

**MINUTES
BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING
MONDAY, JULY 11, 2016 AT 6:10 P.M.
118 SOUTH CAGE 2ND FLOOR**

The Board of Commissioners of the City of Pharr, Texas, met in a Special Called Meeting on Monday, July 11, 2016 and following is the record of attendance.

BOARD OF COMMISSIONERS PRESENT: Mayor Ambrosio Hernandez
Mayor Pro-Tem Oscar Elizondo, Jr.
Comm. Eleazar Guajardo
Comm. Roberto Carrillo
Comm. Ricardo Medina
Comm. Mario Bracamontes

BOARD OF COMMISSIONERS ABSENT: Comm. Edmund Maldonado

STAFF PRESENT: Juan G. Guerra, City Manager
Ed Wylie, Asst. City Manager
Imelda Barrera, Asst. City Clerk
William Ueckert, City Engineer
Gary Rodriguez, Events Center Dir.
Karla Moya, Finance Director
Anali Cantu, HR Director
Ruben Villescas, Police Chief
Lenny Perez, Fire Chief
Melanie Cano, Development Services Dir.
Roy Garcia, Public Works Director
David Garza, Public Utilities Director
Roel Garza, Parks & Rec. Director
Raul Garza, CDBG Director
Adolfo Garcia, Library Director
Jason Arms, IT Director
Luis Bazan, Bridge Director
Sergio Contreras, PEDC Director

CITY ATTORNEY Patricia Rigney, Attorney

ITEM 1 CALL TO ORDER:

Mayor Hernandez called the meeting to order at 6:10 p.m. Roll Call established a quorum.

**A) ROLL CALL AND POSSIBLE ACTION ON THE EXCUSING OF ANY
ABSENT MEMBER OF THE GOVERNING BODY**

Comm. Medina moved to excuse Comm. Maldonado. Comm. Elizondo seconded the motion and when put to a vote, it carried unanimously.

ITEM 2 CONTRACTS/AGREEMENTS:

**A) CONSIDERATION AND ACTION, IF ANY, ON INTERLOCAL AGREEMENT
BETWEEN THE CITY OF PHARR AND HIDALGO COUNTY FOR LINEAR
PARK PROJECT (HIKE & BIKE TRAIL PROJECT) (ADMINISTRATION)**

Juan Guerra, City Manager, introduced the item.

Comm. Bracamontes asked Mr. Guerra to provide more detail regarding the item. Juan G. Guerra, City Manager stated he did not attend the Hidalgo County Metropolitan Planning Organization (HCMPO) meeting but it was his understanding the HCMPO voted to remove the funds and put into the City's hands for project being made. Therefore, the funds belong to the City of Pharr and he stated that his understanding

was there was no funding for this project. Comm. Bracamontes asked if the City would lose out on any monies from the County. Mayor Hernandez responded the monies were from the HCMPO.

At this time, Comm. Elizondo asked if Commissioner Eddie Cantu could approach to discuss. Mayor Hernandez called upon Commissioner Cantu to discuss the item.

Hidalgo County Commission Eddie Cantu approached the City Commission and mentioned he had come before the board back on August 25, 2015 requesting an Interlocal between the County, City of Pharr, City of McAllen and City of San Juan regarding monies that HCMPO had assigned for this project. Mr. Cantu stated that in late 2014, Hidalgo County put in a proposal for a Hike & Bike Trail, the City of Edinburg put in a couple of projects, South Texas College put in a couple of projects and it went through a ranking procedure thru the Bike Ped Task Force. The Hike & Bike Trail was ranked number one, as well as by the Technical Advisory Committee (TAC) and Hidalgo County Metropolitan Planning Organization (HCMPO). He stated Hidalgo County went through a process to earn these funds around the months of June and July and in August the County started working with the cities. Hidalgo County Precinct 2 received the orders of what all needed be done and it was completed. He also mentioned that they were two weeks away from having a public meeting regarding this project. He stated many things have happened in the process and Texas Department of Transportation (TXDOT) had expedited a portion of funds so they were ready to start the first half of construction of the project, which he said was half in San Juan and half in Pharr. Mr. Cantu further mentioned there was a timeline and the first half to be on October 2016 and second half on September 2017. He further stated these funds were awarded to the County and not the cities. He also mentioned if for some reason the County was not fulfilling its obligation he assumed that the monies would go back to HCMPO and possibly go thru the process of being ranked again and other applicants would come into the picture, for instance, the City of McAllen did not put anything in because they fully supported this project. Mr. Cantu commented this money would potentially go back to HCMPO, however there would be no way that anyone could fulfill with the timeframe and deadlines of October 2016 and September 2017 to get these projects ready and be able to take advantage of the \$5.6 million dollars that was available. Mr. Cantu explained there has been no action taken to move these monies and stated Andrew Canon, HCMPO, was in the audience.

Commissioner Cantu repeated to say that no agenda item and no further action has been taken to move this item and added all the other cities would be up in arms because there were other cities that had submitted projects when the County had been awarded the number one ranked project. Furthermore, he it was not the City of Pharr's money to take from the County, it still belongs to the County at this point and if the City of Pharr wants to break the Interlocal Agreement then maybe they can do that and it would be up to the City's legal department. He mentioned they were ready and willing to put the City of Pharr's portion of \$900,000 that the City was willing to put into the project and that County would fund because they did not want to lose out on the \$5.6 million dollars. He mentioned at this point the \$5.6 million dollars would go back to the State and no one in the County and no one at the HCMPO would be able to take advantage of this opportunity. Mr. Cantu went on to say that this was the first time that he hears the City of Pharr is not interested in this project and that he was here to protect the money for this project and also for the HCMPO because if they did not go forward with the project, then it would go back to the State. Lastly, he mentioned Andrew Canon could inform the Commission were the money was right now.

Juan Guerra, City Manager asked Mr. Canon to approach the podium.

Mayor Hernandez stated he wanted to clarify a few things first. He stated the project did come forward and mentioned there were three major obstacles that needed to be fulfilled. The ultimate authority was not the TAC not any other board except the HCMPO board. He further stated they were the authority that controls the money and where every penny is spent on projects. The HCMPO awarded the funds and they can also take them or shift them whether you need to as a board. He stated the board did look at it and they did entertain the City of Pharr's request, but the City stated clearly

that if we had non-compliance with the City's request, which we did, we are now putting you on notice, not the City of Pharr Commission Board but the HCMPO Board, that were going to move those funds that were delegated to the City of Pharr, the City's percent, not McAllen's, not San Juan's, whatever portion belongs to the City of Pharr and we will do it. He stated the entire HCMPO Board unanimously voted and agreed to it and that's what they ratified.

Eduardo Cantu asked Mayor Hernandez which agenda item, and stated that there was no agenda item that the HCMPO was going to redirect the money.

Mayor Hernandez stated that it could be presented in two ways, it can be presented orally or present in written form. Mayor Hernandez stated that he presented it orally in front of the HCMPO Board and they accepted it that way. In July 2016, which is this month, the item was ratified.

Commissioner Cantu stated they went through a process and they were awarded the funds. He recapped on the Interlocal Agreement and said there is a process that needs to be followed in which they have. He stated the minutes addressed something else, minutes stated there were three major things that the City of Pharr was going to look at. Mr. Cantu stated the first two items have been met and the third item will be done in two weeks. He also stated it didn't say that you have to have a public meeting within a certain timeframe, it's says in there if you read the minutes, there is going to be a public meeting / NIPA or something like that and NIPA is what we are going through, he stated it is the federal process and the federal process is that TXDOT is allowing us to have the meeting in two weeks.

Mayor Hernandez stated that was not what was discussed. He mentioned if Mr. Cantu wanted to discuss this, he would do it in open forum and that he had discussed this with Juan Guerra, City Manager, as well. Mayor Hernandez stated the issue was that at any time when a route is chosen it needs to be chosen by the people who pay for it, and in this case that would be the citizens of Pharr. He also mentioned that anyone who has a problem with it should come forward and he himself has a problem with it. He stated the problem is that his house is approximately one hundred yards away from the Hike & Bike Trail and so is another Mayor's, another Commissioner's and so is Mr. Cantu's house and there are properties that are owned not by himself but by Mr. Cantu and maybe even his family, that are one hundred yards or less from the Hike & Bike Trail and some would see this as a conflict of interest because based on other Hike & Bike trails within the nation that it raises people home value. Mayor Hernandez further stated what was discussed was not that the City did not want the Hike & Bike Trail, the City of Pharr loves the idea, but we need to let the citizens of Pharr know where we can put it and what routes all are acceptable but they cannot all have Moore Road on them. The citizens have to see other routes that doesn't benefit himself personally or anybody else, this should benefit everyone in the City of Pharr including any increase in values. He stated the stipulation was not TXDOT or in open forum. He stated if Mr. Cantu can provide the City Commission and himself maps to have the ability to provide to the citizens of Pharr with more than just Moore Road, the City would be happy to move forward with the project. He commented it is an inherent conflict of interest and people are entitled to their opinion but that he does not tell his Commission what to do or what they can say, they can vote any way they want. He said he has a problem just as other taxpayers on that street who have raised concerns about it being an inherent problem and have asked him if he is going to allow it, in which he has replied that it is not up to him but to his Commission. He stated he has brought it forward to Precinct 2 that this is a problem and the City is not going to move forward if that is not met above all the compliance issues. He stated he was just one vote and this was the way he sees it. If the costs have to be capped, there has to be safety measures in place and if those things are in place and the City gets written confirmation from his office, then the City is good. Mayor Hernandez stated he never discussed anything in regards to TXDOT.

Commissioner Cantu responded to Mayor Hernandez by saying the City has those two things in the Interlocal Agreement and the letter. He stated in both the Interlocal Agreement and the letter, the City is capped at \$900,000.

Mayor Hernandez replied what was important was the third item and the other two items the City already had.

Commissioner Cantu stated he follows the federal process which says that you have to have a public meeting at a certain time period, Precinct 2 does not control this, TXDOT controls this. He stated at this point you look at different alternatives. He said there is an alternative to keep it off of Moore Road, you keep going north on the ditch and you end up on Ridge Road. He said there are other alternatives but this was the cheapest route once you got to Moore Road because you would go thru an existing right of way as you do in McAllen, but you can also keep going north away from these properties that Mr. Cantu owns.

Mayor Hernandez replied he agreed but it was a simple request and they had spoken about it in August 2015 and it was already July 2016.

Commissioner Cantu stated he knew, but the federal process, that everyone understood that we were going to go thru is not going to take place until two weeks from now. He stated you cannot have a public meeting without TXDOT's permission in a federal project. Mr. Cantu stated they were two weeks away from having a public meeting and post alternatives, but when it was submitted to the HCMPO, when the County was awarded the money, the County had to provide them with a route that works and this is where it came from. He stated they started in the canals and ended up in the ditches because of the cheap right-of-way. He also mentioned if the County had to buy right-of-way, this project would never get done because all the money would be spent on right-of-way and utility relocations and the County was looking for the cheapest ways which were the ditches. He also mentioned the canals were complicated because you would have to deal with irrigation issues and with the ditches, it would be very little money that you would spend. He went on to explain how they came from San Juan into Pharr through the ditches until they got to Moore Road. He stated if anyone is familiar with that crossing, the north side is about ten to fifteen feet high, so they saw a problem getting up there, so then they would end-up on Ridge Road and that would be expensive right-of-way, then how do they get to Yuma Road to cross into McAllen. He stated there was a thought process and there was exhibit after exhibit to present it to the City and to try to show City of Pharr how they got to that point. Mr. Cantu mentioned this all started with the City of Pharr Master Plan in using canals but when the County showed it to TXDOT, TXDOT stated the County could not use canals because they would end-up at US 281 at an intersection with no signal lights, then the County moved it to the drainage ditch because it's free or very inexpensive because the County was trying to get to McAllen. He stated the whole project was trying to get from San Juan to McAllen and the County accomplished that. Mr. Cantu stated if the City did not like it going down Moore Road or if there was a public outcry against it, the County would consider the north route. He further stated it was not too late the County just needed to come-up with a plan so people could make comments to plan. He stated every document and everything was written in black and white, the County has followed and they have provided letters and exhibits to that affect.

Mayor Hernandez stated the one thing he has learned is that even in medicine, the cheapest route isn't always the best route, it's not always best choice and sometimes it's worth spending more money to get exactly what you want and good quality. Mayor Hernandez asked City Manager, Juan Guerra, if he had a discussion regarding the route with Mr. Cantu and the concerns with Moore Road. Juan Guerra responded he believed he did, but not in writing.

Mayor Hernandez stated he did not want any misunderstandings on whether something was fully disclosed or not and stated in his mind, there was no misunderstanding.

Commissioner Cantu stated the County would be presenting what was approved at the HCMPO. If there were any comments that it did not work, then the County will consider alternatives such as going through the ditch that is 10 feet above the ground and figuring how to get individuals there through ADA. He stated it would be a more expensive alternative but the County wanted to spend the money on the Hike & Bike Trail. He mentioned this was supported by San Juan, Pharr, McAllen and Edinburg and

stated the trail would go all the way to the UTRGV University and the citizens were excited about that.

Mayor Hernandez stated no one was arguing the fact that it was a good idea, the entire Commission wanted the project but there was concern on whether the County should do the project or whether the City of Pharr should do the project and control it.

Commissioner Cantu advised he understood the City of Pharr wanted more responsibility or control over the projects but expressed concern about the upcoming deadline of October 2016, stating it was \$1.1 million dollars and the other deadline of September 2017. He added there was no one that could get it done quick enough because of the NIPA process, plans need to be created, schematics prepared and PS&E. There was no time and everybody loses, not just Pharr, the County will lose the \$5.6 million dollars that were available.

Juan Guerra asked Commissioner Cantu if during the NIPA process the County would provide more routes other than just Moore Road. Commissioner Cantu replied "absolutely", they have always considered the route that goes north on the new elevated drainage ditch by Brook Ridge Retirement Home and Gold's Gym and use Irrigation District right-of-way or go all the way down to Yuma Road and use existing right-of-way that McAllen already has. Commissioner Cantu stated this whole process has been to spend as little money as possible on right-of-way so they could be able to build the best plan. He stated McAllen has both 2nd Street and Bicentennial and both were on existing right-of-way. He stated McAllen was able to spend all the money on the construction of the trail, the landscaping and all the other bells and whistles that go with the project. He stated City of Mission had done the same thing, building on existing land, and the County was doing the same thing and not creating anything new. Commissioner Cantu stated that if Moore Road was the problem, they would go north on the ditch. He also mentioned they were so close and would actually start construction with breaking of ground by February 2017 that includes a two-mile Hike & Bike Trail and next year start construction for an additional five miles. Commissioner Cantu mentioned this was a great project and he did not want to lose the \$5.6 million dollars to the State.

Juan Guerra, City Manager, called upon Andrew Canon to explain the funding from the HCMPO and the vote that took place and what it meant.

Andrew Canon, Transportation Director of HCMPO, stated he was fearful that he might have misunderstood something and may have caused a big quagmire. He stated Mayor Hernandez had approached him and had expressed concern that the City of Pharr had about moving forward with the funds the City had for the Hike & Bike Trail and sidewalks to meet the needs of the community. He stated it was brought up at the HCMPO Board meeting and there was a vote as part of Proposition 1, Category 7 – New Funding, categories they have for distribution. Mr. Canon stated at the time of the discussion he was fearful that he had made a mistake when they were approached about the City of Pharr's monies on this project to move forward, he was thinking about the \$951,000 the City of Pharr had committed to the project. He stated Mayor Hernandez was looking to say the City of Pharr was no longer wishing to participate with the HCMPO match to go towards Precinct 2 project and the City was going to use their monies where they deemed it best to use. Mr. Canon stated he was in agreement this is for City of Pharr Mayor and the Commission to decide. He stated, however, this was drastically different from the TAP Fund. He explained the Transportation Alternative Program came thru federal highways through the HCMPO, through a competitive process exactly how the Commissioner called upon and this is where the real crux came in. The City of Pharr has no apportionment of TAP funds through that program, those funds were distributed to City of Edinburg for a project they had, various others were awarded some funds and Precinct 2 was awarded the \$5 million and that went directly to Precinct 2. He stated previous to that, there was a letter of commencement from the previous Administration and they had a different view point of things, so since that he has collected documents and all he had at the time was an Interlocal Agreement when he and Mayor Hernandez spoke and apologized for the misunderstanding. He stated when they spoke about the use of City of Pharr money, he had understood the Mayor was talking about the \$951,000 in Interlocal Agreement of local match funds. Mr. Canon stated that was the City of Pharr money and the City could do what they wanted

with it. In speaking of TAP funds, the City of Pharr, San Juan, McAllen and Edinburg have no distribution of the Transportation Alternative Program funds for the Linear Park Project and one hundred percent of those funds were distributed to Precinct 2. He agreed Mayor Hernandez was correct if the Policy Board so wishes to say that they no longer support the project and they don't think it's the project to move forward with, the item can be placed on agenda for the board to take action on, however, he stated those funds would go back to the TAP Fund and HCMPO would probably fund the City of Edinburg project and various others because only Precinct 2 had a large financial project. He continued saying he would speak briefly on the NIPA process and mentioned when federal funds are being used thru TXDOT and HCMPO, the NIPA process is followed and that is dictated by TXDOT. He stated that even on July 21, 2016 they would be having an open house at the HCMPO offices before the policy meeting at 4:00 p.m. for the statewide projects and that is the overall NIPA process of all projects. Mr. Canon stated he did not know of any state projects until he received something from TXDOT advising him they are taking place. He further stated he did not know if he clarified anything or had made it greyer but he sincerely apologized.

Mayor Hernandez stated Mr. Canon did clarify a couple of things. Andrew Canon further stated the \$951,000 dollars mentioned in the Interlocal Agreement was the City's monies and he did not get involved with that but the TAP funds were one hundred percent designated to Precinct 2.

Mayor Hernandez stated what he recalled from the HCMPO board meeting, he made it very clear to the board that if they decided to move on with this motion, that everyone in the room voting understood that those funds get moved, the City of Pharr would still have the right to use it. Mayor Hernandez stated the cities of Edinburg and McAllen were there as well as everyone else that knew if they moved on it, they anticipate using those funds and that is was voted on. Mayor Hernandez mentioned that what the video was for.

Mr. Canon stated he had watched the video this morning in preparation for this evening and stated thru the discussion of the \$951,000, the City of McAllen had contacted him and asking him of his opinion as to what funds were discussed. He stated Roy Rodriguez, McAllen City Manager, did not want those TAP funds touched. He stated the City of McAllen Assistant City Manager was there but that was inquiring if the discussion was over the local match funds or the TAP funds because the HCMPO has no power to touch TAP monies as it was done thru a competitive process. Mr. Canon repeated he had dropped the ball in the understanding and stated that he agreed one hundred percent with what Mayor Hernandez had just mentioned and stated he was under the understanding that Mayor Hernandez was talking about the \$951,000 not the TAP funds. Mayor Hernandez stated the board had thought different because he mentioned that he had discussed it with them.

Mr. Canon further stated they would have to seek clarification because they did not have any action item to vote regarding TAP funding which is different from anything they had on the agenda. He stated it was not Category 7, Prop. 1 or Prop. 7 funds, TAP was a separate fund. He requested clarification from Mayor Hernandez on what he should do in the near term future.

Mayor Hernandez stated that it would be placed on next agenda. Mr. Canon asked what agenda because they were already working on agenda for the meeting on July 21, 2106. Mayor Hernandez stated he wanted item on next agenda of July 21, 2016.

At this time, Mayor Hernandez, stated they would deviate from the agenda and go into closed session. There were no objections.

ITEM 10. CLOSED SESSION: IN ACCORDANCE WITH CHAPTER 551 OF THE TEXAS GOV'T. CODE, THE PHARR BOARD OF COMMISSIONERS HEREBY GIVES NOTICE THAT IT MAY MEET IN A CLOSED (NON-PUBLIC) EXECUTIVE SESSION TO DISCUSS THE ITEMS LISTED ON THE PUBLIC PORTION OF THE MEETING AGENDA, INCLUDING ITEMS 4-9

The time being 6:35 pm, Mayor Hernandez, stated the commission would be entering into closed session.

ITEM 11 RECONVENE INTO REGULAR SESSION, AND CONSIDER ACTION, IF NECESSARY ON ANY ITEM(S) DISCUSSED IN CLOSED SESSION

The time being 7:11 pm, Mayor Hernandez, stated the commission would be resuming the open meeting in accordance with Chapter 551 of the Texas Govt. Code to discuss agenda items listed in the public portion of the agenda and Pursuant to Sections 551.071, 551.072, 551.074, 551.076, 551.084 and 551.087.

ITEM2 A) CONSIDERATION AND ACTION, IF ANY, ON INTERLOCAL AGREEMENT BETWEEN THE CITY OF PHARR AND HIDALGO COUNTY FOR LINEAR PARK PROJECT (HIKE & BIKE TRAIL PROJECT). (ADMINISTRATION)

Mayor Hernandez re-introduced the item.

Comm. Medina **moved** to deny. Comm. Carrillo seconded the motion and when put to a vote, it carried unanimously.

ITEM 12 ADJOURNMENT

There being no other business to come before the board, Comm. Medina **moved** to adjourn. Mayor Hernandez seconded the motion and when put to a vote, the motion carried unanimously. Meeting adjourned at 7:12 p.m.

CITY OF PHARR



AMBROSIO HERNANDEZ
MAYOR

STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF PHARR

ON THIS THE 11th DAY OF JULY, 2016 the Board of Commissioners of the City of Pharr, Texas convened in a **SPECIAL CALLED MEETING** at the Commissioner's Room located at 118 S. Cage, 2nd Floor, Pharr, Texas. The meeting being open to the public and notice of said meeting, giving the date, place, subject, hereof, having been posted in accordance with Chapter 551, Texas Government Code (Open Meetings Act) and there being present a quorum, I, **HILDA PEDRAZA, CITY CLERK**, of the City of Pharr, Texas, certify that this is a true and correct copy of the minutes.

ATTEST:



HILDA PEDRAZA, CITY CLERK

APPROVED: September 6, 2016