



MEMO

PARKS AND RECREATION

TO: The Honorable Mayor and City Council
FROM: Drew Wells, Director of Parks and Recreation
THROUGH: Bert Lumbreras, City Manager
Stephanie Reyes, Assistant City Manager
DATE: March 12, 2021
RE: **Lease of Parks Premises with San Marcos Lions Club**

This memo is intended to provide the history of the Lease of Parks Premises between the City of San Marcos ("City") and the San Marcos Lions Club ("Lions Club"), and the background of the recommendations that are being provided to City Council.

HISTORICAL TIMELINE OF COUNCIL ACTION:

November 23, 1981 – City Council considered an Ordinance to call a Special Election that would have been held on January 16, 1982 for the qualified voters of the city to consider a proposition approving or rejecting the terms and conditions of a lease of land in said city dedicated for park purposes to the Lions Club. The Council ultimately decided to place this on the same ballot as the General Election that was held April 3, 1982. Included as **Exhibit A**.

February 22, 1982 – City Council called the April 3, 1982 General and Special Election, which included a proposition for the purpose of approving or rejecting the terms and conditions of a lease of the outdoor storage/bathroom portion of San Marcos Rec Hall ("Rec Hall") in City Park, together with access to the parking lot adjacent thereto, to the Lions Club. The ballot language is included as **Exhibit B**.

April 3, 1982 – Special Election was held on the proposition mentioned within **Exhibit B**. The ballot proposition was approved.

July 10, 1989 – The City and the Lions Club entered into a service and use agreement where the Lions Club agreed to construct improvements at the Rec Hall which would provide additional storage space at said facility and donate time and services to maintenance and upkeep of said facility. Included as **Exhibit C**.

May 5, 1990 – The terms and conditions of a lease between the City and the Lions Club was placed before the voters for a second time with another proposition for the purposes of approving or rejecting the lease to the Lions Club of the outdoor storage/bathroom portion of the Rec Hall in City Park, together with access through the adjacent parking lot, for the purpose of conducting an inner tube rental operation subject to the terms and

conditions included as **Exhibit D**.

February 22, 1993 – The new lease terms and conditions that were previously approved by the voters in 1990 is approved. The lease was executed with a five-year term, and three consecutive five-year renewable options. (April 11, 1991-April 10, 2011). Included as **Exhibit E**.

March 25, 1996 – The first option to renew was considered and approved following the May 5, 1990 election. Included as **Exhibit F**.

July 9, 2002 - The City executed the second five-year renewal as previously approved. Included as **Exhibit G**.

April 17, 2007 – The lease was amended during the third option to renew for another five-year term and an allowance of the operation of a concession stand in Rio Vista Park was added. Included as **Exhibit H**.

November 2, 2010 – The General and Special Election were held. The Special Election ballot included Proposition No. 1 which asked the voters to consider authorizing the San Marcos City Council to lease portions of the Rec Hall at City Park to Lions Club for inner tube rental operation for an initial term of five (5) years, commencing April 11, 2011 with options to renew for up to four (4) additional terms of five (5) years each, upon mutual agreement. Included as **Exhibit I**.

June 21, 2011 – The City Council approved the lease agreement that was authorized to be entered into by the voters between the City and Lions Club providing for a five-year lease of a portion of the Rec Hall located in City Park for an annual rent of \$10,800, with an option to renew for up to four additional five-year terms upon mutual agreement. Included as **Exhibit J**.

RECOMMENDATIONS FOR COUNCIL CONSIDERATION

Parks and Recreation Board Recommendation

In late 2019, the Parks and Recreation Board began evaluating cost recovery percentages for all Parks and Recreation programs, services and rental facilities and provided City Council with a recommendation in January 2020 to increase certain fees and rental rates in an effort to close the cost recovery gap. This did not extend to facilities that were currently under long-term lease.

The Parks and Recreation Board has explored various ways of enhancing revenue to support management and maintenance operations of the Parks and Recreation Department. The Board discussed the Lions Club lease as a potential source to increase

revenues for the City. The Board's discussions focused on the market value of a commercial riverfront rental property and vending exclusivity in the river parks.

The Parks and Recreation Board adopted the attached Recommendation Resolution 2021-01R on February 25, 2021, included as **Exhibit K**, unanimously of the members that were present (6-0). Three members were absent due to conflicts following the date change from February 18 to February 25 because of the winter storm event.

Videos of Parks and Recreation Board discussions:

[February 20, 2020 Regular Meeting Video](#): Discussion begins at 45:10

[January 21, 2021 Regular Meeting Video](#) : Discussion begins at 4:50

[February 4, 2021 Special Meeting Video](#): Meeting was dedicated to Lions Club

[February 25, 2021 Regular Meeting Video](#): Discussion begins at 29:00

Minutes of all meetings are included as **Exhibit M**

Below are the Parks and Recreation Board's Recommendations:

Limit Days of Operation: Limit the days of operation for the lessee to offer commercial tubing and/or like recreation (rental and/or shuttles) to; 3 days out of Monday, Tuesday, Wednesday, Thursday, and Friday, and 1 day out of Saturday and Sunday. This will provide the river a period of rest from the commercial tubing operation and allow citizens to utilize the river for active recreation, which is often restrictive during the commercial tubing operation.

Rent Increase: Council should direct City Staff to determine fair market value for lease of the property based on local commercial real estate rates and similar municipal leases in other municipalities. Additionally, a surcharge of \$2.00 per tube rental and shuttle service must be added and provided to the City of San Marcos Parks and Recreation Department to support operations and improvements within the parks.

Litter Pick-up: The lessee must provide an employee to clean litter from the river channel, much of which is contributed by tubers. The Board recommends at least 2 hours of cleanup per operating day.

Lease Term: Change the lease renewal from 5 years to 2 years. This will provide the City better flexibility in making changes if future changes need to occur.

Lions Club Response

The Lions Club provided the City Council with a response via letter dated March 8, 2021.

Below are the summarized responses. The full response is included as **Exhibit L**.

Limit Days of Operation: Lions Club disagrees with this stipulation and is adamantly against closing any days of the week. They are willing to agree to only be open on weekends prior to Memorial Day and after Labor Day. They feel that limiting the days of operation will only cause confusion to their customer base and will not allow them to have staff to help with litter control and educate park patrons of park rules.

Rent Increase: Lions Club disagrees with the drastic increase in rent. The rental agreement was mutually agreed upon by both parties with staggered rent increases built into the contract. They have strived to keep the Lions Tube rental a friendly and affordable event for all. The 78666 area code is the most popular zip code from all their customers.

Increasing rent will not allow the Lions Club to keep it affordable for local families and will cause a drastic reduction in donations to local charities. In 2019, the Lions Club increased the tube rentals by \$2 a tube; and that caused an 11 percent decrease of tube rentals. The Lions Club would like to start a "River Park Improvements" donation fund to be utilized by the Parks and Recreation Department. They would start by having a donation page on their website and will add it to their point of sale, asking every customer for donations to help keep the river and parks beautiful.

Litter Pick-up: Lions Club agrees to add two additional hours for the weekends. They would also increase coverage from the parking lot to the river and up to the pedestrian bridges in City Park, as well as across the river at Dog Park. Additionally, they would cover part of Rio Vista where their concession stand is located to the riverbank and to Cheatham Street.

Lease Term: Lions Club disagrees with changing the lease to fewer years than the citizens of San Marcos voted and originally approved.

Staff Responses to Recommendations

Staff was not asked to provide perspective or information during the Parks and Recreation Board's work on their recommendation. To ensure that all perspectives have been provided, staff's response to the Parks and Recreation Board's recommendation is being provided as well.

Limit Days of Operation: Staff believes that the intent of this condition will not be met.

- Staff saw a great deal of river use by out of town visitors and residents last year following the Governor's order to shut down tube rental operations, and prior to our park re-closure.
- Most of the daily phone calls that Parks and Recreation Staff received during the

summer months were from out of town visitors asking about river park use.

Rent Increase: Staff remains supportive of the terms that were negotiated and approved in the 2011 lease agreement.

The Rec Hall was reconstructed following a fire that destroyed part of the previous building that was assumed to be over 40 years old at the time. The former building was 9,000 square feet and was replaced with adequate restroom facilities and a sustainable building. The total reconstruction price was \$983,767.50, of which the City was responsible for \$443,309.50. Rent payments were negotiated based on the total cost of the reconstruction of the portion of the building Lions Club leased from the City. Rental payments will reimburse the City \$298,500 over the terms of the lease. Total rent collected to date is \$110,750.

Litter Pick-up: City Council and Staff have worked hard over the last several years to abate the litter that is caused by river park use during the busy summer months. The City currently has the following litter abatement programs in place, along with a contract with Easter Seals which included additional litter collection during the busy season, and supports the Lions Club's recommendation for additional hours being provided by them on the weekends.

- **Leave No Trace:** Tents with two interns are stationed in the busy river parks on weekends during the summer. The interns play educational games, pass out trash bags for visitors, and pick up litter and micro-litter in the parks. An educational video about litter (created by City Staff) is played all day at the local tube rental facility. Paid for with eco-tourism funds \$15,000 per tubing season.
- **Conservation Crew:** TXST students are hired each summer to walk and kayak the heavily used recreation areas of the river. These students talk to river users about the impact of litter, hand out trash bags, clean out three litter boats in the river, and pick up litter along the river. The kayakers talk with people on the river as well. Paid for from Habitat Conservation Program funds. Staff estimates that 65% of their time is removing litter. So, 65% of \$51,400 total personnel annual budget equals \$33,410/year spent removing litter.
- **River Clean Up Events:** Twice a year, volunteers clean up the San Marcos River watershed within City limits. The clean-up has expanded from a small localized event to include all creeks, tributaries, drainage ditches and downtown streets that feed the San Marcos River. There is no cost to the City for these events. Everything is donated including giveaways and food.
- **Easter Seals:** Includes more than litter abatement. It also includes mowing and trimming. This occurs weekly April – Labor Day (20 weeks) in the total of \$83,369.80. This includes litter pickup as they are mowing and additional litter pickup on weekends from Memorial to Labor Day from approximately 2:00 p.m. – 10:00 p.m. based on when park traffic clears out. \$97,680 is budgeted for FY21.

Lease Term: Staff remains supportive of the lease term as previously approved by the qualified voters of the City.

Staff's Recommendation

Upon conclusion of the Parks and Recreation Board's meetings that resulted in the final Recommendation Resolution concerning the lease agreement, staff met with representatives of the Lions Club to initiate preliminary negotiations. During these meetings, the Lions Club representatives were provided an opportunity to respond to specific requests made by the Parks and Recreation Board, and through our discussions agreed to the following amendments of the agreement:

- Creation of a "River Park Improvements" donation fund to be utilized by the Parks and Recreation Department.
- Adding an additional two hours for litter control on the weekends for a total of 4 hours on each weekend day and two hours on weekday operations.

Staff informed representatives of the Lions Club that these mutually agreed upon amendments will be presented to the City Council, along with the recommendations from the Parks and Recreation Board, for their consideration. Ultimately, the City Council will provide direction to staff concerning execution of the proposed agreement.

COUNCIL OPTIONS

Following review of all recommendations, the City Council has the following options for consideration:

Option 1 – Place the lease renewal on the next agenda as is, unamended.

Option 2 – Place the lease renewal on the next agenda with the amendments that have been agreed to by the Lions Club.

Option 3 – Direct Staff to negotiate alternative amendments with the Lions Club based upon Council direction taking into consideration the Parks and Recreation Board's recommendation and the Lions Club's response which may require the necessity to extend the lease by one month to May 11, 2021.

END

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF SAN MARCOS,
TEXAS, NOVEMBER 23, 1981

PRESENT: Mayor	* Emmie Craddock
Mayor Pro-Tem	Berry R. James
Council Members	Karl W. Brown Robert L. Cavazos John A. Kreczmer Elida A. Mendez Tess Norris
City Manager	A. C. Gonzalez
City Secretary	Janis K. Womack
City Attorney	Barbara Edwards
Director of Finance	Earl Williams
Director of Public Safety	Robert Minnie

Also Present: Dr. Joel Goldman, Jeff Watkins, Virginia Nicolaidis, Chris Bishop, Bill Pryatel, Nina Pryatel, Roger Jenkins, Jake Krauskopf, students from San Marcos High School government class, Kelley Kilber, Bobby Whiteside, members of Lions Club, Joe Dobie, Shirley Wickersham, Jim Gandy, Brenda Smith, Jane Wilson and others.

Mayor Pro-Tem Berry James called the meeting to order at 7:30 p.m.

Mr. James introduced for consideration approval of the minutes of the Regular Meeting held November 9, 1981. Mrs. Norris moved to approve the minutes and Mr. Kreczmer seconded the motion, which passed unanimously.

Mr. James introduced for consideration approval of the minutes of the Emergency Meeting held November 16, 1981. Mr. Brown moved to approve the minutes and Mrs. Mendez seconded the motion, which passed unanimously.

Mr. James introduced for consideration approval of an appointment to fill the unexpired term on the Central Texas Higher Education Authority of Mr. C. D. Marshal, whose term expires in February, 1983. The Council by memoranda to the City Secretary had placed in nomination prior to the meeting the names of John Morrisset and Bib Underwood. On roll call the following vote was recorded:

Brown:	Underwood
Cavazos:	Morrisset
James:	Morrisset
Kreczmer:	Underwood
Mendez:	Morrisset
Norris:	Morrisset.

Mr. Morrisset will complete the unexpired term of Mr. Marshal on the Central Texas Higher Education Authority, and the City Secretary was instructed to place Mr. Underwood's name in nomination on the next Board opening.

Mr. James introduced for consideration an appointment from the Planning and Zoning Commission to fill the vacancy of Stanley Sessom on the Belvin Street Historical District. Mr. Brown moved that Aart Millecam be appointed to replace Mr. Sessom and Mr. Kreczmer seconded the motion, which passed unanimously.

Mr. James introduced for consideration adoption of an Ordinance on emergency amending Chapter 27, entitled "Taxicabs" of the Code of Ordinances, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING CHAPTER 27, ENTITLED "TAXI-CABS" OF THE CODE OF ORDINANCES, CITY OF SAN MARCOS, TEXAS, TO DEFINE TERMS; TO REQUIRE A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR PERSONS WISHING TO OPERATE A TAXICAB BUSINESS IN SAID CITY; TO SET STANDARDS FOR THE ISSUANCE OF SAID CERTIFICATES; TO SET FEES; TO PROVIDE STANDARDS FOR THE SUSPENSION AND REVOCATION OF SAID CERTIFICATES; TO REQUIRE TAXI-CAB DRIVERS' PERMITS; TO REQUIRE DISPLAY OF SAID PERMIT; TO REQUIRE INSPECTION OF TAXICABS; TO REQUIRE FILING OF RATES OF FARE AND THE DISPLAY OF RATE CARDS; TO SET STANDARDS FOR THE PROVISION OF SAID SERVICE TO PASSENGERS; TO REQUIRE THE KEEPING OF MANIFESTS; TO REQUIRE THE KEEPING OF CERTAIN RECORDS AND REPORTS; TO DESIGNATE AN ENFORCEMENT BODY; TO SET A PENALTY; TO PROVIDE FOR SEPARABILITY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.

Mrs. Norris moved for the adoption of the Ordinance on emergency and Mr. Cavazos seconded the motion, which passed unanimously. Mrs. Norris requested the City Attorney make a determination as to the legality of the taxi which was in service on November 23, 1981, without permit.

Mr. James introduced for consideration adoption of an Ordinance on emergency calling for a Special Election to be held January 16, 1982 involving dedicated parkland, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, CALLING A SPECIAL ELECTION ON JANUARY 16, 1982, TO BE HELD IN SAID CITY FOR THE PURPOSE OF APPROVING OR REJECTING THE TERMS AND CONDITIONS OF A LEASE OF LAND IN SAID CITY DEDICATED FOR PARK PURPOSES TO THE LIONS CLUB OF SAN MARCOS, TEXAS; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS AND DECLARING AN EMERGENCY.

Mr. Brown moved for the adoption of the Ordinance to get it on the table for discussion and Mrs. Mendez seconded the motion. Mr. Bobby Whiteside reiterated the Lions Club's desire to lease part of City Park for the rental and storage of tubes and for the calling of the election January 16, 1982. During discussion the Council voiced objection to the proposition to be submitted to the electors of a ten-year lease and discussed with Mr. Whiteside a possible five-year lease and five-year option be placed on the proposition.* After further discussion Mr. James moved that the Ordinance be tabled until the December 14, 1981 Regular Council Meeting so that a committee could be formed of Mayor Craddock, City Manager A. C. Gonzalez and Council Member John Kreczmer and members of the Lions Club to amend the Ordinance to present to the Council again on December 14, 1981 and Mrs. Norris seconded the motion, which passed unanimously.

Mr. James introduced for consideration approval of an Ordinance on first reading amending the Ordinance of September 8, 1981, which adopted the 1981-1982 Budget, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING THAT ORDINANCE ADOPTED SEPTEMBER 8, 1981, WHICH SET FORTH AN ITEMIZED ESTIMATE OF THE EXPENSE OF CONDUCTING EACH ADMINISTRATIVE UNIT OF THE MUNICIPAL GOVERNMENT OF SAID CITY FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 1981, AND ENDING ON SEPTEMBER 30, 1982, AND APPROPRIATED MONEY FOR THE VARIOUS FUNDS AND PURPOSES OF SUCH ESTIMATE TO REVISE SAID ESTIMATES AND TO REAPPROPRIATE SAID FUNDS; ADOPTING SAID REVISIONS AND ESTIMATES AND DECLARING AN EFFECTIVE DATE.

Mrs. Norris moved for the approval of the Ordinance on first reading and Mrs. James seconded the motion, which passed unanimously.

*Mr. Cavazos left the meeting at this point at 8:00 p.m.

Mr. James introduced for consideration approval of an Ordinance on second reading establishing a program of emergency management, the caption which was read as follows:

AN ORDINANCE ESTABLISHING A PROGRAM OF COMPREHENSIVE EMERGENCY MANAGEMENT WHICH INCLUDES THE MITIGATION, PREPAREDNESS RESPONSE AND RECOVERY PHASES OF CIVIL PREPAREDNESS; CREATING THE OFFICE OF EMERGENCY MANAGEMENT DIRECTOR; CREATING THE POSITION OF EMERGENCY MANAGEMENT COORDINATOR; AUTHORIZING THE APPOINTMENT OF AN EMERGENCY MANAGEMENT COORDINATOR; PROVIDING THE DUTIES AND RESPONSIBILITIES OF SAID OFFICES; IDENTIFYING AN OPERATIONAL ORGANIZATION; GRANTING NECESSARY POWERS TO COPE WITH ALL PHASES OF EMERGENCY MANAGEMENT WHICH THREATEN LIFE AND PROPERTY IN THE CITY OF SAN MARCOS, TEXAS; AUTHORIZING COOPERATIVE AND MUTUAL AID AGREEMENTS FOR RELIEF WORK BETWEEN THIS AND OTHER CITIES OR COUNTIES AND FOR RELATED PURPOSES; PROHIBITING UNAUTHORIZED WARNING AND ALL-CLEAR SIGNALS; MAKING VIOLATIONS A MISDEMEANOR PUNISHABLE BY FINE NOT TO EXCEED \$200.00; PROVIDING FOR SEPARABILITY AND DECLARING AN EFFECTIVE DATE.

Mrs. Norris moved to approve the Ordinance on second reading and Mr. Kreczmer seconded the motion, which passed unanimously.

Mr. James introduced for consideration approval of an Ordinance on second reading amending Chapter 5 entitled "Buildings and Building Regulations", the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING CHAPTER 5, ENTITLED "BUILDINGS AND BUILDING REGULATIONS" TO ADOPT THE STANDARD BUILDING CODE, 1979 EDITION, AND THE 1980-81 REVISIONS TO THE 1979 EDITION AND AMEND SAID CODE IN CERTAIN RESPECTS; TO SET A PENALTY AND DECLARING AN EFFECTIVE DATE.

Mrs. Norris moved to approve the Ordinance on second reading in order to get it on the table for discussion and Mrs. Mendez seconded the motion. City Manager A. C. Gonzalez reviewed with the Council the suggested changes that some of the local contractors had requested be considered by the Council. After discussion Mr. James moved that the Ordinance be amended to incorporate the fee structure as recommended by the local contractors and Staff, which would change Sec. 5-26. Section 106.2A. the annual license fee to \$150.00; and Sec. 5-28. Section 107.4. a. Permit Fees:

\$200.00 and less	No fee, unless inspection required in which case a \$5.00 fee for each inspection shall be charged.
\$201.00 to \$2000.00	\$25.00 flat fee.
\$2,001.00 to \$15,000.00	\$25.00 for the first \$2,000.00 plus \$3.00 for each additional thousand or fraction thereof to and including \$15,000.00.
\$15,001.00 to \$50,000.00	\$64.00 for the first \$15,000.00 plus \$3.50 for each additional thousand or fraction thereof to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$186.50 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof to and including \$100,000.00.

\$100,001.00 to \$500,000.00	\$386.50 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof to and including \$500,000.00.
\$500,001.00 to \$1,000,000.00	\$1,586.50 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof to and including \$1,000,000.00.
\$1,000,001.00 and up	\$2,586.50 for the first \$1,000,000.00 plus \$0.75 for each additional thousand or fraction thereof.

and add a new section:

- b. For all construction valued at \$1,000,000.00 and up, only the base fee will be applied if all inspections are certified by an architect/engineer as to conformance with the adopted Building Code of the City of San Marcos.

and delete Section e. Plan-checking fees.

Mrs. Norris seconded the motion, which passed unanimously.

Mr. James introduced for consideration the adoption of a Zoning Ordinance on third and final reading, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING SECTION 3 OF THAT ORDINANCE WHICH REGULATES AND RESTRICTS THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND, DATED SEPTEMBER 29, 1980 (VOL. 54) BY ZONING LOT NO. SIX (6) IN BLOCK NO. TWO (2) OF THE C. L. McGEHEE ADDITION, A/K/A 617 BURLESON STREET, FROM "R-1" (SINGLE-FAMILY DWELLING DISTRICT) TO "TH" (TOWNHOUSE RESIDENTIAL DISTRICT).

Mrs. Norris moved for the adoption of the Ordinance on third and final reading and Mrs. Mendez seconded the motion, which passed unanimously.

Mr. James introduced for consideration the adoption of a Zoning Ordinance on third and final reading, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING SECTION 3 OF THAT ORDINANCE WHICH REGULATES AND RESTRICTS THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND, DATED SEPTEMBER 29, 1980 (VOL. 54) BY ZONING THREE TRACTS OF LAND DESCRIBED AS FOLLOWS: (1) FIRST TRACT: 40.16 ACRES OF LAND, MORE OR LESS, OUT OF THE J. M. VERAMENDI LEAGUE NO. TWO AND BEING A PORTION OF LOT NO. 8 OF THE SHADRACH DIXON SUBDIVISION, FROM "AO" (AGRICULTURAL-OPEN SPACE DISTRICT) TO "C" (COMMERCIAL DISTRICT); (2) SECOND TRACT: 2.59 ACRES OF LAND, BEING A PORTION OF LOT NO. 8 OF THE SHADRACH DIXON SUBDIVISION, FROM "AO" (AGRICULTURAL-OPEN SPACE DISTRICT) TO "C" (COMMERCIAL DISTRICT); AND (3) THIRD TRACT: 19.32 ACRES OF LAND, MORE OR LESS, OUT OF THE J. M. VERAMENDI LEAGUE NO. TWO AND BEING A PORTION OF LOT NO. 8 OF THE SHADRACH DIXON SUBDIVISION, FROM "AO" (AGRICULTURAL-OPEN SPACE DISTRICT) TO "LI" (LIGHT INDUSTRIAL DISTRICT).

Mrs. Norris moved for the adoption of the Ordinance on third and final reading and Mr. Kreczmer seconded the motion. On roll call the following vote was recorded:

AYE: James, Kreczmer, Mendez and Norris.

NAY: None.

ABSTAIN: Brown.

Mr. James introduced for consideration the adoption of an Ordinance on third and final reading declaring a necessity for acquiring a portion of property located at the intersection of Guadalupe and Roosevelt Streets for public purpose, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, DECLARING THE NECESSITY OF ACQUIRING A PORTION OF BLOCK TWO (2) OF THE HOME FARM BLOCKS SUBDIVISION IN THE CITY OF SAN MARCOS, TEXAS, SAID PORTION LOCATED AT THE INTERSECTION OF GUADALUPE STREET AND ROOSEVELT STREET, FOR A PUBLIC PURPOSE; DESCRIBING THE PROJECT FOR WHICH SAID PROPERTY IS TO BE ACQUIRED; DESCRIBING SAID PROPERTY; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS AND DECLARING AN EFFECTIVE DATE.

Mrs. Norris moved for the adoption of the Ordinance on third and final reading and Mr. Kreczmer seconded the motion, which passed unanimously.

Mr. James introduced for consideration the adoption of an Ordinance on third and final reading amending Chapter 11 entitled "Food and Food Establishments" of the Code of Ordinances, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING CHAPTER 11, ENTITLED "FOOD AND FOOD ESTABLISHMENTS", OF THE CODE OF ORDINANCES OF SAID CITY TO ESTABLISH A PURPOSE; TO DEFINE TERMS; TO PROVIDE FOR THE SALE OF ONLY SOUND, PROPERLY LABELED FOOD; TO REGULATE THE SOURCE OF FOOD; TO ESTABLISH SANITATION STANDARDS FOR FOOD, FOOD PROTECTION, FOOD SERVICE PERSONNEL, FOOD SERVICE OPERATIONS, FOOD EQUIPMENT AND UTENSILS, SANITARY FACILITIES AND CONTROLS AND OTHER FACILITIES; TO REQUIRE PERMITS FOR THE OPERATION OF FOOD SERVICE ESTABLISHMENTS; TO REGULATE THE INSPECTION OF SUCH ESTABLISHMENTS; TO PROVIDE FOR THE EXAMINATION AND CONDEMNATION OF FOOD; TO PROVIDE FOR ENFORCEMENT AND TO SET PENALTIES AND DECLARING AN EFFECTIVE DATE.

Mr. Brown moved for the adoption of the Ordinance on third and final reading and Mrs. Norris seconded the motion, which passed unanimously.

Mr. James introduced for consideration the adoption of an Ordinance on third and final reading amending the Code of Ordinances to provide a standard for determining the charges to be levied for copies of the City Charter and/or Code of Ordinances and supplements thereto, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF SAN MARCOS, TEXAS, TO PROVIDE A STANDARD FOR DETERMINING CHARGES TO BE LEVIED BY CITY FOR COPIES OF CITY CHARTER AND/OR CODE OF ORDINANCES AND FOR SUPPLEMENTS TO SAID CHARTER AND CODE; TO DIRECT THE CITY SECRETARY TO MAINTAIN A SCHEDULE OF SAID CHARGES AND DECLARING AN EFFECTIVE DATE.

Mr. James introduced for consideration the adoption of a Resolution approving an agreement by the City of San Marcos Industrial Development Corporation to issue bonds for Esquire, Inc., the caption which was read as follows:

RESOLUTION APPROVING AGREEMENT BY CITY OF SAN MARCOS
INDUSTRIAL DEVELOPMENT CORPORATION TO ISSUE BONDS FOR
ESQUIRE, INC.

Mr. Brown moved for the adoption of the Resolution and Mrs. Norris seconded the motion. On roll call the following vote was recorded:

AYE: Brown, James, Mendez and Norris.

NAY: None.

ABSTAIN: Kreczmer.

Mr. James introduced for consideration the adoption of a Resolution approving final payment to Southwest Texas State University-Edwards Aquifer Research and Data Center for the provision of water quality analyses, the caption which was read as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN
MARCOS, TEXAS, APPROVING FINAL PAYMENT TO SOUTHWEST
TEXAS STATE UNIVERSITY-EDWARDS AQUIFER RESEARCH AND
DATA CENTER FOR THE PROVISION OF WATER QUALITY ANA-
LYSES DURING A TWENTY-FOUR WEEK PERIOD IN CONJUNCTION
WITH A UNITED STATES DEPARTMENT OF ENERGY WASTEWATER
TREATMENT PROJECT AND DECLARING AN EFFECTIVE DATE.

Mr. Brown moved for the adoption of the Resolution and Mrs. Norris seconded the motion, which passed unanimously.

Mr. James introduced for consideration approval of an award of bid to Red Simon Ford for six police cars. Mr. James moved the approval of the bid to get the matter on the table for discussion and Mr. Brown seconded the motion. During discussion Mrs. Norris voiced objection to the high bid and moved that rather than accept the bid of Red Simon Ford, rebid the six police cars. Mr. Minnie advised the Council that 20 dealers were requested to bid within a 75-mile radius of San Marcos and that the only two bids received were from Chuck Nash Chevrolet and Red Simon Ford, both of San Marcos. One San Antonio dealer advised he would not bid because of the requirement of a bid bond. Mrs. Norris withdrew her motion. Mr. James then returned to his original motion to approve the bid and to take additional funds from contingency to pay for the cars, which was seconded by Mr. Brown. On roll call the following vote was recorded:

AYE: Brown, James, Kreczmer and Mendez.

NAY: Norris.

ABSTAIN: None.

Mr. James introduced for consideration approval to bid on Victory Gardens' sidewalks. Mrs. Norris moved for approval to bid on the sidewalks and Mr. James seconded the motion. Mr. Kelley Kilber advised the Council this would be done in connection with the Victory Gardens Phase II project. On roll call the motion passed unanimously.

Mr. James introduced for consideration approval to pay from contingency funds a statement from Charles Davis for painting the Cock House. Mr. Brown moved for approval to pay Mr. Davis' statement from contingency funds in the amount of \$700.00 and Mrs. Norris seconded the motion, then expressed that she thought it would be important in the future to request approval prior to the work being performed. On roll call the following vote was recorded:

AYE: Brown, Kreczmer, Mendez and Norris.

NAY: James.

ABSTAIN: None.

Mr. James introduced for consideration approval for a colored photograph to be used on the cover of the San Marcos Master Plan. After some discussion Mrs. Norris moved that a black and white photograph be used on the cover and Mrs. Mendez seconded the motion, which passed unanimously.

Mr. James introduced for consideration approval of two nominations of the City Council for the Board of Review of the Hays County Appraisal District, Pete Rodriguez and Bill West. Mr. Brown moved that these two names be submitted to the Hays County Appraisal District for consideration for the Board of Review and Mrs. Norris seconded the motion, which passed unanimously.

Mr. James introduced for consideration an Ordinance on emergency amending Section 29-123 of the Code of Ordinances to add additional No Parking places, the caption which was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING SECTION 29-123 OF THE CODE OF ORDINANCES OF SAID CITY TO ADD THREE LOCATIONS WITHIN SAID CITY AT WHICH PARKING SHALL BE PROHIBITED AND DECLARING AN EMERGENCY.

Mrs. Norris moved for the adoption of the Ordinance on emergency and Mr. Kreczmer seconded the motion, which passed unanimously.

The meeting adjourned at 9:05 p.m. on motion of Mr. James and seconded by Mrs. Norris.

Karl W. Brown
Karl W. Brown
Council Member

John A. Kreczmer
John A. Kreczmer
Council Member

ATTEST:

Janis K. Womack
Janis K. Womack
City Secretary

Berry R. James
Berry R. James
Mayor Pro-Tem

Robert L. Cavazos
Robert L. Cavazos
Council Member

Elida A. Mendez
Elida A. Mendez
Council Member

Tess Norris
Tess Norris
Council Member

ORDINANCE NO. 1982-4

FILED
At 1:22 o'clock P.M.

FEB 18 1982

CITY SECRETARY
City of San Marcos

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ORDERING A REGULAR CITY ELECTION ON APRIL 3, 1982, TO ELECT A MAYOR, COUNCIL MEMBER, PLACE FIVE AND COUNCIL MEMBER, PLACE SIX AND TO APPROVE OR REJECT THE TERMS AND CONDITIONS OF A LEASE OF OUTDOOR STORAGE/BATHROOM PORTION OF THE RECREATIONAL BUILDING IN THE SAN MARCOS CITY PARK, TOGETHER WITH ACCESS TO THE PARKING LOT ADJACENT THERETO, TO THE LIONS CLUB OF SAN MARCOS, TEXAS; PROVIDING FOR POLLING PLACES; PROVIDING FOR THE FORM OF THE BALLOT; PROVIDING FOR HOURS OF ABSENTEE VOTING; PROVIDING FOR A SPECIAL CANVASSING BOARD; PROVIDING FOR THE USE OF AN ELECTRONIC VOTING SYSTEM; PROVIDING FOR PROPER NOTICE AND SUCH OTHER ASPECTS AS ARE INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF AN ORDINANCE ON THREE SEPARATE DAYS AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. That, in accordance with the provisions of Article III and Article V of the Charter of the City of San Marcos and the laws of the State of Texas, so far as same may be applicable, a regular city election shall be held and the same is ordered and directed to be held, at the various polling places in the City of San Marcos, Texas, as hereinafter designated, on the 3rd day of April, 1982, from the hours of 7:00 a.m. to 7:00 p.m. at which election there shall be elected by the qualified voters of the City of San Marcos from the City at large, a mayor for a term of two years, and one Council Member for Place Five and one Council Member for Place Six for terms of three years and at which election there shall be approved or rejected the terms and conditions of a lease of outdoor storage/bathroom portion of the recreational building in the San Marcos City Park, together with access to the parking lot adjacent thereto, to the Lions Club of San Marcos, Texas.

SECTION 2. That the proposition for the purpose of approving or rejecting the terms and conditions of a lease of outdoor storage/bathroom portion of the recreational building in the San Marcos City Park, together with access to the parking lot adjacent thereto, to the Lions Club of San Marcos be set forth on the ballot as follows so as to permit the electors to vote "FOR" or "AGAINST" the proposition:

That the City Council of the City of San Marcos, Texas shall lease the outdoor storage/bathroom portion of the recreational building in the San Marcos City Park, together with access to the parking lot adjacent to that portion of said building, to the Lions Club of San Marcos, Texas, for the purpose of conducting an inner tube rental operation, said lease to be on the following terms and conditions:

- (1) The Lions Club shall renovate said portion of the recreational building into three storage rooms (one of which shall be usable as a meeting room) and two bathrooms.
- (2) The Lions Club shall have exclusive control and possession of the leased premises from May 1 to October 31 for a five (5) year period.

- (3) At the time of the initial renovation the Lions Club shall paint the exterior of said portion of the recreational building and the two restrooms, and, thereafter, shall paint said exterior every fifth year and the bathrooms every year.
- (4) The Lions Club shall pay all lighting and heating costs attributable to the leased premises and shall provide tables and chairs for the meeting room.
- (5) The Lions Club shall, during the periods of its exclusive control and possession, keep said storage rooms, meeting room and bathrooms in a clean condition, and shall also provide assistance to the City in the regular cleaning of the area adjacent to the recreational building, including the picnic area and parking lot during the periods of its exclusive control and possession.
- (6) The City of San Marcos shall continue to maintain those areas of City Park not specifically assigned to Lions Club for maintenance.
- (7) The Lions Club shall assist the City in future projects within the City's park system.
- (8) The Lions Club shall have the option to renew the lease for an additional five (5) year period.

SECTION 3. That the election precincts for said election shall be, in all respects, the same precincts as those Hays County Election Precincts which are within the incorporated city limits of the City of San Marcos.

SECTION 4. That the polling places and officers for said election shall be as follows:

<u>Precinct Number</u>	<u>Polling Place</u>	<u>Presiding Judge</u>	<u>Alternate Presiding Judge</u>
11	Dunbar Center Endicott Street	Nelvia Burleson	Deborah Dobie
12	Guadalupe Hall 218 Roosevelt Street	Joe Gonzales	Herminia Flores
13	San Marcos High School Auditorium 1/2 mile Seguin Highway	Rose Brooks	Frances Ybarra
14	Bugg Lane Fire Station Bugg Lane	Elizabeth Champagne	Frances Oussant
16	Westover Baptist Church Bishop & Advance	Janet Underwood	Robert J. Goss
20	County Jail 1307 Old Uhland Road	Margie Villalpando	Art Latta
30	Crockett School 1500 Girard	Ofelia Vasquez	Merry Fitzpatrick
34	San Marcos Public Library 310 West Hutchison	Mary Louise Thornton	Aart Millecam

36	First American Lutheran Church 130 West Holland Street	Susan Jarrett	Bill Liddle
44	Allen Wood Homes Auditorium Thorpe Lane	Walter Myers	Estella Lerma
45	San Marcos Department of Public Safety 401 East Hopkins	Allice S. Boleman	Karen B. Freeman
46	Travis Elementary School Old Austin Highway	Ann Brieger	Sheila Vaverek

SECTION 5. That JANIS K. WOMACK be, and she is hereby, appointed clerk for absentee voting and that JULIE VILLANUEVA be, and she is hereby, appointed deputy clerk for absentee voting.

SECTION 6. That absentee voting for said regular city election shall be held at City Hall, 630 East Hopkins Street within said City. Said absentee voting shall be conducted during normal working days in the City Hall from March 15, 1982, to March 30, 1982, and the hours for absentee voting shall be from 8:00 a.m. to 5:00 p.m. The above described place for absentee voting is also the absentee clerk's mailing address to which ballot applications and ballots voted by mail may be sent. Absentee votes shall be delivered to the San Marcos Public Library at 12:00 p.m. on April 3, 1982. Absentee votes shall be counted at the central counting station. A special canvassing board shall be appointed and perform in accordance with the provisions of Article 7.15, Texas Election Code.

SECTION 7. That an electronic system, as the term is defined in Article 7.15, Texas Election Code, shall be utilized in connection with said election. Said system shall be utilized for all absentee voting as well as for all precinct voting conducted on election day. Ample voting equipment shall be provided for absentee voting and in each of the various precincts on election day. The central counting station is established as the Conference Room, San Marcos City Hall, 630 East Hopkins.

SECTION 8. That said election shall be held under the provisions of and in accordance with the provisions of the Charter and Ordinances of the City of San Marcos, and so far as may be applicable, in accordance with the laws of the State of Texas.

SECTION 9. That a substantial copy of this ordinance shall serve as proper notice of said election. Said notice, including a Spanish translation thereof, shall be published on the same day in each of two successive weeks in a newspaper of general circulation in said City, published therein, the first of said publications to be made not less than fourteen (14) full days prior to the date set for said election.

SECTION 10. That the Counting Station Presiding Judge shall be Dr. Wilbon Davis and the Counting Station Supervisor shall be Ruth Ann Hoch.

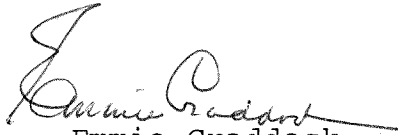
SECTION 11. That a copy of this ordinance shall be delivered to the presiding judge of each election precinct in which the election is ordered to be held, which copy shall serve as a writ of election notifying said official of the official's duty to hold said election, the location of the polling places and the hours during which the polls shall be kept open.

SECTION 12. That a test of the automatic tabulating equipment be performed pursuant to Article 7.15-20(f) of the Texas Election


Code prior to the start of the count of the ballots. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in the San Marcos Daily Record. A like test shall be performed at the conclusion of the count before the election returns are approved as official.

SECTION 13. That the importance of this Ordinance creates an emergency and an imperative purpose necessary that the provisions of the charter requiring that ordinances shall be read at three separate meetings and that no ordinance shall become effective until the expiration of ten (10) days following the date of its final passage be suspended, and these provisions are hereby suspended, and this Ordinance shall take effect and be in full force and effect from and after its adoption and publication in a newspaper of general circulation within the City.


PASSED, APPROVED AND ADOPTED this 22nd day of February , 1982.


Emmie Craddock
Mayor

Attest:


Janis K. Womack
City Secretary

Approved:


Barbara Jean Edwards
City Attorney

Published in DAILY RECORD February 24, 1982.

RESOLUTION 1989-63R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE TERMS AND CONDITIONS OF A SERVICE AND USE AGREEMENT WITH THE SAN MARCOS LIONS CLUB, AUTHORIZING THE MAYOR TO EXECUTE SAME AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the San Marcos Lions Club is currently leasing space at the City Recreation Building pursuant to referendum of the voters on April 3, 1982 and that lease agreement of April 12, 1982 between the City of San Marcos and said Lions Club, which is used in connection with said Club's inner tube rental program; and,

WHEREAS, the City of San Marcos desires to obtain additional storage space at the City Recreation Building at City Park; and,

WHEREAS, the San Marcos Lions Club desires to enter into a non-exclusive agreement with said City for a license for the use of storage space at the City Recreation Building; and,

WHEREAS, the San Marcos Lions Club has agreed to construct improvements at the City Recreation Building which will provide additional storage space at said facility and donate time and services to maintain and upkeep said facility; now, therefore,

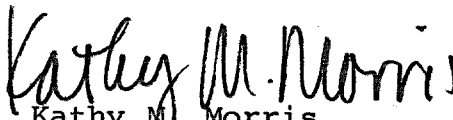
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. That the terms and conditions of the service and use agreement with the San Marcos Lions Club, a copy of which is attached hereto as Exhibit A, are approved.


PART 2. That the Mayor, Kathy M. Morris, be, and she is, hereby authorized to execute said agreement on behalf of said City.

PART 3. That this Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED this the 10 day of July , 1989.


Kathy M. Morris
Mayor

Attest:


Janis K. Womack
City Secretary

THE STATE OF TEXAS

CITY RECREATION BUILDING
SERVICE AND USE CONTRACT

COUNTY OF HAYS

This Agreement by and between the City of San Marcos, Texas, 630 E. Hopkins, San Marcos, Texas, 78666, hereinafter referred to as "CITY" and the San Marcos Lions Club, P. O. Box 994, San Marcos, Texas, 78666, hereinafter referred to as "LIONS CLUB", is as follows:

ARTICLE I.

The parties hereby agree that in exchange for the construction by the Lions Club and final acceptance by the City of approximately \$6,000.00 worth of improvements, hereinafter referred to as "the Work," to the City Recreation Building located at City Park, such improvements described generally as the enclosure of the southwest breezeway and the performance by said Lions Club of certain maintenance and upkeep responsibilities of the Recreation Building and surrounding park area at the direction of the Director of the Parks and Recreation Department in addition to those provided for in that lease agreement of April 12, 1982 between said City and the Lions Club, the City does hereby grant a license to the Lions Club for its non-exclusive use of said improvements from and after the date of acceptance of said improvements by the City until termination or expiration of the April 12, 1982 lease agreement between said City and the Lions Club for the lease of said Recreational Building.

ARTICLE II.

As provided in Article I, the license to the said Lions Club by said City shall be for the non-exclusive use of the improvements constructed pursuant to this Agreement and, upon the authorization by the City of other uses thereof by other persons or entities, the Lions Club shall share with such other persons and/or entities the use of such improvements. After completion and acceptance of the Work, the Parks and Recreation Department of the City shall implement and maintain a schedule for the use of the improvements.

ARTICLE III.

The proposed design, plans, and other construction contract documents and Contractor (if any) for the construction of improvements are subject to the prior approval of the City.

The time for completion of construction of the improvements shall be not more than thirty (30) days from the date such construction is commenced, and the Lions Club shall, within ten (10) days after commencement of construction, notify the City in writing of the date such construction began.

The Lions Club shall obtain all construction permits and licenses necessary for the construction of the improvements except that the fees for such permits and licenses shall be waived.

The Lions Club shall be fully responsible for all its acts and omissions and those of its Contractors and of persons and organizations directly or indirectly employed by either of them and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of persons directly employed by it. Nothing in this Agreement shall create any contractual relationship between the City and any contractor, subcontractor, or other person or organization having a direct contract with the Lions Club, nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due any contractor or

pg 1 *OA*

subcontractor or other person or organization, except as may otherwise be required by law.

The Lions Club and/or its Contractor shall supervise and direct the Work efficiently with its/his best skill and attention and shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction and safety at the site. The Lions Club shall be solely responsible to see that the finished Work complies accurately with the approved design, plans, and construction contract documents.

The Lions Club and/or its Contractor shall provide competent, suitably qualified personnel to perform the Work and shall at all times maintain good discipline and order at the site.

The Lions Club and its Contractor shall comply with all laws, codes, ordinances, rules and regulations applicable to the Work. If the Lions Club or its Contractor performs any Work contrary to such laws, codes, ordinances, rules and regulations, it/he shall bear all costs arising therefrom.

The Lions Club and/or its Contractor shall confine its/his equipment, the storage of materials and equipment and the operations of workers to areas permitted by law, ordinances, permits, or the requirements of the construction contract and shall not unreasonably encumber the premises with materials or equipment. If the Lions Club or its Contractor damages property in the prosecution of the Work, the Lions Club shall assume responsibility therefor.

The Lions Club and/or its Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work and shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- a. all employees on the site and any other persons who may be affected thereby,
- b. all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and
- c. other property at the site or adjacent thereto, including, but not limited to, trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

The Lions Club and its Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss and shall erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for its safety and protection. The Lions Club and/or its Contractor shall notify owners of adjacent utilities, property and underground facilities when prosecution of the Work may affect them and shall cooperate with them in the protection, removal and replacement of their property. All damage, injury or loss to any property referred to in subparagraphs a, b, or c above caused, directly or indirectly, in whole or in part, by the Lions Club, its Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Lions Club. The Lions Club's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the work is completed and accepted by the City.

The Lions Club and/or its Contractor shall keep the site free from accumulations of waste materials, rubbish and other debris resulting from the Work, and at the completion of the Work shall remove all waste materials, rubbish and debris from and about the site as well as all tools, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy. The Lions Club and/or its Contractor shall restore to their original condition those portions of the site not authorized by the City to be altered.

The Lions Club hereby agrees to protect, defend, and indemnify the City and its employees, agents, officers, and servants, in proportion to the Lions Club's degree of responsibility, from any and all losses, costs, damages, or expenses of every kind claimed by anyone for personal injuries, death, or damages to property, and without limitation by enumeration, all other claims, demands, or causes of action of every character occurring, resulting, or arising from the Lions Club's, its Contractor's, or SubContractors' acts or omissions, defective, or unreasonably dangerous product, or other conduct or activity violative of the applicable legal standard, or by any combination of the foregoing, which is a cause of or contribution to the loss, cost, damage, or expense. This shall include, but not be limited to, the amounts of judgments, penalties, interests, court costs, legal fees, and all other expenses incurred by the City because of such act, omission, product, conduct, or activity. This indemnity provision shall not be limited by reason of the specification of any particular insurance coverage in this Agreement. The Lions Club further agrees to obtain from its Contractors, subContractors and consultants, if any, the same indemnification provision in writing of the City as stated hereinabove.

If the construction contract documents, laws, codes, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by some public body, the Lions Club and/or its Contractor shall arrange and pay for all tests, and furnish the City the required certificates of inspection, testing or approval. The City and/or its representatives shall at all times have access to the Work and the Lions Club and/or its Contractor shall provide proper and safe facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

If any Work is defective, or if the Lions Club or its Contractor fails to supply sufficient skilled workers or suitable materials or equipment or to make prompt payments to SubContractors for labor, materials or equipment, the City may order the Lions Club and/or its Contractor to stop the Work, or any portion thereof, and/or correct or remove and replace defective work, and upon the failure of the Lions Club to correct or remove and replace such defective work, the City may have the same corrected or removed and replaced and all direct, indirect and consequential costs of and/or damages for such correction or removal and replacement, including but not limited to, compensation for additional professional services, shall be paid by the Lions Club to the City and upon failure of such payment by the Lions Club, the consideration due it pursuant to this Agreement may be equitably adjusted through the increase of the obligations of the Lions Club for upkeep and maintenance or the elimination or reduction of the license granted hereunder, or both. The right of the City to stop the Work shall not give rise to any duty on its part to exercise this right for the benefit of the Lions Club or its Contractor or any other party. "Defective Work" shall be defined as Work that is unsatisfactory to the City, faulty or defective, or does not conform to the requirements of the construction contract documents or does not meet the requirements of any inspection, test or approval as provided for in this Agreement or has been damaged prior to final payment. The City shall also have authority to require special inspection or testing of the Work,

whether or not the Work is fabricated, installed or completed. If, instead of requiring correction or removal and replacement of defective Work,

the City prefers to accept it, it may do so, and in such event, the consideration due the Lions Club for performance of the work under this Agreement shall be appropriately reduced or the City may, after seven (7) days written notice to the Lions Club, without prejudice to any other remedy it may have, make good such deficiencies and all direct, indirect and consequential costs and/or damages incurred as a result thereof (including, among others, compensation for additional professional services) shall be charged against the Lions Club. In such latter event, if the consideration then or thereafter due the Lions Club pursuant to the Agreement is not sufficient to cover such amount, as determined by the City, the Lions Club shall pay the difference to the City or the consideration due the Lions Club may be equitably adjusted through the increase of the obligations of the Lions Club for upkeep and maintenance constituting other good and valuable consideration under this Agreement or elimination or reduction of the license granted hereunder, or both.

If, within one (1) year after the acceptance of the Work, any Work is found to be defective, the Lions Club shall promptly, without cost to the City and in accordance with the City's written instructions, either correct such defective Work, or, if it is rejected by the City, remove it from the site and replace it with nondefective Work. If the Lions Club does not promptly comply with the terms of such instructions, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of and/or damages for such correction or removal and replacement, including but not limited to, compensation for additional professional services, shall be paid by the Lions Club to the City and upon failure of such payment by the Lions Club, the consideration due the Lions Club pursuant to this Agreement may be equitably adjusted through the increase of the obligations of the Lions Club for upkeep and maintenance or elimination or reduction of the license granted hereunder, or both. This provision shall not have the effect of limiting any other obligations of the Lions Club under this Agreement nor shall it serve as an exclusive remedy of the City. Nothing in this paragraph concerning the correction period shall establish a period of limitation with respect to any other obligation which the Lions Club has under this Agreement. The establishment of time periods relates only to the specific obligations of the Lions Club to correct the Work, and has no relationship to the time within which its obligations under this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish its liability with respect to its obligations other than to specifically correct the Work.

The duties and obligations imposed by this Agreement and the rights and remedies available hereunder, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to the parties which are otherwise imposed or available by law or by special guarantee or warranty.

The Lions Club warrants and guarantees to the City that all Work will be new, of merchantable quality, in fully operative condition, fit for the use intended unless otherwise specified, and will be of good quality and free from faults or defects and in accordance with the requirements of the construction contract documents and of any inspections, tests or approvals referred to herein. Further, the Lions Club shall be liable to the City for any and all direct, indirect and consequential damages resulting from the Lions Club's breach of any separate or specific warranties or guarantees required by this Agreement or the construction contract documents. This warranty is not limited by any other provisions of this Agreement.

The Lions Club and/or its Contractor shall purchase and maintain

- (a.) such insurance as will protect them from claims for damages because of bodily injury, personal injury, sickness, disease or death with minimum limits of liability of not less than \$500,000.00 each occurrence and \$500,000.00 aggregate;
- (b.) such insurance as will protect them from claims for damages for injury to or destruction of tangible property of others, including loss of use thereof. Such coverage shall include Broad Form Property Damage and removal of XCU exclusions where applicable. The minimum limits of liability shall be \$500,000.00 per occurrence and \$500,000.00 aggregate;
- (c.) such insurance as will protect them from claims for damages arising out of the maintenance, operation, or use of any owned, non-owned or hired vehicles. Minimum limits of liability for bodily injury and property damage combined shall be not less than \$500,000.00 each occurrence;
- (d.) Umbrella Form Excess Liability with minimum limits of \$1,000,000.00. Umbrella or Extended Coverage must follow form with the primary coverage;
- (e.) Property insurance upon the entire Work, including materials not in place at the site to the full insurable value thereof. All such property insurance shall be in an "all risk" form and shall include the interests of the City, the Lions Club and/or its Contractor, and subcontractors in the work and shall include, but not be limited to, the perils of fire, lightning, flood, collapse, windstorm, hail, explosion, riot, civil commotion, smoke, aircraft, land vehicles, vandalism and malicious mischief. The property insurance shall be endorsed to permit utilization and/or occupancy (as applicable) prior to completion of construction and prior to acceptance by the City.

The insurance required by the above paragraph shall be amended to afford coverage for:

Comprehensive General Liability, Products Liability and/or Completed Operations, and Blanket Broad Form Contractual Liability specifically covering the indemnification assumed by the Lions Club under this Agreement.

All insurance required herein shall be primary over any other insurance coverage the City may have and shall be written so that the City will be notified in writing in the event of cancellation, restrictive amendment or non-renewal at least thirty (30) days prior to such action. Certificates of Insurance shall be filed with the City prior to the commencement of the Work and are subject to the City's approval. Insurance carriers insuring the Lions Club and/or its Contractor in accordance with this Agreement which are not rated by the most recent edition of Best's Key Rating Guide, Property-Casualty, published by A.M. Best Company and insurance carriers having a rating lower than B+VII as shown in the most recent edition of said book, will not be approved by City unless a guaranty bond acceptable to City from a carrier rated B+VII or higher guaranteeing payment of any and all claims of the Lions Club and/or its Contractor is furnished to the City.

All insurance required herein shall be written with the City of San Marcos, Texas as an additional insured.

The stated limits of insurance required by this Agreement are MINIMUM ONLY and it shall be the Lions Club and/or its Contractor's responsibility to determine what limits are

adequate. These minimum limits may be basic policy limits or any combination of basic limits and umbrella limits. In any event, the Lions Club and/or its Contractor are/is fully responsible for all losses arising out of, resulting from or connected with operations under this Agreement whether or not said losses are covered by insurance. The City's acceptance of Certificates of Insurance that in any respect do not comply with the requirements of this Agreement does not release the Lions Club or its Contractor from compliance herewith.

ARTICLE IV.

This Agreement may be terminated at will by the City upon ten (10) days' prior written notice to the Lions Club.

ARTICLE V.

Any and all notices required to be given to the City or to the Lions Club shall be deemed properly given if mailed postage prepaid, certified mail, return receipt requested, to the following representatives at the following addresses of the parties, respectively:

City of San Marcos, Texas
Larry D. Gilley, City Manager
630 E. Hopkins
San Marcos, Texas 78666

San Marcos Lions Club
Attn.: President
P. O. Box 994
San Marcos, Texas 78666

ARTICLE VI.

This Agreement shall not be assigned or transferred by the Lions Club without the prior written approval by the City.

ARTICLE VII.

This Agreement shall be construed in accordance with the laws of the State of Texas and venue shall lie in Hays County, Texas.

In Witness Whereof, the parties hereto have executed this Agreement on this the 11 day of July, 1989.

CITY OF SAN MARCOS, TEXAS

BY:

Kathy M. Morris
Kathy M. Morris, Mayor

ATTEST:

Janis K. Womack
Janis K. Womack
City Secretary

SAN MARCOS LIONS CLUB

BY:

Donald R. Anders July 5, 1989
(signature)

DONALD R. ANDERS, Immediate Past President
(typed or printed name)
President

as directed by Pres. B.J. Hageman
for San Marcos Lions Club
Board of Directors

ORDINANCE 1990- 30

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF THE SPECIAL AND GENERAL ELECTION HELD ON MAY 5, 1990 FOR THE PURPOSE OF ELECTING A MAYOR, A CITY COUNCIL MEMBER, PLACE THREE, AND A CITY COUNCIL MEMBER, PLACE FOUR, SUBMITTING TO THE VOTERS VARIOUS PROPOSITIONS INCLUDING PROPOSED AMENDMENTS TO THE CITY CHARTER, A PROPOSED RENEWAL OF A LEASE OF CITY PARK PROPERTY TO THE SAN MARCOS LIONS CLUB, AND A REFERENDUM ON ADOPTION OF AN ORDINANCE DESIGNATING REINVESTMENT ZONE NO. FIVE OF THE CITY OF SAN MARCOS, TEXAS; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of San Marcos, Texas, by ordinance duly enacted on February 12, 1990, and amended on February 26, 1990, ordered that a Special and General election be held on May 5, 1990 for the purpose of electing a Mayor, City Council member, place three and a City Council member, place four, and submitting to the voters various propositions including proposed amendments to the City Charter, a proposed renewal of a lease of city park property to the San Marcos Lions Club, and referendum on adoption of an ordinance designating Reinvestment Zone No. Five of the City of San Marcos, Texas; and,

WHEREAS, notice of this election was duly published in the San Marcos Daily Record on April 8, 1990, April 15, 1990; and,

WHEREAS, copies of this notice were duly posted at each city election precinct polling place prior to the election, and a copy of the notice was posted on the bulletin board at City Hall on or before March 21, 1990; and,

WHEREAS, this election was duly and legally held on the 5th day of May, 1990, in conformity with the election laws of the State of Texas, and the results of the election have been certified and returned by the proper judges and clerks thereof; and,

WHEREAS, the City Council of the City of San Marcos, Texas, with the following members present: Kathy M. Morris, Billy G. Moore, Rick Hernandez, Ronald K. Hart, Fred Guerra, and Betty Jane Kissler has today considered the returns of the Special and General election held on the 5th day of May, 1990; and,

WHEREAS, it appears to the Council, and the Council so finds, that the the election was in all respects lawfully held; and,

WHEREAS, it appears to the Council, and the Council so finds, that the tabulation of the results of the election is correct; now, therefore,

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. That the Special and General City election of May 5, 1990 was duly called, that notice of the election was given in accordance with law, and that the election was held in accordance with law.

SECTION 2. That the tabulation of votes cast in the Special and General election held on May 5, 1990 for the purpose of electing a Mayor, City Council member, place three, and a City Council member, place four, and submitting to the voters various propositions including proposed amendments to the City Charter, a proposed renewal of a lease of city park property to the San Marcos Lions Club, and referendum on adoption of an ordinance designating Reinvestment Zone No. Five of the City of San Marcos, Texas, made and certified to by the City Secretary of the City of San Marcos, a copy of which is attached hereto and made a part

hereof is hereby adopted as the official tabulation of the votes cast at the election and that the tabulation be filed and recorded in the official records of the City of San Marcos as the official canvass of the election.

SECTION 3. That the the official canvass of the returns of the election reflects the following:

- A. That the official canvass of the returns of the election reflects that the following person was duly elected Mayor of the City of San Marcos:

Kathy M. Morris

- B. That the official canvass of the returns of the election reflects that the following person was duly elected City Council Member, Place Three of the City of San Marcos:

Rick Hernandez

- C. That the official canvass of the returns of the election reflects that the following person was duly elected City Council Member, Place Four, of the City of San Marcos:

Betty Jane Kissler

- D. That the official canvass of the returns of the election reflects the following votes cast for and against the following numbered propositions:

Proposition No. 1

The amendment of Section 3.06 of the City Charter to provide a chain of authority for the calling of elections to fill vacancies on the City Council.

Votes for Proposition No. 1:	<u>1779</u>
Votes against Proposition No. 1:	<u>247</u>

Proposition No. 2.

The amendment of Section 5.08 of the City Charter to conform the oath of office for city officials to that prescribed by the Texas Constitution for state officers.

Votes for Proposition No. 2:	<u>1819</u>
Votes against Proposition No. 2:	<u>160</u>

Proposition No. 3

The amendment of Section 7.01 of the City Charter to separate provisions pertaining to the composition of the Planning Commission from those pertaining to the Zoning Commission; to allow representation on the Planning Commission by residents of the City's extraterritorial jurisdiction; and to delete a provision allowing dual service on both the Planning and Zoning commissions by as many as two persons.

Votes for Proposition No. 3:	<u>1524</u>
Votes against Proposition No. 3:	<u>385</u>

Proposition No. 4

The amendment of Section 7.06 of the City Charter to more clearly define the duty of the Planning Commission to submit recommendations to the City Council on development proposals; to allow for review of the Master Plan once each three years instead of requiring an annual report to the City Council;

and to require that a public hearing on the subdivision ordinance be held at least once each three years rather than annually.

Votes for Proposition No. 4:	1372
Votes against Proposition No. 4:	<u>536</u>

Proposition No. 5

The amendment of Section 12.02 of the City Charter to allow service as city officers, other than city council members, by persons who do limited amounts of business with the city; and clarifying the prohibition against city council members and employees having interests in contracts with the City.

Votes for Proposition No. 5:	1375
Votes against Proposition No. 5:	<u>612</u>

Proposition No. 6

The lease to the San Marcos Lions Club of the storage and bathroom portions of the recreation building in the San Marcos City Park, together with access through the adjacent parking lot, for the purpose of conducting an inner tube rental operation subject to the following terms and conditions:

- (1) The Lions Club shall have possession of the Leased Premises and access through the parking lot adjacent to the leased premises, for the purpose of conducting an inner tube rental operation on the San Marcos River, from April 11, 1991, through April 10, 1996, together with three (3) consecutive five (5) year renewable options to continue this lease in favor of the Club, to commence, if exercised, on April 11, 1996, April 11, 2001, and April 11, 2006, respectively. The exercise of each of such options shall be subject to the approval of the City Council.
- (2) The Lions Club shall maintain the Leased Premises as four (4) storage rooms (one of which shall be usable for storage by the City Parks and Recreation Department as needed) and two bathrooms.
- (3) The Lions Club shall paint the exterior of the Leased Premises every two (2) years, and shall paint the interior of the storage portions of the building every fifth (5th) year, and shall paint the bathrooms every year. In the event the City paints the exterior of the remaining portions of the recreation building more often than every two (2) years, the Lions Club shall paint the exterior of its portions of the building at least as often as the City.
- (4) The Lions Club shall pay all lighting and heating costs attributable to the Leased Premises.
- (5) The Lions Club shall keep the Leased Premises in a clean condition, shall provide assistance to the City in the regular cleaning of the area adjacent to the recreation building, including the picnic area and parking lot, and will also assist in the cleanup of the San Marcos River in and around the park area.
- (6) The City shall continue to maintain those areas of City Park not specifically granted to the Lions Club for its sole or joint maintenance.

- (7) The Lions Club shall assist the City in future projects within the City's park system.
- (8) The Lions Club shall have the right to sell items related to the inner tube rental operation and to the City, including chips, candy, non-alcoholic beverages and T-shirts.
- (9) The Lions Club shall maintain public liability insurance covering personal injuries and property damage that may occur in connection with the inner tube rental operation.
- (10) The Lions Club shall not discriminate in its inner tube rental operations on the basis of race, creed, national origin or ancestry, sex, or handicap.

Votes for Proposition No. 6: 1741
Votes against Proposition No. 6: 216

Proposition No. 7

The approval of the ordinance adopted by the City Council on January 22, 1990 designating as City Reinvestment Zone No. Five an area of approximately 55.07 acres at the intersection of IH-35 and Center Point Road.

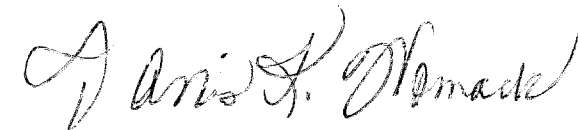
Votes for Proposition No. 7: 1666
Votes against Proposition No. 7: 484

SECTION 4. That the importance of this Ordinance creates an emergency and an imperative public necessity so that the provisions of the Charter requiring that ordinances shall be presented at three separate meetings and that no ordinance shall become effective until the expiration of ten (10) days following the date of its final passage be suspended, and these provisions are hereby suspended, and this Ordinance shall take effect and be in full force and effect from and after its adoption and after its publication in a newspaper of general circulation in the area as required by the Charter of the City of San Marcos.

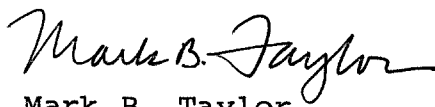
PASSED, APPROVED AND ADOPTED this 7th day of May, 1990.


KATHY M. MORRIS
MAYOR

Attest:


Janis K. Womack
City Secretary

Approved:


Mark B. Taylor
City Attorney

Published in the SAN MARCOS NEWS May 10, 1990.

RESOLUTION 1993 - 35 R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE TERMS AND CONDITIONS OF A LEASE OF PARK LAND TO THE SAN MARCOS LIONS CLUB, AUTHORIZING THE CITY MANAGER TO EXECUTE SAME AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the San Marcos Lions Club desires to enter into a new lease with the City for the continued use of space at the City Recreation Building for the club's inner tube rental program; and,

WHEREAS, the qualified voters voting in an election held by the City on May 5, 1990, approved the terms and conditions of the lease attached to this Resolution; and,

WHEREAS, the San Marcos Lions Club has agreed to the conditions of the lease which provides for an initial term of five (5) years with three (3) consecutive five (5) year renewable options to continue the operation, maintenance, and upkeep of an inner tube rental facility within the Recreation Building located in City Park; now, therefore, *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. That the terms and conditions of the Lease with the San Marcos Lions Club, a copy of which is attached hereto as Exhibit A, are approved.


PART 2. That the City Manager, Larry D. Gilley be, and he is hereby authorized to execute the Lease on behalf of the City.

PART 3. That this Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED this the 22nd day of February , 1993.


Betty J. Kissler
Mayor Pro-Tem

Attest:


Janis K. Womack
City Secretary

LEASE OF PARK PREMISES

STATE OF TEXAS *

COUNTY OF HAYS *

This Lease Agreement is made and entered into and between the City of San Marcos, hereinafter referred to as "Lessor," a municipal corporation existing by and under the laws of the State of Texas, and acting through its City Manager, Larry D. Gilley, and the San Marcos Lions Club, acting through its President, Mr. Don Garrett, hereinafter referred to as "Lessee," hereby enter into this Lease, the terms, conditions and consideration for which are set out as follows:

1.

With the execution of the this Lease, all prior leases and/or agreements between the Lessor and the Lessee pertaining to the herein described premises are terminated.

2.

For and in consideration of the Lessee's provision of a recreational activity for the citizens of and visitors to the City of San Marcos, Texas, specifically the rental of inner tubes to persons wishing to float on the San Marcos River, Lessor hereby demises and leases to Lessee, and the Lessee hereby takes from the Lessor the storage and bathroom portions of the Recreation Building located in the City Park of San Marcos, together with access through the adjacent parking lot, hereinafter referred to as the "Leased Premises."

3.

The Lessee shall have possession of the leased premises from April 11, 1991 through April 10, 1996, together with three (3) consecutive five (5) year renewable options. The options, if exercised, shall commence on April 11, 1996, April 11, 2001 and April 11, 2006, respectively. The exercise of each option to renew this lease shall be subject to the approval of the City Council of San Marcos, Texas.

4.

Lessee shall maintain the leased premises as four (4) storage rooms (one of which shall be useable for storage by Lessor's Parks and Recreation Department as needed) and two bathrooms.

5.

Lessee shall paint the exterior of the leased premises every two (2) years and shall paint the interior of the storage portions of the leased premises every fifth (5th) year, and shall paint the bathrooms every year. In the event that the Lessor paints the exterior of the remaining portions of the Recreation Building more often than every two (2) years, the Lessee shall paint the exterior of its portions of the building at least as often as the Lessor.

6.

The Lessee shall keep the leased premises in a clean condition, shall provide assistance to the Lessor in the regular cleaning of the area adjacent to the Recreation Building including the picnic area and parking lot, and will also assist in the cleanup of the San Marcos River in and around the park area.

7.

Lessee shall pay all lighting and heating costs attributable to the leased premises.

8.

The Lessor shall continue to maintain those areas of City Park not specifically granted to the Lessee for its sole or joint maintenance.

9.

Lessee shall assist the Lessor in future projects within the Lessor's park system.

10.

Lessee shall have the right to sell items related to the inner tube rental operation including chips, candy, non-alcoholic beverages and T-shirts.

11.

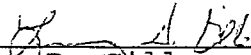
Lessee shall maintain public liability insurance covering personal injuries and property damage that may occur in connection with the inner tube rental operation.

12.

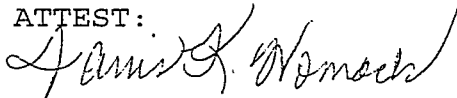
Lessee shall not discriminate in its inner tube rental operation on the basis of race, creed, national origin or ancestry, sex, or handicap.

LESSOR:

CITY OF SAN MARCOS


Larry D. Gilley, City Manager

ATTEST:

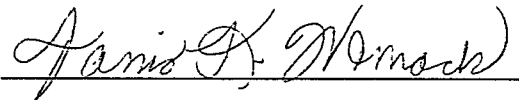

Janis K. Womack
City Secretary

LESSEE:

SAN MARCOS LIONS CLUB


Don Garrett, President

WITNESS:



RESOLUTION 1996 - 57R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE RENEWAL OF THE LEASE OF A PORTION OF THE RECREATIONAL BUILDING IN CITY PARK TO THE SAN MARCOS LIONS CLUB; AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. On February 22, 1993 the City entered into a lease with the San Marcos Lions Club for a portion of the Recreational Building located in City Park. The purpose of this lease was to facilitate the Lions Club rental of inner tubes to persons wishing to float down the San Marcos River. This lease will run out on April 10, 1996. Under the provisions of the original lease, the Lions Club has three 5 year renewal options, each subject to City Council approval.
2. The Parks and Recreation Board has considered the renewal request and has voted to recommend it to the City Council.

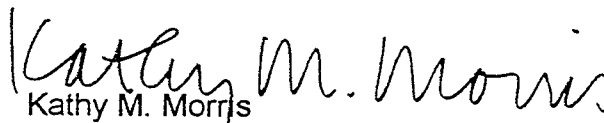
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1: That the renewal of the first five year option to lease the above described real property to the Lions Club is approved.

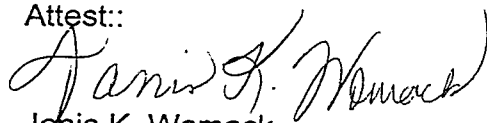
PART 2: That the City Manager, Larry D. Gilley, is hereby authorized to execute a Letter of Agreement renewing the lease of the above described property to the Lions Club until April 10, 2001.

PART 3: That this Resolution shall be in full force and effect from and after its passage.

ADOPTED this 25th day of March 1996.


Kathy M. Morris
Mayor

Attest::


Janis K. Womack
City Secretary



March 26, 1996

San Marcos Lions Club
P.O. Box 994
San Marcos, Texas 78667-0994

ATTN: Mr. William A. Taylor

RE: Agreement to Renew Five Year Option

Dear Mr. Taylor:

Please consider this letter an agreement between the City of San Marcos ("City") and the San Marcos Lions Club ("Club") to exercise the first five year option to renew the lease approved by the San Marcos City Council on February 22, 1993, from the City to the Club of the storage and bathroom portions of the Recreation Building located in the City Park of San Marcos, together with access through the adjacent parking lot, for the purpose of renting inner tubes to persons wishing to float on the San Marcos River.


The terms and conditions of the original Lease will remain in full force and effect for the duration of this agreement.

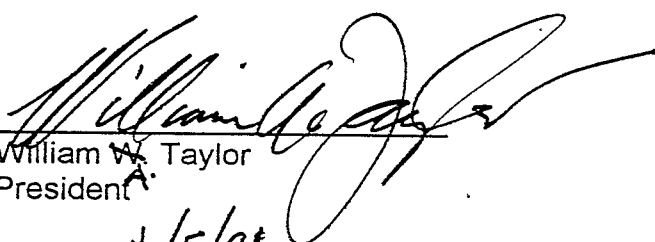
The renewal lease term is for the period from April 11, 1996 until April 10, 2001.

Please indicate your acceptance of this agreement by counter-signing below.

City of San Marcos

San Marcos Lions Club

By: 
Larry D. Gilley
City Manager

By: 
William A. Taylor
President

Date: 3/26/96

Date: 4/5/96



March 26, 1996

San Marcos Lions Club
P.O. Box 994
San Marcos, Texas 78667-0994

ATTN: Mr. William A. Taylor

RE: Agreement to Renew Five Year Option

Dear Mr. Taylor:

Please consider this letter an agreement between the City of San Marcos ("City") and the San Marcos Lions Club ("Club") to exercise the first five year option to renew the lease approved by the San Marcos City Council on February 22, 1993, from the City to the Club of the storage and bathroom portions of the Recreation Building located in the City Park of San Marcos, together with access through the adjacent parking lot, for the purpose of renting inner tubes to persons wishing to float on the San Marcos River.

The terms and conditions of the original Lease will remain in full force and effect for the duration of this agreement.

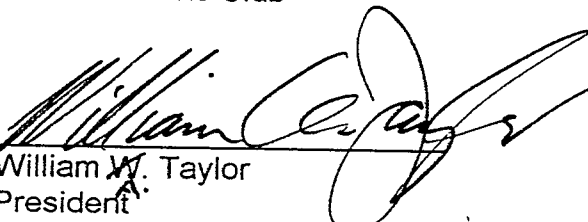
The renewal lease term is for the period from April 11, 1996 until April 10, 2001.

Please indicate your acceptance of this agreement by counter-signing below.

City of San Marcos

San Marcos Lions Club

By: 
Larry D. Gilley
City Manager

By: 
William W. Taylor
President

Date: 3/26/96

Date: 4/5/96

RESOLUTION NO. 2002- 134 R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING A LETTER AGREEMENT BETWEEN THE CITY AND THE SAN MARCOS NOON LIONS CLUB TO RENEW A LEASE OF PORTIONS OF THE RECREATION BUILDING IN CITY PARK; AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. On April 11, 1991, the City executed a Lease of Park Premises (the "Lease") with the San Marcos Noon Lions Club for portions of the Recreation Building in City Park. The Lease, which was approved by voters at the May 5, 1990 City election, provided for an initial five-year term, and for up to three five-year options to renew.

2. On March 26, 1996, the City executed a renewal of the Lease for a five-year period.

3. The San Marcos Noon Lions Club has requested a second five-year renewal of the Lease, and the Parks and Recreation Board has recommended that the request be approved by the City Council.

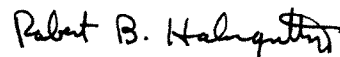
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached letter agreement between the City and the San Marcos Noon Lions Club for a second five-year renewal of the Lease is approved.

PART 2. The Interim City Manager, Dan O'Leary, is authorized to execute the agreement on behalf of the City.

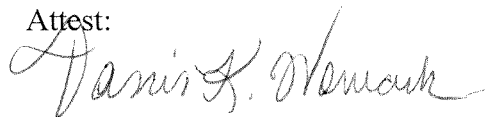
PART 3. This Resolution is in full force and effect immediately from and after its adoption.

ADOPTED on July 8, 2002.



Robert B. Habingreither
Mayor

Attest:



Janis K. Womack
City Clerk



Office of the City Manager

June 25, 2002

Dr. Tom House, President
San Marcos Noon Lions Club
P.O. Box 994
San Marcos, TX 78667

Re: Renewal of Lease of Park Premises

Dear Dr. House:

Please consider this letter an agreement between the City of San Marcos (the "City") and the San Marcos Noon Lions Club to renew the Lease of Park Premises (the "Lease") related to portions of the Recreation Building at City Park, as provided in Section 3 of the Lease. This constitutes the second renewal out of a total of three renewals authorized in the Lease.

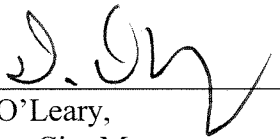
The second renewal lease term is from April 10, 2001 to April 9, 2006.

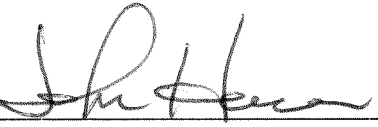
All remaining terms and conditions of the Lease shall remain in full force and effect for the duration of this agreement.

Please indicate your acceptance of this agreement by countersigning below, and return one fully executed copy to my office.

City of San Marcos

San Marcos Noon Lions Club

By: 
Dan O'Leary,
Interim City Manager

By: 
Signature
JOHN HANSEN, PRESIDENT
Printed name, title

Date: July 9, 2002

Date: 7-27-02

RESOLUTION NUMBER. 2007- 76 R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING AN AMENDED LEASE AGREEMENT BETWEEN THE CITY AND THE SAN MARCOS LIONS CLUB FOR THE LEASE OF PORTIONS OF THE RECREATION BUILDING IN CITY PARK, AND TO ALLOW OPERATION OF A CONCESSION STAND IN RIO VISTA PARK; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. On April 11, 1991, the City executed a Lease of Park Premises (the "Lease") with the San Marcos Lions Club for portions of the Recreation Building in City Park. The Lease, which was approved by the voters at the May 5, 1990, City election, provided for an initial five-year term, and for up to three five-year options to renew.

2. On March 26, 1996, the City executed a renewal of the Lease for a five-year period; and, on July 9, 2002, the City executed the second five-year renewal for this Lease.

3. The San Marcos Lions Club has requested a third five-year renewal of the Lease, and the Parks and Recreation Advisory Board has recommended that the request be approved by the City Council.

4. The San Marcos Lion's Club also requested permission to operate a concession stand in Rio Vista Park. In exchange the exclusive right to sell concessions in City Park and Rio Vista Park, the Lion's Club has offered to pay to the City 75% of the net profits from the proceeds of their concession operations. These funds will be deposited in the same fund that is being created for the franchising of river shuttles.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

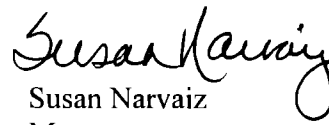
PART 1. The attached lease agreement between the City and the San Marcos Lions Club for a third five-year renewal of the Lease is approved.

PART 2. The City Manager, Dan O'Leary, is authorized to execute the agreement on behalf of the City.


PART 3. The funds received from the operation of the Lion's Club concession shall be deposited in a fund established for use by the Park Department. The use of these funds shall be restricted to litter control, park ranger enforcement, parking and street repair for the areas bordering the San Marcos River, and other bona fide San Marcos River Projects.

PART 3. This Resolution is in full force and effect immediately from and after its adoption.

ADOPTED on 17th day of April 2007.


Susan Narvaiz
Mayor

Attest:


Shelley Goodwin
Interim City Clerk

LEASE OF PARK PREMISES

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This Lease Agreement is made and entered into between the City of San Marcos, Texas ("Lessor") and the San Marcos Lions Club ("Lessee"). This Lease Agreement relates to the final term of a lease agreement first entered into by these parties in 1991, and contains the following terms, conditions, and consideration, as such were outlined in Proposition 6 as approved by the San Marcos voters in 1990:

1. This lease will supersede all other agreement between the Lessee and Lessor, except for the franchise requirements that Lessee herein acknowledges are required to operate a River Shuttle in conjunction with Lessee's tube rental business.
2. For and in consideration of the Lessee's provision of recreational activity for the citizens and visitors to the City of San Marcos, Texas, most particularly the rental of inner tubes to persons wishing to use the San Marcos River, and for the provision of certain consumable concessions delineated herein, Lessor leases to Lessee the storage and bathroom portions of the Recreation Building located in the City Park of San Marcos, together with access through the adjacent parking lot, and the concrete slab in Rio Vista Park (that was once the park building headquarters), collectively herein the "Leased Premises."
3. The Lessee shall have possession of the leased premises from April 11, 2006 through April 10, 2011.
4. Lessee's customers may use parking spaces in City Park, and such spaces will satisfy the parking requirements contained in Section 90.312 of the San Marcos City Code.
5. Lessee shall maintain the leased premises located at City Park as four (4) storage rooms (one of which shall be useable for storage by Lessor's Park and Recreation Department as needed) and two bathrooms. During the term of this lease, Lessee shall paint the exterior of the leased premises twice, and paint the interior of the storage portions of the leased premises once. The bathrooms must be painted once each year.
6. Lessee is granted permission to construct a temporary concession stand on the concrete slab located in Rio Vista Park. The concession stand may not be constructed prior to May 1 of each year and must be completely removed by October 1 of each year. All construction shall be contained within the confined space of the present concrete slab.

7. Lessee shall keep the leased premises in a clean condition. Lessee shall be responsible for all litter clean up in the concession stand area. Further, the Lessee shall provide assistance to the Lessor in the regular cleaning of the area adjacent to the Recreation building including the picnic area and parking lot, and will assist in the cleanup of the San Marcos River in and around the park area.

8. Lessee shall pay all lighting, heating, and electrical costs kind attributable to the operation of the Leased Premises.

9. Lessee shall obtain all necessary permits for the construction and operation of the concession stand, and shall operate the concession stand in compliance with all federal, state, and City laws and regulations.

10. Lessee may sell, at Lessee's discretion, soft drinks, pre packaged foods, snow cones, T-shirts, and river related merchandise, at the concession stand and within the confines of the leased portions of the Recreation Center building. Lessee shall not sell alcoholic beverages on the leased premises.


11. Lessee agrees to pay to the City 75% of the net profits derived from the sale of concession items sold by the Lessee at Rio Vista Park. Net profits is not to include any sums derived from the renting of river tubes or the operation of a franchised river shuttle service. Lessee grants to Lessor the right to inspect and audit the books of Lessee's operations on the Leased Premises.

12. Lessee shall maintain commercial general liability insurance with a minimal combined single limit of \$500,000 for each occurrence and \$500,000 in the aggregate, and worker's compensation insurance in accordance with the provisions of the Workers' Compensation Act of the State of Texas.

13. In operating its businesses on the leased premises Lessee shall not discriminate on the basis race, creed, national origin, sex, or disability.

Lessor:


City of San Marcos



Dan O'Leary, City Manager


Lessee:

San Marcos Lions Club



Cordy Driley, President

Attest:



Shelley Goodwin
Interim City Clerk

ORDINANCE 2010-66

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF THE GENERAL AND SPECIAL ELECTION, HELD ON NOVEMBER 2, 2010, FOR THE PURPOSE OF ELECTING A MAYOR, CITY COUNCIL MEMBER, PLACE 1, CITY COUNCIL MEMBER, PLACE 2, AND TO FILL A VACANCY FOR THE REMAINDER OF THE TERM OF OFFICE OF CITY COUNCIL MEMBER PLACE 6; SUBMITTING A PROPOSED AMENDMENT TO THE CITY CHARTER PERTAINING TO THE APPOINTMENT OF A CITY INTERNAL CITY AUDITOR AND A PROPOSITION TO LEASE CITY PARK PROPERTY TO THE SAN MARCOS NOON LIONS CLUB TO THE VOTERS; AND DECLARING AN EMERGENCY.

RECITALS:

1. On August 17, 2010 the City Council ordered that a General and Special Election be held on November 2, 2010 for the purpose of electing a Mayor, a City Council Member, Place 1, a City Council Member, Place 2, and to fill a vacancy for the remainder of the term of office of City Council Member Place 6; submitting a proposition regarding an amendment to the City Charter permitting the City Council to appoint a city internal auditor, and a proposition to authorize the lease of a portion of City Park property to the San Marcos Noon Lions Club for a tube rental operation to the voters.
2. The election was duly and legally held on November 2, 2010, in conformity with the election laws of the State of Texas, and the results of the election have been certified and returned by the proper judges and clerks.
3. The City Council of the City of San Marcos, Texas convened to consider the returns of the General and Special election held on November 2, 2010 with the following members present: Susan Narvaiz, Kim Porterfield, Gaylord Bose, Ryan Thomason, Fred Terry, and Chris Jones.
4. It appears to the Council, and the Council finds, that the election was in all respects lawfully held.
5. It appears to the Council, and Council finds, that the tabulation of the results of the election is correct.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The General and Special Election of November 2, 2010 was duly called, notice of the election was given in accordance with law, and the election was held in accordance with law.

SECTION 2. The tabulation of votes cast in the General and Special election held on November 2, 2010, for the purposes stated in Recital 1 above, a copy of which is attached to and made a part of this ordinance, is adopted as the official tabulation of the votes cast at the election, and the tabulation will be filed and recorded in the official records of the City of San Marcos as the official canvass of the election.

SECTION 3. The official canvass of the returns of the election reflects the following:

A. For the position of Mayor the following votes were cast:

John Thomaides	3,420
Daniel Guerrero	3,462

B. For the City Council Place 1:

David (Dave) Newman	2,911
Kim Porterfield	3,251

C. For City Council Place 2:

Toby Hooper	2,784
Jude Prather	3,009

D. For City Council Place 6 – Remainder of Unexpired Term (Expires in November 2012)

Shane Scott	3,205
Rodney van Oudekerke	2,667

E. The following votes were cast for and against the following numbered propositions:

Proposition No. 1 - Lease of City Park Property

Authorizing the San Marcos City Council to lease of portions of recreation building at San Marcos City Park to San Marcos Noon Lions Club for inner tube rental operation for an initial term of five (5) years commencing April 11, 2011 with options to renew for up to four (4) additional terms of five (5) years each upon mutual agreement.

FOR	5,990
AGAINST	1,195

Proposition No. 2 – Internal Auditor

The amendment of the San Marcos City Charter to add a new section 4.05 to authorize the San Marcos City Council to appoint an officer of the city to be the city internal auditor to serve at the pleasure of the City Council and perform the duties set by city ordinance or enter into a contract for the duties of city internal auditor to be carried out by an outside firm if the Council chooses to do so.

FOR	4,041
AGAINST	2,657

SECTION 4. That Daniel Guerrero received a majority of the votes and is elected Mayor of the City of San Marcos.

SECTION 5. That Kim Porterfield received a majority of votes and is elected to serve as City Council Member Place 1.

SECTION 6. That Jude Prather received a majority of votes and is elected to serve as City Council Member Place 2.

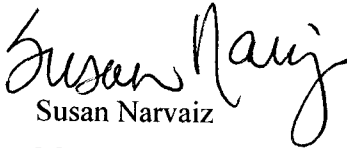
SECTION 7. That Shane Scott received a majority of votes and is elected to serve as City Council Member Place 6 for the remainder of the unexpired term of that office (until filled by the general election to be conducted in November 2012).

SECTION 8. Proposition 1 – authorizing the City Council to enter in to a lease of a portion of City Park Property with the San Marcos Noon Lions Club received a majority of votes cast and is hereby adopted.


SECTION 9. Proposition 2, amending the City Charter to authorize the City Council to hire a city internal auditor received a majority of votes cast and is hereby adopted. The San Marcos City Charter is hereby amended as of the effective date of this ordinance to include a new Section 4.05 as set forth, verbatim, in Section 3 of Ordinance No. 2010-44.

SECTION 10. The importance of this Ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings be waived and, this Ordinance will take effect upon its adoption.


PASSED, APPROVED AND ADOPTED this the 15th day of November 2010


Susan Narvaiz
Mayor

Attest:


Shelley Goodwin
Interim City Clerk

Approved


Michael J. Cosentino
City Attorney

**San Marcos Nov 2 2010 canvas — Total Voters — Official
HAYS COUNTY — GENERAL ELECTION — November 02, 2010**

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11/08/2010 03:27 PM

Total Number of Voters : 40,083 of 95,527 = 41.96%

Precincts Reporting 38 of 38 = 100.00%

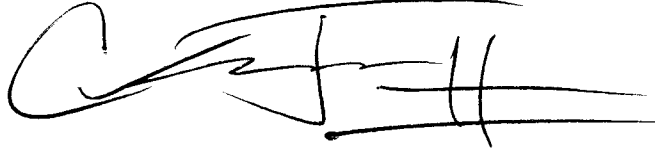
Number of District Voters: 8,310 of 29,336 = 28.33%

District Precincts Reporting 15 of 15 = 100.00%

PROPOSITION NO. 1 - Lease of City Park Property

Precinct	Early Voting Ballots Cast	Election Day Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	For	Against	Totals
110	15	10	25	80	31.25%	17	7	24
111	165	152	317	871	36.39%	231	49	280
112	185	157	342	1,098	31.15%	172	83	255
113	827	376	1,203	3,768	31.93%	753	211	964
114	292	155	447	1,622	27.56%	298	65	363
116	331	208	539	1,496	36.03%	385	78	463
120	547	360	907	4,378	20.72%	634	134	768
127	18	27	45	168	26.79%	32	9	41
315	332	152	484	688	70.35%	401	54	455
330	546	341	887	2,998	29.59%	692	110	802
332	497	308	805	2,409	33.42%	634	100	734
334	643	274	917	4,557	20.12%	656	132	788
336	669	345	1,014	3,036	33.40%	800	117	917
446	235	133	368	2,146	17.15%	279	43	322
447	10	0	10	21	47.62%	6	3	9
Totals:	5,312	2,998	8,310	29,336		5,990	1,195	7,185

Susan Haug, Mayor



[Signature]
[Signature]

Rya Thomas

Rayford Bore

RESOLUTION 2011 -75 R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF SAN MARCOS AND SAN MARCOS LIONS CLUB PROVIDING FOR A FIVE YEAR LEASE OF A PORTION OF THE CITY RECREATION BUILDING LOCATED IN CITY PARK FOR AN ANNUAL RENT OF \$10,800.00 WITH AN OPTION TO RENEW FOR UP TO FOUR ADDITIONAL FIVE YEAR TERMS UPON MUTUAL AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Lease Agreement between the City of San Marcos and San Marcos Lions Club (the "Agreement") is hereby approved.


PART 2. The City Manager is hereby authorized to execute the Lease on behalf of the City.

PART 3. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on June 21, 2011.


Daniel Guerrero
Mayor

Attest:


Jamie Lee Pettijohn
City Clerk

LEASE OF SAN MARCOS PARK PREMISES

This lease agreement (this "Lease") is made between the City of San Marcos, Texas, a municipal corporation (the "Lessor") and San Marcos Lions Club (the "Lessee").

Article 1. Lease of Premises; Acceptance of Existing Conditions; Compliance with Regulations

1.01. Leased Premises: In consideration of the obligation of the Lessee to pay rent and in consideration of the other terms, covenants and conditions of this Lease, the Lessor leases to the Lessee, and the Lessee leases from the Lessor that approximately 4720 square foot portion (indicated by shading) of the City Recreation Building and adjacent sidewalks (indicated by dashed lines) as shown in Exhibit "A", attached hereto and made a part hereof for all purposes (the "Leased Premises") in Hays County, Texas. The Lessor agrees that the Lessee shall also have access to and shared use of the public parking lot adjacent to the leased Premises and the public restrooms in the City Recreation Building, all as shown in Exhibit "A", subject to Lessor's exclusive control and management of said public facilities.

1.02. No Warranty: The Lessee acknowledges that 1) the Lessor makes no representations or warranties regarding the suitability of the Leased Premises for the Lessee's intended purposes, or the presence of environmental, geologic, or other site conditions that may affect the Lessee's use of the Leased Premises; 2) the Lessee accepts full responsibility for determining the suitability of the Leased Premises for its intended purposes; and 3) the Lessee has inspected the Leased Premises to satisfy itself as to the suitability of the Leased Premises for its intended purposes.

1.03. Compliance With Rules: In addition to other requirements in this Lease, Lessee agrees to comply with all ordinances, rules and regulations governing City Park within which the Leased Premises are located.

Article 2. Term and Rent

2.01. Term: The term of this Lease shall commence effective as of April 11, 2011 and shall expire on April 10, 2016. This Lease may be renewed for up to four additional terms of five years, each upon mutual agreement of Lessee and Lessor.

2.02. Rent: The Lessee agrees to pay to the Lessor a fixed rental in the sum of \$10,800.00 per year. Rent for the first year shall be due on or before September 30, 2011 and, thereafter, shall be paid annually by September 30 at the place designated for notices below. Unless otherwise agreed at the time of any renewal under paragraph 2.01, the annual rent during any renewal period shall be as follows:

April 11, 2016 through April 10, 2021	\$11,350.00
April 11, 2021 through April 10, 2026	\$11,900.00
April 11, 2026 through April 10, 2031	\$12,500.00

April 11, 2031 through April 10, 2036

\$13,150.00

2.03. Lessee shall collect on behalf of and remit to the City any fees, assessments or charges arising by virtue of or related to its activities under this Lease as may be required by any ordinance, law, order or regulation. Additionally, the City may submit an invoice or invoices to Lessee for the above mentioned or other fees, assessments or charges due and payable to the City. Such invoice or invoices must be paid by the Lessee with the next annual rent payment, except when earlier payment may be due under applicable ordinance, law, order or regulation.

2.04. Late Payment: If the Lessee fails to pay any rent or any other sum payable to the Lessor under the terms of this Lease when due, then interest at the rate of five percent per annum shall accrue from the date on which the sum became due and payable.

2.05. Termination: Lessee shall surrender and vacate the Leased premises on the last day of the term of this Lease. Upon termination of the lease, Lessee shall also remove all personal property, equipment from the Leased premises within 14 days. Lessor may retain, destroy, or dispose of any property left in the Leased Premises at the end of the Term.

Article 3. Use and Care of Premises

3.01. The use of the Leased Premises by the Lessee shall be restricted to conducting an inner tube rental operation, together with the activities of selling snacks, non-alcoholic beverages, T-shirts and other items related to river recreation. Use of the Leased Premises for any purpose other than permitted by this Lease without prior written consent of the Lessor shall constitute a default.

3.02. The Lessee shall not place or keep anything on the Leased Premises or use the Leased Premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Leased Premises without the Lessor's prior written consent. The Lessee agrees that the risk of loss and damage for all property kept, stored or maintained by it within the Leased Premises shall be the Lessee's.

3.03. The Lessee shall not use or permit the use of the Leased Premises in any manner that results in waste of the Leased Premises, or constitutes a nuisance, or violates any statute, ordinance, rule or regulation that applies to the Leased Premises.

3.04. The Lessee shall keep the Leased Premises used by Lessee, neat, clean, and free from dirt and trash at all times.

3.05. The Lessor shall be responsible for cleaning and maintaining the public restrooms in the City Recreation Building to be used by Lessee in connection with its authorized activities according to Lessor's usual and customary cleaning schedules and standards, as determined by Lessor in its sole discretion. Although Lessor has primary responsibility to clean and maintain the restrooms, Lessee agrees to and will clean the restrooms on an as needed basis between the Lessor's regular cleanings. The Lessor shall provide trash bin liners, paper towels, and toilet

paper to the Lessee, and the Lessee shall replace these items in the public restrooms as necessary.

3.06. The Lessee shall store all equipment, materials and supplies within the confines of the Leased Premises. Outside storage is specifically prohibited without the advance written consent of the Lessor.

3.07. Failure to use the Leased Premises for any purpose other than permitted by this Lease shall constitute a default.

3.08. The Lessee shall give prompt notice to the Lessor of any accident on the Leased Premises, and of defects in the Leased Premises of which the Lessee is aware.

3.09. Lessee agrees to allow Lessor to enter the Leased Premises to perform Lessor's obligations, inspect the Leased Premises. When the Premises are not in use by Lessee, the Lessor may conduct activities in the Premises that do not interfere with the Permitted Uses with prior written consent from the Lessee.

Article 4. Maintenance and Repair of Premises

4.01. The Lessee shall keep the Leased Premises in good, clean condition and will maintain the personal property, removable fixtures, and equipment owned or controlled by Lessee in good repair and condition. The Lessee shall comply with all governmental laws, ordinances and regulations that apply to the Leased Premises, at its sole cost and expense. At the expiration of this Lease, the Lessee shall surrender the Leased Premises in good condition, reasonable wear and tear excepted.

4.02. Lessee shall submit in writing to Lessor any request for repairs, replacement, and maintenance that are the obligations of Lessor.

Article 5. Alterations and Fixtures

5.01. The Lessee shall not make any alterations, modifications, additions, or improvements, (including, but not limited to, structural, electrical, plumbing and painting) to the Leased Premises without the prior written consent of Lessor.

5.02. The Lessee shall ensure that no lien or similar obligation is imposed upon the Leased Premises for any alteration, repair, labor performed or materials furnished to the Leased Premises, and the Lessee shall immediately discharge any lien or charge after the lien occurs or charges become due and payable. *The Lessee shall hold harmless, indemnify and defend the Lessor, its officers, agents and employees from and against any claims, demands or suits related to such liens or obligations.*

5.03. The Lessee shall not install any exterior lighting, shades or awnings, or any exterior decorations or paintings on the Leased Premises or erect, install or change any signs, window or door lettering, placards, decorations, or advertising media of any type without the

prior written approval of the Lessor.

Article 6. Utilities/Taxes

6.01. The Lessee shall promptly pay all charges for electricity, telephone service, and other utilities furnished to the Leased Premises. No such utilities shall be connected or installed until the Lessor approves the location and specifications for such connections and installations. The Lessor will provide water and wastewater utilities at no charge to Lessee.

6.02. The Lessor shall not be liable for any interruption or impairment whatsoever in utility services to the Leased Premises.

6.03. The Lessee shall pay when due all taxes and assessments, if any, against the Leased Premises or underlying real property attributable to the Lessee's use of the Leased Premises under this Lease. The Lessee shall pay when due all sales, excise, income and other taxes, if any, levied upon its business operations on the Leased Premises.

Article 7. Insurance and Indemnity

7.01. Insurance: The Lessee will purchase and maintain in full force and effect during the term of the lease insurance as provided below, proof of which will be in a form acceptable to the Lessor:

A. Commercial general liability insurance with minimum limits of liability of not less than \$500,000 per occurrence;

B. Business automobile/motor vehicle liability insurance with minimum limits of liability for bodily injury and property damage combined of not less than \$500,000 per occurrence shall be in full force and effect during periods of authorized business activities; and

C. Workers compensation insurance within statutory limits, if applicable.

All of this insurance shall be primary over any other insurance coverage the Lessor may have and shall be written so that the Lessee and the Lessor will be notified in writing at least 30 calendar days in advance in the event of cancellation, restrictive amendment or non-renewal. **Commercial general liability and business automobile insurance coverage will be written with the City of San Marcos, Texas as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City of San Marcos.**

7.02. Approval Before Occupancy: The Lessee will submit certificates of insurance to the Lessor for approval prior to taking occupancy of the Premises.

7.03. Continuing Responsibility: In any event, the Lessee is fully responsible for all losses arising out of, resulting from or connected with operations under this Lease whether or not

the losses are covered by insurance. The Lessor's acceptance of insurance certificates that do not comply with these requirements will not release the Lessee from compliance with these provisions.

7.04. Indemnity and Hold Harmless:

A. The Lessee agrees to hold harmless, indemnify and defend the Lessor and its officers, agents and employees from and against all claims, suits and actions by third parties for loss of life, personal injury or property damage arising in connection with the use of the Leased Premises by the Lessee, its agents, contractors, employees, servants, invitees or licensees.

B. The Lessee shall use the Leased Premises and use, occupy and store property on the Leased Premises at its own risk, and the Lessee agrees to hold harmless and release the Lessor, and its officers, agents and employees from all claims, suits and actions by the Lessee for loss of life, personal injury or property damage resulting therefrom.

C. In case the Lessor is made a party to any litigation commenced by or against the Lessee that is covered by this paragraph, then the Lessee shall hold the Lessor harmless from and pay all costs and expenses of the Lessor related to the litigation, including the fees of attorneys and expert witnesses.

Article 8. Hotel Occupancy Data

Lessee agrees to record at the point of tube rental, in a method and on a form approved by the City Manager of the Lessor: a) the number of tube renters staying in San Marcos hotels, motels, tourist homes, tourist houses, tourist courts, lodging houses, inns, rooming houses, or bed and breakfasts (collectively, "Hotels"); and b) the number of room nights such tube renters are staying in such Hotels.

Article 9. River Clean Up

The Lessee shall assist in the cleanup of the San Marcos River in and around the area of the City recreation building during City of San Marcos designated river cleanup events.

Article 10. Condemnation

10.01. Total: If the whole of the Leased Premises is taken by eminent domain, then this Lease shall terminate as of the date the title vests in the proceeding.

10.02 Partial: If a portion of the Leased Premises is taken by eminent domain, and the partial taking renders the remaining portion unsuitable for the business of the Lessee, then this Lease shall terminate. If the partial taking is not extensive enough to render the premises unsuitable for the business of the Lessee, then this Lease shall continue in effect, except that the

fixed annual rental shall be reduced and adjusted in an appropriate manner.

10.03 Rent Payments: If this Lease is terminated as provided in this section, rent shall be paid up to the date that possession is taken by the condemning authority, and the Lessor shall make an equitable refund of any rent paid by the Lessee in advance.

10.04 Division of Award: The Lessor and the Lessee shall each be entitled to receive and retain separate awards, or portions of lump sum awards, as are allocated to their respective interests in the condemnation proceeding. The termination of this Lease under this Paragraph shall not affect the rights of the respective parties to such awards.

Article 11. Damage by Casualty

11.01. The Lessee shall give immediate verbal notice, and prompt written notice to the Lessor of any damage caused to the Leased Premises by fire or other casualty.

11.02. If the Leased Premises are damaged by casualty and can be restored within 30 days, Lessor will, at its expense, restore the Leased Premises to substantially the same condition that existed before the casualty and Lessee will, at its expense, replace any of its damaged furniture, fixtures, and personal property and restore any authorized leasehold improvements installed by Lessee. If Lessor fails or is unable to complete the portion of the restoration for which Lessor is responsible within 30 days from the date of written notification by Lessee to Lessor of the casualty, Lessee may terminate this lease by written notice delivered to Lessor before Lessor completes Lessor's restoration obligations.

11.03. To the extent the Premises are untenantable after the casualty, the Rent will be prorated for the period of time that the premises cannot be used by Lessee.

11.04. Any insurance or risk pool coverage against casualty loss which may be carried by either the Lessor or the Lessee shall be under the sole control of the party carrying the insurance or risk pool coverage, and the other party shall have no interest in any proceeds thereof. Lessor and Lessee expressly waive any cause of action or right of recovery which either of them may have against the other for any loss or damage to the Leased Premises or to the contents caused by fire, explosion, or other risk covered by the casualty insurance or risk pool coverage.

Article 12. Assignment and Subletting

Lessee may not assign this Lease or sublet the Leased Premises without prior written consent of the Lessor. Any such unauthorized assignment or subletting shall constitute a default.

Article 13. Events of Default and Remedies

13.01. Default: The following events shall be events of default by the Lessee under this Lease:

A. The Lessee fails to pay when due any rental or any other sums or charges due under this Lease.

B. The Lessee fails to comply with any other term, provision, or covenant of this Lease, and does not cure the failure within 30 days after written notice to the Lessee. For any subsequent default by the Lessee for the same or any other reason, the Lessor may terminate the Lease if that subsequent default continues for more than three days after notice of the subsequent default.

C. The Lessee commences, or another party commences against the Lessee, proceedings in bankruptcy, for reorganization, or for the readjustment or arrangement of its debts under the bankruptcy laws of the United States or under any other law. The acceptance by the Lessor of the Lessee's monthly payments subsequent to the occurrence of this event of default, or that set forth in subparagraph E below, shall be as compensation for use and occupancy of the Leased Premises, and shall in no way constitute a waiver by the Lessor of its right to exercise any remedy provided for any event of default.

D. A receiver or trustee is appointed for all or substantially all of the assets of the Lessee.

E. The Lessee abandons or vacates all or any substantial portion of the Leased Premises for more than 30 consecutive days during the periods of conducting its authorized activities under paragraph 3.01.

13.02. Remedies: Upon the occurrence of any of the events of default, the Lessor shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

A. Terminate this Lease. In this event the Lessee shall immediately surrender the Leased Premises to the Lessor, and if the Lessee fails to do so, the Lessor may enter and take possession of the Leased Premises and remove the Lessee and any other person occupying the premises, without prejudice to any other remedy it may have for possession or arrearages in rent, and without being liable for any resulting damages. The Lessee agrees to pay to the Lessor the amount of all resulting costs, losses and damages incurred by the Lessor within 30 days of the Lessor's issuance of a statement to the Lessee.

B. Relet the Leased Premises to any lawfully approved tenant and receive the rent. The Lessee agrees to pay to the Lessor any resulting costs, and any deficiency that may arise by reason of reletting, within 30 days of the Lessor's issuance of a statement to the Lessee.

C. The Lessor's pursuit of any of these remedies will not preclude pursuit of any

other remedies provided under this Lease or by law, nor will pursuit of any remedy constitute a waiver of any rent due to the Lessor or of any damages caused to the Lessor by any violation of this Lease by the Lessee. Any failure by the Lessor to enforce a remedy upon an event of default shall not be deemed to constitute a waiver of the default or of the Lessor's right to insist on strict compliance with this Lease.

13.03. Attorney Fees: If it becomes necessary for the Lessor to employ an attorney to enforce or defend any of the Lessor's rights or remedies because of any breach or default by the Lessee under this Lease, the Lessee agrees to pay all reasonable attorney's fees incurred by the Lessor, within 30 days of the Lessor's issuance of a statement for the fees to the Lessee.

Article 14. Landlord's Lien

The Lessee grants to the Lessor a valid first security interest upon all of the Lessee's goods, chattels, furniture, trade fixtures, inventory and other property upon the Leased Premises to secure all rents and other sums due or to become due to the Lessor. The Lessee expressly waives all exemption laws in favor of this security interest; and it is agreed that this express security interest shall be in addition to, and not as a waiver of or substitute for any statutory or other liens of the Lessor. In connection with this security interest, it is agreed that in the event of a breach or default by the Lessee, the Lessor may exercise all rights and remedies provided to a secured party after default under the Uniform Commercial Code ("UCC"), as adopted and amended in Texas, with respect to all such property, including, without limitation, the right to take and retain possession of the property and to sell it at public or private sale, or to use it in any other manner authorized or provided in the UCC. Upon request by the Lessor, the Lessee agrees to execute and deliver UCC Financing Statements to the Lessor from time to time as the Lessor deems necessary to perfect the Lessor's security interest in the property, and proceeds thereof under the provisions of the UCC.

Article 15. Holding Over

If Lessee does not vacate the Leased Premises following termination of this Lease, Lessee will become a tenant at will and must vacate the Premises on receipt of notice from Lessor. No holding over by Lessee, whether with or without the consent of Lessor, will extend the Term. During the period of holding over the Lessee shall be liable for the payment of rent on a prorated basis equal to two times the annual rent in effect as of the last lease term before the lease termination date.

Article 16. Miscellaneous

16.01. Words and Phrases: When the singular number is used in this Lease, it will include the plural when appropriate, and the neuter gender will include the feminine and masculine genders when appropriate.

16.02. Invalidity: If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, this Lease will remain in effect, and the remaining

provisions will continue in force if they can be given effect without the invalid portion.

16.03. Amendment: This Lease may be amended only by an instrument in writing signed by both parties.

16.04. Captions: The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions of this Lease.

16.05. Waiver: One or more waivers of any covenant, term or condition of this Lease by either party shall not be deemed as a waiver by that party as to any subsequent similar act or omission.

16.06. Force Majeure: Whenever a period of time is prescribed for action to be taken by the Lessor, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes beyond the reasonable control of the Lessor shall be excluded from the computation of any such period of time.

16.07. No Joint Venture: This Lease shall not be construed as creating the relationship of principal and agent or of partnership or of joint venture between the parties. The only relationship between the parties is only that of Lessor and Lessee.

16.08. Law and Venue: The parties agree that the laws of the State of Texas shall govern this Lease and that exclusive venue for enforcement of this Lease shall lie in Hays County, Texas.

16.09. Notice: Wherever any notice is required or permitted under this Lease, the notice shall be in writing and sent by certified mail, return receipt requested, addressed to the respective party at the following addresses. The Lessee shall provide the Lessor with advance written notice of any change in its address.

Lessor:

City of San Marcos
Attention: City Manager
630 East Hopkins Street
San Marcos, Texas 78666

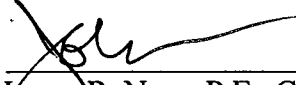
Lessee:

San Marcos Lions Club
Attention: President
P.O. Box 994
San Marcos, Texas 78666

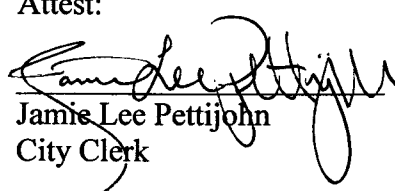
EXECUTED to be effective as of April 11, 2011.

[SIGNATURES ON FOLLOWING PAGE]

LESSOR:
City of San Marcos

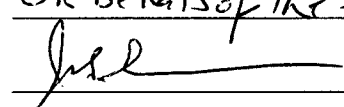
By: 
James R. Nuse, P.E., City Manager

Attest:


Jamie Lee Pettijohn
City Clerk

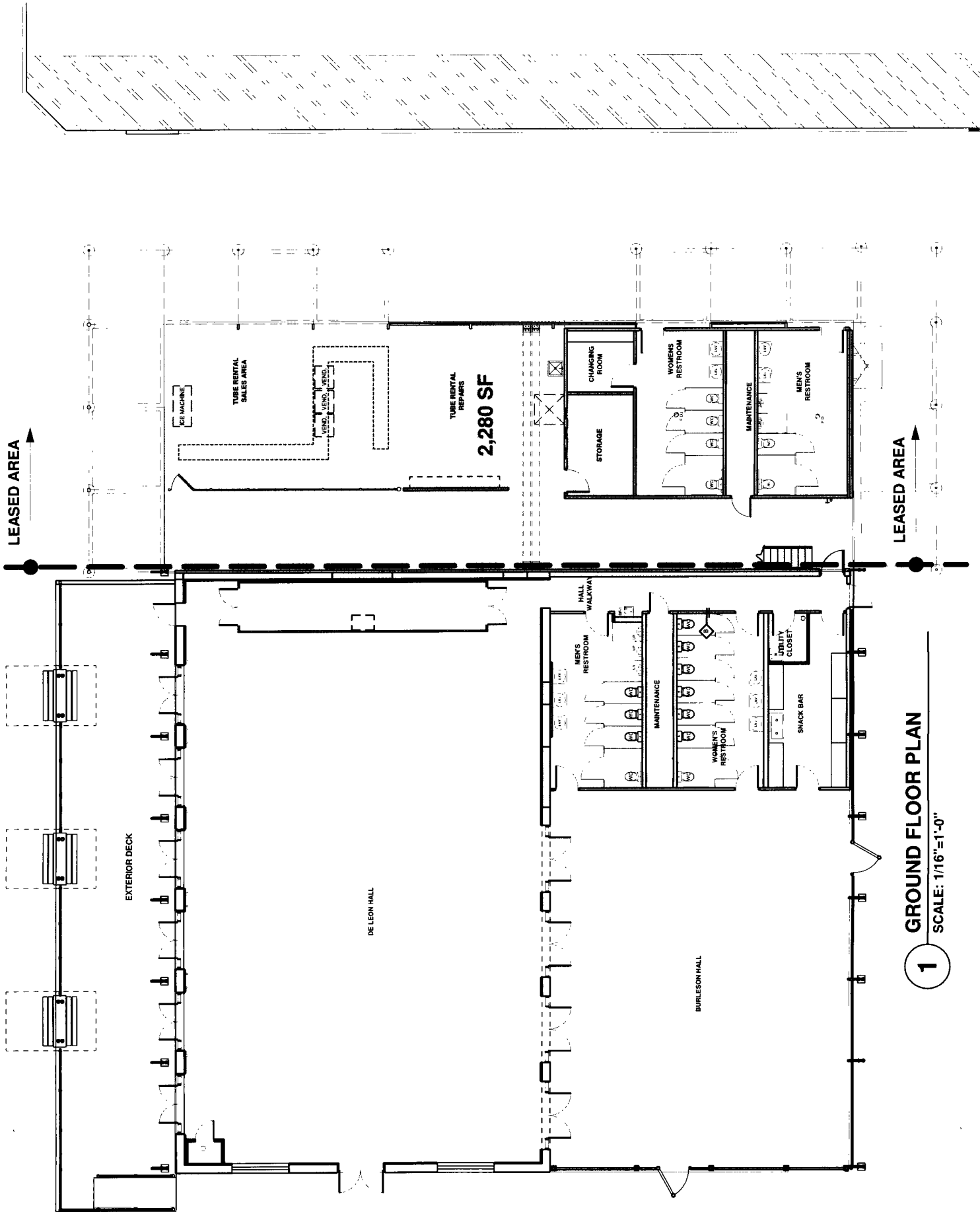
LESSEE:
San Marcos Lions Club.

By: On Behalf of The San Marcos Lions Club

Name: 

Title: President

EXHIBIT "A"
Leased Premises Description
(following pages)



1 GROUND FLOOR PLAN

SCALE: 1/16"=1'-0"

LEASED AREA

LEASED AREA

TUBE RENTAL
STORAGE

2,440 SF

TUBE RENTAL
STORAGE

TUBE RENTAL
COMPRESSION ROOM

OPEN
STORAGE

STORAGE
ROOM

ELECTRICAL
ROOM

OPEN TO BELOW

2 STORAGE LEVEL PLAN

SCALE: 1/16"=1'-0"

RECOMMENDATION RESOLUTION NO. 2021-04RR

A RECOMMENDATION RESOLUTION OF THE PARKS AND RECREATION BOARD OF THE CITY OF SAN MARCOS, TEXAS SUPPORTING THE CHANGE TO THE LIONS CLUB TUBE RENTAL AND VENDING LEASE.

RECITALS:

1. The City of San Marcos has an upcoming lease renewal with the Lions Club. As the City of San Marcos faces budget constraints, both the Parks and Recreation Department and Parks and Recreation Board have explored various ways of enhancing revenue to support management of the river parks. To this effect the City Council adopted the increase of facility rental for both non-profit and private uses, activity center membership and program fees; this did not extend to facilities that were currently under long-term lease.
2. The current monthly lease is substantially less than the market value of a commercial riverfront rental property along with near vending exclusivity in the river parks.
3. The Parks and Recreation Board recognizes the need to: provide a variety of recreational opportunities for the citizens of San Marcos and visitors; manage the flow and volume of users; control litter from entering the river; balance recreation with ecological function; supplement and retain revenue streams; and to ensure accessibility for users across all demographics and economic backgrounds.

BE IT RESOLVED BY THE PARKS AND RECREATION BOARD OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. Limit the days of operation for the lessee to offer commercial tubing and/or like recreation (rental and/or shuttles) to; 3 days out of Monday, Tuesday, Wednesday, Thursday, and Friday, and 1 day out of Saturday and Sunday. This will provide the river a period of rest from the commercial tubing operation and allow citizens to utilize the river for active recreation, which is often restrictive during the commercial tubing operation.


PART 2. Council should direct City Staff to determine fair market value for lease of the property based on local commercial real estate rates and similar municipal leases in other municipalities. Additionally, a surcharge of \$2.00 per tube rental and shuttle service must be added and provided to the City of San Marcos Parks and Recreation Department to support operations and improvements within the parks.

PART 3. The lessee must provide an employee to clean litter from the river channel, much of which is contributed by tubers. We recommend at least 2 hours of cleanup per operating day.

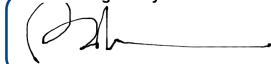
PART 4. Change the lease renewal from 5 years to 2 years. This will provide the City better flexibility in making changes if future changes need to occur.

ADOPTED on February 25, 2021.

Attest:

DocuSigned by:

E91A72A5ABBC40A
Christie Murillo
Staff Liaison

Board Chair:

DocuSigned by:

1C797A87BAD2441...
Diane Phalen
Parks & Recreation Board Chair

San Marcos Lions Club



March 8, 2021

To members of the San Marcos City Council:

The San Marcos Lions Club has long taken great pride in being able to offer a San Marcos River tubing experience to both residents and visitors alike as an affordable and family friendly experience. The club takes no less pride in being able to financially assist more than 118 local charities, social services, and youth organizations to the tune of \$350,000 annually with the profits from its City Park tube rental operation. Serving as responsible stewards of our unique river and beautiful parks is an honor – and responsibility – we take very seriously.

With these things in mind we respectfully offer a few very important changes to Resolution No. 2021-04RR recently recommended to the San Marcos City Council by the Parks and Recreation Board. Below we will list the original language of the resolution followed by suggestions from the San Marcos Lions Club.

Thank you for your support and partnership these many years and for your serious consideration of our thoughts and concerns with the resolution in its current form.

BE IT RESOLVED BY THE PARKS AND RECREATION BOARD OF THE CITY OF SAN MARCOS, TEXAS:

(Resolution) – PART 1. Limit the days of operation for the lessee to offer commercial tubing and/or like recreation (rental and/or shuttles) to; 3 days out of Monday, Tuesday, Wednesday, Thursday, and Friday, and 1 day out of Saturday and Sunday. This will provide the river a period of rest from the commercial tubing operation and allow citizens to utilize the river for active recreation, which is often restrictive during the commercial tubing operation.

LIONS – Lions Club **disagrees** with this stipulation and is adamantly against closing any days of the week. Typically, we operate every day from Memorial Day through Labor Day. The month of May and September we are open only weekends only. For 2021 we had planned to open every day in May and September to make up for loss revenue from 2020. We would certainly agree to only be open on weekends prior to Memorial and after Labor Day.

Limiting the days of operation will only cause confusion to our customer base and will not allow us to have any staff to help pick up trash (See Part 4 below). That will also cause a reduction of knowledgeable staff on ground explaining park rules of no Styrofoam, glass, open containers, or answering the many questions we get daily about the river and parks.

“WE SERVE”

P.O. Box 994 * San Marcos, Texas 78667 * www.sanmarcoslionsclub.org

San Marcos Lions Club



(Resolution) – PART 2. Council should direct City Staff to determine fair market value for lease of the property based on local commercial real estate rates and similar municipal leases in other municipalities. Additionally, a surcharge of \$2.00 per tube rental and shuttle service must be added and provided to the City of San Marcos Parks and Recreation Department to support operations and improvements within the parks.

LIONS – Lions Club **disagrees** with the drastic increase in rent. The rental agreement was mutually agreed upon by both parties with staggered rent increases built into the contract. We have strived to keep the Lions Tube rental an affordable friendly event for all. 78666 area code is the most popular zip code from all our customers. Increasing rent will not allow us to keep it affordable for local families and will cause a drastic reduction in donations to local charities. In 2019 we went up \$2 a tube and caused a 11 percent decrease of tube rentals.

Based on the understanding that Parks & Recreation could use more funds to improve our river parks we would like to start a "River Park Improvements" donation fund to be utilized by the parks. We would start by having a donation page on our website and add it to our Point of Sale asking every customer for donations to help keep the river and parks beautiful. We believe this could become a significant donation where we can help purchase more trash cans, river clean ups, to adding capital improvements.

It has been mentioned that our monthly rental rate is \$900 a month based on a 12-month lease. This is based on the original lease period. For the last 5 years we have been paying \$11,350 per year. That will go up to \$11,900 this year. We are only in operation for about 4 months and yet we still pay for the months that we generate no sales. We paid the full rent for 2020 even though we were only able to be open a small portion of June. We have willingly allowed to use the facility that we rent by Sights and Sounds at Christmas for many years. We are open to discussing the use of the facility by the City of San Marcos during the months when the tube rental is not open.

(Resolution) – PART 3. The lessee must provide an employee to clean litter from the river channel, much of which is contributed by tubers. We recommend at least 2 hours of cleanup per operating day.

LIONS – Lions Club **disagrees**. We would certainly agree to Part 3 but will add 2 additional hours for the weekends. We would also cover the parking lot to the river and up to the pedestrian bridges in City Park. We will also cover across the river at Dog Park. In addition, we would cover part of Rio Vista where our concession stands to the riverbank to

“WE SERVE”

San Marcos Lions Club



Cheatham Street.

(Resolution) – PART 4. Change the lease renewal from 5 years to 2 years. This will provide the City better flexibility in making changes if future changes need to occur.

LIONS – Lions **disagree** with changing the lease to fewer years than the citizens of San Marcos voted and originally approved of a 5-year lease with 4 more options of 5-year terms to total 25 years. This original lease was designed to allow the Lions Club to pay off the cost of portion of the new building that we use for the tube rental by end of the 25-year lease.

IN CONCLUSION

The San Marcos Lions Club knows well neither it nor the tube rental exist in a vacuum. We rely on the very special partnerships we have built in this city since 1941. It has never been our goal to take anything away from this fine community or its citizens, but to give back in any way possible. Our motto is "We Serve", and we look forward to many more years of service to San Marcos, its citizens, its parks and our River of Innocence.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Dennis Gutierrez", with a long horizontal line extending to the right.

Dennis Gutierrez, President

"WE SERVE"

P.O. Box 994 * San Marcos, Texas 78667 * www.sanmarcoslionsclub.org



City of San Marcos

Regular Meeting Minutes Parks and Recreation Advisory Board February 20, 2020 5:30pm Activity Center – Multipurpose Room 501 E Hopkins St San Marcos, Texas

I. Call To Order

Meeting was called to order at 5:34pm on February 20, 2020.

II. Roll Call

Present: Frank Contreras, Eric Gilbertson, Diane Phalen, Ryan McGillicuddy, Keith Ubben, Jordan Buckley

Absent: Maggie Hutchins, Richard Shaver, Josh Simpson

Excused:

Staff Present: Bert Stratemann, Jamie Lee Case, Daniel Montemayor,

III. 30 Minute Citizen Comment Period: *Each speaker signed up prior to the meeting being called to order will be called in the order in which they signed-up. Each speaker will be provided up to three minutes to speak.*

No citizen comment

MINUTES

1. Consider approval, by motion, of the January 13, 2020 meeting minutes.

A motion was made by Parks Board Member Diane Phalen, second by Parks Board Ryan McGillicuddy to approve the January 13, 2020 meeting minutes. Motion carried with the following vote:

For: 6- Frank Contreras, Eric Gilbertson, Diane Phalen, Ryan McGillicuddy, Keith Ubben, Jordan Buckley

Against: 0

DISCUSSION ITEMS/ UPDATE

2. Receive a brief staff update and hold discussion related to Cape's Dam.

Jamie Lee Case reported that staff has been working with the engineering folks to expand on the scope of work. On March 17, 2020, the scope of work will go to City Council for official approval. Once approved a firm will be appointed.

3. Hold Discussion regarding possible youth scholarship opportunities for Parks and Recreation activities and programs, and effort to provide financial assistance for low income households.

Jamie Lee Case summarized the amount of scholarships we provided last year and that discussion for this topic was brought up by the Parks Board. Ms. Case reported that funds are provided by CDBG. The scholarship funds youth programs as well as the youth summer camps throughout the fiscal year. The current supply is meeting the demand for the community.

Jordan Buckley asked if the policy decision could be changed for the income qualifications. Jamie Lee Case stated that yes that the information would have to be presented to City Council.

Frank Contreras would like to present a recommendation to allocate the scholarship funds to the low income level bracket.

Jordan Buckley asked if we tracked any families who are not offered a scholarship when funds are exhausted. At this current time it is not tracked but tracking could start.

A motion by Parks Board member Frank Contreras, second by Parks Board member Jordan Buckley to bring forth a resolution recommendation for Parks Board consideration on a policy change in regard to awarding the scholarship primarily to the low to moderate income levels. Motion passed.

**For: 6- Frank Contreras, Eric Gilbertson, Diane Phalen,
Ryan McGillicuddy, Keith Ubben, Jordan Buckley**

Against: 0

4. Receive a Parks Board Subcommittee update and hold discussion related to the Lions Club.

Jamie Lee Case reported that Jordan Buckley met with two representatives from the Lions Club. Parks Board Member Jordan Buckley shared that the Lions Club funds different organizations within the community. Jordan also stated that the Lions Club provides funding for AP test. The Lions Club raised prices on tubes to regulate the amount of people on the river. The Lions Club is willing to collaborate on future ADA projects on the river.

Parks Board member Jordan Buckley asked if financials could be provided along with contracts.

Mark Jalufka offered that the Lions club would be open to providing a tour if the Parks Board would like to see the operational area.

The Lions Club administers a survey for customers to help with the tourism center and to gather data for environmental information.

5. Receive a brief staff update and hold discussion related to the potential renaming the San Marcos Rec Hall facility as recently discussed by City Council during their Annual Visioning Workshop.

Jamie Lee Case reported that confusion for the name of the San Marcos Rec Hall and Activity Center came up in an annual visioning workshop. The City Council recommended that the Parks Board consider recommendations for renaming the San Marcos Rec Hall. Jamie Lee Case stated that a subcommittee could be created or discussion as a Parks Board group could suggest possible names.

PRESENTATION

6. Receive a brief presentation from Joleene Maddox Snider regarding historical research findings related to Cape's Dam.

Jolene Maddox Snider presented the history of Capes Dam and the objective of the presentation is to give credit to those that worked on Capes Dam and Thompson's Island. The dam was constructed in 1850 and meant that the structure may have been built by slaves. A milling operation was in place around 1850. Thomas McGehee was well known and an agreement was formed to build a milling operation and a saw mill. If so then Thompson's slaves performed the work to build the mill and probably designed it. Only one historical marker out of 1800 in the state of Texas gives credit to the slaves.

Jordan Buckley attempted to get in contact with the Historical Commission along with Jolene Maddox Snider. The current area gives credit to Mr. Thompson but leaves out the slaves. The current marker would present a challenge to replace, in addition the process does go through the state level.

REPORTS

7. Receive Athletic Division Monthly Report, Youth Services Division Monthly Report, Habitat Conservation Plan (HCP) Monthly Report, and San Marcos Greenbelt Alliance Volunteer Report.

No questions about monthly reports.

FUTURE AGENDA ITEMS

8. Board Members may provide requests for discussion items for a future agenda in accordance with the board's approved bylaws. *No further discussion will be held related to topics proposed until they are posted on a future agenda in accordance with the Texas Open Meetings Act.*

Can ban in Martindale has taken place and staff have offered to give a presentation in San Marcos.

Parkland Dedication Presentation from Planning Department

Parks Board Orientation to include Bylaws

IV. Question and Answer Session with Press and Public.

This is an opportunity for the Press and Public to ask questions related to items on this agenda.

No questions from the Press or Public

V. Adjournment

Meeting was adjourned at 6:45pm on February 20, 2020.

Parks Advisory Board Chairman

Facilities/Events Coordinator

Notice of Assistance at the Public Meetings

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ADArequest@sanmarcostx.gov



**City of San Marcos
Regular Meeting Minutes
Parks and Recreation Board
January 21, 2021 5:30 pm**

I. Call to Order

The meeting was called to order at 5:31pm by Board Chair, Diane Phalen.

II. Roll Call

Board Members Present

Jordan Buckley
Frank Contreras
Eric Gilbertson
Ryan McGillicuddy
Diane Phalen
Keith Ubben
Alex Vogt
Kevin White

Board Members Absent

Cherif Gacis

Staff Present

Drew Wells, Director of Parks and Recreation
Jamie Lee Case, Assistant Director of Parks and Recreation
Michael Cosentino, City Attorney
Bert Stratemann, Park Operations Manager
Christie Murillo, Administrative Coordinator

- III. Citizen Comment Period:** Persons wishing to speak during the citizen comment period please submit your written comments to **parksinfo@sanmarcostx.gov no later than 12:00pm on the day of the meeting**. The first 10 comments will be read aloud during the citizen comment portion of the meeting. Comments shall have a time limit of three minutes each. Any threatening, defamatory or other similar comments prohibited by Chapter 2 of the San Marcos City Code will not be read.

- Jamie Lee Case, Assistant Director of Parks and Recreation, reads 1 written comment
 - Submitted by Marla Johnson in support of the Lions Club lease renewal

MINUTES

1. Consider approval, by motion, of the December 17, 2020 regular meeting minutes:

A motion was made by Alex Vogt, seconded by Kevin White, to approve the minutes from the December 17, 2020 regular meeting. The motion carried by the following vote:

For:

8 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Alex Vogt, Kevin White,
Keith Ubben, Eric Gilbertson, Frank
Contreras

DISCUSSION

2. Receive a staff update and hold discussion regarding COVID-19 response in the City's Parks:
 - Assistant Director Case provides the update
 - All public facing counters are currently closed through the end of January
 - This includes Grant Harris, Activity Center and Discovery Center
 - Staff will receive an update in the coming week about any future actions or continuation of closures
3. Receive an update from the Lions Club subcommittee and hold discussion regarding proposed recommendations related to lease between the City of San Marcos and the Lions Club that expires on April 11, 2021:
 - Subcommittee members include: Jordan Buckley, Eric Gilbertson, Keith Ubben
 - Board member Ubben provides update
 - Subcommittee agreed upon 4 "common sense" amendments to the lease:
 1. Lions Club tubing operations close one weekend day and 2 weekdays a week (open 4 days/wk). This will help make it easier for canoers, kayakers, stand up paddle boarders, swimmers to enjoy the river.
 2. The City adjust the rent charged to the Lions Club (currently at ~\$900/mth; looking to increase by an as yet unspecified amount; Lions Club financial information could help inform this new amount)
 3. Lions Club provide financial transparency in the monies generated/monies donated from tubing operations
 4. Lions Club provide one staff member to be in water during operations to pick up litter
 - Board member Gilbertson mentions that subcommittee also discussed possibility of not renewing lease at all and instead not having any commercial tubing operations doing business on that stretch of the river. The portion of the building that is leased could be then repurposed.
 - Board member Ubben mentions there has never been an analysis of the ancillary costs the City incurs because of the tubing operations.
 - Board discusses with City Attorney, Michael Cosentino, the possibility of opening this lease up to a competitive bid process, and if it was currently setup that way. Cosentino says this was not a competitive bid. There is nothing that would prevent the City from entering into the competitive bid process. He also notes that any lease lasting longer than 3 years on city property or for a city facility, City Charter states that the decision go to the voters. The Lions Club lease last went to the voters in 2010. Any lease less than 3 years does not need to go to voters.
 - Board member Ubben suggests a broader discussion occur down the road about either opening this up to a competitive bid process or not having any commercial tubing operations there at all. For the purpose of expediency since the lease will be ending in April, Board member Ubben suggests the 4 amendments for now and then having the continuing discussions about the future of that space later on.
 - Assistant Director Case, as well as City Attorney Michael Cosentino, both note that both parties have to agree to the lease. Lions Club will be able to provide feedback after tonight's meeting. This lease (and the Board's proposed amendments) will go to Council the first meeting in March. Council will have 3 meetings to go over everything. If Lions Club is not amenable to the amendments,

the lease will go to Council as it currently is and it would be up to them to renew on current terms or terminate. If an agreement is reached, the new terms would be put forward to the Council.

- Board member McGillicuddy asks if, while this is being negotiated, a short-term lease to continue services could be agreed upon. City Attorney Cosentino says yes, that is a possibility that can take place to bridge the gap of services.
- Board agrees to have a special meeting before next regular meeting to discuss Lions Club lease further.
- Subcommittee will bring back to February meeting an action item with 2 Recommendation Resolutions. One for continuing lease with amendments and one for opening this up to a competitive bid process or discontinuing tubing operations at that facility altogether.
- Board member Ubben will contact Lions Club again and ask for financial information.

4. Hold discussion regarding trash can placement on trails in natural areas:

- Board member Buckley suggests trash cans be placed under Ranch Road 12 bridge
- Assistant Director Case informs Board that a “pick up after your pet” education initiative will be taking place in the Parks and Recreation department. Signs are being ordered to be placed along trails and social media will occur as well.

5. Hold discussion regarding the proposed Healthy Streets program:

- City Council placed this on the Sustainability Committee during their recent visioning session

REPORTS

6. Receive the following reports: Park Projects Monthly Report, Athletics Division Monthly Report, Youth Services Division Monthly Report, Habitat Conservation Plan (HCP) Monthly Report

- Board did not have any questions or comments regarding the reports

FUTURE AGENDA ITEMS

7. For next regular meeting:

- Recommendation Resolutions regarding Lions Club lease renewal
- Presentation from Dr. Jason Julian with Texas State
- Sportsplex update
- Ordinance subcommittee update

IV. Adjournment

The meeting was adjourned at 6:33pm by Board Chair, Diane Phalen

Parks and Recreation Board Chair

Staff Liasion

Notice of Assistance at the Public Meetings

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**City of San Marcos
Special Meeting Minutes
Parks and Recreation Board
February 4, 2021 12:00 pm**

I. Call to Order

The meeting was called to order at 12:00pm by Board Chair, Diane Phalen.

II. Roll Call

Board Members Present

Jordan Buckley
Frank Contreras
Eric Gilbertson
Ryan McGillicuddy
Diane Phalen
Keith Ubben
Alex Vogt
Kevin White

Board Members Absent

Cherif Gacis

Staff Present

Drew Wells, Director of Parks and Recreation
Jamie Lee Case, Assistant Director of Parks and Recreation
Christie Murillo, Administrative Coordinator

DISCUSSION

1. Receive an update from the Lions Club Subcommittee and hold discussion regarding proposed recommendations related to lease between the City of San Marcos and the Lions Club that expires on April 11, 2021:
 - Subcommittee consists of: Keith Ubben, Jordan Buckley and Eric Gilbertson
 - Chair Phalen does not feel that it is the Boards place to negotiate the terms of the lease; it is the City's responsibility
 - Chair Phalen recalls a conversation a couple of years ago where, in an effort help limit the number of tubers on the river, the Lions Club was going to raise the price of tubes. She asks President Daniel Gutierrez if the Lions Club did indeed raise their prices and if it had the intended effect of limiting tubers on the river.
 - President Gutierrez believes that yes, they did raise the prices. He does not have the numbers in front of him so he can't say for certain if the price increase had that effect. He can get back to Board on that.
 - President Gutierrez also states that the Lions Club subcommittee will be meeting to discuss the Board's drafted recommendations and they will respond to each one with as much information as possible.
 - Chair Phalen asks President Gutierrez about the Lions Club's 990 report
 - Income was over 1 million
 - ~\$350k given out in grants
 - ~\$300k for salaries
 - ~\$500k in operating expenses

- Club operates on a fiscal year of July 1 – June 30; the Lions Club accountant can help answer additional questions
- Vice-Chair McGillicuddy suggests that the Recommendation Resolution be more generalized without specific references to the Lions Club so that if this goes to a more open process, this recommendation does not become a moot point
- Director Wells informs Board that procurement process can take anywhere from 6-9 months
 - the City does not contract for tube rental operations; they contract for lease of a City facility. Leases longer than 3 years are required to go to voters, per City Charter
 - It could be difficult for another organization to come up with the capital to run a tubing operation and might take them longer than 3 years to recoup those startup costs
- Vice-Chair McGillicuddy suggests changing any references to “Lions Club” in the recommendation to “the lease holder”
- Vice-Chair McGillicuddy asks: Can City stipulate Parts 1-4 via the lease process?
 - Director Wells-yes; City and Lions Club last negotiated terms of lease in 2011
- Vice-Chair McGillicuddy: remove reference to \$900/mth rate and make it a “fair market rate”
- Board Member Ubben suggests a “Part 5” that states the lease duration be shortened
- Chair Phalen feels that the open process should be one recommendation and the negotiated terms on the existing lease should be another recommendation
- Board Member Ubben suggests not sending the two resolutions in tandem; send the resolution for a more open process moving forward later on
- Board consensus is to separate this current drafted recommendation resolution into two separate resolutions
- Vice-Chair McGillicuddy suggests the “Recitals” be expanded upon to better explain the Board’s position. He also suggests removal of the statement “the lease is unfavorable to the river ecology” unless the Board is prepared to support it with scientific citations. A possible change could be something more generalized such as “in order to balance recreational uses with ecological functions.”
- Assistant Director Case clarifies that this would not be a “competitive bid” process but instead a “request for proposals”
- Board Member Buckley offers his place on the subcommittee to Vice-Chair McGillicuddy

IV. Adjournment

The meeting was adjourned at 1:02pm by Board Chair, Diane Phalen

Notice of Assistance at the Public Meetings

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**City of San Marcos
Regular Meeting Minutes
Parks and Recreation Board
February 25, 2021 5:30 pm**

I. Call to Order

The meeting was called to order at 5:30pm by Board Chair, Diane Phalen.

II. Roll Call

Board Members Present

Jordan Buckley
Cherif Gacis
Eric Gilbertson
Ryan McGillicuddy
Diane Phalen
Keith Ubben

Board Members Absent

Frank Contreras
Alex Vogt
Kevin White

Staff Present

Drew Wells, Director of Parks and Recreation
Jamie Lee Case, Assistant Director of Parks and Recreation
Christie Murillo, Administrative Coordinator

III. Citizen Comment Period: Persons wishing to speak during the citizen comment period please submit your written comments to **parksinfo@sanmarcostx.gov no later than 12:00pm on the day of the meeting**. The first 10 comments will be read aloud during the citizen comment portion of the meeting. Comments shall have a time limit of three minutes each. Any threatening, defamatory or other similar comments prohibited by Chapter 2 of the San Marcos City Code will not be read.

- Jamie Lee Case, Assistant Director of Parks and Recreation, reads 1 written comment:
 - Submitted by James K. Baker in regards to the Lions Club lease renewal

PRESENTATIONS

1. Madeline Wade, Graduate Instructional Assistant with the Department of Geography at Texas State University, presents on her project titled, "Blue Index San Marcos: Measuring patterns of use, emotional reactions, and values of the San Marcos River."
 - Hoping to assess emotional experiences, uses and values of the San Marcos River using 6 photo stations within the vicinity of San Marcos parks and protected spaces
 - Blue Index Austin 2017-2019; 1800 responses
 - Goals: understand how people feel and assign meaning to waterscapes in San Marcos, understand how the COVID pandemic has impacted people's use and appreciation of open spaces, use citizen observations and preferences to identify San Marcos waterscapes that may need attention
 - 6x6 sign in plastic casing attached to existing structures; bridge strap method preferred

- 6 sites in San Marcos parks to be monitored over a 12-month period

MINUTES

2. Consider approval, by motion, of the following meeting minutes:

- a) January 21, 2021 Regular Meeting minutes
- b) February 4, 2021 Special Meeting minutes

a) A motion was made by Ryan McGillicuddy, seconded by Keith Ubben, to approve the minutes from the January 21, 2021 Regular Meeting. The motion carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

b) A motion was made by Diane Phalen, seconded by Ryan McGillicuddy, to approve the minutes from the February 4, 2021 Special Meeting. The motion carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

ACTION ITEMS

3. Consider approval of a request by Stephen Sherrill, P.E. Binkley & Barfield Inc., on behalf of Lenar Homes of Texas & Construction, Ltd., for a Fee-in-Lieu of Parkland Dedication for \$57,420 for a single-family development located along Yarrington Road:

- Presented by Alison Brake, Historic Preservation Officer
- +/- 48.244 acres
- Single family residential
- Requesting Fee in Lieu
 - 145 unites
 - \$57,420
 - Not within a "Neighborhood Park Need Area" as defined by Parks Master Plan
- HOA maintained park
- Board has concerns with approving a Fee in Lieu when the requester has already been told they can do the Fee in Lieu

A motion was made by Cherif Gacis, seconded by Ryan McGillicuddy, to approve a request by Stephen Sherrill, P.E. Binkley & Barfield Inc., on behalf of Lenar Homes of Texas & Construction, Ltd., for a Fee-in-Lieu of Parkland Dedication for \$57,420 for a single-family development located along Yarrington Road. The motion carried by the following vote:

For: 4 - Ryan McGillicuddy, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 1 - Jordan Buckley

Abstain: 1 - Dianne Phalen

4. Consider approval of Recommendation Resolution 2021-01RR of the Parks and Recreation Board supporting changes to the Lions Club Tube Rental and Vending Lease:

A motion was made by Ryan McGillicuddy, seconded by Diane Phalen, to approve Recommendation Resolution 2021-01RR of the Parks and Recreation Board supporting changes to the Lions Club Tube Rental and Vending Lease.

- Board Chair Phalen believes that organizations that have an agreement with the City voluntarily hand over their 940 on a yearly basis
 - Phalen does not feel it is necessary to see how much each charity receives
- Board Members Buckley and Gacis would like to know how much each charity receives
- Board Member Ubben feels that asking for fair market value in addition to the tube surcharge would be an adequate level of financial detail
- Vice-Chair McGillicuddy does not feel that level of detail would be valuable in advancing the negotiations of the lease agreement
- Board Member Buckley would like to see how much Park Rangers and other law enforcement charities receive
- Board opts to not move forward with any formal amendments calling for additional financial transparency

A motion was made by Ryan McGillicuddy, seconded by Cherif Gacis, to amend Part 2 of the Recommendation Resolution to read: “Additionally, a surcharge of \$2.00 per tube rental and shuttle service must be added and provided to the City of San Marcos Parks and Recreation Department to support operations and improvements within the river parks.” The motion carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

- Board asks staff if the Lions Club pays utilities; staff will report back with answer—it is in lease
- Vice-Chair McGillicuddy does not feel comfortable suggesting what a fair market value rate would be
- Board Member Buckley feels that the Recommendation Resolution should address the Board’s reasoning for why they are recommending these lease changes (i.e. recent Board approved fee increases).

A motion was made by Ryan McGillicuddy, seconded by Cherif Gacis, to amend Recitals: 1 to read: “To this effect the City Council adopted the increase of facility rental for both non-profit and private uses, Activity Center membership and program fees; this did not extend to facilities that were currently under long-term lease.” The motion carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

A motion was made by Cherif Gacis, seconded by Ryan McGillicuddy, to amend Recitals: 3 to read: “The Parks and Recreation Board recognizes the need to: Provide a variety of recreational opportunities for the citizens of San Marcos and visitors; manage the flow and volume of users; control litter from entering the river; balance recreation with ecological function; supplement and retain revenue streams; and to ensure accessibility for users across all demographics and economic backgrounds.” The motion carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

A motion was made by Diane Phalen, seconded by Jordan Buckley, to amend Part 2 to read: “Additionally, a surcharge of \$2.00 per tube rental and shuttle service must be added and provided to the City of San Marcos Parks and Recreation Department to support operations and improvements within the parks.” The motion carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

The motion to approve Recommendation Resolution 2021-01RR, with amendments, carried by the following vote:

For: 6 - Ryan McGillicuddy, Jordan Buckley,
Diane Phalen, Keith Ubben, Eric
Gilbertson, Cherif Gacis

Against: 0

DISCUSSION

5. Receive a staff update and hold discussion regarding COVID-19 response in the City’s Parks:
 - Activity Center will be reopening with previous, pre-holiday precautions, on March 1
 - City Park Rec Hall was impacted by the recent freeze and will not be rented while it is being repaired
 - Portables and handwashing stations have been placed in Five Mile Dam Park, Rio Vista Park, and City Park while repairs are taking place at those bathrooms; patrons are asked to bring their own water bottles while water fountains are being fixed

REPORTS

6. Receive the following reports: Park Projects Monthly Report, Athletics Division Monthly Report, Youth Services Division Monthly Report, Habitat Conservation Plan (HCP) Monthly Report
 - Board would like to see HCP report next month
 - Hoping to have a draft agreement soon to allow us to go underneath railroad tracks between Rio Vista and Children's Park; will be on Council agenda for March

FUTURE AGENDA ITEMS

7. For next regular meeting:
 - Renaming Rec Hall discussion
 - Parking subcommittee update and discussion

IV. Adjournment

The meeting was adjourned at 7:21pm by Board Chair, Diane Phalen

Parks and Recreation Board Chair

Staff Liaison

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov