

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

The McAllen Board of Commissioners convened in a Regular Meeting on **Tuesday, May 28, 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  
Aida Ramirez, Mayor Pro Tem  
Scott Crane, Commissioner  
Trey Pebley, Commissioner  
John Ingram, Commissioner  
Veronica V. Whitacre, 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  
Perla Zamora, Deputy City Secretary  
Yvette Barrera City Engineer  
Juli Rankin, Director of Planning  
Victor Rodriguez, Police Chief  
Rafael Balderas, Fire Chief  
Sally Gavlik, Director of Parks and Recreation  
Sandra Zamora, Director of Purchasing  
Carlos Sanchez, Public Works Director  
Phil Brown, Director of Aviation

**CALL TO ORDER**

Mayor Darling called the meeting to order.

**PROCLAMATION**

Commissioner Ingram read and presented a proclamation for *Homeownership Month*.

**1. PUBLIC HEARING:**

- 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 Ingram moved to approve the items listed on the Routine Items section of the agenda. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

**REQUEST OF X-CESS ENTERTAINMENT INC., APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 7, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR, FOR A BAR AT LOTS 28-31, CONTINENTAL TRADE CENTER SUBDIVISION, HIDALGO COUNTY, TEXAS; 2021 ORCHID AVENUE**

Granted a variance to the distance requirement and approved a Conditional Use Permit at 2021 Orchid Avenue, as per Planning and Zoning Commission subject to maintaining the condition of nightly trash pickup and extra security. The establishment must also meet the 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 establishment is within 600 ft. of publicly-owned property, the International Museum of Arts & Science (IMAS);

- 2) The property must be as close as possible to a major arterial, and shall not generate traffic onto residential streets. The location is near Nolana Avenue and has direct access to Orchid Avenue, and does not generate traffic into residential area;
- 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. Based upon the occupancy of 700 persons, 175 parking spaces are required; 75 parking spaces are part of the property owned by the establishment. Parking agreements were submitted for an additional 108 parking spaces, for a total of 183 parking spaces available;
- 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. The establishment provides a clean-up crew; 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 number of persons allowed is 700.

**B) CONDITIONAL USE PERMIT:**

**REQUEST OF WALID HAIDAR, APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 7, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR, FOR A HOME OCCUPATION (OFFICE/ACCOUNTS PAYABLE) AT LOT 34, DAFFODIL GARDENS UNIT #5 SUBDIVISION, HIDALGO COUNTY, TEXAS; 200 GARDENIA AVENUE**

Staff recommended disapproval of the Conditional Use Permit, for one year, for a home occupation, at 200 Gardenia Avenue.

Mayor Darling asked if anyone was present to speak in opposition to the items listed under this section of the agenda. Mr. Isaac Garza spoke in favor of the permit. Mr. Tom Livigni spoke in opposition.

After due consideration, Commissioner Crane moved to disapprove the Conditional Use Permit as recommended. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

**C) PUBLIC HEARING TO CONSIDER FISCAL YEAR 2013-2017 FIVE-YEAR CONSOLIDATED PLAN AND STRATEGY AND FISCAL YEAR 2013-2014 ANNUAL ACTION PLAN INCLUDING THE PROPOSED BUDGET FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME ANNUAL ACTION PLANS**

Community Development Board Chair recommended a Public Hearing be held to consider Fiscal Year 2013-2017 Five-Year Consolidated Plan and Strategy and Fiscal Year 2013-2014 Annual Action Plan including the proposed budget for the CDBG and HOME Annual Action Plans.

**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.]*

Mayor Pro Tem Ramirez moved to approve the items listed on the Consent Agenda with exception of item D and that said item be addressed separately. Commissioner Ingram seconded the motion. The motion carried unanimously.

**A) APPROVAL OF MINUTES OF REGULAR MEETING HELD MAY 13<sup>TH</sup> AND SPECIAL MEETING HELD MAY 15, 2013**

Approved the minutes of Regular Meeting held May 13<sup>th</sup> and Special Meeting held May 15, 2013, as submitted.

**B) AWARD OF CONTRACT FOR THE PURCHASE OF ALUMINIZED PROTECTIVE JACKETS AND TROUSERS FOR THE MCALLEN FIRE DEPARTMENT**

Awarded a contract for the purchase of Aluminized Protective Jackets and Trousers for the McAllen Fire Department to Wilson Fire/Rescue at a unit price of \$1,528 per set. Additionally, authorization was given with City Manager approval, to exercise the option to extend the supply contract for two (2) additional years in one year increments, if the performance of the successful vendor is satisfactory and the unit price(s) remain unchanged.

**C) ORDINANCE PROVIDING FOR A BUDGET AMENDMENT FOR THE MCALLEN FIRE DEPARTMENT IN ORDER TO COMPLY WITH THE COLLECTIVE BARGAINING AGREEMENT RELATING TO UNIFORM ALLOWANCES**

Adopted an ordinance providing for a budget amendment in the amount of \$16,964 for the McAllen Fire Department in order to comply with the Collective Bargaining Agreement relating to uniform allowances.

**D) AWARD OF SUPPLY CONTRACT FOR THE PURCHASE OF FUEL - UNLEADED MID-GRADE FUEL AND ULTRA LOW SULFUR DIESEL (ULSD)**

Staff recommended award of supply contract for the purchase of Fuel for Unleaded Mid-Grade and Ultra Low Sulfur Diesel (ULSD), to Oil Patch Fuel. Additionally, staff recommended authorization, with City Manager approval, to exercise the option to extend the supply contract for two (2) additional years in one year increments, if the performance of the successful vendor is satisfactory and the profit margins remain the same.

Mayor Pro Tem Ramirez moved to award the contract as recommended. Commissioner Ingram seconded the motion. The motion carried unanimously.

**E) CONSIDERATION OF CHANGE ORDER NO. 1 FOR VARIOUS ITEMS REQUIRING DEMOLITION FOR THE MCALLEN DEVELOPMENT CENTER**

Approved Change Order No. 1 in the amount of \$6,870 to be deducted from the project's demolition allowance for an unchanged contract amount of \$1,979.00.

**F) CONSIDERATION OF CHANGE ORDER NO. 1 AND FINAL RECONCILIATION OF QUANTITIES FOR THE UVALDE SOCCER COMPLEX PARKING IMPROVEMENTS PROJECT**

Approved Change Order No. 1 and Final Reconciliation of Quantities for the Uvalde Soccer Complex Parking Improvements Project in the net amount of \$2,632.20 and no additional working days to the contract time for final contract time of 45 working days and a revised contract amount of \$117,968.60.

**G) ORDINANCE PROVIDING FOR THE ABANDONMENT OF 0.086 ACRE TRACT OF LAND, BEING A 10 FT. UTILITY EASEMENT OUT OF LOT 1, M & T PLAZA SUBDIVISION; 5113 NORTH 23<sup>RD</sup> STREET**

Adopted an ordinance providing for the abandonment of a 0.086 acre tract of land at 5113 North 23<sup>rd</sup> Street.

**H) ORDINANCE PROVIDING FOR THE ABANDONMENT OF A 0.25 ACRE TRACT OF LAND OUT OF A 20 FT. ALLEY ADJACENT TO THE WEST OF LOT 66, JACKSON MEADOWS SUBDIVISION; 2600 SOUTH JACKSON ROAD**

Adopted an ordinance providing for the abandonment of a 0.25 acre tract of land at 2600 South Jackson Road.

**I) VARIANCE REQUEST TO THE SECONDARY ACCESS REQUIREMENT FOR GATED STREETS FOR 2500 NORTH TAYLOR ROAD**

Approved a variance request to the secondary access requirement for gated streets for 2500 North Taylor Road.

**3. BIDS/CONTRACTS:**

**A) AWARD OF CONTRACT FOR DRAINAGE IMPROVEMENTS FOR KENDLEWOOD AVENUE (19<sup>TH</sup> STREET TO 22<sup>ND</sup> STREET)**

Staff recommended that said item be tabled for Executive Session to be discussed under Section 551.071 T.G.C., Consultation with Attorney.

Mayor Pro Tem Ramirez moved to table said item for Executive Session as recommended. Commissioner Ingram seconded the motion. The motion carried unanimously.

After Executive Session, Mayor Pro Tem Ramirez moved to remove said item from the table. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

Staff recommended award of contract for the Drainage Improvements for Kendlewood Avenue (19<sup>th</sup> Street to 22<sup>nd</sup> Street) to Dos Logistics, Inc., in the amount of \$479,745.77.

Mayor Pro Tem Ramirez moved to award the contract as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

**B) CONSIDERATION OF CHANGE ORDER NO. 2 FOR THE MCALLEN-HIDALGO INTERNATIONAL BRIDGE N.B. PEDESTRIAN CANOPIES**

Staff recommended approval of Change Order No. 2 for 20 additional days for a total of 200 days for the McAllen-Hidalgo International Bridge N.B. Pedestrian Canopies.

Mayor Darling clarified that his recollection of the Bridge Board action was that there was clause in the contract stating that should the work not be completed within the estimated time of the last extension then the City would be allowed to collect liquidated damages.

Mayor Pro Tem Ramirez moved to approve the change order subject to the clause noted. Commissioner Ingram seconded the motion. The motion carried unanimously.

**C) AWARD OF CONTRACT FOR FOOD AND BEVERAGE CONCESSION AT THE MCALLEN INTERNATIONAL AIRPORT**

Staff recommended that said item be tabled.

Mayor Pro Tem Ramirez moved to table said item as recommended. Mayor Tem Salinas seconded the motion. The motion carried unanimously.

**D) REVIEW OF PRELIMINARY DESIGN REIMBURSABLE AGREEMENT BETWEEN THE CITY OF MCALLEN AND THE FEDERAL AVIATION ADMINISTRATION**

Staff recommended approval of the Preliminary Design Reimbursable Agreement between the City of McAllen and the Federal Aviation Administration.

Commissioner Ingram moved to approve the agreement as recommended. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

**4. MANAGER'S REPORT:**

**A) CONSIDER APPOINTMENT TO THE MCALLEN-HIDALGO BRIDGE BOARD**

Mayor Darling recommended the appointment of Commissioner Ingram to the McAllen-Hidalgo Bridge Board.

Mayor Pro Tem Ramirez moved to appoint Commissioner Ingram as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

**B) APPOINTMENT OF MAYOR'S REPRESENTATIVE TO THE PUBLIC UTILITY BOARD**

Mayor Darling announced that he would remain as the Ex-Officio member on the Public Utility Board.

**C) APPOINTMENT OF MAYOR'S REPRESENTATIVE TO THE DEVELOPMENT CORPORATION**

Mayor Darling recommended the appointment of Commissioner Vela Whitacre to the McAllen-Development Corporation.

Mayor Pro Tem Ramirez moved to appoint Commissioner Whitacre as recommended. Commissioner Ingram seconded the motion. The motion carried unanimously.

**D) APPOINTMENT OF A REPRESENTATIVE TO THE AUDIT/INVESTMENT COMMITTEE**

Mayor Darling recommended the appointment of Commissioner Pebley to the Audit/Investment Committee.

Mayor Pro Tem Ramirez moved to appoint Commissioner Pebley as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

**E) APPOINTMENT OF A REPRESENTATIVE TO THE IT STEERING COMMITTEE**

Mayor Darling recommended the appointment of Mayor Pro Tem Ramirez to the IT Technology Committee.

Commissioner Ingram moved to appoint Mayor Pro Tem Ramirez as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

**F) STATUS REPORT ON PARKS AND RECREATION CONSTRUCTION PROJECTS**

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

**G) STATUS REPORT ON VARIOUS CITY PROJECTS THROUGH APRIL 30, 2013**

A construction update was given on various city projects underway. No action required.

**H) CONSTRUCTION UPDATE ON TERMINAL EXPANSION PROJECT**

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

**I) FUTURE AGENDA ITEMS**

The items for upcoming workshops were briefly reviewed: De Leon Sports Complex Update; Golf Course Expansion; and Feasibility Study for On-Site Clinic.

**5. MAYOR'S REPORT RELATING TO THE MEDICAL SCHOOL AND UNIVERSITY.**

Mayor Darling gave a report relating to the Medical School and University merger and thanked the Valley Delegation and regional support from the surrounding communities.

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

Mayor Pro Tem Ramirez 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.

Mayor Darling recessed the meeting at 6:50 pm to go into Executive Session. Mayor Darling reconvened the meeting at 7:58 pm and announced the action on Executive Session items.

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

No action.

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

No action.

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

Mayor Pro Tem Ramirez moved to authorize the City Attorney and City Manager to take the action with respect to the bid proposal as discussed in Executive Session. Commissioner Ingram seconded the motion. The motion carried unanimously.

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

No action.

**E) 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.

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

No action.

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

Mayor Pro Tem Ramirez moved to authorize the City Attorney to go forth with the settlement negotiations within the parameters discussed in Executive Session. Commissioner Ingram seconded the motion. The motion carried unanimously.

**H) CONSULTATION WITH CITY ATTORNEY REGARDING LAWSUIT; CITY OF MCALLEN VS. WAYNE H. DAVIS, CYNTHIA R. DAVIS, EZ-TIXX, LLC, EZ-TIXX TICKETING SERVICES, INC. AND TICKETING SERVICES LLC. (SECTION 551.071, T.G.C.)**

Commissioner Ingram moved to authorize the City Attorney and outside counsel to proceed as directed on the judgment with respect to the item. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

**I) DISCUSSION AND POSSIBLE ACTION REGARDING REQUEST FOR QUALIFICATIONS FOR PROJECT STRIPES. (SECTION 551.072, T.G.C.)**

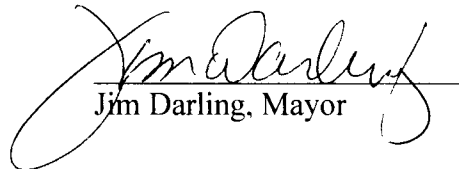
Commissioner Crane moved to authorize the City Attorney and City Manager to take the action with respect to the project as discussed in Executive Session. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

**J) DISCUSSION AND POSSIBLE ACTION REGARDING THE CONDUCT OF ENVIRONMENTAL SITE ASSESSMENT PHASE II ON A 2.98 ACRE TRACT OUT OF LOT 12, BLOCK 9, HIDALGO CANAL COMPANY'S SUBDIVISION OF PORCIONES 64, 65 AND 66, HIDALGO COUNTY, TEXAS. (SECTION 551.072, T.G.C.)**


No action.

**ADJOURNMENT**

There being no other business to come before the Commission, the meeting was adjourned at 8:01 p.m.

  
Jim Darling, Mayor

Attest:

  
Annette Villarreal, TRMC/CMC, CPM  
City Secretary