



City of San Marcos

Meeting Minutes City Council

Wednesday, December 2, 2020

6:00 PM

Virtual Meeting

Due to COVID-19, and as long as the State Disaster Declaration is in effect, this will be a virtual meeting. To view the meeting please go to www.sanmarcostx.gov/videos or watch on Grande channel 16 or Spectrum channel 10.

I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Hughson at 6:01 p.m. Wednesday, December 2, 2020. This meeting was held online.

II. Roll Call

Present: 6 - Mayor Pro Tem Melissa Derrick, Mayor Jane Hughson, Council Member Maxfield Baker, Council Member Saul Gonzales, Deputy Mayor Pro Tem Shane Scott and Council Member Alyssa Garza

III. 30 Minute Citizen Comment Period

Sharri Levine Boyett, provided written comments that were read aloud by staff. "On behalf of the under served citizens, thank you for your support. PALS serves a vital function in San Marcos and throughout Hays County. PALS provides help to low income and public assistance clients for pet spay/neuter/vaccinations. Recipients of these services are often disabled, receive public assistance or are suffering personal hardships. Thank you for supporting programs for a healthy community."

PRESENTATIONS

1. Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.

Chase Stapp, Director of Public Safety, provided the presentation on the COVID-19 pandemic.

Known Cases - as of November 30

- **More than 1.1m total cases (186k active) cases in Texas with 21,379 fatalities**
- *source: Texas Department of State Health Services
- **7,378 total cases in Hays County (772 active and 6,504 recovered) with 102 fatalities**

- 434 cases have required hospitalization, 16 current. As of yesterday, 12 are current.
- 3,105 total cases in San Marcos (68 active and 2,997 recovered) with 40 fatalities
- *source: Hays County Health Department
- 1,097 total cases at TX State (76 active)
- 1,031 students, 66 faculty/staff
- *source: Texas State University Student Health Services

Mr. Stapp stated the numbers from the last update for the State, County, City, and University.

Texas - 3,082 more active

Hays County - 261 more active cases, 11 new fatalities

San Marcos - 19 fewer cases

Texas State University has 70 fewer active cases

Mr. Stapp stated from November 17 - 29 the City has had one employee test positive and total, since March, there has been a total of 49.

Testing Overview

- 59,068 tests administered county wide
 - 51,690 negative (87.5%)
 - 7,378 confirmed (12.5%)
- Testing by Curative (Moved to Premium Outlet Mall)
 - Open daily from 9:00 a.m. to 5:00 p.m.
 - Anticipated service through December
 - Over 1,800 free tests conducted thus far. Since the first day there has been 8,675 total test and 1,724 test this week.
- Future testing site - San Marcos High School
 - 2nd van provided by Curative
 - Planned for December 10
 - Stadium parking lot - entry off Hwy 123/Monterrey Oak

Updates to Governor Abbott's Actions

- November 18: Governor, TEA, TDEM Announce \$420 Million Reimbursement Program for Texas Schools To Continue Supporting Remote Learning
 - Since May, schools in Texas have acquired more than 2 million eLearning devices such as laptops, tablets, and Chromebooks and more than 800,000 WiFi hotspots
- November 19: Update On Bamlanivimab Distribution To Hospitals

- Phase one focused on acute care hospitals based on total new case counts in the area, new COVID-19 hospital admissions and total COVID-19 hospital patients
- Phase two may be broader and include other facility types like nursing homes and infusion centers
- November 23: Governor Abbott, DSHS Announce COVID-19 Vaccine Distribution Plan
- Recommendations on vaccine allocation decisions, including identifying groups that should be vaccinated first
- Protect healthcare workers, front line workers, and vulnerable populations
- Also factor in mitigating health inequities, allocations based on data, geographic diversity, and transparency

Mr. Stapp stated the treatment is free under the Emergency Use Authorization, but once FDA approves this could change. Mr. Stapp mentioned with the orders from Governor Abbott stated when more than 50% of the hospital is consumed by COVID patients, the region can place restrictions.

Vaccine Information

- Moderna and Pfizer both have vaccinations in the Emergency Use Authorization (EUA) process with FDA
- Both vaccines require 2 separate injections
- Doses of vaccine are already produced, warehoused, and ready to ship pending EUA approval
- Texas Department of Emergency Management (TDEM) is enrolling vaccine providers across the state
- Hays County has 15 currently enrolled to administer the vaccine, 6 in San Marcos
- Vaccine doses may be ready to ship as early as 2nd week in December for phased approach to administration

Mr. Stapp addressed questions posed at the last City Council Meeting. He stated that Texas State University has a team of 18 contact tracers. The University did experience a small spike in cases at the beginning of the fall semester and after Halloween. Throughout the fall semester, the Texas State positivity rate ranged from less than 1/2% to 4.1%. Last week the positivity rate was 2.2%.

Most positive cases have been with mild or no symptoms. Contact Tracing has not revealed any evidence of transmission in classrooms, offices, or residence halls, except between some roommates. Most positive cases have been isolated

and scattered across the university community. Most exposure for staff and students has occurred at social gatherings with friends and/or family off campus.

Mr. Stapp mentioned the cost of the antiviral medicine which costs around \$3,000 per dose.

Mr. Stapp contacted Curative regarding the forms of Identification accepted. Curative does ask for ID, but they do not refuse service if none is presented. They will accept any form of government issued Identification. In the United States or other government.

Dr. Marquez asked about city employees and the protocols, if someone tests positive. Mr. Stapp stated a policy is in place that requires the employee to quarantine for the recommended time as outlined by the Centers for Disease Control (CDC). Dr. Marquez asked if there are different guidelines for salaried vs. wage employees. Mr. Stapp confirmed the guidelines remain the same and everyone does receive sick time.

Council Member Baker asked about mask requirements for city employees. He stated employees are required to wear masks when 6 foot distancing can't be maintained.

Council Member Garza asked about marketing and information sharing regarding the free testing and wants to ensure posters are in Spanish and displayed in various areas of the community so it can be provided to as many individuals as possible. Mr. Stapp stated the communications department translated flyers and posters into Spanish and they are prominently placed at many city facilities and on our website. Mr. Stapp stated he is pleased with the testing numbers.

Council Member Baker thanked Mr. Stapp for providing the numbers that would require another shutdown and he inquired about the increased numbers in El Paso and what kind of impact this has on use regionally. Mr. Stapp stated the City was not impacted, but Austin took in about 32 patients. He noted that we will only accept what our overflow rate will allow.

CONSENT AGENDA

A motion was made by Council Member Baker, seconded by Council Member Gonzales, to approve the consent agenda. The motion carried by the following vote:

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

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:
 - A. October 20, 2020 - Regular Meeting Minutes
 - B. November 4, 2020 - Regular Meeting Minutes
 - C. November 16, 2020 - Canvass Meeting Minutes
 - D. November 17, 2020 - Regular Meeting Minutes
3. Consider approval of Ordinance 2020-82, on the second of two readings, annexing into the City approximately 31.59 acres of land generally located in the 2400 Block of Hwy 123 (Case No. AN-20-12), including procedural provisions; and providing an effective date.
4. Consider approval of Ordinance 2020-83, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 32.24 acres of land, generally located in the 2400 Block of Hwy 123 (Case No. ZC-20-24), from "FD" Future Development District to "CD-5" Character District-5 District; and including procedural provisions.
5. Consider approval of Ordinance 2020-84, on the second of two readings, amending the traffic register maintained under Section 82.067 of the San Marcos City Code by reducing the speed limit from 30 miles per hour to 25 miles per hour along numerous streets in Sector 1 commonly referred to as the Dunbar and Heritage Neighborhoods; authorizing the installation of signs and traffic control devices reflecting the new speed limits; directing that the traffic register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the new speed limits; and including procedural provisions.
6. Consider approval of Resolution 2020-258R, approving an agreement for exchange of water CCN areas and purchase of associated Water Utility assets with Maxwell Special Utility District that provides for the City to release to Maxwell an area in the Whisper Public Improvement District covered by the City's CCN and for Maxwell to release to the City an area at the Airport covered by Maxell's CCN; authorizing the City Manager, or his designee, to execute said agreement; and declaring an effective date.
7. Consider approval of Resolution 2020-259R, approving a Change in Service to the agreement with Strategic Government Resources (Contract No. 220-186) relating to the Interim Finance Director position by increasing the agreement in the amount of \$40,000 bringing the total contract price to \$165,000.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.

PUBLIC HEARINGS

8. Hold public hearing and receive comments for or against Ordinance 2020-86, amending the project plan and reinvestment zone financing plan for Tax Increment Reinvestment Zone No. 4 - Kissing Tree, to increase reimbursement to developer by \$10,000,000 and

add eligible projects costs for water testing over a 5 year period in the amount not to exceed \$265,000; authorizing the City Manager, or his designee, to execute such amendments on behalf of the City; including procedural provisions; and declaring an effective date; and consider approval of Ordinance 2020-86, on the first of two readings.

Mr. Lumbreras recused himself from the discussion as he resided in the Kissing Tree subdivision. Mr. Lumbreras stated Melissa Neel, Assistant Director of Finance, recently accepted the position of Finance Director for the City of Pflugerville and tonight would be her last meeting. He thanked her for her service and handwork on one of the toughest budgets he has seen.

Ms. Neel provided the presentation regarding the reinvestment zone financing plan for TIRZ #4 that formalizes the document approved by the TIRZ board. Action tonight allows the developer to continue with their reimbursement request.

Mayor Hughson opened the Public Hearing at 6:32 p.m. There being no comments, the Mayor closed the Public Hearing at 6:32 p.m.

A motion was made by Council Member Derrick, seconded by Mayor Hughson, to approve Ordinance 2020-86, on the first of two reading.

Council Member Scott stated in 2014, when the developer agreement was originally approved, the intent was for citizens of San Marcos to able to use the golf course at a discounted rate from those that did not live in San Marcos. He inquired if this is included in this agreement.

Scott Turner, with Brookfield Development, stated this is not in any documentation, but they do offer a discounted rate to San Marcos residents. Although not in writing, it is a commitment by them. Council Member Scott would like to have this in writing. Michael Cosentino, City Attorney, stated the development agreement would be a better place to insert this as tonight this is the project plan and reinvestment zone financing plan. Mayor Hughson asked if the development agreement is amendable and Mr. Cosentino confirmed it is amendable.

Mr. Baker, asked a question on the message board, what would happen if we say no this tonight? The response was that it was already approved by Resolution, but when looking at a TIRZ it is to be for the public good. He asked Tom Taggart when can we expect for this TIRZ to pay itself off? Tom Taggart, Director of Public Services stated the useful life of these infrastructure pieces, such as the pumping station and storage tanks have long lifespans.

There are maintenance costs but those are paid by the customers using those services, that supports those future maintenance costs. In addition to what a TIRZ does in initial infrastructure is done in tax increments which is typically paid by impact fees. This is actually placing more funds into the budget. The individual citizens are bearing the cost of future maintenance cost, the TIRZ does not put any more burden on citizens and it actually helps offset cost of major infrastructures. The future costs are recovered.

The motion to approve carried by the following vote:

For: 5 - Mayor Pro Tem Derrick, Mayor Hughson, Marquez, Council Member Gonzales and Council Member Garza

Against: 2 - Council Member Baker and Deputy Mayor Pro Tem Scott

NON-CONSENT AGENDA

9. Consider approval of Ordinance 2020-87, on the first of two readings, amending Chapter 39 of the San Marcos City Code regarding flood damage prevention by providing for enhanced flood damage prevention and mitigation standards; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

A motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Ordinance 2020-87, on the first of two readings.

Richard Reynosa, Assistant Director of Engineering, stated this Ordinance is in relation to the Guadalupe and Comal flood maps and that the Hays County portion is a few months behind. These current maps have very little impact on Hays County, but they must be adopted to keep us in compliance. Additional data will be provided in the coming months.

The motion to approve carried by the following vote:

For: 6 - Mayor Pro Tem Derrick, Mayor Hughson, Marquez, Council Member Baker, Council Member Gonzales and Council Member Garza

Against: 0

Abstain: 1 - Deputy Mayor Pro Tem Scott

10. Consider approval of Resolution 2020-219R, approving a Development Agreement with Rattler Road Storage, LLC to provide for the annexation and to regulate the future development of approximately 3.62 acres of land in the City's Extraterritorial Jurisdiction generally located on the north side of Rattler Road, between Old Bastrop Hwy and Hwy 123; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; providing an effective date.

A motion was made by Council Member Baker, seconded by Council Member Gonzales, to approve Resolution 2020-219R.

Shannon Mattingly, Director of Development Services, provided a brief presentation regarding the development agreement with Rattler Road Storage to provide annexation and to regulate the future development of approximately 3.62 acres of land in the City's Extraterritorial Jurisdiction, located at Rattler Road, between Old Bastrop Hwy and Hwy 123. This is located within the East Village Medium Intensity Zone as identified by the Preferred Scenario Map. Staff recommends approval of the request and the applicant does agree to annexation and rezoning of this property. The Development Agreement will be in effect for 15 years with two 15 year extensions. Ms. Mattingly stated they are working on Land Development options for consideration for Council to review regarding these storages and something will be brought forward.

Proposal Summary:

- **Self Storage Facility with 4,100 square feet of leasable officespace.**
- **Increased Landscaping and buffering standards between Storage Facility and San Marcos High School**
- **35 foot landscaped Buffer**
- **4 shade trees per 100 feet within buffer (13 shade trees)**
- **4 understory trees per 100 feet within buffer (13 understory trees)**
- **Minimum 50% Stucco or Masonry Finish on Rattler Road Facade**

The Development Agreement stipulates that the property will be annexed and zoned to the LI zoning district prior to the issuance of the Certificate of Occupancy of the building.

Gene Eitel, applicant, stated they will be a good neighbor and believes this is a good fit near the high school. There will be landscaping, security and low traffic generated by this development. He stated the facility is fenced, climate controlled and the facility is designed as a solar green facility per SBA guidelines, no exterior roll-up doors, noise will be low and the security of the building is monitored daily. They will offer 13 mini office suites which would provide alternatives for those working from home and office and storage options for small businesses.

Mayor Hughson asked if the developer is required to build according to plans that were submitted and nothing else. Do we need to list the items that are usually allowed in Light Industrial Zoning that we do not want here? Ms. Mattingly confirmed they will build per the Development Agreement so the list of items that would not be allowed is not needed this time.

Council Member Baker asked about the trees and security and wants to make sure the area is also patrolled regularly due to the proximity of the High School.

Ms. Mattingly wanted confirmation that Council is okay with the office space in front as referenced by the applicant. Council consensus is to allow as specified in the development agreement.

The motion to approve carried by the following vote:

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

Against: 0

- 11. Consider approval of Resolution 2020-249R, approving a State Use Contract with Goodwill Temporary Services, Inc. through WorkQuest for the provision of janitorial services for the City of San Marcos in the estimated amount of \$634,925.55; authorizing the City Manager or his designee to execute this agreement on behalf of the City; and declaring an effective date.**

A motion was made by Council Member Gonzales, seconded by Mayor Hughson, to approve Resolution 2020-249R.

Mr. Lumbreras informed Council that this is the last meeting for Lee Hitchcock, Director of General Services, and thanked him for his service.

Mr. Hitchcock provided an update regarding Goodwill and the janitorial contract and stated they have been exemplary and very responsive to the COVID-19 response.

Council Member Baker asked him to reiterate response on what we could do to incentivize a consistent hazard pay because we don't know if they are exposed at one point or another while working. When looking at what we can do for those on the frontline, what avenue do we have to offer hazard pay? Mr. Hitchcock stated that Goodwill does offer a good incentive package and pay ranges from \$11.00-15.00 per hour depending on supervisory or non supervisory role. If an amendment to the contract is made to include hazard pay, this would have to be found within the budget.

Council Member Scott asked how many employees are from San Marcos. And if there is a way to integrate the staff that already works for goodwill and bring it into the City. Mr. Hitchcock stated there are 15 employees with 13 residing in the City Limits. Currently Goodwill provides a holistic plan to their employees to increase education and professionalism such as trained coaches

that assist them in obtaining their GED or High School diploma if they do not have one.

The motion to approve carried by the following vote:

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

Against: 0

- 12.** Consider approval of Resolution 2020-260R, approving the award of Social Services funding to various organizations recommended by the Human Services Advisory Board in the amount of \$500,000, as appropriated in the Fiscal Year 2021 Budget; authorizing the City Manager or his designee to approve and execute funding agreements with such organizations; and declaring an effective date.

A motion was made by Mayor Hughson, seconded by Council Member Baker, to approve Resolution 2020-260R.

Victoria Runkle, Interim Finance Director, provided the list of funding that is recommended by the Human Services Advisory Board.

Mayor Hughson and Ms. Runkle thanked the board for their hard work in contacting every agency and reviewing every request.

Council Member Derrick inquired about the funding recommended for Any Baby Can and why they were approved for almost half of what they requested. Mayor Hughson noted that the requests totaled over \$637,000 and we have \$500,000 allocated.

She stated the board had to make difficult decisions in their recommendations.

Council Member Marquez asked if all these are San Marcos organizations. Mr. Runkle stated they are not, but all organizations must serve San Marcos residents.

The motion carried by the following vote:

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

Against: 0

- 13.** Consider approval of Resolution 2020-261R, adopting the Community Development Block Grant (CDBG) Action Plan that provides for the revised allocation of \$722,794.00 of CDBG entitlement funds for the program year 2020-2021; authorizing the City Manager, or his designee, to act as the Official Representative of the City in matters related to the CDBG

Program and Action Plan; and declaring an effective date.

A motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Resolution 2020-261R.

Carol Griffith, Community Initiatives Program Administrator, stated this is a non substantial amendment and staff is proposing to reduce the amount of administrative services by \$110.00.

The motion to approve carried by the following vote:

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

Against: 0

14. Consider an appointment to represent the City of San Marcos as a voting member of the Hays County Local Homeless Coalition, and provide direction to Staff.

Diane Insley, Library Director, stated that staff recommends the appointment of Shanna O'Brien, Code Compliance Manager, to serve as the City Representative on the Hays County Local Homeless Coalition.

The motion to appoint Shanna O'Brien to the Hays County Local Homeless Coalition carried by the following vote:

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

Against: 0

15. Hold discussion on Convention and Visitor Bureau Board Recommendation Resolution 2020-003RR regarding the revision of the composition of representation to the Board, and provide direction to Staff.

Rebecca Ybarra-Ramirez, Director of Destination Services provided a brief introduction regarding the composition of the Convention and Visitor Bureau (CVB) Board and the proposed changes recommended by the Board.

Council Member Derrick asked what the decision making reasoning was on making the park member a non voting member. Ms. Ybarra stated the board felt City staff should not have a voting capacity on the board. Council Member Derrick would like representation by someone with knowledge of our river since the river is an important component of our tourism effort.

Council provided consensus to defer this back to the board for their recommendation in adding a representative from the San Marcos River Foundation, Meadows Center or similar organization. Staff will bring back the

boards recommendation at a future meeting.

16. Hold discussion on Ethics Review Commission Recommendation Resolution 2020-3, recommending amendments to the San Marcos Code of Ethics that would: require ethics complaints to be sworn before a notary public; require notice to be given to individuals who file ethics complaints regarding potential consequences of filing groundless complaints; prohibit the filing of an ethics complaint regarding any violation alleged to have occurred more than six months prior to the filing date; require city officials and employees to cooperate with the Ethics Review Commission during hearings on ethics complaints by testifying and producing documents; prohibit retaliation in the form of adverse personnel action against City employees who file ethics complaints in good faith or who testify or produce documents during ethics complaint hearings; prohibit city officials or employees from using their positions to threaten or intimidate a city employee to discourage the employee from filing an ethics complaint or cooperating in an ethics complaint hearing, and provide direction to Staff.

Michael Cosentino, City Attorney, provided the presentation regarding the recommendation made by the Ethics Review Commission (ERC) to amend the San Marcos Code of Ethics.

Council Member Derrick inquired about the time frame for filing a complaint in regards to an election. Mr. Cosentino stated no complaint can be filed beginning the 60th day before the first day of early voting of any election and ending on the later of the regular election day or runoff election.

Council Member Derrick stated that the Ethics Review Commission brought information forward that recommends making employee compliance mandatory. Mr. Cosentino stated council received this information at a prior meeting and during that time Council made it clear if there is consideration to require them to participate then a code amendment will also need to be made to provide protection for the whistleblower. The Ordinance amendment before you, would take care of both of these concerns.

Mayor Hughson referenced item #4 which requires the original complaint to be notarized. She inquired about the complainant bringing another individual forward and wants to know if their name is required to be presented in the sworn statement that is presented to the Ethics Commission. After some deliberation, Mayor Hughson asked Council if additional names should be provided in a statement that needs to be notarized and there was agreement to do so.

Council Member Baker asked about city employees not being required to report ethics violations because employees are not trained enough in ethics and

wants to know why it is not required? Mr. Lumbreras mentioned that city employees are given the opportunity to report violations. Mr. Lumbreras stated ethics training is provided to city employees every two years and he would recommend annual trainings.

Mr. Lumbreras stated he would like to know about an ethics violation with city employees and ensure the City Manager is informed of the investigation and the conclusion regarding a city employee.

Council Member Garza inquired about the requirement in Section G, that states a complaint alleging a violation within the commission's jurisdiction must be filed with the city attorney's office within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of this Code. She asked where that time frame came from? Ms. Annie Teehan, Ethics Review Member, noted Denton had a time frame in their ordinance and most cities had a time required and that is why it is in this Ordinance amendment. After discussion, Council provided consensus to change the time frame from 6 months to one year.

Council deliberated and provided consensus to move forward with adding a second sentence to section (d) "any subsequent evidence including documents or witnesses that come to the complainant's knowledge must also be filed in a sworn statement" and with the amendments presented.

Mr. Lumbreras noted that he will be seeking clarification regarding employees at a later date.

IV. Adjournment.

A motion was made by Council Member Baker, seconded by Council Member Derrick, to adjourn the regular meeting of the City council on Tuesday, December 2, 2020 at 9:26 p.m. The motion carried by the following vote:

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

Against: 0

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor