



# City of San Marcos

## Meeting Minutes City Council

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Tuesday, December 15, 2020

6:00 PM

Virtual Meeting

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

### I. Call To Order

**With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Hughson at 6:01 p.m. Tuesday, December 15, 2020. This meeting was held virtually.**

### II. Roll Call

**Present:** 7 - Mayor Pro Tem Melissa Derrick, Mayor Jane Hughson, Council Member Maxfield Baker, Council Member Saul Gonzales, Deputy Mayor Pro Tem Shane Scott, Council Member Alyssa Garza and Council Member Mark Gleason

### III. 30 Minute Citizen Comment Period

**Dan Smith thanked council for hearing their concerns about the proposed rezoning on Steen Rd. He asked Council to carefully consider the zoning changes in the Tanglewood neighborhood. Mr. Smith expressed concern with the developer consistently changing the proposed lot sizes. Mr. Smith stated the nature of the East side of Craddock and the North end of LBJ is very college oriented and high density. He applauds the councils recent decisions to increase density in the middle of town for students to ease congestion and greenhouse emissions. Mr. Smith is concerned about the increasing of the density of people on N. LBJ as it will create more congestion, pollution and accidents. Mr. Smith would like council to preserve the features of the Tanglewood neighborhood.**

**Bobbie Gilbert, thanked Council for their service. Ms. Gilbert spoke about the proposed rezoning on Steen Rd and expressed concerns with traffic congestion, Fire Department not having easy access, school buses would have the same problem navigating and water problems associated with drought and supply. Ms. Gilbert is concerned with the devalue of homes already built on Timbercrest Street, Oak Ridge, Nichols Street, and the Elm Court area. Ms. Gilbert suggested using the green area to be a park for all the people and especially children. Mr. Gilbert stated the deer, foxes and raccoons, would still**

have a place to call their home.

## **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 the presentation on the COVID-19 update.**

### **Known Cases - as of December 15**

- **More than 1.3m total cases (273k active) cases in Texas with 23,911 fatalities**  
**\*source: Texas Department of State Health Services**
- **8,091 total cases in Hays County (1,057 active and 6,927 recovered) with 107 fatalities**  
**• 454 cases have required hospitalization, 16 current**
- **3,225 total cases in San Marcos (170 active and 3,013 recovered) with 41 fatalities**  
**\*source: Hays County Health Department**
- **1,242 total cases at TX State (118 active)**  
**• 1,159 students, 83 faculty/staff**  
**\*source: Texas State University Student Health Services**

**Mr. Stapp stated last week the City had 6 employees test positive and this week there are 3. Since March there has been 59 employees test positive.**

### **Testing Overview**

- **66,800 tests administered county wide**
  - **58,709 negative (87.9%)**
  - **8,091 confirmed (12.1%)**
- **Testing by Curative**
  - **San Marcos Outlet Malls (Premium side) - daily from 8:00 a.m. to 5:00 p.m.**
  - **San Marcos Public Library - week days from 9:00 a.m. to 5:00 p.m. next 2 weeks**
- **Future testing site - San Marcos High School**
  - **Planned for December 26**
  - **Stadium parking lot - entry off Hwy 123/Monterrey Oak**

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

- **December 2: Initial COVID-19 Vaccine Distribution For Month Of December**
  - **CDC initial allotment of over 1.4 million doses of the COVID-19 vaccines to Texas**
  - **Begin arriving the week of December 14th to qualifying providers across the**

state

- **December 7: Governor, TDEM Launch COVID-19 Rapid Testing Pilot Program**

**For Front Line Workers Of Small Businesses**

- TDEM will provide local Chamber of Commerce organizations with COVID-19 testing

supplies that will then allocate the supplies to local small businesses

- Uses the framework of the Rapid Testing Pilot Program for Texas school systems

- Pilot locations in Amarillo, Edinburg, El Paso, Laredo, and Lubbock

- **December 11: State Of Texas Activates Federal COVID-19 Vaccination Program For Long-Term Care Staff, Residents**

- Pharmacy Partnership for Long-Term Care Program: free of charge to facilities, staff and Pfizer vaccines from partnering Walgreens and CVS locations sent to facilities to vaccinate residents and staff who volunteer to participate

- First vaccines included in this program will be provided to pharmacies the week of December 21, 2020, and the program will begin December 28, 2020

Council Member Baker asked about the Governor's Order 32 that would constitute another shut down or restrictive measures. Mr. Stapp stated the factor for another restrictive measure is when the number of COVID patients in the region exceeds 15% of the total hospital capacity for seven days or longer. Mr. Stapp stated he is monitoring the numbers everyday on the Department of State Health Services (DSHS) dashboard. Mr. Stapp mentioned our region is at 7.2% which includes Austin and today it is 8%.

Council Member Derrick asked if Texas State University could report San Marcos campus case counts only. Mr. Stapp stated it is difficult for the University to determine which campus the student attends as many attend both.

Council Member Gonzales asked about the vaccines and when will it be available to citizens. Mr. Stapp stated the vaccines will first go to health care workers, possibly the nursing homes and employees. It could be as early in January or early Spring. Mr. Stapp mentioned that Department of State Health Services (DSHS) established some providers to administer the vaccine and we have 30 providers in Hays County and 8 or 9 in the City to administer but they have not received the vaccine as of yet.

Council Member Baker inquired about the increased employee case counts and

asked how contact tracing is being handled. Mr. Stapp stated the Human Resources Department has a staff member who is doing the contact tracing and follow up to make sure staff is following the quarantine guidelines.

Council Member Garza asked if there are any resources for business to comply with safety guidelines or for customers that do not want to comply. Mr. Stapp stated that the business can refuse service to customers and the Chamber of Commerce has a program to assist with small businesses.

Council Member Gonzales asked if someone gets the vaccine, could they still carry the virus? Mr. Stapp stated the vaccine is a two part vaccine. Texas Department Emergency Management (TDEM) and Department of State Health Services (DSHS) states that the person could still be a carrier.

## **CONSENT AGENDA**

A motion was made by Council Member Baker, seconded by Mayor Pro Tem Derrick, to approve the consent agenda with the exception of items # 2, 7, 8, and 9, as they were pulled and considered separately. The motion carried by the following vote:

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

2. Consider approval of Ordinance 2020-86, on the second of two readings, amending the project plan and reinvestment zone financing plan for Tax Increment Reinvestment Zone No. 4 - Kissing Tree, to increase reimbursement to developer by \$10,000,000 and add eligible projects costs for water testing over a 5 year period in the amount not to exceed \$265,000; authorizing the City Manager, or his designee, to execute such amendments on behalf of the City; including procedural provisions; and declaring an effective date..

A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Gonzales, to approve Ordinance 2020-86, on the second of two readings.

After Council discussion, consensus is to also bring the development agreement back to allow for amendments to the agreement.

The motion carried by the following vote:

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

3. Consider approval of Ordinance 2020-87, on the second of two readings, amending Chapter 39 of the San Marcos City Code regarding flood damage prevention by providing for enhanced flood damage prevention and mitigation standards; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
4. Consider approval of Resolution 2020-262R, approving the appointment of the Animal Control Supervisor as the temporary Local Rabies Control Authority (LRCA) as required by Texas Health and Safety Code section 826.017 until the Animal Services Manager position is filled; and declaring an effective date.
5. Consider approval of Resolution 2020-263R, authorizing the donation of the San Marcos Fire Department's Fire Safety House to the Hays County Office of Emergency Services; authorizing the City Manager or his designee to execute any documents necessary to facilitate the donation; and declaring an effective date.
6. Consider approval of Resolution 2020-264R, approving a list of qualified firms to provide eminent domain legal services to the City on an as-needed basis for a period of five (5) years; and declaring an effective date.
7. Consider approval of Resolution 2020-265R, approving the renewal of contract with Techline, Inc. through a Cooperative Purchasing Interlocal Agreement with the Lower Colorado River Authority (LCRA), for the provision of materials and supplies to be used by the San Marcos Electric Utility in an estimated annual amount of \$4,000,000.00 and authorizing three additional annual renewals; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Gonzales, to approve Resolution 2020-265R.**

**Council Member Scott would like to see this come back for annual approval, unless we are saving a substantial amount of money.**

**Tom Taggart, Director of Public Services, stated these funds are approved in our Capital Improvements Project (CIP) Process but we are not obligated to spend these funds. Michael Cosentino, City Attorney, confirmed this approval would allow for up to three additional annual renewals.**

**The motion to approve carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

8. Consider approval of Resolution 2020-266R, approving the renewal of an agreement with McCoy Tree Surgery, through a Cooperative Purchasing Interlocal Agreement with the Lower Colorado River Authority, for tree trimming services for the San Marcos Electric Utility in an estimated annual amount of \$1,600,000.00 and authorizing three additional annual renewals; authorizing the City Manager or his designee to execute the agreement and associated documents on behalf of the City; and declaring an effective date.

**MAIN MOTION: A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Baker, to approve Resolution 2020-266R.**

**Deputy Mayor Pro Tem Scott suggested that we take this effort in-house as part of a city department. Public Services Director Tom Taggart stated that we do not have the space for crews or trucks at this time but once we have settled into the new Public Services building, the plans are to bring this effort in-house.**

**MOTION TO AMEND: A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott, to amend Resolution 2020-266R, by removing the authorization of three additional annual renewals and requiring this contract come back on an annual basis for approval. The motion to amend carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**MAIN MOTION: to approve Resolution 2020-266R, as amended. The motion carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

9. Consider approval of Resolution 2020-267R, approving a renewal of the agreement with the San Marcos Area Chamber of Commerce in the estimated annual amount of \$38,100 for miscellaneous services, facilities and office space and authorizing two additional annual renewals; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

**MOTION TO DENY: a motion was made by Council Member Baker, seconded by Council Member Gonzales to deny the approval of Resolution 2020-267R.**

**Discussion was held regarding the dollar amount of the renewal agreement.**

**Council consensus is direction to staff is to bring back an update regarding the lease of property with the Chamber of Commerce.**

**MOTION TO POSTPONE: a motion was made by Mayor Hughson, seconded by Council Member Baker, to postpone Resolution 2020-267R to the January 5, 2021 City Council Meeting. The motion to postpone carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

10. Consider approval of Resolution 2020-268R, approving an Interlocal Agreement with the Lower Colorado River Authority relating to the sharing of telecommunication assets; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
11. Consider approval by motion of an Out of City Utility Extension request for water service by Seth Bonner, on behalf of Hunter Posey LTD for approximately 13.4, more or less, out of the Henry Warnell Survey, located at the intersection of Hunter Road and Posey Road.
12. Consider approval by motion of an Out of City Utility Extension request for water and wastewater services by Thomas K. Rhodes, on behalf of Top of the Hill Properties, LLC for approximately 4.851 acres, more or less, out of the J.M. Veramendi Survey, located at the intersection of Spring Road and Gordon Road.

## **PUBLIC HEARINGS**

13. 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.

**Shannon Mattingly, Director of Planning and Development Services, provided the presentation regarding the rezoning of 14.71 acres located at 1500 block of N. LBJ Drive (Steen Road).**

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

**Mayor Pro Tem Derrick opened the Public Hearing at 8:07p.m**

**Diane Eure, asked council to deny the request and expressed concerns with**

increased traffic, neighborhood integrity will be compromised, impact on the environment on the watershed, wildlife and cultural concerns and finally infrastructure concerns.

Naomi Medina, expressed concerns with the traffic analysis that will be completed after the development has been approved and is concerned with safety due to the high pedestrian traffic.

Harold Stern, asked council to vote against this project and expressed concern with lot sizes and potential for high congestion on LBJ with the road being narrow is dangerous.

Diane Osborne, spoke in opposition to the zoning change. She stated the developer has proposed changes in lot sizes that will put too many houses in that area for road conditions, environmental impact, and flooding/runoff. Expressed concern with the heavily trafficked road with vehicles and delivery trucks and could place additional strain on the already dangerous and highly trafficked portion of LBJ. Ms. Osborne expressed concern about the property damage and expenses to her home that previous development has caused.

Edward Sullivan, spoke against the rezoning and expressed concern with the development and safety for pedestrian and traffic.

Mary Potter, spoke against the rezoning of the project and expressed concerns with the shuttle buses from Texas State and should be diverted to Ranch Road 12 to better sustain bus traffic. Ms. Potter is concern with wildlife being displaced from natural habitats and losing livable space. Ms. Potter asked council to help preserve, maintain and save the neighborhood.

Guillermo Gajardo Jr., spoke against the rezoning and is concern with the traffic congestion and with overall lowering the quality of living in the established neighborhood. Mr. Gajardo expressed concerns with the developer adding traffic to N. LBJ, an already congested, narrow two lane road. He is also concerned that there is only one entrance planned for the area and the traffic safety. Mr. Gajardo asked council to preserve and protect neighborhoods and deny the proposed zoning change.

Janice Golick, spoke against this project and expressed concerns with congestion and traffic safety.

John Casseb, spoke against this project. Mr. Casseb suggested to council to



consider purchasing the property for parkland, in coordination with the San Marcos Greenbelt Alliance. He would like Council to direct a restriction attached to the property that allows for a minimum of ½ acre lots that would lessen the impact on traffic safety, environmental and infrastructure concerns. Mr. Casseb express concerns of the neighborhood integrity.

Lee Stern, spoke against the rezoning of the property due to aesthetic, environmental, and economic reasons. Mr. Casseb is concern with a new SF6 development will be smaller, cheaper housing, which most likely will become more student rentals. Expressed concern with the character of the neighborhood will decline Mr. Stern suggested the parcel under consideration would make a wonderful addition to a green belt. He stated if the area became a park, or a walking trail open to the public, the slope toward Sink Creek would be a beautiful and valuable addition to the community. It would enhance the peace and beauty of its surroundings. It wouldn't require the infrastructure needed to add more buildings.

Melonie Caldwell, spoke in opposition to the rezoning and has concerns with houses on a certain number of acres. Other concerns are excessive traffic, drainage, wildlife and safety for the residents. Ms. Caldwell would like a new zoning code that would allow for a minimum of half acre lots.

Jennifer Jensen, spoke in opposition to the zoning change would be a drastic change to the existing character of the neighborhood, result in significant and dangerous traffic problems on N.LBJ, and pose serious environmental concerns due to increased impervious surface cover and associated runoff. Ms. Jensen expressed concern that the proposed project will negatively affect the value of their property, have negative transportation impacts, significantly shift overland flow of water to residents further down Oakridge Dr., and destroy/degrade endangered species habitat.

Cynthia Gonzales, spoke against the rezoning. Ms. Gonzales expressed concern with additional traffic when TXST is in session, also concerned that the proposed lot sizes are not in agreement with the surrounding neighborhood. Ms. Gonzales stated the neighborhood needs a park and not more houses.

Mike Siefert, applicant of the proposed project and stated he met and listened to residents' feedback. He has added deed restrictions to include with proposal that cuts the proposed density in half. Mr. Siferet stated the lot size has been added to the deed restrictions and he is available to answer questions.

**Mayor Pro Tem Derrick closed the Public Hearing at 8:36 p.m.**

**A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Gleason, to approve Ordinance 2020-77, on the first of two readings.**

**Deputy Mayor Pro Tem Scott stated there is a concern for traffic and compromise needs to be made due to sensitivity of this area.**

**Council Member Baker asked Mr. Siefert for clarification regarding the size of the lots being 10,000 sq ft. but citizens are looking for 17,000 sq ft. or three houses per acre. Mr. Siefert stated the residents' general request was for the proposed plan to match the neighborhood lot size of 17,000 sq ft. The original request was for 6,000 sq ft but they compromised on a lot size of 10,000 sq ft with minimal residential lots that meets three houses per acre.**

**Council Member Gleason stated he voted no while he was on P&Z and he will be voting no today. Mr. Gleason stated he has concerns with density, the road is so dangerous, and he not sure how there can be 40 homes in the area. Mr. Gleason would like to defer this item back to Planning and Zoning Commission.**

**Terry Irion, Mr. Siefert's attorney stated this is less dense family zoning. With the typography and the requirement on the water quality and detention pond there may be some smaller lots than the 10,000 sq ft. They would like to see the property zoned now. There has been an opportunity for 5 years to rezone and the property owner has been negotiating for 2 years. The applicant wants to move to the next steps of the process of rezoning and then subdivision filing.**

**Council Member Gonzales asked the City Attorney if the rezoning is denied this evening could the applicant come back with significant changes in the rezoning within the year. Mr. Cosentino stated the ordinance states that if denied, there is a requirement of a one year waiting period, but it doesn't apply if there is finding of the Commission and Council with a two thirds vote that there is substantial changes to the conditions surrounding the subject tract to come back sooner.**

**Council Member Baker inquired about the additional two acres owned by the applicant that are not up for rezoning. Ms. Mattingly stated the applicant owns two vacant lots that are zoned SF 6 and not part of the proposed project.**

Mayor Pro Tem Derrick asked Mr. Siefert if there is consideration of having a restrictive covenant on the two lots. Mr. Siefert stated those two lots were zoned 5 years ago and the density of the proposed project was cut in half with 10,000 sq ft lots.

Council Member Gleason advised Mr. Siefert that he would like for him to go back to P&Z because a super majority vote would be needed tonight and if the item goes back and gets a recommendation approval from P&Z, it will allow time to find a solution and would need simple majority vote.

Ms. Mattingly stated there are other zoning districts in addition to SF 6 and they couldn't come back with SF 6 and there is an SR-R for a rural setting.

Mayor Pro Tem Derrick asked if the current owners are going to develop themselves. Mr. Siefert stated they are land developers and not home builders.

Mr. Siefert asked Council what they might view as a supportive project and would like to know what council would approve. Mr. Siefert supports going back to P&Z. Council Member Gleason stated that he would like to see the 14 acres with one to two homes on each acre and the SF-R would not be dense enough. He would also be interested in the comments from the neighbors and the P&Z commission.

Mayor Pro Tem Derrick stated there needs to be less density and inquired about how much will be dedicated parkland. Mr. Siefert does not recall how much needs to be dedicated. Mayor Pro Tem Derrick stated if there is public access to the parkland to the spring natural area that would be a plus to the neighbors. She inquired about the expense of the traffic impact analysis. Ms. Mattingly stated the traffic impact analysis is not part of the zoning. If the developer knows how the project will look like maybe they can do a traffic impact analysis but with this zoning and the units there is not a huge impact on the residential side.

Mayor Pro Tem Derrick expressed concerns on safety and neighbors talking about runoff with flooding. Ms. Moyer stated the project is on the contributing zone to the transition zone and the runoff can't exceed existing conditions. The developer stated there are detention requirements and water quality volume with low flowage stored to avoid erosion and there are a lot of environmental constraints. Mayor Pro Tem Derrick stated the City does not allow displacement of water from one development to another development.

**MOTION TO POSTPONE:** a motion was made by Council Member Gleason,

**seconded by Deputy Mayor Pro Tem Scott, to postpone Ordinance 2020-77 to defer item back to Planning and Zoning Commission. The motion carried by the following vote:**

**For:** 6 - Mayor Pro Tem Derrick, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**Recused:** 1 - Mayor Hughson

## **NON-CONSENT AGENDA**

- 14.** Consider approval of Resolution 2020-269R, directing publication of a Notice of Intention to issue Certificates of Obligation in the amount not to exceed \$8,700,000 for constructing, improving, designing, acquiring and equipping the City's (1) Road and Street projects, to include a railroad overpass and related infrastructure on Yarrington Road; and (2) the payment of professional services in connection therewith including legal, Fiscal and Engineering fees and the costs of issuing the Certificates of Obligation and other matters related thereto; and declaring an effective date.

**A motion was made by Mayor Pro Tem Derrick, seconded by Council Member Baker, to approve Resolution 2020-269R.**

**Victoria Runkle, Interim Finance Director, stated construction was completed in 2005 and the total amount owed to the developer through the TIRZ was \$9.6 million. A TIRZ was created to use property tax from the Blanco Vista development to repay the debt.**

**The Finance and Audit committee recommended paying off the debt which would be at a lower rate. The City can borrow money and issue debt at an average annual debt rate of 2.83% over 20 years. Annual payments would be an average of \$545,000 over 20 years. The City will use the revenue from the property tax payments to pay the debt; and the City will also gain, at least, \$1305,000 in revenue for the General Fund.**

**The new Finance Director will evaluate this in early 2021 and how it will be affected by Senate Bill 2.**

**The motion to approve carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

- 15.** Consider approval of Resolution 2020-270R, creating the Community Development

Block Grant-Mitigation (CDBG-MIT) Advisory Committee and designating the initial members of the Committee; and declaring an effective date.

**Joe Pantalion, Assistant City Manager announced that tonight is Mr. Ostrowski's last council meeting and thanked him for his service to the City. The Council also thanked Mr. Ostrowski.**

**Michael Ostrowski, Assistant Director of Planning and Development Services, provided the presentation on the Action Plan which was approved in March 2020 and went to HUD for final approval on June 3, 2020. The CDBG-MIT budget was approved with the Action Plan.**

**Mr. Ostrowski stated as of September 15, 2020 and required by HUD (84 FR 45838) that a Citizen Advisory Committee is required. There are specific requirements that the committee must meet twice per year, minimum and the composition is made up of citizens, not elected officials.**

**Mr. Ostrowski stated staff recommends that City Council create the CDBG-MIT Advisory Committee, to be in effect until grant closeout. Staff recommends that City Council designate the following volunteers as the members of this committee:**

**Planning and Zoning Commission Members: William Agnew, Michael Dillon, and Travis Kelsey.**

**Parks and Recreation Advisory Board Members: Keith Ubben and Peter A. Vogt**

**A motion was made by Council Member Baker, seconded by Mayor Pro Tem Derrick, to approve Resolution 2020-270R and approving the appointment of the members listed above. The motion carried by the following vote:**

**For: 7 -** Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against: 0**

- 16. Consider approval of Resolution 2020-271R, appointing a member and alternate member to the Capital Area Metropolitan Planning Organization ("CAMPO") Transportation Policy Board; and declaring an effective date.**

**MAIN MOTION: A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Baker, to approve Resolution 2020-271R.**

**MOTION TO AMEND: a motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Gleason amending Resolution 2020 271R, by**

**including the appointment of Mayor Hughson (Member) and Council Member Gleason (Alternate Member) to the CAMPO Transportation Policy Board. The motion carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**MAIN MOTION: to approve Resolution 2020-271R, as amended.**

**The motion carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

17. Consider approval of Resolution 2020-272R, establishing a moratorium on financial incentives for residential developments including, but not limited to, Public Improvement Districts, Tax Increment Reinvestment Zones, and Chapter 380 Economic Development Grants, until the City has completed revision of its Comprehensive Plan and determined if there is a need to offer such incentives; and declaring an effective date.

**MAIN MOTION: a motion was made by Council Member Gonzales, seconded by Council Member Baker, to approve Resolution 2020-272R.**

**Michael Ostrowski, Assistant Director of Development Services, provided a presentation and stated that Council provided previous direction to extend the moratorium on financial incentives for residential development with certain exceptions. Council further refined the resolution and what exceptions would be allowed. Mr. Ostrowski provided a long term recommendation and a shorter term recommendation.**

**The recommendation for the long term is to 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.**

**He stated that for the short-term recommendation, Council could direct City staff to not accept any applications for financial incentives for residential development until the City Council has approved a specific policy that is consistent with the newly adopted Comprehensive Plan.**

**As proposed, the restrictions, would not apply to applications for financial incentives that:**

**A. Are for infill or redevelopment projects.**

**B. Are for developments that would require at least 51% of the residential units be Workforce Housing. Workforce Housing shall be defined as households earning no more than 140% of the City of San Marcos area median family income.**

**C. Are for developments that propose or apply for a Texas Pollutant Discharge Elimination System (TPDES) permit to construct and operate a wastewater treatment “package plant” or other similar type system to handle the wastewater needs for the development, which may have an adverse impact on the environment and orderly extension of centralized city utility service.**

**D. Are for, or relate to, developments that have received a previous financial incentive.**

**MOTION TO AMEND: A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott, to amend section 2 b. of Resolution 2020 272R by adding the following language to the definition of workforce housing housing that can be purchased by. The sentence will now read as follows:**

**"Are for developments that would require at least 51% of the residential units be Workforce Housing. Workforce Housing shall be defined as housing that can be purchased by households earning no more than 140% of the City of San Marcos area median family income."**

**The motion to amend carried by the following vote:**

**For: 7 -** Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against: 0**

**MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott, to amend section 2 a. i of Resolution 2020-272R by removing the words "or under used parcels." The sentence will now read as follows:**

**"Infill projects are proposed developments of vacant land within an existing urban area (inside the city limits of San Marcos as of the effective date of this**

**resolution) that is already largely developed."**

**The motion to amend carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott, to amend section 2 a. ii by removing the work "higher" and "more."**

**The sentence will now read as follows:**

**"Redevelopment projects are proposed developments that transform previously developed property within the existing urban area (inside the city limits of San Marcos as of the effective date of this resolution) into a productive use."**

**The motion to amend carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott, to postpone Resolution 2020-272R to allow the workforce housing committee to review the different incentives and bring back to Council at a future meeting. The motion carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

- 18.** Consider approval of Resolution 2020-273R, approving a variance from the cut and fill requirements under Section 5.1.1.2 of the City's prior Land Development Code to allow fill of up to 15 feet for an approximately 71 Acre portion of the Whisper Subdivision bounded by Yarrington Road, Fortuna Road and Opportunity boulevard; and declaring an effective date.

**A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Baker, to approve Resolution 2020-273R.**

**Richard Reynosa, CIP Engineer provided a presentation. Mr. Reynosa stated that because this development was initiated before adoption of the current**



version of the Development Code, the developer may request a variance under the process provided in the former Land Development Code. The applicant is requesting a variance from cut and fill requirements under Sections 5.1.1.2(e) and 5.1.1.2(g), respectively. Per the LDC, “Cuts on a tract of land may not exceed four feet of depth....” Similarly, “Fill on a tract of land may not exceed four feet in depth...”

Under Section 5.1.1.2(i), the Engineering Director may approve a variance from cut and fill requirements of not more than eight feet, and the City Council may approve a variance for a cut or fill greater than eight feet.

The applicant is requesting a variance to allow cuts and fill up to 15 feet, and has submitted a formal request.

Staff has reviewed the request and found the following:

- Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
- Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
- The degree of variance requested is the minimum amount necessary to meet the needs of the petitioner and to satisfy the standards in this Section.

The motion to approve carried by the following vote:

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

19. Consider approval of Resolution 2020-274R, approving a variance from the parking requirements applicable in the Whisper Planned Development District to allow for 12 rows of parking within the first layer along Fortuna Road for an approximately 71 acre portion of the Development bounded by Yarrington Road, Fortuna Road and Opportunity Boulevard; and declaring an effective date.

**MAIN MOTION:** a motion was made by Deputy Mayor Pro Tem Scott, seconded by Mayor Pro Tem Derrick, to approve Resolution 2020-274R.

Shannon Mattingly, Director of Planning and Development Services provided a brief presentation.

Ms. Mattingly stated the property is subject to the Whisper Planned Development District (PDD), which was approved in 2017. Parking in the PDD

is restricted to one row of parking if located within the First Layer of the lot. Ms. Mattingly mentioned one row of parking is defined by the PDD as a single drive aisle with parking on both sides. The First Layer is described as the area between the property line bordering a street, and the face of the building.

Ms. Mattingly stated the applicant is requesting City Council to waive the parking requirement to allow 12 rows of parking (instead of the limit of one) within the First Layer along Fortuna Drive. The applicant is proposing a large detention pond between the parking lot area and the street. As Fortuna Drive is angled along the property line, the proposed parking lot is located between 150 360 feet away from Fortuna Drive. Ms. Mattingly mentioned the PDD has parking lot screening and landscaping requirements for which the applicant is not requesting a variance.

Council Member Baker inquired about impervious cover for the parking lot. Mr. Cosentino stated the council has the authority to grant a variance with conditions.

Deputy Mayor Pro Tem Scott stated this is a warehouse and the concrete will be used by large trucks and it needs a solid foundation.

Mayor Pro Tem Derrick would like to see more sustainability of this project. She inquired about a rain garden and pervious cover in areas that have sidewalks and around the facility.

Mayor Hughson asked if the applicant is asking for more pavement. Ms. Mattingly stated this is not for more pavement but to arrange the pavement differently.

Jim Welch, developer stated this variance request is to reconfigure the employee parking lot to allow it to be in front of the building. Mr. Welch stated in regards to sustainability the impervious cover will not do well with the warehouse parking. But they do have oversize ponds and grass lines to help with the grass filter strip. Mr. Welch stated this request is for employee safety and the distribution warehouse configuration.

Mayor Pro Tem Derrick asked about the electric car chargers for vehicles and solar panels.

Mr. Welch stated the company plans to have a electric charging stations for

vehicles and company trucks, fuel source for forklifts, and plans to use the grass to filter the water. He also mentioned a ride share program for employees and solar rooftops.

Mayor Hughson commended the company for proposing these sustainability measures and would like to have it written in the agreement.

Ms. Mattingly read the following items to be added to the agreement:

**Over Detention of Site Runoff**

**Grass-lined channels providing water quality**

**10 employee electric vehicle charging stations**

**10 electric semi-truck charging stations**

**100% Rooftop solar panels**

**Hydrogen fuel system**

**Designated ride share location**

Ms. Mattingly stated the suggestions can be added to the conditions of the agreement.

**MOTION TO TABLE:** a motion was made by Mayor Hughson, seconded by Council Member Baker, to table Resolution 2020-274R to give the applicant and staff time to compose the conditions. The motion carried by the following vote:

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

20. Consider approval, by motion, authorizing negotiations for a Public Improvement District, requested by R.W. McDonald, for approximately 596 acres of land proposed for mixed use development, known as Whisper South, located between IH 35 and the future FM 110, north of the Blanco River, and consider appointing a Council Committee to review the aforementioned Public Improvement District, if desired.

**A motion was made by Deputy Mayor Pro Tem Scott, seconded by Mayor Hughson, to approve the authorization of negotiations for a Public Improvement District, for approximately 596 acres of land proposed for mixed use development, known as Whisper South.**

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation.

Ms. Mattingly provided the summary of improvements that would be made to

**Roadways, Drainage, Wastewater, Water, Parks, Landscaping and Trails within the Whisper South development.**

**Ms. Mattingly provided the next steps:**

- **Committee Appointment (December 15, 2020)**
- **Negotiation with Staff and PID Council Committee**
- **Annexation & Zoning or Development Agreement**
- **Plat, Watershed Protection Plan, Public Improvement Construction Plans**

**A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott to consider appointing Mayor Hughson, Deputy Mayor Pro Tem Scott, and Council Member Gonzales to the new Whisper PID Committee.**

**The motion to approve carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**21. Consider nominations and make appointments to fill vacancies on the following Boards or Committees:**

**A. Council Committees**

- Core 4 Policy Group
- Criminal Justice Reform Committee
- Homelessness Committee
- La Cima Committee
- Legislative Committee
- Multimodal Transit Committee
- Sustainability Committee
- Citizen Utility Advisory Board
- Parking Advisory Board

**B. External Board/Committees**

- Alliance Regional Water Authority
- Greater San Marcos Partnership (GSMP) Board of Directors

**Council made nominations and appointments to the following Committees:**

**Core 4 Policy Group - Council Member Garza was unanimously approved for appointment**

**Criminal Justice Reform Committee - After a roll call vote, Mayor Hughson, Council Member Baker, and Council Member Garza were appointed**

**Homelessness Committee - Mayor Pro Tem Derrick, Council Member**

**Gonzales and Council Member Garza were appointed**

**La Cima Committee - Council Member Gleason was unanimously approved for appointment**

**Legislative Committee - Council Member Gleason was unanimously approved for appointment**

**Multimodal Transit Committee - Council Member Derrick volunteered to serve and was unanimously approved for appointment**

**Sustainability Committee - Mayor Hughson volunteered to serve and was unanimously approved for appointment**

**Citizen Utility Advisory Board - Deputy Mayor Pro Tem Scott was unanimously approved for appointment**

**Parking Advisory Board - Appointed to board is Mayor Hughson with term expiring in 2023 and Council Member Baker with term expiring in 2022**

**Alliance Regional Water Authority - Council Member Gleason was unanimously approved for appointment**

**Great San Marcos Partnership Board of Directors - Deputy Mayor Pro Tem Scott was unanimously approved for appointment**

**All nominations were approved by Council.**

- 19.** Consider approval of Resolution 2020-274R, approving a variance from the parking requirements applicable in the Whisper Planned Development District to allow for 12 rows of parking within the first layer along Fortuna Road for an approximately 71 acre portion of the Development bounded by Yarrington Road, Fortuna Road and Opportunity Boulevard; and declaring an effective date.

**A motion was made by Mayor Hughson, seconded by Council Member Gleason to remove Resolution 2020-274R from the table. The motion carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

**Ms. Mattingly stated per City Attorney, to amend the resolution by adding**

**language to the end of the sentence in Part 1 "subject to the development meeting the conditions set forth in Exhibit B."**

**The following list is exhibit B:**

**Over Detention of Site Runoff**

**Grass-lined channels providing water quality**

**10 employee electric vehicle charging stations**

**10 electric semi-truck charging stations**

**100% Rooftop solar panels**

**Hydrogen fuel system**

**Designated ride share location**

**A motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Scott, to approve Resolution 2020-274R, as amended, by adding the language per the City Attorney. The motion carried by the following vote:**

**For:** 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

**Against:** 0

- 22.** Discuss and consider appointments or reappointments to Positions One, Two, Three, Five, and Six of the Tax Increment Reinvestment Zone (TIRZ) Number 4 - Paso Robles (now known as Kissing Tree) Board of Directors, and provide direction to Staff.

**Deputy Mayor Pro Tem Scott nominated Mayor Hughson to serve in position #1, as the chair**

**Council Member Gleason volunteered to serve in position #2**

**Council Member Derrick volunteered to serve in position #3**

**Mayor Hughson nominated Chad Matheson for reappointment to position #5**

**Council Member Scott volunteered to serve in position #6**

**Following a roll call vote, all members were unanimously approved for appointment.**

- 23.** Discuss and consider appointment and/or reappointment to Position One, Two, and confirm Hays County appointment to Position four of the Tax Increment Reinvestment Zone (TIRZ) No. 5 (Downtown) Board of Directors, and provide direction to Staff.

**Mayor Hughson volunteered to continue in position #1, as the chair of the TIRZ #5 Board**

**Council Member Baker volunteered to serve in position #2**

**Following a roll call vote Mayor Hughson and Council Member Baker were unanimously approved to serve on the TIRZ #5 Board of Directors. Council**

**also confirmed the appointment of Hays County Commissioner, Lon Shell to serve in position #4.**

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

**Victoria Runkle, Interim Finance Director provided a presentation. Ms. Runkle stated this was a continuation from the discussion held in October regarding utility service. Due to COVID-19 there was discussion regarding the continuation of not terminating services or charging disconnection fees for non payment. Ms. Runkle mentioned the city is currently not terminating service nor charging late fees for utility service. Ms. Runkle stated staff is seeking council direction regarding late fees. Ms. Runkle stated this will be brought back in late February.**

**Deputy Mayor Pro Tem Scott stated no fees needs to be charged.**

**Mayor Pro Tem Derrick supports the staff recommendation.**

**Council Member Garza inquired about the status report of customers using Community Action assistance. Staff will provide report to Council.**

**Consensus is to move forward with staff recommendation.**

- 22.** Discuss and consider appointments or reappointments to Positions One, Two, Three, Five, and Six of the Tax Increment Reinvestment Zone (TIRZ) Number 4 - Paso Robles (now known as Kissing Tree) Board of Directors, and provide direction to Staff.

**A motion was made by Deputy Mayor Pro Tem Scott, seconded by Mayor Hughson, to reconsider the appointments to the TIRZ #4 Board of Directors.**

**The motion carried by the following vote:**

**For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason**

**Against: 0**

**Tammy Cook, Interim City Clerk, asked for reconsideration of this item as there were four members of City Council that were appointed, creating a quorum. One of these positions was historically held by a staff member of the Finance Department. Deputy Mayor Pro Tem Scott withdrew his request to serve on this board.**

**Mayor Hughson restated the following members will serve:**

**Position #1 - Mayor Hughson, Chair**

**Position #2 - Council Member Gleason**

**Position #3 - Council Member Derrick**

**Position #6 - Vacant, to be filled at a future date with new Finance Director appointment**

**Following a roll call vote, all members were unanimously approved for appointment.**

- 25. Receive a Staff update and hold discussion regarding the use of approximately \$2.5 million dollars in available monies due to CARES support, and provide direction to Staff.**

**Stephanie Reyes, Assistant City Manager, provided a brief presentation regarding the use of available monies due to CARES support.**

**Victoria Runkle, Interim Finance Director, provided the brief presentation and stated the information was given to Texas Department of Emergency Management (TDEM). Ms. Runkle stated the City purchased Personal Protection Equipment (PPE) for \$170K and touchless bathroom faucets. After working with TDEM to put money in the Police and Fire Departments labor costs that will free up \$2.6 million dollars that will be available to the general fund. Ms. Runkle stated the city has spent \$3,600,400. Staff has asked Carol Griffith, Housing and Community Development Manager and Diane Insley, Library Director for ideas on how to spend the money.**

**Council provided consensus to bring back ideas on how to utilize these funds.**

**Deputy Mayor Pro Tem Scott would like to defer this back to those who have been affected by COVID-19.**

**Council Member Baker suggested there be little to no barriers. He also wants to ensure school children have access to nutritious meals during the Holiday break.**

**Mayor Pro Tem Derrick suggested additional resources to help with the homeless situation and consider the moratorium on evictions.**

**Council Member Gleason stated this is for COVID-19 relief and organizations that help others.**

**Council Member Garza would like to assist the utility aid with fewer restrictions.**



**Council Member Baker asked about the timeline and suggested to have a special meeting.**

**Deputy Mayor Pro Tem Scott asked if the money is only for City residents. Ms. Runkle stated the money is in general fund and Council will decide on how to use it.**

**Due to the urgency of need in our community, Mayor Pro Tem Derrick suggested the council have a work session or workshop to come up with goals and ideas.**

**IV. Adjournment.**

**Mayor Hughson adjourned the regular meeting of the City Council at 12:09 a.m., Wednesday, December 16, 2020.**

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

**Jane Hughson, Mayor**