

WESLACO CITY COMMISSION

REGULAR MEETING

NOVEMBER 2, 2010

On this 2nd day of November 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 | Miguel D. Wise |
| Mayor Pro-Tem | J.F. "Johnny" Cuellar |
| Commissioner | Rene Rodriguez, Jr. |
| Commissioner | Gerardo "Jerry" Tafolla |
| Commissioner | Lupe V. Rivera |
| Commissioner | Joe A. Martinez |
| City Manager | Leonardo Olivares |
| Interim City Secretary | Elizabeth Walker |
| City Attorney | Ramon Vela |

Also present: Pete Garcia, Parks & Recreation Director; Francisco Castellanos, Human Resources Director; Bernard Rodriguez, Interim Planning and Code Enforcement Director; Bret L. Mann, Finance Director, Robert de la Cerda, Interim Police Chief, and several other staff members and citizens.

I. CALL MEETING TO ORDER

Mayor Wise called the meeting to order.

II. ROLL CALL/ESTABLISH A QUORUM

Elizabeth Walker, Interim City Secretary called the roll; Commissioner Robert J. Garza was absent and a quorum was established.

III. INVOCATION/PLEDGE OF ALLEGIANCE

Rene Vega, Pastor with Mid Valley Assembly, gave the invocation. Mayor Wise recited the Pledge of Allegiance and the Texas Flag.

IV. 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discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 30, 2010
2. Regular Meeting of October 19, 2010

Commissioner Rodriguez moved to approve the minutes of the Special Meeting of September 30, 2010 and of the Regular Meeting of October 19, 2010 as presented; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

B. Second and final reading of Ordinance No. 2010-22 dedicating previously dedicated drainage right-of-ways in Lin's Grand Buffet-Weslaco Subdivision, Westgate Village Mobile Home Subdivision Phase II and Westgate Village Mobile Home Subdivision as Drainage Right of Way and Utility Easements and ordaining other matters with respect to the subject matter hereof. Possible action. Attachment

Commissioner Tafolla moved to approve the second and final reading of Ordinance No. 2010-22 dedicating previously dedicated drainage right-of-ways in Lin's Grand Buffet-Weslaco Subdivision, Westgate Village Mobile Home Subdivision Phase II and Westgate Village Mobile Home Subdivision as Drainage Right of Way and Utility Easements and ordaining other matters with respect to the subject matter hereof; Commissioner Rodriguez seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

For the record, Ordinance No. 2010-22 reads as follows:

ORDINANCE NO. 2010-22

AN ORDINANCE DEDICATING PREVIOUSLY DEDICATED DRAINAGE RIGHT OF WAYS IN LIN'S GRAND BUFFET-WESLACO SUBDIVISION, WESTGATE VILLAGE MOBILE HOME SUBDIVISION PHASE II, WESTGATE VILLAGE MOBILE HOME SUBDIVISION AS DRAINAGE RIGHT OF WAY AND UTILITY EASEMENTS AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS, THAT:

SECTION I

The Drainage Right of Way Easements previously dedicated to the City of Weslaco by Subdivision Plat in the Lin's Grand Buffet-Weslaco Subdivision, Westgate Village Mobile Home Subdivision Phase II, and Westgate Village Mobile Home Subdivision are hereby converted and dedicated as Drainage Right of Way and Utility Easements so that after second and final reading of this ordinance the Drainage Right of Way Easements in these subdivisions will become Drainage Right of Way and Utility Easements.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 19th day of October 2010.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 2nd day of November 2010.

CITY OF WESLACO
/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

V. BOARD APPOINTMENTS

- A. Discussion and consideration to approve Resolution No. 2010-30 to appoint one member to the Ambulance Advisory Board. Possible action. Attachment

Commissioner Rivera moved to appoint Annette Turner to the Ambulance Advisory Board; Commissioner Martinez seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

For the record, Resolution No. 2010-30 reads as follows:

RESOLUTION NO. 2010-30

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE AMBULANCE ADVISORY BOARD.

WHEREAS, the City of Weslaco has established the Ambulance Advisory Board pursuant to Section 14-1(A) of Ordinance No. 78-39; and

WHEREAS, the terms of the members of this board are for two years; and

WHEREAS, the Ambulance Advisory Board members shall serve without compensation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Annette M. Turner is appointed to serve a two year term on the Ambulance Advisory Board and the term will begin on October 19, 2010 and expire on October 19, 2012.

PASSED AND APPROVED on this 2nd day of November 2010.

CITY OF WESLACO
/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration to approve Resolution No. 2010-36 to appoint one member to the Parks & Recreation Advisory Board for a three year term. Possible action. Attachment

Commissioner Martinez moved to appoint Anabell Cardona to the Parks & Recreation Advisory Board; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

For the record, Resolution No. 2010-36 reads as follows:

RESOLUTION NO. 2010-36

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE PARKS & RECREATION ADVISORY BOARD.

WHEREAS, the City of Weslaco has established the Parks & Recreation Advisory Board pursuant to Section 17-17 of the Weslaco Municipal Code Book; and

WHEREAS, the terms of the members of this board are for three years; and

WHEREAS, the Parks & Recreation Advisory Board members shall serve without compensation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Anabell C. Cardona is appointed to serve a three year term on the Parks & Recreation Advisory Board and the term will begin on October 19, 2010 and end on October 19, 2013.

PASSED AND APPROVED on this 2nd day of November 2010.

CITY OF WESLACO
/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- C. Discussion and consideration to approve Resolution No. 2010-40 to appoint a new member to replace Blanca Munoz to serve an unexpired term on the Weslaco Public Library Board, term expires May 6, 2011. Possible action. Attachment

Commissioner Martinez moved to appoint Vivian de Chavez to the Weslaco Public Library Board to serve the unexpired term of Blanca Munoz; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

For the record, Resolution No. 2010-40 reads as follows:

RESOLUTION NO. 2010-40

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE LIBRARY BOARD.

WHEREAS, the City of Weslaco has established the Library Board pursuant to Section 17-17 of the Weslaco Municipal Code Book; and

WHEREAS, the terms of the members of this board are for two years; and

WHEREAS, the Library Board members shall serve without compensation and unlimited terms; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Vivian De Chavez is appointed to serve the unexpired term of Blanca Munoz a two year term on the Library Board and the term will expire on May 6, 2011.

PASSED AND APPROVED on this 2nd day of November 2010.

CITY OF WESLACO
/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

D. Discussion and consideration to appoint two persons to the Traffic Safety Council and consideration of Resolution No. 2010-37 and Resolution No. 2010-38 appointing the members for three year terms. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to appoint Adelle Valmocina to the Traffic Safety Council; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

For the record, Resolution No. 2010-37 reads as follows:

RESOLUTION NO. 2010-37

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE TRAFFIC SAFETY COUNCIL.

WHEREAS, the City of Weslaco has established the Traffic Safety Committee pursuant to Section 134-4 of the Weslaco Municipal Code Book; and

WHEREAS, the terms of the members of this board are for three years; and

WHEREAS, the Traffic Safety Committee members shall serve without compensation; and

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Adelle J. Valmocina is appointed to serve a three year term on the Traffic Safety Committee and the term will begin on October 16, 2010 and end on October 16, 2013.

PASSED AND APPROVED on this 2nd day of November 2010.

CITY OF WESLACO
/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- E. Discussion and consideration to accept the resignation of Edward Ramirez from the Planning and Zoning Commission. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to accept the resignation of Edward Ramirez from the Planning and Zoning Commission; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting. Mayor Pro-Tem Cuellar requested consideration of an appointment to the Commission at the next regular meeting.

VI. NEW BUSINESS

- A. Discussion and consideration to enter into an agreement for an annual fee of \$702.00 and \$0.35 per box of garbage between the City of Weslaco and M&M Environmental, LLC for the collection and disposal of “Regulated Garbage” at the Weslaco Mid Valley Airport as per USDA regulations that apply with the operation of the U.S. Custom Facility and authorize the Mayor to execute the agreement. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to table this item; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- B. Discussion and consideration to approve Resolution No. 2010-42 relating to the “The Economic Development Corporation of Weslaco Sales Tax Revenue Refunding Bonds, Series 2010”; approving the resolution of The Economic Development Corporation of Weslaco authorizing the issuance of such bonds; and resolving other matters incident and related to the issuance of such bonds. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to approve Resolution No. 2010-42 relating to the “The Economic Development Corporation of Weslaco Sales Tax Revenue Refunding Bonds, Series 2010,” approving the resolution of The Economic Development Corporation of Weslaco authorizing the issuance of such bonds and resolving other matters incident and related to the issuance of such bonds; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- C. Discussion and consideration to enter into an Interlocal Agreement with Hidalgo County Drainage and/or Hidalgo County Pct. 1 for the burial of the drainage canal located at the SDI Weslaco Holdings Subdivision, Lot 9, East to Bridge Street. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to enter into an Interlocal Agreement with Hidalgo County Drainage and/or Hidalgo County Pct. 1 for the burial of the drainage canal located at the SDI Weslaco Holdings Subdivision, Lot 9, East to Bridge Street; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- D. Discussion and consideration to declare City of Weslaco sanitation vehicles as surplus and dispose of the property through a public auction as per City of Weslaco’s Ordinance No. 86-8 and remove the vehicles from the City of Weslaco’s Commercial Fleet Insurance Policy. Possible action. Attachment

Commissioner Rivera moved to declare City of Weslaco sanitation vehicles as surplus and dispose of the property through a public auction as per City of Weslaco’s Ordinance No. 86-8 and remove the vehicles from the City of Weslaco’s Commercial Fleet Insurance Policy; Commissioner Martinez seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- E. Discussion and consideration to accept substantial completion of the City of Weslaco North Wastewater Treatment Plant Expansion and Upgrade Completion from CDM Constructors, Inc. Possible action. Attachment

Commissioner Rivera moved to accept substantial completion of the City of Weslaco North Wastewater Treatment Plant Expansion and Upgrade Completion from CDM Constructors, Inc.; Commissioner Martinez seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- F. Discussion and consideration to approve a Contribution-in-Aid-of-Construction agreement with AEP Texas to install streetlights at 10th Street and Sharon Avenue, 11th Street and Sharon Avenue, and 12th Street and Karen Street and authorize the Mayor to execute all necessary documents. Possible action. Attachment

Commissioner Rivera moved to approve a Contribution-in-Aid-of-Construction agreement with AEP Texas to install streetlights at 10th Street and Sharon Avenue, 11th Street

and Sharon Avenue, and 12th Street and Karen Street and authorize the Mayor to execute all necessary documents; Mayor Pro-Tem Cuellar seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- G. Discussion and consideration to approve the application submitted to FEMA for reimbursement of expenses related to Hurricane Alex. Possible action. Attachment

Commissioner Rivera moved to approve the application submitted to FEMA for reimbursement of expenses related to Hurricane Alex; Mayor Pro-Tem Cuellar seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- H. Discussion and consideration to approve the amount not to exceed \$283,837.06 in grant back tax payments pursuant to the Chapter 380 Economic Development Agreement between the City of Weslaco and H.E.B. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to approve the amount not to exceed \$283,837.06 in grant back tax payments for year one pursuant to the Chapter 380 Economic Development Agreement between the City of Weslaco and H.E.B.; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- I. Discussion and consideration to approve a budget amendment of intra and inter departmental transfers for the Fiscal Year 2010-2011 Municipal Budget. Possible action. Attachment

Mayor Pro-Tem Cuellar moved to table this item; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- J. Discussion and consideration to authorize staff, in collaboration with appropriate established contractors including City Engineer and Water Plant Operator, to submit a grant funding application to the Border Environment Cooperation Commission (BECC) in an amount not to exceed \$10.0 million for implementation of the Texas Commission on Environmental Quality (TCEQ) Work Plan and authorize the Mayor to sign the application and any related documents. Possible action. Attachment

Commissioner Rivera moved to table this item; Commissioner Tafolla seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

VII. CITY MANAGER'S REPORT

- A. City Manager's report: Financial Status, Departmental Update, Upcoming Meetings and Appointments.

Mr. Olivares referred to a recent televised media report on allegations within the Weslaco Police Department and stated that immediate action had been taken by the City; however, as an investigation remains ongoing, he asked for the Public's patience until a more detailed statement could be issued.

Mr. Olivares also stated that City employees continue to enroll in the Voluntary Separation Plan and some already had separated, including then-City Secretary Amanda Elizondo and Purchasing Director Gloria Sepulveda. He announced Elizabeth Walker as his appointment as Interim City Secretary, until the Commission makes a final selection for the post. Additionally, he welcomed Armando Espinosa as President of the Weslaco Municipal Police Union, replacing Alvino Flores following his resignation. Mayor Pro-Tem Cuellar recommended that the Mayor contribute a regular column in the local newspaper in order to present City issues and activities.

B. Status report on the Legislative Program

Mr. Olivares requested any items for legislative consideration as the November 8 deadline approaches to pre-file bills for the upcoming Texas Legislative Session.

VIII. PUBLIC COMMENTS

There were no public comments.

IX. EXECUTIVE SESSION

At 6:27 p.m., Mayor Wise recessed the regular meeting to convene in Executive Session.

At 6:46 p.m., Mayor Wise announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

X. POSSIBLE ACTION OF WHAT IS DISCUSSED IN EXECUTIVE SESSION

- A. Pending Litigation – Discussion with assigned defense counsel, Allison D. Kennamar, on the proposed settlement in Cause No. 09-158 Styled *Juan Estrada et al. v. The City of Weslaco, et al* as authorized by Section 551.071 (a) of The Texas Government Code.

Mayor Pro-Tem Cuellar moved to authorize the full and final release of the settlement agreement as discussed with assigned defense counsel Allison D. Kennamar in Cause No. 09-158 Styled *Juan Estrada et al. v. The City of Weslaco, et al*; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- B. Potential Litigation - Discussion with the City Attorney on the claim for payment of advalorem taxes by Moyses G. Flores as authorized by Section 551.071 (a) of The Texas Government Code.

Commissioner Tafolla moved to authorize \$1,463.17 for payment of advalorem taxes as claimed by Moyses G. Flores; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- C. Pending Litigation – Discussion with the City Attorney regarding *Julio Cesar Duran v. City of Weslaco*, United States District Court Southern District of Texas, McAllen Division as authorized by Section 551.071 (a) of The Texas Government Code.

Commissioner Martinez moved to authorize assigned defense counsel Phil McKinney to file an answer in *Julio Cesar Duran v. City of Weslaco*, United States District Court Southern District of Texas, McAllen Division; Commissioner Rivera seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

- D. Discussion with the City Attorney of 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*, as authorized by Section 551.071 of The Texas Government Code.

No action.

XI. ADJOURNMENT

With no other business before the Commission, at 6:50 p.m. Commissioner Rivera moved to adjourn the meeting; Commissioner Martinez seconded the motion. The motion carried unanimously by those present; Mayor Wise was present, but not voting.

CITY OF WESLACO

MAYOR, Miguel D. Wise

ATTEST:

INTERIM CITY SECRETARY, Elizabeth M. Walker

MAYOR PRO-TEM, J.F. “Johnny” Cuellar

COMMISSIONER, Rene Rodriguez, Jr.

COMMISSIONER, Gerardo “Jerry” Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Joe A. Martinez