

App. 1/19/10

WESLACO CITY COMMISSION

REGULAR MEETING

JANUARY 5, 2010

On this 5th day of January, 2010 at 6:09 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 Rodriguez, Jr. |
| Commissioner | Robert J. Garza |
| Commissioner | J.F. "Johnny" Cuellar |
| Commissioner | Gerardo "Jerry" Tafolla |
| Commissioner | Lupe V. Rivera |
| Commissioner | Patrick B. Kennedy |
| City Manager | Richard D. Cannone |
| 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. Mayor de la Rosa called the meeting to order, a quorum was established and the following proceedings were held.

Howard Bloomquist, Senior Minister from 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separately unless requested by one commission member or a citizen, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 December 7, 2009
 - 2. Regular Meeting of December 15, 2009

- B. Second and final reading of the following ordinances:
 - 1. Ordinance No. 2009-33, an ordinance amending Ordinance 304, The Calculation of Contributions Ordinance to provide for the City of Weslaco to make current service and prior service contributions to the City of Weslaco's account in the Municipal Accumulation Account of the Texas Municipal Retirement System at the actuarially determined rate of total employee compensation and ordaining other matters with respect to the subject matter hereof. Possible action.

- C. Request from the County of Hidalgo Elections Department to use the Former Weslaco City Commission Chamber located at 500 South Kansas Avenue for the Primary Election on March 2, 2010 to hold Early Voting from February 15th to February 26th, 2010 and on Election Day, March 2, 2010 from 7:00 a.m. to 7:00 p.m. Possible action.

- D. Request from the Weslaco Police Department to accept a donation from Kohl's Department Store, Cares for Kids in the amount of \$500.00 for youth focused community programs or initiatives and approve a budget amendment to increase the Educational Budget Line Item 01-512-3640. Possible action.

- E. Discussion and consideration to renew the lease agreement between the City of Weslaco and the South Texas College (STC) to use the Weslaco City Park Tennis Courts to conduct tennis sessions and authorize the Mayor to execute the agreement. Possible action.

- F. Discussion and consideration to renew the lease agreement between the City of Weslaco and the Hidalgo County Head Start Program to continue using the La Plazita Building for classrooms and parents' meeting located at 301 N. Kansas Avenue and authorize the Mayor to execute the agreement. Possible action.

- G. Request from the Valley Nature Center to use the Harlon Block Sports Complex for a Public Raptor Show on Sunday, February 21, 2010 from 2:00 p.m. to 3:00 p.m. and to waive all fees associated with the event. Possible action.

Motion was made by Commissioner Kennedy and seconded by Mayor Pro-Tem Rodriguez to approve the consent agenda with the exception of Item F. Motion carried unanimously.

Ramon Vela, City Attorney stated the Hidalgo County Head Start Program was informed that the City Commission was heading towards demolishing the building at 301 North Kansas Avenue. He mentioned the Executive Director of the Head Start Program had informed him that they would be sending a new lease agreement to the city. Mr. Vela recommended a month-to-month contract until the City Commission made a decision on the building.

Motion was made by Mayor de la Rosa and seconded by Commissioner Cuellar to renew the lease agreement on a month-to-month basis to allow the City Commission to make a decision on the building. Motion carried unanimously.

For the record, Ordinance No. 2009-33 reads as follows:

ORDINANCE NO. 2009-33

AN ORDINANCE AMENDING ORDINANCE 304 THE CALCULATION OF CONTRIBUTIONS ORDINANCE TO PROVIDE FOR THE CITY OF WESLACO TO MAKE CURRENT SERVICE AND PRIOR SERVICE CONTRIBUTIONS TO THE CITY OF WESLACO'S ACCOUNT IN THE MUNICIPAL ACCUMULATION ACCOUNT OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM AT THE ACTUARIALLY DETERMINED RATE OF TOTAL EMPLOYEE COMPENSATION AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 15th day of December, 2009.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 5th day of January, 2010.

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

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.

There were no comments from the audience.

III. CITY MANAGER'S REPORT

A. Status report on the first week of work.

Mr. Richard D. Cannone, City Manager gave a brief report on his first week of work and stated he would be meeting with the department directors and individuals from the community. He added he would also be reviewing the finances of the city.

IV. MAYOR'S REPORT

A. Announcement of Angelita Cantu De La Cerda 100th Birthday Proclamation.

Mayor de la Rosa announced Angelita Cantu De La Cerda celebrated her 100th Birthday and resided at the Weslaco Nursing Rehabilitation Center.

B. Announcement of South Texas College (STC) event on February 11, 2010.

Mayor de la Rosa announced South Texas College (STC) would be having a special event regarding the Valley Scholars Mentors Program on February 11, 2010 from 8:30 a.m. to 10:00 a.m.

C. Report on the 15th Annual Mid-Valley Christmas Lighted Parade.

Mayor de la Rosa announced the Christmas Parade had over one hundred entries and thanked the citizens, city staff and Weslaco Area Chamber of Commerce for their work in preparing for a great parade.

D. Report on the 7th Annual Feast of Sharing.

Mayor de la Rosa reported HEB held their 7th Annual Feast of Sharing in conjunction with the City of Weslaco. He announced that close to 4,000 meals were served and thanked the city staff, Howdy Smith and all the volunteers that assisted in the Feast of Sharing.

V. NEW BUSINESS

A. Discussion and consideration to approve final payment to S & B Infrastructure, Inc. in the amount of \$173.44 for engineering services associated with the Urban County Program Year 21 Sewer Line Project

located at the alley between Calle de las Palmas and Calle del Cedro from Los Toritos Street, South side of Cavazos Park. Possible action.

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

- B. Discussion and consideration to approve the final plat of Villa-Real Subdivision being a 5.00 acre tract of land out of Farm Tract 627, West Tract Subdivision, Hidalgo County, Texas located on the south side of Business Highway 83, 320.00 feet west of Meadow Lark. (Requested by Jose Luis Villarreal). Possible action.

Bernard Rodriguez, Interim Planning and Code Enforcement Director, stated Mr. Jose Luis Villarreal was proposing to use the property as commercial and residential use. He added the property was annexed in 2008 and North Alamo Water Supply Corporation (NAWSC) would provide the utility services and septic tanks would be used. Mr. Rodriguez stated on December 16, 2009, the Planning and Zoning Commission approved the final plat and recommended approval of the request.

A short discussion was held regarding the use of the fire hydrants and Mr. Rodriguez stated NAWSC would be providing the water through their plant and would have no impact on the city's water supply.

Mayor de la Rosa requested that the City Manager provide a water impact on the water and sewer supply for all further developments.

Motion was made by Commissioner Kennedy and seconded by Commissioner Tafolla to approve the item. Motion carried unanimously.

- C. Discussion and consideration to award the purchase of One (1) New Backhoe/Loader to Nueces Power Equipment from San Benito, Texas in the amount of \$62,133.00 through HGAC Buy Contract No. EM06-09. Possible action.

Mayor de la Rosa stated staff had requested to withdraw the item.

- D. Status report from Hernan Gonzalez, Economic Development Director, regarding economic development activities. Possible action.

Hernan Gonzalez, Economic Development Director, reported the following:

1. Gran Café de la Parroquia - Construction of the distribution center at the Mid-Valley Industrial Park had begun. The facility would be a distribution center and coffee shop. The facility would be approximately 3,000 square feet.
2. South Texas College - The College continued to be an important asset to

the region and the enrollment continued to grow. Enrollment for spring was more than 5,000 and the original projected enrollment was 5,000 by 2010. An update of the STC master plan was underway and STC had requested a work session with the City Commission at the end of the month.

3. Arturo's and Ay Jalisco - Two of Nuevo Progreso's favorite restaurants would be a part of Weslaco. Arturo's had recently opened and Ay Jalisco was under construction at the Westgate site. Angel's Restaurant was also coming to a North Texas site.
 4. Facade Grant - The office building located at 300 South Texas (Texas Rural Legal Aid) had a facade improvement. Enrique Gonzalez, the building owner, received a reimbursement grant of \$2,000.00 for the improvement.
 5. Airport and US East 83 Redevelopment - The site of the original bowling alley had been cleared, as well as the original Sigler Winston building. This was the site of the future CVS Pharmacy.
 6. FAMSA - A new 40,000 facility was being proposed at the industrial park. The feasibility study and preconstruction documents were being prepared and would be completed by January.
 7. Sales Tax - The sales tax receipts for December were 10.51% less than the same period last year. The first quarter of the new fiscal year had been negative. A budget adjustment would have to be made to reflect the trend for this year.
- E. Discussion regarding the procedures and rights of wrecker services companies that have been removed from the rotation list.

Mr. Vela stated the City of Weslaco had a Wrecker Service Ordinance that provided a rotation list of wrecker services companies. He pointed out the ordinance required certain things from wrecker services companies in order to be placed on the rotation list; such as, an application; safety and compliance certificate issued by the city; driver readily available to answer calls; a storage and compound facility within the W.I.S.D. boundaries and if the wrecker service company lost the lease on the storage compound they no longer qualified and could be removed. Mr. Vela stated originally the ordinance called for eight companies and later was amended to increase the amount of companies from eight to ten. He stated all the companies in the rotation list had to renew the permit in December. Mr. Vela added certain documentation was required to meet compliance by the end of December 31st of each year.

Diana Fuentes Aguilar, representing Abraham Banda, stated Mr. Banda was the only wrecker service that was removed from the list on January 1, 2010. She mentioned that Mr. Banda had presented the paperwork to the Weslaco Police Department four

months ago and there was a minor deficiency regarding the storage compound. Ms. Aguilar stated no notice of any kind was given to Mr. Banda and had been removed from the list. She mentioned Mr. Banda had always been in compliance and the policies or procedures were not being explained to him. Ms. Aguilar stated Mr. Banda was replaced by a company that did not have a certificate issued by the state and was suspended.

Jose Perez, Chief of Police stated Mr. Banda was on the rotation list for 15 years and was familiar with the requirements of the ordinance. He added on September, 2009, the Police Department staff contacted Mr. Banda and informed him that the vehicles that were being towed were not being placed in a designated storage compound as agreed by him. Chief Perez stated the vehicles were taken to Mercedes and officers had met with Mr. Banda at the storage compound in Indian Hills. He pointed out that Mr. Banda had been informed that there was a need to reestablish a storage compound and due to this he was in compliance. Chief Perez stated Mr. Banda had been afforded the opportunity until December 2009. He stated on December 22nd Lieutenant Walensky called the companies that were in compliance to check their certifications and they all appeared except Mr. Banda. Chief Perez mentioned Mr. Banda informed the officers that he had located a storage compound within the WISD district and was pending an inspection. He stated Alvarez Wrecker Service had presented all the paperwork necessary, was in compliance and was included on the list, but staff had not removed Mr. Banda and was suspended based on no storage compound. Chief Perez stated that on December 22, 2009 the officers had checked the compound for operation and it was abandoned and there was no staff.

Ms. Aguilar stated Mr. Banda had located a storage compound and was in compliance.

Mr. Banda stated the compound was used only for the City of Weslaco and vehicles were picked up only once a week.

A brief discussion was held regarding the requirements of the ordinance and the hours of operation and Mr. Vela stated the only solution would be to increase the slots.

Mayor de la Rosa stated this was not an action item. He recommended that Mr. Banda meet with City Manager, City Attorney and Chief of Police to resolve the issue and place the item on the next agenda.

- F. Discussion and consideration of the final payment to Enriquez Enterprises on the Weslaco Public Facilities Building in the amount of \$15,000.00 for interest and retainage held by the City of Weslaco since September, 2008. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the item.

Mr. Vela stated the \$15,000.00 was over the retainage amount and by state statute municipalities were mandated to pay interest of one percent on monies owed when projects had been completed.

Mayor de la Rosa stated there was no documentation on the agenda packet to show the City Commission how to vote on this item.

Mr. Vela stated the city received a letter requesting the retainage.

Commissioner Cuellar stated staff had moved into the building a year ago and there was an issue as to who would be signing off on the documents.

Mr. Vela stated the request for final payment was made, but never came to the City Commission.

A short discussion was held as to how this item had been handled by previous and current staff and Commissioner Garza stated the interest was supposed to have been paid a long time ago.

Mayor de la Rosa stated he had signed off on the final payment.

Mr. Vela stated the final payment had all the documentation. He pointed out he had reviewed the documentation and it did exist.

Omar Gonzales, Finance Director stated the letter submitted by Mr. Vela recommended that the city pay Enriquez Enterprises the interest because the city had occupied the building in 2008. He indicated the retainage amount was \$137,000.00.

Commissioner Cuellar stated the interest should be \$20,000.00, but Mr. Enriquez had agreed to accept \$15,000.00.

Motion carried as follows: FOR: Commissioners: Cuellar, Garza and Rivera; ABSTAINED: Commissioners: Kennedy and Tafolla. AGAINST: Mayor de la Rosa and Mayor Pro-Tem Rodriguez.

- G. Presentation by James Parkey, Corplan Corrections, on the submittal of a grant application for Immigration Family Housing Project for the City of Weslaco and authorize the Mayor to execute any and all related documents. Possible action.

James Parkey, representing Corplan Corrections, stated he was working as project manager for the proposed family residential center. He provided a handout and stated it was the grant application for the U.S. Department of Health and Human Services. Mr. Parkey highlighted the information and stated the facility would house 200 families, fifty adults and one hundred and fifty children. He requested for the city to review the documents and submit the application. Mr. Parkey mentioned this would be done without tax dollars and would employ 250 people. He stated he could meet with city staff

subject to the City Commission approval. Mr. Parkey added detainees would be placed at the appropriate educational settings and taught at the facility. He pointed out this would be a public facility corporation and would be done with revenue bonds.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Tafolla to approve submittal of a grant application for Immigration Family Housing Project for the City of Weslaco. Motion carried unanimously.

- H. Discussion and consideration to go out for RFP's or bids on a public right a way improvement project from Bridge Street to Eisenhower, south of Sugar Cane Road. Possible action. (This item was requested by Commissioner Jerry Tafolla and Mayor Pro-Tem Rene Rodriguez, Jr.)

Mr. Rodriguez stated the right-of-way was located south of Sugar Cane Road between Eisenhower and Bridge Street. He mentioned there were apartment complexes on both sides and had congested traffic. Mr. Rodriguez stated the entire street was damaged and the Public Facilities staff had patched the street.

Motion was made by Commissioner Tafolla and seconded by Commissioner Rivera to approve the item as presented.

Motion carried as follows: FOR: Mayor Pro-Tem Rodriguez and Commissioners: Garza, Cuellar, Rivera, Tafolla and Kennedy. ABSTAINED: Mayor de la Rosa.

VI. EXECUTIVE SESSION

At 7:30 p.m., Tuesday, January 5, 2010, Mayor de la Rosa announced the City Commission would convene in executive session to discuss the following items and recessed the regular meeting.

At 8:00 p.m., Tuesday, January 5, 2010, Mayor de la Rosa announced the City Commission had completed its executive session and declared the regular meeting opened to the public.

- A. Attorney consultation pursuant to Section 551.071, Texas Government Code, to provide legal advice and counsel relating to the City's rights, duties, privileges, and obligations in connection with the collective bargaining process. Possible action of what is discussed in executive session.

Mayor de la Rosa stated the City Attorney would continue negotiations and no action would be taken.

- B. Attorney consultation pursuant to Section 551.071, Texas Government Code, to provide legal advice and counsel relating to the City's rights, duties, privileges, and obligations in connection with its contract with BFI. Possible action of what is discussed in executive session.

Mayor de la Rosa announced no action was required at this time.

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

CITY OF WESLACO

MAYOR, Buddy de la Rosa

ATTEST:

CITY SECRETARY, Amanda C. Elizondo

MAYOR PRO-TEM, Rene Rodríguez, Jr.

COMMISSIONER, Robert J. Garza

COMMISSIONER, J. F. "Johnny" Cuellar

COMMISSIONER, Gerardo "Jerry" Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Patrick B. Kennedy