



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, OCTOBER 17, 2017**

On Tuesday, October 17, 2017, at 5:34 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	Gerardo “Jerry” Tafolla
Commissioner	Leo Muñoz
Commissioner	Greg Kerr
Commissioner	Olga Noriega
Commissioner	Letty Lopez
Commissioner	Josh Pedraza
City Manager	Mike R. Perez
City Secretary	Elizabeth Walker
City Attorney	Juan E. Gonzalez

Also present: Sonia Flores, Assistant Finance Director; Veronica Ramirez, Human Resources Director; Jose Pena, Information Technology Director; Olga Garza, Assistant Public Works Director; Tony Lopez, Fire Chief; Ted Walensky, Assistant Police Chief; Mardoqueo Hinojosa, Planning and Code Enforcement Director and City Engineer; David Arce, Parks and Recreation Director; Martin Mata, Assistant Library Director; Joe Pedraza, Health Official; 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, October 13, 2017.

B. Invocation.

Pastor Raja Masilamony, Seventh Day Adventists Church, led in the invocation.

C. Pledge of Allegiance.

The Mayor led the Pledge of Allegiance and Texas Flag.

D. Mayoral recognition.

There were none presented.

E. Roll Call.

Elizabeth Walker, City Secretary, called the roll noting a perfect attendance and a quorum present.

II. PUBLIC COMMENTS

There were none received.

III. PUBLIC HEARING

Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez, moved to open the public hearings at 5:37 p.m. The motion carried unanimously; Mayor Pro-Tem Tafolla was present and voting.

Mayor Suarez noted the stipulation that the public hearing be held no sooner than 6:00 p.m. for item A opened items B and C to the public.

B. To solicit input on behalf of Salomon A. Pena to obtain a Wine and Beer Retailers Off-Premise Permit at 525 N. Cantu also being Lot 7, Block 5, Villa Vista #2, Weslaco, Hidalgo County, Texas.

No comments received.

C. To solicit input on behalf of Elsa Garcia to rezone 1513 S. Westgate Drive also being 2.21 acres out of Farm Tract 666, West Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling to R-2 Duplex and Apartments District.

Linda Tiramina, 1701 W. Westgate, submit a petition with eighty signatures, opposing because of drainage issues and added traffic concerns in the area.

Barbara Hills, Robert McAllen, Dawn Miller, Richard Hill, Trey Smith, Angelica and Zach Rodriguez, and Buddy Alt, similarly objected to the request, asking the character of the area be maintained as residential. David Salinas added if rezoned to consider denying any request for a variance, preserving right-a-way along the drain ditch. Mr. Alt suggested a detention pond.

Ernesto and Rosa Garcia, applicants, requested favorable consideration stating there is a demand for multi-family use.

The time being 6:02 p.m., Mayor Suarez announced the public hearing for item A open to the public.

A. To solicit input in compliance with the Five (5) Year Consolidated Plan for Community Planning and Development (CDBG) under the Urban County Program for Fiscal Years 31-35 (2018-2022).

David Salinas asked consideration of funds for street improvements for Westgate; the Mayor stated the City would confirm if that project qualifies.

Mayor Pro-Tem Tafolla, seconded by Commissioner Muñoz, moved to close the public hearing at 6:04 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

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 October 3, 2017. (Staffed by City Secretary's Office.)

B. Approval on second and final reading of the following:

1) Ordinance 2017-48 amending Ordinance 1998-27, the City Telecommunication Ordinance, codified as Chapter 130 and adding uniform, nondiscriminatory requirements for users of City right-of-way and authorize the Mayor to execute any related documents. (First reading held October 3, 2017; Staffed by Planning and Code Enforcement Department.)

2) Ordinance 2017-49 amending Ordinance 320, the City Zoning Ordinance, codified as Chapter 150 adding a new Division 10 ("Overlay Design District") to section 150-3 ("Districts"), and adding section 150-11.1 Design District and authorize the Mayor to execute any related documents. (First reading held October 3, 2017; Staffed by Planning and Code Enforcement Department.)

3) Ordinance 2017-50 authorizing a negotiated resolution with Texas Gas Service regarding the company's 2017 cost of service adjustment ("COSA") filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; providing for the recovery of the City's reasonable and necessary rate case expenses; adopting a savings clause and other matters as ordained. (First Reading held October 3, 2017; Staffed by Finance Department.)

C. Approval of payment to Smartcom Telephone, LLC for annual local and long-distance voice services and authorize the Mayor to execute any related documents. (Staffed by IT Department.)

D. Authorization to submit an application renewing the ERate 2018-2019 Grant program, accept funds upon award, accept additional funding if awarded during the grant year, and authorize the Mayor to execute any related documents. (Staffed by the Library Department.)

E. Authorization to allow the Mayor Joe V Sánchez Public Library to implement a Food for Fines program supporting local food drives and the RGV Food Bank during the Holiday Season and authorize the Mayor to execute any related documents. (Staffed by the Library Department.)

F. Approval of the annual request to host the 2017 Mid-Valley Christmas Lighted Parade on Saturday, December 9, 2017 along with Santa Dash fun run hosted by Mid-Valley Events from 4:00 p.m. – 9:00 p.m. on Texas Boulevard from Pike Boulevard to Sixth Street, approve the use of City Hall parking lot to host a music event after the parade, 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. (Staffed by Parks and Recreation Department.)

G. Approval of the request from H-E-B to place banner promoting Feast of Sharing at intersection of Texas and Pike Boulevards up to three weeks before the event on December 16, 2017, and authorize the Mayor to execute any related documents as may be required by the Texas Department of Transportation. (Staffed by Parks and Recreation Department.)

Mayor Pro-Tem Tafolla, seconded by Commissioner Kerr, moved to approve consent agenda items A through G as presented. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the ordinances are as follows:

ORDINANCE NO. 2017- 48

AN ORDINANCE AMENDING ORDINANCE NUMBER 1998-27, THE CODE OF ORDINANCES OF THE CITY OF WESLACO CODIFIED AS CHAPTER 130 TELECOMMUNICATIONS BY ADDING UNIFORM, NONDISCRIMINATORY REQUIREMENTS FOR USERS OF CITY RIGHT-OF-WAY; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY, AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of Weslaco has a duty and obligation to promote the health, safety and welfare of its citizens and visitors

WHEREAS, regulation of the City of Weslaco's public right-of-way is necessary to the health, safety and welfare Weslaco citizens and visitors,

WHEREAS, the City of Weslaco, in compliance with the Constitution of the State of Texas, demands just compensation when private parties endeavor to use public land,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF WESLACO, TEXAS, THAT:

SECTION I: The Code of Ordinances, City of Weslaco, Chapter 130 Telecommunications, is hereby amended by creating sections 130-28 through 130-40.

SECTION II: The Code of Ordinances, City of Weslaco, Chapter 130 Telecommunications, is hereby amended by adding the following provisions such that sections 130-28 through 130-39 shall read:

“Sec. 130-28 Ground Equipment.

- (a) Ground Equipment near street corners and intersections: Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284.102 (1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum line of sight required to add to safe travel of vehicular and pedestrian traffic and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.
- (b) *Ground Equipment near Municipal Parks.* For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the User shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless

approved by the City Manager or designee and Parks Director in writing.

- (c) In accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City's designee may deny a request for a proposed Location if the User installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more.

Sec. 130-29 Concealment.

(a) Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284.105.

(b) It is also the City's preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

(c) The Network Node facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Sec. 130-30 Allowed Colors.

Colors in Historic Districts and Design Districts must be approved by the City Manager or designee from a palette of approved colors. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous. Colors in areas other than in Historic Districts and Design Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

Sec. 130-31 Vacation, Discontinuance, Removal or Relocation.

- (a) In the event that city closes, abandons, or vacates any rights-of-way that contains facilities, any such closure, abandonment, vacation, or conveyance effectuating same shall be subject to, and conditioned upon, the rights of the users of such rights-of-way.
- (b) In accordance with applicable law, upon the revocation, termination, or expiration and non-renewal of an applicable franchise agreement, license, or permit, either (a) by mutual agreement of city and a user, (b) by the user's acquiescence or failure to challenge same, or (c) by a final order of a court which a user either does not appeal or from which there is no further right of appeal, then the following shall occur: the user shall immediately discontinue the use of its facilities and all rights of said user to use the streets and public ways shall cease. The user, at the direction of city, shall remove its facilities, including all supporting structures, poles, transmission and distribution portions of the system and other appurtenances, fixtures or property from the streets and public ways, in, over, under, along, or through which they are installed within six months of the revocation, termination, or expiration except that (a) user may abandon its facilities in place with city's consent, and (b) user cannot remove underground facilities without city's consent in advance, which shall not be unreasonably withheld. Prior to any removal the user shall notify city and persons owning property abutting public ways where removal will occur. The user shall also restore any property, public or private, to the condition in which it existed prior the installation, erection or construction of its facilities, including any improvements made to such property subsequent to the construction of its facilities. Restoration of streets and city property, including, but not limited to, the public ways, shall be in accordance with the directions and specifications of City's Planning & Code Enforcement Department, and all generally applicable laws, ordinances and generally applicable regulations, at the user's sole expense. If such removal and restoration is not completed within six months after the revocation, termination, or expiration, all of the user's property remaining in the affected streets and public ways shall, at the option of city, be deemed abandoned and shall, at the option of city, become its property or city may obtain a court order compelling the user to remove same. In the event the user fails or refuses to remove its facilities or to satisfactorily restore all areas to the condition in which they existed prior to the original construction of the facilities, city, at its option, may perform such work and if such work is performed within four years of the revocation, termination or expiration of the applicable franchise agreement, license, or permit collect the costs thereof from the user.

No surety on any performance bond shall be discharged until city has certified to the user in writing that the facilities have been dismantled, removed, and all other property restored, to the satisfaction of city.

(c) Removal or Relocation by User

- (1) If the User removes or relocates a Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, it shall notify the City Manager's or designee in writing not less than 10 business days prior to removal or relocation. User shall obtain all Permits required for relocation or removal of its Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment prior to relocation or removal.
- (2) The City shall not issue any refunds for any amounts paid by User for Micro Network Node, Network Node facilities, Node Support Poles or related ground equipment that have been removed.

(d) Removal or Relocation Required for City Project

- (1) In accordance with Chapter 284, Sec. 284.107, except as provided in existing state and federal law, a User shall relocate or adjust Micro Network Node, Network Node, Node Support Pole and related ground equipment in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way
- (2) User understands and acknowledges that the City may require User to remove or relocate its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or any portion thereof from the Right-of-Way for City construction projects as allowed by state and federal law, including the common-law.
- (3) User shall, at the City Manager's or designee's direction, remove or relocate the same at User's sole cost and expense, except as otherwise provided in existing state and federal law, whenever the City Manager or designee reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project of a street or public rights-of-way to enhance the traveling public's use for travel and transportation.
- (4) If User fails to remove or relocate the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof as requested by the City Manager or designee within 90 days of User's receipt of the request, then the City shall be entitled to remove the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof at User's sole cost and expense, without further notice to User.
- (5) User shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof.

(e) Removal Required by City for Safety and Imminent Danger Reasons.

- (1) User shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager or designee if the City Manager or designee reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) User fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law. If the City Manager or designee reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the User's sole cost and expense.
- (2) The City Manager or designee shall provide 90 days written notice to the User before removing a Micro Network Node, Network Node, Node Support Pole and related ground equipment under this Section, unless there is imminent danger to the public health, safety, and welfare.
- (3) User shall reimburse City for the City's actual cost of removal of Micro Network Node, Network Node, Node Support Pole and related ground equipment within 30 days of receiving the invoice from the City.

(e) Signal Interference with City's Communications Infrastructure Prohibited.

- 1) In the event that Provider's network nodes interferes with the City's

traffic signal system, public safety radio system, or other City communications infrastructure operating on spectrum where the City is legally authorized to operate, Provider shall promptly cease operation of the network nodes causing said interference upon receiving notice from the City and refrain from operating. Provider shall respond to the City's request to address the source of the interference as soon as practicable, but in no event later than twenty-four(24) hours of receiving notice.

2) Protocol for Responding to Event of Interference. The protocol for responding to events of interference will require Provider to provide the City an Interference Remediation Report that includes the following items:

- A. Remediation Plan. Device a remediation plan to stop the event of inference;
- B. Time Frame for Execution. Provide the expected time frame for execution of the remediation plan; and
- C. Additional Information. Include any additional information relevant to the execution of the remediation plan.

In the event that interference with City facilities cannot be eliminated, Provider shall shut down the network nodes and remove or relocate the network node that is the source of the interference as soon as possible to a suitable alternative location made available by City.

3) Following installation or modification of a network node, the City may require provider to test the network node's radio frequency and other functions to confirm it does not interfere with the City's Operations.

Sec. 130-32 Installation and Inspections.

- (a) User shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner and in accordance with the requirements promulgated by the City Manager or designee, as such may be amended from time to time. User's work shall be subject to the regulation, control and direction of the City Manager or designee. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, applicable county, the state, and the United States ("Laws").
- (b) The City Manager or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way as the City Manager or designee deems appropriate without notice. If the inspection requires physical contact with the Micro Network Node, Network Node, Node Support Poles or related ground equipment, the City Manager's or designee or designee shall provide written notice to the User within five business days of the planned inspection. User may have a representative present during such inspection.

In the event of an emergency situation, the City may, but is not required to, notify Provider of an inspection. The City may take action necessary to remediate the emergency situation and the City shall notify Provider as soon as practically possible after remediation is complete.

Sec. 130-33 As-Built Maps and Records.

User shall maintain accurate maps and other appropriate records of its Network Node facilities, Node Support Poles and related ground equipment as they are actually constructed in the Rights-of-Way, including, upon request, the use of Auto CAD/GIS digital format. User will provide additional maps to the City upon request.

Provider shall maintain a list of its network nodes and node support poles and provide City an Inventory of locations within ten (10) days of installation. The Inventory of network nodes and node support poles shall include GIS coordinates, date of installation, City pole ID number (if applicable), type of pole used for installation, pole owner, and description/type of installation for each network node and node support pole installation.

Upon City's written request, Provider shall provide a cumulative Inventory within thirty (30) days of City's request. Concerning network nodes and node support poles that become inactive, the Inventory shall include the same information as active installations in addition to the date the network node and/or node support pole was deactivated and the date the network node and/or node support pole was removed from the Right-of-Way. City may compare the Inventory to its records to identify any discrepancies.

Sec. 130-34 Drug Policy.

It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by User's employees, contractors, subcontractors, sub-User's, or vendors while on City rights-of-way is prohibited.

Sec. 130-35 Ownership.

No part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment erected or placed on the Right-of-Way by User will become, or be considered by the City as being affixed to or a part of, the Right-of-Way. All portions of the Micro Network Node, Network Node, Node Support Pole and related ground equipment constructed, modified, erected, or placed by User on the Right-of-Way will be and remain the property of User and may be removed by User at any time, provided the User shall notify the City Manager or designee prior to any work in the Right-of-Way.

Sec. 130-36 Signage.

- (a) User shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the Network Node facility that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g. RF ground notification signs) or the City Manager or designee.
- (b) Except as required by Laws or by the Utility Pole owner, User shall not post any other signage or advertising on the Micro Network Node, Network Node, Node Support Pole, Service pole or Utility Pole.

Sec. 130-37 Graffiti Abatement.

As soon as practical, but not later than fourteen (14) calendar days from the date User receives notice thereof, User shall remove all graffiti on any of its Micro Network Node, Network Node, Node Support Pole, and related ground equipment located in the Right of Way. The foregoing shall not relieve the User from complying with any City graffiti or visual blight ordinance or regulation.

Sec. 130-38 Restoration.

User shall repair any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from User's removal or relocation activities (or any other of User's activities hereunder) within 10 calendar days following the date of such removal or relocation, at User's sole cost and expense, including restoration of the Right-of-Way and such property to substantially the same condition as it was immediately before the date User was granted a Permit for the applicable Location or did the work at such Location (even if User did not first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the City Manager designee.

Sec. 130-39 User's Responsibility.

User shall be responsible and liable for the acts and omissions of User's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-User's and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were User's acts or omissions."

Sec. 130-40 Reservation of Rights.

- 1. The City reserves the right to install, and permit others to install, utility facilities in the Rights-of-Way. In permitting such work to be done by others, the City shall not be liable to Provider for any damage caused by those persons or entities.
- 2. The City reserves the right to locate, operate, maintain, and remove City traffic signal poles in the manner that best enables the operation of its traffic signal system and protect public safety.
- 3. The City reserves the right to locate, operate, maintain, and remove any City pole or structure located within the right-of-way in the manner that best enables the City's operations.

SECTION III: The City Secretary of the City of Weslaco is hereby authorized and directed to cause the language in Chapter 130, the Weslaco Code of Ordinances, as amended by Section 1, hereinabove, to be published in the appropriate location in the said Code of Ordinances.

SECTION IV: This Ordinance shall be and remain in full force and effect from and after its passage by the City Commission, and execution by the Mayor.

SECTION V: If any part or parts of this Ordinance are found to be invalid or unconstitutional by a court having competent jurisdiction, then such invalidity or unconstitutionality shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect, and to that extent this Ordinance is considered severable.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 3rd day of October, 2017.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 17th day of October, 2017.

ORDINANCE NO. 2017- 49

AN ORDINANCE AMENDING ORDINANCE NUMBER 320, THE CODE OF ORDINANCES OF THE CITY OF WESLACO CHAPTER 150 ZONING ORDINANCE BY ADDING A NEW DIVISION 10 (“OVERLAY DESIGN DISTRICT”) TO SECTION 150-3 (“DISTRICTS”), AND ADDING SECTION 150-11.1 TO CHAPTER 150 (“ZONING”) TO CREATE A DESIGN DISTRICT; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY, AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of Weslaco is committed to maintaining a beautiful, aesthetically pleasing environment that welcomes visitors,

WHEREAS, a clean, well-maintained City promotes economic development and increases property values,

WHEREAS, the City of Weslaco finds that the City is situated in a geographically unique location, and has features attributed to a rich cultural history,

WHEREAS, the City seeks to preserve the cultural history and welcoming aesthetics,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF WESLACO, TEXAS, THAT:

SECTION I: The Code of Ordinances, City of Weslaco, Chapter 150 (“Zoning”), Section 150-3 (“Districts”) is hereby amended to add new division 10, and is hereby amended by adding a section 150-11.1 (“Design District”), which shall read in full as follows:

SECTION 150-11.1. DESIGN DISTRICT

Sec. 150-11.1. Overlay Design District Established.

An Overlay Design District (“Design District”) is hereby established within the City of Weslaco encompassing all land within the territorial limits of the City of Weslaco, Hidalgo County, Texas.

The overlay district established in this Division supersedes, modifies and/or supplements any conflicting requirements and limitations of Section 150.11.1 (Design District) otherwise applicable to any underlying base district. All of the 150.11.1 requirements and limitations of any underlying base district that do not conflict with those of the overlay district shall continue to apply. In the event of any conflict between the overlay district requirements or limitations and those of 150.11.1, the overlay district requirements or limitations shall prevail. However, in the event of any

conflict between the overlay design district requirements or limitations and those of Chapter 149 ("Historical Preservation"), the Chapter 149 requirements or limitations shall prevail.
Sec. 138-342. Design Manual Fully Incorporated.

The "Design Manual for the Installation of Network Nodes and Node Support Poles Pursuant to Tex. Loc. Gov. Code Chapter 284" is fully incorporated by reference herein as if fully set forth and applies to the entirety of the Design District.

SECTION II: The City Secretary of the City of Weslaco is hereby authorized and directed to cause the language in Chapter 150, Section 150-3, Division 10, and adding Section 150-11.1 of the Weslaco Code of Ordinances, as amended by Section 1, hereinabove, to be published in the appropriate location in the said Code of Ordinances.

SECTION III: This Ordinance shall be and remain in full force and effect from and after its passage by the Board of Commissioners, and execution by the Mayor.

SECTION IV: If any part or parts of this Ordinance are found to be invalid or unconstitutional by a court having competent jurisdiction, then such invalidity or unconstitutionality shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect, and to that extent this Ordinance is considered severable.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 3rd day of October 2017.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 17th day of October 2017.

ORDINANCE NO. 2017-50

AN ORDINANCE ADOPTING UNANIMOUS SETTLEMENT AGREEMENT, SETTING RATES AND ESTABLISHING TARIFFS FOR THE PROVISION OF NATURAL GAS SERVICE BY TEXAS GAS SERVICE COMPANY, A DIVISION OF ONE GAS, INC., WITHIN THE CITY OF WESLACO; DECLARING THIS ORDINANCE TO BE A FINAL DETERMINATION OF RATES; REQUIRING ACCEPTANCE BY TEXAS GAS SERVICE COMPANY OF THE RATES PRESCRIBED HEREIN; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESLACO:

PART 1. The Council finds:

- (A) On June 15, 2017, Texas Gas Service Company ("TGS" or "Company") filed with the City of Weslaco ("City") and the other affected Rio Grande Valley Service Area municipalities its Statement of Intent to increase its annual revenue by \$5.17 million within its Rio Grande Valley Service Area ("RGVSA").
- (B) In accordance with the Gas Utility Regulatory Act, Utilities Code, §104.107, the City suspended the TGS' proposed effective date of July 20, 2017, for a period not to exceed 90 days from TGS' proposed effective date, to October 18, 2017.
- (C) TGS provided public notice of its proposed increase in rates in accordance with the Gas Utility Regulatory Act.
- (D) A base rate revenue increase in the amount of \$4.1 million per annum is reasonable and consistent with the requirements of the Gas Utility Regulatory Act, will permit TGS a reasonable opportunity to earn a reasonable return on its invested capital, and will yield a fair return upon the adjusted value of TGS' property used and useful in rendering service to the public.

- (E) TGS and the City agree to implement the Company's Pipeline Integrity Testing Rider, including provisions that require TGS to file its annual reconciliation report on or before February 1 and allows for a 60-day review period.
- (F) TGS and the City agree to continue the Energy Efficiency Program reflected in Rate Schedule EEP and Rate Schedule IEE within the City.
- (G) The tariffs and specific rates and charges, and customer service rules appended to this ordinance are reasonable and in the public interest.
- (H) The costs of the City's rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise and represent the City in these rate-making proceedings as set out in the settlement agreement are reasonable and necessary expenses, as are the rate case expenses incurred by TGS in this proceeding.

PART 2. The City is the regulatory body with exclusive original jurisdiction over the rates, operations, and services of Texas Gas Service Company, a division of ONE Gas, Inc., within the municipality.

PART 3. The Unanimous Settlement Agreement ("Settlement Agreement") entered into between TGS and the City and appended to this ordinance as "1" is in the public interest and is adopted by this ordinance.

PART 4. An increase in the amount of \$4.1 million in TGS' annual base-rate revenue, as determined on a systemwide basis for the RGVSA, is approved within the City.

PART 5. Except to the extent approved in this ordinance and the settlement agreement appended to this ordinance as "1", the City denies TGS' request for rates, tariffs, and charges as proposed in TGS' Statement of Intent and rate increase request filed with the City on or about June 15, 2017.

PART 6. The rates, tariffs, charges, schedules, and service rules appended to this ordinance as "2" for natural gas service provided by TGS within the City, are reasonable and are hereby approved.

PART 7. The proposed depreciation and amortization rates set forth on the Depreciation and Amortization Expense summary appended to this ordinance as "2" are reasonable and hereby approved by this ordinance.

PART 8. The costs of rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise, and represent the City in these rate-making proceedings shall be reimbursed to the City by TGS no later than 30 days after the effective date of this ordinance.

PART 9. Nothing in this ordinance shall be construed as limiting or modifying in any manner the right and power of the City under the law to regulate the rates and charges of TGS Company.

PART 10. This ordinance takes effect on October 18, 2017. Should the City not approve this Ordinance in time for TGS to implement rates for meters read on or after October 18, 2017, TGS's rates as agreed herein, will be established as temporary rates for service on and after that date until such time as the City takes final action to approve this Ordinance no later than October 27, 2017.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 3rd day of October, 2017.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 17th day of October, 2017.

CITY OF WESLACO
/s/David Suarez, MAYOR

Attest:
/s/Elizabeth M. Walker, CITY SECRETARY

Approved as to form:
/s/Juan E. Gonzalez, CITY ATTORNEY

V. APPOINTMENTS

A. Discussion and consideration to approve Resolutions 2017-67 and 2017-68 appointing two members to expired terms on the Board of Adjustments & Appeals Zoning Ordinance and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement.)

Commissioner Noriega, seconded by Commissioner Kerr, moved to approved Resolutions 2017-67 and 2017-68 reappointing Andy Veliz and Frank Castellanos to the Board of Adjustments and Appeals Zoning Ordinance. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the resolutions are as follows:

RESOLUTION NO. 2017-67

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE BOARD OF ADJUSTMENTS & APPEALS-ZONING ORDINANCE.

WHEREAS, the City of Weslaco created and established the Board of Adjustments & Appeals-Zoning Ordinance.

WHEREAS, the term of the members of this board are for two years; and

WHEREAS, the Board of Adjustments & Appeals-Zoning Ordinance members shall serve with neither compensation nor term limits; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Andy Veliz is appointed to serve an expired term on the Board of Adjustments & Appeals-Zoning Ordinance and the term will expire on the 2nd day of November 2019.

PASSED AND APPROVED on this 17th day of October 2017.

RESOLUTION NO. 2017-68

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE BOARD OF ADJUSTMENTS & APPEALS-ZONING ORDINANCE.

WHEREAS, the City of Weslaco created and established the Board of Adjustments & Appeals-Zoning Ordinance.

WHEREAS, the term of the members of this board are for two years; and

WHEREAS, the Board of Adjustments & Appeals-Zoning Ordinance members shall serve with neither compensation nor term limits; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Frank Castenillos is appointed to serve an expired term on the Board of Adjustments & Appeals-Zoning Ordinance and the term will expire on the 6th day of November 2019.

PASSED AND APPROVED on this 17th day of October 2017.

CITY OF WESLACO
/s/David Suarez, MAYOR

Attest:
/s/Elizabeth M. Walker, CITY SECRETARY

Approved as to form:
/s/Juan E. Gonzalez, CITY ATTORNEY

VI. OLD BUSINESS

A. Discussion and consideration of playscape at Pecan Grove Park and authorize the Mayor to execute any related documents. Possible action. (There was no action on this item on September 5, 2017; Staffed by Parks and Recreation Department.)

Mayor Pro-Tem Tafolla, seconded by Commissioner Pedraza, moved to approve.

Mike Perez, City Manager, stated a letter had been received from attorney John T. Jones proposing to convey a “deed without warranty” for a cash price of \$12,450.00. The cash price would offset cost of oversized waterlines done at the time of development of the property. Staff recommends approval of the cash price of \$12,450.00 for the acquisition of approximately 4.5 acres.

Mayor Pro-Tem rescinded his motion.

Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez, moved to accept the offer from property owner for the conveyance of a deed without warranty for a cash price of \$12,450.00. The motion carried unanimously; Mayor Suarez was present and voting.

B. Discussion and consideration to approve the FY 2017-2018 Proposed Street Improvement Project and authorize the Mayor to execute any related documents. Possible action. (There was no action on this item September 19, 2017; Staffed by Public Works.)

Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez, moved to approve.

The City Manager recommended \$100,000.00 be removed from the street improvements project to fund replacing drainage grates, with Eighth Street paving scheduled Spring Break to minimize disruption at Weslaco East High School, and proceed with the street improvements list as presented until funds are depleted.

In response to Commissioner Muñoz, Woodland Subdivision (Westgate Drive to Spicewood) received patching five years ago; Mayor Pro-Tem Tafolla noted \$263,000.00 of improvements dedicated to Woodland Subdivision alone and suggested monies be distributed to other needed streets; Commissioner Muñoz suggested to add Louisiana Avenue to the street improvement list. Mayor Suarez stated he would not want any funds taken from streets, recommending instead funds to replace storm inlets come from any City savings.

The City Manager stated two workshops could be scheduled in November for drainage and streets and at the request of Commissioner Lopez include status on railroad crossing improvements.

Mayor Suarez stated there would be no action at this time.

VII. NEW BUSINESS

A. Discussion and consideration after public hearing on behalf of Salomon A. Pena to obtain a Wine and Beer Retailers Off-Premise Permit at 525 N. Cantu also being Lot 7, Block 5, Villa Vista #2, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa, City Engineer/Director of Planning and Code Enforcement, stated twenty-nine (29) property owners were notified with no objection received. Planning and Zoning Commission and staff recommended approval as this is a change of ownership and use is existing.

Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez, moved to approve a Wine and Beer Retailers Off-Premise Permit at 525 N. Cantu also being Lot 7, Block 5, Villa Vista #2. The motion carried unanimously; Mayor Suarez was present and voting.

B. Discussion and consideration after public hearing on behalf of Elsa Garcia to approve Ordinance 2017-52 rezoning 1513 S. Westgate Drive also being 2.21 acres out of Farm Tract 666, West Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling to R-2 Duplex and Apartments District. First reading of Ordinance 2017-52. Possible action. (Staffed by Planning and Code Enforcement.)

Commissioner Pedraza, seconded by Commissioner Lopez, moved to approve.

Mardoqueo Hinojosa stated no objection was received from the eleven (11) property owners notified. The property would need to be subdivided and a 75-foot drainage easement will be imposed. The current zoning map designate the area for residential; however, the 2040 future land use map identifies as future drainage.

The City Manager stated this area is proposed as a detention site based on location, estimating it would cost \$1.7 million to acquire and develop for drainage. He recommended to table for executive session for consultation with City Attorney as the current consideration may affect property rights and may be construed as a legal taking.

At 6:46 p.m. Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez moved the item be discussed in executive session. The motion carried unanimously; Mayor Suarez was present and voting. At approximately 6:58 p.m., Mayor Suarez announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

With a motion on the floor, Mayor Suarez called for a vote. The motion failed unanimously; Mayor Suarez was present and voting.

Mayor Suarez directed the City Manager to evaluate options for the purchase of 13-acres for the development of drainage improvements and bring back to the Commission within 60-days.

C. Discussion and consideration to adopt Ordinance 2017-45, amending Ordinance 2017-06, providing for a new schedule of rates to be charged for certain meter tapping fees and

authorize the Mayor to execute any related documents. First Reading of Ordinance 2017-45. Possible action. (Staffed by Finance Department.)

Sonia Flores, Assistant Finance Director, stated staff recommends reducing meter tapping fees for the 5/8-inch meter from \$739.86 to \$450.00 for inside City limits and from \$832.34 to \$550.00 for outside City limits. The proposed fees are in line with other cities.

Commissioner Pedraza, seconded by Commissioner Lopez, moved to approve Ordinance 2017-45, amending Ordinance 2017-06, providing for a new schedule of rates to be charged for certain meter tapping fees as presented. The motion carried unanimously; Mayor Suarez was present and voting.

D. Discussion and consideration to approve Ordinance 2017-46 amending the Master Fee Schedule with respect to library fees and permit fees, and authorize the Mayor to execute any related documents. First reading of Ordinance 2017-46. Possible action. (Staffed by Finance Department.)

Sonia Flores stated proposed changes to the Master Fee Schedule includes fees by the Library for use of the 3D printer, ten cents per gram, and by the Planning Department for small cell network providers, \$500 for the first five network nodes and \$250 for each additional node. Staff recommends approval.

Commissioner Kerr, seconded by Commissioner Lopez, moved to approve Ordinance 2017-46 amending the Master Fee Schedule with respect to library fees and permit fees. The motion carried unanimously; Mayor Suarez was present and voting.

E. Discussion and consideration to approve a Performance Contracting Agreement with Siemens Industry, Inc. for a turn-key solution to implement capital intensive improvements utilizing energy, operational savings and increased revenue to offset the cost of improvements, and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

Mayor Pro-Tem Tafolla, seconded by Commissioner Noriega, moved to discuss.

The City Manager noted an audit was done to determine energy improvements and advised the roof component was not included based on direction from the Commission workshop; he added the Commission may also be inclined to remove the weatherization component as well.

Chad Nobles, Siemens, presented a finding of the audit that identified improvements in two phases. Phase I includes lighting retrofits, HVAC replacements, weatherization, building envelope-window film; traffic signal retrofits and water meter replacement (AMI). The improvements recommended are because generally equipment is beyond its useful life. Phase II includes roofs, lift stations, pumping systems and Wastewater Treatment Plant.

Mr. Nobles reported seventy random water meters were sampled and he extrapolates 19% loss on residential water consumption; meaning, simply, some people are getting free water—estimating at a loss of \$900,000.00 annually to the City. He stated bids were received for the water meters from Ferguson, Hydropro, and Neptune with City staff favoring the Neptune Mach 10 meter since

it has no moving parts and therefore the lowest life cycle cost. These meters will no longer require manual readings and are warrantied twenty years. He recommended winter months as the best time to replace meters and payments will be made from cost savings commencing 2019 utilizing lease purchase financing that does not affect bond rating.

Commissioners Pedraza did not want to see any more costs to the citizens; Commissioner Noriega countered that citizens will only be charged for what actually using. Commissioner Muñoz noted fees of 10% plus \$22,000.00 per year in addition to the contract management fee and asked the City Manager to negotiate a lower contract. The City Attorney noted some reservations about Sections 12.5 and 8.4. The City Manager recommended time to verify costs for the project to determine the most savings possible and appoint two members of commission to meet with Siemens for negotiations; the City Attorney stated he will incorporate changes to the contract documents.

Mayor Pro-Tem Tafolla, seconded by Commissioner Muñoz, moved that the energy committee meet to verify bids and negotiate project costs. The motion carried unanimously; Mayor Suarez was present and voting.

F. Discussion and consideration to accept the lowest and most advantageous proposal for tax exempt financing of certain equipment required in connection with the Energy Savings Performance Contract with Siemens Industry, Inc. as requested in Request for Proposals No. 2017-18-02, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Finance Department.)

There was no action on this item.

G. Discussion and consideration to purchase a 2018 F-550 Fire Utility Vehicle from Buyboard under the Fire Department Apparatus replacement fund 2017-2018 budget at a cost not to exceed \$225,000.00 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Fire Department.)

Staff recommended approval stating the utility vehicle will have the capability of supporting operations with special light weight breathing apparatus for the department; it is budgeted.

Commissioner Kerr, seconded by Commissioner Noriega, moved to approve the purchase of a 2018 F-550 Fire Utility Vehicle from Buyboard under the Fire Department Apparatus replacement fund 2017-2018. The motion carried unanimously; Mayor Suarez was present and voting.

H. Discussion and consideration to amend the Ground Lease Agreement with the Weslaco Economic Development Corporation, Hangar E-24 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Airport.)

Andrew Muñoz, Aviation Director, requested to modify the Weslaco Economic Development ground lease to incorporate outdated and conflicting references into one agreement that will expire in 2028. The Mid Valley Airport Advisory Board and staff recommended approval.

Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez moved to approve and amend the Ground Lease Agreement with the Weslaco Economic Development Corporation, Hangar E-24 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

I. Discussion and consideration to approve the Economic Development Corporation of Weslaco work plan for fiscal year 2017-2018. Possible action. (Requested by Weslaco Economic Development Corporation.)

Marie McDermott, EDC Director, presented the 2017-2018 work plan, funded by 2% sales tax, estimating \$3,000,246.00 as revenues with total promotion limited to ten percent. The EDC will continue to focus on regionalism, with efforts in downtown and education initiatives.

Commissioner Kerr, seconded by Commissioner Lopez, moved to approve the Economic Development Corporation of Weslaco work plan for fiscal year 2017-2018. The motion carried unanimously; Mayor Suarez was present and voting.

J. Discussion and consideration to approve an Interlocal Agreement for Transportation Services for a regional public transportation system, Valley Metro, in an amount not to exceed \$39,292.00 and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

The City Manager recommended approval stating the agreement provides for services from the Delta area to South Texas College campuses and is budgeted.

Commissioner Kerr, seconded by Commissioner Pedraza, moved to approve an Interlocal Agreement for Transportation Services for a regional public transportation system, Valley Metro, in an amount not to exceed \$39,292.00. The motion carried unanimously; Mayor Suarez was present and voting.

Commissioner Munoz departed the meeting at 7:52 p.m.

K. Discussion and consideration to amend the Travel Policy. Possible action. (Staffed by City Manager's Office.)

Veronica Ramirez, HR Director, recommended to remove from the current policy the sentence dealing with reimbursable meal allowance; Mayor Suarez recommended to change the wording "itinerants" to "employees."

Mayor Pro-Tem Tafolla, seconded by Commissioner Lopez, moved to approve and amend the Travel Policy as presented. The motion carried unanimously; Mayor Suarez was present and voting.

VIII. REPORTS

The City Manager stated staff will be meeting with Quail Hollow residents October 18 at 6:00 p.m. to address concerns and welcomed the Commission to attend.

A. Report by Public Works on Flooding and Potholes.

Olga Garza, Assistant Public Works Director, reviewed the list of flooded intersections noting those that were jetted (unclogged); she also reviewed the pothole log.

In response to Commissioner Kerr, although some intersections have curb, grate and inlet, they obstruct easily with grass clippings. Mayor Suarez stated staff needed to mitigate the problem on 18th Street suggesting a detention pond for the area be considered.

IX. EXECUTIVE SESSION

At 8:20 p.m. Commissioner Kerr, seconded by Commissioner Lopez, moved the regular meeting to convene in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

Mayor Pro-Tem Tafolla departed the meeting. At 8:44 p.m. Mayor Suarez 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. Personnel - Discussion regarding the goals, objectives, and evaluation of the City Manager for the City of Weslaco as authorized by §551.074 of the Texas Government Code.

There was no action on this item.

B. Pending Litigation - Consultation with City Attorney regarding City of Weslaco v. Briones Consulting and Engineering as authorized by §551.071 of the Texas Government Code.

There was no action on this item.

C. Economic Development – Consultation with City Attorney regarding Economic Development opportunities and incentive programs related to Project Saddle as authorized by §551.087 of the Texas Government Code.

There was no action on this item; Commissioner Kerr noted his abstention from Executive Session on this item.

XI. ADJOURNMENT

Commissioner Noriega, seconded by Commissioner Kerr, moved to adjourn at 8:44 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker

MAYOR PRO-TEM, Gerardo “Jerry” Tafolla

COMMISSIONER, Leo Muñoz

COMMISSIONER, Greg Kerr

COMMISSIONER, Olga Noriega

COMMISSIONER, Letty Lopez

COMMISSIONER, Josh Pedraza