



# City of San Marcos

## Meeting Minutes City Council

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Wednesday, December 2, 2020

3:00 PM

Virtual Meeting

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**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](http://www.sanmarcostx.gov/videos) or watch on Grande channel 16 or Spectrum channel 10.**

### I. Call To Order

**With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Hughson at 3:06 p.m. Wednesday, December 2, 2020. The 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

### PRESENTATIONS

1. Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding the use of financial incentives, such as Public Improvement Districts, Municipal Utility Districts, Tax Increment Reinvestment Zones, and Chapter 380 Economic Development Grants to stimulate residential development (Resolution 2015-165R).

**Bert Lumbreras, City Manager provided an update regarding the moratorium on the use of financial incentives for residential development. Mr. Lumbreras stated Council provided direction at the October 20th meeting to address the policy through the Comprehensive Plan rewrite in the long term, but more discussion would be necessary to discuss the options in the short term. Mr. Lumbreras mentioned the Council Committee on Workforce Housing considered this item on November 9th and they recommended the restrictions on financial incentives not apply if developments meet certain criteria.**

**Michael Ostrowski, Assistant Director of Planning and Development Services provided the presentation regarding the use of financial incentives, related to Public Improvement Districts, Municipal Utility Districts, Tax Increment Reinvestment Zones, and Chapter 380 Economic Development Grants to stimulate residential development.**

**Mr. Ostrowski stated the resolution expired on November 17th. He noted that**

**City Council may consider financial incentives and approval is required for any to be accepted and implemented. The resolution only directed Staff not to accept applications for incentives for residential developments. Mr. Ostrowski mentioned that a moratorium was placed on any further financial incentives for future residential development to allow the City to see how the market responds to the 9,800 housing units recently constructed and/or planned in a number of new residential communities including Blanco Vista, Kissing Tre, Trace, La Cima, and Whisper.**

**Mr. Ostrowski provided long and short term staff recommendations.**

**The longer term approach (beyond 2 years) would use the Comprehensive Plan currently in the planning stage, estimated to be complete in late 2021 to develop a future incentive policy that addresses the use of financial incentives based on the vision, goals, objectives, and policies identified in the Comprehensive Plan.**

**The shorter-term approach (next 1-2 years), through a new resolution, would direct City staff to not accept any applications for financial incentives for residential development for a period of two years, or until the City Council has approved a specific policy that is consistent with the newly adopted Comprehensive Plan. There could be certain exceptions where staff could accept applications for financial incentives. These exceptions revolved around developments that were:**

- infill related**
- developments that would further workforce housing**
- developments that may otherwise have a potential adverse impact on the environment if an incentive were not allowed.**

**The Council Committee recommended:**

**1. Through a new resolution, direct City staff to not accept any applications for financial incentives for residential development for a period of two years, or until the City Council has approved a specific policy that is consistent with the newly adopted Comprehensive Plan.**

**2. Exceptions:**

**A. Are for infill developments. Infill developments shall be defined as new development on land that had been previously developed including without limitation, greyfield and brownfield sites and cleared land within urbanized areas.**

**B. Are for developments that would require at least 51% of the residential**

units be Workforce Housing. Workforce Housing shall be defined as households earning no more than 140% of the City of San Marcos area median family income (approximately \$74,000).

C. Are for developments that propose or apply for a Texas Pollutant Discharge Elimination System (TPDES) permit to construct and operate a wastewater treatment “package plant” or other similar type system to handle the wastewater needs for the development, which may have an adverse impact on the environment and orderly extension of centralized city utility service.

D. Are for, or relate to, previously approved developments.

Mr. Ostrowski provided the next steps:

December 15, 2020 - City Council action on a resolution directing City staff to not accept any applications for financial incentives for residential developments for a period of two years, with certain exceptions, or until the City Council has approved a specific policy that is consistent with the newly adopted Comprehensive Plan.

End of 2020 - Approve Comprehensive Plan, which will provide guidance for policies relating to financial incentives.

First Quarter 2021 - Draft official policies relating to financial incentives for City Council consideration.

Council Member Derrick stated she is a member of the Workforce Housing Committee and would like to strikethrough "for a period of two years", or for the shorter-term recommendation and would like to wait until council makes the policy.

Mayor Hughson inquired about the definition regarding infill development. Mr. Ostrowski stated by adding language to give a certain percentage of land that it must already be developed. Mr. Ostrowski stated the resolution is for policy but also directs staff not to accept applications. Mr. Ostrowski mentioned that a clearer definition could be included that states a percentage of 50% or 75% of the adjacent land must be completed development. Mayor Hughson was concerned about the words "and" and inquired about the intent and should be they be changed to “or” in item a. Mr. Ostrowski stated that the intent is either one and Mayor Hughson stated that it should be "or" if it does not have to meet all the criteria and is concerned that it is not defined properly. Mayor Hughson asked Michael Cosentino, City Attorney if adding "or" if any clear site could be eligible. Mr. Cosentino stated yes. Ms. Hughson and Ms. Derrick noted cases in the past where this was a

problem. Ms. Hughson was concerned that if someone wanted to qualify that they could start clearing and then become eligible based solely on "cleared land" which would be clearly only for this purpose.

Council Member Derrick stated under Exemptions #2 (a) to strikethrough "cleared land". Mr. Ostrowski clarified the intention of the exceptions is for redevelopment and infill sites for residential.

Council Member Baker stated he would like to keep cleared land. Council Member Baker asked if we keep greyfield and brownfield sites and remove cleared land? Mr. Ostrowski stated that greyfields and brownfields sites are related to contamination sites versus land surrounded by existing development. Mr. Ostrowski stated that we can add the language of sites that are surrounded by a certain percentage of already developed land within the City.

Mr. Ostrowski stated "cleared land" can be removed and other language can be inserted that addresses redevelopment sites or other developments surrounded by certain percentage and provide additional definition of infill site developments. Council agreed that we need this.

Mr. Ostrowski stated there was an analysis done on 5 developments that were approved and the developments still have capacity to handle growth for the next 10 to 12 years without new growth. Mr. Ostrowski stated the question is if the financial incentive offer for residential development, is it warranted or is it needed to handle the growth? Mr. Ostrowski stated that we don't want to possibly miss other projects and the exemptions in place will allow developers to ask the city for financial incentives.

Mr. Lumbreras stated this will be a good policy. He noted we are not seeing plans for the type of infill development that meets income levels for many families in San Marcos. Mr. Lumbreras stated if creating a financial incentive it should be towards the most critical need for workforce housing. Mr. Lumbreras mentioned 72% are renters and 28% are owners in our city which is a huge imbalance of the demographics that represent the strengths and types of neighborhoods that will further workforce housing. Incentives may be the way we can have housing at the level we need.

Council provided direction to move forward with the staff recommendation with the following amendments to remove the time limitation under shorter-term #1 and strikethrough cleared land under Exemptions #2 (a).

1. Through a new resolution, direct City staff to not accept any applications

for financial incentives for residential development until the City Council has approved a specific policy that is consistent with the newly adopted Comprehensive Plan.

**2. Exceptions:**

**A. Are for infill developments. Infill developments shall be defined as new development on land that had been previously developed including without limitation, greyfield and brownfield sites and cleared land within urbanized areas.**

**B. Are for developments that would require at least 51% of the residential units be Workforce Housing. Workforce Housing shall be defined as households earning no more than 140% of the City of San Marcos area median family income (approximately \$74,000).**

**C. Are for developments that propose or apply for a Texas Pollutant Discharge Elimination System (TPDES) permit to construct and operate a wastewater treatment “package plant” or other similar type system to handle the wastewater needs for the development, which may have an adverse impact on the environment and orderly extension of centralized city utility service.**

**D. Are for, or relate to, previously approved developments.**

2. Receive a Staff update and hold a discussion regarding the Long-Term Rental Registration Ordinance and provide direction to staff.

**Mr. Lumbreras provided an update on the Rental Registration Program. Mr. Lumbreras stated the demographics of the community and the presence of Texas State results in a considerable percentage of residents being renters which introduces its own set of challenges and opportunities. The Rental Registration council committee on met on November 10, 2020 and has provided recommendations. Staff is seeking Council’s direction on how to move forward with rental registrations.**

**Greg Carr, Director of Neighborhood Enhancement provided the update on the rental registration program. He stated that of the 25,043 single family unites in the community, 18,030 (72%) are rental properties. There is an estimated 19,000+ Texas State University students living off campus, this includes apartments and single family units.**

**Mr. Carr presented the following options for council to consider:**

- **Maintain current process of registration only**
- **Implement a Bad Actor Registration**
- **Implement an Inspection Program**
- **Repeal current ordinance and utilize other tools**

**Current Registration Ordinance**

- **Currently voluntary**
  - **339 currently registered under the voluntary program**
- **Properties must be registered by January 1, 2021**
- **What steps are being taken**
  - **Identifying single family rental properties not currently registered (Identified 3120 SF properties out of potential 18,000)**
  - **Will send notice to those not registered**
  - **Create PSA's about the ordinance with communications**

**Maintain current process of registration only**

**All properties affected regardless of condition or compliance**

- **Pros**
  - **We have a mailing list**
- **Cons**
  - **Problem properties will not register**
  - **Requires extra staff resources to maintain (estimated 15,000 unaccounted for properties)**
- **Options in lieu of**
  - **There are State Statutes (Texas Property Code, Subchapter E, Sec 92.201 has requirements and penalties)**

**Mr. Carr stated the bad actor registration is for properties with issues or problems that are affected and the inspection program is only for life, health and safety and is for all properties affected but the impact can be limited.**

**Examples of what constitutes bad actor**

- (1) Two or more separate notices of violation are issued for the same property within a 12-month period and the owner of the property fails to correct the violations within the time frame required by the code official;**
- (2) Five or more separate code violations within a 12-month period regardless of whether the owner of the property corrects the violations within the time frame required by the code official; or**
- (3) Two or more citations are issued for the same property within a 12-month period.**
- (4) For the purposes of this section, violations identified in the notices and citations must be related to the San Marcos Code of Ordinances, or violations of state law relating to public order and decency, controlled substances or alcohol, or public health,**

safety and morals.

**Inspection Program (Only for life, health and safety)**

**All properties affected, but impact can be limited**

– Self certification (properties conduct inspections and city spot checks of records and/or scheduled property inspections)

– Good Landlord Program (education that lowers fees)

– Tiered program (age and condition)

– Combination

• Pros

– Ensures we don't have citizens living in properties with life, health or safety issues (vulnerable populations are hesitant to report)

– Fees can fund the program

– Helps to preserve current housing stock which would have a positive effect on affordable housing initiatives

• Cons

– Expense would be passed on to tenants

– Could cause houses in need of major work to be demolished which would have negative effect on affordable housing initiatives

**Mr. Carr outlined the benefits of the Proactive Rental Inspection (PRI) program, which include the following:**

• Protects vulnerable tenants (low-income, elderly, non-English speaking, immigrants) that may live in the worst housing conditions

• Helps provide tenant rights protections

• Alerts landlords to problems before they become severe

• Fosters preventative maintenance which helps preserve housing

• Maintains neighborhood quality of live for neighboring properties

• Maintains property values

**Mr. Carr provided Pros and Cons should council decide to repeal the ordinance and utilize other tools.**

• Pros

– There are current enforcement tools to address substandard housing conditions

• Cons

– Limits what can be done to help vulnerable who are hesitant to report

– Unable to proactively identify housing units in need of care

– Costs to rehabilitate housing

**Mr. Carr stated the staff recommendation is to keep the current long-term**

rental registration ordinance for purposes of notification and data collection (mandatory registration would begin January 1, 2021). Mr. Carr stated to move forward with drafting a proactive rental inspection program it would be a 12 to 18 month process. Part of the program will be to obtain stakeholder input, develop the most cost efficient and less intrusive program and draft the best solution for San Marcos.

Council Member Derrick stated she has been dealing with the rental registration since she was on the Neighborhood Commission there was a deal with Four Rivers Board of Realtors that would not require registration and would act on Bad Actors Program. Council Member Derrick mentioned we don't have the staff to pull this program off and that is her hesitation but suggests to have a committee to work with the Four Rivers Board of Realtors.

Mayor Hughson asked Mr. Carr to confirm that the recommendation requires registration and a holding pattern for 12 months before any inspections may begin. Mr. Carr stated no cost to register and staff would get stakeholder input from Four Rivers Board of Realtors. Mr. Carr mentioned staff will draft a document that exempts the good ones but needs to obtain input from the stakeholders on how to proceed, what is going to be effective and know the cost and number of inspections to project cost estimate for additional staff.

Council Member Scott does not support staff recommendation but does support having more strict rules for bad actors.

Council Member Scott asked Mr. Carr what enforcement has been taken for bad actors. Mr. Carr stated he does not have direct numbers but when reported, staff will deal with it. Mr. Carr mentioned we have people in bad situations and are not reporting bad living conditions. Mr. Carr mentioned that the committee has been discussing a program called Mission Able to help senior citizens, disadvantaged people and landlords to assist in repairing property. Mr. Carr stated not every condition or situation is the same and will be looking into programs within the community that can assist with cleanups and repairs. Mr. Carr stated the registration program will assist with the data.

Council Member Marquez asked if a rental council has been discussed? Mr. Lumbreras noted that we we pay the Austin Tenant Council to help people in San Marcos. Mr. Carr stated the contract is annual and renewal will be soon and he talked to them this week about the services we need. Mr. Carr stated that Austin Tenant

**Council has programs and educational materials that will assist tenants and Landlords in San Marcos.**

**Council Member Derrick stated there has been discussion to have a tenant council in San Marcos and was told that it needed to be non profit that the city couldn't do it on our own and would be in conflict. Mr. Lumbreras stated that staff reached out to Austin Tenant Council which is a non profit organization that focuses on housing discrimination; tenant landlord education and information on housing repair and rehabilitation. Mr. Lumbreras stated they also have legal staff to provide tenant rights and landlord issues. They are an excellent resource and help represent San Marcos until something else gets established. Mr. Lumbreras stated it is not a direct function of the city but a non profit or an organization that has the expertise and multiple staff members. The Austin Tenant Council provides a number of services that we would not be able to do in San Marcos without a number of staff members. Mr. Carr stated he is working with the ATC to see if they could come to San Marcos a few days a week, once Covid is past us. Currently they serve San Marcans by phone as they are serving all clients at this time.**

**Council Member Baker expressed concern with the Austin Tenant Council and due to a recent personal experience, he feels we are not getting what we paying for and we need to find something locally to assist the people better.**

**Mayor Hughson asked what are the expectations of a Tenants Council, can they require landlord to do repairs? Mr. Carr stated the council would state the options based on the law. Mr. Carr stated Austin Tenant Council has added a rental assistance program.**

**Council Member Scott stated the City should have its own Council to better assist the community and asked how many people has the Austin Tenant Counsel assisted from San Marcos? Council Member Scott asked how much does the City pay for our contract? Mr. Carr stated it is \$4,000 and Texas State University pays \$4,000.**

**Chase Stapp, Director of Public Safety stated Austin Tenant Council has assisted 27 residents since July. Residents of the City have used the services and the issues range from evictions to repairs to security deposits.**

**Mayor Hughson asked if the discussion should continue at the Vision workshop? Mr. Lumbreras stated we can further discuss.**

**Council Member Garza asked how the program is being advertised for those that are unaware. Mr. Carr stated that staff will follow up with the citizen on the bad/good experiences with Austin Tenant Council. Mr. Carr stated the information is on the website but will do more to advertise.**

**Council Member Gonzales stated he would like to see the registration program as voluntary and there should not be any inspections on houses that have never received a complaint. Council Member Gonzales asked about older homes and how they would be handled, if complaints have not been received? Mr. Carr stated if remodeling a home it would have to meet current building code and citizens would be educated on what is permitted.**

**Council Member Gonzales and Council Member Derrick asked if there is a difference from a homeowner doing work on property versus a renter, wouldn't they both need a permit? Mr. Carr stated that would be a question for the Planning Department and would have a response to the question at a later date. Mr. Carr mentioned there is a statute on requirements and not sure if there is a way to get around that.**

**Council provided direction to move forward with the staff recommendation.**

### III. Adjournment.

**A motion was made by Council Member Baker, seconded by Council Member Gonzales, to adjourn the work session at 5:17 p.m. Wednesday, December 2, 2020. 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**