



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Tuesday, September 1, 2020

6:00 PM

Virtual Meeting

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**Due to COVID-19, and as long as the State Disaster Declaration is in effect, this will be a virtual meeting. To view the meeting please go to [www.sanmarcostx.gov/videos](http://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 6:04 p.m. Tuesday, September 1, 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

**Paula Taylor spoke on behalf of the Tulip Garden Trail neighbors in the La Cima Community. She asked Council to reconsider the denied Alternative Compliance Request (AC-20-03). Ms. Taylor stated members of the community now have a better understanding of the project and is pleased that Mr. Eric Willis, developer of La Cima, took time to discuss future development and agreed to a joint plan to protect the safety and respect their privacy.**

**John David Carson spoke against the proposed Land Development Code (LDC) changes, specifically the addition of the Neighborhood District “ND” 3.2 and Character District “CD” 2.5. Mr. Carson asked Council to remove these Districts from the LDC amendments and not adopt them as both are contradictory to the goals and objectives of CodeSMTX and the Comprehensive Plan. Mr. Carson expressed concerns about creating these proposed “ND” 3.2 and “CD” 2.5 districts. They may create politically easy categories for rezoning, but they will not create a more sustainable or equitable San Marcos.**

**John Garcia would like the City to reach out to apartment complex managers and request they allow no parties on premises during the pandemic. Mr. Garcia expressed concerns of restaurants not following the COVID guidelines of**

maximum capacity and not following the Texas Alcoholic Beverage Commission rules. Mr. Garcia would like for the City to find an alternative route from the alley between Cheatham Street and Grove Street as they are seeing a lot of vehicle traffic and littering. Mr. Garcia expressed concerns with the Water/Wastewater rate increase for new added apartments vs. residential residents that have lived here longer. Mr. Garcia supports the creation of an ordinance to allow people to enter the river on private lots.

## **PRESENTATIONS**

1. Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.

**Chase Stapp, Director of Public Safety provided a presentation regarding the COVID-19 pandemic.**

### **Known Cases – as of August 28**

- >5.9 million U.S. cases with more than 182,000 fatalities. (>291K new cases in past 7 days) \*source: Center for Disease Control and Prevention
  - >610,000 (98,326 active) cases in 251 Texas counties with 12,510 fatalities \*source: Texas Department of State Health Services
  - 5,361 in Hays County with 45 fatalities (2,348 active and 2,967 recovered)
    - 966 active and 1,640 recovered in San Marcos (24 fatalities)
    - 127 cases have required hospitalization, 16 currently in hospital
- \*source: Hays County Health Department

Mr. Stapp stated compared to the numbers from two weeks ago. In Texas, there were 27,174 fewer active cases than there were at the last update on August 14th. There has been 2,500 new fatalities in Texas. There are 293 fewer active cases in San Marcos and 5 more deaths in the county which 4 are from San Marcos. In Hays County, there are 243 fewer active cases than there were at the last update on August 14th.

Mr. Stapp mentioned that Dr. Marquez asked at the last council meeting about employee case counts and as of now it is 0% of positive employee cases with one test pending and since March there has been 33 employees who have tested positive.

### **Updates to Governor Abbott's Actions**

- August 20: Procurement of more than 1 million personal devices and WiFi hotspots
  - Part of the state's Operation Connectivity initiative
  - Intended for use by public school students – Received inquiry from the San

**Marcos School District****• August 21: Texas Workforce Commission (TWC) Lost Wage Assistance Funds**

- \$1.4 billion made available through President’s Lost Wage Assistance Executive Order
- Will \$300 weekly benefit to qualifying Texans receiving unemployment benefits

**Testing Overview**

- 29,382 tests administered county wide
    - 24,021 negative (81.7%)
    - 5,361 confirmed (18.2%)
    - 26 pending
  - County free testing – Live Oak Clinic on Broadway and Live Oak Primary Care clinic in Wimberley
  - Last week’s testing sites – Texas Department Emergency Management
    - 6 consecutive days in San Marcos beginning 8/24 – San Marcos High School
    - 6 consecutive days in Kyle same dates – Hays Performing Arts Center
- Mr. Stapp mentioned than 900 tests provided between both locations.

**CARES Act Funding****\$3.6 Million Total Allocation**

- Initial \$731K designated for medical, public health, and payroll expenses for public safety, public health, health care, human services employees
  - Initial \$731K must be spent prior to asking for additional money to meet other programs, services, and initiatives
  - Departments are coding all personal protective equipment, cleaning supplies and cleaning equipment
- Collaborating on ideas for how to spend the balance of the \$3.6 Million allocation.
  - Each of these ideas must be developed as a business case first
  - Expect to bring a recommendation to City Council in October
- Working with Community Action Inc. to help more customers with their utility bills
- Deadline to spend the awarded funds is December 30 – expected to be extended

**Emergency Operations Update**

- Virtual Emergency Operations Center (EOC) remains in effect
  - Weekly calls (Mondays at 8:00 a.m.)
- Regular Communication with our local partners including Texas State University, local hospitals, and Hays County.

**Mr. Stapp mentioned that Texas State University (TXST) has a quarantine facility for students who test positive for COVID-19 and the City will receive weekly updates on positive cases of students and staff.**

**Council Member Baker asked if there are any repercussions for students violating guidelines and having parties? What is the appropriate way to handle? Mr. Stapp stated staff communicates with TXST staff and University police on student incidents.**

**Mayor Hughson stated that she has had conversations with the Interim Vice President of Student Affairs and they are keeping track of off campus activities by on campus organizations. For example, Sorority/Fraternity organizations are having virtual interviews for the pledging process.**

**Council Member Gonzales asked about the status on the bars downtown. Mr. Stapp stated they are closed according to Governor Abbott's order and some owners have been working with TABC to get designated as a restaurant to serve food along with alcohol. Council Member Gonzales asked how is it being monitored, is it on the percentage of food in the establishment? Mr. Stapp mentioned that TABC monitors the sales of alcohol through a reporting process by the owner. Council Member Gonzales would like to know what bars are selling food and alcohol? Mr. Stapp will work on getting a list to Council.**

**Deputy Mayor Pro Tem Rockeymoore asked about the reopening of river parks. Mr. Stapp mentioned that we do not have a reopening date yet, but this is under discussion by the Executive Team. Mr. Rockeymoore asked if there will be a phase with limited people allowed at parks/rivers. Mr. Stapp mentioned that staff is working towards opening parks in a safe manner.**

**Council Member Derrick mentioned receiving complaints on police not monitoring the 50% capacity occupancy at restaurants. She asked what is the police department doing and what is the protocol? Mr. Stapp said citizens can call in complaints to the non-emergency police line to report establishments operating above the 50% capacity. Mr Stapp stated officers investigate on a case by case basis but they take an educational approach before enforcement. Mr. Stapp mentioned that police officers are avoiding confrontation due to the climate police officers are dealing with during these times.**

- 2. Receive a Staff presentation and hold discussion regarding the City's contract with Texas Disposal Systems in preparation for an upcoming consideration of contract extension, and provide direction to Staff.**

**Mr. Lumbreras provided a brief introduction regarding the City's Resource**

Recovery program in advance for consideration of a contract extension with Texas Disposal System (TDS). Mr. Lumbreras stated TDS provides the best options in terms of services, a competitive rate, and enhancements they offer our community. A couple of these are an educational program for the school district and access to their Waste Wizard app and online tool. Mr. Lumbreras stated he believes the assessment of the contract demonstrates that it meets our needs, TDS is a good partner providing exceptional service, and we are getting good deal.

Amy Kirwin, Community Enhancement Initiatives Manager provided the presentation outlining the history of the Resource Recovery division, the services provided by contractors, and the plan for the program moving forward.

Ms. Kirwin stated the Current Residential Rate Includes:

- Curbside service for trash, recycle and green waste pay are you throw program; bulk pickups; brush once a month at TDS
- Drop Off facility at Green Guy Recycling
- Household Hazardous Waste (HHW) Drop Off twice a week
- Brush Drop Off second Saturday each month; mulch available
- Community Clean Ups: 4 per year (April, May, September and October)
- Service of downtown trash/recycle public containers
- Administration and Educational Outreach
- Pharmaceutical Drop Off not in rate

Ms. Kirwin presented the contracts that are under Resource Recovery:

- TDS: – Residential service, Multifamily recycling, City facility trash and compost, Special event trash and compost, Community Clean Ups
- Green Guy Recycling: City facility recycling, Special event recycling, Community Clean Ups, HHW Labor, Drop Off Facility
- Clean Earth of Alabama: HHW disposal and MS4 disposal
- Eggermeyer Land Clearing: Brush mulching
- Easter Seals: Downtown trash/recycle service (4 days/week)

Ms. Kirwin stated that TDS will be waiving 3% increase to the contract for FY21 saving us \$111,722.88.

Ms. Kirwin then noted Comparative Rates for our program.

- Annual comparison with regional and comp plan cities
- Austin, Buda, Kyle, Wimberley, New Braunfels, Georgetown, Denton, Frisco
- San Marcos is competitive within the region while providing more service
- More Bulk Pickups, Four (4) Community Cleanups, monthly Brush Drop Off

and mulch, Green Guy Recycling- certain items free

Ms. Kirwin mentioned that staff is evaluating the program including:

Residential recycling and composting audits

- Summer 2020: auditing recycle carts throughout the whole city; noting if the resident is participating or not; how full is the cart; how much is contaminated; and what are the contaminates
- Fall 2020: auditing compost carts throughout the whole city; same as recycle
- Survey
- Random sample of residents to provide input on the whole program
- Multifamily - The Recycling Partnership
- Evaluated 3 different ways to increase participation and lower contamination
- Education only new magnets
- Education and bin
- Education and bin with valet service

Ms. Kirwin provided the next steps:

- Complete program evaluation in 2020
- Come back to Council with recommendations to expand the program
- prepare to go out to bid before the extension expires September 2025
- Household Hazardous Waste Relocation
- Office and storage space for Resource Recovery and Community Enhancement division
- Adding space for reuse and fix it workshops

Council Member Derrick asked why TDS is waiving 3%. Ms. Kirwin stated TDS values the partnership, looking into expanding further projects and due to COVID.

Council Member Gonzales asked about the competitive rates for other cities and what is the price difference? Ms. Kirwin stated that the City is in line with the other cities and in the few cases where it is a little more, it's because we offer more services to the residents.

## **CONSENT AGENDA**

A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Mihalkanin, to approve the consent agenda, with the exception of item #7, which was pulled and considered separately. 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

3. Consider approval, by motion, of the following meeting Minutes:
  - A. August 13, 2020 - Budget Workshop Meeting Minutes
  - B. August 18, 2020 - Work Session Meeting Minutes
  - C. August 18, 2020 - Regular Meeting Minutes
4. Consider approval of Ordinance 2020-57, on the second of two readings, amending the Official Zoning Map of the City in Case No. ZC-20-10 by rezoning approximately 109.5 acres out of the Barnett O. Kane, Cyrus Wickson, and J.M. Veramendi No. 1 Surveys, located near the intersection of Wonder World Drive and State Highway 123, from "FD" Future Development District to "PA-MI" Planning Area-Medium Intensity District; including procedural provisions; and providing an effective date.
5. Consider approval of Ordinance 2020-59, on the second of two readings, amending various sections of the City's Development Code to, among other things, address recommendations from the Alcohol Conditional Use Permit Committee, the Housing Task Force, the Historic Preservation Commission, and recommendations from City staff concerning application processing and requirements, block perimeter standards, Certificate of Appropriateness appeals, Concept Plat applicability, right-of-way dimensional standards, building type definitions, Neighborhood Density District zoning regulations, Character District zoning regulations, a new Special Events Facility use, multifamily parking standards, accessory dwelling units, neighborhood transitions, durable building materials, detention and water quality requirements for plats of four residential lots or less, detention requirements outside the Urban Stormwater Management District, delineation of water quality and buffer zones, channel design for water quality zone reclamation, sensitive geologic feature protection zones, geological assessment waivers, amending Section 14.041 of the San Marcos City Code to Adopt Appendix Q to the International Residential Code, which appendix establishes certain standards for tiny houses where allowed, providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
6. Consider approval of Resolution 2020-124R, approving an agreement with Simpleview, LLC for the redesign of the San Marcos Convention and Visitor Bureau website in the initial amount of \$102,700.00 and authorizing up to nine annual extensions for website support in an estimated amount of \$547,000.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
7. Consider approval of Resolution 2020-180R, authorizing a Change in Service to the agreement with Bickerstaff Heath Delgado Acosta, LLP relating to the provision of State Governmental Relations Services to extend the contract for two years in the estimated amount of \$60,000; authorizing the City Manager or his designee to execute all documents necessary to implement the Change in Service on behalf of the City; and declaring an effective date.

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

**Mihalkanin, to approve Resolution 2020-180R. Mr. Lumbreras and Ms. Stark noted the importance of state and federal funding for our airport. Council Member Baker wants to ensure our agreement aligns with the Strategic Initiatives approved by Council, specifically related to the Airport.**

**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

8. Consider approval of Resolution 2020-181R, approving a Change in Service to the agreement with The Normandy Group, LLC., relating to the provision of Federal Governmental Relations Services to extend the contract for two years in the estimated amount of \$300,000; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.
9. Consider approval of Resolution 2020-182R, approving a five-year contract with Axon Enterprises Inc. through the Texas Local Government Purchasing Cooperative BuyBoard for the purchase of Audio Visual Equipment and Supplies for use by City-wide law enforcement personnel in the estimated amount of \$1,817,375.34 to include the integration, installation and yearly maintenance of the equipment; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
10. Consider approval of Resolution 2020-183R, authorizing an engineering services agreement with Halff Associates, Inc. for the 2D Cottonwood Flood Mitigation Analysis project in the estimated amount of \$70,000.00; authorizing the City Manager or his designee to execute the agreement; and declaring an effective date.
11. Consider approval of Resolution 2020-184R, approving a change order to the construction contract with MA Smith Contracting Co., Inc. for the Blanco River Waterline Project to increase the contract price by \$61,602.42 for repair work needed on a reclaimed waterline; authorizing the City Manager or his designee to execute the appropriate documents implementing the change order on behalf of the City; and declaring an effective date.
12. Consider approval of Resolution 2020-185R, authorizing a Change in Service to the agreement with Recreation Engineering and Planning, Inc. relating to the Cross-Town Pathways Trails Project in the amount of \$81,700.00 for additional professional services required by regulatory agencies; authorizing the City Manager or his designee to execute the necessary documents to implement the change in service on behalf of the City; and declaring an effective date.
13. Consider approval of Resolution 2020-186R, approving a one-year State Use Contract



with Easter Seals-Central Texas as certified through the State purchasing cooperative WorkQuest for vegetation control, debris removal and landscape maintenance in the estimated amount of \$1,149,388.24; authorizing the City Manager or his designee to executed the agreement on behalf of the City; and declaring an effective date.

14. Consider approval of Resolution 2020-187R, approving the First Amendment to Purchase and Sale Agreement with Pursuant Ventures Development, LLC relating to the development of a new multi-use Sportsplex Facility in the vicinity of Centrepont Road and IH-35 South to revise the description of the master site, provide for completion of certain public improvements with escrowed funds in the event the seller fails to timely complete such public improvements, extending the date for submission of the site preparation permit for the project and acknowledging that the Sportsplex Land will be dedicated as parkland after the Sportsplex Facility is leased and operational: authorizing the City Manager, or his designee, to execute first amendment; and declaring an effective date.
15. Consider approval of Resolution 2020-188R, amending Resolution 2020-132R (LIHTC-20-01, Lantana on Bastrop), acknowledging that the proposed New Construction Development is located in a census tract that has more than 20% Housing Tax Credit Units per household, that the proposed Development is consistent with the city's obligation to affirmatively further fair housing, providing no objection to the submission of an application for low income housing tax credits to the Texas Department of Housing and Community Affairs for the proposed Lantana on Bastrop Multifamily Housing Project located at the intersection of South Old Bastrop and Rattler Road; approving findings related to such application; imposing conditions for such no objection; providing authorizations for execution or submission of documents related to the such application; and declaring an effective date.
16. Consider approval of Resolution 2020-189R, authorizing a Change in Service to the agreement with Knight Office Solutions through a cooperative agreement with U.S. Communities Government Purchasing Alliance to extend the agreement for a one-year term in the estimated annual amount of \$100,550.00 for City-wide printer maintenance with three additional one-year term options for an estimated total contract amount of \$402,200.00; authorizing the City Manager or his designee to execute the appropriate documents necessary to implement the Change in Service; and declaring an effective date.
17. Consider approval of Resolution 2020-190R, approving a five-year contract with Dell Marketing, L.P. through the Texas Department of Information Resource (DIR) Cooperative for the purchase of Dell Branded Manufacturer Hardware, Software and Related Services, and Cloud Services in the estimated amount of \$217,475.00 to include the integration, installation, and yearly maintenance of the products; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
18. Consider approval of Resolution 2020-191R, approving a Change in Service to the agreement with UniFirst Corporation to extend the agreement for a one-year term in the estimated annual amount of \$162,917.80 for uniform rental and laundering services with

two additional one-year term options for an estimated total five-year contract amount of \$814,589.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.

## **PUBLIC HEARINGS**

19. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-61, annexing into the City (AN-20-08), approximately 89.694 acres, more or less, out of the John Williams Survey, Abstract 490, and the William Smithson Survey, Abstract 419, Hays County, generally located West of the Intersection of Old Ranch Road 12 and Wonder World Drive; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-61, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided the presentation for the La Cima, Phase 2 – Annexation.**

**Mayor Hughson opened the Public Hearing at 7:03 p.m.**

**Those who spoke:**

**Eric Willis, Developer, spoke in favor of this project and is available to answer questions.**

**There being no further comments, Mayor Hughson closed the Public Hearing at 7:04 p.m.**

**A motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Ordinance 2020-61, 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

20. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-62, amending the official zoning map of the City (ZC-20-15), by rezoning approximately 89.694 acres out of the John Williams Survey, Abstract no. 490, and the William Smithson Survey, Abstract No. 419, Hays County, generally located West of the intersection of Old Ranch Road 12 and Wonder World Drive, from "FD" Future Development District to "SF-4.5" Single Family-4.5 District; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-62, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided**

**the presentation for the rezoning of 89.694 acres, located in the La Cima subdivision, from "FD" Future Development District to "SF-4.5" Single Family-4.5 District.**

**Mayor Hughson opened the Public Hearing at 7:08 p.m.**

**Those who spoke:**

**Eric Willis, Developer, spoke in favor of this project and is available to answer questions.**

**There being no further comments, Mayor Hughson closed the Public Hearing at 7:08 p.m.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Gonzales, to approve Ordinance 2020-62, 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 Ordinance 2020-63, amending the Official Zoning Map of the City (ZC-20-17), by rezoning approximately 38.019 acres of land, more or less, located at 2801 Staples Road, from "FD" Future Development District to "LI" Light Industrial District; and including procedural provisions; and consider approval of Ordinance 2020-63 on the first of two readings.**

**Shannon Mattingly, Director of Planning and Development Services, provided the presentation on rezoning approximately 38.019 acres, located at 2801 Staples Road, from "FD" Future Development District to "LI" Light Industrial District.**

**Mayor Hughson opened the Public Hearing at 7:20 p.m.**

**Those who spoke:**

**David Earl spoke in favor and on behalf of the applicant. Mr. Earl stated the property is not located within the river corridor but the part of river does touch the property. He noted they are concerned about the safety of the river and will be using the area as an amenity. Mr. Earl is available to answer questions. He noted that they are willing to exclude a number of uses allowed in the LI district. This includes vehicle repair (minor), waste related services,**

self storage and wrecking/junk yard which will be prohibited on deed restrictions and will be in the agreement. He also noted that they are willing to exclude the same uses as in the SMART Terminal agreement.

Todd Burek, spoke in favor of this project.

There being no further comments, Mayor Hughson closed the Public Hearing at 7:27 p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Derrick, to approve Ordinance 2020 63, on the first of two readings.

Council Member Derrick stated there was an application for a wastewater package plant. Mr. Earl stated if the settlement agreement is approved then the package plant application will be withdrawn. Ms. Derrick thanked Mr. Earl for working with nearby property owners that will remove the possibility of several package plants.

Dr. Marquez asked about the distance from the river to the property. Mr. Earl stated it is 3,764 feet from the river and it will not be developed, as they are planning a park setting in the area.

Mayor Hughson inquired about the plans getting from the Light Industrial "LI" zone to residential areas. Mr. Earl mentioned they are working with TxDOT to include a pedestrian corridor that goes under FM110 and putting a pass thru for a bike and hike trail with no traffic conflict.

Deputy Mayor Pro Tem Rockeymoore asked how long this project has been in the works? Mr. Earl stated since 2014 and he has worked with the owners for a long time and is a partner. Deputy Mayor Pro Tem Rockeymoore asked if they are working with the SMART terminal developers. Mr. Earl stated he is only working with the adjoining property owners. Deputy Mayor Pro Tem Rockeymoore asked about the environmental aspect on the trails and will there be links to the pre existing trail system. Mr. Earl stated he would be happy to link the trail with other trails and is working with his neighbors. Deputy Mayor Pro Tem Rockeymoore stated he supports this project and is a good use for the land and attraction to business for future growth.

Dr. Marquez asked if it is too late to change the Mayan name. Mr. Earl stated it is not the intentions to use the Mayan name. It is what was chosen due to the name of the entity that owns the land. Mr. Earl stated the primary name of the

development will be River Crossing.

Council Member Derrick suggested to staff for the next code update, there be a clear definition on what Light Industrial means and what uses are allowed. We do not need to keep going through different restrictive covenants or deed restrictions but add into one category.

**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

22. Receive a Staff Presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-64, amending the Official Zoning Map of the City (ZC-20-18), by rezoning approximately 42.872 acres, more or less, located at 2801 Staples Road, from “FD” Future Development District to “CD-5” Character District-5, and including procedural provisions; and consider approval of Ordinance 2020-64 on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided the presentation on rezoning 42.872 acres, located at 2801 Staples Road, from “FD” Future Development District to “CD-5” Character District-5.**

**Mayor Hughson opened the Public Hearing at 8:14 p.m.**

**Those who spoke:**

**David Earl spoke in favor of this project and on behalf of the applicant. Mr. Earl stated they are in agreement to remove the 12.546 acre tract and requests Council to approve this case with the exclusion of the mentioned acre tract.**

**There being no further comments, Mayor Hughson closed the Public Hearing at 8:15 p.m.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-64 with the exclusion of the 12.546-acre tract located within the regulatory floodway and Open Space Preferred Scenario designation, on the first of two 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

- 23.** Receive a Staff Presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-65, amending the Official Zoning Map of the City (ZC-20-19), by rezoning approximately 78.853 acres of land located at 2801 Staples Road, from “FD” Future Development District to “CD-4” Character District-4; and including procedural provisions; and consider approval of Ordinance 2020-65 on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided the presentation on rezoning 78.853 acres, located at 2801 Staples Road, from “FD” Future Development District to “CD-4” Character District-4.**

**Mayor Hughson opened the Public Hearing at 8:27 p.m.**

**Those who spoke:**

**David Earl spoke in favor of this project.**

**There being no further comments, Mayor Hughson closed the Public Hearing at 8:28 p.m.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Derrick, to approve Ordinance 2020-65, on the first of two readings.**

**Council Member Derrick asked about cluster development in CD-5. and asked about impervious cover and how much is proposed on the entire property. Mr. Earl stated they will not develop in the floodplain it is under 15% impervious cover in residential areas. He stated he would provide the exact number at next meeting.**

**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.** Receive a Staff Presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-66, amending the Official Zoning Map of the City (ZC-20-20), by rezoning approximately 220.023 acre of land located at 2801 Staples Road, from “FD” Future Development District to “CD-3” Character District-3, and including procedural provisions; and consider approval of Ordinance 2020-66 on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided**

the presentation on rezoning 220.023 acres, located at 2801 Staples Road, from “FD” Future Development District to “CD-3” Character District-3.

Mayor Hughson opened the Public Hearing at 8:35 p.m.

Those who spoke:

David Earl spoke in favor of this project. Mr. Earl stated that they agreed on a 35 foot buffer zone between the FM110 right of way and the fence line. Mr. Earl mentioned that the intentions are to be used for hike/bike or walk facilities to keep people off from FM110 and will add to the agreement.

There being no further comments, Mayor Hughson closed the Public Hearing at 8:36 p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockey Moore, to approve Ordinance 2020-66, on the first of two readings.

Council Member Derrick stated she appreciates the 35 foot buffer zone and asked if it will have a masonry wall near the highways. Mr. Earl stated if we had the restrictions it will be on the right of way but would like to confer with his partners and will have an answer at the next meeting.

Council Member Baker asked about the barriers near the neighborhoods and impact to the area. What is being done with the run off with FM110 project? Mr. Earl stated they are working on drainage easements and is installing pocket lakes so it will not impact homes.

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

25. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-67, increasing rates established for Water, Wholesale Water, Reclaimed Water, Wastewater Treatment, and Sewer Surcharges; and including procedural provisions; and providing an effective date; consider approval of Ordinance 2020-67, on the first of two readings.

Melissa Neel, Assistant Director of Finance, provided the presentation on the increasing rates established for Water, Wholesale Water, Reclaimed Water,

**Wastewater Treatment, and Sewer Surcharges.**

**Mayor Hughson opened the Public Hearing at 8:44 p.m.**

**There being no speakers, Mayor Hughson closed the Public Hearing at 8:44 p.m.**

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Baker, to approve Ordinance 2020-67, 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

- 26.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-68, amending the rates for both Residential and Multifamily Customers of Municipal Solid Waste Programs (currently known as Resource Recovery) in accordance with Section 66.028 of the San Marcos Code of Ordinances; and including procedural provisions; and providing an effective date; consider approval of Ordinance 2020-68 on the first of two readings.

**Melissa Neel, Assistant Director of Finance, provided a brief presentation on amending the rates for both Residential and Multifamily Customers of Municipal Solid Waste Programs (currently known as Resource Recovery).**

**Mayor Hughson opened the Public Hearing at 8:46 p.m.**

**There being no speakers, Mayor Hughson closed the Public Hearing at 8:46 p.m.**

**A motion was made by Council Member Gonzales, seconded by Council Member Baker, to approve Ordinance 2020-68, 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

- 27.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-69, increasing Drainage Utility Rates as authorized by Section 86.505 of the San Marcos City Code; including procedural provisions; and providing an effective date; consider approval of Ordinance 2020-69 on the first of two readings.



**Melissa Neel, Assistant Director of Finance, provided a brief presentation on increasing Drainage Utility Rates.**

**Mayor Hughson opened the Public Hearing at 8:48 p.m.**

**There being no speakers, Mayor Hughson closed Public Hearing at 8:48 p.m.**

**A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to approve Ordinance 2020-69, 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 Rokeymoore, Council Member Baker and Council Member Gonzales

**Against:** 0

- 28.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-70, adopting a budget in the amount of \$258,741,410 for the fiscal year beginning October 1, 2020 and ending September 30, 2021; authorizing certain adjustments to the budget with the approval of the City Manager; approving fiscal year 2020-2021 Capital Improvements Program Projects; adopting a fee schedule; including procedural provisions; providing an effective date; consider approval of Ordinance 2020-70 on the first of two readings.

**Mayor Hughson stated "This agenda item is the first reading of the ordinance approving the Fiscal Year 2020-2021 annual city budget. State law requires that the city hold a public hearing on the City's budget. This agenda item is the first Public Hearing for the City's Fiscal Year beginning October 1, 2020 and ending on September 30, 2021. There will be a second Public Hearing on September 15. The public is invited to make comments for or against items in the budget. The budget has been on file in the City Clerk's office and on the City's website since August 14. Notice of this Public Hearing was published in the local newspaper on August 23, 2020. After receiving public comments, the City Council will consider the Budget Ordinance on first reading. The city council, will vote on the budget on the second reading of the Budget Ordinance at the City Council meeting scheduled for September 15."**

**The Public Hearing will be in virtual format this year due to the disaster declaration enacted by the governor. The City Clerk will read comments submitted and allow those who signed up to speak an opportunity to present their comments. Melissa Neel, Assistant Finance Director reviewed the presentation provided at Budget Workshop on August 13, 2020 including the addition of a Planner in Development Services to allow for a 100% dedicated Historic Preservation Officer with existing staff.**

**Mayor Hughson opened the Public Hearing at 9:04 p.m.**

**There being no speakers, Mayor Hughson closed the Public Hearing at 9:04 p.m.**

**Mayor Hughson asked for a motion to approve the City's Fiscal Year 2020-2021 Budget on first reading. A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Baker, to approve Ordinance 2020-70, on the first of two readings.**

**Council Member Derrick asked if the approximately \$3,000,000 in CARES funding is shown in this budget. Ms. Neel said no, it is not in the General Fund. Only the funds for Transit and the Airport are included at this time. 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

## **NON-CONSENT AGENDA**

- 29.** Consider approval of Ordinance 2020-71, on first and final reading, amending Ordinance 2020-52 ordering a General and Special Election to be held on November 3, 2020 by establishing early voting and election day polling places for this election; and making provisions for conducting the election; 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 Gonzales, seconded by Council Member Derrick, to approve Ordinance 2020-71, on the first and final reading. There was discussion about having a second voting location on the university campus but the Hay's County Commissioner's Court did not pass it. 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

- 30.** Consider approval of Ordinance 2020-72, on the first of two readings, setting the tax rate for the 2020 Tax Year at 59.30 cents on each \$100 of taxable value of real property that is not exempt from taxation; levying taxes for the use and support of the Municipal Government of the City for the fiscal year beginning October 1, 2020, and ending September 30, 2021; providing a sinking fund for the retirement of the bonded debt of the city; including procedural provisions; and providing an effective date.

**A motion was made by Council Member Baker, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-72, on the first of two readings. This agenda item is the first reading of the ordinance setting the tax rate for Tax Year 2020. The Texas Tax Code requires that there be a public hearing in a building accessible to the public allowing citizens an opportunity to speak to City Council to express their views on the proposed tax rate. The public hearing on the proposed tax rate will be held on September 15. City Hall will be open to accommodate citizens the opportunity to appear in person. Staff will be present to ensure that social distancing guidelines are followed.**

**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

- 31.** Consider approval of Ordinance 2020-73, on the first of two readings, amending section 26.002 of the San Marcos City Code to establish that the City will implement the National Incident Management System ("NIMS") as its model for managing public safety emergencies and incidents; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Gonzales, to approve Ordinance 2020-73, 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

- 32.** Consider approval of Ordinance 2020-74, on the first of two readings, providing for the temporary reduction in sewer surcharges for commercial utility customers during the Covid-19 Pandemic; providing procedural provisions; and providing an effective date.

**A motion was made by Council Member Baker, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-74, 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

- 33.** Consider approval of Ordinance 2020-75, on the first of two readings, dedicating approximately 30 acres of land in the vicinity of Centerpoint Road and Gregsons Bend as

parkland in connection with the development of the City's new Multi-purpose Sportsplex Facility; and including procedural provisions.

**A motion was made by Council Member Derrick, seconded by Council Member Baker, to approve Ordinance 2020-75, 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

- 34. Consider the nomination of City Manager, Mayor and two Council Members to serve on the Greater San Marcos Partnership Board of Directors, and provide direction to Staff.**

**The Greater San Marcos Partnership Board of Directors will be making annual appointments at their meeting in October 2020. The City of San Marcos currently has the following four positions to appoint and/or reappoint: City Manager, Mayor, and two Council Members.**

**Council Member Derrick nominated Council Member Gonzales.**

**Mayor Hughson nominated Bert Lumberas to the City Manager position.**

**Mayor Pro Tem Mihalkanin nominated Mayor Hughson to serve in the Mayor position.**

**Council Member Gonzales nominated Mayor Pro Tem Mihalkanin**

**After a roll call vote, all nominated were appointed to serve on the Greater San Marcos Partnership Board of Directors. Mayor Pro Tem Mihalkanin abstained from the vote of his appointment. The motion carried by the following vote:**

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

**Against:** 0

**Abstain:** 1 - Mayor Pro Tem Mihalkanin

- 35. Consider the creation and appointment of an Ad Hoc Council committee charged with reviewing the Police Department's use of force policy, and provide direction to City Manager.**

**Bob Klett, Interim Chief Police, reminded Council of the direction they provided at their meeting on July 7th to establish this committee. The staff recommendation approved by Council was to charge this committee with achieving the following tasks:**

- Receive a training program related to our use of force and policy formation**
- Study the San Marcos Police Department policies pertinent to the use of**

force by officers

- Prepare any appropriate recommendations for potential changes to the policies and present the same to the Chief's Advisory Panel

To accomplish these goals, the ad-hoc committee will work closely with Chief Klett and his team so that they have all of the resources needed to compare the SMPD policy to best practices from across the country. Staff also recommends that the ad-hoc committee conduct public outreach as they work through the policy evaluation process. City staff will be available to assist with this outreach. The committee's final work product should be condensed into a written report to be delivered in a joint meeting with the standing Chief's Advisory Panel. Once these tasks are accomplished, the Chief of Police will receive a set of recommendations from the Chief's Advisory Panel. The Chief will then prepare an update for Council to include feedback and recommendations made by the committees and any resulting changes to the policy.

There are two key components of this process that were not discussed in detail at the July 7 meeting. Our hope is to receive guidance from the Council at the September 1 meeting in these two areas:

The size of the ad-hoc committee and the process to be used in nominating committee members. Staff recommends that the ad hoc committee be comprised of 15 San Marcos residents. This would allow for each Council Member to appoint 2 members and for the Mayor to appoint 3. The odd number is helpful in the event that the group is divided on a particular recommendation or other course of action. A group this size should be small enough to allow for open and meaningful dialogue between all participants. Larger groups often lose agility in their ability to work through their charged tasks. At the same time, a group of this size is large enough to allow for adequate diversity and representation from various segments of our community. We have formed committees such as this one using different methods in the past. The process recommended by staff is one that has been used multiple times recently to form various Council committees. That process involves taking applications from interested residents for a certain time period determined by Council and then nominating panel members during a subsequent meeting to arrive at the desired number of committee members. Staff would work with the City Clerk and our Communications team to create the application form and publish it so that interested residents may apply. The application should contain basic identifying and residency information for each applicant along with two critical questions:

- What experiences and/or training make you well suited to serve on this

committee?

- Why do you desire to serve on this committee?

Staff will work with the City Clerk to publish the list of applicants prior to the meeting in which nominations will be made. Since this ad-hoc committee is intended to have a limited mission and time span, it would be dissolved after completing their work

Council Member Derrick asked about timing of the creation of this committee. Staff will bring it back within a month.

Council Member Baker feels the use of force policy could be better discussed and reviewed with a smaller group. He was under the impression the standing Criminal Justice Reform committee would be utilized and not a citizen group.

Deputy Mayor Pro Tem Rockeymoore believes this should be an ongoing committee. Mr. Stapp stated that ongoing public engagement has been included in the Police Chief's Advisory Panel meetings which will be monthly with a public meeting quarterly. The ad hoc committee will engage with the Chief's panel when they are done. Interim Chief Klett, stated that their policies are posted on the website and anyone at any time may express their thoughts to the Panel. Mr. Rockeymoore inquired about the composition of the Chief's Advisory Panel and how they are selected. Interim Chief Klett noted that a requirement to be part of the Panel is completion of the Citizens Police Academy so members are familiar with police procedures. They are selected from people who volunteer or are recommended to be on the Panel. The goal is to have a diverse group of people who represent different groups in our community. The Panel was expanded recently. He stated the ad hoc committee will have a broader range of citizens so the Use of Force policies can be looked at and then their recommendations will be presented to the Chief's panel and then brought before Council for their review. Mr. Rockeymoore is concerned why this committee can not bring the recommendations directly to Council. It was noted that the core function of the Chief's Advisory Panel is to discuss and review policy.

Council Member Baker expressed his concern with having multiple committees and sees this may be a way to slow down the process of reviewing and enforcing policies. He would like to see a smaller group and make sure no member serves on this committee and the Chief's panel. That was not the intent of anyone so that will not happen.

Mr. Lumbreras, stated the Ad Hoc Committee would be allowed to bring policy recommendations forward but it would move forward to the Chief's Panel and this would allow them to add their concerns and be allowed to review as well. Staff is open to different direction from Council.

Mayor Hughson stated we could have the Ad Hoc Committee submit their report to Council at the same time it is given to the Chief's Advisory Panel.

Council Member Gonzales expressed his appreciation for the creation of the Chief's Advisory Panel.

Council Member Derrick thought the Council Criminal Justice Reform Committee would vet the report prior to going to all of Council. Mayor Hughson noted that the committee is composed of council members and the entire council will receive the report. Interim Chief Klett stated this could come before the committee before reporting to council. Dr. Mihalkanin stated that he is confident the proposed ad hoc citizen committee can address the concerns and send their recommendations directly to Council. Mayor Hughson suggested that the ad hoc committee send their report to the council and Chief's Advisory Panel at the same time. The Panel should not need more than one or two meetings to conclude their review which would go to council. If the council wants to send the report to the Criminal Justice Reform committee of the council, they can certainly choose to do so. Council Member Derrick suggested having the Chief's Advisory Panel do the review instead of another group. Council Member Baker expressed reservations about the Chief's Advisory Panel doing the review instead. Deputy Mayor Pro Tem Rockey Moore would like to see fewer stops between the ad hoc committee and the council. Council Member Baker suggested a change to qualification question to something similar to "What unique experiences qualify you for service on this committee? We want people to know that there are no specific requirements to be on this committee. Several other processes were suggested but no consensus was reached.

Staff will bring this item forward for further guidance and direction from Council on the next City Council Meeting, but the process will start to begin the application process. Applications will be due September 30 and appointments to be made at the first meeting in October.

## **EXECUTIVE SESSION**

**36.** Executive Session in accordance with:

- A. §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

B. Section 551.071 - Consultation with Attorney - To receive legal advice from the city attorney regarding the city's requirements for connection or extension of utilities to property located outside the city limits of San Marcos.

**Council met during the Work Session portion of their meeting earlier this afternoon and concluded Executive Session, so this is not needed this evening.**

37. 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 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

B. §Sec.551.071 - Consultation with Attorney - To receive legal advice from the city attorney regarding the city's requirements for connection or extension of utilities to property located outside the city limits of San Marcos.

**Mayor Hughson stated direction was provided to Staff on Items A and B in Executive Session earlier this afternoon.**

IV. Adjournment.

**A motion was made by Council Member Gonzales, seconded by Council Member Derrick, to adjourn the regular meeting of the City Council on Tuesday, September 1, 2020 at 10:09 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 Rockeymoore, Council Member Baker and Council Member Gonzales

**Against:** 0

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**