

WESLACO CITY COMMISSION

REGULAR MEETING

SEPTEMBER 1, 2009

On this 1st day of September, 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.

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| 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.

Mr. Francisco Castellanos, City Manager of the City of Weslaco, gave the invocation. Mayor Pro-Tem Rodriguez recited the Pledge of Allegiance and 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separately unless requested by one commission member or a citizen, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 August 18, 2009.
2. Regular Meeting of August 18, 2009

B. Second and final reading of the following ordinances:

1. Ordinance No. 2009-21 annexing additional territory to the corporate limits of the City of Weslaco, Hidalgo County, Texas on consensual petition of area land owner such land being a 41.29 acre tract out of Farm Tract 1049, Block 133, West Tract Subdivision, Weslaco, Hidalgo County, Texas. Possible action.
2. Ordinance No. 2009-22 of the City Commission of the City of Weslaco, Texas, (City) approving a negotiated resolution between the City of Weslaco and Texas Gas Service Company ("TGS" or "The Company") regarding the company's March 27, 2009 Application to implement higher rates in its Rio Grande Valley Service territory; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving TGS' proof of revenues; approving a three year experimental cost of service adjustment ("COSA") process that includes TGS' proposed depreciation rates, a return on equity of 10.25 percent and use of a federal tax rate of 35 percent; providing for the recovery of the cities' and TGS' reasonable and necessary rate case expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the company and the city's legal counsel. Possible action.

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

For the record, the following ordinances read as follows:

ORDINANCE NO. 2009-21

AN ORDINANCE ANNEXING ADDITIONAL TERRITORY TO THE CORPORATE LIMITS OF THE CITY OF WESLACO, HIDALGO COUNTY, TEXAS ON CENSUAL PETITION OF AREA LAND OWNER SUCH LAND BEING A 41.29

ACRE TRACT OUT OF FARM TRACT 1049, BLOCK 133, WEST TRACT
SUBDIVISION, WESLACO, HIDALGO COUNTY, TEXAS.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 18th day of August, 2009

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 1st day of September, 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

ORDINANCE NO. 2009-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE CITY AND TEXAS GAS SERVICE COMPANY ("TGS" OR "THE COMPANY") REGARDING THE COMPANY'S MARCH 27, 2009 APPLICATION TO IMPLEMENT HIGHER RATES IN ITS RIO GRANDE VALLEY SERVICE TERRITORY; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING TGS' PROOF OF REVENUES; APPROVING A THREE YEAR EXPERIMENTAL COST OF SERVICE ADJUSTMENT ("COSA") PROCESS THAT INCLUDES TGS' PROPOSED DEPRECIATION RATES, A RETURN ON EQUITY OF 10.25 PERCENT AND USE OF A FEDERAL TAX RATE OF 35 PERCENT; PROVIDING FOR THE RECOVERY OF THE CITIES' AND TGS' REASONABLE AND NECESSARY RATE CASE EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE CITY'S LEGAL COUNSEL.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 18th day of August, 2009

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 1st day of September, 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

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.

Richard Vaughan, Former City Commissioner, referred to Item VI., B., nominations of the Economic Development Corporation of Weslaco and stated he did not agree with the action taken by the Weslaco City Commission at the last meeting to dissolve the existing board. He mentioned it was not a good policy to remove all board members at one time because of the lack of continuity. Mr. Vaughan stated the City Commission was elected by district, but still represented all of Weslaco. He pointed out he was getting the impression that the Commission was selecting people for boards by district and that was not the plan. Mr. Vaughan stated it bothered him because instead of selecting the best qualified people for this board they were only doing it according to district. He indicated the Commission should reconsider their action. Mr. Vaughan also referred to Item VIII. G. and stated the purchase of new trucks should be done through competitive bidding. He added if this issue was an emergency the city should have known this for quite some time especially with the conditions of the city's budget.

III. PUBLIC HEARING

- 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 Lots 1 & 2, Mid Valley Industrial Park #8, at 3300 E. Sugarcane Drive from "R-1" Single Family Dwelling District to "I" Industrial District and approval of Ordinance No. 2009-23 on first reading. (Requested by the Economic Development Corporation of Weslaco). Possible action.

Mayor de la Rosa announced this was a public hearing and anyone wishing to speak for or against it could do so.

Bernard Rodriguez, Interim Planning and Zoning Director, stated the property was located at the Mid Valley Industrial Park #8. He pointed out the item was presented to the Planning and Zoning Commission and the request complied with the Weslaco Comprehensive Plan. 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 Mayor Pro-Tem Rodriguez to approve the request and adopt Ordinance No. 2009-23 on first reading. Motion carried unanimously.

IV. CITY MANAGER'S REPORT

- A. Announcement of Fiestas Patrias, Sunday, September 6, 2009 at the Weslaco City Park starting at 12 noon and ending at 10:00 p.m.

Mr. Castellanos announced Fiesta Patrias would be held at Weslaco City Park on Sunday, September 6, 2009 from 1:00 p.m. to 9:00 p.m. He mentioned this would be an all day family celebration and was a fundraiser for the Weslaco Scholarship Program.

V. MAYOR'S REPORT

- A. Announcement of a Proclamation to Sam Maverick Chapter National Society Daughters of the American Revolution proclaiming Constitution Week on September 17-23, 2009.

Mayor de la Rosa stated the week of September 17th through September 23, 2009 would be proclaimed as "Constitution Week" and read the proclamation.

- B. Introduction of Major Carlos Tamez and acceptance and presentation of a special gift to the City of Weslaco.

Mayor de la Rosa stated Major Carlos Tamez was an aviator and Commander of "Charlie" Company (MEDEVAC) 2-149 General Support Aviation Battalion of the Texas Army National Guard from San Antonio: Call sign "Alamo Dustoff 6." He pointed out "Alamo Dustoff" was a Medical Evacuation unit consisting of 90 Flight Crew Members and Soldiers with 12 UH-60 "Blackhawk" helicopters and was in charge of mobilizing and deploying to Iraq in support of combat operations. "Alamo Dustoff" specific task and purpose in combat was to evacuate America's wounded sons and daughters off the battlefield ultimately resulting in many life saving missions. Mayor de la Rosa stated Carlos Tamez was a 1986 Graduate of Weslaco High School and a Class of 1990 Graduate of Texas A&M University in College Station where he was commissioned through the Corps of Cadets as an officer in the U.S. Army and married to Patricia of Weslaco. He added Major Tamez and Patricia have two children, Celeste and Aaron. Mayor de la Rosa stated they owned the Tamez Financial Group, LLC in Weslaco.

A video presentation was made of the images that reflected "a day in the life of MEDEVAC flight crews" in Iraq in 2008 and 2009. Mayor de la Rosa stated Major Tamez had flown The American Flag during a combat mission over Iraq out of pride for his hometown "The All American City of Weslaco." He mentioned a U.S Marine to "Alamo Dustoff" quoted when he and a buddy were severely wounded from an IED in Baghdad, Iraq: "I knew you'd come get us!"

Major Tamez stated he was very proud of his hometown. He added the toughest thing for a soldier was leaving his family. Major Tamez presented the flag that had been flown for the City of Weslaco in Baghdad, Iraq and a certificate.

Mayor de la Rosa thanked Major Tamez and his crew.

VI. BOARD APPOINTMENTS

- A. Parks & Recreation Advisory Board – Three (3) members’ terms expire September 1, 2009 and one member’s term expires September 19, 2009. Possible action.

Motion was made by Commissioner Tafolla and seconded by Mayor Pro-Tem Rodriguez to appoint Juan Jimenez to replace Luciano Garza in the Parks & Recreation Advisory Board. Motion carried unanimously.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Tafolla to appoint Richard Hinojosa to replace Bernie Saenz in the Parks & Recreation Advisory Board. Motion carried unanimously.

Motion was made by Commissioner Cuellar and seconded by Commissioner Rivera to reappoint Joe A. Martinez to the Parks & Recreation Advisory Board. Motion carried unanimously.

Motion was made by Commissioner Tafolla and seconded by Commissioner Kennedy to reappoint Rolando G. Robles, Jr. to the Parks & Recreation Advisory Board. Motion carried unanimously.

- B. Nomination and appointment and confirmation of The Economic Development Corporation of Weslaco Board Members to the new seven (7) member board. Possible action.

Ramon Vela, City Attorney pointed out the City Commission had nominated five members at the last meeting and the nomination needed to be confirmed by appointments. He indicated nominations needed to be made by Commissioner Rivera, District No. 5 and Mayor de la Rosa, one member to serve at-large. Mr. Vela stated these nominations also needed to be confirmed by appointment.

Mayor de la Rosa nominated Joe Olivarez to the Economic Development Corporation of Weslaco.

Commissioner Rivera nominated Joe Sanchez.

Motion was made by Commissioner Tafolla and seconded by Commissioner Kennedy to confirm the nominations by appointment to the Economic Development Corporation of Weslaco.

For the record, Amanda C. Elizondo, City Secretary, stated the following individuals had been appointed to the EDC; District #1 – Mike Givilancz, Jr.; District #2 Anthony Covacevich; District #3 – Ricardo Quintanilla; District #4 – Johnny Bautista District #5 – Joe Sanchez; District #6 – Tom Crouch and At-large – Joe Olivarez.

Motion carried unanimously.

- C. Civil Service Commission – One (1) member’s term expires September 30, 2009 and possible appointment. (City Manager’s appointment with

City Commission confirmation as per the Local Government Code Sub-Section 143.0051 (b.) Possible action.

Mr. Castellanos stated Esteban Martinez's term would expire September 28, 2009 and had served honorably for several years. He mentioned Mr. Martinez had attended extensive training and was willing to serve in different boards. Mr. Castellanos nominated Juan Gonzalez and stated Mr. Martinez would serve until September 30, 2009 and Mr. Gonzalez's appointment would be effective October 1, 2009.

The Weslaco City Commission consented and confirmed to the appointment of Mr. Gonzalez.

Motion carried unanimously.

VII. OLD BUSINESS

- A. Discussion and consideration to approve Invoice No. 80319614 from Camp Dresser & McKee, Inc. for additional services provided pursuant to Exhibit C of the agreement between the City of Weslaco and Camp Dresser & McKee, Inc. for TPDES Permitting Assistance in the amount of \$28,500.00; Geotechnical Services in the amount of \$16,000.00; Surveying Services in the amount of \$32,000.00; and Resident Project Representative Services in the amount of \$72,150.00. (This item was tabled at the last regular meeting of August 18, 2009). Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to remove the item from the table. Motion carried unanimously.

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

- B. Discussion and consideration to amend the Standard Form of Agreement between The City of Weslaco and Camp Dresser & McKee, Inc. dated July 22, 2008 to Amend Exhibit C "Additional Services" to reduce the amount for Geotechnical Services from \$100,000.00 to \$32,000.00; and the amount of Surveying Services from \$60,000.00 to \$40,000.00; and the amount for Resident Project Representative from \$705,000.00 to \$650,000.00 or less; and the amount for Construction Materials Testing from \$271,000.00 to \$200,000.00. (This item was tabled at the last regular meeting of August 18, 2009). Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Kennedy to remove the item from the table. Motion carried unanimously.

Motion was made by Commissioner Cuellar to remove the language "or less" from the agenda item in regards to the \$650,000.00 item and approved the item as reflected in the memo presented to the city from CDM.

Mayor de la Rosa referred to the reimbursement savings process and asked if CDM would be receiving 75% of the monies.

Mr. Castellanos responded the reimbursement savings did not apply in this case and understood the city was going to received 100% of the savings.

Mari Bird-Garza, representative from CDM referred to the comments by Mr. Castellanos was correct.

Motion carried unanimously.

- C. Discussion and consideration to amend the Program Management Contract between the City of Weslaco and Camp Dresser & McKee, Inc. dated 2/5/2008 to amend Task No. 3 Construction Services will be reduced from \$396,690.00 to \$19,830.00. (This item was tabled at the last regular meeting of August 18, 2009). Possible action.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to remove the item from the table. Motion carried unanimously.

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

- D. Discussion and consideration to amend the Program Management Contract between the City of Weslaco and Camp Dresser & McKee, Inc. dated 2/5/2008 to amend Task No. 4, Construction Materials Testing to reduce the amount from \$220,000.00 to \$11,000.00. (This item was tabled at the last regular meeting of August 18, 2009). Possible action.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Cuellar to remove the item from the table. Motion carried unanimously.

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

VIII. NEW BUSINESS

- A. Discussion and consideration to award the lowest responsible bidder Betts Oil & Butane from Weslaco, Texas for the purchase of Unleaded and Diesel Fuel as the Texas Local Government Code, Section 271.905 that allows local bidders preference if the bid is within 3% of the low bid. Possible action.

Gloria Sepulveda, Purchasing Director, stated every year the city solicit bids for the purchase of fuel and stated Betts Oil & Butane from Weslaco had met all the requirements. She recommended awarding the bid to Betts Oil & Butane Company from Weslaco, Texas.

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

Mrs. Sepulveda stated the city had spent almost \$650,000.00 in fuel for all departments.

B. Status report by Hernan Gonzalez, Executive Director of the Economic Development Corporation of Weslaco regarding economic development. Possible action.

Hernan Gonzalez, Economic Development Director, reported the following.

1. J. C. Penney/Lowe's/SDI Development - Buildings were complete for both anchors. The infrastructure work: burial of the drainage ditch, water and sewer lines, and improvements to the drainage ponds were ninety percent (90%) completed. The grand opening and ribbon cutting for J. C. Penney was scheduled for October 2nd and the grand opening and board breaking for Lowe's would be September 24th.
2. Gran Café de la Parroquia - Angel Fernandez Ceballos had announced the intent to locate a distribution center in Weslaco. The Veracruz coffee company had been in business for 200 years. The Weslaco distribution center would be the first in the U.S.
3. Mid-Valley Airport Terminal - The facelift to the terminal was to promote a first-class impression of the airport in Weslaco. The addition of the On Call Customs would bring new traffic and investors to Weslaco.
4. Rio Bank was opened for business and the grand opening and ribbon cutting ceremony was set for September 16th. The EDC provided a \$50,000.00 grant toward the demolition, site clearing, and beautification and the invested improvements was more than \$1,000,000.00.
5. Internacional de Cajas, S.A. de C.V. (INTERC) - INTERC was an International casket company. A distribution center was being established at the Mid-Valley Industrial Park, 1512 Industrial Drive. The company's home base was Santiago, Nuevo Leon.
6. Savory Perks – This Café was located at 1000 South Texas Blvd. and was being expanded to include a patio for different occasions. The grounds were being landscaped and customers from the region were being drawn to this setting.
7. Sales Tax - The receipts for the month of August were flat with a slight decline (-0.11%). Overall, the year-to-date increase was 7.39% ahead of last year.

Mr. Castellanos stated he had attended the last EDC meeting and they had a very comprehensive report regarding their activities. He requested copies of the report for the City Commission.

Mr. Gonzalez responded the report would be forthcoming in two weeks as part of the budget presentation.

- C. Discussion and consideration of a request from James H. Lauderdale to abandon the following right-of-ways, a 0.9 tract of land out of Moreland Drive 60 foot right-of-way out of Farm Tract 1097, Block 113, West and Adams Tract Subdivision and a 0.049 tract of land out of FM 1015, 80 foot right-of-way out of Farm Tract 1097, Block 113, West and Adams Subdivision, Lot 1, International Plaza Subdivision. Possible action.

Randy Winston, City Engineer stated James H. Lauderdale had requested to remove the item from the agenda.

- D. Discussion and consideration to authorize the Mayor to execute the Interlocal Governmental Agreement Ambulance Service to provide emergency ambulance service to those rural areas of Hidalgo County, Texas located within the established boundaries of the district. Possible action.

Motion was made by Commissioner Cuellar and seconded by Commissioner Kennedy to approve the agreement as presented and authorize the Mayor to execute the agreement. Motion carried unanimously.

- E. Discussion and consideration to approve the Texas Parks and Wildlife Department Local Park Grant Program – Project Agreement for Project No. 51-000065 (Weslaco Boys & Girls Club Recreation Center) and to authorize the Mayor to execute the agreement. Possible action.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Rivera to approve the item as presented and authorize the Mayor to execute the agreement. Motion carried unanimously.

- F. Discussion to identify a project(s) for the AEP incentive funding available to municipalities. Possible action.

Mr. Castellanos stated this was a pre-application for \$180,000.00 to AEP for solar panels and the City Commission wished to have additional discussion for different locations. He mentioned the city had three months from the AEP announcement to submit an amendment to place the solar lights at the Water and Sewer Plants instead of City Hall. Mr. Castellanos stated \$180,000.00 would not cover the total cost of the project and the city would probably have to allocate the rest of the funds.

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

- G. Discussion and consideration to approve an immediate purchase of two (2) Sanitation trucks as allowed by Local Government Code, Section 252.022 (a) (2) that exempts competitive bidding for procurements needed to preserve and protect the public health and safety of municipality residents and to authorize the transfer of funds from the Sanitation Enterprise Fund to the Waste Collection Department (61-522-4010 – Capital Outlay). Possible action.

Omar Gonzales, Finance Director, stated the city would be obtaining three quotes and recommended buying one truck at this time due to the cost. He mentioned the city could opt to solicit bids and could take approximately three months to get a new truck.

Motion was made by Commissioner Cuellar and seconded by Mayor Pro-Tem Rodriguez to go out for competitive biddings for two new sanitation trucks with the option for one. Motion carried unanimously.

- H. Discussion and consideration to appoint an official member and an alternate member to the Amigos Del Valle, Inc. Board of Directors for fiscal year October 1, 2009 to September 30, 2010. Possible action.

Motion was made by Commissioner Kennedy and seconded by Commissioner Cuellar to reappoint Eloy Alaniz as the official member and Mayor Pro-Tem Rene Rodriguez, Jr. as the alternate member to the Amigos Del Valle, Inc. Board of Directors. Motion carried unanimously.

- I. Presentation by CDM on proposed plans to address the immediate concerns for the following: (Requested by Commissioner John F. Cuellar and Commissioner Robert J. Garza).

- A. Water Treatment Plant
- B. North Wastewater Plant

Mayor de la Rosa stated city staff had scheduled a meeting with Mr. Vandertulip for the following day.

Mr. Vandertulip responded he would not be able to attend the meeting.

Mayor de la Rosa asked if the meeting was to discuss plans and address immediate concerns.

Mr. Castellanos responded he had scheduled a meeting with CDM to discuss certain issues regarding the wastewater treatment project.

Mayor de la Rosa stated the agenda item read presentation by CDM on the proposed plans to address the immediate concerns and were numbered.

Don Vandertulip, Representative from CDM, stated they had a lot of discussions regarding the water and wastewater treatment plants and the available funding as to what could be done. He added CDM would like to present options to provide a solution for both plants.

Mayor de la Rosa stated tomorrow's meeting was to discuss options and develop solutions to address the concerns that the city was having.

Mari Garza Bird, CDM Representative stated she did not know the content of the meeting.

Mayor de la Rosa stated the City Commission would hear the presentation, but whatever they discussed and agreed on at tomorrow's meeting they could return to the City Commission to address the issues and present solutions.

Mr. Vandertulip stated back in 2006 in preparation for the 2007 Bond Program twenty infrastructure projects were identified as the most needed projects for the city. He mentioned Sigler, Winston and Greenwood had done a utility study for the city in 2006 and had estimated the total value of all twenty projects at \$20.9 million. Mr. Vandertulip stated in September, 2008 the Weslaco Commission was informed that all twenty projects could not be constructed with the 2007 bond money and revised the cost estimates to \$33 million. He pointed out that the City Commission had voted to prioritize the bond money for the Water and Wastewater Treatment Projects. Mr. Vandertulip mentioned the most recent issues that were challenging was a water and wastewater plants that needed more capacity; a water plant that needed more capacity; concerns over availability of surface water rights and low pressure in the distribution system. He stated the North Water and Wastewater Treatment Plant Projects were necessary because Texas Commission on Environmental Quality (TCEQ) required construction to begin when water and wastewater treatment plants reached 90% of capacity; additional wastewater flows could not be transferred to the south wastewater treatment plants without expensive infrastructure investments. Mr. Vandertulip added the north wastewater plant required a treatment capacity of 3 million gallons. He stated the existing equipment could only treat about 2.34 million gallons daily and the city had a deficit in the wastewater plant, this was one of the reasons for the plant improvements. Mr. Vandertulip mentioned TCEQ had amended the wastewater treatment plant discharge permit that became effective July 1, 2009; TCEQ could immediately review the discharge permit if construction was stopped and could issued some violations for not being in compliance with the 75 – 90% rule. He stated TCEQ could issue daily fines to the city and possible civil and criminal enforcement by the U.S. Environmental Protection Agency (EPA). Mr. Vandertulip mentioned a lot of work had been done at the plant, equipment had been ordered as per the City Commission approval and equipment had been delivered to the plant. He stated the City of Weslaco would have to pay for the equipment because the equipment ordered could not be cancelled; warranties would be voided and storage costs would be incurred. Mr. Vandertulip stated the city had already spent \$10 million of the \$16 million contract which was 74% of the total construction budget; changing contractors would add an estimated 25% additional costs; and it would required some time for the next contractor to pick up the project. He mentioned the north wastewater treatment plant project had hit the construction market at the perfect time; CMAR method benefited Weslaco and once

procurement was complete CCI could return the credit contingency budget to Weslaco totaling to \$1.8 million and with additional savings as the construction progressed. Mr. Vandertulip mentioned time was of the essence and escalation of construction was anticipated to begin within the next three months. He stated the Water Treatment Plant Project was necessary and the current drought was stressing the water plant. Mr. Vandertulip pointed out water demands were extremely high compared to other cities and the implementation of the Water Management Plan was necessary.

Mayor de la Rosa recommended that the \$1.9 million from the interest of the bonds could be used to purchase elevated storage tanks and they could find additional savings in the construction of the Wastewater Plant Project. He added CDM had tremendous options and they wished to construct both projects to provide additional capacity of 1.5 gallons a day and maybe 2.5 million gallons a day of water treatment. Mayor de la Rosa mentioned the city had exceeded the water usage and they needed to find a way to acquire additional water rights. He stated they had decided to look into the water wells to supply the city with 2 to 5 million gallons a day. Mayor de la Rosa mentioned the scheduled meeting with the City Manager and staff was to find solutions for the concerns.

Discussion was held regarding the funds spent on the Wastewater Treatment Plant Project, water consumption and water rights. Mr. Castellanos pointed out that based on a report made by the State of Texas on loss of water in Texas cities Weslaco had less than 5%. He added as of August 24th the Finance Department showed that the City had only paid \$1,708,594; in bills and there were \$7 million that were still pending in various forms of invoices or encumbrances. Mr. Castellanos stated the figures that Finance Department had showed there was \$11 million in the budget. He added this issue would be discussed at the scheduled meeting and hopefully staff and CDM would come up with a breakdown on the figures.

Mr. Vandertulip stated the difference was due to large equipment items that were ordered and most of them had provisions.

- J. Discussion and consideration to prioritize the 2007 Bond Issue to the Water Treatment Plant and North Wastewater Plant Projects. (Requested by Commissioner John F. Cuellar and Commissioner Robert J. Garza). Possible action.

Mayor de la Rosa stated as a point of order the abovementioned item had already been voted on and the only way to reconsider the item was in the initial meeting and the City Commission had already taken action. He mentioned the two City Commissioners had the authority to reconsider the meeting during the past meeting, but now it was too late.

Commissioner Cuellar stated this was a different item than the action taken last week. He mentioned the action was to put all the monies from the Wastewater Treatment Plant Project. Commissioner Cuellar stated they wished to identify what the City Commission had done in 2008 which was to do the Water and Wastewater Treatment Plants.

Mayor de la Rosa stated these items would be discussed at the scheduled meeting on Wednesday and staff would be presenting recommendations at the next meeting. He added they could not consider this item because the motion was the same as the intent of the Commission to find monies available in the bonds to put into the Wastewater Treatment Plant Project.

Commissioner Cuellar stated if the argument was held than the action of two weeks ago would be voided based on the action of the City Commission taken on March, 2008 because they had already prioritized.

Mayor de la Rosa stated this was a reconsideration of that item that could not be considered under Robert's Rules of Order.

Mr. Vela stated the only way to bring the item back for discussion was through a motion. He mentioned under Rule 37 of Robert's Rules of Order it had to be brought back by a member of the winning side. Mr. Vela stated the City Commission could consider the suspension of the Robert's Rules of Order. He mentioned the Robert's Rules of Order had been adopted by a motion and the City Commission could suspend the rules and reopen the discussion through a form of a motion.

A discussion was held in regards to contract terms and Commissioner Cuellar stated this was new action and his intention was to prioritize the projects to be equal.

Motion was made by Commissioner Cuellar to suspend the Robert's Rules of Order.

Mayor de la Rosa stated the motion was out of order.

Mr. Vela stated Commissioner Cuellar could make the motion.

Mayor de la Rosa stated the order to suspend the rules was to correct a deficiency in a previously motion. He asked Commissioner Cuellar what correction he would like to make.

Commissioner Cuellar stated he wanted to be clear that the Water and Wastewater Treatment Plants were of equally importance and the city would work on both projects because the verbatim of the August 18th stated to stop the Wastewater Treatment Plant Project. He pointed out he would like to reassure the citizens of Weslaco and consent from the City Commission, if they so desire, to vote on record that they would do both projects.

Mayor de la Rosa stated they wanted to do both projects; the presentation from CDM was to do both projects.

Commissioner Garza stated they wanted to continue the North Wastewater Treatment Plant Project and need to reprioritize the Water Treatment Plant Project.

Mayor de la Rosa stated CDM and CCI had indicated they would continue the Wastewater Treatment Plant Project and had monies left over for the Water Treatment Plant Project which was the original intent of the bond.

Mr. Vela stated all the contracts that the city had entered into with CDM and CCI were in effect and no contracts had been cancelled.

Commissioner Garza seconded the motion.

Commissioner Cuellar stated he would like to suspend the Robert's Rules of Order just for the City Commission to have an opportunity to vote on the item so it would be very clear for the city to do both projects. He mentioned this would be the instructions to City Manager.

A lengthy discussion was held regarding the suspension of the Robert's Rule of Order, the individuals designated on the contracts to do the negotiations; expenditures that were pending as they related to the award of bids for the materials and work that was being performed at the wastewater treatment plant. Mayor de la Rosa mentioned that Mr. Vandertulip's recommendations were excellent and the City Commission needed to allow staff to act according to the action taken by them at the last meeting.

Motion carried as follows: FOR: Commissioners: Garza, Cuellar, Tafolla and Rivera. AGAINST: Mayor de la Rosa, Mayor Pro-Tem Rodriguez, and Commissioner Kennedy. (4-3 vote)

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to clarify the re-prioritization to include the Water and Wastewater Treatment Plant Projects to be of equally importance and be prioritized in the bond projects.

Mayor de la Rosa recommended that the motion be amended to state that no further expenditures would be made until the discussion with CDM and City Manager were completed and a recommendation was presented to the City Commission regarding any future expenditure.

Commissioner Cuellar stated his motion stood as stated.

Motion carried as follows: FOR: Commissioners: Garza, Cuellar, Rivera and Tafolla. AGAINST: Mayor de la Rosa and Mayor Pro-Tem Cuellar. ABSTAIN: Commissioner Kennedy. (4-2 vote) (1-abstaintion)

K. Discussion and consideration to approve the following Bid Packages submitted by CDM Constructors, Inc. (CCI): (Requested by Commissioner John F. Cuellar and Commissioner Robert J. Garza). Possible action.

- BP#6 Concrete Services for Headworks, BFP & Miscellaneous Equipment Pads. Recommended Bidder: L&G Concrete
- BP#8 Miscellaneous Metals Materials. Recommended bidder:

- Medcalf Fabrication
- BP#9 Miscellaneous Plastics/FRP Materials. Recommended Bidder: Watertech
- BP#11 Furnish/install Metal Buildings. Recommended bidder: Strong Structural Steel
- BP#14 Furnish/Install ELECTRICAL EQUIPMENT/DUCTBANK. Recommended Bidder: KST Electric

Motion was made by Commission Garza and seconded by Commissioner Cuellar to approve the item.

Mayor de la Rosa asked for City Manager's recommendation.

Mr. Castellanos recommended delaying the item until the discussion took place at the scheduled meeting for Wednesday to discuss the best options.

Motion carried as follows: FOR: Commissioners: Garza, Cuellar, Rivera and Tafolla. AGAINST: Mayor de la Rosa, Mayor Pro-Tem Cuellar and Commissioner Kennedy. (4-3 votes)

- L. Discussion and consideration to approve an amendment to Camp Dresser and McKee (CDM) engineering contract for improvements at the Water Treatment Plant to change the scope of work with no change to fees. (Requested by Commissioner John F. Cuellar and Commissioner Robert J. Garza). Possible action.

Commissioner Cuellar was recommending for CDM to design the Water Treatment Plant for the same fee as the Wastewater Treatment Plant.

Ms. Bird stated they had the contract to design the improvements at the water treatment plant; however, the scope of work that was proposed would not provide the city the necessary additional capacity. She mentioned CDM was requesting for the scope of work to be amended for the same fee.

Mr. Castellanos stated he had reviewed the document and there was a difference in the fees. He mentioned the document that was previously approved was for \$451,000.00 and the current document was for \$463,000.00.

Ms. Bird responded it had been a math error.

Mr. Castellanos stated an additional component was added for \$12,000.

Ms. Bird stated the component was added if necessary, but they were not expecting it and was an oversight on their behalf.

Mr. Castellanos requested that the contract be amended before the City Commission to reflect the \$451,000.00 and the \$12,000.00 be taken out. He also requested a clarification under Task 3.1 General Administration Paragraph Incentive.

Ms. Bird stated the General Construction Services were services that the City of Weslaco included in all the engineering contracts when the project had been bided and was in construction. She pointed out when the submittals for equipment were coming in; the engineer had to review them to make sure they were in compliance with the specifications.

Mr. Castellanos stated this referred to the construction that was going to be done subsequent to the implementation and recommendation. He asked if this project would be done under the CMAR process.

Ms. Bird responded not necessarily.

Motion was made by Commissioner Cuellar and seconded by Commissioner Garza to approve the item as presented. Motion carried as follows: FOR: Commissioners: Cuellar, Garza and Tafolla. AGAINST: Mayor de la Rosa, Mayor Pro-Tem Rodriguez and Commissioner Kennedy. Motion died due to a majority.

M. Discuss the projects that can be funded through revenue bonds issued by the City of Weslaco Local Government Corporation. (Requested by Commissioner John F. Cuellar and Commissioner Robert J. Garza).

Commissioner Cuellar stated he had requested to place this item on the agenda because he wanted to assure the public that the city was committed to complete both the wastewater treatment plant and the water treatment plant.

Mr. Vela stated this was a corporation that the City Commission established a couple of years. He added this corporation would be used to fund projects such as the International Bridge and was a revenue bond issue to help finance public infrastructure improvement(s).

Commissioner Cuellar stated the point he wanted to make that tomorrow the City Manager, city staff and CDM would be looking at solutions for both projects. He mentioned the Mayor and he wanted both projects and did not have the communication before and gave Mayor de la Rosa the credit for pushing both of these items and taking advantage of the situation. Commissioner Cuellar added at a previously held meeting they identified a lot of the water needs and could start looking at different solutions to address these needs. He pointed out this would be another method of issuing bonds generated through water revenues.

Mayor de la Rosa stated the city had already pledged the revenues for these bond projects. He mentioned they could not use the revenues from these bonds from the water or wastewater treatment plants to use as collateral for the Local Government Corporation.

Mr. Castellanos stated this was good information and another tool to raise money.

Commissioner Cuellar stated Item N and the same as Item M.

- N. Discussion regarding 4B Projects that can be funded by the Economic Development Corporation of Weslaco (EDC) revenue bond issue. (Requested by Commissioner John F. Cuellar and Commissioner Robert J. Garza).

Mr. Vela stated another source of revenues was the sales tax under the 4B category.

Mayor de la Rosa mentioned the EDC could pledge revenues from the sales tax.

Hernan Gonzalez, Executive Director for the EDC, stated water supply projects had not been voted by the Weslaco citizens. He added the citizens had voted on was infrastructure improvements to assist businesses and existing areas like Weslaco Hills Apartments. Mr. Gonzalez stated water supply facilities were permissible under the 4B Sales Tax Projects provided that the voters approved the project on an election called for that purpose. He mentioned there had to be hearings due to the project cost involved.

Motion was made by Commission Cuellar and seconded by Commissioner Garza to reconsider Item N. Motion carried unanimously.

Motion was made by Commission Cuellar and seconded by Commissioner Garza to approve Item N. as discussed. Motion carried as follows: FOR: Commissioners: Garza, Cuellar, Tafolla and Rivera. AGAINST: Mayor de la Rosa, Mayor Pro-Tem Rodriguez and Commissioner Kennedy. (4-3 votes)

IX. EXECUTIVE SESSION

At 8:35 p.m., Tuesday, September 1, 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 9:15 p.m., Tuesday, September 1, 2009, Mayor de la Rosa announced the City Commission had completed its executive session and declared the regular meeting opened to the public.

- A. Economic Development - Discussion and consideration of entering into a Development Agreement with The Economic Development Corporation of Weslaco and Weslaco Hills L.P. to provide for an incentive of Six Hundred Twenty Thousand Dollars (\$620,000.00) for the public infrastructure to serve a 120 unit apartment complex to be constructed at the 1900 Block of West Business 83. Possible action of what is discussed in executive session.

Mr. Vela stated a motion was required to direct the EDC to proceed with a development agreement between the City of Weslaco and Weslaco Hills Apartments for a \$620,000.00 incentive.

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

- B. Potential Litigation - Discussion with the City Attorney regarding a Notice of Claim for Assault, False Imprisonment by Unlawful Detention and Unlawful Arrest sent by Pilar Espinosa, Attorney on behalf of Eleazar Luna. Possible action of what is discussed in the executive session.

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

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