



City of San Marcos

Meeting Minutes City Council

Tuesday, April 7, 2020

6:00 PM

Virtual Meeting

Meeting Held Using Conferencing software due to the 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 6:18 p.m. Tuesday, April 7, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

III. Invocation

A moment of silence was observed.

IV. Pledges of Allegiance - United States and Texas

No pledges were held this evening.

V. 30 Minute Citizen Comment Period

The following comments were submitted as written comments and read aloud during the citizen comment portion of the meeting:

Linda Alexander:

"I was born in Houston and have lived in several large cities and a few smaller ones, moved to San Marcos with one of the major local employers over 49 years ago. I've raised two children in San Marcos, graduated from SWTSU and am and always will be an active community volunteer and am a longtime supporter of the San Marcos police department and it's dedicated police officers. I have followed the Cite & Release issue for the last several months and researched its use in several cities and states and believe San Marcos is not ready to adopt a C&R Ordinance yet. I do, however, as a result of my research, support further investigation into its purpose, implementation and consequences. I feel strongly that the City Council should be careful not to

impose a Cite & Release Ordinance on our police officers that will effectively take away their discretion to use other means of law enforcement if they feel C&R is not appropriate. Furthermore, I feel that if we mandate a C&R policy, we may be causing our citizens possible victimization or retaliation from criminals and criminal activity. For example, if we permit C&R in lieu of arrest for some thefts or illegal possession of stolen items or worthless checks under a specific value, how can the harmed citizen be made whole? We may be inadvertently creating situations for repeated criminal activity, perhaps involving the same citizens, if the offender feels there is no real consequence. Another result in a Cite & Release policy can be the high rate at which offenders fail to appear for their scheduled court date, which was as high as 40% in one Texas county between 2009 and 2012, compared to a 15.3% failure to appear rate for offenders during the same period who were booked and released (Plohetski, 2013). It appears that some of our City Council members appear to have personal agendas as to why they are anxious to vote for an Ordinance without more study and research into cities who have tried to implement C&R and are not happy with it or are choosing not to implement it. There is a very vocal organization named Mano Amiga who is pushing Cite & Release as an Ordinance, rather than even considering further study or research. It seems obvious, from my observations and their comments at community meetings I've attended, that they are primarily interested in students who are caught with illegal possession of illegal amounts of marijuana. My primary concern is that we should always show trust in our police officers to uphold the law and give them the authority to take whatever actions they deem necessary to protect and serve our law-abiding citizens. When we take that discretion away and mandate through an Ordinance that they must C&R low levels of criminal activity, we are effectively tying their hands and taking away their effective enforcement of the law. This has been shown in other cities who have experimented with Cite & Release and found it to be a mistake. If you vote to make this a City Ordinance, you will be ignoring the safety and protection of our citizens by potentially allowing offenders to become repeat offenders against law abiding citizens with only minor warnings. Example: Repeated theft of personal property to pay for illegal drug use. Another example brought up at a recent City Council meeting: Two offenders, one local citizen, another living in nearby jurisdiction that results in the local offender being Cited and Released while the other offender is handed over to nearby jurisdiction and arrested for the same offense. Depending on the ethnicity of the arrested offender, perceived discrimination can result. (Comments were limited to three minutes, time expired)

Crystal Benavides:

"Dear council members, my name is Crystal Benavides, I'm a San Marcos native, home owner, mother, community volunteer, tax payer, Notary Public, HOA board member & self-employed REALTOR. I've grown to love this town very much. I continue to stay here and encourage others to follow suit. I'm writing this comment to express my viewpoints on why I'm strongly AGAINST the Cite and Release Ordinance. I know many in favor of this ordinance solely focus on the marijuana aspect of this and say it's a "Victimless Crime" But as the Secretary of Park North HOA and condo owner I am speaking out to say that we in fact have 62-unit owners that were affected and still deal with the stigma and fear it has caused our residential community. We were burdened with two (2) murders here, in August 2018 and Feb. 2019, both were confirmed to be Marijuana related. We have spent a large portion of money to add an electric meter and cameras to help ease our members along with more fencing and implementing other security measures. This still can't take away the fear that we live with every night since we heard that gun shot and sirens so close to home. Out of the last 17 murders in San Marcos 9 were marijuana related. Majority of marijuana comes from Mexico and includes drug cartels, human trafficking, and hostage situations. Victims are used to transport drugs as a payment for their way into the US. As leaders of our city please do not encourage this activity. We are going to drive that type of business to come here. Marijuana possession between 2 - 4 ounces is in my opinion and the opinion of many law enforcement officers and members of the public more than personal consumption. Majority of this quantity of marijuana is for the sale and distribution for a profit. If any type of marijuana absolutely must be included in this cite and release program please limit it to under 2 ounces. The officers currently reported approximately 300 cases of diversion already implemented by destroying the marijuana on camera. This is a policy that they have in place to handle these types of cases. Please open your hearts and hear our concerns in regards to this issue. The identification portion of the proposed ordinance is very troublesome. As a Notary Public, identification is a big portion of holding my oath to office. I have to be sure, without a reasonable doubt that the person signing before me is who they say they are. This is done to protect the public and to ensure fraud is not occurring. When I read the portion of allowing school IDs or other forms of picture IDs that are not government or state issued and do not contain an issue date and expiration date, and/or allowing utility bills, etc. as a means of identification, it makes me feel that you are now taking law into your own hands and superseding State Law which requires anyone over the age of 18 to have identification. This could also leave room for fake identifications to be created. There is no reason a person living, or going to school, in this city/county is not capable of

obtaining the proper documentation. Many of my clients that contact me for notarization or to purchase property are not legal citizens and are still able to get a government issued ID called a Matricula Consular. If they can do this then others that have the ability to get an Identification card here in the US should have no problem in obtaining one. The proposed cite and release ordinance does not include all of the other cities in the county. This agenda should be led by the County as a united front. It also would allow the County to be prepared and to discuss and implement a diversion program. At this point that has not been created and it seems you're putting the cart before the horse. The County is still in the discussion phase because it will take a complete overhaul to implement this program. They currently do not have the manpower to keep up with the additional citations, they are overloaded with their current workload as it is. Current workers will need to work overtime and/or need to hire more employees. (Comments were limited to three minutes, time expired)

Sylvia Sanchez:

"I write to you to voice concern about the decision council is making concerning cite and release in Ordinance 2020-18. The state authorized this type of release in 2007 to help with jail populations. Another important benefit is to allow those that allegedly commit a crime avoid the harshness of an arrest and conviction on their record when coupled with the county cite and divert program and other programs the county uses. Having said that I do not see any type of limit placed on how many times an eligible "resident" is allowed to commit a crime and avoid an arrest. A mistake and opportunity to rectify it once is understandable, more than once may be considered as akin to condoning the behavior. Furthermore, it may be assumed that the 40% who fail to respond to citation and fail to appear are not as concerned about rectifying their mistake. A warrant arises and that person is then arrested at some point. The current ordinance without a limit could result in an endless repetition of this cycle affording the benefit of no arrest to an eligible resident that continues criminal behavior. There must be a limit. A second concern is a comment made by the city attorney at the 10/15/19 city council meeting about a confidential memo sent to council concerning legal issues and unintended consequences. At a criminal justice committee meeting dated 7/16/19, there is an entry where the city attorney states that "current wording in the draft could have various unintended violations of state laws and open parties to possible civil suits." Can the council assure San Marcos taxpayers and citizens that the proposed Ordinance 2020-18 will not open parties to civil lawsuits or result in violation of state laws? Lastly is the struggle I saw in the two public city council meetings (10/15/19 and 3/3/20) involving officers who realize loss of

discretion directed in this ordinance could lead to confusion and unintended consequences. The ordinance in Section 2 is comprised of 2 paragraphs. The two paragraphs contradict each other. In the paragraph at bottom of page 1 the ordinance gives officers the discretion that is authorized in state law. The next paragraph reduces that discretion to only 6 reasons for arrest. State law affords an officer discretion, not only for those items enumerated in Ordinance 2020-18. I do not believe an ordinance can reduce discretion authorized by state law. I thank council for their time and consideration."

Anna Carbajal:

"I am writing to **OPPOSE** this ordinance. I have been a resident of San Marcos for over 9 years. I was born and raised here. My family is very involved in our community. We have invested in this community. My family owns several buildings in the San Marcos community along with a historical residence. We are not strangers here. I have a family here. I want to keep that family safe. Council, we want San Marcos to be safe. Your ultimate duty is public safety. Failure to maintain order in our community will not yield safety in our public. I believe the Cite and Release Ordinance 2020-18 will give people **MORE** opportunity to commit crimes. While I do agree that some people may be a good candidate for just a citation, others **ARE NOT**. They continue to commit crimes because they do not care. They also realize that they will get off pretty easily if they continue to steal what is not theirs from others. I ask that you **VOTE NO** to the passage of this Cite and Release Ordinance 2020-18. Let the officers decide how they will handle these crimes as we have always allowed. As a community member, I **WANT** you to take care of my family. Passing this ordinance means that my family means nothing to you. If you are my elected official, do the right thing and vote **NO** to this ordinance. Victims and the San Marcos community deserve better! I want my two children who are born and raised in San Marcos and who attend the San Marcos ISD to feel safe and to know they will not fall victim to defendants who just don't care.

Bryan Garcia, I have been a Democrat all my life. I have always believed in giving a hand **UP** but not a hand **OUT**. I believe the Cite and Release Ordinance 2020-18 is a hand **OUT**. This **HAND OUT** should not be given to people who **REFUSE** to follow the law. It is not hard to be a law-abiding citizen. I believe people who refuse to follow the law should be punished accordingly whether they have money or no money. I also support our local law enforcement. I believe they should have the ultimate discretion to decide how they want to handle the defendant. It is up to the courts to determine if they should provide the defendant with an option to get this off his or her record or not, if they are deserving of it. I think people need to work hard to

prove themselves. If they are just given this **HAND OUT**, there is no work on their part. They are not going to be held accountable. They are not going to show up to court. They will just keep committing crimes over and over because they know they will not suffer much of a consequence. I do not think that the council, as an elected body, should make law enforcement decisions. Those decisions should be left to the very people trained, hired, and prepared to do the law enforcement tasks. We all need to stay in our lanes. This lane, council, is not yours. You should continue to legislate and make the laws and **ALLOW** the officers to retain their discretion. Therefore, I oppose the cite and release ordinance. I do not agree that you should pass that ordinance. I would hope you would consider this response in your decision-making. You have all been elected by the people. To keep victims (law abiding citizens) whole, you should not pass this ordinance. Support your law enforcement."

Cristina Zamora:

"My husband, the late Aguinardo Zamora, and I lived through the civil rights movement of the 60-90s in our efforts to desegregate the schools, create single-member districts and fight the discrimination of our time. My husband was viewed as a threat and a troublemaker by many in our community for many years. A decade later after the desegregation suit was won did many in the community begin to have respect for my husband and I for what we fought for in our community. The injustices we lived through and time has taught us that yes, the doors had to be opened for many in our community. We later saw that many walked through and achieved great things with the education **THEY** achieved. An open door was only but a step that led to success. Commitment and dedication, study, hard work and personal sacrifices, led many the rest of the way. So, we arrive at the Ordinance 2020-18. Yes, we wish to open the door as it should be. As we saw in the system of education not every child walked through the door. Some were unable and others unwilling to do what was necessary to get a degree, start a career and achieve their dream. That is the reality that time has allowed us to see. This ordinance is similar in that opportunities for correcting a mistake should apply to all those that are eligible. But consideration should be given to the reality that some will overcome with such an opportunity and for those the struggle is just and right. Others will choose the opposite. In reforming the system there must be a balance between public safety for all citizens, the rights of victims, and the role of law enforcement. Society expects that its citizens will follow the law and if they don't consequences will follow. In my view, this ordinance is more about achieving a guaranteed outcome which leads to avoidance of an arrest for those who choose to continually break laws. Is the guaranteed outcome meant to condition offenders to avoid consequences? If so, that type of system will

not work properly in protecting all interested parties. The successful system works when the desired affect occurs spontaneously and not because it is forced. The desired effect here is to give the opportunity for an offender to “fix” the mistake, learn from the mistake and not repeat the mistake. How do we enforce the consequences of repeating mistakes if not by limiting the application of cite to the first offense? I oppose Ordinance 2020-18."

Nina Stanfield:

"In response to the Cite and Release Ordinance with the first reading occurring on April, 7, 2020, I am writing to OPPOSE the passage of this ordinance. The ordinance WILL CAUSE the following problems:

1. **IF RESTITUTION CAN BE RECOVERED AT ALL**, restitution to victims is NOT immediate and it causes victims great inconvenience to try and recover it.
2. **Repeat Offenders will ONLY be cited**. There is no fear of arrest. They will continue to commit the crimes because there is little to no consequence.
3. **FAILURE TO APPEAR** rate on citation only offenses is 40%. Most Perpetrators DO NOT show up to respond to his/her citation.
4. **40% Failure to Appear Rate ENSURES 40% of the Victims will not be able to seek restitution until the offender is even located again (if at all)**.
5. **When issuing Citation by ordinance, there is NO positive or certain identification on those defendants**. No booking in jail, no photograph, and no fingerprints - Perpetrator can LIE about his/her identity.
6. **LIMITS DISCRETION OF OFFICERS**, which should NOT happen!

I ask that you VOTE NO to the passage of this Cite and Release Ordinance. No other city has done this, and there are clear reasons why. Trust your officers. Let them do the job that you are paying them to do. Keep our community safe and support your police officers. Those that do the crime MUST pay for their actions. PERPETRATORS must be held accountable. Agreeing to such an ordinance will greatly affect victims and will place perpetrators at an unfair advantage to continue to prey on the innocent."

Naomi Narvaiz:

"My hope is that each of you are doing well in spirit and health. I appreciate the work you are doing to keep our citizens informed. As you may know, my constant endeavor is to advocate for limited government in the lives of law-abiding citizens and safety for us and our posterity. For this reason, I find myself writing to you to address Agenda Item # 18 regarding Ordinance 2020-18 - increased use of cite and release. According to the MEMO sent to you by Chase Stapp, Public Safety Officer, detailing the results of a January

meeting that the committee on Criminal Justice held. According to that memo, #1, the CJC did not agree that an ordinance is the answer. #2, there was no unanimous consent regarding the violations or offenses that should be considered and with all honesty, they 'kicked the can' back to you. This is an indication that they do not want the responsibility to fall on them for any poor decision made that would hurt the community. #3, the committee did not support the language. Instead, it appears they support the officers using discretion. Reading that, I am taken back that Mano Amiga is mentioned in this memo. Mano Amiga's opinions or allegations should not be considered or supportive. This organization is anti-law and anti-police, spread misinformation, advocate for the release of criminal aliens and now want to influence you to support handcuffing our officers to their agenda. They are NOT the face of our community and do not represent the majority of San Marcos citizens. I urge you to reject this ordinance and instead continue to work with our SMPD leadership and engage more community citizens to bring sensible recommendations that will protect our citizens and community. Offenses classified as A, B, or C misdemeanors are committed by individuals who go on to committing more serious crimes. The victims must not be forgotten. Law abiding citizens should not have to worry about being around individuals who cause them bodily harm, having their valuables stolen, criminal trespass, harassment, indecent exposure and the many other crimes that end up costly individuals mental, physical, and property harm. Please remember that this would affect each of you and your loved ones as well. You were elected to be leaders and make the right decisions for our community. Reject Agenda Item 18 and support our San Marcos Police Officers and keeping them safe in all regards as well."

Rolf Straubhaar:

"I know that tonight's meeting, you will be taking the first of two votes on the proposed cite and release ordinance. I want to voice my enthusiastic support for this ordinance, one that can reduce unnecessary incarcerations of low-level offenses that inordinately affect our fellow citizens of color, disrupting their lives, potentially affecting their employment, and creating unnecessary trauma for both those arrested and their friends and families. I also want to thank council members Mark Rockeymoore, Maxfield Baker, Melissa Derrick and Joca Marquez for the support you showed for the ordinance last month, and I hope that support continues tonight. I would invite Mayor Jane Hughson, alongside council members Ed Mihalkanin and Saul Gonzales, to join your colleagues in support for the ordinance. Thank you for your service, and for your time in listening to this message."

Jay Stiles:

"The current health crisis is devastating by itself but it has also engendered a financial crisis that will seriously damage our communities. It is important that we deal with these circumstances vigorously and in consideration of the monetary impact to us all. San Marcos gets a large portion of its revenues from Sales Tax Rebates, Hotel Occupancy Taxes and Property Taxes. Sales tax inflows will be very significantly reduced with the Outlet Malls and many other businesses closed or seriously curtailed. This and a large reduction in Hotel Occupancy tax inflows will make a large shortfall of revenue a certainty. Does our city have contingency plans to deal with this? And if not is the City now preparing contingency plans based on our current conditions, and further plans that can be triggered if the crisis deepens more? It would be comforting to hear what plans there are for cutting expenses, even if it means a reduction of services, delaying projects or even cancelling them. The city made a difficult but good decision to put on hold a salary increase for city workers, but I am dismayed that the city has announced it will go to the credit markets to borrow more than 50 million dollars if the Council votes to move forward at a meeting scheduled for June 5th. The debt proposal announcement included: "The City presently proposes to provide for the payment of the certificates of obligation by the levy of ad valorem taxes, within the limits prescribed by law...The following information is required ... to be provided by the City (excludes \$215,180,000 in principal amount of outstanding debt obligations that the City has designated as self-supporting and which the City reasonably expects to pay from revenues sources other than ad valorem taxes; provided, however, that in the event that such self-supporting revenue sources are insufficient to pay debt service, the City is obligated to levy ad valorem taxes to pay such debt obligations. We are facing drastically reduced revenue which could potentially affect our ability to service our debt. This in turn may require raising our ad valorem (property) taxes. And we are now aiming to add to our debt...again based on raising our property taxes to pay for it! But our property taxes are already very high and valuations are likely to fall due to this crisis. Any additional debt is ill advised at this time and needs to be carefully scrutinized with the aim to hold the total amount to a bare minimum. San Marcos must "live within its means". Thank you."

Lisa Marie Coppoletta:

"Your agenda should be only focusing on a global pandemic. Since you placed cite and release on the agenda, here goes. For several months cite and release has been a hot topic with racial discrimination as the focal point. And, I've been up here talking about the sidewalk and abuse of power. Cite and release will not be effective unless we take an examination of Bert, who often thinks

he's the emperor of San Marcos versus the City Manager. I think it's time to tell my story. Of all the public speakers on this issue over past several months, have you ever heard of the city manager posting a police officer in front someone's house for 3 days in a row all day, for hours a day, and harass any person who tries to take a photo of your yard being butchered after a secret meeting Bert had with some neighbors on my block, breaking his promise for neighborhood meetings. Wasting taxpayer time and intimidating land owners and residents. Have you had the city repeatedly trespass knocking on your door to sign documents that only the land owner is authorized to sign? And refusing to cease and desist after months of requests to refrain from trespassing on my front porch banging on my front door. Or, have you been the target of your neighbors, filing false reports against you, when video footage from three cameras verifies who was really trespassing and attempting to resort to physical violence. Officers can make discretion in the field, its Bert's abuse of authority I'm concerned with cite and release does not come to terms with the fact that following bad orders is not a great position to place our law enforcement personnel. My other concern is that the way that the situation was conducted on St Patrick's day how police were used by the city manager against small businesses downtown. Why did the city not go thru the Chamber of Commerce? Why were small businesses downtown targeted first versus those on IH35? Sending a memo out at 6:02 PM regarding a 5:00PM order is not in good form when it's enforced with the San Marcos Police Department. Let's work together as a community. Not pitting law enforcement against people trying to live peacefully in their homes or run a small business downtown. Thank you for your time and God Bless San Marcos."

Sara Lee Underwood-Myers:

Who protects protecting us from the drug users and drug dealers in San Marcos? Vote NO ON THIS AGENDA ITEM TODAY. DO not GIVE ANY excuses for users and dealers to NOT GO TO JAIL! DARE to stand up and make the difference in our neighborhoods!"

Dana McAuliffe:

"I would like to speak for people who are having trouble paying rent due to being laid off and having trouble accessing the unemployment website or telephone. I know a person who was laid off from a local restaurant who can't get through to claim unemployment, and who also will probably have to wait a long time for the stimulus check since she does not have a bank account and will have to wait for a check. Her apartment is telling her if she doesn't pay \$400.00 right now (which she does not have) she will have to pay late fees. It would be very helpful if the apartments do not take action for a set period of

time, defined by City Council. Thank you."

Salana Henderson:

"I am writing to speak against the proposed cite and release ordinance. As a citizen of San Marcos and a mother of three teen-aged children, my concerns are genuine, and I hope that my expressing them does not adversely impact their validity. While no other city in Texas has passed cite and release as an ordinance, other cities in other states have, and we should take heed of the unintended consequences. In Los Angeles, San Francisco, Seattle, and other cities with cite and release ordinances, the leniency on low level crimes has crippled the ability of law enforcement to do anything about those crimes. Businesses struggle, crime increases, and the most vulnerable individuals are preyed upon. SMPD will tell you that we already have a problem with organized crime from other cities taking advantage of our location on the IH 35 corridor and our large population of inexperienced students. In Los Angeles, out of state organized crime rings are paying people, LA residents, to shoplift up to the cite and release eligible amount. They then take the goods out of state and sell them. How much of the city's income comes from sales taxes collected by the outlet malls located on IH 35? When it's cheaper for them to close than to continue to get ripped off, how will the city recoup the loss of that revenue? The passing of this ordinance will negatively affect every business owner in the city, not just retail establishments. It is a class C misdemeanor for an underage person to be in a bar. However, the ordinance states that a rent or utility bill may be used for personal identification (Section 2.2). Who will TABC hold responsible when SMPD can't remove the under-aged person from the bar? Moreover, is this time of economic uncertainty the time to pass an ordinance certain to burden the business community? If this ordinance passes, individual citizens will be just as effected as businesses, and it is the most vulnerable in the community who will suffer most. Desperate people will be most enticed to participate in cite and release eligible offenses for a quick pay day from organized crime. Proponents of the ordinance contend that those cited and released will still be held accountable for their crimes in court, so what will happen to those with numerous citations who can't afford to pay restitution? What could have been a night in jail and a hard lesson learned will lead instead to more injurious long-term consequences. I am not a callous person. I understand the havoc one night in jail can wreak on a person's life and am not trying to discredit or make light of anyone's experiences. My brother has been in jail for the past several weeks for offenses that would be eligible for cite and release under the ordinance. Although his crimes were "victimless," had he been released, he would still be exploiting my mother, a retired school teacher and widow on a very fixed

income. Suffice it to say, I am very familiar with the behavior of addicts. If they get a citation for stealing one person's lawn mower, they will just go on to the next. Nor do they steal from places they are likely to get caught, rather than from those who are least likely to take recourse against them. How will this ordinance affect those in our community who would rather not call the cops when they are the victims? Where is the empathy for them? Supporters of this ordinance argue that the purpose of this ordinance is to prevent people from becoming victims of the justice system. But who's looking out for the victims of these "low level" offenses. Voyeurism is a class C misdemeanor. When a woman catches a "peeping Tom" watching her undress through her bedroom window, how is she supposed to feel safe, knowing the perpetrator may come back for something much more egregious? The word "only" in Section 2 of the ordinance completely strips officers of their discretion, as they may only make an arrest when the narrow set of qualifying circumstances are met. (Comments were limited to three minutes, time expired)

Faylita Hicks:

"The city of San Marcos has a chance to protect the constitutional rights of its community members by ensuring they will not be unduly arrested and punished with imprisonment, before a court's official ruling, by enacting the cite and release ordinance. The list of citation-eligible offenses was approved at the state level 10 years ago. There has been more than enough time for the San Marcos Police Department to make the much-needed changes to lower the number of people being arrested for these offenses. The continued arrests for these citation-eligible offenses have contributed, in part, to the historic overcrowding of our county jail. This is why we must mandate their uniform use of cite and release today. "More than half of the Texas Criminal Justice Coalition's survey respondents reported an annual income of less than \$10,000 before being arrested, and 4 in 5 reported an income of less than \$30,000. Unnecessary jail stays exacerbate individuals' financial struggles, driving women deeper into poverty." This stat was one of several in Texas Appleseed's April 2019 report, How Texas Counties Could Save Millions of Dollars by Safely Diverting People From Jail. The report notes just how financially devastating unnecessary jail time can be for the individual, the city, and the county. A police officer's job is not to determine the guilt of an individual. It is not the city council's job to determine the guilt of an individual. Only the judge can decide who is guilty. The opponents of the ordinance are more concerned with immediate punishment--through the arrest of someone who has been accused but NOT yet found guilty by a judge--than they are about our constitutional right to be treated as innocent until proven guilty. Even the

argument that has been brought forth by opponents to the ordinance, concerning restitution, is disturbing. Restitution is not something the city council, or even the police, can legally address. The only one who can legally address it is a judge--and every person who is cited WILL have to appear before one. Arresting someone, who may be forced to stay in jail due to an inability to pay bail, is prematurely dolling out punishment to someone who has been accused, but may not be guilty. It can lead to the illegal detainment of indigent people, resulting in a debtor's prison, according to our Texas Consitution. An officer should be guided on how to avoid any possibility of these illegal detainments. According to the same 2019 report, failure to appear often happens because people do not have transportation or people are not provided with clear instructions on when and where to report. When people are provided with clear and simple instructions, and texted before their appearance date, you can improve court appearances by up to 23% according to the report. But again--court appearance concerns are not for the city council or the police to make a judgment on. It is the judge and the local court's job to improve communications with defendants and decide on adequate punishment, not the community, and not the officers. I ask that the city council protect the constitutional rights of their community members by ensuring they will not be unduly arrested and punished with imprisonment by enacting the cite and release ordinance today."

PRESENTATIONS

1. Receive a presentation and update on the following semi-annual Preferred Scenario Map Amendment application(s); and provide direction to staff:

PSA-20-02 (Riverbend Ranch) - Request to amend the Preferred Scenario Map from "Area of Stability-Low Intensity" to "Growth Area-Medium Intensity" for +/- 1,142 acres of land, located approximately at the intersection of North Old Bastrop Highway and Staples Road.

Shannon Mattingly, Director of Development Services, provided the Council with the Preferred Scenario Amendment (PSA) Application presentation for Riverbend Ranch.

Ms, Mattingly provided Council with an overview of the request and a schedule of upcoming meetings and public hearings.

The location of the property is located near the intersection of North Old Bastrop Highway and Staples Road. Approximately 1,142 acres Located within a Low Intensity Zone as designated on the Preferred Scenario Map

The request is a change from an area of Area of Stability-Low Intensity to Growth Area-Medium Intensity.

Proposed schedule:

- **TBD: Neighborhood Commission Informational Meeting**
- **April 7th: City Council Informational Meeting**
- **April 14th: P&Z Informational Meeting**
- **April 28th: P&Z Public Hearing & Action**
- **May 19th: City Council Public Hearing (no action)**
- **June 2nd: City Council Public Hearing & Action**
- **June 16th: City Council Reconsideration**

CONSENT AGENDA

A motion was made by Deputy Mayor Pro Tem Rockey Moore, seconded by Council Member Baker, to approve the consent agenda, with the exception of #2A which was postponed to a future meeting and #15, which was pulled and considered separately. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockey Moore, Council Member Baker and Council Member Gonzales

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:
 - A. March 3, 2020 - Work Session Meeting Minutes
 - B. March 17, 2020 - Emergency Special Meeting Minutes
 - C. March 24, 2020 - Special Meeting Minutes
3. Consider approval of Ordinance 2020-08, on the second of two readings, approving annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop, including procedural provisions; and providing an effective date.
4. Consider approval of Ordinance 2020-09, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregsons Bend from "FD" Future Development District and "GC" General Commercial District to "PA" Planning Area District; and including procedural provisions.
5. Consider approval of Ordinance 2020-10, on the second of two readings, annexing into the City approximately 30.5 acres of land, generally located on the east side of Highway 123 between Old Bastrop Road and Monterrey Oak Road; including procedural provisions; and providing an effective date.
6. Consider approval of Ordinance 2020-12, on the second of two readings, amending the

Official Zoning Map of the City by rezoning approximately 18.5 acres of land generally located North of the intersection of Highway 123 and Monterey Oak Drive, from "FD" Future Development District to "CD-4" Character District 4; and including procedural provisions.

7. Consider approval of Ordinance 2020-13, on the second of two readings, amending Chapter 38 of the City Code titled Fire Prevention and Protection, of the San Marcos City Code by revising the local amendments recommended in the 2015 edition of the International Fire Code to include provisions relating to mobile food vending operations, gate access, signage, location of fire extinguishers in multi-family structures and requiring buildings in certain zoned areas of the City that have been impacted by a fire event to install fire-sprinkler systems prior to re-occupancy, among other revisions, to enhance public safety in the City; providing for the repeal of any conflicting provisions; and providing an effective date.
8. Consider approval of Ordinance 2020-14, on the second of two readings, adopting fees to be charged by the City for various Parks and Recreation Facilities, including changes to existing fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
9. Consider approval of Ordinance 2020-15, on the second of two readings, amending Section 34.080 of the San Marcos City Code to establish an administrative fee and provide for the collection of costs related to the filing of a nuisance abatement lien; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
10. Consider approval of Resolution 2020-75R, awarding a construction contract to Cash Construction Company, Inc. for the Main Lift Station Force Main Replacement Project in the total amount of \$9,286,059.00; authorizing the City Manager or his designee to execute the appropriate documents relating to this contract on behalf of the City; and declaring an effective date.
11. Consider approval of Resolution 2020-76R, approving a Change in Service to the engineering services agreement with Alan Plummer Associates, Inc. (Contract No. 218-394) relating to the Sunset Acres Subdivision Drainage Improvements Project to add engineering design services for replacing wastewater lines along Lockwood and Candlelight in the estimated amount of \$59,020.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.
12. Consider approval of Resolution 2020-77R, approving a commercial office lease amendment with Two Fold, LLC for the lease of the Women, Infants, and Children (WIC) Satellite Office at 641 North Walnut Avenue, New Braunfels, Texas for the purpose of extending the lease term for two additional years with an increase in rent from \$1,575 to \$1,600 per month the first year and \$1,625 per month the second year; and authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

13. Consider approval of Resolution 2020-78R, approving a fifth amendment to the Interlocal Agreement for Commercial Office Lease with Hays County for the Women, Infants, and Children (WIC) satellite office at 150 Lockhart Street, Kyle, Texas for the purpose of extending the lease term for five additional years; authorizing the City Manager or his designee to execute the amended interlocal agreement; and declaring an effective date.
14. Consider approval of Resolution 2020-79R, authorizing a participation in the U.S. Fixed Income Trust Investment Pools; designating authorized representatives; and declaring an effective date.
15. Consider approval of Resolution 2020-80R, approving a fourth amendment to the term sheet attached to Resolution 2014-143R regarding the advisability of the improvements in the Whisper Public Improvement District and declaring an effective date.

A motion was made by Mayor Hughson, seconded by Council Member Derrick, to approve Resolution 2020-80R. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockey Moore, Council Member Baker and Council Member Gonzales

Against: 0

16. Consider approval of Resolution 2020-81R, approving the award of a contract to River City Power Washing for the cleaning of sidewalks in the downtown area of the City in the estimated annual amount of \$18,000 and authorizing three one-year extensions for a total contract price of \$72,000; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.
17. Consider approval of Resolution 2020-82R, approving a license agreement with E&T Real Estate LLC to allow the partial paving of a gravel section of Hillyer Street near Allen Street to a driveway standard to improve access to the lot at 1105 Hillyer Street; authorizing the City Manager, or his designee, to execute the license agreement on behalf of the City; and declaring an effective date.

NON-CONSENT AGENDA

18. Consider approval of Ordinance 2020-18, on the first of two readings, supporting the San Marcos Police Department's increased use of the cite and release process, when appropriate, instead of arresting individuals suspected of having committed certain misdemeanor offenses: requiring recordkeeping and reporting of use of the cite and release process and instances in which individuals have been arrested for cite and release eligible offenses; and providing an effective date.

MAIN MOTION: a motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockey Moore, to approve Ordinance 2020-18, on the first of two readings.

MOTION TO AMEND: a motion was made by Deputy Mayor Pro Tem Rockeymoore, to amend Section 2, item 3 of Ordinance 2020-18 by removing "There is reason to believe" and adding " The arresting officer believes" and removing "it shall be considered" and adding "the arresting officer shall consider". Section 2, item 3 will now read as follows:

"The arresting officer believes that the safety of persons (including the subject) would be imminently endangered by the release of the subject. In making this assessment, the arresting officer shall consider whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy."

The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to amend Section 2, paragraph 2 by removing the word "only". The section would read as follows:

"The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses if any of the following circumstances are present:"

The motion failed by the following vote:

For: 3 - Mayor Hughson, Mayor Pro Tem Mihalkanin and Council Member Gonzales

Against: 4 - Council Member Derrick, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Council Member Derrick, to add the following language in the last sentence of the second paragraph of Section 5, "using a citizen comment agenda item".

The section will read as follows:

"The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation and using a citizen comment agenda item."

The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Mr. Cosentino provided information about this ordinance regarding possible lawsuits against police officers.

MOTION TO AMEND: a motion was made by Council Member Derrick, seconded by Council Member Mihalkanin, to amend Section 2, paragraph 2 by removing the word "only". The section would read as follows:

"The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses if any of the following circumstances are present:"

The motion carried by the following vote:

For: 4 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin and Council Member Gonzales

Against: 3 - Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

MAIN MOTION: to approve 2020-18, on the first of two readings as amended.

The motion carried by the following vote:

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

Against: 3 - Mayor Hughson, Mayor Pro Tem Mihalkanin and Council Member Gonzales

19. Consider approval of Ordinance 2020-19, requiring a landlord to provide notice of a proposed eviction action prior to issuing an actual notice to vacate and provide tenants a ninety day period to cure any delinquency as a result of the COVID-19 pandemic; creating an offense and penalty, providing for adoption of this Ordinance as an emergency

measure on only one reading; and providing an effective date.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-19, on first and final reading. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

20. Consider approval of Ordinance 2020-20, temporarily waiving the 15 percent late charge and the 1 percent per month interest charge for delinquent payment of Hotel Occupancy Taxes under Section 78.103 of the San Marcos City Code due to the COVID-19 pandemic; providing for adoption of this Ordinance as an emergency measure on only one reading; and providing an effective date.

A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to approve Ordinance 2020-20 on first and final reading. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

21. Consider approval of Ordinance 2020-21, amending section 2.566 of the San Marcos City Code to authorize the City Manager to approve certain contracts on behalf of the City for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 in amounts up to \$500,000.00 without further City Council approval; including procedural provisions; providing for the adoption of this Ordinance on only one reading as an emergency measure; and declaring an effective date.

MAIN MOTION: a motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin to approve Ordinance 2020-21.

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to amend Section 2.566 (a) by inserting the words "Except as, otherwise, provided in this subsection," at the beginning of that section and amend Section 2.566 (a)(1) by adding the following statement "promulgated by Mayor Jane Hughson on March 15, 2020, and extended for an indefinite period by resolution of the city council adopted on March 17, 2020" and as the last sentence "The city manager shall notify the city council of any and all expenditures made under this subsection within three days of initiating the purchase."

The section will now read:

For the duration of the declaration of the local state of disaster related to COVID-19 promulgated by Mayor Jane Hughson on March 15, 2020, and extended for an indefinite period by resolution of the city council adopted on March 17, 2020, the city manager is authorized to contract on behalf of the city for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 for all budgeted items not exceeding \$500,000.00 without further city council approval, provided such purchases are exempt from the competitive bidding or proposal requirements of Chapter 252 of the Local Government Code or other applicable laws. The city manager shall notify the city council of any and all expenditures made under this subsection within three business days of initiating the purchase.

The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

MAIN MOTION: to approve Ordinance 2020-21, on first and final reading, as amended. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

22. Consider approval of Resolution 2020-83R, filling a vacancy on the Board of Directors of the Alliance Regional Water Authority (ARWA), and declaring an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, approving the re-appointment of Mayor Hughson to serve on the Alliance Regional Water Authority (ARWA) for another three year term, ending April 2023. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

23. Receive a presentation and hold discussion regarding a possible budget amendment to provide funding for personal protective equipment and testing for COVID-19, and provide direction to the City Manager.

This item was placed on the agenda by Council Members Mihalkanin and Gonzales. Following Council discussion, Staff was directed to schedule meetings on off weeks to receive COVID-19 updates along with reports from the City Manager on how much money has been spent and what other cost saving measures the City is currently taking. A repealing Ordinance will be brought back regarding the spending authority of the City Manager after the pandemic.

EXECUTIVE SESSION (If Necessary)

24. Executive Session in accordance with the following Government Code Section(s):

- A. Section §551.074 - Personnel Matters: to discuss the Appointee Review Process
- B. Section §551.071 - Consultation with Attorney: to seek legal advice concerning a request for consideration by council of an anti-discrimination ordinance

A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to postpone #24 (b) to the next City Council Meeting. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION

- 25.** Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:
- A. Section §551.074 - Personnel Matters: Appointee Review Process
 - B. Section §551.071 - Consultation with Attorney: to discuss Legal considerations of anti-discrimination ordinance

Mayor Hughson stated for item 25 A that the schedule was set for appointees and (b) is postponed to the next City Council meeting.

VII. Adjournment.

A motion was made by Council Member Derrick, seconded by Council Member Baker, that this be adjourned. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor