

**MERCEDES CITY COMMISSION
REGULAR MEETING
AUGUST 17, 2021 – 6:00 P.M.
MERCEDES CITY HALL – COMMISSION CHAMBERS**

MEMBERS PRESENT:	Oscar D Montoya	Mayor
	Joe Martinez	Mayor Pro-Tem
	Leonel Benavidez	Commissioner
	Jacob Howell	Commissioner
	Jose M. Gomez	Commissioner
STAFF PRESENT:	Alberto Perez	City Manager
	Anthony Troiani	City Attorney (webex)
	Joselynn Castillo	City Secretary
	Kristine Longoria	City Secretary Assistant
	Axel Vallejo	City Manager Secretary
	Javier Chapa	I.T Director
	Ervin Vilchis	I.T Liaison
	Joaquin Hernandez	Public Works Director
	Nereida Perez	Finance Director
	Roy Quintanilha	Chief of Police
	Javier Campos	Fire Chief
	Blanca Sanchez	Asst. Chief of Police
	George Diaz	Police Officer

1.) CALL MEETING TO ORDER

Mayor Montoya welcomed everyone and called the meeting to order at 6:00 P.M.

2.) ESTABLISH QUORUM

All members of the Commission were present which constitutes a full quorum.

3.) INVOCATION

Mayor Pro-Tem Martinez said the invocation.

4.) PLEDGE OF ALLEGIANCE

Commissioner Gomez led in the Pledge of Allegiance.

5.) OPEN FORUM

- Mr. Raul Garcia addressed the Commission regarding a 3 on 3 tournament for basketball. He is requesting to closed Ohio Ave. between 3rd and 4th street on September 4 for the street festival. He stated there are adult teams already registered. 35 ft. perimeter which is half court. He has spoken to EDC and the street is available. He is requesting the all-star level sponsorship from the City.
- Ms. Blanca Sanchez addressed the commission regarding the back to school event with the School District, Housing, & Crime stoppers on Thursday at Chacon Middle school from 5 to 7 pm and invited all to attend.
- Mr. Ramon Mejia addressed the Commission by stating a verse from the bible. He stated his neighbor has gravel on the curve that stops the water from flowing into the drains. The small issues bring the city down. He stated that there is no ordinance on street curbs.
- Ms. Laura Alvarado addressed the Commission regarding the tax increase. She stated she is against the increase because she stated the city does not know how to budget correctly. She states that citizens are tired. She says that she will start a recall on the mayor if she has to.

- Mr. Joaquin Hernandez spoke in Spanish about being thankful for pumps in his neighborhood. He states that never before have commissioners gone to Capisallo Terrace to turn on pumps when there is flooding. In over 13 years no one has visited his neighborhood. He added he would like for everyone to unite.
- Mr. Leo Villarreal addressed the Commission regarding an open records request regarding an accident with a City Commissioner. He ended with knowledge is power.

6.) ITEMS ON THE REGULAR AGENDA

No one signed up to speak on an agenda item.

7.) PRESENTATION

A.) PRESENTATION BY MR. HUMBERTO GARZA BORDER AFFAIRS ON AMERICAN RESCUE PLAN.

Mr. Humberto Garza with Border Affairs gave an update. He stated that he has been working the past 2 weeks with staff regarding monies coming into the city. He says to expect a million within 14 days. One year from date would be the next monies. Commissioner Gomez asked questions on what monies would be used for or to benefit the citizens. Mr. Garza explained a few things to him regarding objectives on uses in 5 areas where monies will be designated. He stated his job is to ensure that the funds get to the city. Commissioner Benavidez wanted to clarify when information is updated to Border Affairs regarding changes. Comm. Benavidez asked for clarification on work being done with these grants and what's being allocated. Mr. Benavidez wants to make it a point to be known that Mr. Garza did not find this grant for the City that is was already going to be issued to all cities. Commissioner Howell asked questions on the ETA of the arrival of monies. Commissioner Benavidez called to bring this back on the agenda.

B.) UPDATE ON CURRENT BUDGET LINE ITEMS STATUS.

Finance Report on the packet for monthly report. The budget completed is at 83.88% and the current budget is at 79% which is under. Building maintenance is over budget at 98%. Equipment for public works that is under non departmental are over budget. The other high budgeted amounts are audit fees, contributions, payables to outlet mall, professional services and engineering fees. Commissioner Howell stated that this year's budget staff is keeping on track and next year is the one they need to work on. Commissioner Benavidez noted that when your budgeted really tight there is a lack in service with a smaller budget. The Utility fund revenues are at 81.21% expenditures are at 62.2% due to savings because of vacancies. Commissioner Benavidez stated that the Outlet payment went up from 300K to 1.5 million. The I&S fund is only for the bond payments and portion of the property tax allocated. Hotel Motel fund is slowly coming up and is under budget because there have not been many events. Hotel Motel fund is used for the Texas Street Festival which is used to promote the city and hotels. Commissioner Benavidez mentioned about going into reserves. The Hotel Motel fund needs to go into the reserves of the Hotel Motel fund. EMS fund is under budget at 61%. Commissioner Gomez asked if the City has paid Mr. Armando Martinez while he is out of town. As per the contract, Mr. Martinez is still paid.

8.) CONSENT AGENDA:

A.) SECOND AND FINAL READING OF ORDINANCE 2021-10 RELATING TO TEXAS GAS SERVICE (TGS) TO ADOPT THE SETTLEMENT AGREEMENT.

B.) APPROVAL OF BUDGET AMENDMENT TO PUBLIC WORKS DEPARTMENT FROM LIBRARY.

Commissioner Benavidez made a motion to approve the items under consent agenda. Mayor Pro-Tem Martinez seconded the motion. Commissioner Benavidez stated the notes are specific but would like the funds to go to a line item for the Christmas tree. Ms. Vidales

stated that some light bulbs went out and someone hit the street crossing last year and will need fixing. Ms. Perez stated that a line item can be created specifically for the Christmas Tree as stated by Commissioner Benavidez. Mayor Montoya stated that there does not need to be a line item for every single thing because the parks also have swings. Passed unanimously.

9.) CITY MANAGER COMMENTS:

1.) UPDATE ON THE TEXAS BOOK FESTIVAL GRANT

Ms. Vidales addressed the Commission stated the City applied for the Texas Book Festival Grant and they were awarded on August 6, 2021. Should get 174 books for adult nonfiction.

10.) MANAGEMENT ITEM(S):

A.) PRESENTATION OF 2021 TAX RATE AND DISCUSSION AND POSSIBLE ACTION TO APPROVE THE PROPOSED TAX RATE AND APPROVE THE MEETING DATE FOR THE PUBLIC HEARING AND ADOPTION OF THE TAX RATE.

Ms. Perez stated the property tax rate is set at \$0.745 and the recommending a tax increase of \$0.03. Commissioner Benavidez stated that the Mayor stated it should be \$0.02. Mr. Bobby Villarreal stated the preference is to go up to \$0.03 and at \$0.025 would be tight. The I&S fund will decrease if the City does not increase \$0.03. The I&S is for levying. MPT asked if there is anyway to avoid the increase or another solution to fix the issue. Mr. Perez stated that the same situation happened before and the City continued to keep the rate the same. This pushed back the issue to this year. Mayor stated that the reserves were sinking and now the reserves has sunk. The City can cut more services if they do not want to do the increase on tax rate. Ms. Perez stated that at this time the ARPA funds are not being counted.

Commissioner Benavidez stated that the City can no longer move money around to borrow money if you don't increase. Ms. Perez stated that the debt rate will increase if we issue CO's but it currently does not include the CO's. Mr. Perez stated city is still lacking equipment and needing infrastructure. \$5 million is tied to infrastructure, \$1 million for structure and \$2 Million for capital improvements. Commissioner Benavidez stated the City is getting \$4 Million for hardship but we are charging the residents more money. Mayor stated that our citizens will continue to suffer as long as we keep flooding, if they cant flush their toilets, or cant drive down the street due to flooding. He stated all the financial advisors have all stated that this has been an ongoing issue and have told the Commission but no one has done anything that is why were are where we are. Commissioner Howell stated that this city has been surviving and he want the city to strive and look at the future of this time.

Commissioner Gomez stated the average income in Mercedes is between \$30 and \$40K and we need to consider those residents. He stated we have \$2 Million set aside for equipment and not have certified. Commissioner Benavidez stated that last year 33 city block streets were paved. He wants to get together to look at the priority because the Commission need to decide on what to use the CO's for. Commissioner Benavidez stated they need to consider the citizens. Mayor stated its not just the loans that are the focus but all the reserves have been depleted. Mr. Villarreal stated the water rate study is to help see if all residents should be charged or are charged properly. Tax payers are subsidizing the Water and Sewer system. The idea that nothing can be increased is not possible. All the needs will continue and will grow if nothing is done. This proposal is to bring your funds back up. The water rate will help you know what is most equitable for the City for residential and commercial. The rate increase still needs to happen to get the Utility fund back up. Commissioner Benavidez stated he is not against doing what the City has to do to be up to par but is against doing more.

There needs to be dialog between the Commission to come to consensus on what they want to do. They need to come up with sufficient solutions. He stated this is premature because they should be looking at the budget and see the money that is still pending. Mr. Perez stated that the city will get a different rating and if they want to borrow in the future will have higher

interest rate. The cost of business will only increase and if postponing the burden later will be even greater to the citizens. Ms. Perez stated they are waiting to see how much from the ARPA fund can be used to replenish the city's losses. The Public works department increased because that is what is needed to repair the streets. MPT stated three members have families and it affects them and their families. The streets have potholes, the sidewalks need repair, there's many water leaks. He stated the City doesn't have an animal control officer and doesn't have a jail, cannot depend on sales tax because of the pandemic. MPT doesn't want to increase but all the City needs are more severe and this is needed. He stated if this is not done this would be catastrophic when all services are cut and the doors close. Mr. Villarreal stated there is a burn rate of \$600K. This does not include incentives and are not included in the budget. At a question, the \$13.50 change in rate needs to be done this year and may see the change in a few years. MPT motion to approve the proposed tax rate of \$0.7750 with the I&S rate at \$0.3072. All three pennies are going to the debt. Commissioner Benavidez asked if they can be at \$0.02 cents on the tax rate and a \$10.00 increase on the water rate rather than the proposed. This is driven more for the budget but the CO's fall on the same deadline. The proposed tax rate has to be approved to finalize the budget. Commissioner Howell seconded the motion. Passed with Commissioner Benavidez and Gomez voting against.

B.) DISCUSSION AND POSSIBLE ACTION TO APPROVE THE CHANGES TO THE MERCEDES HISTORICAL PRESERVATION COMMISSION GRANT.

Ms. Vidales addressed the Commission regarding the MHPC Grant. Some of the changes were to increase to \$20K for roof Repair and would like to bring it back down to \$10000. The Façade would like to bring the amount down to \$5,000. The application time line will decrease. There will be a workshop on the grant in October. November through February will be when the applications are received. The applicant has 3 months to complete the project. The funds are from Hotel Motel. Commissioner Howell made a motion to approve. Commissioner Benavidez stated if they can consider putting a cap on how much funds can be given. There board did discuss that possibility but decided not to because people have not applied last year but one person. Packets are sent out to the property owners of the grant but no one submitted an application. The owner has to pay for the entire amount of work and bring back the checks and receipts for the board approval. Some of the other changes is the property needs to be a historic site. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously. Mayor Pro-Tem Martinez stepped out for this item.

C.) DISCUSSION AND POSSIBLE ACTION TO APPOINT AN APPLICANT TO THE MERCEDES HISTORICAL PRESERVATION COMMISSION.

Ms. Vidales stated that Mr. Jodie Martinez expressed his interest in serving on the board. Commissioner Benavidez made a motion to approve. Commissioner Howell seconded the motion. Commissioner Benavidez rescinded his motion. Commissioner Gomez stated that there were other applicants. There are three vacancies and can appoint all three applicants. Commissioner Benavidez made a motion to appoint Ms. Yolanda Molina as the member and Mr. Jodie Martinez and Ms. Dalia Pena as alternates. Ms. Vidales stated there are guidelines for the members for example one member of the board must be a property owner of a historic home. Commissioner Gomez stated that there are current members that do not fall within those guidelines. Commissioner Gomez seconded the motion. Commissioner Benavidez added to his motion, approval as stated contingent if the member does not qualify then they can change it to have Mr. Jodie Martinez. Commissioner Benavidez rescinded his motion and motioned to table. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

D.) DISCUSSION AND POSSIBLE ACTION ON THE PURCHASE OF UTILITY TRAILERS.

Mr. Hernandez stated that there was an increase on the purchase for utility trailers. Commissioner Benavidez made a motion to approve. Mayor Pro-Tem Martinez seconded. The other trailer has been repaired but was from the planning department and these will be new trailers for Public works. Upon a called vote, the motion passed unanimously.

E.) DISCUSSION AND POSSIBLE ACTION TO PURCHASE A CATERPILLAR PAVER MACHINE.

Mr. Hernandez informed the commission that the patch truck was approved and was not ordered by the previous director, therefore proposing the purchase of a paver. Commissioner Howell made a motion to approve. Commissioner Benavidez seconded the motion. Commissioner Gomez is concerned about certifications to use the equipment. Upon a called vote, the motion passed unanimously.

F.) DISCUSSION AND POSSIBLE ACTION ON DRUG TESTING FOR ELECTED OFFICIALS AND EMPLOYEES.

Commissioner Gomez stated that the City has a drug problem and recommends drug testing for elected officials. It was stated that the 4th amendment prohibits the City from doing random drug testing and should also test for prescription drugs. Chief Quintanilha stated that only certain employees can be tested as far as elected officials they are not required. There is pre-employment and post-accident drug screening. The Commission will need to decide which employees fall under the random testing. Mayor Pro-Tem Martinez made a motion to seek legal advice on drug testing city employees and elected officials can volunteer but there should be no repercussions to an employee not wishing to participate. Commissioner Howell seconded the motion. Commissioner Benavidez stated he is willing to take drug test. Upon a called vote, the motion passed unanimously.

G.) DISCUSSION AND POSSIBLE ACTION TO DIRECT CITY MANAGER TO DEVELOP A CITY, SCHOOL AND NEIGHBORHOOD MAINTENANCE INITIATIVE.

Commissioner Howell motion to approve the maintenance proposal. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously. Mr. Quintanilha is working closely with the school district.

H.) DISCUSSION AND POSSIBLE ACTION TO APPROVE CITY MANAGER TO IMPLEMENT THE RECOMMENDED WATER RATE.

Mr. Perez stated that this item will need to come back with an ordinance. The recommendation was to go to \$13.47 per month starting immediately. There will be a break down on the commercial and residential inside city limits and outside city limits and some are only sewer accounts. Commissioner Benavidez made a motion to have a breakdown of the rate and come back with an ordinance with legal advice. Mayor Pro-Tem Martinez seconded the motion. Mr. Villarreal stated there is a minimum amount the City needs to be at is \$800k in revenues to cover debt that has been issued in the past. Upon a called vote, the motion passed unanimously.

I.) DISCUSSION AND POSSIBLE ACTION TO APPROVE CITY MANAGER TO GO OUT FOR RFQ'S FOR AN ENERGY CONSULTANT.

There is a potential opportunity to get a better rate. They study the market and can come back. Commissioner Benavidez stated that he has been an energy consultant for many years and there is a handful of consultant that can do the work at no cost. Mr. Perez stated that this is to find someone that the commission will approve. Mr. Perez stated that the city could save money and are requesting to go out for qualifications and select the best qualified and then

come back with the price. Commissioner Benavidez stated that the City can call companies to give them a quote and can do it at no cost qualification will not do that. City is currently with TCAP and its based on usage. Mayor Pro-Tem Martinez motioned to go out for RFQ. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed. Commissioner Howell voted against.

J.) DISCUSSION AND POSSIBLE ACTION TO PROVIDE CITY MANAGER THE AUTHORITY TO MAKE PURCHASES UP TO \$50,000 IN APPROPRIATED AND BUDGETED FUNDS WITHOUT CITY COMMISSION APPROVAL.

Mr. Perez stated that any items over \$10,000 need to come back to the Commission for approval. This will change the threshold to \$50,000. Commissioner Howell mad a motion to approve with the City Manager to give the Commission and update within 24 hours as to why the purchase is being made. Commissioner Gomez stated that the Commission will need to keep a close ear and eye on the City Manager purchases. Commissioner Howell stated that costs have gone up. Mayor Pro-Tem Martinez stated that this is on items already budgeted and approved. Mayor Pro-Tem Martinez seconded the motion. Commissioner Benavidez stated there was an issue on the roof repair for the Library. Ms. Perez stated that if the City has a budget with money then the staff should be allowed to make the purchase. Upon a called vote, the motion passed. Commissioner Gomez voted against.

K.) DISCUSSION AND POSSIBLE ACTION TO DIRECT CITY MANAGER TO FORMULATE A DRAINAGE/FLOODING COMMITTEE IN ORDER TO SECURE PUBLIC INPUT.

Mayor Pro-Tem Martinez stated they want to have a town hall meeting. Formulate a form of application on people that have been affected by the flood. Want to identify the areas that are affected and have a committee to hear their input. Mayor Pro-Tem Martinez would like 11 members from flooded areas. Commissioner Howell made a motion to direct City Manager to formulate a drainage committee with 11 members. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously. A breakdown of the affected locations was requested.

11.)BIDS/CONTRACTS:

A.) DISCUSSION AND POSSIBLE ACTION TO SELECT A FINANCIAL ADVISOR AND TO DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT.

Mr. Perez stated that 2 bids were submitted one from the current financial advisor. Mayor Pro-Tem Martinez made a motion to go with Estrada Hinojosa. Commissioner Gomez seconded the motion. Upon a called vote, the motion passed unanimously.

B.) DISCUSSION AND POSSIBLE ACTION TO APPROVE THE CONTRACT FOR GENERAL COUNSEL SERVICES WITH MARTIE GARCIA-VELA ATTORNEY AT LAW, P.C.

Mr. Perez addressed the Commission and provided the proposed contract for legal counsel. Commissioner Benavidez made a motion to go into executive session. Ms. Martie Garcia-Vela is proposing 50 hours a month at \$10000 with \$200 per hour. Ms. G Vela added a clause that once reaching 45 hours she would inform the city manager and any hours after 50 hours she would need commission approval. All attorney questions will need to go to the City Manager and then sent to the attorney. Commissioner Howell stated that Commissioners need to have access to the attorney. Mr. Perez stated they are trying to manage the cost. Mayor Montoya called the meeting into executive session at 9:17 P.M.

Mayor Montoya called the meeting back to order at 9:31 P.M.

Mayor Pro-Tem Martinez made a motion to approve the contract with Ms. Martie Garcia Vela with legal review. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously.

12.) FUTURE AGENDA ITEMS:

No future items.

13.) MONTHLY DEPARTMENT REPORTS

Monthly reports are included for the Commission to review.

14.) EXECUTIVE SESSION:

A.) DISCUSSION AND POSSIBLE ACTION PURSUANT TO TEXAS GOVERNMENT CODE 551.074 “(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF CITY MANAGER; OR (2) TO HEAR A COMPLAINT OR CHARGE AGAINST THE CITY MANAGER”

B.) CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOV’T CODE 551.071 REGARDING PENDING LITIGATION.

15.) OPEN SESSION:

A.) DISCUSSION AND POSSIBLE ACTION ON EXECUTIVE SESSION ITEM A.

Commissioner Benavidez stated the complaints were brought to the City Manager.

Commissioner Benavidez stated we should be more careful and cautious on how we treat the community members. All the Commission had input. If there is enough issues and red flags then extend the probationary period. Commissioner Benavidez motioned to extend Mr. Perez’s probationary period. Motion died due to lack of a second. Commissioner Howell stated his probation period is up and he had an evaluation and the concerns were brought to his attention. He stated Mr. Perez has identified several issues with the City and has brought new equipment to the City. Mr. Perez has been involved in this City. Commissioner Howell made a motion to extend the contract for two years. Mayor Pro-Tem Martinez seconded the motion. Passed Commissioner Gomez and Benavidez voted against.

B.) DELIBERATION AND ACTION ON ITEM IN EXECUTIVE SESSION REGARDING PENDING LITIGATION.

No action required for this item.

16.) ADJOURNMENT

Mayor Pro-Tem Martinez made a motion to adjourn. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously. The meeting adjourned at 11:18 p.m.