



Mayor Oscar D. Montoya
Mayor Pro-Tem Joe Martinez
Commissioner Leonel Benavidez

Commissioner Jacob Howell
Commissioner Jose M. Gomez
Interim City Manager Kevin Pagan

MERCEDES CITY COMMISSION
REGULAR MEETING
MARCH 16, 2021 – 6:00 P.M.
MERCEDES CITY HALL – COMMISSION CHAMBERS
400 S. OHIO AVE., MERCEDES, TX 78570

“At any time during the course of this meeting, the City Commission may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the City Commission under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the City Commission may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.”

- 1.) Call Meeting to Order
- 2.) Establish Quorum
- 3.) Invocation
- 4.) Pledge of Allegiance
- 5.) Open Forum-

Maximum length of time of forum is forty-five minutes with individual presentations limited to a maximum of five minutes. The City Commission can take no formal action on any city related matter discussed during the open forum. Persons who wish to participate in this portion of the meeting shall sign up as they arrive, indicating the topic about which they wish to speak. No one will be able to sign up **AFTER 5:50 PM**. The information required for signing up must be completed by that time. No public comments will be allowed during any agenda item unless recognized by the Mayor or if the item requires a public hearing. State your name and address before beginning your presentation.

There can be no comments about specific employees. By Charter, the City Manager is exclusively given authority over personnel matters, including complaints against city personnel. All complaints against city personnel will be addressed pursuant to Mercedes Personnel Policies. Comments must not be repeated and the Commission is not required to answer any question from the public. Any person who decides to directly question any member of the City Commission will be asked to discontinue their comments. The City Secretary's office representative will be responsible for notifying each presenter that their five-minute time limit has expired.

6.) Presentations:

- A.) Proclamation Presentation
- B.) Workforce Solutions Presentation

7.) **Consent Agenda:** *(All matters listed under Consent Agenda are considered to be routine by the Governing Body and will be enacted by one motion. There will be no separate discussion of these items; however, if discussion is desired, that item(s) will be removed from the Consent Agenda and will be considered separately.)*

- A.) Approval of Minutes February 23, 2021 and March 2, 6, 2021
- B.) An Ordinance to Rezone Lots 1 & 42, Blk 1, and Lots 1 & 14, Blk 3, Mercedes Estates, from Class “N” Newly Annexed to Class “C-1” Apartment District.
- C.) An Ordinance to Rezone Capisallo .23 AC-3.04 AC Lot 8 Blk 66 A/K/A Lots 16 & 17 Greentree Subd. From Class “N” Newly Annexed to Class “B” Business District
- D.) Approval of Resolution 2021-06 Accepting Local Border Security Program #4259701
- E.) Discussion and Possible Action to Approve Resolution # 2021-07 to accept subaward grant application from the Bureau of Justice Assistance (BJA), Office of Justice Programs, U.S. Department of Justice and designating the City Manager as authorized Official for grant.

8.) City Manager Comments

9.) Bids/Contracts:

- A.) Consideration and Possible action regarding a Resolution and a contingent fee agreement with the firm of Troiani and Sossi PLLC. Please see notice pursuant to Texas Government Code 2254.1036 attached hereto.
- B.) Consideration and Approval of Interlocal Cooperation Agreement Providing For Participation in a Regional Watershed Flood Protection Planning Study

- C.) Consideration and Possible Action to renew the contract with Langley and Banack, Inc. (Legal Services in connection with the Weslaco-Mercedes ETJ, Annexations & Utility System Boundaries Issues)
- D.) Consideration and Possible Action Regarding Employment of City Manager
- E.) Consideration and Possible Action Regarding Interim City Manager's Contract
- F.) Consideration and Possible Action to Approve Contract with Grantscribe, LLC for Grant Consulting Services and to Extend RFP for Grant Writing and Related Consulting Services.
- G.) Consideration and Possible Action Regarding IT support services contract

10.) Projects:

- A.) Discussion regarding 'Go Green' Mercedes project.

11.) Management Item(s):

- A.) Discussion and Possible Action regarding the request to waive the fee to reapply for a rezone for Lot 1, Block 104, South Campacuas Addition.
- B.) Discussion and Action to Appoint or Re-appoint 2 Seats on the Planning and Zoning Commission; and 1 Alternate to the Zoning Board of Adjustments.
- C.) Monthly Department Reports

12.) Future Agenda Items

13.) Executive Session: Chapter 551, Texas Government Code, Section 551.071 (Consultation with Attorney), Section 551.072 (Deliberation regarding Real Property), Section 551.074 (Personnel Matters) and Section 551.087 (Economic Development)

- A.) Consultation with City Attorney regarding legal aspects of Eastment Dedication Agreement (T.G.C. 551.071)
- B.) Consultation with City Attorney regarding legal aspects of Governor's Emergency Order (T.G.C. 551.071)
- C.) Deliberation pursuant to Texas Government Code 551.074 Regarding the appointment, duties and evaluation of a public officer, specifically the City Manager appointment of the Police Chief. (Gomez & Benavidez)

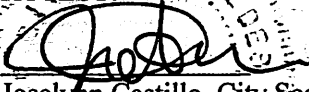
14.) Discussion and Possible Action on Executive Session Items A, B and C

15.) Adjournment

Notice is hereby given that the City Commissioners of the City of Mercedes, Texas will meet in a **Regular Meeting** on Tuesday, March 16, 2021 at 6:00 P.M. Said meeting will be conducted in the Commission Chambers of the City Hall located at 400 S. Ohio, Mercedes, Texas for the purpose of considering and taking formal action regarding the items listed above. This notice is given in accordance with Vernon's Texas Codes Annotated, Texas Government Code, Section 551.001 et. Seq.

WITNESS MY HAND AND SEAL OF THE CITY THIS THE 12TH DAY OF MARCH, 2021.

ATTEST:


 Joselynn Castillo, City Secretary
 Time of Posting: 5:45 P.M.

ACCESSIBILITY STATEMENT

The City of Mercedes recognizes its obligations under the Americans with Disabilities Act of 1990 to provide equal access to individuals with disabilities. Please contact the City Manager's Office at (956) 565-3114 at least 48 hours in advance of the meeting with requests for reasonable accommodations, including requests for a sign language interpreter.

**NOTICE OF INTENT TO ENTER INTO
CONTINGENT FEE AGREEMENT**

The City of Mercedes hereby provides notice pursuant to Texas Government Code § 2254.1036 of its notice to deliberate and possibly act to enter into a contingent fee agreement with the firm of Troiani and Sossi PLLC in regard to the following;

A) The legal matters:

- 1) Cause No. C-5044-19-C; 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*
- 2) 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*
- 3) Cause No. C-1274-20-B; City of Mercedes v. Roland Arriola, Texas Valley Communities Foundation d/b/a Texas Polytechnic Institute, Texas Valley Communities Foundation, Texas Polytechnic Institute, Troy Investment Company No. 41, and Juan Molina; In the 93rd Judicial District Court of Hidalgo County, Texas*

B) The reasons for pursuing the matter that is the subject of the legal services for which the attorney or law firm would be retained and the desired outcome of pursuing the matter;

The litigation involves three separate contracts and real estate transactions in which the City contends it is owed money and or seeks to recover property from the named Defendants. The desired outcome is a return of the following

property and or the recovery of contract damages to the City on the following matters:

- 1) The recovery of possible contract damages and the return of 17.388 acres to the City of Mercedes in Cause No. *C-5044-19-C*;
- 2) The recovery of possible contract damages and the return of 6 acres to the City of Mercedes in Cause No. *Cause No. C-1564-20-J*; and
- 3) The recovery of possible contract damages and the return of 12.07 acres to the City of Mercedes in Cause No. *Cause No. C-1274-20-B*.

C) The competence, qualifications, and experience demonstrated by the attorney or law firm selected under Section 2254.1032;

The firm of Troiani and Sossi PLLC was previously selected as a qualified firm to represent the City of Mercedes in the capacity of City Attorney and has demonstrated competence in this position for the past two years. The Firm has represented the City as lead counsel in the subject litigation and has a proven track record, having already recovered the sum of \$136,837.00 from one of these Defendants in two other separate matters.

The firm's principles have both been licensed attorneys in the State of Texas for a total of 55 years and have a long history of representing governmental entities. Lawyers for the Firm presently serve as city attorney for the City of San Benito and Civil Service Attorney for the City of Mission. Mr. Sossi previously served as City Attorney for the City of Brownsville for over a decade. Previous clients of firm lawyers have included the Texas Municipal League, the City of Brownsville, the City of South Padre Island, and both Cameron and Hidalgo Counties. Both Mr. Troiani and Mr.

Sossi have extensive litigation experience and have served as prosecuting attorneys for the Cameron County DA's office and the Harris County DA's Office respectively.

Troiani and Sossi PLLC is presently counsel of record in the above-described litigation and have significant knowledge regarding the underlying facts of the cases.

D) The nature of any relationship, including the beginning of the relationship, between the political subdivision or governing body and the attorney or law firm selected under Section 2254.1032;

The firm of Troiani and Sossi PLLC has an existing professional relationship with the City of Mercedes, having served as City Attorney of the City of Mercedes since 2019. Troiani and Sossi PLLC are the present attorneys of record on each of the three litigation matters in question but have been compensated at an agreed hourly rate since the cases have been filed. No attorney for the Firm has any personal relationship with any elected or appointed official of the City

E.) the reasons the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision.

The City does not employ an in-house legal department and does not have the professional and support staff to handle the litigation in house.

F) the reasons the legal services cannot be reasonably obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and

The litigation is presently being handled by Troiani and Sossi *PLLC* who also presently serve as the City Attorneys for the City of Mercedes. However, the cost to the City of litigating these cases on an hourly basis is significant, cost prohibitive, and the City cannot continue to afford the costs associated with the prosecution of these cases. The City wishes to eliminate the up-front costs and reduce the risks associated with bringing the litigation.

The Firm has agreed to handle the matter in the future on a contingent fee basis, pursuant to the Texas Government Code chapter 2254 *et seq.* thereby eliminating the city's up-front costs and expenses.

(G) The reasons entering into a contingent fee contract for legal services is in the best interest of the residents of the political subdivision;

The City considers it to be in the best interests of the City to enter a contingent fee contracts set forth herein for the following reasons:

- (1) Eliminate Up Front Legal Costs:** The up-front costs of litigating all three cases is expensive and exceeds the legal budget of the City. Executing a contingent fee agreement means that the City of Mercedes will not incur additional legal fees or legal expenses in bringing this litigation unless there is recovery for the City. The City believes this to be in the best interest of the City and the taxpaying public.

- (2) **Eliminate Risk of litigation to the City** Under a contingent fee agreement, the City would not owe any additional attorney fees or expenses for developing the litigation. The City would have no liability for bringing the litigation unless it is resolved in the City's favor.
- (3) **Possible Reduction in Legal Fees in bringing the cases**

Under the contract being proposed, the maximum legal fee which would be paid under the contingent fee agreement would be 35% but could be significantly lower, depending on the number of additional hours worked on the case. The City would receive credit for hours previously worked and billed for by the firm as they would be excluded from the hourly fee calculation.