



City of San Marcos

Meeting Minutes City Council

Tuesday, October 20, 2020

3:00 PM

Virtual Meeting

This meeting was held using conferencing software due to COVID-19 rules.

I. Call To Order

**With a quorum present, the work session of the San Marcos City Council was called to order by Mayor Hughson at 3:04 p.m. Tuesday, October 20, 2020.
The meeting was held online.**

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

PRESENTATIONS

1. Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding the review and evaluation of the effectiveness of financial incentives as it relates to residential development (Resolution 2015-165R).

Bert Lumbreras, City Manager recused himself from this presentation due to his residence at Kissing Tree.

Joe Pantalion, Assistant City Manager, provided a brief update regarding the effectiveness of financial incentives as it relates to residential development. Mr. Pantalion provided the following timeline on the incentives for various developments:

In 2015, the City had recently approved or facilitated incentives for multiple residential developments including Blanco Vista; Highpointe/Trace; La Cima; Paso Robles, now known as Kissing Tree; and Whisper. Mr. Pantalion mentioned the City's financial advisors recommended the city monitor the rate at which the market absorbs the already incentivized housing units and evaluate if incentives are necessary to attract more residential development.

In November 2015, City Council passed a Resolution directing City staff to not accept any applications for financial incentives for residential development for a period of five years in order to evaluate those developments that had already

been approved. This effectively began a moratorium on the consideration of additional Public Improvement Districts, Tax Increment Reinvestment Zones or other types of incentives. The resolution will expire on November 17, 2020.

Michael Ostrowski, Assistant Director of Planning and Development Services, stated that within the developments an estimated 9,800 units are to be constructed within the developments including single family and multi-family. Mr. Ostrowski mentioned the moratorium was placed on further financial incentives for future residential development to allow the City to see how the market responds. Currently, the residential units per subdivision upon build out will be Blanco Vista – 1,800, Kissing Tree– 3,400, Trace – 1,300, La Cima – 2,800, and Whisper – 500.

Mr. Ostrowski stated the City participates in the following financial incentives:

- Public Improvement District (PID) created to levy and collect special assessments on property within a district.
- Tax Increment Reinvestment Zone (TIRZ) captures the increase in tax revenue that is created by development within an area and reinvests those funds into public improvements and development projects that benefit the zone.
- Chapter 380 provides grants/loans at little or no cost to promote economic development.

Jon Snyder, with P3 Works, provided an update on the five developments. Mr. Snyder stated that Blanco Vista is Tax Increment Investment Zone (TIRZ) No. 2 and was created in 2006. Included is a \$7.8 million railroad overpass on Yarrington Road with Union Pacific Railroad. The developer paid upfront costs to construct the overpass, and then the city is reimbursing them for actual costs, plus interest, with TIRZ revenue. The County has 50% TIRZ participation up to \$1.0 million with the City participating at 100%.

Mr. Snyder stated Kissing Tree (Paso Robles) is Tax Increment Investment Zone (TIRZ) No. 4 and was created in 2011. The developer paid upfront for the costs to construct the regional improvements, and then the city is reimbursing them for actual costs, plus interest, with TIRZ revenue up to \$20.0 million.

- County 10% TIRZ participation (~ \$3.3 million)
- City 40% TIRZ participation (~ \$16.7 million)
- Total reimbursement to developer capped at \$20 million, but split between City/County will vary based on adopted tax rates

Mr. Snyder stated Trace (Highpoint) Public Improvement District, was created

with \$11,885,000 in PID Bonds issued January 2019. There was a \$10,115,000 Reimbursement Obligation (RO) to developer (RO to be refunded with future PID Bonds). Homeowners pay an average equivalent tax rate of approximately \$0.34 per \$100/assessed value and Average annual installment for homeowners of approximately \$650 - \$900 per year.

Mr. Snyder stated La Cima is a Public Improvement District created by Hays County, and was created with \$19,200,000 in PID Bonds that were issued August 2015. \$9,345,000 PID Bonds expected to be issued November 2020, upon completion of project, an estimated \$86.7 million of PID bonds will be issued and average annual installment for homeowners of approximately \$1,600 - \$2,750 per year.

Mr. Synder mentioned Whisper Public Improvement District has \$14,300,000 PID Bonds issued June 2020, property owners pay an average equivalent tax rate of ~ \$0.16 per \$100/assessed value and average annual installment for homeowners of approximately \$375 per year.

Mr. Ostrowski noted the Residential Units and Value Per Year by Subdivision (as of end of 2019)

See Exhibit A - Attached

Mr. Ostrowski provided a summary of capacity. An additional 229 single family units were constructed per year for the years 2016-2019 (mainly after incentivized developments), versus for the years 2012-2015 (mainly prior to incentivized developments). Mr. Ostrowski mentioned the 9,800 units that have been approved through the residential incentives, 1,687 units have been constructed, leaving 8,113 units still available. Mr. Ostrowski stated that 8,113 units multiplied by the average household size of 2.43, equates to room for an additional 19,715 people within the city, within the five developments.

Mr. Ostrowski stated current population is 64,776 and the Comprehensive Plan projects growth rate by 2030 to be 79,207 or 1.78% per year. Based on the Comprehensive Plan growth rate of 1.78% per year, these five developments would have enough capacity for over 10 years. $64,776 + 19,715 = 84,491$ (supply) vs. 79,207 (demand)

Potential Options

1. Extend the moratorium on incentives for residential developments for a certain period of time.
2. Allow the moratorium to expire and evaluate projects on a case-by-case basis.

3. Allow the Comprehensive Plan to drive decisionmaking on future developments and requests for incentives.
4. Other options?

Mr. Ostrowski stated staff recommendation in a shorter-term (next 1-2 years), allow the moratorium to expire and evaluate projects on a case-by-case basis. Or in the longer-term (beyond 2 years), use the newly adopted Comprehensive Plan to develop an incentive policy that addresses the use of financial incentives based on the vision, goals, objectives, and policies identified in the Comprehensive Plan.

Staff is seeking Council's direction on how to proceed once the moratorium expires next month.

Mayor Hughson stated for every dollar in property tax, the city brings in, the cost is about \$1.20 due to the cost of library, parks, public services, etc. Mr. Ostrowski stated that it depends on the neighborhood but that is pretty accurate.

Council Member Derrick asked Mr. Snyder his opinion on PIDs within the City. Mr. Snyder stated the city has done a good job and it is regional in nature and the large infrastructure benefits public facilities and helps with the improvements.

Deputy Mayor Pro Tem Rockeymoore asked Mr. Ostrowski about the staff recommendation regarding the shorter term of 1 2 years on a case by case basis. Mr. Ostrowski stated it is up to Council, to extend the moratorium until the Comprehensive Plan is complete. Mr. Ostrowski stated that it would be an application process and the developers would have to come before Council to ask and negotiate, and lastly staff would complete the financial analysis. Deputy Mayor Pro Tem Rockeymoore asked if there are any projects right now. Mrs. Mattingly stated the project is part of the Mayan settlement and the developer of Whisper with the possibly to build onto the existing development. Mrs. Mattingly stated that there is no application submitted yet from the developer but staff is anticipating one.

Council Member Baker asked if Blanco Vista when will meet capacity. Will it be the same for the other developments and how successful has it been? He inquired about any failures we have seen with these.

Mr. Ostrowski stated Blanco Vista is proposed for 1800 units and as of 2019 there have been 1100 units built with an increase of 180 units built yearly and will be completed in the next 3 4 years. There have been no developments that we would consider a failure.

Staff is seeking direction from Council on which option to move forward with from the following:

- # 1. Extend the moratorium on incentives for residential developments for a certain period of time.**
- # 2. Allow the moratorium to expire and evaluate projects on a case-by-case basis.**
- # 3. Allow the Comprehensive Plan to drive decision making on future developments and requests for incentives.**
- # 4. Other options?**

Council Member Derrick suggested we consider extending the moratorium for a 2 year period while the Comprehensive Master Plan is written and only allow PIDs for package plants not to be included in the moratorium.

Council Memeber Gonzales prefers not to take any applications for five years. Shannon inquired about mixed-use developments and if that would make a difference. Jane prefers not to say no because we might miss something that would be good for our community, but we need to let them know as soon as possible. If residential only, probably not, but some types of commercial could be a good idea.

Council Member Baker stated he not want to see applications for any that could be considered sprawl.

Deputy Mayor Pro Tem Rockeymoore stated he would like to see the moratorium continue.

Mayor Hughson noted that not all potential projects would be considered “sprawl” in that there could be a re-development near the city core that we would welcome.

Ms. Mattingly noted that other cities have PID policies that define which applications would be welcome and which do not meet the policy and would not be accepted.

Mr. Ostrowski explained how the Comprehensive Plan can help guide that

policy.

Council Member Marquez inquired as to who will develop the policy?

Ms. Mattingly, stated Council would set the policy, but the council committees who have reviewed potential developments have been very helpful.

Mayor Pro Tem Mihalkanin prefers option 2.

Deputy Mayor Pro Tem Rockeymoore has no interest in more large scale developments on the edge of town and none in town that will cause property tax rates to rise.

Council consensus was provided to move forward with option #2 to allow the moratorium to expire and evaluate projects on a case-by-case basis. Council would like to see a written policy that states what Council would review by a case-by-case basis with some limitations by December or January. Mrs. Mattingly will send out PID policies to Council that were provided by Mr. Snyder. Council consensus is to have the Housing Committee review and begin to draft the policy.

- 2. Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding potential Development Code and City Code amendments to address concerns with developers requesting Texas Pollutant Discharge Elimination System (TPDES) permits, also commonly known as package treatment plants, from the Texas Commission on Environmental Quality (TCEQ) in lieu of connecting to City of San Marcos utility infrastructure.**

Bert Lumbreras, City Manager provided a brief introduction outlining potential Land Development Code and City Code amendments to address concerns from developers seeking discharge permits for package (wastewater) treatment plants instead of connecting to City utility infrastructure.

Amanda Hernandez, Development Services Manager, noted there are a number of property developers in the San Marcos extraterritorial jurisdiction (ETJ) that have stated they are seeking approval from the Texas Commission on Environmental Quality (TCEQ) of package wastewater treatment plants in lieu of connecting to City services to avoid compliance with the requirements of the City's Development Code.

Tom Taggart, Director of Public Services presented a map of the proposed developments with Texas Pollutant Discharge Elimination System (TPDES)

applications that included the creek and watershed areas through which the discharge to the San Marcos River would occur. These plants are not staffed regularly. He noted multiple proposed developments covering hundreds of acres who have made applications to TCEQ. We are opposing these permits.

Mr. Taggart provided the City's opposition to TPDES applications as follows:

- City Ordinances 70.052(a)(10): “the city discourages...package treatment plants”
- Protection of our environment and rivers
- Support of State legislative direction for regionalization of treatment services
- Impacts on quality of life (odors, discharge flows)
- Loss of City utility and general fund revenues
- Loss of centralized reuse of the wastewater processed at the package plants.
- Potential plant failures at unstaffed package plants could create health threats
- Limited expansion of utility systems into our preferred growth areas East of I-35
- Stranding invested City money in system capacities already installed
- Establishing a precedent for all ETJ developers

Mr. Taggart reminded the council that there was a previous application near the intersection of Hwy 21 and Yarrington Rd and we lost that one. One of these applications on the list that is in our CCN would be over 10 % of our system. For all of these, the additional annual revenue could be over \$5 million annually.

Ms. Hernandez stated Chapter 86 of the City’s Code of Ordinances allows extensions and connections of City utilities to property located within the ETJ. Ms. Hernandez stated in exchange for the benefit of connecting to City utilities, the City’s ordinances require that developers making a request must consent to annexation of the property being served. Ms. Hernandez mentioned developers have expressed opposition to being annexed due to the increased costs associated with development standards in the San Marcos Development Code, including standards for blocks, lots, and access; alley requirements, garage placement, parking location; and porches.

Table 4.1 Comprehensive Plan/District Translation
See Exhibit B - Attached

Ms. Hernandez stated the San Marcos Development Code Table 4.1 Comprehensive Plan / District Translation has many of the standards opposed

by developers and are limited to the new character districts established by the Development Code in 2018 and not are applicable in conventional residential zoning districts such as SF-6 Single Family District and SF-4.5 Single Family District. Developers may have interest, therefore, in developing under the standards for conventional residential zoning districts. Ms. Hernandez stated the developers indicate that the process for a “NP” Not Preferred zoning request appears to take longer than a standard “C” Considered request but the process is the same.

Current Process & Potential Solutions

See Exhibit C - Attached

Deputy Mayor Pro Tem Rockeymoore asked what is the possibility of the developers receiving the permits while the City is contesting their applications?

Mr. Taggart stated the odds are very good for developers to get the permits. Mr. Taggart stated the City has different arguments due to locations of the projects and the facilities. He noted that even with our best efforts, TCEQ granted a permit we had opposed.

Mr. Rockeymoore also inquired about the reliability of this type of package plant. Mr. Taggart responded that there is a wide variety of reliability, but in some cases where the plant fails, the nearby city is required to take it over.

Council consensus was provided to move forward with amending Chapter 86 to change the annexation language slightly, allowing the developer the potential to negotiate the timing of annexation through the Out of City Utility approval or Development Agreement process. Council consensus is to have annexation at the time of platting.

Council consensus is NOT to Amend Table 4.1 to indicate conventional residential zoning districts such as SF-6 and SF- 4.5 as “C” or considered in areas of Low Intensity.

Council provided direction to restore the ability for developers to seek financial incentives as an incentive to negotiate development agreements or annex into the City per the previous discussion at this work session.

EXECUTIVE SESSION

3. Executive Session in accordance with:
 - A. Section §551.074 of the Texas Government Code: Personnel Matters - to discuss the

duties and responsibilities of the City Manager, pertaining to the Police Chief Selection Process

B. Section §551.071 of the Texas Government Code: Consultation with Attorney - to receive advice of legal counsel regarding acquisition of wastewater easement for proposed development in the Southeast area of the Extraterritorial Jurisdiction

C. Section §551.072 of the Texas Government Code: Real Property - to receive a staff briefing and deliberations regarding the acquisition of wastewater easement for proposed development in the Southeast area of the Extraterritorial Jurisdiction

D. Section §551.072 of the Texas Government Code: Real Property - to receive a staff briefing and deliberations regarding acquisition of property in Downtown San Marcos for public use-----.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to enter into Executive Session at 5:10 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

III. Adjournment.

Executive Session was concluded at 5:41 p.m.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Baker, to adjourn the work session of the City Council on October 20, 2020 at 5:43 p.m. The motion carried by the following vote:

For: 4 - Council Member Derrick, Mayor Hughson, Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

Against: 0

Absent: 3 - Mayor Pro Tem Mihalkanin, Council Member Marquez and Council Member Gonzales

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor

EXHIBIT A

	Units in Subdivision	Remaining Units (Capacity)	Subdivision Value
Blanco Vista	1,800	705	\$172,005,245
Kissing Tree (Paso Robles)	3,400	3,041	\$84,520,970
Trace (Highpointe)	1,300	1,153	\$21,554,380
La Cima	2,800	2,714	\$17,678,687
Whisper	500	500	\$0
TOTAL	9,800	8,113	\$295,759,282

EXHIBIT B

District Classification	Comprehensive Plan Designations		
	Open Space/ Agricultural	Low Intensity	Existing Neighborhood
Conventional Residential	NP	NP	C
Neighborhood Density Districts	NP	NP	See Section 4.1.2.4 -4.1.2.5
Character Districts	NP	C	PSA
Special Districts	PSA	NP	NP

EXHIBIT C

CURRENT PROCESS (Development Agreement)	CURRENT PROCESS (Annex / Zone)	POTENTIAL SOLUTIONS
<ul style="list-style-type: none">• Establish Council Committee.• Negotiate Standards, Waivers, Annexation, Utilities, & Timing.• +/- 6 month from application to approval.	<ul style="list-style-type: none">• No negotiation.• Development follows all city standards or requests waivers through relief procedures in the Code.• +/- 4 months from application to approval	<ul style="list-style-type: none">• Amend Ch. 86 to make annexation more permissive.• Amend Table 4.1• Restore incentive options for residential developments• Amend the City Code or Development Code city-wide or only for ETJ developments