

**MERCEDES CITY COMMISSION  
REGULAR MEETING  
FEBRUARY 2, 2021 – 6:00 P.M.  
MERCEDES CITY HALL – COMMISSION CHAMBERS**

<b>MEMBERS PRESENT:</b>	Oscar Montoya Joe Martinez Leonel Benavidez Jacob Howell Jose M. Gomez	Mayor Mayor Pro-Tem Commissioner Commissioner Commissioner
<b>STAFF PRESENT:</b>	Kevin Pagan Kristine Longoria Anthony Troiani Nereida Perez Hugo Perales Jose Figueroa Jose Macias Javier Campos Mary Salinas	Interim City Manager City Secretary Clerk City Attorney Finance Director I.T Director PW Director Police Chief Fire Chief Grants Coordinator (webex)
<b>OTHERS PRESENT:</b>	Isauro Trevino Armando Martinez	R. Gutierrez Rep (webex) Admin of Records (webex)

**1) CALL MEETING TO ORDER**

Mayor Montoya called the meeting to order at 6:09 PM

**2) ESTABLISH QUORUM**

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

**3) INVOCATION**

Interim City Manager Pagan said the invocation.

**4) PLEDGE OF ALLEGIANCE**

Commissioner Benavidez led in the Pledge of Allegiance.

At this time the Interim City Manager Mr. Pagan recommended moving to the addendum.

**ADDENDUM: DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING POLICE DEPARTMENT BICYCLE PATROL.**

Commissioner Howell stated that he would like staff to look into acquiring a bicycle patrol. He stated that this will be vital to the community to build trust. Police Chief Macias stated that the request is feasible and will check to see if it can be done. No action was taken on this item.

**5) OPEN FORUM-**

- Mr. Leonel Benavidez spoke about being cautious regarding COVID-19. He asked the public to contact city officials and staff for accurate information. He informed the citizens of the Mercedes 311 program and continued to express his concern for the citizens during this pandemic.

**6) CONSENT AGENDA (ORDINANCE. 98-21):**

**A.) APPROVAL OF MINUTES FOR CITY COMMISSION MEETING HELD JANUARY 19, 2021.**

**B.) APPROVAL OF BUDGET AMENDMENT FOR PUBLIC WORKS TO MAKE DIFFERENT PURCHASES.**

**C.) APPROVAL OF AUTHORIZATION # 2021/02/02 TO UPDATE THE TEXAS NATIONAL BANK SIGNATORIES.**

**D.) APPROVAL OF INTERLOCAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF HIDALGO, TEXAS AND THE CITY OF MERCEDES, TEXAS ON BEHALF OF DR. HERCTOR P. GARCIA MEMORIAL LIBRARY IN ORDER TO PROVIDE LIBRARY SERVICES TO COUNTY RESIDENTS.**

Commissioner Benavidez made a motion to approve item 6A. through 6D. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

**7) CITY MANAGER COMMENTS**

Interim City Manager Pagan informed the Commission that he would be meeting with Department Heads to discuss development projects. He stated there will be a TIRZ meeting before the next regular meeting. Mr. Pagan provided a draft of the communication policy between the City Manager and the City Commission. Mayor Montoya stated that the City is working on a plan to open up the meetings.

**8) DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION #2021-02 TO SUBMIT GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR, PUBLIC SAFETY OFFICE CRIMINAL JUSTICE DIVISION, CRIMINAL JUSTICE PROGRAM FY 2022**

Mr. Isauro Trevino stated the process for this grant resolution and was present to answer questions. There was discussion regarding the items that could be purchased with the grant. Mr. Trevino stated that this would be approval to submit the grant and the deadline is February 10, 2021. Mr. Pagan stated the City Manager should be the designated representative. Mr. Trevino stated the grant is in the amount of \$77,380.

Commissioner Howell made a motion to approve item 8. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

**9) DISCUSSION AND POSSIBLE ACTION TO APPROVE GRANT REIMBURSEMENT FOR HISTORICALLY DESIGNATED PROPERTY 337 S. MISSOURI, MERCEDES, TEXAS**

Ms. Vidales addressed the Commission regarding the grant and award process and provided a history of the Historical Commission. Ms. Vidales stated they have an application for reimbursement from Mr. Jodi O. Martinez for Façade. He expended \$21,087.90 for the façade and the Historical Committee approved his reimbursement application in the capped amount of \$10,000. There was discussion regarding the preservation of the homes and the requirements to meet the grant. Ms. Vidales stated she could provide the list of the homes that qualify for the grant to the Commission and stated that Mr. Martinez was the only applicant. At a question, Ms. Vidales stated that a person can apply multiple times. Mayor Montoya stated that this is a competitive grant so multiple people can apply and the historical committee will grade the applications.

After discussion, Mayor Pro-Tem Martinez made a motion to approve item 9. Commissioner Howell seconded the motion. Upon a called vote, the motion passed. Commissioner Benavidez and Commissioner Gomez voted against.

**10) DISCUSSION AND POSSIBLE ACTION REGARDING THE PLACEMENT OF A MOBILE HOME ON A PROPERTY IN THE CAPISALLO TERRACE SUBDIVISION UNIT NO. 3**

Ms. Rodriguez informed the Commission that the City has an ordinance that prevents the placement of mobile homes. Mr. Pagan stated he asked for this item to see if the Commission would consider a variance and provided different options due to some hardships with the owner. Commissioner Benavidez stated that City should consider other properties as well.

Commissioner Howell made a motion to approve and allow the mobile home to be placed. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

**11) CONSIDERATION AND POSSIBLE ACTION REGARDING APPROVAL OF CONTINUED AGREEMENT IN LIEU OF ESCROW FEE OF A FIRE HYDRANT FOR SPEARHEAD SUBDIVISION**

Mr. Pagan informed the Commission that the City has development requirements. Fire Hydrants are required but the developer stated that there was no water line where the hydrant is to be placed. Mr. Pagan stated that in the City's development plan includes an escrow fee. The City is recommending to waive the fee with a contractual agreement that they place the hydrant once the waterline is available.

Commissioner Benavidez made a motion to approve item 11. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously.

**12) CONSIDERATION AND POSSIBLE ACTION REGARDING JOINING THE TEXAS COALITION OF CITIES FOR FRANCHISE UTILITIES (TCCFUI)**

Mr. Pagan stated this would give the City access to lobbyist and consultants in the state level. The lobbying committee focus on franchises and the legislature. Mr. Pagan is part of the committee and recommends approval. At a question, Mr. Troiani stated there is no conflict of interest.

Commissioner Howell made a motion to approve joining the Texas Coalition of Cities Franchise Utilities. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

**13) CONSIDERATION AND POSSIBLE ACTION REGARDING ENGAGEMENT OF JOHN MILFORD FOR PROFESSIONAL SERVICES (BACKGROUND CHECKS FOR CITY MANAGER POSITION)**

Mr. Pagan addressed the Commission regarding the discussion regarding running criminal history checks. He stated that Mr. John Milford is from the valley and has many years of experience in running backgrounds. He stated the agreement is in the amount of \$5,000 for however many candidates the City has for City Manager. Commissioner Benavidez wants to have City Manager and City Staff run the backgrounds. Mr. Pagan stated he would be actively involved in the assessment and make sure it gets done in a timely manner. After discussion, Commissioner Howell made a motion to approve item 13. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

**14) CONSIDERATION AND POSSIBLE ACTION ON A RESOLUTION 2021-03 AUTHORIZING THE CITY OF MERCEDES TO JOIN WITH THE CITIES SERVED BY AEP**

Mr. Pagan informed the Commission that run the poles for the electricity. This will allow the City to participate in the rate cases to make sure the citizens get the best rates they can get. There is no fee for the service and is not a binding agreement. Mayor Montoya stated that citizens can call city hall or Public works if any light poles need service. Commissioner Howell stated he would like to look as more energy saving services for electricity. Mayor Pro-Tem Martinez made a motion to approve Resolution 2021-03. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously.

**15) CONSIDERATION AND POSSIBLE ACTION ON APPROVAL FOR PURCHASING POLICE DEPARTMENT UNIFORMS**

Police Chief Macias address the Commission seeking approval for the purchase of police uniforms and vests. He stated that the City did purchase uniforms but there were not enough funds to purchase uniforms for every officer. Mr. Macias is looking to use forfeiture funds and the budget for the purchase of the uniforms. Commissioner Howell made a motion to approve item 12. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

**16) CONSIDERATION AND POSSIBLE ACTION REGARDING AN AGREEMENT WITH THE CITY OF EDINBURG TO UTILIZE THEIR FIRE TRAINING FACILITY FOR MERCEDES FIRE DEPARTMENT STAFF.**

State Representative Armando Martinez addressed the Commission regarding an agreement between the City of Edinburg and the City of Mercedes for the use of their Fire Training Facility. Mr. Martinez stated there is no fee involved for training the City's personnel. Mr. Martinez stated if the City of Mercedes opens up their own training facility there will be a fee for training other personnel that is not city personnel. There is an itemized list of costs attached as exhibit A for lease of equipment if the city did not have their own. Fire Chief Campos stated that in order to get certified for fire trainings are required. The City of Edinburg has the facility to conduct those controlled burnings.

Commissioner Benavidez made a motion to approve item 16. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously.

**17) DISCUSSION AND ACTION TO APPROVE A RESOLUTION #2021-04 ADOPTING THE WORK-PLAN AND BUDGET FOR URBAN COUNTY PROGRAM YEAR 34 (2021)**

Mr. Pagan informed the Commission of an update on the plan for Urban County. There was dialog with the County and the City has met the obligation for getting reimburse for bond payments from Urban County. There is now additional funding that can be allocated for another program. Public works is requesting approval from the Commission to allocate \$146,000 for a street project and to use the Urban County funds for street improvements inside City limits.

Commissioner Howell made a motion to approve item 17. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

Mayor Montoya called the meeting into Executive Session at 7:25 PM. No action will be taken during Executive session.

**18) EXECUTIVE SESSION:**

- a. **CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE 351.071(2) FOR PURPOSE OF RECEIVING PRIVILEGED ATTORNEY CLIENT COMMUNICATIONS PURSUANT TO TEXAS GOVERNMENT CODE 551.071(1) REGARDING PENDING AND ANTICIPATED LITIGATION. (RAYBECK INVESTMENTS, LTD. AND SEC. 351.101 OF THE TAX CODE).**
- b. **CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE 351.071(2) FOR PURPOSE OF RECEIVING PRIVILEGED ATTORNEY CLIENT COMMUNICATION PURSUANT TO TEXAS GOVERNMENT CODE 551.071(1) REGARDING PENDING AND ANTICIPATED LITIGATION (POSSIBLE WAIVER OF PRIVILEGES RELATED TO ONGOING INVESTIGATION)**
- c. **CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE 351.071(2) FOR PURPOSE OF RECEIVING PRIVILEGED ATTORNEY CLIENT COMMUNICATIONS PURSUANT TO TEXAS GOVERNMENT CODE 551.071(1) REGARDING PENDING AND ANTICIPATED LITIGATION OFR THE PURPOSE OF ENTERING INTO A CONTINGENCY FEE AGREEMENT(S) WITH TROIANI & SOSSI, PLLC FOR ONGOING LITIGATION CASE(S)**

Mayor Montoya called the meeting back to order at 8:28 pm.

**19) POSSIBLE ACTION ON EXECUTIVE SESSION ITEM B, AND DISCUSSION AND POSSIBLE ACTION ON ITEM C TO ENTER CONTINGENCY FEE AGREEMENTS WITH TROIANI & SOSSI, PLLC FOR ONGOING LITIGATION.**

- a. No Action
- b. Mr. Pagan recommended making a motion authorizing the City Attorney to notify the agency that requested the limit of waiver attorney client privilege to communicate with Commission to grant the waiver. Commissioner Benavidez made a motion to approve. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.
- c. Mr. Pagan recommended entertaining a motion to authorize the City Manager to initiate the final contingent agreement with Troiani and Sossi, LLP for ongoing litigation as discussed in executive session. Commissioner Benavidez made a motion to approve. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously.

**20) ADJOURN**

Commissioner Benavidez made a motion to adjourn. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously. The meeting adjourned at 8:30 pm.