



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, MARCH 18, 2014**

On this 18th day of March 2014 at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in a Regular Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

Mayor	David Suarez
Mayor Pro-Tem	J.F. "Johnny" Cuellar
Commissioner	David R. Fox
Commissioner	Olga M. Noriega
Commissioner	Gerardo "Jerry" Tafolla
Commissioner	Lupe Rivera
Commissioner	Fidel L. Pena, III
City Manager	Leonardo Olivares
City Secretary	Elizabeth M. Walker
City Attorney	Ramon Vela

Also present: Juan Salas, IT Department; Sonia Flores, Assistant Finance Director; Mardoqueo Hinojosa, City Engineer/Interim Planning Director; Chief Michael Kelley, Police Department; Assistant Chief Rudy Garza, Fire Department; Martin Mata, Assistant Library Director; David Salinas, Public Utilities Director; Oscar Garcia, Public Facilities Director; Veronica Ramirez, Human Resources Director; George Garrett, Aviation Director; Gloria Givilancz, and other staff members and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, March 14, 2014.

B. Invocation.

Pastor Faron Thebeau from Primera Bautista Church delivered the invocation.

C. Pledge of Allegiance.

Mayor Suarez recited the Pledge of Allegiance and Mayor Pro-Tem Cuellar recited the Texas flag.

D. Roll Call.

Elizabeth Walker, City Secretary, called the roll, noting perfect attendance.

II. PUBLIC HEARING

A. To solicit input on behalf of Miguel Salinas, Jr. to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 907 S. Texas Blvd., being Lot 8, Block 3, Hollywood Addition to Weslaco Subdivision, Weslaco, Hidalgo County, Texas.

from “R-1 Single Family Dwelling District” to “B-1 Neighborhood Business District”.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to open the public hearing as presented. The motion carried unanimously; Mayor Suarez was present, but not voting. There were no comments received.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to close the public hearing as presented. The motion carried unanimously; Mayor Suarez was present, but not voting.

III. PUBLIC COMMENTS

There were no comments received.

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 on March 4, 2014. (Staffed by City Secretary’s Office.) Attachment.

- B. Acceptance of a check from the Texas Comptroller of Public Accounts annual allocation from the Law Enforcement Officer Standards and Educations (LEOSE) in the amount of \$4,317.29 to be utilized for training for the Weslaco Police Officers and authorize a budget amendment as appropriate. (Staffed by Police Department.) Attachment.

Commissioner Noriega requested item IV. C. be withheld.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve consent agenda items IV. A. and B. The motion carried unanimously; Mayor Suarez was present, but not voting.

V. APPOINTMENTS

- A. Discussion and consideration to remove one member from the Parks and Recreation Advisory Board and approve Resolution 2014-12 appointing a member to that unexpired term. Possible action. (Requested by Commissioners Noriega and Pena; Staffed by Parks and Recreation Department.) Attachment.

Commissioners Noriega and Pena stated they requested the item based on reports of Mr. Mejia’s conduct at board meetings. Board President Richard Lopez and board member Rolando Robles reported Mr. Mejia used foul language at a meeting, interviewed directly with the media, and circumvented the board to reserve a park for a weekend tournament. Mr. Mejia responded that he had one incident of foul language, one interview with the media, and one reservation of the park after both

then Parks Director and City Manager assured the fields were safe; he stated he is excited to serve his term.

Commissioner Noriega, seconded by Commissioner Pena, moved to remove Edward Mejia from the Parks and Recreation Advisory Board and approve Resolution 2014-12 appointing Robert Escobar to that unexpired term. By roll call vote, FOR: Mayor Suarez, and Commissioner Noriega and Pena; AGAINST: Mayor Pro-Tem Cuellar, Commissioners Tafolla, Rivera, and Fox. Motion failed (3-4).

VI. OLD BUSINESS

- A. Discussion and consideration to authorize the hiring of five personnel for either the Public Facilities Department or the Parks and Recreation Department and authorize a budget amendment as appropriate. Possible action. (This item was tabled March 4, 2014; Staffed by Public Facilities Department.) Attachment.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to remove the item from the table. The motion carried unanimously; Mayor Suarez was present, but not voting.

Referencing additional documentation placed on the dais, the City Manager recommended creating three personnel positions at Public Facilities Department and administratively transferring five personnel from that department to Parks and Recreation department. In response to Commissioner Noriega, Mr. Oscar Garcia stated he recommended those personnel for transfer he feels are most experienced in Parks to ease any transition; not all of them know they have been recommended for transfer. Mr. Garcia assured he is willing to lend additional staff support to Parks on a daily basis.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to approve the transfer of five personnel from Public Facilities to Parks and Recreation Department and hire three personnel at Public Facilities Department Streets Division in an amount not to exceed \$65,569.81 this budget year and authorize a budget amendment as appropriate.

Mayor Pro-Tem Cuellar, seconded by Commissioner Pena, moved to amend the motion creating three new positions in the Public Facilities Department, including two paving equipment operators and one laborer in an amount not to exceed \$65,569.81 in the current budget year and authorize a budget amendment as appropriate. The motion carried unanimously; Mayor Suarez was present, but not voting.

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

- B. Discussion and consideration to approve the following T-Hangar leases for a period not to exceed five years for aircraft storage or aviation related business only:
- 1) E6-02 with James B. Carlson Farms,
 - 2) E7-00 with Garric Warbirds,
 - 3) E8-06 with Anderson Columbia Co.,

4) E9-02 with Wyatt Agri Products, and
5) E10-01 with Dr. Reynaldo Rodriguez,
and authorize the Mayor to execute related documents. Possible action. (This item
was tabled March 4, 2014; Staffed by Airport Department.) Attachment.

Commissioner Pena, seconded by Mayor Pro-Tem Cuellar, moved to remove the item from the table. The motion carried unanimously; Mayor Suarez was present, but not voting.

In response to the Mayor, the City Manager clarified this item was not ready last time because a technical error had been identified in the leases; it has been corrected.

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

VII. NEW BUSINESS

- A. Discussion and consideration after public hearing on behalf of Miguel Salinas, Jr. to approve Ordinance 2014-03 amending Ordinance 320 and the City of Weslaco Zoning map to rezone 907 S. Texas Blvd., being Lot 8, Block 3, Hollywood Addition to Weslaco Subdivision, 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 2014-03. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment.

The City Manager stated the Planning and Zoning Commission and staff recommend approval.

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

- B. Discussion and consideration to approve Ordinance 2014-04 accepting an agreement to abandon an existing 10-foot utility easement located on Lot 1 and Reserve Tract A of the 400 West Expressway 83 Subdivision and authorize the Mayor to execute any related documents. First Reading of Ordinance 2014-04. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment.

The City Manager stated staff confirmed that no utilities are buried on that easement and recommends approval.

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

- C. Discussion and consideration to approve the Final Plat of Martinez Estates Subdivision, being a 0.61 acre tract of land being all of Lot 1, La Paloma Subdivision

Unit 1 and a 0.24 acre tract of land out of Farm Tract 1078, West and Adams Tract Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment.

The City Manager stated this is a one lot subdivision outside city limits served by North Alamo Water Supply Corporation and septic; staff recommends approval.

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

- D. Discussion and consideration to approve the Final Plat of Midway Court Phase II Subdivision, being a re-subdivision of 2.627 acres out of Farm Tract 644, Block 177, West and Adams Tract Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment.

The City Manager stated this is a fourteen lot subdivision within city limits, served by North Alamo Water Supply Corporation. Staff recommends approval contingent on the sewer line moved to the easement.

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

- E. Discussion and consideration to authorize a Public Purpose Services contract with the Weslaco Bicultural Museum d.b.a. Weslaco Museum of Local History and Cultural Art in an amount not to exceed \$63,100.00 effective October 1, 2013 through September 30, 2014. Possible action. (Requested by Weslaco Museum.) Attachment.

The City Manager stated this is effectively a renewal, with the same amount as last year. In the absence of representation by the Museum, the City Manager recommended tabling the item.

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

- F. Discussion and consideration to program capital outlay from the Lease/Purchase agreement with Frost Bank to the Information Technology Department in an amount not to exceed \$85,000.00 from the APC Battery allocation for the purchase of network equipment. Possible action. (Staffed by Information Technology Department.) Attachment.

In response to the Mayor, the City Manager clarified this does not constitute any new money, just reprogramming of the same money allocated to IT for a different project, changing from battery backup to network switches in order to run a new phone

system.

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

- G. Discussion and consideration to authorize an Amnesty Program in the City of Weslaco for the months of April and May 2014 for individuals who have outstanding tickets, fines, and warrants in the City of Weslaco Municipal Court. Possible action. (Staffed by Municipal Court.) Attachment.

The City Manager stated this program was successful in 2006 and 2010; staff recommends a two-month amnesty period and may return to the Commission to extend it. Commissioner Pena clarified amnesty removes the failure to appear citation, which costs \$90.00-120.00.

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

- III. C. Ratification of three Intended Use Plans submitted to the Texas Water Development Board Clean Water and Drinking Water State Revolving Funds in the amounts of \$12,991,927.00, \$47,808,358.00 and \$832,320.00 and authorize the Mayor and/or City Manager to execute any related documents. (Staffed by Public Utilities Department.) Attachment.

Mr. David Salinas stated these are not applications, just intended use plans, which after ranking by the Texas Water Development Board the City may be invited to apply for one or all projects. At that time, staff will return to the Commission for authorization to proceed toward potential refinancing of the North Waste Water Treatment Plant, Water Treatment Plant, and reservoir system improvements, which may include a complement of loan forgiveness incentives.

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

VIII. EXECUTIVE SESSION

At 6:41 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 8:31 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. Pending Litigation – Consultation with Special Counsel regarding Cause No. C-5929-13-H City of Weslaco, Texas v. City of Mercedes, Texas in the 389th Judicial District Court of Hidalgo County pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- B. Pending Litigation – Consultation with City Attorney regarding City of Weslaco, Texas v. John Pate pursuant to §551.071 of the Texas Government Code.

Commissioner Fox, seconded by Mayor Pro-Tem Cuellar, moved to authorize the filing of a Declaratory Judgment Petition against John Pate to declare that he has no legal right or standing to lease Hanger No. W-2 at the Weslaco Mid-Valley Airport. The motion carried unanimously; Mayor Suarez was present, but not voting.

- C. Pending Litigation - Discussion with assigned defense counsel Anthony B. James regarding C-2201-11-I Pascual Hernandez, et al v. City of Weslaco in the 398th Judicial District Court of Hidalgo County as authorized by §551.071 of the Texas Government Code.

There was no action on this item.

- D. Potential Litigation – Consultation with the City Attorney regarding G.A.S. Enterprises on the Valley Nature Center Project pursuant to §551.071 of the Texas Government Code.

Mayor Pro-Tem Cuellar, seconded by Commissioner Pena, moved to terminate the agreement Agreement dated February 10, 2012 between The City of Weslaco, as Owner, and G A S Enterprises, Inc., as Construction Manager as Constructor with a guaranteed maximum price of \$1,248,816.00 for the construction of the Valley Nature Center project for cause pursuant to Section 14.2.1 of AIA Document A 201-2007 because the Contractor:

1. Failed to make payment to Subcontractors for materials and labor in accordance with the respective agreements between the Contractor and the Subcontractors,
2. Repeatedly refused or failed to supply enough properly skilled workers or proper materials,
3. Repeatedly disregarded applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of a public authority,
4. Refused or failed to prosecute the work or any separable part thereof with such diligence as would ensure the substantial or final completion of the project within the contract time and has failed to complete the project or remedy a default within the contract time,
5. Refused and/or failed to properly schedule, plan, coordinate, and execute the work, as specified in the contract documents, so as to perform the work within the specified milestone and completion dates and failed to provide scheduling or related information, revisions and updates as required by the Contract Documents.

I further move to direct the City Manager to obtain certification from the Architect on this project, Boultinghouse Simpson and Associates, that sufficient cause exists to justify termination and to provide the notice requirements to the Contractor and the Contractors Surety as required by Section 14.2.2 of the Contract Documents and to exercise any and all rights that the City of Weslaco has in the Contract Documents to complete the project and to get paid for costs of finishing the project that exceed the

Guaranteed Maximum Price including additional legal or architect fees. The motion carried unanimously; Mayor Suarez was present, but not voting.

- Add. A. Discussion and consideration to approve Ordinance 2014-02 annexing 4,516.77 acres of land into the City of Weslaco, located in Hidalgo County, Texas, which is contiguous to the city limits and hereinafter described; as shown in the attached exhibit; making findings of fact; providing a severability clause; providing an effective date; and providing for open meetings and other related matters. Possible action. First Reading of Ordinance 2014-02. (Staffed by Planning and Code Enforcement Department.) Attachment.

Commissioner Pena, seconded by Commissioner Tafolla, moved to approve on First Reading Ordinance 2014-02 annexing the acres of land identified as Tracts 13, 14, and 23 only into the City of Weslaco, located in Hidalgo County, Texas, which is contiguous to the city limits and hereinafter described; as shown in the attached exhibit; making findings of fact; providing a severability clause; providing an effective date; and providing for open meetings and other related matters. The motion carried unanimously; Mayor Suarez was present, but not voting.

X. ADJOURNMENT

With no other business before the Commission, Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to adjourn the March 18, 2014 regular meeting. The motion carried unanimously; Mayor Suarez was present, but not voting.

CITY OF WESLACO

MAYOR, David Suarez

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 Rivera

COMMISSIONER, Fidel L. Pena, III