

Approved 4/20/10

WESLACO CITY COMMISSION

REGULAR MEETING

APRIL 6, 2010

On this 6th day of April 2010 at 6:00 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 and the following members were present.

NOTE: If any accommodation for a disability is required, notify the City Secretary's Office at (956) 968-3181, Ext 3101 prior to the meeting date.

NOTE: If during the course of the meeting, any discussion of any item on the agenda should be held in executive or closed session, the City Commission will convene in such executive or closed session whether or not such item is posted as an executive session item at any time during the meeting when authorized by the provisions of the Texas Open Meetings Act.

Mayor	Buddy de la Rosa
Mayor Pro-Tem	Rene Rodríguez, Jr.
Commissioner	Robert J. Garza
Commissioner	J.F. "Johnny" Cuellar
Commissioner	Gerardo "Jerry" Tafolla
Commissioner	Lupe V. Rivera
City Manager	Leonardo Olivares
City Secretary	Amanda C. Elizondo
City Attorney	Ramon Vela

Also present: Omar Gonzales, Finance Director; Pete Garcia, Parks & Recreation Director; Gloria Sepulveda, Purchasing Director; Bernard Rodriguez, Interim Planning and Code Enforcement Director; Francisco Castellanos, Human Resources Director and several other staff members and citizens. Commissioner Patrick B. Kennedy was absent. Mayor de la Rosa called the meeting to order, a quorum was established and the following proceedings were held.

Pastor Miguel Escamilla, from Iglesia Cristiana Bethel of Weslaco, gave the invocation. Mayor de la Rosa recited the Pledge of Allegiance and Mayor Pro-Tem Rodriguez recited the Pledge to the Texas Flag.

I. CONSENT AGENDA

NOTICE TO THE PUBLIC

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separately unless requested by one commission member or a citizen, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 Minutes

1. Special Meeting of March 11, 2010
2. Regular Meeting of March 16, 2010

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Garza to approve the consent agenda as presented. Motion carried unanimously.

II. PUBLIC COMMENTS

A member of the public or the governmental body may make comments on subjects for which notice has been given and which are on the agenda Section 551.042, Texas Open Meetings Act. Public comments will be limited to three (3) minutes.

Sergio Trevino, stated he would like information regarding the lack of recycling and the recycling center. He pointed out he would like for the citizens to be well aware of the recycling process to prepare for the future and their children. Mr. Trevino suggested that the city work with South Texas College to make the recycling center available to the citizens of Weslaco.

Former City Commissioner Rogelio Tijerina and resident from 926 E. Sugarcane Road referred to Item VIII. A. regarding the closure of Sugarcane Road. He mentioned this was a major thoroughfare and the residents in that particularly area had not been notified. Mr. Tijerina suggested the city inform the residents of the proposed plan.

III. PUBLIC HEARING

- A. To give testimony and present written evidence to amend the City of Weslaco 2030 Comprehensive Plan Annexation Element.

Bernard Rodriguez, Interim Planning and Code Enforcement Director, stated the purpose of the public hearing was to amend the City of Weslaco Annexation Plan to include Farm Tract 799 and an ordinance was required to amend the annexation plan.

Commissioner Garza recommended that the area from Eighteenth Street to Tierra Santa on Border Avenue should be added to the annexation plan.

Discussion was held on the Comprehensive Plan and Mr. Rodriguez stated notice of the public hearing was published on The Monitor Newspaper on March 1st for the Planning and Zoning Commission and on March 11th for the City Commission. He added the Planning and Zoning Commission had approved the amendment.

Mayor de la Rosa announced this was a public hearing and anyone wishing to speak for or against it could do so.

There being no comments from the public, motion was made by Commissioner Cuellar and seconded by Commissioner Garza to close the public hearing. Motion carried unanimously.

IV. CITY MANAGER'S REPORT

- A. Status report on the following items:
 - 1) Financial Status
 - 2) Departmental Update
 - 3) State Agencies
 - 4) Upcoming Meetings
 - 5) Comments

- B. Discussion to participate in the International City Management Association (ICMA) Comparative Performance Measurement Program to conduct the performance measurement on city departments. Possible action.

- C. Announcement of the appointment of a Library Director for the City of Weslaco.

- D. Report on the City of Weslaco's Storm Sewer Clean-Up Program.

- E. Announcement of the Disaster Recovery Outreach Program sponsored by the Texas Department of Housing and Community Affairs (TDHCA).

Mr. Olivares stated he was working with Ann Burger, Financial Advisor on a strategy to meet with Standards and Poor's Company. He mentioned the city had identified some cost saving measures and would probably have a meeting in Dallas or Weslaco within 4 to 5 weeks. Mr. Olivares stated he was in the process of filling the position of Library Director. He indicated they had implemented the Collective Bargaining Labor Agreements and Arbitration Award in the case of Castillo v. Weslaco. Mr. Olivares stated staff had met with the Texas Water Development Board and were hoping to expedite the projects for the Water Treatment Plant facilities.

V. MAYOR'S REPORT

- A. Report on the "2010 to 2035 Metropolitan Transportation Plan (MTP)" Amendment No. 1 Off-System Project Listing.

Mayor de la Rosa stated the Hidalgo Metropolitan Transportation Planning Organization had advised the cities of the lack of funding for major roads and off system under the Category 7 Funding. He mentioned this would allow very little funding for cities to develop infrastructure projects because the funding under Category 7 would be

used for projects controlled by Texas Department of Transportation (TXDOT). Mayor de la Rosa stated they would take the projects on a case per case basis.

Jacinto Garza stated the Mile 6 Project and Business 83 were first in line to receive funding on September 1, 2010.

- B. Report on the 50th Anniversary of Knapp Medical Center of Auxiliary held Thursday, March 25, 2010 at 12:00 Noon.

Mayor de la Rosa reported on the 50th Anniversary of Knapp Medical Center Auxiliary. He mentioned this organization was composed of volunteers and thanked them for their services.

- C. Announcement of a proclamation, proclaiming the month of March, 2010 as "Youth Art Month."

Mayor de la Rosa reported Mr. Olivares had been in attendance for the signing of the "Youth Art Month" Proclamation.

- D. Report on the Weslaco Little League Opening Ceremony held Saturday, March 27, 2010.

Mayor de la Rosa announced he had attended the Weslaco Little League Opening Ceremony and had thrown the first pitch.

VI. BOARD APPOINTMENT

- A. Ambulance Advisory Board – to accept the resignation of Robert Vega, Sr. and possible appointment. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to accept the resignation of Robert Vega, Sr. from the Ambulance Advisory Board. Motion carried unanimously.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to appoint Jimmy Cuellar, Fire Marshall to the Ambulance Advisory Board. Motion carried unanimously.

VII. OLD BUSINESS

- A. Reconsideration to approve final payment to Raul Hernandez and Luis Castilleja auditors for professional services rendered in connection with expanded scope-audit of the financial statements of the City of Weslaco in the amount of \$8,200.00 for Fiscal Year 2007-08. Possible action.

Motion was made by Commissioner Tafolla and seconded by Commissioner Garza to approve final payment to Raul Hernandez and Luis Castilleja as recommended by the City Manager. Motion carried unanimously.

WHEREAS, expansion of the Weslaco Mid Valley Airport would help alleviate air traffic; and

WHEREAS, The Weslaco Mid Valley Airport will open a CBP Federal Inspection Service Building at the airport; and

WHEREAS, The City of Weslaco has recently received the "on call" landing rights designation;

NOW, THEREFORE, BE IT RESOLVED that the Weslaco City Commission is committed to the Expansion of The Weslaco Mid Valley Airport by expanding the runway to 6,000 feet and widening the runway to 75 feet;

PASSED AND APPROVED by the City of Weslaco, Texas on this 6th day of April, 2010.

CITY OF WESLACO
/s/ Buddy de la Rosa, R. Ph.
MAYOR

ATTEST:

/s/ Amanda C. Elizondo, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

Mr. Olivares recommended including the economic impact analysis to demonstrate the commitment of certain funds to make the road improvements to and around the airport.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to approve and adopt Resolution No. 2010-06. Motion carried unanimously.

- B. Discussion and consideration of the final plat of Ochoa Medical Plaza, being a 3.57 acre tract of land, being 2.65 of the Jo-Lene Addition No. 2 and 0.92 acre tract of land out of Farm Tract 700, West Tract Subdivision, Hidalgo County, Texas located at the southeast corner of Airport Drive and 10th Street. (Requested by Alfonso & Yolanda Ochoa) Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve the final plat of Ochoa Medical Plaza. Motion carried unanimously.

- C. Discussion and consideration of the final payment to Alcocer Garcia Associates in the amount of \$1,600.00 for architectural services rendered in connection with the City of Weslaco Public Facilities Building. Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve final payment to Alcocer Garcia Associates for \$1,600.00. Motion carried unanimously.

- D. Discussion and consideration to authorize the submission of an application to the International City Management Association (ICMA) Local Government Recognition to qualify the City of Weslaco as one of the

communities to provide professional municipal management policies.
Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the item as presented. Motion carried unanimously.

- E. Discussion and consideration regarding a contingency plan for capital improvements to Lift Stations No. 35, 36 & 37 due to severe corrosion and leaks and are necessary for the collection and transportation of wastewater to the South Wastewater Treatment Plant. Possible action.

Filemon Olvera, Project Manager for OMI, made a presentation regarding the conditions of Lift Station #35, #36 and #37 and stated the pipes were corroded and were leaking. He added the cost to lease skid mounted auxiliary pumps was \$500,000.00 until the lift station were reconditioned. Mr. Olvera stated for the past three years he had reported this issue to the previous City Manager requesting capital improvements. He stated the lease was approximately \$5,000.00 a month for the three main lift stations and the new design was estimated at \$500,000.00.

A short discussion was held and Commissioner Cuellar recommended for the City Attorney and City Manager to look into some coverage on the warranty.

Rolando Cruz, Principal Engineer for Cruz, Hoggan Consultants stated they had looked at lift stations about a year ago. He mentioned the gases were eating up the pipes and concrete. Mr. Cruz stated the bigger cost was the by passing of a major lift station and maintaining the system in operation.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to authorize the City Manager to develop a contingency plan to improve Lift Stations No. 35, 36 and 37 and provide a report to the City Commission. Motion carried unanimously.

- F. Discussion and consideration of Ordinance No. 2010-04 to amend the City of Weslaco 2030 Comprehensive Plan, Annexation Element to include Farm Tract 799 consisting of the following: West Tract W1.20 AC for IMPS -W22.0 AC of FT 799 1.20 AC; West Tract W22.0 AC FT 799 EXC W1.20 AC for IMPS 20.0 AC Net; West Tract S5.96 – 21.19 AC FT 799; West Tract W12.61' AC – E21.19 AC EXC 0.19 AC BNG an IRR TR N219' – W56.38' FT 799 12.42 AC; West Tract N219' – W59-38' BNG an IRR TR-W12.61 AC-E21.53 AC FT 799 0.19 AC. First reading of Ordinance No. 2010-04. (Requested by Mayor Buddy de la Rosa.) Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve and adopt Ordinance No. 2010-04 on first reading. Motion carried unanimously.

- G. Discussion and consideration to amend the Memorandum of Understanding (MOU) between the City of Weslaco and the Texas

Department of Rural Affairs (TDRA) to provide for a thirty (30) day termination notice instead of sixty (60) days and waive the lease payments for the period of June 15, 2009 to August 31, 2009 and authorize the Mayor to execute the amendment. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the Memorandum of Understanding (MOU) and authorize the Mayor to execute the amendment. Motion carried unanimously.

- H. Discussion and consideration to approve the Election Services Contract between the City of Weslaco and the Hidalgo County Elections Department to conduct the Joint City of Weslaco and Weslaco Independent School District General Election of May 8, 2010 and authorize the Mayor to execute the agreement. Possible action

Motion was made by Commissioner Garza and seconded by Mayor Pro-Tem Rodriguez to approve the Election Services Contract and authorize the Mayor to execute the contract. Motion carried unanimously.

- I. Discussion and consideration to financially participate with \$20,000.00 as the city's share with the U.S. 281 Coalition to renew the consulting agreement with Luis Saenz to develop a legislative strategy and a list of local options and other recommendations that will result in new short term and long term revenue options for funding local and state roads in Hidalgo County; funding for freight, passenger rail project and completion of U.S. Highway 281 corridor improvements and to work as a region via the RGV Mobility Taskforce on mutual concerns. (Requested by Mayor Buddy de la Rosa) Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the item based on available funding. Motion carried unanimously.

Mayor de la Rosa moved the order of the agenda and proceeded with the following item.

- K. Discussion and consideration to approve the following budget amendments:
- 1) \$45,000.00 from the Traffic Safety, Exempt Wages, and Non Exempt Wages Line Items to Professional Services, Legal Fees and Equipment. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to approve the budget amendment. Motion carried unanimously.

- 2) \$108,521.00 from the Transfer, Water Delivery Fees, Building Rental, General Government Line Items and other line items to Capital Outlay to purchase water meters and other related equipment. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the budget amendment. Motion carried unanimously.

- L. Discussion and consideration to approve a budget amendment of \$30,000.00 from Travel and Training, Delinquent Tax, and Computer Maintenance Line Items to Computer Vendor Support, Planning Capital Outlay Line Items for the purchase of a plotter, web design/software and station power draft. Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve the budget amendment. Motion carried unanimously.

- M. Discussion and consideration of final payment in the amount of \$73,393.00 to the Reyna Family Development, Ltd. for the installation of a sanitary sewer force main line at the City of Weslaco Lift Station No. 27 as per the agreement between the City of Weslaco and Reyna Family Development, Ltd. Possible action. (This item was requested by Commissioners: Robert J. Garza and Lupe Rivera)

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the final payment.

Mayor de la Rosa read a section of the existing contract between the City of Weslaco and Reyna Family Development and stated that the contract asked for the City Engineer to review the invoices.

Mr. Olivares responded that the City Engineer was in the process of reviewing the plans and upon final review he would be able to release the check.

Commissioner Garza amended his motion to allow the City Engineer to review the plans and if it met his approval and the work was completely done then the city could release the check. Commissioner Cuellar accepted the amendment.

Mayor de la Rosa stated the motion was amended to allow the City Engineer to review all requests for payment to be in compliance with the specifications of the contract before payment was released. He pointed out if everything complied with the motion then the city could release payment up to \$73,393.00 to the Reyna Family Development.

Motion carried unanimously.

Mayor de la Rosa then proceeded with the following item.

- J. Presentation by the Planning and Code Enforcement Interim Director regarding a comprehensive report on the installation of street lights within the City of Weslaco and update on the installation of the street lights at Garden Terrace Subdivision. (This item was requested by Mayor Buddy de la Rosa and Commissioner Patrick B. Kennedy). Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the installation of the streetlights at Garden Terrace Subdivision only.

Mr. Rodriguez provided a handout and highlighted the City of Weslaco's Streetlight Request Policy. No discussion was held.

Motion carried unanimously.

IX. EXECUTIVE SESSION

At 7:50 p.m., Tuesday, April 6, 2010, Mayor de la Rosa announced the City Commission would convene in executive session to discuss the following items and recessed the regular meeting.

At 8:23 p.m., Tuesday, April 6, 2010, Mayor de la Rosa announced the City Commission had completed its executive session and declared the regular meeting opened to the public.

- A. Economic Development - Discussion with the City Manager regarding an economic development project that would require a third amendment to the Sales Tax Refund Agreement for Retail Facility redevelopment and expansion between the City of Weslaco and SDI Weslaco Holdings, LLC. Possible action of what is discussed in executive session.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Rivera to approve the third amendment to the Sales Tax Refund Agreement for Retail Facility between the City of Weslaco and SDI Weslaco Holdings, LLC, to assign to Academy, LTD the portion of incentives relating to the Academy site and authorize the Mayor to execute the Amendment. Motion carried unanimously.

- B. Potential Litigation – Discussion with City Attorney regarding a notice of a claim sent by L&G Concrete Construction, Inc. on the Weslaco Public Facilities Building. Possible action of what is discussed in executive session.

Mayor de la Rosa announced no action was required on this item and stated the City Attorney would propose certain recommendations to the City Commission.

- C. Land Acquisition – Discussion with the City Attorney regarding the acquisition of real property for utility purposes on FM 1015. Possible action of what is discussed in executive session.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to authorize the City Attorney to prepare the documents necessary to purchase the fee simple title to a 0.177 acre tract of land out of Farm Tract 1019 out of West and Adams Tract Subdivision owned by Barbara Montano for the fair market value. Motion carried unanimously.

- D. Land Acquisition - Discussion with the City Attorney regarding Resolution No. 2010-07 declaring the necessity for acquiring by condemnation the Fee Simple Title to Certain described real property, for street right-of-way and signage purposed for the North Bridge Street expansion needs and declaring the condemnation of said real property to proceed. Possible action of what is discussed in executive session.

Motion was made by Commissioner Garza and seconded by Commissioner Cuellar to approve Resolution No. 2010-07 declaring the necessity for acquiring by condemnation of the Fee Simple Title to certain described real property, for street right-of-way and signage purposes for the North Bridge Street expansion needs and ordering the condemnation of said real property to proceed. Motion carried unanimously.

For the record, Resolution No. 2010-07 reads as follows:

RESOLUTION NO. 2010-07

THE STATE OF TEXAS	§	A RESOLUTION OF THE CITY OF WESLACO, TEXAS DECLARING THE NECESSITY FOR ACQUIRING BY CONDEMNATION THE FEE SIMPLE TITLE TO
COUNTY OF HIDALGO	§	CERTAIN DESCRIBED REAL PROPERTY FOR STREET RIGHT OF WAY PURPOSES AND SIGNAGE FOR THE
CITY OF WESLACO	§	NORTH BRIDGE STREET EXPANSION NEEDS AND ORDERING THE CONDEMNATION OF SAID REAL PROPERTY TO PROCEED.

WHEREAS, the City Commission of the City of Weslaco, Texas has heretofore determined to acquire the fee simple title necessary for the North Bridge Street expansion needs; and

WHEREAS, an independent professional appraisal report of the subject property has been submitted to the City, and the City Manager has accordingly established and approved a certain amount determined to be just compensation for that parcel, pursuant to the authority previously granted him by the City Commission of the City of Weslaco; and

WHEREAS, an official written offer based upon the amount determined to be just compensation has been transmitted to the owners of the property described herein, and the owners have been unable to agree with the City of Weslaco upon the property's fair cash market value and further negotiations for settlement have become futile and impossible; and

WHEREAS, the City of Weslaco has complied with all prerequisites of the law, and condemnation has become necessary in order to acquire the unencumbered fee simple title, attached EXHIBIT "A"; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, HIDALGO COUNTY, TEXAS

1. That the official offer by the City of Weslaco for the land described in EXHIBIT "A" in the amount of \$375,000.00 Dollars, is hereby confirmed;
2. That it is hereby determined that the City of Weslaco has in fact transmitted a bona fide offer to the property owner, in accord with the laws of the State of Texas for the property described in EXHIBIT "A", and the owner of the property and the City of Weslaco have been unable to agree and cannot agree upon the value of the land or the damages to be paid and further settlement negotiations have become futile and impossible.

3. That public necessity requires the acquisition of the unencumbered property described in Exhibit "A", North Bridge Street expansion and signage needs in the City of Weslaco, Texas; and that public necessity and convenience require the condemnation of this property in order to acquire it for such purpose.
4. That the City Attorney is hereby authorized and directed to institute proceedings in eminent domain against the owners of the property described in EXHIBIT "A", and against all other owners lien holders, and other holders of an interest in the property, in order to acquire the fee simple title to the property, in and to the property described in EXHIBIT "A" and being situated in the City of Weslaco, Hidalgo County, Texas.
5. That this Resolution shall take effect from and after its passage.

IN TESTIMONY WHEREOF, witness our hands on this 6th day of April, 2010.

CITY OF WESLACO

/s/ Buddy de la Rosa, R. Ph.
MAYOR

ATTEST:

/s/ Amanda C. Elizondo, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

EXHIBIT "A"

West Tract an Irrigation Tract
N 184.89' – E 150' N of
Expressway FT 39
0.59 ac net

- E. Pending Litigation – Discussion with the City Attorney regarding Cause No. C-886-10-H, District Court, Hidalgo County, Texas, 389th District Court of Texas Citation MARIA GUADALUPE PAZ vs. THE CITY OF WESLACO, TEXAS. Possible action of what is discussed in executive session.

Motion was made by Commissioner Tafolla and seconded by Commissioner Cuellar to authorize the City Attorney to file an answer in C-886-10-H styled Maria Guadalupe Paz, Individually and next of friend of Oscar Paz, minor vs. the City of Weslaco. Motion carried unanimously.

There being no further business to discuss, Mayor de la Rosa adjourned the meeting.

CITY OF WESLACO

MAYOR, Buddy de la Rosa

ATTEST:

CITY SECRETARY, Amanda C. Elizondo

MAYOR PRO-TEM, Rene Rodríguez, Jr.

COMMISSIONER, Robert J. Garza

COMMISSIONER, J. F. "Johnny" Cuellar

COMMISSIONER, Gerardo "Jerry" Tafolla

COMMISSIONER, Lupe V. Rivera