

**NOTICE OF REGULAR MEETING
MISSION CITY COUNCIL
MARCH 09, 2009 4:30 P.M.
MISSION CITY HALL**

PRESENT:

Ruben D. Plata, Councilman
Norie Gonzalez Garza, Councilwoman
Leo Olivarez, Mayor Pro Tem
David Guerra, City Attorney
Anna Carrillo, City Secretary
Julio Cerda, City Manager

ABSENT:

Norberto Salinas, Mayor
Celestino Ramirez, Councilman

ALSO PRESENT:

Kathy Olivarez, Progress Times
Rolando Garcia
Jim & Jann Schroeder
Mindy Schroeder
Sarah Castillo
Richard Bellert
Sara Perkins
Jesus H. Ruiz
Craig G. Carolan
Joe B. Garza
Jaime Sanchez
Felicia Ramirez
James Jarvis
Fred Kurth

STAFF PRESENT:

Nelia Hernandez, Asst. City Secretary
Sonia Carnes, Deputy City Manager
Guillermo Seguin, Deputy City Manager
Aida Lerma, Deputy City Manager
Sergio Zavala, Planning Director
Bobby Salinas, Subdivision Coordinator
Roberto Salinas, City Engineer
Paul Schaefer, Golf Course Director
Joanne Longoria, CDBG Director
Gilbert Sanchez, Fire Marshal
Ruben Diaz, Public Works Director
Victor Gonzalez, Streets Director
Elizabeth Cabrera, Purchasing Director
Rosie Salazar, Risk Manager
Leo Longoria, Chief of Police
Janie Flores, Finance Director
Randy Perez, Accountant
Julian Gonzalez, Parks & Rec. Director
Adela Ortega, Museum Director
Mayra Rocha, Speer Memorial Library
Jesse Lerma, Civil Service Director
Omar Garcia, Boys & Girls Club Director
Roland Rodriguez, D.P. Manager
Jonathan Wehrmeister, Judge
Noemi Munguia, HR Director
Rick Saldana, Fire Chief

1. Call to order

With a quorum being present, Mayor Pro Tem Leo Olivarez called the meeting to order at 4:34 p.m.

2. Pledge Allegiance and Invocation

Mayor Pro Tem Olivarez led the meeting with the pledge of allegiance and City Manager Julio Cerda gave the invocation.

3. Departmental Reports

Councilwoman Norie Gonzalez Garza moved to approve the departmental reports as presented. Motion was seconded by Councilman Ruben Plata and approved unanimously 3-0.

4. Citizens Participation

Felicia Ramirez, U.S. Census Bureau Partnership Specialist, requested the council to approve Resolution and appoint a Complete Count Committee.

Jim and Mindy Schroeder thanked the council and staff for their assistance during a successful car show.

Richard Bellert reported on a successful Winter Texan Fiesta held last week.

1.0 Public Hearing

1.1 Planning & Zoning Recommendations

A. Rezoning: Lot 1, Ocaña Subd.,AO-I to R-3, JECRG Interest, Inc.

The site was approximately at the 2 ½ mile juncture of Mayberry Road (west side). This acreage was annexed by the City of Mission in January 2009. This area was recently evaluated by both the P&Z and the City Council where both boards perceived that a Low Density (LD) Residential land use would be the better long-term use for the area. LD was typically reflective of R-1 zoning. The surrounding land uses included: SF Residential to the North & South; Open acreage to the east and west. The utilities in the area included a 5" water line and an 8" sewer line. The aerial indicated that there was a grand fathered 4-plex on the property already (though 18 more apartments could have been permitted via R-3 regs). There was public opposition at P&Z's 2/18/09 hearing. The P&Z unanimously denied the rezoning.

Staff Recommendation: Denial (conflict with adjoining land uses and Future Land Use Map).

Staff, P&Z and City Manager recommended denial.

Mayor Pro Tem Olivarez asked if there were any comments for or against the request.

Mr. Rolando Garcia spoke in favor of approving the rezoning.

Councilman Plata moved to deny the rezoning as recommended by staff, of Lot 1, Ocaña Subd.,AO-I to R-3, JECRG Interest, Inc. Motion was seconded by Councilwoman Garza and approved unanimously 3-0.

B. Conditional Use Permit: Institutional Use in an Agricultural Open Interim Zone, The E. 66' of Lot 6, and all of Lot 7 & 8, exc., the N. 0.33 Acres of Lot 7 & 8, Rees Subd., AO-I 2 years, San Cristobal Magallanes & Companions Church

The subject site was at the NW corner of Stewart Road and Trinity. The San Cristobal Magallanes & Companions Church desired a temporary conditional use permit to conduct religious classes from the horse stable facility owned by Dr. Padula. Currently, the Church was limited on space for their youth classes so Dr. Padula had allowed them to use his building on Friday's from 4:45 p.m. until 7:00 p.m. The church had staggered the drop-off and pick-up times of those attending to minimize the traffic. The first hour of instruction had approximately 100

students that attended and the second hour had about 70 students that attended. So that parking and traffic was not an issue, parents were encouraged to carpool and to drop off their students and return to pick them up after classes concluded. If a student was not ready when parents showed up, parents could park on a paved parking facility that could easily accommodate up to 16 cars. This parking facility could also be utilized to safely drop off and pick up students. A total of 7 Catechists and 6 parents volunteers would be onsite to give the religious lessons as well as facilitate with the flow of traffic. Since all the instruction was conducted strictly by appointment and to members only, there was no signage desired. Father Craig Carolan had alerted Staff that Dr. Padula's property would only be used for 18-24 more months, the time frame for completion of their new church at the Sharyland Plantation. Finally, the existing hydrants were over 400' – 500' to satisfactorily protect the children/occupants and the building. One hydrant was recommended. There was no public opposition at P&Z's 2/18/09 hearing. The P&Z unanimously approved the conditional use permit subject to staff's recommendation. Staff Recommendation: Approval subject to: 1) getting a fire inspection clearance, 2) maximize parking to be off of Stewart Road's ROW, and 3) 1 fire hydrant (applicant pay/City install).

Staff, P&Z and City Manager recommended approval.

Mayor Pro Tem Olivarez asked if there were any comments for or against the CUP request.

Councilwoman Garza moved to approve the Conditional Use Permit: Institutional Use in an Agricultural Open Interim Zone, The E. 66' of Lot 6, and all of Lot 7 & 8, exc., the N. 0.33 Acres of Lot 7 & 8, Rees Subd., AO-I 2 years, San Cristobal Magallanes & Companions Church. Motion was seconded by Councilman Plata and approved unanimously 3-0.

C. Conditional Use Permit: To Construct a Party Rental Hall on Property Zoned Agricultural Open Interim where the Sale & On-Site Consumption of Alcoholic Beverages will occur, The South 7.58 acres of Lot 13, Goodwin Tract Subd. No. 3, AO-I, Jesus H. Ruiz

The subject site was ½ mile north of Griffin Parkway (FM 495) along the west side of Inspiration Road. The applicant was proposing to construct a 100' x 160' (16,000 sq. ft.) party rental hall. Such use was typically in a C-3 zone. Due to the site's location, a C-3 would be spot zoning; thus, a default alternative was a CUP.

The type of activities that Mr. Ruiz would be hosting ranged from weddings, quinceanieras, Christmas Parties, reunions, and birthday parties. The proposed hours of operation would vary depending on the type of activity; however, most events were during the evening and on weekends and typically take place during the hours of about 7:00 p.m. till 2:00 a.m. The proposed maximum occupancy would be determined by the Fire Marshal.

Based on the information and site plan provided, 160 parking spaces were required and 187 parking spaces were being proposed. The single point of access was via a 24' driveway onto Inspiration Road.

The Zoning Ordinance stated, "such uses must have provided sufficient buffering and sound insulation of the building such that the building was not visible and could not be heard from such structures of areas, and must have been designed to prevent disruption of the character of adjacent residential areas". It was clear that the intent of the City's Ordinance was to protect, in this case, the nearby residential areas. In the past, the P&Z and the City Council had approved the construction of similar ballrooms if proper sound insulation was installed. There was no

public opposition at P&Z's 2/18/09 hearing. The P&Z approved the conditional use permit with a 4-2 vote (Mr. Raul Sesin and Mr. Ned Sheats dissenting) as follows: 1) intensive sound insulation must be mandated, 2) widen 24' driveway onto Inspiration to 26' (left turn), 3) landscaping to meet code, 4) yearly re-evaluations of CUP to assess any noise issues/complaints, 5) acquisition of a business license, which included clearance for Fire, etc., 6) waive the 300' separation of such uses to residential and institutional areas, 7) the property must be subdivided, 8) buffering to any (future) adjoining residential areas, 9) 5' sidewalks along Inspiration Road (and future street), and 10) on-site security (inside and outside) during events.

Staff Recommendation: Denial.

P&Z and City Manager recommended approval.

Mayor Pro Tem Olivarez asked if there were any comments for or against the CUP request.

Jaime Sanchez, proposed builder, spoke in favor of the CUP.

After much discussion Councilwoman Garza moved to table the item. Motion was seconded by Councilman Plata and approved unanimously 3-0.

2.0 Disposition of Minutes

2.1 City Council Meeting – February 23, 2009

Councilwoman Garza moved to approve the minutes as presented. Motion was seconded by Councilman Plata and approved unanimously 3-0.

3.0 Acknowledge Receipt of Minutes

3.1 Speer Memorial Library – January 20, 2009

Shary Golf Advisory Board – January 27, 2009

Planning and Zoning Commission – January 28, 2009

Boys and Girls Club – January 29, 2009

Councilwoman Garza moved to acknowledge the receipt of minutes as presented. Motion was seconded by Councilman Plata and approved unanimously 3-0.

4.0 Approvals and Authorizations

4.1 Adoption of Ord. # _____ for Rezoning of Lot 1, Ocaña Subd., AO-I to R-3

No action was taken on this item.

4.2 Adoption of Ord. # 3443 For CUP for Institutional Use in an Agricultural Open Interim Zone, the E. 66' of Lot 6, and all of Lot 7 & 8, exc., the N. 0.33 Acres of Lot 7 & 8, Rees Subd.

Staff, P&Z and City Manager recommended approval.

Councilwoman Garza moved to approve adoption of Ordinance No. 3443 for CUP for Institutional Use in an Agricultural Open Interim Zone, the E. 66' of Lot 6, and all of Lot 7 & 8, exc., the N. 0.33 Acres of Lot 7 & 8, Rees Subd. Motion was seconded by Councilman Plata and approved unanimously 3-0.

ORDINANCE NO. 3443

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING CONDITIONAL USE PERMIT FOR INSTITUTIONAL USE IN AN AGRICULTURAL OPEN INTERIM ZONE, THE E. 66' OF LOT 6, AND ALL OF LOT 7 & 8, EXC., THE N. 0.33 ACRES OF LOT 7 & 8, REES SUBDIVISION

4.3 Adoption of Ord. # _____ for CUP To Construct a Party Rental Hall on Property Zoned Agricultural Open Interim where the Sale & On-Site Consumption of Alcoholic Beverages will occur, The South 7.58 Acres of Lot 13, Goodwin Tract Subd. No. 3

No action was taken on this item.

4.4 Variance Request by Melden & Hunt to Waive Required Subd. Fees for Ebony Trails Subd. (un-recorded) on Behalf of the Rio Grande Habitat for Humanity

Melden & Hunt had a written request on behalf of the Rio Grande Habitat for Humanity that the City of Mission waived all required subdivision fees for the un-recorded Ebony Trails Subdivision. Ebony was ¼ mile south of Griffin Parkway along the west side of Los Ebanos. The plat reflected 18 lots. The total amount due was \$57,043.24 (or \$3169.07/lot).

As indicated in Fred's request, RGHH consolidated 'donated' efforts and resources to minimize costs to the future low-income homeowner that, with self-help, was then reflected in a lower monthly mortgage payment (\$150-\$175/month + taxes & insurance). M&H cited Casa Ingles Subdivision in the City of Pharr as a good reflection of what could be done though the total amount of their subdivision waiver was \$14,507 for 36 lots (\$402.97/lot).

The P&Z Commission reviewed this request on February 18, 2009. The P&Z observed that, although the RGHH did good work, the City of Mission had established a history of uniformly imposing standard fees to schools and humble 'mom & pop' owners that found a way to comply with Mission's required fees. In this regard, the P&Z denied the variance request to waive the fees. Staff Recommendation: Comply with typical regulations.

P&Z and City Manager recommended denial.

Mr. Fred Kurth from Melden and Hunt spoke in favor of the request.

Councilwoman Garza moved to table the item. Motion died for lack of second.

After further discussion Mayor Pro Tem Olivarez moved to deny the Variance Request by Melden & Hunt to Waive Required Subd. Fees for Ebony Trails Subd. (un-recorded) on Behalf of the Rio Grande Habitat for Humanity. Motion was seconded by Councilman Plata and approved 2-1 with Councilwoman Garza dissenting.

4.5 Request by Wintergreen Estates Recreation Incorporated to have City Council Authorize City Manager to Issue Building Permit for a Community Service Ground Pole Sign at NE Bryan / Santa Barbara Juncture

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Planning had received a building permit from Wintergreen Estates to place a sign announcing their activities and seasonal events where said sign would have been installed in Santa Barbara's ROW. Ordinance #3414 (Nov. 10, 2008) was passed to specifically provide such requests.

Insofar as their request, Wintergreen proposed a 6' x 8' face on top of a 10' long ground pole for a total height of 16'. The location of the sign would have been 8' 10' from the edge of pavement.

The total height of other retirement communities were

TVA at 12'

Lemon Tree Estates at 15'

Lemon Tree Inn at 13'

In meeting with WGEstates last week, their (revised) proposal was within the range of what other adult areas had.

Staff had the following additional comments on the proposal:

- Sign shall always be subject to removal at owner's expense w/30 days notice.
- Execute and record hold harmless document in deed records indemnifying city of the private sign in public ROW
- The sign shall be maintained by Wintergreen to be aesthetic as well as the surrounding grounds (Wintergreen to mow this ROW portion of Santa Barbara)

Staff Recommendation: No objection to maximum 16' (pole + face) with Hold Harmless.

Staff, and City Manager recommended approval.

Councilwoman Garza moved to approve request by Wintergreen Estates Recreation Incorporated to have City Council Authorize City Manager to Issue Building Permit for a Community Service Ground Pole Sign at NE Bryan / Santa Barbara Juncture. Motion was seconded by Councilman Plata and approved unanimously 3-0.

4.6 Final Plat Approval: Carolina Subd. No 1, 10.99 acres being a portion of Lot 18, Block 3, Texan Gardens Subd., Rural ETJ, Developer: Juan Pena, Jr. Engineer: Javier Hinojosa Engineering

This plat was given Preliminary Plat Approval by the City Council on December 8, 2008 allowing the development to go forth into construction after receiving letters of 'no objection' from the TWDB and TCEQ thus allowing the plat to move forward toward construction. This Final Plat consideration of Carolina No. 1 viewed the improvements meeting prevailing codes.

- ❑ Carolina No. 1 had 9 lots all meeting the county's ½ acre standard.
- ❑ 8" water line had been installed with 2 hydrants.
- ❑ The septic tank systems had been installed and approved by county officials.
- ❑ The drainage swales were constructed to county specifications; roadside ditch had been reconstructed to county specifications.

With all agencies having 'approved' the plat for construction, Carolina No. 1 only needed the City Council's official 'Final Plat Approval' for recording.

Staff, and City Manager recommended approval.

Councilwoman Garza moved to approve Final Plat Approval: Carolina Subd. No 1, 10.99 acres being a portion of Lot 18, Block 3, Texan Gardens Subd., Rural ETJ, Developer: Juan Pena, Jr. Engineer: Javier Hinojosa Engineering. Motion was seconded by Councilman Plata and approved unanimously 3-0.

4.7 Final Plat Approval: Carolina Subd. No. 2, 9.26 acres being a portion of Lot 1, Block 7, Texan Gardens Subd., Rural ETJ, Developer: Juan Pena, Jr. Engineer: Javier Hinojosa Engineering

This plat was given Preliminary Plat Approval by the City Council on December 8, 2008 allowing the development to go forth into construction after receiving letters of 'no objection' from the TWDB and TCEQ thus allowing the plat to move forward toward construction. This Final Plat consideration of Carolina No. 2 viewed the improvements meeting prevailing codes.

- ❑ Carolina No. 2 had 12 lots all meeting the county's ½ acre standard.
- ❑ 8" water lines existed with 3 hydrants to serve the area.
- ❑ The septic tank system had been installed and approved by county officials.
- ❑ The drainage swales were constructed to county specifications; roadside ditch had been reconstructed to county specifications.

With all agencies having 'approved' the plat for construction, Carolina No. 2 only needed the City Council's official 'Final Plat Approval' for recording.

Staff, and City Manager recommended approval.

Councilwoman Garza moved to approve Final Plat Approval: Carolina Subd. No. 2, 9.26 acres being a portion of Lot 1, Block 7, Texan Gardens Subd., Rural ETJ, Developer: Juan Pena, Jr. Engineer: Javier Hinojosa Engineering. Motion was seconded by Councilman Plata and approved unanimously 3-0.

4.8 Discussion and Action to add Honorary Name of "CPL Jose A. Rubio" on 1st Street from Conway Ave. to Holland Ave.

Staff had received a written request to have the name of their family member, 'CPL Jose A. Rubio' as an honorary name on 1st St. from Conway Ave. to Holland Ave.

March 24th would have been the 1-year anniversary of CPL Rubio's untimely death in a war zone environment in Iraq. This particular stretch of 1st St. was the neighborhood in which CPL Rubio was raised, recreated in, and where his parents, wife (Jennifer) and son (Edgar) still live.

His family respectfully requested that an honorary street name be approved on this ½-mile stretch of 1st St. where it intersects with 7 streets (inclusive of Conway & Holland)

An honorary street name will have No change of address for anyone.

Staff Recommendation: No objection to have 'CPL Jose A. Rubio St.' as cited above.

Staff, and City Manager recommended approval.

Councilman Plata moved to approve to add Honorary Name of “CPL Jose A. Rubio” on 1st Street from Conway Ave. to Holland Ave. Motion was seconded by Councilwoman Garza and approved unanimously 3-0.

4.9 Board Appointments – Zoning Board of Adjustments

No action was taken on this item.

4.10 Authorization to accept the 2008 Homeland Security Grant Program adjustment from the Governor’s Division of Emergency Management

The City of Mission Emergency Management Division was seeking authorization to accept the 2008 Homeland Security grant adjustment from the Governor’s Division of Emergency Management. In December 9, 2008, we came before you with \$121,914.04 in funding. On February 28, 2009, the original grant funding was adjusted by \$102,034.96. This funding would have been used by the Police and Fire departments for the radio control boxes to the Central Dispatch in order to add additional communication channels. This would have given a grand total of \$223,949.00. There were no matching funds required.

Staff, and City Manager recommended approval.

Councilman Plata moved to approve authorization to accept the 2008 Homeland Security Grant Program adjustment from the Governor’s Division of Emergency Management. Motion was seconded by Councilwoman Garza and approved unanimously 3-0.

4.11 Authorize the City of Mission Fire Department to enter into a Memorandum of Agreement (MOA) between the Fire Departments and/or other emergency responder agencies from the cities of: Edinburg, Hidalgo, Pharr, Weslaco, and Donna with the City of McAllen

The United States Environment Protection Agency awarded a grant in the amount of \$50,000.00 to the McAllen Fire Department. The McAllen Fire Department would use these funds to update its current sister city plan and would be “partnering” the Cities of Edinburg, Hidalgo, Mission, Pharr and Weslaco (all cities within Hidalgo County, USA) with the cities of Reynosa and Rio Bravo, Mexico.

In authorizing the Mission Fire Department to enter into this Memorandum of Agreement, and with the immediate opening of the Anzalduas Bridge, this agreement would have played a critical role should the Mission Fire Department be need to respond/assist at an incident on the northwest side of Reynosa. One gain in authorizing this agreement was that the responding personnel would be afforded the “protection” of the United State Environmental Protection Agency.

Staff, and City Manager recommended approval.

Councilwoman Garza moved to approve to authorize the City of Mission Fire Department to enter into a Memorandum of Agreement (MOA) between the Fire Departments and/or other emergency responder agencies from the cities of: Edinburg, Hidalgo, Pharr, Weslaco, and Donna with the City of McAllen. Motion was seconded by Councilman Plata and approved unanimously 3-0.

4.12 Authorize City to enter into Memorandum of Understanding Addendum with CLEAResult, Inc. to extend the Participation of the 2008 AEP Texas CitySmart Program

Texas Senate Bill 7 required AEP Texas to develop programs to reduce the amount of annual electricity load growth through energy-efficiency programs; thus AEP Texas created the CitySmart Program, which was designed to help participating municipalities identify energy-efficiency opportunities in existing and new building and provide monetary incentives to implement these opportunities. The Program was funded by AEP Texas and was free of cost to the City. AEP Texas had contracted CLEAResult Consulting for this service. Staff was recommending authorizing the City Manager to execute the documents entering into the MOU for participation in the 2009 AEP Texas CitySmart Program.

Staff, and City Manager recommended approval.

Councilman Plata moved to authorize City to enter into Memorandum of Understanding Addendum with CLEAResult, Inc. to extend the Participation of the 2008 AEP Texas CitySmart Program. Motion was seconded by Councilwoman Garza and approved unanimously 3-0.

4.13 Approval to enter into Interlocal Agreement between City of Mission and County of Hidalgo to jointly undertake the youth services at Jensen Elementary

Approval to enter into Interlocal Agreement between City of Mission and County of Hidalgo to jointly undertake the youth services of the Mission Boys and Girls Club of America at Jensen Elementary where it provided after school programs for the area youth

No action was taken on this item.

5.0 Unfinished Business

None

6.0 Routine Matters

6.1 City Manager's Comments

Mr. Cerda welcomed back Fire Chief Ricardo Saldana and advised council that the City Engineer and himself would be out of town this week.

6.2 Mayor's Comments

Mayor Pro Tem Olivarez thanked council for being able to serve as Mayor Pro Tem. Councilwoman Garza thanked the staff for participating in last week's workshop.

7.0 Adjournment

At 5:31 p.m., Councilman Plata moved for adjournment. Motion was seconded by Councilwoman Garza and approved unanimously 3-0.

Norberto Salinas, Mayor

ATTEST:

Anna Carrillo, City Secretary