

**MERCEDES CITY COMMISSION  
REGULAR MEETING  
SEPTEMBER 3, 2019 - 6:00 P.M.  
MERCEDES CITY HALL - COMMISSION CHAMBERS**

MEMBERS PRESENT:	Henry Hinojosa	Mayor
	Leandro Villarreal	Mayor Pro-Tem
	Leonel Benavidez	Commissioner
	Cristella De Leon Hernandez	Commissioner
	Jose M. Gomez	Commissioner
STAFF PRESENT:	Sergio Zavala	City Manager
	Anthony Troiani	City Attorney
	Nereida Perez	Finance Director
	Joselynn Castillo	Interim City Secretary
	Dagoberto Chavez	ACM/Police Chief
	Marisol Vidales	Library Director
	Ravyn Hinojosa	Administrative Secretary
	Gerardo Ramirez	Investigator
	James Cooper	Sergeant
	Hugo Perales	I.T. Director

**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 Dr. Rene Vega led the invocation. All those in attendance participated in the reverent act.

**4.) PLEDGE OF ALLEGIANCE.**

Commissioner Hernandez led in the Pledge of Allegiance.

**5.) OPENFORUM-**

Ms. Esmer Guerrero spoke about her concern with the Capital Improvement Fee and would like it removed and would like drainage improvements.

Ms. Velda Garcia read an email from an anonymous person regarding alleged harassment complaints.

Mr. Leonel Benavidez voiced his concern regarding the timeliness on the provision of Open Records requests.

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

A.) APPROVAL OF MINUTES FOR CITY COMMISSION MEETING(S) HELD AUGUST 20,2019 & AUGUST 27,2019.

B.) DISCUSSION AND POSSIBLE ACTION TO SET REGULAR CITY COMMISSION MEETING DATE FROM TUESDAY, NOVEMBER 5, 2019 TO WEDNESDAY, NOVEMBER 6, 2019, OR SOME OTHER DATE, DUE TO VOTING ON CONSTITUTIONAL AMENDMENTS ON THE REGULAR CITY COMMISSION MEETING DATE.

Mayor Pro-Tem Villarreal motioned to approve all items under consent agenda. Commissioner Benavidez seconded the motion. Upon a called vote, the motion was unanimously approved.

**6.) CITY MANAGER COMMENTS.**

Mr. Zavala commented about the rain in the forecast, and stated that City staff will assist with sandbags for those in need. He stated he has been in contact with the Public Works Director and EMC to make sure the City is prepared.

**7.) PRESENTATION BY CITY ATTORNEY ON HB 2840 ON PUBLIC COMMENT LEGISLATION, AND HOW IT MAY AFFECT PUBLIC MEETINGS.**

City Attorney, Anthony Troiani, informed all those present of House Bill 2840 regarding public comments. Mr. Troiani stated the Open Forum Session will be and remain in the beginning of meetings, and citizens may now speak on items on the agenda at this time, i.e., before the item is discussed. There was discussion regarding the amount of time for public comments which induced Mayor Hinojosa to instruct Staff to place this issue on the next regular agenda.

**8.) PUBLIC HEARING: TO HOLD A PUBLIC HEARING TO SOLICIT INPUT FROM MERCEDES CITIZENS ON THE CITY'S INTENT TO SUBMIT AN APPLICATION FOR FUNDING (USDA RURAL DEVELOPMENT - RURAL UTILITIES SERVICES) TO RESTORE THE HISTORIC CITY HALL & FIRE STATION BEING 323 S. OHIO AVENUE, MERCEDES, TEXAS.**

Mayor Hinojosa opened the Public Hearing at 6:17 P.M.

Ms. Kimberly Salinas, representative from Fulcrum Consulting, informed all those present that USDA requires a public hearing to solicit input from the citizens regarding the project to restore the Historic City Hall and Fire Station.

-Ms. Rosa Dominguez had a few questions regarding the process of the public hearing and asked if the building would be available to the public, or would it be a City building. Mayor Hinojosa stated there may be city offices in the building but there will also be rooms where citizens or organizations may meet. Ms. Dominguez suggested naming the building.

-Mr. Israel Coronado asked how the building would serve the public. Mayor Hinojosa stated the public would be allowed to use the meeting rooms.

-Ms. Rosa Dominguez asked about the funding. Ms. Salinas stated the funding is from the USDA grant Ms. Dominguez clarified by stating after the building is up and running, where would the funding come from. City Attorney Troiani stated that it would be funded by the citizens' tax dollars. Ms. Dominguez asked about the operation and maintenance of the building. Ms. Salinas stated that budget on the operations and maintenance of the building is being worked on.

-Mr. Manuel Garza asked if there was a presentation on the project. Mayor Hinojosa stated the presentation was provided at a previous meeting and this meeting is to solicit input from the citizens on the uses of the building. Mr. Zavala stated a proposed use of the building is a museum, which said use can be funded by the Hotel-Motel fund.

-Ms. Esmer Guerrero asked if there will be a fee to use the meeting rooms being proposed and stated that the rooms are small. Mayor Hinojosa said there will not be a fee, and the building is being restored to its original state.

-Mr. Israel Coronado asked what restrictions will be made for the type of meetings being held at the building. City Attorney Troiani clarified again that this is the meeting where the citizens can state their input on what they think the building should be used for. There was a brief discussion on the plan already in place, the multi-use of the building, and if the building may be used for profit.

-Ms. Rosa Dominguez suggested having a committee to review the plans and make their recommendation. Library Director Marisol Vidales stated the Historical Board has not been involved in the process but they can meet to review the plans and the suggested name change.

-Mr. Justin Cadena stated he agrees with the building being used as a museum due to the history of Mercedes.

-Mr. Ramon Mejia said he thinks it's a great idea to restore the building to its original architecture.

-Mr. David Garza informed all that when the building was marked historic that the architecture inside and out could not be altered.

-Mr. Manuel Garza does not want the old holding cell to be restored. Mayor Hinojosa stated it was torn down when they added the fire department.

-Mr. Edelmiro Dominguez complimented the Commission for the public hearing because it allowed a dialogue between the Commission and citizens.

-Mr. Vemon Hoover stated that the building is the best place for a museum.

After Mayor asked if there were additional comments, but there was no further response, Mayor Hinojosa closed the public hearing at 6:35 PM.

#### **9.) PUBLIC HEARING: ON PARKS AND OPEN SPACE MASTER PLAN TO SOLICIT THE PUBLIC'S INPUT ON MERCEDES PARK'S PRIORITIES AND AMENITIES.**

Mayor Hinojosa opened the Public Hearing at 6:35 PM.

Mr. Mike Mesa informed all that were present that the public hearing is to solicit input from the citizens on their priorities for parks and amenities. Mr. Mesa proceeded to list the 1<sup>st</sup> priorities, 2<sup>nd</sup> priorities, and 3<sup>rd</sup> priorities. At a question from Commissioner Gomez, Mr. Mesa stated this item is not a grant but a mechanism to help get grants.

-Mr. Israel Coronado discussed irrigation lines, drainage projects, beautify the City and retention ponds.

-Mr. David Garza discussed running wastewater for landscaping.

-Mr. Israel Coronado stated he would like to see a walking trail at the parks.

-Mr. Miguel Loya stated he does not think the city should invest in the Dome area due to the flooding issue.

-Mr. Israel Coronado commented of usage of a French drain.

-A representative from SWG stated she recommends a bike trail.

-Mr. Ramon Mejia would like to see shade covers over the playgrounds and pools due to the heat.

-Mr. Justin Cadena recommended vehicle safety, lighting and fencing at the little league and pony league parks.

-Ms. Esmeralda Cadena recommended a playground for handicapped and special needs children.

-Ms. Rosa Dominguez discussed getting State funding.

-Mr. Ramon Mejia recommended filling the holes in the grass at some parks.

-Mr. Manuel Garza asked about the plan to get funding. Mr. Mesa stated this (10 year Master Parks Plan) is the mechanism to get funding.

-Mr. Israel Coronado asked about the limitations, at which Mr. Mesa stated it can be changed when plans change.

-Mr. Hilario Pena informed of the lack of parking and maintenance and recommends moving the Street Fest to the HEB Park.

-Ms. Esmer Guerrero recommended having a lake or golf course.

-Ms. Rosa Dominguez recommended planning for the parks to be elderly-friendly.

-Ms. Esmer Guerrero stated to include speed bumps and speed limit signs.

-Mr. Ramon Mejia would like restroom improvements.

-Mr. Israel Coronado recommended using the material used like in the new restrooms at South Padre Island.

-Ms. Esmeralda Cadena recommended a splash pad.

At a call, no further input from the citizens were stated, therefore, Mayor Hinojosa closed the public hearing at 6:51 PM.

#### **10.) PUBLIC HEARING: ON THE PROPOSED TAX RATE FOR 2019.**

Mayor Hinojosa opened the Public Hearing at 6:51 PM. Mr. Zavala stated the proposed tax rate is to remain the same at 0.745 cents per every \$100.

-Ms. Esmer Guerrero commented about the revenues from the Outlet Mall and would like the tax rate to decrease.

-Mr. Hilario Pena stated that the City may not be increasing the tax rate but the appraisal district is increasing the property values.

At a call, no further input from the citizens were stated, therefore, Mayor Hinojosa closed the public hearing at 6:55 PM.

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

Ms. Vidales informed the Commission regarding the application for reimbursement on a historic property. Ms. Vidales stated Mr. Jodie Martinez spent \$22,141.99 on the facade on a portion of the property and spent \$2,819.00 on leveling. Ms. Vidales said the reimbursement is up to 50% and has a \$10,000 cap on facade bringing the total reimbursement to Mr. Martinez to \$11,409.58. Ms. Vidales stated the funding would be from Hotel/Motel Fund.

After brief discussion, Mayor Pro-Tem Villarreal motioned to approve this item. Commissioner Benavidez seconded the motion. Upon a called vote, the item was approved unanimously.

**12.) DISCUSSION AND POSSIBLE ACTION TO APPOINT A REGULAR BOARD MEMBER TO THE MERCEDES HISTORIC PRESERVATION COMMISSION.**

Ms. Vidales informed those present that Mr. Jodie Martinez has resigned from his seat on the Historical Board. Mr. Alejandro Medina is an alternate member, and expressed interest in becoming a regular member of the board.

Commissioner Benavidez motioned to appoint Mr. Medina as a regular member to the Historical Board. Mayor Pro-Tem Villarreal seconded the motion. Upon a called vote, the item was unanimously approved.

**13.) DISCUSSION AND POSSIBLE ACTION ON AN ORDINANCE AMENDING ORDINANCE NO. 2013-18 TO RE-CATEGORIZE THE LEVIED ‘CAPITAL IMPROVEMENT FEE’ TO A ‘UTILITY MAINTENANCE FEE’.**

Mr. Zavala informed all present that, as discussed at a recent budget workshop, the Capital Improvement fee was being used for utility improvements, therefore, recommending to re-categorize to ‘Utility Maintenance Fee’. There was a brief discussion with legal regarding the use of the levied fee.

Commissioner Gomez made a motion to remove the fee. There was discussion regarding the effect on the budget if the fee is removed. Commissioner Benavidez seconded the motion. Mayor Hinojosa stated the motion cannot be acted on due to the item stating ‘to re-categorize’ the fee only.

After brief discussion, Mayor Pro-Tem Villarreal motioned to approve the proposed ordinance to amend Ordinance No. 2013-18. Commissioner Benavidez seconded the motion. Upon a called vote, the item passed with Commissioner Gomez voting against the motion.

**14.) DISCUSSION AND POSSIBLE ACTION ON DEVELOPMENT CORPORATION OF MERCEDES FY 2019-2020 BUDGET.**

Ms. Melissa Ramirez briefed the Commission on the budget for the Development Corporation of Mercedes for FY 19-20. Ms. Ramirez provided the revenues and expenditures.

Commissioner Hernandez motioned to put this item on the table and have a joint meeting with the Development Corporation of Mercedes for review. Commissioner Gomez seconded the motion. Upon a called vote, the motion was unanimously approved.

**15.) DISCUSSION AND POSSIBLE ACTION ON MARKETING PLAN BUDGET AS PROPOSED BY THE DEVELOPMENT CORPORATION OF MERCEDES FOR FY 2019-2020.**

Ms. Ramirez provided the Marketing Plan budget for FY 19-20. Mayor Hinojosa motioned to put this item on the table due to the marketing plan being part of the budget. Commissioner Gomez seconded the motion. Upon a called vote the motion was unanimously approved.

**16.) DISCUSSION AND POSSIBLE ACTION ON INTERLOCAL AGREEMENT WITH THE MERCEDES INDEPENDENT SCHOOL DISTRICT TO ENGAGE EDUCATIONAL RESOURCE OFFICERS.**

Mr. Dagoberto Chavez Jr. informed the Commission of the Interlocal agreement with the Mercedes ISD. The School district has reimbursed the City for FY 18-19 and are requesting an extra officer. The school district will be removing 2 security guards to fund the extra officer. Mr. Chavez stated there is currently one officer assigned to schools.

After brief discussion, Mayor Pro-Tem Villarreal motioned to approve this item. Commissioner Benavidez seconded the motion. Upon a called vote, the item was approved unanimously.

**17.) PRESENTATION OF SPECIALIZED POLICE TRAFFIC UNIT AND ADDITIONAL POLICE VEHICLES.** Mr. Chavez presented to all those present, the new police traffic units. Mr. Chavez stated the City has purchased 3 Dodge Chargers, 3 Chevy Tahoe’s, and 3 Ford Explores. He stated they have been striped and lighted, and said one unit is in memory of Cpl. Jose “Speedy” Espericueta. Mr. Chavez stated 1 Charger will be designated to school zones.

**20. PROCLAMATION - CPL. JOSE “SPEEDY” ESPERICUETA.**

At this time Mayor Hinojosa deviated from the agenda and presented the Family of Cpl. Espericueta with a proclamation for his dedication to his job, and named October 4<sup>th</sup> Cpl. Jose “Speedy” Espericueta day. Police Chief Dominguez from Mission, Texas expressed his sentiments on the Proclamation, and thanked the Commission for their respect and consideration to the Espericueta family, which was in attendance.

**18.) DISCUSSION AND POSSIBLE ACTION TO HIRE A CITY ENGINEER CONSULTANT.**

Commissioner Gomez presented this item and stated the purpose of the Engineer Consultant would be to provide the Commission with the numbers for projects, will oversee the engineers on rotation, and keep the Commission informed.

There was discussion regarding the current engineers, the perceived need to hire an engineering consultant to oversee another engineers’ works, the fee for the proposed engineering consultant, and the minimum requirements for said consultant.

Commissioner Gomez made a motion to approve item 19. Commissioner Benavidez seconded the motion. Upon a called vote, the item was not approved. Commissioner Hernandez, Mayor Pro-Tem Villarreal, and Mayor Hinojosa voted against.

**19.) TABLED: DISCUSSION AND POSSIBLE ACTION REGARDING THE CITY OF MERCEDES INTERNAL PROCUREMENT PROCESS POLICY.**

Commissioner Benavidez made a motion to remove this item from the table. Mayor Hinojosa seconded the motion. Upon a called vote, the item was removed from the table unanimously.

Commissioner Banavidez stated some of the findings from the auditors which included doing an internal audit, emergency purchases over \$3,000, receiving receipts on the expenditures, segregation of duties, record keeping of contracts on city projects, being informed of purchases over \$10,000, and monthly expenditures. Finance Director Nereida Perez stated all the issues stated have been corrected, and was currently reflected in the procurement policy.

After discussion, Commissioner Benavidez motion to be informed, and get copies of any expenditures over \$10,000 on a monthly basis. Commissioner Gomez seconded the motion. Upon a called vote, the item passed unanimously.

At this time Commissioner Benavidez motioned to remove an item from Executive Session regarding the complaint(s) against a Public Official, City Commissioner Leonel Benavidez. Mayor Hinojosa seconded the motion. Upon a called vote, the item was approved unanimously.

City Attorney Troiani informed the public that Commissioner Benavidez is asking that he be tried by his fellow commissioners in public that does not open it up to public comment.

Commissioner Benavidez provided his defense on the complaints against him by staff. The complaints are attached as Exhibit A and Exhibit B. Commissioner Benavidez stated that for the complaint regarding Exhibit A, there was a misunderstanding on the hand gesture and stated that in speaking with the complainant, the issue was addressed. Regarding Exhibit B, Commissioner Benavidez clarified to the Attorney that he contacted TML about the rookie part of the complaint and stated “I don’t even know if he is qualified.”

Commissioner Gomez stated that the information should have been given to him because his name is stated in the complaint, therefore, he felt ambushed.

There was discussion regarding being notified prior to the meeting, contact with TML Attorneys, and the motion for the item. Commissioner Hernandez motioned to table this item, and instructed the City Attorney to make contact with the TML attorneys and the Attorney General’s Office for further clarification. Mayor Pro-Tem Villarreal seconded the motion. Upon a called vote, the motion was unanimously approved.

**22.) EXECUTIVE SESSION:**

- **CONSULTATION WITH CITY ATTORNEY PURSUANT TO SECTION 551.071, TEXAS GOV'T CODE, REGARDING POTENTIAL LITIGATION AS IT RELATES TO THE REMODELING OF THE POLICE STATION (PUBLIC WORKS BUILDING)**
- **ATTORNEY CONSULTATION PURSUANT TO SECTION 551.071, TEXAS LOCAL GOV'T CODE TO PROVIDE LEGAL ADVICE IN CONNECTION WITH ALL PENDING/ONGOING OR ANTICIPATED LITIGATION AGAINST THE CITY OF MERCEDES. (COMMISSIONER BENAVIDEZ & GOMEZ)**
- **EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.074 TO HEAR A COMPLAINT(S) AGAINST A PUBLIC OFFICIAL; CITY COMMISSIONER LEONEL BENAVIDEZ. CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 REGARDING SAME.**

Mayor Hinojosa called the meeting back to order at 8:38 P.M.

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

No Action was taken on the items discussed in Executive Session.

**24.) ADJOURN.**

Commissioner Benavides made a motion to adjourn the meeting. Mayor Pro-Tem Villarreal seconded the motion, which passed unanimously. The meeting adjourned at 8:38 P.M.