



City of Mesquite, Texas

Action Agenda

City Council

Monday, April 20, 2020

4:30 PM

City Hall | Council Chamber
757 N. Galloway | Mesquite, Texas

In accordance with the Governor's suspension of various provisions of the Texas Open Meetings Act issued pursuant to his State Disaster Authority, and guidance issued on the suspension by the Attorney General's Office:

1. A quorum of the City Council will participate in the meeting by videoconference, telephone or by being physically present at the meeting location.
2. The City Council Chamber located at 757 North Galloway Avenue, Mesquite, Texas, ("meeting location") will not be open to the public.
3. Applicants having matters on the agenda may participate by video-conference, telephone or by appearing at the meeting location.
4. Members of the public may participate by videoconference or telephone.
5. Those participating by videoconference or telephone may do so as follows:
 - a. For free-of-charge videoconference, use a computer or smart device to videoconference into the meeting using a service provided by Zoom at <https://zoom.us/j/370735482> (advanced loading of application/software is required).
 - b. For telephone, dial one of the following toll-free dial-in numbers: 877-853-5257 or 888-475-4499.

The Participation Code (Meeting ID) for this telephone conference is: 370 735 482 # #.

6. Applicants present at the meeting location must observe social distancing by remaining a minimum of six (6) feet from other meeting participants.
7. The meeting will be audible to all participants and allow for their two-way communication. Comments may be made during the meeting or by submission on or before 3:00 p.m. on April 20, 2020, to the following email address: sland@cityofmesquite.com
8. An electronic copy of the agenda packet is posted online with this agenda.
9. The meeting will be recorded and the recording made available to the public.

PRE-MEETING – COUNCIL CHAMBER - 4:30 P.M. upon conclusion of the meeting of the Board of Directors, Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center)

AGENDA REVIEW

STAFF PRESENTATIONS

1. Receive briefing regarding U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Urgent Need funding allocated to Mesquite for COVID-19 assistance. **Received. It was Council consensus to move forward with the suggested allocations.**

- 2 Discuss COVID-19 Declaration of Local Disaster and Response. **Discussed.**

EXECUTIVE SESSION - EXECUTIVE CONFERENCE ROOM - 4:30 P.M.

In accordance with Chapter 551 of the Texas Government Code, the City Council reserves the right to adjourn into executive session to discuss any of the following:

- Pending and/or Contemplated Litigation
- Purchase, Exchange, Lease or Value of Real Property
- Personnel Matters
- Economic Development

REGULAR CITY COUNCIL MEETING - CITY COUNCIL CHAMBER - 7:00 P.M.

INVOCATION

Councilmember B.W. Smith.

PLEDGE OF ALLEGIANCE

Mayor Bruce Archer.

SPECIAL ANNOUNCEMENTS

- (1) Ms. Wisdom stated that businesses appear to be progressing with social distancing and more citizens are wearing masks. She reminded everyone to properly dispose of used masks and gloves.
- (2) Mr. Green reminded everyone to stay safe, utilize facial coverings and gloves and visit the City's website for coronavirus (COVID-19) updates.
- (3) Mr. Miklos concurred with Councilmembers' comments.
- (4) Mr. Boroughs requested that everyone keep the City's firefighters, police officers and all City staff in their thoughts and prayers and stay safe.
- (5) Mr. Smith stated that the park in Creek Crossing now has lights and will make a nice gathering place when this pandemic is over.
- (6) Mr. Smith stated that he is considering holding a future City Council, District 5, neighborhood meeting via the Zoom app.
- (7) Mr. Smith thanked Mayor Archer, City Manager Cliff Keheley and City staff for their efforts in keeping residents safe during these uncertain times.
- (8) Mr. Aleman concurred with Councilmembers' comments. He reminded citizens to complete the 2020 census and to continue supporting local restaurants.
- (9) Mayor Archer expressed appreciation for each Councilmember. He thanked Mr. Boroughs for standing in for him at the March 30, 2020, Special City Council meeting due to the passing of his mother-in-law and thanked Councilmembers, City staff and citizens who expressed their condolences.
- (10) Mayor Archer stated that while we are working diligently to prevent the spread of COVID-19, we are working and preparing for safely phasing in and reopening our local businesses. He reminded everyone to be safe, don't take risks and we will overcome this challenge.

CITIZENS FORUM

- (1) Jake, 2136 Tradewind Drive, expressed concerns regarding travel per diems.
- (2) A resident, 1901 Pinehurst Lane, expressed concerns regarding golf passes.
- (3) Alicia Waring, 1306 Caladium Drive, suggested that residents be allowed to keep chickens in their backyard.
- (4) Richard Dalby, 239 Heatherdale Dr., inquired as to whether a church rezoning was included on tonight's agenda.

CONSENT AGENDA

(All items on the Consent Agenda are routine items and may be approved with one motion; however, should any member of the Council or any individual wish to discuss any item, said item may be removed from the Consent Agenda by motion of the City Council. Any individual desiring to address the City Council regarding an item on the Consent Agenda shall do so on a first-come, first-served basis. Comments are limited to three minutes, except a speaker addressing the Council through a translator will be allowed six minutes.)

- 3 Minutes of the regular City Council meeting held March 16, 2020, and special City Council meeting held March 30, 2020. **Approved.**
- 4 A resolution authorizing the acceptance of a voluntary transfer of Section 8 Housing Choice Vouchers from the City of Balch Springs, Texas, as of July 1, 2020, and authorizing the City Manager to execute all necessary documents. **Approved by Resolution No. 16-2020.**
- 5 Renewal of Bid No. 2019-037 - Annual Miscellaneous Concrete Work (Section A).
(Authorize the City Manager to finalize and execute the first renewal of the annual contract with low bidder Donny P. Brown, Inc., dba B&B Concrete Sawing, Inc., in the amount of \$2,688,475.00. The term of this renewal contract is for one year, with one additional one-year renewal option remaining. The City Manager is authorized to exercise the remaining renewal option, subject to annual appropriation of sufficient funds.) **Approved as recommended.**
- 6 Renewal of Bid No. 2019-054 - Annual Landscaping & Property Preservation Maintenance for Environmental Code.
(Authorize the City Manager to finalize and execute a renewal contract with DaltexPro Facility Services, LLC, in the amount of \$206,825.00. The term of this contract is for one year, with one additional one-year renewal option. The City Manager is authorized to exercise the remaining renewal option, subject to annual appropriation of sufficient funds.) **Approved as recommended.**
- 7 RFP No. 2019-059 - Ceramic Work of Art for New Fire Station No. 4.
(Authorize the City Manager to finalize and execute a contract with Julie Richey Mosaics, LLC, in the amount of \$88,720.00.) **Approved as recommended.**
- 8 Bid No. 2020-010 - Concrete Channel Repair - Stream 2J2.
(Authorize the City Manager to finalize and execute a contract with low bidder GRod Construction, LLC, for the Base Bid in an amount not to exceed \$163,099.00.) **Approved as recommended.**

- 9** Bid No. 2020-042 - Annual Supply of Chevrolet Automotive and Light Truck OEM Parts.
(Staff recommends award to Autonation Chevrolet with a 12 percent discount off manufacturer list price, in the amount of \$80,000.00. The term of this contract is for one year, with four additional one-year renewal options. The City Manager is authorized to exercise the renewal options, subject to annual appropriation of sufficient funds.) **Approved as recommended.**
- 10** RFP No. 2020-043 - Investment Advisory Services & Primary Depository Banking Consultation.
(Authorize the City Manager to finalize and execute a contract with Public Trust Advisors, LLC, in an amount not to exceed \$60,000.00. The term of this contract is for one year, with four additional one-year renewal options. The City Manager is authorized to exercise the renewal options, subject to annual appropriation of sufficient funds.) **Approved as recommended.**
- 11** Bid No. 2020-053 - Annual Supply of Dodge OEM Parts.
(Staff recommends award to Dallas Dodge Chrysler Jeep in the amount of \$85,000.00. The term of this contract is for one year, with four additional one-year renewal options. The City Manager is authorized to exercise the renewal options, subject to annual appropriation of sufficient funds.) **Approved as recommended.**
- 12** Bid No. 2020-066 - Purchase of Heavy Construction Equipment.
(Staff recommends award to Holt CAT in Dallas, Texas, through Sourcewell Contract No. 032119, in the amount of \$196,803.00.) **Approved as recommended.**
- 13** Bid No. 2020-067 - Purchase of Heavy-Duty Trucks.
(Staff recommends award to MHC Kenworth in Dallas, Texas, through BuyBoard Contract No. 601-19, in the amount of \$1,169,695.46.) **Approved as recommended.**
- 14** Authorize the City Manager to execute Change Order No. 1 to RFP No. 2020-021, Mesquite Convention Center - Kitchen Renovation, with DMD Elite, LLC d/b/a United Construction, reducing the total amount of the contract by \$152,025.86. **Approved.**
- 15** Approve Amendment No. 1 to the Fiscal Year 2019-20 Police State Seizure Budget in accordance with Title 28, Section 524 of the United States Code and Chapter 59 of the Texas Code of Criminal Procedure in the amount of \$183,000.00. **Approved.**
- 16** Authorize the City Manager to finalize and execute Contract Amendment No. 3 to a contract with Prime Time Group, Inc., for right-of-way acquisition professional services in the amount of \$70,000.00. **Approved.**
- 17** Authorize the City Manager to finalize and execute a contract with Newgen Strategies and Solutions, LLC, to develop a City Solid Waste Master Plan in the amount of \$239,790.00. **Approved.**
- 18** Authorize the City Manager to execute the Advance Funding Agreement for a project using funds held in the SH 121 Subaccount with the Texas Department of Transportation in the amount of \$400,000.00 and the remainder being paid by the City of Mesquite in the amount of \$227,265.00 for the construction of the Mesquite - Garland hike and bike trail. **Approved.**

- 19 Authorize the Fire Chief to finalize and execute a Program Letter Agreement for Graduate Medical Education with the University of Texas Southwestern Medical Center (UTSW) which sets forth the responsibilities in the clinical education of trainees enrolled in the UTSW Emergency Medical Services Fellowship Program. **Approved.**
- 20 Ratify the purchase of a total of 18 police vehicles; specifically, six police vehicles from Silsbee Ford, through BuyBoard Contract No. 601-19, in the amount of \$175,121.00; four police vehicles from Sam Pack's Five Star Ford, through Texas Smart Buy Contract No. 070-A1, in the amount of \$131,540.00; five police vehicles from Lake Country Chevrolet, through the Houston-Galveston Area Council of Governments Cooperative Purchasing Program Contract No. VE-11-18, in the amount of \$165,003.35; and three police vehicles from Freedom Chevrolet, through Tarrant County Contract No. 2019-14, in the amount of \$91,800.00, for a total amount of \$563,464.35. **Approved.**

PUBLIC HEARINGS

(City Council may approve a different zoning district than the one requested, except that the different district may not (1) have a maximum structure height or density that is higher than the one requested; or (2) change the uses to include nonresidential when the request is for solely residential uses or vice versa.)

- 21 Conduct a public hearing and consider an ordinance for Application No. Z0120-0130, submitted by Adel Atalla for a change of zoning by amending Planned Development - General Retail Ordinance No. 4270 on property located at 1711 West Scyene Road to allow additional uses permitted in the Planned Development - General Retail Ordinance No. 4270 and adding conditional use permits to allow the sale of used cell phones at Suite B and a carwash.
(No responses in favor or in opposition to the application have been received from property owners within the statutory notification area. The Planning and Zoning Commission recommends approval with certain stipulations.) **Public hearing held. Approved by Ordinance No. 4774 with modifications.**
- 22 Conduct a public hearing and consider an ordinance for Application No. Z0220-0131, submitted by the City of Mesquite, for a change of zoning from Light Commercial to Light Commercial with a Conditional Use Permit to allow the sale and outdoor display of new and used vehicles, located at 15900 Interstate Highway 635.
(No responses in favor or in opposition to the application have been received from property owners within the statutory notification area. The Planning and Zoning Commission recommends approval with certain stipulations.) **Public hearing held. Approved by Ordinance No. 4775.**
- 23 Conduct a public hearing and consider possible action regarding a request from Christopher Brown on behalf of Kodiak Brands, Inc., to waive the requirement for an eight-foot-tall, long-span precast masonry screening wall along the eastern property line of property located at 1510 East Kearney Street.
(No responses in favor and two in opposition to the application have been received from property owners within the statutory notification area.) **Public hearing held. Postponed until the May 4, 2020, City Council meeting.**

- 24** Conduct a public hearing and consider an ordinance for Application No. Z0519-0097, submitted by Heartland Retail, LLC, for a change of zoning from Agricultural and General Retail to Planned Development - General Retail on property located at the southeast corner of IH-20 and FM 741 to allow for personal services, retail and restaurant uses in addition to other uses allowed in the General Retail zoning district.
(No responses in favor or in opposition to the application have been received from property owners within the statutory notification area. The Planning and Zoning Commission recommends approval with certain stipulations. This item was postponed at the August 5, 2019, City Council meeting to an undetermined date.) **Public hearing held. Approved by Ordinance No. 4776 with modifications.**
- 25** A. Conduct a public hearing under Chapter 311 of the Texas Tax Code to consider approving an amended Project Plan and Reinvestment Zone Financing Plan for Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center) (“the Zone”), enlarging the boundaries and increasing the geographic area of the Zone to include a tract of land consisting of approximately 1.935 acres and being generally located south of IH-20, east of FM 741 and north of Heartland Parkway in Kaufman County, Texas and being located within the corporate limits of the City of Mesquite, Texas (“the 1.935 Acre Tract”); extending the term of the Zone for an additional seven (7) years to expire December 31, 2055; increasing the total estimated project costs for the Zone; and the concept of tax increment financing. **Public hearing held.**
- B. Consider an ordinance approving an amended Project Plan and Reinvestment Zone Financing Plan for Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center) (“the Zone”), enlarging the boundaries and increasing the geographic area of the Zone to include a tract consisting of approximately 1.935 acres and being generally located south of IH-20, east of FM 741 and north of Heartland Parkway in the Martha Music survey, Abstract No. 312, in Kaufman County, Texas, and being located within the corporate limits of the City of Mesquite, Texas, bringing the total zone area to 148.681 acres, extending the term of the Zone for an additional seven years to expire December 31, 2055, and increasing the total estimated project costs for the Zone; amending Ordinance No. 4532, previously approved by the City Council on December 18, 2017, amending Ordinance No. 4574, previously approved by the City Council on June 18, 2018, making a finding of feasibility; providing that the enlarged Zone shall take effect immediately upon passage of this ordinance; providing a repealer clause; providing a severability clause; and providing an effective date. **Approved by Ordinance No. 4777.**
- 26** Consider a resolution authorizing the City Manager to finalize and execute a reimbursement agreement between the City of Mesquite, Texas, Board of Directors of Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center) (the “Zone”) and Heartland Retail, LLC, regarding the reimbursement of project costs for public improvements within the retail tract of the Zone. **Approved by Resolution No. 17-2020.**
- 27** Conduct a public hearing and consider a resolution approving the terms and conditions of a Development Agreement and Chapter 380 Grant Agreement (“Agreement”) for a program to promote local economic development and stimulate business and commercial activity in the City and authorizing the City Manager to finalize and execute the Agreement for such purposes with Heartland Retail, LLC, (“Developer”) and UST-Heartland, L.P., providing a grant to the Developer and authorizing the City Manager to administer the Agreement on behalf of the City for the retail development on property generally located south of Interstate Highway 20, east of FM 741 and north of Heartland Parkway in the corporate limits of the City of Mesquite in Kaufman County, Texas. **Public hearing held. Approved by Resolution No. 18-2020.**

At this time, any individual wishing to discuss any remaining matter on the agenda, shall be allowed to speak for a length of time not to exceed three minutes on a first-come, first-served basis. Citizens addressing the Council through a translator will be allowed six minutes.

RECEIPT OF RESIGNATION

- 28 Receive resignation from Jerome Geisler as a member of the Planning and Zoning Commission and Capital Improvements Advisory Committee. **Received.**

ADJOURNMENT

NOTICE OF EXECUTIVE SESSION

Pending and Contemplated Litigation

Pursuant to Section 551.071 of the Texas Government Code, the City Council will meet in closed session to consider pending or contemplated litigation subjects or settlement offers. The following cases/subjects may be discussed:

1. Kathy Dyer and Robert Dyer, Individually and as Representative of the Estate of Graham Dyer v. City of Mesquite, Texas; Jack Fyall; Richard Houston; Alan Gafford; Zachary Scott; William Heidelberg; Paul Polish; Joe Baker; Bill Hedgpeth – Filed 8-12-15; Cause No. 3:15-CV-02638-B; on appeal to the U.S. Court of Appeals for the Fifth Circuit, Case No. 19-10280, Filed 6-3-19
2. Petition of the Cities of Garland, Mesquite, Plano, and Richardson appealing 2017 wholesale water rates implemented by North Texas Municipal Water District, PUC Docket No. 46662 – Filed 12-14-16
3. Petition of the Cities of Garland, Mesquite, Plano and Richardson appealing 2018 Wholesale Water Rates implemented by North Texas Municipal Water District, PUC Docket No. 47863 (Appealing Wholesale Water Rates for 2018) – Filed 12-15-17
4. City of Mesquite v. Govind Group Corp., and 3629 E. US Highway 80, Mesquite, Texas 75150 in rem, Cause No. DC-18-02903 – Filed 3-1-18
5. Haley Gregory v. City of Mesquite, EEOC #450-2018-06081 – Filed 7-25-18
6. City of Allen, City of Arlington, City of Bedford, City of Belton, City of Carrollton, City of Cedar Hill, City of Colleyville, City of Coppell, City of Dalworthington Gardens, City of Euless, City of Fort Worth, City of Garland, City of Grand Prairie, City of Harker Heights, City of Hutto, City of Irving, City of Killeen, City of Lewisville, City of Mesquite, City of Rockwall, City of Rowlett, City of Waco and City of Wichita Falls, Texas v. Time Warner Cable Texas, LLC d/b/a Spectrum and Charter Communications, Cause No. 2018-3835-4 – Filed 10-19-18
7. Tejas Motel, LLC v. City of Mesquite, acting by and through its Board of Adjustment, Cause No. DC-18-16933 – Filed 11-8-18; on appeal to the U.S. Court of Appeals for the Fifth Circuit, Case No. 05-19-00667-CV
8. Tony Hobbs v. Kyle Warren, City of Garland and City of Mesquite, Cause No. 3:19-CV-00047-L – Filed 1-7-19
9. Petition of Magali Villarreal (MISD Bus Accident on 10-3-2018), Cause No. DC-19-06974 – Filed 5-15-19
10. Patricia Brennan and Alyssa Sanders, Individually and as Heirs of Natalie Sanders v. City of Mesquite, Texas; Victor Palascios; Kyle Stone; Layton Winters; Peter Velasquez; Michael Kelly; Sherry Green; Marcelet Martin, Cause No. 3:10-CV-01263-L – Filed 5-24-19
11. Patrish Ervin and John Dawson v. Mr. Phillip Aultman, Mesquite Police Department and the City of Mesquite, Cause No. CC-19-03248-C – Filed 5-31-19
12. City of Mesquite v. Gary R. Timbes; Elizabeth S. Timbes, Cause No. CC-19-06231-A – Filed

10-11-19

13. Javier Pena-Enriquez v. Peter Velasquez and the City of Mesquite, Cause No. 3:19-CV-2529-S – Filed 10-24-19

14. Torey Thomas v. The City of Mesquite, Texas, Cause No. CC-20-00030-A – Filed 1-3-20

15. Spradley Farms, L.C., as managing partner for Spradley Farms LTD; and Charles Spradley, in his official capacity v. The City of Mesquite, Texas, and Bruce Archer in his official capacity as Mayor of the City of Mesquite, and Sherry Wisdom, Kenny Green, Robert Miklos, Tandy Boroughs, B. W. Smith and Daniel Aleman, Jr., of the Mesquite City Councilmen in their official capacity, Cause No. 104439-CC2 – Filed 2-6-20, Pending in County Court No. 2 of Kaufman County, Texas; and The Court of Appeals, Fifth District of Texas at Dallas, Case No. 05-20-00204-CV – Filed 2-18-20

16. Carrasco v. City of Mesquite et al, Case No. 3:20-CV-00573-C – Filed 3-6-20

Discussed. Council authorized the Mayor, Councilmembers Robert Miklos and Sherry Wisdom and City Staff to attend a mediation, on a mutually convenient date, in an effort to resolve the Spradley v. Mesquite dispute, Item No. 15 on the agenda pending litigation list.

Personnel Matters

Pursuant to Section 551.074 of the Texas Government Code, the City Council may consider the appointment, evaluation, employment, reassignment, duties, discipline or dismissal of the City Manager, City Attorney, Municipal Court Judge, City Secretary, members of the various City boards and commissions, and City officers or other employees. A complete list of the members of the City boards and commissions is on file in the City Secretary's office.

Following discussions in executive session, the City Council will reconvene in open session where any final action regarding executive session items will be taken.

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters posted on this agenda, when such executive session is authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations regarding Real Property), 551.073 (Deliberations regarding Gifts or Donations), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices or Security Audits) and 551.087 (Economic Development); Texas Tax Code Section 321.3022 (Sales Tax Information) and Texas Government Code Section 418.183(f) (Emergency Management).

The City Hall is wheelchair accessible. Any requests for sign interpretive services must be made 48 hours in advance of the meeting. To make arrangements, call the City Secretary's office at 972-216-6244 or TDD 1-800-735-2989.

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Conforme a la Sección 30.06 del Código Penal (entrada ilegal de persona titular de licencia con arma de fuego oculta), personas con licencia según el Sub-capítulo H, Capítulo 411, Código de Gobierno (ley de permiso para portar arma de fuego), no deben entrar a esta propiedad portando un arma de fuego oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

Conforme a la Sección 30.07 del Código Penal (entrada ilegal de persona titular de licencia con arma de fuego a la vista), personas con licencia según el Sub-capítulo H, Capítulo 411, Código de Gobierno (ley de permiso para portar arma de fuego), no deben entrar a esta propiedad portando una arma de fuego a la vista.

Pursuant to Section 551.007 (c) of the Texas Local Government Code, any member of the public wishing to address the City Council through the use of a translator is granted at least twice the amount of time as a member of the public who does not require the assistance of a translator.