

**MERCEDES CITY COMMISSION  
REGULR MEETING  
SEPTEMBER 19, 2017 – 6:00 P.M.  
MERCEDES CITY HALL - COMMISSION CHAMBERS**

<b>MEMBERS PRESENT:</b>	Henry Hinojosa	Mayor
	Ruben Guajardo	Mayor Pro-Tem
	Howard Wade	Commissioner
	Leo Villarreal	Commissioner
	Cris De Leon Hernandez	Commissioner
	Daniel Tijerina	City Manager
	Arcelia L. Felix	City Secretary
Juan R. Molina	City Attorney	

**MEMBERS ABSENT:** NONE

**Staff:** Marisol Vidales, Nereida Perez, David Lopez, Sergio Zavala, Joselynn Castillo and Melissa Ramirez from EDC.

**1.) CALL MEETING TO ORDER.**

Mayor Hinojosa welcomed everyone to the meeting and called the meeting to order at 6:00 p.m.

**2.) ESTABLISH QUORUM.**

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

**3.) INVOCATION.**

Reverend Juan de los Santos said the invocation.

**4.) PLEDGE OF ALLEGIANCE.**

Commissioner Villarreal led in the Pledge of Allegiance.

**5.) OPEN FORUM-**

- Vernon Hoover addressed the Commission about continuing Little Nashville as it could bring in potential citizens and businesses.
- Joe Perez expressed his concern to the Commission regarding his business which has been broken into several times.
- Daniel Martinez addressed the Commission regarding his been opposed on the un-appointment of the City Manager.
- Esmeralda Guerrero addressed the Commission stating they should run backgrounds on the DCM board members prior to their appointment and her opposition of the un-appointment of the City Manager.
- Miguel Loya voiced his opposition of the un-appointment of the City Manager.
- Petra Vidales expressed her concern to the Commission opposing the up-appointment of the City Manager and the opposition of SB4.
- Albert Cano declined to speak after being called.
- David Garza voiced his concern to the Commission on the opposition of SB4.
- Lucy Delgado addressed the Commission about the audit on the finance department and her opposition on the un-appointment of the City Manager.
- Jose Gomez addressed the Commission regarding Notes 1 and 2 and his support for the City Manager.
- Lionel Benavidez addressed the Commission about several DCM members, non-City entities electrical being paid for and misinformation.

**6.) CONSENT AGENDA (ORDINANCE NO. 98-21):**

**A.) APPROVAL OF MINUTES FOR CITY COMMISSION MEETING (S) HELD SEPTEMBER 5, AND SEPTEMBER 12, 2017. B.) SECOND AND FINAL READING OF ORDINANCE NO. 2017-13 ADOPTING THE BUDGET FOR FISCAL YEAR 2017-2017. (the budget includes the Development Corporation of Mercedes, Inc. budget) C.) SECOND AND FINAL READING OF ORDINANCE NO. 2017-14 ADOPTING THE 2017 TAX RATE. D.) APPROVAL OF INTERLOCAL AGREEMENT WITH COUNTY OF HIDALGO FOR TAX ASSESSMENT AND COLLECTION. (#2017/09/19). E.) CONTRACT RENEWALS: 1.) JUAN R. ALVAREZ (MUNICIPAL COURT JUDGE); 2.) PURDUE, BRANDON, FIELDER & MOTT, LLP (DLQT. AND FEES); 3.) MCAFEE INSURANCE (GOVERNMENT CRIME INSURANCE); 4.) JUAN R. MOLINA (CITY ATTORNEY); 5.) TML-IRP (LIABILITY/E&O/PHYSICAL, PROPERTY/ MOBILE/FLOOD); 6.) RBC-DAIN RAUSCHER, INC. (FINANCIAL ADVISORS); 7.) TEXAS NATIONAL BANK (DEPOSITORY BANK SERVICES); 8.) WESLACO, CITY OF (ANIMAL IMPOUNDMENT FEE). F.)APPROVAL TO RESCHEDULE REGULAR MEETING OF**

**OCTOBER 3<sup>RD</sup> TO OCTOBER 2<sup>ND</sup>. G.) APPROVAL OF RESOLUTION IN OPPOSITION OF SB4 REGARDING SANCTUARY CITIES. H.) APPROVAL OF RESOLUTION IN OPPOSITION OF BORDER WALL.**

Sergio Trevino, a representative from LUPE, was present to address the Commission about SB4 and Border Wall. At a question, Mr. Trevino informed the Commission about the Cities that have approved SB4 and the Border Wall. Commissioner Wade made a motion to approve items A-D and approve item F and vote for items E, G, and H individually. The motion died for lack of a second. Mayor Pro-Tem Guajardo made a motion to approve items A-F and vote on items G and H individually. Commissioner Villarreal seconded the motion which passed with Commissioner Wade voting nay. Mayor Pro-Tem Guajardo made a motion to approve items G and H as written. Mayor Hinojosa seconded the motion which passed with Commissioner Hernandez voting nay.

**7.) DISCUSSION AND POSSIBLE ACTION ON REMOVAL OF DCM (DEVELOPMENT CORPORATION OF MERCEDES, INC.) BOARD MEMBERS AND APPOINTMENT OF BOARD MEMBERS.**

Commissioner Villarreal made a motion to remove current members Fernando Dominguez, Rafael Lorenzana, and Joel Quintanilla and appoint Tony Garza, Rogelio Ortega, and Joe Flores Jr. Commissioner Hernandez seconded the motion. Commissioner Wade stated that he would like to see the board members complete their term. The motion passed with Commissioner Wade voting nay.

**8.) REQUEST FOR DIRECTION ON CONTINUED BASEBALL LEAGUE PLAY (RENEWAL OF CONTRACTS) ON CITY'S BASEBALL FIELDS.**

Mr. Zavala addressed the Commission about the baseball fields and proposed an interim plan to allow the children of Mercedes to use the fields. Mr. Zavala went over some of the changes, which included changing the locks and keeping the keys with city personnel, some revisions to the contract and allowing the fields to close for healing and irrigation when needed. Mayor Hinojosa made a motion to approve the proposed plan. Commissioner Wade seconded the motion which passed unanimously.

**9.) REQUEST FOR DIRECTION ON OUTDOOR SALES PERMITS.**

Mr. Zavala addressed the Commission about the Outdoor sales permits. Mr. Zavala recommends amending the Outdoor Sales Ordinance and to correct the Ordinance which will allow the regulation of the sales. At a question, he said that this permit does not include garage sales. Mayor Pro-Tem Guajardo made a motion to enforce the Outdoor Sales Permit as written. Commissioner Villarreal seconded the motion which passed unanimously.

**10.) DISCUSSION AND POSSIBLE ACTION TO APPROVE SWIMMING POOL POLICIES AND RATES OF USAGE.**

Mr. Zavala addressed the Commission to consider formally approving the Pool Policies with adjusted fees for maintenance. Mr. Zavala stated some of the changes which include an increase in fees. Commissioner Wade made a motion to approve the swimming pool policies and rates of usage. At a question, Mr. Zavala stated the Commission can decide when the Policies will take effect. Commissioner Wade amended his motion to include the effective date to be January 1, 2018. Mayor- Pro Tem seconded the motion which passed unanimously.

**11.) DISCUSSION AND POSSIBLE ACTION TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH TEXAS GAS SERVICE DUE TO CITY'S WIDENING AND UTILITY IMPROVEMENTS FOR THE INDUSTRIAL PARK IMPROVEMENTS.**

Mr. Zavala informed the Commission that Texas Gas Service will allow the encroachment. Mr. Zavala stated that the agreement included a provision that says the City will have to pay the Texas Gas service a fee for the encroachment, however after speaking with a representative from Texas Gas Service, it was agreed that the City will not be paying a fee. Commissioner Wade made a motion to approve entering into an encroachment agreement with Texas Gas Service as presented.. Commissioner Villarreal seconded the motion which passed unanimously.

**12.) DISCUSSION AND POSSIBLE ACTION OF NOMINATION TO HIDALGO COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS.**

City Manager Tijerina informed the Commission regarding a letter the City received for nominations to the Hidalgo County Appraisal District Board of Directors. Commissioners Hernandez and Villarreal as well as Mayor Pro-Tem Guajardo and Mayor Hinojosa appointed David Garza and Commissioner Wade nominated David Hernandez. Mayor Hinojosa had originally appointed Esmeralda Guerrero, however she declined the appointment Mayor Pro- Tem Guajardo made a motion to appoint David Garza and David Hernandez to the Hidalgo County Appraisal District Board of Directors. Commissioner Villarreal seconded the motion which passed unanimously. City Attorney stated that they were nominations and not appointments.

**13.) DISCUSSION AND POSSIBLE ACTION OF LINE ITEM BUDGET AMENDMENT FROM PLANNING DEPT TO PURCHASE BACKHOE.**

Mr. Tijerina addressed the Commission that after searching for a backhoe that will fit the City's needs;

the price will need to increase. Mayor Pro-Tem Guajardo made a motion to amend and increase the budget from \$19,000 to \$24,000 for the purchase of a backhoe. Commissioner Villarreal seconded the motion which passed the unanimously.

#### **14.) PRESENTATION OF DEPARTMENT MONTHLY REPORTS.**

The monthly reports were included for the Commission to review.

Mayor Hinojosa made a motion to move to item 17. Mayor Pro-Tem Guajardo seconded the motion which passed unanimously.

#### **17.) DISCUSSION AND POSSIBLE ACTION TO UNAPPOINT CITY MANAGER – SECTION 3.01 CITY CHARTER.**

Mayor Pro-Tem Guajardo stated that the City Manager is an appointed position and is at the will of the City Commission. At this time Mayor Hinojosa allowed City Manager Tijerina to read the following letter:

*September 19, 2017*

*To the City Commission and City Attorney:*

*I am concerned about item number 17 (Discussion and possible action to unappoint City Manager) on the City Commission Agenda for the September 19, 2017 meeting.*

*When I joined the City of Mercedes as Assistant City Manager, I left behind a position as Planning Director in the City of Mission. It was a personal and professional risk and sacrifice that I accepted in large part because I felt welcomed by the City of Mercedes and its residents. You inspired in me, and I in you, the confidence that one expects from our municipal leaders. But that trust has been shaken, and now, my livelihood appears to be in jeopardy simply. It seems there is now an improper and potentially retaliatory effort to "unappoint" me from my current position.*

*On March 30, 2017, I was appointed Interim City Manager as per the facts that we are all aware of. As the Assistant City Manager, the Interim City Manager duties, in addition to my own, immediately fell upon my shoulders. And it was a task that, as the Mayor recognized in my evaluation, I took on "remarkably without hesitation." As a result of my performance and dedication, after assuming the appointment to the Interim City Manager position, I gained your confidence and trust. My evaluation even noted that the quality of my work was "impressive" and that I was well-respected by both the City staff and Commission.*

*You each welcomed me with open arms at the City Commission meeting where my appointment was voted on and made official July 18, 2017. And you did so again when the City offered congratulations at a community social held at the Chamber of Commerce on August 17, 2017. Friends, family, and engaged and happy community members attended both events in support of your decision that I should manage the daily affairs of the City of Mercedes. You even spoke publicly about our partnership and the good work we have already done.*

*In response to the unexpected and shocking agenda item concerning my employment, I have considered my potential legal remedies including injunctions, litigation, and discovery depositions. Ultimately, I decided against those remedies at this time. Instead, I would like an opportunity to work with you and resolve this dispute in an amicable manner.*

*If I am released from employment, I will be out of a job and income, and my reputation will suffer irreparable harm. The damage will be done and this dispute will become very public, unpleasant for ail involved, and no doubt expensive.*

*Instead of going down that road, I propose that I be given an opportunity to continue my work for the City of Mercedes through the end of my six month probationary term, set to expire in 2018.1 would stay in my current position with no adjustment to my salary or benefits.*

*If you disagree with this approach, then, as part of a written severance agreement, you may pay me one year's salary and allow me to keep my health and other insurance benefits for a period of one year, and agree to a mutually binding clause that neither party shall disparage the other in public or as a reference when contacted by future employment prospects.*

*I look forward to discussing these or other options with you, and to reaching an agreement that is beneficial to the City of Mercedes and also salvages the personal and professional relationships for all parties involved.*

*Sincerely,  
Daniel Tijerina  
City Manager  
City of Mercedes*

Mr. Molina asked that the record reflect that section 3.01 of the Charter states that the City Manager will serve at the will of the Commission. Mayor Pro-Tem Guajardo stated that the evaluations were done when Mr. Tijerina was Assistant City Manager. Mayor Pro-Tem Guajardo made a motion to un-appoint Daniel Tijerina as City Manager. Commissioner Villarreal seconded the motion which passed with Commissioner Wade and Mayor Hinojosa voting nay.

Mayor Hinojosa called meeting into Executive Session at 7:13pm.

**15.) EXECUTIVE SESSION:**

**-DISCUSSION REGARDING DUTIES AND RESPOSIBILITIES OF THE CITY MANAGER. – SECTION 551.074, TEXAS GOVERNMENT CODE ANNOTATED. – PERSONNEL.**

**- DISCUSSION REGARDING CONTRACT WITH PIETRA CONSTRUCTION ON AMPHITHEATER. – SECTION 551.071 TEXAS GOVERNMENT CODES ANNOTATED. – POTENTIAL LITIGATION.**

**-ATTORNEY CONSULTATION PURSUANT TO SECTION 551.071, TEXAS LOCAL GOV'T CODE TO PROVIDE LEGAL ADVICE IN CONNECTION WITH PENDING LITIGATION STYLED AND NUMBERED AS FOLLOWS: RICARDO GARCIA V CITY OF MERCEDES, ET. AL., CAUSE NO. C-2093-17-A (92<sup>ND</sup> JUD. DIST. COURT – HIDALGO COUNTY, TEXAS)**

**-DISCUSSION REGARDING OUTLET MALL SALES TAX MATTER. – SECTION 551.071 TEXAS GOVERNMENT CODES ANNOTATED. – POTENTIAL LITIGATION.**

Mayor Hinojosa called the meeting to order at 8:05 pm.

**16.) DISCUSSION AND POSSIBLE ACTION REGARDING ITEM(S) DISCUSSED IN EXECUTIVE SESSION.**

Mayor Hinojosa made a motion to proceed as discussed in Executive Session. Mayor Pro-Tem Guajardo seconded the motion which passed unanimously.

Mayor Hinojosa stated that any comments to the media in regards to the City Manager will go to the City Attorney.

**18.) ADJOURN.**

Mayor Pro-Tem Guajardo made a motion to adjourn. Commissioner Villarreal seconded the motion which passed unanimously. Meeting was adjourned at 8:06 pm.