



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes City Council

Tuesday, March 20, 2018

3:00 PM

City Hall Conference Room

630 E. Hopkins - Work Session

I. Call To Order

With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Thomaides at 3:05 p.m. Tuesday, March 20, 2018 in the City Hall Conference Room, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Deputy Mayor Pro Tem Scott Gregson, Council Member Melissa Derrick, Council Member Jane Hughson, Mayor John Thomaides and Council Member Ed Mihalkanin

1. Receive a presentation and discuss recommendations from the Ethics Review Commission, and provide direction to the City Attorney.

Mr. Lumbreras provided a brief introduction to the work session topic and turned it over to Michael Cosentino. Michael Cosentino, City Attorney, introduced the Ethics Review Commission's presentation regarding the Council's tasked work related to campaign finance reporting and lobbying. He introduced the Ethics Review Commission Chair, William Desoto who led the presentation. Mr. Desoto explained that they looked at cities like San Antonio and Austin, and smaller cities like Seguin, to see if they had regulations they could use to compare. Mr. Desoto further explained the amount of research that was done on the topics of campaign contributions and lobbying.

Mr. Desoto reviewed the recommended amendments as follows: limit campaign contributions, require lobbyists to register and submit periodic lobbying activity reports, require city officials and employees to report ethics violations, prohibit city officials from voting on contracts with business entities they serve in any capacity, require remedial ethics training for employees or officials found to have violated the ethics ordinance.

Mr. Desoto explained the campaign contribution limits that were being proposed:

- **Individual contribution limit: \$500 per candidate per election cycle**

- **Aggregate fund raising limits per election cycle:**
 - o **For mayoral candidates:** \$2.00 x number of registered city voters on date of last mayoral election [32,682 registered voters on 11/07/2017]
 - o **For council candidates:** \$1.00 x number of registered city voters on date of last election for any council place
 - o **Runoff candidates:** \$3.00 x number of registered city voters on the date of the last regular municipal election

The following definitions were provided:

Contributions – include monetary, in-kind, and pledged contributions

Election Cycle – begins on January 1st of year following the last election for mayor or a particular council place or on the start of the candidate's campaign (whichever is later) and ends on October 31st prior to the next election for that position.

Mr. Desoto reviewed the lobbying regulations being proposed.

He began with the following definitions:

Lobbying – oral, written, or electronic communication with a city official, employee, or staff member to influence a municipal decision on behalf of the lobbyist himself, or on behalf of another person or entity

Includes: attempts to adopt or defeat adoption of an ordinance or resolution, to gain the award of a contract or approval of a land use/land development application.

Excludes: communications regarding homestead property; family matters that are not business related; matters not involving financial benefit or detriment

Lobbyist – any person, including an attorney, who engages in lobbying on behalf of his/her principal, employer, or the owner of a business. Both the lobbyist and the principal would be subject to proposed registration and reporting requirements.

Registration – required; failure to register can delay city's award of contract or land use decision until registration occurs

Activity Reports:

- **Required to be filed for each two month period**
- **Include the name of the client, list of issues, matters or decisions**
- **Names of city officials or employees contacted**
- **Dollar amount of each gift, benefit or expenditure conferred on a city official in excess of \$50 or in a cumulative amount greater than \$200 per reporting period**

- **Setting annual limit of \$500 on meals or gifts to a city official**

Violations and Enforcement:

- **Complaints regarding lobbying violations would be heard by the ERC**
- **Repeated violations – three violations within a five year period – results in suspension for one year could also result in municipal court prosecution**

Mr. Desoto presented the Ethics Review Commissions' other proposed amendments:

Mandatory Reporting of Ethics Violations:

Amend Section 2.444 of the ethics ordinance to require city officials and employees who have knowledge of a violation of the code of ethics or state conflict of interest law to report the violation to the ERC

Voting on Certain Contracts Prohibited:

Amend Section 2.423 to prohibit a city official from voting on a contract with the city for any business entity that the official serves in any capacity

Remedial Ethics Training:

Amend Section 2.444 to include, as a sanction for violation of the ethics ordinance, a requirement that the official or employee attend remedial ethics training including any updates to the ordinance

Council held discussion regarding when someone would have to recuse oneself if they received a donation from a developer.

Council held discussion about how a “Whistle Blower” would be protected under the changes proposed to Section 2.444. Mr. Cosentino explained that there is not whistle blower protection stated within the ordinance. He further explained that when an Ethics complaint is filed that while the Ethics Review Commission reviews it in Executive Session the complaint is not anonymous, and the subject of the complaint receives a copy of the complaint. He stated that that is a requirement of our Code.

City Council provided consensus to have that protection within the ordinance. Mr. Cosentino explained that if someone did not report they would be in violation themselves as the language is currently proposed. However, the City Council did not provided consensus to move forward with the addition of the Mandatory Reporting of Ethics violations.

Additional discussion was held regarding the Mandatory Reporting of Ethics Violations. Mr. Lumbreras provided insight about his concerns with this amendment. He wanted to make sure that he and the Council are together in terms of what the city structure needs to be. He wants there to be a clear line

between what happens within the organization and what happens outside the organization in regards to lobbying or other types of issues. Mr. Lumbreras would like to take an inventory of all the policies that we have in place already and provide that to the Council.

Discussion was held regarding campaign contribution limits. Council consensus was to lower the dollar amount, but did not provide a number at this time.

Discussion was held regarding police and fire organizations donating to a candidate and that candidate later voting on meet and confer agreements later. Mr. Cosentino stated that they could abstain if they wished to, but that it was not necessary. Discussion was held regarding the inclusion of a quid pro quo clause Discussion regarding the lobbying regulations.

Council held discussion regarding the lobbying regulations recommendation needing additional work in relation to the intent of individuals contacting council members. No direction was provided. The City Attorney will send the Zimmerman Case information to the Council.

EXECUTIVE SESSION

2. Executive Session in accordance with § 551.074 - Personnel Matters: Discuss and review Appointee Evaluation Goals for the City Manager, City Attorney, and City Clerk.

A motion was made by Council Member Hughson, seconded by Deputy Mayor Pro Tem Gregson, to enter into Closed Session at 5:00 p.m.. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

III. Adjournment.

The City Council adjourned into Open Session at 5:50 p.m.

Mayor Thomaides then adjourned the Work Session meeting of the San Marcos City Council at 5:50 p.m.

Jamie Lee Case, City Clerk

John Thomaides, Mayor