

Approved 5/4/10

WESLACO CITY COMMISSION

REGULAR MEETING

APRIL 20, 2010

On this 20th day of April, 2010 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 |
| Commissioner | Patrick B. Kennedy |
| City Manager | Leonardo Olivares |
| City Secretary | Amanda C. Elizondo |
| City Attorney | Ramon Vela |

Also present: Alex Acosta, Senior Accountant; 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.

Reverend Gerald Christman, from the Seventh-day Adventist 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separately unless requested by one commission member or a citizen, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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. Regular Meeting of April 6, 2010

B. Second and final reading of Ordinance No. 2010-04 amending the City of Weslaco 2030 Comprehensive Plan, Annexation Element to include Farm Tract 799, West Tract Subdivision and ordaining other matters with respect to the subject matter hereof. 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.

For the record, Ordinance No. 2010-04 reads as follows:

ORDINANCE NO. 2010-04

AN ORDINANCE AMENDING THE CITY OF WESLACO 2030 COMPREHENSIVE PLAN, ANNEXATION ELEMENT TO INCLUDE FARM TRACT 799, WEST TRACT SUBDIVISION 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 6th day of April, 2010.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 20th day of April, 2010.

CITY OF WESLACO
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.

Carlos Guerra, resident of Weslaco and President of the Weslaco Health Facilities Development Corporation (WHFDC) spoke against Item M regarding the Knapp Medical Center Merger. He indicated there were a larger number of doctors that were against it.

Mr. Guerra pointed out he had signed the documents for the issuance of the bonds for Knapp Medical Center to expand their services and do certain improvements to the facility. He recommended that the attorneys for Knapp Medical Center, Hospital Authority Board and WHFDC meet to discuss this issue.

Dr. Eliberto Alanis, resident of 501 Rose Eller Blvd., McAllen, Texas and Chief of Staff at Knapp Medical Center stated the physicians were against the proposed merger. Dr. Alanis stated the proposed memorandum of understanding indicated that the composition of the board of directors would change to seven members from Weslaco and seven members from Cameron County. He pointed out the super majority could take a vote to sell Knapp Medical Center which could result in job loss and reduced services. Dr. Alanis mentioned the headquarters would be in Cameron County and not in Weslaco. He stated currently Valley Baptist Health System had a Triple "B-" bond rating and 45 days cash in hand. Dr. Alanis pointed out Weslaco had 280 days cash in hand which meant they could operate for this amount of days without making a single penny.

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

Q. 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, reported the following.

1. J. C. Penney's/Lowe's/SDI – Details were being finalized to develop a final contract for a national sporting store. Currently there was on-going construction of a 30,000 sq. ft. of commercial space and 25,000 sq. ft. was reserved for T.J. Maxx. An additional 10,000 sq. ft. was being negotiated to include a national Italian restaurant, (Olive Garden).
2. Texas Department of Public Safety Regional Headquarters - The official ground breaking ceremony was scheduled for May 14th at 10:00 a.m. and construction would commence shortly after the groundbreaking ceremony.
3. Olivarez Development - The former Granados Service Station located at the southwest corner of Texas Blvd. and Agostadero Street would be renovated into a multi-tenant office at the beginning of the summer.
4. Weslaco Hills Apartments - The easement for the public utilities had been secured and construction would start in May, 2010.
5. Gran Café de la Parroquia – Construction of this facility was 70% completed and would be 100% completed by end of April.
6. de la Garza Dental Clinic - Construction of the dental clinic would start in May, 2010 (Owner - Javier de la Garza). The new facility would bring other dentists and technicians. The EDC would assist with the required improvements to the street light at the intersection of Westgate Drive and Panther Drive.

7. Perez Development - The burial of the drainage canal and second phase of the development at East Expressway 83 was underway. The first phase was the Posada Medical Complex. Funding for the canal burial would be provided to the developer in the form of a loan with economic development credits based on performance and additional commercial space.
8. Sales Tax - The sales tax receipt for the month was 4.18% ahead of the same reporting period last year.

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

- J. Discussion and consideration to purchase ambulance and firefighters' equipment for the Fire Department. (Requested by Mayor Buddy de la Rosa). Possible action.

Mayor de la Rosa stated for approximately five years the city had not allocated any funds for capital outlay and the EMS Department had approached him and the City Manager to request \$250,000.00 to purchase supplies to equip the ambulances. He mentioned they could do this through encumbrances and allocate an initial \$50,000.00 to re-supply the ambulances. Mayor de la Rosa also recommended for the EMS to work with the City Manager on the spending of the \$50,000.00.

Commissioner Tafolla asked if these items were in the budget and if they were not in the budget why was the Fire Department requesting them at this time. He added the city did not have sufficient funds to purchase all these items and requested additional information.

Mayor de la Rosa stated they needed to equip the ambulances because of public safety and health care to the community.

Mr. Leonardo Olivares, City Manager, stated he had reviewed the list and the only issue was the urgency for the purchases at this time. He mentioned the city had a budget process and there was no capital outlay for most of the city departments. Mr. Olivares stated the budget process would start next month and had not spoken to the Fire Chief about these items. He recommended not approving these items.

Motion was made by Commissioner Tafolla and seconded by Commissioner Cuellar to table the item. Motion carried as follows: FOR: Commissioners: Cuellar, Garza, Tafolla and Rivera. Against: Mayor de la Rosa, Mayor Pro-Tem Rodriguez and Commissioner Kennedy.

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

- M. Discussion and consideration of the possible merger/joint partnership between Knapp Medical Center and Valley Baptist Health System. Possible action.

Mr. Olivares stated there was a lot of discussion regarding the merging of Valley Baptist Health System and Knapp Medical Center. He added staff was gathering information to discuss with the appropriate individuals. Mr. Olivares mentioned Knapp Medical Center was a major employer in Weslaco and they needed to make sure as they moved forward with the potential merger that it would have some beneficial effects for both institutions. He mentioned the city had the Weslaco Health Facilities Development Corporation (WHFDC) and the city helped Knapp Medical Center finance the improvements. Mr. Olivares mentioned Mr. Jim Summersett, CEO of Knapp Medical Center had provided a one page summary of what they were proposing to do. Mr. Olivares indicated they were looking at the specifics because this was a major fundamental change in the structural organization of both institutions.

Mayor de la Rosa stated the Knapp Family had donated the land and money for a hospital to provide health care for the community. He mentioned as members of the City Commission they had some authority to the issuance of the bonds and tax status. Mayor de la Rosa stated this responsibility was not taken lightly by the City Commission and wanted to assure the public that this hospital would continue to serve the community of Weslaco and the surrounding areas. He added this issue was a concern because of the lack of transparencies and Dr. Alanis had indicated there were some discrepancies regarding the financial conditions of the hospitals. Mayor de la Rosa requested that copies of the documents be provided to the City Secretary for the city's records.

Discussion was held in regards to the documents that were presented to the City Commission and Ramon Vela, City Attorney stated in 2008 the city was approached by Knapp Medical Center to consider issuing bonds through the WHFDC. He added the amount of the bonds was \$60 million and Knapp Medical Center had met with WHFDC and the City Commission. Mr. Vela stated all the proper proceedings had been done and all the required documents had been approved by all the appropriate parties. He mentioned there were documents that referred to how the monies would be paid and the Trust Indenture document tied up the revenue stream of the hospital to pay the debt and referred to consolidation, merger or transfers. He added if this merger was to happen than permission was required from the WHFDC and City Commission. Mr. Vela mentioned the WHFDC would be scheduling a meeting soon to discuss the transaction and provide some assurances to City Commission so that the bond covenants were not broken.

Motion was made by Commissioner Cuellar and seconded by Commissioner Kennedy to authorize the City Attorney to investigate and look into any and all liabilities that this merger may cause the City of Weslaco's citizens, taxpayers or board members that were appointed by the city and authorize to file a temporary restraining order and/or injunction if necessary to stop the merger and protect the interest of the citizens and taxpayers of Weslaco. Motion carried unanimously.

Commissioner Rivera was not present at the time the motion was made to vote on this item.

Mayor de la Rosa returned to the regular order of the agenda.

III. CITY MANAGER'S REPORT

- A. City Manager's report: Financial Status, Departmental Update, Upcoming Meeting.
- B. Report on the City of Weslaco's Finances
- C. Status report on the streetlights project.

Mr. Olivares reported on the following items:

1. Ann Burger, Financial Advisor would be sending to the city an allocation policy.
2. The Department of Labor had completed the wage and hour investigation of the overtime policies and procedures. There could be some retro payments as result of the investigation. Recommendations would be provided by Judith Gonzales, Investigator at no cost to the city.
3. Staff was looking into purchasing time clocks for more efficient record keeping.
4. Staff was finalizing the compensation salary survey with the consultants and would have a report within a month.
5. A Personnel Committee had been established to review the Personnel Policies and Procedures Manual.

IV. MAYOR'S REPORT

- A. Report on the Weslaco Softball/Baseball Opening Ceremony held on Saturday, April 10, 2010.

Mayor de la Rosa stated he had attended the Weslaco Softball/Baseball Opening Ceremony on Saturday, April 10, 2010. He recommended placing cement on the light poles to hold state championship games in Weslaco.

- B. Announcement of a proclamation, proclaiming the week of April 11 – 17, 2010 as "Public Safety Tele-Communicators' Week."

Mayor de la Rosa stated he had signed a proclamation proclaiming the week of April 11–17, 2010 as Public Safety Tele-Communicators' Week and recognized all the members of 911 for their services in saving lives.

V. NEW BUSINESS

- A. Discussion and consideration to authorize the following events:
 1. Valley Nature Center to use the Gibson Park Shelter No. 5, Friday, May 15, 2010 from 5:00 p.m. to 9:00 p.m. and Sunday, May 16, 2010 from 11:00 a.m. to 5:00 p.m. during the Family Dragonfly Days hosted by Estero Llano Grande State Park and the Valley

Nature Center and waive all fees associated with the events. Possible action.

2. Weslaco Scholarship Program and K.G.B.T. Radio to use the Weslaco City Park to host the 18th Annual Fiestas Patrias on Sunday, May 16, 2010 from 12:00 noon to 9:30 p.m. and to allow the sale of alcohol during the event with the assistance from various departments and waive all fees associated with the event. Possible action.
3. A benefit concert for Zachary Harwell on Saturday, April 24, 2010 from 1:00 p.m. to 4:30 p.m. to perform at the Eugene A. Braught Memorial Theater with the assistance of the Weslaco Public Library and waive all fees associated the event. Possible action.

Mr. Olivares recommended approval of Items 1 and 2, but was not recommending Item 3 and the waiving of fees.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Cuellar to approve the request with the exception of Item #3 due to the lack of proof on non-profit status. Motion carried unanimously.

- B. Discussion and consideration to authorize an Amnesty Program in the City of Weslaco for the month of May, 2010, individuals who have outstanding tickets, fines and warrants in the City of Weslaco Municipal Court. Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to authorize the Amnesty Program for the month of May. Motion carried unanimously.

- C. Discussion and consideration of an amendment to Exhibit B, Scope of Infrastructure Projects, as provided in the Chapter 380 Economic Development Agreement between the City of Weslaco and SDI Weslaco Holdings, LLC, to include the closure of the drainage canal east of Wal-Mart and authorize the Mayor to execute the amendment. Possible action.

Mr. Gonzalez stated Exhibit B was part of the SDI 380 Agreement for infrastructure improvements. He added the project would cost approximately \$60,000.00 to \$70,000.00 and the EDC would be reimbursed for the cost of the improvements.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve an amendment to Exhibit B, Scope of Infrastructure Projects, as provided in the Chapter 380 Economic Development Agreement. Motion carried unanimously.

Mr. Gonzalez concluded by stating this was the potential site for the Academy Store.

- D. Discussion and consideration to approve the First Amendment to the Chapter 380 Economic Development Agreement (Ballard Street Extension), between the City of Weslaco and Lowe's Home Center, Inc. to establish the actual cost of the infrastructure improvements at \$222,869.92 and authorize the Mayor to execute the amendment. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the First Amendment to the Chapter 380 Economic Development Agreement (Ballard Street Extension). Motion carried unanimously.

- E. Discussion and consideration to award the low bid of \$335,791.00 to Closner Construction Company L.C. for the Relocation of Utilities for the widening of Westgate Drive. Possible action.

Motion was made by Commissioner Garza and seconded by Mayor Pro-Tem Rodriguez to award the low bid of \$335,791.00 to Closner Construction Company L.C. Motion carried unanimously.

- F. Discussion and consideration to develop a long term strategic planning to identify the existence of the city government whom it serves and the administration vision for serving its citizens. Possible action.

Mr. Olivares recommended postponing this item until after the election. No action was taken.

- G. Discussion and consideration to approve Ordinance No. 2010-05 amending Ordinance 77-16, adopted on August 16, 1977, and codified in The Weslaco Code of Ordinances Section 138-58 "Water Rates Prescribed" by Providing for a new schedule of rates to be charged for treated water delivered through the system of the Water Department of the City of Weslaco to be provided for sprinkler meters only and providing for Administrative Discretion to the Weslaco City Manager and providing for an effective date after second publication of this ordinance. First reading of Ordinance No. 2010-05. (Requested by Commissioners: Lupe Rivera and Robert J. Garza). Possible action.

Mr. Olivares stated there was an error on the part of the city regarding the water rate increase for the sprinkler meters. He mentioned in 2007 the City Commission adopted and approved a water rate study and based on the study a correction needed to be made to apply the proper credit to the customers.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to approve and adopt Ordinance No. 2010-05 on first reading. Motion carried unanimously.

- H. Discussion and consideration to approve budget amendment in the General Fund in the amount of \$7,630.00 for final payment of expanded

scope of services in connection with the audit for Fiscal Year 2007-2008.
Possible action.

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

- I. Discussion and consideration to approve payment of \$494.77 to the Texas Department of Transportation regarding the CSJ: 0921-02-187: STP 2007(422) HES; Hidalgo: CS-Airport & 8th Street for the installation of traffic control devices (Flashing Beacons) as per Article 3 of the Advance Funding Agreement between The City of Weslaco and Texas Department of Transportation. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve payment of \$494.77 to the Texas Department of Transportation for the installation of traffic control devices (Flashing Beacons) on Airport & 8th Street. Motion carried unanimously.

- K. Discussion and consideration to identify City of Weslaco's streets that needs to be resurfaced. Possible action.

Mayor de la Rosa recommended that this item be placed on the next regular agenda and provide a list of streets that need resurfacing, overlaying and repaving.

- L. Discussion and consideration to authorize staff to solicit bids for the FM 1015 boring and utility line connection work to connect to Lift Station #27. Possible action.

Mr. Olivares stated the former company that was working on the lift station did a change order on this project and the estimate was over 25%. He mentioned another option was to have the developer do the boring, but the agreement did not allow it or solicit bids and hire a contractor to perform the work. Mr. Olivares stated the fastest way was to allow the original contractor do the work.

Mr. Vela stated the 25% change order rule applied was way over and the rule applied to the developer. He pointed out the city would be in violation of Chapter 252 of the Texas Government Code and the same provision applied to the contractor and developer.

Motion was made by Commissioner Tafolla and seconded by Commissioner Garza to solicit bids for the FM 1015 boring and utility line connection work to connect to Lift Station #27. Motion carried unanimously.

- N. Discussion and consideration of the Professional Services Agreement for Legal Services on Labor and Employment Related Matters with Denton, Navarro, Rocha & Bernal. Possible action. (Requested by Commissioner Patrick B. Kennedy and Mayor Pro-Tem Rene Rodriguez, Jr.)

Mayor Pro-Tem Rodriguez recommended no action on this item.

- O. Discussion regarding an abandoned house on 115 S. Guerra Street to determine the status of the condemnation proceedings. Possible action. (Requested by Commissioner Lupe Rivera and Commissioner John F. Cuellar).

Commissioner Rivera stated the house located on 115 S. Guerra Street was in such dilapidated conditions and the neighborhood was complaining. He requested for staff to look into this matter.

Mr. Olivares stated the City Commission considered this item on June, 2006 and on May, 2008 and staff had not proceeded with the condemnation of the structure.

Bernard Rodriguez, Interim Planning and Code Enforcement, stated staff had notified the owner and checked with the legal department to proceed with the condemnation process.

Mayor de la Rosa announced no action was required on this item.

- P. Discussion regarding additional lighting for the baseball field at the Weslaco City Park. Possible action. (Requested by Commissioner Lupe Rivera and Commissioner John F. Cuellar).

Pete Garcia, Parks & Recreation Director, stated they needed to allocate the monies for this project.

Mayor de la Rosa recommended that this item be brought up during the budget sessions with the blessing of the Parks and Recreation Committee.

Commissioner Rivera recommended for staff to look into the scoreboard at the City Park because it was not working.

No action was taken on this item.

VI. EXECUTIVE SESSION

At 7:35 p.m., Tuesday, April 20, 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, April 20, 2010, Mayor de la Rosa announced the City Commission had completed its executive session and declared the regular meeting opened to the public.

- A. Discussion with the City Attorney regarding CAUSE NO. C-588-09-J, DISTRICT COURT, HIDALGO COUNTY, TEXAS 430TH DISTRICT COURT OF TEXAS , RICHARD STUBBS AND JAIME HERNANDEZ

VS. CITY OF WESLACO, TEXAS. Possible action of what is discussed
in executive session.

Motion was made by Commissioner Garza and seconded by Mayor Pro-Tem Rodriguez to reject the negotiated settlement in Cause No. C-588-09-J and direct insurance defense counsel to proceed with the trial on this case. Motion carried unanimously.

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