



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

On this 21st day of August 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	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; Gloria Givilancz, Interim Finance Director; Lori Maldonado, Utility Billing Supervisor; Oscar Garcia, Public Facilities Director; Interim Police Chief Michael Kelly; Fire Chief Jimmy Cuellar; 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, August 17, 2012.

B. Invocation.

Pastor Yorelis Terin from the El Shadai International Christian Center delivered the invocation.

C. Pledge of Allegiance.

Mayor Wise recited the Pledge of Allegiance and the Texas Flag.

D. Roll Call.

Elizabeth Walker, City Secretary, called the roll, noting the absence of Commissioner Garza.

Commissioner Noriega moved to take Public Comments from its posted sequence for immediate consideration; motion failed from lack of a second.

II. PUBLIC HEARINGS

A. To solicit input on behalf of Oscar S. Reyes to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit and a Retail Dealer's On-Premise Late Hours License at 318 W. Pike Blvd., also being Lot 2, Block 1, Palm Plaza Shopping

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to open the public hearing for items II A. and B. concurrently. The motion carried unanimously; Mayor Wise was present, but not voting.

The City Manager stated this hearing had been published and notice served to neighboring property owners; the Planning & Zoning Commission recommended approval. The applicant explained the name of his establishment is 10-42, which is law enforcement code for “off-duty”, as that is his target audience. Commissioner Noriega stated she visited the facility and with the significant presence of officers, the criminal element would not want to even enter. Commissioners Tafolla and Rivera stated they received phone calls from neighboring businesses concerned about possible repeats of past incidents under former management, including a homicide.

- B. To solicit input on behalf of Javier Pena to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 1629 Cypress Drive, also being Lots 1, 2 & 3, Westgate Village Mobile Home Subdivision, Weslaco, Hidalgo County, Texas, from “R-1 Single Family Dwelling District” to “B-1 Neighborhood Business District.”

There were no comments received.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to close the public hearing for items II A. and B. The motion carried unanimously; Mayor Wise was present, but not voting.

III. 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 presented a year-end review, highlighting milestones including the completion of the Business, Visitor, and Event Center on-time and on-budget, the grand opening of the Texas Department of Public Safety complex, the addition of JCPenny’s, Lowe’s, Petco, Feldman’s and Chuck E. Cheese under construction; various façade and other improvements to the downtown tax roll; improvements at the Airport; and contribution to the Valley Nature Center facility construction.

- B. Martha Noell, President/CEO of the Weslaco Area Chamber of Commerce, regarding monthly chamber activities. Attachment.

Ms. Noell presented a report on July activities, including advertising initiatives to promote meeting and event facilities and appeal to the film industry. The deadline for the next Mid Valley Leadership Academy is September 21; beautification and ribbon cuttings continue.

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 Minutes of the Regular Meeting of August 7, 2012; (Requested by City Secretary's Office.) Attachment.
- B. Approval on Second Reading of Ordinance 2012-18 authorizing the permanent closure of East Sugarcane Drive between North Paseo del Norte and Joe Stephens Avenue. (First Reading held August 7, 2012; Requested by Legal Department.) Attachment.

Commissioner Noriega requested item IV. C. be withheld for discussion.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve items IV. A. and B. 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 2012-18

AN ORDINANCE CLOSING THE PUBLIC RIGHT OF WAY OVER A CERTAIN PORTION OF SUGAR CANE AVENUE FROM A POINT 724.9 FEET EAST OF THE INTERSECTION OF PASEO DEL NORTE AND NORTH BRIDGE AVENUE THEN EAST 1668.7 FEET TO THE INTERSECTION OF JOE STEPHENS AVENUE AND SUGAR CANE AVENUE; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

WHEREAS, that 40 foot x1668.7 foot portion of Sugar Cane Avenue lying 724.9 feet east of the intersection of North Bridge Avenue and Paseo Del Norte and the intersection of Joe Stephens Avenue and Sugar Cane Avenue has been dedicated as a public right of way easement; and

WHEREAS, it is the opinion of the City Commission of Weslaco that it is in the best interest of the City of Weslaco to close the said 1668.7 foot portion of the right of way described above in order to expand the Weslaco Mid Valley Airport;

NOW THEREFORE BE IT ORDAINED BY THE CITY OF WESLACO:

SECTION 1: The public right of way easement held by the City of Weslaco on that 40 foot by 1668.7 foot portion of Sugar Cane Avenue lying 724.9 feet east of the intersection of North Bridge Avenue and Paseo Del Norte and the intersection of Sugar Cane Avenue and the Joe Stephens Avenue shall be closed as a public right of way easement.

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

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

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

V. OLD BUSINESS

- A. Discussion and consideration to approve Ordinance 2012-17 establishing the candidate filing fee and hardship alternative for City of Weslaco municipal elections, and ordaining other matters with respect to the subject matter hereof. First Reading of Ordinance 2012-17. Possible action. (There was no action on this item August 7,

2012; Requested by City Secretary's Office.) Attachment.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve Ordinance 2012-17 identifying as alternatives to the candidate filing fee either 50 hours of community service or 50 signatures by petition to be verified and approved by the City Manager and City Secretary prior to the filing deadline.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, each then amended the motion to separately require 250 signatures by petition for the candidacy of Mayor or at-large office.

Commissioner Noriega stated she opposed the filing fee, stating it constitutes a poll tax; Mayor Pro-Tem Cuellar noted the Commission unanimously approved the Master Fee Schedule, including identification of this fee, on two previous occasions. Commissioner Tafolla stated he believes it is not a burden, but an alternative to it.

The Mayor Pro-Tem, seconded by Commissioner Rivera, called to question the motion; Commissioner Noriega opposed the call to question.

The Mayor clarified the filing fee constitutes a one-time fee and does not apply to a run-off election.

The motion to approve Ordinance 2012-17 with changes as noted carried with Commissioner Noriega opposed (4-1); Mayor Wise was present, but not voting.

- B. Discussion and consideration to approve the final payment from Division 16 for the Water Treatment Plant Generator project for the amount not to exceed \$37,291.15 and authorize the Mayor to execute any related documents. Possible action. (There was no action on this item August 7, 2012; Requested by Public Utilities Department.) Attachment.

There was no action on this item.

- C. Discussion and consideration of the City of Weslaco ad valorem property tax rate, take record vote and schedule public hearing if necessary during the next regularly scheduled Commission meeting. Possible action. (There was no action on this item August 7, 2012; Requested by Finance Department.) Attachment.

The City Manager stated numbers had not been ready by last meeting from the Appraisal District; however, after reviewing the tax roll as presented, he recommends maintaining the current ad valorem property tax rate as it is competitive and as the City will propose an increase in utility rates.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented with the current tax rate of \$0.6967/\$1,000.00 valuation. The motion carried unanimously; Mayor Wise was present, but not voting.

VI. NEW BUSINESS

- IV. C. Acceptance of a \$3,700.00 donation from Republic Services, Inc. for baseball park improvements and authorization of a budget amendment as appropriate. (Requested by Finance Department.) Attachment.

Withheld from Consent Agenda, Commissioner Noriega stated she felt uncomfortable accepting the donation due to the timing, as only three days later Republic Services, Inc. sent a letter requesting a contract extension. The City Manager assured there was no impropriety as Commissioner Rivera had been working for months to secure donations from the private sector for parks improvements. The City Attorney concurred that the action is not a conflict so long as the donation is not contingent on the contract.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to accept the donation as presented. The motion carried with Commissioner Noriega opposed (4-1); Mayor Wise was present, but not voting.

- A. Discussion and consideration after public hearing on behalf of applicant Oscar S. Reyes to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit and a Retail Dealer's On-Premise Late Hours License at 318 W. Pike Blvd., also being Lot 2, Block 1, Palm Plaza Shopping Center Subdivision Unit I, Weslaco, Hidalgo County, Texas. Possible action. (Requested by Planning & Code Enforcement Department.) Attachment.

The City Manager referenced discussion from the Public Hearing, noting again that the Planning & Zoning Commission recommends approval with a peace officer present during late hours of operation.

Commissioner Martinez, seconded by Commissioner Noriega, moved to approve the item as presented. The motion failed with Mayor Pro-Tem Cuellar and Commissioners Tafolla and Rivera opposed (2-3); Mayor Wise was present, but not voting.

- B. Discussion and consideration after public hearing on behalf of Javier Pena to approve Ordinance 2012-19 amending Ordinance 320 and the City of Weslaco Zoning map to rezone 1629 Cypress Drive, also being Lots 1, 2 & 3, Westgate Village Mobile Home Subdivision, Weslaco, Hidalgo County, Texas, from "R-1 Single Family Dwelling District" to "B-1 Neighborhood Business District." First Reading of Ordinance 2012-19. Possible action. (Requested by Planning & Code Enforcement Department.) Attachment.

The City Manager stated that Planning & Zoning Commission recommended approval, though staff denied the rezone because it must enforce existing ordinances and the Comprehensive Plan. Commissioner Tafolla stated that it is a good development going forward on Westgate; the Mayor stated an exception to the Comprehensive Plan is act of spot zoning.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. Commissioners Noriega and Martinez opposed; the motion failed when Mayor Wise cast a vote opposed (3-3).

The City Attorney noted that a three-fourths vote on this item is not necessary as the Planning & Zoning Commission recommended the item and no petition was received.

- C. Discussion and consideration on behalf of Noe and Maria Salazar to approve the Final Plat of Buenos Aires Subdivision, being a 2.50 acre tract of land out of Lot 3, Block 99, Campacuas Addition, Llano Grande Grant, 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 staff recommends approval without the variances as requested.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve the item without the requested variances. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Discussion and consideration to approve Ordinance 2012-20 amending Ordinance 2011-28, establishing brush rates to be charged for the brush collection service to reflect accurate cost of service, establishing that all business, commercial, industrial, and mobile home/recreation industrial and mobile home/recreational vehicle parks shall be responsible for disposing of their own brush, and other matters as ordained. First reading of Ordinance 2012-20. Possible action. (Requested by Public Utilities Department.) Attachment.

There was no action on this item.

- E. Discussion and consideration to approve Ordinance 2012-21 amending §12 of Ordinance No. 397 to fix new residential, commercial, and industrial solid waste rates, requiring commercial containers in some instances, fixing a rate to be charged for commercial containers, and ordaining other matters with respect to the subject matter hereof. First reading of Ordinance 2012-21. Possible action. (Requested by Public Utilities Department.) Attachment.

There was no action on this item.

- F. Discussion and consideration to approve Ordinance 2012-22 amending §1 of Ordinance 77-16 and §1 of Ordinance 67-10 by providing for a new schedule of rates to be charged for treated water delivered through the system of the Public Utilities Department of the City of Weslaco and providing for a new schedule of rates to be charged for the use of wastewater treatment facility of the City of Weslaco, and ordaining other matters with respect to the subject matter hereof. First reading of Ordinance 2012-22. Possible action. (Requested by Public Utilities Department.) Attachment.

The City Manager stated the proposed increase of 18% to the water rate and 15% to the waste water rate is to pay the \$9.8 million due on the bond next year for the new treatment plant, critical for the community because without it “Weslaco is closed for

business.” The Mayor Pro-Tem stated this issue has been discussed for the past two and a half years.

Commissioner Noriega stated this was the reason for her repeated concerns about transfers from the water fund; the City Manager stated he is committed to preserving the utility department and protecting the fund balance. The Mayor observed it appears by evaluating the rate structure that the cost is borne by the residents disproportionately to commercial sector and requested a meeting with Public Utilities and the Economic Development Corporation to evaluate the impact of the proposed rates.

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.

- G. Discussion and consideration to cancel and reschedule the next regular meeting of the Weslaco City Commission from Tuesday, September 4, 2012 to Wednesday, September 5, 2012 in accordance with Ordinance 2011-05. Possible action. (Requested by City Manager’s Office.) Attachment.

The City Manager stated the charter require the Commission meet at least once per month.

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

VII. CITY MANAGER’S REPORT

- A. Report on Departmental Update, Financial Status, Upcoming Meetings, Media Reports, and Public Feedback. Attachment.

The City Manager noted the upcoming Clean Sweep program, and the ongoing enrollment of youth football and soccer leagues. He thanked the Police Department for the National Night Out festivities and shared that five candidates had filed for Districts one and four by the filing deadline. He also shared that the City and the Texas Department of Transportation are monitoring bridges.

- B. Report on the Weslaco Housing Authority Audit for Fiscal Year End 2011. Attachment.

The annual audit for the Weslaco Housing Authority is available for inspection,

- C. Introduction of Tyler Technologies, Inc. (Incode). Attachment.

Ms. Robin Reeves and Chip Lambert, on behalf of Tyler Technologies, the city’s software provider since 1995, thanked the Commission for use of the legislative chambers the next day for a regional training of their clients.

VIII. PUBLIC COMMENTS

There were no comments received.

IX. EXECUTIVE SESSION

At 7:21 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 8:05 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

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

- A. Pending Litigation – Discussion with City Attorney regarding Civil Action No. 7:12-CV-00256, Jesus George Stillman, Plaintiff v. City of Weslaco, Texas, Albert Ponce and Weslaco Police Chief Michael Kelley, Defendant pursuant to §551.071 of the Texas Government Code.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to authorize the City Attorney to file an answer in response to Civil Action No. 7:12-CV-00256, *Jesus George Stillman, Plaintiff v. City of Weslaco, Texas, Albert Ponce and Weslaco Police Chief Michael Kelley, Defendant*. The motion carried unanimously; Mayor Wise was present, but not voting.

- B. Pending Litigation – Discussion with City Attorney regarding Cause No. C-2360-12-H, Bernard Rodriguez, Martin Martinez, Priscilla Montano, Eddie Anzaldua, Gregorio Hinojosa, Jr., Esteban Estrada, Yvonne Rodriguez, Ruben Mata, Griselda Jimenez, Olga Grein, Irene Ochoa, and Griselda “Cris” Martinez, Plaintiffs v. The City of Weslaco, Defendant pursuant to §551.071 of the Texas Government Code.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to authorize the City Attorney to file an answer in response to Cause No. C-2360-12-H, *Bernard Rodriguez, Martin Martinez, Priscilla Montano, Eddie Anzaldua, Gregorio Hinojosa, Jr., Esteban Estrada, Yvonne Rodriguez, Ruben Mata, Griselda Jimenez, Olga Grein, Irene Ochoa, and Griselda “Cris” Martinez, Plaintiffs v. The City of Weslaco, Defendant*. The motion carried unanimously; Mayor Wise was present, but not voting.

- C. Economic Development – Discussion with City Manager and the Executive Director of The Economic Development Corporation of Weslaco regarding an economic development project including the renaming of a local street for a national Hispanic figure as authorized by §551.087 of The Texas Local Government Code. (Requested by the Mayor.)

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to authorize the renaming of a street for a prominent figure who received the medal of freedom award as discussed in executive session. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Personnel – Discussion with the City Manager regarding the appointment of the City

Marshal/Chief of Police for the City of Weslaco as authorized by §551.074 of the Texas Government Code.

There was no action on this item.

XI. ADJOURNMENT

With no other business before the Commission, at 8:05 p.m. Commissioner Martinez, seconded by Commissioner Tafolla, moved to adjourn the August 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

(absent)

COMMISSIONER, Robert J. Garza

COMMISSIONER, Olga M. Noriega

COMMISSIONER, Gerardo "Jerry" Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Joe A. Martinez