



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes City Council

Tuesday, August 6, 2019

6:00 PM

City Council Chambers

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 Hughson at 6:01 p.m. Tuesday, August 6, 2019 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, Council Member Melissa Derrick, Mayor Jane Hughson, Council Member Ed Mihalkanin, Council Member Joca Marquez and Council Member Mark Rockeymoore

III. Invocation

Reverend Craig DeYoung, with our Our Lady of Wisdom University Parish, provided the invocation.

IV. Pledges Of Allegiance - United States And Texas

Council Member Rockeymoore led the assembly in the pledges of allegiance.

V. 30 Minute Citizen Comment Period

Jessica Thibodeaux stated that she is a resident of the Spring Marc Apartments and a college student at Texas State. She wants Council to know how much she loves San Marcos. She stated that she has begun to see an increase of cars on the roads. She asked that the Council to please continue to push policies that enhance street infrastructure so that it benefits all residents in our community. She requested that the Council stay brave in the face of opposition to this issue. She stated that in about 22 days that 20,000 cars will be returning to San Marcos and this increased each year. She asked the Council to revel in this moment and continue to push infrastructure forward.

Peter Tschirhart, spoke as a property owner and member of MoveSM, he spoke in enthusiastic support for the Guadalupe Striping improvements. He stated that we may lose some parking spots and narrow lanes but the changes are well worth the benefit. We can increase density without adding cars or expanding roads. We can improve the quality of life for all people in the

community. We must create an environment that is pedestrian and cyclist friendly. He spoke about how this will reduce demand by taking cars off the road. He spoke about how it bolsters the economy, cyclist spend 40% more at local business than car drivers. He spoke briefly about the return on investment. We need to learn how to better move people and not cars. He expressed his appreciation to Council.

Sarah Simpson, spoke about the bike related items in the context of the Bike Friendly Community Designation that San Marcos was awarded about this time last year. She stated that were awarded the bronze level and she invited the Council to review the scorecard. She stated that it recommends us to continue to expand the bike network that protects cyclists. The Guadalupe Restripe Project is an example of fulfilling this first recommendation. The Guadalupe Restriping project will provide safe connectivity. She encourages the Council to support the VeoRide partnership. She mentioned that a lot of these rides are removing cars off the road. She encouraged support to all the efforts being made.

Thomas Larsen, spoke as a Professor of Geography and a member of MoveSM. He spoke on the item regarding the Guadalupe Restriping Project and stated the sooner we start the process the sooner we will be able to complete and have safe bike facilities. He thanked the City Staff and Council and their willingness to listen to feedback from citizens regarding this project.

Preston Nieves, addressed the Council as a student. He spoke about his opposition to Resolution 2019-138R, regarding the restriction to conceal or open carry a handgun. He stated that the authoritarians on both side of the political regime are using fear of terrorism and mass shootings to disarm the populus. This is unethical and it also creates more victimless crimes and undermine the security of our community. He stated that most mass shooting happen in gun free zones. Don't take away the freedom to defend ourselves. It is to protect against gun violence and government violence. He asked that Council vote in favor of freedom and not in favor of fear.

Matt Akins, spoke in support of the Guadalupe Restriping Project. He stated that he feels that encouraging people to walk, ride a bike or take a bus are important means of transportation. Everyone that walks or takes a bus keeps another car off the road. He provided that the pro-walking, pro-biking to work we have going on is great. He thanked Council for their support.

Roland Saucedo, echoed what everyone said about Item #1. He stated his

support of item #17 related to the funding of the Hopkins Street/State Highway 80 shared use path project. He stated that a 7-year-old told him he has a secret path to get to the river safely. He hopes we get this funding, because someone that young should not have to devise a plan to get to the river safely. He spoke on Item #18 related to the restriction of open or conceal carry of handguns. He can see both sides to this, but he believes that if you want to be where guns are allowed then go there. He stated that guns don't kill people, people kill people. He stated that he hopes that the City Council will approve this Resolution disallowing concealed carry. He then spoke on Item #19 related to the VeoRide program and stated that he loves this program but he is speaking as a member of the CONA Executive Board and their concern for the large amount of bikes that are being abandoned in the neighborhoods.

Rodrigo Amaya, addressed the Council and stated he is not in favor of being off the full month of July. He stated that there is a lot of new holes in June and construction everywhere that isn't organized. He stated he had a meeting on July 3rd with the Mayor and provided her two sheets full of complaints regarding the leadership of the City. He made a comment about exiting the backdoor after this meeting and he wondered what it was like back in the day when minorities were asked to come in the back door, now he can say he experienced that. He stated that on July 19th he had a meeting with Steve Parker and Shannon Mattingly regarding a towing company that opened illegally. He stated this was a very unproductive meeting. He stated that he doesn't appreciate the Council increasing the City Manager salary after being here for only eight months. He came to the Planning and Zoning Commission for a permit issued and there are a lot of violations with the existing process for the application without consequences. He asked why we have policies if there isn't going to be anything done. He spoke briefly about the Guadalupe project and construction on CM Allen before his time expired. Mayor Hughson addressed the comments made by Mr. Amaya. She stated that the list he provided has been given to Staff and they are still working on some of these concerns. She also noted that her office is located in the back of the building and Mr. Amaya chose when to leave. She asked him the same as she asks everyone leaving her office. Would they prefer to go out the back door as this is the closest exit and often times closest to their car.

Marla Johnson, Hays Caldwell Women's Center Executive Director, spoke about the budget amendment that the Council is being asked to consider related to the transitional housing for victims of abuse that is planned to be constructed. She explained the purpose of the transitional housing and stated that children are growing up in violent homes and that period of their life is

critical. This project is 18 units of transitional housing and it will focus on families with young children. Classrooms will also be included in the complex. Most of the funds that have been raised have been private. She is now coming to the local government to ask for their investment. Hays County has contributed and she is asking the Council to approve the same. The Meadows Center is also considering a grant for them as well. There are more things that need to fall into place. She stated that they are working with HomeAide out of Austin. She thanked Council for their support.

PRESENTATIONS

1. Receive a Staff presentation and hold discussion on the TxDOT Striping Improvements to Guadalupe Street between University & Grove Streets, and provide direction to Staff.

Laurie Moyer, Director of Engineering and CIP explained the reason for late minute addition of this presentation as we recently heard from TxDOT they would be initiating this project. She then turned the presentation over to Rohit Vij, Project Engineer. Mr. Vij provided a brief presentation regarding the Striping Improvements to Guadalupe Street between University and Grove Street which included the project objectives, project scope, crash analysis, downtown parking, public outreach, project schedule, TxDOT Mill & Overlay, TxDOT striping along Guadalupe Street, TxDOT Schedule, and Cross Sections.

Council asked to see a large map of the Striping Project. Staff will provide this to Council.

CONSENT AGENDA

A motion was made by Council Member Rockeymoore, seconded by Council Member Derrick, to approve the consent agenda, with the exception of items # 16, 17, 18, and 19 which were pulled and considered separately. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:
 - A) May 30, 2019 - Executive Session Meeting Minutes
 - B) June 14, 2019 - Special Meeting Minutes
 - C) June 18, 2019 - Regular Meeting Minutes
 - D) June 24, 2019 - Executive Session Meeting Minutes
 - E) June 25, 2019 - Executive Session Meeting Minutes

3. Consider approval of Resolution 2019-123R, approving an Interlocal Cooperation

Agreement with the City of Plano, Texas, to enable each City to utilize vendors for goods and services under contracts procured by the other; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

4. Consider approval of Resolution 2019-124R, approving a contract with Life Extension Clinics, Inc., dba Life Scan Wellness, through the city's cooperative purchasing program contract with the City of Plano, for the provision of physical examinations for firefighters in the estimated amount of \$25,000 per year, with options to renew the contract annually; authorizing the City Manager or his designee to execute such contract; and declaring effective date.
5. Consider approval of Resolution 2019-125R, awarding a contract for routine generator maintenance and repairs to LJ Powers, Inc. in the estimated annual amount of \$35,000, with the option to renew three additional years, for the Community Services Department, Parks and Recreation Division; authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City; and declaring an effective date.
6. Consider approval of Resolution 2019-126R, approving a contract with Environmental Systems Research Institute, Inc. for Geographic Information System Software and Maintenance Services in an amount not to exceed \$150,000 over a three-year term; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.
7. Consider approval of Resolution 2019-127R, approving a Change in Service to the Agreement with Holmes Murphy and Associates relating to the provision of employee benefit consulting services to extend the agreement for five additional years at a cost of \$225,000; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.
8. Consider approval of Resolution 2019-128R, approving Amendment No. 3 to the WIC Program Funding Contract with the Texas Health and Human Services Commission that allocates funding in the amount of \$1,719,649 for Fiscal Year 2020; authorizing the City Manager, or his designee, to execute said contract amendment on behalf of the City; and providing an effective date.
9. Consider approval of Resolution 2019-129R, approving a contract with Pontem Software, Inc. for Cemetery Management Software in an amount not to exceed \$100,000 over a ten-year term; authorizing the City Manager or his designee to execute this contract on behalf of the City; and declaring an effective date.
10. Consider approval of Resolution 2019-130R, approving the purchase of twelve 15.5 kV R-MAG Circuit Breakers for the Public Services Department, Electric Utilities Division, in the total amount of \$223,450 from Wesco Distribution, Inc. through the Texas Cooperative Purchasing Network Contract #R142106; authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City; and declaring an effective date.

11. Consider approval of Resolution 2019-131R, awarding a construction contract to the Brandt Companies, LLC for upgrades to the Canyon and San Marcos substations in the amount of \$548,042.04; authorizing the City Manager, or his designee, to execute all appropriate contract documents on behalf of the City; and declaring an effective date.
12. Consider approval of Resolution 2019-132R, awarding a contract to Clean Earth of Alabama, Inc. for the provision of Household Hazardous Waste Collection, Transportation and Disposal Services in an annual estimated amount of \$14,880 with an option to extend for four additional years with an optional two percent increase on the second annual renewal for a total five year cost of \$74,400; authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City; and declaring an effective date.
13. Consider approval of Resolution 2019-133R, approving an engagement agreement with the Law Firm of Russell Rodriguez Hyde Bullock, LLP to provide specialized legal counsel and represent the City before State Agencies when necessary in various utility matters; authorizing the City Attorney to execute the engagement agreement on behalf of the City; and declaring an effective date.
14. Consider approval of Resolution 2019-134R, awarding a contract to WEX Bank, through a cooperative purchasing agreement with Sourcewell, for a Fuel Card Management System for an initial term of one year in the estimated amount of \$800,000, with the option to renew the contract for up to three additional one year terms for a possible estimated amount of \$3,200,000 over four years; authorizing the City Manager, or his designee, to execute the appropriate contract documents on behalf of the City; and declaring an effective date.
15. Consider approval of Resolution 2019-135R, approving the appointment of Bickerstaff Heath Delgado Acosta, LLP to represent the City in litigation brought by a consortium of Texas cities challenging the constitutionality of Senate Bill 2004 (2017) which relates to the deployment of network nodes in municipal rights-of-way and the fees cities may charge for the use of their rights-of-way and Senate Bill 1152 (2019) which can preclude cities from receiving payment for use of their rights-of-way for both cable and telecom; authorizing an expenditure of monies not-to-exceed \$7,000 based on population for the legal services to be provided; authorizing the City Attorney to execute the Engagement Agreement on behalf of the City; and declaring an effective date.
16. Consider approval of Resolution 2019-136R, approving an interlocal agreement with Texas State University (Edwards Aquifer Research and Data Center) providing for groundwater quality monitoring services in the vicinity of the Kissing Tree Subdivision for an amount not to exceed \$150,000 over a five-year term; authorizing the City Manager to execute this agreement on behalf of the City; and declaring an effective date.

Prior to discussion, Council Member Mihalkanin recused himself as he receives 100% of his income from Texas State University.

A motion was made by Council Member Rockey Moore, seconded by Council Member Derrick to approve Resolution 2019-136R for discussion purposes.

Mayor Pro Tem Prewitt inquired about the cost of the additional water testing. A certain level of testing will be done according to the development agreement, however, an extra level of testing will be done by the City at the City's expense. Council consensus is to have a discussion with Kissing Tree to discuss the funding of this additional testing prior to taking a vote this evening.

A motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Derrick, to postpone Resolution 2019-136R. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Marquez and Council Member Rockey Moore

Against: 0

Recused: 1 - Council Member Mihalkanin

- 17. Consider approval of Resolution 2019-137R, supporting the City's application to the Texas Department of Transportation ("TXDOT") for funding of the Hopkins Street/State Highway 80 shared use path project under TXDOT's Transportation Alternatives Set-Aside (TASA) Program call for projects; and declaring an effective date.**

A motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Mihalkanin, to approve Resolution 2019-137R. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockey Moore

Against: 0

- 18. Consider approval of Resolution 2019-138R, forbidding persons licensed to carry a handgun, from carrying a handgun, regardless of whether the handgun is concealed or openly carried, in any room or rooms, including but not limited to the City Council Chambers, where the City Council or any City Board, Commission, Committee or Body is meeting in an Open Meeting subject to the Texas Open Meetings Act; authorizing the City Manager, the City Clerk, their designees and any other officers, employees or appointees responsible for such meetings to provide notice of such handgun restriction in accordance with Sections 30.06 and 30.07 of the Texas Penal Code; and declaring an effective date.**

A motion was made by Council Member Mihalkanin, seconded by Council Member Rockey Moore, to postpone Resolution 2019-138R to the August 20, 2019 meeting. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

19. Consider approval of Resolution 2019-139R, approving a renewal contract with VeoRide Inc., for the provision of a Dockless Bike Share System with the option to renew the contract for up to three additional one year terms; authorizing the City Manager or his designee to execute the appropriate documents on behalf of the City; and declaring an effective date.

A motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Rockeymoore, to postpone Resolution 2019-139R. There are concerns about bikes not being picked up for extended periods of time. Staff will work with the VeoRide staff for a solution. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

20. Consider approval, by motion, of a 4% retroactive pay increase in the amount \$772.20 for work performed between April 1, 2019 to June 30, 2019 for Judge Dallari Landry, as well as a new hourly rate of \$55 per hour for an annual increase of \$5,491.20 effective July 1, 2019.

NON-CONSENT AGENDA

21. Consider approval of Ordinance 2019-18, on first and final reading, ordering a General Election to be held on November 5, 2019 for the purpose of electing City Council Member, Place 1 and City Council Member, Place 2; declaring an emergency creating the need to adopt this ordinance with only one reading; and providing an effective date.

A motion was made by Council Member Mihalkanin, seconded by Council Member Derrick, to approve Ordinance 2019-18, on first and final reading. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

22. Consider approval of Ordinance 2019-20, on the first of two readings, appointing an associate Municipal Court Judge for the San Marcos Municipal Court of Record for a term of two years; and providing an effective date.

A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Prewitt, to approve Ordinance 2019-20, on the first of two readings. The

motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

23. Consider approval of Ordinance 2019-21, on the first of two readings, amending the City's 2018-2019 Fiscal Year Budget to allocate a total amount not to exceed \$689,500 from General Fund to provide funding for facility maintenance, software licenses, IT equipment, building security, and Hays Caldwell Woman's Shelter and providing an effective date.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Prewitt, to approve Ordinance 2019-21, on the first of two readings. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

24. Consider approval of Resolution 2019-140R, approving a Meet and Confer Agreement between the San Marcos Professional Firefighters Association Local #3963 and the City of San Marcos and declaring an effective date.

A motion was made by Council Member Mihalkanin, seconded by Council Member Gonzales, to approve Resolution 2019-140R. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

25. Consider approval of Resolution 2019-141R, approving a Meet and Confer Agreement between the San Marcos Police Officers' Association and the City of San Marcos and declaring an effective date.

A motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Gonzales, to approve Resolution 2019-141R. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

26. Consider approval of Resolution 2019-142R, approving the 2019 Amended and

Restated Service and Assessment Plan with Highpointe Trace, L.L.C. in connection with the Trace Public Improvement District; authorizing the City Manager to execute said document on behalf of the city; and declaring an effective date.

A motion was made by Council Member Mihalkanin, seconded by Mayor Pro Tem Prewitt, to approve Resolution 2019-142R. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin, Council Member Marquez and Council Member Rockeymoore

Against: 0

27. Consider an appointment to fill a vacancy on the Historic Preservation Commission and the Senior Citizen Advisory Board, and provide direction to Staff.

Mayor Hughson nominated Andrew Behnke to serve on the Historic Preservation Commission.

After a roll call vote, Andrew Behnke was unanimously appointed to serve on the Historic Preservation Commission.

Council Member Mihalkanin nominated Mae Watts Parrish to serve on the Senior Citizen Advisory Board.

After a roll call vote, Mae Watts Parrish was unanimously appointed to serve on the Senior Citizen Advisory Board.

28. Hold discussion regarding Ethics Review Commission Recommendation Resolution 2019-1, that recommends an amendment to the San Marcos City Code of Ethics to Require City Employees to appear and testify as witnesses and produce City records at Public Hearings conducted by the Commission on pending Ethics Complaints, and provide direction to Staff.

City Attorney, Michael Cosentino provided a brief update regarding the Ethics Review Commission Recommendation Resolution. This recommendation would amend the San Marcos City Code of Ethics by requiring City Employees to appear and testify as witnesses and produce City records at Public Hearings conducted by the Commission on pending Ethics Complaints.

After a brief discussion, Council directed Staff to have the Ethics Review Commission draft an Ordinance that considers the protections of employees if they were to testify, the notice provided to an employee and making sure this is reasonable, and the consequence associated with testifying.

The City Manager's office will provide assistance in the crafting of this Ordinance. Staff will look at other cities that have a similar Ordinance and make sure this is done right, because it could work and could be useful. It will be brought back at a future meeting for Council review and consideration.

VI. Question and Answer Session with Press and Public.

VII. Adjournment.

Jamie Lee Case, TRMC, City Clerk

Jane Hughson, Mayor