

Wjep 11/3/09

**WESLACO CITY COMMISSION**

**REGULAR MEETING**

**OCTOBER 19, 2009**

On this 19<sup>th</sup> day of October, 2009 at 6:00 p.m., the City Commission of the City of Weslaco, Texas convened in Regular Session at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue and the following members were present.

**NOTE:** If any accommodation for a disability is required, notify the City Secretary's Office at (956) 968-3181, Ext 3101 prior to the meeting date.

**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 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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|----------------|-------------------------|
| Mayor          | Buddy de la Rosa        |
| Mayor Pro-Tem  | Rene Rodríguez, Jr.     |
| Commissioner   | Robert J. Garza         |
| Commissioner   | J.F. "Johnny" Cuellar   |
| Commissioner   | Gerardo "Jerry" Tafolla |
| Commissioner   | Lupe V. Rivera          |
| City Manager   | Francisco Castellanos   |
| City Secretary | Amanda C. Elizondo      |
| City Attorney  | Ramon Vela              |

Also present: Omar Gonzales, Finance Director; Pete Garcia, Parks & Recreation Director; Gloria Sepulveda, Purchasing Director, Bernard Rodriguez, Interim Planning and Code Enforcement Director; and several staff members and citizens. Commissioner Patrick B. Kennedy was absent. Mayor de la Rosa called the meeting to order, a quorum was established and the following proceedings were held.

Howard Bloomquist, Senior Minister from the Central Christian Fellowship Church of Weslaco gave the invocation. Mayor de la Rosa recited the Pledge of Allegiance and Mayor Pro-Tem Rodriguez proceeded with the Pledge to the Texas Flag.

**I. CONSENT AGENDA**

**NOTICE TO THE PUBLIC**

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separately unless requested by one commission member or a citizen, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 Minutes
  - 1. Special Meeting of September 10, 2009
  - 2. Regular Meeting of October 6, 2009
  
- B. Discussion and consideration to accept the Bureau of Justice Assistance Bulletproof Vest Partnership Grant in the amount of \$5,574.50 for 50% of the total estimated of \$11,149.00 and authorize the Mayor to execute all documents associated with the grant. Possible action.
  
- C. Discussion and consideration to authorize the Weslaco Police Department to renew the one year term contract for wireless cellular service with long range digital walkie talkie features from Sprint/Nextel in the amount of \$16,628.40 for communications for the Investigation Division and Special Crimes Division from the Forfeiture Account as per Texas Code of Criminal Procedure Article 59.06. Possible action.
  
- D. Discussion and consideration to renew the contract for professional services with N.T.C. Drug Testing Services to provide drug screening services to the City of Weslaco. Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve the consent agenda as presented. Motion carried unanimously.

## **II. PUBLIC COMMENTS**

A member of the public or the governmental body may make comments on subjects for which notice has been given and which are on the agenda Section 551.042, Texas Open Meetings Act. Public comments will be limited to three (3) minutes.

Hector Valdez, resident of 1110 W. 4<sup>th</sup> Street, stated Market Business Days would be held on the 2<sup>nd</sup> Saturday of every month. He mentioned the downtown businesses supported this event and requested the City Commission's support and approval. Mr. Valdez stated they would need assistance from the city on certain items. He added that Valley Grande Institute gave them permission to use their parking lot and requested to close the street from Business 83 to possibly Fifth or Sixth Streets depending on the merchant's participation.

### **III. CITY MANAGER'S REPORT**

#### **A. Status report from TEDSI on the Westgate Drive North Street Widening Project.**

Jose Sanchez, TEDSI Representative stated the plans and specifications for the Westgate Drive North Street Widening Project were submitted to the Texas Department of Transportation (TxDOT) on September 11, 2009. He pointed out there was a pending issue with one property that was located between the school and irrigation easement; however, city staff would submit the proper documents. Mr. Sanchez stated on October 20<sup>th</sup> they had submitted the final environmental document to the Austin Office and the appropriate State division would submit comments to the Pharr District. He added the documentation would also be submitted to the Texas Department of Parks and Wildlife and the review process would take approximately 45 days to complete. Mr. Sanchez stated the construction would begin in March, 2010 and completed by December, 2010. He added the public hearings would be conducted by the city to afford an opportunity to the citizens to comment on this project. Mr. Sanchez stated TEDSI would be making some recommendations on two options that were available to the city in regards to this project. He indicated that letters would be sent by the TX DOT informing the citizens of the public hearing and will request a list of the names and addresses of the property owners and city's officials. Mr. Sanchez concluded by stating that all the documentation was with the state agencies mentioned above and was important for the city officials to contact their senator and state representative to expedite this project.

Mayor de la Rosa requested that the timeline schedule be provided to the City Secretary for the record.

Mr. Sanchez also mentioned during the construction of the project a portion of Sugarcane Road would be closed.

### **IV. MAYOR'S REPORT**

#### **A. Announcement of the Anna's Linens Grand Opening on October 22, 2009 at 9:00 a.m. located at 675 E. Expressway 83, Weslaco, Texas.**

Mayor de la Rosa stated Anna's Linens was their first store in Weslaco and the city was very pleased to have them.

#### **B. Announcement of two historical markers designation through the Texas Historical Commission.**

Mayor de la Rosa stated Glenn Housley had made a request to place historical markers at the Weslaco City Cemetery and Gibson Park. He mentioned Mr. Housley had remarkable history on both locations and hoped that the Texas Historical Commission would favorably consider the city's applications.

Mayor de la Rosa moved the order of the agenda and proceeded with Item J under New Business.

- J. Request from the Market Days Committee to hold Weslaco's Market Days every second week of the month from September to March starting at 10:00 a.m. to 3:30 p.m. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to approve the item as presented. Motion carried unanimously.

## **V. BOARD APPOINTMENTS**

- A. Board of Adjustments & Appeals to the Zoning Ordinance – Two (2) members' term expires on October 31, 2009. Possible action.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Cuellar to reappoint Andy Veliz and Hector Valdez to the Board of Adjustments & Appeals to the Zoning Ordinance. Motion carried unanimously.

- B. Nomination and appointment and confirmation of The Economic Development Corporation of Weslaco of two members needed for District No. 2 and District No. 5. Possible action.

Mayor de la Rosa announced no action would be taken at this time and recommended tabling the item.

## **VI. OLD BUSINESS**

- A. Discussion and consideration to purchase two (2) used 30 yard Side Loader Sanitation Trucks as allowed by the Local Government Code, Section 252.022 (a) (2) that exempts competitive bidding for procurements needed to preserve and protect the public health and safety of municipality residents. Possible action.

Mr. Francisco Castellanos, City Manager stated staff had gone to inspect the garbage trucks that the City of McAllen had. He added the City of McAllen had four trucks available and staff had reviewed the purchasing guidelines and the city was exempt from the bidding procedures if a city would be purchasing from another political entity through an inter local agreement. Mr. Castellanos indicated the city had purchased a used truck from the City of McAllen before and staff was recommending purchasing one or two trucks from them for \$25,000.00 each. He recommended approval to purchase two used trucks and wait until January or February, 2010 for the Clunker Program to be effective and purchase a new truck.

Manuel Ramos, Sanitation Supervisor, stated the trucks were in operation and if approved the trucks could be transfer to the City of Weslaco within the next day. He added the trucks were in good condition and year model of the trucks was 2003.

A short discussion was held in regards to the purchase of the trucks, bidding process, the condition of the trucks and the privatizing of the garbage service.

Mayor de la Rosa stated an analysis to privatize the garbage service was never presented to them.

Commissioner Cuellar stated the proposal that had been presented to them if the city privatized the garbage, the collection fees would be the same to the citizens. He added the city could save on the equipment and the city would be paid \$250,000 in franchise fees.

Mayor de la Rosa stated the privatization of the garbage collection was a separate item for further discussion.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Garza to accept the City Manager's recommendation to purchase two trucks from the City of McAllen.

Motion carried as follows: FOR: Mayor de la Rosa, Mayor Pro-Tem Rodriguez, Commissioners: Garza, Tafolla and Rivera. AGAINST: Commissioner Cuellar. The vote carried (5 to 1)

Ramon Vela, City Attorney asked if the purchase would be through an interlocal agreement with the City of McAllen.

Mayor de la Rosa responded yes and with authorization for him to sign it.

## **VII. NEW BUSINESS**

- A. Discussion and consideration to approve the final plat of Provecho Subdivision, being a 1.388 acre tract of land out of Farm Tract 120, Block 162, West Tract Subdivision, Llano Grande Grant, Hidalgo County, Texas located at 1001 N. Texas Blvd. (Requested by Provecho, L.P.). Possible action.

Bernard Rodriguez, Interim Planning and Zoning Director, stated the proposed two lot subdivision was located on the west side of Texas Blvd, just south of Expressway 83 and included the current location of Wendy's Restaurant. He mentioned the developer had submitted a Non-Exclusive Irrevocable Reciprocal Easement Agreement for the easements within the Palm Plaza Shopping Center that expired after 26 years, or in this case, the easement had expired in 2003. Mr. Rodriguez stated the developer was proposing to eliminate the current Palm Plaza access just north of the San Martin Church for the construction of a new Wendy's Restaurant. He mentioned the access was being proposed through the subdivision as shown in the attached site plan. Mr. Rodriguez stated on August 19<sup>th</sup> the Planning and Zoning Commission approved the request and staff recommended approval.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve the final plat as presented. Motion carried unanimously.

- B. Discussion and consideration to place streetlights in Expressway Heights Subdivision as petitioned by the Expressway Heights Subdivision residents and to approve the cost of \$8,125.35. Possible action.

Motion was made by Commissioner Garza and seconded by Commissioner Tafolla to approve the item as presented. Motion carried unanimously.

- C. Discussion and consideration to approve final payment to H2O Construction in the amount of \$9,753.00 for services rendered in connection with Year 21 Sewer Line Project along the alley between Calle de Las Palmas and Calle del Cedro from Los Toritos Street to the South side of Cavazos Park utilizing Urban County Program Funds. Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve the final payment as presented. Motion carried unanimously.

- D. Discussion and consideration to approve final payment to Terracon Consultants, Inc. in the amount of \$1,201.25 for environmental services in connection with the Asbestos Abatement Project for rehabilitation of the Old Weslaco Museum located at 515 South Kansas Avenue utilizing Yr. 21 Urban County Program Funds. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Tafolla to approve the final payment as presented. Motion carried unanimously.

- E. Discussion and consideration to enter into a Sub-Recipient Agreement between the City of Weslaco and the Governor's Division of Emergency Management for 2009 Homeland Security Grant funding in the amount of \$25,925.00 and authorize the Mayor to execute all documents associated with the grant award. Possible action.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Tafolla to approve the agreement and authorize the Mayor to execute it. Motion carried unanimously.

- F. Request from the Weslaco Area Chamber of Commerce to host the 2009 Mid-Valley Christmas Lighted Parade on Friday, December 6, 2009 at 6:00 p.m. on Texas Blvd. from Pike Blvd. to Sixth Street with an optional date of December 11, 2009 due to weather condition and request that all fees associated with the event be waived and assistance from the Police, Fire, Emergency Medical Services and Public Facilities Departments. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the item with the correction on the date from December 6<sup>th</sup> to December 4<sup>th</sup>. Motion carried unanimously.

- G. Status report from Hernan Gonzalez, Executive Director of the Economic Development Corporation of Weslaco regarding economic development activities. Possible action.

Hernan Gonzalez, Economic Development Director, announced they had a new board and reported the following:

1. The Texas Inn - A forty-one (41) room hotel located at 1818 North Texas, has been open for several months. The owner met the conditions for a grant of Twelve Thousand Three Hundred Seventy-Seven Dollars and Eighty-Two Cents (\$12,377.82) for reimbursement of the cost of the relocation of the master water meter that encroached on the development.
2. Bank Building at Fifth and Texas - Rudy's Plaza and Property, LLC, was provided a façade grant of Twenty Thousand Dollars (\$20,000.00) upon completion of the project. This was the largest façade grant provided by the EDC. It was done because of the prominence of the building on the city's main street and the historic nature of the facility.
3. Lowe's - The grand opening was held Thursday, September 24, at 10:00 a.m. Lowe's reports that it has employed one hundred seven (107) people to date for the Weslaco facility.
4. J. C. Penney - The grand opening is scheduled for Friday, October 2<sup>nd</sup>, at 8:45 a.m. J. C. Penney reports they have employed one hundred twenty-five (125) people to date for this store. Both J. C. Penney's and Lowe's are good sales tax generators.
5. On-Call Landing Rights Airport (U.S. Customs) - A contract for Seven Hundred Thirteen Thousand Dollars (\$713,000.00) will be awarded to Jones-Hasson General Contractors for the facility to be built at the Mid-Valley Airport. When approved as a general aviation airport processing facility, U.S. Customs and Border Protection will grant the request for the Mid-Valley Airport to be designated as an "On-Call Landing Rights Airport".
6. DPS Regional Headquarters - The final details for the transfer of the property to DPS are being reviewed. The construction of the Twenty Million Dollar (\$20,000,000.00) complex will begin in the first quarter of 2010.
7. Sales Tax - The sales tax receipts for September were 1.68% below last year. Overall, the fiscal year ends with a solid 6.59% ahead of last year

(\$120,725 00).

- H. Discussion and consideration to approve Resolution No. 2009-28 for confirmation by the City of Weslaco of exempt status of the State of Texas, Department of Public Safety from plat notes and restrictions related to construction of the regional office on Lot 1, Mid Valley Industrial Park #8, Weslaco, Hidalgo County, Texas. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to approve Resolution No. 2009-28 as presented. Motion carried unanimously.

For the record, Resolution No. 2009-28 read as follows:

RESOLUTION NO. 2009-28

CONFIRMATION BY CITY OF WESLACO OF EXEMPT STATUS OF THE STATE OF TEXAS – DEPARTMENT OF PUBLIC SAFETY FROM PLAT NOTES AND RESTRICTIONS RELATED TO CONSTRUCTION OF REGIONAL OFFICE ON LOT 1, MID VALLEY INDUSTRIAL PARK #8, WESLACO, HIDALGO COUNTY, TEXAS (THE PROPERTY).

WHEREAS, the State of Texas - Department of Public Safety (the DPS) proposes to construct an estimated 110,220 square foot Regional Office complex consisting of, but not limited to, the main Regional Office Building, a Crime Laboratory building, an Auxiliary building consisting of an Automotive Shop and Aircraft Hangar for helicopter, and a stand-alone full service Driver License office, on the Property;

WHEREAS, the recorded subdivision plat related to the Property contains certain Plat Notes and Restrictions which the City of Weslaco recognizes and acknowledges are not applicable to the DPS;

WHEREAS, the DPS, in a spirit of cooperation, has requested the City of Weslaco to acknowledge such exemption as to items 7, 8, 10, 11, 12 and 13 of the Plat Notes and Restrictions through official action of the City Commission and to memorialize such acknowledgement in written form to be recorded in the Official Records of Hidalgo County, Texas;

NOW THEREFORE, the City of Weslaco, acting by its duly authorized City Commission at a meeting duly posted in accordance with the Texas Open Meetings Act and with a quorum present, does hereby acknowledge and confirm that items 7, 8, 10, 11, 12 and 13 of the Plat Notes and Restrictions of Mid Valley Industrial Park # 8, Weslaco, Hidalgo County, Texas, as recorded under Document No. 2012973, Official Records of Hidalgo County, Texas, do not apply to the State of Texas - Department of Public Safety in relation to the construction of such Regional Office complex and any future construction upon the Property.

Approved and signed this 19<sup>th</sup> of October, 2009.

CITY OF WESLACO  
/s/ Buddy de la Rosa, R. Ph.  
MAYOR

ATTEST:  
/s/ Amanda C. Elizondo, CITY SECRETARY  
APPROVED AS TO FORM:  
/s/ Ramon Vela, CITY ATTORNEY

- I. Discussion and consideration to enter into a three (3) year contract that is renewable beginning each fiscal year for wireless internet service for Emergency Management, Fire Department and other departments as appropriate between the City and SmartCom Internet and authorize the Mayor to execute the agreement and any other documents. Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve the contract as presented.

Mayor de la Rosa asked if this was an automatic renewal or a three year contract.

Mr. Vela responded it renews three year incurrent and the city has the option.

Motion carried unanimously.

### **VIII. EXECUTIVE SESSION**

At 6:48 p.m., Monday, October 19, 2009, Mayor de la Rosa announced the City Commission would convene in executive session to discuss the following items and recessed the regular meeting.

Mr. Vela stated there was no need to go into executive session and recommended that the City Commission authorize him to file an answer on the following lawsuit.

- A. Discussion with the City Attorney regarding CAUSE NO. C-2777-09-A JUAN ROMERO, ET AL vs. THE CITY OF WESLACO, HIDALGO COUNTY, TEXAS 92<sup>nd</sup> DISTRICT COURT OF TEXAS. Possible action of what is discussed in executive session.

Motion was made by Commissioner Garza and seconded by Commissioner Cuellar to authorize the City Attorney to file an answer for Case No. C-2777-09-A JUAN ROMERO, ET AL vs. THE CITY OF WESLACO. Motion carried unanimously.

There being no further business to discuss, Mayor de la Rosa adjourned the meeting.

**CITY OF WESLACO**

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**MAYOR, Buddy de la Rosa**

**ATTEST:**

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**CITY SECRETARY, Amanda C. Elizondo**

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**MAYOR PRO-TEM, Rene Rodríguez, Jr.**

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**COMMISSIONER, Robert J. Garza**

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**COMMISSIONER, J. F. “Johnny” Cuellar**

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**COMMISSIONER, Gerardo “Jerry” Tafolla**

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**COMMISSIONER, Lupe V. Rivera**