



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, APRIL 15, 2014**

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, April 15, 2014 at 5:30 p.m. for the purpose of discussing the following items:

NOTE: If during the course of the meeting, any discussion of any item on the agenda should be held in executive or closed session, the Weslaco City Commission will convene in such executive or closed session whether or not such item is posted as an executive session item at any time during the meeting when authorized by the provisions of the Texas Open Meetings Act.

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| I. | <u>CALL TO ORDER</u> | Pages 1-2 |
| | A. Certification of Public Notice. | |
| | B. Mayoral Proclamations and Recognitions. | |
| | C. Invocation. | |
| | D. Pledge of Allegiance. | |
| | E. Roll Call. | |
| II. | <u>PUBLIC HEARINGS</u> | |
| | A. To solicit input on behalf of Danessa Peterson (Liebhaber) and Denise Peterson to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 515 N. Pueblo Street, also being Lots 1, 2, 3 & North 10' of Lot 4, Block 5, Hughes Subdivision, Weslaco, Hidalgo County, Texas, from "R-1 One Family Dwelling District" to "B-1 Neighborhood Business District." | 3 |
| | B. To solicit input on behalf of Andrew L. Martinez and Aaron L. Martinez. to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Off-Premise Permit at 1400 North Westgate Drive, Suite 400, also being Lots 16, 17, and 18, Block D, Expressway Heights Subdivision, Weslaco, Hidalgo County, Texas. | 4 |
| | C. To solicit input on behalf of Contex Restaurants, Inc., owner, RMH Franchise Corporation, d.b.a. Applebee's Neighborhood Grill & Bar. to approve a Conditional Use Permit to obtain an On-Premise Mixed Beverage Permit and a Mixed Beverage Late Hours Permit at 1829 West Expressway 83, also being Lots 2 and 3, Cash Nix Addition Phase 2, Weslaco, Hidalgo County, Texas. | 5 |
| | D. To solicit input on behalf of Enrique N. Hinojosa, Jr. to approve a Conditional Use Permit to obtain an On-Premise Mixed Beverage Permit and a Mixed Beverage Late Hours Permit at 415 S. International Blvd., also being Lot 1, Block 1, Palm Aire Subdivision, Weslaco, Hidalgo County, Texas. | 6 |
| | E. To solicit input regarding a Budget and Program Amendment to Urban County Program funding Year 25 (2012) utilizing the original work plan. | 7 |

III. 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.

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 Minutes of the Regular Meeting on April 1, 2014. (Staffed by City Secretary's Office.) Attachment. 8-21
- B. Authorization of the use of Federal Forfeiture Funds for payment of overtime in an amount not to exceed \$8,000.00 for law enforcement investigations and operations that may result in furthering law enforcement goals and mission and authorize a budget amendment as appropriate. (Staffed by Police Department.) Attachment. 22
- C. Authorization of the use of Federal Forfeiture Funds to purchase equipment for the motorcycle officers from Consolidated Telecom Services and INTAPOL Industries as the best qualified, most advantageous bidders in an amount not to exceed \$6,000.00 and authorize a budget amendment as appropriate. (Staffed by Police Department.) Attachment. 23-32
- D. Acceptance of a check from Mid Valley Events (Color Dash), in the amount of \$2,600.00 for the use at Harlon Block Park Sports Complex on March 29, 2014, deposit into the Parks Department Recreation Program Budget account #01-540-2500, and authorize a budget amendment as appropriate. (Staffed by Parks and Recreation Department.) Attachment. 33
- E. Approval of an expenditure not to exceed \$13,000.00 from the Internal Service Fund to replace obsolete computers, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. (Staffed by Information Technology Department) Attachment. 34
- F. Approval of an expenditure not to exceed \$18,000.00 from the Internal Service Fund to replace main application server for City Hall, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related 35

documents. (Staffed by Information Technology Department) Attachment.

V.

APPOINTMENTS

Standard Documentation on Appointments

36-40

- A. Discussion and consideration to approve Resolution 2014-15, Resolution 2014-16, Resolution 2014-17, Resolution 2014-18, Resolution 2014-19, Resolution 2014-20, and Resolution 2014-21, appointing seven members to expired terms on the Board of Adjustments and Appeals to the Building Codes and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. 41-50

VI.

OLD BUSINESS

- A. Discussion and consideration to declare as surplus outdated GLOCK Caliber .40 Generation 2 and 3 service weapons and authorize the sale of fifty-eight of them to current Weslaco Police Officers at a one-time payroll deduction in the amount of \$250.00/each and authorize a budget amendment as appropriate. Possible action. (This item was tabled April 1, 2014; Staffed by Police Department.) Attachment. 51-57
- B. Discussion and consideration to award the Construction-Manager-At-Risk Contractor to the best qualified, most advantageous bidder for the construction phase of the Weslaco Boys and Girls Club Recreation Center, in a Guaranteed Maximum Price amount not to exceed \$1,230,000.00, funded in part by the Texas Parks and Wildlife as Project Number 51-000065, as shown on architectural drawings design completed by Alcocer Garcia Associates Architectural Services and authorize the Mayor to execute any related documents. Possible action. (This item was tabled April 1, 2014; Staffed by Public Facilities Department.) Attachment. 58-60

VII.

NEW BUSINESS

- A. Discussion and consideration to approve Budget and Program Amendment No. 4 to the Weslaco Boys and Girls Club Recreation Center project, funded in part by the Texas Parks and Wildlife as Project Number 51-000065, as shown on architectural drawings design completed by Alcocer Garcia Associates Architectural Services and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Facilities Department.) Attachment. 61-63
- B. Discussion and consideration on behalf of Danessa Peterson (Liebhaber) and Denise Peterson to approve Ordinance 2014-05 amending Ordinance 320 and the City of Weslaco Zoning map to rezone 515 N. Pueblo Street, also being Lots 1, 2, 3 & North 10' of Lot 4, Block 5, Hughes Subdivision, Weslaco, Hidalgo County, Texas, from "R-1 One Family Dwelling District" to "B-1 Neighborhood Business District" and authorize the Mayor to execute any related documents. First Reading of Ordinance 2014-05. Possible action. (A three-fourths vote is required to approve in accordance with Code of 64-73

Ordinances §150-20(d) as Planning & Zoning Commission recommended denial; Staffed by Planning and Code Enforcement Department.) Attachment.

- C. Discussion and consideration on behalf of Andrew L. Martinez and Aaron L. Martinez to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Off-Premise Permit at 1400 North Westgate Drive, Suite 400, also being Lots 16, 17, and 18, Block D, Expressway Heights Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. 74-84
- D. Discussion and consideration on behalf of Contex Restaurants, Inc., owner, RMH Franchise Corporation, d.b.a. Applebee's Neighborhood Grill & Bar to approve a Conditional Use Permit to obtain an On-Premise Mixed Beverage Permit and a Mixed Beverage Late Hours Permit at 1829 West Expressway 83, also being Lots 2 and 3, Cash Nix Addition Phase 2, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. 85-93
- E. Discussion and consideration after public hearing on behalf of Enrique N. Hinojosa, Jr. to approve a Conditional Use Permit to obtain an On-Premise Mixed Beverage Permit and a Mixed Beverage Late Hours Permit at 415 S. International Blvd., also being Lot 1, Block 1, Palm Aire Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment. 94-103
- F. Discussion and consideration to approve a Budget and Program Amendment to the Urban County Program funding Year 25 (2012) utilizing original work plan, decreasing the Public Facilities Improvements (Library) activity by \$20,000.00 and creating a Public Service (general) Library activity funding of \$20,000 with the purchase of minor equipment and related fixtures for the Library and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.) Attachment. 104-106
- G. Discussion and consideration on behalf of John Phillips to approve the Final Plat of the Re-subdivision of Greener Pastures Mobile Home Subdivision, being 4.642 acres out of Lots 20-24, 82 & 133-136 of Greener Pastures Mobile Home Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment. 107-109
- H. Discussion and consideration on behalf of John Phillips to authorize the replacement of an existing force main for Lift Station #34, located adjacent to Greener Pastures Mobile Home Subdivision, and grant a variance for placing mobile structures over utility lines and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment. 110

- I. Discussion and consideration to approve Resolution 2014-22 authorizing a cost sharing agreement with the Texas Department of Transportation Aviation Division for a Drainage Study for the Weslaco Mid Valley Airport in an amount not to exceed \$150,000.00 with 10% local match, City participation being \$15,000.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Airport.) Attachment. 111-116
- J. Discussion and consideration to approve Resolution 2014-23 supporting One Day Lower Rio Grande Valley and authorize the Mayor to execute any related documents. Possible action. (Staffed by the Economic Development Corporation.) Attachment. 117

VIII. REPORTS

- A. Report on legislative interim update by Caballero Governmental Affairs. Attachment. 118-122
- B. Report on Water Treatment Plant expansion project by Briones Engineering.

IX. 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 – Consultation with Special Counsel regarding Cause No. C-5929-13-H *City of Weslaco, Texas v. City of Mercedes, Texas* in the 389th Judicial District Court of Hidalgo County pursuant to §551.071 of the Texas Government Code.
- B. Pending Litigation – Consultation with Special Counsel and City Attorney regarding a proposed settlement offer in the *Sigler Winston Greenwood &*

Associates Inc. v. City of Weslaco, Cause No. C-3090-11-D pursuant to §551.071 of the Texas Government Code.

- C. Pending Litigation - Consultation with City Attorney regarding Cause No. C-081-13 B, *Weslaco Health Facilities Development Corporation v. Knapp Medical Center, et.al.* as authorized by §551.071 of the Texas Government Code.
- D. Pending Litigation - Consultation with assigned defense counsel Anthony B. James regarding C-2201-11-I *Pascual Hernandez et. al. v. City of Weslaco* in the 398th Judicial District Court of Hidalgo County as authorized by §551.071 of the Texas Government Code.

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

XI. 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 11th day of April 2014 at 7:55 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.