



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes City Council

Tuesday, May 1, 2018

6:00 PM

City Council Chambers

I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Thomaides at 6:00 p.m. Tuesday, May 1, 2018 in the City Council Chambers, 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

III. Invocation

A moment of silence was observed.

IV. Pledges Of Allegiance - United States And Texas

Aurelia Garza, a 2nd grade student at San Marcos Texas Preparatory School, led the assembly in the pledges of allegiance.

EXECUTIVE SESSION

1. Consider action, by motion, or provide direction to Staff regarding the following Executive Session item in accordance with Local Government Code Section §551.071 - Consultation With Attorney - to receive legal advice regarding claims and pending litigation questioning the validity of Ordinance No. 2008-16 that annexed a 563.199 tract of land commonly known as the Hillert Tract into the City of San Marcos including litigation threatened by the City of Martindale, Texas and Mr. Gerald Lee Bennett; and the pending lawsuit filed on April 18, 2018 styled: The Mayan At San Marcos, LLC, vs. City of San Marcos, Cause No. 18-0958-CV-A, in the 25th Judicial District Court of Guadalupe County, Texas.

Council met in Executive Session to receive legal advice and direction was provided to the City Attorney.

V. 30 Minute Citizen Comment Period

Kaiti Anderson, 2907 Mountain High, spoke in opposition to item # 18 regarding the lease of property located at 201 South LBJ. Ms. Anderson stated she is the property owner of the Dixie Cream lot. She asked that Council table

this item at this time.

Elena Duran, 1133 Lago Vista, thanked the Mayor and Council Member Derrick for attending their Neighborhood Meeting recently. She shared a story regarding the construction of her backyard pool. In 2002 they started saving money to build this pool and in 2012 the pool was constructed. The construction company they had install the pool was required to take a course and Ms. Duran paid for this and pulled and paid for all the permits associated with this as well. She recieved a letter this year, stating they are required to have a backflow preventer on the pool. Why weren't we told this in 2012? She went on to state that when you owe money to the City, the entire amount should be paid, not a settled amount. It is the duty of the Council to spend our money wisely. If regular citizens have to pay, then everyone should receive the same treatment.

Roland Saucedo, 211 Ebony, expressed his appreciation for Council's time and service. Special thank you to Collette, Abigail, and Shannon for helping him with his neighborhood outreach. The neighborhood felt the small area plans is best for their neighborhood and not a Character Study which is too expensive. We are trying to build trust and restore faith within the community, the Council and Staff.

PRESENTATIONS

2. Receive a Staff presentation of the City of San Marcos Stormwater Master Plan, and provide direction to Staff.

Laurie Moyer, Director of Engineering and CIP introduced Tom Mounds. Mr. Mounds provided a brief presentation on the Stormwater Master Plan which outlined population growth, water quality, flooding, and sustainability.

Council expressed their appreciation for the hard work that has been put into the Stormwater Master Plan.

CONSENT AGENDA

A motion was made by Council Member Mihalkanin, seconded by Deputy Mayor Pro Tem Gregson, to approve the Consent agenda with the exception of items # 6, 9, and 10 which were pulled and considered separately. 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

3. Consider approval, by motion, of the following meeting Minutes:
 - A) March 20, 2018 - Work Session Meeting Minutes
 - B) March 26, 2018 - Code SMTX Special Meeting Minutes
 - C) April 3, 2018 - Work Session Meeting Minutes
 - D) April 17, 2018 - Work Session Meeting Minutes
 - E) April 17, 2018 - Regular Meeting Minutes
4. Consider approval of Ordinance 2018-07, on the second of two readings, amending the City's 2017-2018 Fiscal Year Budget by budgeting and appropriating \$442,000 from General Fund to be distributed to The Village to provide funding for the construction of Phase II of The Village Main Project; and providing an effective date.
5. Consider approval of Resolution 2018-62R, approving the recommendation of the San Marcos Commission on Children and Youth to allocate \$50,285 in 2017-2018 Fiscal Year funding for 14 youth programs that contribute to implementation of the Youth Master Plan; authorizing the City Manager to take such actions as are necessary to enable such allocation of funds; and declaring an effective date.
6. Consider approval of Resolution 2018-63R, approving the award of a term contract to Integrated Generator Systems, Inc., for generator maintenance, repair services and parts (IFB 218-210) in the amount not to exceed amount of \$140,000 and authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Gregson, to approve Resolution 2018-63R. The motion carried by the following vote:

7. Consider approval of Resolution 2018-64R, approving the award of a contract for project site rehabilitation, underdrain piping replacement, and new landscaping for the Hutchison Street Biofiltration Pond Improvements Project (IFB 218-153) for the total purchase amount of \$99,888.00 from M2 Federal, Inc.; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City and declaring an effective date.
8. Consider approval of Resolution 2018-65R, approving an amendment of the current Meet and Confer Agreement between the San Marcos Professional Firefighters Association Local #3963 and City of San Marcos to provide for the establishment of the Fire Marshal's Office within the Fire Department and authorize the Fire Chief to hire a Fire Marshal from outside the Department's classified service; and declaring an effective date.
9. Consider approval of Resolution 2018-66R, approving Change Order No.1 to the contract with Deloitte and Touche to perform additional consulting services related to the preparation, reconciliation and submission of projects for FEMA Public Assistance

Grants and increasing the total amount of the project by \$55,000.00; ratifying the City's execution of the original contract and the increase in dollar amount; and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Resolution 2018-66R. 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

10. Consider approval of Resolution 2018-67R, approving the Stormwater Master Plan; and declaring an effective date.

A motion was made by Council Member Mihalkanin, seconded by Deputy Mayor Pro Tem Gregson, to approve Resolution 2018-67R. 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

PUBLIC HEARINGS

11. Receive a staff presentation and hold a Public Hearing to receive comments for or against Resolution 2018-69R, approving Substantial Amendment No. 6 to the Community Development Block Grant-Disaster Recovery ("CDBG-DR") Action Plan to include the Reconstruction On City-Owned Property ("RCOP") Program to enable qualified residents affected by the 2015 floods to construct new homes on city-owned lots; approving the allocation of CDBG-DR funds to projects and activities under the RCOP program; authorizing the City Manager or his designee to act as the official representative of the City in matters related to the CDBG-DR program and action plan; and declaring an effective date; and consider approval of Resolution 2018-69R.

Stacy Brown, provided a brief presentation regarding a substantial amendment regarding Reconstruction on City Owned Property.

Mayor Thomaides opened the Public Hearing at 6:33 p.m.

Roland Saucedo spoke in support of this and stated its a very good idea. He said there are people in the audience that are in support of this as well. This is for someone that does not own their land and is unable to rebuild.

There being no further comments the Mayor closed the PH at 6:35 p.m.

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Resolution 2018-69R. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

NON-CONSENT AGENDA

12. Consider approval of Ordinance 2018-11, on the first of two readings, amending the Design Manual for the Installation of Network Node Support Poles authorized by Ordinance 2017-56 to establish a daily penalty of \$500 for failure to relocate improperly placed equipment; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

A motion was made by Council Member Hughson, seconded by Deputy Mayor Pro Tem Gregson, to approve Ordinance 2018-11, on the first of two readings. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

13. Consider approval of Ordinance 2018-12, on the first of two readings, amending Chapter 14, Buildings and Building Regulations, of the City Code to implement recent legislation prohibiting the City from collecting fees from members of certain trades before they are authorized to practice their trades in the City; providing for an effective date.

A motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Gonzales, to approve Ordinance 2018-12, on the first of two readings. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

14. Consider approval of Ordinance 2018-13, on the first of two readings, adopting fees to be charged by the City for various city services, including changes to some existing fees and the addition of new fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Gonzales, that this Ordinance be approved. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

15. Consider approval of Ordinance 2018-14, on the first of two readings, amending Section 2.041 of the San Marcos City Code to update the frequency of Regular Meetings per month; including procedural provisions; and declaring an effective date.

Main Motion: A motion was made by Council Member Hughson, seconded by Council Member Derrick, to approve Ordinance 2018-14, on the first of two readings.

Motion to Amend: a motion was made by Council Member Hughson, seconded by Deputy Mayor Pro Tem Gregson, to amend the language or Ordinance 2018-14 to read as follows: Regular meetings of City Council shall be held at 6:00 p.m. on the first and third Tuesdays of the month with the exception of the following: when the first Tuesday in November is also a uniform election date the meeting will be held on the first Wednesday of that month, and with the exception of the first regular meeting in October which is held on the first Monday of that month, or any date approved as a regular meeting date by City Council at a posted meeting. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

Main Motion: to approve Ordinance 2018-14, on the first of two readings, as amended. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

16. Consider approval of Resolution 2018-70R, approving the allocation of five City-owned residential lots to be made available for qualified residents affected by the 2015 floods to construct new homes under the Housing and Urban Development Community Development Block Grant-Disaster Recovery-Reconstruction on City-owned property ("RCOP") Program; authorizing the City Manager or his designee to act as the official representative of the City in matters related to the RCOP program; and declaring an effective date.

A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to approve Resolution 2018-70R. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

17. Consider approval of Resolution 2018-61R, approving an Action Plan that outlines further measures to be taken to implement or enhance the purposes and objectives of the newly adopted San Marcos Development Code ("Code SMTX") and associated changes to the City's Comprehensive Plan; authorizing City Staff to undertake such efforts as are necessary to implement such measures; and declaring an effective date.

Main Motion: a motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Derrick, to approve Resolution 2018-61R.

Motion to Amend: a motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to amend Resolution 2018-61R by adding the creation of a Council Committee to review the Rental Registration program and requirements. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaidēs and Council Member Mihalkanin

Against: 1 - Deputy Mayor Pro Tem Gregson

For the record: Council Member Hughson did not recommend that we spend \$300,000 on Neighborhood Character Studies.

Main Motion: to approve Resolution 2018-61R, as amended. 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 Thomaidēs and Council Member Mihalkanin

Against: 0

18. Consider approval, by motion, of the following matters pertaining to the lease of property located at 201 South LBJ (the site of the former Dixie Cream Donut Shop):
- a) Approving the acceptance of an amount in settlement of rent due under an existing lease of real property located at 201 South LBJ.
 - b) Approving the termination of the existing lease
 - c) Approving a new Lease Agreement of the property with Suenos & Rezo, LLC for the operation of a frozen yogurt shop and authorizing the City Manager to execute the Lease Agreement.

Council Member Hughson made a motion, seconded by Council Member Gonzales to enter into Executive Session under Texas Government Code Section 551.072, deliberation regarding real property, to conduct deliberations concerning the lease of City owned real property at 201 South LBJ and under the authority of Section 551.074, personnel matters, to discuss the duties of the City Manager regarding negotiations pertaining to the lease of City owned real property at 201 South LBJ. 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 Thomaidas and Council Member Mihalkanin

Against: 0

Council reconvened into Regular Session at 10:40 p.m.

A motion was made by Council Member Derrick, seconded by Council Member Mihalkanin, to approve item 18 a) waiving all rent due from the current and former lessees of 201 S LBJ Drive for the years 2013 through 2016; accept the sum of \$2063.21 in payment of rent under the lease for 2017; and direct staff to bring back on a future agenda a lease with Ruben Becerra for rental of 201 S LBJ Drive at a lease rate for 2018 in the total sum of \$3,446.68 with rent to be paid as follows:

- 1. A payment of \$861.67 within 10 days of the execution of the new lease; and three equal payments of the same amount each due on the first of the month of each month thereafter.**
- 2. For any extension beyond the initial one year term, the annual rent shall be paid in full on February 1st of the year, subject to a 3% annual rent increase and subject to the City's right to redetermine the annual rent upon notice to lessee.**
- 3. Prior to the City's execution of the lease, Mr. Becerra shall provide a signed acknowledgement from the lessee of the building of the provisions of the Becerra lease regarding disposition of the building upon termination of the ground lease.**
- 4. All other lease terms shall be substantially the same as the terms of the lease of 201 South LBJ Drive partially assigned to the city by Union Pacific Railroad in December of 2013. The motion carried by the following vote:**

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 2 - Deputy Mayor Pro Tem Gregson and Mayor Thomaidas

A motion was made by Council Member Mihalkanin, seconded by Council Member Derrick, to postpone section b) Approving the termination of the existing lease. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 1 - Mayor Thomaides

A motion was made by Council Member Mihalkanin, seconded by Council Member Derrick, to postpone item c) Approving a new Lease Agreement of the property with Suenos & Rezo, LLC for the operation of a frozen yogurt shop and authorizing the City Manager to execute the Lease Agreement. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 2 - Deputy Mayor Pro Tem Gregson and Mayor Thomaides

19. Discuss and consider appointments to fill vacancies the Cemetery Commission and the San Marcos Commission on Children and Youth and provide direction to Staff.

VI. Question and Answer Session with Press and Public.

VII. Adjournment.

Mayor Thomaides adjourned the Regular Meeting of the San Marcos City Council at 10:42 p.m.

Jamie Lee Case, TRMC, City Clerk

John Thomaides, Mayor