



City of San Marcos

Regular Meeting Minutes City Council

Tuesday, April 6, 2021

6:00 PM

Virtual

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

I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Hughson at 6:04 p.m. Tuesday, April 6, 2021. This meeting was held online.

II. Roll Call

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

III. Invocation

Reverend Krista Weber Huang, with San Marcos Unitarian Universalist Fellowship provided this evening's invocation.

IV. Pledges of Allegiance - United States and Texas

Council Member Gleason led the assembly in the Pledges of Allegiance.

V. 30 Minute Citizen Comment Period

Mike Schlimgen, spoke in support of the Lions Club for their efforts to serve the disabled military veterans in the community. Mr. Schlimgen stated Lions Club is a main source of donations for the fly fishing activities as a form of recreation therapy with no cost to the veteran participants. Mr. Schlimgen would like for Council to support the Lion's Club since they are a vital partner to the community and non-profit service organizations.

Dennis Gutierrez, President of the Lion's Club stated this process has been difficult. Mr. Gutierrez stated the Lion's Club was formed in 1941 and has helped the community and organizations financially and came forth with the tube rental concept as a way to raise funds. Mr. Gutierrez stated it is family affordable and a way to return money back into the community. Mr. Gutierrez stated the proposal is in the best interest of and funds the parks. However, this

can't be only the responsibility of the Lion's Club.

John Schramm, thanked Council and spoke on the Lion's Club lease. Mr. Schramm stated in 1970 a fundraiser was needed and thought of the river tube rental business. He stated a fire destroyed the building in 2009 and the building was rebuilt on the old site. Parks staff and the Lion's Club worked on a new lease for a 25 year term and the sum of the lease payments will equal to the cost of the portion of the building. The Lions Club will lease to operate the tube rental. The lease was mutually agreed upon and signed in 2011. They value the relationship with the city and community. They value the river and work to protect it. Over the last 3 years the Lions Club averaged returned \$375,000 in grants each year to help the community. Mr. Schramm mentioned it helps with jobs, tourism and would like Council to approve the lease tonight.

Tricia Schneider, spoke in support of the Lions Club and would like to keep their overhead costs low. Ms. Schneider stated the Lions Club Tube Rental is an iconic venture that brings together and benefits many people in the community. Ms. Schneider mentioned with supportive financial gifts from the Lions Club, Court Appointed Special Advocate (CASA) is able to serve more than 120 San Marcos children and youth and also empowers and trains community volunteers to advocate for children. Ms. Schenider expressed concern with the reduction of the Lions Club profit will have an impact to the organization and already facing many challenges due to COVID.

Melissa Rodriguez, spoke in support of the renewal lease of the Lions Club. Ms. Rodriguez stated the Lions Club has donated \$125,000 to the Hays County Women's Shelter and the funding goes directly to the community who has suffered family violence and child abuse. The Lions Club has donated \$45,000 and is going to the ongoing construction of the transitional project, the new facility will provide 18 units to women and children. We rely on the support of the Lion's Club and the pandemic has caused many victims to stay home with their abusers. Ms. Rodriguez stated she would like for Council to support and approve the lease.

Ellie Stewart, spoke in support of the Lion's Club and has witnessed first hand the difference these organizations make in the city by their financial support to so many non-profit organizations that help people in need. When the building at City Park had a devastating fire, the San Marcos Lions Club made a huge contribution toward rebuilding it. They continue to contribute to our city and schools in other ways. The San Marcos Lion's Club Tube Rental has been extremely successful. Every penny of the profit they take in, after expenses, is

used to make San Marcos a better place to live for many people. Ms. Stewart would like City Council allow the San Marcos Lions Club to continue to serve the people of San Marcos.

Larkin Smith, spoke in support of the Lion's Club and would like for Council to approve the lease for continuing operation of the Lions Club tube rental. Mr. Smith stated the Lions Club should have done a better job of educating the citizens of this community of what the organizations does and why we are proud to be a Lion. Mr. Smith mentioned that it needs to promote the services it provides to the students, veterans and abused women and children. Would like for Council to educate themselves in what all the service clubs are doing in the community.

Michelle Harper, spoke as the President of United Way of San Marcos and Hays County. Ms. Harper stated she works with most of the organizations and most of the organizations receive funding from United Way and Lions Club. A funding decrease to non-profit organizations could happen if there is a strain placed within the lease amendment with the Lion's Club. Ms. Harper stated the money is made coming from community, tourism from those that float the river and not making a charity donation. Ms. Harper would like for Council to work with the Lion's Club in an effort to continue serving the community.

PRESENTATIONS

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

Chase Stapp, Director of Public Safety provided the presentation on the COVID-19 update.

County Vaccination Update

- For week of April 5, approx. 13,150 doses sent to providers in Hays (1st and 2nd doses)

- 60,808 total Hays residents vaccinated with at least one dose.

Approximately 34,717 fully vaccinated.

- 26 providers including County health department and private providers, 11 in San Marcos

- Hays County and volunteers are working hard to provide vaccines to as many people as possible. Wait time is much shorter now once an appointment is requested.

- Vaccination pre-registration available at www.haysinformed.com

- All persons age 16 and older now eligible

Known Cases – as of April 1, 2021 • Approx. 2.4 million total cases (93k active) cases in Texas with 47,746 fatalities

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

• 17,187 total cases in Hays County (400 active and 16,551 recovered) with 236 fatalities

• 764 cases have required hospitalization, 9 current

• 6,112 total cases in San Marcos (152 active and 5,866 recovered) with 94 fatalities

***source: Hays County Health Department**

• 2,485 total cases at TX State (103 active)

• 2,232 students, 253 faculty/staff

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

Mr. Stapp stated there was almost four weeks with no positive cases among city employees and currently there is one positive employee case.

Mr. Stapp provided the comparative information

• Texas – About 25k fewer active cases since the last update 3 weeks ago and 2,272 new fatalities

• Hays – 46 fewer active cases since the last update and 4 new fatalities

• San Marcos – 20 more active cases since last update and 7 new fatalities

• Employee test results – 1 fewer employee currently positive

Testing Overview

• 161,266 tests administered county wide (including pending)

– 133,151 negative (82.6%)

– 17,187 confirmed (10.7%)

• Testing by Curative

– Goodnight Jr. High (near old ACC building off of Hwy 123)

– SM Public Library

– Various additional locations throughout the region

• Abbott Labs BinaxNow Rapid Testing

– City Employees (Fire and Police)

– San Marcos CISD (employees and students)

– Chamber of Commerce (can be used by businesses to test employees)

Updates to Governor Abbott's Actions

• March 25: Governor Announces Outreach Partnership To Increase COVID-19 Vaccinations Among Seniors

– Partnership to enhance the state's Save Our Seniors program

- Includes Texas Health and Human Services Commission (HHSC) and the Texas Employee Retirement System, the Texas Teachers Retirement System, AARP, and participating Medicare health plans
 - Outreach effort through email, phone calls, and direct mail to two million seniors
 - **March 26: Governor Announces Ten Million COVID-19 Vaccines Administered In Texas**
 - Over 30% of eligible Texans have received a vaccine
 - **March 30: Governor, TDEM Announce COVID-19 Rapid Testing Program For Texas Youth Summer Camps**
 - Will help summer camps that are licensed by the Texas Department of State Health Services (DSHS) to conduct rapid tests of staff and campers during the summer months
 - TDEM will provide participating summer camps with COVID-19 rapid antigen tests that will be administered to staff and campers who volunteer to participate.
- Issued prohibited with vaccinations passport to not show proof that vaccine was taken before entering establishments.

Deputy Mayor Pro Tem Scott would like to have the presentation in Spanish and posted online. Mr. Stapp stated the presentation is part of the agenda packet and is online but not in Spanish. Mr. Stapp stated the dashboard is also online that provides information. Mayor Hughson stated Hays County has a dashboard with information as well. Deputy Mayor Pro Tem Scott would like to have the report rather than a presentation at each meeting. Mr. Stapp would do a report as requested.

Council Member Garza asked if data exists of vaccines by demographics and inquired about equitable vaccination to all populations. She noted this is a national issue, not just San Marcos. Mr. Stapp stated that information is available on the Department of State Health Services website which has demographic data on each county as to who has been vaccinated. The County is vaccinating anyone who arrives for a vaccine. Mr. Stapp stated the City is not involved with the vaccine distribution process, only Hays County. We do provide some personnel to administer the vaccine once a station has been set up. Council Member Garza stated she has been unsuccessful in receiving information from Hays County. Council Member Garza stated her concern about a lack of equitable distribution through demographics. Mr. Stapp stated Hays County has setup vaccination hubs in Kyle, Wimberley, Dripping Springs and San Marcos. Mr. Stapp mentioned they have also taken the vaccinations and setup in Stone Brook and Springtown Center. Council Member Garza

suggested education against vaccine bias and reluctance by the city and county. She noted the good job our Communications Department has done regarding information offered. Mr. Stapp said he can't comment from the County level. He noted they are working to get as many vaccines out as possible and have only one person dedicated to Communications.

Council Member Baker expressed concern with the additional questions asked before taking the vaccine not being translated in Spanish and asked what the city can do to help.

Council Member Baker and Garza would like for the Chamber help promote requiring masks and encourage businesses to follow CDC guidelines. He is concerned about a fourth wave of illness coming. Mayor Hughson stated the Governor's Orders do not require mask anymore and the Chamber does not control this the operations of businesses. The City is including mask wearing in all of our communications. Council is the one to make suggestions and will send a letter.

Mayor Pro Tem Derrick inquired about meeting with non-profits such as Community Action because they have senior programs, Centro Cultural Hispano de San Marcos, Veteran Affairs, Price Center, and find individuals who have technology difficulties and possibility don't have connection to the internet and find the population that have needs.

Mayor Hughson asked of hours for vaccinations. Mr. Stapp stated some stations and hubs are open until 7:00 a.m. - 8:00 p.m.

Council Member Baker would like extended hours for citizens to get vaccinated. Mr. Stapp stated he has only been told weekdays, not weekends.

Deputy Mayor Pro Scott inquired about a mobile system to get more vaccines out. Mr. Stapp will be reaching out to Hays County with concerns and to have a Spanish translator, after hours and one day on the weekend.

Mayor Hughson noted the importance of taking the vaccines to the people.

Council Member Gonzales wants to make sure employers allow workers the time off needed to get vaccinated.

2. Receive an update on the Charter Review Commission Interim report, and provide direction to staff

Michael Cosentino, City Attorney provided a brief presentation on the interim report and topics the Charter Review Commission has discussed. The Commission has reviewed all Sections of the Charter and has some recommendations prepared. They are still working.

Mr. Cosentino reminded the Council of the items they charged the Commission to review and stated they have all been considered. Mr. Cosentino stated the items presented in the interim report are preliminary and are subject to change before the final report that will be provided to Council before the Memorial Day holiday and those approved by Council will be placed on the ballot for voters.

Summary of preliminary votes taken by the Charter Review Commission through March 16, 2021 as reflected in the meeting minutes

- 1. Amending Section 1.03 – Statement of Goals to read as attached at the end of this Summary.**
- 2. Changing the term of office for the position of mayor from 2 years to 4 years, effective at the regular election in November of 2024**
- 3. Placing a limit of two consecutive terms for the position of mayor.**
- 4. Retaining the three year term of office for council members but imposing a limit of three consecutive terms**
- 5. Amending Section 4.01(b) of the City Charter to allow removal of the city manager with 4 votes instead of 5 (Explanation: In 2015 the charter was changed by the voters to 5, but it was only changed in one place. Council placed this inconsistency on the list of items to consider. The Charter Review Commission determined that their preference is to have only 4 votes required instead.)**
- 6. Eliminate the requirement to obtain city council approval of appointments to the following positions: assistant city clerks (Section 4.02); assistant city managers (Section 4.01); municipal court clerk and assistants (Section 4.03); and assistant city attorneys (Section 4.04).**
- 7. Amending Section 4.02 to eliminate residency in the city limits as a requirement for City Clerk; allowing City Clerk to reside in the city's extraterritorial jurisdiction or within Hays County**
- 8. Amending Section 4.03 to eliminate the residency requirement for the presiding judge of the municipal court.**
- 9. Recommending against the following amendments pertaining to the appointment of members to the Planning and Zoning Commission**
 - a. Do not add a prohibition against appointment of a business partner of a council member to the P & Z Commission because this is already covered and prohibited by Section 12.03(b) of the City Charter**

b. Do not add a prohibition against appointment of more than one real estate professional to the Commission

10. Amending Section 7,04, Item 1, to require at least 5 votes in the affirmative for the Planning and Zoning Commission to adopt any motion

11. Amend Section 8.02 – pertaining to the process for adoption of the city budget, to eliminate the following specific deadlines: January 31st – for conducting the visioning session; February 27th – for conducting the budget policy workshop; and March 31st for approval of the budget policy statement
There will also be a revised statement of goals proposed provided with the final report.

Mayor Hughson stated if the Commission wanted to discuss other items then that would have been brought to Council to address. Mr. Cosentino stated this presentation was only to provide an update to council on what the commission has done.

Mayor Hughson thanked the Charter Review Commission and the Legal Staff for their work and progress.

3. Receive the Annual Audit Report and highlights from the City of San Marcos' Comprehensive Annual Financial Report for the Fiscal Year ended September 30, 2020 from the City's audit firm ABIP, P.C.

Marie Kalka, Finance Director provided an introduction of the Comprehensive Annual Financial Report (CAFR). She stated there were no audit findings and thanked Ismael Garcia, Accounting Manager for the hard work in completing the report. She introduced Jeremy Barbatto with ABIP, P.C. who presented the audit report and stated that they did not find any issues during their review.

Mr. Barbatto stated the City has received forty one consecutive awards for the highly regarded Certificate of Achievement for financial reporting. He presented the report and there were no findings. There were no questions. Mayor Hughson noted that the Finance and Audit committee reviewed the report last Friday.

Mayor Hughson thanked all presenters for the audit report.

4. Receive a Staff presentation of the Quarterly Investment Reports, and provide direction to City Manager.

Marie Kalka, Finance Director, provided the presentation on the Quarterly Investment Report. Finance and Audit Committee members include the Mayor, Mayor Pro Tem and Deputy Mayor Pro Tem, City Manager, Assistant City Managers, Finance Director and Finance Manager.

Ms. Kalka presented the reports that covered the 1st quarter of Fiscal Year 2020-2021 reflecting investment activity and balances as of December 31, 2020.

5. Receive a Staff presentation of the Quarter end December 31, 2020 Financial Report, and provide direction to City Manager.

Marie Kalka, Finance Director provided the presentation regarding the Quarterly Financial Report.

Council Member Baker inquired about the stormwater revenues and if we are finding ways to collect fees for businesses that are vacant? He asked if there are charges for lots that are vacant. Ms. Kalka stated staff will compile information and will send to Council.

Council Member Baker stated the airport revenue had a shortage of \$40,000 and asked why this was not provided. Ms. Kalka stated this is in discussion, there are credits for improvements by the tenants and she wants to report it correctly.

6. Receive a presentation from Deloitte and Touche, LLP on the Community Development Block Grant-Disaster Recovery (CDBG-DR) Quarterly Internal Audit Report, and provide direction to Staff.

A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Scott, to postpone this item to the April 20th work session meeting. The motion carried by the following vote:

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

Against: 0

CONSENT AGENDA

A motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Baker, to approve items 7, 9, 10, 11, 13 and 14. Items 8,11, 12, and 15 were pulled and considered separately. The motion carried by the following vote:

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

Against: 0

PUBLIC HEARINGS

16. Receive a staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2021-24, authorizing the conveyance, at no cost, of City-owned lots located at 404 Broadway (also addressed as 501-503 Parkdale Drive), 300 Herndon, 318 Shady Lane and 207 South Comanche (also addressed as 213 South Comanche) to qualified buyers under applicable Community Development Block Grant (CDBG) and Home Grant Programs for the purpose of constructing affordable single-family homes using Grant Funds under such programs; authorizing the City Manager or his designee, to execute contracts, deeds and associated closing document necessary for the conveyance of these lots under terms as allowed under said Grant programs on behalf of the City; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2021-24 on the first reading.

Carol Griffith, Housing and Community Development Manager, provided the presentation regarding five City-owned lots for grant-funded housing construction. Ms. Griffith outlined the proposed steps which include:

- 1. April 6, 2021 - Request City Council approval to convey the lots**
- 2. Research title and constructability**
- 3. Rezone and replat as necessary**
- 4. Use grant funds* to construct houses for low-to-moderate income owners to replace flood damaged homes on lots they did not own**
- 5. Convey homes and lots to owners with 20 year affordability period**

Ms. Griffith noted that the first preference is CDBG-DR but HOME funds may also be used.

Ms. Griffith stated that staff identified five City-owned lots and during the January 25, 2021 Workforce Housing Committee meeting these lots were reviewed. The committee concurred with staff's recommendation to bring these lots forward to City Council. General consensus was that the City does not want to construct housing in the flood plain due to the cost of construction, ongoing cost to home owners for flood insurance, and the need to raise the homes above base flood elevation.

Council Member Baker recused himself to avoid the appearance of impropriety due to his residence near two of these lots.

Mayor Hughson asked when the re-zoning for the former fire station come to Council. Ms. Griffith stated this will come forward in a couple of months.

Council Member Gleason asked if the lot on Broadway has to be re-platted? Ms. Griffith stated it will require re-platting.

Mayor Hughson asked what the Cephass House is zoned? Amanda Hernandez,

Assistant Director of Planning and Development Services, stated this is zoned Public.

Mayor Pro Tem Derrick expressed her appreciation to staff for including committee notes into the packet and for locating properties.

Mayor Hughson opened the Public Hearing at 8:28 p.m.

There being no speakers, Mayor Hughson closed the Public Hearing at 8:28pm

A motion was made by Mayor Pro Tem Derrick, seconded by Deputy Mayor Pro Tem Scott, to approve Ordinance 2021-24, on the first of two readings. The motion carried by the following vote:

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

Against: 0

Recused: 1 - Council Member Baker

17. Receive a staff presentation and hold a Public Hearing to receive comments for or against Resolution 2021-64R approving Substantial Amendment No. 10 to the Community Development Block Grant-Disaster Recovery (CDBG-DR) Action Plan re-allocating project funding and revising a cap on housing cost.

Carol Griffith, provided the presentation. Ms. Griffith stated that in response to the Memorial Day and All Saints Floods of 2015, San Marcos received a \$33M allocation from the U.S. Department of Housing (HUD). The CDBG-DR Action plan includes summaries of the impacts of the floods in 2015, the subsequent analysis, and descriptions of the projects and funding allocation decisions made related to the \$33,794,000 grant received from HUD. Ms. Griffith stated as projects move forward, it is necessary to make amendments to adjust funding amounts or project descriptions that have been previously approved. Amendments moving \$1 million or more in funding from one project to another must have a 14-day review period and a public hearing.

Amendment No. 10 proposes to accomplish the following:

- 1) Move Clarewood/Barbara Infrastructure Project expenditure of \$177,887.13 to CDBG-DR Administration

After more detailed design was completed for the Clarewood/Barbara Infrastructure project, it was determined that it would not accomplish its goals for stormwater control, and the project was discontinued. By HUD rules, expenses spent on a project that is discontinued must be moved to the Administration category.

- 2) Move approximately \$1 million from Planning Projects to the Blanco Gardens Infrastructure Project Funding held for planning purposes will not be needed, and will be put into action on infrastructure projects instead.
- 3) Remove and replace references to a \$196,000 cap on hard construction expenses for housing. Remove and replace references to a \$196,000 cap on hard construction expenses for housing.

The goal of this amendment is to be able to pay market price as necessary to obtain lots for this program, and then construct the homes at reasonable costs compared to current rates.

Mayor Hughson opened the Public Hearing at 8:37 p.m.

There being no speakers, Mayor Hughson closed the Public Hearing at 8:37 p.m

A motion was made by Mayor Pro Tem Derrick, seconded by Council Member Baker, to approve Resolution 2021-64R.

The motion carried by the following vote:

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

Against: 0

CONSENT AGENDA

7. Consider approval, by motion, of the February 2, 2021 Regular Meeting Minutes.
8. Consider approval of Ordinance 2021-19, on the second of two readings, annexing into the City approximately 3.62 acres of land generally located on Rattler Road, between Old Bastrop Highway and Highway 123, including procedural provisions; and providing an effective date.

A motion was made by Council Member Baker, seconded by Mayor Pro Tem Derrick, to approve Ordinance 2021-19, on the second of two readings.

Mayor Hughson confirmed this item is on the agenda for second reading and wanted to ensure the Ordinance reflects the correct approval date.

The motion carried by the following vote:

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

Against: 0

9. Consider approval of Ordinance 2021-20, on the second of two readings, amending the Official Zoning Map of the City in Case No. ZC-20-16 by rezoning approximately 3.62 acres of land, generally located at 2835 Rattler Road, from Future Development (FD) to Light Industrial (LI), or subject to consent of the owner, another less intense zoning district classification; including procedural provisions.
10. Consider approval of Ordinance 2021-23, on the second of two readings, amending Sections 14.006(c) and 14.372(a)(2) of the San Marcos City Code to continue the residential home improvement exemption from fees and to enable one to perform construction work on the home of an immediate family member without a contractor's license, unless a license is required by State Law; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
11. Consider approval of Ordinance 2021-21, on the second of two readings, extending the delayed effective date of Ordinance 2020-08 that provided for the Annexation into the City of Approximately 62.48 acres of land generally located at the intersection of Gregson's Bend and Commercial Loop; including procedural provisions; and providing an effective date.

A motion was made by Mayor Hughson, seconded by Council Member Baker, to postpone Ordinance 2021-21, to the next regular City Council meeting. The motion carried by the following vote:

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

Against: 0

12. Consider approval of Ordinance 2021-22, on the second of two readings, extending the delayed effective date of Ordinance 2020-09 that provided for the rezoning of approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregson's Bend from "FD" Future Development District and "GC" General Commercial District to "PA" Planning Area District; and including procedural provisions.

A motion was made by Mayor Hughson, seconded by Council Member Gonzales, to postpone Ordinance 2021-22, to the next regular City Council meeting. The motion carried by the following vote:

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

Against: 0

13. Consider approval of Resolution 2021-61R, authorizing the sale of eleven surplus police vehicles to the City of Oak Ridge and Brazoria County in the amount of \$76,500 and the donation of three surplus police vehicles to the Town of Staples and Brazos Port College; finding that such conveyances serve the public purpose of fiscal responsibility for each of the entities; authorizing the City Manager to execute all documents necessary to transfer title and convey the police vehicles; and declaring an effective date.
14. Consider approval of Resolution 2021-62R, approving a release of easements in connection with the Development of the Millbrook Park Phase 1A subdivision; authorizing the City Manager, or his designee, to execute the release of easements on behalf of the City; and declaring an effective date.
15. Consider approval of Resolution 2021-63R, awarding an Indefinite Delivery Indefinite Quantity contract to Haulbrooke, Inc. for Demolition Services to be funded through the Community Development Block Grant program in a not-to-exceed amount of \$125,000 and authorizing two additional annual renewals; authorizing the City Manager or his designee to execute the contract on behalf of the city; and declaring an effective date.

A Motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Scott to approve Resolution 2021-63R.

Council Member Baker expressed concern with the demolition process. The stated goal is increase to the property values of the neighbors. He would like to see some type of development agreement that would allow the City to utilize these funds and possibly recover materials on the property.

Mr. Lumbreras will work with staff to identify a way to recover materials and will work on a development agreement.

Shannon Mattingly, Director of Planning and Development Services, suggested postponement of the contract to allow staff time to include language related to the removal of materials.

Mayor Hughson asked what qualifications are required to receive the assistance. Ms. Griffith stated applicants must meet the 80% of medium income and they will work with Code Compliance to ensure the homeowners need this assistance.

Council Member Gleason stated this is a good thing and this is a public good. He would like to ensure this remains a single-family lot.

Deputy Mayor Scott inquired about property owners having a lien put in place if Code Compliance comes in and demolishes. Ms. Griffith stated the City does

not have the funding to demolish and this helps with that funding.

Mr. Cosentino stated this is assistance to the property owner, and consent must be given by the property owner. Ms. Griffith stated the property owner will fill out an application to demolish. However, it is within the law for Code Compliance to demolish the property and place a lien on the property. However, this agreement pertains to property owners that have already been in contact with Code.

Mayor Pro Tem Derrick asked if we can offer the option if the property owner wants to enter into a development agreement and we can waive the cost, if they chose not to do this, then a lien could be placed on the property.

Council Member Gonzales asked how many homes this project would cover. He also inquired about asbestos or lead that may be in these properties. Ms. Griffith stated it should cover 10-12 demolitions and there will be a fee associated with asbestos removal.

Mr. Lumbreras recommended postponement at this time and allow staff to look at this contract and view other options.

A motion was made by Mayor Hughson, seconded by Council Member Baker, to postpone Resolution 2021-63R. The motion carried by the following vote:

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

Against: 0

NON-CONSENT AGENDA

- 18. Consider approval of Ordinance 2021-25, on the first of three readings, granting to Maxwell Special Utility District, formerly Maxwell Water Supply Corporation, the right, privilege and franchise to construct, install, extend, remove, replace, abandon, operate and maintain its facilities within the Public Rights-of-Way of the City of San Marcos, Texas for the transportation, delivery, sale and distribution of potable water; containing other provisions relating to the foregoing subject; providing for severability; including procedural provisions; providing for approval on three readings of the ordinance; and providing an effective date.**

A motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Scott, to approve Ordinance 2021-25, on the first of three readings.

Tom Taggart, Director of Public Services, stated this is patterned like other franchise agreements with those that operate within City rights-of-way.

The motion to approve carried by the following vote:

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

Against: 0

19. Consider approval of Resolution 2021-68R, approving an agreement with Lazy Oaks Ranch, LP for the provision of services in connection with the proposed owner requested annexation in Case Number AN-21-01 of approximately 7.024 acres of land, more or less, being Lot 1 and Lot 2, La Cima Fire Station, generally located at the intersection of West Centerpoint Road and Flint Ridge Road; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

A motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Scott, to approve Resolution 2021-68R.

Shannon Mattingly, Director of Planning and Development Services, stated this is to approve the setting of the Public Hearing. This a request for voluntary annexation for approximately 7.024 acres of land in the La Cima Subdivision located at the intersection of West Centerpoint Road and Flint Ridge Road. The City will provide water and wastewater services at the site. Pedernales Electric Cooperative will provide electric service for this development.

The motion to approve carried by the following vote:

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

Against: 0

20. Consider approval of Resolution 2021-65R, approving the First Amended and Restated Lease Agreement between the City of San Marcos and the 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 \$11,900.00 with an option to renew for up to two additional five year terms upon mutual agreement; authorizing the City Manager or his designee to execute the lease agreement on behalf of the City; and declaring an effective date.

MAIN MOTION: a motion was made by Deputy Mayor Pro Tem Scott, seconded by Mayor Pro Tem Derrick, to approve Resolution 2021-65R.

Drew Wells, Parks and Recreation Director, provided a brief presentation on

the lease agreement with the Lions Club.

The initial agreement with the Lions Club was approved on June 21, 2011 for an initial term of five years, with up to four additional terms of five years each, upon mutual agreement. This is the third renewal of this agreement.

Mr. Wells reminded Council that a work session was held on March 16, 2021. At this meeting Council received a presentation from staff providing a recommendation from the Parks and Recreation Board, the Lions Club's response to the Park and

Recreation Board's recommendation and a recommendation from staff. City Council requested additional information during the work session. The following changes are reflected within the amended lease agreement:

- Inclusion of funds from the concession stand at Rio Vista that will generate about \$20,000 per year.**
- Creation of the River Parks Improvement Fund at a minimum to the city of \$10,000 per year.**
- Increased litter abatement responsibilities of more hours per week, now 18 hours per week and expands the area to be covered.**
- Inclusion of a lease renewal deadline of October 1 of the preceding year of the expiration date.**

Council Member Baker noted the need for more funding for the park rangers which is a safety issue. He inquired about transparency of donations made by the Lion's Club and he expressed his concern with this lack of transparency. He would like to know why it would be more economically feasible to donate money instead of making it part of their rent?

Mr. Wells stated it is important to honor the rent arrangements that was agreed upon in 2011. The Lion's Club was receptive to assisting the City in securing additional funding. The Lion's Club has offered to guarantee \$10,000 over the next five years in donation funds. This will still allow them to provide the maximum amount of funds to non profits organizations in the community.

Council Member Baker inquired about the decrease in tube rentals and the health of our river. Mr. Wells stated the Lion's Club goal is to make this a cost effective experience. The City does not dictate how much they charge for their shuttle, tube rentals or concessions. Council Member Baker asked about the 2017 activity that was reported and that only 8% of tube rentals were local Residents according to a study provided to the council while the Lions Club claims that a majority of their business is local. Mr. Wells stated data for the

report was likely taken on a weekend and this was a very small sampling. The Lions Club surveys daily.

Mayor Pro Tem Derrick wants to let the Lion's Club to know the City is not targeting them. She stated this has been discussed for many years and this goes back to funding for trash removal and Park Ranger. She also noted that paid parking in a way to supplement to get more Rangers. She would like to see the \$10,000 that is guaranteed for 5 years be permanent. This could be utilized in general fund expenditures for personnel. She asked why this is only for five years? Mayor Hughson stated this is only a five year lease.

Mr. Wells stated this lease agreement expires in 5 years. It would come back before Council and this would give us a history on what the donation amount was and to make any necessary changes.

MOTION TO AMEND: a motion was made by Mayor Pro Tem Derrick, seconded by Council Member Baker, to amend Resolution 2021-65R, by adding the following language under section 3.02:

The lessee will sell city purchased and designed reusable containers to promote less trash and other anti-litter, pro-river products, with all funds going to Parks and Recreation Department at any time during the lease. This would be the Lions Club selling items for which the proceeds go directly to the City. The Lions Club expressed interest but concern was expressed about the logistics with their point-of-sale system with the lease going into effect in just a few days. This can be discussed at a later date.

The motion failed by the following vote:

For: 3 - Mayor Pro Tem Derrick, Council Member Baker and Council Member Garza

Against: 4 - Mayor Hughson, Council Member Gonzales, Deputy Mayor Pro Tem Scott and Council Member Gleason

Deputy Mayor Pro Tem Scott expressed his concern with how the Lion's Club was treated through this process. This is an entity that provides service to so many in the community. He also inquired about the number of park rangers we currently have in the City along with types of criminal activity we are seeing at the river.

Mr. Lumbreras provided some perspective on the responsibilities of the Park Rangers. He stated this will be considered and discussed during the budget process as this will be a high need area and the information will be presented to Council.

Council Member Gleason stated the Lion's Club is a good steward of the Community running a family friendly business and he apologized to the Lion's Club the process took this long. He thanked the Lions Club and our staff for their work on the lease.

Council Member Garza appreciates the work and likes to obtain information in order to better understand the process.

Mayor Pro Tem Derrick expressed her appreciation to the Lion's Club and to Staff for working on this agreement.

Council Member Gonzales has been a life long resident of San Marcos and appreciates the work that the Lion's Club does for the community.

Mayor Hughson expressed her appreciation to the Lion's Club and to Staff for working on this agreement.

MAIN MOTION: to approve Resolution 2021-65R. The motion carried by the following vote:

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

Against: 1 - Council Member Baker

- 21. Consider approval of Resolution 2021-66R, adopting revised Investment Policies for Operating Funds and Reserve Funds; and declaring an effective date.**

A motion was made by Council Member Baker, seconded by Mayor Hughson, to approve Resolution 2021-66R.

Marie Kalka, Finance Director, stated that the Public Funds Investment Act (PFIA) requires the Investment Officer present the City's investment policy to City Council for approval on an annual basis. The following changes were proposed by Staff:

- Addition of the Assistant Finance Director to the Investment Officers list under Delegation of Authority**
- Minor wording changes throughout**

These changes were presented to the Finance and Audit Committee on April 2, 2021.

The motion to approve carried by the following vote:

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

Against: 0

- 22.** Consider approval of Resolution 2021-67R, designating categories and criteria for the use of General Fund dollars made available due to the Award to the City of CARES Act Coronavirus Relief Funds; partially allocating such funds; authorizing the City Manager to act as the Official Representative of the City in matters related to said funds on behalf of the City, and declaring an effective date.

A motion was made by Mayor Hughson, seconded by Council Member Gleason, to postpone Resolution 2021-67R.

Carol Griffith, Housing and Community Development Manager, stated the budget amendment is scheduled for April 20th. Staff is awaiting for the award of funds. The budget amendment will make available the use of funds, and this item will create the programs that utilize the funds.

The motion to postpone carried by the following vote:

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

Against: 0

- 23.** Receive a staff update and hold discussion on the Revive SMTX small business grant program and consider direction to staff on revising the contract to add a requirement that funded businesses must follow CDC COVID-19 pandemic guidelines.

Carol Griffith, Housing and Community Development Manager, provided the presentation and update the criteria for the Revive SMTX Small Business Grant Program requiring mask requirements and follow CDC guidelines.

Ms. Griffith mentioned the purpose of the program is to provide up to \$5,000 for COVID-19 pandemic expenses for businesses that meet the following:

- Businesses <50 employees**
- 51% of employees low to moderate income**
- Expenses must be directly related to protecting customers and employees from COVID-19**

Ms. Griffith stated the criteria change process is to add a requirement to the existing program, to include:

- 1. The City would amend the executed agreement with the Chamber and require it to be re-signed.**

2. A procedure would be added whereby:
 - a. The Chamber contacts all 66 remaining applicants to inform of the new requirement
 - b. The Chamber amends all agreements with businesses, including those already executed
3. The Chamber-Business agreement would be modified to require dated picture documentation of a sign posted at the business requiring employees and customers to wear masks as part of the final documentation provided six months after the first payment.
4. The Business Certifications would be modified to include a certification that the business will follow CDC guidelines and all funded businesses would have to re-sign the Certifications.

Ms. Griffith mentioned changing requirements could cause unintended negative consequences for City Council and staff and could damage trust between the City and our working partners and businesses. We would be changing program requirements and there are businesses that are actively protecting their customers and employees. There would also be a requirement to re execute contracts without a legal or pressing need.

Staff recommends against changing the program requirements.

Council Member Garza stated these changes are due to health concerns and that is the only reason there are recommendations to change and she feels this is an important reason to implement change.

Council Member Baker stated there is a pressing legal need when a business considers their liability to keep their customers and employees safe.

Deputy Mayor Pro Tem Scott agrees with safety needs, but we need to focus on getting these businesses back on their feet.

Council Member Gleason expressed his concern with changing requirements and noted what is still required. He does not support changes to this program. He stated the process has been simplified to assist citizens when applying for assistance, but we should not be trying to create challenges for businesses. He is also concerned about unintended consequences.

Council Member Baker noted that a number of businesses are highly regulated already and this would not be too much more to require. He inquired if this could be considered part of a health code.

Mayor Pro Tem Derrick expressed her concern with changing the requirements at this time. She expressed her appreciation for the partnerships we have and does not want to make changes at this time.

Council Member Gonzales does not want to make changes to those that have already applied for or received funding, but change requirements for those that have not yet received funding.

Ms. Griffith stated direction will need to be provided at what point these changes would be applied. She asked if Council is asking for people to resign contracts or just apply these changes to those that have yet to sign the contract?

Mayor Hughson asked if it too late to change requirements given HUD guidelines? Ms. Griffith stated it comes down to business contracting regarding the program rules. Changes can be made based on the wording in the contract.

Council Member Gleason stated this program was set up with certain requirements and noted what is still required and changing it is not fair. He does not support changes to this program. He stated the process has been simplified to assist citizens when applying for assistance, but we should not be trying to create challenges for businesses. He is also concerned about unintended consequences.

Council Member Baker noted that a number of businesses are highly regulated already and this would not be too much more to require. He inquired if this could be considered part of a health code.

Ms. Griffith stated wording could be included, that states businesses must follow CDC guidelines.

Mayor Hughson asked if Council would want to require CDC guidelines and distancing be followed, if contract has not been signed.

Mr. Lumbreras noted concerns if there are expectations that the City will be expected to do strict enforcement.

Mayor Pro Tem Derrick suggested the changes only apply to those who have not yet received funding or for future applicants.

Mayor Hughson noted that since the businesses are applying for government

funding, some regulation should not be an issue. The city would not be forcing any requirements on anyone who is not applying for funding. She is concerned about changing the rules, but the Governor changed the rules during the application time period. It is a quandary for her. She suggested that the CDC mask requirement be applied to those who have not yet signed a contract. Ms. Griffith suggested that the term CDC guidelines be used, without specific mentions of masks and social distancing.

Council consensus is for any business that have not signed a contract will be required to follow CDC guidelines.

Ms. Griffith stated the wording can be added to the agreement that business would have to sign and this would be added to the certification. In order to prove compliance, staff could require businesses submit pictures that shows they have signs stating masks are required.

Mayor Pro Tem Derrick suggested health inspectors look for implementation of wearing masks. Mayor Hughson suggested one surprise visit within a six month period. Mayor Pro Tem Derrick wants to ensure this is only to address the mask requirement, nothing else. Mr. Lumbreras stated the City only has two sanitarians and will determine how best to handle this and asked for some flexibility on this.

Council Member Gleason expressed his concern with taking staff time, in addition, to their normal duties and believes this is an undue burden to staff and the community. Mayor Hughson confirmed this would only apply to those that have not yet signed their contracts.

- 24.** Consider approval, by motion, authorizing negotiations of a Development Agreement for Whisper South requested by R.W. McDonald IV, on behalf of Harris Hill Residential Land Holdings, Ltd., for approximately 379.84 acres out of the J. Miner Survey, Abstract 321, the Thomas G. McGehee Survey, Abstract 11, and the J. Veramendi Survey, Abstract 17, Hays County, Texas, generally located between Harris Hill Road and future FM 110 north of Harris Hill Road, and consider the appointment of a Council Committee to review aforementioned Development Agreement, if desired.

A motion was made by Mayor Pro Tem Derrick, seconded by Deputy Mayor Pro Tem Scott, to authorize negotiations of a Development Agreement for Whisper South and send to the Whisper Committee.

Shannon Mattingly, Director of Planning and Development Services, provided a presentation regarding this development agreement.

The current members include Mayor Hughson, Council Member Gonzales and Deputy Mayor Pro Tem Scott.

Council Member Baker would like the maps that were outlined in the risk assessment survey that shows police and fire response time in these areas to be included. Ms. Mattingly stated that Whisper East may be a better location for a Fire Station as opposed to Whisper South.

The motion to refer to the existing Whisper Committee carried by the following vote:

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

Against: 0

- 25. Hold Discussion on Council Committee Rules of Procedure and provide direction to the City Manager.**

Mayor Hughson introduced this item and stated the document attached was a collaboration by several staff members.

Council Member Baker expressed concern with the transparency of Council committee meetings. He would like to see all meetings open to the public, open for participation by all citizens and recorded.

Council Member Garza expressed concern with the wording in the section related to community engagement. She wants to ensure inclusion and allow an easy process for citizens to be engaged during these meetings.

Mayor Hughson stated there is no intent to hide anything or exclude the public with the creation of these committee policies. She noted that different committees have different purposes.

Tammy Cook, Interim City Clerk addressed the concern with recording these committee meetings. She noted the current suspended provisions of the Texas Open Meetings Act, which allows for videoconferencing of public meetings. If the Governor and Attorney General reinstate in person meetings, then recording of meetings may become a challenge due to staffing and available resources. Not all boards and commission meetings are recorded currently.

Council Member Garza noted she has done research of processes of other cities and noted additional engagement can be gained.

Mayor Hughson asked Ms. Garza to share the information she compiled during her research.

Mayor Pro Tem Derrick stated the concerns with the logistics and personnel to record meetings in the future. She is in support of the committees that are of high importance or high profile to be open to the public.

Mr. Lumbreras appreciates the discussion on staffing and resources and he will work with Staff and provide feedback. There are many individualistic approaches on how these committees are to be run. He would like Council to provide direction on these committees as a whole. There needs to be a defined set of rules for these committees. Council has not provided direction, as a whole, up to this point. Staff and Council will need to look at all these ideas and how we can build on transparency and public participation, but this will need to be directed by Council as a whole.

Council Member Gleason stated logistics will be difficult with recording all meetings. He does agree with having a standard policy, and he does not want the committee driving agendas.

Council Member Gonzales expressed concern with simultaneous meeting and the logistics if we include options for dialogue with others.

Mr. Cosentino stated committee meeting does not have to be posted, open to the public or recorded. The Attorney General has stated where committees are concerned, they do not have to comply with the Texas Open Meetings Act (TOMA), unless recommendations are routinely rubber stamped and approved then these meetings should be posted. Mayor Hughson noted routine rubber stamping doesn't happen with our committees. Recommendations that come from committees for action are posted on the agenda and discussed by our council.

Council Member Baker wants to strive to have digital access to increase transparency. He noted that he could use his cell phone to provide access to the meeting to the public since TOMA rules do not apply to these committees.

Mayor Hughson noted issues with recording a meeting in that manner. Not everyone is likely to be heard on the recording/transmission and misunderstandings are likely to happen.

Deputy Mayor Pro Tem Scott would like to see transparency but a standard set of procedures should be created, and he believes the transcription or minutes would suffice.

Mayor Hughson suggested going through each section of the proposed procedures. However, due to the late hour of the meeting a motion was made by Council Member Gleason, seconded by Deputy Mayor Pro Tem Scott to postpone this item to a future date.

The motion to postpone carried by the following vote:

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

Against: 1 - Council Member Baker

- 26.** Hold discussion on Historic Preservation Commission Recommendation Resolution 2021-01RR, Recommending that specific guidelines for accessory dwelling units and other such outbuildings be added to the Historic District Design Guidelines in Appendix C of the San Marcos Design Manual, and provide direction to Staff.

Shannon Mattingly, Director of Development Services, stated the Historic Preservation Commission (HPC) recommended that specific guidelines for accessory dwelling units and other outbuildings be added to the Historic District Design Guidelines in Appendix C of the San Marcos Design Manual. Staff will work with HPC and a recommendation will come forward for Council approval at a later date.

Council provided consensus to move forward with this recommendation.

EXECUTIVE SESSION

- 27.** Executive Session in accordance with:
- A. Sec. §551.087 of the Texas Government Code: Economic Development: to receive a staff briefing and deliberate regarding economic incentives for Project Outlook.
 - B. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: To receive advice of legal counsel regarding the Purchase and Sale Agreement with Pursuant Ventures Development, LLC for the San Marcos Sportsplex Project
 - C. Sec. §551.074 of the Texas Government Code: Personnel Matters: to discuss the duties and responsibilities of a Public Official, to wit: City Council Members

A motion was made by Council Member Gleason, seconded by Mayor Pro Tem Derrick, to enter Executive Session at 12:14 a.m. The motion carried by the following vote:

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

Against: 0

ACTION/DIRECTION FROM EXECUTIVE SESSION

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

Executive Session in accordance with:

A. Sec. §551.087 of the Texas Government Code: Economic Development: to receive a staff briefing and deliberate regarding economic incentives for Project Outlook.

B. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: To receive advice of legal counsel regarding the Purchase and Sale Agreement with Pursuant Ventures Development, LLC for the San Marcos Sportsplex Project

C. Sec. §551.074 of the Texas Government Code: Personnel Matters: to discuss the duties and responsibilities of a Public Official - to wit City Council Members

Mayor Hughson stated Executive Session concluded at 2:09 a.m.

Mayor Hughson stated direction was provided to Staff on Items A and B in Executive Session. Item C will be discussed at a later date.

VI. Adjournment.

A motion was made by Mayor Pro Tem Derrick, seconded by Deputy Mayor Pro Tem Scott to adjourn the regular meeting of the City council on Tuesday, April 7, 2021 at 2:12 a.m. The motion carried by the following vote

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

Against: 0

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor