

REGULAR

CITY COMMISSION

HARLINGEN, TEXAS

October 3, 2016

A Regular Meeting of the Harlingen Elective Commission was held on Monday, October 3, 2016 at 5:30 p.m., City Hall, Town Hall Meeting Room, 2<sup>nd</sup> Floor, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

Mayor and Commissioners

Mayor Chris Boswell  
Mayor Pro-Tem Michael Mezmar, District 3  
Richard Uribe, Commissioner District 1  
Ruben de la Rosa, Commissioner District 4  
Victor Leal, Commissioner District 5

Absent

Tudor Uhlhorn, Commissioner District 2

Staff Present

Dan Serna, City Manager  
Amanda C. Elizondo, City Secretary  
Richard Bilbie, City Attorney

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

Invocation/Commissioner Richard Uribe

Commissioner Uribe gave the invocation.

Pledge of Allegiance/Welcome

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

1) Proclamation - proclaiming October 9-15, 2016, as "Fire Preventive Week Throughout the City of Harlingen"

Mayor Boswell read and presented the proclamation to Fire Chief, Roy Rubio and several fire fighters. He thanked them for the work that they did and for doing a great job for the community.

Chief Rubio thanked the Mayor and Commissioners for their support.

2) Approval of Minutes

a) Regular Meeting of August 17, 2016

Motion was made by Mayor Pro-Tem Mezmar and seconded by Commissioner Leal to approve the minutes of August 17, 2016 as presented. Motion carried unanimously.

CONSENT AGENDA

- 3a) Second and final reading to approve and adopt an ordinance to rezone from Not Designated ("N") District to Light Industry ("LI") District for 11.91+ acres out of Block 67, and 16.1+ acres out of Block 68, Palmetal Company Subdivision, located on the north side of FM 106 east of FM 509. Applicant: Whiting Investments LLC, c/o Chris Hamby, and the City of Harlingen.
- b) Second and final reading to approve and adopt an ordinance for the renewal of the Specific Use Permit ("SUP") to allow the continuance of a Bar/Lounge in a General Retail ("GR") District located at 204 W. Jackson, bearing a legal description of Lots 13 & 14, Block 45 Harlingen Original Town site. Applicant: Luis C. Betancourt.
- c) Second and final reading to approve and adopt an ordinance to rezone from Not Designated ("N") District to Residential, Single Family ("R-1") District for the South 0.75+ acre out of 1.3 acre tract of Block 8, the South 1.0+ acre out of a 1.97 acre tract of Block 9, the South 0.4+ acre out of Block 9, the South 0.5+ acre out of the Western Part of Blocks 9 and 10, and 2.97 acres out of Block 10, Stuart Place Subdivision Survey 298; Lots 1-3, Block 1, Naranjo-Lopez Subdivision; and Lots 1-3, Block 1, Esteban-Celina Subdivision; rezone from Not Designated ("N") District to Residential, Mobile Home ("MH") District for 2.4+ acres out of a 4.0 acre tract of Block 8, Stuart Place Subdivision Survey 298; and rezone from Not Designated ("N") District to General Retail ("GR") District for the North 200 ft. (1.6+ acres) out of a 4.0 acre tract of Block 8, the North 300 ft. (0.3+ acre) of a 1.3 acre tract of Block 9, the North 300 ft. (0.9+ acre) out of a 1.977 acre tract of Block 9; the North 300 ft. (0.34+ acre) out of Block 9, the North 300 ft. (0.5+ acre) out of the Western part of Blocks 9 and 10; and 1.83 acres out of Block 10, Stuart Place Subdivision Survey 298; all properties located on the south side of Business 83 between Beckham Road and Altas Palmas Road. Applicant: City of Harlingen.

- d) Second and final reading to approve and adopt an ordinance to designate a "No Parking Zone" along the east side of Morgan Boulevard from the intersection of Washington Avenue extending north 218 feet to the driveway of Saint Paul Lutheran Church.

Motion was made by Commissioner Leal and seconded by Commissioner Uribe to approve Items No. 3 (a) through (d) under the consent agenda. Motion carried unanimously.

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

ORDINANCE NO. 2016-46

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM NOT DESIGNATED ("N") DISTRICT TO LIGHT INDUSTRY ("LI") DISTRICT FOR 11.91± ACRES OUT OF BLOCK 67, AND 16.1± ACRES OUT OF BLOCK 68, PALMETAL COMPANY SUBDIVISION, LOCATED ON THE NORTH SIDE OF FM 106 EAST OF FM 509; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 2016-47

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO LUIS C. BETANCOURT TO ALLOW A BAR/LOUNGE IN A GENERAL RETAIL ("GR") DISTRICT LOCATED AT 204 W JACKSON, BEARING A LEGAL DESCRIPTION OF LOTS 13 & 14, BLOCK 45. HARLINGEN ORIGINAL TOWNSITE, SUBJECT TO: (1) MAINTAINING THE PROPER STATE AND TABC PERMITS (2) CONTINUING TO PROVIDE SURVEILLANCE VIDEO AND MAINTAIN A 30 DAY RETENTION OF THE VIDEO, (3) CONTINUING TO PROVIDE ADEQUATE LIGHTING ON THE PREMISES, (4) CONTINUING TO PROVIDE A LICENSED SECURITY GUARD DURING PEAK HOURS OF OPERATION, THURSDAY THROUGH SATURDAY FROM 9 PM TO 12 AM AND; (5) AND CONTINUE TO COMPLY WITH REQUIREMENTS ADMINISTERED BY THE PLANNING, BUILDING INSPECTIONS, FIRE PREVENTION, HEALTH, AND POLICE DEPARTMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 2016-48

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM NOT DESIGNATED ("N") DISTRICT TO RESIDENTIAL, SINGLE FAMILY ("R-1") DISTRICT FOR THE SOUTH 0.75± ACRE OUT OF 1.3 ACRE TRACT OF BLOCK 8, THE SOUTH 1.0± ACRE OUT OF A 1.97 ACRE TRACT OF BLOCK 9, THE SOUTH 0.4± ACRE OUT OF BLOCK 9, THE SOUTH 0.5± ACRE OUT OF THE WESTERN PART OF BLOCKS 9 AND 10, AND 2.97 ACRES OUT OF BLOCK 10, STUART PLACE SUBDIVISION SURVEY 298; LOTS 1-3, BLOCK 1, NARANJO-LOPEZ SUBDIVISION; AND LOTS 1-3, BLOCK 1, ESTEBAN-CELINA SUBDIVISION; REZONE FROM NOT DESIGNATED ("N") DISTRICT TO RESIDENTIAL, MOBILE HOME ("MH") DISTRICT FOR 2.4± ACRES OUT OF A 4.0 ACRE TRACT OF BLOCK 8, STUART PLACE SUBDIVISION SURVEY 298; AND REZONE FROM NOT DESIGNATED ("N") DISTRICT TO GENERAL RETAIL ("GR") DISTRICT FOR THE NORTH 200 FT. (1.6± ACRES) OUT OF A 4.0 ACRE TRACT OF BLOCK 8, THE NORTH 300 FEET (0.3± ACRE) OF A 1.3 ACRE TRACT OF BLOCK 9, THE NORTH 300 FEET (0.9± ACRE) OUT OF A 1.977 ACRE TRACT OF BLOCK 9; THE NORTH 300 FEET (0.34± ACRE) OUT OF BLOCK 9, THE NORTH 300 FEET (0.5± ACRE) OUT OF THE WESTERN PART OF BLOCKS 9 AND 10; AND 1.83 ACRES OUT OF BLOCK 10, STUART PLACE SUBDIVISION SURVEY 298; ALL PROPERTIES LOCATED ON THE SOUTH SIDE OF BUSINESS 83 BETWEEN BECKHAM ROAD AND ALTAS PALMAS ROAD.; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 2016-49

AN ORDINANCE TO ESTABLISH A "NO PARKING ZONE" ON THE EAST SIDE OF MORGAN BOULEVARD BEGINNING AT ITS INTERSECTION WITH WASHINGTON AVENUE EXTENDING NORTH, FOR A DISTANCE OF APPROXIMATELY 218 LINEAR FEET IN LENGTH; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID "NO PARKING ZONE"; ESTABLISHING A PENALTY NOT TO EXCEED \$200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR

PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this 21st day of September, 2016.

PASSED AND APPROVED on second and final reading this 3rd day of October, 2016.

ATTEST:

/s/Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/ Chris Boswell, Mayor

4) Presentation by International Boundary Water Commission representatives regarding Phase Two of the Arroyo Colorado Flood Control Project.

Juan Uribe, Area Manager stated the Arroyo Colorado is a part of the flow system which carries 20% of the water that is diverted into the interior flow. The interior flow is designed to carry 105 thousand cfs of which the Arroyo Colorado is designed for 21,000 cfs. In 2015, they started the Flood Haz-Mat Initiative to increase and maintain the capacity of the Arroyo Colorado to its original design of 21,000 cfs. They proposed to build a 100 ft. or 50 ft. bunker on each side of the Arroyo. Current capacity due to the current vegetation was approximately 45% which is about 9,000 cfs. After the completion of the bunkers on each side of the Arroyo, the capacity would increase to 73%, approximately 15,000 cfs. They were coordinating with some of the landlords to access the areas that are not accessible. They have been working with the Texas Fish and Wildlife and did an environmental assessment. Mr. Uribe stated they would make sure that the endangered plants were not removed. The trees would be cut on site and taken somewhere else and they would dredge the channel after the project was completed. An environmental agency assessed the area who works with the Texas Fish and Wildlife and if there were any concerns, the concerns would be addressed to them. No studies have been conducted on the north floodway.

Mayor Boswell stated he spoke to Commissioner Ursenia about dredging the channel to create additional capacity. The north floodway capacity needed to be increase instead of relying on the Arroyo Colorado which comes straight through the middle of Harlingen as a way of relieving the flooding to cities west of Harlingen and other areas of the Rio Grande Valley. It seems that Harlingen has become a floodway to relieve other communities and potentially flooding our area when the real answer to this issue is to increase the capacity of the north floodway by deepening the channel rather than by ruining the natural vegetation. Meetings have been with your bosses regarding this issue. Mayor Boswell stated they were communicating with others cities to try to press this issue.

Mayor Boswell stated an immediate concern is the Birding Festival in November. He asked Mr. Uribe to work with City staff to save the areas where the birds would go for last. He thanked Mr. Uribe for the presentation.

5) Second public hearing to receive comments regarding the proposed voluntary annexation and to establish the initial zoning to Light Industry ("LI") District for a 25.970 acre tract of land, more or less, being 2.145 acres out of Block 41, and 23.825 acres out of Block 67, Palmetal Company Subdivision, located on the east side of FM 509 north of FM 106. Applicant: Whiting Investments, LLC, c/o Chris Hamby.

Joel Olivo, Planning and Zoning Manager stated Chris Hamby, applicant and property owner requested voluntary annexation of 25.970 acres of land. All subject property is outside the City limits, but adjacent to the City limits. Mr. Hamby is proposing to subdivide the property into a five lot commercial subdivision under the name of Arroyo View Subdivision. A part of the proposed subdivision consisting of 4.82 acres is inside the City limits. Five lots will have frontage, (two lots on FM 509 and three lots on FM 106) through a proposed private street. Mr. Hamby will be responsible for all infrastructure provisions including street development, street lights, water and wastewater services, storm sewer and other requirements as specified under the subdivision regulations. Harlingen Water Works System will provide water and wastewater disposal for the proposed subdivision. The property will be zoned Light Industry ("LI") District and is consistent with the Future Land Use Plan. The draft service plan outlines the services that will be provided within sixty days after the effective date of annexation and construction of capital improvements within 2-1/2 years. The following requirement must be met to comply with the Texas Local Gov't. Code and the City's Code of Ordinances: 1) two readings of the ordinance are required to annex the property and three public hearings; 2) one public hearing was conducted before the Planning and Zoning Commission and two public hearings before the City Commission. Tonight's public hearing is the second public hearing before the City Commission.

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.

No action was taken on this item.

6) Consider and take action to approve new Harlingen Public Library operating hours.

Ms. Dauna Campbell, Library Director recommended approval of the new operating hours for the Public Library. The library will be close one hour earlier on Monday and Thursday to extend the hours on Friday and Saturday morning increasing the hours of operation from 56 to 58 hours per week. The Library Board approved the new hours at their September 19th meeting.

Motion was made by Commissioner Uribe and seconded by Commissioner Leal to approve the new hours for the Harlingen Public Library. Motion carried unanimously.

- 7) Consider and take action to approve an ordinance on first reading amending Chapter 10, Community Development, Article II, Public Improvements Districts, Section 10-19 regarding the accountability and employment of the downtown manager.

Richard Bilbie, City Attorney stated there were some conflicts with the existing ordinance and the City Charter. The duties of appointment and accountability are supposed to be directly under the City Manager and not with an advisory board member. This ordinance will correct the conflict and place the duties of appointment and accountability under the City Manager.

Mr. Bilbie read the caption of the ordinance.

Motion was made by Commissioner Leal and seconded by Commissioner Uribe to approve an ordinance on first reading amending Chapter 10, Community Development, Article II, Public Improvements Districts, Section 10-19 regarding the accountability and employment of the downtown manager. Motion carried unanimously.

- 8) Consider and take action to approve a resolution adopting the Lower Rio Grande Valley Active Transportation and Active Tourism Plan, "The Active Plan."

Eva Garcia, Planner with the City of Brownsville stated "The Active Plan" consisting of 10 cities in Cameron County that came together after the Legacy Foundation awarded the City of Brownsville a \$100,000 Grant. Each of the communities participated, contributed financially into this plan, as well as other entities such as, local public health organizations, US Fish and Wildlife and National Parks Service. The plan would allow for opportunities throughout Cameron County to diversify local tourism market, create a regional bicycle and pedestrian network, and to promote healthy lifestyles. Some of the highlights were as follows:

- the plan proposed a regional network throughout Cameron County over 120 miles of on-street bicycle route;
- 227 miles (multi-use trails) of off-street trails, for cyclist, pedestrians, runners, and skate boarders;
- over 78 miles of paddling trail to go along the coast and into the Arroyo Colorado to area between Harlingen and San Benito;
- developed a network to promote active tourism, which is a huge market worldwide such as Pennsylvania and Maryland's Great Allegheny Passage;
- a resolution will be forthcoming to support a trail for the Bahia Grande Unit of the U.S. Fish and Wildlife Property;
- there would be a trail in one of the catalyst project which will connect the Brownsville area, Los Fresnos all the way to Laguna Height, Port Isabel and eventually connect to the whole network; and
- The US Fish and Wildlife and National Parks Service are interested in developing the plan.

Ms. Garcia stated the resolution in support of the Bahia Grande Unit of the US Fish and Wildlife is an example of how they would be working with all ten cities to push this networking together and the marketing of the tourism component. They have discussed with various water districts mainly the Brownsville Water District Area to formalize the plan and obtain options from all the communities. The next step is to get each representative from each city and work to develop those relationships in each of the areas as the projects move forward.

Mayor Boswell pointed out it was a working progress and the Legacy Foundation supplied the funding for the initial study and plan. This is one of the ways to support the plan to see the opportunities for us to get out there and hike and bike and bring others to the community. Mayor Bowell thanked Ms. Garcia for working with all the communities. There would be more planning. Six (6) catalyst projects were included in the plan such as the Harlingen centric and Harlingen/San Benito trail.

Commissioner Leal asked if part of the plan was to connect the Hike and Bike trails among the communities.

Ms. Garcia responded yes. One of the catalyst projects is to connect the existing Harlingen and San Benito trail together and the paddling trail.

Motion was made by Commissioner Leal and seconded by Commissioner Uribe to approve the resolution adopting the Lower Rio Grande Valley Active Transportation and Active Tourism Plan, "The Active Plan." Motion carried unanimously.

- 9) Consider and take action to approve a resolution to endorse and support the development of a Hike & Bike Trail through the Bahia Grande Unit of the U.S. Fish & Wildlife Service, Laguna Atascosa National Wildlife Refuge.

Motion was made by Mayor Pro-Tem Mezmar and seconded by Commissioner de la Rosa to approve the resolution to endorse and support the development of a Hike & Bike Trail through the Bahia Grande Unit of the U.S. Fish & Wildlife Service, Laguna Atascosa National Wildlife Refuge. Motion carried unanimously.

- 10) Consider and take action to approve a resolution authorizing the Mayor to accept grant funding in the amount of \$12,800 from the Office of the Governor for a project titled "National Incident-Based Reporting System."

Jeffrey A. Adickes, Police Chief stated the purpose of resolution was to authorize the Mayor to accept grant funding in the amount of \$12,800 from the Office of the Governor for a project titled "National Incident-Based Report System." The City of Harlingen has an opportunity to receive this grant and purchase and install software to transition the City from Universal Crime Reporting to National Incident Based Reporting System to comply with House Bill 11. Texas Law Enforcement Agencies are mandated to implement the NIBRS Program by September, 2019. The grant cycle is from October 1, 2016 to August 31, 2017.

Motion was made by Commissioner de la Rosa and seconded by Commissioner Leal to approve the resolution authorizing the Mayor to accept grant funding in the amount of \$12,800 from the Office of the Governor for a project titled "National Incident-Based Reporting System." Motion carried unanimously.

- 11) Consider and take action to approve a resolution authorizing the Mayor to accept grant funding in the amount of \$54,120.22 from the Texas Department of Transportation acting on behalf of the Office of the Governor.

Chief Adickes stated the grant award was for \$54,120.22 from the Texas Department of Transportation "STEP Comprehensive Grant." The City's match was \$22,190.22 paid in man hours. The City would not be paying any monies. The officers will operate this program on an overtime basis, specifically enforcing DWI, distracted driving, seat belt, intersection violations, and speeding. He recommended approval of the resolution authorizing the Mayor to accept the grant funding.

Motion was made by Commissioner de la Rosa and seconded by Commissioner Leal to approve a resolution authorizing the Mayor to accept grant funding of \$54,120.22 from the Texas Department of Transportation acting on behalf of the Office of the Governor. Motion carried unanimously.

- 12) Consider and take action to approve a resolution authorizing the Mayor to accept grant funding in the amount of \$65,000 from the Texas Criminal Justice Division for a project titled "Local Border Security Program."

Chief Adickes, stated the grant award was for \$65,000 and officers will be allow to work to secure the borders in close proximity to the City. The officers will concentrate on their crime prevention efforts on the City's business district, public transportation centers, shopping centers, railways and roads leading to and from Los Indios Trade Bridge.

Motion was made by Commissioner de la Rosa and seconded by Commissioner Leal to approve the resolution authorizing the Mayor to accept grant funding in the amount of \$65,000 from the Texas Criminal Justice Division for a project titled "Local Border Security Program." Motion carried unanimously.

- 13) Consider and take action to approve a resolution authorizing the Mayor to accept grant funding in the amount of \$11,711.41 from the Texas Department of Transportation acting on behalf of the Office of the Governor for funding overtime costs and operating expenses to the City of Harlingen, Texas to provide additional manpower to enhance and improve community and highway safety.

Chief Adickes stated the grant award was for \$11,711.41 from the Texas Department of Transportation, acting on behalf of the Office of the Governor and funding will allow the Harlingen Police Department to be reimbursed for overtime salaries/benefits of officers working under the STEP Grant. The City's match was \$5,321.71 paid in man hours. The grant cycle is from October 1, 2016 to September 30, 2017. The officers will work on an overtime basis, specifically enforcing commercial motor vehicle laws such as hazardous movements, speeding, stop signs and seatbelts.

Motion was made by Commissioner de la Rosa and seconded by Mayor Pro-Tem Mezmar to approve the resolution authorizing the Mayor to accept grant funding in the amount of \$11,711.41 from the Texas Department of Transportation acting on behalf of the Office of the Governor for funding overtime costs and operating expenses to the City of Harlingen, Texas to provide additional manpower to enhance and improve community and highway safety. Motion carried unanimously.

- 14) Consider and take action to approve the Fire Protection Service Contract between the City of Harlingen, Texas and the City of Palm Valley, Texas to provide fire protection services for a cost of \$115,956.20 payable in quarterly installments of \$28,989.05 and authorize the Mayor to sign the contract.

Rogelio Rubio, Fire Chief stated the rate for fire protection services for the City of Palm Valley is ¢.10 per \$100.00 valuation based on the City's 2016 Certified Net Taxable Value for a fee of \$115,956.20 payable in quarterly installments of \$28,989.05 on the following dates: Dec. 31, 2016, March 31<sup>st</sup>, June 30, and Sept. 30<sup>th</sup>, 2017. He recommended approval of the Fire Protection Service Contract with the City of Palm Valley, an increase of \$641.89.

Motion was made by Commissioner Uribe and seconded by Commissioner de la Rosa to approve the Fire Protection Service Contract between the City of Harlingen, Texas and the City of Palm Valley, Texas to provide fire protection services for a cost of \$115,956.20 payable in quarterly installments of \$28,989.05 and authorize the Mayor to sign the contract. Motion carried unanimously.

15) Board Appointments

None

16) Executive/Closed Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Sections 551.072 and 551.087) regarding the purchase, lease, or value of real estate with which the Economic Development Corporation of Harlingen, Inc is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives with the following business prospects known as:

- a) Project Liberty
- b) Project Wilson
- c) Project Lodging 2
- d) Project Antelope

17) Executive/Closed Session pursuant to Chapter 551, Subchapter D, V.T.C.A., Texas Government Code Sections 551.071, and 551.072 regarding the purchase, exchange, lease or value of real property and to possibly seek legal advice from the City Attorney regarding this matter.

At 6:12 p.m. Mayor Boswell announced the City Commission would convene into executive session to discuss Item No. 16 and 17.

Motion was made by Commissioner Uribe and seconded by Commissioner de la Rosa to convene into executive session to discuss Item No. 16 and 17. Motion carried unanimously.

At 7:41 p.m. Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

18) Consider and take action to authorize the City Manager to proceed as discussed in executive session.

Motion was made by Commissioner Leal and seconded by Commissioner de la Rosa to authorize the City Manager to proceed as discussed in executive session. Motion carried unanimously.

19) Citizen Communication

None

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

CITY OF HARLINGEN

  
Chris Boswell, Mayor

ATTEST:

  
Amanda C. Elizondo, City Secretary