



City of San Marcos

Meeting Minutes City Council

Tuesday, June 2, 2020

6:00 PM

Virtual Meeting

Due to COVID-19, this will be a virtual meeting. To view the meeting please go to www.sanmarcostx.gov/videos or watch on Grande channel 16 or Spectrum channel 10.

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 6:05 p.m. Tuesday, June 2, 2020. This meeting was held virtually.

II. Roll Call

Present: 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

III. 30 Minute Citizen Comment Period

The following comments were submitted as written comments and read aloud during the citizen comment portion of the meeting:

Josh Hunter Simpson:

Taxing citizens more after almost 40 million people have lost their jobs in this country and many more struggles to pay monthly bills during COVID19 situation is wrong. You as a city, 9 figures in debt, have decided it necessary to even discuss raising tax rates on already hurting people. Fiscal irresponsibility is at the root of this. Voting on "bond" packages binds future generations to your debt. Voting for more debt doesn't make it acceptable. The reality is our city is notorious for being anti-business due to ideological extremism. Which lends to our dependence on retail and service industries. Forced to shut down by government and now you have turned your head toward the peoples coffers to squeeze out revenue. The individual financial irresponsibility translates to continued city policy that facilitates more debt and putting that debt on children who have NO SAY via "bond elections." Whether it be bonds or higher taxes you are where the buck stops. The appraisal district is a convenient scapegoat and it is gross behavior to blame another government agency for you as a body ignoring the obligation to adjust the tax rates to lessen the burden of appraisal district property tax pressure EVERY YEAR. None of that is going on and I'm not confident it will take place. I sincerely

hope each one of you decides against this but due to such polarizing ideological extremism present on this council I am not confident that will take place. This letter is for the record to show my disapproval as you continue to make these decisions via virtual meetings when the case rate in Hays County proportional to the population is extremely low, as well as Hays County death rate. At least these things should wait until your constituents can VOICE their disapproval of these actions.

Melanie Hernandez: submitted the same comments as Mr. Josh Simpson.

Robert Holeman:

To whom it concerns,

Why does the city council flat refuse to consider reopening the children's parks? Its been mentioned at the last two weekly meetings but it has gotten zero consideration beyond the Mayor, again, expressing frustration that people weren't complying. This time, apparently people are just cutting down the children's park barriers. (Something I had considered doing myself, but my wife said to give it more time.) I've looked at Abbott's orders. I didn't see anything limiting children's parks, nor did I see anything about playgrounds. Water parks & pools are cleared hot to open. Look at the bigger picture. Keeping our kids cooped up makes no sense. Why does the council insist on slow rolling this?

Virginia Condie:

Dear Councilmembers and Mayor,

We would like to speak on the topic of the Hays County Park Proposal. There are many positive aspects to the plan, many of which we are very excited about, and we do support the county and city working together to address park solutions in the area. That said, we need to point out our concerns with regard to rebuilding Capes Dam:

- Mitch Wright (the consultant hired to create the County's plan) mentioned several times that the water level in the mill race needs to be raised so that people could get in and out easily and reduce stagnation. This involves even more water being diverted away from the natural river channel which is quite alarming. Even during high flow years stagnation occurs, and water rarely, if ever, reaches the sidewalk.
- The plan specifies that the dam would be built to its original form, a Crib Dam, allowing more flow through it. Increasing flow through the crib dam and putting more water in the mill race does not seem feasible. There is a finite amount of water available to go either direction. Especially in low flow years.
- There were no clear answers about who would pay for the management and

maintenance of the park. Rebuilding the dam will be costly, and the county or city will have to maintain and repair it after each flood. We are currently seeing this at Rio Vista. We think these details need to be addressed.

* We also want to have the county's position clarified should US Fish and Wildlife Service (USFWS) and the Army Corps of Engineers recommend removing the dam. It is not clear if the county still wants to be involved in developing this park or if it is contingent on having the dam rebuilt.

· It was stated multiple times in the work session with the county last year that USFWS was unsuccessful in getting a permit to remove the dam. This is simply untrue. What actually occurred was that the deadline passed to use the grant funds. Those same USFWS grant funds could be applied for again.

Why is Capes Dam Different than Other dams on the San Marcos River? We get this question a lot. Not all dams divert water in such large amounts as Cape's Dam.

· There is approximately 3500 feet of natural river channel that has less water flowing in it because of the diversion to the mill race, starting at Capes Dam and finishing where the mill race dumps back into the San Marcos River. This is 2/3 of a mile that is deprived of its full flow.

· 1/3 of the River's water is diverted to the mill race during normal flow times. That percentage goes up as the water drops. This is very concerning for future droughts we will have.

· In addition, water in the mill race seeps under Thompson's Island, compromising its integrity over time and during flood events.

* If the dam were removed then the mill race is a possible solution for the safe passage of pedestrians underneath Cape Road. This could be a nice trail allowing people to traverse different parts of the park without ever having to step foot on the road.

* We know that there will be droughts in the future and we need to plan for our river accordingly.

Ultimately we want to see the park area east of I-35 open to the public. There needs to be adequate amenities including restrooms, parking and patrolling. This can be accomplished with the health of the river in mind. Thank you for considering these points.

Lisa Marie Coppoletta:

Good evening, my name is Lisa Marie Coppoletta, I reside at 1322 Belvin Street in the high priority designated portion of Belvin Street. Chicana cultural critic and theorist Gloria Anzaldúa states "All reaction is limited by, and dependant on, what it is reacting against." I want to compliment the Code

Enforcement their communication outreach last week was wonderful. It is very clear from speaking with field officer and supervisor that this crew truly has our best interests at heart. Thank you, Code Patrol, ya'll are very kind faces to see during a pandemic. However, when will the city manager have his sidewalk worker that fills out surveys he wants sidewalk on Belvin that makes sidewalks for a living and lives on Belvin but just does not want in his yard? He wants it in all of our yards but his. It is a liability situation for the city and that private land owner as well as Habitat for Humanity and its puzzling why the city attorney has not weighed in on this glaring favoritism being displayed, with legal implications. City council when will you hold Bert, the man who thinks he is the Emperor of San Marcos, but is only the overly paid City Manager? The city has admitted it mailed out post cards to my neighbors across Bishop on Belvin, but my side of the block did not get the postcards. Why is this problematic? Because the postcards alerted those neighbors, NOT directly impacted that our block would be the dump site for the Hopkins Overlay. Finely packed toxic particulates as well as noise and trucks in a residential area. The city purchased this land to protect the cave and yet it is a dumping ground of toxins. The city is telling false hoods that site is a razors edge of flood zone and the aquifer recharge zone. To add salt into the wound my neighbors across Bishop on Belvin NOT impacted by this dump site got two road blocks. The city is refusing to give us road blocks. I sent an email last week at noon warning you an 18 wheeler would get stuck if you did not install roadblocks. Three hours later 18 wheeler was stuck for 45 minutes on our block his load of brand new cars scratched from our live oaks, which did not get trimmed by the city like those across Bishop on Belvin. City has the video, and still no road blocks to keep pets, pedestrians and motorists safe. This is a residential block.

No postcards.

NO roadblocks

No tree trimming

We are the cut thru route

18 wheelers hitting our live oak roots

What do you expect from a city manager that sends the police force to shut down bars on Saint Patrick's Day but does not enforce face covering by his city workers and contractors. Citizens of San Marcos soon I will have a website launched so you can see those workers from the city that get to break the government guidelines of face coverings while on the tax payer dime, while Small businesses are struggling. If Bert wants to give preferential treatment let's say what the Governor has to say about that. Thank you for your time

and God Bless San Marcos.

Jennifer Jensen:

Good morning,

I'm writing to ask that Council vote to remove Cape's Dam. The structure is dangerous, the water below it is unpredictable (I've seen several tubers get stuck on rebar and in the hydraulics), the gifted park land is inaccessible because of the danger associated with the dam, and it the functional purpose it was built for no longer exists. Moreover, scientific studies have shown that water depth will not be negatively affected and that the biological benefits of dam removal outweigh the rationale for keeping it.

Jason Julian, PH Professor:

City Council Members,

I am writing this comment as a 7-year citizen of San Marcos who is heavily involved in the community and as a River Scientist with 20 years of experience in stream ecology, fluvial geomorphology, and the upstream and downstream effects of dams and dam removals. I have been involved with three dam removal projects and numerous studies on river processes, water quality, stream ecology, and social demand of river systems. I have published more than 30 peer-reviewed journal articles or book chapters on these issues. In all three dam removal projects I have participated, the dams were removed to provide ecological benefits to the river and because the cost of repair of each dam was well beyond what the owner/community could afford. Repairing a small dam like Capes Dam is going to cost close to a million dollars. Being an invested resident of San Marcos, I would rather see that million dollars be spent on more beneficial causes. I conduct a lot of research on the San Marcos River and use it as a teaching laboratory for my Water Resources courses. I also kayak the San Marcos River, not as much as I would like, but at least a handful of times each year. Thus, I am very familiar with the river, its water quality, its ecology, and the social-ecological system it creates. Removing Capes Dam would provide many benefits, including enhanced water quality by removing a relatively stagnant pool behind the dam, more suitable conditions for the Texas Wild Rice, and increased habitat for the fountain darter and other species. Removing the dam would also remove a significant hazard from the river. I have taken my wife and two young children kayaking along that stretch of river several times. Each time, we portage around the dam using the island, but even then it is dangerous for small children. I would prefer a stretch of river that is safer and does not require a portage. In summary, removing Capes Dam would provide many more benefits and be less costly than trying to repair it. As a history buff, I appreciate the historical significance of Capes

Dam and believe its history should be memorialized. But you do not need to keep a hazardous dam there to do that. A historical monument can be constructed at the site of the dam to preserve its memories and educate the public.

Kimberly M. Meitzen:

Dear City Council Members,

My name is Kimberly Meitzen and I live at 2022 Hearthstone Drive, San Marcos. Thank you for the opportunity to provide my input on the issue of Cape's Dam on the San Marcos River. I have provided comments on a couple occasions regarding support for the removal of Cape's Dam. My support for removal has not changed and nor has my position on the reasons for removal. Below, I provide a copy of one of the statements I've made during public comment at a prior City Council Meeting on January 7th, 2020. First however, I want to add some facts relevant to hazard's posed by dams which are particularly relevant given a recent near drowning incident which occurred on Saturday, May 30th, 2020 on the San Marcos River at Cumming's Dam. One of the primary reasons for removing dams, and the leading reason for dam removals in Texas is safety and liability. According to the Texas Commission on Environmental Quality (TCEQ) 50 dams have been removed in Texas and of these nearly 80% were removed for hazard and liability concerns, one of those being the Ottine Dam on the Lower San Marcos River. Low-head type dams similar to the concrete re-enforced rock and crib weir structure of Cape's Dam are extremely dangerous and become more so as they age. In the US, between 1950 and 2015, there have been 555 fatalities at low head dams involving 276 structures, meaning more than one death has occurred at a given dam (Kern et al., 2015). In Texas alone, 19 deaths have occurred at low head dams between 1995-2015, with some of those deaths occurring within the San Marcos River (Kern et al., 2015). Removing aging dams that pose a hazard to river users and downstream property owners is a cost-effective solution for removing liability of the structure, preventing future incidents, and providing instream ecological benefits to the river channel by restoring the riverine habitat and reconnecting a fragmented channel. Removing Cape's Dam does not remove its historical context within our city, and with thoughtful planning there are numerous ways its history can still be shared with our community and visitors to the region. As of 2019, 1,722 dams have been removed in the US primarily for reducing hazard risks and improving ecological function (American Rivers, 2020). Removing dams is a progressive step in environmental management and represents a paradoxical shift from controlling and manipulating rivers to restoring and protecting them. Our

community and many regional stakeholders through the Edwards Aquifer Habitat Conservation Plan (EAHCP) already work very hard to manage and protect the San Marcos River and the endangered species that call it home. Removing Cape's Dam and filling in the mill-race complex is one more important step in the process to ensure long term health of our river system and the safety of our community and downstream neighbors. As a citizen of San Marcos I look forward to the day this parkland is reopened to the public. I hope this day comes soon and provides an experience that we can all be proud of. Thank you.

She asked if If time permits, please read the following statement provided on January 7, 2020 with more context supporting removal of Cape's dam:

"Thank you for the opportunity to speak. I am here from the perspective of a river scientist, and a recreational river and public park space user. I am here to provide a recommendation for the removal of Cape's Dam and support for the development of a river side park that serves multiple purposes; and would specifically include a demonstration site for both river restoration through dam removal and preservation of the cultural history of the site through river side educational kiosks and physical displays of the historic features preserved from the dam and mill race. (Comments were limited to three minutes, time expired)

Kelly Stone:

Hello Mayor and Council, I'm Kelly Stone, and I now currently reside at 421 W. San Antonio Street. I made this move from my downtown apartment after a developer (the one with an ethics violation from serving on City Council and using his position to financially benefit his business) well he purchased my building and started abating asbestos while my children and I were occupying our home during the shelter-in-place orders. I'm still in the middle of moving, but your agenda suddenly had a discussion regarding Cape's Dam, prompting me to have to set up my internet and get these words all typed out to be read by a city staffer. Now imagine my Kelly Stone voice in this through-out. I'm grateful that you implemented the 90 day restriction on evictions, but in case you were wondering, the answer is YES. Some landlords worked to skirt around this restriction, and that's how I learned the term: Constructive Eviction. It's a Jared Kushner-style tactic where developers implement construction tactics to make life miserable for the tenants to force them to move. The law favors the landlord, and it simply allows the tenant to move out without penalty. So, anyhow.... I thought I'd take this moment to make sure you're aware that this is happening in town and perhaps you could help prevent this from happening to other people in the future. Here's the thing:

It's that same mentality of not caring about impacts to others that got us into this whole Cape's Dam problem in the first place. Mr. Thompson cared about money. He cared about it so much that he forced the people he enslaved to dig a huge trench and build a structure to block the natural flow of the San Marcos River to divert 1/3rd of it's flow to his mill to power it to make money. Nevermind that for tens of thousands of years the river had sustained life for thousands of species. Nevermind that it builds up sediment and methane and bacteria. Nevermind that it was wrong. What seems to matter to **some** of you is that the dam is "historic". (Reader, please note the quotation marks around historic.) **NOT THE DAM.** The river needs to be preserved and protected. **NOT THE DAM.** Now, you're discussing the proposal presented by the county. The company they contracted with sent in a snake-oil sales guy wearing a plantation owner's suit(who hadn't read the science) to present a grand proposal and here it is: It's a park! A park! But wait...the only way they can make this park is if they have a dam! That's weird. There are so many parks and parklands that serve communities very well, and they are not contingent upon destroying the river. We could very well have a park that not only the residents of the east side could enjoy, but we could all enjoy--locals and visitors alike. We would LOVE to have our park back. But we do not want a park at the expense of destroying our river. Their plans include **raising the water level** of the mill race, and **THAT MEANS DIVERTING MORE OF THE RIVER FROM ITSELF.** You **KNOW** this is a bad idea. Please **FREE THE RIVER** and the parkland. Do not continue to hold it hostage to developers and business interests. I believe your November elections will be counting on this decision.

Alexander Arlinghaus:

Mayor and Council, My comments tonight regard item 27. You are being asked to make decisions on a project that has huge impacts for our river without any hydrological studies, and no studies regarding the impact of our endangered species. The pictures in your presentation look lovely, and the platitudes about balancing recreation, historic preservation, and the environment are well crafted, but there has been no research into the implication of this design to support these claims. Furthermore, we are having a one-sided discussion about cape's dam. The option of dam removal and redevelopment of the surrounding parkland has been pushed aside, and it seems we are only considering parkland rehabilitation if it includes restoration of cape's dam. Please make informed decisions.

PRESENTATIONS

1. Receive status reports and updates on response to COVID-19 pandemic; hold council

discussion, and provide direction to Staff.

Bert Lumbreras, City Manager, provided a brief introduction and turned the presentation over to Chase Stapp, Director of Public Safety. Mr. Stapp provided status reports and updates on response to the COVID 19 pandemic.

Known Cases as of today

- **1,787,680 U.S. cases with at least 104,396 fatalities (26,177 new cases since yesterday) * source: Centers for Disease Control and Prevention**
 - **64,880 (19,864 active) cases in 231 Texas counties with 1,678 fatalities * source: Texas Department of State Health Services**
 - **371 in Hays County with 5 fatalities (161 active and 205 recovered)**
 - **3,914 tests returned negative**
 - **31 active and 61 recovered in San Marcos (2 fatalities)**
 - **34 cases have required hospitalization, 8 current**
- There are almost 100 new cases in Hays County in the last 2 weeks.**
- **Positive active cases declined by 3000 cases in Texas since last week.**
- * source: Hays County Health Department.**

Efforts to date (updated)

- **Internal and external recovery groups continue to meet. Staff will be doing site visits to discuss opening phase with public facing counters.**
- **Dog Park re-opening this Friday (6/5)**
- **Processed Late Fee Exemptions for 135 commercial utility accounts, 91 residential utility accounts since implementation on March 26**
- **Set up payment arrangements totaling over \$302,216 for 1,249 utility customer accounts over that same time period**
- **Continued work on grant applications**
 - **CDBG-CV considered at today's Council meeting, action on June 16**
 - **San Marcos CARES Act Transit Funding update:**
- **Application received and approved by Federal Transit Administration (FTA)**
- **\$6,429,168 for operating expenses**
- **Next steps:**
 - **Council Resolution on June 16, 2020 - enables staff to execute grant agreement**
 - **Continue to explore University eligibility**
 - **Begin reimbursement of eligible transit expenses**

Upcoming considerations

- **Phased approach of re-opening City services and facilities - making decisions in light of the increasing case count.**
- **CDBG-CV public hearing, comment period, and consideration**

- **Policy regarding Hotel Occupancy Tax (HOT) reporting cycle, due dates, and late penalties**
 - **Follow-up from discussion at March 24 Special City Council meeting**
 - **Memo with survey of area communities and staff recommendation to be sent soon**
 - **Item on June 16 Council meeting to continue waiving Hotel Occupancy Tax (HOT) late payment penalties**
 - **Schedule item in August for Council consideration of Hotel Occupancy Tax (HOT) policy**

Council Member Baker asked if staff can elaborate on what identifies a recovered patient. Mr. Stapp stated that person is deemed recovered by the health department who are monitoring and checking on the patients. If the patients are symptoms free and fever free for 72 hours they are considered to be recovered.

Council Member Baker asked about the demographic data and why are we looking at age only, why not looking at race. Mr. Stapp will follow up with Hays County Health Department and determine if they are tracking other demographics besides age and city of resident.

CONSENT AGENDA

A motion was made by Council Member Gonzales, seconded by Council Member Baker, to approve the consent agenda, with the exception of items #3,7,8,10, and 14 as they were pulled and considered separately. Dr. Mihalkanin abstained from #17, as he is employed with Texas State University.

The motion carried by the following vote:

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

Against: 0

- 2. Consider approval, by motion, of the following meeting Minutes:**
 - A. May 14, 2020 - Special Meeting Minutes
 - B. May 19, 2020 - Special Meeting Minutes
- 3. Consider approval of Ordinance 2020-31, on the second of two readings, amending the official zoning map of the city by rezoning approximately 5.217 acres of land, generally located west of the intersection of Old Ranch Road 12 and Craddock Avenue, from "FD" Future Development, "CC" Community Commercial, and "P" Public and Institutional districts to "SF-6" Single Family District; including procedural provisions; and providing**

an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-31 on the second of two readings. The motion carried by the following vote:

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

Against: 2 - Council Member Marquez and Council Member Baker

4. Consider approval of Ordinance 2020-32, on the second of two readings, annexing into the City approximately 9.61 acres of land, generally located in the 400 Block of Centerpoint Road; including procedural provisions; and providing an effective date.
5. Consider approval of Ordinance 2020-33, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 7.959 acres of land, generally located in the 400 Block of Centerpoint Road, from "FD" Future Development District to "HC" Heavy Commercial District; and including procedural provisions.
6. Consider approval of Ordinance 2020-34, on the second of two readings, annexing into the City approximately 59.89 acres of land located at 4087 State Highway 21; including procedural provisions; and providing an effective date.
7. Consider approval of Ordinance 2020-35, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 14.90 acres of land located at 4087 State Highway 21, from "FD" Future Development District to "LI" Light Industrial District; and including procedural provisions.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Mayor Hughson, to approve Ordinance 2020-35 on the second of two readings. The motion carried by the following vote:

For: 4 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales

Against: 3 - Council Member Derrick, Council Member Marquez and Council Member Baker

8. Consider approval of Ordinance 2020-36, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 44.99 acres of land located at 4087 State Highway 21, from "FD" Future Development District to "MH" Manufactured Home District; and including procedural provisions.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-36 on the second of two readings. The motion carried by the following vote:

For: 4 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales

Against: 3 - Council Member Derrick, Council Member Marquez and Council Member Baker

9. Consider approval of Ordinance 2020-37, on the second of two readings, approving an update to the Service and Assessment Plan for the Whisper Public Improvement District; making a finding of special benefit to the property in the district, levying additional assessments against property with the district; establishing a lien on such property; approving an updated assessment roll for the district; providing for payment of the assessments in accordance with Chapter 372, Texas Local Government Code; providing for the method of assessment and the payment of the additional assessments; providing for penalties and interest on delinquent assessments; providing for a severability clause; providing an effective date; and providing for related matters.
10. Consider approval of Resolution 2020-106R, rejecting the sole bid received in response to an invitation for bids (IFB No. 220-163) from MA Smith Contracting Company, Inc. for the Guadalupe Street Improvements Project; and declaring an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Resolution 2020-106R. The motion carried by the following vote:

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

Against: 0

11. Consider approval of Resolution 2020-107R, approving a Change Order to the construction contract with Cash Construction Company, Inc. for the Main Lift Station Force Main Replacement Project to increase the contract price by \$526,585.00 bringing the total contract price to \$6,876,093.04; authorizing the City Manager or his designee to execute the appropriate documents relating to the change order on behalf of the City; and declaring an effective date.
12. Consider approval of Resolution 2020-108R, approving a Change in Service to the engineering services agreement with Lockwood, Andrews & Newnam, Inc. relating to the Purgatory Creek Improvements Project in the estimated amount of \$174,734.00 for a total contract price of \$2,336,948.00; authorizing the City Manager or his designee to execute the appropriate purchasing documents to implement the change in service; and declaring an effective date.
13. Consider approval of Resolution 2020-109R, approving contracts with Hays Energy, LLC for the sale of reclaimed water for and the treatment of Wastewater from Hays Energy's Electric Power Generation Facility South of the city; authorizing the City Manager, or his designee, to execute said contracts on behalf of the City; and declaring an effective date.
14. Consider approval of Resolution 2020-110R, approving an agreement with Express Personnel for the provision of a temporary staff person to perform professional services including electrical inspections for the Development Services Department in an annual amount not to exceed \$90,000.00 for up to three years; authorizing the City Manager or

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

A motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-110R. The motion carried by the following vote:

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

Against: 2 - Council Member Marquez and Council Member Baker

15. Consider approval of Resolution 2020-111R, authorizing a property tax refund of \$80.73 assessed on the property located at 705 Crystal Cove, San Marcos, Texas for Tax Year 2019 as allowed by Section 33.011(k) of the Texas Property Tax Code; and declaring an effective date.
16. Consider approval of Resolution 2020-112R, directing the Interim Director of Finance of the City of San Marcos to calculate the voter-approval tax rate of the City of San Marcos in the manner provided for a special taxing unit by using an 8% threshold for new revenue instead of 3.5% as authorized by Texas Tax Code Section 26.04(C-1) due to the Governor's State-Wide Declaration of Disaster in response to the COVID-19 Pandemic; and declaring an effective date.
17. Consider approval of Resolution 2020-113R, approving the first amendment of the Interlocal Agreement with Texas State University for the provision of reclaimed water; and declaring an effective date.

PUBLIC HEARINGS

18. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-40, amending Chapter 86, Article 5, Division 4 of the San Marcos City Code regarding impact fees to, among other things, change the methodology for establishing impact fees for industrial and commercial uses having peak flow rates in excess of 500 gallons per minute, and to add homes constructed with federal funds awarded to the City and City facilities as projects exempt from the assessment of impact fees; including procedural provisions; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2020-40, on the first of two readings.

Laurie Moyer, Director of Engineering, provided the presentation on clarifying methodology for calculation of impact fees and minor changes clarify the situations for impact fee exemptions.

The Summary of Changes include:

- **Sec. 86.294 - Definitions: Schedule 1 Table and Service Unit Table are updated with LUE calculation for flows above 500 gallons per minute.**
- **Sec. 86.295(b) Exemptions:**

- (3) clarified exemption for Habitat and Housing Authority.
- (5) adds City HUD federally funded projects and City facilities.
- Sec. 86.295 (c): Reference Council's affordable housing guidelines
- Sec. 86.299 (b) (1) a. & b.: Updated language for computation for industrial or commercial equipment and calculation for demands over 500 gpm.

Mayor Hughson opened the Public Hearing at 7:05 p.m. There being no speakers, the Mayor closed the Public Hearing at 7:05 p.m.

A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to approve Ordinance 2020-40, on the first of two readings. The motion carried by the following vote:

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

Against: 0

- 19.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-41, amending Chapter 86, Article 8, Division 1 and 2 of the San Marcos City Code to, among other things, change the rate structure of the Stormwater Utility to an impervious basis for all customer classes, and to update provisions regarding the maintenance and repair of structural controls in connection with the municipal separate Storm Sewer System (MS4); including procedural provisions; providing for the repeal of any conflicting provisions; and providing an effective date and consider approval of Ordinance 2020-41, on the first of two readings.

Laurie Moyer, Director of Engineering, provided the presentation on the Stormwater Utility ordinance update. Mrs. Moyer stated that the effective date of the ordinance will be October 1, 2020 when the billing system is in place and public outreach has been completed.

The following is a summary of rate structure changes:

- **New Equivalent Residential Unit (ERU) value = 2,575 square feet (median value for all SFR parcels)**
- **Residential Class:**
 - **The 3 residential tiers change from parcel area to an impervious cover area.**
 - **Residential parcels with 1-4 units/parcel remain in the residential class.**
- **Non-residential Class:**
 - **Residential parcels with 5+ units/parcel classified as Non-Residential**
 - **Commercial, Retail, Government, Religious, Non-Profit**
 - **Calculated by dividing total impervious cover by 2,575 to determine ERU's.**
- **Exemption for only City and Texas State University owned properties.**

Summary of billing changes:

- **Bill for uninterrupted stormwater impervious cover even in the absence of other active utility service (electrical, water, wastewater.)**
- **Enforcement for non-payment in the absence of other utility connections.**
- **Parcels that contain more than 1 stormwater account will have fee apportioned between accounts based on impervious cover associated with each account.**
- **Bill owner of record for residential parcels with 5+ units.**
- **Clarifies credits for improvements.**

Summary of Municipal Separate Storm Sewer System (MS4) Changes:

- **Updates definition of stormwater facility to structural control.**
- **Changes frequency of inspection from annual to once every 3 years following a passing inspection in 2020.**

Next Steps on Stormwater utility:

- **Finalizing rate model and funding options**
- **Rate model update to Finance & Audit Committee**
- **Discussion and direction on FY 2021 rate increase with June 30th Budget Workshop**
- **Public outreach on ordinance changes June - September**

Mayor Hughson opened the Public Hearing at 7:13 p.m. There being no speakers, the Mayor closed the Public Hearing at 7:13 p.m.

Council Member Baker requested staff to provide diagrams for the next meeting that show what the rate changes are with specific examples.

Council Member Derrick inquired about the Municipal Separate Storm Sewer System (MS4) inspections from annual to every 2 to 3 years. Mr. Taggart mentioned that owners will be requiring a professional engineer to inspect. The price for inspecting is \$300 \$1000.00 to conduct and document the inspections on an annual basis. Adam Rossing, Stormwater Systems Manager stated that it was being noticed that the first year of inspections the owners were repairing when there was a failed inspection and the following years the property owner have maintained their systems and have been passing inspections. For the 2020 inspections, all are still passing and staff didn't see the need for the owners to pay to have a passing inspection especially during these times.

A motion was made by Council Member Baker, seconded by Mayor Pro Tem

Mihalkanin, to approve Ordinance 2020-41, on the first of two readings. The motion carried by the following vote:

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

Against: 0

- 20.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-42, adopting Youth Programs Standards of Care for 2020; providing a severability clause; declaring an effective date; and consider approval of Ordinance 2020-42, on the first of two readings

Drew Wells, Director of Parks and Recreation, provided a presentation regarding the Youth Programs Standards of Care for 2020.

The standards of care include:

- Staff ratios
- Minimum staff qualifications
- Minimum facility, health, and safety standards
- Mechanisms for monitoring and enforcing the adopted local standards
- Provide notice to parents that the day camp program is not licensed by the state

This will be approved one year after the effective date and will be approved each year.

The Mayor opened the Public Hearing at 7:23 p.m. There being no speakers, the Mayor closed the Public Hearing at 7:23 p.m.

MAIN MOTION: A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-42.

MOTION TO AMEND: A motion was made by Council Member Baker, seconded by Council Member Derrick, under section VIII. Health and Safety, to add a new item (B) to read as follows, " follow all Centers for Disease Control and Prevention (CDC) recommendations."

The motion carried by the following vote:

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

Against: 0

Mayor Hughson inquired about the timing of following the guidelines because some of the guidelines could require construction or other tasks that would take time and compliance cannot be immediate. Mr. Baker wanted to keep the work he specified. Staff will review and provide a potential solution.

Council Member Baker acquired as to the source of information regarding "serve whole grain rich products" under section V. Nutrition in section A.

Council provided consensus for staff to bring back information from different resources on the nutrition items and recommendations.

MAIN MOTION: to approve Ordinance 2020-42, as amended, on the first of two readings. The motion carried by the following vote:

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

Against: 0

- 21. Receive a Staff presentation and hold a Public Hearing to receive comments for or against amending the Community Development Block Grant (CDBG) 2019-2020 Action Plan to add the Community Development Block Grant - Coronavirus Response (CDBG-CV) allocation of \$425,261, and proposed programs and projects.**

Mayor Pro Tem Mihalkanin recused himself from discussion regarding the Texas State University funding request for the COVID 19 Collection station due to his employment with the University.

Michael Ostrowski, Assistant Director of Planning and Development Services, provided the presentation on amendments to add Community Development Block Grant-Coronavirus Response (CDBG-CV) allocation of \$425,261 and proposed programs and projects.

Mr. Ostrowski stated that programs and projects must be used to prevent, prepare for, or respond to impacts of the Coronavirus, and they must fulfill one of the following national objectives of the CDBG program:

- Serving low-to-moderate income people**
- Clearing slums or blight**
- Urgent Need**

Michael Ostrowski stated that four applications for Community Development Block Grant-Coronavirus Response (CDBG-CV) were received. They include the following:

1. City Economic Development & Main Street, Chamber of Commerce

Program: COVID-19 Small Business Recovery: Requested \$200,000 in funding
Technical Assistance and Funding for small businesses and microenterprises

- **Up to \$5,000 per business for:**

- i. Operational Safety - Redesign physical space in order to ensure safety and social distancing.**

- ii. Sanitation Training and PPE**

- iii. Digital Redesign for Social Distancing**

- **Mandatory workshop on best practices for recovery**

2. City Office of Emergency Management

Program: COVID-19 Community Recovery Specialist Position: Requested \$180,000 in funding

- i. Assist the community in developing long term recovery planning strategies**

- ii. Provide educational workshops and materials for all businesses and residents on community and economic preparedness, disaster recovery, and hazard planning**

- iii. Work with state agencies and federal partners**

3. Court Appointed Special Advocates

Program: Advocacy Services for Abused and Neglected Children: Requested \$55,600 in funding

- **Partial funding for additional Case Supervisor, Team Lead, Technology**

- **Recruit and train volunteer caseworkers to advocate for children removed from their homes**

- **Advocating for mental health, medical, education, housing, and permanency in safe, stable homes**

- **Scalable program model depending on need**

- **Increased need due to family stress due to economic impact and stay-at-home orders**

4. Texas State University

Program: COVID-19 Collection Station: Requested \$105,530 in funding

- portable sample collecting station and staffing for the COVID-19 pandemic to be utilized for the entire community without barriers in accessibility due to age, gender, physical, economic or any other barrier

Portable COVID-19 sample collecting station and staffing from September 2020 – May 2021

- **Creation of a prototype and then conversion to a working flexible-use health station**

- **Creates two part-time positions at \$18/hour**

- Samples will be sent to a lab for testing
- Implementing research done in partnership with Katerra
- By: Texas State University multi-disciplinary team

What this will provide that parking lot collection stations do not is: partially enclosed space, place to store samples appropriately, less contact between people taking the samples and the public. The building is multi-purpose in that it could be used in the future for immunizations and vaccinations that are not Covid-19 related also. It can be rapidly deployed in various locations.

5. Administration requested \$65,000 (15%) that will provide technical assistance to funded programs, ensure the appropriate use and documentation of funds and monitor and report progress to HUD. Staff will need to track hours of administration work.

Staff recommends funding for administration and items 1,3, and 4 because these programs provide services to address the needs that are directly related to COVID 19 pandemic and also meets the two of the CDBG national objectives of providing services to low/moderate income individual and meeting an urgent need.

1. COVID 19 Small Business Recovery for \$200,000

3. Advocacy Services for Abused and Neglected Children for \$55,600

4. COVID 19 Collection Station for \$105,530

5. Administration for \$64,131

Program application 2 does not meet a CDBG national objective and is not recommended for funding.

Mr. Ostrowski stated that the COVID-19 Community Recovery Specialist Position does not meet a CDBG national objective because it is not serving a specific clientele who can be tracked.

The next steps are:

June 2 Public hearing on proposed programs and projects

June 7-13 Public comment period on draft action plan

June 16 Request City Council approval of action plan

The Mayor opened the Public Hearing at 8:16 p.m.

Those who spoke:

Jason Mock, President of Chamber of Commerce, spoke on behalf of the

board. Mr. Mock mentioned the board chair, Mr. David Case will be sending a letter of support. Mr. Mock thanked Scott Hardwick and Josie Falletta with the City. Since day one we have discussed; how can we help the business with this process? Mr. Mock stated that the 3 entities will be in a partnership that can help get all the business community get back on their feet. Mr. Mock mentioned that this is not a Chamber membership funding mechanism but it will be available to all businesses that in the criteria of the HUD census track is for low to moderate income. We would market this and make this an easy streamlined process for businesses to submit their application.

Tricia Schneider, Development Director with Court Appointed Special Advocates (CASA) made the following comments:

Good evening Mayor Hughson and City Council. I've prepared brief notes to present and am available for questions. In the midst of the COVID19 pandemic, we know that home is not safe for some children. The Child Protection Court judge in Hays County is currently appointing CASA of Central Texas to almost all incoming cases and experts predict a significant rise in child abuse in the months to come. Already, data supports our concerns. By the end of March, there was a 22% increase in monthly calls from people younger than 18 to the National Sexual Assault Hotline. It is clear abuse is escalating in both frequency and severity. Kids are isolated with their abusers. The pandemic further amplifies problems that may exist in homes, as contributing factors placing children at risk, such as domestic violence, drug and alcohol abuse, and mental illness. When CASA is involved, our volunteers are focused on the wellbeing of the children including their mental health, medical, education and housing needs. During this time, we are also concerned about older youth. Many lack relationships, resources and connections needed to get through the pandemic. Homelessness is common among youth exiting foster care. With the San Marcos CDBG CV funding, CASA plans to help an additional 30 children and youth, over and above our previous projections. We also submitted a similar proposal to the City of New Braunfels as the two of you present the greatest need in our service area. CASA has a scalable model that with more funding, we can train and support more volunteers who are interested in helping our local children. CASA volunteer training classes are being held virtually through Zoom and YouTube. Our next round of 5 weekly classes begin June 24, 5 8pm. And, to close, I'd like to encourage anyone listening, people who are interested in our free training, you may find our volunteer application online at casacentex.org.

There being no further comments, the Mayor closed the Public Hearing at 8:22 p.m.

Council member Derrick asked Mr. Mock who will be approving the applications for small businesses. Mr. Mock stated it will be a group decision between the applicants and others to evaluate the applications.

Council Member Baker inquired about the number of applications and were there any not qualified? Were there inquiries from anyone who did not submit an application? Mr. Ostrowski noted that there were four applications submitted.

Council Member Baker wanted confirmation that there was a back and forth conversation and we did not discourage anyone from applying. Mr. Ostrowski stated that no one was discouraged from applying. Staff reported that over 100 direct emails were sent out to various organizations, financial institutions, and the county and staff went well above what they typically do for CDBG. There were also a number of press releases and other publicity to seek applications. It was there for 20 days but was a quick turnaround time in an effort to get this money out as soon as possible. It is possible that there will be additional funding in the future. Council Member Baker stated there are a lot of expectations for liability and insurance. He asked if it was possible and promoted for the City to sign on with some businesses as a way to reduce liability. Staff stated the City did not promote this in that way. The reason the chamber was a co applicant was not for insurance purposes but to see if they qualified for this type of funding. HUD has confirmed the qualification. Applications will not be limited to Chamber of Commerce members. Council Member Baker asked if funds are not allocated this evening, would it open it up to others? Staff confirmed it would allow these monies to be rolled over. If the City would like to make a certain condition for these funds they can do this.

Mayor Hughson asked staff about conditions on the way the money is spent and Mr. Ostrowski confirmed the city can impose conditions.

Council Member Marquez asked if Katterra and Texas State University are providing matching funds. Mr. Ostrowski they are providing certain things at cost, but with the CDBG funds, entities are not required to match funding by HUD. They are still seeking funding for the actual test kits and lab work. Council Member Marquez inquired if these structures can be used only for the San Marcos community or can they serve residents outside the city? Mr. Ostrowski stated use of the funds is limited residents of the City of San Marcos.

Mayor Hughson inquired at what point are the restrictions of the grant be considered met so the materials can be used somewhere else? For example, could a future use be as a vaccine station? Mr. Ostrowski stated there would be benchmarks that need to be met and he is not aware of any timelines. However, there is an auditing process of CDBG funds.

Council Member Baker asked about the Texas State part time position and why it is not full time? Is this a Katterra employee or Texas State University? BJ Spencer, Assistant Professor of Practice in the Engineering Technology Department, provided a brief comment and said it will be a Texas State position, could be students, and will be someone in specialized care such as nursing students. They will provide walk up testing and this are for future vaccination purposes and they are collaborating with Katterra. Council Member Baker inquired about the advantages of having this structure over a drive-up center. Dr. Spencer noted the advantages: It is secure, protected from the weather, and will be air-conditioned which will also provide a better environment for the samples. It also provides more privacy for those being tested.

Council Member Baker asked what kind of test is this module set up for and stated that the focus of the funding is to help low to moderate income people, but the test is still \$90.00. Ms. Spencer said that is not yet resolved. The test will be a nasal test for COVID 19. Council Member Baker noted the requirement that this be only San Marcos residents and how would that be guaranteed? Dr. Spencer stated it will be through the registration process. Testing will not be done on campus.

Council Member Gonzales inquired about airflow to ensure the safety of those inside the structure. Council Member Marquez inquired about hiring an underrepresented minority as one of the employees and Dr. Spencer stated that would be possible.

Mayor Hughson asked why application 2 was not considered eligible. For previous CDBG funding, the determination was that given the high percentage of low-to-moderate income people in San Marcos, the projects were deemed eligible. Mr. Ostrowski responded that verification per person served would be needed. Previous projects were deemed to be a benefit to an area or neighborhood that qualified. For application 2, that cannot be verified. There are limitations on the planning aspect also. For the other projects, each person can be verified as eligible.

Council Member Gonzales inquired if there is a possibility of increasing the funding for CASA. Mayor Hughson noted that all dollars are allocated in the presentation so to increase any application would require decreasing one of the others. Mr. Ostrowski noted that CASA has requested funding from CDBG funds and that decision will be made in August.

Council Member Baker inquired about the \$40,000 on application 1 for administrative expenses. Chamber of Commerce president Jason Mock responded that this is only for actual expenses and part of it will go to upgrading software to ensure that the application process works smoothly.

Regarding the application by the City and Chamber of Commerce, Council Member Baker expressed his concern that for the health and safety for the community he would like businesses that receive funds to be required to purchase Personal Protection Equipment (PPE) equipment.

Mayor Hughson stated that we agree with Council Member Baker's concept about Personal Protective Equipment (PPE) but had concerns with adding percentage to small businesses that may have been proactive and already have purchased the required PPE to meet their needs.

Council Member Baker also inquired how to distribute the funds with a fair geographic distribution of the funding perhaps via census tracts. Mayor Pro Tem Mihalkanin noted that our businesses are not evenly distributed by census tracts. Council Member Marquez wants to ensure that the distribution of these funds is equitable including attention to minority-owned businesses. Mr. Ostrowski assured the council that their direction will be implemented. Council Member Baker asked that information about this program be available in Spanish. Mr. Mock stated that will be done.

Mr. Mock said the meetings to discuss the applications can be held in an open meeting virtually and recorded, but no sensitive information will be distributed.

Council provided consensus to move forward with the recommendation proposed by Staff.

NON-CONSENT AGENDA

27. Hold discussion on Capes Dam and Hays County Parks proposals, and provide direction to the City Manager.

MOTION TO POSTPONE: A motion was made by Mayor Pro Tem

Mihalkanin, seconded by Council Member Derrick, to postpone the discussion to the June 16, 2020 regular City Council Meeting. The motion carried by the following vote:

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

Against: 1 - Council Member Baker

- 22.** Consider approval of Ordinance 2020-43, on the first of two readings, reclassifying and increasing the rank of the firefighter position assigned to the Fire Prevention Division, from the rank of firefighter to the rank of engineer in accordance with Section 143.021 of the Texas Local Government Code; amending the Fire Department staffing table maintained by the City Clerk in accordance with Section 2.373 of the San Marcos City Code to reflect such reclassification; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-43, on the first of two readings. The motion carried by the following vote:

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

Against: 0

- 23.** Consider approval of ordinance 2020-44, on the first of two readings, amending section 2.421 of the San Marcos City Code by adding a new subsection (e) to clearly state that the policy and purpose statements in that section supporting the adoption of the San Marcos Code of Ethics shall not be cited, used, or considered by a citizen or by the ethics review commission as the basis of an ethics complaint filed against any officer or employee of the city; and declaring an effective date.

A motion was made by Council Member Gonzales, seconded by Council Member Baker, to approve Ordinance 2020-44, on the first of two readings. The motion carried by the following vote:

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

Against: 0

- 24.** Consider approval of Ordinance 2020-45, on first and final reading, authorizing the issuance of the City of San Marcos, Texas Special Assessment Revenue Bonds, Series 2020 (Whisper Public Improvement District)"; approving and authorizing an indenture of trust, a bond purchase agreement, an offering memorandum, a continuing disclosure agreement, a landowner agreement and other agreements and documents in connection therewith; making findings with respect to the issuance of such bonds; providing for

approval of this Ordinance on only one reading as authorized by Texas Government Code, Section 1201.028; and providing an effective date.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Baker, to approve Ordinance 2020-45, on first and final reading. The motion carried by the following vote:

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

Against: 0

25. Consider approval of Resolution 2020-114R, adopting the Community Development Block Grant (CDBG) 2020-2024 Citizen Participation Plan that sets the timing for hearings and comment periods for grants from the US Department of Housing and Urban Development (HUD); authorizing the City Manager, or his designee, to act as the Official Representative of the City in matters related to the (CDBG) Program; and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-114R. The motion carried by the following vote:

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

Against: 0

26. Consider approval of Resolution 2020-115R, amending the Community Development Block Grant (CDBG) Consolidated plan for Fiscal Years 2015-2019 to add the Community Development Block Grant-Coronavirus (CDBG-CV) Allocation of \$425,261.00 and to add Economic Development as a funding category; and declaring an effective date.

A motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Resolution 2020-115R. The motion carried by the following vote:

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

Against: 0

EXECUTIVE SESSION (if necessary)

28. Executive Session in accordance with the following Government Code Sections:
- A. §Sec.551.071 of the Texas Government Code: Consultation with attorney - to receive advice of legal counsel regarding state law preemption of city ordinances regulating the

sale or use of single-use packages and containers.

B. §Sec.551.071 of the Texas Government Code: Consultation with attorney - to receive advice of legal counsel regarding pending litigation, to wit: The Mayan at San Marcos River, LLC and City of Martindale v. City of San Marcos, Docket No. 04-19-00018-CV in the 4th Court of Appeals of Texas

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Derrick, to enter Executive Session at 10:15 p.m. The motion carried by the following vote:

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

Against: 0

ACTION/DIRECTION PROVIDED DURING EXECUTIVE SESSION

29. Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:

A. §Sec.551.071 of the Texas Government Code: Consultation with attorney - to receive advice of legal counsel regarding state law preemption of city ordinances regulating the sale or use of single-use packages and containers.

B. §Sec.551.071 of the Texas Government Code: Consultation with attorney - to receive advice of legal counsel regarding pending litigation, to wit: The Mayan at San Marcos River, LLC and City of Martindale v. City of San Marcos, Docket No. 04-19-00018-CV in the 4th Court of Appeals of Texas

Mayor Hughson stated that #29 (a) was postponed to the June 16, 2020 City Council Meeting and provided direction to staff on #29 (b).

IV. Adjournment.

Mayor Hughson stated that Executive Session was concluded at 11:02 p.m.

The Mayor adjourned the regular meeting of the City Council on Tuesday, June 2, 2020 at 11:06 p.m.

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor