



**A SPECIAL MEETING
OF THE WESLACO CITY COMMISSION
WEDNESDAY, JANUARY 16, 2013**

On this 16th day of September at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in Special 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	David R. Fox
Commissioner	Olga M. Noriega
Commissioner	Gerardo "Jerry" Tafolla
Commissioner	Lupe V. Rivera
Commissioner	Joe A. Martinez
City Manager	Leonardo Olivares
City Attorney	Ramon Vela

Also present: Rey Garcia, IT Director; Bret Mann, Finance Director; David Salinas, Public Utilities Director; Police Chief Michael Kelly; Fire Chief Santiago Cuellar; 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 Monday, January 14, 2013.
- B. Pledge of Allegiance.
Mayor Wise recited the Pledge of Allegiance and the Texas Flag.
- C. Roll Call.
Molly Vallejo, Secretary, called the roll, noting perfect attendance.

II. NEW BUSINESS

- A. Discussion and consideration to increase the number of Directors on the Weslaco Hospital Authority from 7 to 11 and approve Ordinance 2013-04 on First and Final Reading. Possible action. (Requested by City Manager.) Attachment.

The City Manager stated the Weslaco Hospital Authority initially was created with nine (9) members; the Ordinance then was amended to have seven (7) members. The law states the board may have a maximum of eleven (11) members and this item is to expand the number of members.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve Ordinance 2013-04 increasing membership to the Weslaco Hospital Authority Board.

Commissioner Noriega asked if the language used in the Ordinance to expand was the legally correct term or if the ordinance should read to amend. The City Attorney referred Commission Noriega to the wording of the actual ordinance which includes the terms “amending ordinance.” City Attorney advised the wording on the agenda is sufficient to give the purpose of the ordinance.

Commissioner Noriega asked what the emergency was that the Ordinance needed to be approved on first and final reading. The City Manager stated that the urgency in approving this Ordinance is the reported sale of the hospital, the ongoing litigation, and the stability of health care in the community. Commissioner Noriega asked why it is an emergency for the Commission if it is the Hospital Authority being sued. The City Manager stated that the City is the successor of the lawsuit and the purpose of the entire agenda is to continue to defend the community against the litigation as the Hospital Authority is unable to continue to do so.

Commissioner Noriega questioned why the Commission is going to appoint members to the board and then dissolve the Hospital Authority in Item C, adding she was uncomfortable with voting on this item. The City Manager stated that they wanted more members of the community involved with the Hospital Authority. The statute permits the entity that created the Authority can administer its assets and outstanding liabilities and even dissolve it. The Mayor stated Items A and C are mutually exclusive and the Commission had the option to approve one and not the other.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to consider the items II. A, B, and C in Executive Session in accordance with §551.001 of the Texas Government Code. The motion carried unanimously; Mayor Wise was present, but not voting.

At 5:45 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 6:08 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the special meeting as open to the public.

The motion to approve Ordinance 2013-04 increasing membership to the Weslaco Hospital Authority Board carried unanimously; Mayor Wise was present, but not voting.

For the record, the Ordinance reads as follows:

ORDINANCE NO. 2013-04

AN ORDINANCE AMENDING ORDINANCE 77-14, AN ORDINANCE CREATING THE WESLACO HOSPITAL AUTHORITY PROVIDING FOR BOARD OF DIRECTORS OF ELEVEN MEMBERS, ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY OF WESLACO, TEXAS, that:

SECTION I:

ORDINANCE 77-14, PASSED AND APPROVED ON JUNE 21, 1977, AND CODIFIED IN THE

WESLACO CODE OF ORDINANCES AS ARTICLE V OF CHAPTER 2 IS HEREBY AMENDED TO INCREASE THE NUMBER OF DIRECTORS TO THE WESLACO HOSPITAL AUTHORITY TO ELEVEN (11) SO THAT AFTER FINAL READING OF THE ORDINANCE 2013- 04 SECTION 2-160 OF ARTICLE V OF CHAPTER 2 OF THE WESLACO CODE OF ORDINANCES SHALL READ AS FOLLOWS:

SEC. 2-160 BOARD OF DIRECTORS

THE HOSPITAL AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS CONSISTING OF ELEVEN MEMBERS.

SECTION II:

ALL OTHER PROVISIONS OF ORDINANCE 77-14 SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

SECTION III:

THE IMPORTANCE OF THIS MEASURE TO THE PUBLIC WITH RESPECT TO PROVIDING BETTER HEALTH CARE FACILITIES WITHIN THE CITY OF WESLACO CREATES AN EMERGENCY AND URGENT PUBLIC NECESSITY THAT THIS ORDINANCE BE PASSED AS AN EMERGENCY MEASURE ON FIRST AND FINAL READING.

PASSED AND APPROVED on first and final reading at a regular meeting of the City Commission this the 16th day of January, 2013.

/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 Resolutions 2013-06, 2013-07, 2013-08, and 2013-09 appointing members to the Weslaco Hospital Authority. Possible action. (Requested by Finance Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve Resolution 2013-06 appointing David Rodriguez to the Weslaco Hospital Authority Board. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolutions read as follows:

RESOLUTION NO. 2013-06

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

WHEREAS, in accordance with the Hospital Authority Act, Article 4437e-1, Vernon’s Annotated Civil Statutes, Texas Health and Safety Code §262.001 et seq. the Weslaco City Commission (The Governing Body) found and determined that a Hospital Authority be authorized and created, with such Hospital Authority to be known as the “Weslaco Hospital Authority”; and

WHEREAS, the purpose of this Authority is to promote new, expanded or improved health facilities in order to assist the maintenance of the public health and the public welfare.

WHEREAS, each member shall be appointed by the City Commission of the City of Weslaco; and the members of this board will hold office for a term of no more than two (2) years; and

WHEREAS, the Weslaco Hospital Authority members shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT David Rodriguez is appointed to serve a two (2) year term on the Weslaco Hospital Authority.

PASSED AND APPROVED on this 16th day of January, 2013.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve Resolutions 2013-07 appointing Rolando Guerra to the Weslaco Hospital Authority Board. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2013-07

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

WHEREAS, in accordance with the Hospital Authority Act, Article 4437e-1, Vernon's Annotated Civil Statutes, Texas Health and Safety Code §262.001 et seq. the Weslaco City Commission (The Governing Body) found and determined that a Hospital Authority be authorized and created, with such Hospital Authority to be known as the "Weslaco Hospital Authority"; and

WHEREAS, the purpose of this Authority is to promote new, expanded or improved health facilities in order to assist the maintenance of the public health and the public welfare.

WHEREAS, each member shall be appointed by the City Commission of the City of Weslaco; and the members of this board will hold office for a term of no more than two (2) years; and

WHEREAS, the Weslaco Hospital Authority members shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Rolando Guerra is appointed to serve a two (2) year term on the Weslaco Hospital Authority.

PASSED AND APPROVED on this 16th day of January, 2013.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

Commissioner Noriega, moved to approve Resolution 2013-08 appointing Mary Moad to the Weslaco Hospital Authority Board. Motion failed due to lack of a second.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve Resolution 2013-08 appointing Illiana Guerrero to the Weslaco Hospital Authority Board. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2013-08

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

WHEREAS, in accordance with the Hospital Authority Act, Article 4437e-1, Vernon's Annotated Civil Statutes, Texas Health and Safety Code §262.001 et seq. the Weslaco City Commission (The Governing Body) found and determined that a Hospital Authority be authorized and created, with such Hospital Authority to be known as the "Weslaco Hospital Authority"; and

WHEREAS, the purpose of this Authority is to promote new, expanded or improved health facilities in order to assist the maintenance of the public health and the public welfare.

WHEREAS, each member shall be appointed by the City Commission of the City of Weslaco; and the members of this board will hold office for a term of no more than two (2) years; and

WHEREAS, the Weslaco Hospital Authority members shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Illiana Guerrero is appointed to serve a two (2) year term on the Weslaco Hospital Authority.

PASSED AND APPROVED on this 16th day of January, 2013.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

Commissioner Martinez, seconded by Commissioner Tafolla, moved to approve Resolution 2013-09 appointing Deanna Martinez to the Weslaco Hospital Authority Board. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2013-09

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

WHEREAS, in accordance with the Hospital Authority Act, Article 4437e-1, Vernon's Annotated Civil Statutes, Texas Health and Safety Code §262.001 et seq. the Weslaco City Commission (The Governing Body) found and determined that a Hospital Authority be authorized and created, with such Hospital Authority to be known as the "Weslaco Hospital Authority"; and

WHEREAS, the purpose of this Authority is to promote new, expanded or improved health facilities in order to assist the maintenance of the public health and the public welfare.

WHEREAS, each member shall be appointed by the City Commission of the City of Weslaco; and the members of this board will hold office for a term of no more than two (2) years; and

WHEREAS, the Weslaco Hospital Authority members shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Deanna Martinez is appointed to serve a two (2) year term on the

Weslaco Hospital Authority.

PASSED AND APPROVED on this 16th day of January, 2013.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- C. Discussion and consideration to transfer the assets and liabilities of the Weslaco Hospital Authority to the City of Weslaco and to dissolve the Weslaco Hospital Authority and approve Ordinance 2013-05 on First and Final Reading. Possible action. (Requested by Finance Department.) Attachment.

The City Manager stated the statute permits the governing body that created the Authority to dissolve it and as part of this motion there will be a transfer of all assets and liability held by the Authority. The Authority does not have any assets at this time, but it does have some legal expenses incurred; staff recommends that any proper legal expenses be transferred to the City.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented.

In response to a question from Commissioner Noriega, Mayor Wise stated that members of the Authority have sovereign immunity with quasi protection, so any liability they incurred in relation to the board's actions would be transferred. The City Attorney stated that the Hospital Authority would consider an item tomorrow that would indemnify, protect, and defend them in all their official actions as board members.

The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Ordinance reads as follows:

ORDINANCE NO. 2013-05

AN ORDINANCE PROVIDING FOR THE TRANSFER OF ASSETS AND LIABILITIES TO THE CITY OF WESLACO; DISSOLVING THE WESLACO HOSPITAL AUTHORITY; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of Weslaco created the Weslaco Hospital Authority on June 21, 1977 by the adoption of Ordinance 77-14; and

WHEREAS, the Dissolution of the Weslaco Hospital Authority will not violate a trust indenture or bond resolution because there are no outstanding bonds of the authority; and

WHEREAS, the Dissolution of the Weslaco Hospital Authority will not diminish or impair the rights of holders of outstanding bonds, warrants, or other obligations of the authority because it has no outstanding bonds, warrants or other obligations; and

NOW THEREFORE BE IT ORDAINED BY THE CITY OF WESLACO THAT:

SECTION I: All assets and liabilities of the Weslaco Hospital Authority will be transferred to the City of Weslaco including but not limited to the Restrictive Covenants found in the Special Warranty Deed to Realty and Bill of Sale of Personalty from the Weslaco Hospital Authority to Knapp Medical Center

recorded in Volume 2534 page 281 of the Hidalgo County, Texas Deed Records, and any proper legitimate and outstanding legal bills to Bickerstaff Heath Delgado & Acosta.

SECTION II: The Weslaco Hospital Authority, created by Ordinance 77-14, is hereby DISSOLVED under the authority given the City of Weslaco pursuant to Section 262.005 of the Texas Health and Safety Code.

SECTION III: This Ordinance Transferring Assets and Liabilities and Dissolving the Weslaco Hospital Authority shall take effect on the 31st day after the date this ordinance is adopted.

SECTION IV: The importance of this measure to the public with respect to providing better health care facilities within the City of Weslaco creates an emergency and urgent public necessity that this Ordinance be passed as an emergency measure on first and final reading

PASSED AND APPROVED on first and final reading this 16th day of January A.D., 2013.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

III. PUBLIC COMMENTS

Mr. Kenneth Oates, a resident of Weslaco for 30 years, expressed support of the dissolution of the Hospital Authority Board, but he asked the Commission maintain the covenant set forth by the bond that the Hospital remains non-profit.

IV. EXECUTIVE SESSION

The Commission took Executive Session from its posted sequence and convened earlier in the meeting as authorized by the provisions of the Texas Open Meetings Act.

V. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

- A. Pending Litigation – Consult with City Attorney regarding C-0747-12- E, Knapp Medical Center v. Weslaco Hospital Authority, pending in the 139th Judicial District Court of Hidalgo County, Texas pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

VI. ADJOURNMENT

With no other business before the Commission, at 6:19 p.m. Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to adjourn the January 16, 2012 special 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, David R. Fox

COMMISSIONER, Olga M. Noriega

COMMISSIONER, Gerardo “Jerry” Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Joe A. Martinez