



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Tuesday, June 19, 2018

6:00 PM

City Council Chambers

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630 E. Hopkins

### 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 6:02 p.m. Tuesday, June 19, 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

**Pastor Chad Chaddick with First Baptist San Marcos provided this evening's invocation.**

### IV. Pledges Of Allegiance - United States And Texas

**Council Member Gonzales led the assembly in the pledges of allegiance.**

### **ACTION/DIRECTION FOLLOWING WORK SESSION EXECUTIVE SESSION**

1. Consider action, by approval, or provide direction to Staff following the Executive Session conducted in accordance with Section §551.071 of the Texas Government Code, Consultation with Attorney, to seek advice of legal counsel regarding:

Resolution 2018-95R, a subordination agreement with Goldman Sachs Mortgage Company and JPMorgan Chase Bank that subordinates the City's Deed of Trust lien against the Embassy Suites Hotel Property securing a note in the principal amount of \$1,500,000 to the lien of such entities securing their loan to JDHQ Hotels, LLC. (a subsidiary of Atrium Hospitality) for the purchase of the hotel from JQH-San Marcos Development (a subsidiary of John Q. Hammons Hotels and Resorts); authorizing the City Manager to execute the subordination agreement on behalf of the City; and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Hughson, that the City Council authorize the City Manager to execute the following documents:**

**A. An escrow agreement, providing for the deposit by JDHQ Hotels LLC of the sum of \$1,500,000 into an escrow account held by the City or by a mutually agreed upon escrow agent, as a substitute form of security for that company's performance of its obligations under the San Marcos Conference Center Lease Agreement.**

**B. The San Marcos Conference Center Side Agreement with JDHQ Hotels LLC providing for increased utilization by the City of the San Marcos Conference Center for City events, requiring podium signage to reflect City's ownership of the conference center and requiring JDHQ to complete certain improvements to the conference center on or before December 31, 2021.**

**C. A release of the second lien currently held by the City of San Marcos on the Embassy Suites hotel property to secure repayment of a real estate lien note in the sum of \$1,500,000 payable to the City only in the event of a default by JDHQ Hotels LLC under the loan documents for the Embassy Suites Hotel and the San Marcos Conference Center.**

**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

- 2.** Consider action, by approval, or provide direction to Staff following the Executive Session conducted in accordance with Section §551.071 of the Texas Government Code, Consultation with Attorney, to seek advice of legal counsel regarding:

Resolution 2018-96R, a loan assignment and assumption agreement between the City, JQH-San Marcos Development, LLC. (a subsidiary of John Q. Hammons Hotels and Resorts) and JDHQ Hotels LLC. (a subsidiary of Atrium Hospitality) that assigns the duties and obligations of JQH Development LLC under various loan documents with the City related to the development of the Embassy Suites Hotel and Conference Center to JDQH Hotels, LLC. in connection with the sale of the hotel from JQH-San Marcos Development, LLC to JDQH Hotels LLC.; authorizing the City Manager to execute the agreement on behalf of the City; and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Hughson, to postpone, indefinitely, Resolution 2018-95R regarding the proposed subordination agreement and Resolution 2019-96R relating to the proposed loan assignment assumption agreement with JDHQ Hotels LLC because the escrow agreement replaces the loan and releases the second lien. 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

#### V. 30 Minute Citizen Comment Period

**Melissa Hodgkins, spoke on behalf of the Downtown Association. She read a letter into the record regarding the downtown parking item #30 on the agenda. She spoke about the board submitting their comments and approval of the primary action item. (Will get letter for the record)**

**Roland Saucedo, addressed the Council regarding the budget and asked that the Council be super conscience about doubling the number of code enforcement officers. There is a lot of talk in the community regarding the amount of time that it takes to get issues addressed due to the lack of staffing by the city. This will help in enforcing all city ordinances.**

**Kayli Head, expressed her support of the downtown parking association framework. She asked that the Main Street Advisory Board have a seat at the table for discussions. The recommendations presented are exciting and she looks forward to comments by council.**

#### **PRESENTATIONS**

3. Receive a Staff presentation of the Quarterly Investment and Financial Reports, and provide direction to City Manager.

**Heather Hurlbert, Finance Director, provided the Council with the quarterly investment and financial reports.**

**She provided the following regarding the revenues in our financial report:**

**General Fund-Favorable \$1.9M or 4.46%**

**Sales tax collections above trend \$2.0M due to City's portion of the Best Buy revenue and overall Best Buy revenue above budget**

**Other fees/charges for services trending slightly below trend**

**W/WW-Unfavorable \$979K or -5.07%**

**Primarily due to mild weather pattern. Anticipate volume pick up in Q3 due to hotter temperatures and irrigation increase**

**Electric-Unfavorable \$962K or -3.39%**

**Primarily due to mild temperatures. Will see increase in usage in 3rd quarter due to hotter temperatures**

**Hotel/Motel Tax-Unfavorable \$129K or -7.09%**

**Occupancy in line with prior years. Revenue decrease due to significantly lower average room rates. Anticipate increase in room nights during the summer will push room rates more in line with prior years.**

**Mrs. Hurlbert provided the following regarding the expenditures in our financial report:**

**General Fund-Favorable \$280K or .83%**

**Due to vacancies and timing of contract payments**

**W/WW-Favorable \$1.8M or 12.97%**

**Primarily due to timing of contract payments and capital expenditures**

**Electric-Favorable \$3.6M or 12.6%**

**Reduced power purchases due to reduced usage, lower cost of power, and timing of contract payments and capital expenditures.**

**Mrs. Hurlbert then provided an update on our investment report.**

## **CONSENT AGENDA**

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Mihalkanin, to approve the Consent Agenda with the exception of items #11, 16, 20, 22, and 23 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 Thomaidēs and Council Member Mihalkanin

**Against: 0**

- 4.** Consider approval, by motion, of the following meeting Minutes:
  - A) May 29, 2018 - Work Session Minutes
  - B) May 29, 2018 - Regular Meeting Minutes
  - C) June 5, 2018 - Work Session Minutes
  - D) June 5, 2018 - Regular Meeting Minutes
- 5.** Consider approval of Resolution 2018-97R, approving a third amendment to an Interlocal Agreement for Commercial Office Lease with Hays County for the WIC office at 401C Broadway Street for the purpose of extending the lease term for one additional year; authorizing the City Manager to execute said agreement; and declaring an effective date.
- 6.** Consider approval of Resolution 2018-98R, approving a third amendment to an Interlocal Agreement for Commercial Office Lease with Hays County for the WIC Satellite Office at

150 Lockhart Street in Kyle for the purpose of extending the lease term for one additional year; authorizing the City Manager to execute said agreement; and declaring an effective date.

7. Consider approval of Resolution 2018-99R, approving the award of a contract to DellEmc, Inc. For the Dell Servers and Hardware Licensing (#DIR-TSO-3763) with a total value estimated of \$174,130.71; authorizing the City Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.
8. Consider approval of Resolution 2018-100R, authorizing the execution of an Advance Funding Agreement with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0914-33-078), for construction of a multi-use bike and pedestrian trail to begin east of the Hopkins Street Bridge and extend west of the Interstate Highway 35 southbound frontage road along the San Marcos River, with an estimated cost of participation by the City of \$645,253; authorizing the City Manager to execute the Agreement on behalf of the City; and declaring an effective date.
9. Consider approval of Resolution 2018-101R, approving the award of a construction contract for Parks and Recreation Equipment and Installation (Buyboard Contract #512-16) to T.F. Harper and Associates, LP for the Dog Park Improvements Project in the estimated amount of \$116,183.75, utilizing CDBG funds; authorizing the City Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.
10. Consider approval of Resolution 2018-102R, approving the award of a construction contract for Parks and Recreation Equipment and Installation (Buyboard Contract #512-16) to T.F. Harper and Associates, LP for the Dunbar Park Improvements Project in the estimated amount of \$232,468.95, utilizing CDBG funds; authorizing the City Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.
11. Consider approval of Resolution 2018-103R, approving the award of a contract for minor construction (Choice Partners Cooperative Purchasing Contract #18/029JN) to Fence Lady, Inc. for the materials and construction of a pedestrian bridge in Ramon Lucio Park in the estimated amount of \$263,106.05, funded by TML Insurance; authorizing the City Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Resolution 2018-103R. 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

12. Consider approval of Resolution 2018-104R, approving the award of a professional services contract to Schrickel, Rollins and Associates, Inc. for the design of the Adult Softball Complex at the Gary Sports Complex with a total value estimated of \$269,500.00; authorizing the City Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.
13. Consider approval of Resolution 2018-105R, approving and authorizing the termination for convenience of the agreement with Pike Electric, LLC for San Marcos Electric Utility related maintenance services (Contract Number 218-199); authorizing the City Manager or his designee to execute the said termination on behalf of the City.
14. Consider approval of Resolution 2018-106R, approving an Amended and Restated Airport Facility Lease Agreement for Commercial Fixed Base Operator (FBO) Use with Berry Aviation, Inc. for the FBO terminal facility and associated fueling facilities at the San Marcos Regional Airport; authorizing the City Manager to execute the Agreement; and declaring an effective date.
15. Consider approval of Resolution 2018-107R, approving an Amended and Restated Revised Lease of Unimproved Property for Construction and Operation of Business Facilities with Berry Aviation, Inc. for an aircraft hangar and tract of land at the San Marcos Regional Airport; authorizing the City Manager to execute the Agreement; and declaring an effective date.
16. Consider approval of Resolution 2018-108R, approving and authorizing the termination for convenience of the agreement with M2 Federal, Inc. concerning Hutchison Street Bio-Filtration Pond Improvements Project (contract number 218-153); authorizing the City Manager or his designee to execute the said termination on behalf of the City.

**A motion was made by Mayor Pro Tem Prewitt, seconded by Deputy Mayor Pro Tem Gregson, to approve Resolution 2018-108R. 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

17. Consider approval of Resolution 2018-109R, authorizing the City Manager or his designee to apply for flood protection grant funds from the Texas Water Development Board ("TWDB"); authorizing the City Manager to enter into a contract with the TWDB to receive such flood protection grant funds; authorize the matching of City funds; authorizing the matching of flood protection grant funds received from TWDB with CBDG-DR funds or in-kind services.
18. Consider approval of Resolution 2018-110R, approving the award of a construction contract to M.A. Smith Contracting Company, Inc. for the CM Allen Parkway Improvements Project in the estimated amount of \$2,775,080.54; authorizing the City

Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.

19. Consider approval of Resolution 2018-111R, approving the authorized change in service to increase the value of the contract with Freese and Nichols, Inc. for the CDBG-DR Uhland Road Improvements Project in the amount of \$109,570.00; authorizing the City Manager or his designee to execute the said authorized change in service on behalf of the City and declaring an effective date
20. Consider approval of Resolution 2018-112R, approving the award of a contract to the Jacobs Project Management Company (RFQ 218-279) for Construction Project Management Services with maximum estimated contract value of \$2,299,000; authorizing the City Manager or his designee to execute the said agreement on behalf of the City and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Mihalkanin, to approve Resolution 2018-112R. 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

21. Consider approval of Resolution 2018-113R, approving a contract between the City and the Texas Department of State Health Services, Vital Statistics Unit, for the provision of on-line vital statistic computer services for the City; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
22. Consider approval of Resolution 2018-114R, approving the terms and conditions of a Joint Election Agreement between the City of San Marcos and Hays County for the holding of a joint election on November 6, 2018; authorizing the City Manager to execute the agreement on behalf of the City; authorizing the City Manager and City Clerk to negotiate minor revisions to this agreement; and declaring an effective date

**A motion was made by Council Member Mihalkanin, seconded by Council Member Gonzales, to approve Resolution 2018-114R. Direction was provided to staff to provide the Council with any updates regarding Election Legislation within the State Legislature or discussions with Hays County regarding the acquisition of new equipment.**

**Direction was provided to the City Manager to get quotes for election equipment so that financial planning could occur for any cost sharing to occur with Hays County.**

**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

23. Consider approval of Resolution 2018-115R, approving an Election Services Agreement with the Hays County Election Administrator, for her provision of Election Services for the City's General Election to be held on November 6, 2018 and, if necessary, a Runoff Election to be held in accordance with State Law; Authorizing the City Manager to execute this agreement on behalf of the City; and declaring an effective date.

**A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to approve Resolution 2018-115R. 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

24. Consider the Public Hearing Dates proposed by Staff regarding the 2018 Property Tax Rate and Fiscal Year 2018-2019 Budget, and provide direction to the City Manager.
25. Consider approval of a pay increase in the amount of \$4,306.65 to City Clerk, Jamie Lee Case effective May 1, 2018.
26. Consider approval of a pay increase in the amount of \$7,665.84 to City Attorney, Michael Cosentino effective May 1, 2018.
27. Consider approval of a pay increase in the amount of \$5,100.00 to City Manager Bert Lumbreras effective May 1, 2018.

## **NON-CONSENT AGENDA**

28. Consider approval of Ordinance 2018-18, on the first of two readings, amending the City's 2017-2018 Fiscal Year budget to allocate a total of \$314,000 of sales tax revenues in the general fund to the following programs in the following individual amounts: Homebuyer Incentive Program (\$60,000) ; IT Security Review Project (\$25,000), Facility Security Project (\$100,000), CIS Software License Upgrade (\$129,000) and adding full time equivalent positions in the Finance, Engineering, and Planning Departments to be paid with HUD Disaster Recovery funds; amending the staffing table for the Fire Department due to reclassification of positions performing the Fire Marshal function; and providing an effective date.

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt to approve Ordinance 2018-18, 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 Thomaides and Council Member Mihalkanin

**Against:** 0

29. Consider approval of Resolution 2018-116R, adopting the Community Development Block Grant (CDBG) Action Plan that provides for the allocation of \$649,948.00 CDBG funds for Program Year 2018; 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 Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Resolution 2018-116R. 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

**A motion was made by Council Member Gonzales, seconded by Council Member Mihalkanin, to reconsider Resolution 2018-116R. Discussion was held to decrease funding in the amount of \$25,000 from the Acquisition of property item and give it to Southside – LMI Housing Rehabilitation. After discussion there were no amendments or further action.**

30. Consider approval of Resolution 2018-117R, adopting the "Parking Program Framework Plan" as a guide for the development of a comprehensive and strategic approach to managing parking in and around Downtown San Marcos, identifying key program objectives, draft program vision and mission statements, a set of guiding principles, as well as a set of primary action items to guide program evolution and development; authorizing the City Manager to carry out parking management planning and operational activities on behalf of the City; and declaring an effective date.

**Discussion was held regarding the fact that paid parking is under consideration within the caption of this item. In the future Council would like to see the term "paid parking" when discussing parking management.**

**Kevin Burke, Economic Development and Downtown Administrator, provided a brief update on the revised Parking Program Framework Plan and informed Council that many of the recommendations made by the downtown association were implemented into this plan. Mr. Burke also noted this is a working document and is not meant to be frozen but will be modified and improved based on the needs of the community.**

**Mayor Thomaides expressed his appreciation for the new parking spaces on**

**LBJ.**

**Council Member Derrick asked about the recommendations made by the downtown association specifically regarding the survey and parking benefit district. Mr. Burke went into detail and discussed the recommendations made by the downtown association which include: reducing the primary action items from 11 to 10 by combining two action items, breaking these into two categories of goals, and branding this framework as economic development.**

**Council Member Mihalkanin suggested looking into additional options for parking and not just on street paid parking. Dr. Mihalkanin inquired about a parking garage. Bert Lumbreras, City Manager, addressed these concerns by stating the current strategy is to utilize the resources we already have which would include on street parking. When a parking garage is discussed this involves creating a structure that would be very costly due to the construction, operation, and maintenance.**

**One of the last steps includes Kimley Horn providing updated cost estimates and revenue projections. These will be brought back to Council after the new fiscal year.**

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Derrick, to approve Resolution 2018-117R. 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 Mayor Thomaides

**Against:** 1 - Council Member Mihalkanin

- 31. Consider approval of Resolution 2018-118R, approving amendments to the Affordable/Workforce Housing Policy relating to the definition of workforce housing and the criteria for the Low Income Housing Tax Credit Policy; and declaring an effective date.**

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Gonzales, to approve Resolution 2018-118R. 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

- 32. Consider approval of Resolution 2018-119R, approving the award of a contract to P3Works, LLC for consulting and administrative services concerning the Trace Public Improvement District; authorizing the City Manager or his designee to execute the said**

agreement on behalf of the City and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Resolution 2018-119R. 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

- 33.** Discuss and consider the possible reassembling of the Trace Public Improvement District (PID) Project Committee, and provide direction to the City Manager.

**Steve Parker, Assistant City Manager, provided an update to the Council regarding the request to reassemble the Trace Public Improvement District (PID) Project Committee to review deal terms and provide a recommendation to the City Council.**

**A motion was made to appoint Mayor Pro Tem Prewitt, Deputy Mayor Pro Tem Gregson and Council Member Milhalkanin to serve on the Trace Public Improvement District (PID) Project Committee. 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

**VI. Question and Answer Session with Press and Public.**

**None.**

**VII. Adjournment.**

**Mayor Thomaides adjourned the Regular Meeting of the San Marcos City Council Tuesday, June 19, 2018 @ 8:18 p.m.**

**Jamie Lee Case, TRMC, City Clerk**

**John Thomaides, Mayor**