



## A REGULAR MEETING OF THE WESLACO CITY COMMISSION

NOTICE IS HEREBY GIVEN THAT the City Commission of the City of Weslaco, Texas will hold a Regular Meeting in the Legislative Chamber of City Hall, located at 255 South Kansas Avenue, on Tuesday, October 18, 2011 at 5:30 p.m. for the purpose of discussing the following items:

### **I. CALL TO ORDER**

- A. Certification of Public Notice.
- B. Mayoral Proclamations and Recognitions.
- C. Invocation.
- D. Pledge of Allegiance.
- E. Roll Call.

### **II. PUBLIC HEARINGS**

- A. To solicit input on whether the City of Weslaco should continue to tax “Goods-in-Transit” (goods that are stored under a contract of “bailment” in a public warehouse facility that is in no way owned or controlled by the owner of the goods) provided such goods are moved out of state or within the State within 175-days after the goods were acquired in Texas or imported into Texas.
- B. To solicit input on in compliance with the Consolidated Plan for Community Planning & Development (CDBG, HOME, ESG programs) on the City of Weslaco’s needs under the 25<sup>th</sup> Urban County Program (Year 2012).

### **III. STATUS REPORTS AND VISITORS WITH BUSINESS**

- A. Hernan Gonzalez, Executive Director of the Economic Development Corporation of Weslaco (EDC), regarding monthly economic development activities. Attachment.
- B. Martha Noell, Executive Director of the Weslaco Area Chamber of Commerce, regarding monthly chamber activities. Attachment.

### **IV. CONSENT AGENDA**

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the following Minutes:
  - 1) Regular Meeting of October 4, 2011. Attachment.
  - 2) Special Meeting of October 6, 2011. Attachment.

- B. Approval of the renewal of the Special Services Agreement on the Hotel/Motel Room Occupancy Tax Proceeds between the City of Weslaco and the Weslaco Area Chamber of Commerce for Fiscal Year 2011-2012 with the same terms and conditions, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Attachment.
- C. Approval on reconsideration of Resolution 2011-53 as approved September 20, 2011 to correct a technical error to the expiration of the term of one member from Place 7 on the Board of Directors of the Economic Development Corporation of Weslaco. Attachment.
- D. Approval on reconsideration of Resolution 2011-36 as approved June 7, 2011 to expand administrative authority of the Finance Director on certain legal financial documents with BBVA Compass Bank. Attachment.
- E. Approval on reconsideration of Resolution 2011-38 as approved June 21, 2011 to expand administrative authority of the Finance Director on certain legal financial documents with First National Bank. Attachment.
- F. Approval of the request by the Economic Development Corporation of Weslaco to conduct a recurring farmers' market in the vicinity of 203 E. Business 83 and waive all ordinances and fees as may apply, including itinerant vendor licenses. Attachment.
- G. Approval of the request by Airport Elementary to host its Annual Wellness Day at City Park on October 24, 2011, to reserve all pavilions and restrict public access from 8:45 a.m. – 11:45 a.m. for the safety of children participating in the “Stay on Track for Success-Drug Free” during Red Ribbon Week, and waive all fees associated. Attachment.
- H. Approval of the request by Hortencia Cuellar to close the streets of West Los Torritos to North Cedro to West Huisache on October 31, 2011 from 6 p.m. – 10 p.m. for the safety of pedestrians on Halloween. Attachment.
- I. Approval of the 2012 membership for \$100.00 in the Electric Reliability Council of Texas (“ERCOT”), the entity in Texas responsible for operating the deregulated wholesale electricity market and overseeing the grid in the deregulated portion of the state, and authorize the Mayor to execute any related documents. Attachment.
- J. Approval to authorize use of Federal Equitable Sharing funds in an amount not to exceed \$641.00 for court costs associated with the acquisition of one (1) seized vehicle as awarded to the Police Department, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Attachment.

V. **APPOINTMENTS**

- A. Discussion and consideration to approve Resolution No. 2011-56 to appoint one member to an unexpired term on the Library Board. Possible action. (There was no action on this item September 27, 2011.) Attachment.
- B. Discussion and consideration to approve Resolution No. 2011-57 to appoint one member to an unexpired term on the Planning & Zoning Commission. Possible action. Attachment.
- C. Discussion and consideration to approve Resolution 2011-58 to fill the expired term of one member from Place 4 on the Board of Directors of the Economic Development Corporation of Weslaco. Possible action. Attachment.
- D. Discussion and consideration to approve Resolution 2011-59 to fill the expired term of one member from Place 5 on the Board of Directors of the Economic Development Corporation of Weslaco. Possible action. Attachment.

**VI. OLD BUSINESS**

- A. Discussion and consideration on Second and Final Reading to approve Ordinance 2011-30 amending Ordinance 2009-29, the Master Fee Ordinance, to revise existing fees, establish new fees, and ordain other matters with respect to the subject matter hereof. Possible action. (First Reading held October 4, 2011.) Attachment.
- B. Discussion and consideration on Second and Final Reading to approve Ordinance 2011-28 to amend Ordinance 2010-17, previously codified as Ordinance 2002-18 in the City of Weslaco Code of Ordinances as Section 62-54, establishing brush rates to be charged for the brush pick-up service to reflect accurate cost of service at an increase of 9.5% for the average residential user; establishing that all business, commercial, industrial, and mobile home/recreational vehicle parks shall be responsible for disposing of their own brush; providing for a severability clause; and providing for an effective date. Possible action. (First Reading held September 27, 2011.) Attachment.

**VII. NEW BUSINESS**

- A. Discussion and consideration after public hearing to approve Resolution No. 2011-60 to continue to tax tangible personal property as Goods-In-Transit otherwise exempt pursuant to Texas Tax Code §11.253. Possible action. Attachment.
- B. Discussion and consideration to approve Ordinance 2011-29 to amend Section 1 of Ordinance 77-16, adopted on August 16, 1977 and codified in the Weslaco Code of Ordinances as §138-58 “Water Rates Prescribed” and amending Section 1 of Ordinance 67-10, adopted on June 27, 1967 and

codified in the Weslaco Code of Ordinances as §138.59 “Sewer Rates Prescribed;” providing a new schedule of rates to be charged for treated water delivered through the system of the Public Utilities Department of the City of Weslaco at an increase of 18% for the average residential user; and providing a new schedule of rates to be charged for the use of wastewater treatments facilities of the City of Weslaco at an increase of 15% for the average residential user and ordaining other matters with respect to the subject matter hereof and providing for an effective date after second publication of this ordinance. First Reading of Ordinance 2011-29. Possible action. (There was no action on this item September 27, 2011.) Attachment.

- C. Discussion and Consideration to approve Change Order Request 0921-02-084 CS Westgate for the Storm Water Drain Crossing for a project cost not to exceed \$400,000.00 with the City’s portion not to exceed \$100,000.00, authorize a budget amendment as needed, and authorize the Mayor to execute any related documents. Possible action. Attachment.
- D. Discussion and consideration to award the bid contract for the unleaded and diesel fuel supplier for Fiscal Year 2011-2012 to the best qualified, most advantageous bidder and to authorize the Mayor to execute any related documents. Possible action. Attachment.
- E. Discussion and consideration to authorize an expenditure of \$50,000.00 for the purchase of technology equipment for City Hall and Police Department, including two servers and four network switches. Possible action. Attachment.
- F. Discussion and consideration to authorize withdrawal from the City of Weslaco and City of Donna Emergency Management Program as created by Resolution 2004-27 and its related Interjurisdictional Emergency Management Plan by giving sixty days advance notice in writing to each of the signatories to this resolution and to the Governor’s Division of Emergency Management. Possible action. Attachment.

**VIII. CITY MANAGER’S REPORT**

- A. Report on Departmental Update, Financial Status, Upcoming Meetings and Appointments.
- B. Report by Public Utilities Department.

**IX. PUBLIC COMMENTS**

The Public Comments portion of the meeting promotes a fair and open process for the governance of the City. This portion of the meeting is not intended to be an extended discussion or a debate and is limited to three minutes for each presenter. The Mayor and City Commissioners do not reply; they listen. Matters under litigation are not to be addressed and comments regarding specific City employees and elected officials may be prohibited.

If you are discussing something not included on the agenda, the Commission cannot take any formal action until it is placed on an agenda and notice of the meeting is properly posted. Registration for Public Comments must be submitted to the City Secretary before the City Commission meeting is called to order. As the Mayor calls upon those who submitted a registration form with the City Secretary, please step to the podium and state your name and address before

beginning your presentation.

## **X. EXECUTIVE SESSION**

*Texas Government Code, Section 551 Open Meetings:*

*§551.145. Closed Meeting Without Certified Agenda or Tape Recording; Offense; Penalty*

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

*§551.146. Disclosure of Certified Agenda or Tape Recording of Closed Meeting; Offense; Penalty; Civil Liability*

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording. [Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.]

### **NOTE:**

Any documentation related to the following items will be distributed during Executive Session as part of the certified agenda; such documents may be available to any member of the Commission for advance inspection through the City Secretary's Office.

- A. Pending Litigation – Discussion with City Attorney regarding Civil Action No. 10-00353, *Anthony Covacevich and Arnold Rodriguez v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.
- B. Pending Litigation – Discussion with City Attorney and assigned Special Counsel regarding Case No. 7:10-CV-00452, *Michael Fisher, Arnold Rodriguez, and Edna Salas v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.
- C. Pending Litigation – Discussion with City Attorney regarding CL-11-1112-E, *Baudelio Castillo v. City of Weslaco et. Al.* pursuant to §551.071 of the Texas Government Code.
- D. Economic Development - Discussion and consideration of an international aviation business to locate in Weslaco and the terms and conditions for entering into a Development Agreement with The Economic Development Corporation of Weslaco for facilities at the Mid-Valley Airport pursuant to §551.087 of the Texas Government Code. (Item as requested by the Mayor.)
- E. Pending Litigation – Discussion with City Attorney and assigned Special Counsel Garza & Pena, PLLC regarding *Cause No. CCD-0033-F In The Matter of Proceedings By The City of Weslaco, Texas for The Condemnation of Certain Property of Ricardo Oliva* pursuant to §551.071 of the Texas Government Code.

- F. Pending Litigation – Discussion with City Attorney regarding Case No. 7:09-CV-0118, *Claudio Lucio v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.

**XI. POSSIBLE ACTION ON WHAT IS DISCUSSED  
IN EXECUTIVE SESSION**

**XII. ADJOURNMENT**

I hereby certify this **Notice of a Regular Meeting of the Weslaco City Commission** was posted in accordance with the Open Meetings Act on the outside bulletin board at City Hall of the City of Weslaco, located at the 255 South Kansas Avenue entrance, visible and accessible to the general public during and after regular working hours. This notice was posted on this 14<sup>th</sup> day of October, 2011 at 5:15 p.m. and will remain so posted continuously for at least 72-hours preceding the scheduled time of this meeting in accordance with Chapter 551 of the Texas Government Code.

/s/ Elizabeth M. Walker, City Secretary

**NOTE:** If any accommodation for a disability is required, please notify the City Secretary's Office at (956) 968-3181, Ext. 3100 prior to the meeting date.