

**MERCEDES CITY COMMISSION
REGULAR MEETING
AUGUST 3, 2021 – 6:00 P.M.
MERCEDES CITY HALL – COMMISSION CHAMBERS**

MEMBERS PRESENT:	Oscar D Montoya Joe Martinez Leonel Benavidez Jacob Howell Jose M. Gomez	Mayor (webex) Mayor Pro-Tem Commissioner Commissioner Commissioner
STAFF PRESENT:	Alberto Perez Mark Sossi Joselynn Castillo Kristine Longoria Axel Vallejo Javier Chapa Ervin Vilchis Joaquin Hernandez Nereida Perez Roy Quintanilha Javier Campos Richard Morin Orlando Diaz	City Manager City Attorney City Secretary City Secretary Assistant City Manager Secretary I.T Director I.T Liaison Public Works Director Finance Director Chief of Police Fire Chief Recreational Director Sergeant

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 Howell led in the Pledge of Allegiance.

5.) OPEN FORUM

- Mr. Ramon Mejia showed the Commission a photo of gravel on the curb side of the street. If it rains the water will not run because of the gravel which causes it to clog and smells. He would like the commission to go out and visit the site to see for themselves.
- Ms. Laura Alvarado addressed the City Wide Clean up. Believes it's a great idea but should have been done sooner. There are tons of tires that are piling up and can be refurbished at the parks. Spoke about the drainage master plan. In order to start the master plan, the city needs to finish the current projects first. There is debris going into the drainage system. Informed the commission of a grant program that will pay citizens the first year for flood insurance. The grant allows for sandbags. City Attorney Sossi informed the commissioner that items need to be on the agenda.
- Mr. Leonel Benavidez stated that the item is just informational. Mr. Benavidez stated the public needs to be informed, he spoke about a hit and run and misinformation.

6.) ITEMS ON THE REGULAR AGENDA

- No one signed up to speak on an agenda item.

7.) PRESENTATIONS

A.) STATUS REPORT ON STREET REPAIR AND POTHOLE.

Joaquin Hernandez addressed the Commission regarding pothole and street repair. This week they were starting on zone 2. \$35,000 was budgeted for the year and when Mr. Hernandez started there was only \$13,000. Street sweeper is broken and items are on back order. Curb scraping is being done. The zones are following the zoning as waste connections. Zone 1 all potholes have been identified. MPT asked for the propose of the motor grader. The motor grader trims the grass and levels out the alleys. The pro-patch purchase order was approved but has not been ordered. The Pro-patch has a heated compartment for the coal mix. Commissioner Howell wants to make sure the city is taken care of. He stated they are dedicated to addressing the issues. Mr. Perez stated that the citizens will be informed of what zone the city will be for pothole and street repair. MPT motioned for recess. LB PU. 6:25 PM due to power outage. Mayor called the meeting back to order at 6:32 pm. Commissioner Benavidez stated that at the budget workshop they were looking at something to cut and press with for example a concrete truck or pot hole patch truck. Mr. Hernandez stated they do have a press and a saw to cut.

8.) CONSENT AGENDA

A.) APPROVAL OF ITEMS FOR SURPLUS

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

9.) CITY MANAGER COMMENTS

1.) UPDATE ON SOIL LAB RESULTS (COLLIER PARK)

Mr. Perez stated during the excavation process of collier park they accumulated dirt. A firm studied the dirt. Mr. Hernandez stated that a soil sample was taken and determined the soil was clay and does not recommend the clay be used for the construction of homes. The clay is good for the water reservoir.

2.) EMS MEMO

Mr. Perez stated the memo has the audit findings and recommendations. He held a meeting with finance and ems. There is a process in place going forward to ensure there is no miscommunication, this will include reports to make sure we are accounting for all payments coming in. It was stated that the Fire/EMS department do not take payments and all cash payments are taken by finance. There was discussion regarding background checks for hiring employees. There are interlocal agreements and mutual aid agreements. Commissioner Benavidez stated that when there is cash based payments there is no way of tracking it. He continued, adding his concern with the salaries and the account used to fund the salaries. City resources are not being used for personal gain or profit only for City facilities.

3.) 2021 ELEVATED INSPECTION REPORT AND ASSESSMENT

Status from McGuire free report on tank inspections. Mr. Michael Bruck with McGuire does reports on the tanks. Tanks last a certain amount of years. Exterior coating conditions, rusted out. The hatchway is rusted but in decent shape, the interior ring beam has some rust but in good condition and structurally sound, the ladders are rusted, the water is green. Rust on top of a tank can lead to a violation because then you can have a hole and then water can get it and then have water quality issue. MPT asked a question when the last time the tanks were inspected. Mr. Bruck stated he did not see any inspection stickers. Every third year the tanks should be cleaned out. Commissioner Gomez asked if any of the tanks need immediate attention. The tanks need to be cleaned. Working on getting numbers to completely clean out the tank. He stated it could be \$300K each to do a complete clean and repair and paint. There could potentially be a total of 15 TCEQ violations per tank. Mr. Bruck stated that the water quality is good. The inside of the tanks is not in bad shape. His firm can clean out the interior

of the tank and can fix the exterior of the tank separate to break up the payments for 2 to 7 years and have a maintenance plan. Mr. Bruck provided a report on the second tank. You cannot put an aluminum hatch on a tank because there will be a chemical reaction that causes it to rust. He stated he can provide an itemized number on the clean out. Mayor asked a question, Mr. Bruck stated they can do pit welding to pick the metal back up to build up the thickness, then can be sealed completely. Mr. Bruck's recommendation is a tank rehab. He offers plans for budgeting and payment plans for up to 15 years which includes the maintenance.

4.) TCEQ VIOLATIONS

Mr. Perez stated that TCEQ informed the City of violations and will be including them in the budget to address the violations. Mr. Hernandez informed the Commission of the violations and the plan to correct the violations. Commissioner Benavidez stated that there is brush on the ground at the citizen collection station. Mr. Hernandez stated the rain covers should be arriving in 2 to 3 weeks to seal the manholes to keep the rain water from going into the system. Commissioner Gomez stated there was no electric generator anymore. Mr. Perez stated the generator was leased for the storm that occurred and was then picked up. Every lift station needs 2 pumps and there were 3 lift stations with one pump. Commissioner Benavidez stated that there was issues with about 30 lift stations.

5.) INTRODUCTION OF THE NEW POLICE CHIEF

Mr. Perez introduced the new Police Chief Roy Quintanilha. The commission welcomed Mr. Quintanilha and wished him the best. Commissioner Gomez stated he had to purchase a body camera during Chief Chavez tenure and stated he hopes he does not have to use it anymore. Mr. Quintanilha stated he is here to do a job for the City of Mercedes and is committed to making the city better. He provided his background and stated that he has met all the requirements of the job description. Mr. Quintanilha stated that the staff at the police department are very competent. Ms. Laura Alvarado commented about being more involved with the children in the community. He stated that they need to look at how to approach having city events. Commissioner Benavidez stated that the Mayor recruited.

At this time the Commission moved to item 8 on the recognition of employee's retirements.

6.) UPDATE ON AMERICAN RESCUE PLAN

Expecting 2mil from the American Rescue Plan. There is a plan on the use of the funding.

7.) UPDATE ON PROJECTS DONE BY R. GUTIERREZ AND LEMS (HCE)

A list of information on the projects was provided to the Commission from R. Gutierrez and HCE. Commissioner Howell asked for an end date and amount for the projects.

8.) RECOGNITION OF EMPLOYEES RETIREMENT

Mr. Perez provided Mr. Luz Oviedo from Public Works, a plaque thanking him for his 20 years of service. Assistant Chief of Police Sanchez provided a plaque to Officer Juan Hutton for his 21 years of service.

At this time the Commission went back to item 6.

9.) CITY WIDE CLEAN-UP EVENT

City Wide Clean-up will be on August 7, 2021. There is a list of acceptable items and unacceptable items. The citizens will need to show proof that they live in Mercedes. Commissioner Benavidez stated that we could utilize the volunteer groups.

10.) ORDINANCES AND RESOLUTIONS

A.) DISCUSSION AND POSSIBLE ACTION ON FIRST READING OF ORDINANCE 2021-10 RELATING TO TEXAS GAS SERVICE (TGS) TO ADOPT THE SETTLEMENT AGREEMENT.

Commissioner Benavidez made a motion to approve the first reading of ordinance no. 2021-10. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

11.)MANAGEMENT ITEM(S)

A.) DISCUSSION AND POSSIBLE ACTION ON A PLAN OF ACTION FOR THE MAINTAINING OF DITCHES IN THE CITY OF MERCEDES INCLUDING INTERLOCAL AGREEMENT WITH PRESIDING DISTRICTS. (COMM. BENAVIDEZ)

Commissioner Benavidez stated there are ditches that do not belong to the City of Mercedes but would like to have interlocal agreements to maintain the ditches. Want to look at the inlets and outlets to maintain just those areas. Provided pictures of the inlets that are covered in brush and debris. Commissioner Gomez asked if the city can go into the ditches to clean that do not belong to the city because of the liability. City Attorney Sossi stated it needs to be addressed on a case by case basis and would need consent of the property owner or if there is an easement or if the city has ownership. Commissioner Benavidez motion to approve the plan of action to maintain the ditches with interlocal agreements in place. Mayor Montoya stated they met with the drainage district. Commissioner Benavidez amended his motion to target the ditches that can improve drainage flow and have an interlocal agreement. Offer the City Manager to reach out to the property owners to. Commissioner Benavidez rescinded his motion and motioned to go with legal advice for interlocal with targeting the inlets that mitigate water. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

B.) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE CITY MANAGER TO PROCEED WITH A MASTER DRAINAGE PLAN. (COMM. HOWELL & MARTINEZ)

There is a difference between retention ponds and detention ponds. Retention ponds are temporary water keepers. Plan for detention ponds need the dome and the recycling area. The big project for the County to take over is the Anacuitas drainage. Mayor Pro-Tem Martinez stated the master drainage plan was placed on the agenda due to TWDB grant. When federal monies are available most of the time a plan is required. Commissioner Howell motioned to approve initiating and developing a master drainage plan. Commissioner Benavidez seconded the motion. Mayor Montoya stated to direct the City manager to start the process of a master drainage plan and bring back the options. Upon a called vote, the motion passed unanimously.

C.) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE CITY MANAGER TO PROCEED WITH RFP/RFQ FOR WATER RATE STUDY.

Last water rate study was in 2016. The utility department is not where it should be financially. We do not have a water loss rate issue but the department is still not profitable. The water rate study is done to look at the rates compared to other cities and see where we are at and where we need to be. Commissioner Benavidez made a motion to approve. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.

Commissioner Gomez is against keeping to gate open. IBWC has control of the flood gate. City Attorney Sossi stated that the city should meet with IBWC to come to an agreement on the flood gate. Mayor stated to send to the congressman and list out the concerns. IBWC is run by the president, its run by the federal government in the US and Mexico. Mayor Montoya recommends

directing the City Manager. Commissioner Benavidez recommends meeting with IBWC and having two commissioners present. No action.

12.)BIDS/CONTRACTS

A.) TABLED: DISCUSSION AND POSSIBLE ACTION TO SELECT A CITY ATTORNEY AND DIRECT CITY MANAGER TO EXECUTE CONTRACT.

Mayor Pro-Tem Martinez made a motion to un-table. Commissioner Benavidez seconded the motion. Upon a called vote, the motion passed unanimously.

Mr. Perez stated that the attorneys can introduce themselves with a 3 to 5-minute presentation. Mr. Kevin Pagan from Bickerstaff stated he has represented municipal government for 27 years. Can provide support to the city in specific matters. Worked for the City of McAllen as the City Attorney, City of Alamo, and City of la Joya. General Counsel for City of McAllen public Utility which is a separate entity. Mr. Pagan provided a list of cities they serve. Bickerstaff have expertise in general counsel, economic development, special districts, election law, etc. Mr. Pagan stated he really enjoyed his time as the interim city manager for Mercedes. Mayor Pro-Tem Martinez asked Bickerstaff a question, Mr. Pagan stated there are 25 attorneys on the roster and about one third specialize in municipal government. He stated he will be the primary attorney. Commissioner Gomez stated he has many years of experience as an attorney. Mr. Pagan stated he is not currently representing McAllen. Mr. Pagan stated that the firm Bickerstaff represents the city of McAllen in a lawsuit against the state of Texas. Ms. Martie Garcia Vela addressed the Commission about her background. She was involved with prosecution, she has litigated cases and has worked closely with the police department. Has worked on grants. Has 3 years of municipal government experience. Ms. Garcia-Vela has worked with civil litigation and if she has a need to bring another firm she will bring it back to the Commission. Has not had to go into the court room for the city litigation because they usually settle. Commissioner Gomez asked if she had any previous or pending litigation in Ms. Garcia-Vela firm at which she stated there is not litigation. There was discussion on the process for selecting and ranking criteria. Mayor Pro-Tem Martinez motioned to rank Ms. Martie Garcia-Vela first, Bickerstaff second. Commissioner Gomez stated that Mayor Pro-Tem Martinez voted for Mr. Pagan as City Manager and now he is voting for Ms. Garcia Vela as City Attorney and Mr. Pagan is more experienced. Commissioner Howell seconded the motion. Mayor Pro-Tem Martinez stated that Mr. Pagan is very experienced but he serves other cities. Ms. Garcia Vela only has one other city that she represents. Commissioner Howell wants someone that fits the system. Commissioner Benavidez stated there is an inconsistency on what the Commission wants for example experience and local firms. Motion passed 3 to 2, Commissioner Gomez and Commissioner Benavidez voting against. City Manager will negotiate a contract and bring back a contract for commission approval.

B.) DISCUSSION AND POSSIBLE ACTION ON INTERLOCAL AGREEMENT WITH CITY OF WESLACO REGARDING ANIMAL CONTROL SERVICES.

Renewal of contract for animal control services. Commissioner Benavidez made a motion to approve. Commissioner Howell seconded the motion. Upon a called vote, the motion passed unanimously. Mayor Pro-Tem Martinez asked if Mercedes is close to having their own services. Commissioner Benavidez stated some citizen concerns on the calls for animal control. Commissioner Gomez stated he called animal control and a police officer drove the animal control officer to the location. The vehicle for animal control is currently down but are working on the vehicle.

13.)FUTURE AGENDA ITEMS

Special meeting for the authority to close the gate with IBWC. Budget workshop will be on Thursday. Commissioner Howell would like the CM to evaluate the power outages in Mercedes during the storm to see what is going on and why they continue having power outages. Mayor recommends a resolution to send to IBWC on a united front with specific items that were found. MPT put a workshop with MISD school board and the Police Chief to coordinate a plan on safety for back to school. Mr. Quintanilha stated there is a meeting scheduled for tomorrow on the ERO.

Mayor Montoya called the meeting into executive session at 9:33 P.M.

14.)EXECUTIVE SESSION

- A.) DISCUSSION AND UPDATE ON ECONOMIC DEVELOPMENT PROJECTS – TEXAS GOVERNMENT CODE 551.087**
- B.) DISCUSSION AND POSSIBLE ACTION ON DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER – POLICE DEPARTMENT – TEXAS GOV'T CODE SECTION 551.074**
- C.) CONSULTATION WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE 551.071 FOR AN UPDATE REGARDING ALL PENDING, CONTEMPLATED AND ACTIVE LITIGATION, PURSUANT TO TEXAS GOVERNMENT CODE 551.071.**

ADDENDUM

- D.) DISCUSSION REGARDING PROJECT A. GONZALEZ PURSUANT TO TEXAS GOVERNMENT CODE 551.087 – ECONOMIC DEVELOPMENT.**

Mayor Montoya called the meeting back to order at 12:17 a.m. on August 4, 2021.

Commissioner Howell update from finance on how we are on the budget for future agenda items.

15.)OPEN SESSION

- A.) DISCUSSION AND POSSIBLE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION ITEMS A, B, & C.**
 - A. No action was taken on this item.
 - B. Commissioner Benavidez made a motion to proceed as discussed in executive session. Public Safety is of concern and there is data that is being assess to be effective to tackle the issues. Mayor Pro-Tem Martinez seconded the motion. Upon a called vote, the motion passed unanimously.
 - C. No action was taken on this item.

ADDENDUM

DISCUSSION AND POSSIBLE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION ITEM D.

Mayor Pro-Tem Martinez made a motion to approve as recommended by legal. Commissioner Howell seconded the motion. Commissioner Benavidez stated there are funds for commercial business in town and looks forward to the initiative. 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 12:21 a.m.