

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

The McAllen Board of Commissioners convened in a Regular Meeting on **Monday, April 22, 2013**, at 6:00 pm, at McAllen City Hall Third Floor (3rd) Commission Chambers, with the following present:

Mayor Richard Cortez
Hilda Salinas, Mayor Pro Tem
Aida Ramirez, Mayor Pro Tem
Scott Crane, Commissioner
Marcus C. Barrera, Commissioner
John Ingram, Commissioner

Absent: Jim Darling, Commissioner

Staff: Mike R. Perez, City Manager
Kevin Pagan, City Attorney
Brent Branham, Deputy City Manager
Roy Rodriguez, Assistant City Manager/PUB General Manager
Wendy Smith, Assistant City 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
Carlos Espinoza, Director of Golf
Phil Brown, Director of Aviation
Perla Zamora, Deputy City Secretary

CALL TO ORDER

Mayor Cortez called the meeting to order at 6:13 pm.

PROCLAMATIONS:

ELDER ABUSE/SILVER RIBBON MONTH

Commissioner Crane read and presented a proclamation for *Elder Abuse/Silver Ribbon Month*.

MOTORCYCLE SAFETY MONTH

Commissioner Barrera read and presented a proclamation for *Motorcycle Safety Month*.

MEDICAL LABORATORY PROFESSIONALS' WEEK

Mayor Pro Tem Salinas read and presented a proclamation for *Medical Laboratory Professionals' Week*.

1. PUBLIC HEARING:

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

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

REZONE FROM R-3T (MULTIFAMILY RESIDENTIAL TOWNHOUSE) DISTRICT TO R-3A (MULTIFAMILY RESIDENTIAL APARTMENT) DISTRICT: .75 ACRES OUT OF LOT 9, WAYNE COURTS SUBDIVISION, HIDALGO COUNTY, TEXAS; 3512 NORTH 6TH STREET.

Approved the R-3A zoning at 3512 North 6th Street, as per Planning and Zoning Commission.

B) REZONINGS:

REZONE FROM R-2 (DUPLEX-FOURPLEX RESIDENTIAL) DISTRICT TO C-3 (GENERAL BUSINESS) DISTRICT: THE EAST 77.7 FEET OF LOT 5 AND THE WEST 17 FEET OF LOT 7, HOLLENBECK SUBDIVISION, HIDALGO COUNTY, TEXAS; 824 UVALDE AVENUE. ITEM WITHDRAWN

Said item was withdrawn.

C) CONDITIONAL USE PERMIT:

REQUEST OF BEATRIZ GARCIA, APPEALING OF THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE APRIL 2, 2013 MEETING, DENYING CONDITIONAL USE PERMIT, FOR ONE YEAR, FOR A PARTY CENTER AT LOT ALL OF BLOCK 4, NORTH CENTER SUBDIVISION, HIDALGO COUNTY, TEXAS; 1700 NORTH 10TH STREET, SUITE K.

Staff recommended disapproval of the Conditional Use Permit, for one year, for a party center at 1700 North 10th Street, Suite K and alternatively, recommended approval of a variance to the distance requirement and hours of operation being limited from 9:00 a.m. to 9:00 p.m., as per the Planning and Zoning Commission. The establishment must also comply with requirements set forth in Section 138-118(4) of the Zoning Ordinance and specific requirements as follows:

1. 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 residentially zoned properties;
2. The property must be as close as possible to a major arterial and shall no generate traffic onto residential sized streets. The establishment has direct access to North 10th Street and Quince Avenue;
3. 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 plaza on the property. The plaza is a mixture of retail and a restaurant. Based on the current uses, approximately 98 parking spaces are required; 138 spaces are provided on site as part of the common parking area. The proposed 4,500 sq. ft. party center requires 45 parking spaces for a total of 143 spaces for the plaza, being 5 parking spaces short. No parking agreement could be acquired due to the surrounding businesses being opened at the same time. The applicant is proposing the moon jumps as permanent exhibits, taking approximately 544 sq. ft. of area, this can be comparable to the 5 parking spaces;
4. The business must do everything possible to prevent the unauthorized parking of its patrons on adjacent properties;
5. 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;
6. The business must make provisions to keep litter to a minimum and keep it from blowing onto adjacent properties; and
7. 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.

Mayor Cortez asked if there was anyone to speak in opposition to the Conditional Use Permit. The following individuals spoke in opposition: Les Roberson and Jose A. Escamilla. Mr. Abdala Kalifa spoke in favor of the permit.

After due consideration, Commissioner Crane moved to grant a variance and approve a Conditional Use Permit subject to the condition of the closing time to be at 9:00 pm. Commissioner Barrera seconded the motion. The motion carried unanimously by those present.

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

Mayor Pro Tem Ramirez moved to adopt the Zoning Ordinance for the approved tract. Commissioner Barrera seconded the motion. The motion carried unanimously by those present.

END OF PUBLIC HEARING

Mayor Cortez 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.]*

Mayor Pro Tem Ramirez 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 APRIL 8, 2013.

Approved the minutes of the Regular Meeting held April 8, 2013, as submitted.

B) CHANGE ORDER NO. 1 & FINAL RECONCILIATION OF QUANTITIES FOR THE DRAINAGE IMPROVEMENTS AT SOUTH 10TH STREET & TORONTO AVENUE.

Approved Change Order No. 1 & Final Reconciliation of Quantities for the Drainage Improvements at South 10th Street & Toronto Avenue for a decrease of \$2,186.80, for a revised contract amount of \$133,307.23.

C) CHANGE ORDER NO. 3 AND FINAL RECONCILIATION OF QUANTITIES 2012-2013 SINGLE REPAVING MACHINE.

Approved Change Order No. 3 and Final Reconciliation of Quantities 2012-2013 Single Repaving Machine for a decrease of \$119,218.78, for a revised amount of \$1,539,335.22 and no additional time to the current contract time.

D) RESOLUTION AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE TEXAS DEPARTMENT OF TRANSPORTATION FY 2013 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM *CLICK IT OR TICKET* CAMPAIGN.

Approved a resolution authorizing the acceptance of grant funds from the Texas Department of Transportation FY 2013 Selective Traffic Enforcement Program *Click It or Ticket* Campaign.

E) ORDINANCE PROVIDING FOR A BUDGET AMENDMENT TO THE GENERAL DEPRECIATION FUND FOR THE PURCHASE OF A CURRENT MODEL (CM) 25 FOOT SLIDE SLOPE MOWER FOR DRAINAGE DEPARTMENT OF PUBLIC WORKS.

Adopted an ordinance providing for a budget amendment in the amount of \$113,795 to the General Depreciation Fund for the purchase of a current model (CM) 25-foot Slide Slope Mower for the Drainage Department of Public Works.

F) CONFIRMATION AND APPOINTMENT OF NOMINEE TO LIBRARY ADVISORY BOARD.

Appointed Nicholas A. Pardo to the McAllen Public Library Advisory Board as nominated by Commissioner Ingram.

G) INTERLOCAL AGREEMENT WITH HIDALGO COUNTY FOR THE SOUTH TEXAS HURRICANE CONFERENCE.

Approved an Interlocal Agreement with Hidalgo County for the South Texas Hurricane Conference.

H) INTERLOCAL AGREEMENT WITH HIDALGO COUNTY TO TRANSFER EQUIPMENT FOR THE REGIONAL RADIO SYSTEM.

Approved an Interlocal Agreement with Hidalgo County to transfer equipment for the Regional Radio System.

3. BIDS/CONTRACTS:

A) CONSIDER APPROVAL OF CHANGE ORDER NO. 1 FOR THE BICENTENNIAL TRAIL.

Staff recommended approval of Change Order No. 1 in the amount of \$30,870 for the purchase of Irrigation Controllers for the Bicentennial Trail.

Questions were asked about the effectiveness of the controllers. Staff responded that these controllers would be more effective and would facilitate compliance with the water conservation requirements.

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

B) AUTHORIZATION TO REJECT SINGLE BID AND CONSIDERATION OF OPTIONS ON PALMVIEW GOLF COURSE PEDESTRIAN BRIDGE REPLACEMENT PROJECT.

Staff recommended authorization to reject the single bid for the Palmview Golf Course Pedestrian Bridge Replacement Project on the basis of being over budget, and reported that staff would explore other options and materials.

Mayor Pro Tem Salinas moved to reject the bid as recommended. Commissioner Barrera seconded the motion. The motion carried unanimously by those present.

C) CONSIDERATION OF ADDITIONAL FUNDING FOR ASBESTOS ABATEMENT FOR THE MCALLEN DEVELOPMENT CENTER RENOVATIONS.

Staff recommended approval of additional funding in the amount of \$1,672 for the abatement of unforeseen asbestos containing materials for the McAllen Development Center Renovations.

Commissioner Barrera moved to approve the additional funding as recommended. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously by those present.

4. ORDINANCES:

A) PROVIDING FOR THE ABANDONMENT OF THE NORTH 4 FT. OF THE 10 FT. UTILITY EASEMENT LOCATED ON THE SOUTH SIDE OF LOTS

**42 & 43, SENDERO RANCH ESTATES SUBDIVISION; 5301 & 5300
NORTH 46TH STREET.**

Staff recommended adoption of an ordinance providing for the abandonment of a utility easement at 5301 & 5300 North 46th Street.

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

B) BUDGET AMENDMENT FROM DEVELOPMENT CORPORATION FUNDS FOR THE GOLF COURSE IRRIGATION IMPROVEMENTS.

Staff recommended adoption of an ordinance providing for a budget amendment in the amount of \$611,125 for the Golf Course Irrigation Improvements.

Commissioner Barrera moved to adopt the ordinance as recommended. Commissioner Ingram seconded the motion. The motion carried unanimously by those present.

5. MANAGER'S REPORT:

A) ANNUAL REPORT BY MAYOR'S YOUTH ADVISORY COUNCIL.

A report was given by the Chairman of the Mayor's Youth Advisory Council Julian Whitacre and member Mason Rankin. No action required.

B) REVIEW OF QUARTERLY INVESTMENT FOR THE QUARTER ENDED DECEMBER 31, 2012.

Staff presented the Quarterly Investment Report for the quarter ended December 31, 2012 and recommended acceptance of the report as per the Audit and Investment Committee.

Commissioner Barrera moved to accept the report as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

C) CONSTRUCTION UPDATE ON TERMINAL EXPANSION PROJECT.

A construction update was given on the Terminal Expansion Project. No action required.

D) STATUS REPORT ON PARKS AND RECREATION CONSTRUCTION PROJECTS.

A construction status report was given on Parks and Recreation Projects. No action required.

E) STATUS REPORT ON VARIOUS CITY PROJECTS THROUGH MARCH 31, 2013.

A status report was given on various city projects underway. No action required.

F) ADVISORY BOARD APPOINTMENTS.

Mayor Pro Tem Salinas announced that she would have an appointment at the next meeting. Commissioner Barrera announced that he would allow the incoming City Commissioner Pebley to make such appointment.

G) FUTURE AGENDA ITEMS.

The items for upcoming workshops were briefly reviewed: Special Meeting to canvass election results on May 15th at 5:30 pm; Workshop/Retreat in June; and stacking issues at airport.

PUBLIC COMMENT SESSION

No one appeared.

6. EXECUTIVE SESSION, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH ATTORNEY), SECTION 551.087 (ECONOMIC DEVELOPMENT) AND SECTION 551.072 (DELIBERATION REGARDING REAL PROPERTY).

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 6A and 6B; Section 551.071 Consultation with Attorney for Items 6B, 6C, 6D, 6E, 6F, 6G, 6H, 6I and 6O; and Section 551.072 Deliberation regarding Real Property for Items 6J, 6K, 6L, 6M and 6N.

Commissioner Barrera moved to accept the recommendation for the basis of the discussion in Executive Session under the sections cited by the City Attorney. Commissioner Ingram seconded the motion. The motion carried unanimously by those present.

Mayor Cortez recessed the meeting at 7:30 pm to go into Executive Session. Mayor Cortez reconvened the meeting at 9:40 pm and announced the action on Executive Session items.

A) DISCUSSION AND POSSIBLE ACTION REGARDING ECONOMIC INCENTIVES FOR PROJECT NEXT LEVEL. (SECTION 551.087, T.G.C.)

Commissioner Ingram moved to instruct the City Attorney to draft an agreement related to that project and bring it back to the Commission for approval. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

B) CONSIDERATION AND CONSULTATION WITH LEGAL COUNSEL REGARDING ECONOMIC DEVELOPMENT PROJECT POMPEII. (SECTION 551.087 AND 551.071, T.G.C.)

No action.

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

No action.

D) CONSULTATION WITH CITY ATTORNEY REGARDING REQUEST FOR PROPOSALS FOR OLD CIVIC CENTER REDEVELOPMENT. (SECTION 551.071, T.G.C.)

Commissioner Crane moved to instruct the City Manager and City Attorney to contact the proposer discussed in Executive Session with the purpose to discuss the possibility of entering into a development agreement. Commissioner Ingram seconded the motion. The motion carried unanimously by those present.

E) CONSULTATION WITH CITY ATTORNEY REGARDING NEW LAWSUIT; CL-13-1108-G MARY CUNNINGHAM VS. CITY OF MCALLEN. (SECTION 551.071, T.G.C.)

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

F) CONSULTATION WITH CITY ATTORNEY REGARDING NEW LAWSUIT; C-1602-13-F; ANDRES RODRIGUEZ VS. CITY OF MCALLEN. (SECTION 551.071, T.G.C.)

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

- G) **CONSULTATION WITH CITY ATTORNEY RELATING TO MOTOR VEHICLE ACCIDENT LIABILITY AND SUBROGATION CLAIM REPORTS AS OF MARCH 31, 2013. (SECTION 551.071, T.G.C.)**

No action.

- H) **CONSULTATION WITH CITY ATTORNEY RELATING TO WORKERS' COMP/LOSS RUN REPORT AS OF MARCH 31, 2013. (SECTION 551.071, T.G.C.)**

No action.

- I) **CONSULTATION WITH CITY ATTORNEY REGARDING CONTRACTUAL ISSUES RELATED TO CONVENTION CENTER. (SECTION 551.071, T.G.C.)**

No action.

- J) **DISCUSSION AND POSSIBLE ACTION TO CONSIDER THE POSSIBLE SALE OF 300 ACRES ON WARE ROAD AND MONTE CRISTO. (SECTION 551.072, T.G.C.)**

No action.

- K) **DISCUSSION AND POSSIBLE ACTION FOR RIGHT OF FIRST REFUSAL WITH BORDER CAPITAL BANK REGARDING 1.17 ACRES OUT OF LOT 1, BLOCK 15, STEELE & PERSHING SUBDIVISION NOW KNOW AS LOT 1A, RIDGE COMMERCE SUBDIVISION. (SECTION 551.072, T.G.C.)**

No action.

- L) **CONSIDERATION AND APPROVAL TO PROCEED WITH ACQUISITION OF PROPERTY AT 2401 N. 24TH STREET UNDER THE FEMA REPETITIVE FLOOD CLAIMS GRANT PROGRAM FY 12-003 AND UNDER REQUEST FOR AUTHORIZATION FOR CITY MANGER TO ACT AS AGENT FOR THE CITY TO EXECUTE PURCHASE AGREEMENT. (SECTION 551.072, T.G.C.)**

Mayor Pro Tem Salinas moved to authorize the City Attorney's Office to make an offer on the property within the parameters discussed in Executive Session. Commissioner Ingram seconded the motion. The motion carried unanimously by those present.

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

Commissioner Barrera moved to authorize staff to open single bid and bring back at the next meeting. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

- N) **DISCUSSION AND POSSIBLE ACTION REGARDING MAKING AN OFFER TO ACQUIRE A 12.29 ACRE TRACT OF LAND, MORE OR LESS, OUT OF LOT 3, BLOCK 5, HIDALGO CANAL COMPANY. (SECTION 551.072, T.G.C.)**

Commissioner Barrera moved to authorize the City Attorney and City Manager's Office to offer the first property within the parameters discussed in Executive Session. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously by those present.

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


Commissioner Barrera moved to authorize the City Attorney to take action with respect to the appeal in the lawsuit and the other matters discussed in Executive Session. Commissioner Ingram seconded the motion. The motion carried unanimously by those present.

ADJOURNMENT

There being no other business to come before the Commission, the meeting was adjourned at 9:42 p.m.


Richard Cortez, Mayor

Attest:


Annette Villarreal, TRMC/CMC, CPM
City Secretary