ORDINANCE NO. 2010-O-17

AN ORDINANCE CREATING A CIVIL SERVICE COMMISSION FOR CITY EMPLOYEES (EXCEPT EMPLOYEES WHO ARE SUBJECT TO A COLLECTIVE BARGAINING AGREEMENT); PROVIDING FOR THE APPOINTMENT OF MEMBERS TO THE COMMISSION; SETTING FORTH ITS PURPOSES, POWERS AND FUNCTIONS; PROVIDING A CLASSIFIED SERVICE FOR CITY EMPLOYEES AND FOR EXCEPTIONS; ABOLISHING AT-WILL EMPLOYMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE MANNER IN WHICH THIS ORDINANCE CAN BE AMENDED AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Laredo held an election on November 7, 2006 regarding a Charter amendment relating to Civil Service Commission for City employees not subject to a collective bargaining agreement (hereinafter referred to as "City employees"); to wit:

> "The City Council shall establish and appoint a Civil Service Commission, for employees of City other than its fire fighters and police officers, the functions, composition and powers of which, will be determined by ordinance."

WHEREAS, said election was duly canvassed on November 13, 2006, with the voters approving the Charter amendment; and

WHEREAS, an Ordinance is required to establish a Civil Service Commission and to provide for the appointment of its members, outlining its purposes, powers and functions; providing a classified service of city employment for employees as well as abolishing at-will employment for city employees in the classified service and providing for disciplinary actions against civil service employees for just cause;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO, TEXAS, TO WIT:

SECTION 1. PURPOSE

There is hereby established for the City of Laredo a classified civil service system which provides that appointments and promotions of city employees be based on competency and merit; and that suspensions, demotions, and discharges be for just cause, and not for any other consideration.

SECTION 2. CREATION OF COMMISSION

(A) There is hereby established a Civil Service Commission, which shall consist of fourteen members. Members of the Commission must be appointed by the City Council, nine (9) members (one nominated by each Council Member and Mayor) and five (5) members nominated by City employees and may be confirmed for appointment by City Council. The term of office of each member of such Commission shall be for four (4) years for the members appointed from the City employee nominees and two (2) years for the members appointed from the City Council nominees or until a successor is appointed. No member shall serve more than a cumulative total period of 8 years. Any vacancies in such Commission caused by death, resignation or otherwise, or by failure of any appointee to qualify within ten days after appointment, shall be filled in the manner above specified for the unexpired term of the retiring member or of the City Council appointee failing to

qualify; however, for City employee's nominated members, from the list of alternates composed of the next five (5) nominees in order of votes received.

(B) The City Secretary shall be responsible to conduct the election of nominees by City employees every four (4) years. No person may be a candidate unless nominated by a petition signed by a minimum of twenty-five (25) city employees filed with the City Secretary within the forty-five (45) day period prior to the date of close of candidate nominations, together with the candidate's verified application. A list of City employees shall be produced and maintained by the City Secretary fifteen (15) days before the first day of the nominations period. Sample ballots will be made available 15 days prior to the first date of elections which shall be for five (5) consecutive work days, the last day for employees previously unable to vote. Employees may sign only one candidate's petition and allowed one (1) hour to vote during work hours. Final resolution of any election disputes shall be decided by the Employee Liaison Committee.

(C) The members of the Civil Service Commission shall serve without compensation for their services.

(D) All members of the Commission shall be persons of good moral character, above the age of twenty-one (21) years, and a registered voter of the City who shall have resided in the City for a period of more than three (3) years. No Commissioner may hold any employment compensated by the City, and no Commissioner shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from City funds, or by any assessment levied by ordinance or resolution of the City Council, and any violation of this provision shall be deemed malfeasance in the office and cause for removal there from. No former city employee is eligible for appointment as a Commissioner until one year following separation from the City. No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor, any Council Member, any elected official, City Manager, or any member of any City board or commission shall be appointed to the Commission. No person shall have held any public office (other than a notary public) within the preceding two (2) years excluding service as a member of the Commission except as stated herein.

(E) A member of the Commission may be removed by the City Council only for cause and after being given a written statement of the charges against him or her and a public hearing thereon, if he or she requests. A certified copy of the charges and a transcript of record of such public hearing shall be filed with the City Secretary.

(F) No member of the Commission shall during his or her tenure be a candidate for or hold any City office or position, and no member of the Commission shall during his or her tenure hold any other public office, except notary public.

(G) For the purpose of hearing any covered employee's grievance or appeal, a separate trial board is hereby created which shall be composed of three (3) members appointed from the City Council nominees and two (2) members appointed from the city employees nominees selected on a random basis to hear each grievance or appeal separately.

SECTION 3. RULES AND POWERS OF COMMISSION

(A) The Civil Service Commission shall adopt rules and regulations for the proper conduct of its business after consideration of a recommended draft rules and regulations submitted to it by the Civil Service Ad Hoc Committee, after public hearing and subject to approval of the City Council; however, no rules or regulations shall ever be adopted which permit the

appointment or employment of persons without good character or who are unfit and incompetent to discharge the duties thereof. The Commission rules shall define just cause grounds for disciplinary actions, including removal, suspension, demotion and reduction in pay, and provide for progressive discipline where appropriate (from a written reprimand to termination); provided that no rule or regulation shall prohibit the discharge, suspension or demotion of any appointee or employee for want of fitness, lack of moral character, incompetence, or the failure or refusal to properly discharge the duties of his or her appointment or employment.

(B) The Commission shall further have the power and be required to:

(1) Hear appeals in the case of any employee or other person in the classified civil service who has been subjected to any disciplinary action, including but not limited to termination, suspension or reduction in class or pay; and to hear any grievance of any employee or other person in the classified civil service, if not satisfactorily resolved after review by the employee's immediate supervisor and Department Director, under this Ordinance and/or the Rules and Regulations implementing this Ordinance, concerning wages, hours of employment, or work conditions and shall report in writing to the City Manager its findings, conclusions, and recommendations.

(2) Make any investigation which it may consider desirable or which may be required by the Council or City Manager to make concerning the administration of personnel in the municipal service, and to report to the Council and City Manager its findings, conclusions and recommendations;

(3) Perform the services hereafter provided with respect to the civil service rules;

(4) Perform such other duties with reference to personnel administration, not inconsistent with the City Charter and Code of Ordinances, as the City Council may require.

SECTION 4. CLASSIFICATION SYSTEM

(A) The Commission may investigate and shall recommend amendments to the city's classification plan to the City Manager for presentation and approval by the City Council.

(B) All employees below Department Director (excluding the City Manager, Deputy City Manager, Assistant City Managers, and Department Directors as per attached 12/03/07 Organizational Chart hereto as exhibit "A" and incorporated herein by reference) are eligible for classification under the civil service system created by this Ordinance unless an employee is placed by operation of the general laws of the state in a different civil service system or unless an employee is excepted from eligibility to the civil service system by or pursuant to the provisions of this section. The following described categories of employees are excepted from the eligibility to civil service classification:

(1) Appointive officials, that is, those employees and officials who are required or authorized to be appointed by the mayor and City Council and/or the City Manager or whose appointment is subject to the confirmation of the City Council including, but not limited to, the City Manager and all of the department heads of the various city departments.

(2) Temporary employees, that is, those employees who are retained for seasonal work, work of fixed duration or other work which does not have a reasonable expectancy to continue indefinitely, provided that this employment lasts for a period less than one year;

(C) The rules and regulations of the Commission shall also make provision for open and free written, verbal, skill or other examination appropriate to determine fitness in regard to classified services, for a probationary period of not more than twelve (12) months which appointees shall serve before they receive classified status and for promotion on the basis of merit, experience and record.

(D) All eligible persons employed by the city at the time of the adoption of this provision who have served continuously in their respective offices or employment for twelve (12) months prior to the establishment of the civil service system shall immediately receive civil service classification.

(E) The City Council may by ordinance, recommended by either the Civil Service Ad Hoc Committee or the standing committee on civil service, confer upon the Commission such further and additional rights and duties as may be deemed necessary to enforce and carry out the principles of this section.

(F) Employees subject to the protections of the Classified Civil Service under this Ordinance shall be excepted from the existing City Ordinance providing for Appeals and Grievances after the effective date of this Ordinance.

SECTION 5. CONTINUATION IN EFFECT OF OTHER RULES AND REGULATIONS

All employees, officers and appointees not covered under the civil service provisions of the City Charter shall remain subject to all other existing provisions as to appointment, removal, salary, services and duties, unless amended by this or some other subsequent ordinance or Charter amendment.

SECTION 6. SEVERABILITY CLAUSE

If any part or parts of this Ordinance shall be held unconstitutional or contrary to the provisions of the laws of the State of Texas or of the City Charter, such part or parts shall not affect the validity of the remaining parts of this Ordinance.

SECTION 7. AMENDMENT OF ORDINANCE

This Ordinance may only be amended by a majority vote of the entire City Council.

SECTION 8. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage by the City Council of the City of Laredo in accordance with the ordinance provisions set forth in the City Charter, as amended.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS 16 DAY OF February, 2010.

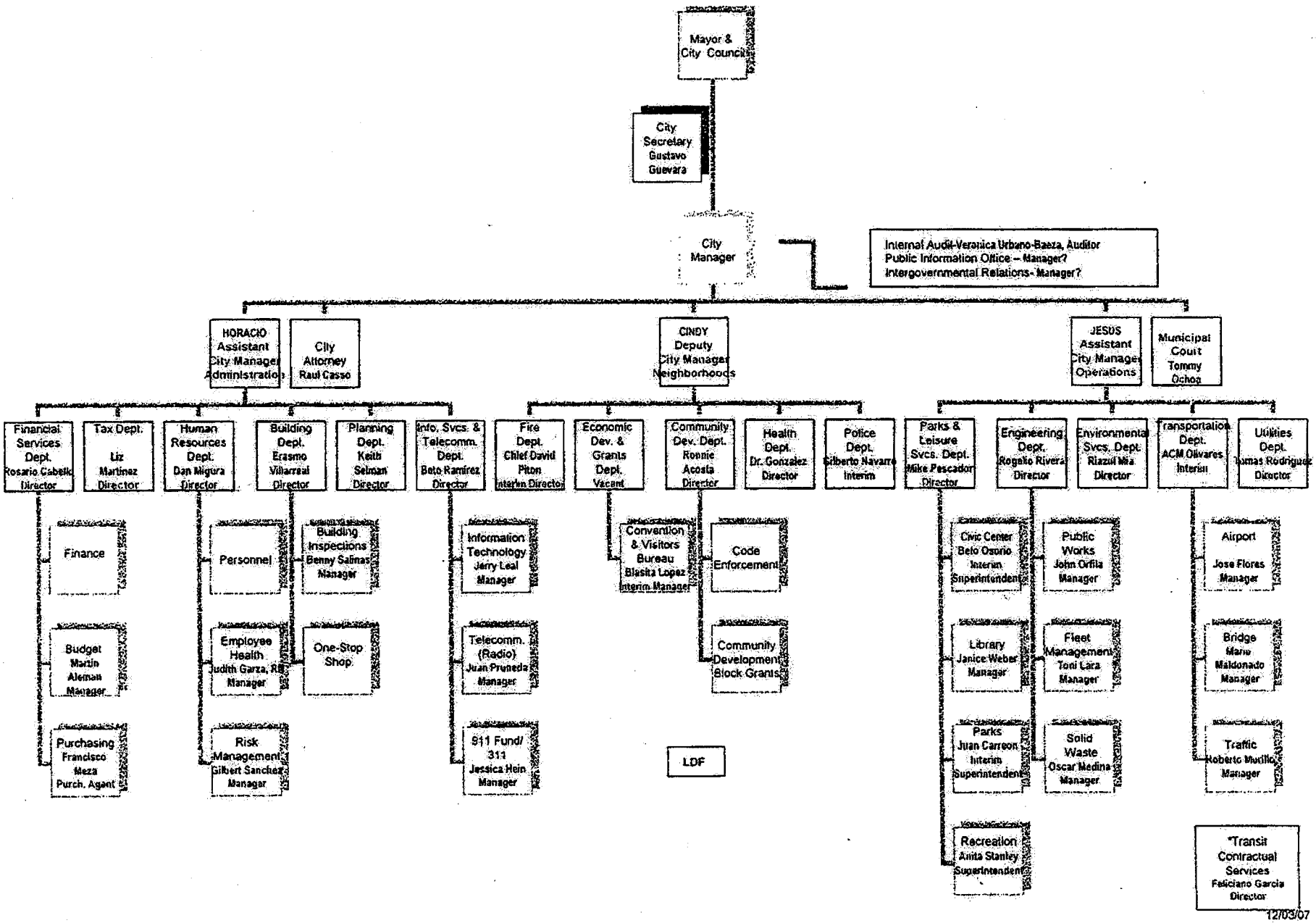
Raul Salinas
Mayor

ATTEST:

Gustavo Guevara, Jr.
City Secretary

Raul Casso
City Attorney

Citizens of Laredo



COUNCIL COMMUNICATION

DATE: 02-16-10	SUBJECT: FINAL READING ORDINANCE 2010-O-17 **AN ORDINANCE CREATING A CIVIL SERVICE COMMISSION FOR CITY EMPLOYEES (EXCEPT EMPLOYEES WHO ARE SUBJECT TO A COLLECTIVE BARGAINING AGREEMENT); PROVIDING FOR THE APPOINTMENT OF MEMBERS TO THE COMMISSION; SETTING FORTH ITS PURPOSES, POWERS AND FUNCTIONS; PROVIDING A CLASSIFIED SERVICE FOR CITY EMPLOYEES AND FOR EXCEPTIONS; ABOLISHING AT-WILL EMPLOYMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE MANNER IN WHICH THIS ORDINANCE CAN BE AMENDED AND PROVIDING AN EFFECTIVE DATE.**

INITIATED BY:	STAFF SOURCE:
Civil Service Ad Hoc Committee (Current Members: Cm. Mike Garza-Chair; Cm. Jose Valdez, C. Hector Garcia, Rene de la Viña, Daniel E. Migura, Jr., Israel Reyna, Jesus Olivares)	Daniel E. Migura, Jr. Human Resource Director

PREVIOUS COUNCIL ACTION:

During the January 11, 1010 Special City Council meeting, City Council instructed to approve Civil Service for Non-Uniform Employees ordinance as instructed by City Attorney; Draft ordinance and bring back for approval.

BACKGROUND

Since the first appointed Civil Service Ad Hoc Committee was formed on July 2007, members have met on 16 occasions to review and discuss different aspects of Civil Service Commission for Non-uniformed City employees.

FINANCIAL IMPACT:

This action will impact the respective department's budget.

COMMITTEE RECOMMENDATION:	STAFF RECOMMENDATION:
Approve ordinance as presented.	Approve ordinance as presented.