

**WESLACO CITY COMMISSION**

**REGULAR MEETING**

**NOVEMBER 3, 2009**

On this 3<sup>rd</sup> day of November, 2009 at 6:00 p.m., the City Commission of the City of Weslaco, Texas convened in Regular Session at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue and the following members were present.

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

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

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

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

Mayor de la Rosa recognized Ayesha Zahid student from the Weslaco High School and stated she would be Mayor's shadow as part of a project.

Howard Bloomquist, Senior Minister of Central Christian Fellowship of Weslaco gave the invocation. Mayor de la Rosa recited the Pledge of Allegiance and Mayor Pro-Tem Rodriguez proceeded with the Pledge to the Texas Flag.

**I. CONSENT AGENDA**

## NOTICE TO THE PUBLIC

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member or a citizen, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of Minutes
  - 1. Special Meeting of September 24, 2009
  - 2. Regular Meeting of October 19, 2009
  
- B. Second and final reading of Ordinance No. 2009-26 amending Section 1 of Ordinance 77-16, adopted on August 16, 1977, and codified in the Weslaco Code of Ordinances Section 29-40 "Water Rates Prescribed" and amending Section 1 of Ordinance 67-10, adopted on June 27, 1967, and codified in the City of Weslaco Code of Ordinances as Section 29-43 "Sewer Rates Prescribed;" by providing for a new schedule of rates to be charged for treated water delivered through the system of the water department of the City of Weslaco; and providing for a new schedule of rates to be charged for the use of wastewater treatment facility of the City of Weslaco; and providing for an effective date after the second publication of this ordinance, and ordaining other matters with respect to the subject matter hereof. Possible action.
  
- C. Request from Weslaco Parks & Recreation and Weslaco Scholarship Program to host a Winter Fest on Friday, December 4, 2009 from 6:00 p.m. till 10:00 p.m. at the Weslaco City Hall Parking Lot with the assistance from various city departments and waive all fees associated with the event. Possible action.
  
- D. Discussion and consideration to approve Resolution No. 2009-29 amending the resolution authorizing participation in TexPool by adding Omar Gonzales, Finance Director as an authorized representative. Possible action.

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

For the record, Ordinance No. 2009-26 reads as follows:

ORDINANCE NO. 2009-26

AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE 77-16, ADOPTED ON AUGUST 16, 1977, AND CODIFIED IN THE WESLACO CODE OF ORDINANCES SECTION 29-40 "WATER RATES PRESCRIBED" AND AMENDING SECTION 1 OF ORDINANCE 67-10, ADOPTED ON JUNE 27, 1967, AND CODIFIED IN THE CITY OF WESLACO CODE OF ORDINANCES AS SECTION 29-43 "SEWER RATES PRESCRIBED;" BY PROVIDING FOR A NEW SCHEDULE OF RATES TO BE CHARGED FOR TREATED WATER DELIVERED THROUGH THE SYSTEM OF THE WATER DEPARTMENT OF THE CITY OF WESLACO; AND PROVIDING FOR A NEW SCHEDULE OF RATES TO BE CHARGED FOR THE USE OF WASTEWATER TREATMENT FACILITY OF THE CITY OF WESLACO; AND PROVIDING FOR AN EFFECTIVE DATE AFTER THE SECOND PUBLICATION OF THIS ORDINANCE, AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

PASSED AND APPROVED on first reading this the 6<sup>th</sup> day of October 2009.

PASSED AND APPROVED on second and final reading this the 3<sup>rd</sup> day of November, 2009.

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

ATTEST:  
/s/ Amanda C. Elizondo, CITY SECRETARY  
APPROVED AS TO FORM:  
/s/ Ramon Vela, CITY ATTORNEY

Also, for the record, Resolution No. 2009-29 reads as follows:

RESOLUTION NO. 2009-29

AUTHORIZED REPRESENTATIVES  
RESOLUTION AMENDING

WHEREAS, City of Weslaco 77734 ("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and,

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and,

WHEREAS, the Texas Local Government Investment Pool ("TexPool / Texpool *Prime*"), a public funds investment pool, were created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

- A. That the individuals, whose signatures appear in this Resolution, are Authorized Representatives of The Participant and are each hereby authorized to transmit funds for investment in TexPool / TexPool *Prime* and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.
- B. That an Authorized Representative of the Participant may be deleted by a written instrument signed by all remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's

TexPool / TexPool *Prime* account or (2) is no longer employed by the Participant; and

- C. That the Participant may by Amending Resolution signed by the Participant add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant;

List the Authorized Representatives of the Participant. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

- 1. Name: Omar Gonzales Title: Finance Director  
Signature /s/ Omar Gonzales Phone Number: (956) 968-3181\_ext 3112
- 2. Name: Leroy Gonzales Title: Sr. Accountant  
Signature /s/ Leroy Gonzales Phone Number: (956) 968-3181\_ext 3112
- 3. Name: Title:  
Signature Phone Number:
- 4. Name: Title:  
Signature Phone Number: \_\_\_\_\_

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Name:  
Email: Fax Number:

In addition and at the option of the Participant, one additional Authorized Representative can be designated to perform only inquiry of selected information. This limited representative cannot perform transactions. If the Participant desires to designate a representative with inquiry rights only, complete the following information.

5. Name: Title:

D. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool Participant Services receives a copy of any such amendment or revocation. This Resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the 3<sup>rd</sup> day November, 2009.

NAME OF PARTICIPANT: City of Weslaco

BY: /s/ Buddy de la Rosa, R. Ph.  
Signature

Buddy de la Rosa  
Printed Name

Mayor  
Title

ATTEST: /s/ Amanda C. Elizondo

Amanda C. Elizondo  
Printed Name

City Secretary  
Title

This document supersedes all prior Authorized Representative designations.

ORIGINALS REQUIRED

## **II. PUBLIC COMMENTS**

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

Mayor de la Rosa stated the City Commission could not respond under public comments; however, this item would be addressed later.

Mario Ybarra, Jr. from 806 Upas Avenue, McAllen, Texas stated he had submitted a letter of support to name a new school in Weslaco located on Mile 10 North and Mile 4 West. He mentioned his father; Mario Ybarra, Sr. died on March 5, 1966 in the Vietnam War and highlighted a quote included in a letter that Mayor Joe Stephens addressed to his father.

## **III. PUBLIC HEARINGS**

Mayor de la Rosa stated the following items were public hearings and any one wishing to speak for or against could do after staff's presentation.

- A. To discuss and consider a request to amend Zoning Ordinance No. 320 and amending the Zoning Map of the City of Weslaco to change the zoning of a 1.20 acre gross 1.16 acre net, E-78'-W 156' S 670.19', Farm Tract 1037 Tract 2, Adams Tract Subdivision, at 2723 E. Pike Blvd. from "R-1" One Family Dwelling District to "B-2" Secondary & Highway District. First reading of Ordinance No. 2009-27. (Requested by Mary E. Gonzalez). Possible action.

Bernard Rodriguez, Interim Planning and Zoning Director, stated the applicant was requesting a zone change from "R-1" One Family Dwelling to "B-2" Secondary & Highway District for commercial use. He added the property was located on Pike Blvd. east of the National Guard Armory. Mr. Rodriguez mentioned the Comprehensive Plan and Future Land Use Map provided for a light industrial use in the general area. He stated a notice of the application and the public hearing before the Planning and Zoning Commission and the City Commission were published in the Monitor on October 5<sup>th</sup>. Mr. Rodriguez stated letters were sent to the property owners residing within 200' notifying them of the request on Oct. 9<sup>th</sup>. He indicated no opposition was received and the Planning and Zoning Commission approved the request on October 21<sup>st</sup>. Mr. Rodriguez recommended approval of the request.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner

Cuellar to close the public hearing. Motion carried unanimously.

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

- B. To discuss and consider a request to amend Zoning Ordinance No. 320 and amending the Zoning Map of the City of Weslaco to change the zoning of Lots 1-3, Block 14, Ramona Subdivision, at 520 E. Los Torritos Street, “R-1” One Family Dwelling District to “R-2” Duplex & Apartment District. First reading of Ordinance No. 2009-28. (Requested by Chris Brasher). Possible action.

Mr. Rodriguez stated the applicant was requesting a zone change from an “R-1” One Family Dwelling District to “R-2” Duplex & Apartment District to construct a duplex apartment. He added the Comprehensive Plan and Future Land Use Map provided for single family use in the general area. Mr. Rodriguez mentioned Duplex/Apartment Zone and Neighborhood Business District Zones were within a three block area and these zone changes were done prior to the adoption of the Comprehensive Plan. He indicated the city received a petition from four area residents opposing the request. Mr. Rodriguez stated a notice of the application and public hearing before the Planning and Zoning Commission and the City Commission was published in the Monitor on October 5<sup>th</sup>. He mentioned letters were sent on October 9<sup>th</sup> to forty-three property owners residing within 200’ notifying them of the zone change. Mr. Rodriguez pointed out that only one letter opposing the request was received by the city. He stated on October 21<sup>st</sup>, the Planning and Zoning Commission denied the request. Mr. Rodriguez recommended approval of the Planning and Zoning’s recommendation due to adherence of the Weslaco Comprehensive Plan.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to close the public hearing. Motion carried unanimously.

Motion was made by Commissioner Tafolla and seconded by Commissioner Rivera to deny the request. Motion carried unanimously.

- C. Discussion and consideration of a request from Arturo’s Bar & Grill Restaurant to approve a Conditional Use Permit for a Bar and Grill, Mixed Beverage Permit, Karaoke and Live Entertainment and Food and Beverage Certificate, at 702 S. Texas Blvd., Weslaco, Texas, (also being N 45’ Lot 1, Block 57 & all of Lots 1 & 2, Block 57-A, Weslaco Original Town site) and to grant a variance of the 1,000 feet from a school. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to close the public hearing. Motion carried unanimously.

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

#### **IV. CITY MANAGER'S REPORT**

- A. Announcement of a proposed workshop from the City of Weslaco's Financial Advisor, First Southwest Company.

Mr. Francisco Castellanos, City Manager stated this was a follow-up of a previous discussion with First Southwest Company. He recommended having a workshop with Standards and Poors and for the City Commission to call the City Secretary's Office for available dates.

#### **V. MAYOR'S REPORT**

- A. Announcement of an awards ceremony to honor Mr. Marcel Albert with The Legion of Honor Grand Cross from France on November 12, 2009 at the Weslaco Mid-Valley Airport.

Mayor de la Rosa announced the award ceremony for Marcel Albert would occur at the Mid Valley Airport. He mentioned there was a lot of history and great interest to the citizens of Weslaco. Mayor de la Rosa stated the ceremony would be at 2:00 p.m. on November 12, 2009 at the Barbee Terminal and invited the public to the event.

- B. Request from Mario Ybarra, Jr. for a letter of support for the naming of the new school located at Mile 10 in honor of Mario Ybarra, Sr. U.S.M.C., K.I.A., first fallen soldier from Vietnam War from the City of Weslaco.

Mayor de la Rosa stated Mario Ybarra, Jr. was requesting for the City of Weslaco to provide a letter of support for naming a school in honor of his father, Mario Ybarra, Sr. He requested information from Mr. Ybarra to draft a letter.

- C. Announcement of the passing away of Horacio Aguirre, long time public servant and possible renaming of a street in his honor.

Mayor de la Rosa announced the passing away of Horacio Aguirre, former Constable a long time public servant. He mentioned he was a friend of Weslaco, always had a smile on his face and was a wonderful individual. Mayor de la Rosa recommended naming a street in Weslaco in his honor.

- D. Discuss possible dates to interview City of Weslaco, City Manager Applicants.

Mayor de la Rosa referred to the interviews for City Manager applicants and stated the city had gotten the background checks on the four individuals. He pointed out the City Commission was ready to set the dates for the interviews.

Commissioner Cuellar recommended Tuesday, November 10<sup>th</sup> interviewing the local candidates and Thursday, November 12, 2009 to interview the ones from out-of-state.

## **VI. BOARD APPOINTMENTS**

- A. Board of Adjustments & Appeals to the Zoning Ordinance – One member’s term expires on November 18, 2009. Possible action.

Motion was made by Commissioner Garza and seconded by Commissioner Kennedy to reappoint Raymond Givilancz on the Board of Adjustments & Appeals to the Zoning Ordinance. Motion carried unanimously.

- B. Nomination and appointment and confirmation of the Economic Development Corporation of Weslaco of two members needed for District No. 2 and District No. 5. Possible action.

Mayor de la Rosa stated this item would be placed on the next meeting for consideration.

## **VII. NEW BUSINESS**

- A. Discussion and consideration to recommend to the Hidalgo County Commissioner’s Court, V A Architecture’s recommendation to accept the bid submitted by G.A.S. Enterprises, Inc. in the amount of \$89,598.00 for the construction phase of the renovation at the former Weslaco Museum utilizing Year 21 Urban County Program Funds and to waive all permit fees. Possible action.

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

- B. Discussion and consideration to approve final payment to Raba-Kistner Consultants, Inc. in the amount of \$1,639.61, for testing services associated with the Year 21 Urban County Program Sewer Line Project along the alley between Calle Las Palmas and Calle del Cedro from Los Toritos Street to the Southside of Cavazos Park utilizing Urban County Program Funds. Possible action.

Motion was made by Commissioner Kennedy and seconded by Commissioner Garza to approve final payment as presented. Motion carried unanimously.

- C. Discussion and consideration to approve a budget amendment in the Water Fund in the amount of \$51,000.00 for the purchase of water meters and equipment for new construction and meter replacements. Possible action.

Omar Gonzales, Finance Director, stated the water meters were ordered on a quarterly basis, 300 at one time and were replaced as needed.

Motion was made by Commissioner Cuellar and seconded by Commissioner

Kennedy to approve the budget amendment as presented. Motion carried unanimously.

- D. Discussion and consideration to approve Resolution No. 2009-30 and to submit a Notice of Intent to accept Energy Efficiency and Conservation Block Grant (EECBG) Funds under the American Recovery and Reinvestment Act (ARRA) and authorized the Mayor to execute any and all related documents. Possible action.

Motion was made by Commissioner Kennedy and seconded by Mayor Pro-Tem Rodriguez to approve Resolution No. 2009-30 as presented.

Mr. Castellanos stated the grant was for \$75,000.00 and funds would be used for energy efficiency projects. He mentioned the city could use the money for solar panels at the South Wastewater Treatment Plant.

Motion carried unanimously.

For the record, Resolution No. 2009-30 reads as follows:

RESOLUTION NO. 2009-30

STATE OF TEXAS §
COUNTY OF HIDALGO §
CITY OF WESLACO §

WHEREAS, Congress passed the American Recovery and Reinvestment Act (ARRA) of 2009 and the President signed into law on February 17th, 2009, to stimulate the economy and create jobs; and,

WHEREAS, ARRA included \$3.2 billion in funding for the Energy Efficiency and Conservation Block Grants (EECBG) Program authorized in Title V, Subtitle E of the Energy Independence and Security Act (EISA) and signed into law on December 19, 2007; and,

WHEREAS, the purpose of the EECBG program is to, 1) reduce fossil fuel emissions in a manner that is environmentally sustainable, and to the maximum extent practicable, maximizes benefits for local and regional communities; 2) to reduce the total energy use of eligible entities; and, 3) to improve the energy efficiency in the building sector, the transportation sector and other appropriate sectors; and,

WHEREAS, the City of Weslaco is a city with limited financial resources and desires to support the development of energy efficiency programs; and,

WHEREAS, the City of Weslaco accepts its allocation and may also accept additional funds that may become available at a later date; and,

WHEREAS, the City of Weslaco has developed or is interested in developing a EECBG project, which is sustainable and has measurable energy savings, job creation and economic stimulus effects into the city/county; and,

WHEREAS, the City of Weslaco is determined to support energy efficiency projects that leverage federal funds with other public and private resources, including coordinated efforts involving other Federal programs targeting community development; and,

WHEREAS, the City of Weslaco intends to comply with all agreed upon contractual requirements of

ARRA, the EECBG program and other federal and state law:

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISISON OF THE CITY OF WESLACO THAT:

1. The City of Weslaco, through the City Manager, pursue all EECBG funding made available through ARRA and being allocated by the State Energy Conservation Office to be used to assist in reaching the city's goals of energy efficiency.
2. The City of Weslaco continues its commitment toward energy efficiency for the citizens of Weslaco and all of Texas.

PASSED AND APPROVED this 3<sup>rd</sup> day of November, 2009.

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

ATTEST:

/s/ Amanda C. Elizondo, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- E. Discussion and consideration to provide financial support from the Hotel/Motel Reserve Fund for the Weslaco Downtown Merchants. Possible action.

Mr. Castellanos stated this item was previously discussed and the Weslaco Merchants Group was requesting financial support through the Hotel/Motel Fund, but they did not have a figure yet.

Commissioner Kennedy requested that the final amount be presented to the City Commission for their consideration.

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

- F. Discussion and consideration to authorize the City Manager to utilize L&G Engineering for submission of a pre-application to the Texas Water Development Board (TWDB) for a Drinking Water State Revolving Fund Project to help the City of Weslaco improve its existing public water system and authorize the Mayor to execute all related documents to the submittal of the pre-application. Possible action.

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

- G. Discussion and consideration of Amendment No. 19 to the Agreement for Operations Maintenance and Management (OMI) Services for the City of Weslaco dated October 1, 1998 between the City of Weslaco and Operations Management International (OMI) to increase the annual compensation from

\$2,070,370.00 to \$2,504,733.00, to extend the contract term by 3 years to end September 30, 2016, and to increase the repair budget for this year by \$300,000.00 to address the Notice of Violation for the Comprehensive Compliance Investigation (CCI) at the City of Weslaco Water Treatment Plant from the Texas Commission on Environmental Quality (TCEQ) and work with the City Engineer to do the repairs previously addressed by the Weslaco City Commission on August 18, 2009. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Tafolla to deny Item VII., G. as presented.

Commissioner Cuellar stated he was concerned because for the past 15 years that he had been in the commission within the last five years the costs had gone from \$1.2 million to \$2 million. He recommended placing the issue of the \$300,000.00 for repairs to the Water Treatment Plant on the Special Meeting scheduled for Tuesday, November 10<sup>th</sup>.

Mayor de la Rosa stated he had a concern that there were several decisions to be made on one item. He mentioned he would like to see the item brought back regarding the extension of the contract, the escrow deposit and the increase of compensation. Mayor de la Rosa stated there were at least four items that should be addressed individually. He pointed out the notice of violation needed to be addressed due to the deadline.

Filemon Olvera, Project Manager for CH2MHILL/OMI, Inc., stated the \$2.5 million included the \$300,000.00 as a one time cost in addition to the repairs. He mentioned November 26<sup>th</sup> was the deadline for the principal officer of the city to response to TCEQ. Mr. Olvera stated in the response the city had to outline a compliance plan on how to resolve six violations regarding the capacity. He mentioned the increase was to address two violations, water and high service treated water to the public which could be done in-house to expedite the work. Mr. Olvera stated as long as the City Engineer approved the plans for the work they could save the city some money and in turn their contract would be extended for three additional years.

Commissioner Cuellar asked Mr. Vela if he could make an amendment to his motion to deny the increase in compensation and extension of the contract for three years, but to allow a budget of \$300,000.00 for immediate repairs subject to the City Commission's approving the work plan.

Commissioner Tafolla accepted the amendment.

Commissioner Cuellar clarified the amendment by stating they were not extending the contract, but would allow the \$300,000.00 for repairs to meet TCEQ violations subject to OMI presenting to the City Commission a plan on the expenditures of the \$300,000.00.

Randy Winston, City Engineer, gave a brief history of the water plant and mentioned the city was close to twelve thousand meter connections and the state required for the city to be at 10.3 million gallons per day. He pointed out the plant capacity was 7.6 million gallons

per day and was short by 1.35 million gallons per day.

Commissioner Cuellar stated the City Commission had requested proposals for the engineering design to expand the water plant and did not know if it had been done. He recommended proceeding with the proposals.

Motion carried unanimously.

H. Discussion and consideration to approve Resolution No. 2009-31 to support and protect the proposed required right-of-way by the City of the proposed Hidalgo Loop Toll Road Section "E" FM 493 east and north to U.S. 83 East of the City of Mercedes. Possible action.

Mr. Castellanos stated all the cities in Hidalgo County would be affected by the Hidalgo Loop Toll Road Section "E" FM 493 Project. He recommended approval of Resolution No. 2009-31.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to approve Resolution No 2009-31 as presented. Motion carried unanimously.

For the record, Resolution No. 2009-31 reads as follows:

RESOLUTION NO. 2009-31

STATE OF TEXAS       §  
COUNTY OF HIDALGO §  
CITY OF WESLACO     §

WHEREAS, the Hidalgo County Regional Mobility Authority (HCRMA), has initiated an action for an outer loop in and through the County of Hidalgo, Texas, said project being better described and referred to as the "Hidalgo Loop"; and,

WHEREAS, it is now deemed in the best interest of the City of Weslaco to support the Technically Preferred Alignment (TPA) crossing in the vicinity and/or through the City limits and Extraterritorial Jurisdiction (ETJ) of our City; as per map prepared by the Hidalgo County Road Builders (HCRB) being commissioned by the HCRMA to produced such a map and a copy of said map being attached hereto as Attachment "A" and made part hereof for all purposes; and,

WHEREAS, the Weslaco City Commission in open forum voted seven in a recorded vote, to approve the protection of the proposed Hidalgo Loop Right-of-Way (ROW) as indicated by the attached map and will further established by survey ROW points if necessary, to be established and/or verified by the HCRMA in the future as required by new plats affecting the proposed ROW location of the loop.

NOW THEREFORE BE IT RESOLVED THAT THE CITY OF WESLACO, TEXAS is in favor and supports the proposed Technically Preferred Alignment established by the HCRMA as per attached map and will protect the proposed required ROW by means of the jurisdictional authority of the City through the Planning and Zoning rules and regulations.

This Resolution was passed and approved at a regular meeting of the City Commission on this 3<sup>rd</sup> day of November, 2009.

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

ATTEST:  
/s/ Amanda C. Elizondo, CITY SECRETARY  
APPROVED AS TO FORM:  
/s/ Ramon Vela, CITY ATTORNEY

- I. Discussion and consideration to approve Ordinance No. 2009-29 an ordinance amending Ordinance 2004-44 adopted on September 21, 2004 The Master Fee Schedule Ordinance to revise existing fees and establish new fees; and ordain other matters with respect to the subject matter hereof. First reading of Ordinance No. 2009-29. Possible action.

Mr. Castellanos stated this was a yearly process; the city would review all fees that were charged for the different city activities. He mentioned this was the first reading of the ordinance.

Mayor de la Rosa asked Mr. Castellanos if the fees were outrageous whereby the city would not be able to collect them.

Mr. Castellanos responded he was not aware of that; the fees are below norm and are being adjusted.

Me. Vela stated the fees for the Eugene A. Braught Auditorium were new and were not in the existing ordinance. He added the fees were never approved by the City Commission.

A brief discussion was held and Mayor de la Rosa recommended charging for the janitorial services because the citizens paid through the taxes for the use of the auditorium.

Motion was made by Commissioner Kennedy and seconded by Commissioner Cuellar to approve Ordinance No. 2009-29 on first reading with the exemption of the auditorium fees. Motion carried unanimously.

- J. Discussion of amendments to the Reyna Family Development, LTD Contract as to the depth and over sizing of the sewer lines, payment of cost and materials incurred and confirmation of the continuance of the Regional Lift Station. Possible action.

Mr. Castellanos stated this was an amendment to the Reyna Family Development, LTD Contract to continue the regional lift station concept. He mentioned the current contractor was asking to be relieved of the responsibility of assisting the city for over sizing the sewer lines. Mr. Castellanos stated when the contract was developed the city asked the developer to assist in over sizing some of the lines at the expense of the city. He pointed out the contractor was requesting to do their own work at the depth of the sewer lines as original planned and prior to entering into the agreement. Mr. Castellanos stated in return the city did not have to pay for the over sizing of the lines; however, this would require an amendment to

the existing contract to reduce the cost and release the developer of the responsibility.

Mr. Vela stated that on the original agreement the city had agreed to reimburse the developer for cost incurred in connection with this project. He mentioned the only thing that the city would be reimbursing to the developer was for the force main line as per the City Engineer's recommendation. Mr. Vela stated the depth of the sewer line would accord to the plans that were approved by the City Commission in August, 2007 under the Subdivision Plat.

Motion was made by Commissioner Tafolla and seconded by Commissioner Rivera to amend the agreement between the City of Weslaco and Reyna Family Development LTD dated November 15, 2007 and the City of Weslaco would pay for the cost of over sizing and installing the sewer lines at a lower depth, dewatering and installation of a force main at the Plaza Diez Quince Subdivision, to pay only for the cost of installing a force main and to reimburse Reyna Family Development LTD for actual costs incurred in any dewatering and for materials purchased for the over sizing of the sewer lines.

Mayor de la Rosa stated if they chose to do the over sizing and the additional depth the city would have to pay for the work to insure the regional lift station to service that particular area for future development.

Motion carried unanimously.

- K. Discussion and consideration of the appointment of Associate Municipal Judge for a two year term as per Section 29.005 of the Texas Government Code. Possible action.

Commissioner Cuellar stated a legal question had been brought up to his attention and he had spoken to Mr. Vela as per the legal opinion rendered at the Special Meeting of October 13<sup>th</sup> when a judge was vacated from office, the City Commission could appoint someone for the remainder of the term or a two year contract. He mentioned Carlos Garza was appointed Municipal Judge and his seat was left opened. Commissioner Cuellar stated the City Commission made an appointment of Samuel Sanchez to fill the seat, but the contract was for a term of 2 years. He pointed out Mr. Vela had stated the interpretation was at the discretion of the City Commission to decide whether or not it was for the remainder of the term or a two year contract. Commissioner Cuellar stated the existing contract was for two years and would require them to void the contract and say do it for a shorter term. He indicated the problem created was if the City Commission did the contract for less than two years then the term would expire in July and by state statute if they did not reappoint the judge within 90 days then it would be automatically renewed for another two year term.

Mayor de la Rosa stated Commissioner Cuellar was discussing an action that was previously considered by the City Commission.

Motion was made by Mayor de la Rosa and seconded by Mayor Pro-Tem Rodriguez to appoint Eloy Sepulveda for the Associate Municipal Judge which was the item on the

agenda.

Commissioner Tafolla requested for a point of order.

Mr. Vela stated Commissioner Tafolla had to raise it to the Mayor's attention.

Commissioner Tafolla stated he had a point of order because he did not know if the Mayor could entertain motions.

Mayor de la Rosa stated he could make a motion and seconded it.

Mr. Vela stated the point of order was whether or not the chair could make a motion. He indicated the Mayor could make a motion if he relinquished his chair. Mr. Vela stated under the Robert Rules, Mayor as the chair could make a motion if he relinquishes the chair and participated in the debate.

Mayor de la Rosa stated they had not suspended the Robert Rules, but the tradition of the City Commission has been under the previous Mayors that the Mayor can make a motion and can also second.

Commissioner Cuellar responded unless a point of order is raised.

Mayor de la Rosa pointed out the request for a point of order that was after the motion.

Mr. Vela stated Robert Rules dictated that the point of order had to be raised before the motion was made and second.

Commissioner Cuellar stated his concern was he did not know if there was a vacancy for a municipal court judge.

Commissioner Tafolla stated the reason the City Commission released Samuel Sanchez of the judge's duties was due to a deficit in the budget and asked if another judge was necessary. He requested to see the numbers of cases from the Municipal Court to determine if the city could afford another judge.

Mr. Vela mentioned the issue whether or not it was an automatically reappointment, was not the issue in the legal opinion that he had provided.

Mayor de la Rosa stated all three judge's positions were budgeted for this fiscal year.

Commissioner Cuellar stated he pledged his full support for Eloy Sepulveda and stated he would do a great job as a judge, but if the Mayor would ask for a vote on the issue he would abstain from voting based on the legal information.

Motion carried as follows: FOR: Mayor de la Rosa, Mayor Pro-Tem Rodriguez,

Commissioners: Garza and Kennedy. ABSTAIN: Commissioners: Cuellar, Rivera and Tafolla.

### **VIII. EXECUTIVE SESSION**

At 7:25 p.m., Tuesday, November 3, 2009, Mayor de la Rosa announced the City Commission would convene in executive session to discuss the following items and recessed the regular meeting.

At 8:45 p.m., Tuesday, November 3, 2009, Mayor de la Rosa announced the City Commission had completed its executive session and declared the regular meeting opened to the public.

- A. Land Acquisition – Discussion and consideration of the appraised value to certain real property in Weslaco for right-of-way purposes for the widening of Bridge Street and ordering the condemnation of said property. Possible action of what is discussed in executive session.

Mr. Vela stated no action was required on this item and would report back to the City Commission after he discussed this issue with the property owner.

Mayor de la Rosa recommended placing the item on the next agenda.

- B. Land Acquisition – Discussion with City Manager and City Attorney regarding the possible acquisition land by reverter to the City of Weslaco. Possible action of what is discussed in executive session.

Mayor de la Rosa stated no action was required on this item.

- C. Personnel - Discussion with City Manager regarding changes to the City of Weslaco's Organizational Chart. Possible action of what is discussed in executive session.

Mayor de la Rosa stated the City Commission was considering adding a staff attorney and staff engineer.

No action was taken.

- D. Economic Development - Discussion with the Executive Director of the Economic Development Corporation of Weslaco regarding an incentive in the form of infrastructure assistance to further a nineteen (19) acre commercial development in the vicinity of 2004 East Expressway 83. Possible action of what is discussed in executive session.

Motion was made by Commissioner Kennedy and seconded by Commissioner Cuellar to authorize the Economic Development Corporation of Weslaco to enter into an Economic Development Agreement with Fred Perez to provide \$300,000.00 for

infrastructure assistance for a 19-acre commercial development in Weslaco in the vicinity of 2004 East Expressway 83 and authorized the Mayor to execute the agreement. Motion carried unanimously.

- E. Economic Development - Discussion with the Executive Director of the Economic Development Corporation of Weslaco regarding an incentive for a regional headquarters and distribution center for a national distributor of wallboard and other products to located in the Mid-Valley Industrial Park. Possible action of what is discussed in executive session.

Motion was made by Commissioner Kennedy and seconded by Mayor Pro-Tem Rodriguez to authorize the Economic Development Corporation of Weslaco to enter into an Economic Development Agreement with Bucknell Development to provide a financial incentive of \$250,000.00 for a regional headquarters and distribution center for a national distribution of wallboard and other products and authorize the Mayor to execute the agreement. Motion carried unanimously.

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

**CITY OF WESLACO**

**MAYOR**, Buddy de la Rosa

**ATTEST:**

**CITY SECRETARY**, Amanda C. Elizondo

**MAYOR PRO-TEM**, Rene Rodríguez, Jr.

**COMMISSIONER**, Robert J. Garza

**COMMISSIONER**, J. F. “Johnny” Cuellar

**COMMISSIONER**, Gerardo “Jerry” Tafolla

**COMMISSIONER**, Lupe V. Rivera

**COMMISSIONER**, Patrick B. Kennedy

