

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Board of Commissioners convened in a Regular Meeting on **Monday, July 8, 2013**, at 6:00 pm, at McAllen City Hall Third Floor (3rd) Commission Chambers, with the following present:

Mayor Jim Darling
Hilda Salinas, Mayor Pro Tem
Scott Crane, Commissioner
Trey Pebley, Commissioner
Veronica Vela Whitacre, Commissioner

Absent: Aida Ramirez, Mayor Pro Tem
John Ingram, Commissioner

Staff: Mike R. Perez, City Manager
Kevin Pagan, City Attorney
Brent Branham, Deputy City Manager
Roy Rodriguez, Assistant City Manager/PUB General Manager
Annette Villarreal, City Secretary
Yvette Barrera City Engineer
Juli Rankin, Director of Planning
Sally Gavlik, Director of Parks and Recreation
Sandra Zamora, Director of Purchasing
Phil Brown, Director of Aviation
Piedad Martinez, Community Development Director
Perla Zamora, Deputy City Secretary

CALL TO ORDER

Mayor Darling called the meeting to order.

PROCLAMATION - MCALLEN LIONS CLUB DAY

Commissioner Pebley read and presented a proclamation for *McAllen Lions Club Day*.

1. PUBLIC HEARING:

Mayor Darling called the Public Hearing to order.

- A) ROUTINE ITEMS:** *[All Rezoning and Conditional Use Permits listed under this section come with a favorable recommendation from the Planning & Zoning Commission and will be enacted by one motion. However, if there is opposition at the meeting or a discussion is desired, that item(s) will be removed from the Routine Items section of the agenda and will be considered separately.]*

Mayor Darling asked if anyone was present to speak in opposition to the items listed under this section of the agenda. No one appeared in opposition.

Commissioner Crane moved to approve the items listed on the Routine Items section of the agenda. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

- 1. REZONE FROM A-O (AGRICULTURAL-OPEN SPACE) DISTRICT TO C-2 (NEIGHBORHOOD COMMERCIAL) DISTRICT: 4.00 ACRES OUT OF LOT 2, BLOCK 18, STEELE & PERSHING SUBDIVISION, HIDALGO COUNTY, TEXAS; 4200 SOUTH MCCOLL ROAD.**

Approved the C-2 zoning at 4200 South McColl Road, as per Planning and Zoning Commission.

- 2. REZONE FROM A-O (AGRICULTURAL-OPEN SPACE) DISTRICT TO C-2 (NEIGHBORHOOD COMMERCIAL) DISTRICT: 3.865 ACRES OUT OF LOT 15, BLOCK 1, C.E. HAMMONDS SUBDIVISION, HIDALGO COUNTY, TEXAS; 1901 DOVE AVENUE.**

Approved the C-2 zoning at 1901 Dove Avenue, as per Planning and Zoning Commission.

3. REZONE FROM R-1 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO R-3A (MULTIFAMILY RESIDENTIAL APARTMENT) DISTRICT: 5.98 ACRES OUT OF LOT 1, BLOCK 17, STEELE & PERSHING SUBDIVISION, HIDALGO COUNTY, TEXAS; 3601 SOUTH MCCOLL ROAD.

Approved an alternative R-3T zoning at 3601 South McColl Road, as per Planning and Zoning Commission.

4. REQUEST OF SAMUEL AVILA & ROBERTO URBINA, APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE JUNE 18, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR, FOR A BAR AT LOT 1, NOLANA WEST SUBDIVISION, HIDALGO COUNTY, TEXAS; 2200 NOLANA AVENUE, SUITE 2212.

Granted a variance to the distance requirement and approved the Conditional Use Permit, for one year, for a bar at 2200 Nolana Avenue, Suite 2212, as per Planning and Zoning Commission. The establishment must also meet the requirements set forth in Section 138-118(4) of the Zoning Ordinance and specific requirements as follows:

- a) The property line of the lot of any of the above-mentioned businesses must be at least 600 ft. from the nearest residence or residentially-zoned property, church, school, or publicly-owned property, and must be designed to prevent disruption of the character of adjacent residential areas, and must not be heard from the residential area after 10:00 p.m. The proposed establishment is within 600 ft. from residential zones/uses and McAllen's Public Library;
- b) The property must be as close as possible to a major arterial and shall not generate traffic onto residential-sized streets. The establishment is located on two major arterials, Nolana Avenue and North 23rd Street, and does not generate traffic into residential areas;
- c) The business must provide parking in accordance with the McAllen Off-Street Parking Ordinance at a minimum, and make provisions to prevent the use of adjacent streets for parking. Currently there is a multi-tenant commercial building on the property. The building is a mixture of retail, restaurants, bars and vacant suites. At this time there is one restaurant (Cabritos Nuevo Leon, 4,100 sq. ft.), 23,732 sq. ft. of retail suites including Dollar General and Ramirez Furniture Store in use, and two bars (Ranas & DeLoreans - 4,500 sq. ft.). Based on the square footage and uses, 164 parking spaces are required and 269 are provided on site. The proposed 4,500 sq. ft. bar would require 60 parking spaces for a total of 224 spaces for the plaza, leaving 45 available. The vacant suites of 26,911 sq. ft. of retail and the 1,200 sq. ft. of vacant restaurant space, if open, would require 80 parking spaces. For every business to run efficiently, 304 parking spaces would be required and would need to be provided before permits could be issued;
- d) The business must do everything possible to prevent the unauthorized parking of its patrons on adjacent properties;
- e) The business shall provide sufficient lighting to eliminate dark areas and maximize visibility from a public street in order to discourage vandalism and criminal activities;
- f) The business must make provisions to keep litter to a minimum and keep it from blowing onto adjacent properties; and
- g) The above-mentioned business shall restrict the number of persons within the building to those allowed by the Planning and Zoning Commission at the time of permit issuance, after having taken into account the recommendations of the Fire Marshal, Building Official and Planning Director. The allowable number of persons within the existing establishment is 88 persons. A new number of occupancy will need to be provided at time of building permit that will include the new addition for the establishment.

5. REQUEST OF VICTOR HUGO GUERRA, APPEALING OF THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE JUNE 18, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR, FOR A BILLIARD HALL AT LOT 1 AND 2, SHARY GATEWAY SUBDIVISION, HIDALGO COUNTY, TEXAS; 4901 EXPRESSWAY 83.

Granted a variance to the distance requirement and approved the Conditional Use Permit, for one year, for a billiard hall at 4901 Expressway 83, as per Planning and Zoning Commission. The establishment

must also meet the requirements set forth in Section 138-118(4) of the Zoning Ordinance and specific requirements as follows:

- a) The property line of the lot of any of the above-mentioned businesses must be at least 600 ft. from the nearest residence or residentially-zoned property, church, school, or publicly-owned property, and must be designed to prevent disruption of the character of adjacent residential areas, and must not be heard from the residential area after 10:00 p.m. The proposed establishment is within 600 ft. of residential zones;
- b) The property must be as close as possible to a major arterial and shall not generate traffic onto residential-sized streets. The establishment has access to Expressway 83 and Colbath Road, and does not generate traffic onto residential areas;
- c) The business must provide parking in accordance with the McAllen Off-Street Parking Ordinance at a minimum, and make provisions to prevent the use of adjacent streets for parking. Currently there is 19,646 sq. ft. used as restaurant space; requiring 263 parking spaces. and 9,156 sq. ft. used as retail space; requiring 22 parking spaces. The applicant is proposing a 7,645 sq. ft. billiard hall with a net area of 6,758.20 sq. ft. for the floor area, office, and storage that is located behind the working bar. The proposed 6,758.20 sq. ft. billiard hall floor area would require 91 parking spaces. The remaining vacant 10,957 sq. ft. of retail when occupied will require 28 parking spaces. For every business to run simultaneously, 404 parking spaces will be required; 393 spaces are provided on site, being 11 spaces short. Parking can be accomplished by parking agreements with adjacent properties;
- d) The business must do everything possible to prevent the unauthorized parking of its patrons on adjacent properties;
- e) The business shall provide sufficient lighting to eliminate dark areas and maximize visibility from a public street in order to discourage vandalism and criminal activities;
- f) The business must make provisions to keep litter to a minimum and keep it from blowing onto adjacent properties;
- g) The above-mentioned business shall restrict the number of persons within the building to those allowed by the Planning and Zoning Commission at the time of permit issuance, after having taken into account the recommendations of the Fire Marshal, Building Official and Planning Director. The maximum occupancy of the establishment will be determined at time of building permit.

B) AMENDING THE ZONING ORDINANCE OF THE CITY OF MCALLEN AS ENACTED MAY 29, 1979.

Commissioner Pebley moved to adopt the Zoning Ordinance for the approved tract. Commissioner Crane seconded the motion. The motion carried unanimously by those present.

END OF PUBLIC HEARING

Mayor Darling declared the Public Hearing closed.

THE CITY COMMISSION HAS THE PREROGATIVE TO RECESS INTO EXECUTIVE SESSION AT ANY TIME DURING THE MEETING

2. **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.]*

Commissioner Crane moved to approve the items listed on the Consent Agenda. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

A) APPROVAL OF MINUTES OF REGULAR MEETING HELD JUNE 24, 2013.

Approved the minutes of Regular Meeting held June 24, 2013, as submitted.

B) RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO *KABOOM!* FOR FUNDING UNDER THE FISCAL YEAR 2013 LET'S PLAY COMMUNITY CONSTRUCTION GRANT PROGRAM.

Approved a resolution authorizing the submission of a grant application to KABOOM! for funding under the Fiscal Year 2013 Let's Play Community Construction Grant Program, for new playground equipment at Uvalde Park. The funding request would be \$20,000 with a \$21,000 local match requirement.

C) ORDINANCE PROVIDING FOR A BUDGET AMENDMENT TO THE SANITATION DEPRECIATION FUND FOR THE PURPOSE OF FUNDING THE PURCHASE OF A FORKLIFT FOR THE COMMERCIAL BOX DEPARTMENT.

Adopted an ordinance providing for a budget amendment in the amount of \$4,317 to the Sanitation Depreciation Fund, to fund the remaining balance of the purchase of a Forklift for the Commercial Box Department.

D) ORDINANCE PROVIDING FOR A BUDGET AMENDMENT TO THE GENERAL DEPRECIATION FUND FOR THE PURPOSE OF FUNDING THE PURCHASE OF A WHEEL LOADER FOR THE STREETS AND DRAINAGE DEPARTMENT.

Adopted an ordinance providing for a budget amendment in the amount of \$143,286 to the General Depreciation Fund, to fund the remaining balance of the purchase of a Wheel Loader for the Streets and Drainage Department.

E) APPROVAL OF SUPPLEMENTAL AGREEMENT 1 TO HNTB AMENDMENT 13 FOR AIRPORT RUNWAY SAFETY AREA IMPROVEMENTS.

Approved Supplemental Agreement 1 to HNTB Amendment 13 for Airport Runway Safety Area Improvements providing for a change in scope of work resulting in no additional cost due to a credit for the eliminated fee associated with the initial scope.

3. BIDS/CONTRACTS:

A) CONSIDER APPROVAL OF CHANGE ORDER NO. 1 TO THE CONTRACT AWARDED TO AIR IT, FOR THE PURCHASE AND INSTALLATION OF THE NEW SHARED USE PASSENGER PROCESSING SYSTEM.

Staff recommended approval of Change Order No. 1 to the contract awarded to Air IT, for the purchase and installation of the new Shared Use Passenger Processing System proving for a net reduction to the purchase order of \$87,513 associated with the elimination of the hardware and software maintenance warranties as well as additional work stations and purchase of media players.

Concerns were expressed about bidding out software maintenance agreements. Staff reported that this was allowed as the software was non-proprietary.

After due consideration, Commissioner Pebley moved to approve the change order as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

B) CONSIDER AUTHORIZATION TO SOLICIT FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE MCALLEN PUBLIC SAFETY BUILDING ADDITION.

Staff recommended authorization to solicit proposal for Construction Management Services for the McAllen Public Safety Building Addition.

Questions were asked about performing this task in-house. Staff reported that in-house staff was tied up with other projects. A lengthy discussion was held relating to the proposed service.

After due consideration, Commissioner Pebley moved to authorize staff to solicit proposals for this service and asking the architect on contract to also consider submission of a proposal. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

C) CONSIDER AUTHORIZATION FOR STAFF TO NEGOTIATE AN AGREEMENT WITH THE RETAIL COACH FOR A RETAIL ECONOMIC DEVELOPMENT PLAN.

Staff recommended authorization to negotiate an agreement with The Retail Coach for a Retail Economic Development Plan with a not-to-exceed cost of \$65,000.

Commissioner Crane moved to authorize staff to negotiate an agreement as recommended. Commissioner Pebley seconded the motion. The motion carried unanimously by those present.

4. ORDINANCES:

A) AMENDING THE MCALLEN CODE OF ORDINANCES, CHAPTER 50. FIREWORKS; RELATING TO THE REGULATION AND PERMITTING OF PUBLIC FIREWORKS DISPLAYS.

Staff recommended that said item be tabled.

Commissioner Crane moved to table the item as recommended. Commissioner Whitacre seconded the motion. The motion carried unanimously by those present.

B) APPROVAL OF FISCAL YEAR 2013-2017 CONSOLIDATED PLAN AND STRATEGY AND FISCAL YEAR 2013-2014 ANNUAL ACTION PLAN FOR CDBG, HOME AND ESG PROGRAMS.

Community Development Board Vice Chairman Victor De Leon and members present (Yolanda Trad, Diana Craig, and Liborio Hinojosa III) recommended adoption of an ordinance providing for the approval of Fiscal Year 2013-2017 Consolidated Plan and Strategy and Fiscal Year 2013-2014 Annual Action Plan for CDBG, Home and ESG Programs.

Mayor Darling and City Commissioners thanked the board members for the hard work involved with the review and recommendations for funding.

Commissioner Crane moved to adopt the ordinance as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

5. RESOLUTION:

ACCEPTING THE QUINTA MAZATLAN MASTER PLAN AS PRESENTED MARCH 25, 2013.

Staff recommended approval of a resolution accepting the Quinta Mazatlan Master Plan as presented March 25, 2013 with no funding commitment. Additionally, staff reported that having this plan in place would make it eligible to secure grants and funding for Quinta.

Mayor Pro Tem Salinas moved to approve the resolution as recommended. Commissioner Pebley seconded the motion. The motion carried unanimously by those present.

6. VARIANCE:

CONSIDERATION OF A VARIANCE TO THE RIGHT-OF-WAY DEDICATION REQUIREMENT AT POPEYE'S NO. 1 SUBDIVISION; 221 SOUTH 10TH STREET.

Staff recommended approval of the variance request to the right-of-way requirement at 221 South 10th Street.

Questions were asked about possible changes to the right-of-way requirements for 10th Street in light of additional foreseeable requests. Staff noted that this may be achieved by amending the City's Thoroughfare Plan if desired by the Commission.

After due consideration, Commissioner Pebley moved to approve the variance as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

7. MANAGER'S REPORT:

A) FUTURE AGENDA ITEMS.

The items for upcoming workshops were briefly reviewed: Procurement and Bidding Process; Workshop/Retreat with PUB; Joint Meeting with MISD; Report on Retreat Projects; Budget Workshops; and CVB Philosophies.

8. MAYOR'S REPORT ON CITY COMMISSION RETREAT HELD JUNE 27 – 29, 2013.

Mayor Darling gave a report on the City Commission Retreat held June 27-29, 2013

PUBLIC COMMENT SESSION

No one appeared.

9. 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),

On behalf of the Presiding Officer, the City Attorney recommended recessing into Executive Session pursuant to Chapter 551, Texas Government Code, Section 551.087 Economic Development for Items 9C and 9E; Section 551.071 Consultation with Attorney for Items 9B, 9C, 9D, 9E, 9F, 9K, 9L and 9M; Section 551.072 Deliberation regarding Real Property for Items 9B, 9D, 9G, 9H, 9I and 9J; and Section 551.074 (Personnel Matters) for Item 9A.

Mayor Pro Tem Salinas moved to accept the recommendation for the basis of the discussion in Executive Session under the sections cited by the City Attorney. Commissioner Crane seconded the motion. The motion carried unanimously by those present.

Commissioner Whitacre announced that she had a conflict with item 9D and would abstain from discussion and voting on said item. Subsequently, a conflict form was filed with the City Secretary.

Mayor Darling recessed the meeting at 6:38 pm to go into Executive Session. Mayor Darling reconvened the meeting at 7:47 pm and announced the action on Executive Session items.

A) DISCUSSION OF CITY MANAGER EVALUATION. (SECTION 551.074, T.G.C.)

No action.

B) CONSULTATION WITH CITY ATTORNEY REGARDING DEVELOPMENT AGREEMENT WITH PROPERTY COMMERCE FOR OLD CIVIC CENTER REDEVELOPMENT. (SECTION 551.071 AND 551.072, T.G.C.)

No action.

C) DISCUSSION AND POSSIBLE ACTION REGARDING ECONOMIC INCENTIVES FOR PROJECT PHOENIX. (SECTION 551.087 AND 551.071, T.G.C.)

No action.

D) DISCUSSION AND POSSIBLE ACTION ON AWARD OF BID PROPOSAL FOR THE SALE OF LOT 11B, MCALLEN CONVENTION CENTER. (SECTION 551.072 AND 551.071, T.G.C.)

No action.

E) CONSIDERATION OF AND CONSULTATION WITH CITY ATTORNEY REGARDING ECONOMIC INCENTIVES FOR PROJECT MAGNET. (T.G.S. 551.087 AND 551.071)

Mayor Pro Tem Salinas moved to authorize the Mayor and one Commissioner at the Mayor's discretion, to meet with the developers to discuss the potential of proceeding with this project. Commissioner Pebley seconded the motion. The motion carried unanimously by those present.

F) CONSULTATION WITH CITY ATTORNEY REGARDING A POSSIBLE BUYOUT OF STS TRANSPORTATION. (SECTION 551.071, T.G.C.)

No action.

G) DISCUSSION AND POSSIBLE ACTION REGARDING THE ACQUISITION OF 3.14 ACRE TRACT AND 11.53 ACRE TRACT OUT OF LOT 150, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION, HIDALGO COUNTY, TEXAS AND APPROVAL OF RESOLUTION. (SECTION 551.072, T.G.C.)

No action.

H) DISCUSSION AND POSSIBLE ACTION REGARDING RIGHT-OF-WAY ACQUISITION FOR THE PROPOSED ERIE AVENUE ALIGNMENT FROM WARE ROAD TO BENTSEN ROAD. (SECTION 551.072, T.G.C.)

Commissioner Pebley moved to approve a resolution and related action which authorizes the city to begin the acquisition of right-of-way as discussed in Executive Session. Commissioner Crane seconded the motion. The motion carried unanimously by those present.

I) DISCUSSION AND POSSIBLE ACTION REGARDING A 0.874 ACRE TRACT OF LAND OUT OF LOT 8, BLOCK 6 HIDALGO CANAL COMPANY'S SUBDIVISION, HIDALGO COUNTY, TEXAS. (SECTION 551.072, T.G.C.)

No action.

J) DISCUSSION AND POSSIBLE ACTION TO MAKE AN OFFER TO ACQUIRE A 20 ACRE TRACT OF LAND, OUT OF LOT 98, LA LOMITA SUBDIVISION OR LOT 140, LA LOMITA SUBDIVISION. (SECTION 551.072, T.G.C.)

No action.

K) CONSULTATION WITH CITY ATTORNEY REGARDING PENDING LAWSUIT; DAHLILA GUERRA CASSO VS. CITY OF MCALLEN. (SECTION 551.071, T.G.C.)

Commissioner Pebley moved to approve the settlement as reported in Executive Session. Commissioner Crane seconded the motion. The motion carried unanimously by those present.

L) CONSULTATION WITH CITY ATTORNEY REGARDING CAUSE. NO. CL_13-1822-A; MARTHA RAMIREZ, INDIVIDUALLY AND AS NET FRIEND OF CAROLINA RAMIREZ, A MINOR VS. CITY OF MCALLEN. (SECTION 551.071, T.G.C.)

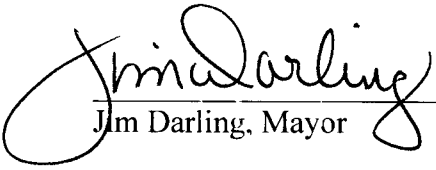
Commissioner Pebley moved to authorize the City Attorney or the appropriate insurance outside counsel to defend the city in this lawsuit. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

M) CONSULTATION WITH CITY ATTORNEY REGARDING A POSSIBLE CONTRACT WITH VIANOVO RELATING TO INTERNATIONAL BRIDGE FACILITIES. (SECTION 551.071, T.G.C.)

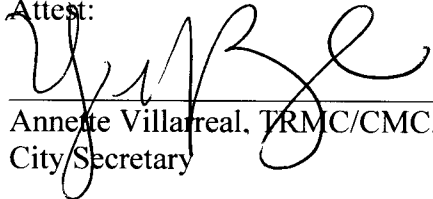
No action.

ADJOURNMENT

There being no other business to come before the Commission, the meeting was adjourned at 7:48 p.m.


Jim Darling, Mayor

Attest:


for Annette Villarreal, TRMC/CMC, CPM
City Secretary