



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, JANUARY 16, 2018**

On Tuesday, January 16, 2018, at 5:36 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	Jose “J.P.” Rodriguez
Commissioner	Letty Lopez
Commissioner	Josh Pedraza
City Manager	Mike R. Perez
City Secretary	Elizabeth Walker
City Attorney	Juan E. Gonzalez

Also present: Mary Barrera, Finance Director; Juan Salas, Information Technology; Tony Lopez, Fire Chief; Robert de la Cerda, Interim Police Chief; Mardoqueo Hinojosa, Planning and Code Enforcement Director and City Engineer; David Arce, Parks and Recreation Director; Arnold Becho, Library Director; 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, January 12, 2018.

B. Invocation.

Pastor Joey Aguilar, First Baptist Church, led the invocation. The Mayor thanked the church community for again hosting the warming shelter.

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 perfect attendance and a quorum present.

II. PUBLIC COMMENTS

Gail Wiegel Ortiz, Frank de la Rosa, and Margaret Bhagat voiced concerns alleging non-compliance on construction and operations of the daycare located at 610 W. 13 Street.

Linda Taormina and Valisue McAlpin voiced objection to the proposed rezone at 1720 W. 18 Street requesting the use remain residential and submitting a petition against it.

Norma Ramirez introduced herself as a candidate for the Democratic Party Chair.

III. PUBLIC HEARING

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to open the public hearing concurrently at 5:52 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

Mike Perez, City Manager, noted the Commission cannot respond to statements under public comments; however, to clarify, any property owner has the right to request a rezone and the City must give the owner due process.

A. To solicit input to amend Ordinance 320, Codified as Chapter 150 - Zoning Ordinance, adopting new regulations and ordaining other matters with respect to the subject matter hereof.

No comments received.

B. To solicit input on behalf of Reuben Bar-Yadin, rezoning 2929 W. Expressway 83, also being Lot 1, Grover Commercial Plaza, Phase I, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling District to B-2 Secondary and Highway Business District.

No comments received.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to close the public hearing at 5:55 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 following:

1) Minutes of Regular Meeting on January 2, 2018;

2) Record of Workshop on January 9, 2018. (Staffed by City Secretary's Office.)

B. Approval to purchase six (6) Self-Contained Breathing Apparatus (SCOTT 5.5) through Buy Board contract pricing in amount of \$58,344.00 as budgeted. (Staffed by Fire Department.)

C. Acceptance of grant award number 3494001 from the Office of the Governor Criminal Justice Division in an amount of \$37,500.00 for Rifle-Resistant vests for Police Officers and two Fire Marshals and authorize the Mayor to execute any related documents. (Staffed by the Police Department.)

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

V. APPOINTMENTS

A. Discussion and consideration to approve Resolutions 2018-02 and 2018-03 appointing two members to expired terms on the Ambulance Advisory Board and authorize the Mayor to execute any related documents. Possible action. (Staffed by the Fire Department.)

Commissioner Kerr, seconded by Mayor Pro Tem Tafolla, moved to approve Resolutions 2018-02 and 2018-03 reappointing Sergio Lozano and Ted Welansky, respectively, to expired terms on the Ambulance Advisory Board as presented. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the resolutions are as follows:

RESOLUTION NO. 2018-02

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE AMBULANCE ADVISORY BOARD.

WHEREAS, the City of Weslaco has established the Ambulance Advisory Board pursuant to Section 14-1(A) of Ordinance No. 78-39; and

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

WHEREAS, the Ambulance Advisory Board members shall serve without compensation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Sergio Lozano is appointed to serve on the Ambulance Advisory Board and the term will begin on February 16, 2018 and will expire on February 16, 2020.

PASSED AND APPROVED on this 16th day of January 2018.

RESOLUTION NO. 2018-03

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE AMBULANCE ADVISORY BOARD.

WHEREAS, the City of Weslaco has established the Ambulance Advisory Board pursuant to Section 14-1(A) of Ordinance No. 78-39; and

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

WHEREAS, the Ambulance Advisory Board members shall serve without compensation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Ted Walensky is appointed to serve on the Ambulance Advisory Board and the term will begin on February 7, 2018 and will expire on February 7, 2020.

PASSED AND APPROVED on this 16th day of January 2018.

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 after public hearing on behalf of Rashad Javed Rana to approve Ordinance 2017-54 rezoning 1720 W. 18th Street also being the 3.00 acres out of Farm Tract 658, West Tract, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling to R-3 Rural District. First reading of Ordinance 2017-54. Possible action. (This item was tabled December 19, 2017. This item requires three-fourths vote as it was denied by Planning and Zoning Commission; Staffed by Planning and Code Enforcement Department.)

Commissioner Kerr abstained from discussion and vote, leaving the dais.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to remove the item from the table. The motion carried unanimously; Mayor Suarez was present and voting.

Mardoqueo Hinojosa, City Engineer/Director of Planning and Code Enforcement, stated twenty property owners were notified; five calls were received voicing opposition and a petition against the rezone was received. The Planning and Zoning Commission and staff recommend denial as the use does not conform to the 2040 Future Land Use Plan adopted in 2015; moreover, the proposed zoning change defines R-3 between 1015 and Midway from Mile 10 to 18th Street for Urban Use and this area remains designated for residential use.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve Ordinance 2017-54.

Commissioner Rodriguez reported that after speaking with neighbors, there was no support for rezone from the residents in the area. In response to Mayor Suarez it would be considered spot zoning as the use does not comply with the land use plan.

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

Mardoqueo Hinojosa requested a timeline for the owner to remove the animals. The City Manager recommended two weeks; the applicant requested 2-3 months and consider allowing him to keep 2-3 animals. The Mayor stated Code Enforcement would send a letter providing deadlines.

Commissioner Kerr returned to the dais.

VII. NEW BUSINESS

A. Discussion and consideration to approve the Weslaco Economic Development Corporation bid for the Center for Innovation and Commercialization University of Texas Rio Grande Valley (UTRGV) project. Possible action. (Staffed by the City Manager.)

The City Manager stated six responses were received and evaluated by the Economic Development Corporation. Two respondents, Rigney and Noble Texas, bid the same amount, \$3,150,000.00. Weslaco Economic Development Corporation recommends awarding to Noble Texas as the lowest responsible and responsive bidder in the amount of \$3,150,000.00 and staff concurs.

In response to Commissioner Munoz, the amount is \$350,000 over the proposed budget and would not be able to direct the Architect to value engineer the project until the contract is awarded and staff meets with them. The Mayor expressed an intent to get as close to the budget as possible.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve the Weslaco Economic Development Corporation (EDC) bid for the Center for Innovation and Commercialization University of Texas Rio Grande Valley (UTRGV) project to Noble Texas as recommended by the Economic Development Corporation as the lowest, most responsible, responsive bidder in an amount of \$3,150,000.00. The motion carried unanimously; the Mayor was present and voting.

B. Discussion and consideration to approve Ordinance 2018-02, amending Ordinance 320, Codified as Chapter 150 - Zoning Ordinance, adopting new regulations and ordaining other matters with respect to the subject matter hereof. First reading of Ordinance 2018-02. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa, Planning Director and City Engineer, stated a joint workshop was held with Planning and Zoning and Commission to deliberate clear and uniform requirements in the zoning ordinance, including incorporating new uses and clarifying antiquated uses for each zoning district, allowing maid quarters and guest houses, defining Bed & Breakfasts, and updating setbacks for zoning districts.

The proposed changes impose new conditions for daycares in an R-1 district so businesses have a low impact to the area. The conditional use permit would require a six-foot buffer fence with no other exterior alterations except a 1.5 x 1.5 non-illuminated sign, maximum number of children limited to 12, only one daycare allowed on dead end streets and cul-de-sacs and each facility must be registered with the State Comptroller. These permits will be reviewed annually by staff for compliance through a required facility inspection.

Mr. Hinojosa also elaborated on Bed and Breakfast conditions, including now requiring an official sign in roster available to the City for inspection and maintained for four years; conditional permits may be renewed if building codes have not been updated within a year.

Commissioner Kerr requested to amend the motion to include a residency requirement for a daycare in an R-1 zone. In response to Mayor Pro Tem Tafolla, the City Attorney stated a 2008 Supreme Court ruling indicates changes may be applied retroactively to existing businesses but the City could still be sued for an uncompensated taking. Mayor Suarez recommended the City Attorney research before second and final reading of the ordinance; the City Manager stated the ordinance could be amended on second reading to include residency requirements if the Commission wishes to do so.

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to approve Ordinance 2018-02, amending Ordinance 320, Codified as Chapter 150 - Zoning Ordinance, adopting new regulations and ordaining other matters with respect to the subject matter hereof as presented. The motion carried unanimously; Mayor Suarez was present and voting.

C. Discussion and consideration after public hearing on behalf of Reuben Bar-Yadin to approve Ordinance 2018-01 rezoning 2929 W. Expressway 83, also being Lot 1, Grover Commercial Plaza, Phase I, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling District to B-2 Secondary and Highway Business District and authorize the Mayor to execute any related documents. First reading of Ordinance 2018-01. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa stated twenty property owners were notified. As B-2 is a permitted use in the comprehensive land use plan, Planning and Zoning Commission and staff recommend approval.

Commissioner Lopez, seconded by Commissioner Pedraza, moved to approve Ordinance 2018-01 rezoning 2929 W. Expressway 83 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

D. Discussion and consideration to approve the Final Plat for Lowe's of Weslaco, being a 21.96 acre out of a part of Farm Tract 34:40, West and Adams Tract Subdivision, Weslaco, Hidalgo County, Texas located at North East Corner of Bridge Avenue and U.S. Business 83 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa stated this is a five-lot subdivision approved in 2007 but never recorded, meaning Ballard Street was not officially dedicated; as a matter of housekeeping, Planning and Zoning and staff recommend approval of the final plat.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve Final Plat for Lowe's of Weslaco as presented. The motion carried unanimously; Mayor Suarez was present and voting.

E. Discussion and consideration to approve a six-month extension of the Final Plat for The Villages at Westgate Subdivision, being a 39.87 acre tract of land out of Farm Tract 131, Block 162, West Tract Subdivision, Weslaco, Hidalgo County, Texas, located along the west right-of-way of Westgate Drive and approximately 1445 feet North of Interstate 2 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa stated completion of development should occur within 2-3 months; however, the developer is requesting a six-month extension to complete public improvements and record the plat. The Planning and Zoning Commission and staff recommend approval.

In response to Mayor Pro Tem Tafolla, there is no charge for this extension as none is outlined in the Master Fee Schedule.

Mayor Pro Tem Tafolla, seconded by Commissioner Pedraza, moved to approve a six-month extension of the Final Plat for The Villages at Westgate Subdivision as presented. The motion carried unanimously; Mayor Suarez was present and voting.

F. Discussion and consideration regarding the Conditional Use Permit to operate a daycare at 610 W. 13th Street, Weslaco. (Requested by Commissioner Munoz and the Mayor.)

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

Mayor Suarez stated the daycare had been in operation 17 months but strong concerns of non-compliance from residents in the area have been brought to the attention of the Commission. Commissioner Muñoz stated he believed the intent from the Commission was always to place restrictions as voted on at that time since the zoning ordinance provided none and as such the City Manager followed up with a letter outlining some conditions. Commissioner Muñoz does not agree that a second building permit should have been granted, apologized to the residents for any misunderstanding, and recommended appointing a committee with the City Attorney to determine a solution.

City Manager stated upon reviewing the meeting the motion was approved without the intent from the discussions held to impose restrictions recommending a committee as suggested by Commissioner Muñoz, with City Attorney, review the tape and make a final determination in 30 days on what the intent of the commission discussion and action. Mayor Pro Tem Tafolla recommended Commissioners Muñoz, Lopez and Mayor Suarez to make the committee.

Ms. Gail Wiegel Ortiz identified alleged issues and asserted that the neighbors deserve a remedy because they had previously been given assurances.

There was no action.

G. Discussion and consideration to adopt ordinance 2018-04 amending Ordinance 1990-31 Animal Control Ordinance providing regulations on animal impoundment identified as nuisance situations and authorize the Mayor to execute any related documents. First reading of Ordinance 2018-04. Possible action. (Staffed by Planning and Code Enforcement Department.)

Commissioner Pedraza, seconded by Commissioner Rodriquez, moved to approve Ordinance 2018-04 amending Ordinance 1990-31 Animal Control Ordinance providing regulations on animal impoundment identified as nuisance situations as presented.

Mardoqueo Hinojosa stated to address the nuisances of loose animals, staff proposes a four-strike ordinance when picking up animals within any given 12-month period. Commissioner Muñoz recommended limiting to a three-step process; Commissioner Pedraza recommended a 24-month period.

Commissioner Pedraza, seconded by Commissioner Lopez, moved to amend the motion to identify a two-year period, with the first time a nuisance animal is picked up resulting in impoundment and citation; second time, three-day impoundment with citation; third pick up within 24-month period, relocation of the animal outside the City. The motion carried unanimously; Mayor Suarez was present and voting.

The original motion carried unanimously; Mayor Suarez was present and voting.

H. Discussion and consideration to approve Ordinance 2018-03 authorizing a budget amendment as appropriate to purchase property on Westgate Drive for drainage improvements in an amount of \$150,000 and authorize the Mayor to execute any related documents. First reading of Ordinance 2018-03. Possible action. (Staffed by Finance Department.)

Mary Barrera, Finance Director, explained this expense was not anticipated during budget preparation and recommended approval to move forward with the purchase. Funds will come from the balance in the General Fund.

Commissioner Pedraza, seconded by Commissioner Kerr, moved to approve Ordinance 2018-03 authorizing a budget amendment as appropriate to purchase property on Westgate Drive for drainage improvements in an amount of \$150,000.00 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

I. Discussion and consideration to unseal, award and/or reject the sole proposal received for RFP No.: 2017-18-04 Firework Display on July 4, 2018 to be located at Mayor Pablo G. Pena City Park, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Parks and Recreation Department.)

David Arce, Parks Director, stated staff reached out to three vendors and presented the sole bid received to be unsealed by the Commission. Staff recommended to unseal and award the sole bid only if it does not exceed \$13,000.00. Mayor Suarez opened the sole response announcing the bid amount was \$13,000.00.

Commissioner Muñoz, seconded by Commissioner Lopez, moved to award sole respondent Pyro Shows in an amount of \$13,000.00 for RFP No.: 2017-18-04 Firework Display on July 4, 2018 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

Mayor Suarez revisited Item F to allow applicant Nancy Bazan to address the Commission. There was no objection.

Nancy Bazan, owner, stated she originally proposed four classrooms in her plans but funds did not allow it at the time; she later applied for her permit for the fourth classroom. She assured she will address any problems when she is made aware of them.

The City Manager advised her that the Commissioners, City Attorney, and staff would review and have a determination within 30 days.

VIII. EXECUTIVE SESSION

At 7:28 p.m. Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved the regular meeting to convene in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

At 8:29 p.m. Mayor Suarez 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. 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. Economic Development – Consultation with City Attorney regarding Economic Development incentive program related to Project "D" as authorized by §551.087 of the Texas Government Code

There was no action on this item.

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

Commissioner Kerr abstained from discussion and vote.

There was no action on this item

D. 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.

Commissioner Kerr, seconded by Commission Lopez, moved to approve the settlement agreement regarding *City of Weslaco v. Briones Consulting and Engineering* in the amount of \$1.9 million as discussed in executive session and authorize the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

E. Real Property – Consultation with City Attorney on the purchase, sale, exchange, lease or value of real property consisting of 2 acres more or less with improvements out of Farm Tract 666 located on South Westgate Drive as authorized by §551.072 of the Texas Local Government Code.

There was no action on this item

X. ADJOURNMENT

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to adjourn at 8:30 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, Jose “J.P.” Rodriguez

COMMISSIONER, Letty Lopez

COMMISSIONER, Josh Pedraza