



A REGULAR MEETING OF THE WESLACO CITY COMMISSION

On this 18th day of October 2011 at 5:30 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 with the following members present:

Mayor	Miguel D. Wise
Mayor Pro-Tem	J.F. "Johnny" Cuellar
Commissioner	Robert J. Garza
Commissioner	Olga M. Noriega
Commissioner	Gerardo "Gerry" Tafolla
Commissioner	Lupe V. Rivera
Commissioner	Joe A. Martinez
City Manager	Leonardo Olivares
City Secretary	Elizabeth Walker
City Attorney	Ramon Vela

Also present: Eddie Zepeda, IT; Bret Mann, Finance Director; Elvia Rios, Interim Human Resources Director; David Salinas, Public Utilities Director; Erasmo Lozano, Assistant Public Facilities Director; Police Chief Juan Sifuentes; Fire Chief Jimmy Cuellar; Jorge Gonzalez, Planning & Code Enforcement Director; Arnold Becho, Library Director; Lupe Garcia, Parks & Recreation Director; and several other staff members and citizens.

I. CALL TO ORDER

- A. Certification of Public Notice.
Mayor Wise called the meeting to order and certified the public notice of the meeting as properly posted Friday, October 14, 2011.
- B. Mayoral Proclamations and Recognitions.
Mayor Wise recognized Red Ribbon Week and former Texas Department of Transportation Executive Director Amadeo Saenz. He also noted the passing of Yuval King Clayton, the first baby born in Weslaco. State Senator Eddie Lucio, Jr. recognized Hector Farias, Sr. with Senate Resolution.
- C. Invocation.
Rev. Rosalio Martinez of La Primera Asamblea de Dios Templo Eben-Ezer gave the invocation.
- D. Pledge of Allegiance.
Mayor Wise recited the Pledge of Allegiance and the Texas Flag.
- E. Roll Call.
Elizabeth Walker, City Secretary, called the roll, noting perfect attendance.

II. PUBLIC HEARINGS

- A. To solicit input on whether the City of Weslaco should continue to tax “Goods-in-Transit” (goods that are stored under a contract of “bailment” in a public warehouse facility that is in no way owned or controlled by the owner of the goods) provided such goods are moved out of state or within the State within 175-days after the goods were acquired in Texas or imported into Texas.
- B. To solicit input on in compliance with the Consolidated Plan for Community Planning & Development (CDBG, HOME, ESG programs) on the City of Weslaco’s needs under the 25th Urban County Program (Year 2012).

Commissioner Garza, seconded by Commissioner Rivera, moved to open the public hearing on both items concurrently. The motion carried unanimously; Mayor Wise was present, but not voting. There were no public comments received.

Commissioner Rivera, seconded by Commissioner Garza, moved to close the public hearing on both items. The motion carried unanimously; Mayor Wise was present, but not voting.

III. STATUS REPORTS AND VISITORS WITH BUSINESS

- A. Hernan Gonzalez, Executive Director of the Economic Development Corporation of Weslaco (EDC), regarding monthly economic development activities. Attachment.

Mr. Hernan Gonzalez reported on recent economic development activities, including PetCo, AISLA Coat, Coli-Mex, and Southeastern Freight. He also reported on a cost-share program with Borderland Hardware to improve its façade and the Al Fresco event, with the same intention to revitalize downtown. Sales tax receipts are \$550,000.00 over same time last calendar year.

- B. Martha Noell, Executive Director of the Weslaco Area Chamber of Commerce, regarding monthly chamber activities. Attachment.

Ms. Martha Noell reported on publicity efforts through Mexican advertising and the Rio Grande Valley Partnership publications. She also reported on an upcoming soccer tournament with the assistance of the Parks & Recreation Department. Winter Texan numbers appear lower than this time last year; however, the Public Facilities Department is assisting with directional signage to the new Chamber offices.

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 Minutes:
 - 1) Regular Meeting of October 4, 2011. Attachment.
 - 2) Special Meeting of October 6, 2011. Attachment.

- C. Approval on reconsideration of Resolution 2011-53 as approved September 20, 2011 to correct a technical error to the expiration of the term of one member from Place 7 on the Board of Directors of the Economic Development Corporation of Weslaco. Attachment.
- D. Approval on reconsideration of Resolution 2011-36 as approved June 7, 2011 to expand administrative authority of the Finance Director on certain legal financial documents with BBVA Compass Bank. Attachment.
- E. Approval on reconsideration of Resolution 2011-38 as approved June 21, 2011 to expand administrative authority of the Finance Director on certain legal financial documents with First National Bank. Attachment.
- G. Approval of the request by Airport Elementary to host its Annual Wellness Day at City Park on October 24, 2011, to reserve all pavilions and restrict public access from 8:45 a.m. – 11:45 a.m. for the safety of children participating in the “Stay on Track for Success-Drug Free” during Red Ribbon Week, and waive all fees associated. Attachment.
- H. Approval of the request by Hortencia Cuellar to close the streets of West Los Torritos to North Cedro to West Huisache on October 31, 2011 from 6 p.m. – 10 p.m. for the safety of pedestrians on Halloween. Attachment.
- I. Approval of the 2012 membership for \$100.00 in the Electric Reliability Council of Texas (“ERCOT”), the entity in Texas responsible for operating the deregulated wholesale electricity market and overseeing the grid in the deregulated portion of the state, and authorize the Mayor to execute any related documents. Attachment.
- J. Approval to authorize use of Federal Equitable Sharing funds in an amount not to exceed \$641.00 for court costs associated with the acquisition of one (1) seized vehicle as awarded to the Police Department, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Attachment.

The Mayor requested item F be withheld for discussion as new business; similarly, Commissioner Noriega requested item B be withheld. Commissioner Martinez, seconded by Commissioner Tafolla, moved to approve items A, C, D, E, G, H, I, and J of the consent agenda as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolutions read as follows:

RESOLUTION NO. 2011-53

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE BOARD OF DIRECTORS OF THE ECONOMIC DEVELOPMENT CORPORATION OF WESLACO

WHEREAS, the City of Weslaco has established the Economic Development Corporation pursuant to the Development Corporation Act of 1979 as amended; and

WHEREAS, the term of one member on this board of this corporation is for

three years; and

WHEREAS, The Economic Development Corporation of Weslaco's board members shall serve staggered terms without compensation and limited to two (2) consecutive three (3) year terms; and

WHEREAS, the term of a current Economic Development Corporation of Weslaco Member expires on September 30, 2012, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Mike Givilancz is appointed to an unexpired term as a member on Place 7 of the Board of Directors of the Economic Development Corporation of Weslaco and the term will expire on September 30, 2012.

PASSED AND APPROVED on this 20th day of September, 2011.

RECONSIDERED, PASSED AND APPROVED on this 18th day of October, 2011 to correct a technical error to the term expiration date.

RESOLUTION NO. 2011-36

STATE OF TEXAS	§	RESOLUTION AUTHORIZING MAYOR MIGUEL D. WISE,
COUNTY OF HIDALGO	§	MEMBERS OF THE CITY COMMISSION, AND APPROPRIATE
CITY OF WESLACO	§	STAFF AS SIGNATORIES ON CERTAIN LEGAL FINANCIAL DOCUMENTS FOR THE CITY OF WESLACO

1. I, **Elizabeth M. Walker**, certify that I am the **City Secretary** of The City of Weslaco, organized under the laws of **Texas**, Federal Employer ID Number **74-6002544**, engaged in Municipal business under the name of the **City of Weslaco**, and that the following is a correct copy of the resolution adopted at a meeting of the City Commission duly and properly called and held on **June 7, 2011**. This resolution appears in the minutes of this meeting and has not been rescinded or modified.
2. Be it Resolved that,
 - (a) BBVA Compass Bank is designated as a depository for the funds of the City of Weslaco.
 - (b) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by this Financial Institution.
 - (c) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the City of Weslaco with this financial institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.
 - (d) Any of the persons named below, so long as they act in a representative capacity as agents of the City of Weslaco, are authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated below, from time to time with this financial institution, concerning funds deposited in this financial institution, moneys borrowed from this financial institution or any other business transacted by and between the City of Weslaco and this financial institution subject to any restrictions stated below.
 - (e) Any and all prior resolutions adopted by the City Commission of the City of Weslaco and certified to this Financial Institution as governing the operations of the City of Weslaco's account(s), are in full force and effect, unless supplemented or modified by this authorization.
 - (f) The City of Weslaco agrees to the terms and conditions of any account agreement,

properly opened by any authorized representative(s) of the City of Weslaco, and authorizes the financial institution named above, at anytime, to charge the City of Weslaco for all checks, drafts, or other orders, for the payment of money, that are properly drawn on this financial institution, and contain the required number of signatures for this purpose.

3. The officials designated below are authorized to conduct business as indicated:

	Name and Title	Signature
(A)	Miguel D. Wise, Mayor	_____
(B)	John F. Cuellar, Mayor Pro-Tem	_____
(C)	Robert J. Garza, Commissioner	_____
(D)	Olga M. Noriega, Commissioner	_____
(E)	Gerardo Tafolla, Commissioner	_____
(F)	Lupe Rivera, Commissioner	_____
(G)	Joe A. Martinez, Commissioner	_____
(H)	Leonardo Olivares, City Manager	_____
(I)	Elizabeth M. Walker, City Secretary	_____
(J)	Bret L. Mann, Finance Director	_____
(K)	Sonia Flores, Asst. Finance Director	_____

Indicate A, B, C, D and/or E

- A – H (1) Exercise all of the powers listed (2) through (9)
- A – H, J (2) Open any deposit or checking account(s) in the name of the City of Weslaco
- A – H (3) Endorse checks and orders for the payment of money and withdraw funds on deposit with this financial institution.
Number of authorized signatures required for this purpose 2.
Number of authorized signatures required for payroll purpose 1.
- A – H (4) Open any certificate of deposit account and withdraw or transfer funds from the certificate of deposit on deposit with this financial institution.
Number of authorized signatures required for this purpose 2.
- A – H, J (5) Transfer funds from operations account to the payroll account, investment account or paying agent approved by City Commission by telefax or other electronic means.
Number of authorized signatures required for this purpose 1.
- A – H (6) Borrow money on behalf and in the name of the City of Weslaco executes and delivers promissory notes or other evidences of indebtedness.
Number of authorized signatures required for this purpose 2.
- A – H (7) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the City of Weslaco as security for sums borrowed and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.
Number of authorized signatures required for this purpose 1.

A – H, J (8) Enter into written lease for the purpose of renting and maintaining a Safe Deposit Box in this financial institution. Number of authorized signatures required to gain access and to terminate the lease 1.

A – K, J (9) Authorized to make inquiries as to status, account balance pertaining to the City of Weslaco.

4. I further certify that the City Commission of the City of Weslaco has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the foregoing resolutions and to confer the power granted to the persons named who have full power and lawful authority to exercise the same.

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of this Corporation on June 7, 2011.

RECONSIDERED, PASSED AND APPROVED on October 18, 2011 to expand administrative authority for the Finance Director.

RESOLUTION NO. 2011-38

STATE OF TEXAS	§	RESOLUTION AUTHORIZING MAYOR MIGUEL D. WISE,
COUNTY OF HIDALGO	§	MEMBERS OF THE CITY COMMISSION, AND APPROPRIATE
CITY OF WESLACO	§	STAFF AS SIGNATORIES ON CERTAIN LEGAL FINANCIAL DOCUMENTS FOR THE CITY OF WESLACO

1. I, Elizabeth M. Walker, certify that I am the **City Secretary** of The City of Weslaco, organized under the laws of **Texas**, Federal Employer ID Number **74-6002544**, engaged in Municipal business under the name of the **City of Weslaco**, and that the following is a correct copy of the resolution adopted at a meeting of the City Commission duly and properly called and held on **June 21, 2011**. This resolution appears in the minutes of this meeting and has not been rescinded or modified.

2. Be it Resolved that,

- (a) First National Bank is designated as a depository for the funds of the City of Weslaco.
- (b) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by this Financial Institution.
- (c) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the City of Weslaco with this financial institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.
- (d) Any of the persons named below, so long as they act in a representative capacity as agents of the City of Weslaco, are authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated below, from time to time with this financial institution, concerning funds deposited in this financial institution, moneys borrowed from this financial institution or any other business transacted by and between the City of Weslaco and this financial institution subject to any restrictions stated below.
- (e) Any and all prior resolutions adopted by the City Commission of the City of Weslaco and certified to this Financial Institution as governing the operations of the City of Weslaco's account(s), are in full force and effect, unless supplemented or modified by this authorization.

- (f) The City of Weslaco agrees to the terms and conditions of any account agreement, properly opened by any authorized representative(s) of the City of Weslaco, and authorizes the financial institution named above, at anytime, to charge the City of Weslaco for all checks, drafts, or other orders, for the payment of money, that are properly drawn on this financial institution, and contain the required number of signatures for this purpose.

4. The officials designated below are authorized to conduct business as indicated:

	Name and Title	Signature
(A)	Miguel D. Wise, Mayor	_____
(B)	John F. Cuellar, Mayor Pro-Tem	_____
(C)	Robert J. Garza, Commissioner	_____
(D)	Olga M. Noriega, Commissioner	_____
(E)	Gerardo Tafolla, Commissioner	_____
(F)	Lupe Rivera, Commissioner	_____
(G)	Joe A. Martinez, Commissioner	_____
(H)	Leonardo Olivares, City Manager	_____
(I)	Elizabeth M. Walker, City Secretary	_____
(J)	Bret L. Mann, Finance Director	_____
(K)	Sonia Flores, Asst. Finance Director	_____

Indicate A, B, C, D and/or E

- A – H (1) Exercise all of the powers listed (2) through (9)
- A – H, J (2) Open any deposit or checking account(s) in the name of the City of Weslaco
- A – H (3) Endorse checks and orders for the payment of money and withdraw funds on deposit with this financial institution.
Number of authorized signatures required for this purpose 2.
Number of authorized signatures required for payroll purpose 1.
- A – H (4) Open any certificate of deposit account and withdraw or transfer funds from the certificate of deposit on deposit with this financial institution.
Number of authorized signatures required for this purpose 2.
- A – H, J (5) Transfer funds from operations account to the payroll account, investment account or paying agent approved by City Commission by telefax or other electronic means.
Number of authorized signatures required for this purpose 1.
- A – H (6) Borrow money on behalf and in the name of the City of Weslaco executes and delivers promissory notes or other evidences of indebtedness.
Number of authorized signatures required for this purpose 2.
- A – H (7) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the City of Weslaco as security for sums borrowed and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.

Number of authorized signatures required for this purpose 1.

A – H, J (8) Enter into written lease for the purpose of renting and maintaining a Safe Deposit Box in this financial institution.
Number of authorized signatures required to gain access and to terminate the lease 1.

A – K, J (9) Authorized to make inquiries as to status, account balance pertaining to the City of Weslaco.

4. I further certify that the City Commission of the City of Weslaco has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the foregoing resolutions and to confer the power granted to the persons named who have full power and lawful authority to exercise the same.

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of this Corporation on June 21, 2011.

RECONSIDERED, PASSED AND APPROVED on October 18, 2011 to expand administrative authority for the Finance Director.

s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

V.

APPOINTMENTS

A. Discussion and consideration to approve Resolution No. 2011-56 to appoint one member to an unexpired term on the Library Board. Possible action. (There was no action on this item September 27, 2011.) Attachment.

Commissioner Tafolla, seconded by Commissioner Martinez, moved to approve Resolution 2011-56 appointing Kevin Duhon to fill the unexpired term of Francisco Rivera from Library Board. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2011-56

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

WHEREAS, the City of Weslaco has established the Library Board pursuant to Section 17-17 of the Weslaco Municipal Code Book; and

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

WHEREAS, the Library Board members shall serve without compensation and unlimited terms; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Kevin Brandon Duhon is appointed to serve an unexpired term on the Library Board and the term will expire on May 6, 2013.

PASSED AND APPROVED on this 4th day of October 2011.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration to approve Resolution No. 2011-57 to appoint one member to an unexpired term on the Planning & Zoning Commission. Possible action. Attachment.

Commissioner Noriega, seconded by Commissioner Rivera, moved to approve Resolution 2011-57 appointing Martin Olivarez to the unexpired term of Jimmy Lawrence from the Planning & Zoning Commission. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2011-57

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE PLANNING AND ZONING COMMISSION BOARD.

WHEREAS, the City of Weslaco created and established the Planning and Zoning Commission Board pursuant to Subsection 2-36 of Ordinance No. 291, as codified in the City of Weslaco Code of Ordinances.

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

WHEREAS, the Planning and Zoning Commission Board members shall serve without compensation and unlimited terms; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Martin Olivarez is appointed to serve on the Planning and Zoning Commission Board and the remainder of an unexpired term will expire on 7th day of December, 2013.

PASSED AND APPROVED on this 18th day of October, 2011.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- C. Discussion and consideration to approve Resolution 2011-58 to fill the expired term of one member from Place 4 on the Board of Directors of the Economic Development Corporation of Weslaco. Possible action. Attachment.

There was no action on this item.

- D. Discussion and consideration to approve Resolution 2011-59 to fill the expired term of one member from Place 5 on the Board of Directors of the Economic Development Corporation of Weslaco. Possible action. Attachment.

There was no action on this item.

VI. OLD BUSINESS

- A. Discussion and consideration on Second and Final Reading to approve Ordinance 2011-30 amending Ordinance 2009-29, the Master Fee Ordinance, to revise existing fees, establish new fees, and ordain other matters with respect to the subject matter hereof. Possible action. (First Reading held October 4, 2011.) Attachment.

The City Manager stated no formal comments had been received on the proposed fee changes. Commissioner Garza, seconded by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Ordinance reads as follows:

ORDINANCE NO. 2011-30

AN ORDINANCE AMENDING ORDINANCE 2009-29 ADOPTED ON NOVEMBER 17, 2009, THE MASTER FEE SCHEDULE ORDINANCE, TO REVISE EXISTING FEES AND ESTABLISH NEW FEES; AND ORDAIN OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

SECTION I.

Ordinance 2009-29 passed and approved on November 17, 2009 as “The Master Fee Schedule Ordinance” and Codified as Section 2-190 of The Weslaco Code of Ordinances is hereby amended so that after second and final reading Section 2-190 shall read as follows:

ARTICLE VI. MASTER FEE SCHEDULE

Section 2-190. Scheduled established.

The fee schedule attached as Exhibit “A” to this Ordinance is hereby adopted as if fully forth herein. The fee schedule will go into effect after the second publication as required by the Weslaco City Charter. The City Commission may hereafter amend or replace this fee schedule at anytime.

SECTION II.

All other provisions of Ordinance 2009-29 shall remain in full force and effect.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 4th day of October, 2011.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 18th day of October, 2011.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration on Second and Final Reading to approve Ordinance 2011-28 to amend Ordinance 2010-17, previously codified as Ordinance 2002-18 in the City of Weslaco Code of Ordinances as Section 62-54, establishing brush rates to

be charged for the brush pick-up service to reflect accurate cost of service at an increase of 9.5% for the average residential user; establishing that all business, commercial, industrial, and mobile home/recreational vehicle parks shall be responsible for disposing of their own brush; providing for a severability clause; and providing for an effective date. Possible action. (First Reading held September 27, 2011.) Attachment.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Ordinance reads as follows:

ORDINANCE NO. 2011-28

AN ORDINANCE AMENDING ORDINANCE NO. 2010-17, PREVIOUSLY CODIFIED AS ORDINANCE NO. 2002-18 IN THE CITY OF WESLACO CODE OF ORDINANCES AS SECTION 62-54; ESTABLISHING BRUSH RATES TO BE CHARGED FOR THE BRUSH PICK-UP SERVICE TO REFLECT ACCURATE COST OF SERVICE; ESTABLISHING THAT ALL BUSINESS, COMMERCIAL, INDUSTRIAL AND MOBILE HOME/RECREATIONAL INDUSTRIAL AND MOBILE HOME/RECREATIONAL VEHICLE PARKS SHALL BE RESPONSIBLE FOR DISPOSING OF THEIR OWN BRUSH; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION I: BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS, to amend Ordinance No. 2010-17, entitled “Brush Rates,” so that after Second and Final Reading of this Ordinance, Section 62-54 of the Weslaco Code of Ordinances, will reflect accurate costs of service and read as follows:

Sec. 62-54. Brush Rates.

- (a) The brush rates hereby established for funding the brush pick-up services shall be applicable for all customers within the city limits, except for those customers included in part (b) of this section, shall be based on the lot frontage of the property served by the customer’s water meter, payable monthly and included in the customer’s city utility bill. Such monthly rates shall be set as follows:

Lot Frontage (in feet)	Charge
0 to 30.....	\$10.51
30 to 60.....	\$10.51
60 to 90.....	\$13.50
90 and above.....	\$15.95

- (b) Business, commercial, industrial and mobile home/recreational vehicle park customers, serviced by a master water meter, shall haul and dump their brush at an appropriate dump site. If they do not have the equipment to haul their brush, they should contract with a responsible third party for these services.

SECTION II: In the event any part of this ordinance is declared invalid, such invalidity shall not apply to the other parts as they are hereby severally established.

SECTION III: This ordinance shall be in full force after the second and final reading of this

ordinance.

PASSED AND APPROVED on first reading at a special meeting of the City Commission this 27th day of September, 2011.

PASSED AND APPROVED on second reading at a special meeting of the City Commission this 18th day of October, 2011.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

VII. NEW BUSINESS

- B. Approval of the renewal of the Special Services Agreement on the Hotel/Motel Room Occupancy Tax Proceeds between the City of Weslaco and the Weslaco Area Chamber of Commerce for Fiscal Year 2011-2012 with the same terms and conditions, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Attachment.

The City Manager stated that after meetings with the respective entities, the City proposes reprogramming funds from the Valley Nature Center to the Weslaco Area Chamber of Commerce so that the fund balances remain the same.

Following discussion since withheld from Consent Agenda, Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- F. Approval of the request by the Economic Development Corporation of Weslaco to conduct a recurring farmers' market in the vicinity of 203 E. Business 83 and waive all ordinances and fees as may apply, including itinerant vendor licenses. Attachment.

Following discussion since withheld from Consent Agenda, Commissioner Martinez, seconded by Commissioner Garza, moved to approve the request by the Economic Development Corporation of Weslaco to conduct a recurring farmers' market in the vicinity of 203 E. Business 83 without waiving all ordinances and fees as may apply, including itinerant vendor licenses. The motion carried unanimously; Mayor Wise was present, but not voting.

- A. Discussion and consideration after public hearing to approve Resolution No. 2011-60 to continue to tax tangible personal property as Goods-In-Transit otherwise exempt pursuant to Texas Tax Code §11.253. Possible action. Attachment.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2011-60

STATE OF TEXAS § RESOLUTION TO CONTINUE
COUNTY OF HIDALGO § TO TAX GOODS-IN-TRANSIT
CITY OF WESLACO §

Be it resolved by the City Commission of The City of Weslaco to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253

WHEREAS, the 82nd Texas Legislature in its First Called Session enacted Senate Bill 1, including Section 48.02 thereof to take effect on October 1, 2011, which would amend Texas Tax Code § 11.253 to exempt from taxation certain tangible personal property that is acquired in or imported into this state to be forwarded to another location in this state or outside this state; is stored under contract of bailment by a public warehouse operator at one or more public warehouse facilities in this state that are not in any way owned or controlled by the owner of the personal property for the account of the person who acquired or imported the property; is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory; dealer's heavy equipment inventory, or retail manufactured housing inventory ("goods-in-transit"), which property has been to taxation in the past; and

WHEREAS, Texas Tax Code § 11.253 as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such goods-in-transit; and

WHEREAS, the City Commission of the City of Weslaco did conduct a public hearing as required by Section 1-n (d), Article VIII, Texas Constitution, is of the opinion that it is in the best interests of the City to continue to tax such goods-in-transit;

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

The goods-in-transit, as defined Texas Tax Code § 11.253 (a) (2); as amended by Senate Bill 1, enacted by the 82nd Texas Legislature in its First Called Session, shall remain subject to taxation by the City of Weslaco.

PASSED AND APPROVED on this 18th day of October 2011.

s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration to approve Ordinance 2011-29 to amend Section 1 of Ordinance 77-16, adopted on August 16, 1977 and codified in the Weslaco Code of Ordinances as §138-58 "Water Rates Prescribed" and amending Section 1 of Ordinance 67-10, adopted on June 27, 1967 and codified in the Weslaco Code of Ordinances as §138.59 "Sewer Rates Prescribed;" providing a new schedule of rates to be charged for treated water delivered through the system of the Public Utilities Department of the City of Weslaco at an increase of 18% for the average residential user; and providing a new schedule of rates to be charged for the use of wastewater treatments facilities of the City of Weslaco at an increase of 15% for the average residential user and ordaining other matters with respect to the subject matter hereof and providing for an effective date after second publication of this ordinance. First Reading of Ordinance 2011-29. Possible action. (There was no action on this item

September 27, 2011.) Attachment.

The City Manager stated these increases will secure the future of the City, with an average increase of \$9/month to the residential user. The Mayor Pro-Tem stated there have been no substantial increase in at least ten years and this proposed increase had been discussed for the past six months.

Mayor Pro-Tem Cuellar, seconded by Commissioner Garza, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- C. Discussion and Consideration to approve Change Order Request 0921-02-084 CS Westgate for the Storm Water Drain Crossing for a project cost not to exceed \$400,000.00 with the City's portion not to exceed \$100,000.00, authorize a budget amendment as needed, and authorize the Mayor to execute any related documents. Possible action. Attachment.

Mr. David Salinas stated the project had been redesigned; the Commission could elect to go out for proposals; however that would be more costly as late charges would incur with the assigned contractor. Commissioner Tafolla, seconded by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Discussion and consideration to award the bid contract for the unleaded and diesel fuel supplier for Fiscal Year 2011-2012 to the best qualified, most advantageous bidder and to authorize the Mayor to execute any related documents. Possible action. Attachment.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to award the bid contract for the unleaded and diesel fuel supplier for Fiscal Year 2011-2012 to Gold Star as the best qualified, most advantageous bidder and to authorize the Mayor to execute any related documents. The motion carried unanimously; Mayor Wise was present, but not voting.

- E. Discussion and consideration to authorize an expenditure of \$50,000.00 for the purchase of technology equipment for City Hall and Police Department, including two servers and four network switches. Possible action. Attachment.

The City Manager stated this would be the first expense from the Capital Outlay Account, recently created in the budget, in order to modernize City operations. Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- F. Discussion and consideration to authorize withdrawal from the City of Weslaco and City of Donna Emergency Management Program as created by Resolution 2004-27 and its related Interjurisdictional Emergency Management Plan by giving sixty days advance notice in writing to each of the signatories to this resolution and to the Governor's Division of Emergency Management. Possible action. Attachment.

There was no action on this item.

VIII. CITY MANAGER'S REPORT

B. Report by Public Utilities Department.

Heard out of its posted sequence on the agenda, Mr. David Salinas reported on the functions and activities of the Public Utilities Department, managing the water, wastewater, stormwater, solid waste, and recycling systems for the City with fifteen employees. In 2010, the City treated 1.8 million gallons of water and recycled 19,000 pounds of cardboard. He expects to conduct Operation Clean Sweep at the end of November.

A. Report on Departmental Update, Financial Status, Upcoming Meetings and Appointments.

The City Manager reported that the sweeper is repaired and returned; the collective bargaining agreement negotiation with the Police Union is ongoing, however the Fire Union declared an impasse. Mr. Bret Mann, Finance Director, reported on the 7% increase in sales tax revenue and the removal of the revolving loan contingency of \$550,000.00 from the financial statements.

The Mayor expressed concerns about allegations against the Police Chief as reported in local media, which affects public confidence and his professional reputation.

IX. PUBLIC COMMENTS

There were no public comments received.

X. EXECUTIVE SESSION

Mayor Pro-Tem Cuellar, seconded by Commissioner Martinez, moved to enter Executive Session to perform an Article V Section 19 Home Rule Charter investigation of the conduct by Police Chief at robbery on September 16. The motion carried unanimously; Mayor Wise was present, but not voting.

At 6:59 p.m., the Mayor recessed the regular meeting to convene in Executive Session. At 8:48 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

XI. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

Article V Section 19 Home Rule Charter investigation of conduct by Police Chief at robbery on September 16.

Mayor Pro-Tem Cuellar, seconded by Commissioner Noriega, moved to adopt a vote of confidence in Police Chief Sifuentes following an Article V Section 19 Home Rule Charter investigation of his conduct at the robbery of La Joya Credit Union on

September 16. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Commission issued the following statement:

“The Weslaco City Commission goes on record as supporting the Weslaco Police Chief Juan Sifuentes because we feel he acted professionally with due regard for the safety of the Weslaco Citizens at the La Joya Credit Union and he demonstrated the leadership that was needed and exercised proper police protocol. It is unfortunate some persons and entities have reached conclusions base on news video.”

- A. Pending Litigation – Discussion with City Attorney regarding Civil Action No. 10-00353, *Anthony Covacevich and Arnold Rodriguez v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- B. Pending Litigation – Discussion with City Attorney and assigned Special Counsel regarding Case No. 7:10-CV-00452, *Michael Fisher, Arnold Rodriguez, and Edna Salas v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- C. Pending Litigation – Discussion with City Attorney regarding CL-11-1112-E, *Baudelio Castillo v. City of Weslaco et. Al.* pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- D. Economic Development - Discussion and consideration of an international aviation business to locate in Weslaco and the terms and conditions for entering into a Development Agreement with The Economic Development Corporation of Weslaco for facilities at the Mid-Valley Airport pursuant to §551.087 of the Texas Government Code. (Item as requested by the Mayor.)

The Mayor Pro-Tem requested a joint workshop with the Economic Development Corporation on October 27, 2011 to discuss this issue.

- E. Pending Litigation – Discussion with City Attorney and assigned Special Counsel Garza & Pena, PLLC regarding Cause No. CCD-0033-F *In The Matter of Proceedings By The City of Weslaco, Texas for The Condemnation of Certain Property of Ricardo Oliva* pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

- F. Pending Litigation – Discussion with City Attorney regarding Case No. 7:09-CV-0118, *Claudio Lucio v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.

There was no action on this item.

XII. ADJOURNMENT

With no other business before the Commission, at 8:55 p.m. Mayor Pro-Tem Cuellar, seconded by Commissioner Garza, moved to adjourn the October 18, 2011 meeting. The motion carried unanimously; Mayor Wise was present, but not voting.

CITY OF WESLACO

MAYOR, Miguel D. Wise

ATTEST:

CITY SECRETARY, Elizabeth M. Walker

MAYOR PRO-TEM, J.F. “Johnny” Cuellar

COMMISSIONER, Robert J. Garza

COMMISSIONER, Olga M. Noriega

COMMISSIONER, Gerardo “Gerry” Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Joe A. Martinez