Present:

Carlos Yerena, City Manager

Amanda C. Elizondo, City Secretary

Roxann P. Cotroneo, City Attorney

Gabriel Gonzalez, Assistant City Manager

Roel Gutierrez, Finance Director

Mayor Boswell called the meeting to order, a quorum was established. He stated a notice of the meeting had been duly posted according to state law and the following proceedings were held.

Invocation/ Commissioner Danny Castillo

Commissioner Castillo gave the invocation.

Pledge of Allegiance/Welcome

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

1. Citizen Communication

Graciano T. Castaneda, Representative of S.O.S Ministries Youth Outreach stated that during Spring Break, a group of teenagers from Dallas, Austin and Houston would come to Harlingen to volunteer their services by remodeling homes in poverty areas within the community. Their motive was to spend their time helping other people rather than doing what the typical teenagers did during their time off from school. The students would hold an outreach at Boggus Ford located on Harrison Avenue and requested for the City Commission to waive any fees associated with the event. This would not be the last time that the students would come to Harlingen. There would be Harlingen students participating as well as other youth organizations and agencies from the valley in this event.

Mayor Boswell recommended for Mr. Castaneda to contact Gabe Gonzalez, Asst. City Manager to review the city's procedures to assist with the S.O.S Outreach request.

Joe Rubio Jr., 2309 Hacienda Road stated during his employment with the city as a police officer there was a "Whistle Blowing" issue that caused the city a lot of agony. The same thing was being presented again. He referred to things such as freedom of speech, freedom of association, intimidation, and retaliation. For example, an individual with a GED degree replaced his brother who was an Assistant Chief of Police with prime education and top graduation honors. There could be some possible resignations within the Harlingen Police Department with the recent resignation of Sergeant Jerald Manthey. There was a gag order issued by the HPD whereby an officer of the force had a conversation with Mayor Pro-Tem Jerry Prepejchal regarding a certain issue. He understood the process of a gag order during an ongoing investigation, but when it was

used as an issue of the city it was wrong. This issue was going to come back and haunt the City Commission and cause embarrassment and cost to the city.

Yolanda Shoffeit, P.O. Box 697, stated she had attended the State of the City Address, but got the impression that it was not open to the public. She wanted the truth and facts reported of this meeting. In a previous meeting she had indicated to the City Commission that she would be boycotting and unionizing. She had started silently boycotting against the Valley Morning Star Newspaper. The public was not invited to the State of the City Address Luncheon hosted by the Rotary Club. She wanted for the public to be heard and their issues to be read in the newspaper. The issues were in regards to freedom of voting and being Harlingen taxpayers.

2. Approval of Minutes

a) Special Meeting of December 27, 2011.

Motion was made by Commissioner Leftwich and second by Mayor Pro-Tem Prepejchal to approve the minutes of December 27, 2011. Motion carried unanimously.

CONSENT AGENDA

3a) Second and final reading to adopt and approve an ordinance to amend the City of Harlingen Subdivision Ordinance No. 07-28, Section 3.4.3 (K) to clarify the distance requirement of fire hydrants in non-residential subdivisions.

b) Second and final reading to adopt and approve an ordinance to rezone from Not Designated (N) District to Residential, Single Family (R-1) District for 2.0 acres out of Tracts A and B, Gonzales Subdivision Survey 28 located on FM 507 and FM 508.

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

For the record, the captions of Ordinance No. 12-8 and 12-9 read as follows:

ORDINANCE NO. 12-8

AN ORDINANCE AMENDING THE CITY OF HARLINGEN SUBDIVISION ORDINANCE (NO. 07-28), SECTION 3.4.3 (K) TO CLARIFY THE DISTANCE REQUIREMENT OF FIRE HYDRANTS IN NON-RESIDENTIAL SUBDIVISIONS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 12-9

AN ORDINANCE AMENDING THE ZONING ORDINANCE (ORDINANCE NO. 07-27) OF THE CITY OF HARLINGEN: REZONING FROM NOT DESIGNATED (N) DISTRICT TO RESIDENTIAL, SINGLE FAMILY (R-1) DISTRICT FOR 2.00 ACRES OUT OF TRACT A AND B, GONZALES SUBDIVISION SURVEY 28, LOCATED ON FM 507 AND FM 508; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading January 18, 2012.

PASSED AND APPROVED on second and final reading on February 1, 2012.

SIGNED: /s/ Chris Boswell, Mayor

ATTESTED BY: /s/ Amanda C. Elizondo, City Secretary

4) Consider and take action to grant a one (1) time exception to Section R108 (Fees) of the 2006 International Residential Code; waiving of Ordinance No. 02-45 (Establishing as Re-Inspection Fee); and Ordinance No. 04-69 (Permit Fee Schedule) for the construction of two (2) homes to be constructed by the youth at the Outreach Center under the Cameron County Juvenile Justice Program.

Tammy DeGannes, Community Development Director stated Cameron County Juvenile Justice Program had partnered with the City of Harlingen Community Development Department to construct two homes through HOME Program Grant funding. The homes would be constructed at the Outreach Center; they would be relocated on vacant lots provided by the Harlingen Development Corporation, Harlingen's affordable housing provider. The home would be constructed by youth from our community as a means to provide building construction trade training and to empower the youth with skills to enable them to become employed. The homes would be purchased by an eligible family.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Leftwich to grant a one-time waiver of the permit fees for the construction of the two homes. Motion carried unanimously.

- 5) Consider an ordinance on first reading on a Specific Use Permit (SUP) to allow a bar/lounge in a General Retail (GR) District located at 1601 W. Harrison Ste. D, bearing a legal description of Lot 1, Palm Terrace Subdivision.

Joel Olivo, Planning and Zoning Manager stated the applicant wished to operate a bar/lounge under the name of "Papos" out of an existing 4,500 sq. ft. building. The previous use of the property consisted of a restaurant. He highlighted the location of the property and stated that based on the seating arrangement or square footage of the building, 51 parking spaces were required and 63 parking spaces would be provided. The hours of operation would be from 1:00 p.m. to 10:00 p.m., Tuesday through Thursday and from 1:00 p.m. and 2:00 a.m., Friday and Saturday. The Harlingen Fire Prevention and Health Departments had no objections. Staff recommended approval of the request subject to meeting all the conditions imposed by staff.

- a) Public Hearing

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

Yolanda Shoffeit, P.O. Box 697, stated the proposed development would be located next to the Whataburger and this would increase the traffic in that area and additional police officers were needed.

Joe Rubio, Jr., 2309 Hacienda Road stated he was in favor of the proposed development. He asked if there would be security officers at the location for protection during operating hours. Others establishments had requested the policing and security in their areas and to date this was a pending issue.

Mr. Olivo stated as per city ordinance it was required for these kinds of establishments to have licensed security guards during peak hours, adequate lighting at all entrance and exits. Surveillance video cameras were installed in all the previous bar/lounge establishments.

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

- b. Consider and take action to adopt and approve an ordinance on the first reading for the abovementioned Specific Use Permit.

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

Motion was made by Commissioner Robert Leftwich and seconded by Mayor Pro-Tem Jerry Prepejchal to adopt and approve the ordinance on first reading for the abovementioned Specific Use Permit. Motion carried unanimously.

- 6) Consider an ordinance on first reading on an amendment to the City of Harlingen Zoning Ordinance, Section 12, Sign Regulations pertaining to permit

requirements, banner sign and the height clearance of an on-premise sign in the Downtown District.

Mr. Olivo stated the proposed amendments had been drafted after receiving direction from the Planning and Zoning Commission and City Commission at the December 27, 2011 meeting. Mr. Olivo stated the changes consisted of the following: 1) the requirement of an engineered sign design for a free standing sign would change from 25 ft. in height or taller to greater than 8 ft. in height; 2) banner flags commonly referred as "feathered flags" would be permitted; and 3) the clearance of a sign that is projecting over the right-of-way in the Downtown District would change from 9 ft. to 8 ft.

a. Public Hearing

Mayor Boswell announced this was a public hearing and declared the hearing opened to the public.

Joe Rubio, Jr., 2309 Hacienda Road, stated he was in favor of the ordinance; however, the PowerPoint presentation exhibited an engineered sign and this would cause problems within the community. He knew of a business that went through the same issue with the Planning and Zoning Commission and was unclear on what could be done. The City Commission was now asking businesses to hire an engineer. This was one of the reasons that the City of Harlingen was not a friendly business town. The word "Engineer" was the key word for the future.

Bill Godwin stated an 8 ft. engineered sign was ridiculous and the cost of the sign and engineer was outrageous. How many potential businesses would be able to purchase this kind of sign much less abide by the ordinance.

Yolanda Shoffeit, P.O. Box 697 stated this was discrimination against the small businesses. The City Commission should look at the issues more closely because people would pull away from having a business in the town. The City Commission needed to work with the business community.

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

A brief discussion was held and Mayor Pro-Tem Prepejchal stated he disagreed with the 8ft. engineered sign and favored the small businesses that could not afford the extra cost of hiring an engineer. He further stated that instead of progressing and cleaning up the issues of the ordinance it was causing a regression.

Commissioner Castillo stated he had no problem with the ordinance, except for the requirement of the 8ft. sign and recommended that this requirement be deleted from the ordinance.

For the record, Mayor Boswell stated Mayor Richard Cortez of McAllen had made a statement in his "State of the City Address" that his perception was that it was hard to do business in the McAllen. This discussion was among all other cities in the Valley and not only Harlingen.

b) Consider and take action to adopt and approve an ordinance on first reading on an amendment to the City of Harlingen for the Harlingen Zoning Ordinance.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to adopt and approve the ordinance on first reading with the amendment that the term "Engineered" to be omitted from the 8 ft. sign and that this issue be revisit at a later time. Motion carried unanimously.

- 7) Consider an ordinance on first reading of a request to rezone from Residential, Multi-Family (M-2) District to Neighborhood Services (NS) District for Lots 1-5, Block A, East Park Terrace Subdivision; Lots 1-10, Block D, East Park Terrace Subdivision; Lots 1-10, Block E, East Park Terrace Subdivision; Lots 1-8, Block H, East Park Terrace Subdivision; the West 10 acres of Block 62, Harlingen Land and Water Company Subdivision; and 6.88 acres out of Block 63, Harlingen Land and Water Company Subdivision; and rezone from Residential, Single Family (R-1) to Neighborhood Services (NS) for Lots 4-7, Block 4 Nicholson Place Subdivision No. 3, located along 13<sup>th</sup> Street between Jefferson Street and Harrison Street.

Mr. Olivo highlighted the request and location of the property and stated the Harlingen CISD was requesting to rezone the northern part of the property to administrative offices for the School District and allow a parking lot on four lots located on 13<sup>th</sup> Street between Monroe and Jackson Avenue. He highlighted the existing use of the properties surrounding the proposed development. The Future Land Use Plan component of the City of Harlingen Comprehensive Plan "Vision 2020" which showed the area on the east side of 13<sup>th</sup> Street as institutional and the subject lots on 13<sup>th</sup> Street between Monroe and Jackson Street as low density residential. The request was consistent with the Future Land Use Plan and the surrounding use. The Planning and Zoning Commission reviewed the request and no objections were received from the surrounding property owners. The Planning and Zoning Commission and staff were recommending approval of the request.

- a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against could do so. There being no public comments, Mayor Boswell declared the public hearing closed.

- b) Consider and take action to adopt and approve an Ordinance on first reading for the above mentioned rezone request.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Castillo to adopt and approve the ordinance on first reading for the above mentioned rezone request. Motion carried unanimously.

- 8) Consider an ordinance on the first reading on a Specific Use Permit (SUP) to allow a public school residential; Multi Family (M-2) District located at 1701 Lozano Street, bearing a legal description of 47.38 acres of the land comprised of 21.68 acres out of Block 8 and 25.70 acres out of Block 21, Petersburg Syndicate Subdivision.

Mr. Olivo highlighted the proposed the location and stated the Harlingen CISD was proposing to construct a 9<sup>th</sup> grade academy. He stated the property was currently vacant and highlighted the existing use of the surrounding areas. The Engineering Department, Building Inspection, and Fire Prevention Departments had reviewed the SUP application and had no objections to the proposed request. The Planning and Zoning Commission along with the staff were recommending approval of the rezone request.

- a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for against the item could do so. There being no comments, Mayor Boswell declared the public hearing closed.

- b) Consider and take action to adopt and approve an ordinance on first reading for the above mentioned Specific Use Permit.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to adopt and approve the ordinance on first reading for the above mentioned Specific Use Permit. Motion carried unanimously.

- 9) Consider an ordinance on first reading on a Specific Use Permit (SUP) to allow light industry manufacturing (bimodal, rail to truck handling station) in a General Retail (GR) District located at 3502 Wilson road bearing a legal description of 20.31+ acres out of Block A, Boyce Tract Survey 26. Applicant: Juan M. Lerma. Attachment (Planning and Zoning).

Mr. Olivo stated the subject property consisted of 666.23 ft. of frontage on Wilson Road with a depth of 1,320 ft. There were three residential structures on the property and one mobile home. The existing house on the western part of property would be converted to an office and the remaining structures would be removed. Based on the site plan, five parking spaces were required and five parking spaces were provided. The loading area would be paved in accordance with the Zoning Ordinance. Mr. Olivo highlighted the existing use of the surrounding properties. The City of Harlingen Engineering, Building Inspections, Fire Prevention and Environmental Services Departments reviewed the SUP application and had no objections subject to complying with applicable city and state regulations. No objections were received from the affected property owners.

a) Public Hearing

Mayor Boswell announced this was a public hearing and anyone wishing to speak for or against this item could so. There being no comments, Mayor Boswell declared the public hearing closed.

- b) Consider and take action to adopt and approve an Ordinance on the first reading for the above-mentioned Specific Use Permit.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to adopt and approve the ordinance on first reading for the above mentioned Specific Use Permit. Motion carried unanimously.

- 10) Discussion of an ordinance authoring the freeze of Ad Valorem taxes on homeowners who are either disabled or 65 years of age.

Carlos Yerena, City Manager gave a PowerPoint presentation on the freezing of ad valorem taxes on homeowners that were disabled or 65 years of age. He explained the proposed tax ceiling that could be applied to the senior citizens and disabled individuals of the community. Mr. Yerena highlighted the proposed figures and how these figures would affect the city's budget; the requirements to apply for the Tax Exemption Program. If the Tax Exemption Program was adopted it would be effective next fiscal year, 2013. If there was no tax ceiling the increases would be incurred each year. Mr. Yerena highlighted the 2011 Tax Year Valuation Report and stated residential single family values were \$1,344,724,352 or 49.9%, commercial property values were at \$684,313,854 or 25.4% and over 65 year of age or disabled property values at \$252,135,854 or 9.4%. The City of Harlingen was a certified retirement community since 2008. There were only 32 certified retirement communities in the State of Texas and only two in the Rio Grande Valley which was Harlingen and South Padre Island.

A brief discussion was held and Commissioner Castillo stated he had discussed this issue with the Senior Citizens Advisory Board. Commissioner Castillo agreed that this would be a good thing for the community. Staff had conducted a survey of other valley cities that were competitive to Harlingen and they not only had a tax ceiling, but a higher tax exemption. This would be another great marketing tool for the community. It would make the citizens of Harlingen aware that they had taken notice of this needed measure and could attract future retirees to the Harlingen community. Commissioner

Castillo recommended that an ordinance be prepared for their consideration for the tax ceiling and with a higher tax exemption in order to be competitive with other cities. Some of these communities had raised their tax exemption as high as \$10,000.00.

Commissioner Leftwich stated he agreed with the comments made by Commissioner Castillo. He and Mayor Pro-tem Prepejchal had helped pass the Senior Citizens Advisory Board and the tax ceiling was one of the issues that were asked to be reviewed by the City Commission. He thanked Commissioner Castillo for bringing this issue early in the year for their review. It was the right time to consider adopting such an ordinance, since the Harlingen C.I.S.D allowed these exemptions.

Mayor Pro-Tem Jerry Prepejchal stated he was also in favor of this item to in order to take care of the Harlingen senior citizens.

Mayor Boswell also recommended that the ordinance be prepared for their consideration.

A senior citizen asked for a clarification on the definition of a disabled person and Mayor-Pro-Tem Prepejchal recommended for Mr. Yerena provide the public the definition of a disabled.

Mr. Yerena stated taxpayers would have to apply with the Cameron County Appraisal District. They would determine if the citizen would qualify based on the Texas Property Code regulations.

No action was taken.

11. Consider and take action to approve the lease agreement between the City of Harlingen and Cameron County for the leasing of the voting equipment to be used for the March 16, 2012 Special Election for the purpose of electing one (1) member to Harlingen City Commission to fill the unexpired term of city Commissioner District 3.

Amanda C. Elizondo, City Secretary highlighted the agreement for the use of the voting for the March 16, 2012 Special Election. She recommended the approval of the agreement.

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem Prepejchal to approve the lease agreement as presented. Motion carried unanimously.

12. Consider and take action to approve a resolution appointing and ordering an Early Voting Ballot Board Presiding Judge: and Early Voting Ballot Board Alternate Judge Presiding Judge: Ordering an Election Day Presiding Judge and an Election Alternate Presiding Judge: each to swerve as election officials for the March 16, 2012 Election for the purpose of electing one (1) member to the Harlingen City Commission to fill the unexpired term of City Commissioner District and ordaining other matters related to the foregoing.

Ms. Elizondo highlighted the resolution and recommended the appointment of **Laura Dougherty** as Presiding Judge and **Ken Dougherty** as Alternate Presiding Judge for Election Day, March 16, 2012 and **Lupita Canales** as the Presiding Judge and **Rosa Sanchez** as Alternate Judge for the Early Ballot Board.

Motion was made by Commissioner Leftwich and seconded by Commissioner Castillo to approve the resolution appointing the election judges for the March 16<sup>th</sup> Special Election Day and Early Ballot Board. Motion carried unanimously.

13. Consider and take action to approve a renewal of an Industrial District Agreement between the CITY OF HARLINGEN, TEXAS of Cameron County, Texas 78550 and VALLEY INTERNATIONAL COLD STORAGE (VICS), 200 North Loop 509, Texas 78550.

Don Hubbard, Representative of the Economic Development Corporation of Harlingen, Inc. highlighted the agreement between the City of Harlingen and Cameron County and stated the purpose of the item was to renew the agreement. This would be the third time that it was renewed and the EDC had assisted Valley International Cold Storage in processing their applications in the past. This agreement would have a provision on police and fire protection for the industrial park. He recommended approval of the agreement.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Castillo to approve the agreement as presented. Motion carried unanimously.

14. Board Appointments

There were no board appointments.

At 6:15 p.m., Mayor Boswell announced the City Commission would convene in executive session to discuss Item 15, a, b, and c.

Motion was made by Mayor Pro-Tem Prepejchal and seconded by Commissioner Castillo to go into executive session to discuss Items 15 a, b, and c. Motion carried unanimously.

At 6:48 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

15. Closed/Executive Session to discuss the following items:

- a) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code Section 551.071 consultation with the Harlingen Waterworks Attorney seek legal advice regarding Harlingen Waterworks System, a Department of the City of Harlingen, Texas and the City of Harlingen v. David Allen Woolweaver and Jeanie O. Woolweaver, Cause No. 2011-CCL-00245 in Cameron County Court at Law No. 3. (City Attorney).

Ms. Cotroneo briefed the City Commission on the above mentioned case.

- b) pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code Section 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 Project Blue and to seek legal advice from the City Attorney regarding this subject. (City Manager).

No action was taken.

- c) pursuant to Chapter 551, Subchapter D, V.T.C.A. Government Code Section 551.071 consultation with the City Attorney to seek legal advice regarding the Jefferson Street Drainage Project. (City Manager).

No action was taken.

16) Consider and take action to approve the Special Commissions in Condemnation award in the case of Harlingen Waterworks System, a department of the City of Harlingen, Texas and the City of Harlingen v. Davis Allen Woolweaver and Jeanine O. Woolweaver, Cause No. 2011- CCL-00245 in the Cameron County Court at law No. 3. (City Attorney)

Motion was made by Commissioner Leftwich and seconded by Mayor Pro-Tem to approve the award as discussed in executive session. Motion carried unanimously.

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

City of Harlingen

  
Chris Boswell, Mayor

ATTEST:

  
Amanda C. Elizondo, City Secretary