



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Wednesday, November 3, 2021

3:00 PM

City Council Chambers/Virtual

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### 630 E. Hopkins - Work Session

#### I. Call To Order

**With a quorum present, the work session of the San Marcos City Council was called to order by Mayor Hughson at 3:01 p.m. Tuesday, November 3, 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, Mayor Pro Tem Shane Scott, Deputy Mayor Pro Tem Alyssa Garza and Council Member Mark Gleason

#### PRESENTATIONS

1. Receive a Staff presentation related to amending Chapter 34 of the San Marcos City Ordinances relating to Short Term Rentals, and provide direction to the City Manager.

**Bert Lumbreras, City Manager, provided a brief introduction regarding amendments to Chapter 34 of City Code as it relates to Short Term Rentals (STRs). He stated the Neighborhood Commission has met multiple times to discuss short term rentals and approved a Resolution earlier this year recommending changes to the current short term rental ordinance. He mentioned concerns with the current ordinance are related to behavior issues such as noise, large gatherings, and the influx of traffic in neighborhoods. The revisions proposed by staff are based on industry best practices as well as a review of other cities with effective programs. Mr. Lumbreras stated that Mr. Greg Carr, Director of Neighborhood Enhancement, will provide the presentation.**

**Mr. Carr stated concerns to the current ordinance related to behavior-based issues include noise, parties and loud events with large numbers of attendees, parking, unauthorized events, off premise owners, increase in the number of strangers in the neighborhood. He mentioned most issues that arise regarding short term rentals are primarily behavior based and the ordinance should focus**

on the behavior of each individual short term rental instead of using a broad brush. He stated the City uses a service called Host Compliance to identify STRs and the City has an estimated 56 local STRs. Mr. Carr mentioned that the ordinance development will rely on industry best practices and review of municipalities that have effective and fair programs.

Mr. Carr mentioned staff is working on creating a behavior matrix and what actions will be taken based on poor behavior, increasing information required for permitting, increasing tenant notification requirements, clearly defining events that are appropriate and non disruptive, create standards for permit denial, suspension and revocation along with an appeal process, identify methods to address parking related issues, implementing methods for neighbors to report poor behavior, advise of inspection requirements and engaging with STR owners and neighborhoods on new ordinance.

The first and main question is whether to open the program to include non-owner-occupied properties. The issue is that this is hard to determine, from the enforcement side. He mentioned the most common model is for an entire home to be rented and most rentals have good owners with no problems reported. He recommends implementing behavior-based enforcement with consequences that should prove to be efficient and effective.

Staff recommendations include non owner occupied properties with tighter restrictions. Staff recommends creating a tiered system with tier 1, owner occupying STR (longer renewal period, more allowed in neighborhood) and tier 2, a non owner occupied STR (increased inspections, more restrictive event rules, numbers in neighborhood regulated, local contact required). Implementing behavior based enforcement with consequences should prove more efficient and effective.

Mr. Carr stated the recommendation for number of short term rental (STRs) allowed on a parcel would need to be considered that a parcel as one unit for “no more than one unit allowed.” He stated under the current ordinance it allows owner to own one STR. Staff recommendation is to keep this restriction and define owning one parcel with STRs instead of one STR. That would allow someone to rent a house and accessory dwelling unit if they have one.

Mr. Carr stated the recommendation to address occupancy issues is to limit the number of rooms allowed to be rented. He mentioned staff recommendations is to use behavior-based enforcement to address behavior issues, use property maintenance code for occupancy based on the structure and put a top cap on

number of people allowed which would be the current number.

Mr. Carr mentioned placing a limit on the number of STRs allowed in a neighborhood with staff recommendations in tier 1 to allow two per block, in tier 2 allow one per block and no more than two (tier 1 or tier 2) per block.

Deputy Mayor Pro Tem Scott asked about an owner that has a driveway and not parking on the street. Mr. Carr stated the parking issue will need to be determined on how it will not affect the neighborhood. Mr. Scott stated the STR should be required for the property to have enough parking. Mr. Carr mentioned it would need to be defined on what parking requirements will be based either on number of rooms or size of the home.

Mr. Carr stated the city does not have a process for people in the neighborhoods to notify the city of issues. He stated staff recommends implementing a system set up where neighbors can report poor behavior (phone/web) and that goes to the owner of the STR first. He also suggested a requirement similar to zoning notifications that homes within 200 feet shall be notified of the presence of an STR and how to report.

Saul inquired about the 200 feet number because we now use 400 feet to notify in a zoning change request. Mr. Carr noted that 200 was specified because an STR will affect only the nearby neighbors. Mayor Hughson noted consistency is good and likes 400 feet. Mr. Carr agreed to use the zoning notification requirement of 400 feet.

Council Member Baker asked if they are identifying the owner occupy by a homestead exemption? Mr. Carr stated a homestead exemption is not the best way to process it. Mr. Carr shared a case where a owner had three homes in three different counties that had homestead exemptions. He again noted that it's hard to prove or disprove whether someone is actually living in the house. We find the STRs by using a service that provides addresses to us and we verify if they are registered or not.

Deputy Mayor Tem Derrick inquired how many behavioral properties have been identified out of the 56 STRs? Mr. Carr stated there are three homes with behavioral issues.

Mayor Hughson expressed concern with the behavioral issues and what can the affected neighbors do at the time the issues occur? Who is on-call? Or who is going to enforce? Mr. Carr stated the best component is to use the current

software that has a 24/7 complaint line that can take care of issues. This will not be requiring staff or police time at first. He mentioned notifications are important and the neighbors will know to call the hot line then the hot line will call the owner or the responsible party to inform them of the issue going on the property. The 24/7 hotline will follow up if the issue was resolved. If the issue is not resolved or can't get hold of the owner then the police will be called.

Mayor Hughson asked how to handle the number of people on the property at any one time. Mr. Carr recommends the behavioral model is to focus on behavior not the number of people.

Council consensus is to not allow a non-owner occupied properties. Council consensus is to allow part of the house and another structure on the same parcel to be rented, one STR per block and have notifications that homes within 400 feet shall be notified of STR and how to report issues at the time they occur. Council Member Baker recommends having a map available on the STRs posted online. Council consensus is to have a map available for the public to view.

Deputy Mayor Pro Tem Scott inquired as to legal issues with allowing only one per block? Mr. Cosentino noted that the City does not have to allow STRs. Therefore, we can set limits. If we didn't have an ordinance, which we do, specifically allowing STRs they would be illegal. There are practical considerations as to whether this is fair.

Mayor Hughson inquired if we advise the property owners that they should check with their insurance agents now that they have a commercial use of their house? Mr. Carr noted yes, and we advise them of the notifications the owner has to provide including who to contact for assistance and if the property is in a flood-prone area.

## **EXECUTIVE SESSION**

2. Executive Session in accordance with the following:
  - A. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - To receive legal counsel regarding state law preemption of city ordinances regulating the sale or use of single-use packages and containers.
  - B. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - To receive legal advice regarding the contract with Together for a Cause.
  - C. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - Blanco Riverine Property Acquisitions.
  - D. Sec. §551.072 of the Texas Government Code: Real Property: Exchange of City ROW (Loquat St. & other unopened ROW) for Texas State Property along Sessom Creek

**Mr. Lumbreras stated there is no need to discuss item B because item will be discussed during the regular meeting listed as item #12.**

**A motion was made by Mayor Pro Tem Derrick, seconded by Council Member Baker, to enter into Executive Session at 3:53 p.m. The motion carried by the following vote:**

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

**Against:** 0

### **III. Adjournment.**

**Executive Session concluded at 5:33 p.m.**

**A motion was made by Council Member Baker, seconded by Mayor Hughson, to adjourn the work session of the City Council at 5:35 p.m. The motion carried by the following vote:**

**For:** 6 - Mayor Hughson, Council Member Baker, Council Member Gonzales, Mayor Pro Tem Scott, Deputy Mayor Pro Tem Garza and Council Member Gleason

**Against:** 0

**Absent:** 1 - Mayor Pro Tem Derrick

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**