



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes City Council

Wednesday, September 29, 2021

5:00 PM

City Council Chambers/Virtual

This meeting was held using conferencing software due to COVID-19 rules.

I. Call To Order

With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Hughson at 5:06 p.m. Wednesday, 29, 2021. The meeting was held in-person and online.

II. Roll Call

Present: 7 - Mayor Pro Tem Melissa Derrick, Mayor Jane Hughson, Council Member Maxfield Baker, Council Member Saul Gonzales, Deputy Mayor Pro Tem Shane Scott, Council Member Alyssa Garza and Council Member Mark Gleason

PUBLIC HEARINGS

1. Receive a Staff presentation and hold a Public Hearing, to receive comments, and consider an appeal of the decision of the Planning and Zoning Commission to deny CUP-21-21, a request by Eric White, on behalf of Vodka Street Global Bistro, for the renewal of a Conditional Use Permit to allow the sale and on-premise consumption of Mixed Beverages at 200 North LBJ Drive, Suite 101 and provide direction to Staff.

Shannon Mattingly, Director of Planning and Development Services provided a presentation on the appeal regarding a renewal of a Conditional Use Permit (CUP) to allow the sale and on-premise consumption of Mixed Beverages at Vodka Street Global Bistro. The Planning and Zoning Commission, at their July 13, 2021 meeting, postponed action until August 10 at which meeting they denied the application by a vote of 9-0. The applicant has filed an appeal. Because the Planning and Zoning Commission voted to deny the application, a super majority of six votes by the City Council will be required to grant the application. Mrs. Mattingly provided an update following the August 10th Planning and Zoning Commission meeting and stated as of September 21, 2021, all fire code violations on the inspection report have been resolved. She mentioned the applicant coordinated with Code Compliance to sign the corrective action plan on September 23, 2021.

Ms. Mattingly reviewed the conditions provided by the Planning and Zoning Commissioners, outlined below:

- 1. The permit is valid for three (3) years, provided standards are met.**
- 2. The permit shall be effective upon compliance with the corrective action form issued by Code Compliance.**
- 3. Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of Section 5.1.5.5(4)(b), Eating Establishments - Downtown CBA Boundary.**
- 4. The permit shall be posted in the same area and manner as the Certificate of Occupancy.**

Mayor Hughson opened the Public Hearing at 5:12 p.m.

Those who spoke:

Eric White, spoke in favor of the permit. He stated he has had two businesses on the square, this one for ten years and another for twenty-nine years and has never had issues with the city or enforcement in the past. He mentioned the delay on the issuance of permits was due to the business closure during COVID but permits have since been resolved. Mr. White expressed concern with information not being provided during the renewal process. He stated he is available to answer questions.

Lila Knight, spoke in opposition of the appeal due to the violations not being handled. She expressed concern that the operators of the establishment had since August 10th to deal with the health code compliance issues and as of Sept 21, they have not even agreed to sign the form stating they will take corrective action. She is concerned that the operator has not complied with the fire inspection violations and would like to see the report. She hopes the owner will comply with the fire department regulations due to liability in case of a fire.

Lisa Marie Coppoletta, spoke against this appeal. She expressed concern with the reports and does not understand why these were not resolved. She supports downtown owners who are struggling to do well during the pandemic. She expressed concern with white washing the building without a certificate of appropriateness or going before the Historic Preservation Commission to get insight, but now there are paint standards. She is also concerned about safety violations and getting those resolved.

There being no further comments, Mayor Hughson closed the Public Hearing at 5:22 p.m.

MAIN MOTION: A motion was made by Mayor Pro Tem Derrick, seconded by Council Member Garza, to approve the request by Eric White, on behalf of Vodka Street Global Bistro, for the renewal of a Conditional Use Permit to allow the sale and on-premise consumption of Mixed Beverages at 200 North LBJ Drive, Suite 101.

Mayor Pro Tem Derrick asked the applicant why the CUP lapsed for one year and about the fire code violations. Mr. White responded the CUP comes up every 3 years. In the past the landowner of the property would bring him the renewal form and he never had problems. He stated the building was sold about three years ago and during COVID the business was closed and they didn't receive mail, he stated he didn't realize that happened. Regarding the fire code violations, the Fire Department stated there were violations but were not out of norm for a business that hasn't been inspected in awhile. The health department issues have been resolved and he only needed to sign off on the action plan.

Council Member Gleason asked applicant if he has been in good standing with the Texas Alcoholic Beverage Commission (TABC) throughout the process. Mr. White stated yes, he has. Mr. Gleason asked staff if the applicant has signed the corrective action plan and if staff is satisfied. Ms. O'Brien stated they discussed the action plan with the applicant and the next inspection is scheduled. Mr. Gleason confirmed with staff that quarterly inspections will be required and they have the ability to disconnect utilities, if applicant doesn't follow the action plan. Ms. O'Brien confirmed these requirements. Mr. White stated he is aware of these requirements. Council Member Gleason would like the applicant to assist with alleviating the disturbances occurring outside of the establishment.

MOTION TO AMEND: A motion was made by Council Member Gleason, seconded by Council Member Baker, to amend condition #1 by striking through three years and inserting 6 months. This allows the applicant two more quarterly inspections. Council Member Baker expressed concern about some of the issues with the building found during the inspection that are safety-related.

The motion to amend carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

Council Member Garza also expressed concern about the safety issues but supports second chances.

Deputy Mayor Pro Tem Scott noted his support of local small businesses. He noted that Mr. White assisted with the effort to ban smoking a number of years ago and expressed his appreciation.

Mayor Hughson asked a number of questions. She noted that Mr. White's permit is a restricted permit, which is often called a "restaurant" permit that requires a business to be open during 2 meal periods per day, each meal period being four hours. She inquired if the business is open 8 hours per day. Mr. White stated that prior to Covid, their opening time was 3:00 pm. Recently, they have started opening at 5:00 pm but he has had trouble finding people to hire. She also asked as to the time it took to resolve the fire code violations. Mr. White stated he purchased signs and other items right away. Mayor also asked staff when the permit could be issued and Ms. Mattingly confirmed all outstanding items must be resolved first.

Answering council members' questions, Ms. O'Brien stated Mr. White took care of the issues, but the main issue was trying to get in touch with him and return phone calls to staff but these issues began in 2019. She stated the corrective action plan was to ensure when staff called to request an inspection, he would be available to open the establishment for inspection.

MAIN MOTION: to approve the request by Eric White, on behalf of Vodka Street Global Bistro, for the renewal of a Conditional Use Permit to allow the sale and on-premise consumption of Mixed Beverages, as amended. The motion to approve carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

NON-CONSENT AGENDA

- 2. Consider approval of Ordinance 2021-84, amending Ordinance 2021-61 ordering a General and Special Election to be held on November 2, 2021 for the purpose of Electing a City Council Member for Place 5, a City Council Member for Place 6 and to submit proposed amendments to the San Marcos City Charter to the voters; adding polling locations, dates, and times for voting on Election Day and for Early Voting by personal appearance; making provisions for conducting the election; repealing and replacing Ordinance 2021-75; providing for the approval of this Ordinance as an emergency measure on only one reading; and providing an effective date.**

A motion was made by Council Member Baker, seconded by Mayor Pro Tem Derrick, to approve Ordinance 2021-84, as an emergency measure on only one reading.

Tammy Cook, Interim City Clerk, stated there were multiple changes to the Election Ordinance approved by the City Council at two meetings and the second one did not have all the changes included. This item is to ensure there is one ordinance with all changes included that outlines the Charter Amendment propositions and the Vote Center locations.

The motion to approve carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

EXECUTIVE SESSION

3. Executive Session in accordance with Sec. §551.074 of the Texas Government Code: Personnel Matters: to discuss the City Manager Search Process.

A motion was made by Council Member Baker, seconded by Council Member Gleason, to enter into Executive Session at 5:55 p.m. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

ACTION/DIRECTION FROM EXECUTIVE SESSION

4. Consider action, by motion, or provide direction to Staff regarding the following Executive Session item: Sec. §551.074 of the Texas Government Code: Personnel Matters: to discuss the City Manager Search Process.

Mayor Hughson stated Executive Session concluded at 8:39 p.m and the City Manager search process continues.

III. Adjournment.

A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Derrick to adjourn the special meeting of the City Council on Wednesday, September 29, 2021 at 8:40 p.m. The motion carried by the following vote

- For:** 5 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales and Council Member Gleason
- Against:** 0
- Absent:** 2 - Deputy Mayor Pro Tem Scott and Council Member Garza

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor