

**MERCEDES CITY COMMISSION
REGULAR MEETING
JULY 6, 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 (Webex)
	Jose M. Gomez	Commissioner

STAFF PRESENT:	Alberto Perez	City Manager
	Anthony Troiani	City Attorney (Webex)
	Joselynn Castillo	City Secretary (Webex)
	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
	Jose Macias	Chief of Police
	Javier Campos	Fire Chief

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

- Ms. Velda Garcia spoke about the rain and flooding that occurred on this day. She stated her sister lives on Georgia and the water was going into her home when vehicles drive by. She added that the brush was not picked up in 2 months. Ms. Garcia also expressed concern regarding some terroristic threats she has been receiving. She said that she spoke to the officer, and he stated it was a misdemeanor and would like help.
- Mr. Jose Martinez addressed the Citizens of Mercedes that the Commission is dedicated to this community. He stated that they have inherited the issues but are working on improving the drainage system and the City.

6.) ITEMS ON THE REGULAR AGENDA

No citizen signed up to speak about an agenda item.

7.) PRESENTATIONS

A.) UPDATE AND PRESENTATION BY WASTE CONNECTIONS

Ms. Yomeida Trevino and Mr. Jason Rowe addressed the Commission on the brush pick-up efforts. Ms. Trevino stated that from March to July they have done 3 full cycles, they have been using 2 to 3 brush trucks daily, they started section 1 this week and scheduled to complete section 1 at the end of this week. Items not picked up are construction debris or if the brush is next to any water pipes or electrical lines. In June they completed 128 hauls 569 tons of brush which is more than double the regular month. At a question, Ms. Trevino stated that they do provide a list to the utilities department of the areas that the brush isn't picked up

and the reason behind it not being picked up. Mr. Perez stated he is working with staff to notify the customer why the brush was not picked-up. Mayor Pro-Tem Martinez stated that on Washington St. brush has not been picked up. Commissioner Howell asked about tracking with GPS to see if they went by the area to pick up the brush and he spoke about citizens being charged for the services and discussed looking at additional services to help pick up the brush. Ms. Trevino stated that they have sent more staff out to pick up the brush and are picking up more than the contract states. Mayor Montoya stated that the City needs to advise the citizens to educate them of the routes and sections. Ms. Trevino stated that they do pick up bulky items but do not pick up construction material. There was discussion regarding the size of 3 cubic feet, have KMB assist in moving items to one area for waste connections, disposing of brush, a city wide clean up, and the process for citizens to get contract services if outside city limits. Commissioner Benavidez asked for pricing for additional services or more staff. Ms. Trevino added that due to flooding some areas could not be serviced.

B.) PRESENTATION ON STREETS UPDATE BY PUBLIC WORKS

Mr. Joaquin Hernandez addressed the Commission regarding the pothole patching and the streets. Mr. Hernandez provided a handout with the lists of streets and material to repair. 320 tons of coal mix is needed at approximately \$27,000. Only \$37,000 was budgeted for potholes. The pothole patcher should be received this month. Mr. Perez stated they need to do repairs or replacement of water or sewer lines before doing an overlay on a street. Mr. Hernandez stated they created a list of streets that need repair. Commissioner Howell stated that the streets and infrastructure is a concern of the City and would like to get the issues fixed. At a question, Mr. Hernandez stated that there are 10 streets that are priority and may cost around \$4 mil for overlay only not including infrastructure.

8.) CONSENT AGENDA

A.) APPROVAL OF MEETING MINUTES FOR MAY 18, 24 AND JUNE 1, 2021.

B.) SECOND AND FINAL READING OF ORDINANCE NO. 2021-05 TO REZONE LOTS 22-31 & 36-52 FROM CLASS “N” NEWLY ANNEXED TO CLASS “C” APARTMENT DISTRICT; MIRA VISTA PHASE II.

C.) SECOND AND FINAL READING OF ORDINANCE NO. 2021-06 TO CONVEY CITY-OWNED PROPERTIES, BEING LOT 19, BLOCK 70, MERCEDES ORIGINAL TOWNSITE TO PURCHASER FOR VALUE VIA SEALED BIDS.

Commissioner Benavidez made a motion to approve the minutes. Mayor Pro-Tem Martinez seconded the motion. City Attorney Troiani had a correction on May 18 minutes item 14. He stated it should be 13A not 15A for the DCM item and recommends the City Secretary to listen to the audio because the items had to do with Travelodge. Commissioner Benavidez rescinded his motion to approve with City Attorney’s recommendation. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

Mr. Perez recognized Police Chief Macias on his retirement. Chief Macias stated he had decided he wanted to retire at a certain age, and he has met that and wished the Commission the best. The Commission thanked the Chief for all this work.

9.) CITY MANAGER COMMENTS

1.) WASTEWATER PERMIT 2.) UPDATE ON COLLIER PARK 3.) UPDATE ON MEETING WITH IBWC 4.) FOOD DISTRIBUTION EVENT

- 1.) Mr. Perez stated that the City is operating without a wastewater permit and Mr. Perez would like to correct the issue as soon as possible. The City has reached out to TCEQ on the issue and the process should be done to correct it. Mr. Hernandez stated that the NORI notice needs to be posted.
- 2.) Mr. Perez introduced Mr. Isaac Huacuja from SWG. Mr. Huacuja presented a power point on the Collier Park retention ponds. The ponds are important for the drainage of the city. Pond B is closed to completion, Pond C is close to completion, Pond D needs groundbreaking and

Pond A will continue after Pond B is complete. There are 180 homes served by this drainage system with a population of 3,300 people. Mr. Huacuja explained the flow of the drainage system. Pond A holds 4.5 Acres of water, Pond B holds 1.3 Acres, Pond C hold 1.2 Acres, and Pond D holds 1.1 Acres feet of water. The ponds are shallow because there are kids that go to the park. Altogether, they are about 31% complete. Mr. Huacuja stated that once the ponds are complete, they will help mitigate the flooding substantially. The ponds will affect the southwestern area of Mercedes to store the water in the area and help evacuate the water. Mayor Montoya stated that they measured about 8 inches of rain in 2 and a half hours. He added that the water receded in 2 hours which is an improvement from previous years. At a question, Mr. Huacuja stated that short term solutions have been decided by the Commission which was purchasing pumps to alleviate the problem. There was discussion on improvement plans for drainage and maintenance. Mr. Hernandez stated that the portable pumps should be arriving soon. Precinct 1 has helped the city with pumps until. Mr. Hernandez stated that the gates were open and with the pumps water can be sent to the arroyo Colorado. The city has one generator. Mr. Perez stated that several inlets have been cleared up and a routine has been put in place to identify areas needing cleaning. Commissioner Benavidez stated that communication has improved with other agencies and needs to improve on the drainage. He asked about the FedEx retention pond. Mr. Hernandez stated that the FedEx project is on hold due to the Collier Park area being priority. Mr. Hernandez stated the city will be distributing sandbags. Mr. Huacuja stated that phase 2 of the project is the rehabilitation. Mayor Montoya asked about the potential pond by the dome area. Mr. Huacuja stated that there are culverts that can be used, and the pond can alleviate the flooding in the area. Commissioner Benavidez would like to get the pricing for the retention pond and look at all the costs to move forward. Mayor Montoya asked to get the information on which proposed ponds will affect what areas including first street, and dome area. Mr. Huacuja stated that the ponds can work in a domino effect for moving the water out. SWG is looking at the drainage system and explained the water flow for the city.

- 3.) Mr. Perez stated that Mr. Huacjua and he went to meet with IBWC. Mr. Huacja stated that they discussed the issues in the City. The pump at collier park, there is a ditch that has a culvert. Mr. Perez stated that opening the gate does not necessarily mean it helping the city. He added that all the water upstream from other cities flow towards Mercedes and if the gates are open the water can flow into Mercedes. IBWC gave the city discretionary authority over the flood gates. Mayor Montoya would like the city to be at a point where the water flows while its raining. Commissioner Howell asked if the city could create a lake. Mr. Huacuja stated that the ponds have a capacity and having a lake may be more costly with having to remove any pipes in place. He added that he recommends keeping the pipes in place and adding capacity in areas in the form of a detention pond.
- 4.) Mr. Perez stated that the city will be hosting another food distribution on July 9, 2021.

10.) ORDINANCES AND RESOLUTIONS

A.) APPROVAL OF FIRST READING OF ORDINANCE NO. 2021-07 TO CONVEY CITY-OWNED PROPERTIES, BEING LOT 20, BLOCK 70, MERCEDES ORIGINAL TOWNSITE TO PURCHASERS FOR VALUE VIA SEALED BIDS.

Mr. Toiani informed the Commission that the Ordinance is to formalize the sale of Lot 20, Block 70 which was previously approved by commission. Commissioner Benavidez made a motion to approve ordinance 2021-07. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

B.) DISCUSSION AND POSSIBLE ACTION ON FIRST READING OF ORDINANCE NO 2021-08 TO REZONE LOT 1, BLOCK 104 SOUTH CAMPACUAS ADDITION FROM CLASS "N" NEWLY ANNEXED TO CLASS "C" APARTMENT

Mr. Hernandez informed the Commission that the Planning and Zoning Board approved the rezone and is located by Mile 1 West. Commissioner Benavidez made a motion to approve

ordinance 2021-08. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously.

C.) DISCUSSION AND POSSIBLE ACTION ON FIRST READING OF ORDINANCE NO 2021-09 AMENDING ORDINANCE # 26 TO ESTABLISH REALISTIC BUILDING SETBACK PARAMETERS FOR OPEN CARPORT STRUCTURES.

Mr. Hernandez addressed the Commission about amending ordinance no. 26 regarding building setbacks. Currently the city has setbacks that are unrealistic for smaller lots and would need to apply for a variance. This will amend the front yard setback for open structure carports. Mayor Pro-Tem Martinez made a motion to approve ordinance no. 2021-09. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously.

D.) CONSIDERATION AND APPROVAL OF A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUND RELATING TO CONSTRUCTING VARIOUS CITY IMPROVEMENTS FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY THE CITY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE AND ANY OTHER MATTERS RELATED THERETO.

Mr. Perez addressed the Commission about a resolution for the city to reimburse itself with the Certificates of Obligation. Commissioner Benavidez made a motion to approve the resolution. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

E.) CONSIDERATION AND APPROVAL OF A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF MERCEDES, TEXAS AUTHORIZING AND APPROVING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; COMPLYING WITH THE REQUIREMENTS CONTAINED IN SECURITIES AND EXCHANGE COMMISSION RULE 15C-12; AND PROVIDING AN EFFECTIVE DATE AND ANY OTHER MATTERS RELATED THERETO.

Mr. Perez informed the Commission that this item is the notice of intention for the use of the CO's. The Commission decided to table this for after executive session.

11.)MANAGEMENT ITEM(S)

A.) DISCUSSION AND POSSIBLE ACTION TO DESIGNATE THE COUNTY TO TAKE THE LEAD IN MANAGING MILE 1 EAST EXPANSION PROJECT

Mr. Perez stated there is a project since 2011 that the city has not moved on. There is 1 year left to complete the project. This project requires cooperation from several entities and has strict requirements from TxDOT. Mr. Perez recommends considering designate the County to take the lead on the Mile 1 E. project. Mr. Perez stated that the County has more experience on working with projects with TxDOT requirements. Commissioner Benavidez stated that the city needs to be informed of the project decisions. Mayor Pro-Tem Martinez made a motion to approve item 11A. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed. Commissioner Gomez voted against. Commissioner Benavidez stated that any bids will still go to the commission.

B.) DISCUSSION AND POSSIBLE ACTION ON APPOINTING AN ASSISTANT CITY MANAGER AS PER CITY CHARTER SECTION 3.04

Commissioner Gomez clarified that its section 3.03. Mr. Troiani read section 3.03 of the Charter regarding an acting City Manager. Mr. Troiani stated that the Commission can instruct a City Manager to designate an acting City Manager and can amend it to 3.03. The Charter stated that the City Manager has the authority to designate an acting City Manager during a time of leave of absence or disability and not while he is out of town for a meeting.

There was discussion on when to appoint an acting city manager and notifying the Commission. Commissioner Benavidez stated that it would be for a plan of action for emergencies to have an acting city manager if he is not available. Mr. Troiani stated this is an organizational structure and the City Manager can appoint someone already in place. No action was taken.

C.) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE CITY MANAGER TO FORMULATE A PLAN OF ACTION FOR THE DISPOSAL OF EXCESS DIRT.

Mr. Perez stated that the dirt will be repurposed for other projects. There was some dirt that was approved to be disposed of with a prior resolution. Commissioner Benavidez stated he would like to formalize a process for disposing of excess dirt and having something in place for any future excess dirt. Commissioner Benavidez made a motion to create a resolution for the disposition of excess dirt. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote the motion passed unanimously.

D.) DISCUSSION AND POSSIBLE ACTION ON THE APPOINTMENT OF MEMBER TO THE DCM COMMITTEE

Mayor Pro-Tem Martinez made a motion to appoint Mr. Marcos J. Garcia to the DCM Board. He stated he is an attorney and would be a great asset to the board. At a question, Mayor Pro-Tem Martinez stated there are plenty of experience applicants but wants to give someone new an opportunity. Having diversity is good to have on a board. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously. Commissioner Benavidez stated that Mr. Garcia should stay focused and do what is best for the community.

E.) DISCUSSION AND POSSIBLE ACTION TO ALLOW THE CITY TO UTILIZE OXY-CLEAR TO REMOVE SEWER ODORS.

Mr. Hernandez stated that the sanitary sewer lift station has an odor. This company offered a demonstration of a natural product that consists of healthy bacteria to kill the bad bacteria. Commissioner Gomez asked if they are certified and licensed to provide this product. Mr. Hernandez stated that it is a natural product so the amount used should not affect the quality of the water in the sanitary sewer lift station. Currently there is no effort to reduce odors. The Company will be demonstrating the product. Mayor Pro-Tem Martinez made a motion to approve. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed. Commissioner Gomez voted against because the company is not on buyboard and should go out for bids. Mayor Montoya clarified that this will be a demonstration only and is at no charge to the city. Commissioner Howell stated the city needs to look at other measures to improve the water and sewer.

F.) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE CITY MANAGER TO ISSUE A NOTICE OF AUDIT WITH TCEQ

Mr. Perez addressed the Commission that his trip to Austin was to self-report several violations with TCEQ. He would like to be authorized to do a self-audit and contract someone to conduct the audit to identify any issues that are TCEQ violations. He added that while on the self-audit, TCEQ cannot come by and inspect, and the city would be self-reporting and have a plan of action. Mayor Pro-Tem Martinez made a motion to approve. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously.

G.) DISCUSSION AND POSSIBLE ACTION ON PUBLIC WORKS DEPARTMENTAL STRUCTURE AND RESOURCES TO SERVICE ALL THE AREAS OF THE CITY LIMITS OF MERCEDES.

Commissioner Benavidez wants staff to investigate the annexed areas in the city that need city services or have infrastructure needs. Mr. Hernandez stated the main one is Capisallo Terrace. Commissioner Benavidez would like the vector truck schedule and split the area in sectors. Mr. Perez stated he is working on maximizing resources and starting a ticket process

and communication. Commissioner Benavidez would like an emergency plan in place for public works on where the employee will report to. No action was taken on this item.

12.)BIDS/CONTRACTS

A.) APPROVAL OF CHANGES TO THE CONTINGENCY FEE AGREEMENT WITH TROIANI & SOSSI, PLLC, AS REQUIRED BY THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS AND AUTHORIZE THE MAYOR TO SIGN THE AMENDED CONTRACT.

Mr. Troiani stated that the Attorney General's office would like to add some language to the contract. The language added is highlighted and the city does not need to start the process again. Commissioner Benavidez made a motion to approve. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

13.)FUTURE AGENDA ITEMS

Mayor Pro-Tem Martinez would like the Staff to have a code enforcement plan.

Mayor Montoya called the meeting into executive session at 9:01 P.M.

14.)EXECUTIVE SESSION

- A.) CONSULTATION WITH LEGAL PURSUANT TO TEXAS GOVERNMENT CODE 551.071 TO RECEIVE PRIVILEGED ATTORNEY CLIENT COMMUNICATION**
- B.) CONSULTATION REGARDING EMS – TEXAS GOVERNMENT CODE 551.074 PERSONNEL MATTERS**
- C.) DISCUSSION ON THE DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER – SECTION 551.074 PERSONNEL MATTERS**
- D.) DISCUSSION REGARDING PROJECT REYBEC – ECONOMIC DEVELOPMENT 551.087& POTENTIAL LITIGATION 551.071**

Mayor Montoya called the meeting back to order at 12:08 AM on July 7, 2021.

10E.) Mayor Pro-Tem Martinez made a motion to approve. Commissioner Benavidez asked if he could include receiving the details by the end of the week. Mayor Pro-Tem Martinez rescinded his motion to include receiving details by the end of the week. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed. 4 to 1 Commissioner Gomez voted against.

15.)OPEN SESSION

A.) DISCUSSION AND POSSIBLE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION ITEMS A, B, C, AND D.

14A) No action

14B) Commissioner Benavidez made a motion to approve the discussion had including policy and procedure and itemized reports by EMS in conjunction with finance department. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

14C) No Action

B.) DISCUSSION AND POSSIBLE ACTION TO PROVIDE NOTICE OF TERMINATION OF CONTRACT FOR MUNICIPAL FINANCIAL ADVISOR SERVICES.

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

C.) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE CITY MANAGER TO ISSUE RFP/RFQ'S FOR FINANCIAL ADVISOR SERVICES.

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

16.)ADJOURNMENT

Commissioner Benavidez motion to adjourn. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously. The meeting adjourned at 12:14 P.M.