

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

The McAllen Board of Commissioners convened in a Regular Meeting on **Monday, June 10, 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 Vela 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.

PRESENTATION

A presentation was made to Kevin Watson and Joann Fuentes for being the recipients of a Teen Court Stipend & Scholarship.

PROCLAMATION

Commissioner Vela Whitacre read and presented a proclamation for *McAllen Fire Department's 100th Anniversary*.

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 with exception of item 5 and addressed it separately. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

1. REZONE FROM R-3A (MULTIFAMILY RESIDENTIAL APARTMENTS) DISTRICT TO C-3L (LIGHT COMMERCIAL) DISTRICT: 1.10 ACRE TRACT OF LAND BEING THE WEST 266.00 FEET OF LOT A, NORTHPARK ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 1700 DOVE AVENUE.

Approved the C-3L zoning at 1700 Dove Avenue, as per Planning and Zoning Commission.

2. REQUEST OF UPSCALE ENTERTAINMENT GROUP, LLC, APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 7, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR FOR A NIGHT CLUB AT LOTS 1-4, THE DISTRICT AT MCALLEN SUBDIVISION, HIDALGO COUNTY, TEXAS; 3300 NORTH MCCOLL ROAD, SUITE K.

Granted a variance to the distance requirement and approved a Conditional Use Permit, for one year, at 3300 North McColl Road, Suite K, 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:

- 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 residential zones and uses;
- 2) 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 North McColl Road and East Fern Avenue, and does not generate traffic into residential areas;
- 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 building on the property. The building is currently a mixture of retail, vacant suites, a restaurant (La Pampa), nightclubs and a bar. Based on the square footages and current mixed uses, 71 parking spaces are required during business hours (8 a.m. to 7 p.m.). The proposed 2,467 sq. ft. nightclub would require 33 parking spaces; 274 parking spaces are provided on the common parking area in the front and rear of the building. For the businesses that are after hours (restaurant, nightclubs and bar), to run simultaneously, 300 parking spaces are required. There is a mutual access agreement, which allows the use of parking and access in and across Lots 1 through 5, 6A, 6B of The District of McAllen Subdivision and Lot 9, 10, and 11 of The District of McAllen Phase II Subdivision. The 26 parking spaces will be utilized from Lot 6A;
- 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 allowable number of persons within the building for the use was set at 134 persons.

3. REQUEST OF VICKY CHMIELOWSKI, APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 21, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR FOR A BAR AT LOT 6, MEJIA SUBDIVISION #1, HIDALGO COUNTY, TEXAS; 2010 NOLANA AVENUE.

Granted a variance to the distance requirement and approved a Conditional Use Permit, for one year, at 2010 Nolana Avenue, 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:

- 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 The McAllen International Museum (IMAS) to the east and residentially-zoned properties to the east and southeast.
- 2) The property must be as close as possible to a major arterial and shall not generate traffic onto residential-sized streets. The establishment has direct access to Nolana Avenue and Bicentennial Drive, and does not generate traffic into residential areas;
- 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, fast food restaurants, and bars. At this time there are two fast food restaurants (Dominos & Billy's BBQ), retail (laundry matt, beauty salon, & Direct TV), a bar (Jackie O's) and a vacant lease space that had previously been used as a bar. Based on the current uses (except Jackie O's), 34 parking spaces are required and 125 spaces are provided on site. The proposed bar would require 46 parking spaces for a total of 80 spaces for the plaza. The existing bar (Jackie O's) requires 51 parking spaces; however, they have a parking agreement allowing them shared parking with a property to the west in order to comply with the parking requirements. If the vacant space again becomes occupied for a bar, it would require 46 parking spaces and parking would need to be provided;
- 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 allowable number of persons within the building for the use was set at 189 persons.

4. REQUEST OF MIGUEL A. COY ON BEHALF OF PROJECT X, APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 21, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR FOR A NIGHT CLUB AT LOTS 1-4, THE DISTRICT AT MCALLEN SUBDIVISION, HIDALGO COUNTY, TEXAS; 3300 NORTH MCCOLL ROAD, SUITES I & J.

Granted a variance to the distance requirement and approved a Conditional Use Permit, for one year, at 3300 North McColl Road, Suites I & J, 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:

- 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 residential zones and uses;
- 2) 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 North McColl Road and East Fern Avenue, and does not generate traffic into residential areas;
- 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 building on the property. The building is currently a mixture of retail, vacant suites, a restaurant (La Pampa), nightclubs and a bar. Based on the square footages and current mixed uses, 71 parking spaces are required during business hours (8 A.M. to 7 P.M.). The proposed 6,200 sq. ft. nightclub would require 83 parking spaces; 274 parking spaces are provided on the common parking area in the front and rear of the building. For the businesses that are after hours (restaurant, nightclubs and bar), to run simultaneously, 319 parking spaces are required. There is a

recorded mutual access agreement that allows the use of parking and access in and across Lots 1 through 5, 6A, 6B of The District of McAllen Subdivision and Lot 9, 10, and 11 of The District of McAllen Phase II Subdivision. The 45 parking spaces will be utilized from Lot 6A;

- 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. Should this permit be granted, then the condition of keeping litter at a minimum on this property and on adjacent properties be maintained; 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. Occupancy load to be determined at time of permit submittal and issuance.

5. REQUEST OF ROPE INVESTORS, LLC., APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 21, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR FOR A NIGHT CLUB AT LOT 1, ROBIN SUBDIVISION, HIDALGO COUNTY, TEXAS; 6800 NORTH 10TH STREET.

Staff recommended approval of a variance to the distance requirement and approval of a Conditional Use Permit, for one year, at 6800 North 10th Street, 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:

- 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 residential zones and uses;
- 2) 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 North 10th Street, and does not generate traffic into residential areas;
- 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 on the square footage of the establishment, 136 parking spaces are required for this; 128 parking spaces are being proposed;
- 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 capacity for this establishment will be determined at the time of building permit prior to occupancy of the building.

Mayor Darling asked if anyone was present to speak in opposition to the permit request. The following spoke in opposition to the permit: Judy Kutugata and Dr. Lopez.

Commissioner Ingram moved to table said item. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

B) CONDITIONAL USE PERMIT:

REQUEST OF JUAN NAVARRO, APPEALING THE DECISION OF THE PLANNING & ZONING COMMISSION OF THE MAY 21, 2013 MEETING, DENYING A CONDITIONAL USE PERMIT, FOR ONE YEAR, FOR A HOME OCCUPATION (OFFICE/MOONJUMP RENTALS) AT LOT 6, DAFFODIL GARDENS #1 SUBDIVISION, HIDALGO COUNTY, TEXAS; 505 DAFFODIL AVENUE.

Staff recommended disapproval of the Conditional Use Permit, for one year, for a home occupation, at 505 Daffodil Avenue.

Mayor Darling asked if anyone was present to speak in favor of permit request. The applicant, Juan Navarro, spoke in favor of the permit. No one appeared in opposition.

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

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

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

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 Darling announced that he had a conflict on consent item 2L-6 and filed a Conflict form with the City Secretary.

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

A) APPROVAL OF MINUTES OF REGULAR MEETING HELD MAY 28, 2013.

Approved the minutes of Regular Meeting held May 28, 2013, as submitted.

B) AUTHORIZATION TO RENEW MICROSOFT ENTERPRISE AGREEMENT THROUGH THE STATE OF TEXAS, DEPARTMENT OF INFORMATION RESOURCES (DIR) PROGRAM.

Approved the renewal of the Microsoft Enterprise Agreement through the State of Texas, Department of Information Resources (DIR) Program for three (3) years, in the amount not to exceed \$160,063.32 per year.

C) AWARD OF CONTRACT FOR TWO (2) CURRENT MODEL NEW & UNUSED TRIPLEX RIDING GREENS MOWERS.

Awarded a contract for two (2) current model New & Unused Triplex Riding Greens Mowers to Professional Turf Products, through TASB-Buyboard Cooperative Agency, for the unit price of \$23,697.20, for a total of \$47,394.40.

D) AWARD OF CONTRACT FOR THE PURCHASE OF LAWN & LEAF BAGS.

Awarded a supply contract for the purchase of Lawn & Leaf Bags to Duro Bag Mfg. Co., at a unit price of \$0.2960. The term of the supply contract is for one year with the option to extend for two (2) additional years in one-year increments, with City Manager approval, if the performance of the successful bidder is satisfactory and the unit prices remain firm.

E) AWARD OF CONTRACT FOR TOWING SERVICES (HEAVY TRUCKS/EQUIPMENT: > 28,000 GVW).

Awarded a service contract for Towing Services (heavy trucks/equipment: >28,000GVW) to Apollo Towing. The term of the service contract is for one year with the option to extend for two (2) additional years in one-year increments, with City Manager approval, if the performance of the successful bidder is satisfactory and the unit prices remain firm.

F) AWARD OF CONTRACT FOR THE PURCHASE OF T-SHIRTS FOR 2013 PARKS & RECREATION PROGRAMS.

Awarded a supply contract for the purchase of T-Shirts for 2013 Parks & Recreation Programs to Britten Inc. The term of the supply contract is for one year with the option to extend for two (2) additional years in one-year increments, with City Manager approval, if the performance of the successful bidder is satisfactory and the unit prices remain firm.

G) AWARD OF CONTRACT FOR THE PURCHASE OF PLAYGROUND EQUIPMENT FOR LOS ENCINOS PARK TO MEET THE REQUIREMENTS OF A KABOOM GRANT.

Awarded a contract for the purchase of Playground Equipment for Los Encinos Park to Park Place Designs, Inc., in the amount of \$27,240.78.

H) CHANGE ORDER NO. 2 FOR ELECTRICAL PANELS AND STEP-DOWN TRANSFORMERS FOR IRRIGATION SYSTEM AND 5 ADDITIONAL WORKING DAYS FOR THE BICENTENNIAL HIKE AND BIKE TRAIL.

Approved Change Order No. 2 for Electrical Panels and Step-down Transformers for Irrigation System, in the amount of \$15,580.20 and five (5) additional days for the Bicentennial Hike and Bike Trail.

I) RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE U. S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, FOR FUNDING UNDER THE FISCAL YEAR 2013 JUSTICE ASSISTANCE GRANT PROGRAM.

Approved a resolution authorizing the submission of a grant application to the U.S. Department of Justice, Bureau of Justice Assistance, for funding under the Fiscal Year 2013 Justice Assistance Grant Program. The grant request will provide funding for one (1) digital imaging system and accessories for the McAllen Police Department Explosive Ordnance Disposal (Bomb) Unit, in the amount of \$22,615 with a leveraged local match of \$570 for a total project cost of \$23,185.

J) CHANGE ORDER NO. 2 FOR STORM DRAIN AND CREDITS FOR THE MCALLEN DEVELOPMENT CENTER.

Approved Change Order No. 2 for Storm Drain and Credits for the McAllen Development Center, by decreasing the contract amount by \$1,303 and hence revising the contract amount to \$1,977,697 and reducing the contingency allowance by \$2,485 and leaving a balance of \$47,515. No change to the contract time.

K) CONSIDERATION AND APPROVAL OF THE PROPOSED EAST REDBUD AVENUE AT NORTH "K" CENTER AVENUE DRAINAGE IMPROVEMENTS PROJECT.

Approved the prioritization of the proposed East Redbud Avenue at North "K Center" Avenue Drainage Improvements Project under FY 2012-2013, at an estimated cost of \$212,000 subject to a budget amendment.

L) APPROVAL OF TAX REFUNDS OVER \$500:

1. CONN'S #106/CONN'S APPLIANCES INC.

Approved a tax refund in the amount of \$3,405.00.

2. WARE INDUSTRIAL PARTNERS LP

Approved a tax refund in the amount of \$821.22.

3. WEINGARTEN NORTHCROSS J V

Approved a tax refund in the amount of \$1,791.97.

4. REYNALDO M. & ANITA RODRIGUEZ

Approved a tax refund in the amount of \$998.33.

5. DANIEL & HERMINIA H. VILLARREAL

Approved a tax refund in the amount of \$583.65.

6. IMAGING CENTER AT MEDPOINT

Approved a tax refund in the amount of \$2,596.03.

M) RESOLUTION APPROVING A COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY AEP TCC TO REVIEW AEP TCC'S REQUESTED APPROVAL OF AN ADJUSTMENT TO ITS ENERGY EFFICIENT COST RECOVERY FACTOR.

Approved a resolution approving a cooperative with the Steering Committee of Cities served by AEP TCC, to review AEP TCC's requested approval of an adjustment to its energy efficient cost recovery factor.

N) CONSIDERATION OF A RESOLUTION RECOMMENDING TO HIDALGO COUNTY COMMISSIONER'S COURT ALTERNATE VOTE CENTER LOCATIONS IN MCALLEN FOR THE NOVEMBER 2013 CONSTITUTIONAL AMENDMENT ELECTION.

Commissioner Crane moved to table said item. Commissioner Ingram seconded the motion. The motion carried unanimously.

3. BIDS/CONTRACTS:

A) AWARD OF CONTRACT FOR THE PURCHASE AND INSTALLATION OF ONE (1) NEW CURRENT MODEL EXCAVATOR MOUNTED BRUSH CUTTING ATTACHMENT FOR THE STREETS AND DRAINAGE DEPARTMENT OF PUBLIC WORKS.

Staff recommended award of contract for the purchase and installation of one (1) new Current Model Excavator Mounted Brush Cutting Attachment for the Streets and Drainage Department of Public Works, to Neuhaus Company LTD, in the amount of \$29,999.

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

B) AWARD OF CONTRACT FOR THE PURCHASE AND INSTALLATION OF ONE (1) 8,000 GALLON FUEL TANK AND TWO (2) SINGLE HOSE DISPENSERS.

Staff recommended award of contract for the purchase and installation of one (1) 8,000 Gallon Fuel Tank and two (2) Single Hose Dispensers, to South Texas Pump Inc., in the amount of \$77,000, subject to a budget amendment to the Internal Services Fund of \$2,000.

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

C) AWARD OF CONTRACT FOR THE PURCHASE OF A PIERCE ARROW XT CUSTOM RESCUE PUMPER FOR THE FIRE DEPARTMENT.

Staff recommended award of contract for the purchase of a Pierce Arrow XT Custom Rescue Pumper for the Fire Department, to Siddons-Martin Emergency Group, in the amount of \$548,296.06.

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

D) AWARD OF CONTRACT FOR FIREMAN'S PARK LAKE LINER.

Staff recommended award of contract for Fireman's Park Lake Liner to Rovam Texas, LLC, in the amount of \$212,512.18.

Questions were asked of staff relating to the contractor, material type and guarantees.

After due consideration, Commissioner Ingram moved to award the contract as recommended. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

E) CONSIDERATION AND APPROVAL OF CONTRACT AMENDMENT #2 TO MCALLEN PUBLIC SAFETY BUILDING PROJECT.

Staff recommended approval of Contract Amendment #2 for a revised scope of services with Milnet Architectural Services, PLLC, for the McAllen Public Safety Building Project, in the amount of 7% of the construction cost but not-to-exceed \$35,000.

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

F) AWARD OF CONTRACT FOR THE PURCHASE OF ONE (1) NEW MODEL DIESEL, CREW CAB & CHASSIS TRUCK WITH CHIPPER FORESTRY BODY.

Staff recommended award of contract for the purchase of one (1) New Model Diesel, Crew Cab & Chassis Truck with Chipper Forestry Body to Randall Reed's Prestige Ford, in the amount of \$56,780 which includes a custom built chipper body box, subject to a budget amendment to the Sanitation Depreciation Fund of \$6,780.

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

G) CONSIDERATION OF CHANGE ORDER NO. 1 TO URS WORK ORDER NO. 5 – CONSTRUCTION ADMINISTRATION.

Staff recommended approval of Change Order No. 1 to URS Work Order No. 5 Construction Administration, for the remaining amount of \$284,159 to complete the project.

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

H) CONSIDERATION OF A LICENSE AGREEMENT FOR CONSTRUCTION, LANDSCAPE & MAINTENANCE OF FRONT PORCH AREA WITHIN CITY OF MCALLEN RIGHT-OF-WAY FOR 424 VERMONT AVENUE.

Staff recommended approval of a License Agreement for Construction, Landscape & Maintenance of front porch area within the City right-of-way at 424 Vermont Avenue.

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

4. ORDINANCES:

- A) GRANTING TEXAS GAS SERVICE COMPANY THE RIGHT, PRIVILEGE AND FRANCHISE TO USE STREETS, ALLEYS, THOROUGHFARES AND OTHER PUBLIC WAYS TO OPERATE AND MAINTAIN A NATURAL GAS DISTRIBUTION SYSTEM IN THE CITY OF MCALLEN.**

Staff recommended adoption of an ordinance granting Texas Gas Service Company the right, privilege and franchise to use streets, alleys, thoroughfares and other public ways to operate and maintain a natural gas distribution system in the City of McAllen.

Mayor Darling requested that TGS consider the removal of the franchise fee on the franchise fee that is paid by the customer and requested that this be a stipulation on the motion.

After due consideration, Commissioner Pebley moved to adopt the ordinance as recommended subject to the removal of the franchise fee on the franchise fee currently charged to the customer. Commissioner Ingram seconded the motion. The motion carried unanimously.

- B) BUDGET AMENDMENT FOR THE PURCHASE OF A PIERCE ARROW XT CUSTOM RESCUE PUMPER.**

Staff recommended adoption of an ordinance providing for a budget amendment in the amount of \$548,296.06, for the purchase of a Rescue Pumper for the Fire Department.

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

- C) BUDGET AMENDMENT TO THE SANITATION FUND FOR THE PURPOSE OF FUNDING THE PURCHASE OF A CHIPPER FORESTRY TRUCK FOR THE BRUSH DEPARTMENT.**

Staff recommended adoption of an ordinance providing for a budget amendment in the amount of \$6,780 to the Sanitation Fund, for the purpose of funding the purchase of a Chipper Forestry Truck for the Brush Department.

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

- D) BUDGET AMENDMENT TO THE INTERNAL SERVICES FUND FOR THE PURPOSE OF FUNDING THE PURCHASE AND INSTALLATION OF A FUEL TANK UPGRADE AT THE PUBLIC WORKS FACILITY.**

Staff recommended adoption of an ordinance providing for a budget amendment in the amount of \$2,000 to the Internal Services Fund, for the purpose of funding the purchase and installation of a fuel tank upgrade at the Public Works Facility.

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

- 5. VARIANCE REQUEST TO THE SUBDIVISION PROCESS AT THE WEST 117 FT. OF THE EAST 488 FT. OF A RESUBDIVISION OF THE NORTH 10 ACRES OF THE SOUTH 20 ACRES OF THE COMBINED BLOCK 2 AND LOT 11, BLOCK 4, M&M SUBDIVISION; 2925 VALCOSTA SR.**

Staff recommended disapproval of the variance request to the subdivision process for 2925 Valcosta Sr.

Questions were asked of staff. Mayor Darling asked that said item be tabled to allow staff to bring back additional information.

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

6. MANAGER'S REPORT:

A) CONSIDER AUTHORIZATION TO SUBMIT AN FTA GRANT APPLICATION FOR THE CONSTRUCTION OF A DOWNTOWN TROLLEY PARK & RIDE.

Staff requested authorization to submit an FTA grant application for the construction of a Downtown Trolley Park & Ride, in the amount of \$231,996, with a local match of \$46,400, of which \$185,596 is reimbursable through the FTA grant.

Commissioner Ingram moved to authorize the grant submission request as recommended. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

B) ADVISORY BOARD APPOINTMENTS.

Staff recommended the appointment of a member to the Building Board of Adjustments & Appeals.

Commissioner Pebley nominated Ruben Cavazos.

Commissioner Ingram moved to confirm the appointment. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

C) FUTURE AGENDA ITEMS.

The items for upcoming workshops were briefly reviewed: Legislative Update; Workshop/Retreat; General Insurance; and Valcosta Sr. variance.

7. MAYOR'S REPORT ON THE RIO GRANDE REGIONAL WATER AUTHORITY PROGRAM REGARDING THE MEXICO-U.S. TREATY.

Mayor Darling gave a report on the Rio Grande Regional Water Authority Program regarding the Mexico-U.S. Treaty. He announced a website (www.texansfortreatycompliance.org) for Texas residents to sign a petition calling on President Obama to take action on the Mexico water deficit. Staff was instructed to post this link on the city's website. No action required.

8. TABLED ITEM: AWARD OF CONTRACT FOR FOOD AND BEVERAGE CONCESSION AT THE MCALLEN INTERNATIONAL AIRPORT.

Mayor Pro Tem Salinas moved to remove said item from the table. Commissioner Ingram seconded the motion. The motion carried unanimously.

Staff recommended award of contract for the Food and Beverage Concession at the McAllen International Airport to D&M Coffee Co. Inc., with basic provisions of the agreement as follows:

- Non-exclusive food and beverage agreement with a five year term and two five (5) year options to renew
- Department of Aviation to receive 10% of gross receipts on all food and beverage items
- Department of Aviation to receive 15% of gross receipts on all alcoholic beverages
- Department of Aviation to contribute no more than \$600,000 (estimate \$546,343) for construction of concession space (including design, construction, furnishings, fixtures and equipment). This amount to be reimbursed to the concessionaire upon receipt of certified pay applications and receipt of paid invoices for equipment.
- Estimated revenue for the first year of the concession agreement is \$66,000.00

Staff also recommended funding Furniture & Equipment not to exceed \$102,000 as part of the project costs.

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

PUBLIC COMMENT SESSION

No one appeared.

9. 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 9B , 9D, 9E; Section 551.071 Consultation with Attorney for Items 9A, 9D, 9F, 9H and 9L; and Section 551.072 Deliberation regarding Real Property for Items 9C, 9G, 9I, 9J and 9K.

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 7:25 pm to go into Executive Session. Mayor Darling reconvened the meeting at 7:39 pm and announced that a presentation would be made in open session related to Executive Session Item 9C. At this time, two representatives from Cambridge Properties made a presentation on a proposed convention center hotel.

Mayor Darling recessed the meeting at 8:05 pm to go into Executive Session. Mayor Darling reconvened the meeting at 9:15 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.)

Commissioner Ingram moved to authorize the Mayor, City Manager and City Attorney, to meet with the developers along the lines discussed in Executive Session. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

D) CONSULTATION WITH CITY ATTORNEY REGARDING POSSIBLE ECONOMIC DEVELOPMENT FOR PROJECT CANTERBURY. (SECTION 551.071, T.G.C. & SECTION 551.087, T.G.C.)

Commissioner Ingram moved to authorize the City Manager to meet with the proposed developer. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

E) DISCUSSION AND POSSIBLE ACTION REGARDING CITY ECONOMIC JOB DEVELOPMENT FOR CUSTOM ENGINEERED WHEELS. (SECTION 551.087, T.G.C.)

Commissioner Pebley moved to authorize the President of the McAllen Economic Development Corporation (MEDC) and city staff, to enter into the economic development agreement for that project as discussed in Executive Session. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

F) CONSULTATION WITH CITY ATTORNEY REGARDING DARK FIBER LEASE. (SECTION 551.071, T.G.C.)

Commissioner Ingram moved to authorize the City Attorney and City Manager to enter into the fiber lease within the parameters discussed in Executive Session. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

G) CONSIDER POSSIBLE USE OR TRANSFER OF CITY PROPERTY LOCATED ON WARE ROAD AND MONTE CRISTO FOR ECONOMIC DEVELOPMENT. (SECTION 551.072, T.G.C.)

Commissioner Pebley moved to authorize city staff to request relocation of the project per the discussion in Executive Session. Mayor Pro Tem Ramirez seconded the motion. The motion carried unanimously.

H) DISCUSSION AND POSSIBLE ACTION REGARDING LAND DONATION FOR SAM HOUSTON HOUSING AUTHORITY PROJECT AT OLD SAM HOUSTON SCHOOL SITE. (SECTION 551.071, T.G.C.)

No action.

I) DISCUSSION AND POSSIBLE ACTION REGARDING MAKING AN OFFER TO ACQUIRE A 20 ACRE TRACT, MORE OR LESS, OUT OF LOT 98, LA LOMITA SUBDIVISION. (SECTION 551.072, T.G.C.)

No action.

J) DISCUSSION AND POSSIBLE ACTION REGARDING AN OFFER TO ACQUIRE A 5 ACRE TRACT, MORE OR LESS, OUT OF LOT 39-11, WEST ADDITION TO SHARYLAND, HIDALGO COUNTY, TEXAS. (SECTION 551.072, T.G.C.)

Commissioner Ingram moved to instruct the City Attorney to respectfully decline the offer to purchase the five-acre tract. Mayor Pro Tem Salinas seconded the motion. The motion carried unanimously.

K) 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 RESOLUTION. (SECTION 551.072, T.G.C.)

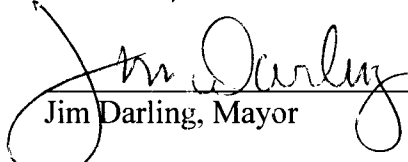
No action.

L) 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 9:18 p.m.


Jim Darling, Mayor

Attest:


Annette Villarreal, TRMC/CMC, CPM
City Secretary