



**A REGULAR MEETING  
OF THE WESLACO CITY COMMISSION  
WEDNESDAY, SEPTEMBER 5, 2012**

On this 5<sup>th</sup> day of September 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: Rey Garcia, IT Director; Gloria Givilancz, Interim Finance Director; David Salinas, Public Utilities 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 31, 2012.
- B. Invocation.  
Pastor David McCann from the First Presbyterian Church 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 arrival of the Mayor Pro-Tem at 5:40 p.m.

**II. PUBLIC HEARINGS**

- A. To solicit input regarding the City of Weslaco ad valorem property tax rate, assessed at the same rate as last year, \$0.6967/\$100.00 valuation, pursuant to §26.05(d) of the Texas Tax Code.

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

The City Manager explained the proposed tax rate is competitive; in the past it had been as high as \$.80/\$100.00, which drove away development. The total property values increased slightly over the last year, which means the effective tax rate dropped. There were no comments received from the public.

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

### **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 August 21, 2012; (Requested by City Secretary's Office.) Attachment.
- B. Approval on Second Reading of the following:
  - 1) 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 held August 21, 2012; Requested by City Secretary's Office.) Attachment.
  - 2) 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 held August 21, 2012; Requested by Public Utilities Department.) Attachment.
- C. Authorization to utilize Federal Equitable Sharing funds in the amount not to exceed \$2,430.00 for court costs associated with the acquisition of seized vehicles as awarded to the Police Department, including one (1) 2006 Chrysler 300 Sedan Vin#2C3KA43R36H278360 and one (1) 2000 Ford Mustang Coupe Vin# 1FAFP42X5YF174524, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. (Requested by Police Department.) Attachment.
- D. Approval of the request to close Texas Boulevard/FM 88 from Fifth to Sixth Streets from 4:00 p.m. to 12:00 a.m. on October 13, 2012 for the Eighth Annual Pan de Campo Fundraiser coordinated by the Weslaco Museum of Local History and Cultural Art, 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. (Requested by Museum). Attachment.

Commissioner Garza, seconded by Commissioner Tafolla, moved to approve consent agenda items A, B1, C, and D as presented; Commissioner Noriega opposed item B1 as presented. The motion carried; Mayor Wise was present, but not voting.

There was no action on item B as the City Manager requested additional time to fine-tune the rates.

For the record, the Ordinance read as follows:

**ORDINANCE NO. 2012-17**

**AN ORDINANCE ADOPTING PROVISIONS OF THE ELECTION CODE RELATED TO THE CONDUCTING OF GENERAL AND SPECIAL MUNICIPAL ELECTIONS; DEFINITIONS IMPLEMENTING FILING FEES AND ALTERNATIVE PROCEDURES; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR EFFECTIVE DATE, PROPER NOTICE OF MEETING, AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING**

**WHEREAS** the community has over the years urged that the image of the City of Weslaco and its citizenry be improved by focusing on problem solving and the diverse exchange of ideas; and

**WHEREAS** in accordance with the Weslaco City Charter the enumeration of powers granted and authorized by the charter shall not be held or deemed exclusive but shall be in addition to the powers appropriate for the exercise necessary of local self government and shall all powers granted by law constitution and ordinance; and

**WHEREAS** pursuant to Texas Local Government Code §05011 the City has authority to adopt ordinances that are for the good government, peace, or order of the municipality or for the trade and commerce of the municipality and that are necessary to carry out powers granted to the City; and

**WHEREAS** pursuant to the Texas Constitution article XI §5 and Texas Local Government Code §05712 the City as a home-rule municipality has full power of local self government; and

**WHEREAS** Chapter 143 §01c0435 of the Texas Election Code authorizes a municipality can prescribe the payment of a filing fee and alternative payment procedures; and

**WHEREAS** state and county entities prescribe filing fees to lessen the costs of elections; and

**WHEREAS** the City of Weslaco expends and utilizes large sums of taxpayer funds and resources in preparation for and in furtherance of the conducting of municipal elections; and

**WHEREAS** implementation of fees for filing and administrative costs will lessen the obligations and relieve the community of costs, labor, and resources for any and all general and special municipal elections; and

**WHEREAS** any qualified elector seeking elected office would be required and charged with duties requiring a firm commitment, devotion, loyalty, and presence during official gatherings; and

**WHEREAS** as an alternative to the payment of a filing fee a person may provide sufficient proof of such community dedication through community service in the City of Weslaco for a time period preceding such application.

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

**SECTION 1 DEFINITIONS**

Words and phrases used in this Ordinance shall have the meanings set forth in this Section unless the context of their usage clearly requires otherwise. Words and phrases that are not defined

below shall be given their common ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense and vice versa; words in the plural number shall include the singular number and vice versa; and words in the masculine gender shall include the feminine gender and vice versa. Headings and captions are for reference purposes only.

*Election* shall mean and be defined herein as any general or special election that occurs regularly within the City of Weslaco or that occurs as a result of a failure to achieve a majority of the votes necessary in a general election (commonly referred to as a run-off) and a special election caused as a result of a petition that meets local and state requirements. This definition also incorporates by reference the meanings within the Texas Election Code and Texas Constitution.

*Person* shall mean and be defined for the purposes of interpreting, implementing, and enforcing this ordinance as any qualified elector that timely submits an application for a place on the ballot for an election or who submits an instrument requesting or causing an election to occur.

*Weslaco City Commission* shall mean and be defined for the purposes of interpreting, implementing, and enforcing this ordinance as the Mayor and/or any Commissioner.

*Qualified elector* shall mean a qualified voter as defined by applicable statutory and constitutional provisions as may be amended from time to time. A qualified elector shall not include a person who is in default or delinquent to the City of Weslaco for any municipal funds owed at the time a timely application for a place on the ballot or instrument causing an election to occur is submitted or thereafter.

## **SECTION 2 FEES AMOUNT, EXCEPTION, ALTERNATE PROCEDURE**

A. Effective the first day for filing an application for place on the ballot for the City's 2012 General Election, prescribed July 21, 2012, there shall be charged a filing fee for any application to be submitted for each election to any place or position of the governing body also known as the Weslaco City Commission. The fee charged shall also be paid by any person or persons that cause an election to take place by virtue of submission of an instrument including but not limited to a petition as allowed by charter or applicable state or federal laws. A filing fee need not be paid if an election is caused as a result of the passage of any ordinance at the discretion of the governing body.

B. The filing fee to be paid in accordance with subsection A of this ordinance shall be affixed by the Master Fee Schedule for each person that timely submits an application or instrument requesting or causing an election to occur. The fee shall be paid in full with sufficient funds attached to a timely application for a place on the ballot or other instrument causing an election to occur.

C. The filing fee will be used by the municipality to offset the costs of conducting a general or special election including but not limited to the following: purchase or rental of voting machines, labor, goods, materials, professional and/or contracted services, promotion and advertising, postage, transportation, copying, legal fees, and education.

D. The filing fee shall be reimbursable to each person that timely submits an application for a place on a ballot in which an election is not ordered by the Commission or to each person that timely submits an application for a place on a ballot and subsequently demonstrates evidence to satisfy the alternative to the payment of a filing fee no later than the last day to filing an application for a place on the same ballot. The filing fee is not reimbursable should the candidate subsequently withdraw from a place on the ballot nor is the fee transferable.

E. As an alternative to the payment of a filing fee as required in subsections A and B of this ordinance a person shall attach to a timely application for a place on the ballot or other instrument causing an election to occur either of the following:

1. a sworn affidavit from an authorized representative of a legally formed 501c3 non profit organization located wholly or partly in the City of Weslaco that testifies to the following: a) legal name of the organization; b) declaration that the organization is currently a legally formed 501c3 non profit organization that has been located wholly or partly in the

City of Weslaco for not less than an entire calendar year; c) identifies by name, address, and date of birth the person as having been authorized and approved to provide volunteer community service to the organization; and d) confirmation that the person performed not less than fifty (50) hours of community service, if he/she is seeking office as a City Commissioner to the organization without compensation during the calendar year immediately preceding the person's submission of an application for a place on the ballot or submit a petition, prepared by the City Secretary, signed by at least 50 qualified voters of the District that person resides in; e) confirmation that the person performed not less than fifty (50) hours of community service, if he/she is seeking the office of Mayor or submit a petition, prepared by the City Secretary, signed by at least 250 qualified voters of the City of Weslaco; f) the City Secretary and City Manger shall verify the hours of service;

2. a sworn affidavit from the Weslaco City Secretary or designee or minutes approved from the City of Weslaco evidencing that the person has performed not less than fifty (50) or 250 hours of service, whichever is applicable, to the City of Weslaco by official means as an elected or appointed member of the governing body, board, committee, or commission or as a volunteer within certain departments without compensation during the calendar year immediately preceding the person's submission of a timely application for a place on the ballot or other instrument causing an election to occur.

### **SECTION 3 SAVINGS CLAUSE**

Except as hereby amended any provisions of the code of ordinances or directives of the City of Weslaco, Texas not in conflict with this Ordinance shall remain in full force and effect unimpaired hereby.

### **SECTION 4 SEVERABILITY CLAUSE**

The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part thereof. The effects of this Ordinance shall at all times be in compliance with state federal local and other guidelines as directed.

### **SECTION 5 EFFECTIVE DATE, PUBLICATION**

The Ordinance shall take effect and be in force from and after its passage and approval on two (2) separate readings in accordance with the Charter of the City of Weslaco, Texas. Publication if necessary may also be in caption form as allowed.

### **SECTION 6 PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time place and purpose of said meeting was given as required by the Open Meetings Act Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** on first reading at a regular meeting of the City Commission this 21<sup>st</sup> day of August, 2012.

**PASSED AND APPROVED** on second reading at a regular meeting of the City Commission this 5<sup>th</sup> day of September, 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 2012-57, 2012-58, 2012-59, and 2012-60 to fill the expired terms of four members on the Parks & Recreation Advisory Board. Possible action. (Requested by the Parks & Recreation Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve Resolution 2012-57 reappointing Daniel Moreno as a member of the Parks & Recreation Advisory Board. The motion carried unanimously; Mayor Wise was present, but not voting.

Commissioner Noriega, seconded by Commissioner Garza, moved to approve Resolution 2012-58 appointing Howdy Smith as a member of the Parks & Recreation Advisory Board; the Mayor Pro-Tem and Commissioners Tafolla, Martinez, and Rivera opposed. The motion failed (204); Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

**RESOLUTION NO. 2012-57**

**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 Daniel Moreno is appointed to serve a three year term on the Parks & Recreation Advisory Board and the term will begin on September 6, 2012 and end on September 5, 2015.**

**PASSED AND APPROVED** on this 5<sup>th</sup> day of September 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 to approve an Interlocal Cooperation Agreement to Share Joint Election Expenses with the Weslaco Independent School District during the General Election on November 6, 2012 pursuant to Texas Election Code Chapter 271 and as ordered by the City Commission on August 7, 2012, and authorize the Mayor to execute any related documents. Possible action. (Requested by City Secretary's Office.) Attachment.

The City Manager requested the election date be identified in the agreement.

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 the Annual Work Plan and Budget for the Economic Development Corporation of Weslaco (EDC) Fiscal Year 2012-2013 as approved by the EDC Board of Directors on August 15, 2012. Possible action. (Requested by the Economic Development Corporation of Weslaco.) Attachment.

Mr. Hernan Gonzalez stated the upcoming work plan seeks to affirm Weslaco as a vibrant business center, anticipating the completion of the event center in April 2013, the airport runway expansion, 100% occupancy downtown with an art gallery, more commercial development, particularly along Business 83, and a hike and bike trail.

Mr. Gonzalez elaborated on the proposed budget, identifying the bond proceeds for the second phase of the event center, a conservative sales tax estimate, rent from the industrial complex, reduced interest rates on the 380 agreements, and the Valley Nature Center contribution. The budget is balanced and recommended by the board; he noted as a 4A entity it does pay property taxes on what it owns. The City Manager recommended approval as required by the Development Act.

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

- C. Discussion and consideration to approve a Professional Services Agreement as Medical Director with Roberto Sepulveda, M.D. and Heriberto Alanis, M.D. for Emergency Medical Services in an amount not to exceed \$40,000.00/year and authorize the Mayor to execute any related documents. Possible action. (Requested by Fire Department.) Attachment.

The City Manager recommended approval as a renewal to a two-year term that expires this month.

Commissioner Tafolla, 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 the purchase of material needed for repaving Ballard Street in an amount not to exceed \$25,780.00 from the Street Improvement account 46-501-4010 and authorize a budget amendment as appropriate. Possible action. (Requested by Public Facilities Department.) Attachment.

Mr. Efrain Tafolla with the Planning and Code Enforcement Department clarified this is a 1200 foot stretch from Texas Boulevard/FM 88 to the end of the Wal-Mart property, as the remainder of Ballard Street was recently repaved.

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

- E. Discussion and consideration to amend the City of Weslaco Investment Policy as recommended by the City of Weslaco Financial Advisor and authorize the Mayor to execute any related documents. Possible action. (Requested by Finance Department.) Attachment.

The City Manager explained the policy was amended with Financial Advisor Anne

Burger of FirstSouthwest to make the best municipal investments consistent with the Texas Public Fund Investment Act. Commissioner Noriega received clarification that in the absence of a finance director, assigned responsibilities are directed to the City Manager.

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

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

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

The City Manager announced the upcoming Clean Sweep effort on October 29 with the assistance of the Municipal Court Judges and Republic Services. He thanked HEB pharmacy for providing the recent flu shot clinic.

- B. Report by Medical Financial Services.

Ms. Benita Valadez of Medical Financial Services reported on collections March – July 2012, noting a decline in call volume because Winter Texans returned home. Due to changes in Medicaid reimbursements, she anticipates a decrease in \$150,000.00 in payments to the City.

## **VII. PUBLIC COMMENTS**

There were no comments received.

## **VIII. EXECUTIVE SESSION**

At 6:19 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 6:51 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

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

- A. 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.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to approve renaming Paso del Norte as Delores Huerta Avenue. as authorized by §551.087 of The Texas Local Government Code. The motion carried unanimously; Mayor Wise was present, but not voting.

- B. Contemplated Litigation – Discussion with the City Attorney involving the City of

Weslaco Gibson Park pool property and potential or contemplated litigation regarding the acquisition of the property as authorized by §551.071 of the Texas Government Code.

Commissioner Martinez, seconded by Commissioner Tafolla, moved to authorize City Attorney to retain special counsel to institute litigation regarding the Gibson Park Pool property. The motion carried unanimously; Mayor Wise was present, but not voting.

- C. Land Acquisition – Discussion with the City Manager regarding the purchase and acquisition of real property located in the City of Weslaco as authorized by §551.072 of The Texas Government Code.

Mayor Pro-Tem Cuellar, seconded by Commissioner Garza, moved to authorized City Manager and City Attorney to obtain an appraisal and return to the Commission for consideration of next action. The motion carried unanimously; Mayor Wise was present, but not voting.

**X. ADJOURNMENT**

With no other business before the Commission, at 6:54 p.m. Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to adjourn the September 5, 2012 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**, 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