



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
DECEMBER 20, 2011**

On this 20th day of December 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 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: Rey Garcia, IT Director; Rosalinda Palomo, Finance Department; Elvia Rios, Interim Human Resources Director; David Salinas, Public Utilities Director; Fire Chief Jimmy Cuellar; Interim Police Chief Michael Kelley; 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, December 16, 2011.
- B. Mayoral Proclamations and Recognitions.
The Mayor presented a proclamation in recognition of the Weslaco Thunder youth football team for achieving runner-up at the state competition.
- C. Invocation.
Police Chaplain Bloomquist delivered 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.

Commissioner Rivera, seconded by Commissioner Garza, moved to remove from their posted sequence items III. A, B, and C for immediate consideration. The motion carried unanimously; Mayor Wise was present, but not voting.

III.

STATUS REPORTS AND VISITORS WITH BUSINESS

A. Knapp Medical Center acquisition by Universal Health Services, Inc.

Dr. Sandra Esquivel reported that not a single physician at an earlier medical board meeting supported the acquisition by Universal Health Systems and more than 2,000 petitions were signed by citizens over the weekend similarly opposed to the sale. She reiterated her request to the Commission for an official resolution in opposition to the sale.

Mr. Jim Moore called attention to the news articles about South Texas Health Systems, which as documented in the *New Yorker* contributed to the highest cost of medical care in the world at McAllen Medical Center and had to pay \$27.5 million to the federal government to settle fraud allegations. He implored the Knapp board to step down prior to the sale and the City Commission to use its political influence to slow down the process of the sale.

Dr. Leticia Volpe thanked the Commission for “listening to us because our own hospital board wouldn’t” and presented a draft resolution in opposition to the sale for consideration. Dr. Chandra, Mr. Michael Clays, and Mr. John Williams also spoke against the acquisition.

The Mayor Pro-Tem requested a legal opinion from the City Attorney on potential action by the Commission or the Weslaco Health Facilities Development Corporation; Commissioner Noriega requested a special meeting next week to consider such possible action. Commissioners Rivera, Martinez, and Tafolla spoke against the acquisition.

Mr. Carlos Guerra requested the Commission confirm if Knapp Medical Center spent the \$65 million bond in compliance with assurances and if any reverter clause had been included in the land swap contracts between the hospital and the City, and if not, why not. He stated he wants the Hospital Board to convince him that the sale is in the best interest of the Mid-Valley community.

Mr. Richard Vaughan stated that these bonds do not appear on the City audit because they are not the City’s liability he requested that before anyone starts suing the other, the Mayor and City Manager sit down with the chairman of the Hospital Board. He stated that what has been killing “our hospital” is that doctors refer to McAllen despite the services being available here, leaving those without insurance for treatment by Knapp. He stated that our City will never have \$133 million of charity in our community when it took the past thirty years to accumulate \$7 million.

The Mayor Pro-Tem requested that Mr. Vaughn, Dr. Volpe, and Dr. Esquivel be included in the conversation with the Knapp Board chairman.

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

Mr. Hernan Gonzalez reported the new EDC tagline to promote Weslaco, "All of the Amenities, None of the Congestion!" He announced a child-themed restaurant coming soon, the completion of the event center in April 2012, and the acquisition of 318 South Texas to bring the facility up to code for occupancy. The Southeastern Freight facility is 50% complete and sales tax revenues are 6.75% ahead of last year.

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

Ms. Martha Noell expressed gratitude for the City's support of the annual Christmas parade, which had 124 entries. She reported on the impending closure of the USDA facility and proposed alternate uses. She also reported that Winter Texan visitations increased and a billboard to promote the City is moving to the expressway.

II. PUBLIC HEARINGS

- A. To solicit input on behalf of Jessica M. Pineda to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 2501 N. Bridge, also being the S98.2' of Lot 1, Country Acres, Weslaco, Hidalgo County, Texas, from "R-1 Single Family Dwelling District" to "B-1 Neighborhood Business District."

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to open the public hearings on items II. A. and B as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

There were no comments received on this item.

- B. To solicit input on behalf of A.C. Cuellar, Jr. d.b.a. J-III Investments to amend Ordinance 320 and the City of Weslaco Zoning map to rezone all of Lots 1 thru 121, Las Villas Santas Subdivision, an addition to the City of Weslaco, Hidalgo County, Texas, from "R-1 Single Family Dwelling District" to "M-1 Mobile Home Subdivision District."

There were no comments received on this item.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to close the public hearings. The motion carried unanimously; Mayor Wise was present, but not voting.

IV. CONSENT AGENDA

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

- A. Approval of the Minutes of the Regular Meeting of December 6, 2011. Attachment.
- B. Approval on Second and Final Reading the following Ordinances:

- 1) Ordinance 2011-38 to amend the Master Fee Schedule to allow the City Manager or designee to waive part or all of any municipal fee. (First Reading held December 6, 2011.) Attachment.
 - 2) Ordinance 2011-39 authorizing a request for voluntary annexation of a one-lot subdivision off of Moreland Drive, being a 2.01 acre tract of land out of Farm Tract 1100, Block 114, West Tract Subdivision, Hidalgo County, Texas, in accordance with §43.122 and §43.129 which allows the City to annex the right of way leading to the subdivision, to provide water and wastewater service by the City of Weslaco. (First Reading held December 6, 2011.) Attachment.
- C. Approval of the request by Templo Elim Asambleas de Dios to utilize La Placita Park on January 12, 13, and 14, 2012 for an evangelistic campaign and waive all fees associated. Attachment.
- D. Approval of a variance request by Margarita Reyna to authorize a Wine and Beer Retailer's Permit for Border BBQ at 1200 W. Pike Boulevard in accordance with §109.33(e) of the Texas Alcoholic Beverage Code. Attachment.
- E. Approval of Resolution 2011-76 invoking the Evergreen Clause of Article 6, Section 01 contained in the Collective Bargaining Labor Agreement with the Weslaco Fire Fighters Association, IAFF Local # 3207, to provide that the current agreement remain in full force and effect until replaced by a successor agreement or for a time not to exceed one (1) additional year. Attachment.
- F. Approval of the renewed provision of adult education and literacy programs including GED classes by Region 1 Education Service Center, as monitored by the Texas Education Agency (TEA), at the Mayor Joe V. Sanchez Public Library at no cost to the City and authorize the Mayor to execute any related documents. Attachment.

Commissioner Noriega requested item G. of the consent agenda be withheld for discussion. Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to approve items A-F of the consent agenda as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the ordinances read as follows:

ORDINANCE 2011 – 38

AN ORDINANCE AMENDING ORDINANCE 2009-29, THE CITY OF WESLACO MASTER FEE SCHEDULE ORDINANCE, BY PROVIDING A WAIVER OF MUNICIPAL FEES AT THE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE, AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HERE OF.

BE IT ORDAINED BY THE CITY OF WESLACO THAT:

Section I

Ordinance 2009-29 passed and approval on November 17, 2009 and Codified as Article VI of

Chapter 2 of the Weslaco Code of Ordinances is hereby amended to provide a discretionary waiver of applicable fees to individuals, organizations, or corporations by adding a new section 2-192 so that after second and final reading of this ordinance Section 2-192 shall read as follows:

Section 2-192 Waiver of Fees

The Weslaco City Manager or his designee is hereby authorized to waive part or all of the applicable fees to any individual, organization, or corporation as prescribed by the Master Fee Schedule.

Section II

All other provisions of Ordinance 2004-44 shall remain in effect.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 6th day of December, 2011.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 20th day of December, 2011.

ORDINANCE NO. 2011 - 39

AN ORDINANCE ANNEXING ADDITIONAL TERRITORY TO THE CORPORATE LIMITS OF THE CITY OF WESLACO, HIDALGO COUNTY, TEXAS ON VOLUNTARY PETITION OF AREA LAND OWNER SUCH LAND BEING A 2.01 ACRE TRACT OF LAND OUT OF FARM TRACT 1100, BLOCK 144, WEST TRACT SUBDIVISION, WESLACO, HIDALGO COUNTY, TEXAS.

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

SECTION i: THERE IS HEREBY ANNEXED ON VOLUNTARY PETITION OF AREA LANDOWNER AS PART OF THE TERRITORY WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF WESLACO THE FOLLOWING TRACT LOCATED IN HIDALGO COUNTY, TEXAS, THAT TOTALS TO 2.01 ACRES AND ARE MORE SPECIFICALLY DESCRIBED AS FOLLOWS, TO-WIT:

METES AND BOUNDS

A 2.01 ACRE TRACT OF LAND OUT OF FARM TRACT 1100, BLOCK 114, WEST TRACT SUBDIVISION, ACCORDING TO THE MAP RECORDED IN VOLUME 2, PAGES 34-37, MAP RECORDS, HIDALGO COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING AT A POINT ON THE SOUTH LINE OF FARM TRACT 1100 AND THE CENTERLINE OF MORELAND DRIVE (MILE 7 NORTH ROAD) FOR THE SOUTHWEST CORNER OF THIS TRACT, SAID POINT BEARS EAST, 544.15 FEET FROM THE SOUTHWEST CORNER OF FARM TRACT 1100;

THENCE, NORTH, PASSING AT 30.00 FEET TO A ½" IRON ROAD FOUND FOR THE NORTH R.O.W. LINE OF MORELAND DRIVE (MILE 7 NORTH ROAD), TOTAL DISTANCE OF 309.00 FEET TO A ½" IRON ROD FOUND FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE, EAST, A DISTANCE OF 283.00 FEET TO A ½" IRON ROD FOUND FOR THE NORTHEAST CORNER OF THIS TRACT;

THENCE, SOUTH, PASSING AT 279.00 FEET TO A ½" IRON ROD FOUND FOR THE NORTH R.O.W. LINE OF MORELAND DRIVE (MILE 7 NORTH ROAD), A TOTAL DISTANCE OF 309.00 FEET TO A POINT ON THE SOUTH LINE OF FARM TRACT 1100 AND IN THE

CENTERLINE OF MORELAND DRIVE (MILE 7 NORTH ROAD) FOR THE SOUTHEAST CORNER OF THIS TRACT;

THENCE, WEST, ALONG THE SOUTH LINE OF FARM TRACT 1100 AND THE CENTERLINE OF MORELAND DRIVE (MILE 7 NORTH ROAD), A DISTANCE OF 283.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.01 ACRES OF LAND MORE OR LESS.

SECTION II: PUBLICATION

THIS ORDINANCE SHALL BE PUBLISHED IN ONE (1) NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN WESLACO, ONCE A WEEK FOR TWO (2) CONSECUTIVE WEEKS, AFTER THE LAST READING OF THE ORDINANCE.

SECTION III: EFFECTIVE DATE

THIS ORDINANCE SHALL BE EFFECTIVE ON THE DATE OF ITS FINAL PASSAGE, AFTER PUBLICATION AND PUBLIC HEARINGS AS REQUIRED BY THE LAWS OF THE STATE OF TEXAS AND THE CITY CHARTER OF THE CITY OF WESLACO.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this the 6th day of December, 2011.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this the 20th day of December, 2011.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

For the record, the resolution reads as follows:

RESOLUTION NO. 2011-76

A RESOLUTION INVOKING THE EVERGREEN CLAUSE OF ARTICLE 6, SECTION 01 OF THE COLLECTIVE BARGAINING LABOR AGREEMENT BETWEEN THE CITY OF WESLACO, TEXAS AND THE WESLACO FIRE FIGHTERS ASSOCIATION, IAFF, LOCAL #3207.

WHEREAS, the Collective Bargaining Labor Agreement Between the City of Weslaco, Texas and the Weslaco Fire Fighters Association, IAFF, Local #3207 for a term of two (2) years expires September 30, 2011 ("CBLA"); and

WHEREAS, the City of Weslaco, Texas and the Weslaco Fire Fighters Association, IAFF, Local #3207, through their authorized agents and/or representatives, negotiated an agreement between the City of Weslaco, Texas and the Weslaco Fire Fighters Association, IAFF, Local #3207;

WHEREAS, the CBLA allows that all terms of the current CBLA shall remain in full force and effect until replaced by a successor agreement or for a time not to exceed one (1) additional year; and

WHEREAS, the City of Weslaco, Texas and the Weslaco Fire Fighters Association, IAFF, Local #3207 did not reach a new agreement, and therefore the City Commission desires to invoke the Evergreen clause contained in Article 6, Section 01 of the CBLA until replaced by a successor agreement or for a time not to exceed one (1) additional year.

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

SECTION 1: The Evergreen Clause of Article 6, Section 01, of the CBLA is hereby invoked, and the current terms and provisions of the CBLA, attached as Exhibit "A" and incorporated by reference, shall remain in full force and effect until replaced by a successor agreement or for a time not to exceed one (1) additional year.

SECTION 2: This resolution shall take effect immediately from and after its passage and it is so duly resolved.

SECTION 3: Should any word, sentence, clause, paragraph, or provision of this resolution be unconstitutional, illegal, invalid, or contrary to preempting law, the same shall not affect the validity of this resolution as a whole or any part or provision hereof other than the part or provision so decided to be unconstitutional, illegal, invalid, or contrary to preempting law.

PASSED AND APPROVED on this 20th day of December, 2011
/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. 2011-77 to appoint one member to an unexpired term on the Library Board. Possible action. Attachment.

Commissioner Tafolla, second by Mayor Pro-Tem Cuellar, moved to approve Resolution No. 2011-77 to appoint Juan Hernandez to an unexpired term on the Library Board. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the resolution reads as follows:

RESOLUTION NO. 2011-77

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

WHEREAS, the City of Weslaco has established the Weslaco Public Library Board pursuant to Section 78-21 of the Weslaco Code of Ordinances; and

WHEREAS, the terms of the members of this Weslaco Public Library Board are for two years; and

WHEREAS, Members of the Weslaco Public Library Board serve at the will of the Weslaco City Commission and may be removed at any time; and

WHEREAS, the Library Board members shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Kevin Duhon, appointed on October 19, 2011 to fill the unexpired term of Francisco Rivera, is hereby removed from the Weslaco Public Library Board and Juan Hernandez is appointed to serve the unexpired term on the Weslaco Public Library Board and the term will expire on May 6, 2013.

PASSED AND APPROVED on this 20th day of December 2011.
/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY
APPROVED AS TO FORM:
/s/ Ramon Vela, CITY ATTORNEY

VI. NEW BUSINESS

- G. Approval of the City of Weslaco pay grades and ranges for Exempt and Non-Exempt Employees in compliance with Federal Labor Standards Act (FLSA) and the Department of Labor (DOL) and authorize corresponding budget amendments as needed. Attachment.

Withheld from the consent agenda for discussion, the City Manager explained that following a comprehensive review of exempt and no-exempt employees, staff proposes revising certain pay grades to more accurately reflect the reality in compliance with the Department of Labor. Only eight positions as changed have correlated pay raises as proposed. Commissioner Noriega stated she found discrepancies in the ranks and job descriptions; moreover, only a few months ago there was a reduction in force which makes this issue particularly sensitive. The City Manager replied that non-substantive errors will be corrected, but on the whole he believes the item is ready for action.

Commissioner Rivera, second by Commissioner Tafolla, moved to approve the item as presented; Commissioner Noriega opposed. The motion carried (5-1); Mayor Wise was present, but not voting.

- A. Discussion and consideration after public hearing on behalf of Jessica M. Pineda to approve Ordinance 2011-41 to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 2501 N. Bridge, also being the S98.2' of Lot 1, Country Acres, Weslaco, Hidalgo County, Texas, from "R-1 Single Family Dwelling District" to "B-1 Neighborhood Business District." First Reading of Ordinance 2011-41. Possible action. Attachment.

Commissioner Garza, second by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- B. Discussion and consideration after public hearing on behalf of A.C. Cuellar, Jr. d.b.a. J-III Investments to approve Ordinance 2011-42 to amend Ordinance 320 and the City of Weslaco Zoning map to rezone all of Lots 1 thru 121, Las Villas Santas Subdivision, an addition to the City of Weslaco, Hidalgo County, Texas, from "R-1 Single Family Dwelling District" to "M-1 Mobile Home Subdivision District." First Reading of Ordinance 2011-42. Possible action. Attachment.

Commissioner Tafolla, second 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 on behalf of Trinity Development Group to approve the Final Plat of Trinity MEP, Phase II Subdivision, being 2.10 of one acre of land out of

Farm Tract 1033, West and Adams Tract Subdivision, Hidalgo County, Texas, located on the northwest corner of Moreland Drive and Plaza Los Encinos Drive. Possible action. Attachment.

The City Manager stated Planning and Zoning Commission and staff recommend approval. Commissioner Tafolla, second by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Discussion and consideration on behalf of Robert Perales to approve the Final Plat of Red Bird #3 Subdivision, being a 2.01 acre tract of land out of Farm Tract 1100, Block 114, West and Adams Tracts Subdivision, Hidalgo County, Texas, located on the north side of the intersection of Moreland Drive and Samaria Street. Possible action. Attachment.

The City Manager stated Planning and Zoning Commission and staff recommend approval. Commissioner Rivera, second by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- E. Discussion and consideration on behalf of Fred Perez to approve the Final Plat and proposed variance of Professional & Medical Complex Phase II, being a 14.615 acre tract of land being out of Farm Tract 17 West Tract Subdivision, Hidalgo County, Texas, located on Pleasantview Drive, South of Expressway 83. Possible action. Attachment.

The City Manager stated this is a 16-lot development with a variance request from the 75-foot drainage dedication; he added that the Planning and Zoning Commission recommend approval, but staff did not as it may present issues with detention capacity and utility access.

A representative of Fred Perez stated that the full 75-foot dedication inhibits development of the property and noted that the property to the immediate south has only a 25-foot dedication; he offered to meet a 40-foot dedication plus the 15-foot utility easement and assist with off-site drainage retention. Mr. Charles Warren, on behalf of the Planning and Zoning Commission, stated that the Commission struggled with this consideration for months and believes the developer is going above and beyond to satisfy City concerns; though staff cannot recommend against the ordinance, this would not be the first time to grant a variance to such an ordinance.

Commissioner Garza, second by Commissioner Tafolla, moved to approve item as presented. Commissioner Garza, second by Commissioner Tafolla, moved to amend the motion to approve with a conditional note placed on the plat that no structures, neither permanent nor temporary, shall be placed within easement area and the City is not responsible for any damages within the same area. The motion carried unanimously; Mayor Wise was present, but not voting.

- F. Discussion and consideration to approve Amendment No. 21 to the existing contract

between the City of Weslaco and Operations Management International, Inc. (OMI) by increasing the base fee 2.9% for the annual Consumer Price Index (CPI), corresponding to an increase not to exceed \$83,449.00, for professional operation and maintenance services of the City of Weslaco Water and Wastewater Treatment for fiscal year October 1, 2011 to September 30, 2012, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (This item was tabled November 15, 2011.) Attachment.

Mayor Pro-Tem Cuellar, second by Commissioner Rivera, moved to remove this item from the table. The motion carried unanimously; Mayor Wise was present, but not voting.

The City Manager recommended this amendment which includes the annual increase; Commissioner Tafolla requested that all three options for renewal as proposed by OMI be included in future agendas.

Mayor Pro-Tem Cuellar, second by Commissioner Martinez, moved to approve the item as presented; Commissioner Garza opposed. The motion carried (5-1); Mayor Wise was present, but not voting.

- G. Discussion and consideration to enter into a contract for the services of a construction manager-at-risk as per §271.118 of the Texas Local Government Code for the emergency rehabilitation of Lift Station 36, authorize budget amendments as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Lift Station 36 declared an imminent threat as per §252.022(a) (2) of the Local Government Code on November 1, 2011.)

The City Manager stated this would allow the City to expedite the project, considering it will take 8-12 weeks to obtain the necessary parts. Commissioner Tafolla, second by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

Mayor Pro-Tem Cuellar, second by Commissioner Martinez, moved to move item VI. J. from its posted sequence for immediate consideration. The motion carried unanimously; Mayor Wise was present, but not voting.

- J. Discussion and consideration to approve Resolution 2011-78 changing the City's General Election date from May to November pursuant to Senate Bill 100 and in conformance with the Texas Election Code and the Weslaco City Charter. Possible action. Attachment.

Commissioner Noriega stated though this may be a cost-saving measure, it should be put out to election. The Mayor Pro-Tem stated a pending Supreme Court decision in April may affect the run-off schedule such that the county may not be available to conduct the City's election in May.

Commissioner Rivera, second by Mayor Pro-Tem Cuellar, moved to approve the item as presented; Commissioner Noriega opposed. The motion carried (5-1); Mayor

Wise was present, but not voting.

For the record, the resolution reads as follows:

RESOLUTION NO. 2011-78

A RESOLUTION OF THE CITY OF WESLACO, TEXAS MAKING THE FOLLOWING CHANGES TO THE CITY'S GENERAL ELECTION PURSUANT TO SENATE BILL 100, EIGHTY-SECOND REGULAR LEGISLATIVE: 1. MOVING ITS GENERAL ELECTION DATE FROM MAY TO NOVEMBER; 2. PROVIDING FOR SEVERABILITY.

WHEREAS, the federal Help America Vote Act of 2002 (HAVA), found in 42 U.S.C. § 15481 (a)(3), mandates that – for elections in which a federal office is on the ballot – each polling place must be equipped with an electronic voting machine to facilitate voting by those with disabilities; and,

WHEREAS, the Texas Legislative implemented HAVA in the 2003 regular session with the passage of House Bill 1549, but expanded the scope of the electronic voting machine requirement to apply to any election held in the state, with limited exceptions; and,

WHEREAS, the federal Military and Overseas Voter Act of 2009 (MOVE Act), found in 42 U.S.C. § 1973ff-1, provides for an extended timetable in which absentee ballots be transmitted to uniformed and overseas citizens at least 45 days prior to an elections; and,

WHEREAS, the Texas Legislative implemented the MOVE Act in 2011 with the passage of Senate Bill 100, which overlaid the period between the state's primary runoff election upon the most commonly-used uniform election date for the municipal general election, which is the second Saturday in May; and,

WHEREAS, many counties in Texas have concluded that, in even-numbered years (the years in which the state's primary runoff elections are held), they will be unable to provide to their cities – through sharing, lease, or other means – the electronic voting machines that are required by the aforementioned federal and state laws; and,

WHEREAS, the City of Weslaco currently holds its general election on the uniform election date on the second Saturday in May; and,

WHEREAS, pursuant to Senate Bill 100 and other statutory and state constitutional provisions, the City of Weslaco is – through the adoption of this resolution and any other necessary means – making best efforts to modify its election procedures to be in compliance with the bill and other federal and state laws; and,

WHEREAS, the City Commission of the City of Weslaco believes it is to the advantage of the City, its citizens, and the pursuit of democracy to pass such a resolution.

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

1. The City of Weslaco will conduct its General Election in November of each calendar year as allowed by Election Code 41.0052(c) and the Weslaco City Charter.
2. Should any section or part of this resolution be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffective of such section or part shall in no way affect, impair, or invalidate the remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this resolution are declared to be severable.

PASSED AND APPROVED on this 20th day of December 2011.

/s/ Miguel D. Wise, MAYOR

ATTEST:
/s/ Elizabeth M. Walker, CITY SECRETARY
APPROVED AS TO FORM:
/s/ Ramon Vela, CITY ATTORNEY

- H. Discussion and consideration after public hearing to adjust and approve the redistricting plan(s) establishing new district boundary lines based on 2010 Census data for Weslaco City Commission elections. Possible action. Attachment.

In consideration of the action taken on the preceding item, which adjusts the election schedule, Commissioner Tafolla, seconded by Commissioner Rivera, moved to table this item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- I. Discussion and consideration to approve Resolution 2011-79 to adopt the final Single Member Commissioner Districts redistricting plan and authorize redistricting legal counsel to seek Voting Rights Act Section 5 preclearance of adopted plan. Possible action. Attachment.

Mayor Pro-Tem Cuellar, second by Commissioner Martinez, moved to table this item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

VII. CITY MANAGER'S REPORT

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

The City Manager reported great ideas from the Sugarland Airport visit on improvements to the Mid-Valley Airport. He also reported 23 applications received for police chief, with eight interviews scheduled and four recommendations expected the second meeting in January. He stated action has been taken to correct compensatory time discrepancies in the Fire Department, with a valuation of approximately \$20,000.00.

Commissioner Noriega expressed gratitude to the workers, volunteers, and sponsors of her holiday party at La Placita park, which 750 people attended. Commissioner Tafolla thanked the Parks Department for coordination of the Feast of Sharing event, where 4,000 meals were served.

- B. Report by Airport Department.

There was no report by the Airport Department.

VIII. PUBLIC COMMENTS

There were no public comments.

IX. EXECUTIVE SESSION

A. The Commission did not convene in executive session.

X. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

As there was no Executive Session, there was no subsequent action.

XI. ADJOURNMENT

With no other business before the Commission, at 8:10 p.m. Mayor Pro-Tem Cuellar, seconded by Commissioner Garza, moved to adjourn the December 20, 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