

## **REGULAR COUNCIL MEETING January 5, 2010**

The Waelder City Council met for their regular monthly meeting on January 5, 2010 at 7:00 p.m. at the Waelder City Hall. Those present were Mike Harris, Robert Tovar, Dora Ramirez, Annie Jackson and Curtis Hadnot. Mayor Roy Tovar did preside.

A motion was made by Mike Harris to approve the minutes with a second by Robert Tovar. The vote was unanimous and the motion was passed.

A motion was made by Robert Tovar to approve the payment of the bills with a second by Curtis Hadnot. The vote was unanimous and the motion was passed.

A motion was made by Mike Harris to approve the financial reports with a second by Robert Tovar. The vote was unanimous and the motion was passed.

**Open Forum:** Karl Hutton with the Fire Dept. would like for the Council and Mayor to know about the bad weather for this week. The Fire Dept. will be prepared to help people that are left out in the cold. The Waelder Community Center and other shelters will also, be available. He also, discussed a grant form for an emergency request for the Fire Dept. and Police Dept.

A motion was made by Mike Harris to appoint Larry Stamps as Interim Chief of Police with a second by Robert Tovar. Dale Dockery will leaving Jan. 20, 2010 to operate his own business. Three in favor and two opposed (Annie Jackson and Curtis Hadnot). The motion was passed.

The Council convened to Executive Session at 7:07 P.M. according to Texas Government Code 551.074: Personnel Evaluation: Police Officer (Ysidro Torres)

**Mayor:** Mr. Torres would you want this in open or closed session?  
Torres: Open

**Mayor:** Open it is.

**Mayor:** Mr. Robinson will be representing the City of Waelder as our attorney.

**Attorney:** Do you want to swear him in?

**Notary:** Do you solemnly swear that the testimony which you may give is the truth; the whole truth, and nothing but the truth, so help you God.

**Attorney:** Would, you state your name, please.

**Torres:** Ysidro Torres

**Attorney:** And you are employed by the city as public City Police Officer?

**Torres:** Yes, Sir.

**Attorney:** What is your position with the Police Dept.?

**Torres:** Sergeant

**Attorney:** Have you ever advised any police officers of the City of Waelder, that they would receive comp time?

**Torres:** Yes, Sir. Directed from my Department Head

**Attorney:** You advised other officers of that.

**Torres:** As directed from my department head

**Attorney:** Would you say, yes or no?

**Torres:** Yes, Sir, I have.

**Attorney:** Did you receive a copy of the policy manual of the City of Waelder?

**Torres:** Yes, Sir, I did.

**Attorney:** When you were employed?

**Torres:** Yes, Sir.

**Attorney:** Did you read it?

**Torres:** Yes, Sir.

**Attorney:** What does it say, about comp time and overtime days?

**Torres:** Police Officers under a certain statue are considered exempt.

**Attorney:** How many officers does the City have to employ to be exempt from comp time?

**Torres:** According to the government statue; 5 and up.

**Attorney:** How many officers have been employed by the City of Waelder?

**Torres:** Four

**Attorney:** O.K. So, the City of Waelder would be exempt.

**Torres:** Under certain guidelines, yes sir

**Attorney:** What guidelines?

**Torres:** Like I said, directed by department head. When an officer works an excess of 172 to 71 hrs. per 28 days, anytime over that they will compensate us, then we will take time off. When we stay over time, in other words an excess of 40 hrs. and we're short handed, so that at a later date we can take time off. That's been like that for nine months.

**Attorney:** It's been like that for what?

**Torres:** The last nine months that I have been employed.

**Attorney:** How are you paid?

**Torres:** We get paid hourly.

**Attorney:** You're paid hourly.

**Torres:** Yes, Sir.

**Attorney:** Are all Peace Officers for the City of Waelder getting paid hourly?

**Torres:** According to the Employee Manual. Yes, Sir.

**Attorney:** I happen to have a copy of it. Somewhere. Could you find that for me?

**Torres:** Salaried employees of the City of Waelder are paid twice a month. Hourly employees are paid every week. That was the provision, the Chief directed me to hourly employees because we get paid per week, and salaried employees get paid twice a month.

**Attorney:** Have you ever looked at your check stub?

**Torres:** It says hourly.

**Attorney:** Your check stub.

**Torres:** Yes, it's Police Salary.

**Attorney:** Do you have any of his check stubs? Do you know Officer Williams, Richard Williams?

**Torres:** Yes, he was a former Officer that worked here.

**Attorney:** Right. Did you ever tell him that he was entitled to comp time?

**Torres:** No, that was a discussion that him and Chief had.

**Attorney:** You know discussion about comp time is costing the City money, try to make a little wars on the side.

**Torres:** That, I do know.

**Attorney:** O.K. I want to show you a Waelder Police Department

form and ask you. Have you ever seen that before?

**Torres:** Yeah, these are forms in our filing cabinet, in our office.

**Attorney:** How many have you ever filled out?

**Torres:** That, I have no idea.

**Attorney:** O.K. Have you ever filled one out for yourself?

**Torres:** No, sir. I have never filled one out for myself. Actually, it's on our time card.

**Attorney:** Did you fill that one out?

**Torres:** Yes, Sir. I filled that one out, because the Officer wanted me to fill one out for him.

**Attorney:** Did you put down 40 hrs?

**Torres:** Yes, Sir. I filled out the entire form for the Officer.

**Attorney:** Where did you find the 40 hrs? Where did you come up with that?

**Torres:** He said he worked over. He worked an excess time of 40 hrs. and that's a 40 hrs. work week and that time he took off with pay and that is, why he took off.

**Attorney:** O.K. You know that the City of Waelder had only 4 police officers.

**Torres:** Yes, Sir.

**Attorney:** Their exempt from Comp time. The City is exempt because they have 4 in their policy. Is that correct?

**Torres:** Yeah, If you said that is correct, that is correct.

**Attorney:** Why are you filling out this form?

**Torres:** Like I said, Officer works over 40 hrs. and we work an excess of 60 hrs. and that is documented, when we punch in and out on the time card. When we worked those hrs., we are asked, if we could take that time off, to use time. We have done, that several times in the past and we have indicated that on all our time cards.

**Attorney:** These are copies of payment record. It looks like Nov. 6th, 13th and 20th of 2009. Would you look at this?

**Torres:** Yes, Sir.

**Attorney:** How are you getting paid?

**Torres:** On a 40 day, on calendar but our policy manual has hourly.

**Attorney:** What?

**Torres:** Policy Manual. Punch in and out on the time card. According to the employee manual , we are hourly employed.

**Attorney:** Well, If that's the case. Why are you taking this check with straight salary on it?

**Torres:** That's, the way we have been paid.

**Attorney:** That's not hourly is it?

**Torres:** According to that record it's not.

**Attorney:** This is your actual pay check?

**Torres:** Yes, Sir.

**Attorney:** O.K. So your statement a few minutes ago, that you were paid hourly is incorrect. Is that correct?

**Torres:** No, Sir. That's correct in our policy manual, that you're weekly paid employee and hourly employees. That's the indication of our time card. They're contradictory of one another at one time.

**Attorney:** Time Cards?

**Torres:** No, Check stubs and employee manual.

**Attorney:** Why do you have a time clock?

**Torres:** That's something that Chief wanted us to start doing. I guess, before I started, they were punching in and out I don't know.

**Attorney:** O.K. that's fair enough. So, Did you tell Officer Stamps that this form would be fill out and he will be paid for the week that he went to Kentucky?

**Torres:** According to ; Like I said, The department Head Director. Yes, Sir.

**Attorney:** Did you know, he didn't get a check, when he got back?

**Torres:** I didn't know that, until he told me.

**Attorney:** O.K. Don't you think it's the prerogative of the City Council to determine who gets paid for working and who doesn't? Where do you come off saying how they get paid?

**Torres:** Our time card, indicate several months at a time. We worked one or two days and when we have so much time built up, we work one or two days. That indicates on our time cards, how we take off 5 or 6 Days at time, just as long as it doesn't reflect. That's given to us by the Department Head that's over us. That's the way, we've always done it.

**Attorney:** That's the way we've always done it?

**Torres:** That's the way we've always done it.

**Attorney:** Who is we?

**Torres:** All the Officers that I have worked with...from long ago.

**Attorney:** Did you know some are making claims now? After leaving the employer they are asking for pay and submitting comp time?

**Torres:** The only one that I knew about, was Mr. Williams because Chief Dockery told me.

**Attorney:** Who was that?

**Torres:** Richard Williams

**Attorney:** O.K.

**Torres:** If, Chief had told me about others, then that I wouldn't know.

**Attorney:** The City Council determines the pay, and determines, how the people get paid. That's not your prerogative. Is it?

**Torres:** That's correct. That's my prerogative, yet and not my discussion.

**Attorney:** But, it's not your prerogative. Is it?

**Torres:** It's not my discussion. No, Sir.

**Attorney:** You were the one that told Officer Stamps that he could get comp time.

**Torres:** Like I said, I was told by my department head.

**Attorney:** You just told him that.

**Torres:** Yes, Sir.

**Attorney:** At the time, you knew the City of Waelder was exempt from comp time.

**Torres:** I didn't know at the time. No, Sir.

**Attorney:** How did he find that out?

**Torres:** When Mr. Stamps told me, I looked it up. It stated on some job or some areas and some were not. But, like I said, the directions were from my department head after working over 40 hrs. , you have time off.

**Attorney:** That's in the personnel manual?

**Torres:** Does it what?

**Attorney:** That the City is exempt.

**Torres:** In the personnel manual yeah and that I have to look up and double check under gov. check. It gives the statues U.S.

constitution of U.S. Gov.

**Notary:** Do you solemnly swear that the testimony which you may give is the truth, the whole truth, and nothing but the truth, so help you God.

**Stamp:** I do

**Attorney:** Would you state your name, please?

**Stamps:** Larry Stamps

**Attorney:** Officer Stamps, I believe you went to work at the City in September.

**Stamps:** That's correct

**Attorney:** You came down to the police station. during Christmas time, and you wanted to go to Kentucky, where your family is.

**Stamps:** That's correct.

**Attorney:** Did you inquire about comp time or did anyone talked to you about comp time at that time?

**Stamps:** Yes, I did. I inquired. To see if the City would compensate for the days, that I would be gone. I was headed that way for my vacation time.

**Attorney:** You did not have vacation time.

**Stamps:** You would have to be here a year, for vacation time. After a year, I will have vacation time and they will pay you for that vacation time. So, I was concerned about being gone and about getting paid. It would have been great, if I would have gotten paid, but I would have not gone knowing that I wasn't being paid.

**Attorney:** Have you ever seen, this form before?

**Stamps:** No, I haven't seen that form before at all. I was told that there was a form that they use for comp time.

**Attorney:** Comp time. What days were you off at Christmas?

**Stamps:** I believe the 17th – 28th.

**Attorney:** Did you receive a pay check at the time you were gone?

**Stamps:** Well, the first week, No. The second week, I got paid because I worked.

**Attorney:** The second week that you actually worked.

**Stamps:** The second week, I did work.

**Attorney:** You got paid that week.

**Stamps:** I did get paid.

**Attorney:** Did Officer Torres tell you, that you were going to get comp time?

**Stamps:** He indicated that, yes. The City would if the form was submitted. The City would compensate us or the time we have over 171 hrs. that's in the books maybe we can get that in return as pay for leave of absence.

**Attorney:** Stamps, I am just curious about something and it doesn't have anything to do with you and Officer Torres but if an Officer punches that time card in and out, like 12 to 19 hrs. in a day, 4 Days per week. They will run it up to more than 40 hrs. Wouldn't you agree?

**Stamps:** If you do the math. Sure.

**Attorney:** Is there any credit thru the City? If an Officer punches in and out for 19 hrs. in a single day.

**Stamps:** What do you mean credit?

**Attorney:** Well, I mean like, is he on duty 19 hrs. or is he having lunch somewhere or sleeping or what?

**Stamps:** Well, as small as the Department is, if the individual is working by himself and is clocked in, he is required to conduct that shift in a professional manner and handle calls and any police business matters that would come up. There may be times that there are no calls. I've done nights with no calls and some nights that you run yourself to death. However at this point with the department being as small as it is, it is required to go by this system of clocking in. You provide the service to the City and law enforcement in a professional manner, regardless if it's 40 hrs. or 50.

**Tom:** O.K. I don't have any more questions. Officer Torres, Do you have any questions?

**Torres:** No

**Attorney:** Thank You. We ask Norma to testify, if she would? I want to show you, this Police Department form. Who gave the City Office that form.

**Norma:** Sergeant Torres

**Attorney:** Officer Torres

**Norma:** Yes

**Attorney:** Have you ever seen that before?

**Norma:** No



**Attorney:** Has anyone else, turned one in before?

**Norma:** No one

**Attorney:** In all the office files. Have you ever seen one?

**Norma:** No

**Attorney:** O.K. That's all I got.

At 7:47 p.m. the Council made a discussion:

A motion was made by Tovar to terminated Officer Torres with a second by Harris. Three (3)in favor and two(2) opposed (Annie Jackson and Curtis Hadnot). The motion passed.

A motion was made by Tovar to approve the Resolution authorizing the City to award contracts for professional Project Management Services for projects funded under the 2009/2010(PY) Texas Neighborhood Stabilization Program (NSP) funded by the Texas Department of Rural Affairs (TDRA) with a second by Harris. The vote was unanimous and the motion was passed.

A motion was made by Harris to adopt the resolution amending the City of Waelder Public Funds Investment Policy with a second by Tovar. The vote was unanimous and the motion was passed.

A motion was made by Harris to adopt the resolution amending the City of Waelder Check Writing Policy with a second by Tovar. The vote was unanimous and the motion was passed.

A motion was made by Harris to approve advertising for Bank Depository Bids with a second by Tovar. The vote was unanimous and the motion was passed.

A motion was made by Harris for Curtis to be in charge of a grant for a Recycling Center with a second by Tovar. The vote was unanimous and the motion was passed.

**Drainage Issues** – No Action

The City has purchased the properties (Lot 10-14, Block 38, Town of Waelder; Lot 1-14, Block 39, Town of Waelder) and all paper work has been done.

Karl Hutton discussed the \$20,000.00 grant for the F.D. and P.D. repeater. The fee for the Lic. is \$900/year. A motion was made by Harris to pay for the Lic. with a second by Ramirez. The vote was unanimous and the motion was passed.

A motion was made by Harris to approve for the month of September to be considered as Clean Sweep Month contingent upon recycling center, with a second by Tovar. The vote was unanimous and the motion was passed.

No Action – City Beautification of the Streets on 97 and FM 1115

A memo will be sent out to all Department Heads to secure all important items.

The Council convened to Executive Session at 8:00 p.m. according to Texas Government Code Section 551.074: Police Department Evaluation

The Council reconvened to Open Session at 8:01 p.m.  
No action – tabled

The mayor proclaimed the month of Jan. as Waelder Wildcat Month.

A motion was made by Hadnot to adjourn, with a second by Ramirez. The vote was unanimous and the motion was passed.