



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
FEBRUARY 21, 2012**

On this 21st day of February 2012 at 5:30 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 with the following members present:

Mayor	Miguel D. Wise
Mayor Pro-Tem	J.F. "Johnny" Cuellar
Commissioner	Robert Garza
Commissioner	Olga M. Noriega
Commissioner	Gerardo "Jerry" Tafolla
Commissioner	Lupe V. Rivera
Commissioner	Joe A. Martinez
City Manager	Leonardo Olivares
City Secretary	Elizabeth Walker
City Attorney	Ramon Vela

Also present: Rey Garcia, IT Director; Sonia Flores , Interim Finance Director; Elvia Rios, Interim Human Resources Director; David Salinas, Public Utilities Director; Oscar Garza, Public Facilities Director; Fire Chief Jimmy Cuellar; Interim Police Chief Michael Kelley; Jorge Gonzalez, Planning & Code Enforcement Director; Arnold Becho, Library Director; Lupe Garcia, Parks & Recreation Director; and several other staff members and citizens.

I. CALL TO ORDER

- A. Certification of Public Notice.
Mayor Wise called the meeting to order and certified the public notice of the meeting as properly posted Friday, February 17, 2012.
- B. Mayoral Proclamations and Recognitions.
The Mayor presented a proclamation recognizing Marjorie Johnson for her award from the Daughters of the American Revolution.
- C. Invocation.
Pastor Kevin Walkowiak with Seventh Day Adventist Church delivered the invocation.
- D. Pledge of Allegiance.
Mayor Wise recited the Pledge of Allegiance and the Texas Flag.
- E. Roll Call.
Elizabeth Walker, City Secretary, called the roll, noting perfect attendance.

II. STATUS REPORTS AND VISITORS WITH BUSINESS

- A. Hernan Gonzalez, Executive Director of the Economic Development Corporation of Weslaco (EDC), regarding monthly economic development activities. Attachment.

Mr. Gonzalez reported that sales tax receipts again exceeded \$1 million. He also reported on the grand openings of the Texas Department of Public Safety regional headquarters and AISLA/COAT; Chuck E. Cheese's is coming to Weslaco. The Business and Visitors' Center is 60% complete, with occupancy expected late April.

- B. Martha Noell, Executive Director of the Weslaco Area Chamber of Commerce, regarding monthly chamber activities. Attachment.

There was no presentation; however, a report was submitted for the record.

- C. Benita Valadez, administrator of Medical Financial Services, on Emergency Medical Services (EMS) collections.

Ms. Valadez reported on the period of July – December 2011, with charges per month ranging from \$160,000 – 199,000. The average bill is \$513-578; approximately 25% of calls result in no transport. The collection rate remains 40-54%, which is on track with budget projections.

III. CONSENT AGENDA

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 the Minutes of the Regular Meeting of February 7, 2012. Attachment.

- B. Approval on Second and Final Reading the following Ordinance:

- 1) Ordinance 2012-06 amending Ordinance 1990-15 to adopt the revised Records Control Schedule as set by the Texas State Library and Archives Commission on August 25, 2011. (First Reading held February 7, 2012.) Attachment.

- C. Approval of the request to close Texas Boulevard/FM 88 from Third to Fifth Streets from 5:00 p.m. to 10:00 p.m. February 23 and March 29, 2012 as alternate rain dates for a block party entitled *Al Fresco Weslaco – Jazz on the Street* coordinated by the Economic Development Corporation of Weslaco, authorizing the sale of wine and beer by a Texas Alcoholic Beverage licensed vendor, and authorize the Mayor to execute any related documents as may be required by the Texas Department of Transportation for proposed street closure affecting state right-of-way. (Commission approved February 16 and March 22 on January 3, 2012). Attachment.

- D. Approval of the revised License Agreement with Martin Davila, owner of Jitters Coffee House LLC, for utilization of space at the Joe V. Sanchez Public Library for a coffee shop business for a period of twelve months at a minimum monthly rental of

\$700.00 or five-percent of gross receipts, whichever sum is greater, with a 6 month rent free introductory period, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. (The Commission approved this item February 7, 2012.) Attachment.

- E. Approval of the Interlocal Cooperation Agreement with the County of Hidalgo for participation within the Hidalgo County Library System, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Attachment.
- F. Authorization to file the 2011 Racial Profiling Report compiled by the Weslaco Police Department as required by the Texas Code of Criminal Procedures Article 2.133 and authorize the Mayor to execute any related documents. Attachment.

The Mayor indicated item III. D would be withheld from the consent agenda without any action. Mayor Pro-Tem Cuellar, seconded by Commissioner Garza, moved to approved items A, B, C, E, and F of the consent agenda as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Ordinance reads as follows:

ORDINANCE NO. 2012-06

**AN ORDINANCE AMENDING THE RECORDS
MANAGEMENT PLAN ORDINANCE 1990-15 TO
ADOPT THE RECORDS CONTROL SCHEDULE AS
REGULARLY REVISED BY THE TEXAS STATE
LIBRARY AND ARCHIVES COMMISSION**

BE IT ORDAINED BY THE CITY OF WESLACO THAT:

SECTION I:

Ordinance 1990-15, passed and approved on July 17, 1990, is hereby amended to adopt the records control schedule as prescribed by the Texas State Library and Archives Commission upon each revision, effective with the update as released on August 25, 2011.

SECTION II:

All other provisions of Ordinance 1990-15 shall remain unchanged and in full force and effect.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 7th day of February 2012.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 21st day of February, 2012.

s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

IV. APPOINTMENTS

- A. Discussion and consideration to approve Resolutions 2012-12, 2012-13, 2012-14, 2012-15, and 2012-16, appointing five inaugural members to the Animal Shelter Advisory Committee. Possible action. Attachment.

There were no applicants on file; therefore, there was no action on this item.

- B. Discussion and consideration to approve Resolutions 2012-17, 2012-18, 2012-19, 2012-20, 2012-21, 2012-22, and 2012-23, appointing seven inaugural members to the Public Facilities and Transportation Improvements Naming Committee. Possible action. Attachment.

There were no applicants on file; therefore, there was no action on this item.

- C. Discussion and consideration to accept the resignations of Sandra Esquivel, MD and Benita Valadez and approve Resolutions 2012-24 and 2012-25 to fill the unexpired terms of two members on the Weslaco Hospital Authority ending December 27, 2013 and June 15, 2012, respectively. Possible action. Attachment.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to accept the resignation of Sandra Esquivel, MD and approve Resolution 2012-24 to appoint Albert Cepeda to an unexpired term ending December 27, 2013 to the Weslaco Hospital Authority. The motion carried unanimously; Mayor Wise was present, but not voting.

At the request of the Mayor, Commissioner Tafolla, seconded by Commissioner Rivera, moved to accept the resignation of Benita Valadez and approve Resolution 2012-25 to appoint Frank Garza to an unexpired term ending June 15, 2012 to the Weslaco Hospital Authority. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Discussion and consideration to approve Resolution 2012-02 confirming the appointment by the City Manager of a member to an expired term on the Civil Service Commission as per Local Government Code §143.006. Possible action. (There was no action on this item January 17, 2012.) Attachment.

There was no action on this item.

V. **OLD BUSINESS**

- A. Discussion and consideration to renew the franchise agreement with Liquid Environmental Solutions of Texas, LLC for grease trap waste collection services for a second seven-year term with 12-months remaining on the present contract in consideration of the balance of remaining franchise fees to be paid in full up front. Possible action. (Agreement with Liquid Environmental Solutions approved March 1, 2011. There was no action on this item February 7, 2012.) Attachment.

The City Manager stated the City was one of the pioneers in requiring grease trap collection. This serves to renew a 2005 agreement; staff recommends approval.

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

VI. NEW BUSINESS

- A. Discussion and consideration to approve Ordinance 2012-07 to abandon 35' of the 75' drainage easement at the rear of Lots 1 & 2 of Professional & Medical Complex Subdivision Phase I, being a 0.249 acre tract of land out of Farm Tract 17 West Tract Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. First Reading of Ordinance 2012-07. Attachment.

The City Manager stated arrangements had been made for drainage through an adjoining section and added staff recommends approval.

Commissioner Tafolla, seconded by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- B. Discussion and consideration to approve Ordinance 2012-08, to amend Ordinance 2011-30, Master Fee Schedule, to include fees associated with the service operations for the City of Weslaco Animal Shelter. Possible action. First Reading of Ordinance 2012-08. Attachment.

The City Manager stated that the City is embarking on a new animal shelter; he referenced the fees as provided, indicating they are standard for cities this size, incremental for the length of stay of the animal.

Commissioner Martinez, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- C. Discussion and consideration to approve Resolution 2012-10 authorizing the solicitation and acceptance of monetary donations, supplies, food or volunteer services from local vendors and/or the public for the City of Weslaco Animal Shelter, and authorize a budget amendment as appropriate and authorize the Mayor to execute any related documents. Possible action. Attachment.

The Mayor expressed his opposition to the municipal operation of an animal shelter, citing increased bureaucracy and liability; he stated his preference to contract with a third-party administrator for the retention and euthanization of animals. The City Attorney stated the Animal Shelter Advisory Committee will establish the operating policies and procedures for the facility. Commissioner Tafolla called to question.

Commissioner Garza, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Discussion and consideration to approve Ordinance 2012-09, to amend Ordinance 93-13, the City Landscaping Code, to provide for the regulation of trees in public utility easements. Possible action. First Reading of Ordinance 2012-09. Attachment.

Mr. Frank Esquivel with AEP stated that existing trees would continue to be managed on a case-by-case basis; this policy affects future plantings to regulate tree types and sizes within twenty feet of an easement and five feet of power lines. This should serve to proactively mitigate outages; a similar ordinance is in place already in McAllen and Edinburg. The City Manager stated staff recommends approval.

Mayor Pro-Tem Cuellar, seconded by Commissioner Garza, moved to approve the item as presented. The motion carried with Commissioner Martinez abstaining as an employee of AEP; Mayor Wise was present, but not voting.

- E. Discussion and consideration to renew the existing policy coverage for the EMS Insurance for Commercial General Liability and Professional Liability, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. Attachment.

The City Manager recommended renewal of the existing policy, in effect since 2009. Commissioner Garza, seconded by Commissioner Tafolla, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- F. Discussion and consideration to award the best qualified, most advantageous bidders for the Cafeteria 125 Voluntary Insurance for 2012-2013 and authorize these voluntary insurance products to City employees through payroll deductions at no cost to the City. Possible action. Attachment.

The City Manager stated there was a methodical evaluation of 22 bids with the assistance of consultant Roger Garza.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve the existing carriers except short and long term disability insurance; Mayor Pro-Tem Cuellar then withdrew his motion. Commissioner Noriega requested that that each carrier and agent be named for the record.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to award the existing carriers as follows: Vision - Humana; Term Life and Accidental Death - Allstate; Cancer - Allstate; Dental - Humana; Hospital Indemnity - Allstate; Critical Illness - Allstate; and Accident - Allstate. The motion carried with Commissioner Garza abstaining due to a business relationship with some of the carriers; Mayor Wise was present, but not voting. There was no action on short/long-term disability and Universal Life policies.

- G. Discussion and consideration to adopt a formal tax compliance policy program necessary to maintain the tax-exempt status of bond issuances and authorize the Mayor to execute any related documents. Possible action. Attachment.

The City Manager stated this would enhance compliance with the \$25 million bonds recently secured.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- H. Discussion and consideration to approve the First Amendment to the Master Agreement with Meridian Solar, Inc. for Solar Electric System Design and Installation Services, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. Attachment.

The City Manager stated the project scope was reduced from 454 to 302kW and the grant funds reduced accordingly. The Mayor confirmed that Meridian Solar, Inc. will conduct the engineering to complete the project.

Commissioner Martinez, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- I. Discussion and consideration to accept from the Texas Commission on Environmental Quality (TCEQ) notice of enforcement action in Docket No. 2011-2260-PWS-E Enforcement Case 43107 assessing an administrative penalty of \$889.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. Attachment.

The City Manager stated that following a TCEQ review of the Water Treatment Plant, the agency found the City out of compliance on ground and elevated storage; though this is a nominal fine, it is a strong signal that major infrastructure improvements are past due.

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

VII. CITY MANAGER'S REPORT

- A. Report on Departmental Update, Upcoming Meetings and Appointments. Attachment.

The City Manager reported on forthcoming online billing for the utility division; efforts to comply with fire code at various public facilities; reseeding at Harlon Block softball fields; and the Westgate Drive Improvement Project ribbon cutting tomorrow.

- B. Report by Human Resources Department.

Ms. Elvia Rios, Interim Human Resources Director, reported on the departmental efforts to update job descriptions and other policies, to schedule trainings, and to enforce procedures fairly and consistently. The Mayor expressed reservations about the placement of a volunteer in the Human Resources Department who may have access to confidential information and who is not subject to the same disciplinary consequences as an employee.

- C. Annual Report by the Weslaco Housing Authority for Fiscal Year ending September 30, 2011. Attachment.

There was no presentation; however, a report was submitted for the record.

D. Status Report on constituent requests in District 3.

Commissioner Noriega received updates from Planning and Code Enforcement, Public Facilities, and Public Utilities departments as well as the City Attorney and City Manager on issues previously raised by constituents.

The Mayor inquired about various dilapidated structures, which Mr. George Gonzalez explained the Stewart case, as recently rendered by the Supreme Court, is affecting state-wide policy as acceptable procedures.

VIII. PUBLIC COMMENTS

There were no public comments received.

IX. EXECUTIVE SESSION

At 7:08 p.m., the Mayor announced the meeting to convene in Executive Session; at 7:58 p.m., the Mayor announced the Commission had completed its Executive Session and reconvened the meeting as open to the public.

X. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

- A. Potential Litigation – Discussion with City Attorney and assigned Special Counsel Bickerstaff Heath et al. regarding the sale of Knapp Medical Center and the release of covenant on the hospital property as authorized by §571.071 of the Texas Government Code.

There was no action on this item.

- B. Pending Litigation – Discussion with City Attorney and Special Counsel regarding CL-11-1112-E, Baudelio Castillo v. City of Weslaco e. al. pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- C. Pending Litigation – Discussion with City Attorney and Special Counsel regarding the appeal of the award in Arbitration 70 390 00015 11 Weslaco Municipal Police Union and the City of Weslaco, as authorized by §551.071 of the Texas Government Code.

There was no action on this item.

XI. ADJOURNMENT

With no other business before the Commission, at 7:59 p.m. Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to adjourn the February 21, 2012 meeting. The motion carried unanimously; Mayor Wise was present, but not voting.

CITY OF WESLACO

MAYOR, Miguel D. Wise

ATTEST:

CITY SECRETARY, Elizabeth M. Walker

MAYOR PRO-TEM, J.F. “Johnny” Cuellar

COMMISSIONER, Robert J. Garza

COMMISSIONER, Olga M. Noriega

COMMISSIONER, Gerardo “Jerry” Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Joe A. Martinez