

# WESLACO CITY COMMISSION

## REGULAR MEETING

DECEMBER 7, 2010

On this 7<sup>th</sup> day of December 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.

Mayor	Miguel D. Wise
Mayor Pro-Tem	J.F. "Johnny" Cuellar
Commissioner	Robert J. Garza
Commissioner	Rene Rodriguez, Jr.
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; 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, City Secretary, called the roll; she stated that Commissioner Tafolla had called in earlier that he was ill and unable to attend. A quorum was established.

### **III. INVOCATION/PLEDGE OF ALLEGIANCE**

Reverend Mario Perez with Mid Valley Assembly of God gave the invocation. Mayor Wise recited the Pledge of Allegiance and the Texas Flag.

### **IV. MAYORAL PROCLAMATIONS**

In the presence of their coaching staff and some players, Mayor Wise announced proclamations of recognition to the football teams of Weslaco East Wildcats and Weslaco Panthers.

Commissioner Garza, seconded by Commissioner Rivera, moved pull agenda items VIII A and B from the posted sequence to address immediately. The motion carried unanimously; Mayor Wise was present, but not voting.

**VIII. NEW BUSINESS**

- A. Presentation by Linebarger Goggan Blair & Sampson, LLP and possible action to adopt the End of Year Report on Delinquent Tax Collections for the Period October 1, 2009 through September 30, 2010. Possible action. Attachment.

Ms. Lilia Ledesma with Linebarger Goggan Blair & Sampson, LLP, stated that as a result of ten separate mailings, of the approximately \$2 million delinquent a year ago, \$1 million has been collected and the other \$1 million has been identified as part of active litigation, with 47 proofs of claim in bankruptcy court. Mayor Pro-Tem, seconded by Commissioner Garza, moved to adopt the End of Year Report on Delinquent Tax Collections for the Period October 1, 2009 through September 30, 2010 as presented. The motion carried with Mayor Pro-Tem abstaining; Mayor Wise was present, but not voting.

- B. Discussion and consideration to adopt Resolution 2010-53 to authorize early turnover and additional penalty on Delinquent Personal Property Taxes under Texas Tax Code §33.11. Possible action. Attachment.

Commissioner Garza, seconded by Mayor Pro-Tem, moved to adopt Resolution 2010-53 to authorize early turnover and additional penalty on Delinquent Personal Property Taxes under Texas Tax Code §33.11. The motion carried with Mayor Pro-Tem abstaining; Mayor Wise was present, but not voting.

For the record, Resolution No. 2010-53 reads as follows:

RESOLUTION NO. 2010-53

STATE OF TEXAS                    §    A RESOLUTION AUTHORIZING EARLY TURNOVER AND  
COUNTY OF HIDALGO           §    ADDITIONAL PENALTY ON DELINQUENT PERSONAL  
CITY OF WESLACO                §    PROPERTY TAXES UNDER TEX. TAX CODE SECTION 33.11

WHEREAS, the City of Weslaco wishes to defray its cost of collection, as authorized by TEX. TAX CODE § 33.11, that it incurs under a contract for collection of delinquent property taxes between said city and a private law firm entered into pursuant to TEX. TAX CODE § 6.30;

WHEREAS, under said Section 33.11, the governing body of the City of Weslaco is empowered to authorize the addition of a collection penalty in an amount that does not exceed the amount of the compensation specified in the contract with the private law firm;

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSIONERS OF THE CITY OF WESLACO, SITTING AS THE GOVERNING BODY OF SAID CITY, THAT;

Section 1:            THE RECITALS SET FORTH IN THIS RESOLUTION ARE TRUE AND CORRECT.

Section 2:            AN ADDITIONAL PENALTY ON DELINQUENT TAXES FOR TAX YEARS 2010 AND SUBSEQUENT YEARS IS HEREBY AUTHORIZED AND IMPOSED, AS PROVIDED BY SECTION 33.11, TEXAS TAX CODE, IN THE AMOUNT OF 15% OF THE DELINQUENT TAX,

PENALTY AND INTEREST IF THE TAX BECOMES DELINQUENT ON FEBRUARY 1 OF A YEAR AND REMAINS DELINQUENT ON THE 60TH DAY THEREAFTER.

PASSED AND APPROVED on this 7th day of December, 2010.  
CITY OF WESLACO

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

## V. 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 of the Regular Meeting of November 16, 2010. Attachment.
- B. Approval to extend the lease agreement with Hidalgo County Head Start Program for one (1) year with the same rates, terms, and conditions. Attachment.
- C. Approval on second and final reading of the Ordinance No. 2010-18 amending Ordinance 93-46, the Cable Television Franchise Ordinance, providing for the initial term to end December 8, 2010 and ordaining other matters with respect to the subject matter hereof. Attachment.
- D. Approval to utilize and waive all fees associated with performances of "A Christmas Carol" at the Mayor Eugene A. Braught Memorial Theater on December 13, 14, 15, and 16 by the Weslaco High School Theatre Drama Club. Attachment.
- E. Approval of the Final Plat of Trinity MEP being a 0.5142 of one acre of land out of Farm Tract 1033, West and Adams Tract Subdivision, Hidalgo County, Texas, located approximately 575 feet east of FM 1015 along the north side of Mile 7 North Road. Attachment.
- F. Approval of the Final Plat of Southeastern Freight being a 31.56 acres tract of land of Farm Tract 6, Block 134, West and Adams Tract

Subdivision, Hidalgo County, Texas, located at Southeast corner of Sugar Sweet Avenue and Mile 3 ½ West. Attachment.

- G. Approval to renew the annual contract with the Boys & Girls Club of the Mid-Valley in an amount not to exceed \$76,800.00 to provide public purpose services to the City of Weslaco citizens effective October 1, 2010 through September 30, 2011. Attachment.
- H. Approval to enter into a land lease between the City of Weslaco d.b.a. Weslaco Mid Valley Airport and R. Brian Hunsaker for land on the airport to construct a 45-foot by 45-foot metal hangar for the storage of aircraft for a period of twenty (20) years at \$303.00 per year and authorize the Mayor to execute all documents relating to this lease. Attachment.
- I. Approval of Resolution No. 2010-44 identifying Mayor Miguel D. Wise as the one voting member to represent the City of Weslaco on the Hidalgo County Urban County Advisory Council. Attachment.

The City Manager requested no action on item H.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve items A, B, C, D, E, F, G, and I of the consent agenda as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

## **VI. BOARD APPOINTMENT**

- A. Appointment by Mayor Miguel D. Wise of a member to the City of Weslaco Housing Authority Board as authorized by §302.031 of the Texas Local Government Code and approval of Resolution No. 2010-21. Possible action. Attachment.

The Mayor announced Mr. Baltazar Garcia as his appointment to replace Jeff Everitt, who presently serves as a trustee to the Weslaco School Board.

For the record, Resolution No. 2010-21 reads as follows:  
RESOLUTION NO. 2010-21

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

WHEREAS, the City of Weslaco has established the City of Weslaco Housing Authority Board as per the Texas Local Government Code Section, 392.031 the Mayor shall appoint the Housing Authority Commissioners; and

WHEREAS, the terms of the members of this board are for (2) two years; and

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

WHEREAS, the term of a current Housing Authority Board Member expires on December 7, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WESLACO, TEXAS THAT Baltazar Garcia is appointed to serve a (2) two year term on the Housing Authority Board and the term will expire on December 7, 2012.

APPROVED on this 7<sup>th</sup> day of December, 2010.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration to remove Director(s) of the Economic Development Corporation of Weslaco as authorized by Article VI of the Articles of Incorporation of the Economic Development Corporation of Weslaco. Possible action.

Commissioner Garza, seconded by Commissioner Martinez, moved to remove Tom Croft as Director of the Economic Development Corporation of Weslaco as authorized by Article VI of the Articles of Incorporation. The motion carried unanimously; Mayor Wise was present, but not voting.

- C. Discussion and consideration of Resolution(s) 2010-46, 2010-47, 2010-48, 2010-49, 2010-50, 2010-51, and 2010-52, as applicable, to fill the vacancy/vacancies of the previously removed Director(s) of the Economic Development Corporation of Weslaco. Possible action. Attachment.

Commissioner Martinez, seconded by Commissioner Rivera, moved to approve Resolution 2010-46 identifying Fidel Pena as Director of the Economic Development Corporation of Weslaco. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, Resolution 2010-46 reads as follows:

RESOLUTION NO. 2010-46

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE BOARD OF DIRECTORS OF THE ECONOMIC DEVELOPMENT CORPORATION OF WESLACO

WHEREAS, the City of Weslaco has established the Economic Development Corporation pursuant to the Development Corporation Act of 1979 as amended; and

WHEREAS, the term of one member on this board of this corporation is for three years; and

WHEREAS, The Economic Development Corporation of Weslaco's board members shall serve staggered terms without compensation and limited to two (2) consecutive three (3) year terms; and

WHEREAS, the term of a current Economic Development Corporation of Weslaco Member expires on September 30, 2012; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Fidel Pena is appointed to an unexpired term as a member of the Board of

Directors of the Economic Development Corporation of Weslaco and the term will expire on September 30, 2012.

PASSED AND APPROVED on this 7<sup>th</sup> day of December, 2010.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

## **VII. OLD BUSINESS**

- A. Discussion and consideration to appoint one person to the Planning & Zoning Commission and consideration of Resolution No. 2010-41 appointing the member for a three year term. Possible action. (This item was tabled at the November 16, 2010 meeting.) Attachment.

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

Mayor Pro-Tem, seconded by Commissioner Rivera, moved to appoint Jimmy Lawrence to the Planning & Zoning Commission. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, Resolution No. 2010-41 reads as follows:

### RESOLUTION NO. 2010-41

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE PLANNING AND ZONING COMMISSION BOARD.

WHEREAS, the City of Weslaco created and established the Planning and Zoning Commission Board pursuant to Subsection 2-36 of Ordinance No. 291, as codified in the City of Weslaco Code of Ordinances.

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

WHEREAS, the Planning and Zoning Commission 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 Jimmy Lawrence is appointed to serve on the Planning and Zoning Commission Board and the term will expire on 7<sup>th</sup> day of December, 2010.

PASSED AND APPROVED on this 7<sup>th</sup> day of December, 2010.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration to approve a budget amendment of intra and inter departmental transfers for the Fiscal Year 2010-2011 Municipal

Budget. Possible action. (This item was tabled at the November 16, 2010 meeting.) Attachment.

There was no action on this item.

- C. Discussion and consideration of the City of Alton's request for a 20-foot utility easement on property owned by the City of Weslaco in the City of Alton and authorize the Mayor to execute the utility easement. Possible action. (This item was tabled at the November 16, 2010 meeting.) Attachment.

There was no action on this item.

- D. Discussion and consideration to enter into an Interlocal Agreement with the City of McAllen to formalize the collection and transfer of recyclable products. Possible action. (This item was tabled at the November 16, 2010 meeting.)

There was no action on this item.

## **VIII. NEW BUSINESS**

- C. Discussion and consideration to approve Resolution 2010-45 authorizing signatories to the Texas Community Development Block Grant Program. Possible action. Attachment.

Commissioner Rodriguez, seconded by Commissioner Rivera, moved to approve Resolution 2010-45 authorizing signatories to the Texas Community Development Block Grant Program. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, Resolution 2010-45 reads as follows:

### RESOLUTION NO. 2010-45

STATE OF TEXAS                    § RESOLUTION AUTHORIZING SIGNATURES TO THE TEXAS  
COUNTY OF HIDALGO           § COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
CITY OF WESLACO                §

WHEREAS, The City of Weslaco participates in The Texas Community Development Block Grant Program; and

WHEREAS, The City of Weslaco is a Contractor under TDRA – DR Contract No. DR5010201; and

WHEREAS, BBVA Compass Bank, 500 S. Missouri, Weslaco, Texas is The City of Weslaco's financial lending institution that will serve as the depository for The Texas Community Development Block Grant Program contract funds;

NOW THEREFORE BE IT RESOLVED that Mayor Miguel D. Wise and City Manager Leonardo Olivares are hereby designated as authorized signatories for all contractual documents with respect to TDRA – DR

Contract No. DR5010201.

VOTED, PASSED AND APPROVED on this 7<sup>th</sup> day of December, 2010.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- D. Discussion and consideration to enter into a Memorandum of Understanding (MOU) with the Economic Development Corporation of Weslaco to jointly pay the Sponsor's Share of \$4,250.00 on the Texas Department of Transportation (TxDOT) Project No. AP WESLACO 5, TxDOT CSJ No. 1121WESLA Airport Expansion Project. Possible action. Attachment.

There was no action on this item.

- E. Discussion and consideration to approve Amendment No. 20 to the existing contract between the City of Weslaco and Operations Management International (OMI) to increase the compensation services to be performed from \$2,204,733.00 to \$2,290,483.00 for an additional licensed operator for the recently expanded North Wastewater Facility and minimal increases to existing sludge and chemical budgets and authorize the Mayor to sign the amendment. Possible action. Attachment.

There was no action on this item.

- F. Discussion and consideration of an agreement for Associate Municipal Court Judge Services with Samuel Sanchez for a two (2) year term beginning December 16, 2010. Possible action. Attachment.

The City Manager recommended against the agreement, stating one municipal court judge with perhaps one alternate should suffice to address the workload.

Commissioner Rivera, seconded by Commissioner Martinez, moved to approve an agreement for Associate Municipal Court Judge Services with Samuel Sanchez for a two (2) year term beginning December 16, 2010. The motion carried with Commissioner Rodriguez voting in dissent; Mayor Wise was present, but not voting.

- G. Discussion and consideration to terminate the professional engineering services agreement with Sigler, Winston, Greenwood & Associates, Inc. Possible action. Attachment.

The City Manager stated that though Sigler, Winston, Greenwood & Associates, Inc. has done good work for many years, he proposes cost savings by hiring an in-house engineer and soliciting requests for proposals to have a rotational list for special projects.

Mayor Pro-Tem, seconded by Commissioner Rivera, moved to terminate the professional engineering services agreement with Sigler, Winston, Greenwood &

Associates, Inc. with 60-day notice and allow Sigler, Winston, Greenwood & Associates, Inc. to finish current projects. The motion carried with Commissioner Garza abstaining; Mayor Wise was present, but not voting.

- H. Discussion and consideration to select Cruz-Hogan Consultants, Inc. to perform engineering services for the City of Weslaco and authorize staff to negotiate and prepare a professional engineering services agreement. Possible action. Attachment.

There was no action on this item.

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

- A. Financial Status, Departmental Update, Upcoming Meetings and Appointments. Attachment.

The City Manager stated 54 employees volunteered to separate from their employment with the City; of those, 34 were granted their preferred separation date and most of the remaining were assigned November 30, which was sudden, but they did receive due compensation. Chief Vila retired through the voluntary Separation Plan; the City Manager appointed himself as the interim Fire Chief.

Additionally, the City Manager noted that the City is activating the labor relations committee and Police and Fire employees under the Collective Bargaining Agreement received retroactive two percent (2%) raises.

- B. Capital Improvements at Tower Theatre.

The City Manager announced collaboration with the Drafting Club at South Texas College beginning next semester to improve landscaping and storage at the Tower Theatre.

## **X. PUBLIC COMMENTS**

Mr. Carlos Guerra of 1205 W. 4<sup>th</sup> Street, implored the City Manager to meet with him regarding the recent turmoil at the City, "not as your enemy, as your friend."

Ms. Vicky Wilt of 805 Orange Avenue commended the Commission for engaging in dialogue at the dais: "We as citizens want to understand why you make the decisions you do." She expressed concern that the engineer appears to have been let go because there is no money, but the Commission just acted to retain an additional municipal court judge when the City Manager said one may not be needed.

Mr. Manuel Barrera of 1602 South Airport Drive #64, Mr. Richard Acevedo of 4616 East Mile 9 North, and Mr. Joe R. Martinez of 622 Shane Street expressed disappointment that as employees who participated in the Voluntary Separation Agreement they were given just two hours' notice, affecting their retirement.

Mr. Roger Albach of 1105 Valley View Drive stated it is important to invest in "constant and fruitful police and fire departments" and criticized the agenda item wording

as “rather terse” after Sigler Winston gave 65 years of service to the City.

Dr. Gloria Egli of 3813 Monica Drive praised the City Manager and Frank Castellanos for organizing the community food drive, but requested consideration of transport for the homeless to the shelters in Harlingen and McAllen.

Mayor Pro-Tem, seconded by Commissioner Garza, moved to reopen item IX A. The motion carried unanimously; Mayor Wise was present, but not voting.

The City Manager apologized for not meeting that day with employees departing under the Voluntary Separation Plan and agreed to meet with them soon. The Mayor Pro-Tem requested that the City Manager consider on a case-by-case basis to allow some of those employees to return for one or two more days so they may be vested in their retirement. The Mayor clarified that the separation date was the sole decision of the City Manager.

## **XI. EXECUTIVE SESSION**

At 7:14 p.m., Mayor Wise recessed the regular meeting to convene in Executive Session.

At 8:24 p.m., Mayor Wise announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

## **XII. POSSIBLE ACTION OF WHAT IS DISCUSSED IN EXECUTIVE SESSION**

- A. Pending Litigation – 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 §551.071 of The Texas Government Code.

There was no action on this item.

- B. Pending Litigation – Discussion with City Attorney regarding Civil Action No. 10-00353, Anthony Covacevich and Arnold Rodriguez v. City of Weslaco pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- C. Pending Litigation – Discussion with City Attorney regarding Cause No. C-215-10-E, Anne-Marie Mata, David Salinas, and Oscar Garcia v. City of Weslaco pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- D. Potential Litigation – Discussion with City Attorney regarding the legal issues with the commercial energy sales agreement with Champion

Energy Services, LLC as authorized by §551.071 of the Texas Government Code.

Commissioner Garza, seconded by the Mayor Pro-Tem, moved to authorize the City Attorney to file declaratory acts on former Mayor Buddy de la Rosa and former Finance Director Omar Gonzales regarding the commercial energy sales agreement with Champion Energy Services, LLC as discussed. The motion carried unanimously; Mayor Wise was present, but not voting.

### **XIII. ADDENDUM ITEMS**

- A. Discussion and consideration to exercise 30-day notice of termination of the contract with Jones, Galligan, Key, & Lozano, LLP as attorneys to the Weslaco Civil Service Commission. Possible action. Attachment.

The City Manager stated that though there was no need for cause to terminate the contract, he stated the firm recently sued the City while engaged as special counsel to the City, then assessed \$135,000.00 in appraiser and attorney fees that the City maintains are unfounded.

Commissioner Garza, seconded by Commissioner Rivera, moved to provide prerequisite notice of termination of the contract with Jones, Galligan, Key, & Lozano, LLP as attorneys to the Weslaco Civil Service Commission. The motion carried unanimously; Mayor Wise was present, but not voting.

- B. Discussion and consideration to enter into a professional services agreement with Garza & Pena, PLLC as attorneys to the Weslaco Civil Service Commission. Possible action. Attachment.

Commissioner Garza, seconded by Commissioner Rivera, moved to enter into a professional services agreement with Garza & Pena, PLLC as attorneys to the Weslaco Civil Service Commission upon the termination of the present professional services agreement for such services. The motion carried unanimously; Mayor Wise was present, but not voting.

### **XIV. ADJOURNMENT**

With no other business before the Commission, at 8:35 p.m. Mayor Pro-Tem Cuellar, seconded by Commissioner Martinez, moved to adjourn the December 7, 2010 meeting. The motion carried unanimously; Mayor Wise was present, but not voting.

**CITY OF WESLACO**

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**MAYOR, Miguel D. Wise**

**ATTEST:**

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**CITY SECRETARY**, Elizabeth M. Walker

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**MAYOR PRO-TEM**, J.F. “Johnny” Cuellar

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**COMMISSIONER**, Robert J. Garza

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**COMMISSIONER**, Rene Rodriguez, Jr.

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**COMMISSIONER**, Lupe V. Rivera

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**COMMISSIONER**, Joe A. Martinez