



City of San Marcos

Meeting Minutes City Council

Tuesday, October 20, 2020

6:00 PM

Virtual Meeting

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 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 6:02 p.m. Tuesday, October 20, 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

Kelly Smoot Garrett expressed concerns regarding Stan Standridge, candidate for Police Chief. She stated that he does not fit in with the San Marcos community.

Lisa Marie Coppoletta expressed concerns on items #8 & #9. She expressed concerns with transparency and would like to know what is the future for the property and would like the citizens to provide input. She stated she is concerned with the environmental impacts regarding hazardous chemicals.

Mary Beth Harper expressed concerns with the sewer package plants and how several developers are trying to avoid connecting to the City's sewer lines to save money.

Annie Simpson stated she supports a Healthy and Slow Streets Program. This would set an intention for safe, multimodal neighborhood movement that would influence the neighborhoods in the future.

Jo Korthals, Hays County Naturalist, is available to answer questions regarding item #24 of the agenda.

Virginia Condie spoke on behalf of The San Marcos River Foundation and is in support of a resolution recognizing the first Saturday in May and October as World Bird Migration Days.

Ted Breihan expressed concerns on items #8 & #9 regarding the properties on S. Guadalupe Street and asked Council to consider using the money for different projects.

Naomi Narvaiz asked to be considered to the Use of Force Ad Hoc Committee and expressed her interest in serving. She stated she is an involved member of the community and would bring perspective to the committee.

PRESENTATIONS

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

Chase Stapp provided the introduction regarding status reports and updates on response to COVID-19 pandemic.

Known Cases – as of October 16

More than 823k total cases (82,347 active) cases in Texas with 17,014 fatalities

***source: Texas Department of State Health Services**

• 6,155 total cases in Hays County (727 active and 5,367 recovered) with 61 fatalities

• 355 cases have required hospitalization, 6 current

• 3,088 total cases in San Marcos (76 active and 2,989 recovered) with 32 fatalities

***source: Hays County Health Department**

• 742 total cases at TX State (60 active)

• 698 students, 44 faculty/staff

***source: Texas State University Student Health Services**

Mr. Stapp stated that one employee is recovering from COVID and from March there has been 40 employees test positive. Mr. Stapp stated that as of Monday, October 19, 40 new cases came in from the weekend.

Testing Overview

37,666 tests administered county wide

– 31,511 negative (83.6%)

– 6,155 confirmed (16.3%)

Mr. Stapp mentioned that there is a new category of test results with 749 probable is from Curative testing sites.

- **Testing by Curative (Ramon Lucio Park)**

- Open daily from 9:00 a.m. to 5:00 p.m.
- Anticipated service through December

Mr. Stapp stated that 741 people have been tested and 59 tested positive.

- **Future testing site – Medical Parkway**
- 2nd van provided by Curative
- Possible brick and mortar site for future testing and vaccinations

Updates to Governor Abbott's Actions

- **October 7: Executive Order To Open Bars In Qualifying Counties**
- Bars may offer on-premise services at up to 50 percent of the total listed occupancy
- Patrons at bars or similar establishments may eat and drink only while seated
- Must not be in an area with high hospitalizations, have approval from the county judge

8 bars in San Marcos have the option to open up but not sure which bars have decided.

- **October 7: Encourages Health Care Providers To Enroll In DSHS**

Immunization Program In Preparation For COVID-19 Vaccine

- Providers must agree to administer vaccine regardless of a recipient's ability to pay, provide a vaccination record to each recipient, follow federal guidelines
- Any vaccine must be authorized by Food and Drug Administration before distribution

- **October 14: TEA, TDEM Announce COVID-19 Rapid Testing Pilot Program For Texas School Systems**

- Eight participating school systems provided with COVID-19 rapid antigen tests that will be administered to students, teachers, and staff who choose to participate
- Interested schools can apply through the Texas Education Agency through October 28

Updates to eviction processes

- **CDC Order – effective 9/4/20**
- Valid through end of 2020 unless extended
- Applies to evictions for non-payment of rent at residential properties
- Must seek all available government assistance
- Income capped at \$99,000/\$198,000 (single/joint)
- Must attempt to make partial payments
- Must submit declaration form to landlord

Mr. Stapp mentioned that the CDC order on the eviction process are for states

that do not have an order in place and it applies to the State of Texas.

Council Member Baker is concerned about a potential third wave coming and asked how do we prepare for deaths and asked what is the number to consider to defy the Governor's Orders for more strict orders. Mr. Stapp stated that concern is with the Governor's office which restrict what we can do as a municipality and he is concerned about the recent trend elsewhere also and when we might see similar numbers. What we can control is City offices reopening, the parks We will continue to watch the numbers closely and is ready to make decisions, if numbers get alarming. Council Member Baker asked if Eric Schneider, Epidemiologist, is warning us about the third wave. Mr. Stapp stated Mr. Schneider's function is to provide data and inform us from trends and tracing. Council Member Baker asked about the tracing and what is being done to lower the deaths in the County? Mr. Stapp stated the goal of tracing and asking people to follow the safety measures help reduce the death and the infection rate. Mr. Stapp mentioned that Mr. Schneider still recommends following all safety health protocols.

Council Member Derrick asked about the eviction ordinance in the city and where will it be after the first of the year. Mr. Stapp stated that our eviction ordinance was in place before the order by the Centers for Disease Control and Prevention (CDC) and will be valid until the end of the year and the order is in place for Texas since Texas does not have their own order.

CONSENT AGENDA

A motion was made by Council Member Gonzales, seconded by Council Member Derrick, to approve the consent agenda with the exception of items # 8 and 9 which were pulled and considered separately.

Dr. Mihalkanin abstained from a vote on item #4 and #6 due to his employment with Texas State University and to avoid any appearance of impropriety.

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. September 15, 2020 - Work Session Meeting Minutes
 - B. September 15, 2020 - Regular Meeting Minutes
 - C. September 23, 2020 - Special Meeting Minutes
 - D. September 29, 2020 - Special Meeting Minutes
3. Consider approval of Ordinance 2020-60, on the second of two readings, amending Section 2.361 of the San Marcos City Code relating to the general powers and duties of the San Marcos Arts Commission and recommendations and decisions on funding made by the San Marcos Arts Commission; including procedural provisions; providing for the repeal of any conflicting provisions; and providing an effective date.
 4. Consider approval of Ordinance 2020-78, on the second of two readings, repealing Divisions 23 and 24 of Article 3, Chapter 2 of the San Marcos City Code that established the San Marcos Youth Commission and the San Marcos Commission on Children and Youth, respectively, in connection with the transitioning of the provision of Youth Services through the Core 4 Partnership with Hays County, Texas State University and the San Marcos Consolidated Independent School District; dissolving said commissions; including procedural provisions; and providing an effective date.
 5. Consider approval of Ordinance 2020-79, on the second of two readings, reducing the speed limit from 30 miles per hour to 25 miles per hour along the 500-1200 blocks of Burleson Street between Moore Street and Prospect street; authorizing the installation of signs and traffic control devices reflecting the new speed limit; directing that the traffic register maintained under section 82.067 of the San Marcos City Code be amended to reflect the new speed limit; and including procedural provisions.
 6. Consider approval of Resolution 2020-220R, approving an Interlocal Contract with the Edwards Aquifer Authority ("EAA") and Texas State University for funding by the EAA of activities under the Edwards Aquifer Habitat Conservation Plan Program; authorizing the City manager, or his designee, to execute this contract on behalf of the City; and declaring an effective date.
 7. Consider approval of Resolution 2020-221R, authorizing a Change in Service to the agreements with the real estate appraisal firms previously selected to be on an on-call list to provide appraisal services for various City projects to increase each firm's contract amount from \$50,000.00 to \$100,000.00; authorizing the City Manager or his designee to execute the necessary documents to implement the Change in Service; and declaring an effective date.
 8. Consider approval of Resolution 2020-222R, approving a Real Estate Sales Contract with Randy N. and Patrice A. Greer for the City to purchase lots 2 and 3, block 12 of the original town of San Marcos, located at 128 and 140 South Guadalupe Street, for a price of \$1,600,000, plus any associated closing costs, approving amendments to said contract including an amendment providing for the withholding of funds in an amount up to \$225,000 for expenses associated with enrolling in the Texas Commission on Environmental Quality ("TCEQ") voluntary cleanup program; approving a Voluntary Cleanup Program Agreement with the TCEQ in connection with the purchase of the property; approving the execution of said Real Estate Sales Contract by the City Manager, or his designee, on behalf of the city; authorizing the City Manager, or his designee, to execute the contract amendment regarding the withholding of funds under the TCEQ voluntary cleanup program, any related closing documents and the TCEQ Voluntary cleanup program agreement on behalf of the City; and declaring an effective

date.

Mr. Lumbreras spoke on items # 8 and 9 and stated the owners approached the city with strong interest and the negotiated price is fair. Mr. Lumbreras mentioned the price for 128 and 140 S. Guadalupe is \$1.6M or \$60.64 sq. ft. and the price for 152 S. Guadalupe is \$824K or \$62.49 sq. ft. Mr. Lumbreras stated that searching other properties and comparing price ranges from \$79.62 sq. ft to \$91.00 sq. ft. Mr. Lumbreras mentioned the use of the properties has not been determined. Mr. Lumbreras stated when it went before the Downtown Tax Increment Reinvestment Zone #5 (TIRZ) it was placed under category for parking or other public facilities. Mr. Lumbreras noted the funding is coming from Downtown TIRZ and the City owning the land can control the proper use and meet the needs of downtown that will fit the historical nature.

Mr. Lumbreras stated as part of the due diligence in purchasing the properties, monitoring wells were installed for soil and groundwater analysis purposes. Mr. Lumbreras noted that no soil contamination was found but certain chemicals typically associated with dry cleaning operations were found. Mr. Lumbreras stated the location of the source was 128 and 140 S. Guadalupe parcels.

Mr. Lumbreras mentioned that the current owner were pro-active and the City has been accepted into the Texas Commission on Environmental Quality's the Voluntary Cleanup Program and an amount above the anticipated cleanup costs is being withheld from the purchase payment to fund the effort. Mr. Lumbreras stated that no funding is being withheld since no clean-up responsibilities associated with 152 S. Guadalupe. A professional analysis has been done and we have a solid plan being paid by the current owners to do a proper cleanup under the strict regulations by the TCEQ.

Deputy Mayor Pro Tem Rockeymoore asked several questions which were answered by Laurie Moyer, Director of Engineering. Ms. Moyer stated that the city entered into contract on these properties in December of last year and January of this year. We conducted two phases of environmental analysis and some monitoring wells were installed. During the interim we have been working with the owners to allow prime property downtown to be cleaned, but not paid by the taxpayers. This required contract extensions. We have been accepted into the cleanup program by the TCEQ.

Deputy Mayor Pro Tem Rockeymoore inquired about the chemicals present and if the groundwater at the water table level is affected. Ms. Moyer responded that we did both soil and groundwater analysis along with vapor.

First testing had some vapor, second testing showed much lower levels. We do not believe vapors have exceeded regulated amounts and it not an ongoing concern. There was no soil contamination found as we drilled more wells. There are some dry cleaning chemicals tetrachloroethane (PERC) and trichloroethane (PCE) within the groundwater of one well. We believe this is a stable situation that will not move. This is not a source of potable water. We will see what might be needed to monitor stabilize this to ensure no harm to waterways or people or public safety. We drilled monitoring wells in a wider area than these parcels to see if there was influence in a wider area and that is not the case. Mitigation efforts will be to monitor the wells to see if this moves. TCEQ will review those tests to see what is required for a Certificate of Compliance.

There are two sources of funds for this acquisition. The Downtown TIRZ a Capital Improvements Program (CIP) project from 2016. City property taxes on these three parcels is about \$4,500 per year.

Council Member Derrick and Ms. Moyer noted that funds for the purchase are Downtown TIRZ funds and these cannot be used outside the defined downtown area. The Downtown TIRZ has a specific boundary and part of the taxes collected within that boundary are allocated for improvements within that boundary. She asked about similarities with the Mobilty Hub on Hutchison Street. Ms. Moyer noted that the site now being purchased has a smaller concentration and it is not as widely dispersed. The level of contamination is barely above the minimum level set. She also noted it is possible this property would go back on the tax rolls, including if the city chooses to implement a private, public partnership for the development.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Gonzales, to approve Resolution 2020-222R. 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

- 9.** Consider approval of Resolution 2020-223R, approving a Real Estate Sales Contract with Patricia R. Murphy and Mary O. Black for the city to purchase lot 1, block 12 of the original town of San Marcos, located at 152 South Guadalupe street, for a price of \$824,000, plus any associated closing costs; approving the execution of said contract by the City Manager, or his designee, on behalf of the city; authorizing the city manager, or his designee, to execute any related closing documents on behalf of the city; and declaring an effective date.

Mr. Lumbreras spoke regarding item #9 on the previous item.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to approve Resolution 2020-223R. 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

10. Consider approval of Resolution 2020-224R, approving the Alliance Regional Water Authority (ARWA) Issuing Contract Revenue Bonds for the City of San Marcos in the aggregate principal amount of \$43,955,000.00 including approval of the Bond Resolution and other related matters in accordance with the Regional Water Supply Contract; authorizing the City Manager or his designee to execute any necessary related documents; and declaring an effective date.
11. Consider approval of Resolution 2020-225R, approving an interlocal agreement with the Canyon Regional Water Authority for the treatment and transmission of water from the Canyon Regional Water Authority Hays-Caldwell Water Treatment Plant; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
12. Consider approval of Resolution 2020-226R, approving a Change in Service to the agreement with GDS Associates, Inc. relating to a utility rate study to increase the contract amount by \$62,000.00 for a total contract amount of \$142,000.00; authorizing the City Manager or his designee to execute the documents necessary to implement the Change in Service; and declaring an effective date.
13. Consider approval of Resolution 2020-227R, approving an Airport Facility Lease Agreement for Commercial Use for Airport property located at 2049 Airport Drive with Gryphon Aviation, Inc for an initial eighteen-month term; authorizing the City Manager or his designee to execute the lease on behalf of the City; and declaring an effective date.
14. Consider approval of Resolution 2020-228R, approving a month-to-month Airport Facility Lease Agreement for Commercial Use for Airport property located at 4400 Highway 21 with Air Carriage Over Texas, LLC; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
15. Consider approval of Resolution 2020-229R, approving the compliance policy under Title VI of the Civil Rights Act of 1964 in connection with the City's requirements as Direct Recipient of Federal Transit Administration Funding, and declaring an effective date.
16. Consider approval of Resolution 2020-230R, approving a Chapter 380 Economic Development Incentive Agreement with DBI San Marcos Property, L.P., providing incentives in the form of refunds of a percentage of real property taxes over three years for the development of approximately 174,515 square feet of space for lease to commercial and industrial users at 1551 Clovis Barker; authorizing the City Manager, or his designee, to execute said agreement;

and declaring an effective date.

PUBLIC HEARINGS

17. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-77, amending the Official Zoning Map of the City in Case No. ZC-20-12 by rezoning approximately 14.71 acres out of the J.W. Berry Survey, located near the 1500 block of N LBJ Drive (Steen Road) from "FD" Future Development District to "SF-6" Single Family District; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-77, on the first of two readings.

Mayor Hughson, recused herself as she owns property on two sides of the property for which there is a zoning request.

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation. This property is approximately 14.71 acres and is currently vacant. The surrounding area includes single-family residences and vacant land. This property is located within an existing Neighborhood on the Preferred Scenario Map. The property was annexed in 2015 and currently is zoned (FD) Future Development and this proposal is for rezoning to SF-6 Single-Family. Mrs. Mattingly provided the comp plan, zoning and environment analysis for this property. She noted that the Planning and Zoning Commission recommended denial 9-0 and as such, a super majority of the council, which is 6 vote, would be required to pass this rezoning.

Mayor Pro Tem Mihalkanin opened the Public Hearing at 7:06 p.m.

Those who spoke or had their comments read by Staff:

Mike Siefert, spoke on behalf of the applicant. Mr. Siefert stated the property was purchased in 2006 and annexed in 2015. Mr. Siefert mentioned they have placed together a comprehensive project for affordable housing needs and applied zoning to match the property surrounding SF 6. He is available to answer questions.

Diane Eure, spoke against the rezoning change and expressed concerns regarding environmental and increased traffic.

Robert Moerke, spoke against the project and expressed concerns on the density of the area being developed, potential noise and traffic issues due to the development.

Johnny Casseb, spoke against the rezoning change and would like council to follow the Planning and Zoning Commission decision of denying this project. Mr. Casseb expressed concerns on the environmental degradation, traffic and neighborhood integrity. Mr. Casseb stated that council should consider purchasing this property for parkland, perhaps in coordination with the San Marcos Greenbelt Alliance.

Naomi Medina, spoke against the project and is not against development but is against reckless development for the environmental and traffic on LBJ.

Jonathan Cox stated he supports development that balances legitimate private property rights with the equally legitimate environmental and quality-of-life concerns of the adjacent community. Mr. Cox opposes the current proposal because it fails to maintain the balance.

Harold Stern, spoke against this project. We want the additions to meet current residences. Mr. Stern stated the rezoning change will have property lots that are small and is concerned with the traffic. He expressed concerns with the proposal that it is not compatible to the neighborhood in that the proposal is for 6,000 square foot lots.

Dan Caldwell, spoke against the rezoning of the project. Mr. Caldwell expressed concerns that most of the information was not revealed. Mr. Caldwell would like for the zoning code to be updated as follows: First, allow environmental, traffic safety, hydrology and other impact studies to be conducted before a proposed zoning change, so that their effects might be considered. Secondly, amend the zoning code to permit half acre minimum lot size developments as an intermediate measure between SF 6 and SFR to balance the interests of building affordable housing while preserving the character and property values of the existing neighborhood.

Melonie Caldwell, spoke against the rezoning and expressed concerns with the minimum lots and the number of houses on the number acres. Mrs. Caldwell expressed concerns on the excessive traffic, drainage and wildlife that needs to be considered.

Lee Stern, spoke against rezoning. Mr. Stern expressed concerns for esthetic, environmental and economic reasons. Mr. Stern asked council to consider an addition to a green belt for a park, or simply a walking trail open to the public, suggested the slope toward Sink Creek would be valuable addition to the community.

Jennifer & Caleb Jensen, spoke against the proposed zoning change, ZC-20-12 Steen Road. They believe that a zoning change to SF-6 would be a drastic change to the existing character of the neighborhood, resulting in significant and dangerous traffic problems on N.LBJ, and pose serious environmental concerns due to increased impervious surface cover and associated runoff. They asked council to deny the developer's request to rezone to SF-6

Edward Sullivan, spoke against the project. Mr. Sullivan asked council to consider increasing a zoning code of SFR. Mr. Sullivan stated the Steen Road proposal would change the balance in an area which offers scores of apartment residents, no walking trails closer than Schulle Canyon

There being no further comments, the Mayor Pro Tem closed the Public Hearing at 7:32 p.m.

A motion was made by Deputy Mayor Pro Tem Rockey Moore, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020 77, on the first of two readings.

Deputy Mayor Pro Tem Rockey Moore asked about the traffic. Ms. Mattingly stated as the layout for the platting it will trigger the traffic analysis and watershed protection plan. Deputy Mayor Pro Tem Rockey Moore asked who would be responsible for the roads. Ms. Moyer stated the developer is responsible for the roads. She also stated that because this property is over the Edwards Aquifer Recharge Zone, there will be impervious cover limits of 20% so it is unlikely that the maximum number of homes allowed by the requested zoning could be built. Deputy Mayor Pro Tem Rockey Moore asked Mr. Siefert what kind of development will be built. Mr. Siefert stated they are aware of the opposition but they are matching the zoning categories. Mr. Siefert noted the lot has constraints.

Council Member Derrick asked if SF-6 is considered a legacy district and if the development is under the no flow, no harm rules that will not allow developments disperse any runoff from the property to another property? Ms. Mattingly answered yes to both questions.

Council Member Gonzales asked Mr. Siefert, if they are planning to build two-story homes. Mr. Siefert stated they don't have the specific plans yet but believes the market will want that but will match the zoning and what is allowed for SF-6 zoning.

Council Member Baker asked Mr. Siefert regarding the letter that was included in the packet. Mr. Siefert stated the letter is not related to the proposed project.

Council Member Baker Baker inquired about compatible zoning adjacent and nearby. Mr. Cosentino noted that there are uses in the FD category and Mr. Mattingly reviewed that list.

Ms. Moyer mentioned that the project is in the contributing zone and there is not an impervious cover related to environmental standards. Mr. Moyer stated that the impervious cover would be to the development limited only around sensitive features found, on steep slopes and increase water quality volume of requirements of the discharge. Council Member Derrick asked about the impervious cover for the SF-6 zoning. Ms. Mattingly confirmed that with the project it will be 50% impervious cover except around sensitive features or no steep slopes and would require water quality of 85% treatment due to the closeness of the water zone.

Mayor Pro Tem Mihalkanin inquired about access to the property. Ms. Mattingly noted that it would be Steen Rd. Mayor Pro Tem Mihalkanin pointed out that Steen Rd is not a built road at this time. He also expressed concerns about drainage and the slopes.

After the scheduled break, Council Member Baker made motion to deny #17. Seconded by Council Member Saul. A motion to deny would not allow the developers to ask for the same zoning for one year. Council Member Derrick stated she suggested that we encourage the developers to have discussions with the neighborhood. Mayor Pro Tem Mihalkanin also stated that it would be better to allow the developers to work with the neighborhood. Max inquired as to how the city could enforce any agreement with the neighbors. Mr. Cosentino noted that restrictive covenants could be filed and the zoning be effective after that filing. Council Member Baker withdrew his motion and Mr. Gonzales withdrew his second.

The motion to approved failed by the following vote:

For: 1 - Council Member Derrick

Against: 5 - Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Recused: 1 - Mayor Hughson

NON-CONSENT AGENDA

18. Consider approval of Resolution 2020-231R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 33 acres of land, generally located in the 2400 Block of State Hwy 123 (Case No. AN-20-12: Picoma); authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation. This property is approximately 33 acres and is currently vacant. She provided the annexation and zoning schedule.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-231R. The motion carried by the following vote:

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

Against: 1 - Council Member Marquez

19. Consider approval, by motion, to move the December 1, 2020 Regular City Council meeting, due to the Election Runoff, to Wednesday, December 2, 2020, and provide direction to Staff.

A motion was made by Council Member Gonzales, seconded by Council Member Derrick, to approve changing the December 1, 2020 regular City Council meeting to December 2, 2020 to accommodate for the runoff election. 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. Consider applications from interested citizens for service on an ad hoc committee to study the use of force policies of the San Marcos Police Department and make recommendations to the Chief of Police and City Council, hold discussion and make appointments to the committee, and provide direction to staff.

Chase Stapp, Director of Public Safety provided a brief update on the this item and reminded council of the process determined by the council at previous meetings

Mayor Hughson received confirmation from council that if a member is appointed to this committee and is later elected to serve on City Council, they

must step down and a replacement will be made.

Council provided consensus to allow this committee to begin work as soon as possible and not to wait until the new Police Chief is selected.

The following nominations were made:

**Council Member Derrick nominated Randy Dethrow and Shareena Grant
Council Member Gonzales nominated Gina Hernandez and William Desoto
Mayor Pro Tem Mihalkanin nominated Matthew Naperstek and Mary Earls
Mayor Hughson nominated Carol Garcia, Kathy Martinez-Prather, and Cherif Gacis
Deputy Mayor Pro Tem Rockeymoore nominated Victor Jackson and David Sergi
Council Member Marquez nominated Samantha Benavides and Mittie Miller
Council Member Baker nominated Nina Ramos and Kenneth Ward**

A motion was made by Mayor Hughson, seconded by Council Member Gonzales, to approve the slate of nominated individuals to serve on the Use of Force Ad Hoc Committee. 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. Consider applications from interested citizens for service on a Comprehensive Plan Rewrite Steering Committee charged with assisting in the City's Comprehensive Plan rewrite; hold discussion and make appointments to the committee, and provide direction to Staff.**

Mayor Hughson received confirmation that if a Council Member is appointed to this committee and are not re-elected to serve on City Council, they must step down and a replacement will be made.

The following nominations were made to fill the Council Member roles on the steering committee:

**Mayor Pro Tem Mihalkanin nominated Mayor Hughson
Council Member Gonzales nominated Council Member Derrick
Council Member Marquez nominated Council Member Baker
Votes received for Hughson were : Mihalkanin, Hughson, Marquez, Derrick, Gonzales
Votes received for Derrick were : Mihalkanin, Hughson, Rockeymoore, Marquez, Baker, Derrick, Gonzales**

Votes received for Baker were : Rockeymoore, Marquez, Baker,

Following a roll call vote Mayor Hughson and Council Member Derrick received a majority of the votes and were selected to serve.

The following were selected by their Organization to serve:

- Two Planning and Zoning Commission members - Commission Betsygail Rand and Commissioner William Agnew**
- One representative from Hays County - Caitlyn Strickland**
- One representative from San Marcos Consolidated ISD - Michael Cardona or James Barton**
- One representative from Texas State University - Nancy Nusbaum**
- One representative from the San Marcos Chamber of Commerce - Keely Sonlitner**

Council Member Derrick proposed adding members of the environmental community and proposed the organizations of the San Marcos River Foundation (SMRF) and The Meadows Center for Water and the Environment (MCWE). Ms. Virginia Condie (SMRF) and Mr. Robert Mace (MCWE) have agreed to serve on this committee. Council concurred and the people named will be on the list to serve.

The following nominations were made to fill the citizen roles on the steering committee:

Council Member Gonzales nominated Amy Meeks, Tom Wassenich, and Joe Cox,

Mayor Pro Tem Mihalkanin nominated Jim Garber

Mayor Hughson nominated Griffin Spell, Gloria Salazar, and Joshua Paselk.

Deputy Mayor Pro Tem Rockeymoore nominated Elizabeth Arceneaux, Roland Saucedo, Paul Jensen, and

Council Member Marquez nominated Ryan Patrick Perkins, Linda Coker, Lisa Marie Coppoletta, and

Council Member Baker nominated Peter Vogt, Peter Tschirhart, Chana Temple, and

Council Member Derrick nominated Diana Baker, Ida Miller, and Jennifer Rogers

Consensus not to appoint members of the Planning and Zoning Commission other than those who were appointed by the Commission. Ms. Hughson then replaced her nomination of Griffin Spell with Robert Mooney.

Mayor Hughson confirmed with the council that Assistant Superintendent James Barton may serve as an alternate to Superintendent Cardona.

Mayor Pro Tem Mihalkanin asked to bring back his final two nominations at the next meeting.

A motion was made by Council Member Gonzales, seconded by Council Member Baker, to approve the slate of nominated individuals to serve on the Comprehensive Plan Rewrite Steering Committee. 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 update on CARES Funding, discuss program strategy and options for Coronavirus Relief Fund (CRF) and Community Development Block Grant - Coronavirus (CDBG-CV) Round Three funding, and provide direction to staff.**

Stephanie Reyes, Assistant City Manager, provided a brief update and introduction regarding the Coronavirus Relief Fund (CRF) and Community Development Block Grant - Coronavirus (CDBG-CV) funding sources.

Michael Ostrowski, Assistant Director of Planning and Development Services, stated the city has received funding from the U.S. Department of the Treasury - Texas Department of Emergency Management (TDEM) - Coronavirus Relief Fund (CRF) in the amount of \$3,655,630 and funding from the U.S. Housing and Urban Development Department (HUD) - Community Development Block Grant – Coronavirus (CDBG-CV) in the amount of \$567,825.

This is an update regarding CRF and CDBGV-CV monies and staff is seeking City Council direction regarding next steps and possible programs for spending these funds.

The general requirements for the CRF funding include the following:

- Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);**
- Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and**
- Were incurred during the period that begins on March 1,2020, and ends on December 30, 2020.**

Funds must be used prior to December 30, 2020 and bills must be paid by March 30, 2021.

For the CARES Act, we were allocated \$3,655,630. Funding is broken down into two separate categories and spending must be maintained at a $\geq 75\%$ / $\leq 25\%$

spending ratio regardless of how much you spend.

– $\geq 75\%$: \$2,741,723

– $\leq 25\%$: \$913,907

Eligible cost for the $\geq 75\%$: \$2,741,723 include medical expenses, public health expenses, and payroll expenses for public safety, public health, health care, human services, and similar employees.

Eligible cost for $-\leq 25\%$: \$913,907 include expenses of actions to facilitate compliance with COVID-19-related public health measures, expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, and any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

The total CRF Recommendation includes the following:

- Public health expenses = \$400,000**
- Payroll expenses = \$2,416,705**
- Economic support = \$298,925**
- School district technology - \$98,925 (approved by resolution)**
- Utility billing assistance - \$200,000**
- Function of government = \$540,000**
- City phone system - \$500,000**
- City learning management system - \$40,000**
- TOTAL = \$3,655,630 (100%)**

Staff stated other potential activities to include PPE for the community, but the city does have masks available to distribute to the community. Another option is to do a community survey to obtain information from citizens to determine where the needs are for this funding.

Mr. Ostrowski stated documentation practices must be in place for submission to TDEM by November 13th, the final date for CRF related activity is December 30th and final payments must be made by March 31, 2021. He

reminded Council about the \$425,261 round one funding received and how that was allocated. He noted that round two funding went to the states, and in round three more funding was allocated to communities with:

- high risk of virus spread due to overcrowding or unemployment
- large numbers of very low-income renters
- businesses not reopening or failing, especially in specified industries
- homes of the employees of closed and struggling businesses

The primary concerns are eviction prevention and impact on businesses and employment.

The recommendation for CDBG-CV allocation include:

Eviction Prevention for Renters, Homeowners, and/or Small Businesses

- Rent / Mortgage / Utilities
- % of funding proportionate to number of eligible applications received
- Individuals < 60% Area Median Income (\$58,560 for a family of 4)
- Businesses < 50 employees
- Awarded either by lottery or evaluation of need
- Third parties to create and administer each program

Other Possible Additional Funding: Texas Eviction Diversion Program

- CDBG-CV funding through the Texas Department of Housing and Community Affairs (TDHCA)
- 1st round by the end of the year – automatic
- Competitive round early 2021

Next Steps: CDBG-CV

After Council Direction is a required 5-day comment period on proposed programs

11/17/20 - Public hearing and City Council vote on proposed programs

After Council Vote on proposed programs - Notice of Funding Availability

December - Selected agency contract awarded – (City Manager approved)

January - Marketing

February - Application review and payments

3-21-30

Council discussion was held regarding the CRF funding and direction is requested on the following:

CRF:

- **Public health expenses = \$400,000**
 - PPE, sanitizer stations, and fencing - \$200,000 (already spent)
 - HVAC system for buildings - \$200,000

- **Payroll expenses = \$2,416,705**

- **Economic support = \$298,925**
 - School district technology - \$98,925 (approved by resolution)
 - Utility billing assistance - \$200,000

- **Function of government = \$540,000**
 - City phone system - \$500,000
 - City learning management system - \$40,000

Council Member Baker asked about payroll and who would receive this. Mrs. Reyes stated this is primarily for public safety, risk management and some Convention and Visitor Bureau staff. Council Member Baker expressed concerns about no allocation toward medical expenses. He would like to see an incentive for employees to test and to make sure they are allowed to test during business hours if necessary.

Council Member Derrick would like updates on how much was spent and how much will be available for future allocation. She is concerned with 100% being allocated and wanted further explanation on round three funding.

Mr. Ostrowski stated there is an option to see where the demand is and we can re-allocate funds to those programs. However, if we re-allocate we need to re-allocate all funds before submitting our plan to HUD.

Council Member Baker asked that if the CRF goal is to free up money from the general fund, could we utilize funds from the general funds sooner to assist people. Mrs. Reyes would like to get approval from TDEM and bring it back to Council prior to utilizing these funds. We are still in a pandemic and if there is additional spike or another shutdown we need to make sure we are prepared before we spend those funds. Council Member Baker expressed his concerns with adding time to the process and we need to focus on those members of the community that have not received any public funding.

Mayor Hughson would like to have a plan in place so when approved funds can be immediately disbursed. She asked when will the City be reimbursed? Victoria Runkle, Interim Director of Finance, stated the first 20% is sent and

all remaining funding is reimbursed. Mrs. Reyes believes early January/February would be the latest funds would be received.

Mayor Pro Tem Mihalkanin would like to make sure if the City Government uses money from the general fund, they want to ensure this is reimbursed.

An item will be brought forward regarding CRF funding to ensure expenses are approved by Council.

Council discussion was held regarding the CDBG-CV funding and direction was requested on the following:

CDBG-CV:

- Rent / Mortgage / Utilities**
- % of funding proportionate to number of eligible applications received**
- Individuals < 60% Area Median Income (\$58,560 for a family of 4)**
- Businesses < 50 employees**
- Awarded either by lottery or evaluation of need**
- Third parties to create and administer each program**

Council Member Baker addressed concerns for hiring third parties to create and administer each program. He would like to focus on renters and homeowners to prevent evictions.

Council Member Derrick is okay with current staff recommendation, unless we see a need to revise. Consensus is to approve staff recommendation as presented.

Mrs. Reyes asked about the community survey and if Council would like staff to move forward with this to determine what citizen needs are and what benefits the community the most.

Mayor wants to make sure if this is done, we need to reach everyone in the community as not everyone has access to a computer or smart phone. Council Member Marquez stated hiring a company and utilizing CARES funding takes that funding from citizens and we should allocate those funds in a wiser way.

Mrs. Reyes noted that Community Action received funding for rental and utility assistance. Citizens just need to contact them for and prove that hardship was caused by COVID. She stated staff will update the City's website with this information.

23. Receive a Staff presentation and hold discussion regarding the utility disconnections for non-payment, and provide direction to Staff.

Melissa Neel, Assistant Director of Finance provided a brief update to Council regarding utility disconnects. Council suspended utility service disconnections during the COVID emergency in March. On July 7, 2020 council approved extending the freeze on disconnects through the end of September 2020. Utility disconnects remain on-hold. Staff recommends extending the freeze on utility disconnects through January 2, 2021. Staff will increase community outreach and expand customer communications as recommended.

The following steps and timeline are recommended by staff, but council direction is requested:

- **Resume Utility Disconnections – January 2021**
- **Community Outreach Initiatives – Nov & Dec 2020**
- **On Bill Message**
- **Social Media**
- **Utility Bill Insert**
- **Utility Lobby Signs**
- **Payment Plans (Available now – promote in Outreach)**
- **30, 60, 90 day payment arrangements**
- **Apply deposit to outstanding balance**
- **Promote Utility Assistance through Community Action**
- **Additional Customer Communication**
- **Additional language in Delinquent Notices about payment options**
- **Robo Calls 2 days prior to disconnections (Initiate Jan 2021)**
- **Individual Communication for frequently disconnected customers (Nov – Dec 2020)**

Ms. Neel provided the Utility Assistance Program Summary:

- **Fiscal Year 2021 funding allocation to the Utility Assistance Program - \$120,000**
- **Changes to Community Action funding criteria went into effect August 2020 to accommodate financial impacts due to emergency situations**

Ms. Neel provided a summary of fiscal year 2020 funding allocation totaling 136 accounts in the amount of \$39,378.16.

Mayor Hughson expressed her concern regarding the low number of citizens that have participated in this program. She is concerned that lack of information is causing people who don't know about the program to spend limited funds keeping the lights on and the water running when they could

have relief in utility payments and use their limited cash to pay for rent and food.

Council Member Derrick suggested that staff send flyers at Apartment Complexes in order maximize outreach of this program.

Mayor Pro Tem Mihalkanin agrees with we need more outreach and he extend the outreach to churches and various social welfare organizations within the community.

Mayor Hughson asked if there is a maximum number of times citizens can utilize Community Action funding. Ernest Cavazos, Utility Customer Service & Information System Manager, stated citizens can utilize funds as often as needed as long as they qualify. Mr. Cavazos stated there are other funding options as well through the City. Mr. Cavazos will provide the numbers for the Community Action funding.

Council Member Baker noted his experience with cutoffs including issues at times with the online portal not accepting payment.

Council Member Gonzales asked if customers are being informed of the utility billing assistance. Mr. Cavazos stated customers are being informed of the city's assistance and other programs that can help, but they still require an application to go through the process. There is a waiting period to get the application processed.

Mayor Pro Tem Mihalkanin stated the City government places money into the assistance program. He would like to see a quicker turnaround time of these monies and processing should not be held up. Mr. Cavazos stated the criteria was much stricter until the guidelines were revised in March, so they are working on ways to release these funds more quickly. Dr. Mihalkanin wants to ensure assistance is received quicker if the city staff recognizes the need of the customer was directly caused by COVID. . Mr. Lumbreras Stated that staff would work on this. He also noted that winter is not a good time for disconnects.

Hughson noted that January 2 is likely to be problematic for those with children whose bills for Christmas gifts will arrive in January. She would like to see a later deadline. Even once the pandemic is over, some people will have been out of work for a while and will need help to recover.

Council provided consensus to resume utility disconnects March 31, 2021, but bring this item forward in March to allow council to review. Council also requested that staff look at ways to release funding more quickly to those customers in need. Mr. Lumbreras assured the Council he would handle this.

- 24.** Hold discussion on San Marcos Convention and Visitor Bureau Board Recommendation Resolution proposing to the City Council that the Second Saturday of May and October be recognized as World Migratory Bird Days; and provide direction to staff.

Rebecca Ybarra Ramirez, Director of Destination Services, stated Jo Korthals is leading the charge for the application process that will be submitted to Texas Park and Wildlife that would designate San Marcos as a "Bird City". The City will also recognize the first Saturday in May and October as World Migratory Bird Days.

Ms. Ybarra Ramirez stated once the application is approved, an annual report would be submitted annually to maintain designation. This designation will continue to enhance the City's reputation for leadership in protecting its natural environment including bird habitats, as well as recognize the interests of many citizens in bird conservation.

Council provided consensus to move forward with the application process.

- 25.** Hold discussion on Parks and Recreation Board Recommendation Resolution 2020-02RR, supporting the implementation of healthy streets, also known as slow streets, to promote active recreation and transportation in the public right of way on low traffic neighborhood streets and to promote a multimodal network connecting greenspaces and parks, and provide direction to staff.

Jamie Lee Case, Assistant Director of Parks and Recreation, was in attendance to answer any questions. Mayor Hughson inquired if this suggestion has been sent to other staff, such as Engineering, for comment.

Council Member Baker likes this idea and appreciates the Parks Board for identifying a Phase 1 and likes that the input is driven from people that live on those streets. He is interested in what staff can do with more research. He was happy to see streets from his previous neighborhood on the list. He rides a bike and likes to walk in the street so this looks good to him.

Mayor Pro Tem Mihalkanin expressed his concerns and want to make sure the appropriate departments are informed and would like to know what some of the implications may be including budget needs. He is not opposed to this idea, but would like more information to ensure no unintended consequences.

Mayor Hughson expressed her concerns with some of the streets that are being

suggested within the plan.

Council Member Derrick thinks this is a great idea but wants to be respectful of staff time and budget.

Mr. Lumbreras stated that staff will do their due diligence and will look at all aspects if moved forward.

Council Member Baker asked if COVID funding could be used for phase 1 of this proposal. Staff will have to review this further. Mr. Lumbreras stated that he will check.

Mayor Hughson expressed her concerns and wants to ensure we are careful with which streets are considered and to have something that is attractive but also catches attention for safety purposes.

Mr. Lumbreras stated staff will look into this further and bring back at a future meeting.

26. Hold discussion on Historic Preservation Commission Recommendation Resolution 2020-02RR, proposing City Council support for the repatriation efforts of the Miakan-Garza Band of the Coahuiltecan people, and provide direction to staff.

Alison Brake, Historic Preservation Officer, provided a brief summary of this recommendation. Mrs. Brake state the Historic Preservation Commission (HPC) Chair, Commissioner Perkins, requested an item be placed on a future agenda. Discussion was held at the September 3, 2020 HPC meeting and Dr. Mario Garza, Elder Chair of The Indigenous Cultures Institute, presented information regarding the repatriation efforts of the Miakan-Garza Band of the Coahuiltecan people. On October 1, 2020 the HPC formally adopted Recommendation Resolution 2020-02RR, proposing City Council support these repatriation efforts.

Council Member Marquez expressed her appreciation for bringing this item forward. She stated the Miakan-Garza Band, founders of the local nonprofit Indigenous Cultures Institute, is working with the University of Texas Austin to rebury three of their ancestors that were unearthed from Hays County and are now in the possession of the university. The president of UT, Jay Hartzell, wrote a letter to the tribe stating that the university would request “a recommendation from the Native American Graves Protection and Repatriation Act Review Committee that would “enable [the university] to offer the remains promptly for reburial.” At this time UT and the Miakan-Garza tribe are going through the required NAGPRA process, which

will take several months for completion.

Dr. Marquez would like for the City Council to write a letter to President of UT Jay Hartzell letting him know that the Miakan-Garza tribe are respected members of our community and through their nonprofit organization, they, have provided many valuable programs including the annual Sacred Springs Powwow, the Indigenous Arts Summer Encounter for youth, and Indigenous Peoples Day celebrations. We would tell him that in collaboration with the Miakan-Garza tribe, we have established a reburial grounds in San Marcos for the repatriation of ancient remains unearthed from Hays County. We would also tell the president that we support the tribe in their request for the three remains and stand ready to help them rebury their ancestors in our City's reburial grounds. In the two previous repatriations at this reburial grounds our Parks Department made sure that the grounds were mowed and ready for the reburial ceremonies. The Miakan-Garza tribal members conducted the ceremonies which were open to the public so that we could all participate in this important endeavor to repatriate ancient ancestors.

She is requesting a letter of support attesting to the valuable contributions that this tribe has made to the diversity of our communities and multi-cultural program offerings that are of tremendous benefit to our City, and our support of their repatriation work.

Dr. Mario Garza, provided information on the process and the steps taken to have the remains returned to Hays County. He also stated San Marcos has the only Native American repatriation cemetery in Texas.

Mayor Pro Tem Mihalkanin requested a letter of support be sent to the Native American Graves Protection and Repatriation Act Review Committee as well.

Council provided consensus to move forward with a letters of support.

EXECUTIVE SESSION

27. 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-----.

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

ACTION/DIRECTION FROM EXECUTIVE SESSION

- 28. Consider action, by motion, or provide direction to Staff regarding the following Executive Session items held during the Work Session and/or Regular Meeting:
 - 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-----.

Mayor Hughson stated direction was provided to Staff on Items A, B and C in Executive Session earlier this afternoon. Item D was not discussed.

IV. Adjournment.

A motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Rockey Moore, to adjourn the regular meeting of the City council on Tuesday, October 20, 2020 at 11:28 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