

Agg. 8/11/09

WESLACO CITY COMMISSION

REGULAR MEETING

AUGUST 18, 2009

On this 18th day of August, 2009 at 6:11 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.

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event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon.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 July 28, 2009
 - 2. Regular Meeting of August 4, 2009

- B. Second and final reading of Ordinance No. 2009-20 amending Zoning Ordinance No. 320 and amending the Zoning Map of the City of Weslaco to change the zoning of a 1.71 acre tract of land out of Farm Tract 14, West Tract Subdivision at 2004 E. Expressway 83 from "R-1" Single Family Dwelling District to "B-2" Secondary and Highway District. Possible action.

- C. Discussion and consideration to renew the lease agreement between the City of Weslaco and the Weslaco Youth Football League to continue providing organized recreational activities for community youth and authorize the Mayor to execute the agreement. 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.

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.

There were no comments from the audience.

III. CITY MANAGER'S REPORT

- A. Status report from Guzman and Munoz Engineering Firm on the American Recovery and Reinvestment Act of 2009 (ARRA) Grant Application for the Clean Water State Revolving Fund (CWSRF) Projects through the Texas Water Development Board. Possible action.

Mr. Jose Munoz with Guzman & Munoz Engineering presented a letter that the city received in regards to the 20 million dollar Stimulus Grant dated August 10, 2009 from the Texas Water Development Board (TWDB). He highlighted the letter and stated the TWDB had reviewed the application and indicated in their letter that the application had not met the requirements for the ARRA funding. Mr. Munoz pointed out he had been informed that the information the city had provided was incomplete due to the lack of documentation; therefore, the application was denied.

Commissioner Cuellar asked about the category exclusions and stated why they were not granted?

Mr. Munoz stated the category exclusions could only be obtained through population. He indicated the population had to be less than 30% of the increased wastewater treatment plant and had not met the criteria on the industrial side.

Commissioner Cuellar stated CDM had prepared a letter that had been approved verbally by the TWDB that gave the category exclusions.

Mr. Munoz stated he not seen that letter. He stated in the discussions with the TWDB nothing was mentioned of an approved letter. Mr. Munoz pointed out with the category exclusions it would have been easier to get an environmental clearance on the project.

Mayor de la Rosa stated the city could address these questions to the TWDB executive administrator.

Commissioner Cuellar asked Mr. Munoz if he had contacted David Salinas, former Public Utilities Director because he had been the one overseeing the 21 million dollars bond issue projects in regards to the environmental impacts and category exclusions.

Mayor de la Rosa stated Mr. Salinas was the one who had signed off on the first application that was submitted without this Commission's authority. He added the application had been submitted in January, 2009.

Mr. Munoz stated the environmental rules were dictated in the Administrative Code and Mr. Salinas had no authority to change them. He indicated all the entities that had applied for funding had a month to submit the application grant.

Mayor de la Rosa asked who had submitted the original application.

Mr. Munoz stated it was his understanding that CDM had submitted the first application.

Mayor de la Rosa stated at that time the city's engineer for the wastewater plant project was CDM and they knew of the stimulus money and took it upon themselves to fill out the application. He indicated they should have reviewed the guidelines before filling out the application and then had Mr. Salinas sign the application for submittal. Mayor de la Rosa asked during that phase when they completed the application were they given any different rules or regulations that you reviewed in May or June.

Mr. Munoz responded no.

Mayor de la Rosa stated the same rules that Mr. Munoz had in May or June was the same that CDM had seen in January. He pointed out that in May or June when the

city was seeking environmental category exclusion was because the city did not have them in January.

Mr. Munoz stated there was no environmental document prepared for this project.

Mayor de la Rosa asked if any engineering firm would have filled out the application they would have seen immediately that the city did not qualify because at that time we did not have the environmental impact. He indicated that in January the city could acquired an environmental impact from January to June (six months).

Mr. Munoz responded yes, normally an environmental document would be completed in six months. He added the ranking was based on the time that the city would start construction. Mr. Munoz mentioned the application was filled in January and indicated the city would start the project in June 2009 this was one reason the application was ranked high. He pointed out based on these rankings, the letter sent by the TWDB stated "because of the lack of environmental determination".

Commissioner Cuellar stated the wastewater plant category exclusion was in lieu of the environmental. He asked if all the other projects that were selected total to 21 million dollars why were those excluded.

Mr. Munoz responded they were not excluded and what the TWDB was basically saying was that the city's main project was excluded because of the environmental assessment.

Mr. Castellanos stated one thing that the city needed to keep in mind was that this was not a letter of rejection it was a letter that the application was incomplete. He mentioned the city had an opportunity to submit additional information and funds would be available for a second time. Mr. Castellanos stated it would be necessary for the city to continue to discuss an environmental assessment with the TWDB.

Mr. Munoz stated according to the letter the city's project would be considered for funding under fiscal year 2010.

Mayor de la Rosa stated the bulk of the funds would be for the wastewater plant and by that time most of the bond monies would have been spent. He pointed out this would not be a grant, but a loan, zero interest.

Commissioner Cuellar stated he understood that the reason the city had included the wastewater plant in the stimulus package was because it was shovel ready. He indicated the city had plenty of other projects that could qualify for funding. Commissioner Cuellar stated the city had a water plant, water towers and lift stations that needed to be built.

Mayor de la Rosa stated the bond funded the ones identified in the 2007 Bond Issue, but the city chose to do some of them. He added the ones that Commissioner Cuellar was referring to were the wastewater plant and elevated water storage tanks.

Mayor de la Rosa stated those monies were taken out and transferred to the wastewater treatment plant.

Commissioner Cuellar stated it would be great if the city could get some of this grant money and if this could be done then they needed to find other means of financing. He mentioned this would be getting financing through the state rather than issuing a bond which would be a lot cheaper due to the credit and not have to pay the interest.

Mayor de la Rosa stated at this time the city was not credit worthy to borrow money.

IV. MAYOR'S REPORT

A. Announcement of the Joint Workshop with the City of Weslaco and Weslaco Independent School District scheduled for August 24, 2009 at 6:30 P.M.

Mayor de la Rosa announced a joint workshop was scheduled with the Weslaco Independent School District at the WISD Board Room located at 319 W. Fourth Street. He stated the purpose of the joint workshop was to discuss the following items.

1. Cost of the over sizing of the water and sewer lines to the new elementary school on Mile 10 N. x 4 ½ W.
2. Police Department Contract
3. Implementation of Level 2 of the City of Weslaco's Conservation Plan
4. Coordination of Projects for Growth and Development
5. Safe Routes to School Program
6. Use of Playground Facilities
7. Use of the Weslaco Stadium for Military Send-Off of Troops
8. Goals to reduce drop-out rates and assist in teaching parenting skills
9. Municipal Court Judge for WISD (Truancy and related school legal issues)
10. City/School Joint Elections
11. City Requirements for Land Purchased by District
12. Interlocal Agreement to videotape Weslaco City Commission meetings.

Mayor de la Rosa recommended adding to the proposed agenda the Recycling Program.

B. Announcement of the Budget Workshops and Meetings

Mayor de la Rosa announced the city's budget for this year would be in a deficit of approximately \$700,000.00. He added staff was trying to do everything possible to end the fiscal year without a deficit. Mayor de la Rosa stated Mr. Castellanos had taken certain measures to reduce the deficit by reducing staff and the payroll by 5% for the non-exempt employees. He mentioned the City Commission was continuing to work on the budget and invited the community to visit with them regarding the budget workshops. Mayor de la Rosa stated the Commissioners were elected to serve as commissioners to set the tax rate, approve the budget and hire employees.

V. NEW BUSINESS

- A. Discussion and consideration regarding solutions to address the emergency of the shortage of potable water and re-prioritize the bond projects to finance the necessary improvements that have emerged with the water issues. Possible action.

Mr. Castellanos stated several budget hearings and workshops had been held to discuss the issue of the water problem. He added the engineers had made some recommendations to address the water shortage. Mr. Castellanos added OMI had done an extensive power point presentation about the capacity at the plant to serve the level of demand cause by the drought and the city's growth. He pointed out the city engineers were recommending constructing additional water well and water tower as a short term solution. Mr. Castellanos stated discussions were held with the city's engineers and CDM to make adjustments to their expenditures so that the city could apply for some of these expenditures for water needs. He added one possibility was to re-prioritize the bond projects to finance the necessary improvements. Mr. Castellanos stated CDM had offered to amend their contract on the water plant improvements. He added CDM had submitted a new document and staff was reviewing it. Mr. Castellanos stated there were some items on the agenda for consideration by the City Commission that would provide some savings to apply to the water problems.

Mayor de la Rosa stated Filemon Olvera, OMI Representative, was the one in charge of operating the water and wastewater plant and every night he would report to Mr. Castellanos on the water storage capabilities because of the drought and the ability of the plant to produce water. He pointed out the plant was at its maximum capacity to the point that the city was purchasing water from Mercedes because the city could not fulfill the overnight to produce enough water and caused low water pressure. Mayor de la Rosa stated this issue had been brought to the attention of the city in 2004 and at that time the city was required by the State of Texas to develop a plan to increase the water capabilities. He mentioned since then the city worked on issuing a bond and in 2007 the city issued a bond. Mayor de la Rosa pointed out that included in that bond was the improvements to the water treatment plant which also included the elevated water tower to produce about 10 million gallons per day to year 2020 or 2025. He added the city had made commitments to developers through approval of the subdivision plats and now exceeded the capacity of providing water. Mayor de la Rosa stated the 2007 Bond Issue included funds for the acquisition of water rights, improvements to the water treatment plant and an additional elevated water tower. He mentioned the City Commission had transferred those funds into the wastewater treatment plant and decided not to proceed forward with the water treatment plant improvements. Mayor de la Rosa stated the city was counting on the stimulus package to provide monies for the improvements of wastewater treatment plant, but the grant was denied. He pointed out the water and sewer enterprise funds had no reserves on the water fund or the sewer fund to do these emergency improvements. Mayor de la Rosa stated there were some monies left over in the 2007 Bond Issue in an amount of seven or eight million dollars that could be used if the City Commission chose to do so. He recommended stopping the construction of the

wastewater treatment plant to produce potable water. Mayor de la Rosa stated the City Commission could approach the EDC for funding.

Commissioner Cuellar stated the study of the bond issue had been done since Former Mayor Joe Sanchez was in office and numerous discussions were held on the needs of the city and the amount of money that needed to be borrowed. He pointed out that Mayor de la Rosa, Commissioner Rodriguez and he were in the Commission when the prioritizations of the bond projects were done. Commissioner Cuellar stated Commissioners Kennedy and Rivera were here when a notice from the TCEQ was read that the wastewater treatment plant was not in compliance. He added at that time it was agreed by the Commission to upgrade the wastewater plant and the decision was made to work on the wastewater plant first. Commissioner Cuellar stated this was a crucial problem that they could not ignore because the city was under the TCEQ requirements to upgrade the level of the plant. He pointed out the water issue was known every summer that the plant would reach the maximum capacity and would be gone within the next thirty days when the weather was not hot. Commissioner Cuellar stated they could implement the Water Conservation Plan immediately. He pointed out that he agreed in trying to look for solutions on the water, but what concerned him was the reaction from the Commission to want to stop one project that was under contract and be involved in litigation. Commissioner Cuellar stated the other way would be if there was a breach of contract on behalf of CDM. He added they could not stop a project that was under construction because whatever money the city had left over it would probably go into litigation. Commissioner Cuellar indicated that they should start deciding how they were going to proceed forward to solve the water problem which meant constructing water wells or a new water plant. He stated it was his understanding that it would be very costly to construct the water wells because water from the well was not of good quality. Commissioner Cuellar stated they could decide to move forward with the water treatment plant by doing the design work because construction would not start until another year and the funding could be derived from the 1.9 million dollars of interest earned on the bond projects. He mentioned these monies could be used as a big down payment for that project and by the time the city was ready to construct the building the stimulus grant would be available or solicit a loan from the state, local banks, EDC or a combination of both.

Mayor de la Rosa stated the priorities of the previous Commission that issued the 2007 Bond Issue was to build a water treatment plant. He added at that time he argued not to take out the monies for the water plant because the city had the north and south plants. Mayor de la Rosa stated the north plant needed work desperately and south plant was a new plant that the city could easily divert 70 to 80% of the sewer. He pointed out the city had oversized the lines and constructed larger lift stations to provide additional flow to the south sewer plant. Mayor de la Rosa stated the south plant was a modular plant that the city could easily add capacity at a very minimal cost. Mayor de la Rosa stated the commissioners voting against this reprioritization were voted down. He added there was a water emergency; however, there were no money in the water and sewer fund and general fund. Mayor de la Rosa stated the only resources were about seven to eight million dollars that were left in the bond issue and uncommitted and not spent. He recommended looking at this issue very carefully because the bond issue that the city initially acquired on 2007 was to construct a 7 million dollar sewer plant to produce a 2.5

MGD was now an 18 million dollar plant that would produce only 1.75 MDG. Mayor de la Rosa stated there could not be an increase in production at the sewer plant because there was no water and the sewer plant could not generate any monies without the water.

Commissioner Garza stated there was a lot of construction going on and the project was approximately 50% complete. He added there were issues with the equipment that the city might have to pay for and felt the city could not stop the project.

Randy Winston, City Engineer stated back in 2004, 2005 this issue had been brought to the City Commission because of the Subdivision Model Ordinance. He added when a subdivision plat was approved it was noted that the city had the capacity to provide water and sewer.

Mr. Olvera stated the water usage average was lower in the winter months and the summer months exceeded the water plant capacity. He added based on the connection count reported to the TWDB, the water plant was deficient and probably TCEQ would be issuing a violation during their next inspection.

A lengthy discussion was held regarding issues with the water plant capacity, the on going construction at the sewer plant and the number of existing and future connections. Mr. Castellanos stated it was expected that approximately 1,500 lots were ready for development. He added the Weslaco Hills Development was expected to be developed in January 2010 which consisted of 120 units, plus other projects that had gone before the Planning and Zoning Commission. Mr. Castellanos stated staff was trying to work with every consultant that the city had and there was approximately \$11,657,000 that had not been spent from the bond issue.

Motion was made by Mayor de la Rosa and seconded by Commissioner Kennedy to reprioritize the bond projects and do whatever was necessary to shift the balance of the bond monies from the wastewater treatment plant to the water treatment plant for the production of a well to increase the capacity of the water plant itself and if possible build an elevated water tank or any combination there of.

Commissioner Cuellar asked for a record vote and the motion carried as follows: FOR: Mayor de la Rosa, Mayor Pro-Tem Rodriguez, Commissioners: Kennedy and Tafolla. AGAINST: Commissioners: Cuellar, Rivera and Garza.

Mayor de la Rosa changed the order of the agenda and proceeded with Item J., under New Business.

- J. Discussion and consideration of amendments to the By-Laws and Articles of Incorporation of The Economic Development Corporation of Weslaco as approved by the Weslaco City Commission on August 4, 2009. Possible action.

Ramon Vela, City Attorney, highlighted the changes to the Articles of the Economic Development Corporation of Weslaco (EDC). He added the changes were prepared according to the City Commission's vote of August 4, 2009. Mr. Vela

mentioned the City Commission did not vote on an effective date as to when the seven member board would start. He stated the Articles were structured on a seven member board and the new members would draw lots for three members for a three year terms; three members for a two year terms and one (1) member for a one year term. Mr. Vela indicated six members one from each district and one at large. He stated there were members currently seating on and the City Commission needed to decide if the existing members would remain until the newly appointed members began their initial terms.

Mayor de la Rosa recommended a starting date of September 30, 2009.

Hernan Gonzalez, Executive Director of the EDC stated Item K was related to Item J and the EDC Board was recommending a nine member board, three (3) at large and six (6) appointed by the districts. He mentioned the process could begin October 1, 2009.

Mr. Gonzalez stated some of the directors that were currently sitting on the board were Bertha Suarez, Mike Givilancz, Jr. and John Lackey. He added he had received a resignation letter from A.C. Cuellar, Jr. Mr. Gonzalez stated the terms for these members could be for a one year appointment and then they could start the cycle on staggered terms.

Mr. Vela pointed out the state statute required for the governing body to appoint the members and every commissioner would appoint one member.

Motion was made by Commissioner Tafolla and seconded by Mayor Pro-Tem Rodriguez to approve the Articles of Incorporation of The Economic Development Corporation of Weslaco as adopted by the Weslaco City Commission on August 4, 2009.

Motion carried as follows: For: Mayor de la Rosa, Mayor Pro-Tem Rodriguez and Commissioners: Kennedy and Tafolla. Against: Commissioners: Cuellar, Garza and Rivera. (VOTES 4 – 3)

K. Discussion and consideration of the recommendation by The Economic Development Corporation of Weslaco Board of Directors of the change to the By-Laws and Articles. Possible action.

No action was taken on Item K.

L. Discussion and consideration to nominate and appoint individuals to The Economic Development Corporation of Weslaco. Possible action.

The following individuals were appointed to the EDC.

District #1 – Mike Givilancz, Jr.

District #2 – Anthony Covacevich

District #3 – Ricardo Quintanilla

District #4 – Johnny Bautista

District #5 – Commissioner Rivera's appointment - pending

District #6 – Tom Crouch
At Large – Mayor de la Rosa’s appointment – pending

Motion was made by Commissioner Kennedy and seconded by Commissioner Tafolla to accept the appointments for the perceptible districts by the Weslaco City Commission. Motion carried unanimously.

Mayor de la Rosa informed Commissioner Cuellar that he had appointed an individual that was suing the city.

- B. Discussion and consideration to award the Depository Services Contract to BBVA Compass Bank, the most advantageous bidder for a one (1) year contract beginning October 1, 2009 and ending September 30, 2010 with options to renew the contract up to four (4) as authorized by Section 105.017 of The Local Government, and authorize the Mayor to execute the contract. Possible action.

Mr. Gonzales highlighted the bids received for the Bank Depository Service and recommended BBVA Compass. He stated BBVA Compass was the most competitive and had the best interest rates.

Motion was made by Commissioner Kennedy and seconded by Commissioner Garza to approve the recommendation of the Finance Director. Motion carried unanimously.

- C. Discussion and consideration to approve Ordinance No. 2009-21 to annex a 41.29 acre tract of land out of Farm Tract 1049, Block 133, West Tract Subdivision, Mid Valley Industrial Park #8 as request by The Economic Development Corporation of Weslaco. Possible action.

Bernard Rodriguez, Interim Planning and Zoning Director, stated the owner was requesting consensual annexation of 41.29 acre tract of land out of Farm Tract 1049, Block 133, West Tract Subdivision. He mentioned the proposed annexation was for the Mid Valley Industrial Park #8 and the City of Weslaco would provide the water and sewer services. Mr. Rodriguez stated the subdivision was approved on February 3, 2009 and the developer had complied with all the voluntary annexation proceedings. He recommended approval of Ordinance No. 2009-21 on first reading.

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

- D. Discussion and consideration to award the Audit Proposal to Garcia and Pena, CPA, most advantageous bidder for fiscal year ending September 30, 2009. Possible action. Attachment

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

Motion carried as follows: FOR: Mayor de la Rosa and Commissioners: Garza, Cuellar, Tafolla, Rivera and Kennedy. ABSTAINED: Mayor Pro-Tem Rodriguez.

- E. Status report from Martha Noell, Executive Director of the Weslaco Area Chamber of Commerce regarding chamber activities. Possible action.

Martha Noell, Executive Director of the Weslaco Area Chamber of Commerce highlighted the chamber report and stated they had done extensive advertising to encourage back to school shopping in Mexico and in the local area. She mentioned the Chamber received first place on all of the competitions for the Onion Festival and other advertising for State Associations. Ms. Noell stated she was selected as the Professional of the Year by the State Festival Association. She pointed out they were conducting some seminars, a luncheon meeting on Health Reform scheduled for Thursday, Starbucks at 7:30 a.m. and announced the Rio Bank would be having their grand opening on September 16th at 4:30 p.m. Mrs. Noell stated Lowe's would open on September 18th and the grand opening at 10:00 a.m. and J.C. Penney would open on October 2nd.

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

- F. Discussion and consideration to purchase 3,000 linear feet of 5 inch fire hose, 2,500 linear feet of 1 ¾ inch fire hose, and 2,500 linear feet of 1.5 inch fire hose from Wilson Fire Apparatus and Equipment through the Buy Board in the amount of \$21,390.00 as authorized in the 2007 Bond Issue. Possible action.

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

Mayor de la Rosa asked if the Buy Board had been contacted.

Gloria Sepulveda, Purchasing Director responded yes. She mentioned the city had received bids, but were incomplete. Mrs. Sepulveda added the bids were higher than the funding available and were rejected last September. She mentioned the Fire Department deleted some of the items to stay within budget and were only proposing to purchase the hoses.

Motion carried unanimously.

- G. Discussion and consideration to authorize the Mayor to execute a commitment letter to Steve Lollis, Managing Member of General Partner, Weslaco Hills Apartments LP regarding the City of Weslaco "Political Subdivision Funding Assistance" for the Weslaco Hills Apartments. Possible action.

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

- H. Request from Rosa A. Cuellar to close N. Missouri from Plaza to Agostadero Streets on Tuesday, September 15, 2009 from 5:00 p.m. to 12:00 a.m. for her daughter's celebration. Possible action.

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

Mr. Rodriguez stated he had discussed the item with Ms. Rosa Cuellar regarding safety and recommended to Ms. Cuellar the use of the City Park Pavilion and she had agreed to do so. He stated no action was required.

Commissioner Cuellar and Commissioner Kennedy withdrew their motion and no action was necessary.

- I. Discussion and consideration to authorize staff to submit a Solid Waste Grant Application to the Lower Rio Grande Valley Development Council in the amount of \$26,255.00 for acquisition of a forklift and authorize the Mayor to sign the application and any related documents. Possible action.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Kennedy to approve Resolution No. 2009-24 as presented. Motion carried unanimously.

For the record, Resolution No. 2009-24 read as follows:

RESOLUTION NO. 2009 - 24

RESOLUTION OF THE CITY OF WESLACO AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE LOWER RIO GRANDE VALLEY DEVELOPMENT COUNCIL FOR A REGIONAL SOLID WASTE GRANTS PROGRAM; AUTHORIZING BUDDY DE LA ROSA, MAYOR TO ACT ON BEHALF OF THE CITY OF WESLACO IN ALL MATTERS RELATED TO THE APPLICATION; AND PLEDGING THAT IF A GRANT IS RECEIVED THE CITY OF WESLACO WILL COMPLY WITH THE GRANT REQUIREMENTS OF THE LRGVDC, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE STATE OF TEXAS.

WHEREAS, the LRGVDC is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation the COG's adopted regional solid waste management plan; and

WHEREAS, CITY OF WESLACO in the State of Texas is qualified to apply for grant funds under the Request for Applications.

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

1. That Buddy de la Rosa, is authorized to request grant funding under the LRGVDC Request for Applications of the Regional Solid Waste Grants Program and act on behalf of City of Weslaco in all matters related to the grant application and any subsequent grant contract and grant project that may result.
2. That if the project is funded, City of Weslaco will comply with the grant requirements of the LRGVDC, Texas Commission on Environmental Quality and the State of Texas.

3. The grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant.
4. That activity will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed.

PASSED AND APPROVED by the Weslaco City Commission in Weslaco, Texas on this 18th day of August, 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

- M. 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. Possible action.

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

Mayor de la Rosa inquired about the action taken on the water issues.

Mr. Castellanos responded these were proposals that were put on the table by CDM to save some monies.

Commissioner Cuellar recommended that all of the CDM items be tabled.

Mr. Castellanos recommended approving the item. He stated he had a discussion with CDM for them to explain what kind of savings could be used for other projects such as the water treatment plant.

Commissioner Cuellar stated the project had been cancelled and bond projects would be stopped.

Mr. Vela responded the city had not actually identified the projects that would be undertaken.

Mayor de la Rosa stated they had stopped the bond projects and asked Mr. Vela if they could table the item.

Mr. Vela responded they could table the item; however, some of the items had actually been done.

Mayor de la Rosa stated if the city owed CDM the money than the city should pay. He mentioned if the work needed to be done, than the money should be frozen regardless of the City Commission's action.

Commissioner Cuellar stated he would vote against the item because they needed someone present to explain what the money was for.

Mayor Pro-Tem Rodriguez and Commissioner Tafolla withdrew their motion.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Tafolla to table Items M, N, O and P. Motion carried unanimously.

- N. 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; and the amount for Construction Materials Testing from \$271,000.00 to \$200,000.00 and to consider other possible amendments to "Exhibit C", Additional Services. Possible action. Attachment
- O. 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. Possible action.
- P. 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. Possible action.
- Q. Discussion and consideration to solicit statement of qualifications for the appointment of bond attorney for the City of Weslaco. Possible action.

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

Commissioner Cuellar asked why were they approving to solicit statement of qualifications for a bond attorney if they did not have any future proposed bond projects.

Mayor de la Rosa responded they needed to have someone with that authority and expertise to counsel the City Commission.

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

- R. Discussion and consideration of the Interlocal Agreement between the City of Weslaco and the Weslaco Independent School District for videotaping City Commission meetings and authorize the Mayor to execute the agreement. Possible action.

Mr. Vela stated there were some issues in the agreement provided by the school district. He added the school was proposing to the City of Weslaco to have one of their high school students to be a part-time employee of the city and to be covered under workers compensation. Mr. Vela stated this was illegal.

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

- S. Discussion and consideration of the final determination regarding Texas Gas Services Company's Statement of Intent to raise rates and possible approval on first reading of the settlement ordinance. Possible action.

Mr. Vela stated Texas Gas Services (TGS) had applied for a rate increase and the Lower Rio Grande Valley Development Council joined the cities that were serviced by TGS to hire consultants to review the rate increase. He mentioned the consultants were recommending the adoption of the TGS settlement. Mr. Vela stated the basic charge was \$11.25 and if the city denied the charge, the issue would go into litigation.

Motion was made by Commissioner Kennedy and seconded by Mayor Pro-Tem Rodriguez to approve Ordinance No. 2009-22 on first reading. Motion carried unanimously.

- T. Discussion and consideration to direct the City Manager to request TXDOT to stripe crosswalk markings on Texas Blvd. and Highway 83, Oklahoma Avenue and Highway 83 and Border Avenue and Highway 83 and/or to authorize the City of Weslaco to stripe crosswalk markings on these locations if TXDOT is unable to do so. Possible action.

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

- U. Discussion and consideration to authorize the Mayor to execute a letter in regards to the J.G. Subdivision NAWSC Water Access Agreement for the current fire hydrants, currently installed to be painted black and designated as flushing hydrants for the purposes of recording the J.G. Subdivision Plat. Possible action.

For the record, Mayor de la Rosa added the subdivisions of Santos Villanueva and Canuck Subdivision.

Mr. Rodriguez stated this item had been disapproved at the previous meeting and North Alamo Water Supply Corporation (NAWSC) Board had agreed to allow the fire hydrants to stay in the subdivision. He mentioned the hydrants would be painted black

and designated as flushing hydrants only. Mr. Rodriguez stated the City of Weslaco was currently working with NAWSC to negotiate a water access agreement for the city's ETJ. He indicated when an agreement was reached with NAWSC than the city would go back and paint the fire hydrants red.

Mayor de la Rosa stated in the future if the city did not have an agreement with NAWSC, the city would ask the developer to escrow the monies. He mentioned if the city annexed these properties, the money would be there for fire protection.

Mr. Castellanos recommended approval of the item.

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

- V. Discussion and consideration to name a seven member committee to review and make recommendations on the new fiscal year budget for 2009/2010 with guidance from city staff and Manuel Garcia, CPA. (Requested by Commissioner Tafolla and Mayor Pro-Tem Rodriguez)
Possible action.

Mayor de la Rosa stated they were almost done with the budget for 2009-2010.

Mayor Pro-Tem Rodriguez stated the appointment of the Ad Hoc Budget Committee would probably be too late for this year.

Mayor de la Rosa recommended tabling the item for future discussion.

Commissioner Tafolla stated it might not be too late; and recommended to appoint the members now.

Mayor de la Rosa stated there was a time limit to adopt the budget.

Mr. Vela stated the City Commission had a time frame to vote on the tax rate for the new fiscal year.

Manuel Garcia, CPA stated if the City Commission decided to appoint a committee to review the budget it needed to be done by the first week in September.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Cuellar to create a committee for the new fiscal year 2009-2010.

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

The following individuals were appointed.

Mayor – pending

Mayor – pending
District #1 – Soyla R. Gonzalez
District #2 – David Hernandez
District #3 – Frank Tafolla
District #4 – Robert Cantu
District #5 – Comm. Rivera - pending
District #6 – Comm. Kennedy - pending

- W. Discussion and consideration to appoint a member to the expiring term on the Civil Service Commission. (Requested by Commissioner Tafolla and Mayor Pro-Tem Rodriguez) Possible action.

Mr. Vela stated the appointment under the Civil Service Statute belonged to the City Manager with confirmation by the City Commission.

Mr. Castellanos stated effective September 30, 2009 there would be a vacancy in the Civil Service Commission and he would be bringing a nomination. He pointed out he had a name if the City Commission wished to consent to his appointment.

Mr. Vela stated they could bring this item for the next meeting for proper wording on the agenda.

Mayor de la Rosa recommended tabling the item.

- X. Discussion and consideration to allow City Commissioners a telephone allowance for the purpose of conducting city business. (Requested by Commissioner Tafolla and Mayor Pro-Tem Rodriguez) Possible action.

Commissioner Tafolla recommended a telephone allowance to the City Commission for the purpose of conducting city business.

Mayor de la Rosa stated if the City Commission was asking for a personal phone allowance their phone bill would be subject to the Open Records Act. He mentioned the city supplied his phone but only for city business. Mayor de la Rosa recommended amending the item to allow a cell phone to the City Commission instead of an allowance.

Motion was made by Commissioner Tafolla to consider allowing the City Commissioners a cell phone for the purpose of conducting city business.

Mayor de la Rosa entertained a second, there being none the item died due to a lack of a second.

- Y. Discussion and consideration to instruct city staff to explore the feasibility of re-opening Illinois Street to Business Hwy 83. (Requested by Commissioner Tafolla and Mayor Pro-Tem Rodriguez) Possible action.

Commissioner Tafolla recommended opening Illinois Street to Business Hwy 83.

Mayor de la Rosa stated a feasibility study would be required.

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

VI. EXECUTIVE SESSION

At 8:42 p.m., Tuesday, August 18, 2009, Mayor de la Rosa announced the City Commission would convene in executive session to discuss the following items and recessed the regular meeting.

Mr. Castellanos announced the Police Department had reported there was a power outage between West Pike Blvd. and South Border Avenue to Business 83. He mentioned all signal lights were out in the downtown area.

At 9:10 p.m., Tuesday, August 18, 2009, Mayor de la Rosa announced the City Commission had completed its executive session and declared the regular meeting opened to the public.

- A. Discussion with Assigned Counsel regarding Cause No. C-2123-09-E ANTHONY COVACEVICH, ARNOLD RODRIGUEZ vs. CITY OF WESLACO. Possible action of what is discussed in executive session.

Motion was made by Mayor Pro-Tem Rodriguez and seconded by Commissioner Tafolla to authorize assigned Defense Counsel, Kyle Watson from San Antonio Law Firm of Goode, Caseb, Jones, Rilkin, Choate and Watson to file an answer on behalf of the City of Weslaco in the lawsuit styled Anthony Covacevich and Arnold Rodriguez vs The City of Weslaco C- 2123-09-E (275th Judicial Court of Hidalgo County). Motion carried unanimously.

- B. Land Acquisition – Discussion with City Manager regarding the acquisition of a 21 acre tract of land. Possible action of what is discussed in executive session.

Mayor de la Rosa stated instructions had been given to the City Attorney and City Manager to continue the discussion and present additional information to the City Commission.

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