



**A REGULAR MEETING  
OF THE WESLACO CITY COMMISSION  
MAY 1, 2012**

On this 1<sup>st</sup> day of May 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 J. 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: Eddie Zepeda, IT Manager; Elvia Rios, Interim Human Resources Director; David Salinas, Public Utilities Director; Oscar Garza, Public Facilities Director; Erasmo Lozano, Public Facilities Assistant Director; Fire Chief Jimmy Cuellar; Jorge Gonzalez, Planning & Code Enforcement Director; Arnold Becho, Library 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 Saturday, April 28, 2012.
- B. Mayoral Proclamations and Recognitions.  
Mayor presented proclamations recognizing Elder Abuse Awareness Month and Drinking Water Week; later the City Manager presented proclamations on behalf of the Mayor recognizing two Eagle Scout recipients and Public Servants Recognition Week.
- C. Invocation.  
Rev. Richard Speers from the Grace Episcopal 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. PUBLIC HEARINGS**

- A. To solicit input on a request by Scott Baxter to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 1725 S. Texas Blvd., also being 13.468 acres of land out of Farm Tracts 675 and 679, Weslaco, Hidalgo County, Texas, from “R-1 Single Family Dwelling District” to “B-1 Neighborhood Business District.”

Commissioner Garza, seconded by Commissioner Tafolla, moved to open the public hearing. The motion carried unanimously; Mayor Wise was present, but not voting.

Ms. Christine Warren, speaking neither for nor against the request, clarified the permissible businesses within the proposed zone.

Ms. Karen Arnold, Mr. Danny Arnold, and Mr. Ashley McAllen spoke against the request, expressing a desire to maintain the neighborhood as residential.

Mr. Randy Summers spoke in favor of the request, stating that the developer seeks to meet the needs of the market in compliance with the current comprehensive plan.

Commissioner Garza, seconded by Commissioner Rivera, moved to close the public hearing. The motion carried unanimously; Mayor Wise was present, but not voting.

At the request of the Mayor, Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to remove item IV. Consent Agenda from its posted sequence for immediate consideration. The motion carried unanimously; Mayor Wise was present, but not voting.

#### IV. 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 following Minutes:  
1.) Regular Meeting of April 17, 2012;  
2.) Special Meeting of April 20, 2012.  
(Requested by City Secretary’s Office.) Attachment.
- B. Approval on second and final reading of Ordinance 2012-12 amending §11 of Ordinance 320, codified as the Zoning Ordinance, to provide a definition of a tavern consistent with Texas Alcoholic Beverage Commission (TABC) regulations. (Requested by the Mayor.) Attachment.
- C. Approval of Resolution 2012-37 amending Resolution 2011-42 revising the location of bus shelters funded and installed by the Texas Department of Transportation and authorize the Mayor to execute any related documents. (Commission selected locations May 17, 2011; Requested by Planning & Code Enforcement Department.) Attachment.

Mayor Pro-Tem Cuellar, seconded by Commissioner Martinez, moved to approve the items A and C of the consent agenda as presented and item B approved to include in

the definition declaring as conditional both on and off-premises licenses as prescribed by the Texas Alcoholic Beverage Commission without any grandfather provision. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Ordinance and Resolution read as follows:

**ORDINANCE NO. 2012-12**

**ORDINANCE AMENDING SECTION 11 OF ORDINANCE 320, THE CITY OF WESLACO ZONING ORDINANCE; TO REQUIRE BUSINESSES THAT HOLD AN ON-PREMISE OR OFF-PREMISE LICENSE OR PERMIT FROM THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO OBTAIN A CONDITIONAL USE PERMIT; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.**

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

**SECTION I**

Section 11 of Ordinance 320, The City of Weslaco Zoning Ordinance passed and approved on December 1, 1959 and codified as Section 152-12 of the Weslaco Code of Ordinances is hereby amended to require businesses that hold an on-premise or off-premise license or permit from the Texas Alcoholic Beverage Commission to obtain a conditional use permit so that after second and final reading of this Ordinance Codified Section 152-12 (b)(1) will read as follows:

Section 152-12 Additional use, height and area regulation and exceptions:

(b) Uses declared to be conditional. In extension and not in limitation of the definition of a conditional use in subsection (a) (3)a of this section, the following uses are hereby declared to be conditional:

A. Businesses that require any of the following On-Premise Licenses/Permits from the Texas Alcoholic Beverage Commission:

- A. Wine and Beer Retailers Permit
- B. Beer Retail Dealers On Premise License
- C. Retail Dealers On-Premise Late Hours License
- D. Brewpub License
- E. Wine and Beer Retailers Permit for Excursion Boats
- F. Wine and Beer Retailers Permit for Railway Dining Car
- G. Mixed Beverage Permit
- H. Mixed Beverage Late Hours Permit
- I. Mini Bar Permit
- J. Caterer's Bar Permit
- K. Food and Beverage Certificate
- L. Beverage Cartage Permit
- M. Mixed Beverage Restaurant Permit with Food Beverage Certificate

B. Businesses that require any of the following Off-Premise Licenses/Permits from the Texas Alcoholic Beverage Commission:

- 1. Wine and Beer Retailer's Off-Premise Permit
- 2. Beer Retail Dealer's Off-Premises
- 3. Package Store Permit
- 4. Wine Only Package Store Permit
- 5. Local Distributors Permit
- 6. Local Cartage Permit

7. Local Cartage Transfer Permit
8. Package Store Tasting Permit

## **Section II**

All other provisions of Section 11 of Ordinance 320, codified as Section 152-12 of the Weslaco Code of Ordinances shall not be changed and shall remain in full force and effect.

**PASSED AND APPROVED** on first reading at a regular meeting of the City Commission this 17<sup>th</sup> day of April, 2012.

**PASSED AND APPROVED** on second reading at a regular meeting of the City Commission this 1<sup>st</sup> day of May, 2012.

### **RESOLUTION 2011-42**

#### **A RESOLUTION OF THE CITY OF WESLACO, TEXAS AFFIRMING THE MULTIPLE USE AGREEMENT AMONG THE STATE OF TEXAS, TEXAS DEPARTMENT OF TRANSPORTATION AND THE CITY OF WESLACO FOR THE INSTALLATION OF BUS SHELTERS AND OTHER RELATED IMPROVEMENTS ON STATE HIGHWAY RIGHT-OF-WAYS**

**WHEREAS**, the City Commission of Weslaco, Texas currently provides local funding match for a regional public transportation system managed by the Lower Rio Grande Valley Development Council (LRGVDC) under the Valley Metro name; and

**WHEREAS**, the City Commission of Weslaco, Texas desires to enhance the transportation services being provided to its citizens by installing bus shelters and other related improvements at locations along the designated but route within its corporate city limits; and

**WHEREAS**, eight proposed bus shelters will be located at the following: 1701 W. Business 83 - Walgreens (S.W. corner of Business 83 and Westgate, Eastbound), 6th Street at Iowa (S.W. corner of Intersection, Eastbound), Business 83 at Texas Boulevard (S.E. corner of Intersection, Eastbound), LRGVDC on Railroad Street, (Eastbound) , 6th Street at S. Illinois Ave. (N.E. corner of Intersection, Westbound), Business 83 at Border Ave. (S.W. corner of Intersection, Eastbound), 1402 E. 6th Street - Knapp Medical Center (S.W. corner of 6th Street and James Street, Eastbound), Front of South Texas College on Railroad Street (Westbound); the aforementioned locations are on state highway right-of-way under the control and operation of the State of Texas, acting by and through the Texas Department of Transportation; and

**WHEREAS**, the use of the state highway right-of-way under the control and operation of the State of Texas, Acting by and Through the Texas Department of Transportation, requires the City of Weslaco to enter into a Multiple Use Agreement, which said agreement specifies the responsibilities of the City and of the State for the use of state highway right-of-way; and

**WHEREAS**, the City of Weslaco acknowledges the need to execute a Multiple Use Agreement with the State of Texas, Acting by and Through the Texas Department of Transportation to install the desired bus shelters and other related improvements and as such authorized and executed the same on July 5, 2011.

#### **NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS, THAT:**

The City of Weslaco executed a Multiple Use Agreement with the State of Texas, Acting by and Through the Texas Department of Transportation, to facilitate the installation of bus shelters and other related improvements in designated locations on state highway right-of-way within its corporate city limits for the operation of the Valley Metro.

**BE IT FURTHER RESOLVED THAT** this resolution shall take effect immediately after its passage.

**READ, CONSIDERED, PASSED, AND APPROVED** at a regular meeting of the City Council of the City of Weslaco, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 1<sup>st</sup> day of May, 2012.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

**V. NEW BUSINESS**

- A. Discussion and consideration after public hearing on behalf of Scott Baxter to approve Ordinance 2012-13 amending Ordinance 320 and the City of Weslaco Zoning map to rezone 1725 S. Texas Blvd., also being 13.468 acres of land out of Farm Tracts 675 and 679, Weslaco, Hidalgo County, Texas, from “R-1 Single Family Dwelling District” to “B-1 Neighborhood Business District” and authorize the Mayor to execute any related documents. First reading of Ordinance 2012-13. Possible action. (A three-fourths vote of the Commission is required to approve as over 20% of the property owners within 200 feet of the property protested as per §150-20(d) of the Weslaco Code of Ordinances; Requested by Planning & Code Enforcement Department.) Attachment.

The City Manager stated that the Planning and Zoning Commission as well as staff recommend approval as the rezone complies with the current comprehensive plan; the Mayor noted that as a petition of neighboring property owners had been received, a supermajority vote of the Commission is required to approve the request.

Commissioner Garza stated he views the property as perfect for commercial development, particularly as it is not priced cheaply, he does not expect a cheap development on the site.

The Mayor Pro-Tem and Commissioner Rivera stated they desire to be sensitive to those who live there and are expressly opposed to it.

Commissioner Noriega stated that it is illegal to rezone and restrict, but the Commission may regulate later the building plans.

At the recommendation of the City Manager so that there may be time to discuss further with neighboring property owners, there was no action on this item.

The Mayor departed the meeting at 6:10 p.m. with the Mayor Pro-Tem presiding.

- B. Discussion and consideration on behalf of Heberto J. & Fidela Garza to approve the Final Plat with variance as recommended by the Planning and Zoning Commission of B.F. Subdivision, being a 17.50 acres tract of land consisting of 7.850 acres out of Farm Tract 2002 and 10.00 acres out of Farm Tract 2006, North Capiasallo District Subdivision, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Requested by Planning & Code Enforcement Department.) Attachment.

The City Manager stated though both the Planning and Zoning Commission and staff recommend approval of the final plat, staff does not recommend approval of the requested variance.

Mr. Charles Warren, on behalf of the Planning and Zoning Commission, stated the

variance request is to exempt the construction of sidewalks along the right-of-way, because it is a dirt road, but sidewalks within the subdivision remain part of the final plat. Commissioner Martinez observed that he does not want children walking on an unsafe caliche road; Commissioner Tafolla noted that though the proposed development is outside city limits, within the extraterritorial jurisdiction, it is better to require the sidewalks now so that the city does not have to absorb the cost of their installation later when annexed.

Commissioner Tafolla, seconded by Commissioner Garza, moved to approve the final plat without the variance as recommended by the Planning & Zoning Commission. The motion carried with Commissioner Noriega opposed (4-1); the Mayor Pro-Tem was present, but not voting.

The Mayor Pro-Tem stated that as this item was skipped previously to consider the Consent Agenda out of sequence, the status report would be received next.

### **III. STATUS REPORTS AND VISITORS WITH BUSINESS**

#### **A. Sandra de la Fuente, Weslaco Museum, on quarterly activities.**

Ms. De la Fuente introduced new board officers in attendance and reviewed recent and upcoming programs, including the gallery exhibits “to be” and “Anatomical Structures.”

#### **V. C. Discussion and consideration on behalf of Mercedes Tovar to approve the Final Plat of Casa De Dios Subdivision, being a 2.90 acre tract of land out of 3.995 acre tract out of Farm Tract 645, West and Adams Tract Subdivision, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Requested by Planning & Code Enforcement Department.) Attachment.**

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

#### **D. Discussion and consideration to authorize the reclassification of the Meter Reader Foreman position to Meter Reader III/Crew Leader. Possible action. (Requested by Public Utilities Department.) Attachment.**

There was no action on this item.

#### **E. Report on recent use of the Jet Cam Ultra to assess utility infrastructure in the vicinity of Wildwood Forest Subdivision and Catholic War Veterans facility. (Requested by the Mayor.)**

Mr. David Salinas showed a video of the wastewater line surveillance, highlighting the discovery of concrete debris congesting the line near the Catholic War Veterans facility and explaining that the city previously borrowed equipment from the City of Edinburg. On delivery of similar equipment recently purchased by the City of Weslaco, it will be used to examine several sewer and storm lines.

**VI. CITY MANAGER'S REPORT**

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

The City Manager thanked George Garrett for his donation of a freezer at the airport to accommodate temporary storage of hazardous trash; lunch will be provided to participants in the Gus and Goldie summer park program at the pool; free wifi is available at City Hall to the public; the animal shelter now is operational; and the Economic Development Corporation and the Chamber now are moved into the business, visitor, and event center.

Commissioner Rivera thanked Interim Chief Kelley for the recent work of the Police Department to return the parks to Weslaco families.

B. Report on Litigation.

The City Attorney referred to a report as presented in hard-copy, which identifies the nature of the case, the assigned defendant, and the stage of disposition. He stated that six years ago, the City had 160 active cases; now the City has 17 with four proceeding with settlement.

**VII. PUBLIC COMMENTS**

There were no comments received.

**VIII. EXECUTIVE SESSION**

At 6:50 p.m., the Mayor Pro-Tem announced the regular meeting to convene in Executive Session. At 7:15 p.m., Commissioner Tafolla announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public. Neither the Mayor Pro-Tem nor Commissioner Garza returned from Executive Session to the dais.

**IX. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION**

A. Pending Litigation – Discussion with City Attorney regarding C-0970-12-E, *Meddmar Vega and as Next of Friend of Elyer A. Vega v. City of Weslaco and Ricardo Fernandez*, pursuant to §551.071 of the Texas Government Code.

Commissioner Martinez, seconded by Commissioner Rivera, moved to authorize Hodge & James to file an answer regarding C-0970-12-E, *Meddmar Vega and as Next of Friend of Elyer A. Vega v. City of Weslaco and Ricardo Fernandez*. The motion carried unanimously; Commissioner Tafolla, acting as presiding officer, was present, but not voting.

**X. ADJOURNMENT**

With no other business before the Commission, at 7:16 p.m. Commissioner Rivera, seconded by Commissioner Martinez, moved to adjourn the May 1, 2012 meeting. The motion carried unanimously; Commissioner Tafolla 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**, Olga M. Noriega

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**COMMISSIONER**, Gerardo “Jerry” Tafolla

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**COMMISSIONER**, Lupe V. Rivera

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**COMMISSIONER**, Joe A. Martinez