



City of San Marcos Regular Meeting Minutes City Council

Tuesday, April 21, 2020

6:00 PM

Virtual Meeting

This meeting was 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 6:12 p.m. Tuesday, April 21, 2020. This meeting was held virtually.

II. Roll Call

Observed a moment of silence

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

III. 30 Minute Citizen Comment Period

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

Lamar Hankins:

I am writing to make known my support for the Cite and Release ordinance, a policy that should have been in place long ago. With the Covid-19 pandemic, the need for the ordinance has reached critical mass because of crowding in jails. Diversion from the criminal legal system has always been an important tool for police officers, prosecutors, and judges. Its use with eligible misdemeanors takes pressure off all levels of the legal system and makes better use of resources. In addition, it helps equalize the treatment between low-income offenders and those with the ability to pay bail or who have ready access to an attorney. The exceptions to Cite and Release found in the ordinance provide adequate discretion to police officers to allow them to fulfill their primary purpose to “serve and protect.” I have heard no arguments against Cite and Release that refutes any of what I have written. I urge all members of the City Council to vote in favor of this common-sense approach to keeping our community both safe and fair to all people.

Kate McCarty:

I feel that everyone in the community is mourning the loss of our valued police officer and the critical wounding of the other two officers. So I don't want the following remarks to appear insensitive to that. But San Marcos has an opportunity to set an example statewide in how to implement Cite and Release. I know the police association disagrees with the proposed ordinance, but I hope as they implement it, they will come to appreciate its value. I hope the council will reinstate the word "only" and make this law truly effective. Without the word "only" we really are making little change, and the stark statistics we see in arrests likely will remain. I also feel you understand that the ordinance as written gives police officers on the scene ample safeguards to protect citizens and the individual offenders. What we are doing now seems to unfairly target African-American and Latino citizens, while it overcrowds the jails at a high cost to taxpayers and disrupts individuals' schooling, jobs and families. This can't be what we want.

Jordan Buckley:

Dear Council, Months ago, I attended a San Marcos Police Officers Association meeting, the same group responsible for this despicable advertisement. At that SMPOA meeting, the presenters so poorly bungled the topic of discussion, by falsely conflating Cite & Release with the proposed Law Enforcement Assisted Diversion program, that Mayor Jane thankfully had to intervene to set the record straight. Now, that same organization is urging followers to send you all talking points that similarly suffer from serious inaccuracy. In some ways, SMPOA is talking out both sides of its mouth: they say they support Cite & Release, always have, and yet they also warn of the dire fallout & a fantasied Seattle-esque apocalypse that will result. They argue that the County must have their diversion program set up before the City can move forward with the ordinance; that is patently untrue. They argue that Failure to Appear rates -- of people not showing up to court -- will worsen, when according to system actors the FTA rate is already around 40%. To be clear, the FTA rate is chiefly a failure of our local criminal system. An exposé in the Houston Chronicle last year -- titled "Lazy Judges" -- singled out our particularly problematic court system in Hays County, observing that of more than 500 large-court systems in Texas, ours is the 7th slowest. Mano Amiga has steadily urged Hays County system actors to implement a text-message reminder system, particularly given how transient our college town is. Snail-mail notices to appear in court, in literally one of the most glacially delayed court systems in the Lone Star State, is a formula for failure. We can blame people accused of petty crimes all we want for the failure of our local court system, but those are disingenuous, irresponsible claims. Lastly, we are grateful that SMPD has done a great job during the pandemic of citing, instead

of arresting, and give credit to Chief Klett and his officers. But when the threats of the virus have faded, it will benefit SMPD to have the guidance provided by Council to ensure this prudent practice continues, even though the consequences are no longer fatal. Thank you, Council, for taking seriously your community who is tired of being arrested unnecessarily, who long for you to take action to spare residents the trauma & hardship that result from being locked in a cage like an animal when it does not have to be that way. Stay safe, and take care.

Eric Martinez:

Dear Council:

I write to encourage you to enact the 6 Critical Moves for Council Success

1. Undue the city attorney's amendment: The city attorney created a loophole in the ordinance designed to undermine the intent of the ordinance. By changing "there is reason to believe" & "it shall be considered" to "the arresting officer believes", he changed this disqualifying circumstance from an objective to subjective standard. There's nothing to argue if a cop says he believed safety required the arrest. You can't argue the facts - the only issue is whether [the arresting officer] believed it...Changing it from subjective to objective would not in any way increase their liability because Constitutional law already employs the objective standard." Please refer to emails & letters by legal organizations and representatives on this topic.

2. Bring back "only" the backbone of the ordinance: If there is no bar on the # of disqualifying circumstances, and the word "only" is removed then it will complicate data reporting, having dozens if not hundreds of "drop-downs" for officers to choose from, making it difficult for policy makers to assess whether or not there is a consistent rationale around officers approach to use of citations, thereby making it difficult to track changes in culture & more...

3. Bring back Authentic Community Participation in Working Groups by striking the provision about citizen comment: If you resign the public to a three-minute public comment portion, then the public cannot have discourse, dialogue, or conversations with the police, city manager, and other stakeholders in a timely manner. "[T]he peculiar evil of silencing the expression of an opinion is, that it is robbing the human race...If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error" Thank you for your leadership on this pivotal issue to advance the civil rights of San Martians in a period of inexcusable criminalization and mass incarceration.

Erin Ckudre:

Dear Council:

I write to encourage you to enact the The 6 Critical Moves for Council Success

4) Support and pass “The Clean Up Amendments”: One of which clarifies that city manager is required to provide data on every instance in which an arrest was made for a citation-eligible charge (other than if there were other higher-level charges), even if it fell within a disqualifying circumstance.

5) Vote NO on a restrictive ID Policy: Mayor Jane promised to bring an amendment with a more limiting interpretation of acceptable IDs for the cite & release program, assuredly disadvantaging those who cannot afford government-issued ID, or are disallowed from obtaining it due to immigration status. People still have to get affirmatively ID’d & booked on the walkthrough when they show up for their citation to appear in court.

6) NO to any other Amendments!

Do not budge on any other amendments, especially in the 11th hour! This draft ordinance was given to Council in July -- the final minutes before its passage are entirely inappropriate to be introducing changes. And we know last Council meeting, a seemingly harmless amendment from the City attorney -- which Council accepted unanimously -- ended up designed to actually limit accountability for officers who violate the ordinance. No sneaky edits to sabotage the policy! It’s way too late to tinker with the ordinance! Hold your ground, Council champions!

Thank you for your leadership on this pivotal issue to advance the civil rights of San Martians in a period of inexcusable criminalization and mass incarceration.

Karen Brown:

I am writing in support of the Cite and Release Ordinance. I have appeared before the Council asking for your support of this Ordinance. I strongly support it for many reasons. Since I can’t attend, a council meeting because I am sheltering in place at home I want to request my comments are read during citizen comment this Friday, April 17.

I was a social worker and social work educator who taught policy and supervised social work interns. I worked with marginalized people as a social worker and work with them now as a volunteer. I have seen with my own eyes and the eyes of my students how marginalized persons often suffer needlessly at the hands of various institutions, including the criminal justice system. This ordinance is excellent policy to help protect vulnerable citizens. As originally written, the Ordinance provides guided discretion to police officers in our community who are charged with a very difficult and dangerous job. As professionals, they can benefit from this policy which provides clear guidance. I am shocked at the harsh reaction reflected in some of the public ads taken

out against some of you serving our community as council members. We elect you to make reasoned decisions whether they are ones we would make or not. I want you to know your community stands behind you as you grapple with the issues surrounding this Ordinance. Also, as originally written, the Ordinance, in Section 2, provides clear and precise and well-crafted guidelines. The sentence, “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 any of the above -listed offenses ONLY if any of the following circumstances are present....” should be returned to its original form with the word ONLY reinserted. I think this is essential. Also, please consider the overcrowding caused, in part, by large numbers of persons in jail for misdemeanors listed in this Ordinance. It is particularly important for our entire community that our jail population is reduced, in a responsible manner, during the corona virus pandemic. Again, this is for the entire community not only persons incarcerated for misdemeanors when they could be with their families. And last, I think it is extremely important that the citizen groups this Ordinance creates allow full participation by citizens not just short comments at the beginning of each meeting. Thank you for considering my request to support the Ordinance for the good of marginalized citizens, our police officers, and the entire community.

Isabella Briseno:

Hello Council Members, as a campus organizer with Texas Rising, a nonpartisan nonprofit devoted to encour4aging civic engagement among young Texans. I write to encourage you to vote YES! On the Cite & Release Ordinance. While all of you claim to support increased use of citations over arrests for various non-violent misdemeanors identified by state law as eligible, it is crucial that Council provide prudent guidance for officer discretion so that San Marcos Police Department ensures prompt and thorough compliance. Not only do I believe this ordinance is crucial to ensuring the more equitable treatment of all San Martians, I also believe that there are 6 further moves to foster council success in this matter: 4 key amendments and 2 key preventions. Other groups, like Mano Amiga, and concerned citizens have already outlines these 6 key moves, and while I cannot fit and explicate on each in so small a box or time window, I trust you know-as people who have taken on the job of fostering the safety and well being of this community – that each is more important than the last. This is an issue that impacts the livelihood, health, and safety of your neighbors, so please hear your constituents’ calls to action and justice.

Kristian Caballero:

Dear Members of the San Marcos City Council:

On behalf of Texas Appleseed, I would like to express our strong support of the ordinance being considered on the Tuesday, April 21, 2020, City Council Meeting supporting the San Marcos Police Department's Increased Use of Citations in Lieu of Arrest. We urge you to vote for passage of the ordinance in order to maximize public safety, promote equity and reduce racial disparities in the criminal legal system.

We also urge you to undo several amendments to the ordinance made on April 7th that would significantly weaken its impact. Specifically:

- We support reinserting the word "only" into Section 2, so that it reads,**
- "...SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses only if any of the following circumstances are present[.]"**
- We also support undoing the amendment to the 3rd exception listed in Section 2, returning to language that reads: "There is reason to believe that the safety of persons (including the subject) would be imminently endangered by the release of the subject. In making this assessment, it shall be considered 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."**
- We urge you to meaningfully include the community in the future working group sessions by changing Section 6, so that the impacted individuals, advocacy organizations, policy experts and the public have more meaningful input than brief public comment at the beginning of each meeting. Aside from undoing those amendments, we encourage you to reject other last-minute amendments beyond the simple, clean-up amendments that Anita Gupta from the Immigrant Legal Resource Center has suggested for the sake of clarity and precision in the ordinance language. In particular, we oppose any amendments that would narrow the acceptable forms of identification. We commend you for your leadership to reduce unnecessary and harmful arrests in your city, which will be a statewide model for other cities if the ordinance is passed with the original language. In doing so, you would protect San Marcos residents from the harms of arrests and jail stays that serve no public safety purpose, and in turn, make the City of San Marcos safer. A growing body of research demonstrates how devastating arrests and jail time are for low-risk individuals, causing loss of employment, loss of housing, interruption of medical and mental health care, and ultimately increasing their likelihood of re-arrests in the future and decreasing their chances for future financial stability. Your**

community will ultimately be safer if people who are low-risk avoid arrest and jail to the greatest extent possible. To maximize the impact of this ordinance, limits on when officers may arrest instead of issue a citation is essential. By allowing officers any justification for not issuing a citation at Council's last meeting (i.e., by striking "only" from Section 2), the issuance of a citation in lieu of arrest would no longer be limited to the enumerated circumstances and would essentially become entirely within each officer's discretion. If this amendment stands, the ordinance will not have its intended impact of improving safety and reducing racial disparities. The experience in Austin is instructive. Prior to the adoption of the Austin Police Department's new cite-and-release policy in November 2018 at the instruction of the Austin City Council, APD actually had an existing policy that covered most offenses eligible under state law. The problem was that the old policy provided such an extensive list of exceptions for when citation was not required to be used that custodial arrests were very common and citations less so. Moreover, Austin police discretionarily arrested Black residents at double the rate of white residents. (Comments were limited to three minutes, time expired)

Mary Schmid Mergler:

Testimony for Tuesday, April 21, 2020, Meeting of San Marcos City Council Submitted by Mary Mergler, Texas Appleseed. Texas Appleseed strongly supports the ordinance being considered today regarding the San Marcos Police Department's Increased Use of Citations in Lieu of Arrest. Texas Appleseed works across the state to reform the criminal legal system with the goals of ending wealth-based punishment, racial disparities and the cycle of debt and poverty perpetuated by the current system. Issuing citations so that low-risk people can avoid unnecessary arrests and jail stays is essential to accomplish those goals. A growing body of research shows how devastating arrests and jail time are for low-risk individuals, causing loss of employment, loss of housing, and other negative consequences, ultimately increasing their likelihood of re-arrests in the future and decreasing their chances of future employment and financial stability. San Marcos will ultimately be safer if people who are low-risk avoid arrest and jail to the greatest extent possible. We also urge you to undo several amendments to the ordinance made on April 7th that would significantly weaken its impact. Specifically, we support reinserting the word "only" into Section 2, so that officers do not have unfettered discretion as to whether to issue a citation or make an arrest. Only by limiting such discretion will this ordinance accomplish its intended goal of minimizing unnecessary arrests. Further, we support undoing the amendment made last meeting changing the "imminent danger" exception from an objective standard to a subjective one. Returning to the objective standard in the

original ordinance would prevent the “imminent danger” exception from becoming a catch-all that an officer could use to justify arrests whenever they wanted, again undermining the intent of the ordinance to significantly expand the use of citations.

We encourage you to reject other last-minute amendments beyond any simple, clean-up amendments. In particular, we oppose any amendments that would narrow the acceptable forms of identification. We have also submitted a letter to City Council expressing our support in greater detail and are happy to answer any questions that Council may have. By passing this ordinance with its original language, this Council would become a leader among Texas cities in protecting its citizens from unnecessary arrests. We urge you to vote for passage of the ordinance in order to maximize public safety, promote equity and reduce racial disparities in San Marcos. Thank you.

Ranjana Natarajan:

Dear Council Members and Mayor: I am writing to provide comment and legal analysis that I hope will be useful as the San Marcos City Council considers whether to adopt an Ordinance favoring the use of cite-and-release in lieu of arrest—as authorized by Texas Code of Criminal Procedure Article 14.06 and other provisions of state law—to guide the San Marcos Police Department.

For purposes of identification, I am a Clinical Professor at the University of Texas School of Law, where I teach and direct a Civil Rights Clinic. In the Clinic, students represent low-income Texas residents on a variety of civil rights matters, including police misconduct. As such, I am familiar with legal issues involving allegations of police misconduct, false arrest, and related legal defenses such as qualified immunity.

I. Ordinances and their Relationship to State Law

As you know, ordinances that touch upon areas also regulated by state law are invalid only if they conflict with state law or the Texas Constitution. See Tex. Const. art. XI, Sec. 5(a); *City of Laredo v. Laredo Merchants Ass’n*, 550 S.W.3d 586, 589, 593 (Tex. 2018) (“local regulation, ancillary to and in harmony with the general scope and purpose of the state enactment, is acceptable”) (internal citation omitted). Here, the proposed cite-and-release ordinance does not conflict with state law so long as it does not require law enforcement officers (LEO’s) to take any action forbidden by state law or forbid LEO’s from taking action required by state law.

II. Policy Advantages of Cite and Release

The proposed cite-and-release ordinance has policy advantages. As you know, the Texas Legislature in 2007 amended Article 14.06 of the Texas Code of Criminal Procedure in light of the burdens on county jails around the state,

and to give localities more flexibility to meet public safety and public health needs. Jurisdictions promoting cite and release are able to devote finite law enforcement and criminal justice resources to more serious crimes while saving jail costs associated with low-level arrests. Also, reducing Class A and B arrests for the enumerated offenses would allow San Marcos residents to continue working, taking care of children, and paying bills without the interruption of arrest and incarceration, all of which benefits the community. At the same time, with clear instructions for court appearances, the City can ensure that people timely fulfill the obligations associated with Class A and B citations.

III. Cite and Release Preserves Law Enforcement Discretion

The proposed cite-and-release ordinance preserves officer discretion by enumerating exceptions for which officers may arrest individuals for the subject offenses. In addition, the ordinance does not create additional threat of civil liability for SMPD officers. People who believe they were arrested in violation of law may file civil suits in federal court for monetary damages pursuant to federal law, 42 U.S.C. §1983. The doctrine of qualified immunity shields officers from damages liability in those cases, if their actions were reasonable under the circumstances and did not violate the Constitution. If a person arrested for a Class A or B offense were to sue an SMPD officer under 42 U.S.C. §1983...

(Comments were limited to three minutes, time expired)

Karl Brown:

Dear Members of our City Council. I know that some of you have good reasons for preferring a resolution rather than an ordinance. My experience with resolutions is that they are often ignored or cherry-picked to suit the picker. I can appreciate the difficult position in which you are often placed, trying to negotiate your way through competing interests. I can also understand the perspective of our police officers. But in my opinion this ordinance could, if properly executed, reduce their stress by their knowing not only the wishes of the City, but more clarity about its rules of enforcement. Furthermore, regulation of enforcement agencies by such an ordinance is not a radical idea, we do it on state, national and even global levels all the time. Finally, I have become increasingly aware that many residents in our community fear the police, thus making it difficult or impossible to obtain their cooperation in solving more serious crimes in our community. So, my effort in supporting this ordinance is outlined in my letter to the editor. I would only add that the reduction in the rate of arrests and incarceration makes even more sense during this pandemic when there are great concerns about the spread of the virus in our prisons. Thank you for your service and for this consideration. Letter to the Editor, San Marcos Daily Record, Cite &

Release Ordinance: A Better Way

Our City Council has the opportunity on Tuesday to pioneer a better way forward toward ending needless arrests.

In 2007, the Texas Legislature identified a host of minor offenses for which they deemed a citation would be sufficient as opposed to an arrest. Governor Rick Perry signed it with bi-partisan support. Last summer, Mano Amiga and other interested residents of San Marcos, urged the City Council to form the Criminal Justice Reform Committee and presented a draft ordinance that would make citations the default option for San Marcos police officers except in certain specified scenarios such as: the subject does not provide satisfactory identification or the subject has an outstanding arrest warrant, etc. At this point I think there are several other scenarios being suggested. In October of last year, official county data on SMPD's arrest rate for citation-eligible offenses was made available to the press and public. Regional media noted the high rate of needless arresting of residents as well as the special attention that African American residents got from our officers. A story on the Fox News affiliate, titled "Report shows San Marcos police didn't cite-and release any Black people in 2018," revealed a remarkable inequality of enforcement. With what appears to be a very high rate of arrests for citation-eligible offenses in 2019, I stand with those who believe that now is a prudent opportunity for our City Council to provide guidance on officer discretion and elucidate our priority of keeping people out of jail who do not need to be there. Let me be clear. I appreciate the vital work of our police officers. On several occasions I have been the beneficiary of their work. As a former city councilman for three terms, I learned about the danger and complexity of their service to our community. On a few occasions I rode with police officers to better understand the many challenges that they face each day. It is a tough job, requiring much professionalism and courage. It is my opinion that this ordinance will go a long way toward strengthening and building trust between the police department and the general public, including those who see themselves as more vulnerable to unnecessary arrests. This ordinance will provide a clearer set of boundaries and guidelines that will assist police officers as they make discretionary decisions in critical moments of enforcement. his ordinance will require more transparency about the way discretionary judgments are made and the reasoning behind them. Finally, this ordinance will likely help us move from our excessive dependence on incarceration as a way of holding minor offenders accountable to a better way known as restorative justice. (Comments were limited to three minutes, time expired)

Karen Munoz:

Dear Mayor Hughson & Council:

I trust you understand the power each of your positions gives you and hope that you take that power seriously tonight, that you think about the people most negatively impacted by our criminal justice system, and that in doing so you lead us into a more just community. I urge you all to vote yes to the Cite & Release Ordinance and, specifically, that you bring back community participation in the forthcoming Working Group, beyond just a 180-second soundbite at Citizen Comment. In a letter addressed to Council ahead of the first vote two weeks ago, Austin Councilmember Greg Casar said the community stakeholder meetings were "critical to their policy's success" and specifically highlighted how critical it was that those meetings included community members who could push the City to be accountable to their goals. It's THIS accountability I am urging you to include. The criminal justice system affects most among us; many of us then are "community stakeholders". A Working Group without consistent, genuine input from people who have themselves been incarcerated and organizers who may be critical of the system will not work for this Ordinance. People who are formerly incarcerated who have seen for themselves what the system is actually like, from the literal inside and not just from the perspective of the people doing the incarcerating. Without those experiences being listened to and taken seriously, the work we all do to change the system meaningless. People closest to the problem are always closest to the solution. People who have actually been arrested by a San Marcos police officer, people who have themselves spent time in Hays County Jail, people who have been outsourced to other counties' jails - away from their loved ones; people who have actually lost their jobs and had their lives changed by even just a couple days spent in jail - these are the people who will always have the best solutions to the problems of our criminal legal system. If we define "community stakeholder" only as people enforcing our laws, then we're only going to be left with a system that continues to serve itself. As far as Mayor Hughson's wish to limit the types of IDs accepted, I'd add that San Antonio PD is not listing an explicit ID list, in favor of an open-ended policy. Austin's officer manual also allows for non-traditional forms of ID, such as library card, utility or rent bill, community organizational membership card, student ID, church ID, or other forms of identification that include an individual's name and address. As a former Library Board member, I hope we move toward expanding the library ID to include a photo so that everyone, regardless of income level, can have access to a useful government-issued ID. I hope you make the most just decision tonight.

Alexis Duran:

My name is Alexis Duran and I am a student leader with Texas Rising. I write to encourage you to vote YES! on the Cite & Release Ordinance. I believe that

It's important for the community as a whole to enact a Cite & Release Ordinance, because without it we have seen how it causes a permanent disruption in those affected, in terms of, families, employability, and being able to earn a degree. There is no possible way to fully recover from being in jail for the rest of your life you will be questioned on it and more than likely, since our system is so flawed and makes it so difficult for someone to be released from jail and gain employability at a job they may end back up in jail because they had to do something to earn money just to survive. The system punishes the poor for being poor. How can somebody pay restitution when they are jailed pre-trial? I've seen it many times in my life with my family. The first offense was minor and non-violent, but still no matter where they applied nobody after it anywhere they would apply no one would hire them. They had to resort to working in the informal economy just to earn money to support their family and newborn daughter. Currently they've been incarcerated for 12 years. A more just society where we have a Cite & Release Ordinance and a holistic public defender's office would have helped prevent this situation, along with rehabilitation, instead of just allowing people to go through this cycle where there is no one way for them to get out. I urge all of you for the betterment of your community, and to show you care and value their lives by enacting the following "6 Critical Moves for Council Success":

The 6 Critical Moves for Council Success

- 1) YES to Reinstating "Guided Discretion" -- the Backbone of the Policy -- by Re-inserting "Only"!**
- 2) YES to Authentic Community Participation in the Working Group, not just Token Citizen Comment!**
- 3) YES to an Objective Standard of Interpreting the Disqualifying Circumstances, not just Letting Officers do Whatever They Feel!**
- 4) YES to Clean-Up Amendments!**
- 5) NO to a Restrictive ID Policy!**
- 6) NO to any other Amendments!**

30 Minute Citizen Comment Period

John Schuster:

Dear San Marcos City Council, I feel that the San Marcos City Council ought to vote yes to reinstate the Cite and Release Ordinance back into a meaningful form. Guidelines for officer discretion that ensure timely and thorough compliance comport with the alleged City Council support for increasing the use of citations, over arrests, for various eligible non-violent misdemeanors as defined by state law. I ask the City Council to amend the Cite and Release Ordinance by reinstating 'Guided Discretion.' By reinserting 'only' in the clause, officers still retain broad discretion but may only make an arrest in a

disqualifying circumstance. According to former SMPD Chief Chase Stapp, the list of disqualifying circumstances is “fairly exhaustive,” and the ‘only’ allows for the gathering of data that’s accurate & more easily understood. I ask the City Council to include an amendment that says yes to an objective standard of reasonableness based in constitutional law. This means restoring the draft ordinance to its original language by changing “the arresting officer believes” to “there is reason to believe.” This will ensure that officers who would otherwise be free to ignore the ordinance will not have that option. I ask the City Council to vote yes on the Clean-Up Amendments that would fix typos and other minor changes, as wished by the ordinance’s original author, Anita Gupta of Immigrant legal Resource Center. I ask the City Council to include an amendment providing authentic community participation in the working group, and not ‘token citizen comment.’ I am convinced that authentic community involvement is crucial to a democracy’s health, meaning 180-second sound bites do not suffice for public input as valued discourse. I ask the City Council to vote no on any amendment that offers a more limiting interpretation of acceptable forms of ID for the Cite and Release program. Not only do these policies disproportionately affect the poor and, residents are still affirmatively ID’d when they arrive in court for their citation. Finally, I ask the city council to vote no on any other amendments that are proposed. Seeing that this draft ordinance was given to the Council in July with plenty of time for input, it is entirely inappropriate to be bringing changes before its final vote.

Thank you for doing your part in reducing jail time in San Marcos. Living in the richest country in the history of the world, that also has the highest incarceration rate, the only country tailing us being Russia, I feel like the least we can do is issue citations for non-violent offenses.

Samantha Benavides:

Hi, my name is Samantha, & I’m an issue advocacy fellow with MOVE Texas. MOVE Texas is a nonpartisan non-profit, building youth power across the state through civic engagement, issue advocacy, and leadership development. I’d like to once again express my support for a cite and release ordinance and express my gratitude for those who stood by, spoke directly to, and legislated with young people in mind throughout this process. As Dr. Joca Marquez put it, this ordinance does not send a message to the local business community that we do not prioritize their well being; instead, the message this ordinance sends is that we are compassionate towards our community. It shows that we trust them to return for a court hearing. It shows that we do not believe our pre-trial jail system is just, and that our community deserves better. It shows that we do not believe it to be dignified that we are willing to spend millions of dollars to

outsource our inmates to unfamiliar facilities when the infractions they've committed should be default citable offenses. It shows that we will take direct action in addressing the racial disparities in our police department's use of cite and release. It shows that San Marcos City Council is leading the way for other cities and counties towards a more just criminal legal system in Texas. *That* is the message that this ordinance sends. I'd also like to urge the implementation of the word "only" back into the ordinance. The guidance of officer discretion is the backbone of this policy; without this ordinance guiding officer discretion, I am certain that we will continue seeing racial disparities in San Marcos Police Department's use of cite and release.

To those of you who have been supportive of this ordinance since July, thank you for your leadership. Myself, MOVE Texas, and our ally community members and organizations urge the passage of this ordinance. It's imperative to avoid disturbing and disrupting lives with punitive and unnecessary incarceration. If we fail to enact this reform, this is what we are maintaining, a system that if left unchanged will ruin lives. Stand with young people and avoid this harm by voting yes.

Kama Davis:

To the Mayor and City Council Members of the City of San Marcos:

Thank you for your service to our community, especially now, during the Covid-19 pandemic.

I strongly support a city ordinance of cite and release. Many people more eloquent than I have expressed many reasons why a cite and release ordinance is necessary, where a resolution would not be enough. I am particularly concerned that our jail is overcrowded as it is. Covid-19 is here, in Hays County, and if it gets into our jail, it will be devastating to the staff, the police force, and of course, the inmates. We are responsible for all of these members of our community, everyone. Cite and release would help keep the population in the jail down, and this would lower the risk of infection to all involved.

Please implement a cite and release ordinance. Thank you.

Kristy Money:

Dear City Council, I am a resident of San Marcos, where I live with my husband and our five children. My husband and I both work here in town, and our school-age children attend San Marcos CISD. We are proud to have made San Marcos our home. I support the Cite & Release Ordinance and urge you all to vote in favor. As a licensed psychologist who previously worked directly for incarcerated youth in Texas prisons, I have seen too many promising young lives that have been derailed beginning with an arrest for a minor offense that, under this proposed ordinance, would not have to happen. Under the original

language of the ordinance (including the word “only” which was removed from the section on guided discretion), officers have the power to still make arrests in disqualifying circumstances, which include all of the examples which have been cited as scare tactics in public comments and advertisements around this topic.

So please, I ask you to do right by us as citizens and set a heroic example for the rest of our state and vote yes for this ordinance, without the addition of any amendments (such as restricting the admissible forms of ID) that could unnecessarily target particular populations (like the undocumented) or violate the spirit of the ordinance. Thank you for your consideration and your service to our city.

Raymond Ortega:

San Marcos City Council, I am student of Texas State and a resident of San Marcos. The Cite and Release Ordinance should be passed not just in light of the pandemic, but also as a long-term implementation that works towards bettering the community as a whole. The San Marcos Police Department has neglected to use existing cite and release laws, opting to arrest individuals majority (77%) citation-eligible offenses. This wastes time on the parts of the Police Department and the judicial system, money on the taxpayer's part, and space within jails, which is especially dangerous in this current pandemic when multiple people in Hays County are confirmed positive for COVID-19 and one death has resulted from infection. These arrests also disproportionately affect minority groups, especially people of color, and cause more financial and mental health instability for the working-class people of Hays County. We have the tools in place to implement this much-needed ordinance, now it is up to the members of the San Marcos City Council to follow through with the needs of their constituents.

Rolf Straubhaar:

Dear City Councilmembers, I am writing in support of the proposed Cite & Release Ordinance, and urge all council members to support it. I thank Council members Mark Rockeymoore, Joca Marquez, Melissa Derrick and Maxfield Baker for their previous support for the ordinance, and for voting in support of the ordinance on the first vote. I love San Marcos and am very happy to live and work here with my wife and children. It makes me proud to know that you as our representatives are the first city government in the State of Texas to consider this type of ordinance—one that sends a clear message that we as a city value and honor the lives and livelihoods of all San Martians, including those who encounter the police while committing minor nonviolent offenses.

I have close friends and family who have committed the types of non-violent misdemeanors listed under the proposed ordinance. Some of them, all of whom are White, were let off with a warning or a citation, and their lives were not thrown for a loop. They had an opportunity to learn from their mistakes, and have gone on to live happy and productive lives. Several others I know and love, all of whom are Black or Hispanic, have been arrested and incarcerated for the same types of offenses, and have had much higher hurdles put before them to return to normal life. The same trend is true at both the state and national levels, in terms of who tends to not get punished for minor non-violent offenses, and who reliably does get punished. The fact that this proposed ordinance is even under consideration shows how well y'all as a council understand these issues. I, like you, want to live in a town where more of our citizens are reliably given a second chance. Thank you for your time and consideration.

Evie Straubhaar:

Dear Council, I am 8 years old. My mom and dad wrote letters and I want to write a letter too. Sometimes I make mistakes. When my mom and dad help me, I learn from my mistakes. Please vote yes so more people can learn from their mistakes and not go to jail. Thanks.

PRESENTATIONS

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

Bert Lumbreras, City Manager, gave a brief introduction of the COVID-19 item. Chase Stapp, Director of Public Safety, provided status reports and updates on response to the COVID 19 pandemic.

Updates to Governor Abbott's Actions:

- April 17 - Press Conference Announcing Multiple Executive Orders
- Established Strike Force to Open Texas - team of medical experts and private and public leaders to advise the Governor on safely and strategically reopening the state of Texas
- April 27 - Governor will announce a revised plan based on initial recommendations
- Reopening of select services and activities in Texas
- April 24 - "Retail-To-Go" model allowed for all stores, including non-essential
- All schools - including public, private, and higher education institutions - remain closed for the remainder of 2019-2020 school year.
- April 22 - Loosened restrictions allowing surgeries and procedures medically

necessary to diagnose or correct a serious medical condition

-April 20 - State parks reopened - visitors required to wear face coverings, maintain a six-foot distance from individuals outside of their party, and groups larger than five prohibited

Efforts to date (updated)

-Processed Late Fee Exemptions for 87 commercial utility accounts, 65 residential utility accounts since implementation on March 26

- Continue researching, applying for grant opportunities

- Notified that we were not selected to receive All Together ATX Central Texas COVID-19 Rapid Response Grant

Developing application for The Grills Fund for Main Street Revitalization

- Temperature checks begun for all City staff as they report to workplace

- Providing daily Council email updates and message board additions

Additional City actions

Advertising a full page ad on Healthy & Helpful Tips in Sunday's San Marcos Daily Record

Council action items

- Financial update on the COVID-19 Response during work session

- Budget amendment to allocate \$50,000 from the Special Services budgets in each of the three major funds: General, Electric, Water/Wastewater to be used for COVID-19 Response

Upcoming considerations

Second Public Health Advisory from Mayor

Encourage physical distancing, environmental sanitation and cleanliness, and the wearing of cloth face coverings or face masks by people older than the age of 2 while in public

Discussion on April 30th meeting

Additional recommendations from the Governor on April 27

Update on Financial Assistance strategies

Hold discussion on payment plan for food establishment permit fees

Council Member Baker asked about the City not qualifying for the All Together ATX grant and would like to know what the disqualifying circumstances were. Mr. Stapp stated that a letter was received just letting us know when the next round of applications can be submitted.

Council Member Rockeymoore asked about the number of tests we are getting from the State and if we have other avenues in getting more tests. Mr. Stapp noted that we do not know when we will be getting more tests.

Council Member Gonzales asked about the time frame on results of the test. Mr. Stapp stated that the results vary. San Marcos and Hays County are using Clinical Pathology Laboratories with results coming back within 24-48 hours.

Council Member Baker ask about with more parks opening, are people showing up tubing and congregating in groups, has there been increase? Mr. Stapp stated that he is unaware of people congregating at parks that are closed. The parks are being patrolled on a daily basis by the City's Park Rangers and the police officers.

Council Member Baker asked how the trash cans at Rio Vista Park that have lids are being sanitized? Mr. Stapp will email Council on a response on how that is being handled.

CONSENT AGENDA

A motion was made by Council Member Gonzales, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve the consent agenda with the exception of items #3 and 4, which were 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 Rockeymoore, 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 3, 2020 - Regular Meeting Minutes
 - C. March 17, 2020 - Regular Meeting Minutes
 - D. March 31, 2020 - Special Meeting Minutes
 - E. April 7, 2020 - Work Session Meeting Minutes
 - F. April 7, 2020 - Regular Meeting Minutes

3. Consider approval of Ordinance 2020-18, on the second 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 Baker, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-18. Mayor Hughson noted that all seven council members support cite and release in general.

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Council Member Gonzales, to allow staff to change the ordinance to a standard ordinance form. The motion carried by the following vote:

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

Against: 1 - Council Member Marquez

MOTION TO AMEND: a motion was made by Council Member Baker, seconded by Mayor Pro Tem Mihalkanin, to add the direct citations from the Texas Code of Criminal Procedures to the list of the following offenses and to remove Class A under Driving while License Invalid. The section will now read:

Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor, Texas Health and Safety Code § 481.121(b)(1)&(2)

Driving while License Invalid, Class B misdemeanor, Texas Transportation Code § 521.457

Criminal Mischief, Class B misdemeanor, Texas Penal Code § 28.03(b)(2)

Graffiti, Class A or Class B misdemeanor, Texas Penal Code § 28.08(b)(2)&(3)

Theft of Property, Class B misdemeanor, Texas Penal Code § 31.03(e)(2)(A)

Theft of Services, Class B misdemeanor, Texas Penal Code § 31.04(e)(2)

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 Council Member Baker, seconded by Council Member Derrick, to amend the ordinance in recitals #4 from 14.08 to 14.06. The section will now read:

"4. The City Council acknowledges that our Peace Officers are allowed to exercise their discretion to issue a citation in lieu of arresting individuals for certain offenses when authorized by State law under article 14.06 of the Texas Code of Criminal Procedure."

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, in Section 2 to strike all sentences after the second sentence and after the word “deemed” insert "by the investigating officer". The new section will read as follows:

"The subject is not a resident of the county in which the offense was allegedly committed. For the purposes of this Section, an individual who lives, works, or goes to school in the county where the offense was allegedly committed will be deemed by the investigating officer to be a resident of Hays County."

The motion carried by the following vote:

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

Against: 1 - Council Member Marquez

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, in Section 4 to strike “justifications” and insert the word “reasons.” After the words “for the arrests” insert the words “indicated by using one or more of the circumstances in Section 2; identity, Hays County connection, imminent danger, demand for magistrate, arrest warrant, or other offense.” The new section will read as follows:

"The City Manager shall provide and make available to the public a quarterly report or memorandum concerning the use of the cite and release process in lieu of arrest in instances when a ticket or citation is allowed by state law. This report or memorandum shall be provided to the City Council and made public on a quarterly basis and should document anonymized records of every instance that a resident was issued a citation in lieu of arrest and every instance that a resident was arrested for a nonviolent misdemeanor charge when the suspect had no outstanding warrants, was not intoxicated and legally could have been given a citation, but an arrest was made anyway, and shall include the justifications reasons for the arrests indicated by using one or more of the circumstances in Section 2; identity, Hays County connection, imminent danger, demand for magistrate, arrest warrant, or other offense."

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 Council Member Gonzales, in Section 1, to strike criminal mischief, theft of property, and theft of services . The section would read:

Class C misdemeanors other than public intoxication, assault, or family violence

Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor

Driving while License Invalid, Class B misdemeanor

Graffiti, Class A or Class B misdemeanor

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 Council Member Derrick seconded by Mayor Hughson, to amend in Section 1, subsection 4, 5, 6, and 7 to insert the language at the end of each specified sentence "if the amount of pecuniary loss is less than or equal to \$375.00". The new section will read as follows.

Criminal Mischief, Class B misdemeanor Texas Penal Code §28.03(b)(2) in an amount less than or equal to \$375

Graffiti, Class A or Class B misdemeanor – Texas Penal Code §28.08(b)(2) & (3) in an amount less than or equal to \$375

Theft of Property, Class B misdemeanor – Texas Penal Code §31.03(e)(2)(A) in an amount less than or equal to \$375

Theft of Services, Class B misdemeanor – Texas Penal Code §31.04(e)(2)in an amount less than or equal to \$375

The motion passed by the following vote:

For: 5 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales

Against: 2 - Council Member Marquez and Council Member Baker

MOTION TO AMEND: a motion was made by Council Member Derrick, seconded by Mayor Pro Tem Rockeymoore, in Section 2 to insert the word "only" after the word "offenses." The section will 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 San Marcos Police Department officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses only if any of the following circumstances are present: ..."

MOTION TO END DEBATE: a motion was made by Council Member Mihalkanin, seconded by Mayor Hughson, to end discussion on the amendment to insert the word "only" into Section 2 in the second paragraph and to call for the vote. The motion to end debate carried by a vote of 7-0.

The motion to amend by inserting the word "only" into Section 2, second paragraph after the word "offenses" 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

MOTION TO AMEND: a motion was made by Mayor Pro Tem Rockeymoore, seconded by Council Member Baker, to have the language that was struck in Section 2 subsection 2 inserted at the end of Section 2 subsection 1 and strikethrough utility or rent bill. The new section will read as follows.

"The subject does not provide satisfactory evidence of personal identification to allow for citation. In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government- issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, student ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification."

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

MOTION TO AMEND: a motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Rockeymoore, to amend Section 2 number 3 at the beginning of the section to delete “The arresting officer believes and insert “There is reason to believe” and to delete the phrase “the arresting officer shall consider” and insert “it shall be considered”. The section will read as follows:

"There is reason to believe that the safety of persons (including the subject) would be imminently endangered by the release of the subject. In making this assessment, it shall be considered 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 San Marcos Police Department policy."

The motion failed by the following vote:

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

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

MOTION TO AMEND: A motion was made by Council Member Marquez, seconded by Deputy Mayor Pro Tem Rockeymoore, in Section 5 in the second paragraph to strike "by including a citizen comment agenda item.". The section would 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."

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

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Council Member Gonzales, in section 7 to strike "upon approval on second reading" and insert "effective date of May 31, 2020."

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 2020-18 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

4. Consider approval of Resolution 2020-84R, approving Amendment No. 4 to the Airport Project Participation Agreement between the City and the Texas Department of Transportation initially approved by Resolution 2015-80R and then amended by Resolution 2016-80R and Resolution 2019-117R which authorized the City's acceptance of a grant from the Texas Department of Transportation for the construction of a box hangar and associated developments at the San Marcos Regional Airport; to increase the estimated project cost from \$881,200.00 to \$920,447.00; to approve the City's expenditure of local funds in the estimated amount of \$253,283.70; authorizing the City Manager or his designee to execute any documents necessary for the implementation of the hangar development project; and declaring an effective date.

A motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Resolution 2020-84. 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

5. Consider approval of Resolution 2020-85R, approving an Advanced Funding Agreement with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-02-149) for the Water and Electric Utility Relocation project from Interstate Highway 35 from North of River Ridge Parkway to Loop 82, with an estimated cost of participation by the City in the amount of \$555,400.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
6. Consider approval of Resolution 2020-86R, approving an Advanced Funding Agreement

(AFA) with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-03-114), for drainage and landscaping betterments along IH-35 from south of SH 80 (Hopkins St) to north of RM 12 (Wonder World Dr) with a participation amount by the City of \$5,822,990.22, authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; and declaring an effective date.

7. Consider approval of Resolution 2020-87R, awarding a contract to Fleet Safety Equipment, Inc. (known as Dana Safety Supply) through the Texas Local Government Purchasing Cooperative BuyBoard (Contract No. 603-20) for the purchase of patrol equipment to outfit the recently purchased vehicles for the Police Department in the amount of \$331,724.80; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City; and declaring an effective date.
8. Consider approval of Resolution 2020-88R, approving the following in connection with the Whisper Public Improvement District: (I) an amended and restated financing agreement with Whisper Master Community Limited Partnership, Yarrington Partners Ltd., Whisper Industrial 2019 QOZB, LLC and 135 Residential Development, LLC; (II) an improvement area #1 acquisition and reimbursement agreement with Whisper Master Community Limited Partnership, Yarrington Partners Ltd., Whisper Industrial 2019 QOZB, LLC and 135 Residential Development, LLC; and (III) an improvement area #2 acquisition and reimbursement agreement with Whisper Master Community Limited Partnership; authorizing the City Manager to execute said agreements on behalf of the City; and declaring an effective date for said agreements.
9. Consider approval of Resolution 2020-89R, approving an Interlocal Agreement with the City of Cedar Park, Texas, to enable each city to utilize vendors for goods and services under contracts procured by the other; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

NON-CONSENT AGENDA

10. Consider approval of Ordinance 2020-22, on the first of two readings, reducing the speed limit from 30 miles per hour to 25 miles per hour along the 500 block of Harvey Street between North Street and Blanco Street; authorizing the installation of signs and traffic control devices reflecting the new speed limit; directing that the traffic register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the new speed limit; and including procedural provisions.

A motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Ordinance 2020-22, on the first of two readings. The motion carried by the following vote:

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

Against: 0

Absent: 1 - Council Member Marquez

11. Consider approval of Ordinance 2020-23, on the first of two readings, establishing a no parking / tow-away zone on the southside of a city easement located at 708 Peques Street pursuant to Section 82.066 of the San Marcos City Code; authorizing the installation of signage reflecting the no parking / tow-away zone; directing that the Traffic Register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the no parking / tow-away zone; and including procedural provisions.

A motion was made by Council Member Derrick, seconded by Mayor Hughson, to approve Ordinance 2020-23, on the first of two readings. The motion carried by the following vote:

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

Against: 0

Absent: 1 - Council Member Marquez

12. Consider approval of Ordinance 2020-24, on the first of two readings, amending the traffic register maintained pursuant to section 82.067 of the City Code by decreasing the speed limit in the 1300 through 1500 blocks of Belvin Street (between Bishop Street to Dixon Street) from 30 miles per hour to 25 miles per hour in both directions and authorizing the installation of speed cushions; and including procedural provisions.

A motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-24, on the first of two readings. The motion carried by the following vote:

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

Against: 0

Absent: 1 - Council Member Marquez

13. Consider approval of Ordinance 2020-25 amending the city's 2019-2020 fiscal year budget to allocate \$50,000.00 from each of the special services budgets of the city's general fund, electric fund, and water and wastewater fund for a total amount of up to \$150,000.00 to pay for various activities in response to the COVID-19 pandemic; providing for the adoption of this ordinance on only one reading as an emergency measure; and declaring an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-25, on one reading as an emergency measure. The motion carried by the following vote:

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

Against: 0

Absent: 1 - Council Member Marquez

14. Consider approval of Resolution 2020-90R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 9.61 acres out of the Edward Burluson Survey No. 18, Abstract No. 63, Hays County, generally located in the 400 Block of Centerpoint 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 Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-90R. The motion carried by the following vote:

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

Against: 0

Absent: 1 - Council Member Marquez

15. Consider approval of Resolution 2020-91R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 60 acres out of the Thomas G. McGehee Survey, Abstract No. 11, Hays County, located at 4087 State Highway 21; 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 Mayor Hughson, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Resolution 2020-91R. The motion carried by the following vote:

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

Against: 0

Absent: 1 - Council Member Marquez

EXECUTIVE SESSION (if necessary)

16. Executive Session in accordance with the following Government Code Sections:
- A. §551.071 - Consultation with Attorney regarding: Legal considerations of an anti-discrimination ordinance; and acquisition of property in Downtown San Marcos for public use
 - B. Section § 551.072 - Real Property: to receive a staff briefing and deliberation

regarding acquisition of property in Downtown San Marcos for public use

Bert Lumbreras, City Manager asked Council to postpone #16 B. to allow staff additional time to gather information.

A motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore to postpone #16 B. Section 551.072 - Real Property: to receive a staff briefing regarding acquisition of property in Downtown San Marcos for public use. The motion carried by the following vote:

For: 5 - Council Member Derrick, Mayor Hughson, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 2 - Mayor Pro Tem Mihalkanin and Council Member Marquez

DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION

17. Consider action, by motion, regarding the following Executive Session items held during the Work Session:

A. §551.071 - Consultation with Attorney regarding: Legal considerations of an anti-discrimination ordinance; and acquisition of property in Downtown San Marcos for public use

B. Section § 551.072 - Real Property: to receive a staff briefing and deliberation regarding acquisition of property in Downtown San Marcos for public use

Mayor Hughson stated the following regarding Executive Session items A and B:

A.) Direction was provided to Staff

B.) This item is postponed to the May 5, 2020 City Council Meeting

V. Adjournment.

A motion was made by Council Member Baker, seconded by Deputy Mayor Pro Tem Rockeymoore, to adjourn the regular meeting of the City Council on Tuesday, April 21, 2020 at 10:08 p.m. The motion carried by the following vote:

For: 5 - Council Member Derrick, Mayor Hughson, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 2 - Mayor Pro Tem Mihalkanin and Council Member Marquez

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor