

**CITY OF LAREDO  
RECOGNITION AND COMMUNICATION NOTICE  
M2019-R-04  
CITY COUNCIL CHAMBERS  
1110 HOUSTON STREET  
LAREDO, TEXAS 78040  
March 18, 2019  
5:00 P.M.**

**The Mayor presented the following:**

1. Recognizing the Martin High School Mariachi Tigres Del Sur Team for their State Championship win and participation at the first Texas Mariachi Director Association (TMDA) Mariachi State Festival in San Antonio.

No recognition made.

**CITY OF LAREDO CITY COUNCIL MEETING  
M2019-R-04  
CITY COUNCIL CHAMBERS  
1110 HOUSTON STREET  
LAREDO, TEXAS 78040  
March 18, 2019  
5:30 P.M.**

**I. CALL TO ORDER**

Mayor Pete Saenz called the meeting to order.

**II. PLEDGE OF ALLEGIANCE**

Mayor Pete Saenz led in the pledge of allegiance.

**III. MOMENT OF SILENCE**

Mayor Pete Saenz led in a moment of silence.

**IV. ROLL CALL**

In attendance:

Pete Saenz	Mayor
Rudy Gonzalez, Jr.	District I
Vidal Rodriguez	District II
Mercurio "Merc" Martinez, III	District III
Alberto Torres, Jr.	District IV
Norma "Nelly" Vielma	District V
Dr. Marte Martinez	District VI
George Altgelt	District VII
Roberto Balli	District VIII

Jose A. Valdez, Jr.  
Rosario Cabello  
Robert Eads  
Kristina L. Hale

City Secretary  
Interim Co-City Manager  
Interim Co-City Manager  
City Attorney

Cm. Vielma joined at 5:50 p.m.

## **V. MINUTES**

Approval of the minutes of February 19, 2019

Motion to approve the February 19, 2019, minutes.

Moved: Cm. Balli

Second: Cm. Gonzalez

For: 7

Against: 0

Abstain: 0

Cm. Vielma was not present.

### **Citizen comments**

John C. Ward stated that he appeared before Council a few years ago as a homeless veteran. With help from Take a Bow Laredo, he has secured housing for himself. For that, he loves his home of Laredo. He noted that over 1,000 veterans are buried in Laredo after serving their country. He asked why Laredo does not fly its own flag in the Downtown area, since that is where many aging veterans live. He asked that the City always fly its flag.

Dr. Liza Peña reported that state law regarding gifts trumps local law. As per the Texas Ethics Commission under the Texas Penal Code 36.08 (d), "A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion." She quoted the Office of the Attorney General: "Local ordinances may be stricter than state law but may not lower the standards set forth in state law. For example, they could not authorize gifts of a greater amount than allowed by state law." She stated that the Penal Code prohibits, with certain exceptions, a public official from ever accepting a benefit from a person subject to his or her jurisdiction regardless of whether it was in consideration or exchange for any official action. She noted that the Office of the Attorney General states that even if an item was not solicited and had no influence over the decision that was made, it may still be considered bribery of a public official or employee. The fact that a benefit did not have influence over the decision would not be considered a defense to a prosecution for bribery. She cited the Texas Penal Code 36.02 (e) as stating that accepting bribery is a second-degree felony. Penal Code 36.08 (h) states that a public official accepting or soliciting a gift or benefit commits a Class A misdemeanor. Dr. Peña asked that the Ethics Commission make the final recommendation on the donation policy issue.

Armando Cisneros stated that a group of his met with City officials to address concerns, and their questions were not completely answered. The issue in question concerned the River Hills donation item brought forward by Dr. Marte Martinez. Mr. Cisneros noted that Dr. Martinez has some sort of financial interest in this donation by his own admission, although that interest was not explained. The Our Laredo group was told that Dr. Martinez's financial interest was only indirect, but Section 2.09 of the Ethics Ordinance states that no City official or employee should have a direct or indirect financial interest in any contract, purchase, or sale within the City. He added that the Ethics Ordinance does not distinguish the difference between director or indirect interests, so to be told that Dr. Martinez has an interest in the River Hills donation that is not a violation of the Ethics Ordinance is not clearly understood. He asked for answers to this matter.

Donaciano "Chano" Aldrete explained that "cite and release" policies have been considered by multiple cities and counties in Texas; these cities and counties have decriminalized their criminal penalties for possessing four ounces or less of cannabis. In Travis County, possession of cannabis has been reduced to Class A, B, and C misdemeanors. "Cite and release" policies result in an individual being cited for possession of marijuana rather than being arrested, which benefits the individual, the police force and their burden of paperwork, the jail, and the taxpayers. Houston, who implemented this policy in the last two years, has saved over \$250 million since its inception. Mr. Aldrete noted that most of the population that is jailed in Laredo is the lower-income population. He clarified that his intention is not to release any individuals who are driving under the influence of alcohol or drugs, but instead to consider reducing the number of arrests for marijuana possession rather than arrests. He noted that it would be pertinent to obtain the support of the District Attorney, the Webb County Sheriff, and/or the Laredo Police Chief in order to establish a new ordinance to this effect. Mr. Aldrete explained that law enforcement has the discretion to hold a suspect or release him or her; however, if the policy were implemented via ordinance, it would go a long way to benefiting the people of Laredo. Mr. Aldrete asked if Council considered being the water hub of South Texas and serving as a "middle man" selling water to Brownsville, McAllen, or Corpus Christi. He reiterated his opinion that Dimmitt County is the best viable option for a secondary water source using an aquifer that will last a few hundred years. In order to pay for that water source and the City's continuing infrastructure needs, Laredo could sell water at this time. Selling water would offset many of the City's expenses without depending so heavily on the taxpayer base or raising utility rates for residential and commercial accounts. Future generations will benefit from this endeavor.

Victor Gomez stated that the Ethics Code was established with the intent to keep City Council Members and City staff in check and well-behaved. He asked what the purpose an Ethics Code serves if it is not followed. He reported comments that the Ethics Code has no teeth as it is not enforced. Dr. Martinez ran on a platform of transparency and strengthening the Ethics Code of the City of Laredo; however, Mr. Gomez voiced his opinion that Dr. Martinez's donation policy item would in fact weaken the Ethics Code. While

a donation to the City is not quite the same thing as a donation to an individual Council Member, members of Council could still benefit privately from donations to the City. Rich landowners in Laredo are asking for favors and special treatment of the City. He suggested that if Council considers any changes to the Ethics Code, they first put the matter to the Ethics Commission for review and recommendation.

Cynthia Vazquez asked if the City can convert to the 4A/4B tax structure first and then address the sports complex, as 4A/4B taxation allows for the payment of a sports complex, among other economic development possibilities. She noted that if Council is serious about a 4A/4B conversion, then the City must not add to the sports venue tax. She asked where the sports complex would be to offer the best return of investment for the taxpayers' dollars, adding that this should be the City's highest priority. She suggested holding a series of town hall meetings in various parts of town to gather public input. Without public feedback, she noted that the City should not even be going out for RFPs. She noted that the City should not duplicate what TAMIU does with their portion of the bond money. She asked Council to be reasonable and responsible with the taxpayers' money and tabled the related item until after the City has heard from the public.

Mellie Hereford explained that Dr. Martinez is proposing such a change on the Code of Ethics but has not publically disclosed what that change will be other than referencing Section 2.09 of the Code of Ethics for gifts. She noted that in the City's history, people have been able to donate gifts to the City without having to change the Code of Ethics. The only difference is that this gift, of which Dr. Martinez has a financial interest by his own admission, is going to cost the taxpayers \$200,000 in credits for fees of the adjacent property's development. Dr. Martinez recused himself from the last donation but failed to disclose what his conflict was. She asked why Council is contemplating a change at this time, noting that "quid pro quo" is the same whether it is the City, a City official, or an employee. She added that the language of this donation states that the City is responsible for water runoff, meaning that the City of Laredo will have to hire contractors and build infrastructure while the developer retains mineral interests on that piece of land. This gift comes with many strings, and she asked how it could be considered as such. If Dr. Martinez only intends to change the section of the Code of Ethics regarding gifts, it could be said that his intentions are self-serving. Mrs. Hereford voiced her opinion that the Code of Ethics needs to be completely revamped with strong consequences for violations. She opposed the fact that any Council Member would make changes for their own self-interest. The Ethics Commission should be independent of the City Council with their own attorney so that it will be a fair process. She noted that the Ethics Commission should not be appointed by Council and should have the right and power to take on cases regardless of whether a complaint is filed. She recommended that the Ethics Commission work on the Code of Ethics to strengthen it and deter any temptation to violate its provisions. She cautioned Council that not taking such action would show that the rumors that the next City Manager is already in Council Chambers would be correct. She cautioned Council against conducting "business as usual."

David Cardwell reported apparent fractions on a City contract that necessitate corrective action. On September 19, 2018, Marte Martinez filed a Personal Financial Statement affidavit with the City Secretary's Office. There was no mention of River Hills Investment, LLC, on that report. Dr. Martinez was sworn in as Council Member on December 27, 2018. At the January 22, 2019 Council meeting, a contract with River Hills Investment, LLC, was approved in which RHI donated a piece of land to the City in return for \$200,000 of credit for the future development of the property. Dr. Martinez recused himself from this item. On January 23, 2019, Armando Cisneros submitted an open records request; on February 7, 2019, he received a response stating that Dr. Martinez has not filed a Conflict of Interest form and has not given a reason for his January 22, 2019, recusal. On February 19, 2019, Our Laredo posted a question on Facebook to which Dr. Martinez responded that he has a financial interest in River Hills Investment, LLC, which is the first admission to Mr. Cardwell's knowledge. Mr. Cardwell reference Section 2.09 of the Code of Ethics prohibiting financial interests in contracts among City officials or employees. Since Dr. Martinez has a financial interest in the River Hills Investments contract, Dr. Cardwell voiced his opinion that the Code of Ethics was violated by Dr. Martinez and the City of Laredo. Any willful violation of the Code of Ethics by a City employee or official shall constitute malfeasance in office and the forfeiture of the official from his or her position. The contract must also be voided by Council, the City, or management.

Mayor Saenz asked management to provide advice and counsel to Council in light of the public comments received following the Council meeting.

Becky Garcia voiced her support of Cm. Vielma's items to send her suggested Charter amendments to the Charter Revision Commission. It was a great injustice when changes were placed on the ballot because the wording was overly abundant and confusing. Some people voted for the candidates for office and did not even bother to vote on the amendments. The recall amendment created a hardship for voters. She asked Council to do the right thing and send Cm. Vielma's Charter suggestions to the Charter Revision Commission as well as directing the Commission to review the entire Charter and hold town hall meetings to obtain public suggestions for Charter improvement. After performing these tasks, the Commission can bring the Charter and its suggested amendments to Council for approval.

## **VI. VETERAN RECOGNITION**

- a. Honoring Veteran of the Month Israel Perez as a member of the United States Army National Guard and recognizing his distinguished service to our country.

Arturo Garcia, Community Development Director, reported that Israel Perez started his military service in 1965 shortly after graduating high school. Following basic training, he was stationed in Fort Campbell in Kentucky with the 101<sup>st</sup> Airborne Division as an Air Police Officer. He served in the Vietnam War, and his awards and decorations include the Purple Heart, a Bronze Star for Bravery, and a Combat Service Medal.

Mr. Garcia noted that Mr. Perez passed away October 13, 2018 and was buried with full military honors, survived by his wife of 46 years, his daughter, and five grandchildren. He played a video presentation highlighting Mr. Perez's career and life. Mr. Perez's family received a standing ovation in his honor.

Mayor Saenz informed the family of the City's honor to be served and represented by Mr. Perez. He presented the family with a certificate of recognition for his distinguished service.

Mrs. Perez thanked the City for the recognition and voiced that her husband would have been so honored to receive it. She received an additional standing ovation.

## **VII. COMMUNICATIONS**

- a. Presentation by the Day of Action Committee on world-renowned cellist Yo-Yo Ma's "Day of Action - Building Bridges" and his visit to the City of Laredo on April 13, 2019.

Armando Lopez of the Fine Arts & Culture Commission asked for Council's support of the Day of Action event forthcoming to Laredo.

Angeline Townsend of the Laredo Town Center explained that in October 2018, the Laredo Philharmonic received an email from John Toohey of ARTS San Antonio stating that Yo-Yo Ma personally confirmed that he would return to San Antonio for a concert only if he were able to come to Laredo for a Day of Action.

Mr. Lopez stated that Mr. Ma will travel to Laredo on April 13, 2019, as part of his Bach project, a two-year global journey that seeks to explore how culture connects and helps build a better future through a series of concerts and other activities. Mr. Ma asked that Laredo play selections of Bach's music along the border to signify two countries unifying. He hopes to play on one of the bridges for 15 minutes. His performance setup would be simple with input and approval by City officials, and Mr. Ma invited the mayors of Laredo and Nuevo Laredo to give remarks beforehand. His performance will kick off conversations about how culture builds connections along borders followed by an afternoon pachanga at Montalvo Park with many cultural organizations, food, and arts. He asked the City for Police, Fire, Parks & Leisure Service, and Waste Management services to make the event at the park possible as well as assisting with permits and bridge traffic.

Rosario Cabello, Interim Co-City Manager, confirmed that staff already met with the group and needs Council approval and directive to coordinate with the various Departments needed to facilitate the event.

Manuel Juarez of the Rio Grande International Study Center

Motion to direct staff to move forward with the preparations for the Day

of Action – Building Bridges event and to close Bridge I for 20 minutes for the event.

Moved: Cm. Balli

Second: Cm. Gonzalez

For: 6

Against: 0

Abstain: 0

Cm. Rodriguez and Dr. Marte Martinez were not present.

- b. Presentation by the Laredo Commission for Women 2019 action plan with possible action and any matters incident thereto.
1. Hall of Fame Event - Date to be determined (June)
  2. Women Voter Awareness Workshop - Date to be determined (April)
  3. Business Etiquette Workshop - Date to be determined (June)
  4. Young Woman's Leadership Conference - Date to be determined (September)
  5. Women's Build Day for Habitat for Humanity - Date to be determined

Sandra Rocha Taylor of the Laredo Commission for Women requested approval for the Commission's events for the year as well as the rescheduling of the Hall of Fame Event from March to June, 2019. This will give more time to evaluate the nominations and prepare the event. While the Commission already has the budget for the Hall of Fame, the members are all conscientious about the costs of their events and arrangements. Mrs. Taylor noted that the Commission is working with TAMIU to put on the Young Woman's Leadership Conference in September, and Habitat for Humanity Women's Build Day typically occurs in March but has been rescheduled by the organization. She noted that if any of the events has costs associated with them, the Commission will return to Council for approval.

Cm. Vielma thanked the Commission for listening to the needs of the community, as reflected in the proposed action plan. She asked that the Commission bring the Hall of Fame event back to March in future years as March is Women's History Month. She conceded that multiple factors contributed to the rescheduling, but it is important to honor women in March.

Cm. Torres also recognized the hard work demonstrated by the Commission but added that he submitted a letter to the City Secretary regarding the same concern of moving the Hall of Fame event in a month other than March. He stated that this event should have been held in March and does not agree with the change in June. Because of the situation, he felt that there should not even be a Hall of Fame event this year. Previously, the event would be held every other year, and he was appalled when he asked the City Secretary's Office and the City Attorney's Office about the structure of the Hall of Fame event as there seemed to be none. The Commission seemingly makes decisions on their own as they have done for many years in the past. He asked why the Commission does not have any policy or procedures concretely

written and followed. He voiced his disagreement with recognizing more than one honoree in each category and emphasized the need to have criteria for vetting a nominee into the Hall of Fame. He read the Commission's meeting minutes noted apathy in getting nominations to the committee. Cm. Torres stated that he was also appalled to hear that all nominations that were received by the Commission were also approved with no discernment. Aside from that, he noted that the City should establish a public purpose for the Commission and suggested hosting the event next year rather than this year and use this year to create the structure that he recommended. This way, Council can give the Commission the appropriate budget to adequately distinguish and honor these women like they deserve and host a media reception as done in the past. Aside from those comments, he noted his agreement with the remainder of the Commission's action plan and their objectives for the community.

Mrs. Taylor agreed that there are no selection criteria and hasn't been for 20 years. She appointed a subcommittee specifically to create the selection criteria moving forward. In addition, the subcommittee is going to review the actual application for corrections or revisions. The Commission has already committed to using criteria in the future. She clarified that the Hall of Fame event was moved to June because elections were not held because the Commission could not meet quorum. She reminded Council that there are still five vacancies on the Commission, making it more difficult to secure a quorum; however, the Commission has only failed to reach a quorum once this year due to spring break. Mrs. Taylor explained that the Commission was told last year that the budget would not be supplemented this year, so the members decided that a media reception was not necessary as the Commission can save money by announcing the honorees at a City Council meeting rather than a repetitious reception with a guest speaker at another facility. Having the June event would give the honorees the opportunity to bring their families without having a rush event. Public Access also did not have enough time to prepare the video presentations that normally accompany the event.

Cm. Vielma suggested that the Commission not "reinvent the wheel" regarding the selection criteria and proposed instead that they copy the criteria by the commission for women under the Governor's Office. The selection of the committee should be respected except in cases of obvious unethical or preferential treatment.

Motion to approve the proposed action plan.

Moved: Cm. Gonzalez

Second: Cm. Vielma

For: 4

Against: 1

Abstain: 0

Cm. Gonzalez

Cm. Torres

Cm. Vielma

Dr. Marte Martinez

Cm. Balli



Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

Motion fails.

After other discussion, this item was brought back before Council.

Cm. Vielma noted that the action plan needs to be approved for the Commission's work this year. She asked if the honorees selected for the Hall of Fame event were already notified. Mrs. Taylor stated that they should not have been, but some individuals may have heard that they were selected.

Jose A. Valdez, Jr., City Secretary, confirmed that the selection is not official until approved by Council. In previous years, the Commission exercised autonomy in selecting and recognizing the Hall of Fame honorees; recently, the Commission and staff were told by the City Attorney's Office that since the Commission is an advisory committee, they must come before Council for approval of their activities and selections. He noted that the Commission has not brought the list of 2019 honorees to Council yet because Public Access Channel (PAC) provides services to the event that requires a lot of time to film, edit, and coordinate. There was not enough time for PAC to create a proper recognition, and the other arrangements would be rushed as well. That is why the Commission proposed having the event in June of this year and return to March in future years.

Cm. Vielma noted that the City should not change the rules in the middle of the process, especially if some candidates were already told that they were selected. Any changes to the structure or selection should apply in future years rather than the current one.

Cm. Torres asked if there are expenses associated with the media reception. Mrs. Taylor explained that while IBC sponsors the media reception, there are other costs associated with the event, such as corsages.

Cm. Rodriguez asked why the City is cutting costs for the event. Mrs. Taylor stated that last year's event was \$8,000, and during last year's budget cycle Council instructed the City to cut costs. Therefore, the Laredo Commission for Women's budget was eliminated, and they were instructed to hold their Hall of Fame event either at the Max A. Mandel or the Laredo Public Library.

Cm. Torres clarified that the Commission also had a fundraising account that was separate from the City's budget, which is why their City-funded budget was reduced. Mrs. Taylor noted that the Commission is not raising funds anymore, but there is still a small balance in their fundraising account to be used for this year's Hall of Fame event.

Cm. Torres voiced his understanding that Council was funding the Commission properly, but one year the City Attorney's Office recommended that the City close the Commission's budget account because they were fundraising on the side. He noted that he is not against the Hall of Fame event but instead wants it to be done properly that pays due respect to the honorees. He asked that the event not be hosted at the Max because of the travel it takes to get to the venue.

Mr. Valdez noted that he was instructed that the event could only be held at the two City facilities: The Max or the Laredo Public Library. Kristina L. Hale, City Attorney, clarified that if Council can determine a public good for having the event at a different facility, they could take such action.

Cm. Rodriguez suggested funding the Commission to put on a suitable event. Cm. Torres agreed that their current balance could be supplemented for a total of \$10,000.

Lizeth Cuellar of the Laredo Commission for Women clarified that the Commission did not cut their costs for the event in an effort to be cheap; they acted on directive from staff. She observed a miscommunication between Council, staff, and the Commission.

Motion to approve the Laredo Commission for Women 2019 action plan and to approve the rescheduling of the 2019 Hall of Fame event in June and to supplement their budget for a total of \$10,000, as amended.

Moved: Cm. Vielma

Second: Cm. Gonzalez

For: 8

Against: 0

Abstain: 0

## **VIII. APPOINTMENTS TO COMMISSIONS, BOARDS AND COMMITTEES**

1. Appointment by Council Member George Altgelt of Tricia Cortez to the City Manager Search Ad-Hoc Committee.

Motion to approve the nomination of Tricia Cortez to the City Manager Search Ad-Hoc Committee.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

2. Appointment by Council Member Rudy Gonzalez, Jr. of Roberto Mancha Sr. to the Max Mandel Golf Course Committee.

Motion to approve the nomination of Roberto Mancha, Sr., to the Max

Mandel Golf Course Committee.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

3. Appointment by Council Member Alberto Torres, Jr. of Gary Jacobs to the Max Mandel Golf Course Committee.

Motion to approve the nomination of Gary Jacobs to the Max Mandel Golf Course Committee.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

4. Appointment by Council Member Rudy Gonzalez, Jr. of Amber A. Avis to the Laredo Commission for Women.

Motion to approve the nomination of Amber A. Avis to the Laredo Commission for Women.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

5. Re-appointment by Council Member Mercurio Martinez, III of Richard Gonzalez to the Citizens Environmental Advisory Committee.

Motion to approve the nomination of Richard Gonzalez to the Citizens Environmental Advisory Committee.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

6. Appointment by Council Member Mercurio Martinez, III of Margarita Araiza to the Old Mercy Hospital Ad-Hoc Committee.

Motion to approve the nomination of Margarita Araiza to the Old Mercy Hospital Ad-Hoc Committee.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5                      Against: 0                      Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

7. Appointment by Mayor Pro-Tempore Roberto Balli of Elsa Galvan to the Ethics Commission.

Motion to approve the nomination of Elsa Galvan to the Ethics Commission.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5                      Against: 0                      Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

## IX. PUBLIC HEARINGS

1. Motion to open public hearing #1.

Moved: Cm. Gonzalez

Second: Dr. Marte Martinez

For: 5                      Against: 0                      Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning approximately 8.8547 acres, as further described by Metes & Bounds on Exhibit A, located South of Soria Dr., and West of Ejido Avenue, from R-3 (Mixed Residential District) to R-1MH (Single Family Manufactured Housing District); providing for publication and effective date.

Planning and Zoning recommends **approval** of the proposed Zone Change and **staff supports** the application. ZC-21-2019 District I

There was no public input.

Motion to close public hearing and introduce.

Moved: Cm. Gonzalez

Second: Dr. Marte Martinez

For: 5                      Against: 0                      Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

2. Motion to open public hearing #2.

Moved: Cm. Gonzalez

Second: Dr. Marte Martinez

For: 5                      Against: 0                      Abstain: 0

Cm. Rodriguez, Cm. Mercurio Martinez, and Cm. Altgelt were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning approximately 4.24 acres, as further described by Metes & Bounds on Exhibit A, located East of US Hwy. 83 and South of Sierra Vista Blvd., from AG (Agricultural District) to B-3 (Community Business District); providing for publication and effective date.

Planning and Zoning recommends approval of the proposed Zone Change and staff supports the application. ZC-22-2019 District I

There was no public input.

Motion to close public hearing and introduce.

Moved: Cm. Gonzalez

Second: Dr. Marte Martinez

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Cm. Altgelt were not present.

3. Motion to open public hearing #3.

Moved: Cm. Rodriguez

Second: Cm. Torres

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Cm. Altgelt were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning Lot 1, Block 1, Fiesta Subdivision, located at 101 Alta Mar Dr., from B-3 (Community Business District) to B-4 (Highway Commercial District); providing for publication and effective date.

Planning and Zoning recommends approval of the proposed Zone Change and staff does not support the application. ZC-14-2019 District II

David Garcia spoke in favor of the zone change. He noted that the intention is to complete a parking lot. The property is in a light industrial area that has been designated as a kind of corridor. The owner is going through the permitting process to pave it per the City's requirements; he is currently using the lot as a temporary holding area for the equipment that he repairs. The owner works on heavy equipment for the City of Laredo and Webb County. His shop is across the street from the property in question.

Vanessa Guerra, Acting Planning Director, clarified that the commercial parking lot heavy equipment requires a B-4 zoning. Staff expressed to the applicant that this could be done through a CUP, but the owner expressed disinterest in the CUP.

Motion to table.

Moved: Cm. Rodriguez

Second: Cm. Balli

For: 7

Against: 0

Abstain: 0

Cm. Altgelt was not present.

4. Motion to open public hearing #4.

Moved: Cm. Mercurio Martinez

Second: Cm. Rodriguez

For: 7

Against: 0

Abstain: 0

Cm. Altgelt was not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning Lots 7 & 8, Block 817, Eastern Division, located at 1520 Cortez St., from R-3 (Mixed Residential District) to B-3 (Community Business District); providing for publication and effective date.

Planning & Zoning Commission recommended **denial** of the zone change and Staff **does not support** the application. The applicant has since exercised the right to **appeal this decision directly to City Council.** ZC-15-2019 District III

Oscar Cantu spoke in favor of the zone change. He noted that the owner, Ms. Mendoza, is asking for the rezoning because the lots face Cortez while the side yards face Meadow. She wants to take advantage of the traffic in the area.

Sandy Villarreal, owner of an adjacent property, noted that her family has lived on her property for almost 100 years, and the area has always been residential. It has never been commercial; many young children have moved into the neighborhood in the last year. Using the property as a used car lot is very dangerous for small children. There

are feral animals that are not being taken care of in the area, and all of the neighbors are opposed to any commercial property in the area.

Vanessa Guerra, Acting Planning Director, reported that staff sent out 20 letters to the surrounding property owners; two letters were received in opposition.

Nick Villarreal noted that this is the third time he has come before the Planning & Zoning Commission or the City Council on this request. He noted that the property should not be made commercial because of aesthetic reasons and safety. Customers park along the street which narrows the road down so much that traffic can only move in one direction at a time. He asked that Council keep the area residential.

Ms. Guerra explained that a letter was received from Graciela Aguilar and a resident at 1610 Cortez.

Motion to close public hearing and deny.

Moved: Cm. Mercurio Matinez

Second: Cm. Vielma

For: 7

Against: 0

Abstain: 0

Cm. Altgelt was not present.

5. Motion to open public hearing #5.

Moved: Cm. Gonzalez

Second: Cm. Rodriguez

For: 7

Against: 0

Abstain: 0

Cm. Altgelt was not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning approximate 1.27 acres, as further described by Metes and Bounds on Exhibit A, located at, Southeast corner of Ejido Ave., and Wormser Rd., from R-1A (Single Family Reduced Area District) to B-1 (Limited Business District); providing for publication and effective date.

Planning & Zoning Commission recommended **approval** of the zone change, and **staff supports** the application. ZC-25-2019 District I

There was no public input.

Motion to close public hearing and introduce.

Moved: Cm. Gonzalez

Second: Dr. Marte Martinez

For: 6

Against: 0

Abstain: 0

Cm. Vielma and Cm. Altgelt were not present.

6. Motion to open public hearing #6.

Moved: Cm. Rodriguez

Second: Dr. Marte Martinez

For: 6

Against: 0

Abstain: 0

Cm. Vielma and Cm. Altgelt were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning Lot 5, Block 2025, Eastern Division, located at 3220 Ross St., from R-2 (Multi-Family Residential District) to B-3 (Community Business District); providing for publication and effective date.

Planning & Zoning recommended **approval** of the zone change, and **staff supports** the application. ZC-24-2019 District II

Vanessa Guerra, Acting Planning Director, reported that staff sent out 13 letters to the surrounding property owners; there were no letters received in opposition or in favor. The applicant was unsure as to the specific use of this property at the time that Planning staff inquired.

Janet Vega, property owner, noted that she just paid off the property and is still in school. She has no specific use for the property determine at this time, but there was a fee associated with the zone which is why she requested the zone change. She noted that her property was usually rented out to Rangel for headquarters. There is a potential buyer on the property, but the buyer has been stopped by construction estimates because the property is still residential.

Motion to close public hearing and introduce.

Moved: Cm. Rodriguez

Second: Cm. Mercurio Martinez

For: 7

Against: 0

Abstain: 0

Cm. Vielma was not present.

7. Motion to open public hearing #7.

Moved: Cm. Altgelt

Second: Dr. Marte Martinez

For: 7

Against: 0

Abstain: 0

Cm. Vielma was not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by repealing Ordinance 2015-O-136 and authorizing the issuance of a Special Use Permit for a



restaurant serving alcohol on Lot 1, Block 5, Del Mar Village Subdivision, located at 120 West Village Blvd., Suites 101-102 (one unit); providing for publication and effective date.

Planning & Zoning recommended **approval** of the Special Use Permit, and **staff supports** the application. ZC-26-2019 District V

Vanessa Guerra, Acting Planning Director, reported that the applicant informed staff earlier today that they would like this item tabled.

Motion to table.

Moved: Cm. Vielma

Second: Dr. Marte Martinez

For: 6

Against: 0

Abstain: 0

Cm. Gonzalez and Cm. Rodriguez were not present.

8. Motion to open public hearing #8.

Moved: Dr. Marte Martinez

Second: Cm. Altgelt

For: 6

Against: 0

Abstain: 0

Cm. Gonzalez and Cm. Rodriguez were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning approximate 77.71 acres out of Lot 1, Block 1, San Isidro Southwest Subdivision, Phase II, located at 9819 San Dario Ave., from B-4 (Highway Commercial District) to R-1A (Single family Reduced Area District); providing for publication and effective date.

Planning & Zoning recommended **approval** of the zone change and **staff supports** the application. ZC-23-2019 District VI

There was no public input.

Motion to close public hearing and introduce.

Moved: Dr. Marte Martinez

Second: Cm. Altgelt

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

9. Motion to open public hearing #9.

Moved: Cm. Altgelt

Second: Dr. Marte Martinez

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning approximately 40.6420 acres, as further described by Metes and Bounds in Exhibit A, located South of FM 1472 Rd., and North of Vidal Cantu Rd., from AG (Agricultural District) to M-1(Light Manufacturing District); providing for publication and effective date.

Planning & Zoning Commission recommended **approval** of the zone change, and though compatible with surrounding zones and land uses, **Staff does not support** the proposed zone change because it does not comply with the Comprehensive Plan's designation for the Future Land Use as Agricultural/Rural and Neighborhood Mixed Use. ZC-82-2018 District VII

Judd Gilpin of Gilpin Engineering spoke in favor of the zone change. He requested to amend the application to work with a B-4 zoning.

Motion to close public hearing and introduce as a B-4 zone change.

Moved: Cm. Altgelt

Second: Dr. Marte Martinez

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

10. Motion to open public hearing #10.

Moved: Cm. Altgelt

Second: Cm. Mercurio Martinez

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by rezoning approximately 1.6484 acres, as further described by Metes and Bounds Exhibit A, located South of FM 1472 Rd.,(Mines Road) and West of Silver Mine Rd., from AG (Agricultural District) to M-1(Light Manufacturing District); providing for publication and effective date.

Planning & Zoning Commission recommended **approval** of the zone change, and **staff supports** the zone change. ZC-80-2018 District VII

Vanessa Guerra, Acting Planning Director, confirmed that this

property is on the south side of Mines Road. Staff's recommendation to approve is based on the Comprehensive Plan; the surrounding land uses are all compatible.

Motion to close public hearing and introduce.

Moved: Cm. Altgelt

Second: Dr. Marte Martinez

For: 5                      Against:                      Abstain:

11. Motion to open public hearing #11.

Moved: Cm. Vielma

Second: Cm. Mercurio Martinez

For: 5                      Against: 0                      Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

Public Hearing and Introductory Ordinance amending the Zoning Ordinance (Map) of the City of Laredo by authorizing a Special Use Permit for a restaurant serving alcohol on Lot 1, Block 1, Kimberly Plaza, located at 4800 McPherson Rd., Suite B; providing for publication and effective date.

Planning and Zoning Commission recommends **approval** of the proposed Special Use Permit. **Staff does not support** the application as it does not comply with the minimum separation distance of three hundred (300) feet to a residential zoning district. ZC-20-2019 District V

Gustavo Villarreal, restaurant owner and applicant, spoke in favor of the application. He explained that he is applying for a beer license because not serving alcohol has caused him to lose service. His family has been in the restaurant industry for 20 years managing multiple restaurants. There have never been any problems with customers or neighbors with regards to alcohol sales.

Vanessa Guerra, Acting Planning Director, reported that two letters were received in opposition of the zone change. One letter stated that the parking lot is not large enough to support additional business brought on by a beer and wine license. The second letter stated that there are three restaurants with liquor licenses that has saturated the parking lot. It states that an additional beer and wine permit will make the parking much worse. Mrs. Guerra clarified that the application *does* comply with the parking requirements.

Cm. Vielma asked to look at the conditions and requested that outside music be prohibited and nothing occurring after hours. Mrs. Guerra clarified that the SUP already includes those provisions.

Mr. Villarreal explained that the restaurant's hours are from 6:00 a.m. to 11:00 p.m.; he applied for the late hours license based on advice, but he assured Council that the restaurant does not stay open that late.

Motion to close public hearing and introduce.

Moved: Cm. Vielma

Second: Cm. Mercurio Martinez

For: 5                      Against: 0                      Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

12. Motion to open public hearing #12.

Moved: Dr. Marte Martinez

Second: Cm. Altgelt

For: 5                      Against: 0                      Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Balli were not present.

Public Hearing and Introductory Ordinance authorizing Co-Interim City Managers to amend the City of Laredo 2018-2019 Laredo Auto Theft Task Force Fund Budget by increasing revenues by \$6,480.00, drawing down from fund balance \$14,120.00 and increasing expenditures in the amount of \$20,600.00, to appropriate program income for the period of September 1, 2018 through August 31, 2019. Program Income will be used to fund training and equipment for the Auto Theft Task Force to combat auto burglary and theft in the City of Laredo. Funding is available in the Auto Theft Task Force Fund.

Claudio Treviño, Laredo Police Chief, clarified that the fund balance fluctuates every year based on the number of inspections conducted by the investigators assigned to the Auto Theft Task Force.

Motion to close public hearing and introduce.

Moved: Cm. Altgelt

Second: Cm. Mercurio Martinez

For: 5                      Against: 0                      Abstain: 0

Cm. Gonzalez, Cm. Torres, and Cm. Balli were not present.

**X. INTRODUCTORY ORDINANCES**

13. An Ordinance of the City of Laredo, Texas, amending Chapter 2, Article II, Division 2, Sections 2-16(b) and adding a new Section 2-19 of the Code of Ordinances to establish the offices of Deputy City Manager and Assistant City Manager to oversee and coordinate the

various functions and services of the city; providing for a cumulative clause; providing a severability clause; and declaring an effective date.

Cm. Vielma noted that the City is trying to attract a well-versed City Manager and should not try to micromanage the decision that a City Manager makes. For that reason, she asked Council to table this item.

Motion to table.

Moved: Cm. Vielma

Second: None

Motion dies for lack of a second.

Cm. Mercurio Martinez noted that he would like to see the Deputy City Manager and Assistant City Manager positions be exempted from the carryover salary ordinance because a new City Manager's hands might be bound to what these positions were paid previously. Cm. Torres and staff clarified that only the City Manager must earn what the previous City Manager did; the other positions are already exempted.

Ordinance Introduction: City Council

14. An Ordinance of the City of Laredo, Texas, amending Chapter 23, Parks and Leisure Services Department, providing for the renaming of Parks and Leisure Services to Parks and Recreation Department; providing a waiver of membership fees to senior community facility centers for persons ages sixty-two and older; allowing free membership to recreational facilities for veterans; providing for the renumbering of certain sections of Chapter 23; providing for rental fees for flag football, rugby, concession stands, Freddy Benavides Sisters of Mercy Lazy River Pool and Water Slide Complex, and related use fees; providing that this ordinance shall be cumulative; containing a savings clause; containing a severability clause; and providing an effective date.

Anita Stanley, Assistant Parks & Leisure Services Director, reported that the City has three senior community facility centers.

Cm. Vielma stated that if the fee is waived for seniors and veterans, it should apply to all recreation centers rather than only the senior centers.

Motion to introduce and waive the membership fees to seniors and veterans in all recreation or community centers, as amended.

Moved: Cm. Vielma

Second: Cm. Gonzalez

For: 8

Against: 0

Abstain: 0

Cm. Rodriguez asked Mrs. Stanley to ask instructors to offer their classes to senior citizens free of charge. She confirmed that she would reach out to the various instructors.

15. Authorizing the Co-Interim City Managers to convey an Easement and Right of Way to AEP TEXAS INC., a six (6) foot wide Easement lying wholly within a portion of 34.94 acres, more or less, within the boundaries of the former Laredo Air Force Base, partly in Survey 1020m Rafael Vidaurri, Original Grantee, Webb County, Texas; Said tract of land conveyed to Grantor on deed Recorded in Document Number 58786, Volume 457, Page 73, Official Public Records of Webb County, Texas; More specifically, the strip of land covered by this Easement and Right of Way shall be six (6) feet in width, three (3) feet on each side of a centerline as described by on Exhibit "A", attached hereto, and providing for an effective date.

Ordinance Introduction: City Council

16. Authorizing the Co-Interim City Managers to execute all necessary documents for the sale of a 2,276 square foot tract of land "Surface Only" for the appraised market value of \$23,100.00. The adjacent land owner requested to purchase the subject tract to complete a residential development. The subject property is inaccessible; therefore, making it eligible to be sold to the only abutting land owner, Monaco Development, LLC. The subject tract of land is owned by the City of Laredo within the Manadas Creek area, as recorded in Volume 2262, Page 24 Official Records of Webb County, Texas, being generally described in attached Exhibit "A" and Exhibit "B". Funds will be deposited in the Environmental Services land sales proceeds account.

Arturo Garcia, Community Development Director, explained that Monaco Development is asking to acquire the land as described so that the development would have a more regular shape. Dr. Marte Martinez noted that this sale would give the City unimpeded access to the creek.

Cm. Altgelt asked for a survey that would prove that this sale would not further impede the bike trail that Monaco Development has already substantially impeded with their drainage.

John Porter, Environmental Services Director, clarified that he went to the property in question and there is no bike trail there. There is a fence that was put up, and for the City to maintain that fence would be very difficult. It is a very small piece of property, 50-feet by 50-feet. The land would be unused in any other way beside a house.

Cm. Altgelt asked if Monaco Development could fix all of the drainage in the area in lieu of a cash payment. Mr. Porter noted that the cash sale could help the City pay for drainage improvements. The bond money used for the purchase of this property ensures that the sale

money would go back to Environmental Services.

Ordinance Introduction: City Council

17. Authorizing the Co-Interim City Managers to grant a License Agreement by and between The City of Laredo, Texas, a municipal corporation and VTX Communications, LLC, a Texas Limited Liability Company, dated February 4, 2019 for the use of one (1) inner duct in the Juarez Lincoln Bridge and 640 linear feet of right-of-way.
  1. Term of the agreement shall be for five (5) years commencing at 12:00 am, February 4, 2019 and terminating at 12:00 pm February 3, 2024.
  2. Annual duct fee shall be \$32,577.89 and will increase by five percent (5%) every year the license is in place. In addition to the duct fee, Licensee shall pay a nine dollar and 78/100 (\$9.78) linear foot right-of-way fee, and will increase by five percent (5%) every year.

Ordinance Introduction: City Council

18. Authorizing the Co-Interim City Managers to execute a First Amendment to Lease Agreement (“Lease”) by and between the City of Laredo, a municipal corporation (“Landlord”), and T-Mobile West LLC, a Delaware limited liability company (“Tenant”), as successor in interest to Cook Inlet / Voicestream PCS, LLC., (“T-Mobile”), dated May 1, 2000 and attached hereto; to allow Landlord to modify Tenant’s ground space at the Del Mar Elevated Water Storage Tank (“Water Tower”), as more fully depicted on the attached Exhibit A-1, for the installation of a generator and to increase Tenant’s rent by \$300.00 per month commencing on April 15, 2019 and shall thereafter increase in accordance with paragraph 3 (Rent) of the Lease; all other terms and conditions remain in full force and effect.

Ordinance Introduction: City Council

19. Authorizing the Co-Interim City Managers to grant a License Agreement by and between the City of Laredo, Texas, a municipal corporation and Bestel USA, Inc., a Nevada Corporation, dated February 4, 2019 for the use of one (1) innerduct in the Juarez Lincoln Bridge and 566 linear feet of right-of-way.
  1. Term of the agreement shall be for five (5) years commencing at 12:00 am, February 4, 2019 and terminating at 12:00 pm February 3, 2024.
  2. Annual duct fee shall be \$32,577.89 and will increase by five percent (5%) every year the license is in place. In addition to the duct fee, Licensee shall pay a nine dollar and 78/100 (\$9.78) linear foot right-of-way fee, and will increase by five percent (5%) every year.

Ordinance Introduction: City Council

20. Authorizing the Co-Interim City Managers to grant a License Agreement by and between The City of Laredo, Texas, a municipal corporation and Axtel, S.A.B de C.V., formerly known as Alestra S. de R.L. de C.V., a Mexican Corporation dated April 8, 2019 for the use of one (1) fiber/cable tray affixed beneath the Juarez Lincoln Bridge and 519 linear feet of right-of-way.
  1. Term of the agreement shall be for five (5) years commencing at 12:00 am, April 8, 2019 and terminating at 12:00 pm April 7, 2024.
  2. Annual fee shall be \$27,691.21 and will increase by five percent (5%) every year the license is in place. In addition to the fee, Licensee shall pay a nine dollar and 76/100 (\$9.76) linear foot right-of-way fee, and will increase by five percent (5%) every year.

Cm. Vielma asked if this company has been vetted. Homero Vazquez, IST Director, clarified that this license agreement is actually a renewal. When the initial application was completed, all of the company's information was provided. The conduit is not through the bridge but under it. The company has been compliant to the license agreement.

Ordinance Introduction: City Council

**XI. FINAL READING OF ORDINANCES**

Motion to waive the final readings of Ordinances 2019-O-029, 2019-O-030, 2019-O-031, 2019-O-032, 2019-O-033, 2019-O-034, 2019-O-035, 2019-O-035, 2019-O-036, 2019-O-037, 2019-O-038, and 2019-O-039.

Moved: Cm. Balli

Second: Cm. Gonzalez

For: 6

Against: 0

Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

21. 2019-O-029 Authorizing the Co-Interim City Managers to amend the Animal Care Services Department FY2018-19 budget and Full-Time Equivalent Position Listing by creating two (2) Kennel Workers, R27 positions; two (2) Veterinarian Technicians, R30 positions; and one (1) Custodian, R23 position. The total funding required for these positions is \$111,526.00 and will be funded with savings within the Animal Care Services operating budget.

Motion to adopt Ordinance 2019-O-029.

Moved: Cm. Balli

Second: Cm. Gonzalez

For: 6

Against: 0

Abstain: 0



Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

22. 2019-O-030 Ratifying the execution of a contract with the Department of State Health Services (DSHS), amending the FY 18-19 Budget by appropriating revenues and expenditures in the amount of \$120,590.00 and amending the FY18-19 Full Time Equivalent Position Listing by creating one (1) Public Health Technician, R36 position for the City of Laredo Health Department to perform activities that support the Public Health Crisis Response and Recovery by creating a prepared and protected team that is ready to deploy in case of a disaster in particular for post hurricane response and recovery under the Cooperative Agreement for Emergency Response from the Centers for Disease Control and Prevention (CDC) for the term period from January 25, 2019 through June 30, 2020.

Motion to adopt Ordinance 2019-O-030.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

23. 2019-O-031 Amending the FY 2018-2019 Risk Management Fund by appropriating revenues and expenditures of \$50,000.00. The revenues are for Wellness reimbursements from Blue Cross Blue Shield of Texas (B.C.B.S. TX) and are restricted for the continued operation of the City's Wellness Program.

Motion to adopt Ordinance 2019-O-031.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

24. 2019-O-032 Amending the Zoning Ordinance (Map) of the City of Laredo by repealing Ordinance No. 2013-O-125 and authorizing the issuance of a revised C.U.P. for an amusement redemption machine establishment changing the tenant on Lot 2C, Block 1, Zaftex Phase II, located at 3917 Jaime Zapata Memorial Highway, Suites 1 and 4; providing for publication and effective date. ZC-19-2019 District I

Motion to adopt Ordinance 2019-O-032.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

25.    2019-O-033    Amending the Zoning Ordinance (Map) of the City of Laredo by authorizing a Special Use Permit for a restaurant serving alcohol on Lot 1, Block 1, Jacaman Ranch Subdivision, located at 6402 N. Bartlett Ave., Suite 2; providing for publication and effective date. ZC-16-2019 District V

Motion to adopt Ordinance 2019-O-033.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

26.    2019-O-034    Amending the Zoning Ordinance (Map) of the City of Laredo by rezoning Lot 6, Block 519, Western Division, located at 1902 W. Anna Ave., from R-3 (Mixed Residential District) to B-1 (Limited Business District); providing for publication and effective date. ZC-17-2019 District VIII

Motion to adopt Ordinance 2019-O-034.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

27.    2019-O-035    Amending the Zoning Ordinance (Map) of the City of Laredo by rezoning the West 10' of 45' of Lot 8, Lot 9 and Lot 10, Block 101, Western Division, located at 515 and 519 Matamoros St., from B-1 (Limited Commercial District) to B-3 (Community Business District); providing for publication and effective date. ZC-18-2019 District VIII

Motion to adopt Ordinance 2019-O-035.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

28. 2019-O-036 An ordinance of the City of Laredo, Texas, amending Chapter 24, Article III, Section 24.56.2 of the City of Laredo Land Development Code book by eliminating the review and approval by the Parks and Recreation Board of: parkland dedication sites, cash payments in lieu of land, and park improvement plans and specifications; and amending Section 24.56.3 by revising the time requirements for park improvements to require completion of construction of park improvements within eighteen (18) months of plat recordation; providing that this ordinance shall be cumulative; providing a severability clause; and declaring an effective date.

Motion to adopt Ordinance 2019-O-036.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

29. 2019-O-037 An ordinance authorizing the Co-Interim City Managers to execute a lease agreement with South Texas Advancement Resource (STAR), a non-profit entity, for the lease of approximately 2.3 acres of land located at lot 1, block 21 Lowry farm subdivision unit 4, for the purpose of creating a living laboratory to promote best practices for sustainable farming and land management; providing for a lease term of five (5) years at a rate of \$1 per year; providing an option to renew; waiving water utilities; STAR shall be responsible for extending the plumbing water line from existing water meter.

Motion to adopt Ordinance 2019-O-037.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

30. 2019-O-038 An Ordinance of the City of Laredo, Texas, authorizing the waiver, reduction or reimbursement of facility use or special event fees for requests that serve a public purpose; are in accordance with the city's policy for special event fee reduction, waiver, or reimbursement; and have been sponsored by three members of the city council; providing a severability clause; and declaring an effective date.

Motion to adopt Ordinance 2019-O-038.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

31.    2019-O-039    An Ordinance of the City of Laredo, Texas, amending Chapter 2, Article II, Division 6, Section 2-87.6 of the Code of Ordinances by excepting the City Manager from the city's pay administration policy; providing for a cumulative clause; providing a severability clause; and declaring an effective date.

Motion to adopt Ordinance 2019-O-039.

For: 6                      Against: 0                      Abstain: 0

Cm. Mercurio Martinez and Dr. Marte Martinez were not present.

32.    2019-O-040    An Ordinance of the City of Laredo, Texas, amending Section 2.03 "Gifts" of the Laredo Code of Ethics by adding an exception to the general prohibitions in order to allow for donations of money, real estate, products, services, and property made by persons or business entities that serve a public purpose and that are in accordance with the city's donation policy; providing a severability clause; and declaring an effective date.

Victor Gomez asked for clarification on the City's donation policy and noted that donations or gifts should be given without expectation of anything in return. He voiced his opinion that if this Code is amended, it will increase the amount of "quid pro quo" conflicts of interest in the City.

Cm. Balli noted his understanding of the public's concern but added that that many organizations accept donations for naming rights or similar recognitions that are not necessarily of any tangible benefit. He explained that this policy would allow a taxpayer to make a donation to the City, not to an individual Council Member, to benefit the City and could receive a small recognition like having a facility named after the donor. He noticed much hostility toward the idea.

Mr. Gomez countered that corporate or affluent donors expect something greater in return for their donations. There are services that the City can provide to that

corporation from taxpayers' dollars that could otherwise be used for the betterment of the community like lighting or sidewalk improvements. The public has no assurances that the donation policy changes will safeguard against quid pro quo dealings among Council and donors.

Mayor Saenz suggested that a vetting process could help relieve the public's concerns on this matter. He added that an ongoing investigation concerning some properties that may have financial conflicts of interests makes him uncomfortable discussing this item at this time. He proposed discussing this item at a later date. As the situation stands, he would not support the ordinance as is.

Cm. Altgelt noted his surprise when this amendment first came to him as he was not previously aware that donations could not be made to the City. There have been tree planting events in which the trees were donated, and during other events, the labor was donated. He cited a recent pump track build where the site plan and the schematics were going to be donated, but the project was road-blocked because all of the donations were prohibited. He agreed with Mayor's sentiments that framework must be put in place to ensure define the proper process for donating.

Kristina L. Hale, City Attorney, clarified that Council passed a resolution for the donation policy with an introductory ordinance subject to its final reading. Therefore, the framework is already defined.

Cm. Altgelt reiterated that the Ethics Ordinance needs to be fortified; during the strengthening of the ordinance, Council can flesh out a rubric for the donations and processes acceptable by the City.

Mr. Gomez emphasized that clarity and transparency is at stake. He advised Council and the public to "follow the money," because the situation is very suspicious.

Cm. Mercurio Martinez explained that there were three prior owners of the Canseco House who approached the City to donate the house on a lease for \$1 per year via contract. If the City wished to do a leasehold improvement by \$500,000 or more, the owners would donate the property to the City. The owners were willing to put these terms in writing via an agreement,

but because of the Ethics Ordinance, the City had to decline the donation. As a result, the property was appraised at over \$700,000, and the City of Laredo purchased the property at that price when it could have been donated for free. He noted that this prohibition makes no sense to him.

Mayor Saenz asked if donations could be a case-by-case basis in which Council can vote on an exception to the ordinance. Mrs. Hale confirmed that Council can amend the Ethics Ordinance with that exception.

Cm. Mercurio Martinez noted that many citizens were very upset that the City spent nearly \$1 million for the Canseco House when it could have been donated.

Dr. Marte Martinez clarified that he did not expect the backlash to this ordinance; Council does not want to make exceptions to the Ethics Ordinance a “case by case” basis because that lends itself to cronyism. His intention was an established platform that consists of required procedures that are ethical and set by policy. This policy is in line with what other municipalities are doing. Not having this policy affects the City’s bottom line and its ability to make capital improvements to its parks and facilities. Case-by-case situations are done via backdoor dealings.

Mayor Saenz reiterated that given the ongoing investigation with River Hills Investments, he was uncomfortable pursuing this matter. To Dr. Martinez’s question of what investigation he is referring to, Mr. Gomez clarified that a public group is conducting an investigation into the River Hills matter and determining if any activities or agreements are ethical. The determination of the investigation is not final.

Dr. Martinez disagreed that the timing of his item was inappropriate as it was his first priority that he brought to Council during his first Council meeting months ago. He brought the item forward because the City needs creative ways of getting capital improvements in District VI. He looked to other municipalities and found that they were effectively using the policy that he brought to Council. He clarified that this policy is not a reinvention of the wheel or a novel idea.

Mr. Gomez reiterated that the situation gives the appearance of impropriety and stated Council needs to assure the public that no such thing would happen because of this new policy.

Mrs. Hale confirmed that if an individual donates to a municipality, that donation is tax-deductible.

Cm. Altgelt read from dallascityhall.com's website, 12A-5.1 "Donations," as follows: "Donations of money, real estate, products, and services to the City allows citizens to make valuable contributions to City programs and should be encouraged. Persons and business entities making donations should not, however, expect any reward, reciprocal benefit or influence." Section 12B-2 further states: "A person or business entity shall not knowingly offer any donation to the City of money, real estate, products, or services that reasonably tend to influence or reward official conduct or the person or business entity knows is intended to influence or reward the discharge of official duties." Therefore, the City of Dallas has already adopted a similar policy and rule. Mrs. Hale confirmed that the City of Laredo's policy and rule was modeled after Dallas, so the two are identical. It is required to come back to Council for official approval.

Mr. Gomez stated that the River Hills matter gives the donor a tangible benefit as well as the City, which appears reciprocal and therefore unethical. Cm. Altgelt noted that Dr. Martinez recused himself when the River Hills matter was voted upon by Council, which was the correct and required thing to do. Many Council Members have recused themselves in matters of either real or perceived conflict of interest because it is the ethical thing to do. Mr. Gomez suggested letting the Ethics Commission review the matter and provide their opinion on the question of propriety.

Mrs. Hale confirmed that Council could task the Ethics Commission with reviewing this ordinance amendment and provide feedback prior to passing it. Their comments would only be advisory. Cm. Altgelt made a motion to adopt Ordinance 2019-O-040 subject to the input of the Ethics Commission.

Cm. Mercurio Martinez voiced his approval of this ordinance because of the benefit it will provide citizens in his district. Dr. Marte Martinez noted that Council needs to move forward on the matter, therefore, he would hope to adopt the ordinance today rather than waiting for the Ethics Commission's feedback.

Motion to adopt Ordinance 2019-O-040 subject to the input of the Ethics Commission.

Moved: Cm. Altgelt  
Second: Cm. Vielma  
Motion withdrawn.

Rosario Cabello, Interim Co-City Manager, voiced her opinion that this ordinance would provide a notable benefit to the City. Mrs. Hale agreed that many cities follow this policy as well.

Mayor Saenz voiced his lack of support for this ordinance at this time as there is an FBI investigation occurring on the River Hill matter at this time.

Cm. Torres noted that if there is an investigation ongoing and any person is involved in illegal activity, it will come out. However, the City Attorney's Office and City Manager's Office are recommending approval so there is no need to question it at this time.

Motion to adopt Ordinance 2019-O-040.

Moved: Cm. Rodriguez  
Second: Cm. Mercurio Martinez  
For: 6                      Against: 3                      Abstain: 0  
    Cm. Gonzalez                      Mayor Saenz  
    Cm. Rodriguez                      Cm. Vielma  
    Cm. Mercurio Martinez                      Cm. Altgelt  
    Cm. Torres  
    Dr. Marte Martinez  
    Cm. Balli

## **XII. CONSENT AGENDA**

### **XII (a) RESOLUTIONS**

33. 2019-R-27 Authorizing the Co-Interim City Managers to submit a grant application in the amount of \$53,448.72 to the Office of the Governor's Homeland Security Grants Division (HSGD) for the purpose of funding the State Homeland Security Program (SHSP)-Law Enforcement Terrorism Prevention Activities (LETPA) Grant. This funding will be utilized to purchase SWAT equipment/gear to help ensure the safety of unit members while performing many assigned duties. No local match is required. Grant will be accounted for in the Special Police Fund.

Motion to adopt Resolution 2019-R-027.

Moved: Cm. Balli



Second: Dr. Marte Martinez  
For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

34.    2019-R-28    Authorizing the Co-Interim City Managers to submit a grant application in the amount of \$43,120.40 to the Office of the Governor's Homeland Security Grants Division (HSGD) for the purpose of funding the State Homeland Security Program (SHSP)-Law Enforcement Terrorism Prevention Activities (LETPA) Grant. This funding will be utilized to purchase a portable x-ray machine which will allow bomb technicians the ability to obtain real-time imaging in a variety of applications. No local match is required. Grant will be accounted for in the Special Police Fund.

Motion to adopt Resolution 2019-R-028.

Moved: Cm. Balli  
Second: Dr. Marte Martinez  
For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

35.    2019-R-29    Authorizing the Co-Interim City Managers to accept a grant in the amount of \$39,668.50 from the Office of The Governor, Criminal Justice Department (CJD), for funding the 2019 Justice Assistance Grant (JAG) for the period of October 01, 2018 through September 30, 2019. This funding will provide overtime for the Anti-Gang Unit which will target Criminal Street Gangs by identifying, monitoring, suppressing and documenting criminal gang activities and maintaining the TX-Gang database. Funding is available in Special Police Fund.

Motion to adopt Resolution 2019-R-029.

Moved: Cm. Balli  
Second: Dr. Marte Martinez  
For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

36.    2019-R-30    Authorizing the Co-Interim City Managers to submit a grant application in the estimated amount of \$103,000.00 to the Office of the Governor, Public Safety Office, Criminal Justice Division for the Violence Against Women Justice and Training Program Grant for the period of October 1, 2019 through September 30, 2020. This grant will fund one

Investigator position and travel/training for the Special Investigations Unit. The City of Laredo will be responsible for a required match of 29% of total project funds. Funding will be available in the Special Police Fund.

Motion to adopt Resolution 2019-R-030.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

37.    2019-R-31    Authorizing the Co-Interim City Managers to submit a grant application in the amount of \$61,642.60 to the Office of The Governor, Criminal Justice Department (CJD), for funding the 2020 Justice Assistance Grant (JAG) for the period of October 01, 2019 through September 30, 2020. This funding will be used to equip sixteen (16) members of the LPD Traffic Unit with Panasonic Toughpads to improve efficiency and effectiveness during critical situations. Funding will be available in Special Police Fund.

Motion to adopt Resolution 2019-R-031.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

38.    2019-R-32    Authorizing the Co-Interim City Managers to submit a grant application to K9s4COPs to request a police service dog to be trained and used by the Laredo Police Department for law enforcement purposes. The police service dog is grant funded and will be at no cost to the City of Laredo Police Department.

Motion to adopt Resolution 2019-R-032.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

39.    2019-R-33    A resolution expressing the City of Laredo's support for the memorial designation of Cuatro Vientos Road/Loop 20, from State Highway 359 to Mangana

Hein Road, as the Lance Corporal Rodrigo Rodriguez Memorial Highway, as authorized by Texas Transportation Code 225.002, entitled Memorial Designation of Highway(s) by Local Governments.

Motion to adopt Resolution 2019-R-033.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

40.    2019-R-38    Authorizing the Co-Interim City Managers to enter into a Memorandum of Understanding between the American Library Association (ALA), through its division, the Public Library Association (PLA) and the City of Laredo-Public Library for the purpose of participation in the Inclusive Internship Initiative (III), funded by the Institute of Museum and Library Services. Funding includes a \$3,500.00 stipend for the intern and travel reimbursement for mentor and intern to attend the kick-off event in Chicago, IL and the wrap-up event in Washington, D.C.

Motion to adopt Resolution 2019-R-038.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

41.    2019-R-39    Supporting SB 1496, introduced by Texas State Senator Judith Zaffirini, District 21, calling for the creation and funding of a pilot study conducted by the Texas Water Development Board and providing for hydrologic and water quality monitoring, characterization, and modeling of the Rio Grande watershed in Webb County and Zapata County as a means to improve the state of the Rio Grande River which serves as the sole source of drinking water for the City of Laredo and millions of people in South Texas.

Motion to adopt Resolution 2019-R-038.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

42. 2019-R-40 Resolution supporting the ratification of the United States, Mexico, Canada Agreement and continued free trade between the United States and its North American trading partners to ensure the U.S. remains competitive against other trade blocs and U.S. jobs are preserved.

Motion to adopt Resolution 2019-R-040.

Moved: Cm. Balli

Second: Dr. Marte Martinez

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

## **XII (b) MOTIONS**

43. Authorizing the Co-Interim City Managers to execute the Toll Collection System Maintenance Service Contract between the City of Laredo and TransCore, L.P., for the hardware and software maintenance of the Laredo Bridge System Electronic Toll Collection equipment. This maintenance service contract is for a term of one (1) year with an option to renew three (3) additional years of maintenance, effective April 1, 2019 and will not exceed \$320,231.00. Funding is available in the Bridge System Fund.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

44. Consideration for approval to award a professional services contract to Civil Engineering Consultants Don Durden, Inc., Laredo, Texas, for an amount not to exceed \$29,400.00 for design and preparation of plans and specifications for the CDBG Sidewalks District VIII (14 Blocks). Design work is to be done on a fast track basis. Funding is available in the CDBG 2018 Action Year Grant.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

45. Consideration for approval to award a professional services contract to Civil Engineering Consultants Don Durden, Inc., Laredo, Texas, for an amount not to exceed \$31,900.00 for design and preparation of plans and specifications for the CDBG Downtown Neighborhood Access Improvements District VIII (11 Blocks). Design work is to be done on a fast track basis. Funding is available in the CDBG 2018 Action Year Grant.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

46. Consideration to rescind awarded contract FY19-006 to American LED Display Solutions Corp., Miami, Florida in the total amount \$177,256.00 and authorizing the re-solicitation (rebid) of this project with revised scope. This LED display system will be installed at the Uni-Trade Stadium located at 6320 Sinatra Parkway, Laredo, Texas. American LED has not been able to comply with contract requirements and completion of this project as well over the ninety (90) working days alluded for project completion. Funding is available in the Sports & Community Venue Uni-Trade Operations Fund.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

47. Consideration to renew annual supply contract FY18-029 for the purchase of general electrical supplies to all City departments in an estimated amount up to \$300,000.00 with 3-G Electrical Supply, Laredo, Texas. This contract establishes discount percentage pricing for those electrical supplies most commonly utilized by City departments. The term of this contract shall be for a period of one (1) year beginning as of the date of its execution. There was no price increase during the last extension period. This is the first of two extension periods. All items will be purchased on an as needed basis and funding will be secured from the respective user departmental budgets.

Miguel Pescador, Purchasing Director, clarified that this will be the first extension of two possible extensions for the FY18-029 contract with 3-G Electrical Supply. The previous supplier did not participate in the FY18-029 bid process.

Cm. Vielma initiated a motion to rebid this project to determine if any other vendors will provide a more competitive price for this service. Mr. Pescador asked for Council approval of keeping the current contract on a month-by-month basis during that bid process.

Cm. Torres asked if there were any staff complaints about 3-G or the service provided. Mr. Pescador confirmed that there were no issues, and a one-year extension is recommended by staff. Cm. Torres responded that he would support staff's recommendation on this item.

Motion to rebid this project to determine if there are more competitive responses for this service.

Moved: Cm. Vielma

Second: Dr. Marte Martinez

For: 2	Against: 5	Abstain: 0
Cm. Vielma	Cm. Rodriguez	
Dr. Marte Martinez	Cm. Mercurio Martinez	
	Cm. Torres	
	Cm. Altgelt	
	Cm. Balli	

Cm. Gonzalez was not present.  
Motion fails.

Motion to approve as presented.

Moved: Cm. Torres

Second: Cm. Balli

For: 7	Against: 0	Abstain: 0
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Cm. Gonzalez was not present.

48. Consideration to amend annual parts contract FY17-002 by 25% with Family Chevrolet, Laredo, Texas in an amount not to exceed \$16,250.00 due to an increase in usage. This contract is for the purchase of (OEM) Original Equipment Manufacturer parts for the City's fleet vehicle repairs. The term of this contract shall expire on 8/6/19; a new contract with a total amount of \$81,250.00. All parts will be requested on an as needed basis. Funding is available in the Fleet Management Fund.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7	Against: 0	Abstain: 0
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Cm. Gonzalez was not present.

49. Consideration to award contract FY19-040 to the sole bidder, Industrial Disposal Supply Company, San Antonio, Texas in an amount up to \$100,000.00 for the purchase of Tymco Street Sweeper (OEM) equipment repair parts and service for the City's street sweeper heavy equipment. This contract establishes discount percentage pricing for the purchase of needed repairs and replacement parts and services. The term of this contract shall be for a period of one (1) year beginning as of the date of its execution and may be extended for three additional one (1) year periods upon mutual agreement. All parts and services will be secured on an as needed basis. Funding is available in the Fleet Maintenance budget.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

50. Consideration to award two (2) year contract FY19-041 to the low bidder Dus-Tex Mops & Mats Rental, Laredo, Texas in the estimated annual amount of \$85,000.00 for the rental of dust mops and mats to various city departments. The term of this contract shall be for a period of two (2) years, subject to future appropriations, beginning as of the date of its execution and may be extended for one (1) additional two (2) year period upon mutual agreement. All mops and mats services will be secured on an as needed basis. Funding is available in various department budgets.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

51. Consideration to award contract FY19-036 for the purchase of heavy duty trucks for the Utilities Department to the following low bidders:

1. Nueces Power Equipment, Laredo, Texas in the total amount of \$70,624.00 for the purchase of one (1) road construction sweeper;
2. Doggett Freightliner of South Texas, Laredo, Texas in the total amount of \$499,730.00 for the purchase of five (5) 12-14 Cubic Yard Dump Truck (cab & chassis) and five (5) 12-14 Cubic Yard Dump Truck (David trailer dump bodies);
3. Kyrish Truck Center, San Antonio, Texas in the total amount \$213,000.00 for the purchase of one (1) 27 Cubic Yard Tractor

- for an aluminum end dump trailer (cab & chassis only);
4. Rush Truck Center, Laredo, Texas in the total amount of \$721,820.85 for the purchase of one (1) 27 Cubic Yard Tractor for an aluminum end dump trailer (Vantage body), one (1) Truck Tractor for Roll-Off Trailer Hoist (cab & chassis), one (1) Truck Tractor for Roll-Off Trailer Hoist (G&H Body), one (1) Camel 1200 Combination Truck (cab & chassis), one (1) Camel Combination Truck (Camel 1200/12yd body), one (1) 14-16 Cubic Yard Dump Truck (cab & chassis), and one (1) 14-16 Cubic Yard Dump Truck (Maverick dump body).

All replacement heavy duty trucks that have reached their useful life--refer to attachment "Replacement Unit #'s". All these heavy duty trucks will supplement the Utilities Department operations. Funding is available in the 2017 Utilities Sewer Revenue Bond and 2018 Water and Sewer PPF CO Funds.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

52. Consideration to award contract FY19-033 for the purchase of heavy duty equipment for various city departments to the following low bidders:
  1. Nueces Power Equipment, Laredo, Texas in the amount of \$1,055,211.00 for the purchase of four (4) backhoes, and one (1) dozer;
  2. AG Pro-Company of Texas, Weslaco, Texas in the amount of \$170,485.34 for the purchase of one (1) utility tractor, one (1) EZ riding mower, one (1) mini-excavator and four (4) utility vehicles;
  3. Ron Grant Equipment, Laredo, Texas in the amount of \$43,386.00 for the purchase of three (3) backhoe trailers, and three (3) utility trailers;
  4. Holt Texas, Laredo, Texas in the amount of \$600,156.37 for the purchase of one (1) skid steer, and one (1) articulated dump truck.

All replacement heavy duty equipment that have reached their useful life-- refer to attachment "Replacement Unit #'s". All this heavy duty equipment will supplement the Utilities Departments operations. Funding is available in the 2018 Solid Waste PPF CO and the Water and Sewer 2018 PPF CO Funds.

Motion to approve.



Moved: Cm. Balli  
Second: Cm. Altgelt  
For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

53. Consideration to award contract FY19-042 to the following vendors:

1. **Section I** to T&W Tire LLC, Laredo, Texas in an amount up to \$60,000.00 (Primary Vendor), Toro Auto Sales, Laredo, Texas in an amount up to \$45,000.00 (Secondary Vendor) and Southern Tire Mart, Laredo, Texas in an amount up to \$35,000.00 (Secondary Vendor);
2. **Section II** to T&W Tire LLC, Laredo, Texas in an amount up to \$55,000.00 (Primary Vendor), Toro Auto Sales, Laredo, Texas in an amount up to \$45,000.00 (Secondary Vendor), Southern Tire Mart, Laredo, Texas in an amount up to \$35,000.00 (Secondary Vendor);
3. **Section III** to T&W Tire LLC, Laredo, Texas in an amount up to \$50,000.00 (Primary Vendor), Southern Tire Mart, Laredo, Texas in an amount up to \$40,000.00.

To provide tire repair services for the Fleet Department. This contract establishes regular and after hour service call rates for tire repair services. All services shall be provided on an as needed basis. The term of this contract shall be for a period of one (1) year beginning as of the date of its execution. This contract can be extended three additional one (1) year periods, upon mutual agreement of the parties periods. Funding is available in the Fleet Department Fund.

Motion to approve.

Moved: Cm. Balli  
Second: Cm. Altgelt  
For: 7                      Against: 0                      Abstain: 0

Cm. Gonzalez was not present.

54. Consideration to renew annual supply contract FY17-024 with the following bidders:

1. Beaver's Source, Laredo, Texas;
2. Eagle Supply, Laredo, Texas;
3. Safe-T-Supplies, Laredo, Texas;
4. Laredo Safety Products, Laredo, Texas and
5. South Texas Specialties, Laredo, Texas.

for the purchase of safety supplies in an amount up to \$150,000.00 for all City departments. This contract establishes pricing and

discount percentage for those safety supplies most commonly utilized by City departments. This is the second of four extension periods. There was no price increase during the last extension period. All items will be purchased on an as needed basis and funding will be secured from the user department budgets.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

Following other action, Cm. Vielma brought this item back before Council.

Cm. Vielma reported that she must abstain from this item because one of the companies is a client of hers.

Motion to reconsider.

Moved: Cm. Torres

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 6

Against: 0

Abstain: 1

Cm. Rodriguez

Cm. Vielma

Cm. Mercurio Martinez

Cm. Torres

Dr. Mate Martinez

Cm. Altgelt

Cm. Balli

Cm. Gonzalez was not present.

55. Consideration to ratify and amend contract FY15-049 by a 25% increase with sole bidder, Rafter P. Transport, Floresville, Texas in the amount of \$62,500.00; new contract total amount shall be \$312,500.00. The contract increase is due to increase in operational needs of hauling and disposal services wastewater bio-solids from the City of Laredo South Wastewater Treatment Plant. All services will be purchased on an as needed basis. Funding is available in the Utilities Department – Wastewater Treatment budget.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

After other discussion, Cm. Vielma brought this item back before Council.

Motion to reconsider.

Moved: Cm. Torres

Second: Dr. Marte Martinez

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

Cm. Vielma asked that Council consider rebidding this project because the amount is substantial, and there may be other providers who will provide a lower price.

Miguel Pescador, Purchasing Director, explained that this item is to ratify the increase, which is needed. Staff is trying to put out the bid already and intends to bring a new contract before Council in the first May 2019 Council meeting. However, the operation needs to keep going during this time as it is a TCEQ requirement.

Motion to approve.

Moved: Cm. Torres

Second: Dr. Marte Martinez

For: 7

Against: 0

Abstain: 0

56. Consideration to rescind approval of contract FY19-018 to the sole bidder Ace Industries, Norcross, Georgia in the amount of \$67,697.81 for the purchase and installation of one crane/hoist at the Solid Waste Services Department Fleet Maintenance Shop. The sole bidder's quote did not disclose that additional costs, for which the City would be responsible, would be incurred with the installation of the crane. Those costs are site engineering and extensive concrete contractor work for site preparations before the crane could be installed. Those additional costs cause the project to exceed the budgeted amount.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

57. Approving monthly adjustments to the tax roll. The amounts adjusted for the month of February 2019 represent a decrease of \$18,999.91. These adjustments are determined by the Webb County Appraisal District and by court orders.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

58. Consideration to initiate a Parking Enforcement Amnesty Program. An Amnesty Program will allow citizens the opportunity to take care of delinquent parking citations and/or payment plans. The Amnesty Program would take place from March 25, 2019 through April 12, 2019.

Norma Ramirez, Parking Enforcement Superintendent, confirmed that she would be the staff member dedicated to hearing these cases. This would be the first amnesty program for the Parking Division. She noted that this will be a substantial benefit to the citizens of Laredo who will be able to take care of their unpaid parking tickets.

Cm. Torres asked if Ms. Ramirez, as the Parking Enforcement Superintendent, already has the ability to waive parking citations. Ms. Ramirez confirmed that she can only waive parking citations if the parking meter is not functioning correctly. The amnesty program would allow her to reduce the fine.

Kristina L. Hale, City Attorney, clarified that for the amnesty program to reduce fines, Council would have to pass an ordinance and then Parking Enforcement would have to come back to Council for approval of the amnesty program.

Cm. Torres noted an issue for the last several years in which citizens complained that no one is willing to hear their case for their handicap placards during ticketing. He noted that with this program, Ms. Ramirez could hear those cases. Mrs. Hale countered that the hearing officer already has that authority. Cm. Torres clarified that he means giving complete discretion to the Enforcement Superintendent, like a judge would have.

Ms. Ramirez noted that sometimes the ticketing officer catches the parking meter as soon as it expires, tickets the vehicle, and the owner of the vehicle comes back to the car only within a minute or

two of having their meter expire. In those cases, there is nothing to be done other than paying the full fine. Even in those cases, she does not currently have the ability to waive the fee.

Cm. Torres suggested proposing the ordinance to grant the Parking Enforcement Superintendent the discretion to waive parking citation fees first. Following that, Council could create the Parking Enforcement Amnesty Program.

Mrs. Hale recommended tabling this item so that staff could return with the language of an ordinance drafted.

Ms. Ramirez stated that the Division has accounts receivables since 2006, and the amnesty program would allow staff to dismiss those old citations or reduce them so that the Division can collect a portion of those very old fines. By letting those individuals pay a reduced rate, she noted that the violators will be more incentivized to pay their fines and return to good standing with the City. It will also get these old citations off of the Division's books. At this time, the Division has a delinquency of \$7 million for unpaid parking citations. Of that amount, 2,000 are from cars with Mexico license plates.

Robert Eads, Interim Co-City Manager, clarified that the original intention was to clear the backlog of accounts receivables. However, he noted that when the City has established fines and fees in place may complicate the ability to recover fees from violations.

Mayor Saenz shared his opinion that it seems unfair to allow some individuals to simply not pay their fees for an extended period of time and then reduce their rates. In essence, these individuals simply "get away with it." He asked if they could be deprived of some other privilege to encourage them to pay their citations, like booting their car.

Mr. Eads explained that there are two approaches to this problem, the "carrot" as an incentive and a "stick" as a punitive measure. While Mayor Saenz asked about the punishment, staff is of the mindset that an incentive would be more effective.

Cm. Torres suggested that many of the fees are from Mexican nationals. He asked if, after a period of time, the City could criminalize them and send them to municipal court.

Ms. Ramirez informed Council that California has a program in which an individual with outstanding parking tickets is not able to renew their license plate sticker. Mrs. Hale clarified that the City has that option available now. Cm. Torres noted that this does not address the Mexican nationals who do not register their vehicles or license plates in the United States.

Motion to table and send the issue to the City Attorney's Office to

bring back the drafted language of an ordinance that would allow for an amnesty program once a year not to exceed 10 days during which the hearing officers and/or superintendents have the ability to waive or reduce fines in the program or offer a payment plan and to direct management to explore the option of withholding license plates and renewals to individuals with outstanding parking tickets and come back to Council with a recommendation on how to address foreign plates, as amended.

Moved: Cm. Torres

Second: Cm. Balli

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

59. Consideration to amend the engineering services contract with Lockwood, Andrews and Newnam's Inc to provide for termination on November 27, 2019; providing for the coordination of timing plans for the City-Wide Traffic Signal Upgrade Synchronization project. The timing plan includes the development of traffic signal coordination timing plans for 6 high traffic volume time periods on FM 1472 /Mines Road (am, noon, pm & off-peak, Monday peak and Friday peak). Also, develop traffic signal coordination timing plans for 4 typical weekday high traffic volume time periods (am, noon, pm & offpeak) along US Highway 83 (Zapata Highway), Bob Bullock Loop (Loop 20), McPherson Road, State Highway 359, Business IH35 and IH 35 Frontage Roads for a total of 80 traffic signal controlled intersections. Total contract amount (\$599,999.30) will not change. Funding is available in the Capital Grants Fund.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

END OF CONSENT AGENDA

### **XIII. STAFF REPORTS**

60. Discussion with possible action on ongoing audits and/or irregularities identified by the Internal Auditor including the potential assignment of other and/or additional auditing duties; and any other matters incident thereto.

Motion to approve.

Moved: Cm. Torres

Second: Cm. Balli

For: 7

Against: 0

Abstain: 0

61. Presentation of the Fiscal Year 2017-2018 Comprehensive Annual Financial Report (CAFR) prepared by the City of Laredo's Financial Services Department and audited by the Independent Audit Firm of Canales, Garza, and Baum, P.L.L.C.

Cm. Mercurio Martinez gave his condolences for the passing of Mr. Baum, noting that he was a caring man who worked very hard for the City of Laredo.

Jose Castillo, Acting Finance Director, reported that the City Charter requires a yearly audit of the City's Financial Services Department. This year, the firm Canales, Garza, and Baum, PLLC, performed the audit.

Juan Jose Garza of Canales, Garza, and Baum, PLLC, stated that the firm must gather sufficient documentation to perform their audit and provide an opinion on the financial statements of Laredo. To gather that evidence, they also review the procedures and controls. He reported that the City of Laredo has an unqualified, clean opinion, which is the best opinion that an audit firm can reach when reviewing any entity. He issued two other reports over auditing standards compliance and compliance with the Single Audit Act. He noted that the firm did not encounter any materials or significant deficiencies during their audit of the City's Finance Department. The General Fund balance for the City of Laredo is currently \$46,846,974.00, an increase of \$1.784 million from last year.

Motion to accept the auditor's financial statements.

Moved: Cm. Balli

Second: Cm. Vielma

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Altgelt were not present.

62. Discussion with possible action to consider a seventh request for an extension of Injury Leave with pay in accordance with 143.073 (b) of the Texas Local Government Code for Patrol Officer Alfredo Rodriguez. Police Chief, Risk Manager, and Legal department recommend extension. Total number of days out as of February 22, 2019 pay period: 421 days.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Torres

For: 7

Against: 0

Abstain: 0

63. Discussion with possible action to consider a fourth request for an extension of Injury Leave with pay in accordance with 143.073 (b) of the Texas Local Government Code for Patrol Officer Agapito Perez. Police Chief, Risk Manager, and Legal department recommend extension. Total number of days out as of February 22, 2019 pay period: 331 days.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Torres

For: 7

Against: 0

Abstain: 0

64. Discussion with possible action to consider a fifth request for an extension of Injury Leave with pay in accordance with 143.073(b) of the Texas Local Government Code for Police Captain Guadalupe A. Ortiz. Police Chief, Risk Manager, and Legal department recommend extension. Total number of days out as of February 22, 2019 pay period: 377 days.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Torres

For: 7

Against: 0

Abstain: 0

65. Staff Report by Parks & Leisure and Recreation Services regarding unmarked graves section of City Cemetery.

Graciela Briones, Assistant Parks & Leisure Services Director, announced that the Texas Historical Commission granted the City's relocation application for the unmarked graves in the City Cemetery. This allows the City to relocate the human remains from the unmarked graves to another location within the boundaries of the City Cemetery without an antiquities permit. The Historical Commission recommended that an archaeologist performs the work, but compliance with the recommendation is not required. The City may use a Cemetery Director. Mrs. Briones could not confirm the cost associated with an archaeologist.

Cm. Vielma noted that a university has used students to perform the archaeological work in identifying the remains of migrants who perished in the elements. She recommended that staff explore the possibility to do something similar.

Motion to direct staff to place this item on the next Council agenda with a cost estimate for hiring an archaeologist and/or utilizing college students and to word the agenda sufficiently to inform the public of the City's intentions with the human remains, as amended.

Moved: Cm. Balli



Second: Dr. Marte Martinez

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Rodriguez, Cm. Torres, and Cm. Altgelt were not present.

66. Staff report by Municipal Court Judge Jesus Dominguez on status of court and proposed changes in operations, with possible action.

Jesus Dominguez, Municipal Court Judge, reported that since taking over the position at the end of 2018, the municipal court has close to 16,000 open cases. The caseload has been growing by a few thousand cases in the past few years. Cases filed at municipal court pertain to City ordinance violations or State of Texas violations like traffic citations, penal code violations, or health and safety violations. When he served as the Associate Municipal Court Judge, there was only one prosecutor in the court. Staff identified a need to increase prosecution in order to move the cases along. Once he was elected, he met with City staff to put more cases on the docket. Currently, there is a second prosecutor on staff, and cases are seen throughout the day on a full docket. In September 2018, Judge Dominguez met with the Department of Public Safety, who told him that they would like to file bridge cases at the municipal court. Those cases are now seen by the municipal court, so the caseload will continue to grow. Judge Dominguez reported that the municipal court has 17 clerks: 1 head clerk and 16 assistant clerks. In order to provide the customer service that the community and stakeholders deserve, Judge Dominguez noted that more staff members are needed. There is an immediate need for at least nine more clerks; the cost of these additional staff members can be rationalized by noting the amount of value and revenue they will bring back to the City in terms of resolved cases. The most common complaint about the municipal court is that nobody answers the phone; Judge Dominguez noted that this is because the court is short-staffed; once the court can catch up with the work, he would like to go paperless by embracing the e-filing system. He requested four full-time clerks, two associate judges, and two bailiffs (that were unfunded in the last budget cycle but that he hopes will be funded in the upcoming budget workshop).

Rosario Cabello, Interim Co-City Manager, informed Council that staff met with municipal court staff and agreed to provide four FTEs at this time and evaluate the court's efficiency during the budget cycle to determine if the results justify the additional expenditures. Staff found funding to approve the four FTE's that she mentioned.

Judge Dominguez clarified that if the \$4.4 million projected revenues do come in as a result of the four FTE's, then the court will request four additional clerks, additional bailiffs and warrant officers, and two half-time associate judges. At this time, he requested two extra clerk FTE's to concentrate on answering the phones. He would like to request two half-time associate judges at this time at \$52,000 each.

Mrs. Cabello countered that this would not be possible until the next fiscal year.

Gilberto Sanchez, Budget Director, confirmed that there are two quarter-time positions available for funding at this time. He speculated that they could likely be combined to make one half-time position.

Cm. Torres voiced his opinion that it would be worthwhile to approve the two positions requested at this time for the next six months and reconsidering them at the budget evaluation of the municipal court.

Judge Dominguez noted that he would return to the next Council meeting with the names of the Associate Judges he intends to appoint. Mrs. Cabello cautioned Council that she was unprepared to make a recommendation to add any positions at this time as she was unaware the Judge would be requesting additional staff members. Robert Eads, Interim Co-City Manager, agreed that staff did not expect the Judge to make additional requests at this time.

Cm. Mercurio Martinez stated that this decision should not be rushed if staff has not had the chance to determine the financial impact. He encouraged staff to return to Council with concrete figures before approving anything.

Cm. Vielma recalled a year ago in which Council approved a pay increase for the Municipal Court Judge with the justification that she would not hire any Associate Judges and could handle the caseload as a full-time judge. With that being the justification last year, Cm. Vielma noted her hesitancy to approve two Associate Judges as it is contradictory. Judge Dominguez countered that looking at other cities, such as Corpus Christi, those municipalities spend over \$1 million on their municipal judges; Laredo only spends \$150,000. To Cm. Vielma's question of whether those judges have jurisdictions that Laredo does not, Judge Dominguez confirmed that they handle magistrate courts in the county. He added that Laredo's municipal court collections could be done in-house.

Cm. Vielma noted that she would prefer to see more data on what types of cases are prosecuted by other cities in order to justify the additional staff members.

Cm. Torres clarified that the Municipal Court Judge, by Charter, must be a full-time judge; her full-time schedule was not changed last year as she was always full-time. Last year, Judge Rosie Cuellar appeared before Council and asked for a raise of \$15,000 stating that she was not going to hire one Associate Judge of the two available to her.

Cm. Rodriguez reported complaints of people missing work, some of which would not be reimbursed for that missed time, and the docket is so full that they would not be able to see the judge and would have to miss more work to come back the next day. He noted that having

additional Associate Judges to see more cases would help alleviate this problem while providing improved customer service to the public.

Mr. Sanchez clarified that quarter-time judges would not qualify for fringe benefits, but he would need to consult with Human Resources to determine if half-time judges would qualify.

Rosa Salinas, Human Resources Director, confirmed that Associate Judges received health insurance benefits but not the others. Any employees working more than 1,000 hours would receive TMRS retirement options, but it was rare for them to reach that amount.

Motion to approve the funding of two Associate Municipal Court Judges as half-time positions with fringe benefits not to exceed \$72,000 for the remainder of the current fiscal year and subject to review during the budget workshop.

Moved: Cm. Torres

Second: Cm. Rodriguez

For: 6                                  Against: 1                                  Abstain: 0

Cm. Gonzalez                                  Cm. Vielma

Cm. Rodriguez

Cm. Mercurio Martinez

Cm. Torres

Dr. Marte Martinez

Cm. Balli

Cm. Altgelt was not present.

67. Discussion with possible action to approve the renaming of the Bartlett Park to the Jovita Idar's El Progreso Park and any matters incident thereto.

Motion to approve.

Moved: Cm. Balli

Second: Cm. Torres

For: 7                                  Against: 0                                  Abstain: 0

68. Discussion with possible action to approve the renaming of the Maryland Toddler Park to the Cynthia Collazo Toddler Park.

Cm. Vielma noted that naming this park after Cynthia Collazo may be a violation of the Ethics Code; while Mrs. Collazo is very deserving, there is a policy not to name facilities after City officials within the first two years after they have left the City. She cautioned Council from making exceptions to the policy or criteria or the Ethics Code.

Cm. Torres clarified that this policy is not part of the Ethics Code; it is a policy created by the Facility Naming & Recognition Commission as a guideline. The guideline states that a City employee not be the

namesake of a facility until after they have been unemployed from the City for a period of two years. Jose A. Valdez, City Secretary, confirmed that it is an internal criteria and policy that guides the Commission. He noted that the Commission is aware that Council is the final authority and may make their own decisions regarding facility namesakes.

Kristina L. Hale, City Attorney, confirmed that there is no Ethics Code violation in renaming the park after Mrs. Collazo.

Motion to approve and waive the policy regarding City officials.

Moved: Cm. Torres

Second: Dr. Marte Martinez

For: 7

Against: 0

Abstain: 0

#### **XIV. EXECUTIVE SESSION**

No action taken.

#### **XV. RECESS AS THE LAREDO CITY COUNCIL AND CONVENE AS THE LAREDO MASS TRANSIT BOARD**

No action taken.

#### **XVI. ADJOURN AS THE LAREDO MASS TRANSIT BOARD AND RECONVENE AS THE LAREDO CITY COUNCIL**

No action taken.

#### **69. GENERAL COUNCIL DISCUSSIONS AND PRESENTATIONS**

##### **A. Request by Mayor Pete Saenz**

1. Status Report on the Boulevard of the Americas Master Plan and Design; and any matters incident thereto. (Co-Sponsored by Mayor Pro-Tempore Roberto Balli)

Motion to table.

Moved: Cm. Torres

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

2. Discussion with possible action regarding Texas A&M International University's request of \$100,000.00 from the City of Laredo as sponsorship for a year-long celebration of TAMIU's 50th Anniversary beginning in August 2019. (Co-Sponsored by Mayor Pro-Tempore Roberto Balli, Council Member Nelly Vielma, and Council Member Alberto Torres, Jr.)

Dr. Pablo Arenaz of TAMIU reported that in 1970, the Texas A&M System decided to establish an upper division campus in Laredo. In 1993, Senator Judith Zaffirini passed a bill in which Texas A&M International University was created and expanded. This year marks TAMIU's 50<sup>th</sup> year as a university and its 25<sup>th</sup> year at its North Laredo campus. He invited Council to attend the various events honoring this anniversary occasion, noting that there will be a globe-lighting ceremony and a President's Dinner, among other events. He asked Council to considering making a monetary donation of \$100,000 for the University; the same request was made to the County Judge, who agreed to the \$100,000 donation.

Rosario Cabello, Interim Co-City Manager, asked Council for time for staff to review the CVB budget to ensure that all of TAMIU's events are "heads in beds" events to qualify for such funding. If not, staff will bring an alternative recommendation to Council.

Cm. Torres noted that Council has supported institutions or non-profits in installments in the past. He asked if the City could enter into an MOU with the university with installment terms.

Kristina L. Hale, City Attorney, confirmed that staff could work with the university on the terms of a contract for services or sponsorship in exchange for promotion. Dr. Arenaz noted that the university would be agreeable to a contract of that nature.

Mrs. Cabello stated that installments over two fiscal years would be much more feasible for the City.

Cm. Vielma congratulated TAMIU on this accomplishment and noted that she was part of the first graduating class at the university. She noted the school's national accolades and accomplishments in recent years and asked Dr. Arenaz to consider converting the anniversary events into "heads in beds" ones to promote tourism to Laredo. Cm. Balli added his congratulations as well to Dr. Arenaz and the university, noting that the school strengthens the community and keep scholars in Laredo. Mayor Saenz voiced his agreement.

Cm. Rodriguez reminded the public that TAMIU's Big Event will be held this weekend, assisting the Ruthe B. Cowl Rehabilitation Center. He noted that his event in District II was a large success with about 500 volunteers cleaning up parks in South Laredo.

Motion to approve the sponsorship of \$100,000 to Texas A&M International University contingent to the regulations and terms designed by management and the City Attorney's Office and to provide the funding in installments of \$50,000 over the current and next fiscal years.

Moved: Cm. Torres  
Second: Cm. Balli

For: 8

Against: 0

Abstain: 0

3. Discussion with possible action to review and modify, if necessary, the Ethics Code of the City of Laredo. (Co-Sponsored by Council Member Dr. Marte A. Martinez, Council Member Nelly Vielma, and Council Member George Altgelt)

Motion to table.

Moved: Cm. Torres

Second: Cm. Rodriguez

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

#### **B. Request by Council Member Dr. Marte A. Martinez**

1. Discussion with possible action to authorize Co-Interim City Managers to instruct staff to install two (2) Pedestrian Crossing Beacons on Monarch Drive., 300 ft. South of Loop 20; and any other matters incident thereto. District VI priority funds will be used for this project. Total approximate cost is \$11,500.00.

Dr. Marte Martinez noted that 250-300 people cross Monarch Drive daily; these crossing beacons will help slow traffic and make the intersection a safer place for pedestrians. He confirmed that the expenses would come out of District VI priority funds.

Robert Eads, Interim Co-City Manager, confirmed that these are simply crossing beacons, not a stop.

Motion to approve.

Moved: Dr. Marte Martinez

Second: Cm. Mercurio Martinez

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Torres, Cm. Vielma, and Cm. Altgelt were not present.

2. Discussion with possible action to amend the Laredo Ethics Code, Sections 8.05 and 9.02(b), to permit the City Attorney's Office, rather than the Human Resources Department, to provide training to city officials and employees on their responsibilities under the Laredo Code of Ethics; and (2) require all city officials and employees to attend ethics training at least once a year; and any other matters incident thereto.

Dr. Marte Martinez explained that he was woefully unprepared for the subject of ethics when he joined Council; ethics training would be highly beneficial to all members of Council. As a physician, he must participate in two hours of continuing education in ethics every year;

attorneys and realtors have the same requirements. He voiced his opinion that City Council and staff should also attend the same continuing education.

Robert Eads, Interim Co-City Manager, stated that the City wholeheartedly welcomes any additional training that is available.

Cm. Mercurio Martinez requested that the training include sensibility as well as ethics.

Mayor Saenz noted that he was approached by an FBI agent saying that the Bureau would be willing to assist in the training and asked to participate.

Kristina L. Hale, City Attorney, clarified that as it stands, the required yearly training would apply to any new Council Members or officials moving forward, not the current ones.

Motion to approve the training of City officials and employees on ethics and sensibility at least once a year.

Moved: Dr. Marte Martinez

Second: Cm. Mercurio Martinez

For: 5

Against: 0

Abstain: 0

Cm. Gonzalez, Cm. Torres, and Cm. Vielma were not present.

3. Discussion with possible action on the funding of the Utilities Capital Improvement Plan (CIP); and any other matters incident thereto.

Dr. Marte Martinez noted that the City is near capacity in some of its infrastructure, and he has had phone call complaints from developers who have their plats denied due to a lack of an action plan. While this is a large investment for the City to make, it will be worth it to prevent a future moratorium on plats and development.

Riazul Mia, Utilities Director, reported that at the 2017 Strategic Planning Workshop, staff asked Council to approve a consultant to perform a rate study. Staff then reported that rate study to Council during last year's budget workshop with no action. However, he emphasized that the Utilities Department has been denying new subdivisions because they do not have the capacity and cannot legally approve new development if they cannot support the demand. The investment has been needed for a long time but was not done by previous Council or administration.

Dr. Martinez voiced his opinion that Council has kicked the can down the road long enough; Mayor Saenz agreed.

Cm. Altgelt noted that the secondary/emergency water source needs to be wrapped up in this plan as well for the sake of the City's longevity.

Mr. Mia confirmed that the consultant ran some numbers concerning the water source as well.

Robert Eads, Interim Co-City Manager, stated that staff could hold a special Council meeting in April 2019. However, Dr. Martinez's sense of urgency appears to need action sooner than that.

Mr. Mia confirmed that of the 72,000 utility accounts, about 9,000 of which are commercial. Commercial accounts pay less than residential, which is not done in other municipalities.

Mayor Saenz asked that if the City must raise utility rates, they lower some sort of rate or fee elsewhere to offset the additional expense to the citizens. Dr. Martinez reiterated that he did not want to add any additional expense to the taxpayers.

Motion to direct staff to hold a special workshop to discuss this matter further, having management poll Council on their availability for a meeting date and time.

Moved: Dr. Marte Martinez

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Vielma, Cm. Altgelt, and Cm. Balli were not present.

### **C. Request by Council Member George Altgelt**

1. Discussion and possible action to direct staff on how to design and fund the Springfield Extension from Del Mar to International, Shiloh and on to San Isidro with minimal impact to the Shiloh mountain bike trail; and any matters incident thereto. (Co-Sponsored by Council Member Dr. Marte A. Martinez)

Dr. Marte Martinez noted that the creek to the east has a detention pond that might need some maintenance; he recommended that Environmental Services be involved in that aspect to reduce the impact on the creek.

Cm. Altgelt noted that the funding source has not been identified to-date, but once the design is completed, that can be determined.

Ramon Chavez, Engineering Director, clarified that staff already has 95% of the design for Springfield Avenue completed. The only part that is missing is part of the extension from International Boulevard to Shiloh Drive, which is Phase 2 of 3.

Cm. Altgelt noted that the portion of Shiloh Drive to San Isidro Parkway looks like it interrupts the "green belt" portion of the mountain bike trail, which goes against Council's intentions for the greenspace.



Mr. Chavez stated that Phase 1 includes a green space preservation accommodation.

Motion to direct staff to go out for RFQs for design purposes of finishing Springfield Avenue from its southern terminus to its northern terminus and to include shaded hike and bike facilities and consider the minimal impact on the Shiloh bike trail and the creek.

Moved: Cm. Altgelt

Second: Cm. Gonzalez

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

2. Discussion and possible action to require all city departments to implement an asset management program to track time, labor, parts and equipment; and any matters incident thereto.

Motion to table.

Moved: Cm. Altgelt

Second: Cm. Torres

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

3. Discussion and possible action to direct staff to proactively reachout to vendors every time a Request for Qualifications (RFQ) and Request for Proposals (RFP) is solicited in order to ensure a timely bid; and any matters incident thereto.

Motion to approve.

Moved: Cm. Altgelt

Second: Cm. Rodriguez

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

#### **D. Request by Mayor Pro-Tempore Roberto Balli**

1. Discussion with possible action to send to the Facility Naming & Recognition Commission, the proposed name: "Martha C. Narvaez City Hall Apartments" for the residential development at 802 Convent Ave.; and any matters incident thereto.

Cm. Balli noted that bringing housing to Downtown is a high priority currently, and Martha C. Narvaez has been a long-time supporter of community residents, making her an appropriate namesake for the residential development at 802 Convent Avenue. He stated that Mrs. Narvaez visits the senior citizens at the Hamilton and asks for support

for humanitarian services on special occasions, like Mother's Day. He noted her selflessness and service to the elderly community in the Downtown area.

Martha C. Narvaez thanked Council and City staff for the recognition and consideration of her as a namesake for the renovated building. She introduced her family and expressed her gratitude and honor.

Motion to send the proposed name "Martha C. Narvaez City Hall Apartments" for the residential development at 802 Convent Avenue to the Facility Naming & Recognition Commission.

Moved: Cm. Balli

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

Dr. Marte Martinez was not present.

#### **E. Request by Council Member Vidal Rodriguez**

1. Discussion with possible action to instruct the Co-Interim City Managers to authorize staff to install speed humps under the Special Provision of the Speed Hump Installation Policy, and to authorize the use of asphalt type speed humps, instead of a speed cushion, which is currently required under the policy; and any other matters incident thereto. City Council District II Priority Funds will be used for this project.
  - a. One (1) speed hump on the 2700 block of Tinaja St., between S. Louisiana Ave. and S. Arkansas Ave. and to withdraw the former action by Council on December 03, 2018 to install one (1) speed hump on the 2800 block of Tinaja St. Total \$2,500.00.
  - b. One (1) speed hump on the 3000 block of Bismark St., between S. Canada Ave. and S. India Ave. and to withdraw the former action by Council on December 03, 2018 to install one (1) speed hump on the 3100 block of Bismark St. \$2,500.00.

Motion to approve.

Moved: Cm. Rodriguez

Second: Cm. Torres

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

2. Discussion with possible action to add sidewalks on the northern side of the 3200 block of barrios; and any other matters incident thereto.

Motion to approve.

Moved: Cm. Rodriguez

Second: Cm. Torres

For: 7

Against: 0

Abstain: 0

Cm. Gonzalez was not present.

3. Discussion with possible action to instruct Co-Interim City Managers to initiate a Request for Proposals (RFP) for the sports complex based on the approved 2018 referendum; and any other matters incident thereto. (Co-Sponsored by Council Member Rudy Gonzalez, Jr. and Council Member Dr. Marte A. Martinez)

Cm. Vielma recalled the December 2018 Council meeting in which Council, including Cm. Rodriguez, voted to put a cap on the referendum. However, she could not find that language reflected in the Council meeting minutes and asked if that could be reconciled.

Dr. Marte Martinez recommended reviewing the budget and moving forward based on that.

Motion to approve.

Moved: Cm. Rodriguez

Second: Dr. Marte Martinez

For: 8

Against: 0

Abstain: 0

#### **F. Request by Council Member Alberto Torres, Jr.**

1. Discussion with possible action to recognize the Vidal M. Trevino School of Communications and Fine Arts and its school director, Dr. Martha E. Villarreal for receiving the highest honor for the Arts in the State of Texas, The 2019 Texas Medal of Arts Award; and any other matters incident thereto.

Cm. Torres noted that the Vidal M. Trevino School continues to put Laredo on the map.

Dr. Martha E. Villarreal stated that the honor of this recognition belongs to her students, teachers, and the community.

Robert Lopez, Music and Band Director, recognized Sound Town, the jazz group that went to Texas Medal of Arts Award show. The students received numerous compliments while in Austin; he introduced members of the jazz team Cristian Alaniz, Gabriel Quintero, and Lorena Gomez. Dr. Villarreal noted that the opportunity to attend the 2019 Texas Medal of Arts Award was truly once-in-a-lifetime. The school was invited to present their application two years ago and did not hear anything until this year's showcase. She noted that famous Texans at this event were amazed at the value that Laredo has to offer. She was able to advocate for Laredo's beauty, safety, and talent. Other students in the showcase have the privilege of private tutoring, but Laredo students' talent comes from a natural ability and self-motivation. She asked Council to keep the arts alive in Laredo as they elevate students

to a higher plane and serve them in problem-solving, critical thinking, and marketability. The Vidal M. Trevino school has a 100% graduation rate despite some students struggling when they first matriculate.

Mayor Saenz presented Dr. Villarreal a certificate of recognition and a key to the City of Laredo in honor of her leadership at the Vidal M. Trevino School of Communications and Fine Arts.

2. Discussion with possible action to instruct Co-Interim City Managers to authorize staff to install one (1) speed hump on Kingston Lane, between Milford Ct. and Derby Ave., under the Special Provision of the Speed Hump Installation Policy, and to authorize the use of asphalt type speed humps, instead of a speed cushion, which is currently required under the policy, and any other matters incident thereto. City Council District IV Priority Funds will be used for this project. Total cost is \$2,500.00.

Motion to approve and utilize District IV priority funds.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Vielma, Cm. Altgelt, and Cm. Balli were not present.

3. Discussion with possible action to propose and evaluate a beatification plan to include grass and trees maintained by the City of Laredo at the City's Cemetery; and any other matters incident thereto. (Co-Sponsored by Council Member Mercurio Martinez, III)

Motion to table.

Moved: Cm. Torres

Second: Cm. Gonzalez

For: 5

Against: 0

Abstain: 0

Cm. Vielma, Cm. Altgelt, and Cm. Balli were not present.

#### **G. Request by Council Member Nelly Vielma**

1. Discussion with possible action to enter into a Memorandum of Understanding (MOU) with LISD, UISD, TAMIU, LC, Webb County and other entities to create a local Grants Office to improve inter-local resources and expertise; and any other matters incident thereto. (Co-Sponsored by Mayor Pete Saenz and Council Member Mercurio Martinez, Jr.)

Motion to table.

Moved: Cm. Torres

Second: Cm. Altgelt

For: 7

Against: 0

Abstain: 0

2. Discussion with possible action to submit the following items for consideration to the Charter Review Commission; and any other matters incident thereto:
3. The required language amendments to the Charter in order to facilitate subcontracting of the Tax Assessment collection, leaving the position of Tax Assessor but removing the necessity for a department.
4. The required language amendments to facilitate checks and balances to add a position of an administrative assistant for each City Council and Mayor that reports and is supervised directly by the elected official.
5. The required language amendments to revert to the previous recall language in the charter, whereby 10% of the constituents who voted on the last respective election will be the threshold for recall, instead of 10% of those registered to vote.

Cm. Vielma noted her intention to put the aforementioned Charter amendments on the ballot for the next election. Cm. Torres countered that Council should allow the Charter Revision Commission to review these amendments; he cautioned Council from contradicting itself by bypassing the Charter Revision Commission with these amendments when they also send potential changes to the Code of Ethics to the Ethics Commission for feedback.

Cm. Vielma explained that in past Council discussion regarding the Tax Assessment and Tax Department, she understood that Council was in agreement of the change but that the change necessitated a change in the City Charter.

Cm. Altgelt clarified that the City Council is the final arbiter of Charter amendments that go on the ballot. The Charter Revision Commission may send recommendations to Council, but Council has the final say. He agreed that the Tax Department/Assessor sub-item was already discussed by Council and be added to the ballot at this time if Council wishes.

Cm. Torres reiterated that he would want to hear from the Charter Revision Commission on these topics. Cm. Rodriguez voiced his concerns over doing away with the Tax Department, agreeing with Cm. Torres's sentiment to send these recommendations to the Charter Revision Commission.

Cm. Gonzalez asked how many positions would be lost if the Tax Department is removed. Cm. Altgelt reminded him of cost savings by removing the Department. Mayor Saenz countered that the positions would not necessarily be lost as the employees could be transferred to other Departments.

Cm. Rodriguez noted that customer service would likely be negatively affected. Cm. Vielma disagreed, noting that payments can be made in supermarkets and kiosks.

Rosario Cabello, Interim Co-City Manager, confirmed that she performed the analysis of the Tax Department in her capacity as Chief Innovations Officer. Removing the Tax Department and relocating about five FTE's to other vacancies would result in a cost savings of about \$600,000-\$700,000.

Cm. Balli recalled that he had been asked to support an item to reactive the Charter Review Commission, but he noted that the voters voted on some of these items two years ago and approved the amendments. He asked why Council would put them back on the ballot and send them back to the public with the message, "We think you got it wrong last time; vote on it again." He recommended limiting the number of amendments going on the election ballot, particularly topics that were just voted on by the electorate in 2016. He voiced his support of Cm. Vielma's Tax Department item, but not by the other two.

Motion to send sub-item #3 pertaining to the Tax Assessment and Tax Department to the Charter Revision Commission.

Moved: Cm. Balli

Second: Cm. Torres

For: 7	Against: 1	Abstain: 0
Cm. Gonzalez	Cm. Rodriguez	
Cm. Mercurio Martinez		
Cm. Torres		
Cm. Vielma		
Dr. Marte Martinez		
Cm. Altgelt		
Cm. Balli		

Cm. Altgelt reported that a constituent told him that the 2016 ballot was so crowded and complicated that he and other voters inadvertently voted in favor of the Charter amendment that is counterintuitive to sub-item #5, recall language. He argued that the City is more democratic by having a more accessible for a recall election. Having made the threshold for a recall election 10% of the registered voters rather than 10% of the constituents who voted in the election makes the process less democratic. The constituents should be able to initiate elections in which an underperforming City official can be held accountable through recall. He proposed that sub-item #5 be sent to the Charter Revision Commission for review.

Cm. Vielma echoed the same sentiments as Cm. Altgelt, adding that she received similar complaints about the Charter amendments on the ballot. She stated that there is no harm in sending the amendment to the Charter Revision Commission for feedback so that the citizens have the opportunity to provide public comments on the topic.

Cm. Balli countered that it should not be hard to garner the signatures for a recall election if the potential recall election has merit. If a small minority of the voters sign a recall petition that triggers a recall election will attract an even smaller number of voters so that a small political group can win an election with only a couple hundred votes.

Dr. Marte Martinez agreed with Cm. Balli, stating his belief that the voters are smart enough to know what they are voting for or against. It could be said that the voters on this Charter amendment wanted their initial vote counted as valid. The election should dictate who holds an office, and if there is a need to remove the official, then the threshold should be high enough that it warrants real sentiment to remove that individual.

Cm. Mercurio Martinez voiced his opinion that an individual that did not show up to vote in fact made his or her vote by indecision. He agreed with the sentiments that it should take a significant effort of a body of the people saying that they changed their mind about an elected official and want him or her to be removed.

Cm. Rodriguez noted that it is not a hard task to secure signatures of 10% of the registered voters in six months. He asked why the amendment was passed two years ago but the reversal is being pushed onto the ballot again. He noted that the sports venue tax referendum has passed twice on the ballot, and a selective few are still pushing the 4A/4B taxation item despite the public's vote.

Cm. Gonzalez voiced his agreement with the arguments against this sub-item.

Cm. Vielma displayed a report from the Texas Secretary of State showing the Webb County Voter Registration Figures, noting that in 2014, there were 115,638 registered voters, 10% of which is 11,563. She noted that getting 11,563 signatures is no easy task; she also reported that the recall language amendment slipped by most voters because they were preoccupied with the first five propositions and disregarded many of the other amendments. She reiterated that there is no harm in letting the Charter Revision Commission review the language of the sub-item and provide advice on whether to include it on the ballot or not.

Cm. Torres stated that he did not want to set a precedent in which an amendment that does or does not pass, to which some Council Members do not agree, gets put back on the ballot for a redo. To do so undermines the electorate that voted for the amendment. He also questioned how many of the 26,000 or more of the voters who voted in the election called Cm. Vielma or Cm. Altgelt personally to complain.

Motion to send sub-item #5 regarding recall language to the Charter Revision Commission.

Moved: Cm. Altgelt  
Second: Cm. Vielma

For: 3	Against: 6	Abstain: 0
Mayor Saenz	Cm. Gonzalez	
Cm. Vielma	Cm. Rodriguez	
Cm. Altgelt	Cm. Mercurio Martinez	
	Cm. Torres	
	Dr. Marte Martinez	
	Cm. Balli	

Motion fails.

Cm. Rodriguez why it is necessary for each Council Member to have their own administrative assistant. Cm. Vielma clarified that the administrative assistants can be part-time, but she and Cm. Altgelt have had previous incidents in which they were followed by a police investigator to ensure that they were not violating the Texas Open Meetings Act (TOMA). After that incident, their administrative assistant was taken away from them and they had to do all of their administrative work without help. She noted the concern that Council is the legislative branch of the City while the City Manager's Office serves as the executive branch. Because of being followed and then the FBI raiding City Hall, Cm. Vielma noted that she has a lack of trust to ask staff for help with her research or duties, especially when her inquiries are being questioned and suspected of impropriety. She asked how the City can maintain checks and balances if there is not an administrative assistant to help Council conduct research and make arrangements who operates under the Council Member rather than the City Manager. Council needs information that is vetted and unbiased to inform their decisions. She clarified that she needs an assistant that does not have to report to City Management, as is done in the Library of Congress, to help search for grants and help Council conduct their business.

Cm. Rodriguez reminded Cm. Vielma that she advocated for saving 5% of the budget during the last budget cycle. He voiced his opinion that giving every Council Member an administrative assistant is a waste of money. The electorate voted for Council to do their own jobs. He added that if Council needs any statistics for the City, the Internal Auditor can conduct those inquiries. Having an assistant that trumps the City Manager's Officer is an overstep. He voiced his lack of support for this sub-item.

Cm. Altgelt reported that former Police Chief Ray Gardner went on the record stating that the former City Manager ordered him to follow Cm. Altgelt and Cm. Vielma; he was posted across the street from Cm. Altgelt's law office to watch them.

Dr. Marte Martinez voiced his understanding of Cm. Vielma's intention with this sub-item, but he reminded her that there is a cost associated with such action. Because of that, he has hired his own assistant out of



his own pocket and stated that the taxpayers should not have to fund this. If a Council Member wants their own assistants, then they should pay for them out of their personal finances. He asked, though, that personal assistants be given access, not above the City Manager's Office, in the City for their duties. He questioned the animosity and mistrust involved in this sub-item and stated that there does not need to be a vote for Council to hire their own personal assistants.

Cm. Torres voiced his agreement with Cm. Vielma due to him having to bombard the City Manager's Office with emails and phone calls regarding City business, since Council cannot give directives to departments other than the City Manager. This item will help clarify those boundaries. He added that he is not in the position in which he can hire his own personal assistant, so he depends heavily on the Administrative Assistant on staff assigned to him for his many activities. Council will often have to defer inquiries and complaints to the Administrative Assistants or the City Manager's Office. The Mayor has an Administrative Assistant, and Council's assistance is split between two staff members. There are times when an Assistant is not available because they are being overworked and are owed a lot of leave time that they are required to use, so they are out of the office. Council is then left to bother management with duties or tasks that are small in comparison. Cm. Torres noted that he would rather give those petty tasks to an assistant. Above all, he noted that Council must establish the communication and direct contact that they have with the existing assistants to make sure that when they give directives Council is not violating the City Charter.

Mrs. Cabello cautioned Council that if their own personal assistants give directive to City employees, that is by extension a directive from Council which is a Charter violation. In order to avoid the violation, Council would have to change the Charter completely, and she voiced her concerns that this is not the advisable route to take. Robert Eads, Interim Co-City Manager, agreed adding that if the City Manager's Office is to hold its Departments accountable, that will be very difficult if staff is unaware of directives given by Council via their assistants or if issues are being discussed outside of the purview of the City Manager's Office. To be an effective manager, he and Mrs. Cabello must be able to manage their staff. The City Managers and Department Directors will ultimately be held accountable if something does not happen as promised, not Council's Administrative Assistants.

Cm. Altgelt suggested that four Administrative Assistants between all eight Council Members might be more effective, but he had envisioned more of a research fellow position to Cm. Vielma's point. He stated that the work of a Council Member is a very involved position, and officials need help to accomplish their goals.

Cm. Balli agreed with the idea of four Administrative Assistants and reconciling the budget rather than going through any Charter amendments on this issue.

Motion to send sub-item #4 regarding checks and balances and administrative assistants to the Charter Revision Commission.

Moved: Cm. Torres  
Second: Cm. Altgelt  
Motion withdrawn.

Gilberto Sanchez, Budget Director, confirmed that the City has only budgeted for two Administrative Assistants for the fiscal year. Cm. Balli initiated a motion to bring the financial impact of two new Administrative Assistants back to Council during the budget workshop.

Cm. Rodriguez asked if, in the meantime, any Departments have staff members who can help assist Council for events from now until the new budget is enacted.

Motion to direct staff to bring the financial impact of adding two new FTE's as Administrative Assistants to serve Council at the upcoming budget workshop for review and action.

Moved: Cm. Balli  
Second: Cm. Altgelt  
For: 7                      Against: 1                      Abstain: 0  
    Cm. Gonzalez                      Dr. Marte Martinez  
    Cm. Rodriguez  
    Cm. Mercurio Martinez  
    Cm. Torres  
    Cm. Vielma  
    Cm. Altgelt  
    Cm. Balli

Cm. Vielma noted that sending this sub-item to the Commission is still a good idea because they can observe other municipalities and provide alternative structure suggestions if needed.

Motion to send to the Charter Revision Commission the question of amending the Charter to allow the Administrative Assistant positions to report directly to Council rather than the City Manager's Office.

Moved: Cm. Vielma  
Second: None  
Motion dies for lack of a second.

3. Status report regarding the City of Laredo City Charter Commission with possible action; and any other matters incident thereto. (Co-Sponsored by Mayor Pro-Tempore Roberto Balli)

Motion to adjourn.

Moved: Cm. Torres

Second: Cm. Rodriguez

For: 7                      Against: 0

Abstain: 0

Cm. Gonzalez was not present.