



Meeting Minutes  
City Council

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Tuesday, May 19, 2020

6:00 PM

Virtual Meeting

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**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 6:01 p.m. Tuesday, May 5, 2020. This meeting was held virtually.**

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. 30 Minute Citizen Comment Period

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

**Lisa Marie Coppoletta:**

**"Once upon a time the house directly behind me 1328 1/2 had a pit bull operation. It took months to shut this down and have the dogs seized and given to pit bull organization to find homes for the puppies. This was when we had an actual city manager that does not think he is the emperor. Jim Nuse and Mayor Daniel worked tirelessly to keep these dogs safe from being used as bait animals in fighting rings. Then, I contacted the land lord and that man was evicted. I should have contacted her sooner. Well now this house is an air b and b. What is the use of the city registering with the city if I cannot find out who is yelling on the phone? Two months ago a very nice TxState student who was quiet and polite and a good neighbor and also a soldier for our great United States of America army had to go out of state to serve during the pandemic. Months of serenity now he is gone because of the pandemic. The land lord should have held the house for him out of patriotism and respect. Instead the dollar dollar bills were her decision making calculus. Now I have a trashy neighbor screaming on the phone and then acting like a lil Angel as he gleefully bikes out of this back lot. I personally am tired of hearing men yell, especially in my back yard, especially when he is not paying the high property taxes I am, a direct result of this council refusing to place spending caps on the**

**budget. That's right Saul YOU are directly responsible for our property taxes, you told falsehoods in those debates. Soon all my bamboo will be cleared and Ill see exactly what is going on behind my house since the city will not police these transients in my neighbored. A citizen should know their neighbors not be exposed to transients during ....a..... pandemic. Of course me and all my neighbors used to be very close until Bert held a secret meeting about MY yard and did EVERYTHING they wanted resulting in promises he made in an audio recording posted on sound cloud being broke to me. I'm white, they are Hispanic and so is Bert. Racism? Many people think that is the case. If you are requiring air B and B to register with the city, then the neighbors have a right what transient population is living next to them. Is the city collecting motel taxes off these properties, if so then that must be the only reason you want it registered for YOU the bureaucrats. See the City manager lives in a gated community he does not have to worry about his yard getting butchered or some stranger living directly behind him hearing him yelling on his phone. And, during a pandemic I find it problematic these places are allowed to stay open. This is not 1h35, its Belvin Street. Is Bert the city manager or the Emperor. I hope you evaluate him congruent with his 20 broken promises to me and my neighbors. The best part is Bert's own city worker, who filled out a fake survey by his boss he wanted a sidewalk in everyone's yard, is the ONLY one not getting his yard butchered. The Belvin Sidewalk should have never been built because those Habitat Homes are a private sidewalk. And, if the city does not fix this problem they will get sued when someone gets hurt on it, or if some stands and refuses to leave and gets arrested. Its NOT a public sidewalk. And, the best part is now the block floods since the instillation of the sidewalk and that very city worker will get flooded out. Is this justice? No its pure city worker stupidity. And zeal to destroy my yard just because Bert was relishing in this harassment. He thinks he is the emperor but he is just a city manager. But in the end, since LMC made this comment it is a proven fact you will ignore it and do just the opposite. Thank you for your time and God Bless San Marcos."**

**Forrest Fulkerson:**

**"I am writing to add my voice to agenda item 4 regarding the CITY'S PUBLIC RECORDS MANAGEMENT PROGRAM:ORDINANCE NO. 2020-27. The Texas Open Records Act Government Code Section 552 introduction says a lot about open records and it's role and importance in our government. Here is the Introduction from the Texas Open Records Act: TITLE 5. OPEN GOVERNMENT; ETHICS SUBTITLE A. OPEN GOVERNMENT CHAPTER 552. PUBLIC INFORMATION SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 552.001. POLICY; CONSTRUCTION. (a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy. (b) This chapter shall be liberally construed in favor of granting a request for information. I am hoping that as we compare what is said in this introduction, that you consider that the proposed restructuring of the records policy is too streamlined and cuts out oversight in the records destruction which in the proposal will relegate the decisions of individual records to the individual department records manager. The proposed changes will also give one person, the Records Management Officer, the authority to make policy regarding records and destruction as opposed to the Records Management Committee being the policy authority. In my time on the Ethics Review Commission, we discussed the importance of records being a public interest. So, my proposal would be to align our ordinance with the the Texas Government Code 552 introduction and not relegate the authority to the Records Management Officer an by proxy the city manager, but to keep the authority of policy recommendations at the Records Committee and include a voting majority of public members on that Records Committee. Records are a public interest and concern when public decisions are being made and public monies and resources are being spent. Thank you all for your service on City Council."**

**Matthew Lewis:**

**Thank you for your leadership during this challenging time. MoveSM submits this public comment as a moment of reflection on the state of the largest portion of public space in our cities-our streets-and the attached petition as a call to action to create more safe human spaces on them, especially during this time of required physical distancing. One of the "silver linings" of this awful pandemic is that fewer cars have been on the road. You've likely seen the remarkable photos from around the world depicting air quality improvement so dramatic you can actually see it. Unfortunately, you may have also noticed that motorists are driving faster than ever. While the number of car crashes is plummeting due to lower traffic volumes, the rate of the car crashes per mile driven is actually up in many cities as drivers are getting more reckless on wide**

open lanes. During this crisis, more people than ever are turning to active transportation as they seek relief from enclosed spaces, but cyclists and pedestrians have been allowed such a limited allocation of street space, they often struggle to give physical distance. The acres of impervious surfaces given over to cars have been brought into stark relief. Nationally, cities small and large are responding by creating "slow streets," "open streets," or "healthy streets" programs where humans are getting back some of the space giving over to cars through the closing of just a few streets to thru-traffic and limiting non-resident access to only emergency and delivery vehicles traveling at slow speeds. A movement for this type of program is growing in Central Texas as well and Austin City Council passed a resolution to create their own "healthy streets" program earlier this month. These programs utilize basic signage and a number of guides for implementation are available, similar to the graphic at right by Street Plans. Inspired by these national movements and resources, MoveSM worked in collaboration with SimpleCity Design to create the attached document and map which offers some streets distributed across a variety of neighborhoods for your consideration of a Phase 1 roll-out of San Marcos' own Slow Street Program. It is encouraging to see portions of Belvin St. have recently been made limited access, which demonstrates the ease of implementing a slow street. Nearby San Antonio St. is also proposed as a Slow Street in the attached document and the Open Curb style shown above would be an excellent option given the large width of that street that would maintain full vehicle access. Regardless of the streets selected, it's important that slow streets be equitably provided throughout the community as all residents deserve the opportunity to safely use public space. Thank you again for your service to the City during this challenging time in our history. And, thank you in advance for creating Slow Streets in San Marcos for the health and safety of your citizens. Sincerely, The Members of MoveSM

## 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, provided a brief introduction and turned the presentation over to Chase Stapp, Director of Public Safety. Mr. Stapp provided status reports and updates on response to the COVID-19 pandemic.**

**Known Cases - as of today**

- 1,480,349 U.S. cases with at least 89,407 fatalities (13,284 new cases since yesterday)
- 48,693 cases in 222 Texas counties with 1,347 fatalities

- **238 in Hays County with 3 fatalities (81 active after 154 recovered) - 2,265 tests returned negative**
- **22 active in San Marcos with 45 recovered**
- **26 cases have required hospitalization, 5 current**

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

- **May 18: Governor announced Texas moving to Phase 2 of reopening**
- **Cited downward trajectory of positivity rate of testing and good availability of hospital beds with ventilators**
- **Key dates are May 18, May 22, and May 31**
  
- **Key openings:**
- **May 18: Gyms, massage therapy, youth sports**
- **May 22: Restaurants @50%, Bars and tasting rooms @25%, Bowling alleys**
- **May 31: Youth camps, certain professional sports without in-person spectators**
- **June 1: Schools may conduct summer school sessions**

#### **Efforts to date (updated)**

- **Nursing Home Testing**
- **Underway with first sites tested in Dripping Springs and Wimberley**
- **Processed Late Fee Exemptions for 125 commercial utility accounts, 82 residential utility accounts since implementation on March 26**
- **Set up payment arrangements totaling over \$218,000 for 819 utility customer accounts over that same time period**
- **Grants update**
- **GRILLS grant was not awarded, which could have been used for Parklet program**
- **CDBG-CV applications received**
- **USAID - WIC extra funding was awarded (\$9,805)**

#### **Upcoming considerations**

- **Parks reopening plan**
- Friday, May 22nd open parks with a limited capacity. Seven days a week from 8am- 8pm**
- Playgrounds in all parks remain closed**
- Basketball courts in all parks remain closed (backboards and rims removed)**
- Rio Vista pool remains closed**
- Pavilions remain closed and will be fenced off**
- **Phased approach of re-opening City services and facilities**

**Council Member Baker asked about dealing with large crowds and establishing**

**an entry and exit, are they allowed to use that areas only? And what decisions was to open some parks and not other parks. Mr. Stapp stated we looked at the amenities and if it had access to the river. Some parks will be open because of the trails or access to the river. He noted concern for the safety of our employees. Mr. Stapp suggested that large crowds should use good decision making, common sense and use social distancing. Officers will handle more serious concerns and issuing citations.**

**Mayor Pro Tem Mihalkanin asked about the data and where are the resources coming from regarding cases? Mr. Stapp stated that the resources on a national level are on the Center for Disease Control (CDC) website, the State level is coming from Department of State Health Services (DSHS) and on the local level is coming from the local health department. Mr. Stapp stated that we are mostly concerned about the local numbers and trends. Mr. Stapp gave a brief report on our readiness for more cases.**

**Council Member Marquez asked for creativity about informing public safety to protect the public and the officers. Mr. Stapp stated that we can put a ideas together but that will not control the river. Officers who come in contact with the public will educate the public about compliance.**

- 2. Receive the FY2021 - FY2030 Capital Improvement Plan (CIP) with Planning & Zoning Commission Recommendation, and provide direction to Staff.**

**Laurie Moyer, Director of Engineering and Capital Improvements provided Council with the presentation on the 10 year Capital Improvements Program.**

#### **Capital Improvements Program**

- Long-range plan and schedule for capital projects and system assets**
- Identifies options for financing projects**
- Only the first year CIP is approved in the budget**
- Detailed look at projects in first 3-years**
- Projects out 4-10 years are less defined**

#### **Capital Improvements Program Funding Sources**

##### **4 City Funding Sources External Sources**

##### **General Fund**

- Property & Sales Tax**
- Airport, Parks, Facilities, Public Safety & Transportation**

##### **Drainage or Stormwater Fund**

- Drainage Utility Fee**

- **Drainage and Water Quality**

**Electric Fund**

- **Electric Rates**

**Water/Wastewater Fund**

- **W/WW Rates and Impact Fees**

**External Funding**

- **Grants or outside sources**

**Ms. Moyer reviewed the use of color coding and other codes on the CIP spreadsheets. Items are grouped by category showing "multi" when projects have more than one funding source. Also noted are the supporting strategic initiatives and related Comprehensive Plan goals. Prioritization ranking and funding sources are included. There are some projects that may be suggested for a future bond election. Projects are also presented in detail and by map location.**

**Planning and Zoning Commission recommendation to City Council is to approve the 10-year CIP with the following amendments:**

- **Expediting Project 650 (Sessom Shared Use Path from N. LBJ to Comanche) to within the 3-year plan**
- **Moving Project 464 (Old Ranch Road 12 improvements-Craddock to Holland) up to 2021 o Highlight the importance of Project 464 moving forward**
- **Project 464 (Old Ranch Road 12 improvements-Craddock to Holland) shall include on-street buffered bike lanes, separated sidewalks, not widening the road, and pedestrian crossings at the Franklin Intersection. Description shall be updated to reflect that these items are already in the project.**
- **Project 419 (Sessom/Academy Intersection Improvements) shall create a road diet from the Sessom/Academy Intersection from Holland to N. LBJ) Create a road diet to encourage safety improvements through the restriping project.**
- **Project 480 (Hopkins Sidewalk Widening CM Allen to Thorpe) shall support improved sidewalks and encourage safety improvements on Hopkins through a restriped road diet that will also support bike infrastructure.**
- **Project 594 (Hopkins St. Improvements from Moore to Guadalupe) shall include complete street improvements, and not widening of the road.**
- **Project 629 (IH-35 Utility Relocations) shall support pedestrian bike improvements to promote better east-west connectivity across IH-35, and does not including diverging diamond type projects which harm pedestrians and**

connectivity

- **Project 712 (Downtown Pedestrian Safety Comfort Improvements) - The Commission's support of the project shall be highlighted, noting its importance.**
- **Project 681 (Hills of Hays) - The Commission's support of the project shall be highlighted, noting its importance.**
- **Project 732 (Animal Shelter) The Commission's support of the project shall be highlighted, noting its importance.**
- **Project 8 (Fire Station - Airport) The project shall be moved up to 2021 or 2022.**
- **Project 739 (Dunbar Education Building) shall be moved up to 2021 with complete funding.**
- **Road improvements and pedestrian and bicycle facility improvements along on Old Ranch Road 12 between Blanco and Holland shall be added to the 10-year CIP.**

**Mayor Hughson asked if information was provided to inform the Planning and Zoning commission, that we have a number of projects per year due to funding constraints? The Mayor stated that Council made the choice several years ago to move some projects associated with the CDBG-DR funding for the drainage to meet that deadline a number of items were pushed to the future. Ms. Moyer stated the financial and the workload constraints were not discussed in detail.**

## **CONSENT AGENDA**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Derrick, to approve the consent agenda, with the exception of item #4, 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 Rockeymoore, Council Member Baker and Council Member Gonzales

**Against:** 0

- 3. Consider approval, by motion, of the following meeting Minutes:**
  - A. April 21, 2020 - Regular Meeting Minutes
  - B. April 30, 2020 - Special Meeting Minutes
  - C. May 5, 2020 - Regular Meeting Minutes
- 4. Consider approval of Ordinance 2020-27, on the second of two readings, amending Article 6, Divisions 1 and 2 of Chapter 2 of the San Marcos City Code to revise and update the City's public records management program; including procedural provisions; and declaring an effective date.**

**Ms. Cook explained that we follow the retention schedule set by the Texas Library and Archives Commission. There are no changes to the schedule in this ordinance.**

**A motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-27R. 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 Ordinance 2020-28, on the second of two readings, amending Chapter 82, Traffic and Vehicles, of the San Marcos City Code, by adding a new Article 9 that prohibits the placement and use of Motor-Assisted Scooters owned by Commercial Scooter Companies on public property, streets and sidewalks; providing a savings clause; providing for the repeal of any conflicting provisions; providing for penalties; and providing an effective date.
6. Consider approval of Resolution 2020-98R, approving the renewal of the agreement with Matchpoint Water Asset Management, Inc. for leak detection services for three additional one-year terms in the amount of \$26,475.00 each for a total contract price of \$132,375.00; authorizing the City Manager or his designee to execute the appropriate documents related to the renewal of the agreement; and declaring an effective date.
7. Consider approval of Resolution 2020-99R, approving an agreement that renews the service contract for Water Treatment Facilities Operations and Asset Management with the Guadalupe Blanco River Authority for an additional five years; authorizing the City Manager or his designee to execute the agreement; and declaring an effective date.
8. Consider approval of Resolution 2020-100R, approving a professional services agreement with Cobb, Fendley & Associates, Inc., for the provision of professional engineering services in connection with the Bishop and Belvin Street Improvements Project in an estimated amount of \$976,921.90; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
9. Consider approval of Resolution 2020-101R, approving a professional services agreement with Weston Solutions, Inc. for design services relating to the Highway 21 Waterline Project in the estimated amount of \$215,917.36; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
10. Consider approval of Resolution 2020-102R, approving a change in service to the construction contract with Cash Construction Company, Inc. relating to the Main Lift Station Force Main Replacement Project to decrease the contract price by

\$2,936,550.26; authorizing the City Manager or his designee to execute the appropriate documents relating to the change in service on behalf of the City; and declaring an effective date.

11. Consider approval of Resolution 2020-103R, approving the form and authorizing the distribution of a Preliminary Limited Offering Memorandum for “City of San Marcos, Texas special assessment revenue bonds, series 2020, Whisper Public Improvement District.”
12. Consider approval of Resolution 2020-104R, approving an agreement with OpenGov, Inc. for software that allows multiple years of financial data to be accessible to citizens and staff through an online portal in the annual amount of \$12,000.00 for a total contract price of \$60,000.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

## **PUBLIC HEARINGS**

13. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-31, amending the official zoning map of the city by rezoning approximately 5.217 acres of land, generally located west of the intersection of Old Ranch Road 12 and Craddock Avenue, from “FD” Future Development, “CC” Community Commercial, and “P” Public and Institutional districts to “SF-6” Single Family District; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-31, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation regarding rezoning 5.217 acres of land located west of intersection of Old Ranch Road 12 and Craddock Avenue.**

**Mayor Hughson open the Public Hearing at 7:24 p.m. There being no comments, the Mayor closed the Public Hearing at 7:24 p.m.**

**Council Member Derrick recused herself from discussion on this item because she lives in a nearby neighborhood.**

**A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-31, on the first of two readings. The motion carried by the following vote:**

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

**Against:** 1 - Council Member Baker

**Absent:** 1 - Deputy Mayor Pro Tem Rockeymoore

**Recused:** 1 - Council Member Derrick

14. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-32, annexing into the City approximately 9.61 acres of land, generally located in the 400 Block of Centerpoint Road; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-32, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services provided a presentation regarding an annexation of 9.61 acres of land located in the 400 block of Centerpoint Road.**

**Benjamin Green, with Kimley Horn addressed Council that client is looking to annex into the City and to have access to the water utilities. Mr. Green stated that planning to place storage units in the back corner and development frontage of commercial type product. Mr. Green stated that he available to answer any questions Council may have on this item.**

**Mayor Hughson opened the Public Hearing at 7:38 p.m. There being no speakers, the Mayor closed the Public Hearing at 7:38 p.m.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Gonzales, to approve Ordinance 2020-32, on the first of two readings. 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

15. Receive a Staff Presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-33, amending the Official Zoning Map of the City by rezoning approximately 7.959 acres of land, generally located in the 400 Block of Centerpoint Road, from "FD" Future Development District to "HC" Heavy Commercial District; and including procedural provisions; and consider approval of Ordinance 2020-33, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services provided a presentation regarding rezoning of 7.959 acres of land located in the 400 block of Centerpoint Road.**

**Mayor Hughson opened the Public Hearing at 7:45 p.m. There being no speakers, the Mayor closed Public Hearing at 7:45p.m.**

**Benjamin Green, with Kimley Horn stated that the project is 100 feet away from the flood plain and he is available to answer questions from Council.**

**Christian Alvarado, owner of Kimley Horn stated that they are not interested to put a gas station on the project. Gas station does not fit in their model. Mr. Alvarado stated that they are interested in benefiting the community and not allow underground tanks or gas stations.**

**Council Members discussed their concerns about HC in this area, would a new Zoning District of Medial Industrial be a solution, and splitting the property into HC and Commercial.**

**Mayor Pro Tem Mihalkanin suggested to have Planning and Zoning Commission and Council to discuss in the future to create a medium industrial category.**

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, , to approve Ordinance 2020-33, on the first of two readings. 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

- 16.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-34, annexing into the City approximately 59.89 acres of land located at 4087 State Highway 21; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-34, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided a presentation regarding the annexation of 59.89 acres of land located at 4087 State Highway 21. The applicant proposes to develop the majority of the property as a manufactured home park and the remaining portion of the property with light industrial uses. The applicant has requested Manufactured Home (MH) and Light Industrial (LI) Zoning which is being considered concurrently with the annexation process.**

**Mayor Hughson opened the Public Hearing at 9:03 p.m. There being no speakers, the Mayor closed the Public Hearing at 9:03 p.m.**

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-34, on the first of two readings. 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

17. Receive a Staff Presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-35, amending the Official Zoning Map of the City by rezoning approximately 14.90 acres of land located at 4087 State Highway 21, from "FD" Future Development District to "LI" Light Industrial District; and including procedural provisions; and consider approval of Ordinance 2020-35, on the first of two readings.

**Mayor Hughson opened the Public Hearing at 9:14 pm. There being no speakers, the Mayor closed the Public Hearing at 9:14 p.m.**

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to postpone Ordinance 2020-35 indefinitely. 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

**There was discussion about the failure of the motion on item 16. Mr. Bill Glasgow, applicant, asked why the motion to annex did not pass. Council agreed to respond to the question. Mayor Hughson and Mr. Cosentino explained the reconsider process.**

**MOTION TO RECONSIDER: A motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore, to reconsider (Item #16) Ordinance 2020-34. 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

**Council Member Derrick would like to not have sprawl and is concerned about the Light Industrial zoning in this area.**

**Council Member Baker agrees he would prefer not to have sprawl.**

**Council Member Rockeymoore is concerned about the economic outlook, provision of services to this area, and would prefer to wait until fall to consider.**

**Council Member Mihalkanin noted that the airport is nearby, across Hwy 21 and next to FM 110. He noted the benefits of a city annexing surrounding land**

and under our regulatory authority under our Land Development Code.

Council Member Rockey Moore noted that Council Member Mihalkanin makes a good point. He would like to hear from the applicant.

Mayor Hughson stated that we often state that we want development on the east side of IH 35, away from our environmentally sensitive areas. This project meets that criteria. It is near the airport, The Whisper development, and FM 110. It would also be in the FM 110 TIRZ and contribute financial to that effort. There will be development in that area, along FM 110, anyway.

Council Member Saul Gonzales stated that it will be to our benefit to have this project in the city limits

**MOTION TO DENY:** a motion was made by Council Member Derrick, seconded by Council Member Baker, to deny (Item #16) Ordinance 2020-34. Council held discussion and expressed their concerns regarding future economic outlook, sprawl and the creation of another donut hole within the City.

Mr. Bill Glassgow noted that this property is in an Opportunity Zone. The project in the Light Industrial area will provide jobs and the housing will be affordable.

Mayor Hughson noted that her husband had helped build a number of buildings such as the ones proposed and they were leased upon completion. This is an opportunity for small businesses that are growing, perhaps moving from someone's garage to a larger space.

Council Member Baker noted that between the airport and a Light Industrial project is not a good place to live. Are there studies that show this is detrimental to health?

Mr. Bill Glassgow noted that there are a number of airports in San Antonio with residential nearby. Our airport is limited in activity and should not be a problem. He also noted that affordable housing requires affordable land. The motion failed by the following vote:

**For:** 3 - Council Member Derrick, Council Member Marquez and Council Member Baker

**Against:** 4 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockey Moore and Council Member Gonzales

**MOTION TO APPROVE:** a motion was made by Mayor Pro Tem Mihalkanin,

**seconded by Deputy Mayor Pro Tem Rockeymoore, to approve (Item #16) Ordinance 2020-34, on the first of two readings. The motion carried by the following vote:**

- For:** 4 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales  
**Against:** 3 - Council Member Derrick, Council Member Marquez and Council Member Baker

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to reconsider (Item #17) Ordinance 2020-35. The motion carried by the following vote:**

- For:** 5 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales  
**Against:** 2 - Council Member Derrick and Council Member Marquez

**Mayor Hughson opened the Public Hearing at 9:45 p.m. There being no comments, the Mayor closed the Public Hearing at 9:45 p.m.**

**A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Mihalkanin to approve (Item #17) Ordinance 2020-35, on the first of two readings.**

**Mr. Rockeymoore inquired about the timetable for FM 110 and this project. FM 110 should be bid sometime this year or next year. Mr. Glasgow projects spring of 2021 with 2-3 year for full build-out. The motion carried by the following vote:**

- For:** 4 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales  
**Against:** 3 - Council Member Derrick, Council Member Marquez and Council Member Baker

18. Receive a Staff Presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-36, amending the Official Zoning Map of the City by rezoning approximately 44.99 acres of land located at 4087 State Highway 21, from "FD" Future Development District to "MH" Manufactured Home District; and including procedural provisions; and consider approval of Ordinance 2020-36, on the first of two readings.

**Shannon Mattingly, Director of Planning and Development Services, provided a presentation regarding the rezoning of 44.99 acres of land located at 4087 State Highway 21. The Existing Zoning is outside the city limits, proposed zoning is Manufactured Home (MH), and the applicants is currently proposing a 250 unit manufactured home community with associated amenities.**

**James Glasgow, applicant of the project provided a presentation. He stated occupants would rent a lot and own the home. Mr. Glasgow stated he is available to answer questions.**

**The Mayor opened the Public Hearing at 9:59.p.m. There being no speakers, the Mayor closed the Public Hearing at 9:59 p.m**

**Council Member Baker expressed concern about the project.**

**Council Member Gonzales inquired as to whether these will be owner-occupied. The response by Mr. Glassgow was “yes.”**

**Council Member Derrick likes the project, but not near the airport.**

**Council Member Mihalkanin noted that the price of land has a impact on the rent prices.**

**Council Member Rockeymoore was raised near air force bases and notes there can be a quality of life nearby. He has concerns, but this project will serve a need of the citizenry.**

**Mayor Hughson noted that this can be a good transition from the new low-moderate income apartments.**

**Mayor Hughson wants to ensure the left turn lane is addressed regarding safety concerns. Ms. Mattingly noted that there is a CAMPO project studying that area. There will be a Traffic Impact Study required along with solutions by the developer.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Mayor Hughson, to approve Ordinance 2020-36, on the first of two readings. The motion carried by the following vote:**

**For:** 4 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore and Council Member Gonzales

**Against:** 3 - Council Member Derrick, Council Member Marquez and Council Member Baker

- 19.** Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-37, approved an update to the Service and Assessment Plan for the Whisper Public Improvement District; making a finding of special benefit to the property in the district, levying additional assessments against property with the district; establishing a lien on such property; approving an updated assessment roll for the district; providing for payment of the assessments in accordance with Chapter 372, Texas Local Government Code; providing for the method of assessment and the payment of the additional assessments; providing for penalties and interest on delinquent assessments; providing for a severability clause; providing an effective date; and providing for related matters; and consider approval of Ordinance 2020-37, on the first of two readings.

**Melissa Neel, Assistant Director of Finance, provided a brief introduction and turned it over to Paul Snyder, with P3Works. Mr. Snyder provided a presentation regarding the service and assessment plan for the Whisper Public Improvement District.**

**Mayor Hughson opened the Public Hearing at 10:14 p.m. There being no speakers, the Mayor closed the Public Hearing at 10:14 p.m.**

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Gonzales, to approve Ordinance 2020-37, on the first of two readings. 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. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Resolution 2020-105R, approving a Consolidated Plan for fiscal years 2020-2024 that provides guidance for annual Community Development Block Grant (“CDBG”) allocations; authorizing the City Manager, or his designee, to act as the Official Representative of the City in matters related to the CDBG Program; declaring an effective date, and consider approval of Resolution 2020-105R.

**Michael Ostrowski, Assistant Director of Planning and Development Services, provided a presentation on the Community Development Block Grant (CDBG) 2020-2024 Consolidated Plan that provides guidance for annual Community Development Block Grant allocations.**

**Mayor Hughson opened the Public Hearing at 10:27 p.m. There being no speakers, the Mayor closed the Public Hearing at 10:27 p.m.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Resolution 2020-105R. 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. Receive a Staff presentation and hold a Public Hearing to receive comments in regards to amending the 2015-2019 Community Development Block Grant (CDBG) Consolidated Plan to add Economic Development as a funding category and add the Community Development Block Grant-Coronavirus (CDBG-CV) allocation of \$425,261.

**Michael Ostrowski, Assistant Director of Planning and Development Services, provided a presentation on the 2015-2019 Consolidated Plan Substantial Amendment to add Economic Development and add the Community Development Block Grant Coronavirus allocation.**

**The federal department of Housing and Urban Development (HUD) requires the creation of a Consolidated Plan that sets strategic priorities and goals for next five years of HUD grant funding, identifies types of activities the City will fund, and acts as the foundation for, future one-year Action Plans. Staff is recommending two amendments to the 2015-2019 Consolidated Plan because this plan governs the use of funds through the current program year 2019-2020. One of the proposed amendments is to add the Community Development Block Grant-Coronavirus (CDBG-CV) allocation of \$425,261 to the 2015-2019 Consolidated Plan. This amendment provides the ability to consider project and program requests for CDBG-CV funds as an amendment to the 2019-2020 CDBG Entitlement Action Plan, enabling immediate use of the funds.**

**The other proposed amendments is to add Economic Development as a funding category so that projects and programs may be considered in this category in response to the COVID-19 pandemic. The categories of activities identified in the original 2015-2019 Consolidated Plan were:**

- Affordable Housing**
- Public Services**
- Public Facilities/Infrastructure/Transportation**
- Clearance Activities**
- Program Administration**

**The proposed amendment would mean that projects and programs can be considered for CDBG-CV funding in any of the above categories as well as Economic Development, as long as the use is in response to impacts of the COVID-19 pandemic. The guidance issued by HUD to date for CDBG-CV includes waiving the 15% cap on funds used for Public Services, and allowing for a minimum five day public comment period for the changes to the 2019-2020 CDBG Entitlement Action Plan, instead of the usual minimum of 30 days. A public hearing is required prior to commencement of the comment period.**

**Mayor Hughson opened the Public Hearing at 10:33 p.m. There being no speakers, the Mayor closed the Public Hearing at 10:33 p.m.**

22. Receive a Staff presentation and hold a Public Hearing to receive comments in regards to amending the proposed 2020-2024 Citizen Participation Plan to add a shortened review period for actions related to the COVID-19 response.

**Michael Ostrowski, Assistant Director of Planning and Development Services, provided a presentation on the Community Development Block Grant (CDBG) 2020-2024 Citizen Participation Plan. In response to the COVID-19 pandemic, HUD has allocated \$425,261 in funding to the City of San Marcos through the new CDBG-CV Coronavirus grant. This grant's process will be in general similar to the creation of the Annual CDBG Action Plan; however, due to the urgent nature of the situation, the comment period for planning actions related to the CDBG-CV grant is five days instead of the typical thirty. This shorter comment time, and the ability to use virtual hearings due to social distancing recommendations, has been added to the Citizen Participation Plan. Therefore, the timeline for adopting the CPP has been modified:**

- **May 19, 2020 - Staff Presentation and Public Hearing**
- **May 24-30, 2020 - Comment Period**
- **June 2, 2020 - Request for City Council approval of the CPP**

**This Citizen Participation Plan will be in effect upon its approval by City Council. to identify the COVID response.**

**Mayor Hughson opened the Public Hearing at 10:36 p.m. There being no speakers, the Mayor closed the Public Hearing at 10:36 p.m.**

## **NON-CONSENT AGENDA**

23. Consider approval of Ordinance 2020-38, on first and final reading, authorizing the issuance and sale of an amount not to exceed \$40,000,000 of Combination Tax And Revenue Certificates Of Obligation, Series 2020 for constructing, improving, designing and equipping the City's (1) water and waste water system; (2) electric utility system; (3) streets including related drainage, sidewalks, traffic improvements and lighting; (4) municipal buildings to include the City Hall and other city facilities, HVAC improvements, roof replacements and security improvements; (5) stormwater management and flood control facilities; (6) airport, including hangars; (7) public safety facilities to include police and fire station improvements and a new ladder truck and engine; (8) network and fiber optic infrastructure equipment; (9) recreational facilities including parks and sports fields; (10) cemetery including land acquisition; (11) animal shelter; (12) parking including land acquisition; and (13) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation and other matters related thereto; providing for adoption of this Ordinance on one reading only in accordance with State Law.

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-38, 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

24. Consider approval of Ordinance 2020-39, on first and final reading, authorizing the issuance of City of San Marcos, Texas General Obligation Refunding Bonds in the amount not to exceed \$120,000,000 in one year or more series; approving an official statement, a paying agent/registrar agreement, a bond purchase agreement and an escrow agreement; establishing the procedures for selling and delivering one or more series of the bonds; providing for the approval of this ordinance on one reading only as authorized by state law; and authorizing other matters relating to the bonds.

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Baker, to approve Ordinance 2020-39, on first and final reading.**

**Mr. Dan Wegiller of Specialized Finance noted this is simply refinancing some of our bonds starting at \$16.8 million for now. This is at a lower rate with a savings of almost \$1,000,000 and most of that realized in the first two years.**

**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

25. Hold discussion regarding the recent use of the policy and purpose statements in Section 2.421 of the San Marcos Code of Ethics as the basis of ethics complaints; and provide direction to staff

**Council Member Marquez, provided a following statement, "I would like to thank Mayor Hughson and my fellow council members for the opportunity to speak on behalf of Item 25. I would also like to thank Council Member Gonzales for supporting me in placing this item on the agenda. I would also like to thank Mr. Lumbreras and Mr. Michael Cosentino for your incredible work ethic and patience in answering all my questions.**

**There are several reasons why I wanted this item on the agenda and would like to make a brief statement:**

**Since the time I've been in office, which is from December 2018 until now, there have been three ethics complaints filed against me citing Section 2.421 of the Ethics Code as the violation.**

The language of Section 2.421, regarding the policy and purpose of the Code of Ethics, is so broad that almost ANYTHING an officer or employee does, even in his or her private life, could somehow be interpreted as a violation of that section. There are specific provisions in other sections of the code that addresses conduct of officers and employees in the performance of their official duties and only those provisions should be the basis of an ethics complaint.

Although the three complaints have been dropped during this time I resigned and the pandemic, I cannot begin to describe the incredible amount of stress these complaints have caused for myself and of course for my family. As a consequence of those complaints filed against me, there have been other unintended consequences such as the City of San Marcos having to pay a total of \$1,804 in attorney's fees to advise the Ethics Commission on one of my cases that moved forward to public hearing.

In addition, the media blowing constant stories on TV and print, social media backlash, and thousands of harassing comments that have escalated to threats of violence have affected me tremendously. Many of my close friends advised me to hire an attorney for the hearing that was scheduled for April 8th, 2020. I soon became discouraged when one attorney was asking for \$500 an hour to review my case. I was blessed enough when a very prolific attorney in Austin kindly reached out to take my case pro bono.

Recently, the Ethics Review Commission met on May 13, 2020 and adopted the following motion:

A motion was made by Commissioner Rice, seconded by Commissioner Lollar, to recommend an amendment to Section 2.421 - Policy and purpose - by adding item (e) to read as follows: (e) This Section 2.421 shall not be used, cited, or considered by a citizen or by the Ethics Review Commission as the basis of an ethics complaint. The motion passed by the following vote, 6 in favor, 0 against, and 1 absent.

There have been other complaints filed in 2020 citing this section of the Code as a violation. At this time, I would like the Council to consider an ordinance amendment to the Ethics Code to prevent misuse of Ethics Complaints and to prevent the Code of Ethics to be utilized as a political weapon or to intimidate or embarrass city employees and/or council members."

Michael Cosentino, stated bringing forward an amendment and will read as

follows, Sec. 2.421 (e) "This Section 2.421 is intended only to set forth the policy and purposes for adoption of the San Marcos Code of Ethics; it shall not be cited, used, or considered by a citizen or by the Ethics Review Commission as the basis of an ethics complaint filed against any officer or employee of the city."

**Council Member Derrick presented a suggestion:**

**e) The mere appearance of impropriety may not be used as a reason to submit a complaint, however if there is any evidence that supports misconduct, that evidence must be produced as part of the complaint. If no evidence can be produced, then it will not be considered and therefore will not constitute an ethics complaint. Such evidence could include, but is not limited to public records, emails, texts, and in rare cases, social media comments made by the official or employee.**

**Mr. Lumbreras supports the change and suggested that we look at other Ethics Ordinances for information that may be helpful.**

**Council consensus is to bring recommendations from the Ethics Review Commission on Council Member Derrick's amendments and proof of requirements on ethic complaints. Mr. Cosentino stated the next Ethics Review Commission meeting will be in held August. He noted that Dr. Marquez is not the only person with a ethics complaint filed.**

**Council provided consensus to have staff bring an Ordinance to amend Section 2.421 (e) at a future agenda.**

#### **EXECUTIVE SESSION (if necessary)**

- 26.** Executive Session in accordance with Section §551.074 of the Texas Government Code: Personnel Matters - to discuss and provide Annual Appointee Evaluations to the City Attorney and Interim City Clerk.

**Mayor Hughson stated evaluations were held and completed during the Special meeting this afternoon and an Executive Session would not be needed this evening.**

#### **ACTION/DIRECTION FOLLOWING EXECUTIVE SESSION**

- 27.** Consider action, by motion, or provide direction to Staff regarding the following Executive Session item in accordance with Section §551.074 of the Texas Government Code: Personnel Matters - to discuss and provide Annual Appointee Evaluations to the City Attorney and Interim City Clerk.

**Evaluations were held and completed. City Manager, Bert Lumbreras and Municipal Court Judge, Dallari Landry had evaluations on Thursday, May 14th and the City Attorney, Michael Cosentino and Interim City Clerk, Tammy Cook had their evaluations earlier this afternoon.**

**IV. Adjournment.**

**Mayor Hughson adjourned the regular meeting of the City Council at 11:13 p.m. on May 19, 2020.**

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

**Jane Hughson, Mayor**