

**MERCEDES CITY COMMISSION
REGULAR MEETING
MAY 4, 2021
MERCEDES CITY HALL – COMMISSION CHAMBERS**

MEMBERS PRESENT:	Oscar Montoya	Mayor
	Joe Martinez	Mayor Pro-Tem
	Leonel Benavidez	Commissioner
	Jacob Howell	Commissioner
	Jose M. Gomez	Commissioner
 STAFF PRESENT:	 Alberto Perez	 City Manager
	Joselynn Castillo	City Secretary
	Anthony Troiani	City Attorney
	Ervin Vilchis	IT Liaison
	Joaquin Hernandez	PW Director
	Abel Gonzalez	Parks Supervisor
	Javier Campos	Fire Chief/EMC
	Jose Macias	Police Chief
	Nereida Perez	Finance Director
	Monica Rodriguez	Planning Admin Asst.
	Richard Morin	Recreational Director

1) CALL MEETING TO ORDER

Mayor Montoya called the meeting to order at 6:00 PM.

2) ESTABLISH QUORUM

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

3) INVOCATION

Commissioner Benavidez said the invocation.

4) PLEDGE OF ALLEGIANCE

Commissioner Gomez led in the Pledge of Allegiance.

5) OPEN FORUM

- Mr. Miguel Loya addressed the Commission regarding the setback ordinance for the City. He has been trying to build a carport but has restrictions to his property due to the setbacks. He stated he has a smaller lot with a 20 ft. setback which leaves little to so space for his carport. His carport will not hinder anyone’s view. Other property owners have carports up to the edge of their property with privacy fence. Mr. Loya would like the Commission to amend the City Setbacks to allow open structure without a setback and avoid having to pay for a variance.
- Ms. Dalia Pena addressed the Commission about her concern with the Police department service. She stated that at the L& R apartments kids are walking the streets and fighting. She has called MISD, safe schools, and the Police Department because the kids are fighting and rolling around on the ground after the police have left. She stated that the Police Department doesn’t do anything to the children and that when she called the phone rang for about 10 blocks and at times the Police department does not pick up the phone. The kids are causing problems in the neighborhood and had previously suggested a neighborhood watch.

- Mr. Edelmiro Dominguez addressed the Commission about the legal fees for Commissioner Benavidez. Mr. Dominguez read the statement Mr. Pagan, former Interim City Manager, sent Mr. Perez which was included in the packet. He stated he hopes the Commission makes the right decision for Commissioner Benavidez and the City of Mercedes.

6) PRESENTATIONS

A.) PROCLAMATION PRESENTATION FOR MHS BAND

Proclamation presented by Mayor Montoya to Mr. Mckinney and the MHS Band.

B.) PROCLAMATION PRESENTATION FOR MHS ATHLETICS DEPT

Proclamation presented by Mayor Montoya to the MISD Athletics Department. Coach Judy Gutierrez and Coach Roger Adame accepted the proclamation.

C.) PRESENTATION BY PERDUE BRANDON FIELDER COLLIN & MOTT

Presentation by Perdue, Brandon, Fielder, Collins & Mott. Mr. Hiram Gutierrez presented the delinquent taxes collected. He stated they sent over 1378 notice of delinquency. They go to the property and the home to work something out with them if they have a financial situation. They set up payment agreements. They proceed with litigation if they do not meet the desired outcome. They continue to contact the tax payer after judgement. Once you post the property tax sale, the property owner will need to pay additional fees. The report is from October 1, 2020 to March 31, 2021. They also assist the City with bankruptcy. The total collections are \$141,885. Delinquent Tax Collections for the past 6 years were provided from 2015 when they came on board. Commissioner Benavidez stated that the report was not provided in the packet. Mr. Gutierrez stated that it was short notice and that the County provides the information online. Collections for 2019-2020 is \$215,988. Mr. Perez stated that this item can be placed on the agenda for the Commission to verify the numbers. Deferral amount of \$375,697.58 is for Homestead properties and cannot do anything to collect those delinquent tax. Mr. Perez asked how many accounts are not able to pay. There are over 900 delinquent accounts. Mr. Perez read Section 3 of the Contract regarding reporting. Mr. Perez asked about the Tracing Process and if they have contacted the City for taxpayers that they cannot find. The Commission want a progressive process for every letter sent. Taxpayers have the opportunity to pay up until tax sale. Sales are published in the newspaper and available on the website. Commissioner Howell stated that property money that is owed to the City needs to come back to the city. Mayor Montoya asked for quarterly reports from Mr. Gutierrez.

D.) PRESENTATION BY LANDSTAR TELECOM FOR IT SERVICES

Mr. Thomas Luksa from Landstar Telecom IT Services state he is looking to bring the City back to google email on g suite with a more secure service. He addressed some connectivity issues at the Dome and have already ordered the items to fix the issue. Mr. Perez stated that the Dome is used for Emergencies that is why connectivity (wifi) is needed. In regards to Security Access, Mr. Perez stated he needs to do an assessment with staff to see who needs remote access to their computers. Mayor Montoya asked about e-signature: Mr. Luksa stated that they are looking at this already. Commissioner Benavidez asked about the time frame to get in compliance. Mr. Luksa has already been in contact with the other software's (i.e. laserfiche, incode) and may take time due to purchasing items: Mr. Luksa stated t hey can work with the vendors to migrate the systems over to the upgraded systems. These are operating systems (i.e. when windows 7 is no longer and need to upgrade to windows 10) This will have backup for data with protection. Commissioner Benavidez wants to gather the information and bring it back to the Commission to review the needs.

E.) PRESENTATION BY SWG – ISAAC HUACUJA

Isaac Huacuja from SWG presented an update on Citywide Infrastructure assessments. Mr. Huacuja stated the objective is to assess various infrastructure components, to identify needs, problem areas, upgrades, repairs, or expansion. The projects include the Water Distribution System Rehabilitation, Sanitary Sewer Collection System Rehabilitation, Water Treatment Plant Upgrades and Lift Station Rehabilitation to complete a preliminary assessment of the City's water distribution needs, determine the scope of work and complete a cost estimate for the work. He stated that the ponds should be easy to maintain by PW. There was a concern with the safety of the little league, he stated the Little league should not be affected. Mr. Huacuja stated he is working with staff to identify the critical locations in need of a generator for primary lift stations and water treatment plant. Some of the proactive drainage efforts are to ensure drainage system is clear of obstruction for storm season, conduct assessment on the status of the drainage system and coordinator with IBWC for drainage outfalls. Mr. Perez spoke about the water loss rate; can we identify the areas that need attention to assess the cost to repair them. The City will need to repair the lines before repairing the streets to not do double work. If they fix the street but the lines need fixing after the fact, then we would need to tear the street to fix the line. Mr. Perez wants to minimize water breaks. Commissioner Howell wants to have the presentation on the website. Commissioner Benavidez stated that the presentation was not in the packet. It was stated that this is a preliminary report and a comprehensive study is needed to assess the issues. Mr. Perez stated a Master Drainage plan is needed not only for now but for the future. Mr. Huacuja stated that all these projects take time.

Commissioner Benavidez motion to move to 12B. Martinez seconded the motion. Passed unanimously.

7) CONSENT AGENDA

A.) APPROVAL OF BUDGET AMENDMENT FOR EXECUTIVE ADMIN'S TRAVEL AND TRAINING

B.) APPROVAL OF BUDGET AMENDMENT FOR THE MERCEDES EOC BUILDING

Commissioner Benavidez stated that the budget amendment is for \$600 but the cost of the training is only \$475. Commissioner Benavidez motion to approve item 7a and 7b. Mayor Pro-Tem Martinez seconded the motion. Passed unanimously.

8) CITY MANAGER COMMENTS

1.) WELCOMING OF THE NEW PUBLIC WORKS DIRECTOR

Mr. Perez informed the Commission that interviews were conducted and Mr. Hernandez was the best qualified. Mr. Joaquin Hernandez stated that his goal is to be better prepared, make sure there is enough help with maintaining the canals and have equipment ready and contact other entities for help. Mayor Montoya welcomed Mr. Hernandez. Mayor pro-tem Martinez congratulated Mr. Hernandez and welcomed him. Mr. Perez asked the public to assist the City in documenting the issues with trash and brush pick up and when they start to fall behind. Asking that the public do their part to keep Mercedes beautiful. All commissioners congratulated, Commissioner Benavidez stated that there is not much experience so has to question but hopes for the learning curve to be short. Mr. Perez stated that Mr. Hernandez is the best qualified and made this selection based on that. Commissioner Gomez stated he is looking forward to his knowledge with TxDot.

2.) WELCOMING THE 82ND ANNUAL RIO GRANDE VALLEY LIVESTOCK SHOW

Mr. Perez provided the handout for the stock show. The parade is May 8, 2021. Commissioner Gomez asked if the City provides security for the stock show and the patrol for the rest of the city. Chief Macias stated they have the coverage for the rest of the City. Mr. Perez stated that other law enforcement agencies assist with security. Live Stock Show

Grounds pays for the security service. It was stated that tax payers need to know the amount of money that is being used for the service. Mayor Pro-Tem Martinez stated this is the 82nd annual Live Stock Show and police have always assisted.

3.) LARSON MYSTERY GRANT ANNOUNCEMENT

Ms. Vidales stated the library applies for a grant, 25 applicants with only one applicant being awarded. Mercedes was awarded \$500 for books and they were able to purchase 30 books and will be promoting the grant awarded.

4.) PROPOSED ANIMAL ADOPTION PROGRAM WITH JESSICA DEANDA

Mr. Perez stated he met with Ms. DeAnda for adoption and other services for animals. They can help the animals get adopted, assist in getting the animals spayed and neutered, and food and shelter. The program is still in discussion.

5.) PUBLIC SAFETY DEPARTMENT QUARTERLY CRIME REPORT

Chief Macias informed the Commission of the crime rate report which has decreased 22.6% from 2020 to 2021. Chief Macias provided the comparison from last year to this year.

6.) PRELIMINARY REPORT ON NEEDS ASSESSMENT FOR ALL CITY OF MERCEDES DEPARTMENTS

Mr. Perez provided a preliminary report of the needs that the department heads submitted for their departments. There are also costs associated with the needs list. Mr. Perez needs to meet with the Department Heads to review their needs. This list is just for equipment and does not include the lift stations.

7.) STRATEGIC PLAN FOR WATER, SEWER, AND STREET REPAIR

Mr. Perez wants a plan to review the streets that are proposed to be repaired and the water/sewer lines that need repair. He does not want to repair a street and then have to remove it to fix a water or sewer line. The assessment is being done to minimize costs.

8.) DISCUSSION REGARDING LOOSE ANIMALS

Mr. Perez touched on this with item 8-4. He stated the City will work with community to know what neighborhoods to target. There is a fee for a loose dog that is picked up, there is a dog bite process as well. Mayor Montoya stated to keep your dog vaccinated and possibly get vouchers for people to spay and neuter the animals.

9.) UPDATE ON WATER LOSS RATE

Mr. Perez informed the Commission that money is being lost and need to minimize the water lost rate.

9) ORDINANCES AND RESOLUTIONS

A.) DISCUSSION AND POSSIBLE ACTION ON RESOLUTION NO. 2021-13 IN SUPPORT OF FUNDING REQUEST FROM PRESIDENT BIDEN'S AMERICAN JOBS PLAN

The resolution is in support of funding for the master drainage system for Hidalgo County. Commissioner Howell made a motion to approve resolution 2021-13. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously.

B.) DISCUSSION AND POSSIBLE ACTION ON RESOLUTION NO. 2021-14 IN SUPPORT OF SB594

Mr. Perez informed the Commission that this resolution is in support of the County authorizing a fee for solid waste disposal in county areas. Commissioner Howell motioned to approve. Commissioner Benavidez seconded. Upon a called vote, the motion passed unanimously.

C.) DISCUSSION AND POSSIBLE ACTION ON RESOLUTION NO. 2021-15 IN SUPPORT OF REVOLVING CREDIT

Ms. Perez addressed the Commission that she was asked to contact the bank for a revolving credit for \$500k at 5% interest rate for 120 days. The bank is proposing to waive the fees for set up and origination in the amount of about \$3000. The previous line of credit was closed in

February. Mr. Perez stated that there is a manhole that needs repair to comply with TCEQ. Commissioner Howell made a motion to approve. Mayor Pro-Tem Martinez seconded the motion. Mayor stated this is not that the City doesn't have money but there are needs that require immediate attention. Commissioner Benavidez asked for more information on what is needed. There is a manhole that is in violation and if TCEQ arrives then it would not be in compliance. Ms. Perez stated that 5% will only apply to what is drawn out. Upon a called vote, the motion passed unanimously.

10) MANAGEMENT ITEMS

A.) DISCUSSION AND POSSIBLE ACTION REGARDING WAIVER OF FEES FOR THE USE OF PAVILION AT H.E.B PARK AND REQUEST FOR POLICE TRAFFIC CONTROL FOR A BENEFIT 5K RUN

This item was withdrawn.

B.) DISCUSSION AND POSSIBLE ACTION REGARDING THE SOLID WASTE DISPOSAL WITH USW.

Mr. Charles Stroud, USW Representative, addressed the Commission on funds for the removal of sludge from waste water and water plant. There were questions to the RFP's regarding sludge. USW is requesting \$350K total to cover the sludge. It was stated that the specs had \$125k for sludge provided from the previous contract with Jacobs. Sludge will always be there but would like to minimize. Mr. Perez is looking to optimize the sludge removal process to eliminate water which weighs more, in turn cost more to the City and he wants to improve the water quality. Mr. Perez asked if their proposal stated sludge was to be water based. Mr. Stroud's response was yes that was in their proposal. \$350K is being requested to cover the costs for the end of the year. For the first 3 years OMI used some of the budget. USW has used \$125K, the total of the City budget is \$350K for this year. Commissioner Howell made a motion to table for Finance, City Manager and USW can work this out. Commissioner Benavidez seconded. It was stated that there could be a savings of \$50K if hauling dry over wet. Mayor Pro-Tem Martinez thanked USW for their efforts during the freeze. Upon a called vote, the motion passed unanimously.

11) BIDS AND CONTRACTS

A.) DISCUSSION AND POSSIBLE ACTION TO INITIATE REQUEST FOR QUALIFICATIONS (RFQ) FOR CITY ATTORNEY (GENERAL COUSEL) POSITION.

Mr. Perez stated this is for a City Attorney and will not affect their role in the lawsuits. Commissioner Benavidez stated his motion was to hold off on the RFQ and RFP pending the response. Mr. Troiani stated he would need to review the audio. Mayor Pro-Tem Martinez made a motion to table this item. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously.

B.) DISCUSSION AND POSSIBLE ACTION TO SELECT A GRANT WRITER.

Mr. Perez stated the specs were published April 9, 2021. Four firms submitted their proposal. A committee of staff met and agreed with border affairs. Mayor Pro-Tem Martinez made a motion to approve Border Affairs. Commissioner Howell seconded the motion. Commissioner Benavidez stated he did not have the information. Mr. Perez stated the proposals were emailed prior to the meeting. Commissioner Gomez wants the information before the meeting with the agenda. Upon a called vote, the motion passed unanimously.

12) TABLED ITEMS

A.) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE PAYMENT OF LEGAL EXPENSES FOR COMMISSIONER BENAVIDEZ, AS A CITY EXPENSE.

Commissioner Howell motioned to un-table item 12A. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously. Mayor Pro-Tem Martinez made a motion to disapprove. He stated that taxpayer dollars should not serve a private interest. Commissioner Howell seconded the motion. Commissioner Howell stated this is about making the proper decision. TML stated against it and the court also stated against it. Commissioner Gomez stated there was a payment made for a non-elected official and there were no minutes on the decision. City Attorney stated that each case has their own facts. There may have been an issue on misappropriation of funds. Commissioner Gomez stated he is siding with the elected official position not with Commissioner Benavidez; he asked if a commissioner is targeted do they have to fend for themselves. Commissioner Howell stated this is taxpayer's money. The City of Mercedes is not obligated to pay. Mayor Pro-Tem Martinez stated that that previous issue should not have been paid. The individual took it upon themselves to sue the City. If a commissioner is sued then yes it should be paid. The body needs to determine if it's in the private or public interest. No action was taken in the courts. Mayor Montoya stated that the Commissioner should come to the Commission and inform them that they would be seeking outside legal counsel. Commissioner Gomez voted against. Commissioner Benavidez abstained. Commissioner Benavidez stated he just wanted Mr. Pagan to look into the matter and wants to clear some misinformation, there was never a check given to Commissioner Benavidez and he brought this issue to the Commission to make the decision. Mayor Pro-Tem Martinez commended Commissioner Benavidez for placing this on the agenda.

B.) DISCUSSION AND POSSIBLE ACTION ON MERCEDES DRAINAGE PROJECTS UPDATE INCLUDING PROACTIVE EFFORTS.

Mr. Huacuja stated that this item is to discuss proactive drainage efforts to clean out the drains and assist the city to stay on schedule. Commissioner Benavidez stated that he met with City Manager and Mr. Huacuja regarding this item as priority. Commissioner Benavidez wants interlocal agreements on the maintenance of the ditches. Mayor Montoya stated Pct. 1 and drainage district are working together on Mile 8. Mayor Pro-Tem Martinez asked what plagues those areas like Mercedes gardens, Mile 8 and Angus St. Mr. Huacuja stated that drainages need to be clean and there needs to be proper flow and the capacity of the ditch. Martinez stated that only three drains might be in that neighborhood. Mr. Perez stated that's why there is a need for a master drainage plan. What can the city do that is cost efficient and can have better flow upstream. Mayor Pro-Tem Martinez would like to have a workshop with Mr. Huacuja and the Public Works Director. Commissioner Benavidez asked for Vector truck schedule. Commissioner Benavidez wants an interlocal agreement with county for maintaining their ditches. Mr. Huacuja informed the Commission of the IBWC outfalls.

At this time the Commission went back to the agenda in order.

13) FUTURE AGENDA ITEMS

- A.) UPDATE ON EMERGENCY SERVICES PENDING AUDIT RESULTS – ARMANDO MARTINEZ**
- B.) MASTER DRAINAGE PLAN**
- C.) MASTER THOROUGHFARE PLAN**
- D.) STREET REPAIRS**
- E.) FUTURE PLAN FOR WATER STORAGE**
- F.) MANHOLE AND LIFT STATION REPAIR PLAN**
- G.) PLAN FOR SAND BAG DISTRIBUTION**

Mr. Perez stated that the other future agenda items that are not listed is the sweeper and backhoe schedule. Mayor Pro-Tem Martinez wants to look at a sandbag machine and organizing the process to help the citizens.

Commissioner Howell motioned to go into executive session. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously. The meeting went into executive session at 9:11 PM. Commissioner Benavidez stated that City of Mercedes was served with a search warrant by the FBI. Commissioner Howell asked for certified minutes of the executive session be done.

14) EXECUTIVE SESSION

A.) CONSULTATION AND DISCUSSION ON ECONOMIC DEVELOPMENT PROJECT GABRIELA (SECTION 551.087) CONSULTATION AND DISCUSSION ON PENDING AND ANTICIPATED LITIGATION

B.) CONSULTATION AND DISCUSSION ON PENDING AND ANTICIPATED LITIGATION (SECTION 551.071(1)(A) AND TO RECEIVE PRIVILEGED AND CONFIDENTIAL ATTORNEY CLIENT COMMUNICATIONS (SECTION 551.071(2)) CAUSE NO. C-5044-19C; CITY OF MERCEDES V. MERCEDES INVESTMENTS, LP AND MERCEDES INVESTMENTS, G.P., LLC FKA MERCEDES INVESTMENTS, LLC; IN THE JUDICIAL DISTRICT COURT OF HIDALGO COUNTY, TEXAS; AND CAUSE NO. C-4846-19-A; MERCEDES INVESTMENTS, LP V. CITY OF MERCEDES, MAYOR HENRY HINOJOSA AND MERCEDES INDUSTRIAL FOUNDATION, INC.; IN THE 92 JUDICIAL DISTRICT COURT OF HIDALGO COUNTY, TEXAS; CAUSE NO. C-1564-20-J; CITY OF MERCEDES VS. JUAN R. MOLINA, INDIVIDUALLY AND D/B/A THE LAW OFFICE OF JUAN R. MOLINA DEFENDANT, IN THE 430TH DISTRICT COURT OF HIDALGO COUNTY, TEXAS; AND CAUSE NO. C-1274-20-B; CIY OF MERCEDES V. ROLAND ARRIOLA, TEXAS VALLEY COMMUNITIES FOUNDATION D/B/A TEXAS POLYTECHNIC INSTITUTE, TEXAS VALLEY COMMUNITIES FOUNDATION, TEXAS POLYTECHNIC INSTITUE, TROY INVESTMENT COMPANY NO. 41, AND JUAN MOLINA; IN THE 93RD JUDICIAL DISTRICT COURT OF HIDALGO COUNTY, TEXAS (CONSOLIDATED WITH C-1564-20-J CAND CAUSE NO. C-1640-G IN THE 370TH DISTRICT COURT)

C.) CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT COUDE 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)

Mayor Montoya called the meeting back to order at 10:22 PM.

15) OPEN SESSION

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

City Attorney Troiani stated that the motion should be to take the action as discussed in executive session regarding the City and the communication with the DCM. Commissioner Benavidez made a motion to approve. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

Mr. Troiani added that the motion is to include with the approval of the DCM board. Commissioner Benavidez rescinded his motion and motioned according to legal recommendation. Commissioner Howell seconded the motion

B.) DISCUSSION AND POSSIBLE ACTION ON ITEM B OF EXECUTIVE SESSION.

Mr. Troiani stated the action would be to instruct the City Manager to take the action 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.

C.) DISCUSSION AND POSSIBLE ACTION ON ITEM C OF EXECUTIVE SESSION.

Mr. Troiani stated the action would be to approve the city manager, with the assistance of legal, to contact raybeck. Commissioner Howell made a motion to approve. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

At this time Mr. Troiani asked to go back to item 15A to include the

16) ADJOURNMENT

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 10:25 pm.